

Nelson Committee Update Report 7th October 2019

19/0194/FUL – JF Business Centre, Whitefield Mill, St Marys Street

Amended Plans

Amended elevation plans (Drawing Number 03B) have been submitted which incorporates the existing stone wall and openings facing St Marys Street. Moreover, the plans show brown cladding for the upper part of the building and grey cladding for the roof. The amended plans have acceptably addressed the concerns raised by PBC Conservation and the unacceptable initial design of the proposed building. The quality and finish of the construction materials can be adequately controlled through an appropriate condition where necessary and subject to that condition the proposal would have no detrimental impacts on the heritage significance of the Whitefield Conservation Area.

Noise Assessment

A Noise Impact Assessment has been submitted which has been reviewed by PBC Environmental Health. They have provided the following comments;

‘I wish to raise an objection to the above application based upon noise impact to the local sensitive residential premises. The reasons being that I believe that it is not practical for the MOT testing doors to remain closed during normal operating hours. Furthermore I believe that the duration of noisy activities would be greater than 6 minutes as detailed within the noise report.’

The assessment is based on the assumption that all noise generating activity will only be conducted 6 minutes in each hour. Such an assumption does not accurately reflect the typically activity associated with the proposed use and concerns of that nature have been raised by PBC Environmental Health. The methods of mitigation identified are based primarily on limiting opening hours and ensuring the roller shutter doors are closed during times of noisy internal operations.

Opening hours can be adequately controlled through condition as highlighted in the Officers Report. However, it would not be practical to apply a condition to ensure the roller shutter doors are closed during times of noisy internal operations. Such activity would follow an irregular pattern throughout the working day and on that basis such a condition would not be enforceable. The recommendations have therefore failed to adequately overcome the concerns raised in the Officers Report and the proposal would have an unacceptable impact on the aural amenity of the adjacent residential occupants.

Parking

A revised Location Plan has been submitted which now shows 3 off-street parking spaces within the application site boundary. In accordance with the Parking Standards of Saved Policy 31 such a use should be provisioned with at least 5 spaces. It is acknowledged that those are maximum requirements though a reduction in proposed

parking provision would further exasperate the impacts on highway safety identified in the Officers Report.

Drainage

Adequate foul and surface water drainage could be required by condition where appropriate and therefore the proposed development would be acceptable in terms of drainage.

Recommendation to refuse to still stands, for the following reasons;

1. The Applicant has failed to demonstrate that the noise impacts of the proposed B2 Use could be mitigated against and the proposal would therefore result in a detrimental impact on the aural amenity of adjacent residential occupants thus failing to accord with Policies ENV2 and ENV5 of the Pendle Local Plan Part 1: Core Strategy (2011 – 2030);
2. The proposed development would result in the loss of on-street parking provisions in an area of high demand and when the access constraints are coupled with an inadequate level of associated off-street parking the proposal would fail to minimise conflict with other road users which would lead to an unacceptable impact on highway safety thus failing to comply with Policy ENV4 of the Pendle Local Plan Part 1: Core Strategy (2011 – 2030), Saved Policy 31 of the Replacement Local Plan and Paragraphs 109 and 110 of the National Planning Policy Framework.

19/0343/VAR – Darwil House, Bradley Hall Road, Nelson

An updated Retail Impact Assessment has been submitted this is an actual fact a sequential assessment and does not relate to any potential impact on Nelson Town Centre this only applies to sites over 2,500 sq.m.

The report responds to the sites listed as examples in the previous Committee report for the 5th August meeting written in July. Obviously some of these sites will no longer be available due to the timescales but this report only responds to those examples and no revised search for available units has been undertaken. It is clear therefore that an update sequential approach has not been undertaken nor has desegregation of the site for retail and trade similar to other buildings merchants or the possibility of available land for new build.

This application clearly does not fulfil the requirements of policy WRK4.

Recommendation to Refuse

1. The site falls outside of Nelson Town Centre therefore the removal of condition 4 which limits the use as trade only DIY warehouse would result in an unrestricted A1 retail use outside the town centre of 1,500 sq.m. which would not accord with policies WRK4 and SDP5 of the Pendle Local Plan Part 1: Core Strategy and saved Replacement Pendle Local Plan policy 25.

2. The site is adjacent to residential properties and would fail to provide sufficient off street parking for A1 use of 1,500 sq.m. the proposal has failed to demonstrate that the increased parking requirement can be satisfactorily achieved within the site without impacting on the proposed outside storage areas and therefore fails to accord with saved policy 31 of the Replacement Pendle Local Plan.

