

Application Number:	21/00178/FUL
Proposal:	Variation of conditions 2 (approved plans/details) of planning permission ref. 17/01033/FUL.
Site:	Land to the rear of 81 - 95 Ridge Hill Lane, Stalybridge
Applicant:	KMM Homes Ltd
Recommendation:	Grant planning permission, subject to conditions.
Reason for Report:	Speakers Panel decision is required in accordance with the Council's constitution because this is a major application as defined by the Town and Country Planning (Development Management Procedure) (England) Order 2015.
Background Papers:	The planning application documents are background papers to the report. They are open to inspection in accordance with Section 100D of the Local Government Act 1972.

1. SITE & SURROUNDINGS

- 1.1 The application site is to the rear of the dwellings at 81-103 Ridge Hill Lane in Stalybridge. The rear boundaries of the properties at 81-95 Ridge Hill Lane abut the south eastern boundary of the site, which then juts in to follow the alignment of Ash Lea, which leads to the properties to the north east of the site.
- 1.2 There is an existing access which connects the land to the highway between the dwellings at 79 and 81 Ridge Hill Lane. Land levels rise up from Ridge Hill Lane into the site, ensuring that the central part of the site sits at a higher level than the properties to the south of the site.
- 1.3 The properties are substantially complete on site at the time of the site visit, however they are unoccupied.


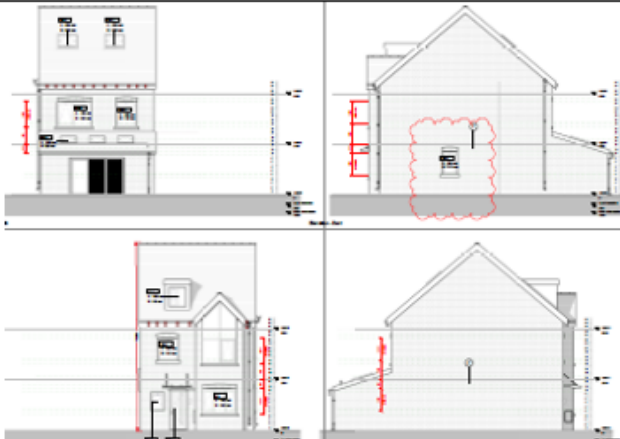
2. PROPOSAL


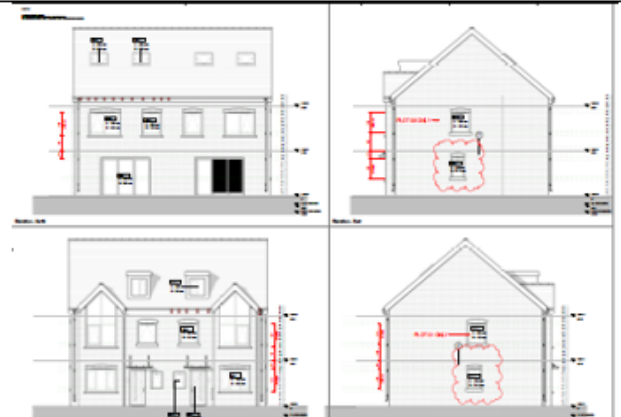
- 2.1 Where there is an extant planning permission, section 73 (S73) of the Town and Country Planning Act 1990 allows for an application to be made to vary or remove conditions associated with that planning permission. One of the uses of a S73 application is to seek what is often called a minor material amendment to an extant planning permission.
- 2.2 Initially, outline planning permission (ref. 17/01033/FUL) was granted in July 2018 for the construction of 11 No. dwellings and associated works.
- 2.3 The current application seeks to vary condition 2 of planning permission 17/01033/FUL, so that it specifies alternative drawings in accordance with which the development shall be carried out, and so allow for a minor material amendment to the planning permission.
- 2.4 The retrospective amendments are :
 - Internal layout changes
 - Two storey front projecting bay window extension feature to the front left-hand side of the proposed properties which measures 2.5 metres wide with a length of 0.56 metres containing pitched roof set down from the ridgeline of the main roof measuring 7.3m to the ridge and 5.6m to the eaves.

