

<b>No.5</b>	<b>APPLICATION NO.</b>	2021/0188/FUL
	<b>LOCATION</b>	Land To The North-east Of Fairstead Birch Green Skelmersdale Lancashire
	<b>PROPOSAL</b>	Variation of Condition No 9 of planning permission 2020/0669/FUL relating to noise protection and consequential variation of condition 2 and 6 to refer to revised hard landscape plan
	<b>APPLICANT</b>	Mr Jon Murphy
	<b>WARD</b>	Ashurst
	<b>PARISH</b>	Unparished - Skelmersdale
	<b>TARGET DATE</b>	14th May 2021

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## 1.0 **SUMMARY**

- 1.1 This application primarily seeks to vary condition number 9 (noise) attached to planning permission reference 2020/0669/FUL which relates to the construction of 14 affordable dwellings. Condition number 9 required the submission of a scheme for the protection of dwellings and gardens from noise for Houghtons Road. Since the previous approval a Noise Impact Assessment has been carried out which identifies the noise levels which would be experienced in the gardens of the proposed properties. Whilst it is clear that the prescribed noise levels in the original condition cannot be met, the Council's Environmental Health Officer is satisfied, that subject to the proposed mitigation in the form of a 2.1m high acoustic fence, future occupiers of the residential units would be adequately protected from road noise and the development would provide an acceptable residential environment in accordance with Policy GN3 of the Local Plan.

## 2.0 **RECOMMENDATION: APPROVE with conditions**

## 3.0 **THE SITE**

- 3.1 The site is situated to the north and east of Fairstead, to the south of Houghtons Road and to the west of Birch Green Road in Skelmersdale. The site is 'L' shaped and comprises of a strip of grass to the north and an open rectangular field to the west. The site is mainly flat grass with trees and shrubs with a steep embankment to the north.

## 4.0 **THE PROPOSAL**

- 4.1 The application seeks to vary condition number 9 relating to noise imposed on planning permission reference 2020/0669/FUL:

*No development above slab level shall be carried out until a scheme for the protection of the proposed dwellings and gardens from noise from Houghtons Road and Birch Green Road has been submitted to and approved in writing by the Local Planning Authority. Works which form part of the approved scheme shall be completed for each affected dwelling before that dwelling is first occupied and permanently retained thereafter. The assessment shall demonstrate that the following standards are met at and within the proposed development: LAeq 50 dB 16 hours - gardens and outside living areas; LAeq 35 dB 16 hours - indoors daytime; LAeq 30 dB 8 hours - indoors night-time (23.00-07.00); LAFmax 45 dB 8 hours - indoors night-time (23.00-07.00); LAFmax 45 dB 4 hours - indoors evening (19.00-23.00). The evening standard LAFmax will only apply were the existing evening LAFmax significantly exceeds the LAeq and the maximum levels reached are regular in occurrence, for example several times per hour.*

- 4.2 Since the previous approval a Noise Impact Assessment has been carried out which revealed the noise levels in the communal gardens of apartment blocks 1 and 2 and the private gardens of the semi-detached dwellings to the east (blocks 3, 4 and 5) will exceed the 50 dB LAeq,16hrs required by condition 9.

## **5.0 PREVIOUS RELEVANT DECISIONS**

- 5.1 2020/0669/FUL GRANTED Variation of Condition No. 2 imposed on planning permission 2019/0792/FUL to vary the approved plans.
- 5.2 2019/0792/FUL GRANTED Construction of 14 affordable residential units comprising of six semi-detached dwellings and eight apartments located in two blocks.

## **6.0 CONSULTEE RESPONSES**

- 6.1 Environmental Health (16.04.2021) No Objections.

## **7.0 OTHER REPRESENTATIONS**

- 7.1 None Received.

## **8.0 SUPPORTING INFORMATION**

- 8.1 Noise Impact Assessment.  
Variation of Condition Statement.

## **9.0 RELEVANT PLANNING POLICY**

- 9.1 The National Planning Policy Framework (NPPF) and the West Lancashire Local Plan 2012-2027 DPD provide the policy framework against which the development proposals will be assessed.

The site is located within the settlement area of Skelmersdale as designated in the West Lancashire Local Plan 2012-2027 DPD.

### **West Lancashire Local Plan 2012-2027 DPD**

SP1 - A Sustainable Development Framework for West Lancashire  
GN1 - Settlement Boundaries  
GN3 - Criteria for Sustainable Development  
RS1 - Residential Development

### **Supplementary Planning Advice**

Design Guide (Jan 2008).

