
Report of the Head of Development Management

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 19-Jan-2017

Subject: Planning Application 2016/91479 Outline application for erection of 22 dwellings Hart Street, Newsome, Huddersfield, HD4 6LS

APPLICANT

Martin Devey FRICS,
Benjamin Bentley &
Partners

DATE VALID

02-Jun-2016

TARGET DATE

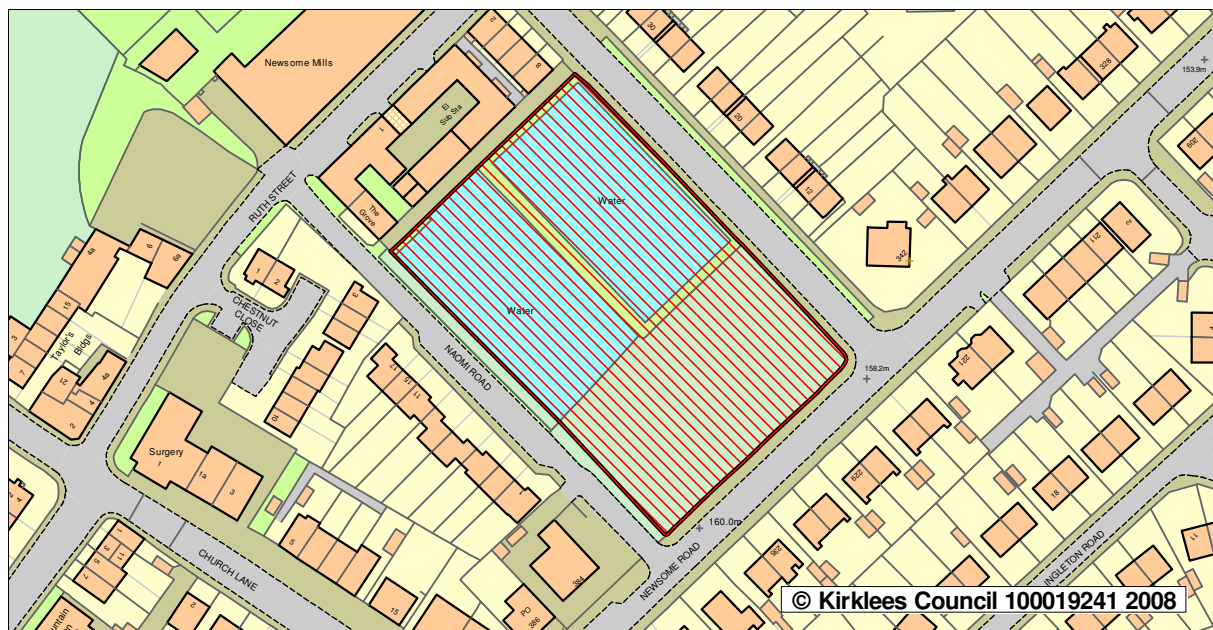
01-Sep-2016

EXTENSION EXPIRY DATE

Please click the following link for guidance notes on public speaking at planning committees, including how to pre-register your intention to speak.

<http://www.kirklees.gov.uk/beta/planning-applications/pdf/public-speaking-committee.pdf>

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral Wards Affected: NEWSOME.

Yes

Ward Members consulted

RECOMMENDATION: REFUSE

1. The proposal would result in the loss of an area of open space and a habitat of principle importance that would detract from the character of the local area, contrary to Policies D1, D2 parts vii, and viii, NE6 of the Kirklees Unitary Development Plan, and the guidance contained in part 11 of the National Planning Policy Framework” Conserving and enhancing the natural environment”.

1.0 INTRODUCTION:

1.1 The application is brought forward to Sub Committee as the site area exceeds 0.5 ha and given the extent of representations received.

2.0 SITE AND SURROUNDINGS:

2.1 The site comprises an area of 0.62 ha. It is a rectangular in shape and flanked on 3 sides by roads (i.e. Newsome Road, Hart Street and Naomi Road). To the NW, between the site and Ruth Street is a mix of housing and business units. The site of Newsome Mills, a grade 2 listed building fronts onto Ruth Street.

