



Report of the Chief Planning Officer

PLANS PANEL EAST

Date: 22nd October, 2009

**Subject: APPLICATION 09/03114/FU –
Re-profiling of watercourse banks including gabion retaining walls
Land to the rear of 9-18 The Blossoms, Methley, Leeds.**

| APPLICANT | DATE VALID | TARGET DATE |
|------------------|-------------------|--------------------|
| Steven Homes Ltd | 20/08/2009 | 15/10/2009 |

| | |
|--|---|
| Electoral Wards Affected: Kippax & Methley <input type="checkbox"/> Ward Members consulted (referred to in report) | Specific Implications For: Equality and Diversity <input type="checkbox"/> Community Cohesion <input type="checkbox"/> Narrowing the Gap <input type="checkbox"/> |
|--|---|

RECOMMENDATION:

GRANT PERMISSION subject to the following conditions:

1. The development hereby approved shall be carried out in accordance with the approved Existing Site Plan and Planning Application Boundary (LEW/016/1001 P2), River Bank Re-profiling Illustrative Layout (LEW/016/1003 P2), and the Design and Access Statement & Flood Risk Assessment, all date stamped 20th August 2009, and in accordance with the following conditions which shall in all cases take precedence.

For the avoidance of doubt and to ensure the development is undertaken in accordance with the approved plans.

2. The development hereby permitted shall be completed by 27th September 2010.

Imposed to ensure the development is undertaken within a reasonable period of time.

3. No development shall take place until a working method statement to cover all channel and bank works has been submitted to and agreed in writing by the local planning authority. Thereafter the development shall be carried out in accordance

with the approved scheme and any subsequent amendments shall be agreed in writing with the local planning authority.

In order to minimize the potential for increasing flood risk during the construction phase of the works.

4. No development shall take place until a biodiversity mitigation scheme, including details of methods to be used to vegetate the gabion structures; the creation of a varied profile to the northern watercourse bank; the creation of soft bank areas on the southern watercourse bank; and a programme for the implementation of the scheme, has been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved scheme and retained for the life of the development.

In the interests of amenity and nature conservation.

Reasons for approval:

In recommending the approval of the proposed development, planning officers have taken into account all material planning considerations including those arising from the comments of any statutory and other consultees, public representations about the application and Government Guidance and Policy as detailed in the Planning Policy Guidance Notes and Statements, and (as specified below) the content and policies within Supplementary Planning Guidance (SPG) and The Development Plan consisting of the Regional Spatial Strategy 2008 (RSS) and the Leeds Unitary Development Plan Review 2006 (UDPR).

Policy GP5 – Amenity and environmental considerations.

Policy N32 – Green Belt and the Proposal Map

Policy N33 – Development in the Green Belt

Policy N39B – Water Courses and New Development

On balance, the City Council considers the development would not give rise to any unacceptable consequences for the environment, community or other public interests of acknowledged importance.

1.0 INTRODUCTION:

- 1.1 This application is reported to Plans Panel at the request of Councillors Keith Wakefield and James Lewis for the following reasons:

- 1) Visual impact of existing operations on the site
- 2) Potential flooding impact on surrounding properties
- 3) Public interest expressed via Methley and Mickletown Residents Association.

2.0 PROPOSAL:

- 2.2 This planning application proposes the undertaking of engineering works intended to reform an unlawfully modified watercourse to the rear of the Blossoms, Methley. The proposed works would result in an existing water course being moved several metres to the south and its banks being re-profiled. Two tiers of basket gabions would be installed in the southern banks of the re-located watercourse in order to support land levels to the south, relating to residential gardens and a watercourse maintenance strip.

3.0 SITE AND SURROUNDINGS:

3.1 The application site comprises of a small watercourse and adjoining land to the rear of recently completed dwellings at the Blossoms, Methley. The northern third of the site is designated as Green Belt and parts of the site are located in Flood Zones 2 and 3.

4.0 RELEVANT PLANNING HISTORY:

4.1 The application site comprises of land immediately to the north of a previously approved and implemented residential development (Application Reference 22/345/05/FU), lying adjacent to the rear of dwellings that are now completed. The application site has been unlawfully developed and relates to the neighbouring residential development. Engineering works have been undertaken that have resulted in an existing watercourse being moved several metres to the north and its banks re-profiled. Parts of the southern bank have been re-profiled using gabion baskets, with the ultimate intention having been to extend the rear gardens of dwellings forming part of the adjacent residential development.

