

DELEGATED

**AGENDA NO
PLANNING COMMITTEE**

29 July 2020

**REPORT OF DIRECTOR,
ECONOMIC GROWTH AND
DEVELOPMENT**

20/1049/VARY

Leven Bridge Mill, Leven Bank Road, Yarm

Section 73 application to vary condition no.4 (delivery of the open space scheme) of planning approval 16/3055/FUL - Application for the erection of 4 no. dwelling houses.

SUMMARY

The application site is situated on the bank of the River Leven Valley between Yarm and Ingleby Barwick with the land sloping steeply from Ingleby Barwick down to the River Leven. The Site boundary would be partly shared with the Leven View Residential Park.

The Site benefits from planning permission under application ref 16/3055/FUL for the erection of four dwelling houses. A number of conditions were imposed on the approval.

This application is seeking to vary condition 04 of approval 16/3055/FUL, to allow for works to commence on Site prior to the completion of the public open space, approved under application ref 16/3.056/COU. This application initially sought to enable the four dwelling houses to be completed, but not occupied prior to the completion of the open space, following discussions with the agent this was revised to be that no works above foundation level could be started prior to completion of the public open space.

Nine letters of objection have been received, the principle concerns of the objectors is that the required works would not be completed.

The Highways Transport and Design manger has raised no objection to the minor revision to the wording of condition 04.

It is considered that the revised wording Members are being asked to consider would ensure that the original intent of the condition would be retained and that the Local Planning Authority would retain control. The proposed variation to condition 04 is therefore considered to be acceptable and is recommended for approval subject to the conditions set out below.

RECOMMENDATION

That planning application 20/1049/VARY be approved subject to the following conditions and informatives detailed below;

Delivery of public open space;

- 01 No dwelling approved under planning approval 16/3055/FUL shall be constructed above foundation level until all works associated with the delivering the public open space as approved under application 16/3056/COU has been completed. Thereafter**

the residential chalet development shall not exceed a total of 25no. residential caravan/chalet.

Reason: To enable the Local Planning Authority to satisfactorily control the development and to ensure that the associated public benefits are secured.

Variation to condition 4 only;

- 02 This approval relates solely to this application for the variation of condition 04 (delivery of open space) and does not in any way discharge the conditions contained in planning approval 16/3055/FUL dated the 29th August 2017 which conditions apply to this consent.**

Reason: For the avoidance of doubt

INFORMATIVE OF REASON FOR PLANNING APPROVAL

Informative: Working Practices

The Local Planning Authority has worked in a positive and proactive manner and sought solutions to problems arising in dealing with the planning application by seeking a revised scheme to overcome issues and by the identification and imposition of appropriate planning conditions.

BACKGROUND

1. In 2007 applications for a certificate of lawfulness were submitted to establish whether a planning consent dating back to the 1960's for a seasonal caravan/chalet use for up to 80 caravans remained extant (refs; 07/0865/CPE & 08/3573/CPE). The Local Planning Authority refused the applications, as it was not considered that the evidence submitted demonstrated that the planning permission granted in 1961 was extant and therefore that the land had a lawful use as a caravan site. Subsequently the matter was considered on appeal with legal challenges on the Planning Inspectors decisions following. Consequently the matter was considered in the High Court, a decision which established that the permission had not been abandoned and meant it was capable of being relied on.
2. Following on from the confirmation that the original permission had not been abandoned and remained extant, planning permission was sought to change the use of the site from a seasonal caravan site for up to 80 caravans to a residential 'chalet' or park home site for 34no units (Ref. 12/1537/COU). As part of the proposal to facilitate the 4 no. dwelling houses approved under application ref 16/3055/FUL the applicant gave up 9 park homes to create a publicly accessible riverside park/amenity area. An application for the change of use of part of the residential chalet park to facilitate an area of public open space was approved following the loss of the aforementioned 9 units (ref; 16/3056/COU).
3. Applications to discharge the pre commencement conditions in relation to the 16/3055/FUL and 16/3056/COU were received by the Local Planning Authority in June 2020.
4. This Site is also subject to a pending enforcement investigation in relation to the works which have taken place prior to determination of this application and the aforementioned pre commencement conditions being discharged.

