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**Report of the Head of Development Management**

**HUDDERSFIELD PLANNING SUB-COMMITTEE**

**Date: 09-Mar-2017**

**Subject: Planning Application 2015/91796 Engineering works relating to improvements and road widening to Lees Mill Lane (within a Conservation Area) Grosvenor Chemicals, Lees Mill Lane, Linthwaite, Huddersfield, HD7 5QE**

**APPLICANT**

Grosvenor Chemicals Ltd

**DATE VALID**

11-Jun-2015

**TARGET DATE**

06-Aug-2015

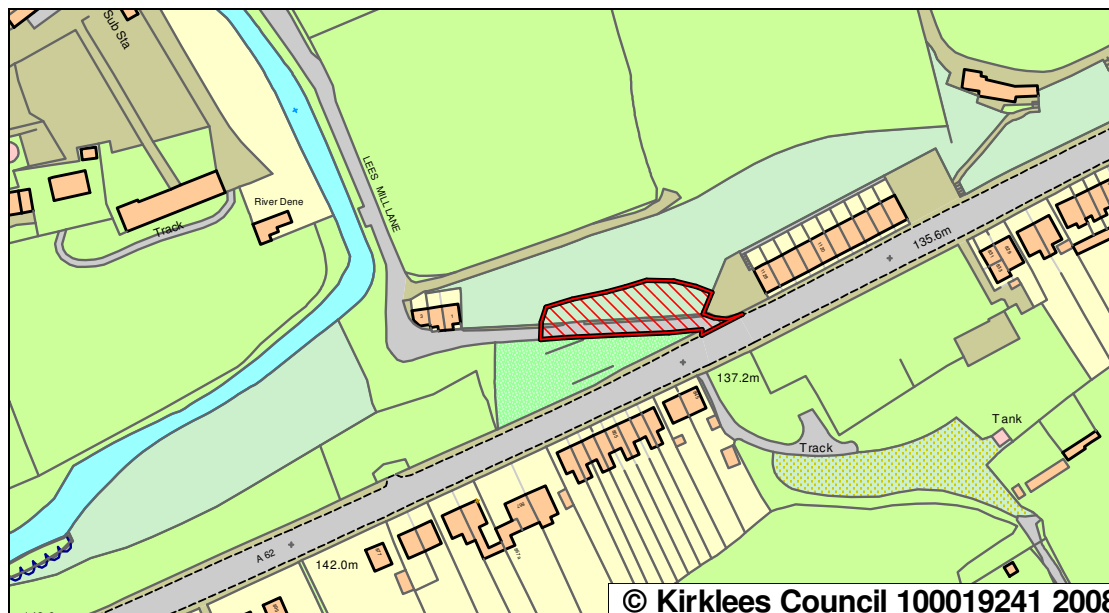
**EXTENSION EXPIRY DATE**

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<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:**

**Colne Valley**

Yes

Ward members notified

**RECOMMENDATION:**

**DELEGATE approval of the application and the issuing of the decision notice to the Head of Development Management in order to complete the list of conditions including those contained within this report.**

**1.0 INTRODUCTION**

- 1.1 This application is brought to sub-committee for determination at the request of officers and with the agreement of the Chair in accordance with the provisions of the current delegation agreement.
- 1.2 This proposal would see the repair and upgrade of a section of an existing vehicular access (Lees Mill Lane) which is also a public right of way. The works would ensure the long term stability of this section of the access and of the public right of way which runs along the route of the Lane.
- 1.3 Although the site is located within the Green Belt, it is considered that the proposed development would constitute appropriate development and would not therefore have a significant detrimental effect on the openness of this part of the Green Belt.
- 1.4 The development would see the construction of a substantial retaining embankment and whilst it is considered this would have some less than substantial detrimental impact on the setting of the Linthwaite Conservation Area, it is considered that the benefits associated with this development would outweigh this negative effect.

**2.0 SITE AND SURROUNDINGS**

- 2.1 The application site is located off Manchester Road approximately 650m south west of the centre of Linthwaite and forms part of an access road (Lees Mill Lane) serving residential properties, playing fields and Grosvenor Chemicals. The site occupies an area of approximately 900m<sup>2</sup>, lies within an area allocated as Green Belt in the adopted Unitary Development Plan and is situated within the Linthwaite Conservation Area. The area immediately surrounding the site has a mixed residential/commercial character, although a significant amount of open land is evident in the wider landscape. The access road is an unadopted highway but is a public right of way (footpath Col/85/10).

