

APPENDIX B

22nd FEBRUARY 2021

HPBC DEVELOPMENT CONTROL COMMITTEE

UPDATES SHEET

HPK/2020/0064 Land off Trenchard Drive, Buxton - Application to vary planning condition 2 attached to Full Application Ref: HPK/2018/0315

Additional comments from occupier of 75 Burlow Road 19/02/21

We are still concerned regarding the heights that the ground has been raised to. Our dry stone boundary wall was not built as a retaining wall and is now supporting 000's of tonnes of rubble. We do not feel that this has been addressed at all in the revised plans. The photos supplied show how this ground has been built up and how the boundary wall looks in the area that is not affected.

We also seek clarity on how the exposed drains are going to be finished. The manhole covers are adjacent to and level with the top of our fence which is in excess of 2.5m higher than our ground level. Again photos submitted to show.

Comments from occupier of 49 Burlow Road 18/02/21

We have several concerns regarding the raised ground level and how this detrimentally affects us and our property. Persimmon have changed the ground level quite considerably changing our outlook, affecting our privacy, the noise levels, our light and making the buildings appear more prominent.

They have now submitted plans for consideration which include a retaining wall height surrounding our property of 1.5m. However we believe this to be incorrect, measurements on the land and the construction detail which we have received from Persimmon Homes for the retaining wall, state it to be much higher, above 2m, my understanding is for this planning permission would be required and to our knowledge this has not been submitted.

They have already raised the ground level to the side of our property without the correct planning permission in place and it appears that they are going to do this again. On top of the 2m retaining wall which they are proposing to build in undressed concrete sections (which we believe is not in keeping with the area and cannot see plans for such a structure anywhere else on the site or in the locality), we are informed there will be a requirement for a fence of a minimum of 1.2m due to the height of this wall. Thus taking the whole structure nearer 4m in height. This is within 1.5m of our boundary and along with the then domineering building some 5m higher in an area where we have had unobstructed light for over 20 years. Thus we believe this will affect our privacy with the public footpaths, the enjoyment of our garden, adversely affect our outlook and our right to light. The driveway at high level will create noise, pollution and smells.

There is a lounge window to the side of this property which directly overlooks our garden. We ask that these matters are raised at the committee and that the time is allowed for a dialogue regarding the height of the land surrounding our property, construction of any retaining walls, including the height, maintenance and a construction detail.

The other issue which is created by these unauthorised raised ground levels is the soakaway to the side of our property. We believe that this soakaway and its current position puts our property at a serious risk of flooding. Following an email conversation with HPBC Environmental Health Department we have raised this with the Local Lead Flood Authority at Derbyshire County Council (the advisors to HPBC planning according to the Environmental Health Department) and they have agreed that the position of the soakaway and the retaining wall could lead to an 'exceedance of events' (flooding), causing the water to travel above ground over land and into our property. They have also stated if the soakaway is not properly inspected and maintained throughout its lifespan the same event could occur. The raised ground level has put our property in a position it has never been in before, making us now a low lying property, whereas before we were the highest property at this point on the road (having only garages to the side in the former college site). Therefore we have never been at risk of flooding. We ask that this issue is raised at the committee and the Local Lead Flood Authority are allowed the time to investigate the issues we have raised and the impact of the sustainable drainage on our property.

The retaining wall construction detail from Persimmon states that they will be landscaping back to half way up our wall, this is contrary to what has been agreed with Persimmon Homes and again our stone wall is not built for this purpose, we are unsure at present whether this landscaping is taking load from the wall structure. We are not confident in the abilities to have such a high retaining wall in that area and the safety of that structure which is another reason we believe the ground levels need to be addressed, along with all the other issues amenity, privacy, overbearing property etc etc.

We are drainage engineers and have run a successful company for nearly 20 years, in part we install drains, take levels, install soakaways and undertake sewer connections for both Severn Trent Water and United Utilities in fact they recommend us to people requiring a sewer connection.

