

KIRKLEES METROPOLITAN COUNCIL

PLANNING SERVICE

UPDATE OF LIST OF PLANNING APPLICATIONS TO BE DECIDED BY STRATEGIC PLANNING COMMITTEE

30 AUGUST 2018

Planning Application 2018/91432

Item 9 – Page 11

Erection of industrial unit (use classes B2 and B8), office, research and development building (use classes B1a and B1b), and associated internal roads, car park, service yard and landscaping

Land Adj, Bradley Business Park, Dyson Wood Way, Bradley, Huddersfield, HD2 1GZ

Recommendation

Amended recommendation:

DELEGATE approval of the application and the issuing of the decision notice to the Head of Strategic Investment in order to complete the list of conditions including those contained within this report (and those recommended by the Coal Authority and Highways Development Management officers) and to secure a S111 agreement (which secures a S106 agreement) to cover the following matters:

- 1. Apprenticeships and local employment initiatives.**
- 2. Travel Plan implementation and monitoring fee- £15,000**
- 3. Contribution towards off-site tree planting- £6,000**

In the circumstances where the S111 agreement has not been completed within three months of the date of the Committee's resolution then the Head of Strategic Investment shall consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits that would have been secured; if so, the Head of Strategic Investment is authorised to determine the application and impose appropriate reasons for refusal under Delegated Powers.

The amended recommendation correctly reflects the current ownership status of the site. The council is currently the owner of the application site. As the applicant cannot enter into a Section 106 agreement in relation to land it does not own, should the council resolve to grant planning permission, this permission would need to be subject to an agreement under Section 111 of the Local Government Act 1972, which would in turn require the completion of a Section 106 agreement once the applicant has acquired the site. The chronology would be as follows: 1) Strategic Planning Committee resolves to grant planning permission, 2) Section 111 agreement completed, 3) planning permission issued (immediately after Section 111 agreement completed), 4)

applicant completes purchase of the site, and 5) Section 106 agreement completed.

The Section 111 agreement would prevent implementation of the planning permission prior to the completion of the Section 106 agreement.

Highways Development Management have confirmed that a Travel Plan monitoring fee of £15,000 would be required.

Additional conditions, and details of previously-recommended conditions, have been recommended by the Coal Authority and Highways Development Management officers.

Given the above, the recommendation to Members set out in the committee report should be amended as above.

Representations

321 objections have now been received in response to the council's reconsultation. These raise concerns already summarised at paragraph 7.7 of the committee report. In addition, the following points have been raised by residents:

- Application drawings are not accurate.
- Base of B2 / B8 building would be 4m higher than dwellings at Grantley Place.
- Applicant's arboricultural information includes errors. Veteran trees exist on site.
- Biodiversity concerns. Applicant's flora and fauna surveys are deficient. Site's bluebells are protected.
- Applicant's new information regarding PTFE confirms residents' previous concerns.
- 3D image down is not what was requested.
- Travel Plan is inadequate, includes errors, and is unrealistic in that it expects people to walk to Deighton station and council budgets are not sufficient to allow for monitoring.
- Drainage concerns. The business park is already inadequately drained. Objection to open, polluting drainage.
- Query why site has laid dormant for many years.
- Query if officers' comments take into account the new (2018) NPPF.
- Application should be withdrawn from committee agenda until arboricultural matters have been addressed.
- Comments of West Yorkshire Fire Authority should be sought.
- Health and Safety Risk Assessment required.
- Vibrations caused in the operational phase create a risk of fracturing Isopar pipes.
- Proposed development is contrary to an agreement between West Yorkshire authorities to discourage movement of businesses.
- Pellon Place would be overshadowed.
- Staff performance at adjacent sites would be reduced.
- Nearby school pupils would be affected by stale air.

- Plans do not show retaining walls to boundaries shared with Cartwright Court and Pellon Place.
- Adjacent buildings will be damaged. Works to prevent subsidence are needed.
- A more suitable noise assessment is required to address noise at neighbouring sites.
- Applicant should provide quarterly reports of pollution, noise, smells and vibrations generated by the development.

