

**DELEGATED**

**AGENDA NO  
PLANNING COMMITTEE**

**DATE 22<sup>nd</sup> MAY 2008**

**REPORT OF CORPORATE DIRECTOR,  
DEVELOPMENT AND NEIGHBOURHOOD  
SERVICES**

**08/0493/PND**

**18 Leven Road, Yarm,**

**Application for prior determination for the demolition of 18 Leven Road**

**Expiry Date 23 April 2008**

### **SUMMARY**

Members will recall that this application for prior determination was deferred at the previous Planning Committee meeting due to further information being required with regards to bats on the site. The applicant has now carried out a new bat survey.

The Local Planning Authority previously determined that Prior Approval for the demolition of 18 Leven Road is required, and since that time further details for the means of demolition and site restoration have been received.

In accordance with Class A Part 31 of Schedule 2 to the Town and Country Planning (General Permitted Development Order) 1995 (demolition of buildings) and Circular 10/95, the demolition of the majority of residential properties is classed as permitted development. This however, subject to acceptable demolition methods and restoration of the site, the determination of this application must therefore assess whether the details are acceptable or not or if further information is required.

The application does not allow the local planning authority to refuse to allow the demolition but only determine how it will be demolished. Any other comments relating to the application site must not be taken into consideration as they are not material to the determination of the prior approval application.

Some of the objections of the proposed demolition of Wainstones have raised the issue of the property being placed on the local list. However, these concerns cannot be considered under the prior notification procedures as only the methods of demolition and restoration of the site can be assessed and no weight can be attached to such representations.

### **RECOMMENDATION**

***Recommended***

***1. That the details of Prior Approval application 08/0493/PND for the methods of demolition and restoration of the site are approved.***

***2. The applicant be informed that bats receive legal protection in their own right under the Conservation (Natural Habitats &c.) Regulations (as amended) and the Wildlife and***

***Countryside Act (as amended) and that this legislation must be complied with regardless of the planning context of the works proposed. The applicant should seek advice from their ecologist with respect to this issue.***

## **BACKGROUND**

1. As members may be aware the application site has been subject to several planning (05/0990/FUL, 05/2866/OUT, & 07/2442/FUL) applications for residential development which have included the demolition of the existing property, Wainstones. All of the applications have been either withdrawn or refused by the Local Planning Authority and those which have proceeded to appeal have also been dismissed.
2. This application is however different to the previous applications in that the demolition of a dwelling house is granted planning permission by Class A Part 31 of Schedule 2 to the Town and Country Planning (General Permitted Development Order)1995 (demolition of buildings) and as such does not require a planning application.
3. The deemed planning permission is however, subject to the condition that the developer must apply to the local planning authority for a determination as to whether their prior approval of the means of demolition and site restoration is required. The Local Planning Authority have previously determined that Prior Approval for the demolition is required, and since that time further details for the means of demolition and site restoration have been received for consideration.

## **PROPOSAL**

4. This application is for the prior approval determination for No.18 Leven Road, Yarm also known as Wainstones. Details have been provided for the main processes for the demolition of the property, dust suppression, timetable of works, travel plan and restoration of the site. These details are attached as an appendix to this report.

### **Process of demolition:**

Prior to any of the external fabric of the building being demolished a “primary strip” will take place to the interior of the property consisting of the removal of internal material which is not ‘inert’ (i.e. curtains, carpets and timber fittings)

Stage 1; Analyse Asbestos report and take appropriate action, if required

Stage 2; Disconnect all utilities to dwelling house (Water, Electricity and Gas)

Stage 3; Fence off application site perimeter with Harris Fencing (1.8m high) and erect site visible signage

Stage 4; Toolbox talks with site personal with respects to demolition procedure and health and safety matters

Stage 5; Machinery to be used in conjunction with demolition is a 360 degree excavator to ‘push’ in the walls of the main dwelling. With regards to the garage it is intended that the garage will be demolished by hand using hand tools.