Further comments from 49 Burlow Rd 19/02/21

I also wish to say that we are aware there are issues regarding the levels, we do not believe these levels need to be so great in relation to our property and think (as drainage engineers) levels of fall to the main foul drains and or alternative routes could be considered to aid the lower ground levels, we understand this was not possible elsewhere on site, but believe this should be reconsidered in relation to plot 30 and plot 29. We are willing to work with planners and Persimmon Homes to try to find a workable solution. However due to the issues regarding the boundary and Persimmons stance, we are struggling to do so at present (our understanding from their solicitor is we are not permitted to speak outside of solicitors and any meetings etc have to be arranged as such). This is why we require the time to have these

meetings and discussions and that is why we are asking for an extension in time from the committee to deal with all the issues we have.

We would welcome a conversation with yourself to have the opportunity to raise the issues and concerns we have and discuss workable solutions.

Comments Regarding the Application Raised in a Service Complaint by the Occupier of 49 Burlow Rd

- The trees on the plans submitted in December 2020 are still marked to be removed, they have not been added to the agenda for the committee meeting dated 18 January 2021,
- It was agreed through our solicitor in early November 2020 that Persimmon would not remove the trees. Why have Persimmon Homes not altered this and had it put on the agenda for the committee meeting in January 2021?
- These trees are in our garden,
- The tree officer stated on her email they were in a poor condition, they were not, until Persimmon Homes damaged them when the tree protection fencing was removed,
- We have a genuine concern regarding the soakaways and Suds
- We cannot see where the percolation test for the attenuation tanks to the rear of our property has been undertaken,
- The attenuation tanks to the rear of our property, have been installed some 9 months previous to todays date, DCC Flood Risk Management appear to be of the misconception that they are in the pre-construction phase and will not agree with the layout/adoption until they are satisfied with the information provided. Why have these tanks been allowed to be installed?
- Why have no percolation tests been undertaken and no inspection during the installation appears to have been undertaken?
- DCC Flood Risk have raised an issue regarding the attenuation tanks for the highway drainage being calculated on other areas of the site, on the higher readings rather than the lowest. Plot 30 to the side of our property has a proposed soakaway in its rear garden, this takes the roof water and hardstandings from 5 plots.
- Persimmon Homes have been allowed to raise the ground level to the side of our property by over 1.5m without planning permission to do so (more of that later). We have grave concerns regarding this soakaway as the ground level is higher and as our sub soil is clay, we do not want any run off of from the surface water onto our garden as it will become a quagmire. It is always waterlogged during periods of heavy rain and in the winter months at present. For the surface water for the plots of five houses to be so close to this raised ground level and the rear of the garages, one of which we rent, (it is nearly level with the roof of the garages), this puts us at serious risk of future localised flooding.
- HPBC planning had allowed Persimmon Homes without planning permission to raise the ground level to the side of our property by some 1.5m affecting our privacy, damaging our boundary wall in the process, without a retaining wall protecting our property and all without a party wall agreement.

- They had used rubble from the site, some which I believe not to be the correct material for the purpose it was used, I saw what appeared to be tarmac pushing against my wall/fence. HPBC have not provided evidence to prove this is not the case
- Have Persimmon Homes provided HPBC with proof of the disposal of contaminated waste from site?
- The plans to us appear to be incorrect and have always been so, however this is another issue that HPBC planning appear to wish to overlook. Why was this issue not raised at the committee meeting on 18 January 2021?
- We were rightly informed by planning that the fact Persimmon had included both part of our side garden and rear garden in their plans was a boundary dispute and therefore a civil matter.
- Persimmon had stated to both ourselves and HPBC that they owned the land however they did not provide any proof of this and continued to ignore any attempts by ourselves to resolve the matter by not responding to several emails which forced us to employ the services of this solicitor.
- Persimmon finally stated that they did not own the land in question which cost us money for another their error.
- Therefore a query still remains over plot 30 and its locality/measurements in relation to our property. The side boundary was agreed back in November, why was this not on the agenda at the committee meeting on 18 January 2021? The rear continues to remain in dispute, where Persimmon Homes have on their plans to build a retaining wall and landscape land under our ownership.
- On the latest plans the trees are still shown for removal, the boundary to the side of plot 30 has not been repositioned and no altered plans for plot 30 including the retaining wall which on the current plans state 1.2m high. However Persimmon have sent us a construction detail of a retaining wall and the measurements state it is nearer 2.0m high. We still have not agreed the new ground level and how this affects our property. We have asked for specific measurements for the detail in how they propose to install a retaining wall and a path between our stone wall and the gable end of plot 30. We believe there is insufficient space without compromising our wall/fence.

