

KIRKLEES METROPOLITAN COUNCIL

PLANNING SERVICE

UPDATE OF LIST OF PLANNING APPLICATIONS TO BE DECIDED BY PLANNING SUB-COMMITTEE (HUDDERSFIELD AREA)

22 FEBRUARY 2018

Application for a definitive map modification order to add a public footpath to the definitive map and statement, Cellars Clough, Marsden **Item 18 – Page 63**

Letter received from Solicitor acting for Cellar Clough Properties Ltd.

Please see Appendix A at the end of this document.

Planning Application 2017/93483 **Item 20 – Page 81**

Erection of single storey rear extension and rear dormer windows

152, Ravensknowle Road, Dalton, Huddersfield, HD5 8DL

REPRESENTATIONS

A representation has been received in support of the application. Contained within this are examples of 6 dormer extensions within the immediate area. The correspondence also provides a copy of a Certificate of Completion of work under Building Regulations dated 5th December 2017, and other documents regarding the works undertaken.

Planning Application 2017/93399 **Item 22 – Page 99**

Change of use and alterations, including erection of boundary fence, to former mill (B1 Business) to 30 student bedrooms (C4) Office

Britannia Mills, Colne Road, Huddersfield, HD1 3ER

Highways

The Parking Statement has been updated to include the following provision;

The client has advised they are to introduce a permit and timeslot system on busy move days to reduce potential congestion on site. This will provide residents with specific time slots for moving in and moving out during weekends ensuring only 1 vehicle can be on site for loading and unloading at any one time.

As outlined within the Committee Report list of conditions (page 113), if minded to approve condition 3 headed 'Traffic Statement' would be worded to include reference to these arrangements on move days.

Drainage

Within the committee report (paras 10.40-10.42) it was outlined that officers were awaiting formal support from the Environment Agency of the updated FRA. This was following negotiations between officers, the applicant and the Environment Agency. The formal response has been received, and confirms that the Environment Agency's objections have been addressed, subject to condition.

RECOMMENDATION

As the Environment Agency no longer objects to the development the recommendation has been amended to:

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 (and any added by the Committee).

Additional condition

16. Works to be undertaken in accordance with updated Flood Risk Assessment

Planning Application 2017/91618

Item 23 – Page 115

Change of use and erection of extension and alterations to former club/pub to form 7 apartments

New Road, Kirkheaton, Huddersfield, HD5 0HP

The Agent has requested the following text be included in the update to committee.

"I am acting on behalf of the applicant in respect of the above application.

Members will be visiting the site on Thursday morning when the Officers concern re impact on the neighbour will be considered. I intend to address Members at the meeting itself on Thursday afternoon when I hope to persuade them that Officers concern in that respect is not justified.

My reason for writing is in respect of the second reason for refusal as recommended- I consider that the safety concern raised by the Health and Safety Executive (of which I was advised only after the Officers Report was finalised) is not justified- essentially I consider that, overall, there would have been and still could be a greater risk to people with the premises in use as a pub/club with concert hall than as a development of seven apartments.

I would ask that whether the Members are minded to approve or reject the application on other grounds that a decision is deferred and delegated to Officers so that the Health and Safety issue can be further discussed with them and then resolved one way or another”

Response: HSE is a statutory consultee. Notwithstanding this the decision to grant or refuse a planning application ultimately rests with the local planning authority (LPA) taking in to account all relevant planning considerations, and not just the advice from one consultee. The recommendation to refuse the application has afforded significant weight to the objection from the HSE.

For members information the HSE have guidance where an objection will be made to development which exceeds 40 dwellings per hectare on a development of more than 3 units (within the prescribed ‘middle’ consultation zone). In its current form the development would result in a density of over 100 dwellings per hectare. To address their objection, the scale of development would have to be such that the density level does not exceed 40 per hectare.

Should sub-committee, taking into account all relevant planning considerations, consider that this reason for refusal is unreasonable then it would be necessary for officers to notify the HSE of this and allow 21-days from that notice for them to give further consideration to the matter. This will enable them to consider whether to request the Secretary of State to call-in the application.

Comments received from Kirkheaton Group:

In paragraph 10.26 of the report, responding to the reasons Cllr McBride requested the application by determined by sub-committee, it was stated that comments were awaited from the Kirkheaton Group developing the Neighbourhood Plan. These have now be received and are set out below:

“The proposal to convert the former liberal Club in Kirkheaton into apartments fully conforms with the principles outlined in the draft neighbourhood plan. This states strong support for housing policy that utilises sites or premises within the existing built-up area in preference to greenfield sites out with the existing built up area”

Whilst there is no objection in principle, the Group offer the following advice and questions:

“The provision of 7 apartments is pushing the limits of what could be squeezed on to this site. Apartment 7 is a poor cramped layout in the roof space and would not work properly. The provision of 6 apartments would be a more practical scheme.

