

West Craven Committee – Update 28th March 2023

22/0848/FUL: Spring Mill, Stoney Bank Road, Earby

Following an issue picked up relating to the Root Protection Area of an off-site tree and a footpath to the rear of Plot 22, an amended site plan has been submitted which has a different revision number. This results in condition 2 requiring updating as follows:

2. The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan SM-BTP-00-LP-DR-A-3817_100, Proposed Site Plan SM-BTP-00-SP-DR-A-3817_105.F, Electric Car Charging Points SM-BTP-00-SP-DR-A-3817_112, Landscaping Layout 4314-101-Rev A, Planting Plan 1 of 2 4314-201-Rev A, Planting Plan 2 of 2 4314-202-Rev A, Highway Layout Access Plan 110.21002-ACE-00-ZZ-DR-C-2000 P2, Highway Contour Layout 110.21002-ACE-00-ZZ-DR-C-2040 P2, Boundary Plan SM-BTP-00-ZZ-DR-A-3817_108 Rev B, Proposed Access Arrangements 1797/01, Drainage Layout 110.21002-ACE-00-ZZ-DR-C-01000 P03, Standard House Type Elevation & Floor Plan BF-BTP-06-ZZ-DR-A-3817_114, 4B6P House Type Elevation & Floor Plans SM-BTP-10-ZZ-DR-A-3817_130, 3B5P House End Bay SM-BTP-11-ZZ-DR-A-3817_126, 1B Bungalow Elevation & Floor Plan SM-BTP-22-ZZ-DR-A-3817_135, Street Elevation & Sections SM-BTP-00-ZZ-DR-A-3817_110.B, Site Clearance Plan SM-BTP-00-SP-DR-A-3817_103

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

There is also a change to some of the wording in the following conditions:

5. Within 3 months of commencement of development a scheme for the site access and off-site highway works shall be submitted to and approved by the Local Planning Authority.

The works shall include the following and be implemented prior to the first occupation of any dwelling.

- a. Reinstatement of footways on Stoney Bank Road and Bailey Street across former points of access which have been permanently closed.
- b. New continuous footway on Chapel Street at realigned retaining wall.
- c. Dropped kerb and cycle lane for cyclists to enter and leave carriageway on Bailey Street at link into development.
- d. Dropped kerbs at site access and on both sides of Bailey Street
- e. Relocation of road hump on Bailey Street

Reason: In the interests of highway safety

6. Within 3 months of commencement of development 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 local

planning authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into with the Highway Authority or a private management and maintenance company has been established.

Reason: In order to ensure a satisfactory maintenance strategy for the development site

7. Within 3 months of commencement of development full engineering, drainage, street lighting and constructional details to adoptable standards (LCC specification) of the internal estate roads shall have been submitted to and approved in writing by the Local Planning Authority. The works shall be completed prior to occupation of the final dwelling. The development shall, thereafter, be constructed in accordance with the approved details, unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interests of highway safety

8. The internal estate roads shall be constructed in accordance with a specification to be agreed in writing by the Local Planning Authority to at least base course level prior to first occupation of any dwelling, unless otherwise agreed in writing with the Local Planning Authority. The estate road shall be completed in its entirety including wearing course whichever occurs the sooner of 2 years from commencement of development or the substantial completion of the final dwelling.

Reason: In the interests of highway safety

An additional condition regarding the site access is required as follows:

27. Prior to commencement of development a phasing plan showing provisions of site access, estate road and all other infrastructure shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To allow the Local Planning Authority to control the phasing of development in the interests of highway safety and residential amenity.

A consultation response has been received from Yorkshire Water recommending conditions 19 to 25.

A slight change to the plan revision numbers, wording and the consultation response from Yorkshire Water does not alter the overall recommendation which is to approve the application.

23/0140/PIP: The Stables, Old Stone Trough Lane, Kelbrook

Additional public comments have been received, they have not raised any new points which have not been considered in the original report.

Part of the Parish Council response has been misquoted, it should read as follows:

- The Planning Statement mentions a similarity between this application and others, namely 18/0605/FUL, 18/0749/PIP, 21/0766/PIP and 22/0370/FUL. With the exception of 18/0749/PIP they are all infill developments which are adjacent to at least two other existing dwellings. 18/0749/PIP is similar in most respects, being in a greenfield without other dwellings and not adjacent to the settlement boundary. However, it was REFUSED by the Local Planning Authority. The applicant then appealed the decision and it was DISMISSED.

Yorkshire Water have responded to the consultation as follows:

No building or other obstruction including landscape features shall be located over or within 3 (three) meters either side of the centre line of the water main i.e. a protected strip width of 6 (six) meters, that enters the site. If the required stand-off distance is to be achieved via diversion or closure of the water main, the developer shall submit evidence to the Local Planning Authority that the diversion or closure has been agreed with the relevant statutory undertaker. (In order to allow sufficient access for maintenance and repair work at all times).

The site shall be developed with separate systems of drainage for foul and surface water on and off site. The separate systems should extend to the points of discharge to be agreed. (In the interest of satisfactory and sustainable drainage).

There shall be no piped discharge of surface water from the development prior to the completion of surface water drainage works, details of which will have been submitted to and approved by the Local Planning Authority. If discharge to public sewer is proposed, the information shall include, but not be exclusive to:

- i) Evidence that other means of surface water drainage have been properly considered and why they have been discounted; and
- ii) The means of discharging to the public sewer network at a rate to be agreed by the Local Planning Authority in consultation with the statutory sewerage undertaker.

(To ensure that no surface water discharges take place until proper provision has been made for its disposal).

