



**DEVELOPMENT CONTROL COMMITTEE AGENDA**

**Date: Monday, 9 September 2019**

**Time: 1.30 pm**

**Venue: Main Hall, Town Hall, Market Street, Chapel en le Frith**

**30 August 2019**

**PART 1**

4. Update Sheet (**Pages 3 - 10**)

**SIMON BAKER  
CHIEF EXECUTIVE**

Membership of Development Control Committee

Councillor R McKeown (Chair)

Councillor A Barrow

Councillor C Farrell

Councillor G Oakley

Councillor P N Roberts

Councillor J Todd

Councillor D Lomax (Vice-Chair)

Councillor L Dowson

Councillor I Huddleston

Councillor J Perkins

Councillor E Thrane

Councillor S Young

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9<sup>th</sup> September 2019

## HPBC DEVELOPMENT CONTROL COMMITTEE

### UPDATES SHEET

#### DOC/2017/0071 – Land at Linglongs Road, Whaley Bridge

One objection from a local resident has been received raising the following concerns:

- DCC have ignored their own culverting policy, they are unable to recommend culverts with a restricted flow, due to their flood and blockage risk. Developer must investigate all other options and explain reasons for their exclusion. They should also have a health and safety assessment for such works as to be required in the future.
- DCC have not signed their consultee documents.
- Culverts must be designed so they do not cause a restriction to flow. They must not increase the risk of flooding or prevent maintenance of the adjacent open watercourse. Consideration must also be given to overland flow paths in the event of a culvert becoming obstructed. Measures should be put forward to ensure that flows will not affect property or cause unreasonable nuisance or harm.
- The responsibility for future maintenance and clearance of a culvert must be agreed and details of those responsible submitted with the application for consent. The responsibility for the maintenance of a culvert (riparian landowner) lies with the landowner or the person who owns the culvert unless otherwise arranged.

A series of photographs, of recent flooding of the River Goyt downstream of the application site has been submitted by Whaley Bridge Matters (WBM). WMB states that water inputs from higher land currently drain through the site and their downstream effects on the River Goyt and beyond are attenuated by the greenfield characteristics of the site. The details below provide a link to the submitted photographs:

<http://planning.highpeak.gov.uk/portal/servlets/ApplicationSearchServlet?PKID=217888>

A letter of objection has been received on the 6<sup>th</sup> September 2019 from GWP Consultants acting on behalf of WBM and provides a response to Derbyshire County Council Lead Local Flood Authority comments of the 29<sup>th</sup> August 2019. The comments are as follows:

1. The author has made a fundamental error defining and applying Greenfield Run off Rate.

The Greenfield Run Off Rate (GROR) calculations presented by the applicant use the entire site area to arrive at the pre-development run-off rate. The applicant then demonstrates that a smaller area (i.e. the developed areas) will be controlled to ensure storm run-off remains below this larger area for GROR, allowing for climate

change. This is not the correct approach. The applicant has failed to allow for or recognised that the remaining non-developed area will still generate run-off.

The applicant should be using GROR for the smaller developed area as the maximum storm run-off rate for their scheme calculations. This will be a smaller flow rate and hence will require a larger attenuation scheme. The current scheme is therefore undersized and will not restrict post development run-off or the GROR (including climate change). There will therefore be an increased flood risk caused by the development.

2. The applicants approach is clearly technically incorrect and does not follow UK best practice. We cannot comment on whether the LLFA are qualified to adequately assess the applicants submission – but the failure recognise best practice is not being followed, suggests the nuances of the technical argument may have been missed. As a result of the inadequate and incorrect run-off approach taken by the applicant there will be an increased flood risk cause by the development.

3. Whether dye tracing demonstrated a culvert or drain flows across the site is inadequate to assess changes to flood risk due to the proposed development, it simply confirms a connection to exist between the point of dye injection and recovery. The material issue is that the applicant has failed to demonstrate they have identified the minimum flow conveyance capacity of the culvert and therefore they cannot advise whether their proposed alterations to the culvert (e.g. bends, diameter alterations, pipeline slope) will increase or reduce its conveyance capacity.

Increasing the conveyance capacity will increase downstream flood risk, reducing it will increase upstream flood risk. Any change to the culvert is therefore likely to alter flood risk. Whilst it is clear they culvert will be changes to some extent by the development and therefore flood risk will increase if no mitigation is included, the applicant has failed to identify this flood risk change and therefore not flood risk mitigation is proposed. There will be an increased flood risk caused by the proposed development.