SITE AND SURROUNDINGS

5. The application site, is situated on the bank of the River Leven Valley between Yarm and Ingleby Barwick with the land sloping steeply from Ingleby Barwick down to the River Leven. The site boundary is partly shared with the Leven View Residential Park, with access being provided by a private track which is accessed from Low Lane/Leven Bank Road.
6. The private access from Low Lane/Leven Bank Road also serves two other residences as well as Leven View Residential Park. A Bridleway runs along the access track.

PROPOSAL

7. Permission is being sought to vary condition 04 of planning approval 16/3055/FUL. Condition 04 relates to the provision of the public open space as approved under application ref 16/3056/COU. The 16/3055/FUL Decision Notice defines the condition as the following;

“Notwithstanding any submitted information, no development approved under this permission shall commence until all works associated with delivering the public open space as approved under application 16/3056/COU have been completed. Thereafter the residential chalet development shall not exceed a total of 25no. residential caravan/chalets.”

Reason: To enable the Local Planning Authority to satisfactorily control the development and to ensure that the associated public benefits are secured.

8. Following discussions with the Agent the revised description of Condition 04 is proposed to be;

No dwelling approved under planning approval 16/3055/FUL shall be constructed above foundation level until all works associated with the delivering the public open space as approved under application 16/3056/COU has been completed. Thereafter the residential chalet development shall not exceed a total of 25no. residential caravan/chalet.

Reason: To enable the Local Planning Authority to satisfactorily control the development and to ensure that the associated public benefits are secured.

9. The submission indicates that works commenced on Site for the open space but had to stop due to the Covid 19 Pandemic. It was noted during the site visit that works have commenced on the site for the approved four dwellings, and that significant earthworks have taken place.

CONSULTATIONS

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

Highways Transport & Design Manager

The Highways Transport and Design Manager raises no objections to the proposed variation.

Landscape & Visual Comments

There are no landscape and visual objections to this minor amendment to the condition.

PUBLICITY

11. Neighbours were notified and nine letters of objection have been received from the following:

Mr Garry Edwards, 9 Leven View Residential Park Leven Bank Road

Mr Thomas Cooper, 14 Leven View Residential Park Leven Bank Road
Mr Peter Adams, 10 Leven View Residential Park Leven Bank Road
Mrs Deborah Bringloe, 12 Leven View Residential Park Leven Bank Road
Mr Dennis Boddy, 5 Leven View Residential Park Leven Bank Road
Mr Derek Smith, 4 Leven View Residential Park Leven Bank Road
M.J.Lipecki, 15 Leven View Residential Park Leven Bank Road
Mrs M Boddy, 19 Hill View Leven Bank Road
Richard Heslop, 13 Leven View Residential Park Leven Bank Road

Concerns are raised in respect of:

- Works on the open space stopped prior to the Covid Pandemic
- There are many outstanding issues with the park which have not yet been completed. The outstanding issues should be considered and the open space as should be completed as per the previously approved planning.
- 6 years later roads are still awaiting final tarmac.
- Brickwork around houses not completed.
- Tipping of rubbish adjacent to park entrance gates.
- Substantial earthworks have taken place prior to determination of this application and existing conditions. The application is not determined and the closing date for comments on this application is not until the 19th June 2020 ,
- Why is work still being allowed to continue on the proposed planning land site.
- A public communal area has yet to be started.
- PPE / Safety Concerns of the works due to the proposed site being off a service road which feeds to private dwellings , a Residential Park and also serves as a public footpath / bridleway.
- Work regarding Phase 2 including the delivery of the open space scheme ie Lower Shelf started in Mid 2019 and suddenly stopped late September / early October 2019 and to date has yet to restart.
- Do not think any variation should be granted to start the development of the 4 dwelling houses until all the work at Leven View Residential Park is complete as per previously approved applications and this completed work has met with Council Approval.

