

Planning Committee

Wednesday 24 June 2020

Late Observations Schedule

Schedule Items

<u>Item</u>	<u>App No</u>	<u>Observations</u>
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2	19/0544	<u>Consultation Response from Natural England</u>
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Natural England have provided additional comments that confirm they have no objections subject to appropriate mitigation being secured, and so conversely that without appropriate mitigation the development would have an adverse impact on the integrity of land functionally linked to the Ribble SPA. They therefore advise that the mitigation measures in the HRA need to be secured, and indicate that this can be secured via condition. These mitigation measures include;

- the implementation of the submitted lighting plan,
- the voluntary restraint or statutory suspension of waterfowl shooting from 9th November and cease construction activity if it is identified as necessary to also cease waterfowl shooting within the wider Morecambe Bay/ Ribble Estuary area,
- the erection of screening (2m high hoarding with a surface density of at least 10kg/m2), between the site and adjoining functionally linked land to provide noise attenuation during construction (should this occur over the winter period),
- additional hedge planting and erection of a stock proof fence to minimise light spillage and noise from the site,
- the production and distribution of information packs and signage on site to provide information to occupants about the sensitive nature of their surroundings,
- during construction, no construction traffic to access Moss Hall Lane (from the south of the application site) to prevent impacts on the wildlife refuge areas,
- the creation and distribution of a travel plan to discourage occupants from travelling along Moss Hall Lane (from the south of the application site) to prevent impacts on the wildlife refuge areas.

Officer comments on consultation response

As outlined in the report NE indicated if amendments were made to the HRA that they would be able to offer no objections. As the changes have now been made, they have formally withdrawn any objection. It is therefore necessary to ensure that if permission is granted, that this mitigation is subject to condition to ensure that it is carried out. Condition 20 of the main report requires all the mitigation measures outlined in the HRA to be implemented throughout construction and during occupation of the site. Therefore, with this condition, along with others on the agenda with regard to ecology then it is considered there will not be an unacceptable impact on biodiversity. The Council will adopt the Shadow HRA as its own upon the granting of planning permission.

These comments confirm the position that was anticipated when drafting the agenda report and so no changes are required to the officer recommendation which is to delegate the decision to officers to be granted on completion of a s106 agreement.

The agent has provided a very extensive 12-page document that provides comments on the officer report to Committee. It is understood that this has been circulated directly by the agent to all Committee members. With this in mind and given the length of the submissions, it is not considered feasible or necessary to include the entire document here but the key section appears to be the first few pages that focus on the reasons for refusal, the introduction, and the Summary section of the officer report as these cover the main planning arguments presented in the report. These are repeated verbatim below, with an officer response following:

"1.0 Comments upon the Reasons of Refusal

1.1 4 reasons are recommended for the Committee's consideration and due determination on this application. The fundamental areas of disagreement is the fact the officers do not consider where the siting of the proposed building is intended is actually within the formal curtilage of the dwelling at Hill House - reason 1 - and that as such reasons 2 and 3 follow on from that in considering the building as in fact a new dwelling in the countryside which is not the intention of the applicant on this application. It was submitted as such as a garden or curtilage building on householder application forms. It was however identified upon registration as a new dwelling by the department and considered as such by the case planner. Had the department thought that this was the wrong mechanism for a householder application then surely the applicant should have been so advised and given an opportunity to consider the best way forward to support what was being proposed and what he was trying to achieve - which might probably have been to very reluctantly consider, despite his beliefs and those of his father, to have to apply to make an application to take the 'argued' portion of the site into the Hill House curtilage as a curtilage extension and proceed from there. That opportunity did not materialise for him. Upon reasons 2 and 3, this is not an independent dwelling that has been applied for, and an argument does not have to be made against building a new dwelling in the countryside in this location as this is not sought. It is not understood why the submissions made in negating such an argument have been largely ignored by the planners, or alternatively dialogue sought on the matter with the applicant. No contact was received from the department.