## **10.0 OBSERVATIONS OF CORPORATE DIRECTOR OF PLACE AND COMMUNITY**

- 10.1 Condition 9 requires a scheme to be submitted for the protection of the proposed dwellings and gardens from noise from Houghtons Road and Birch Green Road. Condition 9 requires noise levels in gardens and outside living areas do not exceed 50 dB LAeq,16hrs. A 1.8m high close boarded timber fence has previously been agreed as a boundary treatment to enclose external amenity spaces to the rear of the dwellings.

- 10.2 The applicant carried out a Noise Impact Assessment at the site to assess the existing noise climate and this has been submitted to support the current application. The noise survey revealed that noise levels in shared external areas, to the rear (north) of apartments in blocks 1 and 2 without mitigation are predicted to be up to 60 dB LAeq,16hrs. Noise levels in private gardens for dwellings to the rear (east) of the semi-detached dwellings (blocks 3, 4 and 5) are predicted to be between 53-55 dB LAeq,16hrs. Therefore, noise levels in the private and communal gardens will exceed the 50 dB LAeq,16hrs required by condition 9. As a result of the site location and layout of the proposed dwellings, it will not be possible to achieve 50 dB LAeq,16hrs in gardens as required by condition 9.
- 10.3 The Council's Environmental Health Officer has been consulted with regard to this application and has advised that BS 8233:2014 *Guidance on Sound Insulation and Noise reduction for Buildings* which provides information for the design of buildings to have appropriate acoustic environments states: *'For traditional external areas that are used for amenity space, such as gardens or patios, it is desirable that the external noise level does not exceed 50 dB LAeq,T, with an upper guideline value of 55 dB LAeq,T which would be acceptable in noisier environments'*. The EHO has advised that as the noise levels for the private gardens to the semi-detached dwellings are predicted to be up to 55 dB LAeq,16hrs, they would meet with the upper guideline value which is considered to be satisfactory.
- 10.4 The noise survey indicates that it will not be possible to achieve the upper guideline noise limit from BS 8233 in the communal gardens for the apartments in blocks 1 and 2. To achieve this an acoustic fence no less than 3.5m high would be required to provide adequate screening of road noise from Houghtons Road. However, the installation of a 3.5m high acoustic fence to the rear of the shared gardens serving the apartments (blocks 1 and 2) would have a detrimental effect on the amenities of the future residents of the ground floor apartments in respect of poor outlook and loss of light. Therefore the applicant proposes to install a 2.1m high acoustic fence to the rear of blocks 1 and 2. The noise report acknowledges that if a 2.1m high acoustic fence were erected then this would achieve a noise level of 59 dB LAeq,16hrs.
- 10.5 The Council's EHO has reviewed the submitted noise assessment and agrees it is not possible to meet the recommended external noise levels in all parts of the communal gardens. However, the Environmental Health Officer does note that some parts of the communal amenity space of the apartments achieves the upper desirable limit. The Environmental Health Officer acknowledges that BS 8233 also recognises that these guidelines are not achievable in all circumstances and in higher noise areas, such as urban areas adjoining the strategic transport network, a compromise between elevated noise levels and other factors such as the convenience of living in these locations might be warranted. In such a situation the BS advises, development should be designed to achieve the lowest practicable levels in these external amenity spaces but should not be prohibited. Planning Practice Guidance also advises on the approach that should be taken when imposing planning conditions. It advises that conditions which unreasonably impact on the deliverability of a development should not be used.
- 10.6 Therefore, taking into consideration the affected gardens will be communal gardens and there will be some respite from the higher levels of noise as you move through the gardens, and balancing this against the detrimental impact a 3.5m high acoustic fence would have upon the occupants of the ground floor apartments, I am of the view in this instance, a reduced height acoustic fence at 2.1m high behind apartments blocks 1 and 2 will be an acceptable compromise.

- 10.7 In respect of noise mitigation for the building envelope, the Environmental Health Officer is satisfied that the recommended indoor noise levels will be achieved when the specified window and ventilation systems are installed as part the mitigation strategy contained within the noise assessment.
- 10.8 I am therefore satisfied that the variation to condition 9 is acceptable, subject to re-wording which secures that noise mitigation measures contained within the Nose Impact Assessment.

#### Other matters

- 10.9 The variation of the noise condition results in consequential amendments to two further conditions. This is as a result of an amendment to the previously approved hard landscaping plan to update the boundary treatment behind block 1 and 2 from a 1.8m high timber fence to a 2.1m high acoustic fence.
- 10.10 Therefore, condition 2 which relates to the plans and condition 6 which relates to the soft and hard landscaping schemes will be updated to include the additional acoustic fencing plan.
- 10.11 The original application was granted planning permission subject to the signing of a Unilateral Agreement which specified the terms and conditions of the affordable housing provision. This application will be subject to a Deed of Variation to link the legal agreement with this permission. All other aspects of the original planning permission remain the same.