Residents have also submitted Powerpoint slides, site sections and a short video (also posted to Youtube) in support of their concerns. Residents have asked for these to be shown to Members at the committee meeting.

As at 29/08/2018, the online petition referred to at paragraph 7.5 of the committee report had 1,306 signatures.

Amenity issues

A resident has prepared and submitted sections of the proposed development, showing the proposed B2 / B8 building in relation to neighbouring residential properties and taking into account the topography of the site and its surroundings. These includes a section through the site and 39 Grantley Place. The case officer has visited Grantley Place and will show Members photographs of the application site as viewed from this neighbouring property.

Biodiversity

In response to comments from residents, the council's Biodiversity Officer has provided the following further advice:

- Aside from minor rewording to increase clarity, the biodiversity policies of the 2018 NPPF are essentially the same as those presented in the 2012 NPPF. The updated NPPF does not alter my latest consultation response.
- Native bluebells are in fact included in Schedule 8 of the Wildlife and Countryside Act 1981 (as amended), however, their protection extends only to part (2) of Section 13. Section 13(2) protects plants from actions associated with their sale. Bluebells are not protected from picking, uprooting or destruction.
- The objector has also mentioned the mature trees in the central part of the site, and referred to these as veteran. The predicted loss of veteran trees would require consideration under paragraph 175(c) of the revised NPPF. However, the NPPF defines veteran trees as "of exceptional biodiversity, cultural or heritage value". Although the mature oaks to be removed have a value to biodiversity, I would not class them as exceptionally valuable.
- Guidance from the Woodland Trust and Ancient Trees Forum defines veteran trees as trees that display "markedly ancient characteristics". The trees within the site are not old enough to be ancient and do not display characteristics of such trees.

Coal Authority

The Coal Authority (CA) issued further (their third) comments on 21/08/2018. The CA are now of the view that there is adequate justification for the proposed siting of the B2 / B8 building.

The CA have also provided advice regarding the required intrusive site investigations for both the mine entries and shallow coal workings. The CA wish to be consulted on the nature and extent of these investigations, and have advised that gas monitoring should be carried out.

Conditions are recommended by the CA requiring site investigation works prior to commencement of development, and the implementation of remedial works and/or mitigation measures if found to be necessary.

Subject to the above conditions being applied, the CA withdraws its previous objection to the proposed development.

Trees

Residents have submitted a peer review (One World, dated 19/08/2018) of the applicant's arboricultural information. This states that trees have been omitted from the applicant's survey, that some trees have been incorrectly identified and/or their size has been misstated, that there are veteran trees on the application site and that the site was a part of the adjacent woodland.

The applicant has provided a brief response, refuting the criticisms of the One World report. Further comments of the council's Arboricultural Officer will be reported verbally to the committee, however the above comments of the council's Biodiversity Officer (which concluded that existing trees on site are not veteran) are noted.

Highways

Highways Development Officers have provided further comments in response to the applicant's third Transport Assessment (v5, dated 08/08/2018) and the predicted impacts upon local highways, confirming that, given the commitment to providing free shuttle buses to staff, officers have no objection to the proposed development.

Conditions regarding visibility splays, site layout and parking, and the required Travel Plan are recommended. Officers also recommend that a Section 106 agreement be used to secure a travel plan monitoring fee of £3,000 (paid annually, for five years) and the provision and retention of three free shuttle buses to transport staff to and from the site at a.m. and p.m. peak hours.

In response to the above comments, the applicant has argued that a Travel Plan monitoring fee totalling £15,000 is excessive for the scale of development, and not in accordance with paragraph 56 of the NPPF. Officers disagree, however, and maintain that this relatively small fee is necessary and proportionate.

In relation to the proposed shuttle bus, the applicant has argued that the required provision should refer to *up to* three shuttle buses. Officers agree that some flexibility in the wording of the Section 106 agreement would be appropriate, given that reviews (of the shuttle bus provision) are appropriate to account for the possibility of staff taking up other sustainable forms of transport in the future.