1.2 In regard to the issue of the building sought being upon detached land from Hill House the applicant is comfortable that the land in question has not been annexed from the curtilage of Hill House and there would be no reason to have done so even though it had latterly become overgrown and was little used as a part of the main manicured garden areas and had been cleared. To summarise upon this element, all of the land at Hill House, included the portion of the site for the building, was identified on the site plan identifying the originally approved and developed curtilage of the bungalow developed at Hill House, and a copy of this was further sent to the planners on 18.04.2020 with a written explanation to the planners interpretation; the contentious portion remains within the grounds of Hill House today and utilises the vehicular access to the main dwelling; the land in question has never been sold off to a third party and nor has it changed in use in still relating to Hill House; the planners believe that as that area of the site was not shown on a certificate of lawfulness application for noncompliance with the agricultural occupation of the dwelling in 2016 then a new planning sequence for curtilage area of the property had commenced - even though this was purely a drafting error that had occurred in regard to this parcel of the land in the corner of the site. It had been pursued as a separate dwelling in 2013 at that time which was still intended for Mr & Mrs Corbit senior. The application had been withdrawn in order to secure the later lawfulness certificate, and the whole site was not restored on the accompanying plan as a single unit when the 2016 lawfulness application had been made. The application for the dwelling was to have been resubmitted after the approval

of the certificate of lawfulness - but ill health of Mr Corbit snr. intervened and the application was never resubmitted.

1.3 The final refusal reason argues that the corner of the site represents a valuable area of open visual amenity and its development with views of the proposed building would diminish the contribution that this area of land currently affords, while views of the proposed building would not be adequately screened by the intended landscaping. Both the low scale nature of the single storey building and the extensive degree of landscaping proposed have both been misinterpreted and devalued by the report and in particular the low hipped roof of the building and degree of the mature planting proposed in terms of its height and the planting regime involved which needs to be made known to the Committee members in presentation of the application. The merit and value of the open land in the immediate locality at the corner of Hillock Lane and Harbour Lane is considerably over-estimated by the planners in our opinion, and a realistic photographic assessment of views approaching the corner of the site from the west along Hillock Lane or from the south up Harbour Lane was submitted with the planning application submissions. The report makes out that the land in question is a valuable open space refuge to the surrounding established housing developments along Harbour Lane in entering the village and new, recent development further along Hillock Lane. It has also accommodated family related buildings and of fairly recent date, while the site has been overgrown. It clearly did not resemble valuable open land. Everything was cleared and fenced in order to mitigate against misuse of the land by 3rd parties from fly tipping which had been occurring. It is not considered valuable open space amenity land as it now appears.

1.4 Upon contemplating a final decision on the application and in considering the cited reasons of refusal, it is asked that if the Committee disagree with view put forward by the officers upon the issue of curtilage of Hill House in that they have overestimated the importance of that & that they feel that an independent living unit ought to be supported for the applicant's parents, but maybe not as the type or size of building proposed OR upon the area of the land as identified in the application - then they are urged to consider only refusing the application upon either of those 2 grounds alone and not upon reason no. 1 or reasons 2 and 3 following on in relating the settlement policy argument - which the development is not intended to contravene anyway.

The officers's consideration of the proposed development as neither being an ancillary garden building nor a householder development, and automatically as such therefore constituting a new dwelling in the countryside appears a very harsh interpretation of what is intended and sought by the applicant - and which has been duly supported in submissions made already to mitigate what the officers have identified in their report. Though it is accepted that an application has to be recommended one way or another and a judgement made upon application submissions, it is the applicant's view that the report submitted to Committee is not considered to represent a balanced one and as such it has been necessary to undertake this full review of the report - hopefully for the elected members information.

2.0 Views upon 'Introduction' section

2.1 Firstly though the report text in the second paragraph on page 55 says that there is "no additional information to consider" – this is only true in regard to the physical development proposed. Submissions have been put forward about the original curtilage, including the original approved site plan, and the explanation of the omission of the corner area of the site from the lawfulness application, and certain factual observations were passed through to elected members prior to the 'decision' to defer in April. Also the applicant had been denied an opportunity to see the original report prior to the application deferment, and this is the first occasion in viewing the revisions to the report that make it the final report for consideration to highlight relevant matters over which there is disagreement with the officers and their recommendation. Accordingly there is

no apology for now putting forward a detailed rebuttal of the substance of the committee report and in particular where it is seen to be at conflict with the nature of proposal being put forward for consideration.

2.2 Members probably thought that the proposed building was a new dwelling as that is what the application had been registered as and duly considered as until raised by the agent and noted at a senior officer agenda read through of the application papers. It is furthermore not what the applicant seeks.

2.3 Whether or whether not one agrees with the officers contention about the site falling outside the curtilage of Hill House, the overall site of the property does not constitute significant open land in the countryside, and represents a low scale detached within the substantial mature grounds of Hill House. The reference to "similarly fenced and enclosed areas in the countryside across the Borough" is not understood. The only principle area of fencing is to corner junction of Hillock Lane and Harbour Lane and that was undertaken for security purposes.

