

KIRKLEES METROPOLITAN COUNCIL

PLANNING SERVICE

UPDATE OF LIST OF PLANNING APPLICATIONS TO BE DECIDED BY PLANNING SUB-COMMITTEE (HUDDERSFIELD AREA)

16 JANUARY 2015

APPLICATION NO: 2014/92041

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ALTERATIONS TO PART OF PREMISES TO FORM TAXI OFFICE AND ERECTION OF CANOPY

BAHARKAT SUPERMARKET, 279, MANCHESTER ROAD, CROSLAND MOOR, HUDDERSFIELD, HD4 5AA

As reported to Sub-Committee on 4 December 2014, and in paragraph 2.8 of the Item relating to the 'Planning Enforcement Update' at the premises reported elsewhere on the agenda, the existing car parking layout does not accord with the scheme approved under planning application 2011/92749 or the subsequent discharge of condition application referenced 2012/91052.

In light of the above, condition 6 set out on page 19 of the agenda is recommended to be re-worded.

In addition as reported to Sub-Committee on 4 December 2014 and in paragraph 2.8 of the Item the vehicular crossing from Manchester Road to the car park, in particular the dropped kerb, has not been completed. As such a further condition is recommended requiring full details of the vehicular crossing to be submitted, approved and formed before the use is commenced. This would form condition 9.

9. RECOMMENDATION

6. Notwithstanding the car parking layout shown on drawing no.100 Rev A and extract from the Proposed Site Layout, the car parking layout is not approved. A comprehensive layout scheme of the car parking area, including the provision of 4no. car parking spaces for vehicles associated with the proposed taxi/private hire vehicles and turning area(s) for service vehicles to serve the uses on the site, shall be submitted to and approved in writing by the Local Planning Authority and laid out in accordance with the approved scheme before the use commences and thereafter retained.

9. A scheme detailing the vehicular crossing on Manchester Road being extended to the limits of the site access, as detailed on the approved plan ref 100 Rev A, shall be submitted to and approved in writing by the Local Planning Authority and the approved works implemented before the use commences. Thereafter, the implemented works shall be retained.

ERECTION OF DETACHED DWELLING**8, DINGLEY ROAD, EDGERTON, HUDDERSFIELD, HD3 3AY****4. BACKGROUND AND HISTORY**

The applicant asserts 2006/92814 (full permission for the erection of a dwelling) is still extant because development was commenced in August 2008, which was within the time period mandated by condition (1) – i.e. within 3 years of the date of the decision.

The following pre-commencement conditions were attached to planning permission 2006/92814:

(8) The development shall not begin until details of the treatment of all boundaries of the site have been submitted to and approved in writing by the Local Planning Authority. The treatments so approved shall then be provided in full prior to the first occupation of the dwelling and shall thereafter be retained.

(9) Notwithstanding any details shown on the permitted plans the development shall not begin until details and/or samples of the proposed facing and roofing materials have been submitted to and approved in writing by the Local Planning Authority. Before the development hereby permitted is first brought into use, the development shall be constructed in accordance with the details/samples so approved and shall be so retained thereafter.

(10) Development shall not commence until a scheme detailing the following on-site works have been submitted to and approved in writing by the Local Planning Authority.

a) The provision of 1 parking space within the site to be associated with no. 8 Dingley Road.

The development shall not be brought into use until the above works have been carried out in accordance with the approved details and thereafter retained throughout the lifetime of the development.

An application for details reserved by condition was submitted 12 Jan 2011 – this was not assigned a separate application number. There is no record of it in the electronic file having been discharged. Also it should be noted that the permission, under the terms of condition (1), had to be commenced within 3 years, i.e. by 23rd August 2009.

It therefore appears on the basis of the information presently available that the above three conditions have not been legally discharged. Whether these go to the heart of the development and as such could be regarded as being true conditions precedent has not been assessed.

The Council has no record of Building Regulations approval having been obtained for the approved new dwelling.

Based on the above, it is possible that permission 2006/92814 may have been lawfully implemented and is extant, but this has not been conclusively demonstrated.

These observations are without prejudice to the application which is to be assessed on its own merits taking into account the development plan and all other material considerations.

The recent history of planning permissions as set out in "Background and History" in the main Sub-Committee report, remains a material consideration notwithstanding that none of these may be extant.

6. CONSULTATION RESPONSES

KC Strategic Drainage -

Strategic Drainage are not aware of the existence of any springs on the site. This does not rule out the existence of springs as this is not information that would usually be held by the Council. It remains the view of Strategic Drainage that the standard condition on drainage will be sufficient to ensure that the site can be developed without giving rise to increased flood risk.