4.2 In view of the fact that the works that have been undertaken to the watercourse are unlawful, an Enforcement Notice has been issued by the Local Planning Authority and served on the land owner. The application under consideration is intended to regularise the situation.

4.3 The following are of most relevance to the application under consideration.

- 1) 08/01486/UEL1 – Enforcement notice served in relation to unauthorised engineering works, culminating in the diversion of a watercourse – served, August 2009.
- 2) 22/345/05/FU – Planning application for the laying out of access and erection of 22 dwelling houses – Approved, January 2006.

5.0 HISTORY OF NEGOTIATIONS:

5.1 The proposed development is required to reinstate an unlawfully modified watercourse and to stabilise its southern banks, which adjoin residential properties. The proposed development has been the subject of pre-application discussions between the Council's planning officers, the Environment Agency, the Council's Drainage section, and the applicants.

6.0 PUBLIC/LOCAL RESPONSE:

6.1 Two letters of objection have been received.

6.2 A letter has been received from the occupiers of No.3 Nelson Court raising concerns that the proposed engineering works, namely the use of gabions, could result in a greater risk of flooding to properties at Nelson Court. A letter of objection has been received from the occupiers of No.9 Victoria Place stating that the proposed works will put neighbouring properties at greater risk of flooding by channelling potential flood waters.

6.3 *Both objections are addressed under Paragraph 10.4 of this report. No objections have been raised by the Environment Agency or the Council's Land Drainage section and the objections raised are therefore considered to be unfounded.*

7.0 CONSULTATIONS RESPONSES:

7.1 Statutory:

Environment Agency No objections, condition recommended.

7.2 Non Statutory:

Land Drainage No objections.

Contaminated Land No objections.

Ecologist Objections were originally raised on the grounds that the proposal would provide only limited biodiversity benefits. It was considered that the uniform layout of the northern bank, and the use of stone gabions to the southern bank would not be conducive to the use and habitation of wildlife. Given the physical limitations of the site and the obstacles to implementing more extensive soft engineering techniques, the Nature Conservation Officer has agreed that the objections raised could be overcome through the use of a planning condition requiring details of landscaping works to be submitted to and approved by the local planning authority.

8.0 PLANNING POLICIES:

8.1 Development Plan

Leeds Unitary Development Plan Review (UDPR)

Policy GP5 – Amenity and environmental considerations.

Policy N32 – Green Belt and the Proposal Map

Policy N33 – Development in the Green Belt

Policy N39B – Water Courses and New Development

8.2 Relevant supplementary guidance

Biodiversity and Waterfront Development SPD

8.3 Government Planning Policy Guidance/Statements

PPG2 'Green belts'

PPS9 'Biodiversity and Geological Conservation'

PPS25 'Development and Flood Risk'

9.0 MAIN ISSUES

1) Principle of Development

2) Visual Impact

3) Drainage Considerations

4) Amenity

5) Ecology

10.0 APPRAISAL

- 10.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states "if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise". The development plan for Leeds comprises the Regional Spatial Strategy for Yorkshire and The Humber (published in May 2008), and the Leeds Unitary Development Plan Review (July 2006), policies as saved by direction of the Secretary of State, dated September 2007.
- 10.2 Principle of Development
- 10.2.1 The preliminary assessment when considering proposals for development in the Green Belt is as follows:-
- a) It must be determined whether or not the development is inappropriate development in the Green Belt. PPG2 and the Local Plan set out the categories of appropriate development.
 - b) If the development is considered not to be inappropriate, the application should be determined on its own merits.
 - c) If the development is inappropriate, the presumption against inappropriate development in the Green Belt applies.
- 10.2.2 Inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. It is for the applicant to show why permission should be granted and "very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations" (PPG2, paragraph 3.2).
- 10.2.3 In terms of Green Belt policy, this application proposes engineering operations to the north bank, which is in the Green Belt. Paragraph 3.12 of PPG2 states that engineering and other operations constitute inappropriate development in the Green Belt except where they maintain openness and do not conflict with the purposes of including land in the Green Belt.
- 10.2.4 Based on the information submitted as part of this application, it is considered that the nature of the proposed works, including their scale, design and materials, would not have a significant adverse impact on the openness of the Green Belt, or conflict with the purposes of including land in the Green Belt. It is therefore considered that the proposed development would not constitute inappropriate development in the Green Belt.
- 10.2.5 The proposal is therefore considered to be acceptable in principle.
- 10.3 Visual Impact
- 10.3.1 Policy GP5 of the Leeds UDPR states that development proposals should avoid "problems of environmental intrusion". Paragraph 3.15 of PPG2 states that the visual amenities of the Green Belt should not be harmed by development within or conspicuous from the Green Belt, by reason of their siting, materials or design.
- 10.3.2 The site is located between a row of existing three storey dwellings and a raised area of land to the north, which is heavily vegetated. It is considered that the