3.0 Comments upon Summary of Officers Recommendation

3.1 In para. One, the description of 'constructing a detached bungalow' is misleading. That is not what was applied for in description – rather a garden or curtilage building. The fact that it takes the appearance of what one might assume as a bungalow property is in its design terms with this being more of a reflection of the personal taste and age group of the 'would be' beneficiaries – very much relating a style that they can associate with and would be comfortable living in. It would also be in character with the low scale nature of the existing property on site as a bungalow.

3.2 Though the application site is just outside the local plan defined boundary of Warton, Hill House itself is an established residential property within which applications for associate curtilage buildings would normally be considered and determined upon the basis of matters principally of the scale, design, materials and siting of the building and the general amenity considerations associated with it as opposed to a blanket restriction upon such by reason of a general presumption against development in the countryside – unless required or in association with uses appropriate to the countryside. First and foremost, this is already a dwelling house within which the Council have already approved a large replacement garden store to the north side of the existing bungalow which was not adjudged in regard to its necessity against settlement policy.

3.3 Paragraph 2 of the text infers that the land in the corner of the plot has never formed part of the curtilage of property completely contrary to the approved site plan for the bungalow that was deposited with the Council.

3.4 The report text claims the open rural character of Hillock Lane would be interrupted by the scale and location of the proposed development in a visually harmful way – this being irrespective of the proposed planting works which would be undertaken in a mature form and other development along Hillock Lane with Pickforal Kennels across the other side of Harbour Lane but particularly the erosion of the open countryside with the new Miller Homes housing development to the west. Yet the officers' concerns here are for a low scale building that would be appropriately screened unlike the intrusion of the new estate development which announces itself upon arrival into Warton from the north, and which is impossible to screen.

3.5 Finally in the summary, the written text identifies no weight can be given to the arguments put forward in support of the need for the annexed family living accommodation within the grounds of Hill House. There is a wider picture here though to be resolved in how the UK should support the needs of the elderly in terms of providing living accommodation when the original family home no longer provides that solution. There is currently no resolution of planning for housing for the elderly in the

current system. This is all dealt with at length in the application submissions. Where there is opportunity and reasonable spatial capacity to build a separate living annexe at a 'children's' property to support their parents's needs in old age, either in an urban location or countryside one then that should be embraced rather than a decision maker taking the view that this would be a potential future abuse of the planning system, and Councils should work with applicants in trying to provide separate units of accommodation where required with proven need for that specific age group rather than suggesting building an extension to the existing property. The Covid -19 pandemic has brought forward a very stark realisation that the care home system as it stands has failed the needs of and protection required for our ageing citizens thereby leading to an even greater and more urgent need and demand to secure the best alternative sources for their living arrangements as they have to give up their own homes. In this case, the application development provides the accommodation solution where the parents can retain their independence but be cared for as necessary at a property with which they are familiar."

Officer Response to Agent Comments

It is not considered that there is a need to submit a detailed response to the points raised above as these are covered in the officer report, but the key points that are raised are responded to as follows:

- **Format of application** - It is correct for the agent to highlight that the application is submitted as a Householder planning application and so should be determined as such. However, it is factually the case that the site is not part of the lawful domestic curtilage of the property and so reason 1 is justified as explained in the report.
- **Is the site curtilage?** – Officer investigations have confirmed that the original application for the erection of the existing dwelling included the 'corner plot' within the application site. However, this position changed with the grant of the Certificate of Lawfulness in 2016 as that application clearly excluded this land from the curtilage and established a new chapter in the planning history of the property meaning that the current application site is legally not considered to be part of the domestic curtilage to the dwelling. Furthermore, the physical evidence of its condition and separation from the garden to the dwelling confirms that point of view. The agent explains these as a 'drafting error' presumably on his part as he was the agent in the 2016 application, and that the fencing is to prevent access by others, and whilst those may both be true they do not allow the factual position of the land's status to be changed, and certainly not through this form of application.
- **Landscape Impact** – Reason for refusal 4 highlights the harm that the erection of an unjustified building would have on the application site. The agent refers to the presence of other buildings in the area, including the residential development currently under construction. However, Members will be aware that the residential development that is referred to is on land allocated for that purpose in the Fylde Local Plan to 20232 and so is an area that the council has sought to see developed so that the housing needs of the borough can be met. The application site is designated as countryside and is an open area of land that, if it were to be developed, would adversely affect the character of Hillock Lane and Harbour Lane and the approach to the village in this direction. Hence it is the officer view that this reason for refusal is appropriate.
- **Family / health benefits** – Should members be persuaded that the applicant's family circumstances are such that they outweigh the policy conflicts in this location then the appropriate response would be to defer the determination of the current application as it would be ultra vires to grant planning permission for householder development outside of the domestic curtilage. Instead the applicant should be

invited to submit a further application either for the erection of the building as a dwelling in the current location and that would then be assessed on that basis, or to submit an application for an outbuilding to be located within the lawful curtilage. Whilst it is the officer view that the former would lead to a conflict with development plan policy as set out in reasons 2 and 3 on the agenda, it is possible that the family / health benefits could represent a material consideration to outweigh that policy conflict. The officer advice is strongly against this on the basis that the family health benefits are not presented and that it would create a precedent that would be difficult to resist elsewhere in the borough. The second option would bring less policy conflicts and so may well be acceptable.