### **3.0 PROPOSAL**

- 3.1 The applicant proposes to create a new reinforced embankment adjacent to the northern boundary of the existing highway in order to strengthen and widen the carriageway from its current width of 4m to approximately 7.5m for a distance of approximately 50m. This would create a passing place sufficient for two vehicles moving in opposite directions to pass. The works would also even the current gradient slightly to alleviate problems with heavy vehicles losing traction in wet weather when pulling out onto Manchester Road.
- 3.2 This would involve the complete reconstruction of a section of the carriageway from its junction with Manchester Road for a distance of approximately 50m and the removal of the current temporary buttress. The level of the carriageway would be raised and a new supporting buttress formed which is capable of supporting the new carriageway loadings and the proposed passing place. The works would provide an even gradient along this section of the highway of 1:9, which at present is uneven and varies from 1:8 to 1:11. The supporting embankment would run adjacent to the new carriageway for approximately 50m and at its widest would extend for approximately 6.5m from the edge of the new carriageway. The raising of the carriageway level and the construction of the embankment will require the import of a significant quantity of foundation material. The proposal would also require the removal of 3 self-seeded semi-mature trees and would over tip an area of approximately 2m to 5m of self-seeded scrub beyond the current temporary buttress. The current surface of the affected section of the carriageway, which is dilapidated, would be replaced and upgraded as part of this proposed development.

### **4.0 RELEVANT PLANNING HISTORY**

- 4.1 Lees Mill Lane is the only vehicular access to the applicant's chemical works and is therefore used on a regular basis by heavy vehicles. In 2011 a retaining wall supporting the road collapsed and temporary buttress works were necessary to support the road to allow its continued use. These works have remained in position since that time but are wholly inadequate to provide continued access arrangements.

### **5.0 HISTORY OF NEGOTIATIONS**

- 5.1 During the consideration of this application the applicant was contacted and a request for further clarification regarding the potential implications this proposal might have in relation to the local highways network was sought. This information was subsequently provided.

## **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 (adopted 1999) remains the statutory Development Plan for Kirklees.

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

- 6.2 The site is allocated as Green Belt on the UDP Proposals Map

BE1 – Design principles

BE5 – Development within conservation areas

T10 – Highway safety

R13 – Development affecting public rights of way

WD5 – Development for the disposal of waste by landfill

### National Planning Guidance

- 6.3 It is considered that the following parts of the NPPF are relevant:

NPPF1 – Building a Strong Competitive Economy

NPPF7 – Requiring Good Design

NPPF 9 – Green Belt

NPPF 11 – Conserving and Enhancing the Natural Environment

NPPF 12 – Conserving and Enhancing the Historic Environment

Planning Practice Guidance - Waste

## **7.0 PUBLIC/LOCAL RESPONSE**

- 7.1 Publicity:

This application was advertised in the Huddersfield Examiner, by the posting of 2 site notices in the vicinity of the site and the mailing of 12 neighbourhood notification letters. 12 separate representations were received and the concerns raised as a result can be summarised as follows:

- The proposal does not make adequate provision for pedestrian users of the lane

- The land is not suitable for use by heavy vehicles
- This proposal should include widening along the entire length of the lane and the addition of additional safety measures in the vicinity of the bend close to the residential properties and close to the river
- Improvements to the road could prove counterproductive as HGV drivers would be less cautious
- If planning permission is granted then the applicant must be compelled to carry out the work
- Monies received by the Council from the sale of land to allow the implementation of this development should be used to improve Lees Mill Lane for the benefit of the community
- Details of the foundation materials should have been provided in the application submission
- Widening the access as proposed would encourage HGV drivers to turn left from Manchester Road which would be dangerous

## 8.0. CONSULTATION RESPONSES

### 8.1 Statutory

**KC Highways Development Management** – No objections subject to the inclusion of a planning condition requiring design and construction details for the supporting embankment to be submitted and approved.