4. Any improvement of ground drainage using land drains will increase the speed at which springs and re-emergence flows leave the site. This will increase downstream flood risk.

As states in our first response above, the applicant has not demonstrated the rainfall run-off will be reduced from the site, as they are using the wrong (i.e. too large) GROR for the permeable areas. They have not demonstrated a net reduction in flows from the site. Indeed their proposed drainage schemes both accelerate spring water removal off-site and undersize the attenuation required to ensure site wide storm water peak flow reduction, resulting in an increase in flood risk associated with the proposed development.

#### **6.9.19 - Derbyshire County Council Lead Local Flood Authority:**

The County Council, as lead local flood authority (LLFA) have considered all submissions, including those of GWP received on 6<sup>th</sup> September, under instruction from Whaley Bridge Matters (WBM). The LLFA remains satisfied that the applicant has provided information that satisfies the conditions relating to the Linglongs Road

planning application (doc/2017/0071), and therefore has confirmed that the LLFA would not be able to reasonably object to their discharge.

In respect of the four points raised by WMB above, the LLFA have provided the following response:

1 & 2 The model assumes 100% run-off from impermeable areas which in reality is unlikely and will compensate for some run-off from permeable areas entering the system, the applicant has also modelled an additional 10% in-flow into the system. The LLFA feel this is a reasonable approach to the greenfield run-off rate and storage to take and in keeping with UK SuDS guidance.

3. The diversion of the culvert will be dealt with by an application for Land Drainage Consent under section 23 of the Land Drainage Act (1991). As part of an application to divert an ordinary watercourse a hydraulic assessment would usually be required to demonstrate no increase in flood risk.

4. Please refer to our previous comment 'The use of land drains within the site, is to manage the flow of springs and re-emergence of throughflow, to reduce the flood risk to the proposed properties. The throughflow generated due to rainfall landing on the permeable areas of the site will be reduced, given that a large proportion of the site will be positively drained, by the proposed surface water drainage system, and therefore the volume discharge will likely be less than the current situation.' These flows will still have to permeate through soils to enter the land drains and so there will be a delay until discharge of the previously referred to reduced volume.

Since the publication of the agenda, the applicant has submitted a revised Travel Plan and Residents Welcome Pack, pursuant to condition 23. The plan provides details of walking, cycling, public transport and car sharing opportunities. These details have been forwarded onto Derbyshire County Council, as Highway Authority to review.

### **Officer Comments**

Officers have received confirmation from the Ministry of Housing, Communities & Local Government that a request has been made to the Secretary of State that he consider calling in this application for his own consideration. If the Committee resolve to approve this application for discharge of conditions, the Secretary of State will determine if he wishes to call in this application. Until a decision is made by the Secretary of State, the Council cannot issue the decision notice. However this does not prevent the Committee resolving to approve this application.

Whaley Bridge Matters have raised a number of drainage/flood concerns throughout the consideration of this application. The Lead Local Flood Authority confirms that they have carefully reviewed all of the submitted documents and comments, including those submitted on the 6.9.2019. In conclusion the LLFA consider that the applicant has provided sufficient information to satisfy the drainage conditions. Therefore on the basis of the LLFA's comments officers consider that the drainage/flooding information provided is acceptable and the conditions should be agreed.

Despite receipt of a revised Travel Plan, the applicant has not formally applied to discharge condition 23 and therefore comments regarding condition 23 are not relevant to this application. Condition 23 will need to be the subject of a new discharge of condition application.

### **HPK/2018/0620 – Buckingham Hotel, 1-2 Burlington Road, Buxton**

An additional letter of objection has been received from the Serpentine Nursery School, which is detailed as follows:

*“I appreciate the opportunity to reiterate some of my concerns about this development. Some of my concerns have been well addressed in your Officers report. However these have not;*

*that there is no geological information to discover the effects of such a deep excavation there appears to be no provision for future action over subsidence to surrounding buildings, sewers, Pavilion Gardens car park and other infrastructure that could be caused by such deep excavation.*

*What indemnity can be given for damage/ rebuilding to neighbouring properties and infrastructure. What business interruption indemnity can be given in the event of unforeseen circumstances like power outage or safety issues which could compromise the vital services we provide to local families.*

*The access for development traffic, parking for workers is of a severe concern as it could impede access to my premises for parents who have to be at work promptly.*

