

Development Management Committee

Wednesday 12 October 2016

Late Observations Schedule

Schedule Items

<u>Item</u>	<u>App No</u>	<u>Observations</u>
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1	16/0050	<u>Additional Consultation Responses</u>
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Parish Council Comments

Following the consultation on the revised scheme they have reiterated that they remain opposed to the development on the following grounds:

1. Block out natural light to properties 8,9 and 10 Cherry Close
2. Overlook 8, 9 and 10 Cherry Close affecting residents privacy
3. With the 18.9 meter brick wall overbearing neighbouring properties and residents
4. Provide a property far too big for the size of plot
5. Offer dangerous access and egress where it borders the Grammar School access putting school children at risk.
6. Still needs an environmental study to evaluate the impact on the active bat colony which has not been addressed.
7. The claim that the revised submission is for a "bungalow" is not accepted as this is a four bedroomed, two storey house at a height of 6.6metres with a detached double garage. There is no reduction in massing.

Neighbour Comments

A further 6 representations have been received from neighbours to the site and Kirkham Grammar School since the report was finalised. The points made largely echo those made on the original proposal and are summarised as:

- The proposal is 'garden grabbing' that will adversely affect the amenity and privacy of nearby properties
- The proposed development will create a length brick wall with overlooking rear windows onto adjacent properties that is overbearing to properties on Cherry Close
- Query accuracy of drawings
- The height of the property is excessive for a garden setting and are not actually a dormer bungalow but a two storey dwelling
- The proximity to Cherry Close properties will harm privacy in rear rooms and conservatory
- There will be an impact on birds and a bat colony that occupy the trees within the site
- The scheme sets a precedent to allow further development of other gardens from Cherry Close which will be harmful to the character of the area and pedestrian safety on that route
- Refer to Human Rights Act, in particular Protocol 1, Article 1 relating to the right to peaceful enjoyment of all their possessions, which includes the home

and other land, and Article 8 relating to the right to respect for their private and family life.

- The proximity of the access point for the proposed dwelling to a pedestrian access used by the School is highlighted, with concerns raised over the potential for conflict between the use of these raised, with the importance of the school access highlighted as it forms the access point to the playing fields located across the Bypass and so is in regular use throughout the day. The safety of children and to the structure of the path are raised as areas of concern.

Officer Response

The points raised in these further submissions are all addressed in the officer report with the important exception of the bat concerns. As bats are a protected species it is important that the council is satisfied that a particular development will not lead to harm to that species prior to the grant of any planning permission. In the absence of any bat survey information being submitted with the application, Committee is advised that the determination of the application should be delayed until such information is submitted which will allow a Habitat Regulations Assessment (HRA) to be completed.

Accordingly it is proposed that the recommendation set out in the agenda papers be revised to delegate authority to the Head of Planning and Regeneration to determine the application once an HRA has been completed and its findings fully considered.

3 16/0317 Additional Information from Applicant

An email has been received from the applicants which makes the following points on the proposed conditions.

Condition 3

As currently worded, the condition simply requires wheel washing facilities to be provided. We assume that the need for wheel washing should relate to construction traffic (and not customers once the store is trading) and suggest the following alternative wording: 'prior to the commencement of development, facilities shall be provided within the site by which means the wheels of vehicles may be cleaned before leaving the site. Such facilities shall be provided throughout the duration of the construction phase.'

Officer comment - The condition is intended to clean the wheels of construction traffic and in order to be clear officers agree that the condition can be amended to the above.

Condition 4

The design of the site access has been agreed at application stage and it is not reasonable for this to be re-agreed prior to commencement. Further, the off-site highway works are not needed to be implemented until the store opens, so the agreement of off-site works should be prior to occupation. Accordingly, the condition should be revised to state: 'The site access shall be constructed in accordance with the approved plans and completed prior to the commencement of built development. Prior to the occupation of the development, a scheme for the off-site highway works shall be submitted to, and approved by, the Local Planning Authority in consultation with Lancashire County Highway Authority and Blackpool Council Highway Authority'.

Officer comment – This is a specific request from LCC Highways and includes both the site access and the off site improvement works. This condition simply requires the

access and the off site works be agreed before construction starts and condition 5 requires the work to be done before the site opens. IT is considered that splitting the site access and off site works is unnecessary and both need to be agreed prior to construction. This condition should therefore remain as it is.

Condition 6

The need to agree the Framework Travel Plan prior to the commencement of development is unnecessary and may result in unnecessary delays. There is no reason why it cannot be agree during the construction phase. Accordingly, we propose that this condition be revised to require the Framework Travel Plan to be agreed prior to occupation.

Officer comment – This is a specific request from LCC Highways and the trigger point being prior to the commencement of development is considered appropriate. There is no reason why the applicants cannot provide this promptly and it be agreed prior to construction phase. This condition should therefore be retained.

Condition 8

The condition seeks to restrict comparison goods sales to 15% of the sales floorspace. However, as confirmed at paragraphs 2.13 and 6.14 of the Planning and Retail Statement, comparison goods sales may account for up to 20% of the sales floor area and the planning application should have been assessed on this basis. The condition needs revision to reflect this.

Officer comment – The previous outline application restricted comparison goods to 15%, and that was the reason for this being the case again here. However the above is correct in terms of what the applicant proposes and is what has been considered by the Council Retail consultants. As 20% would still see 80% of the sales area being convenience goods and various appeals where Lidl's have been permuted outside of town centres with 20% as the condition there is no objection from officers to amending the condition accordingly;

Notwithstanding the provisions of the Town & Country Planning (Use Classes) Order 2007, the retail store hereby approved shall primarily trade as a store for the sale of convenience goods and no more than 20% of the gross floor area shall be used for the sale of comparison goods and the number of lines that shall be for sale in the store at any one time shall be limited to a maximum of 1,800. For the purposes of this condition, comparison goods are items not obtained on a frequent basis, including clothing, footwear, household and recreational goods.