- Change in window design from sash windows to side opening windows.
- Positioning change of the rooflights to the rear roofslope.
- Change in dormer design to the front of the properties.
- To the detached properties, 3 bi-fold doors proposed at ground floor to the rear instead of four.
- To the semi-detached properties, 3 bi-fold doors proposed at ground floor to the rear instead of two.
- Windows are proposed to the side elevation of the properties which are outlined below:
 - Plot 11 – No windows to the side elevation
 - Plot 10 – 1 ground floor window
 - Plot 9 – 1 ground floor window
 - Plot 8 – 1 ground floor and first floor window
 - Plot 7 – 1 ground floor window
 - Plot 6 – 1ground floor window
 - Plot 5 –1 ground floor window
 - Plot 4 – 1 ground floor window
 - Plot 3 – 1 ground floor window
 - Plot 2 – 1 ground floor window
 - Plot 1 – 1 ground floor and first floor window
- Material change from red brick that was previously approved to buff brick.

2.5 Four bedrooms were previously approved and this has not changed, parking and access also remains as previously approved.

2.6 Below is a screenshot of the elevation plans for context:

Detached House Types	
Previously Approved - 17/01033/FUL	Amended - 21/00178/FUL
	

Semi-Detached House Types	
Previously Approved - 17/01033/FUL	Amended - 21/00178/FUL
	

3. PLANNING HISTORY

- 3.1 18/00094/PLCOND – Discharge of conditions 3 (Noise Assessment and proposed acoustic fencing and specification), 4 (drawings showing site levels), 6 (surface water drainage), 8 (details of proposed access), 13 (schedule of proposed materials) of planning permission 17/010330FUL – Approved 22.03.2019.
- 3.2 18/00070/PLCOND – Discharge of conditions 3 (Noise Assessment and proposed acoustic fencing and specification), 4 (drawings showing site levels), 6 (surface water drainage), 8 (details of proposed access), 13 (dchedule of proposed materials) of planning permission 17/01033/FUL – Approved on 09.01.2019.
- 3.3 17/01033/FUL – Construction of 11 No. dwellings and associated works – Approved on 24.07.2018.
- 3.4 11/00644/OUT – Extension to the time to implement planning permission of outline planning permission 08/00649/OUT – Approved on 20.10.2011.
- 3.5 08/00649/OUT – Outline residential development comprising of 10 houses – approve.
- 3.6 06/01278/REM – Reserved matters application following the granting of outline planning permission ref. 06/00109/OUT – approved on 08.08.2008.

- 3.7 06/00109/OUT – Outline planning permission for the erection of 5 dwelling houses with associated details of siting, design, external appearance and access – approved on 19.05.2006.
- 3.8 03/01612/FUL – full planning permission for the erection of 2 detached dwellings – refused on highway safety grounds (that site was limited to the eastern part of the application site proposed in the applications referred to above and this current application and would have been accessed via Foxglove Lane/Ash Lea). Refused on 21.01.2004.

4. PLANNING POLICY

National Planning Policy Framework (NPPF)

- 4.1 Paragraph 9 of the National Planning Policy Framework (NPPF) states that planning decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account to reflect the character, needs and opportunities of each area.
- 4.2 Paragraph 11 states that planning decisions should apply a presumption in favour of sustainable development. This means approving development proposals that accord with an up-to-date development plan without delay (as per section 38(6) of the Planning and Compulsory Purchase Act 2004). However, where the development plan is absent, silent or out of date, planning permission should be granted unless the application of policies in the NPPF that protects areas or assets of particular importance, provides a clear reason for refusing the development proposed; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.
- 4.3 Paragraph 12 of the NPPF clarifies that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan, permission should not normally be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

Development Plan

- 4.4 The adopted development plan is the Tameside Unitary Development Plan (2004) and the Greater Manchester Joint Waste Development Plan Document (2012).

Tameside Unitary Development Plan (2004)

4.5 Part 1 Policies:

- 1.3: Creating a Cleaner and Greener Environment.
- 1.4: Providing More Choice and Quality Homes.
- 1.5: Following the Principles of Sustainable Development
- 1.10: Protecting and Enhancing the Natural Environment
- 1.12: Ensuring an Accessible, Safe and Healthy Environment

4.6 Part 2 Policies:

- C1: Townscape and Urban Form
- H4: Type, Size and Affordability of Dwellings.
- H10: Detailed Design of Housing Developments.
- T1: Highway Improvement and Traffic Management.
- T10: Parking.
- MW11: Contaminated Land

Supplementary Planning Documents

4.7 Residential Design Supplementary Planning Document

Places for Everyone

4.8 The Places for Everyone Joint Development Plan Document was published in August 2021. It was submitted to the Secretary of State in February 2022 and inspectors are appointed to carry out an independent examination. It is a joint plan covering nine of the ten Greater Manchester districts, including Tameside, and is intended to provide the overarching framework to strategically manage growth across the boroughs.