*Adverse effects on Neighbourhood Amenities*

*Noise Pollution. Stress and Anxiety & Disturbance*

*We cater for children from 3 months to 5 years in a calm and sensitive environment so my concerns are; During demolition there could be severe noise pollution affecting the peaceful Learning environment of our Nursery. Also for all local residents, whilst some noise is tolerable the length of working hours from 08.00 to 19.00 is too long as it stops local residents enjoying their outdoor amenities in the early evening during the summer and would take place over the whole of our working day. As my Nursery children usually sleep after lunch it would cause them immense unhappiness if there were loud, unexpected noises, persistent drilling or pile driving between 12.30-2.30. Is it possible to have a control for this.*

*Air Pollution and Sunshine.*

*The increases size of the building brings it closer and higher on our boundary. Whilst aware of the necessary evils of development we are governed by a government policy that recognises that we should provide at least 3 hours of Outdoor Physical activity for all ages of children, which we do and sunshine is a healthy part of this, which will be limited by the building compromising our current facilities. There is a major concern that we can access all our outdoor areas in a clean, healthy environment and without causing us excessive Staff cost & amounts of outdoor cleaning (currently done once a week). In order to ensure that we are not affected by this what measures can be put in place.*

### *Environmental Pollution.*

*We encourage the children to edible grow plants in our garden*

*We also go out to use the Local Environment ie Pavilion Gardens/Serpentine/Swimming Pool on a regular basis.*

### *Parking and Access*

*Impeded access can have severe effects on my business when busy parents have to get to school or work and is a time critical issue for many. We have provision for onsite parking but at busy times Parents (working in local industries) need to access other adjacent parking not taken up by cars parked all day by staff working on the site (across the road from Nursery) or designated spots in the car park. Would it be possible to have some designated parking across the road and in the Car Park for drop off/ pick up times 07.45-0900 and 16.00-18.00 and unimpeded by delivery vehicles.*

### *Safeguarding Children and Child Protection Duties .*

*I have a statutory duty for this and my Nursery Staff take this legal duty very seriously and this opens us to surveillance which cannot be monitored by my careful staff. The proposal for the South elevation will cause my premises to be overlooked by windows and a terrace with an ensuing lack of Privacy. Any such area overlooking the premises would be compromising our safety, we have already had to involve the police when innocent guests took photographs.*

*Currently there is very large pile of green waste (including branches from tree pruning) at the rear of the hotel by our boundary which I am concerned about and would hope to see removed promptly as a sign that during a possible development the owner will ensure that environmental concerns are taken seriously.*

*As I know that HPBC takes its responsibilities for Planning seriously I hope my objection will be given due credibility I hope that an appropriate design solution can be found if such a development is really necessary”.*

### **Applicant**

Two further responses have been received from the applicant, which are summarised as follows:

*Date: 03.09.19*

- A deferment of the application is requested to further consider the proposed reasons for refusal, with reference to: Scale/Mass; Failure to Demonstrate Optimum Viable Use & Parking Issues;
- It is highlighted that costings have been provided by the applicant's valuation consultant in respect of the proposed build costs for alternative uses in respect of the Council's concerns in relation to repair costs and evidence of actual costs for undertaking the work;
- The earlier 2018 Report Decision did not refer to the failure of the viability exercise undertaken to consider the extension of the building nor did it mention the lack of costings for the new-build hotel scheme;

- As well, given the aim is to retain the existing building, the question of whether extensions are relevant is questionable;
- The applicant has written to DCC Highways (03.09.19) in an attempt to resolve the parking concerns, which were not previously raised in the earlier 2018 Decision Report despite the similar parking provision and layout;
- As well, these issues have not been raised during the determination of the current scheme;
- The number of replacement trees proposed in the revised schemes submitted was 7 trees in two schemes and 8 trees in the other;
- The proposed roof depth / pitch are now identical to the existing building and include chimneys;

*Date: 05.09.19*

- The applicant has submitted a further ground floor plan in an attempt to address disabled parking bay provision and considers that this would leave matters of staff parking to be addressed, which was not raised in the previously refused submission.

### **DCC Highways**

Comments are awaited in relation to stated potential implications on manoeuvring of service and delivery vehicles by vehicles parked on the opposite side of St John's Road to the proposed development access whereby DCC Highways have recommended that funding is secured for investigation and potential implementation of traffic management measures if required as is discussed in para 7.42 of the officer report.

Members will be updated at the meeting.