7. REPRESENTATIONS

Cllr Tony Brice: "following a site visit & discussion with the applicant I am happy that the issues causing problems has now been resolved & bearing in mind there is previous planning granted in 2007 for larger development, I now have no objections to this development being granted."

Cllr Brice has not however formally withdrawn his request for a Sub-Committee decision, and in any case the above comments were received 13th January, after the final Sub-Committee agenda had been prepared.

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ERECTION OF DETACHED GARAGE AND WORKSHOP/GARDEN STORE

**THORPE HOUSE NURSING HOME, 20-22, FINTHORPE LANE,
ALMONDBURY, HUDDERSFIELD, HD5 8TU**

A further representation has been received, submitted on behalf of the owners of 24 Finthorpe Lane. The comments are summarised, and responded to, as follows:

The steep roof pitch is unnecessary on a single storey building and will give unnecessary prominence to the building. Request that revised design details showing a shallower roof pitch/lower ridge height are required by condition.

Officer response: Matters of design are addressed in the main report.

Concerns that a first floor could be erected in the roof space in the future with possible activities therein being detrimental to amenity. This concern is fuelled by the roof lights in the rear elevation. Request that the roof lights in the rear are not permitted (or are relocated to the front of the building) and that a condition is imposed preventing a first floor being inserted within the roof space.

Officer response: It is feasible that a first floor could be inserted to provide some limited useable space within the roof area. Planning permission would not be required for such works and it is considered that a condition preventing this from occurring would not meet a number of the relevant tests for imposing planning conditions. Any space created within the roof would be constrained and it is considered to be unlikely that the potential use of the roof area would give rise to any significant impacts on the amenities of the neighbour, such as overlooking. It is suggested that the roof lights be omitted from the scheme by way of condition if Members are concerned about this issue.

The removal of the existing sheds (as indicated on the plans) should be conditioned.

Officer response: The removal of the sheds has been highlighted by the agent in the Green Belt justification. The removal of the sheds is shown on the site plan but a condition requiring their removal can be imposed to ensure that the amount of built development in this part of the grounds is minimised.

Permitted development rights for new buildings within the site should be removed.

Officer response: Nursing homes do not benefit from permitted development rights which would enable new outbuildings to be erected in their curtilage. Any new outbuildings would require planning permission.

Work on vehicles and equipment should be restricted to between 0900 and 1700 Monday to Friday (condition)

Officer response: Such a condition would be unreasonable and would not therefore meet one of the tests for imposing planning conditions. There is nothing to prevent the operator of the nursing home from carrying out works on vehicles and equipment anywhere within their grounds outside of the hours suggested. The proposal is located on part of the existing storage compound and works could currently be carried out in this part of the site without any restrictions. It is argued that the building would reduce the potential scope for nuisance by containing activities within a building rather than maintenance works being carried out in the open. Any issues of noise or odour which may be causing a statutory nuisance would be covered by Environmental Health legislation.

Only vehicles and equipment used in respect of the operation and upkeep of Thorpe House as a nursing home should be worked on or stored within the building (condition)

Officer response: Such a condition is unlikely to be enforceable and therefore would not meet one of the tests for imposing planning conditions. The applicant lives at the property but there is nothing to suggest that the applicant is seeking to use the building for any purpose other than in connection with the operation of the nursing home. Should the building be used for purposes which were not ancillary to the nursing home then this would be a matter for planning enforcement.

Disagree with the Officer assessment that the 'need' for additional security provides very special circumstances. The potential loss of vehicles is the main argument put forward for the need for the building but the last two crime instances did not relate to a building where vehicles are stored. The most recent (attempted) theft was over 8 months ago. Security has been tightened with electric gates and security lights.

Officer response: These issues are set out in the main report.

Recommendation

The recommendation has been amended in light of the additional conditions Members may wish to impose in response to the representation summarised above.

GRANT CONDITIONAL FULL PERMISSION SUBJECT TO THE DELEGATION OF AUTHORITY TO OFFICERS TO:

- **IMPOSE ALL NECESSARY AND APPROPRIATE CONDITIONS INCLUDING THOSE SET OUT IN THE MAIN REPORT**
- **ISSUE THE DECISION.**

Updated plans table:

Plan Type	Reference	Version	Date Received
Design & Access Statement	Original	-	20 June 2014
Location Plan	14-C07-07	A	12 January 2015
Proposed Plans & Elevations	14-C07-01	D	22 December 2014
Proposed Site Plan	14-C07-02	B	29 October 2014
Miscellaneous Support Documentation	Green Belt Justification 14/C07	-	9 September 2014

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ERECTION OF 1 PAIR OF SEMI-DETACHED DWELLINGS

LAND ADJACENT 49, HELME LANE, MELTHAM, HOLMFIRTH, HD9 5PF

REQUEST FOR THE APPLICATION TO BE DEFERRED.

