

**UPDATE REPORT**

**FOR DEVELOPMENT CONTROL COMMITTEE  
MEETING OF 6 SEPTEMBER 2022**

**B1 – 2022/0231 – Ground and First Floor Rear of 38-42 Market Street, Edenfield**

The agent has submitted further comments since publication of the report. Essentially these are: -

- a) that a noise report has been submitted in support of this application. A report wasn't submitted with the previously refused identical submission.
- b) that the report concludes that noise generated by users of the outdoor seated area will not significantly disturb surrounding residents provided that customer numbers are limited to no more than 30 people at any one time between 21.00 and 22.00 hours.
- c) that the outdoor seating area will only accommodate a maximum of 30 people, that local residents will advise the Council if more than this number occupy it at any one time, and that the applicant has no intention of allowing more than this number to occupy it.
- d) that the applicant would be willing to accept conditions limiting the number of people occupying the outdoor seated area to no more than 30 at any one time and preventing the use of amplified music unless otherwise agreed.
- e) that allowing the proposed opening hours would ensure the continued viability of an already well used community asset.

The points raised in (a) (b) and (d) are not new and have already been raised and addressed in the officer's report to committee.

Point (c) is noted although it is not currently known, as a matter of fact, how many people could be accommodated in the outdoor seating area. The issue remains, however, that a condition seeking to limit the occupancy of this area to a maximum of 30 people at any one time would not be enforceable for the reasons given in the report.

With respect to Point (e) the Council wants to support the business and see it thrive. However, this needs to be done in a way that is acceptable to all.

**For the reasons above, the officer's recommendation to refuse the application remains unchanged.**

## **B3 – 2022/0165 – Land Adjacent Cliffe Bank Hamlet, Burnley Road East, Waterfoot**

Since publication of the report, the agent has provided a note in relation to two of the pre-commencement conditions 8 and 10 recommended in the report. The agent's comments are repeated in full below:

### **DC Committee**

**2022/0165**

**Full: Construction of 2 no. dwellings with associated access, and works, Land Adjacent Cliffe Bank, Hamlet, Burnley Road East, Waterfoot**

Should the Committee agree to approve the above application in accordance with the officer recommendation the owners of the land are keen to start construction work as soon as possible and before the winter weather sets in.

As recommended to you, there are two pre-start conditions which would delay this and, as things stand, would involve the submission of a further application to deal with them.

The first is a recommendation that drainage details based on sustainable drainage principles should be submitted. However, the government, in the form of a Ministerial Statement dated 2015, makes it very clear that such a requirement only applies to 10 or more houses. A condition stating that drainage should be on a separate system is sufficient in this case and would avoid further delays. It is a matter which the Council has faced before and when a sustainable drainage condition for 9 houses at the Hollin Way site in Rawtenstall was replaced by the simpler condition and in the light of the Ministerial Statement.

The other condition refers to contamination. However, a contamination report has been submitted to the Council. Your officers felt there was insufficient time for your contamination consultant to consider it. However, that was nearly two weeks ago now. Would it be possible to leave this condition for the Chair of the Committee to consider, as advised by the Planning Manager? If, say in another week, your contamination adviser is content with the submitted report, then it may be possible to omit the pre-start condition, thus preventing any further delays. If he is not content with the report, then we accept that the condition and the resulting delays might then be unavoidable. But it is worth asking for a few days to find out.

### Condition 10 – drainage

The Ministerial Statement the agent makes reference to states it is expected that decisions on planning applications relating to major development should ensure sustainable drainage systems for the management of run-off are put in place, unless demonstrated to be inappropriate. It does not, however, "*make it very clear that such a requirement only applies to 10 or more houses*". Instead, the Ministerial Statement goes on to state: "*The current requirement in national policy that all new developments in areas at risk of flooding should give priority to the use of sustainable drainage systems will continue to apply*".

In this regard, the site is at risk of surface water flooding and is located, in part, within Flood Zones 2 and 3. National policy states development should only be allowed in

areas at risk of flooding where it can be demonstrated that it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate. This is reiterated within the Local Plan via Policy ENV9. The applicant has failed to demonstrate that the hierarchy of drainage options in the National Planning Policy Guidance have been adequately investigated, and has provided no evidence on why the incorporation of a sustainable drainage system within the site would be inappropriate. As such, the pre-commencement condition requested by United Utilities and recommended in Section 10 of the committee report, is appropriate and necessary. Furthermore, should the condition be deleted / amended in the way requested by the applicant, the officer's recommendation would change to refusal, based on conflict with national and local planning policies in regards to sustainable drainage. **Therefore, condition 10 remains unchanged.**

#### Condition 8 – contamination

The planning agent submitted a contamination report on Wednesday 24<sup>th</sup> August – a day before the agenda for the 6<sup>th</sup> September Development Control meeting was published. Prior to this date no details in reference to land contamination were submitted by the applicant. Nevertheless, the Council's Contaminated Land Officer has now been consulted on the submitted contamination report. The consultee is entitled to 21 days to make representations.

No response had been received at the time of writing, and therefore, **condition 8 remains unchanged.**

#### Other matters

Since the report was written a further representation on the application has been received from an objector who has already commented on the scheme. In summary, the objector raises the following concerns:

- The reduction in size of the proposed parking area as shown on the revised proposed site plan is inadequate for three cars and will result in manoeuvrability issues.
- The Construction Management Plan includes a section of land for contractor off-road parking which is not owned by the applicant and do not have permission to use.
- The scheme represents over-development of the site.
- Question the usability and appropriateness of the raised bed amenity area and footpath amenity area as shown on the proposed site plan.
- Works have started on site with the demolition and extension of existing walls and the building of a new retaining wall for the raised bed area.

Some of the issues raised above have already been noted in the committee report and have been addressed accordingly. However, in response to the above, the local highway authority have been consulted on the revised parking area and have raised no concerns to the reduced size of the off-street parking available.

The applicant submitted a new Construction Management Plan (CMP) on 22<sup>nd</sup> August and the Plan has been revised so the site area as shown on the CMP is in accordance with the red edge of the Location Plan. The applicant has also submitted a Construction Method Statement (CMS) and the highway authority has confirmed both

the revised CMP and CMS are acceptable. In terms of the reported works commenced on site, the case officer has raised this with the planning agent for clarity on the matter.

**Despite the further objection, there is no change to the Council's recommendation.**

**Mike Atherton  
Head of Planning and Building Control**

**DATE: 06/09/22**