4.9 Paragraph 48 in the NPPF states that local planning authorities may give weight to relevant policies in emerging plans according to: the stage of preparation of the emerging plan (the more advanced its preparation, the greater weight may be given); the extent to which there are unresolved objections (the less significant, the greater the weight that may be given); and the degree of consistency of the relevant policies in the emerging plan to the NPPF (the closer the policies in the emerging plan to the policies in the NPPF, the greater the weight that may be given).

4.10 Whilst Places for Everyone has been published and submitted, a number of representations have been received objecting to policies, and so in accordance with paragraph 48 of the NPPF, only very limited weight can be given to those policies at this time.

Other Considerations

4.11 The application has been considered having regard to Article 1 of the First Protocol of the Human Rights Act 1998, which sets out a persons rights to the peaceful enjoyment of property and Article 8 of the Convention of the same Act which sets out his/her rights in respect for private and family life and for the home. Officers consider that the proposed development would not be contrary to the provisions of the above Articles in respect of the human rights of surrounding residents/occupiers.

4.12 The application has been considered in accordance with the Tameside One Equality Scheme (2018-22), which seeks to prevent unlawful discrimination, promote equality of opportunity and good relations between people in a diverse community. In this case the proposed development is not anticipated to have any potential impact from an equality perspective.

5. PUBLICITY CARRIED OUT

5.1 In accordance with the requirements of the Town and Country Planning (Development Management Procedure) (England) Order 2015 and the Council's adopted Statement of Community Involvement, the application has been advertised as a major development by newspaper advertisement, site notice and neighbour letters.

6. SUMMARY OF THIRD PARTY RESPONSES

6.1 One letter of representation have been received citing objections to the application:

- Access concerns.
- The private road/right of way is not used under any circumstances.
- Until it is confirmed that our road/access will not be used, and the builder uses his own access, I am against any work being started.

6.2 One letter of representation have been received to the application:

- Some change or development is long overdue on this land.
- Lane not to be used for access to the site for heavy goods vehicles.

- It would be much appreciated if the Council could erect a sign at the entrance (by the N & N Off Licence) saying Foxglove Lane and Ashleigh Only.

7. RESPONSES FROM CONSULTEES

7.1 Not applicable.

8. ANALYSIS

PRINCIPLE OF DEVELOPMENT

8.1 The principle of the development in this location is established by the extant planning permission (17/01033/FUL), other than, in the change in design to the external finishes to the houses the development would remain as approved. The issues to consider in determining the application is the impact that the proposed elevation and design changes would have on the appearance of the development and visual amenity.

9. DESIGN

9.1 The amended properties would produce a cohesive development that acknowledges the character of the locality within which it is set, whilst remaining identifiably a discrete development.

9.2 The proposed amendments would retain the symmetry across the development taking into account the land levels and, other than from immediate neighbouring houses, the proposed amendments would be largely hidden from Ridge Hill Lane due to the back-land positioning of the site and so would not impact on the street scene.

9.3 Without diminishing, but, subjectively, improving the quality of the development as it was approved originally in terms of design, appearance and visual amenity. It is considered that the quality of approved development would not be materially diminished as a result of the changes so that the proposal is compliant with: policies 1.3, H10(a) and C1 of the UDP; the SPD; and, Sections 2 and 12 of the NPPF.

10. RESIDENTIAL AMENITY

10.1 The extent of the projections of the proposed two storey front gables to the houses are designed to introduce greater amounts of light to habitable room windows, in this case the living rooms at ground floor and bedroom 3 at first floor.

10.2 It is considered that the proposed gable additions to the houses would have an acceptable impact on the amenities of potential occupiers. In terms of loss of privacy, loss of light or over-shadowing, the resulting room layout results in the closest windows to the neighbouring properties to the front gable extensions, but they are obscure glazed at ground and first floor, serving bathrooms.

10.3 As such, the amendments would not result in an adverse impact on the residential amenity of any of the neighbouring properties. The proposal is considered acceptable and compliant with policy H10 of the UDP policy, RD5 of the SDP, and Sections 11 and 12 of the NPPF.

10.4 Windows are proposed to the side elevation of the properties as detailed within the proposal section above. Windows between two facing dwellings are obscure glazed. The windows to the end properties (plot 1, plot 8 and plot 9) will not unduly impact on the residential amenity

of the surrounding properties by reason of visual intrusion, loss of outlook, overlooking or loss of privacy, in accordance with Policies C1 and H10 of the UDP and the Council's Residential Design SPD.