- Officer contact –the application was submitted within a year of the refusal of an application on the site for a similar form of built development and as the issues regarding the development of the site had only recently been explored, it was not considered appropriate to rehearse the issues further given the clear conflict with development plan policy.

Having considered the comments made by the agent it is officer view that the recommendation put to Committee should be retained as presented and so members are requested to refuse the application for the four reasons stated in the agenda papers.

4 20/0183 Officer Update:

Affordable Housing Statement:

The applicant (Great Places Housing Association) submitted an amended affordable housing statement to the Council on 16 June 2020 (document titled "Affordable Housing Statement (Revision 2) - 15 June 2020"). The amended affordable housing statement alters the "mortgagee exemption" clauses in the original statement and the Council's Housing Services Manager has confirmed that these amended clauses are acceptable. Therefore, the requirement in part i) of the recommendation has been met and the wording of condition 3 has been updated (as set out below) to refer to the amended affordable housing statement in order to meet the requirement in part ii) of the recommendation.

Revised layout plan:

To meet the requirements of condition 9 relating to compliance with part M4(3)(2)(a) of the Building Regulations 2010 (as amended), it is necessary for 3 of the courtyard parking spaces serving the ground floor apartments to incorporate enlarged borders in order to provide spaces that are suitable for wheelchair users. A revised site layout plan (drawing no. 01 Rev M) has been submitted to show that change. For the avoidance of any doubt, the revised site layout does not alter any other aspect of the scheme.

Cycle Parking:

The wording of condition 17 (relating to the provision of cycle parking spaces) has been updated to make clear that the need for dedicated cycle parking provision relates to the apartments only in line with the Local Highway Authority's comments which state that "Highways recommend the applicant provides details for cycle storage for the apartments".

Changes to recommendation and conditions:

Recommendation:

As the requirements in parts i) and ii) of the recommendation have now been met through the submission of a revised affordable housing statement, the recommendation is changed to read "GRANT planning permission subject to the following conditions" (including the amendments to the wording of conditions 2, 3, 9, 12, 16, 17 and 18 set out below).

Conditions:

That the wording of **conditions 2, 9, 12, 16 and 18** be amended to replace reference to "drawing no. 01 Rev K" with "drawing no. 01 Rev M".

That the wording of **condition 3** be amended to read as follows:

All (100%) of the dwellings hereby approved shall be provided as affordable housing which complies with one or more of the definitions set out in Annex 2 of the National Planning Policy Framework published February 2019 and shall be made available for sale or rent, for those whose needs are not met by the market (including housing that provides a subsidised route to home ownership and/or is for essential local workers), in full accordance with the details contained in the document titled "Affordable Housing Statement (Revision 2)" and dated 15 June 2020 prepared on behalf of Great Places Housing Association.

Reason: The application is submitted by a Registered Provider and is made on the basis that the development will deliver a scheme comprising 100% affordable housing. The application has been assessed and concessions in respect of other infrastructure contributions have been made on that basis. The condition is, therefore, required to ensure that the development is delivered in accordance with the provisions set out in the submission and to justify the non-delivery of other infrastructure contributions on viability grounds in accordance with the provisions of Fylde Local Plan to 2032 policies H4 and INF1, and the National Planning Policy Framework.

That the wording of **condition 17** be amended to read as follows:

None of the apartments hereby approved shall be occupied until a scheme for the provision of bicycle parking on the site to serve those apartments has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the following details:

- a) the number of bicycle parking spaces to be provided;*
- b) the siting, size, design and materials to be used in the construction of any bicycle store(s); and*
- c) a timetable for the provision of the bicycle parking spaces and store(s).*

The bicycle parking spaces and store(s) shall thereafter be constructed and made available for use in accordance with the duly approved scheme and the timetable contained therein, and shall be retained as such thereafter.

Reason: To promote modal shift and to encourage travel to the site by more sustainable modes of transport in accordance with the objectives of Fylde Local Plan to 2032 policies GD7 and T4, and the National Planning Policy Framework.