### **Officer Response**

In relation to neighbour concerns regarding the construction phase of the scheme, these are discussed within the officer report at para 7.46. It refers to those planning conditions as recommended by the Council's Environmental Health Officer to suitably control this aspect of the scheme to safeguard as much as possible the amenity of adjoining neighbours. In view of the proximity of neighbouring properties, if Officers were recommending approval of this application, it is recommend that the standard working hours condition be amended as follows:

No construction work or deliveries at the site shall take place outside the following hours:-

- a) 08:00 hours to 18:00 hours Mondays to Fridays.
- b) 09:00 hours to 13:00 hours on Saturdays.
- c) Nor at any time on Saturdays, Sundays or Bank Holidays.

As well, pile driving would be subject to a planning condition securing a detailed scheme, including hours of operation as has been recommended within the relevant Environmental Health consultation section of the report.

In respect of health and safety concerns raised, including land stability matters concerning the construction of the basement, these would be dealt with separately by the Building Control regulations and would fall outside the scope of development management. Matters of liability would fall to the developer / owner of the site.

Issues of insufficient parking to accommodate the proposal have been raised within the officer report and constitute a reason for refusal. The provision of dedicated on street car parking for the nursery as a result of scheme intensification has not been put forward as part of this scheme and would need to be considered as part of a new submission. Unauthorised on street car parking, including obstruction of property accesses are matters for Derbyshire County Council and Derbyshire Constabulary.

Privacy matters as raised by Serpentine Nursery are discussed within the officer report at para 7.51. It is not considered that the proposed 'south' elevation would unduly cause a lack of privacy to this property owing to the intervening distance between the opposing side elevations and taking into account the existing window relationship.

The issue of the green waste within the application site will be investigated although may fall as a civil matter to be resolved between the parties involved.

In terms of applicant matters raised, viability issues are discussed below.

With reference to the nature of proposed conversion works, the applicant's valuation consultant states that: *"they were asked to carry out a review of alternative uses for the existing hotel on the basis that it was suitably repaired, internally gutted and then converted to either residential, care or office use, utilising an internal structural steel frame so the external walls became non-load bearing"*.

In these circumstances, the applicant has not provided clear evidence that optimum viable use is reliant upon the undertaking of significant internal conversion works to achieve this as is set out above.

In respect of associated costings to achieve this, the applicant's consultant states: *"The development would be constructed within the existing building envelope of the structure of the current hotel which would be repaired in order to address the existing structural and repairing issues. In this regard, you have confirmed that the details of the costings of £1,066,370 as being the cost of making good the structure of the existing building in order that it can retain its existing character and appearance, which is a requirement of the High Peak Planning Authority"*.

Of significance, the applicant has not evidenced the stated £1,066,370 to repair the envelope of the building with an up-to-date and costed structural report. To clarify that the applicant's consultant has provided 'high level' build costs for the alternative uses, which make allowances that the exterior is already constructed and repaired. Of note, the Council's Independent Structural Report 2017 recommended building repairs were costed at £492,735.

In addition, the applicant's proposed residential mix of 11 x two-bedroom and 7 one-bedroom apartments is not supported by marketing evidence to support an optimum

'viable' residential mix for the building. Generally, the viability exercise lacks up-to-date marketing evidence in respect of the demand for the building. Nor has the exercise benefitted from the consideration of the appropriate extension of the existing building, which has previously been consented.

Finally, and notwithstanding issues raised in respect of the applicant's viable use exercise for the existing building; no viability exercise has been undertaken in respect of the costings of the new build scheme involving three basement floors across the buildings footprint and constitutes an incomplete commercial financial appraisal.

To clarify comments in respect of the proposed roof form, its slope and depth are considered to be more reflective of the existing building, including the insertion of chimney stacks, however, the proposed plan form and resultant massing would provide for a bulky replacement building that would be overbearing within the street scene and fail to enhance or better reveal the significance of the heritage assets.

In terms of landscaping comments, the Council's Arboricultural Officer has noted the applicant's comments, however, reiterates the previous position which is that the scheme should seek to retain the existing mature trees in particular the lime trees, which enhance the significance of the heritage assets.

Issues of insufficient parking to accommodate the proposal have been raised within the officer report and constitute a reason for refusal. The comments made by the applicant and plans submitted by the applicant do not overcome these concerns for officers to withdraw this reason for refusal.

**HPK/2019/0309 – 1 Foxlow Mews, Hereford Close, Buxton**

No updates.