proposed development, given its siting, design and scale, would not have an adverse visual impact. It is therefore considered that the proposal would not harm the visual amenities of the Green Belt.

10.3.3 The nature of the proposal is such that it would be in accordance with Policy GP5 of the UDPR and the guidance contained in PPG2.

10.4 Drainage Considerations

10.4.1 Parts of the site are located in Flood Zones 2 and 3. A Flood Risk Assessment has been submitted with the application. Given that the proposal is required to repair an existing watercourse that was altered without planning permission, it is considered that the proposal could not reasonably be located in any area at lower risk of flooding and the proposal therefore passes the Sequential Test and is in accordance with PPS25.

10.4.2 Policy N39B of the UDPR states that the culverting or canalisation of water courses related to development sites will not normally be permitted unless there are public safety considerations or development could not be achieved in any other way. The proposed works would effectively result in the creation of an artificial watercourse and in this sense would constitute canalisation. Given that the proposed works are required to stabilise the water course banks adjoining residential properties and are necessary to reinstate an unlawfully modified watercourse, it is considered that the development could not be achieved in any other way and that the proposed development is therefore in accordance with Policy N39B.

10.4.3 Letters have been received from two neighbouring occupiers raising concerns that the proposed works could increase flood risk to surrounding properties. Concerns regarding flood risk have also been raised by local ward Members.

10.4.4 The Environment Agency has been consulted and has raised no objections, subject to the imposition of a planning condition requiring a method statement relating to the construction of the proposed development. The Council's Drainage section has raised no objections.

10.4.5 Given that no objections have been raised by either the Environment Agency or the Council's Drainage section, the proposed development is considered to be acceptable in terms of the impact it would have on drainage arrangements and would not result in an increased flood risk to surrounding properties.

10.5 Amenity

10.5.1 Policy GP5 of the Leeds UDPR states that development proposals should avoid a loss of amenity.

10.5.2 The Council's Contaminated Land team has been consulted about this application and raised no objections.

10.5.3 The nature of the proposed development, namely its siting, scale and design in relation to neighbouring properties is such that there would not be any significant adverse impacts on the amenity of neighbouring occupiers, or on amenity generally.

10.5.4 It is therefore considered that the proposal would have an acceptable impact on local amenity, and that it is in accordance with Policy GP5 of the UDPR.