2.2 The application site contains 2 reservoirs to the NW that originally served Newsome Mills with a smaller area of land that is now largely overgrown fronting onto Newsome Road (this area of land was previously used as allotments).

2.3 Within the site running adjacent to Naomi Road are a number of mature trees that are protected by a Tree Preservation Order.

3.0 PROPOSAL:

- 3.1 The application seeks outline permission for housing, with all matters reserved. An illustrative layout is provided which shows a series of blocks on the site totalling 22 units.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 2008/92072 – Full application for 28 no dwellings with associated roads, parking, garaging, sewers and creation of new public open space.
Refused for 3 reasons:
- the scheme failed to adequately address the impact of development on protected species;
 - part of the site is greenfield, therefore proposal contrary to PPS3 housing; and
 - insufficient garaging, parking provision and road design
- 4.2 Subsequent appeal dismissed. The Inspector, considered that the appeal proposal would result in the loss of a substantial area of undeveloped land to the detriment of the character and appearance of the area and that the provision of new housing did not outweigh this. (Note – at the time the decision was made the Council was able to demonstrate that it could deliver an appropriate level of housing. As such the context for the decision is different and the Inspector’s comment relates only to the former allotments area).The Inspector did not agree with the 2 other reasons for refusal.

5.0 HISTORY OF NEGOTIATIONS

- 5.1 Additional information in respect of Heritage and Biodiversity has been requested. This has been received and re-advertised.
- 5.2 Potential amendments to the scheme, including the possibility of developing the green field part of the site whilst retaining the ponds has been discussed. The applicant has chosen not to progress this.
- 5.3. Following the fire at Newsome Mill, consideration of this application was deferred. The potential to consider the comprehensive redevelopment of the Mill and this site has been raised. However, this site is in separate ownership and whilst the impact that any development may have upon the area and upon surrounding properties, including the former Mill, is a material consideration, it is not considered reasonable to defer consideration of this application indefinitely. The applicant cannot be required to include land in his ownership with that of the Mill to bring forward a comprehensive scheme.

6.0 PLANNING POLICY:

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for Kirklees currently comprises the saved policies within the Kirklees Unitary Development Plan (Saved 2007). The Council's Local Plan was published for consultation on 7th November 2016 under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012. The Council considers that, as at the date of publication, its Local Plan has limited weight in planning decisions. However, as the Local Plan progresses, it may be given increased weight in accordance with the guidance in paragraph 216 of the National Planning Policy Framework. In particular, where the policies, proposals and designations in the Local Plan do not vary from those within the UDP, do not attract significant unresolved objections and are consistent with the National Planning Policy Framework (2012), these may be given increased weight. Pending the adoption of the Local Plan, the UDP (saved 2007) remains the statutory Development Plan for Kirklees.

6.2 Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

D1 – Development leading to the loss of valuable open land within towns or open countryside will not normally be permitted

D2 – Unallocated land

BE1 – Design principles

BE2 – Quality of design

BE23 – Crime prevention

T10 – Highway safety

T19 – Parking standards

H10 – Affordable housing

H18 – Provision of open space

G6 – Land contamination

R9 – Allotments

NE6 – proposals to develop a site containing water area

NE9 – Retention of mature trees

6.3 National Planning Guidance (NPPF):

Part 4: Promoting sustainable transport

Part 6: Delivering a wide choice of high quality houses

Part 7: Requiring good design

Part 8: Promoting healthy communities

Part 10: Meeting the challenge of climate change, flooding and coastal changes.

Part 11: Conserving and enhancing the natural environment

Part 12: Conserving and enhancing the historic environment

6.4 Supplementary Planning Guidance / Documents:

Supplementary Planning Document 2 'Affordable Housing'

7.0 PUBLIC/LOCAL RESPONSE:

- 7.1. The application has been publicised by site notices, press notice and neighbour letters. Additional information received (an updated ecology report, and heritage statement) has also been advertised by neighbour notification letter site notices.