19/0601/FUL – Land to the North of 247 Barkerhouse Road, Nelson

Layout and Impact on Amenity

Amended layout plans have been submitted which move plots 14 and 15 a further 1m to the east away from 245 Barkerhouse Road. Plots 12 and 13 also move 1m to correspond with that.

245 Barkerhouse Road has a gable elevation to the rear boundaries of plots 14 and 15 with a narrow access strip between the property and existing shrubs and boundary fence. Most of the windows on this elevation are small, obscure glazed units with metal bars fitted externally. However, there is also a clear glazed, full length double doors which serves a room likely to be used as bedroom. It is likely that this opening already has restricted light due to its proximity to the boundary and existing shrubs/foilage on this land and the application site. It is important to ensure that the proposed development does not impact on privacy or lead to any increase in loss of light and therefore appropriate boundary treatments and/or landscaping need to be considered to the rear of plot 14 and 15 taking into account levels and distances this can be controlled by an appropriate condition listed below.

This reduces the impact on the bungalow to an acceptable degree subject to appropriate boundary and landscaping to the rear of these plots. This can be controlled by an appropriate condition.

Highways issues

The turning head can be tracked and LCC have been consulted on this and a response is expected to formally agree this.

The parking spaces are now numbered to correspond with the plots and all are a minimum of 2.4m x 5m which is acceptable.

Materials

The applicant has requested buff brick for the elevations rather than artificial stone and subject to a sample being submitted this may be acceptable.

Conditions

Condition 2 has been update to reflect the amended plan.

Condition 3 has been amended to reflect the contribution towards public open space.

Condition 4 has been amended as the scheme will be completed in one phase with all infrastructure completed prior to occupation/

Condition 5 has been amended as the phase I report has been submitted and the remediation work and validation will be required prior to occupation.

Condition 6 and 7 have been replaced with those suggested by LLFA.

Additional condition 15 to address the amenity impact of plots 14 & 15 as discussed above.

Condition 20 has been amended to a scheme to be submitted.

Rest of conditions same as report but renumbered accordingly.

Recommendation to Approve

Subject to the following conditions:

1. The development must be begun not later than the expiration of three years beginning with the date of this permission.

Reason: In order to comply with the requirements of Section 91 of the Town & Country Planning Act 1990 (As Amended).

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

18-419-P01, 18-419-P02, 18-419-P03, 18-419-P04, 18-419-P05, 18-419-P06, 18-419-P07, 18-419-P08, 18-419-P09, 18-419-P10, 18-419-P11A, 3214 103 & 3214 201.

Reason: For the avoidance of doubt and in the interests of proper planning.

3. No development shall take place unless and until a planning obligation pursuant to Section 106 of the Town and Country Planning Act 1990 (or any subsequent provision equivalent to that Section) relating to the land has been made and lodged with the Local Planning Authority and the Local Planning Authority has notified the person(s) submitting the said planning obligation in writing that it is to the Local Planning Authority's approval. The said planning obligation will provide for education facilities and off-site open space.

Reason: To ensure that there are sufficient education places available in the area of these additional dwellinghouses and an adequate provision of open space is provided in the area.

4. Prior to any above ground works commencing a plan and written-brief detailing the works involved and timescale in terms of the completion of roads, building operations, foul and surface water sewers and landscaping, and each phase shall be substantially completed prior to occupation of any dwellinghouse.

Reason: To secure the proper development of the site in an orderly manner.

5. Prior to the commencement of development the applicant shall have submitted to and have agreed in writing by the Local Planning Authority a method statement which sets out in detail the method, standards and timing for the investigation and subsequent remediation of the contamination present on the site. The method statement shall include:-

b) a comprehensive remediation scheme which shall include an implementation timetable, details of future monitoring and a verification methodology (which shall include a sampling and analysis programme to confirm the adequacy of land decontamination) will be submitted to and approved in writing by the Local Planning Authority.

All agreed remediation measures shall thereafter be carried out in accordance with the approved implementation timetable under the supervision of a geotechnical professional and shall be completed in full accordance with the agreed measures and timings, unless otherwise agreed in writing by the Local Planning Authority.

In addition, prior to occupation of any building, the developer shall first submit to and obtain written approval from the Local Planning Authority a report to confirm that all the agreed remediation measures have been carried out fully in accordance with the agreed details, providing results of the verification programme of post-remediation sampling and monitoring and including future monitoring proposals for the site.

Advisory Notes:

(i) Where land identified as having the potential to be contaminated is undergoing redevelopment, a copy of the leaflet entitled 'Information for Developers on the investigation and remediation of potentially contaminated sites' will be available to applicants/developers from the Council's Contaminated Land Officer. The leaflet will be sent to the developer by request.