PLANNING POLICY

12. 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 Plan is the Stockton on Tees Borough Council Local Plan 2019.
13. Section 143 of the Localism Act came into force on the 15 January 2012 and requires the Local Planning Authority to take local finance considerations into account, this section s70(2) Town and Country Planning Act 1990 as amended requires in dealing with such an application the authority shall have regard to a) the provisions of the development plan, so far as material to the application, b) any local finance considerations, so far as material to the application and c) any other material considerations.

National Planning Policy Framework

14. The purpose of the planning system is to contribute to the achievement of sustainable development. Achieving sustainable development means that the planning system has three

overarching objectives, which are interdependent and need to be pursued in mutually supportive ways. These are economic social and environmental objectives.

15. So that sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development (paragraph 11) which for decision making means;
- approving development proposals that accord with an up-to-date development plan without delay; or
 - where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Local Planning Policy

16. The following planning policies are considered to be relevant to the consideration of this application;

Strategic Development Strategy Policy 3 (SD3) - Housing Strategy

1. The housing requirement of the Borough will be met through the provision of sufficient deliverable sites to ensure the maintenance of a rolling five year supply of deliverable housing land. Should it become apparent that a five year supply of deliverable housing land cannot be identified at any point within the plan period, or delivery is consistently falling below the housing requirement, the Council will work with landowners, the development industry and relevant stakeholders and take appropriate action in seeking to address any shortfall.

Strategic Development Strategy Policy 5 (SD5) - Natural, Built and Historic Environment

To ensure the conservation and enhancement of the environment alongside meeting the challenge of climate change the Council will:

1. Conserve and enhance the natural, built and historic environment through a variety of methods including:
- a) Ensuring that development proposals adhere to the sustainable design principles identified within Policy SD8.
 - c) Protecting and enhancing green infrastructure networks and assets, alongside the preservation, restoration and re-creation of priority habitats, ecological networks and the protection and recovery of priority species.
 - f) Ensuring any new development within the countryside retains the physical identity and character of individual settlements.
 - g) Directing appropriate new development within the countryside towards existing underused buildings on a site for re-use or conversion in the first instance. Only where it has been demonstrated to the satisfaction of the local planning authority that existing

underused buildings would not be appropriate for the intended use should new buildings be considered.

h) Supporting the conversion and re-use of buildings in the countryside where it provides development identified within Policies SD3 and SD4, and meets the following criteria:

- i. The proposed use can largely be accommodated within the existing building, without significant demolition and rebuilding;
- ii. Any alterations or extensions are limited in scale;
- iii. The proposed use does not result in the fragmentation and/or severance of an agricultural land holding creating a non-viable agricultural unit; and
- iv. Any associated outbuildings/structures are of an appropriate design and scale.

j) Ensuring development proposals are responsive to the landscape, mitigating their visual impact where necessary. Developments will not be permitted where they would lead to unacceptable impacts on the character and distinctiveness of the Borough's landscape unless the benefits of the development clearly outweigh any harm. Wherever possible, developments should include measures to enhance, restore and create special features of the landscape.

2. Meet the challenge of climate change, flooding and coastal change through a variety of methods including:

- a. Directing development in accordance with Policies SD3 and SD4.
- b. Delivering an effective and efficient sustainable transport network to deliver genuine alternatives to the private car.
- c. Supporting sustainable water management within development proposals.
- d. Directing new development towards areas of low flood risk (Flood Zone 1), ensuring flood risk is not increased elsewhere, and working with developers and partners to reduce flood risk.