To date there have been 93 letters of objection, the main points of concern being:

1. The proposal will have an adverse effect on residential amenity, particularly on properties on Hart Street.
2. There are severe on street parking difficulties in the area already, these will be made worse by an additional 22 dwellings.
3. The site represents an important green area in the centre of Newsome Village that is an otherwise densely built up area.
4. The ponds are an important feature in the village and a valuable wildlife habitat to many types of birds and pond life. Their loss would have an adverse effect on the wildlife and biodiversity in the area.
5. The local infrastructure ie school and doctors surgeries are already overstretched.
6. The scheme shown would have a detrimental effect on the TPO'd trees along the boundary of the site.
7. Similar plans have already been turned down in 2008/9.
8. The loss of the ponds would be irreversible, and damage the character of the area and the setting of the Newsome Mills listed building.
9. The ponds are an important part of the surrounding surface water drainage system and their loss/ filling in could have significant implications for the surface water drainage of the area.

Newsome Grapevine: Research in the Community indicates that the land is valued and has high amenity value particularly for those who live nearby, in what is an otherwise densely populated area. The land is part of the historic Newsome Mills site and its redevelopment would have a large impact on the Mill and its setting/character

Growing Newsome: Support the campaign against this development and believe the ponds and the former allotments should be retained for community benefit, including the provision of allotments and the growing of food. There is a waiting list for people requiring allotments in this area.

They comment that in dismissing the last appeal on this site the Inspector stated that *"The openness of this previously undeveloped part of the site provides valuable visual relief in what is otherwise a fairly densely developed urban area. The loss of previously undeveloped land resulting from the proposal would have an unacceptable impact on the character and appearance of the area."*

Huddersfield Civic Society: Object to this application believing it should be refused as the removal of the ponds is tantamount to demolition of a listed structure, in contravention of the Planning Act 1990 and the guidance contained in NPPF paragraphs 131-133.

4 letters have been received supporting the application, on the following grounds:

1. The site is overgrown and unkempt and is an eyesore in the centre of the village.
2. There is a need for need for new housing and building on sites such as this is appropriate.
3. The site is an eyesore and of no use to villagers (inaccessible). If an alternative use is to be found it should either be housing or potentially additional parking for the benefit of the village.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

KC Highways DM – No objections. The site is capable of being accessed, and in the event of an outline approval in this case access will need to be demonstrated, and agreed at that stage.

Coal Authority – Requested an updated Coal Mining Risk Assessment. This has been provided. Recommend a standard condition should outline approval be granted

8.2 Non-statutory:

KC Environmental Health – Recommend conditions in the event of an approval covering decontamination and remediation.

KC Trees – The application is not accompanied by a Tree Survey and whilst the layout submitted is illustrative, it is not considered that adequate information has been provided to demonstrate that that number of units can be provided without adversely affecting the protected trees along Naomi Road. If outline permission is granted then a full tree survey, impact assessment and method statement would be required as well as a landscaping scheme.

KC Ecology – The proposal is inconsistent with the guidance contained in paragraph 118 of the NPPF, and the ponds are regarded as being a habitat of principle importance.

KC Strategic Drainage – Views awaited.

KC Conservation and Design – It is not considered that the development of the site would harm the setting of the listed building, and on balance no objection is raised.

KC Strategic Housing –There is a need for affordable housing within the Newsome area. If outline permission is granted then a condition should be applied requiring the provision of affordable housing at detailed stage.

KC Landscape – Views awaited.

Yorkshire Water – No objections are satisfied with the drainage strategy submitted.

Yorkshire Wildlife Trust - The scheme results in the loss of two mill ponds, such habitats are identified as being of principle importance in the natural environmental and rural communities act, and are regarded as conservation priorities. The loss of the ponds would be contrary to policy PLP30 in the draft local plan, and the guidance contained in paragraph 118 of the NPPF.

9.0 MAIN ISSUES

- Principle of development
- Housing Issues
- Highways Issues
- Heritage Issues
- Bio diversity Issues
- Drainage Issues.
- The Planning Balance

10.0 APPRAISAL

10.1 Principle of development

10.2 The site includes both brownfield and greenfield land. The ponds are man-made and associated with the Newsome Mill and are considered to be previously developed, whilst the former allotments are considered to be previously undeveloped 'greenfield'.