In order to prevent the establishment of an open A1 retail use that would detract from the vitality and viability of established local centres.

Condition 10

A drainage scheme has been submitted as part of the planning application, with the list of approved plans at Condition 16 including the drainage strategy. Condition 10 is unreasonable and conflicts with Condition 16 in requiring a drainage scheme to be re-agreed. Condition 10 should be deleted.

Officer comments – Whilst a drainage scheme has been submitted United Utilities have requested this condition in relation to surface water drainage. As they have not specifically commented that this plan is acceptable it is proposed that the reference to the drainage plan be deleted from condition 16 and condition 10 be retained.

Condition 11

The first bullet point refers to a Residents Management Company – can the word 'Resident's' be deleted.

Officer comments – This condition refers to management of a SUDs system as requested by United Utilities. The resident's management company reference is clearly a mistake and would be used for residential development. Reference to residents shall be deleted and the condition therefore read as below;

Prior to the commencement of the development a sustainable drainage management and maintenance plan for the lifetime of the development shall be submitted to the Local Planning authority and agreed in writing. The sustainable drainage management and maintenance plan shall include as a minimum:

The arrangements for adoption by an appropriate public body or statutory undertaker, or, management and maintenance by a Management Company; and

Arrangements concerning appropriate funding mechanisms for its ongoing maintenance of all elements of the sustainable drainage system (including mechanical components) and will include elements such as ongoing inspections relating to performance and asset condition assessments, operation costs, regular maintenance, remedial works and irregular maintenance caused by less sustainable limited life assets or any other arrangements to secure the operation of the surface-water drainage scheme throughout its lifetime.

The development shall subsequently be completed, maintained and managed in accordance with the approved plan.

Reason: To manage flooding and pollution and to ensure that a managing body is in place for the sustainable drainage system and there is funding and maintenance mechanism for the lifetime of the development.

Condition 12

The proposed restriction on delivery hours (0700 to 2100) is not reasonable given the EHO comments ('I would ask that delivery times are restricted to during store opening hours' which are 0700 to 2200), the provisions of condition 13 (to impose a limit on noise generation between 0700 and 2300) and the conclusions of the submitted Noise Assessment (with a barrier in place, unrestricted deliveries would be acceptable). The condition, as currently worded, suggests three different cut off times, none of which has been fully justified. Indeed, the Applicant has presented a case for unrestricted delivery hours. Condition 13 provides a reasonable approach in imposing a maximum acceptable noise level between 0700 and 2300 and we suggest that a similar approach is taken to impose a maximum noise level between 2300 and 0700.

Officer comments – The Councils EHO whilst stating they have no objections to the opening times specifically state that the delivery times should be restricted to the above until 21.00 and the above comments are incorrect as can be seen in the report. The store can remain open until 22:00 but deliveries should not occur after 21:00. This is considered reasonable and both conditions 12 and 13 should remain as in the report.

Condition 14

We note that a 10 year period is imposed for the maintenance of landscaping, including the replacement of any trees/shrubs. Lidl will maintain the landscaping throughout the life of the development, but do not wish to commit to replacing trees on a like-with-

like basis for any more than a 5 year period. As you may appreciate, replacing what could be a 15-year old tree on a like-with like basis could be challenging.

Officer comments – The landscaping condition proposed is the standard one applied to developments that requires landscaping to be maintained and requires that trees that die within 10 years of commencement of development be replaced with one of similar size and species. This condition is considered appropriate by officers and should not be changed.

- 6 16/0494 Additional Information from Applicant
The applicant has submitted a response in respect of the objections received in regards to this application. The comments are in brief as follows:
1. Over development - The development is a one bed holiday flat built to allow wheelchair access. The development is smaller than that in the neighbouring hotel and the gardens at the rear to the property already have large outbuildings.
 2. Aspect - There will be a courtyard in front of the property which catches the sun. Please see plan with table and chairs for residents.
 3. Cannot compare to beach huts as they are not similar
 4. Parking - Maximum increase of one car targeted at older people who may use public transport
 5. Privacy - The development is lower than the surrounding properties, will safeguard privacy and light
 6. Noise - Development is a holiday area and is intended to be accessible to couples in particular those requiring a wheel chair, no noise issues are expected.

- 9 16/0651 Additional Neighbour Representations
Since the report was completed 9 further letters of objection received raising concerns over:

- Highway safety
- Impact to the character of the area
- Impeding of emergency vehicles
- Better alternative sites

Officer Comments

These matters are all addressed in the report, or are not material to the determination of the application.

Officer Recommendation

A further reason for refusal is proposed related to the loss of the parking space provided by the Car Park as to how it impacts on the operation of the wider Lowther Pavilion and Gardens site. The wording of this is suggested to be:

The proposed use of the whole of the public parking area that serves the Lowther Pavilion and Gardens as a car boot sale on a regular basis during a period when it is likely to be most heavily utilised by visitors to the site will compromise the overall quality and usability of the site as an area of public open space. In the absence of any alternative parking facility being provided in the vicinity of the site to serve the Pavilion and Gardens during these car boot events the proposal is contrary to Policy TREC13 of the Fylde Borough Local Plan.