#### Summary

- 10.12 The variation of condition 9 and consequential variation of conditions 2 and 6 are considered to be acceptable.

### **11.0 RECOMMENDATION**

- 11.1 That the decision to grant planning permission be delegated to the Corporate Director Of Place And Community in consultation with the Chairman or Vice Chairman of the Planning Committee subject to the applicant entering into a Deed of Variation to vary the original agreement made under Section 106 of the Town and Country Planning Act 1990 to require details of the terms, conditions and delivery of the affordable housing units.
- 11.2 That any planning permission granted by the Director Of Place And Community pursuant to recommendation 11.1 above be subject to the following conditions:

#### **Conditions**

1. The development must be begun not later than the expiration of three years beginning from 29th June 2020.  
Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
2. The development hereby approved shall be carried out in accordance with details shown on the following plans:  
Plan reference Site Location Plan 0001 Rev A received by the Local Planning Authority on 1st August 2019  
Plan reference Existing Site Layout 0002 Rev B received by the Local Planning Authority on 11th November 2019

Plan reference Proposed Roof Plan 0005 Rev F, Elevations 0326 Rev I, Plans 0325 Rev I, General Arrangement 01 P03, Hard Landscape 02 P03 and Soft Landscape 03 P03 received by the Local Planning Authority on 20th December 2019

Plan reference P402 - Proposed Site Plan received by the Local Planning Authority on 4th August 2020

Plan reference P410 - Blocks 1 & 2 - 2B4P Flats and P411 - Blocks 1 & 2 - 2B4P Flats - Elevations received by the Local Planning Authority on 18th August 2020

Plan Reference P402A Acoustic Fencing Plan received by the Local Planning Authority on 29th April 2021.

Reason: For the avoidance of doubt and to ensure compliance with the provisions of Policy GN3 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.

3. The materials shall be implemented in accordance with the details agreed under application 2020/0574/CON - Fonterra Moray red mix brick with Fonterra Caton Russet mixture feature brick, Sandtoft Calderdale Dual Edge rustic roof tiles and black down pipes as described on drawing number Tawd Valley Phase 1 Materials Sheet received by the Local Planning Authority on 9th July 2020.

Reason: To ensure that the external appearance of the building(s) is satisfactory and that the development therefore complies with the provisions of Policy GN3 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.

4. The surface water drainage shall be implemented in accordance with the details agreed under application 2020/0574/CON - as detailed in the email correspondence from the agent received by the Local Planning Authority on 1st September 2020 with an email correspondence attached from Rhys Parking Shape Consulting Engineers dated 28th August 2020 and the Drainage Statement and Maintenance Strategy Document received by the Local Planning Authority on 9th July 2020.

Reason: To ensure that there is no flood risk on- or off-the site resulting from the proposed development and to ensure that the development complies with the provisions of Policy GN3 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.

5. Foul and surface water shall be drained on separate systems.

Reason: To secure proper drainage and to manage the risk of flooding and pollution and to ensure that the development complies with the provisions of Policy GN3 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.

6. All hard and soft landscape works shall be carried out in accordance with the approved details shown on plan reference UG\_139\_LAN\_HL\_DRW\_02 Rev P03, UG\_139\_LAN\_HL\_DRW\_03 Rev P03 and P402A showing the acoustic fence position. The works shall be carried out before any part of the development is occupied or in accordance with a programme to be agreed in writing with the Local Planning Authority prior to any development commencing. Any trees / shrubs which are removed, die, become severely damaged or diseased within 7 years of their planting shall be replaced in the next planting season with trees / shrubs of similar size and species to those originally required to be planted unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure that the site is satisfactorily landscaped having regard to the character of the area and the nature of the proposed development and to comply with Policy GN3 in the West Lancashire Local Plan 2012-2027 Development Plan Document.

7. The development hereby permitted shall be implemented in accordance with the submitted Arboricultural Impact Assessment received on 20th December 2019 unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the proper protection of trees has been carried out in the interests of visual amenity and to comply with Policies GN3 and EN2 in the West Lancashire Local Plan 2012-2027 Development Plan Document.

8. The Ecological Management Plan (EMP) shall be implemented in accordance with the details agreed under application 2020/0574/CON - as described and shown in the Environmental Management Plan (EMP) received by the Local Planning Authority on 11th August 2020.