10.3 It is considered that both the ponds and the former allotments fall into the category of open space. The NPPF defines open space as "*all open spaces of public value, including not just land, but also areas of water (such as rivers, canals, lakes and reservoirs) which offer important opportunities for sport and recreation, and can act as a visual amenity*". As such it is appropriate to consider the whole site as one area of open space.

10.4 Within the UDP the relevant policies for consideration include Policies D1, D2, NE6 and R9.

10.5 Policy D1 states that '*development proposals which would lead to a loss of valuable open land within towns or open countryside will not normally be permitted*'.

10.6 Policy D2 states that sites that...

Planning permission for development (including change of use) of land and buildings without notification on the proposals map, and not subject to specific policies in the plan will be granted provided that proposals do not prejudice:

*i) the implementation of the plan;
ii) the avoidance of over development*

iii) the conservation of energy;

iv) highway safety

v) residential amenity

vi) visual amenity

vii) the character of the surroundings

viii) wildlife interests; and

ix) the efficient operation of existing and planned infrastructure.

10.7 Policy NE6 states;

Where it is proposed to develop a site containing a water area planning permission will normally be subject to a condition or legal agreement to retain the water area.

10.8 Policy R9 states;

Proposals involving development on allotments, or land last used as allotments will not be permitted unless replacement allotments of equivalent community benefit are provided or it can be demonstrated that there is no unsatisfied local demand for allotments. All proposals should make provision for the safeguarding of visual amenity and established wildlife.

10.9 The site is considered to comprise an area of open space that makes a positive contribution to the character of the area, and as indicated by the Inspector in dismissing previous appeal, the green field element provides valuable visual relief in an otherwise densely built up area. This situation has not changed since the Inspectors comments, and the ponds themselves are considered to be of value contributing to the amenity of the site. Together with the TPO'd trees, this amenity can be appreciated without having to access the site.

10.10 The site does contain water areas which are not proposed to be retained and it would be possible to redevelop a portion of the site whilst retaining either or both of the ponds.

10.11 As such it would appear that the proposal is not compatible with Policy D1 and Policy D2 part vii and Policy NE6.

10.12 The allotments were originally used for works at the mill. These have been vacant a considerable time and it is not considered that an unsatisfied demand for allotments can be demonstrated. It should be remembered that in dismissing the previous appeal in 2008, the Inspector did not endorse the reason for refusal relating to loss of allotments.

10.13 Housing Issues

10.14 The site is unallocated on the UDP, as such the principle of housing on the site is considered acceptable to subject to consideration of the matters identified in Policy D2 above.

10.15 Paragraph 49 of the NPPF indicates that housing developments should be considered in the context of the presumption in favour of sustainable development and that in the event the Council is unable to demonstrate a 5 year supply of deliverable housing sites, housing developments should be approved unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits of delivering the new housing.

10.16 The Council is unable to demonstrate a 5 year supply of deliverable housing, and as such weight should be given to the delivery of new housing. The indicative drawing shows blocks of housing comprising a total of 22 units. It is not clear how many units could reasonably be accommodated on the site as a whole, but given the constraints of TPO'd trees it is likely to be less than the 22 units shown and if the ponds were to be retained it would be even less.

10.17 Whilst the provision of new housing is important and should be afforded weight in the planning balance, the contribution towards the Councils total shortfall would be limited. Whilst the Councils emerging Local Plan may only be afforded limited weight at the present time, it should be noted that the site is not allocated for housing. The level of housing provided would need to be considered against the potential harm to the character of the area, and loss of open space.

10.18 The Councils' Interim Affordable Housing policy seeks the provision of 20% of the numbers of dwellings on any scheme, over 10 dwellings. As such the number of affordable dwellings secured would be no more than 3 or 4 on this site depending on what detailed Layout was submitted as part of any Reserved Matters.

10.19 Highway Issues

10.20 The principle of development only is sought on this application with all other matters reserved, including access. The indicative layout shows a potential access off Hart Street. The level of housing provided at a maximum of 22 units could be accommodated on the surrounding road network, and adequate access and visibility provided.