11. OTHER MATTERS

11.1 A neighbouring resident has raised an objection to the use of Foxglove Lane to provide access to the construction site. A condition was attached to the original permission (17/01033/FUL) requiring the submission of a construction management plan. Condition 7 of the permission required the submission and approval of a Construction Environment Management Plan (CEMP). Subsequently a discharge of condition application (18/00070/PLCOND) was submitted in October 2018 which included a CEMP produced by Cheshire Homes Developments Ltd which provided details of the following measures to be put in place during the construction phase of the development:

- Wheel wash facilities;
- Arrangements for temporary construction access;
- Contractor and construction worker parking;
- Turning facilities during the remediation and construction phases; and
- Details of on-site storage.

11.2 Reference was made within the CEMP that access to the site will be via the existing access between 79 and 81 Ridge Hill Lane which was widened for contractors' vehicles, delivery vehicles and other construction related traffic. Included in this was a dedicated turning area /hardstanding to the north east of the site adjacent to Foxglove Lane and Ash Lea which was provided on the site and kept clear for delivery vehicles, so they are able to be off loaded and then can turn around and leave the site in forward gear at all times.

11.3 The Local Highway Authority did not raise any objections to the CEMP subject to all of the measures included being implemented on the commencement of the construction phase and being retained as such for the duration of that phase of the development. At the time of the planning officer's site visit there was no evidence to suggest the access off Foxglove Lane was being used and the Council has not received any complaints relating to this matter. In any event, any work undertaken not in conformity with the approved CEMP details is at the developer's own risk.

11.4 In addition to these factors, private rights of way across land are not a material planning consideration, as such matters fall to be determined under civil law.

11.5 Application 17/01033/FUL was considered at the meeting of the Speaker's Panel (Planning) held on the 23 May 2018. The Panel resolved to grant planning permission subject to conditions and an agreement entered into under section 106 of the Town and Country Planning Act 1990 (as amended) (the Act). The agreement was subsequently signed with planning permission granted on the 24 July 2018.

11.6 Within the signed section 106 agreement, reference was made to a Qualifying Permission (defined on page 4 of the agreement as a section 73 application) within section 18 of the agreement. This means that a planning permission granted by means of a section 73 application is subject to the obligations in the original agreement. Therefore, there is no requirement for a new s106 agreement.

12. CONCLUSION

12.1 The proposed amendments being considered acceptable and, in context, as being of a minor nature, according to Planning Practice Guidance the grant of planning permission under

section 73 should repeat the relevant conditions from the original planning permission, unless they have already been discharged. Where an application under section 73 is granted, the effect is the issue of a new planning permission and that may be subject to conditions differing from those to which the original permission was subject.

12.2 As referenced within the planning history section (4) above, two discharge of condition applications have been approved for the discharge of the following pre-commencement conditions on the original permission :

- Condition 3 (Noise Assessment and proposed acoustic fencing and specification)
- Condition 4 (Drawings showing site levels),
- Condition 5 (contaminated land investigation)
- Condition 6 (Surface water drainage)
- Condition 7 (Construction Management Plan)
- Condition 8 (Details of proposed access)
- Condition 10 (Tree protection)
- Condition 13 (Schedule of proposed materials)

12.3 In addition to repeating conditions from the original planning permission where these have not been fully discharged, and amended where necessary, it is recommended that an additional condition that withdraws permitted development rights be included in any approval. This would prevent inappropriate additions to the houses and protect the amenities of the occupiers of pre-existing houses and potential occupiers of the houses within the development.

12.4 Overall, the proposal is considered to comply with the development plan and the NPPF, for the reasons set out in the report, and therefore Paragraph 11 of NPPF requires the development to be approved without delay. As such, it is recommended that planning permission is granted subject to recommended conditions. In accordance with policies outlined in the UDP and the National Planning Policy Framework.

RECOMMENDATION

Grant planning permission subject to the following conditions:

- 1) The development hereby approved shall be carried out strictly in accordance with the plans and specifications as approved unless required by any other conditions in this permission:

Proposed Site Plan - Dwg no : 05/17/076 01 Rev: *

Proposed Semi-detached Floor Plans - Dwg no: 0001- RM- ZZ- 00- GA- A- 12300 Rev: P2

Proposed Semi-detached Elevation Plans - Dwg no: 0001- RM- ZZ- ZZ- DR- A- 10501 Rev: P3

Proposed Detached Floor Plans - Dwg no: 0001- RM- ZZ- 00- GA- A- 12301 Rev: P2

Proposed Detached Elevation Plans - Dwg no: 0001- RM- ZZ- ZZ- DR- A- 10501 Rev: P3

Proposed highway widening plan – Dwg no: SCP/17491/F01

Swept path analysis plan – Dwg no: SCP/17491/ATR01

Japanese Knotweed Controlled Excavation (Management Plan) produced by The Invasive Plant Company dated 30 May 2018.