The proposed extension could then be reduced in length by approx 1 metre, saving costs and allowing more external amenity space for bins a bike shed and clothes drying areas. The car parking requirement could also be reduced to 6 + 1 visitor space.

Question posed:

Are the apartments are to be let or sold, and would there be any restrictions on the tenants or occupants or how the external spaces are to be managed”

Response: officers are not aware of the proposed tenure or management arrangements for the apartments. This is not considered material in the assessment of this application.

Planning Application 2017/93515

Item 25 – Page 137

Erection of 16 dwellings with associated access and parking facilities.

Land adj, Lower Gate, Paddock, Huddersfield

Representations

In response to the council's re-consultation (which ended on 16/02/2018), in addition to the further objection noted at paragraph 7.5 of the committee report, two objections have been received with the following points made:

- Plans and supporting documents do not fully address implications of additional parking and traffic along Lower Gate.
- Traffic during construction may cause accidents, given limited visibility, and speeds of vehicles using Lower Gate. Serious accident occurred on 20/12/2017.
- Insufficient on-site parking.
- Double yellow lines required.
- Proposal doesn't adequately address impacts on local habitat and archaeology.
- Negative visual impact of development.
- Questioned findings of noise survey, given train noise.
- Overdevelopment of site.

The above points have been addressed in the committee report.

Public footpath

KC Public Rights of Way have provided further comments, noting that the overall effect of the proposed development upon the public footpath would be negative, as the proposal offers little or no overlooking or inclusion of this public amenity. Proposed section F-F looks narrow, unpleasant and `intimidating, forming an undesirable canyon-like route. Clarification needed regarding boundary treatments at section G-G. Queried if proposed steps (where footpath meets new pavement) could instead be a slope. Measures needed to ensure no blind spot is created at the turn in the footpath. Any retaining structure for the new pavement would require separate agreement. Retention of walls to sides of footpath may not be possible given their condition. Details of steps (or slope) design and construction need to be agreed by condition, then implemented and retained. Close-boarded fencing is inferior to hit-and-miss fencing, and fencing detail in applicant's drawing is contradictory. Footpath's existing surface is generally in reasonable condition. Formal highway dedication and/or legal order would be required to implement this development. Temporary closure of the footpath may be necessary during construction, which would involve a separate process.

The above points have been addressed in the committee report.

Outline application for residential development with details of point of access only (within a Conservation Area)**Land off Fullwood Drive (West site), Golcar, Huddersfield, HD7 4JH***Representations*

No further representations from neighbouring residents have been received. The representations received to date have been recounted – a total of 31 objections from the occupants of 27 properties have been received in relation to the West site.

Education

Given that a different total number of residential units may be proposed at reserved matters stage (should outline permissions be granted), and given that this number may be greater than the 24 indicatively proposed at outline stage, the council's School Organisation and Planning team were consulted. They have advised that, in a hypothetical development of 25x 2-bedroom units across the two sites, a contribution of £61,777 towards education would be necessary. This advice further demonstrates the need for conditions (securing education contributions) to be applied to any outline permissions granted for either site.

Local services

Although paragraph 10.61 of the committee report suggests impacts upon local GP services would be considered at reserved matters stage, and while health impacts are a material consideration, there is no policy or supplementary planning guidance requiring a proposed development to contribute specifically to local health services. Furthermore, it is noted that funding for GP provision is based on the number of patients registered at a particular practice, and is also weighted based on levels of deprivation and aging population. Direct funding is provided by the NHS for GP practices and health centres based on an increase in registrations.

Outline application for residential development with details of point of access only (within a Conservation Area)**Land off Fullwood Drive (East site), Golcar, Huddersfield, HD7 4JH***Representations*

No further representations from neighbouring residents have been received. The representations received to date have been recounted – a total of 35 objections from the occupants of 32 properties have been received in relation to the East site.

Education

Given that a different total number of residential units may be proposed at reserved matters stage (should outline permissions be granted), and given that this number may be greater than the 24 indicatively proposed at outline stage, the council's School Organisation and Planning team were consulted. They have advised that, in a hypothetical development of 25x 2-bedroom units across the two sites, a contribution of £61,777 towards education would be necessary. This advice further demonstrates the need for conditions (securing education contributions) to be applied to any outline permissions granted for either site.

