



Appeal Decision

Site visit made on 27 November 2008

by **R R Lyon MA CEng MICE MRTPI FIHT**

an Inspector appointed by the Secretary of State
for Communities and Local Government

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Decision date:
10 December 2008

Appeal Ref: APP/H0738/A/08/2083530
former S D Print & Design Building, Martinet Road, Thornaby, Stockton-on-Tees TS17 0AS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Kube 2 Ltd against the decision of Stockton-on-Tees Borough Council.
The application Ref 08/1228/FUL, dated 15 May 2008, was refused by notice dated 24 July 2008.
The development proposed is erection of 30 residential apartments.

Decision

I allow the appeal, and grant planning permission for the erection of 30 residential apartments at the former S D Print & Design Building, Martinet Road, Thornaby, Stockton-on-Tees TS17 0AS in accordance with the terms of the application, Ref 08/1228/FUL, dated 15 May 2008, and the plans submitted with it, subject to the following conditions:

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers P01, P03, P04, P05, P06, P07, P08.
- 3) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority.
Development shall be carried out in accordance with the approved details.
- 4) None of the dwellings shall be occupied until surface water and foul drainage works have been carried out in accordance with a scheme to be submitted to and approved in writing by the local planning authority.
- 5) No development shall take place until full details of hard landscape works have been submitted to and approved in writing by the local planning authority and no dwelling shall be occupied until these works have been carried out as approved.
These details shall include proposed finished levels or contours; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials and construction methods; minor artefacts and structures (e.g. incidental buildings, public art and street furniture).
- 6) No development shall take place until a detailed scheme for landscaping including tree and shrub planting has been submitted to and approved in writing by the local planning authority. Such scheme shall specify types and species, layout contouring and surfacing of all open spaces. The works shall be carried out in the first planting and seeding seasons following the occupation of the apartments or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the

- development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
- 7) No development shall take place until a schedule of landscape maintenance for a minimum period of 5 years has been submitted to and approved in writing by the local planning authority. The schedule shall include details of the arrangements for its implementation. Development shall be carried out in accordance with the approved schedule.
 - 8) No development shall take place until details of the proposed site levels and finished floor levels have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
 - 9) Details of all means of enclosure including any requirement for earthwork retention and street furniture associated with the development shall be submitted to and approved in writing by the local planning authority. The works shall be carried out in accordance with the approved details before the development hereby approved is first occupied.
 - 10) Full details of the method of external illumination including siting, angle of alignment, light colour and luminance of building façades and external areas of the site, including parking courts, shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details before the development hereby approved is first occupied.
 - 11) No development shall take place until details of a scheme in accordance with BS5837: 2005 to protect the existing trees and vegetation have been submitted to and approved in writing by the local planning authority. Such scheme shall include details of a protective fence of appropriate specification extending 3 metres beyond the perimeter of the canopy; the fence as approved shall be erected before construction commences and shall be maintained throughout the building period unless otherwise agreed in writing by the local planning authority.
 - 12) No development shall take place until details of the building foundations that take account of the health of existing trees in close proximity to the proposal have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
 - 13) No development shall take place until details of the covered cycle storage facilities have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details before the development hereby approved is first occupied.
 - 14) No development shall take place until details of bins storage, recycling facilities and a refuse management plan have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details before the development hereby approved is first occupied and the refuse management plan shall be implemented as approved unless otherwise agreed in writing by the local planning authority.
 - 15) No development shall take place until a study predicting which living rooms or bedrooms have windows that will be subject to traffic noise levels of 68 dB(A) $L_{A10,18hrs}$ or more (or predicted to be affected by such levels in the next 15 years) has been submitted to and approved in writing by the local planning authority. Before any permitted dwelling is occupied, such affected rooms shall be insulated in accordance with a scheme to be submitted to and approved in writing by the local planning authority.

- 16) No demolition or construction/building works or deliveries shall take place outside 0800 hours to 1800 hours Mondays to Fridays and 0900 hours to 1300 hours on Saturdays and at no time on Sundays or Bank Holidays.
- 17) The development shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme. The scheme shall include:
 - i) the numbers, type, and location of the affordable housing provision to be made;
 - ii) the timing of availability of the affordable housing;
 - iii) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
 - iv) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

Reasons

1. The dwellings facing the appeal site on the north side of Millbank Lane are traditional semis to the east; to the west the nearest properties include 2 bungalows, 2 short terraces and a pair of semis. Between Millbank Lane and Martinet Road are industrial buildings, a police station and taller modern buildings including Lancaster House. A garage and industrialised land are to the south of the site, with the 3 storey York Apartments close by. Thus, whilst the north side of Millbank Lane is clearly traditional housing, the appeal site is in a location where there is no overriding characteristic to the surroundings.
3. The top storey of the 3 storeys high proposal would be stepped back to recede from the dwellings opposite on Millbank Lane. The design would be modern and innovative, with strong elevations on Millbank Lane and Martinet Road. The design is of high quality and, whilst it would differ from nearby buildings, its setting, bulk and design would relate well to its neighbours and contribute to a diverse and interesting street scene.
4. The proposal does not provide adequate external amenity space. However, a unilateral undertaking offers a capital commuted sum for providing, improving or enhancing outdoor recreation space near the appeal site. This obligation would seem to comply with s106 of the Town and Country Planning Act 1990 and would satisfactorily overcome the deficit, in a manner indicated in the original report to the Council's planning committee.
5. The appellant disputes the need for the undertaking as the nearby Village Park space is well maintained and funded and, in any case, the residents of one-bedroomed apartments would not use such facilities. However, I see no reason why people in starter homes would be inactive or stand aloof from the facilities. Village Park is well kept and under development by the Council in collaboration with the Residents Association; but that is not to say that the proposal's residents would not increase local needs. In any case, there is protection for the appellant within the obligation as, in the event that the sum is not spent within 3 years of the date of payment, the Council shall repay the money.
6. I judge that the s106 undertaking dealing with open space is necessary for me to conclude that the proposal would not adversely affect the character and

appearance of the area and would comply with saved policies GP1 and HO11 of the Council's Local Plan.

7. I have considered what planning conditions should be imposed beside the usual commencement condition. To ensure a satisfactory form of development, conditions will require that the scheme is constructed in accordance with the submitted plans, that the Council's approval shall be required for external materials, site levels and finished floor levels. Also for drainage works, and details of cycling storage facilities, bin storage and refuse management.
8. To ensure a satisfactory appearance to the development, the Council's approval will be required for details of the provision of hard and soft landscaping, means of enclosure and foundations that take account of existing trees. For residential amenity and highway safety, external illumination will require approval, as will sound insulation to protect residents from traffic noise above 68dB(A). During construction, works and deliveries will be restricted to times that will protect neighbours from untoward disturbance, and a condition will require the protection of existing trees and vegetation.
9. Although the matter is not raised in the reason for refusal or the officer's report, it is clear that it has been the intention that the scheme should include 15% affordable housing to comply with the Council's policy. I will include a condition to cover this necessary matter.

R.R. Lyon
INSPECTOR