For the avoidance of doubt and to ensure that the development complies with the following saved Policies of the adopted Tameside Unitary Development Plan:

Policy C1: Townscape and Urban Form.

Policy H4: Type, Size and Affordability of Dwellings.

Policy H10: Detailed Design of Housing Developments.

Policy T1: Highway Improvement and Traffic Management.

Policy T10: Parking.

Policy MW11: Contaminated Land and the National Planning Policy Framework NPPF).

- 2) The soft landscaping scheme shall be installed in accordance with the details as shown on the approved proposed site plan (Drwg No. 05/17/076 01 Rev: *). The approved scheme of landscaping shall be implemented before the first occupation of any part of the development or in accordance with a programme agreed previously in writing by the Local Planning Authority. Any newly planted trees or plants forming part of the approved scheme which, within a period of 5 years from the completion of the planting, are removed, damaged, destroyed or die shall be replaced in the next appropriate planting season with others of similar size and species.

Reason: To ensure that sufficient hard and soft landscaping are implemented and maintained to ensure that the overall development respects the character of the surrounding area.

- 3) Prior to occupation, the car parking indicated on the approved proposed site plan (Drwg No. 05/17/076 01 Rev: *) shall be provided to the full satisfaction of the Local Planning Authority and thereafter kept unobstructed and available for its intended purpose. The area shall be maintained and kept available for the parking of vehicles at all times.

Reason: To ensure adequate car parking arrangements.

- 4) The refuse storage arrangements to serve each of the dwellings hereby approved shall be implemented in the location and to the design specified on the approved proposed site plan (Drwg No. 05/17/076 01 Rev: *) prior to the occupation of that dwelling and shall be retained as such thereafter.

Reason: To provide adequate secure bin storage to serve the development and to safeguard the general amenity of the area in accordance with UDP policy 1.12/1.13/H10.

- 5) Prior to the first occupation of any of the dwellings hereby approved, details (including scaled plans and details of the construction material and colour finish) of the boundary treatments to be installed across the development shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatments for each plot shall be installed in accordance with the approved details prior to the first occupation of that dwelling.

Reason: To ensure that the residential amenity of the future occupiers of the development is preserved, in accordance with policy H10 of the Tameside UDP and the NPPF.

- 6) No tree felling or vegetation removal shall take place during the optimum period for bird nesting (March to July inclusive)

Reason: To protect wild birds under The Wildlife and Countryside Act 1981 (as amended).

- 7) During demolition/construction no work (including vehicle and plant movements, deliveries, loading and unloading) shall take place outside the hours of 07:30 and 18:00 Mondays to Fridays and 08:00 to 13:00 Saturdays. No work shall take place on Sundays and Bank Holidays.

Reason: In order to protect the amenities of nearby residents in accordance with Unitary Development Plan policies 1.12 and H10.

- 8) The Japanese Knotweed on the site shall be managed in accordance with all of the mitigation measures detailed within the document entitled Japanese Knotweed Controlled Excavation (Management Plan) produced by The Invasive Plant Company dated 30 May 2018.

Reason: To ensure that invasive species are adequately controlled/removed from the site appropriately.

- 9) The development hereby approved shall be carried out in accordance with the measures detailed in section 3.3 of the Crime Impact Assessment submitted with the planning application and shall be retained as such thereafter.

Reason: To ensure that the development is designed to minimise opportunities for crime.

- 10) Prior to the occupation of any part of the development hereby approved, visibility splays shall be provided on both sides of the site access where it meets the footway. The visibility splays shall measure 2.4 metres along the edge of the site access and 2.4 metres along the footway. It must be clear of anything higher than 600mm above ground level. The visibility splays shall be retained as such thereafter.

Reason: To allow users of the site access and footway to see each other approaching and to ensure that the development maintains highway safety.

- 11) Notwithstanding the provisions of the Schedule 2, Part 1 of the of the Town and Country Planning (General Permitted Development) Order 2015) as amended, no development involving enlargements such as side/rear extensions, alterations to roofs, dormer windows or the construction of buildings surrounding the house (the 'curtilage') as permitted by Classes A to F and H of Part 1 of Schedule 2 of the Order shall be carried out.

Reason: In order that any proposals for future extensions/alterations can be assessed in the interests of appearance and neighbour amenity, in order to ensure compliance with Policies C1 'Townscape and Urban Form' and H10 'Detailed Design of Housing Developments' of the Tameside Unitary Development Plan.