Reason: These details are required prior to the commencement of development to as the proposed development may result in the loss of ecological habitat and as such precautions are required during the construction phase in order to comply with the provisions of Policies GN3 & EN2 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.

9. The development shall proceed in accordance with the Environmental Noise Assessment prepared by Stroma Built Environment dated 20th January 2021 and 29th April 2021 and received by the Local Planning Authority on 29th April 2021.

Works which form part of the approved scheme shall be completed for each affected dwelling before that dwelling is first occupied and permanently retained thereafter.

Reason: To safeguard local residents from noise and disturbance, and to comply with Policy GN3 in the West Lancashire Local Plan 2012-2027 Development Plan Document

10. The electric vehicle charging points shall be implemented in accordance with the details agreed under application 2020/0574/CON - as shown on drawing number P402 Proposed Site Plan received by the Local Planning Authority on 11th August 2020 and on the Construction Phase Timetable received by the Local Planning Authority on 9th July 2020.

Reason: In the interests of sustainability and air quality in accordance with Policy GN3 in the West Lancashire Local Plan 2012-2027 Development Plan Document.

11. The site investigations remediation shall be implemented in accordance with the details agreed under application 2020/0574/CON - as described in E3P Remediation strategy ref 14-114-r1 April 2020 received by the Local Planning Authority on 9th July 2020 and emails dated 18th and 24th August 2020 from the Director of E3P. Prior to the first occupation of any dwelling on site, a closure and validation report containing appropriate validation certification shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To prevent pollution of the water environment and to comply with the provisions of Policy GN3 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.

12. The development hereby approved shall not be occupied until all the highway works including the replacement car parking has been constructed in accordance with the approved plans.

Reason: To safeguard the safety and interests of the users of the highway and to ensure that the development complies with the provisions of Policy GN3 and IF2 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document

13. The Construction Management Plan shall be implemented in accordance with the details agreed under application 2020/0574/CON - as shown on drawing Site Works Set Up received by the Local Planning Authority on 9th July 2020 and in the Construction Management Plan received by the Local Planning Authority on 11th August 2020.

Reason: To safeguard the amenities of occupants of existing dwellings located in the vicinity of the application site and highway safety to comply with the provisions of Policy GN3 in the West Lancashire Local Plan 2012-2027 Development Plan Document.

14. The parking bays marked as PR-01 - PR-16 shall be provided, constructed and surfaced in accordance with plan reference P1\_S04\_DR\_0004 Rev E prior to the removal of the existing parking bays.  
Reason: To ensure that adequate on site vehicle parking/manoeuvring facilities are provided in the interests of highway safety and amenity, and to comply with the provisions of Policy GN3 and IF2 in the West Lancashire Local Plan 2012-2027 Development Plan Document

### **Notes**

1. Before any construction works begins on site the area of existing adopted highway within the area of plots 1, 2, 3 and 4 is to be stopped-up under section 247 of the Town and Country Planning Act.
2. The applicant is advised that the new highway works including the new site access and replacement parking will need to be constructed under a section 278 agreement of the 1980 Highways Act. The Highway Authority hereby reserves the right to provide the highway works within the highway associated with this proposal. Provision of the highway works includes design, procurement of the work by contract and supervision of the works. The applicant is advised to contact the Environment Directorate before works begin on site. Further information and advice can be found at [www.lancashire.gov.uk](http://www.lancashire.gov.uk) and search for "278 agreement".
3. A lighting column and telegraph pole will need to be relocated at the applicant's expense to facilitate the proposed replacement parking spaces for the existing residents to the West of Plots 1 and 2.

### **Reason for Approval**

1. The Local Planning Authority has considered the proposed development in the context of the Development Plan including, in particular, the following Policy/Policies in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document:

SP1 - A Sustainable Development Framework for West Lancashire

GN1 - Settlement Boundaries

GN3 - Criteria for Sustainable Development

RS1 - Residential Development

RS2 - Affordable and Specialist Housing

IF2 - Enhancing Sustainable Transport Choice

IF3 - Service Accessibility and Infrastructure for Growth

IF4 - Developer Contributions

EN1 - Low Carbon Development and Energy Infrastructure

EN2 - Preserving and Enhancing West Lancashire's Natural Environment

EN3 - Provision of Green Infrastructure and Open Recreation Space

EN4 - Preserving and Enhancing West Lancashire's Cultural and Heritage Assets

together with Supplementary Planning Guidance and all relevant material considerations. The Local Planning Authority considers that the proposal complies with the relevant Policy criteria and is acceptable in the context of all relevant material considerations as set out in the Officer's Report. This report can be viewed or a copy provided on request to the Local Planning Authority.