In a further, subsequent comment, Highways Development Management officers advised that a 5% accessible parking provision would be required. This would mean 15 of the proposed parking spaces (rather than the two referred to at paragraphs 3.4 and 10.92 of the committee report) would be required. It is recommended that this be secured by condition.

Other material considerations

Close to the application site, Cartwright Court is currently the subject of another application for planning permission (ref: 2018/92307) for the erection of a side extension that would add 950sqm (GIA) of office (B1(a)) floorspace to that site. This application is noted, however as it has not yet been determined it does not attract significant weight as a planning consideration relevant to the current application submitted by Aflex Hose.

Planning Application 2017/91851

Item 11 – Page 71

Erection of 87 dwellings and associated works including new access off Lady Ann Road, regrading works and landscaping

Land at, Lady Ann Road, Soothill, Batley, WF17 0PY

Amendments

Since the publication of the committee report, the applicant has submitted amended plans and additional detail concerning the design and layout of the scheme.

The submitted revised Design and Access Statement reinforces that the scheme has been designed so that the dwellings facing the proposed access road present a frontage that mirrors the language of the small front yards with low garden walls typical of the terraced houses on Lady Ann Road.

The amendments also refine the site access road and move the visitor parking.

The houses adjacent to the new access road have been re-designed to present a frontage that mirrors the language of small front yards with low garden walls fronting the highway typical of the terraced houses on Lady Anne Road.

The applicant has also introduced a second watercourse, fed by the spring on the site that would enhance the habitat for the water voles, and help protect

them from predation by domestic cats, and refined the site road, and moved the visitor parking.

The amended plan also indicates that the proposed retaining wall would be routed around the existing TPO'd trees.

The applicant also confirms that the development would be built from Marshalls artstone and Marley thin flat slate effect roof tiles. The applicant states that these materials have been specifically chosen to reflect the local vernacular of stone and slate tiled roofs found on the terraced properties on Lady Ann Road, and Primrose Hill to the West and a pair of much larger Victorian Semi Detached houses that overlook the site, and as such are an appropriate choice that reflects the local character. Red brick and render are found, in the industrial estate off Lady Anne Road, and in the housing estates behind Lady Ann Road. However, the applicant feels red brick and render do not represent the West Yorkshire vernacular, and have not been proposed anywhere on this site.

Officer comments

Given the late stage of submission, there has been insufficient time to re-advertise the amended plans and to carry out a formal consultation exercise. However, the proposed alterations do not alter the scheme significantly and the concerns outlined in the officer report and the recommended reasons for refusal are still wholly relevant. The proposed house types fronting Lady Ann Road, whilst being two storey adjacent to the site access, would rise to three storeys further to the south (still fronting Lady Ann Road). There are still concerns relating to the overall design and fit with the local character due to the scale and character of the proposed development.

In terms of the proposed materials, policy BE11 of the Kirklees UPD requires that development be constructed in natural stone of a similar colour and texture to that prevailing in the local area. In this case the use of artstone would be contrary to the requirements of policy BE11.

Biodiversity – In relation to the proposed spring fed watercourse this comprises a *possible* means of providing mitigation or enhancement aimed at water voles, which are known to be present in Howley Beck. Currently, the submission documents present various possible measures aimed at mitigation and enhancement for water voles. Crucially, however, none of these recommendations are based on comprehensive survey to establish the status of the water vole population of the site, and no assessment has been informed by an understanding of the flood risk at the site and how this will be affected by the proposed development. The risk is that the proposals will result in constrained flooding that will deny water voles a refuge above high water, and there is no certainty that the proposals will not result in the extinction of one of two known water vole populations in Kirklees.

Trees – The height of the revised retaining wall in this location is unknown but it would be re-sited so as to avoid the trees. However, the location of the trees in relation to gardens would likely create significant problems for future occupiers as the garden areas would be relatively dark. This would result in pressure on the trees crowns to be lifted (i.e. the removal of lower branches to provide suitable clearance) and this arrangement does not take into account

the tree's future growth potential. In any event the proposed wall is positioned within the root protection area of all the trees and given the height of the wall it has not been demonstrated in any way that this could be constructed without causing adverse harm to the trees and significantly affecting their future life expectancy.