### 8.2 Non statutory

**KC Conservation and Design**– No objections

## 9.0. Main issues

- Principle of development
- Design issues
- Local amenity
- Environmental issues
- Highway issues
- Drainage issues
- Representations

## 10.0 APPRAISAL:

### Principal of development

- 10.1 The site is located within an area of land allocated as Green Belt in the Unitary Development Plan. Section 9 of the National Planning Policy Framework (NPPF) indicates that there is a presumption against inappropriate development in such areas unless there are very special circumstances which clearly outweigh the harm to the Green Belt by reason of inappropriateness and any other harm to allow it. Consequently, in this instance, the key issues are whether the proposal would amount to inappropriate development within the Green Belt; if so whether there would be any other harm to the Green Belt; and whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.
- 10.2 Paragraph 90 of the NPPF indicates that the following types of development are considered not to be inappropriate providing they preserve the openness of the Green Belt and do not conflict with the purposes of including land in the Green Belt:
- mineral extraction;
  - engineering operations;
  - local transport infrastructure which can demonstrate a requirement for a Green Belt location;
  - the re-use of buildings provided that the buildings are of permanent and substantial construction; and
  - development brought forward under a Community Right to Build Order.
- 10.3 The application site includes a section of surfaced vehicular highway and a substantial temporary buttress and is immediately adjacent to Manchester Road which is a major arterial route with a carriageway width of approximately 14m. Consequently, whilst the site falls within the Green Belt it is considered that it cannot be described as a particularly sensitive location.
- 10.4 Whilst it is accepted that that this proposal would have an impact with regard to the appearance of this section of Lees Mill Lane, as the site is not in a particularly prominent location, it is considered that this would be a localised effect and as the proposed supporting embankment would be soiled and seeded, this would soften its overall impact. Officers therefore consider that the development would not have a significant material effect on the openness of the Green Belt and thus would preserve openness so not conflicting with the purposes of including land within the Green Belt.

- 10.5 Consequently it is considered that as this proposal involves engineering operations which would preserve the openness of the Green Belt it constitutes appropriate development within the Green Belt as defined in paragraph 90 of the NPPF and is therefore acceptable in principle subject to there being no conflict with relevant UDP policies or other sections of the NPPF.

### **Design**

- 10.6 This proposal represents a fairly practical design which essentially arises from the nature of the development involved. Much of this development would be sited below the level of both Lees Mill Lane and Manchester Road. However, a significant proportion would be visible, the major elements being the reinforced embankment, which would take the form of an engineered buttress immediately adjacent to the vehicular carriageway, a high kerb edge and crash barrier. Whilst the development would appear as somewhat utilitarian it is considered that it would not appear out of character in this location and could be enhanced and softened through the treatment of the embankment i.e.; seeding/planting. It is therefore considered that this proposal would accord with UDP policies BE1, and section 7 of the NPPF.

### **Impact on local amenity:**

- 10.7 The proposal is of a relatively small scale and in a position which is not easily overlooked, although users of PROW (Co/85/10) would gain views of the development when progressing along the route. Residential properties to the south of the site on the other side of Manchester Road are at a higher level and some of these properties would gain views of the development, although existing vegetation would screen and filter those views. Having said this, the affected section of Lees Mill Lane is immediately adjacent to Manchester Road, which is a main arterial route, and there is already an urban element associated with this setting. It is therefore considered that this development would not result in any significant detrimental impact to the visual amenity of the area and would therefore accord with Section 11 of the NPPF.

### **Impact on the environment:**

#### Local heritage assets

- 10.8 The application site is located within the Linthwaite Conservation Area. In considering applications for planning permission the duty imposed by section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of conservation areas. Paragraph 132 of the NPPF states that when considering the impact of new development on the significance of any designated heritage asset, great weight should be given to its conservation. It is therefore important to assess the impact of this development on the significance of the Conservation Area, principally its setting. If there is considered harm this would require clear and convincing justification.

10.9 Paragraph 134 of the NPPF indicates that if development would lead to less than substantial harm, the harm should be weighed against the potential public benefits. The Council's Conservation and Design (C & D) Team was consulted with regard to this development and has indicated that whilst this proposal would cause some less than substantial harm to the setting of the conservation area, this would be localised and would not lead to the character of the conservation area being detrimentally affected. Furthermore officers consider that this proposal would result in significant public benefit which would outweigh that harm. This benefit would result from the formation of a safer access which would allow two vehicles to pass when moving in opposite directions along a critical section of Lees Mill Lane and by ensuring the stability of PROW (Col/85/10), which runs along the lane, is maintained. It is therefore considered that this proposal would accord with UDP policy BE5 and guidance contained within Section 12 of the NPPF.