Stage 6; Once the 360 tracked excavators have pushed over all of the walls, the same excavators will be used to load all of the inert construction waste into tipper lorries. The lorries will remove the inert construction waste to an appropriately licensed site

### **Dust suppression:**

Water jets will be deployed if necessary over the building to minimise and suppress dust. The tracked excavator will ensure that all of the walls of the property are collapsed in upon the main building.

Loads will be covered to minimise the spread of dust both on site and in the locality and if necessary water jets will be deployed over the lorry during loading operations to minimise the potential for dust nuisance to adjacent residential properties

Timetable for works:

Timetable for demolition is expected to take approximately 14 days, with hours of operation 8.00am – 4.30pm Monday to Friday and 8.00-1pm Saturday with no Sunday operations.

Waste and recycling:

Brick, block work and Concrete are to be collected and tipped into site wagons and taken to a waste transfer station to be recycled to aggregate. Other inert material is to be taken to a licensed waste management site.

Travel Plan:

Details of a car parking area have been detailed to the front of the property and there is sufficient space to accommodate both large tracked vehicles and 17.5 tonne tipping lorries at the same time.

It has also been indicated that a maximum of 7 loads per day will be taken at off-peak period for the site.

Restoration:

The long term intention is to redevelop the site having obtained a suitable planning permission in the first instance. In the medium term, the site will be remediated by means of redevelopment.

Should planning permission not be forthcoming within 12 months of the original date of demolition then the applicant would ensure that the site is covered with an adequate covering of sub soil and top soil; the top soil will then be seeded with a simple grass mix.

**CONSULTATIONS**

The following Consultations were notified and any comments received are set out below:-

**Councillor – Andrew Sherris**

I would urge officers to bring in blanket listing of all of Leven Rd without further delay.

**Yarm Town Council**

I have been instructed by members of Yarm Town Council to object to the proposed application as follows:

- i) No 18 Leven Road is an important example of between-the-wars domestic architecture. It would more appropriately be the subject of listing rather than the threat of demolition and is currently a building nominated for inclusion on the Conservation and Historic Environment Folder - local list. It is part of the area's architectural heritage and an asset to its built environment.
- ii) There is the question of the need to preserve architectural integrity and scale of the properties along the whole of Leven Road. Although varied in both date and style, they blend well together in a symbiosis that every effort should be made to retain.

**Environmental Health Unit**

Further to your recent memorandum regarding the **prior notification** of building demolition for the above, the detail is in line with our suggested hours of operation for construction work and are considered acceptable.

Having checked our records I can find no receipt of an application for a **prior consent** under the Control of Pollution Act 1974. I would suggest an application by the operator reflecting these details be made to Environmental Health.

## Natural England

The following Consultations were notified and any comments received are set out below:-

As you will be aware, Natural England can only comment concerning a proposal after receipt of sufficient information. Where appropriate, this would typically include:

1. A detailed description of the proposed works.
2. A comprehensive survey of the current site (including ecological and species information).

N.B. Natural England cannot provide a screening service as to whether an ecological survey is required and, if so, the type, scope and scale of such surveys. Nor do we hold comprehensive information regarding locations of species protected by law.

3. An impact assessment detailing the impact of the proposal on any ecological interest that has been identified in the site survey.
4. Details of the proposed mitigation measures concerning any negative impacts that have been identified in the impact assessment;
5. Details of the proposed delivery of the mitigation measures.

Unfortunately, your consultation did not contain sufficient information since it did not contain full details for points 1 to 5 above.

- The bat survey submitted to Natural England was carried out in November 2005 and is now over two years old. On this basis Natural England cannot reliably assess the current use of the building by bats.
- Although the application for prior approval for the demolition of the property at 18 Leven Road is in principle permitted development and the principle of demolition remains acceptable this does not preclude the applicant from complying with the relevant legislation. We request that you inform the applicant that bats receive legal protection in their own right under the Conservation (Natural Habitats &c.) Regulations (as amended) and the Wildlife and Countryside Act (as amended) and that this legislation must be complied with regardless of the planning context of the works proposed. The developer should seek advice from their ecologist with respect to this issue.

