
Report of the Head of Planning and Development

STRATEGIC PLANNING COMMITTEE

Date: 24-Feb-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

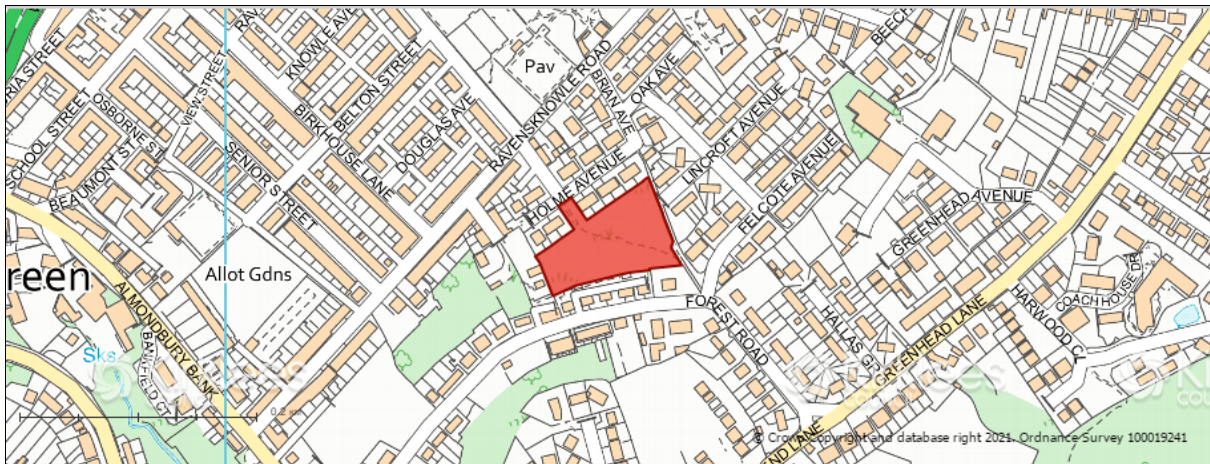
11-Aug-2020

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: SPLIT DISCHARGE OF CONDITION

- Refuse to discharge the conditions relating to affordable housing (14) and open space (15)
- Discharge condition 16 on the basis that the quantum of development approved does not meet the trigger for an education contribution

1.0 INTRODUCTION:

- 1.1 The application was deferred by the Strategic Planning Committee on 27th January 2021. The reason the application was deferred was to enable the viability appraisal to be reassessed. Members indicated that further information was needed and different viability scenarios should be considered to explore whether some affordable housing could be secured.
- 1.2 Since the previous committee meeting officers have obtained further advice from the independent viability assessor (RLB). RLB were asked to run their viability appraisal with numerous alternative scenarios based on differing levels and types of affordable housing. The inclusion of an open space contribution was also taken into account.
- 1.3 The applicant has recently submitted a letter to the Chair of the Strategic Planning Committee (copy of the letter also provided to officers). The letter summarises some of the background to the site as well as the current application and seeks to respond to some of the points raised at the previous meeting by Ward Councillor McGuin. The letter also highlights that six of the approved dwellings are priced well below the £250,000 threshold for Starter Homes.
- 1.4 The applicant goes on to state that they have reviewed their viability appraisal to determine if one or two affordable units could viably be delivered. However, the conclusion remains that the scheme would not be viable with any level of affordable housing provision. Nevertheless, as an acknowledgement of understanding that developments need to benefit the public, the applicant has offered £25,000 as a financial contribution – which could be used by the council towards off-site affordable housing or public open space.
- 1.5 The applicant's letter concludes by emphasising the local employment benefits that would arise through the development of the site, which would help to safeguard the jobs of the applicant's employees.

Background

- 1.6 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.
- 1.7 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.
- 1.8 The applicant has applied to discharge these three conditions. The approved scheme does not meet the threshold for an education contribution and it is therefore only the provision of affordable housing (condition 14) and open space (condition 15) that fall to be considered.
- 1.9 A financial viability appraisal was submitted with the application which sought to demonstrate that the scheme would not be viable with the inclusion of these planning obligations.
- 1.10 The discharge of conditions application has been 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. An offer of £25,000 has now been received although this is considerably below a policy compliant offer.
- 1.11 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. In light of this, officers considered that it was appropriate for members to be given an opportunity to formally consider the 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 Since the committee meeting on 27th January 2021 there have been discussions with the planning agent regarding the potential scope for the delivery of some affordable housing on the site. The applicant has subsequently submitted a letter which advises that no on-site affordable housing could be delivered, although a contribution of £25,000 has been offered.