The Agent contacted the case officer on 15th January asking the application be deferred to the next meeting of the Sub-Committee. The reason given is that the person due to speak in support of the application on behalf of the applicant is unavailable to attend the meeting.

Recommendation:

The reasons for refusal have been slightly re-worded to include Policy D2.

For reason 1. this is because Officers consider the development constitutes overdevelopment and because it would harm residential amenity.

In respect of condition 2. this is because Officers consider it would be harmful to residential amenity.

1. The proposal would result in an over-intensive and cramped form of development on this site. There would be very limited amenity space available for future occupants and the proposal would not achieve suitable space about buildings distances, thereby impacting on the amenities of the future occupiers. As such, the proposal fails to comply with the requirements of Policies D2 and BE12 the Kirklees Unitary Development Plan and Chapter 7 of the National Planning Policy Framework.

2. The proposal would detrimentally overlook and overbear the occupiers of no.s 41 and 43 Acorn Drive to the west, and detrimentally overlook, at an oblique angle, the occupiers of no.47 Helme Lane to the south, and no.51 to the south east. The proposal would fail to meet acceptable space about dwelling distances, or retain a good standard of amenity for occupiers of surrounding properties, contrary to the requirements of Policies D2 and BE12 the Kirklees Unitary Development Plan and Chapter 7 of the National Planning Policy Framework.

APPLICATION NO: 2014/92634**PAGE 57****VARIATION CONDITION 2 (PLANS) ON PREVIOUS PERMISSION
2006/93156 FOR DEMOLITION OF MILL AND OUTBUILDINGS AND
ERECTION OF 23 TOWNHOUSES AND APARTMENTS WITH GARAGES
(PARTLY WITHIN CURTILAGE OF LISTED BUILDING)****FORMER ALBION MILLS, MILL MOOR ROAD, MELTHAM, HOLMFIRTH,
HD9 5JY****Comment on drainage and flood risk issues:**

Information submitted by the same applicant under a separate planning application for residential development on the site (ref 2009/92292) shows a culvert crossing the site. The proposed amendments to the approved scheme involve an alteration to the site layout and, based on the indicated position of the culvert, the proposal means that there will be a greater amount of built development closer to the line of the culvert. For example plot 1 will be 0.2m closer, plot 18 on the current plan (equivalent to plot 17 on original plan) will be approximately 0.8m closer and a detached double garage will be built fully over the culvert.

The proposed amendment to the layout therefore has a material impact on the culvert – and consequently broader drainage and flood risk issues – and as such it is necessary to take this into account in the decision-making process.

The size, depth and condition of the culvert is unknown and so the amendment to the layout in the western part of the site can not be fully considered until such information on the culvert has been assessed by Kirklees Strategic Drainage. To address this matter, an additional condition is recommended requiring details of the culvert; this information is to include confirmation of its position and details of its depth, size and condition. This is to ensure that the layout does not have a detrimental impact on the culvert and thereby result in an increased risk of flooding on and off site, and accord with guidance in the NPPF.

It is to be noted that under English Common Law the riparian owner holds the responsibility for maintaining any watercourse which passes through his boundary. This means that the responsibility of maintaining the culvert currently lies with the applicant and future owners of the land (the individual owners of the dwellings) would assume responsibility.

Representations:

Two additional representations have been received from one of the existing objectors. These representations are summarised, and responded to, as follows:

- There is a culvert running through the site and further investigation of the impact of the development on the culvert is required. Detailed information on the culvert has previously been requested by the Local Planning Authority on a separate application on this site however to date this has not been provided by the applicant (reference application 2013/90154 for extension of time to implement outline application 2009/92292 for erection of 17 dwellings – application undetermined). Such information should be required under the current application which is being considered by the sub-committee. There are concerns that there will be off-site drainage problems resulting from development's impact on the culvert. Consent from the Environment Agency is required under the Land Drainage Act 1991 before any alteration of the culvert takes place and the Environment Agency should be consulted on this application.

Officer response: The issues raised have largely been addressed through the comment on drainage and flood risk issues within the Update. The culvert is classified as an ordinary watercourse and for the purposes of this planning application responsibility for the assessment of risk management lies with Kirklees Council in its capacity as Lead Local Flood Authority. The Land Drainage Act 1991 has been amended by the Flood and Water Management Act 2010 and this confirms that consent is required to obstruct or alter a culvert from the drainage board concerned – in this case Kirklees Strategic Drainage.

