

Application	Number 19/00773/FUL
Proposal	Application seeking approval for a variation of condition no.2 (approved plans) of planning application 18/00626/FUL. Application seeks approval for a revised siting of approved right hand side dwelling (Stephen Pritchard property) by 1.5m of the original proposed position. All other details to remain as originally approved.
Site	Land Rear Of 31 To 39, Carrhill Road, Mossley, OL5 0QT
Applicant	Mr Stephen Pritchard
Recommendation	Approve, subject to conditions
Reason for report	A Speakers Panel decision is required as a request for a right to speak has been made by a neighbouring resident.

1.0 APPLICATION DESCRIPTION

- 1.1 The applicant seeks full planning permission for the variation of condition 2 (approved plans) of planning permission 18/00626/FUL which was approved 10.10.2018.
- 1.2 Application 18/00626/FUL permitted the erection of 2 detached split level dwellings and associated works on former open land located to the north of Milton Street. Development of the site has commenced.
- 1.3 The application relates to revising the siting of right hand side dwelling by 1.5m of the original proposed position in relation to the north eastern boundary (facing no.8 Milton Street). All other aspects of the development are unchanged with the dwellings being of the same dimensions as approved.
- 1.4 The applicant confirms that there was an error in the setting of the properties foundations due to a measurement taken from the site boundary.

2.0 SITE AND SURROUNDINGS

- 2.1 The application site is roughly rectangular in shape and is located at the rear of 31-41 Carrhill Road. The land is now under development having previously been an unallocated green-field site. The site slopes steeply downwards from north to south towards Milton Street. Vehicular access is taken off Mill Lane via Milton Street, which runs along the southern boundary.
- 2.2 The nearest houses are to the northern boundary on Carrhill Road, these comprise of three-storey terraced houses some of which have retaining abutments within the site. Woodmeadow Court contains six detached houses and is located to the west of the site, Milton St serves terrace properties to the north east of the site, this access also serves John's Church of England School which is located south of the site, the school buildings are located either side of the highway.
- 2.3 At the time of writing the report the development the lower ground floor had been completed and works were also advancing on the first floor. Retaining structures also appeared to have been largely completed.

3.0 PLANNING HISTORY

- 3.1 12/00678/OUT – Proposed two detached bungalows (Outline) – Refused 22/11/2012
- 3.2 13/00134/OUT – Construction of three detached bungalows (Outline) – Refused 30/05/2013. This application was subsequently allowed at appeal Ref APP/G4240/A/13/2201574 dated 15th January 2014
- 3.3 16/00980/OUT – Outline planning application (all matters reserved) for the residential development of 0.16 Ha of land – Approved 05/01/2017
- 3.4 18/00626/FUL – Erection of 2no residential dwellings including means of access and landscaping – Approved 10.10.2018
- 3.5 19/00059/PLCOND – Application to discharge condition no.s 3 (Contaminated Land), 4 (Land Stability), 6 (Boundary), 7 (CMS), 8 (School working Hours), 10 (Highway Works), 12 (Drainage), 15 (Ecological walkover), 17 (Bin Stores) from approved planning application 18/00626/FUL (Erection of 2no. residential dwellings including means of access and landscaping) – Conditions Discharged.

4.0 RELEVANT PLANNING POLICY

4.1 Tameside Unitary Development Plan (UDP) Allocation

The site is not allocated and is located within the settlement of Mossley.

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
- 1.12: Ensuring an Accessible, Safe and Healthy Environment

Part 2 Policies

- H2: Unallocated sites
- H4: Type, size and affordability of dwellings
- H5: Open Space Provision
- H7: Mixed Use and Density.
- H10: Detailed Design of Housing Developments
- OL4: Protected Green Space
- OL10: Landscape Quality and Character
- T1: Highway Improvement and Traffic Management.
- T10: Parking
- C1: Townscape and Urban Form
- N4: Trees and Woodland.
- N5: Trees Within Development Sites.
- N7: Protected Species
- MW11: Contaminated Land.
- U3: Water Services for Developments
- U4 Flood Prevention
- U5 Energy Efficiency

4.2 Other Policies

Greater Manchester Spatial Framework - Publication Draft October 2016;
Residential Design Supplementary Planning Document; and,
Trees and Landscaping on Development Sites SPD adopted in March 2007.

4.3 National Planning Policy Framework (NPPF)

Section 2: Achieving sustainable development

Section 5: Delivering a sufficient supply of homes

Section 8: Promoting safe and healthy communities

Section 11: Making effective use of land

Section 12: Achieving well designed places

Section 15: Conserving and enhancing the natural environment

4.4 Planning Practice Guidance (PPG)

This is intended to complement the NPPF and to provide a single resource for planning guidance, whilst rationalising and streamlining the material. Almost all previous planning Circulars and advice notes have been cancelled. Specific reference will be made to the PPG or other national advice in the Analysis section of the report, where appropriate.