Strategic Development Strategy Policy 8 (SD8) - Sustainable Design Principles

1. The Council will seek new development to be designed to the highest possible standard, taking into consideration the context of the surrounding area and the need to respond positively to the:

- a. Quality, character and sensitivity of the surrounding public realm, heritage assets, and nearby buildings, in particular at prominent junctions, main roads and town centre gateways;
- b. Landscape character of the area, including the contribution made by existing trees and landscaping;
- c. Need to protect and enhance ecological and green infrastructure networks and assets;
- d. Need to ensure that new development is appropriately laid out to ensure adequate separation between buildings and an attractive environment;
- e. Privacy and amenity of all existing and future occupants of land and buildings;
- f. Existing transport network and the need to provide safe and satisfactory access and parking for all modes of transport;

- g. Need to reinforce local distinctiveness and provide high quality and inclusive design solutions, and
- 2. New development should contribute positively to making places better for people. They should be inclusive and establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit.
- 4. New development will seek provision of adequate waste recycling, storage and collection facilities, which are appropriately sited and designed.

MATERIAL PLANNING CONSIDERATIONS

- 17. The main consideration in the determination of this application is whether the revised condition, as detailed within the Proposal section of this report, would reflect the intent of the original condition and whether it would secure the level of control required by the Local Planning Authority.
- 18. In granting permission for the four dwellings (ref 16/3055/FUL) it was acknowledged that there would be a degree of harm caused by the dwellings on the landscape however consideration was also given to the context of the site adjacent to the existing Chalet Park and Ingleby Barwick and the proposed landscape buffer. In addition, consideration was given to the associated benefits proposed through the removal of 9no. chalets and the provision of open space as approved under application 16/3056/COU. It was considered that the proposed open space would introduce some public access onto the site, it would also bring about some wider visual and biodiversity benefits, which would weigh in favour of the scheme when assessed as a whole. The benefits of the public open space was a planning gain which was considered to weigh in the favour of the development. Condition 04 was designed to safeguard the identified planning gain.
- 19. This application initially proposed to vary Condition 04 to require the open space to be completed prior to the occupation of the dwelling houses. The proposed varied condition was not considered to offer the Local Planning Authority suitable level of control.
- 20. Revised wording, is now proposed, which would restrict the development to foundation level and ensures that the LPA retains a large degree of control over the delivery of the open space. Any breach in this condition could be addressed and would ensure delivery of the public open space was maintained.
- 21. The Highways, Transport and Design Manager has confirmed that there are no landscape and visual objections to this minor amendment to the condition.
- 22. A total of nine letters of objections have been received, the majority of concerns centre around ongoing issues with the Leven View Residential Park and unfinished works relating to this development. There is also a concern from the objectors, given works which have already taken place that the applicant will not comply with the proposed re worded condition. Following complaints of the unauthorised works taking place at the site an enforcement Investigation has commenced, and following correspondence with the applicant, works on the Site have ceased.

23. In consideration of the above, the proposed variation of condition 04 would not undermine the function of the condition and would ensure the Local Planning Authority would retain the level of control required to secure the planning gain identified in the 2016 decision.

CONCLUSION

24. It is recommended that the application be Approved with Conditions for the reasons specified above.

Director of Economic Growth and Development
Contact Officer Helen Boston Telephone No 01642 526080

WARD AND WARD COUNCILLORS

Ward	Ingleby Barwick West
Ward Councillor	Councillor Ken Dixon
Ward Councillor	Councillor Ross Patterson
Ward Councillor	Councillor Kevin Faulks

IMPLICATIONS

Financial Implications:

N/A

Environmental Implications:

N/A

Human Rights Implications:

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

Community Safety Implications:

The provisions of Section 17 of the Crime and Disorder Act 1998 have been taken into account in the preparation of this report

Background Papers

Stockton on Tees Local Plan Adopted 2019

Supplementary Planning Documents

SPD1 – Sustainable Design Guide

SPD2 – Open Space, Recreation and Landscaping