
Report of the Head of Planning and Development

STRATEGIC PLANNING COMMITTEE

Date: 27-Jan-2021

Subject: Planning Application 2020/91813 Discharge of conditions 14 (affordable housing), 15 (public open space) and 16 (education) of previous permission 2018/91119 for outline application for erection of residential development rear of, 11, Holme Avenue, Dalton, Huddersfield, HD5 8DP

APPLICANT

B Marsden

DATE VALID

16-Jun-2020

TARGET DATE

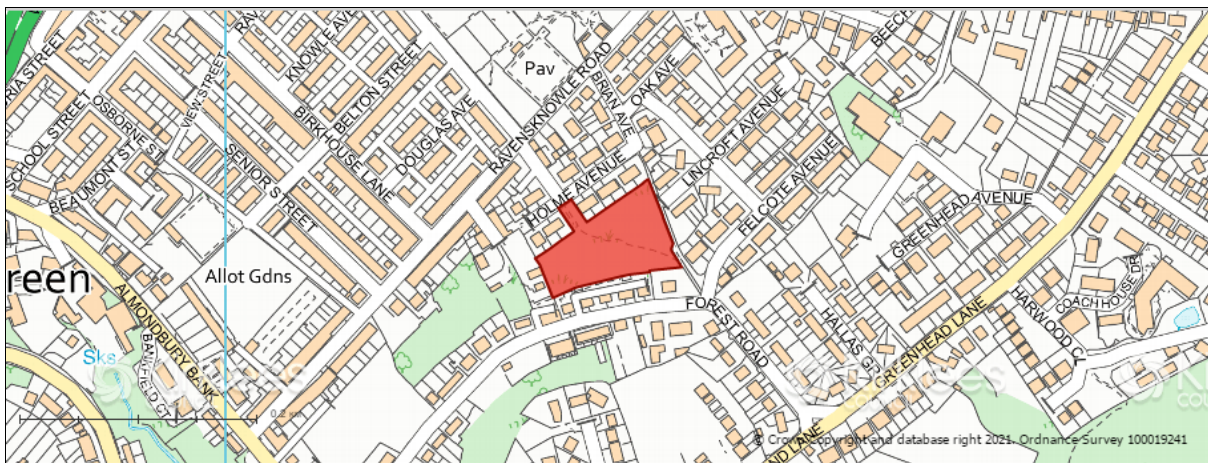
11-Aug-2020

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: Almondbury

Ward Councillors consulted: No

Public or private: Public

RECOMMENDATION:

APPROVE the discharge of conditions.

1.0 INTRODUCTION:

- 1.1 The application site has planning permission for the erection of 22 dwellings by virtue of outline planning application 2018/91119 and reserved matters application 2019/93068.
- 1.2 The outline application was approved by the Huddersfield Sub-Committee on 9th August 2018. As part of the committee resolution planning obligations for affordable housing, public open space and education provision were to be secured by way of conditions. Conditions 14, 15 and 16 on the decision notice reflect this.
- 1.3 The applicant has applied to discharge these three conditions. No affordable housing, open space or education contributions are proposed on the basis that the scheme would not be financially viable if they were provided. A viability assessment to support the applicant's case has been submitted and this has been independently appraised on behalf of the Council. The independent assessor has advised that the scheme would be unviable with the inclusion of such planning obligations.
- 1.4 The discharge of conditions application is brought forward to the Strategic Planning Committee in the interests of transparency. The Huddersfield Sub-Committee resolved to approve the outline application with the expectation that planning obligations relating to affordable housing, open space and education would be provided as necessary as part of the final development. However, based on the viability assessment that has been undertaken, no such obligations are to be secured.
- 1.5 Furthermore, discharge of condition applications are not subject to any formal publicity in the way that other planning applications are, although they are in the public domain. As such there is generally a lesser degree of public scrutiny on this type of application.
- 1.6 In light of the above, officers consider that it is appropriate for members to be given an opportunity to formally consider this application.

2.0 SITE AND SURROUNDINGS:

- 2.1 The site is a steeply sloping parcel of undeveloped land surrounded by residential development.

2.2 The site was allocated for housing in the Kirklees Unitary Development Plan (1999-2019) and the allocation was carried forward within the Local Plan. The allocation was not taken up during the previous plan period although two separate outline applications were submitted in 2014 and 2018 respectively, with both applications approved. The council has previously identified this site as being a 'stalled' site. It is noted as well that there have been other planning permissions on the land that pre-date the Unitary Development Plan.

3.0 PROPOSAL:

3.1 The application is seeking to discharge conditions 14 (affordable housing), 15 (public open space) and 16 (education) of previous permission 2018/91119 for outline application for erection of residential development.

3.2 The full wording of the relevant conditions is set out below:

14. 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 affordable housing within the development have been submitted to and agreed in writing by the Local Planning Authority. The arrangements shall cover the following matters:

- a) The number and type of affordable housing units to be provided;*
- b) The layout and disposition of the unit's affordable housing to be provided;*
- c) The timescale for the implementation and completion of the affordable housing units; and*
- d) The mechanism for ensuring that the affordable housing units remain affordable for both the initial and subsequent occupiers.*

Reason: *To ensure the provision of affordable housing in accordance with the requirements of policy H10 of the Kirklees Unitary Development Plan and the Kirklees Interim Affordable Housing Policy and emerging Policy PLP11 of the Publication Draft Local Plan. This is a pre-commencement condition to ensure that details of affordable housing are provided and agreed at an appropriate stage of the development process.*

15. 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 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;*
- c) The mechanism for ensuring that the public open space will be available for public within perpetuity; and*
- d) Maintenance of the public open space in perpetuity.*

Reason: *To ensure the provision of open space to serve the development and in accordance with Policy H18 of the Kirklees Unitary Development Plan and Policy PLP63 of the Kirklees Publication Draft Local Plan. This is a pre-commencement condition to ensure that details of open space provision are provided and agreed at an appropriate stage of the development process.*

16. 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 educational facilities to serve the needs of the development have been submitted to and approved in writing by the Local Planning Authority. The arrangements shall facilitate an increase in the capacity of local schools commensurate with the demands of the development.