As a result of not receiving up to date information regarding protected species on this site, we are unable to provide informed and substantive advice regarding whether this proposal may have an adverse effect on legally protected species.

We therefore suggest that the local planning authority seeks advice from their in-house ecologist or undertakes this screening process using the principles and procedures covered in *Planning for Biodiversity and Geological Conservation: A Guide to Good Practice* (March 2006) which can be downloaded in PDF format from the Department for Communities and Local Government website at [www.communities.gov.uk](http://www.communities.gov.uk). Section 5 of this publication provides useful links to key procedures in the development control process (e.g. development control checklists, ecological survey, species surveys, consultation procedures, etc.) that may assist in the screening of ecological issues associated with planning applications.

I hope that these comments are useful to you, but if you require clarification on any of the above points please do not hesitate to contact me.

### **Head of Technical Services**

The Local Planning Authority deemed it necessary that prior approval for demolition is required for this site and the following information should be submitted for consideration.

- ❑ Detailed description of the stages and methods of demolition including types of machinery to be used.
- ❑ Details of waste removal and recycling of materials arising from demolition.
- ❑ Timetable and details of the anticipated duration of the demolition.
- ❑ Details of the methods employed to restrict dust and detritus from leaving the site.
- ❑ Traffic Management Plan, which should consider vehicular movements associated with the demolition, how demolition vehicles will access the site and where the vehicles and staff will park for the duration of the works.

I am satisfied that the demolition of this property can be undertaken safely and that I have no objection with respect to method of demolition, details of waste removal, duration of the demolition and the details of travel, parking and manoeuvring for both staff and wagons visiting the as detailed in the information provided by the applicant.

### **PUBLICITY**

5. Neighbours were notified and a total of 4 objections have been received to the proposal and the comments are summarised below;

- ❑ Create more traffic congestion
- ❑ Wainstones should be a listed building, its part of the areas heritage. therefore should be retained
- ❑ Fears over damage to neighbouring properties
- ❑ Impacts on the existing hedge
- ❑ Impact on protected species
- ❑ Should be included on the Local List of significant buildings
- ❑ Unacceptable that Wainstones is not on the Local List and questions process of local list
- ❑ Conflict of interest with the Planning Agent
- ❑ The Planning Department has been inconsistent in dealing with similar applications across the borough.
- ❑ Impact on the character of Leven Road.
- ❑ Impact on privacy and amenity of neighbouring properties
- ❑ Increased noise
- ❑ Increase in traffic
- ❑ over-development of the site
- ❑ bats are located and have been seen in the area.

### **PLANNING POLICY**

6. The relevant development plan in this case is the adopted Stockton on Tees Local Plan. Where an adopted or approved development plan contains relevant policies, Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that an application for planning permissions shall be determined in accordance with the Development Plan(s) for the area, unless material considerations indicate otherwise. In this case the relevant Development Plans are the Tees Valley Structure Plan (TVSP) and the Stockton on Tees Local Plan (STLP). However the prior notification is not a planning application

## **SITE AND SURROUNDINGS**

7. The site is a large residential property built in the 1930's. The site has a large rear garden and is set back from Leven Road by approximately 35 metres. No's 16 and 20 Leven Road are also large residential properties and surround the site to the west and east respectively.

## **MATERIAL PLANNING CONSIDERATIONS**

8. In accordance with the Town and Country Planning (General Permitted Development) Order and Circular 10/95 the main planning considerations are whether prior approval is required for the method of the proposed demolition and the restoration of the site.

### **Principle of development;**

9. In accordance with Class A Part 31 of Schedule 2 to the Town and Country Planning (General Permitted Development Order) 1995 (demolition of buildings) and Circular 10/95, the demolition of the residential properties is classed as permitted development. This however, subject to acceptable demolition methods and restoration of the site, the determination of this application must therefore assess whether or not further information with regards its demolition is required.