5.0 PUBLICITY CARRIED OUT

5.1 Neighbour notification letters were issued in accordance with the requirements of the Town and Country Planning (Development Management Procedure) (England) Order 2015. A site notice was also published notifying residents of the application.

6.0 RESPONSES FROM CONSULTEES

6.1 Local Highway Authority – The LHA are satisfied with the information supplied to recommend discharging the application seeking approval for a variation of condition no.2 (approved plans) of planning application 18/00626/FUL.

6.2 Borough Environmental Health Officer – No objection subject to the imposition of a condition limiting the hours of work during the construction phase of the development.

6.3 Structural Engineer – Has been to site with the planning Officer to observe works to retaining structures. Satisfied that these are following the recommendations of the approved details.

7.0 SUMMARY OF THIRD PARTY RESPONSES RECEIVED

7.1 There have been 5 letters of objection received on the application including a request to speak. The comments are summarised under the following themes:

7.2 Development Complaints:

- Developer knowingly and deliberately breached their planning permission
- Contractor vehicles blocking access for residents using Milton Street
- Prescribed working hours are being breached
- The carriageway of Milton Street has been damaged
- Developer did not consult with residents prior to making alterations
- Dissatisfaction with lack of enforcement action against breaches of working hours
- Open fires at night, the use of a noisy generator at night and over the weekend, and fly tipping from the development onto resident owned land have also been reported to Tameside Council. When the matter of dumping of construction waste was raised with Peter Pritchard, instead of stopping the dumping the developer responded by dumping more waste.

- The proposal set a precedence for further amendments
- Concerns in relation to the behaviour/conduct of the developer

7.3 **Amenity**

- Development as being constructed has impacts upon amenity above the previous approval.
- Increased sense of enclosure to rear gardens on Carrhill Road properties resulting in a loss of privacy
- Levels of outlook will be compromised (31 Carrhill Road) by the enclosure of the two dwellings closer to one another. This will have an overbearing impact upon residents who will have an outlook onto walls and roof.
- Adverse impact on quality of life

7.4 **Land Ownership**

- Believe there has been encroachment beyond the applicants ownership boundary

7.5 **Plans**

- Discrepancies between measurements on the plans the property is also located closer towards Carrhill properties

7.6 **Previous decision**

- The two proposed dwelling houses are dominant, overwhelming, overbearing and repressive to the existing dwellings in the area, and will have a significant adverse impact on our lives and the lives of our neighbours; and yet planning permission was granted despite the development offering very little, if any, benefit to Tameside Council in terms of the local plan, area regeneration, and housing stock.
- Permission should never have been passed in the first place. Two dwellings in an already overcrowded area in which there only access is past a school

8.0 **ANALYSIS**

8.1 National Planning Practice Guidance promotes flexible options for planning permissions. The Government's Planning Practice Guidance states that there is no statutory definition of a 'minor material amendment'. This is because it will be dependent on the context of the overall scheme – an amendment that is minor-material in one context may be material in another. The Local Planning Authority must be satisfied that the amendment sought is a minor-material in order to grant an application. As a guide a minor-material amendment is not likely to include any amendment where its scale and/or nature results in a development which is not substantially different to the one which has been approved.

8.2 NPPG advises that; 'In deciding an application under section 73, the local planning authority must only consider the disputed condition's that are the subject of the application – it is not a complete re-consideration of the application'. The original planning permission will continue to exist.

8.3 Where an application under section 73 is granted, the effect is the issue of a new planning permission, sitting alongside the original permission. A decision notice for the grant of planning permission under section 73 repeats the relevant conditions from the original planning permission.

9.0 **PRINCIPLE OF DEVELOPMENT**

9.1 The principle of the sites redevelopment for 2 split level properties accessed from Milton Street has been established on the granting of planning permission 18/00626/FUL. The development is advancing and the application seeks retrospective permission for the repositioning of one of the approved dwellings

(Stephen Prichard Dwelling) which is located on the right hand side of the development site.

- 9.2 The issues to be assessed in the determination of this planning application are:
- The impact of the revisions to the previously approved scheme on the residential amenity of neighbouring properties
 - The impact of the revisions to the previously approved scheme on the character of the surrounding area.
- 9.3 The principle of the development is firmly established originally by the approval by the Planning Inspectorate at appeal and by later permissions as detailed within the Planning History covered in section 3.0 of this report. It remains that local residents have concerns over the principle of the development, significant weight is afforded to the extant permission, this is not an opportunity to revisit the principle of developing the site for 2 dwellings, consideration can and only be given to the acceptability of the amendments.
- 9.4 There is a separate enforcement investigation being undertaken of the alleged breaches raised within the third party representations. The site continues to be monitored by the Planning Department and there is regular dialogue with the developer on this matter and residents will be updated from the Enforcement Officer once the investigations have been concluded. To date, breaches have not tilted the expediency balance of taking formal action.
- 9.5 The developer has submitted the application to address the variation to the approved plans. They have been made explicitly aware that any further works undertaken are done so at risk and may be abortive if planning permission is not forthcoming. The developer is aware of the associated risks but has stated their preference to complete works to safeguard the site stability.