Reason: To ensure provision of educational facilities to mitigate the impacts of the development and in accordance with Policy PLP49 of the Kirklees Publication Draft Local Plan. This is a pre-commencement condition to ensure that details of education provision are provided and agreed at an appropriate stage of the development process.

4.0 RELEVANT PLANNING HISTORY:

2019/93068 Reserved matters application pursuant to outline permission 2018/91119 for erection of residential development, decision issued 29/05/20.

2018/91119 Outline application for erection of residential development – Approved by the Huddersfield Planning Sub-Committee 09/08/2018, decision issued 14/08/2018.

2014/92369 Outline application for residential development – Approved

91/02565 Renewal of unimplemented outline application for residential development – Approved

87/02023 Outline application for erection of residential development – Approved

5.0 HISTORY OF NEGOTIATIONS:

5.1 No negotiations undertaken.

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 statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019).

6.2 The site is allocated for housing in the Kirklees Local Plan.

6.3 Kirklees Local Plan (2019):

LP11 – Housing Mix and Affordable Housing
LP49 – Educational and healthcare needs
LP63 – Open Space

6.4 National Planning Guidance:

Chapter 4 – Decision-making
Chapter 5 – Delivering a sufficient supply of homes

6.5 Other considerations:

Kirklees Planning Viability Guidance Note (June 2020)
Planning Practice Guidance – Viability
Kirklees Interim Affordable Housing Policy – January 2020

7.0 PUBLIC/LOCAL RESPONSE:

7.1 No publicity was undertaken.

8.0 CONSULTATION RESPONSES:

8.1 The applicant's viability assessment was independently assessed and is discussed within the appraisal below. No other consultation was undertaken.

9.0 APPRAISAL

9.1 The outline permission requires the applicant to provide details of the arrangements for the provision of affordable housing, open space and education facilities before development commences.

9.2 The outline permission did not approve the total number of dwellings on the site. The number of units was agreed through the reserved matters application whereby a layout for 22 dwellings was approved.

9.3 Policy LP11 of the Kirklees Local Plan requires 20% of dwellings to be affordable on residential developments of over ten dwellings. Four affordable dwellings would therefore be sought from this development.

9.4 Policy LP63 of the Kirklees Local Plan requires residential developments of over ten dwellings to make provision for open space. The layout that has been approved does not provide any on-site open space and therefore an off-site contribution would be applicable on this scheme.

9.5 The threshold for a contribution towards education provision is 25 dwellings. The approved layout falls below this threshold and so an education contribution would not be sought. As such, the requirements of condition 16 effectively fall away.

9.6 The applicant is not proposing to provide any contributions towards affordable housing or open space. This is on the basis that the provision of such obligations would render the scheme unviable. The application is supported by a financial viability assessment which indicates that there are some significant abnormal costs which affect the viability of the scheme, specifically the cost of providing the necessary retaining structures on this steeply sloping site.

9.7 The applicant's financial viability assessment has been independently appraised on behalf of the Council. The independent assessment indicates that with the provision of four affordable units on the site and a financial contribution towards open space the scheme would turn an extremely nominal profit (approximately £38,000). The level of profit generated is vastly below the 15-20% of gross development value which is generally considered to be a suitable return to developers - as suggested within published Planning Practice Guidance.

- 9.8 When affordable housing and open space are omitted from the scheme, the development would yield a profit of slightly over £1m which represents a profit level of 17% of the gross development value. This level of profit therefore falls within generally accepted parameters.
- 9.9 There are a number of factors that determine what a reasonable level of profit might be, including the availability of development finance, the state of the market and the consequent risk in proceeding with schemes, as well as development values and demand. On lower risk developments a profit level of around 15% may be reasonable whereas on higher risk developments a profit level in the region of 20% may be more suitable. In determining the appropriate level for an individual development, regard will be had to the individual characteristics of that scheme.
- 9.10 The independent assessor considers that 17% is an appropriate return on this site. This is mainly because of its topography which makes it a challenging site to build-out and its impact on the nature of the new dwellings. For example, a large proportion of the properties will have a very significant retaining wall situated immediately to their rear boundary. There is also a degree of uncertainty in the housing market as a result of the Covid-19 pandemic.
- 9.11 Officers consider that the independent appraisal represents a robust and accurate assessment of the development costs and accept that the profit level is suitable.
- 9.12 It is therefore recommended that condition 14 (affordable housing) and condition 15 (open space) are discharged on the basis that 'nil' contributions are being provided. No education provision is accepted on the basis that the development falls below the threshold (25 units) for a contribution.

10.0 CONCLUSION

- 10.1 The long-standing allocation of the site and its planning history indicate that this is a difficult site to bring forward and this has previously been recognised by the council through its acknowledgement as a 'stalled site'.
- 10.2 Having considered the applicant's viability assessment and the conclusions of the independent assessor, officers are satisfied that the development would not be financially viable with the inclusion of affordable housing and open space. This is principally because of the topography of the land and the need for significant retaining structures.
- 10.3 To facilitate this housing site coming forward, it is recommended that the conditions requiring the provision of affordable housing and open space are discharged, as set out within this report. The condition requiring an education contribution falls away because the number of dwellings (layout) that was subsequently approved under the reserved matters application does not meet the trigger for a contribution.

Background Papers:

Application and history files.

Website link:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2020%2f91813>