10.6 Ecology

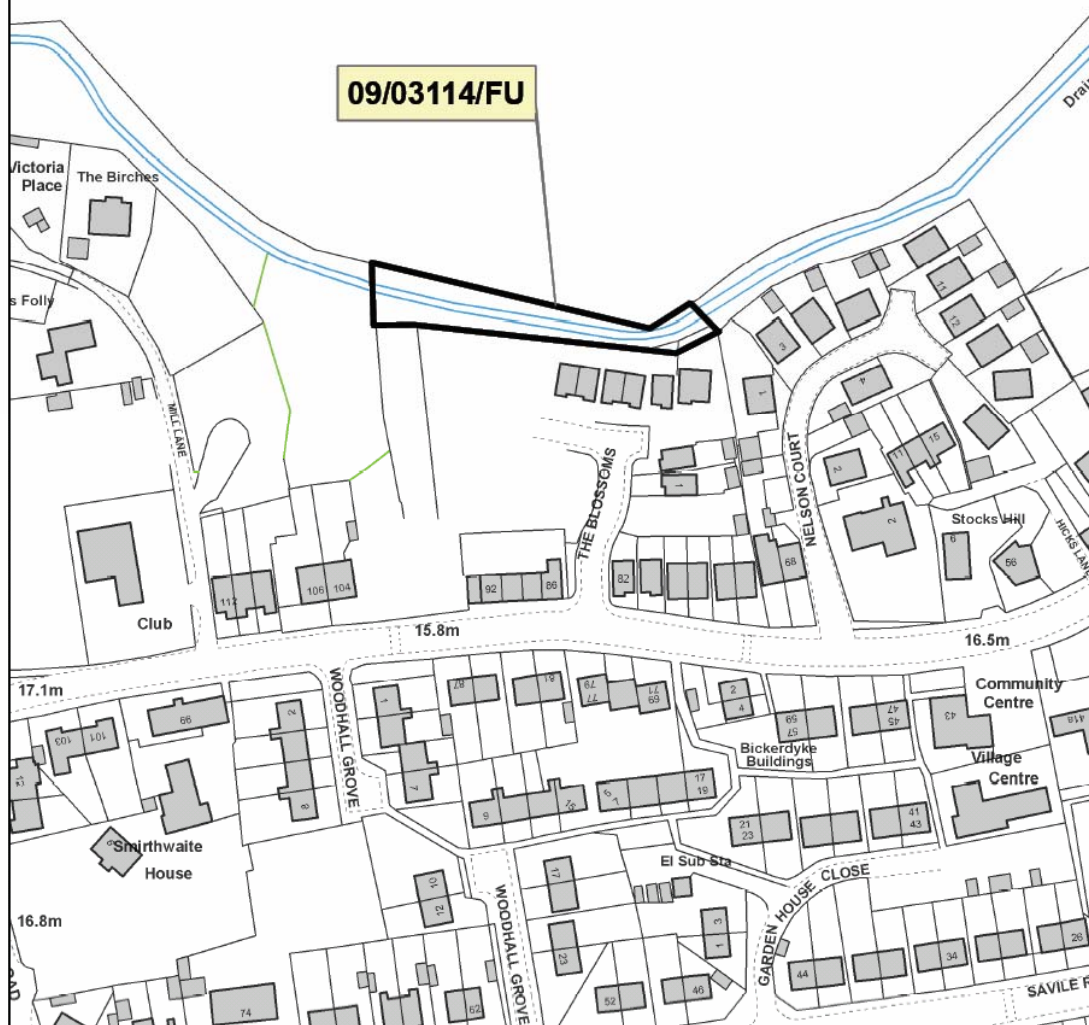
- 10.6.1 The Council's Nature Conservation Officer was consulted and originally objected to the use of stone gabions and the proposed layout of the northern bank, which it was considered would make very limited contributions to biodiversity.
- 10.6.2 The applicants are required to reform the watercourse with stable banks, in part, to maintain an access strip for maintenance purposes along land adjacent to the south of the water course, which for practical reasons would need to be as flat as possible. The applicants have stated that the use of stone gabions is necessary to sufficiently maintain the required land levels and that there is limited space available within the site to introduce extensive soft engineering techniques for biodiversity purposes.
- 10.6.3 The use of stone gabions has been accepted by officers as a compromise bank treatment on the south side only in order to ensure the site is restored in an appropriate and robust fashion. The use of stone gabions in this context would not normally be encouraged, and in the event that this scheme is approved, it would not set a precedent for the development of other areas of the same watercourse.
- 10.6.4 Although there are physical constraints at the site, it is considered that modest improvements could be made to the biodiversity contribution of the proposal, without significantly altering the character of the proposed development or introducing insurmountable practical difficulties. It is recommended that a planning condition be imposed, should planning permission be granted, requiring details of a biodiversity mitigation scheme, indicating planting and other works for the use and habitation of wildlife, be submitted to and approved in writing by the local planning authority.
- 10.6.5 Subject to the imposition of the aforementioned condition, the Council's Nature Conservation Officer withdraws her objection, and it is considered that the proposed development would not have an unacceptable impact on local ecology.

11.0 CONCLUSION

- 11.1 The proposed development is considered to be acceptable having had regard to Policies GP5, N32, N33, and N39B of the UDPR and all other material considerations.

Background Papers:

Application and history files.



EAST PLANS PANEL

Scale 1/1500

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