- The objector also states that they have a right-of-way through the site between some adjacent land and Owlars Bars Road. Road corridor space is included on the layout plan but it does not explicitly indicate the right of way.

Officer response: There is no requirement for private rights of way to be indicated on the approved plans and the objector acknowledges that the right of way is not prejudiced by the development.

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OUTLINE APPLICATION FOR RESIDENTIAL DEVELOPMENT

ADJ 80, MILL MOOR ROAD, MELTHAM, HOLMFIRTH, HD9 5LW

Further comment on ecology issues:

As detailed on page 74 of the main report, enhancement of the adjacent green corridor is required by a footnote attached to this housing allocation. The report states that opportunities for enhancement of the corridor exist through S106 obligations relating to public open space (condition 6). It is considered necessary to amend the wording of condition 6 to include a requirement for a scheme of ecological enhancement along a section of the green corridor which falls within the ownership of the applicant.

Amended condition 6:

6. No material operation as defined in section 56(4)(a)-(d) of the Town & Country Planning Act 1990 shall be carried out to commence the development pursuant to this planning permission until arrangements for the provision of public open space to serve the development and arrangements for the provision of a scheme of works for the ecological enhancement of the adjacent green corridor (Meltham Dyke) within the blue line boundary on the approved location plan have been submitted to and approved in writing by the Local Planning Authority. The arrangements shall cover the following matters:-

- a) the layout and disposition of the public open space.
- b) the timescale for the implementation and completion of the works to provide the public open space and the scheme of works for the ecological enhancement of the adjacent green corridor;
- c) the mechanism for ensuring that the public open space will be available for public within perpetuity.
- d) maintenance of the public open space in perpetuity.

Representations:

A total of 44 objections to the development have now been received. This is the cumulative amount received in respect of the original plans, the amended plan and those received after the committee agenda was published. Issues in these representations which have not yet been reported to committee are summarised, and responded to, as follows:

- The consultation response from Kirklees Environment Unit does not acknowledge impact of surface water drainage on the Class 1 moorland stream bordering the site or impact on mammals.

Officer response: This service's ecologist remains satisfied that the development would not result in any undue detriment to the moorland stream and its wildlife. Conditions are recommended to address surface water drainage issues and the development will also result in enhancement of the green corridor through condition 6 (as amended).

- 80 and 82 Mill Moor Road have rights over land to the western boundary of the site.

Officer response: It is thought that this relates to private rights of access over part of the application site. Planning permission does not override any private rights of access which may exist and it is a matter for the developer to ensure that any such rights are maintained through an appropriate layout at reserved matters stage.

- Dispute the Officers' estimate of the difference in height between the application site and the living areas of the existing properties on Sunny Bank Court. Overbearing impact on living conditions because of difference in levels.

Officer response: It is considered that the separation distance (in excess of 50m) would mitigate any impact. Scale and layout are reserved matters and further detailed consideration of residential amenity impacts will occur at reserved matters stage.

- A separate condition for the enhancement of the green corridor should be imposed

Officer response: Officers are satisfied that enhancement of the green corridor can be secured through S106 obligations in relation to public open space (condition 6 as amended).

Comments on the application have previously been received from Councillor Holroyd-Doveton. Concerns have been raised regarding:

- Traffic - taking into account proposed development on Mill Moor Road and the recently approved development at Colders Lane

- Parking / highway safety – there is already congested parking on Mill Moor Road and poor sight lines at the access onto Mill Moor Road will cause traffic accidents
 - The impact on Meltham Dyke – particularly resulting from pollution arising from surface water run-off
 - Lack of privacy at dwellings on Sunny Bank.
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OUTLINE APPLICATION FOR ERECTION OF 22 DWELLINGS AND GARAGES, AND FORMATION OF ASSOCIATED CAR PARKING, ACCESS AND LANDSCAPING

ADJ SPOTTED COW, 404, NEW HEY ROAD, SALENDINE NOOK, HUDDERSFIELD, HD3 4GP

This application was withdrawn by the applicant on 12th January.

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CHANGE OF USE OF SECOND FLOOR OFFICE SUITE TO (D1) HEALTH AND MEDICAL (WITHIN A CONSERVATION AREA)

14, CLOTH HALL STREET, HUDDERSFIELD, HD1 2EG

One additional representation has been received. The representation expresses a personally held belief about abortion.