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 application is accompanied 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 appraisal indicates that the development is unable to deliver any affordable housing or open space contributions, although the applicant has subsequently offered a contribution of £25,000 which the council could use towards either of these planning obligations.

9.8 The applicant's financial viability assessment has been independently appraised on behalf of the Council. The original conclusion was that the scheme was unable to deliver a policy compliant affordable housing offer and an open space contribution. When these contributions were removed the scheme generated a profit of 17% on the gross development value, which was deemed to be an appropriate profit level on this site.

- 9.9 The independent assessor has subsequently re-run their viability appraisal based on a number of different scenarios so that the council can understand whether some affordable housing could be delivered whilst still providing an acceptable return for the developer.
- 9.10 As set out in the council's Planning Viability Guidance Note, 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. In determining the appropriate level for an individual development, regard must be paid to the individual characteristics of that scheme.
- 9.11 In general terms, a profit of 15-20% of the gross development value (GDV) is considered to be a suitable return for developers – as indicated within national Planning Practice Guidance (Viability).
- 9.12 Since this discharge of condition application was deferred at the 27th January 2021 Strategic Committee, different scenarios have been appraised based on between one and four affordable units and with alternative tenure types. The types of affordable units that have been considered are Social/Affordable Rent, Intermediate and starter homes; these cover the full spectrum of types of affordable housing as defined in the NPPF.
- 9.13 All but one of the scenarios results in a profit level that falls below 15% of the gross development value. Where the profit level is below 15% it is not considered that the scheme could justifiably be said to be viable and therefore these scenarios have been discounted.
- 9.14 The single scenario that indicates that some affordable housing could viably be delivered is where two starter home units are provided. With the inclusion of this number and type of affordable unit the profit level is shown as being 16% of the gross development value. For clarity, this scenario does not include an off-site open space contribution.
- 9.15 Starter homes are required to be sold at a minimum discount of 20% below full market value and each starter home can cost no more than £250,000. Post-sale resale and letting restrictions exist for 15 years. First-time buyers aged between 23 and 40 are eligible to purchase a starter home (subject to other eligibility criteria).
- 9.16 Officers previously accepted that a profit of 17% on GDV represented an appropriate return on this site. This was due to the topography of the land 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. Uncertainty in the housing market associated with the Covid-19 pandemic was also cited as a factor. Comments from ward members at the previous meeting suggested that they did not necessarily consider this development to be an overly high-risk site as it would be an attractive location for potential purchasers.

- 9.17 The reassessment of the viability appraisal indicates that two starter homes could be provided whilst maintaining a profit level that is within generally accepted parameters for a suitable developer return. In comparison to the original assessment, the inclusion of these starter homes would reduce the developer profit by 1%.
- 9.18 The inclusion of an open space contribution would further reduce the developer profit. It is considered that there is some degree of risk with this site which should be reflected in the developer profit and so a profit of 16% on GDV would be fair and reasonable. Members specifically indicated a desire to see some affordable housing provision and on balance it is considered that the delivery of two affordable units would be a benefit that outweighed the requirements for open space.
- 9.19 Based on the further analysis that has been undertaken, the applicant's offer of £25,000 is not considered to be acceptable and it is considered that the council would have demonstrable grounds on which to not discharge conditions 14 and 15.
- 9.20 In conclusion, the independent viability assessment indicates that the development could not viably deliver policy compliant affordable housing and open space. A reduced affordable housing offer could however be provided in the form of two starter homes. By omitting the requirement for open space, it would help to ensure a suitable return to the developer when having regard to the characteristics of the scheme.
- 9.21 The applicant has not proposed acceptable arrangements for the provision of affordable housing and open space, and it is therefore recommended that condition 14 (affordable housing) and condition 15 (open space) are not discharged.
- 9.22 Condition 16 (education) can be discharged on the basis that the development falls below the threshold 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>