### **Methods of demolition;**

10. As part of the submitted information it is detailed that the property is to be demolished in various stages with the main dwelling being demolished with a 360 degree excavator 'pushing in the main walls of the building, given the proximity to No. 20 Leven Road the garage will be demolished by hand using hand tools. Water jets will be deployed if necessary over the building to minimise and suppress dust, covered loads are also proposed to minimise the spread of dust both on site and in the locality.
11. The Environmental Health Unit has considered the information supplied and also the impacts of the proposed methods of demolition on the amenity of the surrounding properties. It is considered that the details and mitigation measures are acceptable and that the demolition should not have any significant impacts on local amenity.
12. In light of the comments from the Environmental Health Officer and in the absence of any comments to the contrary from the Head of Technical Services the proposed methods of demolition are therefore considered to be acceptable.
13. The details of demolition have been sent along with the previous Bat Survey to Natural England to consider the risks and potential impacts of the demolition upon the protected species. At present no response to these issues has yet been received.
14. The applicant has commissioned a bat survey which has taken place last week and the Local Planning Authority has been informed that, no evidence of bats have been found. As the principle of demolition is permitted development, the legal duty to protect any protected species which may inhabit the site rests with the owner of the site who will have to undertake appropriate precautions in carrying out demolition works. However, as requested by Natural England the applicant will be informed that bats receive legal protection in their own right under the Conservation (Natural habitats & c.) regulations (as amended) and the Wildlife and Countryside Act (as amended) and that this legislation must be complied with regardless of the planning context of works proposed. The applicant should seek advice from their ecologist with respect to this issue.

### **Restoration:**

15. Given that there is currently an application for the re-development of the site for 5no. dwellings under consideration it is considered reasonable that a period of time be given for the site to remain in a cleared and levelled state.

16. Should any future applications fail to gain planning permission within 12 months of the demolition of the property then the remediation proposed (an adequate covering of sub soil and top soil being seeded with a simple grass mix) is considered to be acceptable.

17. The proposed methods for the restoration of the site are therefore considered to be acceptable.

**Residual Issues;**

18. Concerns in relation to an increase in traffic congestion, damage to hedge and neighbouring properties are not considerations as part of the prior approval application and cannot be considered as part of the determination of this application.

19. Some of the objections of the proposed demolition of Wainstones have also raised the issue of the property being placed on the local list. However, these concerns cannot be considered under the prior notification procedures as only the methods of demolition and restoration of the site can be assessed and no weight can be attached to such representations.

20. As explained in the previous report only the methods of demolition and restoration of the site can be assessed as part of this application for prior approval. The comments made by the latest objector are duly noted although can no weight can be attached to such representations as they do not relate to the prior notification procedures.

**CONCLUSION**

21. Having received further details on the methods of demolition and restoration of the site in accordance with the Town and Country Planning (General Permitted Development) Order and Circular 10/95, it is considered that the details provided in respect of the methods of demolition and restoration of the site are acceptable and are recommended for approval

**Corporate Director of Development and Neighbourhood Services  
Contact Officer Mr Simon Grundy Telephone No 01642 528550**

**Financial Implications.**

None

**Environmental Implications.**

As report.

**Community Safety Implications.**

As report

**Human Rights Implications.**

The provisions of the European Convention of Human Rights 1950 have been taken into account in the preparation of this report.

**Background Papers.**

Class A Part 31 of Schedule 2 to the Town and Country Planning (General Permitted Development Order) 1995 (demolition of buildings).

Circular 10/95 – Planning Controls over Demolition

Planning Applications; 05/0990/FUL, 05/2866/OUT, & 07/2442/FUL

**WARD AND WARD COUNCILLORS**

**Ward**

**Yarm**

**Ward Councillors**

**J Earl, Mrs J. Beaumont and A B L Sherris**