Should the application be recommended for approval, the condition suggested could be worked into a decision notice.

The Council's Countryside Access Officer has responded to the application as follows:

Public footpath FP1305062 is recorded as running through the site of the proposed garden as mentioned in the Lancashire Highways comments. This element of the proposals cannot be carried out unless the footpath is formally diverted to a different alignment.

For information, there is an anomaly between the position of the footpath shown on Ordnance Survey maps and the position of the footpath shown on the Definitive Map (i.e. the recorded line of FP1305062). The legal position is that the Definitive Map provides conclusive evidence of the rights of the public, even if the path on the ground is slightly different – which may be the case in this instance. This may be a case where the owners may apply for a Definitive Map Modification Order (DMMO) to alter the position of the footpath shown on the Definitive Map if they have evidence that it is incorrectly shown. DMMO applications are free, whereas diversion applications are only accepted if the applicant agrees to pay the costs incurred. The part of the development which affects the footpath when the path has been recorded to a new position either by a DMMO or diverted by Public Path Order.

The diversion to the line of the footpath shown on the planning application would appear to have minimal impact on the convenience and enjoyment of walkers.

LCC Highways comments have also been received as follows:

Having reviewed the information submitted, the proposed development raises highway safety concerns. Lancashire County Council, acting as the highway authority, does not consider that the principle of development at this location is acceptable and objects to the development on highway safety grounds.

Site planning history

08/0064P - Change of use for keeping horses and erection of 3 no stables, tack room, feed store and manure store. Approved.

Proposed development

The proposal is for the erection of a single detached dwelling using the existing access which serves the stables. Whilst a proposed site layout plan has been submitted this is only indicative.

Site access

The site is accessed from an existing access on Old Stone Trough Lane which will also serve the stables. If the application is approved, we would request that the stables will be ancillary for the domestic use of the householder.

The visibility splays at the existing site access are considered acceptable as approved previously for X2.4m by Y90m.

Sustainability

The site is accessed from Old Stone Trough Lane, which is subject to national speed limit, is a single vehicle width carriageway, unlit and with no footways to separate pedestrians from vehicles.

The site is not within acceptable and desirable walking distances of local amenities and facilities including public transport (200m and 400m as prescribed by the Institute of Highways and Transportation). The nearest bus stop accessed via the adopted highway network is on Colne Road (A56), approximately 630m to the North. The Planning Statement (para 2.6) refers to a number of Public Rights of Way (PROW) offering more direct access to Colne Road (A56). Although there is a PROW immediately to the South of the site which leads to the southern section of Colne Road, this is across fields and therefore not a realistic option during periods of inclement weather or darkness.

Paragraph 5.4 refers to the site benefitting 'from a range of walkable services'. However, as stated above, there are no footways on Old Stone Trough Lane, it is unlit and the carriageway is narrow. Given the distances to local facilities, such as the shop at the petrol station or the primary school, walking may not be the preferred option for residents of the proposed dwelling.

Public Right of Way

The line of Public Footpath 13-05-062 (Earby) shown on the Site Plan (Drawing 2) does not match that on the county council's Definitive Public Rights of Way Map. The line on the Definitive Map shows the footpath continuing in a straight line to Old Stone Trough Lane, rather than the last section being at an angle. Therefore a section of this public footpath would pass through the proposed rear garden area and would be obstructed by the boundary fence.

Conclusion

Given the highway safety concerns which this proposed development raises, the highway authority considers that the principle of development at this location is not acceptable. It therefore objects to the application and recommends refusal.

However, if the local planning authority is minded to approve this application details to be submitted at Technical Details stage should include, but not be exclusive to, parking provision to maximum parking standards; internal manoeuvring layout to allow vehicles to enter and leave the site in forward gear; secure, covered cycle storage for at least two cycles, an electric vehicle charging point; measures to accommodate the Public Right of Way.

This does not change the overall recommendation to refuse the application. However, there is a second reason for refusal added, based upon sustainability of the site and its distance from facilities and services. This centres around the site not being in a location which would be easily accessible other than by reliance on a private car. The proposed development is not within the acceptable walking distances of facilities within Kelbrook. Moreover, the route which would have to be taken is unlit and has no pavement along it. This would result in pedestrians walking in the road on a national speed limit route. Therefore, a second reason for refusal should be worded as follows:

2. Due to the distance from amenities within Kelbrook being more than the acceptable and desirable distance the proposed development would result in a dependence upon the private car, contrary to Policy ENV4 of the Local Plan: Part 1 Core Strategy.

If the applicant intends to carry out any operation which would obstruct the Public Right of Way, this would require a formal diversion order to be applied for under the Highway Act.

22/0044/FUL Dotcliffe Road, Kelbrook

A condition is required based upon the response from the Environment Agency, the wording is as follows:

15. No development approved by this planning permission shall commence until a remediation strategy to deal with the risks associated with contamination of the site in respect of the development hereby permitted, has been submitted to, and approved in writing by, the local planning authority. This strategy will include the following components:

1. A preliminary risk assessment which has identified:
 - all previous uses
 - potential contaminants associated with those uses
 - a conceptual model of the site indicating sources, pathways and receptors
 - potentially unacceptable risks arising from contamination at the site
2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those offsite.
3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the written consent of the local planning authority. The scheme shall be implemented as approved.

Reasons

- To ensure that the development does not contribute to and is not put at unacceptable risk from or adversely affected by unacceptable levels of water pollution in line with paragraph 174 of the National Planning Policy Framework.
- To prevent deterioration of a water quality element to a lower status class in the underlying aquifer and adjacent surface water stream

This is included in the report under the heading "Consultee Responses" but requires adding to the recommendation.