### Ecology

10.10 The site and its immediate surroundings comprise an area of surfaced road, rough scrubland and self - seeded immature trees and whilst this is likely to offer some habitat opportunities, these are likely to be limited. The application site has previously been over-tipped with hard-core to form the temporary buttress and this proposal is therefore unlikely to have a significant impact on local ecological systems and the sympathetic treatment of the site could potentially offer an opportunity to improve local biodiversity. It is therefore considered that this proposal would accord with Section 11 of the NPPF with regard to its potential impact on local ecological systems.

### **Impact on Highway safety:**

10.11 Initially the Council's Highways Development Management Team requested further information regarding the following issues:

- i) The provision of a road safety audit
- ii) Justification as to why the proposed gradient of the road is suitable
- iii) Details of swept path analysis and visibility splays
- iv) How HGVs would access the Lees Mill lane from Manchester Road
- v) Possible remodelling of the junction of the Lane with Manchester Road
- vi) If the use of the access intensifies then what measures will be introduced to prevent scrubbing of the highway surface
- vii) Whether existing drainage would require upgrading
- viii) How pedestrians would be kept safe during construction operations and when the development is completed

Further information was therefore submitted by the applicant which satisfactorily clarified issues with regard to points (ii) to (viii).



10.12 A Stage1 Road Safety Audit was subsequently provided which has made a number of recommendations. These are summarised as follows:

- A realignment of the containment kerbing to guide vehicles away from the car park adjacent to the junction with Manchester Road.
- The footway on the north side of the junction should be extended and dropped kerbs and tactile paving provided to the footways on both sides of the junction.
- Give way and hazard markings be provided at the junction.

The applicant has agreed to include the above recommendations in the design of the development.

10.13 It is considered that the design changes indicated in the Road Safety Audit would result in a general improvement in this junction with Manchester Road and, bearing in mind this proposal would not lead to an intensification of vehicular use on Lees Mill Lane, these design changes would satisfactorily alleviate any impact on highway safety.

10.14 The proposal would involve the construction of a significant retaining structure which would support the new section of highway. As previously indicated the route of PROW Col/85/10 follows Lees Mill Lane and it is therefore important to ensure this route remains structurally sound to allow the continued use of the PROW. Should planning permission be granted it is therefore proposed to seek the submission of design and construction details prior to development commencing to ensure the proposed retaining structure is sufficient to provide the necessary support to the highway and thus the PROW.

10.15 The works involved with this proposal would involve the temporary diversion/closure of the aforementioned PROW for the duration of the construction works. This would therefore require the applicant to make a separate formal application for an order under separate legislation for temporary closure/diversion of the definitive footpath.

10.16 It is therefore considered that this proposal accords with UDP Policies T10 and R13 with regard to its potential impact on highway safety.

**Drainage:**

10.17 The lane currently has poor drainage arrangements in place and these will require upgrading to accommodate surface drainage from the upgraded carriageway. Indicative drainage arrangements have been provided but full details will be required prior to development commencing on site. It is considered that such measures can be dealt with through an appropriately worded planning condition and it is therefore considered that this proposal would accord with Section 11 of the NPPF with regard to associated drainage issues.

## **Representations:**

10.18 As previously indicated 12 representations have been received in relation to this proposal. The concerns raised and responses can be summarised as follows:

10.19 The proposal does not make adequate provision for pedestrian users of the lane.

**Response:** Lees Mill Lane is a mixed vehicular and pedestrian route and would continue to operate as such. The application submitted does not include specific measures for pedestrian safety. However, it would provide continued unhindered use of the PROW and would upgrade the surface of the lane within the application site.

10.20 The land is not suitable for use by heavy vehicles

**Response:** It is accepted that Lees Mill lane was never designed to cope with the heavy vehicles which now use it. However, the applicant has a right of access to his commercial premises and the use of such vehicles is not precluded. The lane is un-adopted and is not therefore the responsibility of the Council to maintain. This proposal would see the improvement of a critical section of the lane where vehicles enter and exit Manchester Road. Evidence indicates that, in wet weather, HGVs currently struggle to gain traction at this junction and this proposal seeks to alleviate this problem.

10.21 This proposal should include widening along the entire length of the lane and the inclusion of additional safety measures in the vicinity of the bend close to the residential properties and close to the river.