(ii) Three copies of all contaminated land reports should be sent to the Local Planning Authority.

(iii) This condition is required to be fully complied with before development is commenced. Failure to comply with the condition prior to commencement of work may result in legal action being taken.

Reason: In order to protect the health of the occupants of the new development and in order to prevent contamination of the controlled waters.

6. No development shall commence until final details of the design and implementation of an appropriate surface water drainage scheme have been submitted to and approved in writing by the local planning authority. Those details shall include:

a) A final surface water drainage layout plan; appropriately labelled to include all pipe/structure references, dimensions, design levels, finished floor levels and external ground levels (in AOD);

b) A full set of flow calculations for the surface water drainage network. The calculations must show the full network design criteria, pipeline schedules and simulation outputs for the 1 in 1 year, 1 in 30 year and 1 in 100 year return period, plus a 30% allowance for climate change and a 10% allowance for urban creep. The calculations must also demonstrate that the post development surface water run-off rate shall not exceed 25l/s.

c) A final site plan showing all on-site surface water catchment areas, i.e. areas that will contribute to the proposed surface water drainage network;

d) Confirmation of how surface water will be managed within the non-drained areas of the site, i.e. gardens and public open space.

e) A final site plan showing all overland flow routes and flood water exceedance routes, both on and off site;

f) Details of any measures taken to prevent flooding and pollution of the receiving groundwater and/or surface waters, including watercourses; and

g) Details of an appropriate management and maintenance plan for the surface water drainage network over the lifetime of the development.

The scheme shall be implemented in accordance with the approved details prior to first occupation of any of the approved dwellings, or completion of the development, whichever is the sooner. Thereafter the drainage system shall be retained, managed and maintained in accordance with the approved details.

Reason: To ensure that the proposed development can be adequately drained; ensure that there is no flood risk on or off the site resulting from the proposed development; ensure that water quality is not detrimentally impacted by the development proposal; and to ensure that appropriate maintenance mechanisms are put in place for the lifetime of the development.

7. No development shall commence until details of how surface water and pollution prevention will be managed during each construction phase have been submitted to and approved in writing by the local planning authority.

Reason: To ensure that the construction phase of development does not pose an undue flood risk on site or elsewhere and ensure that any pollution arising from the development as a result of the construction works does not adversely impact on existing or proposed ecological or geomorphic condition of water bodies.

8. No part of the development shall be commenced unless and until a Construction Code-of-Practice has been submitted to and approved in writing by the Local Planning Authority. The code shall include details of the measures envisaged during construction to manage and mitigate the main

environmental effects of the relevant phase of the development. The submitted details shall include within its scope but not be limited to:

- a) A programme of works including phasing, hours of operation and measures for the control of traffic to and from the site, and within the site, during construction.
- b) The areas and methods of loading and unloading of plant and materials.
- c) The areas for the storage of plant and materials.
- e) Details of wheel-washing facilities including location
- g) Measures related to construction waste management
- i) Soil resource management including stock-pile management
- k) Measures to ensure that vehicle access of adjoining access points are not impeded.
- n) Location and details of site compounds
- o) Hoarding details during construction
- p) An overall Construction Monitoring programme, to include reporting mechanisms and appropriate redress if targets/standards breached
- u) Parking area(s) for construction traffic and personnel
- v) Routeing of construction vehicles

The Construction Code-of-Practice should be compiled in a coherent and integrated document and should be accessible to the site manager(s), all contractors and sub-contractors working on site. As a single point of reference for site environment management, the CCP should incorporate all agreed method statements, such as the Site Waste Management Plan and Demolition Method Statement. All works agreed as part of the plan shall be implemented during an agreed timescale and where appropriate maintained as such thereafter unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that adequate measures are in place to protect the environment during the construction phases.

9. No part of the development shall be commenced until all the highway works to facilitate construction traffic access have been constructed in accordance with a scheme which shall be submitted to and approved by the Local Planning Authority.

The scheme shall include (among other things) details of routes to be used by construction traffic and periods during the day when trips to and from the site may be undertaken.

Reason: To enable all construction traffic to enter and leave the premises in a safe manner without causing a hazard to other road users.

10. Within 3 months of commencement a scheme for the off-site highway works shall be submitted for approval and implemented before first occupation of any dwelling hereby approved.

The works shall include:-

- Pursue the implementation of double yellow lines at the site access junction of Barkerhouse Road to maximise the visibility splays.

Reason: In the interests of highway safety.

11. The internal estate roads shall be constructed in accordance with the approved engineering details and to at least base course level prior to first occupation of any dwelling, unless otherwise agreed in writing with the Local Planning Authority.