Additional Consultee Responses

Landscape - *This is a sloping site with trees protected by TPO to the centre, allocated for housing. The proposed layout is very dense. More opportunity should be taken to provide open space/vegetation/mitigative planting within the layout to help provide some form of intermittent screening. The proposed housing is too close to the TPO trees.*

There are no areas of Public open Space labelled on the plan however the text states 9703m2 POS. The POS would ideally be indicated with a footpath providing access DDA access where possible and a good open location with natural surveillance.

On a development with 87 dwellings we would anticipate an area of 2550 sq.m of on-site public open space, within which there would usually be an equipped facility (Local Equipped Area of Play-LEAP) with its own commuted sum/provision of management and maintenance in perpetuity.

Looking at the revised layout and the provision for wetland areas, voles and SuDS, none of the areas are appropriate or even large enough to accommodate this sort of equipped play provision so we anticipate an off-site lump sum in lieu of on-site public open space and equipped provision will then be improved on an existing facility in the vicinity of the development – to ensure through age provision. Looking at the triggers for 87 dwellings (including reduction for the 3x1bed flats plus 2 x 2bed flats), a shortfall of all of the pos requirement will also result in an off-site lump sum contribution. I have attached the figures which are estimated and are Without Prejudice). £327,774.00 split between existing facilities in the vicinity. It would be preferable to have some public open space on site which would help provide playable spaces and greener walkable routes for the residents on the new estate, but also including landscaped areas and some appropriate tree planting will help reinforce the habitat network, green infrastructure and the Green Streets initiative and going some way to breaking up the dense built up layout to create an attractive landscape and somewhere people will enjoy living.

Highways DM - *This application seeks approval to the erection of 87 dwellings and associated works including new access and landscaping at land at, Lady Ann Road, Soothill, Batley. Highways previously commented on this application on 3rd August 2017. The applicants have now provided revised layout and house type plans.*

The Transport Statement has not been updated or amended and the previous comments regarding this Statement are therefore still considered valid.

The proposed highway layout is significantly changed including the point of access onto Lady Ann Road. Highways have a number of concerns regarding the proposed layout as follows:

No visibility splays are shown on to Lady Ann Road.

The road is not designed to be either a shared surface or traditional estate road. A traditional estate road should have segregated 2.0m footways to either side, shared surfaces should be angular with alignment shifts. The proposed layout needs to be re-designed.

The proposed road alignment is substandard with poor forward visibility adjacent to plot 3.

There are no turning facilities to the cul-de-sacs serving plots 81 to 87 and 14 to 20.

The turning head between plots 50 and 51 is too small to turn a large 11.85 m refuse vehicle.

Vehicular tracking should be provided to demonstrate that a large 11.85 m refuse vehicle can enter and manoeuvre within the access roads.

The cul-de-sac serving plots 81 to 87 meets the main spine road close to an acute bend.

The visitor parking is mostly located opposite plots 3 to 13 and not well distributed across the site.

No longitudinal sections or gradients are provided.

There is no link shown to the PROW on the northern boundary of the site.

There are no bin collection points shown for any of the plots. Bin collection points should be provided to all plots.

A stage 1 Road Safety Audit is needed for the internal road layout and the junction with Lady Ann Road.

The access point will require the currently open water course to be culverted.

These features will require approval from Kirklees Council Highway Structures Unit.

Environmental Health – No objection subject to conditions relating to noise, air quality and contaminated land.

Conclusion

The reasons for refusal set out in the officer report are still wholly applicable despite the submission of additional information and amended plans.

Outline application for erection of residential development including means of access to the site north of Old Bank Road, Mirfield (63 dwellings) at land off Old Bank Road, Mirfield. (Estimated time of arrival at site – 10.30am) Contact Officer: Matthew Woodhead, Planning Services Wards Affected: Mirfield

The above application has been withdrawn by the applicants and has therefore been removed from the agenda. The planned site visit has also been cancelled