**Response:** Whilst such measures would be desirable, this could only be achieved through the use of a Section 106 agreement. The Community Infrastructure Levy Regulations 2010 stipulates that planning obligations (also known as section 106 agreements – of the Town and Country Planning Act 1990) should only be sought where they meet all of the following tests.

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

This proposal does not seek to intensify the use of Lees Mill Lane which is an un-adopted highway and officers consider that it would therefore be unreasonable to use this proposal to seek the upgrade other parts of the lane outside the planning application site. Consequently officers consider that the measures suggested would not meet any of the above tests and as such cannot be required under the terms of this planning application.

10.22 Improvements to the road could prove counterproductive as HGV drivers would be less cautious.

**Response:** Officers consider that the proposed improvements to the highway would not lead to significant changes to driver habits. Negotiating the lane would still require a cautious approach and the proposed passing place would prevent the need for vehicles to reverse or manoeuvre as currently occurs when they meet at this point on the Lane.

10.23 If planning permission is granted then the applicant must be compelled to carry out the work.

**Response:** In this instance there is no provision under current planning legislation to compel an applicant to implement a planning permission.

10.24 Monies received by the Council from the sale of land to allow the implementation of this development should be used to improve Lees Mill Lane for the benefit of the community.

**Response:** This is a separate issue which cannot form part of the assessment of this application. Lees Mill Lane is an un-adopted highway for which the Council is not responsible for maintaining. Using monies realised from the sale of any Council land to upgrade Lees Mill Lane would be a matter for the Council's Physical Resources and Procurement Team to consider.

10.25 Details of the foundation materials should have been provided in the application submission.

**Response:** It is proposed to secure the technical detail of this proposal through an appropriately worded planning condition which will not allow the development to commence until those details have been submitted to the Local Planning Authority for consideration.

10.26 Widening the access as proposed would encourage HGV drivers to turn left from Manchester road which would be dangerous.

**Response:** It is acknowledged that such a manoeuvre would be dangerous. However, it is not accepted that this proposal would make this manoeuvre any more likely. The junction would not be widened as part of this proposal and it would still be as difficult for HGVs turning left from Manchester Road as at present. The applicant instructs drivers visiting the site to only access the lane by turning right from Manchester Road and by turning left onto Manchester Road when exiting the lane.

10.27 The scope of the supporting Road Safety Audit (RSA) is not wide enough as it does not adequately consider the impact of pedestrian users of the Lees Mill Lane.

**Response:** The RSA does consider the impact of the development on pedestrians crossing the junction of Lees Mill Lane and Manchester Road and makes recommendations to alleviate highway safety impacts. With regard to Lees Mill lane itself, the widening of this section of Lees Mill Lane will provide additional space for pedestrians to avoid conflict with vehicles. It is therefore considered that this proposal would not result in a significant additional detrimental impact on highway safety.

## **11.0. CONCLUSION**

11.1 This proposal would see the repair and upgrade of a section of an existing vehicular access (Lees Mill Lane) which has had a temporary buttress in place retaining the lane for 5 years. The works would ensure the long term stability of this section of the access and of the public right of way which runs along the route of the Lane.

11.2 Although the site is located within the Green Belt, it is considered that the proposed development would constitute appropriate development and would not therefore have a significant detrimental effect on the openness of this part of the Green Belt nor would it conflict with the purposes of including land within the Green Belt. Whilst it is considered that the works would cause less than substantial harm to the setting of the Linthwaite Conservation Area, it is considered that the public benefits associated with this development would outweigh the harm caused.

11.3 Furthermore it is considered that this development would not have any significant detrimental impact on local amenity, the local environment or highway safety

12.0 **CONDITIONS (Summary list. Full wording of conditions including any amendments/additions to be delegated to the Head of Development Management)**

1. Standard condition requiring development to be implemented within 3 years from date of permission.

2. Condition requiring development to be carried out in complete accordance with the plans and specifications submitted.

3. Condition requiring design and construction details for the proposed embankment supporting Lees Mill Lane to be approved prior to development commencing

4. Condition requiring details of the measures to be employed to ensure that the site is adequately drained are approved prior to development commencing

5. Condition requiring a scheme to be approved which indicates measures to plant/seed the external face of the retaining embankment.

**Background Papers:**

Application and history files.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2015%2f91796>

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