Local services

Although paragraph 10.63 of the committee report suggests impacts upon local GP services would be considered at reserved matters stage, and while health impacts are a material consideration, there is no policy or supplementary planning guidance requiring a proposed development to contribute specifically to local health services. Furthermore, it is noted that funding for GP provision is based on the number of patients registered at a particular practice, and is also weighted based on levels of deprivation and aging population. Direct funding is provided by the NHS for GP practices and health centres based on an increase in registrations.

Planning Application 2017/93846

Item 29 – Page 215

Demolition of existing public house and erection of 32 residential dwellings

Land Adjacent to Spotted Cow Public House, New Hey Road, Salendine Nook, Huddersfield, HD3 3FG

A letter from the applicant has been received regarding the affordable housing provision. A total of 5 units (3 no. 2 bed and 2 no. 3 bed) are being provided in accordance with Council's policy. The applicants have requested that starter homes be considered ie 20% discount for first time buyers under 40 years old.

The 5 units are to be secured via a Section 106 Obligation, which is to be delegated back to Officers. The tenure mix needs to reflect the local need and be deliverable. It is recommended that the starter home offer be considered in consultation with Strategic Housing and, if justified and matching a local need, be accepted as part of the Section 106 negotiation process.

Outline application for erection of three dwellings (Within the curtilage of a Listed Building)

Middle Burn Farm, Burn Road, Birchencliffe, Huddersfield, HD2 2EG

Representations:

A further representation has been received from a neighbouring property. The neighbour questions whether plot 3 will have a legal right to use the track to the east of Middle Burn Farm in order to access this dwelling.

Officer response: Officers consider rights of access over the track to be a legal matter for the applicant to address which falls outside of the planning process. For the purposes of the application land ownership issues are considered to have been satisfied.

The neighbour also comments that the scheme would be far better served from the existing driveway to the frontage of Middle Burn Farm which lies to the west of the site, as suggested within the PROW consultation response.

Officer response: As set out within the main report, officers consider that the level of traffic generated by 3 dwellings would be relatively insignificant and the proposed access arrangements are deemed to be acceptable subject to conditions.

It is worth noting that since the PROW officer commented on the application the scheme has been reduced from 4 dwellings to 3 and only 2 of the properties have an access directly off the public byway whereas all of the properties on the original 4 dwelling scheme were to be accessed directly off the byway. As a result the level of vehicle movements on the public byway has been reduced.

Appendix A

Ramsdens Solicitors

incorporating  BAXTER CAULFIELD

Our Ref : 

Your Ref : 

20 February 2018

Mr Giles Cheetham
Definitive Map Officer
Kirklees Council
Flint Street
Fartown
Huddersfield
HD1 6LG

Dear Sir

Our client: Cellars Clough Properties Ltd

As you know, we act for Cellars Clough Properties Ltd, which opposes the making of a modification order of which our client was given notice by the Council by its letter dated 12 January 2018.

On 22 January 2018, we informed you that our client opposed the making of a modification order and that we are in the course of preparing our client's evidence in this respect. We asked, in the meantime, to be provided with a copy of the application to which you refer together with the evidence in support of it.

In response, we were provided with what is said to be a copy of the application which, it appears, is dated as long ago as 7 April 2009. You have refused to provide, or to allow us to inspect, the evidence allegedly in support of the application on the grounds that such evidence and information is predominantly personal data. This is notwithstanding the fact that such would require to be disclosed under schedule 15(8) of the Wildlife and Countryside Act 1981 if a modification order were to be made and a request made by our client.

As you agree, the investigation of the application by the Council is quasi-judicial, and as such the Council needs to act fairly. It is not fair that the Council:-

- (1) Writes to our client on 12 January 2018 to notify our client that, "the Council are in receipt of an application to record a public footpath as shown on the attached map", when, in fact, the application appears to have been made to the Council (which was presumably in receipt thereof) since 2009.
- (2) Affords our client less than 28 days to consider and prepare its response and detailed grounds of objection.

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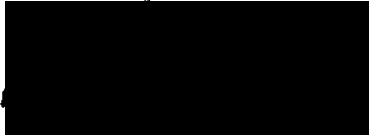
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- (3) Does not provide, even in summary and/or anonymised form, details of the evidence supposedly in support of the application.
- (4) Proceeds to refer the matter to the Committee notwithstanding the above and the fact that our client has not had time to consider or respond to the evidence.

In the circumstances, the Committee is requested to agree to postpone further consideration of the application for 3 months to enable our client's case to be properly put for consideration by the Council.

Otherwise, further significant costs are likely to be incurred by reason of the inevitable objection of our client to the making of the modification order and the consequent reference to the Secretary of State. We reserve our client's position entirely in relation to the question of such costs.

Yours faithfully



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