Reason: In order to ensure that the estate roads are construction to an acceptable level.

12. Within 3 months of commencement details of the proposed arrangements for future management and maintenance of the estate road within the development shall be submitted to and approved by the LPA. The streets shall thereafter be maintained in accordance with the approved management and maintenance details.

Reason: In order to ensure the effective future maintenance and management of the estate roads.

13. Unless approved in writing by the Local Planning Authority no ground clearance, demolition, changes of level or development or development-related work shall commence until protective fencing, in full accordance with BS 5837: 2012 has been erected around each tree/tree group or hedge to be preserved on the site or on immediately adjoining land, and no work shall be carried out on the site until the written approval of the Local Planning Authority has been issued confirming that the protective fencing is erected in accordance with this condition. Within the areas so fenced, the existing ground level shall be neither raised nor lowered. Roots with a diameter of more than 25 millimetres shall be left unsevered. There shall be no construction work, development or development-related activity of any description, including the deposit of spoil or the storage of materials within the fenced areas. The protective fencing shall thereafter be maintained during the period of construction.

All works involving excavation of soil, including foundations and the laying of services, within the recommended distance calculated under the BS 5837 (2012) of the trees to be retained on the site, shall be dug by hand and in accordance with a scheme of works which has been submitted to and approved by the Local Planning Authority, prior to the commencement of works.

Reason: To prevent trees or hedgerows on site from being damaged during building works.

14. Notwithstanding the submitted landscaping plan, the development hereby permitted shall not be commenced until a detailed landscaping scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be submitted at a scale of 1:200 and shall include the following:

- a. the exact location and species of all existing trees and other planting to be retained;

- b. all proposals for new planting and turfing indicating the location, arrangement, species, sizes, specifications, numbers and planting densities;
- c. an outline specification for ground preparation;
- d. all proposed hard landscape elements and pavings, including layout, materials and colours;
- e. the proposed arrangements and specifications for initial establishment maintenance and long-term maintenance of all planted and/or turfed areas;
- f. All boundary treatments and hard surfaced landscaped area.

The approved scheme shall be implemented in its entirety approved form within the first planting season following the substantial completion of the development. Any tree or other planting that is lost, felled, removed, uprooted, dead, dying or diseased, or is substantially damaged within a period of five years thereafter shall be replaced with a specimen of similar species and size, during the first available planting season following the date of loss or damage.

Reason: To ensure that the development is adequately landscaped so as to integrate with its surroundings and retains existing trees and hedgerows where possible.

15. Notwithstanding the submitted plans details of the proposed land levels, finished flood levels, proposed rear boundary treatments and landscaping to the rear gardens of plots 14 and 15 shall be submitted to and approved in writing by the Local Planning Authority prior to any above ground works commencing on site for these two plots.

Reason: In order to protect the amenity of the adjacent property No. 245 Barkerhouse Road in terms of privacy and outlook.

16. Prior to any above ground works samples of all materials to be used on the external elevations including window, doors, surfacing and rainwater goods shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved materials.

Reason: In the interest of the visual amenity of the area.

17. The windows and doors shall be set back from the external face of the walls by at least 75mm in depth.

Reason: To ensure the continuation of a satisfactory appearance to the development.

18. Prior to first occupation the driveways and communal parking areas shall be constructed in a bound porous material and made available for use and maintained for that purpose for the as long as the development is occupied.

Reason: To ensure satisfactory off street parking arrangements do not lead to an increase in flooding.

19. Prior to the commencement of development details of any proposed earthworks and retaining wall to be erected shall be submitted to and approved in writing by the Local Planning Authority. These details shall include the volume of material to be imported to/exported from the site, the proposed grading and mounding of land areas including the existing and proposed levels and contours to be formed, the exact position of retaining wall, heights and materials, the relationship of proposed mounding and retaining walls to existing vegetation and surrounding landform together with a management plan of the earthworks and the timing of the works and construction. The development shall be carried out in accordance with the approved details.

Reason: In the interest of maintaining the amenity value of the area

20. Prior to first occupation a scheme for electric charging points within the site shall be submitted and agreed in writing by the Local Planning Authority.

Reason: To ensure that the development provides for sustainable modes of travel.

21. Before a dwelling unit is occupied waste containers shall be provided on each plot.

Reason: To ensure adequate provision for the storage and disposal of waste.

Informative notes

The grant of planning permission will require the applicant to enter into a Section 38/278 Agreement, with the County Council as Highway Authority. The applicant should contact Lancashire County Council, Highway Development Control email – developeras@lancashire.gov.uk in the first instance to ascertain the details of such an agreement and the information to be provided.