- 10.21 It should be remembered that on the previous application 2008/92072, (that Which was dismissed at appeal), t he Inspector did not endorse the highway reason for refusal.
- 10.22 As such there is no sustainable objection to the development of the site from a Highways viewpoint.
- 10.23 Heritage Issues
- 10.24 In considering the impact of development on heritage assets the relevant guidance is contained in Section 66 of the Planning(Listed Buildings and Conservation Area) Act 1990, which says that special regard should be given to the desirability of preserving the building or its setting any features of special or architectural interests which is possesses. Also of relevance is the guidance contained in part 11 of the National Planning Policy Framework in particular paragraphs 132-135, which indicates what weight should be afforded to the assets , and how any harm to that asset should be considered and set against other material factors, in arriving at a decision.
- 10.25 The applicant has provided Heritage Statement with this application. The Statement seeks to address the issue of the ponds on this site being within the curtilage of the listed mill. The Statement explains that the ponds are physically separate from the mill site, and have been in separate ownership for some time. The ponds were not mentioned in the listing, and a third party request to list the ponds in 2007, in its report English heritage concluded that the mill ponds have an association with the mill, but are separated from it by the Coach House. They also said that the physical separation from the mill buildings made it hard to assign group value and the northern mill pond with concrete walls has no architectural interests.
- 10.26 Officers have considered this statement and are aware of the English Heritage comments, and agree that the potential development on this site does not impact directly on the significance of the listed building (Newsome Mills), and the ponds are not curtilage listed building. However there does need to be consideration regarding the impact on the setting.
- 10.27 Due to its social history and the links to the mill it could be considered that the building is a non-designated heritage asset as defined in the National Planning Policy Framework. Therefore paragraph 135 of the NPPF applies where the effect on the significance of the structure should be taken into account in determining the application. As such a balanced judgement is required over the harm cause against the significance of the structure. Following the change in ownership and the condition of the mill itself, it is considered that there is little significance in regards to the mill ponds, and whilst their loss would be regrettable the link between the mill and the ponds has been severed, and paragraph 135 has been satisfied.

10.28 To summarise it is not considered that the principle of residential development on this site would result in a level of harm to both the setting of the listed building or its significance, or the significance of the non-designated heritage asset, to justify refusal on heritage grounds. This was also the view expressed by the Inspector in the previous appeal.

10.29 Bio-diversity Issues

10.30 The guidance contained in paragraph 118 of the National Planning Policy Framework indicates that when determining application the aim should be to conserve and enhance biodiversity.

10.31 The Natural Environment and Rural Communities Act 2006 identifies habitat, of principle importance, which includes mill ponds, that should be regarded a conservation priorities. This principle is incorporated in the emerging Local Plan policy PLP30, which states:

*“Habitats of principle importance
Proposals will be required to protect habitats and species of principle importance unless the benefits of the development clearly outweigh the importance of the bio diversity interests, in which case long term compensatory measures will need to be secured.”*

10.32 The Local Plan is at an early stage, however this draft policy does accord with the NPPF guidance.

10.33 The site including the ponds are considered to be a habitat of local importance, and the scheme does not indicate any compensatory mitigation, for the loss of the ponds, and therefore conflicts with the guidance contained in paragraph 118 of the NPPF, and part viii of Policy D2.

10.34 Drainage issues

10.35 The site is located within Flood zone 1 (ie an area least likely to flood), and new development should preferably be sited in this zone. The existing ponds are drained via pipes under Newsome Road, and the blockage of these pipes has caused issues in neighbouring streets previously. If the ponds were removed a residential scheme could be satisfactorily drained both in terms of foul and surface water and these matters could be satisfactorily conditioned Yorkshire Water have raised no objections to the proposal.

10.36 As such there are no objections to the proposal, on drainage grounds

11.0 CONCLUSION

11.1 It is consider that the harm resulting from the development to the character of the area, the loss of open space and a habitat of principle importance, outweigh the benefits of the provision of much needed new dwellings and affordable housing and on balance refusal is recommended

Background Papers:

Application and history files.

2016/91479

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2016%2f91479>

2008/92072

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2008%2f92072>

Certificate of Ownership B – Notice served on Mr M Smith and Mr M Devey.