Officer Comments

Land raising adj. 75 Burlow Rd

The comments of the occupier of 75 Burlow Road are noted. However, as detailed in the committee report, levels will be graded back away from the boundary wall with this property to the shortened turning head. The grading and landscaping will also deal with the exposed manhole structure referred to. There is no land raising immediately adjacent to the retaining wall, because the raised area will be graded down to existing ground level at this point. However, ultimately, any structural damage to this wall is a civil matter between adjoining landowners.

Land raising adj. 49 Burlow Rd

Given the separation distance between the dwelling at no.49 (which benefits from a large rear garden) and the area of raised ground in question, and the intervening tree

screening (see below) it is not considered that there would be sufficient adverse impact on residential amenity to warrant refusal of the proposed levels in this location, particularly given that the raised area and associated retaining wall will be set in from the boundary with this dwelling.

Permission for the retaining wall would be granted by virtue of approval of the levels condition which members are considering at their meeting. A separate planning application would not be required. With regard to the height of the retaining wall, the drawings submitted for approval show this to be 1.5m. Any deviation from this would require further approval. It is not considered that the materials used would detract from the area as it would be located in a rear garden screened by the existing dry-stone boundary wall.

The fact that the work has been partially carried out and the application is retrospective is not a material planning consideration, although the work undertaken is at the developers own risk. Whilst it is noted that fencing will be required on top of the retaining wall, given that it stands away from the boundary again, significant adverse amenity impacts are not envisaged.

The comments regarding the lounge window to the side of the property are noted but the position and housetype of the dwelling in question already benefits from approval under the existing planning permission. Notwithstanding this, and the increase in ground levels, any windows in the side elevation will predominantly overlook the adjacent public open space with only limited views of the end of the neighbouring garden

Drainage issues

The concerns raised by the objector relating to drainage have been forwarded to the Lead Local Flood Authority for comment. Comments were awaited at the time of the update report preparation. However, the recommendation in the main committee report is to approve the application subject to no objections from the Lead Local Flood Authority.

Tree Issues

The Council's arboricultural officer has commented on the issues which have been raised by the objector above. The trees in question area G13 on the arboricultural Schedule submitted with HPK/2020/0064 and G63 in the original arboricultural report by urban green (HPK/2018/0315) The trees are show on the plans within the red line, although it is noted that the occupier of 49 Burlow Road advises that they are within his ownership and this is what is recorded in the tree schedule. The initial approval showed these trees being retained and protective fencing erected. Only in more recent submissions were they shown as being removed. These trees are not covered by the TPO . From a local authority point of view there is no objection to the removal of these trees but equally we have not given permission to Persimmon homes to remove the trees. As the trees are in third party ownership the owner has to give consent for the trees to be removed. It is for the developer and the tree owner to negotiate.

Other matters

Any damage to the objectors wall, including any matters pertaining to the Party Wall Act are essentially a private civil legal matter between the neighbouring land owner and Persimmon. Notwithstanding this, however, officers did understand and share the concerns regarding the material which had been piled against the stone wall which was clearly not intended to be a retaining wall. We raised this issue with Persimmon that they agreed to provide a separate retaining wall set in from the boundary to prevent material from resting against the boundary wall and to avoid raising of levels immediately adjacent to your boundary in this location. It is officers view that this effectively addresses the issue.

With regard to concerns regarding contaminated material, conditions were imposed on the original planning permission to ensure that appropriate investigation and remediation were carried out on the site.

Turning to the matter of the alleged incorrect measurements on the plans. The Council's Enforcement Officer has now visited site, including the neighbouring property and confirmed that the dwellings in question are constructed in the correct position. The dispute over the boundary and land ownership are a private matter between the objector and Persimmon. The objectors rights as a landowner, override the provisions of any planning permission and it does not permit the developer to undertake works on land that they do not own.. Equally, the Council cannot intervene and prevent works on land outside the applicant's ownership if they benefit from planning permission. That is once again a private matter between neighbouring land owners and Persimmon.