

KIRKLEES METROPOLITAN COUNCIL

PLANNING SERVICE

UPDATE OF LIST OF PLANNING APPLICATIONS TO BE DECIDED BY

PLANNING SUB-COMMITTEE (HEAVY WOOLLEN AREA)

27 OCTOBER 2022

Planning Application 2020/93777

Item 13 – Page 55

Outline application for erection of residential development

east of, Mill Lane, and Heaton Grange, Hanging Heaton, Batley, WF17
6EN

Amendments to Officer Recommendation and Biodiversity Contribution following Updated Biodiversity Net Gain Information

As indicated in paragraph 10.53 of the Committee Report as well as the Officer Recommendation, an updated Biodiversity Net Gain (BNG) Metric and supporting information was to be provided following the final committee agenda being published. The updated information was provided on the 19th October 2022 and KC Ecology have reviewed the submission and provided the following updated comments:

'The updated BNG assessment results in an overall net loss of 0.21 habitat units (-7.77%) and a net gain of 0.52 hedgerow units (+434.25%). All opportunities to maximise the availability of biodiversity units within the site have now been exhausted and therefore in order to ensure there is no net loss in habitats on site, a financial contribution will be required as part of any future reserved matters application, in line with information within the [Biodiversity Net Gain Technical Advice Note](#). Therefore, in order to achieve no measurable net loss, a commuted sum (based on £20,000 per habitat unit (figure taken from 2019 DEFRA Impact Assessment) + 15% admin fee (figure taken from Kirklees Biodiversity Net Gain Technical Advice Note)), results in a financial contribution of £4,830, which will need to be secured through a Section 106 agreement..... The position of no net loss goes against the adopted technical advice note, which requires a measurable net gain of 10% to be achieved by developments of this nature. Additional enhancements such as bat and bird boxes should be included in the site, in order to provide increased opportunities over the current situation'.

The 10% BNG figure in the original Committee Report was £21,620. The applicant has highlighted that, despite the Environment Act being passed by Parliament, the introduction of a 10% BNG requirement has not yet had any legal effect due to the requirement for secondary legislation to bring it into force. The Council has a Biodiversity Technical Advice Note (TAN) that does require a 10% biodiversity net gain for new development as it is cognisant of the long-lead in time required for development being implemented 'on the ground'. Irrespectively, the TAN only requires a baseline to be submitted for Outline applications with layout as a reserved matter – as is the case in this instance.

Consequently, an alternative to the figure quoted above could simply be for 'a Biodiversity contribution' instead of a defined 'no net loss' contribution to the value of £4,380. The latter figure has been provided in the Officer Recommendation as it secures a definitive figure, however Committee Members can highlight whether they wish for the Officer recommendation to be changed to provide a looser definition, reflecting that layout is a reserved matter.

Similarly, Members should be aware that a subsequent reserved matters application may be submitted at a point in time where secondary legislation brings the 10% BNG requirement of the Environment Bill into force. In this instance, the reserved matters application should seek to vary any agreement to provide an uplift to the figure to reflect a 10% BNG.

The approaches set out above are considered to comply with LP30 Biodiversity and Geodiversity and the Officer Recommendation has been updated below to reflect the latest information:

RECOMMENDATION

DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development in order to complete the list of conditions including those contained within this report and to secure a S106 agreement to cover the following matters:

1. Deed of Variation to the Section 106 Agreement made under planning application 97/61/90214/E1 to allow for removal of a bond for a landscape buffer and a reduction in the extent of the landscape buffer to reflect the provisional layout of the scheme and to include items 2 to 6 in the Officer Recommendation;
2. Financial contribution towards off-site open space in the local area of £16,647 (subject to Reserved Matters) inclusive of administration and inspection fees in accordance with the Open Space SPD. The figure is intended to be spent on play area upgrades in the immediate vicinity of the development site;
3. Sustainable Transport Contributions including a Bus Stop Improvement Contribution of £10,000.00 and an MCard Contribution of £9,207.00;
4. 20% On-site Affordable Housing Units delivered in line with the Interim Affordable Housing Policy;
5. Biodiversity Contribution of **£4,380** (Figure to be confirmed) delivered in line with the requirements of the adopted Biodiversity Technical Advice Note;
6. On-site Open Space, Surface Water Drainage & Highways Management & Maintenance Companies, prior to adoption.

In the circumstances where the S106 agreement has not been completed within 3 months of the date of the Committee's resolution then the Head of Planning and Development shall consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits that would have been secured; if so, the Head of Planning and Development is authorised to determine the application and impose appropriate reasons for refusal under Delegated Powers.