10.0 RESIDENTIAL AMENITY

- 10.1 The minimum separation distances are set out in SPD policy RD5 which also makes allowances for degree of angle, height of buildings and differences in site levels. There is a significant fall in levels across the site which means that the dwelling occupies a lower floor level to the existing properties located to the rear. There is no encroachment to the rear boundary, the property properties would be positioned on the same axis as originally approved albeit closer to the corresponding dwelling of the approved development by 1.5m
- 10.2 The test of the application is whether this would be materially more harmful than what was granted planning permission on the extant permission. In response to concerns over the encroachment of the dwelling within the site this will clearly reduce the separation with the corresponding dwelling that has approval. Representations have cited concerns over the loss of privacy that would occur from the added sense of enclosure. The gables of the 2 dwellings would be separated by 4m and this separation gap would largely coincide with the rear outlook from no.31 Carrhill Road, sight lines to this and neighbouring properties would not be interrupted as the ridge height of the property would not be increased as a result of the amendment. It remains that due to the split level design the outlook of these residents would be uninterrupted and levels of privacy would be almost identical to that previously established. It cannot be demonstrated that the revised position of the dwelling would be materially harmful to the occupants of the nearest dwellings over and above the extant position.
- 10.3 Subject to the safeguarding of the recommended conditions it is considered that levels of amenity and overall privacy of existing residents would remain acceptable.

11.0 CHARACTER

- 11.1 Policy H10 is clear in its expectations of achieving high quality development that enhances a locality and contributes to place making. In terms of design the amendment relates to the position of the property only and all other design matters would not be altered. The materials, fenestration, footprint, height, landscaping and access would remain unchanged from that established on the extant approval.
- 11.2 The design of the dwelling effectively remains unchanged. The revised position of the dwelling would not result in a detrimental impact in the character of the development and would represent a modest change to the appearance of the extant scheme.

12.0 HIGHWAYS

- 12.1 No changes are proposed to the site's access or parking arrangements or that of the internal site layout. The proposals do not raise any further issues for consideration to those of the approved development whereby there would be no changes to the number of vehicles travelling to / from the site, nor will there be a materially different car parking demand or servicing requirement. Relevant conditions were applied on the extant permission relating to the provision of the parking and access improvements, these would be carried over onto the present scheme. As such, no objections are raised to amending the extant permission and the application continues to accords with UDP Polices T1, T7 and T10.

13.0 TREES & ECOLOGY

- 13.1 No additional trees would be removed from the site as a result of the amendments. The landscaping would not be materially different from that of the extant permission which has established the extent of replanting. It is still considered that the proposed development and eventual landscape proposals will enhance both the development and character of the area and would comply with UDP policy N5

14.0 DRAINAGE & GROUND CONDITIONS

- 14.1 Details of the drainage design have been agreed by the original planning condition and United Utilities have approved connect to their network. The changes do not deviate from the principles established at the site and there would be no material difference in run off area associated with the development. Likewise an appropriate technical assessment has been undertaken of the ground conditions, and this has informed the design of retaining structures and foundations, these have been appropriately reviewed and approved by the Councils Structural Engineer. Amendments would not give rise to any stability issues.

15.0 CONCLSUION

- 15.1 The amendments are of an acceptable scale which does not conflict with the principles established upon the original planning consent. The revised siting of the dwelling would be not be demonstrably injurious to levels of residential amenity, or the character of the locality, than the relationship established on the extant permission. The alterations are considered to be minor in nature and fall within the scope of a section 73 application. In the absence of material considerations which would suggest otherwise it is recommended that approval is granted for the minor material amendment.

16.0 RECOMMENDATION

Grant planning permission subject to the following conditions:

1. The development must be begun not later than the expiration of three years beginning with the date of this permission.

2. The development hereby approved shall be carried out in accordance with the following approved plans/details:

1:1250 site location plan

Proposed Plans & Elevations Dwg no.s 5435 S P1/17, P2/17, P3/17, P4/17, P5/17, P6/17, P7/17, P8/17, P9/17, P10/17, P11/17, P12/17, P13/17, P14/17,

3. No development, other than site clearance and site compound set up, shall commence until such time as the following information has been submitted in writing and written permission at each stage has been granted by the Local Planning Authority.

- i) A preliminary risk assessment to determine the potential for the site to be contaminated shall be undertaken and approved by the Local Planning Authority. Prior to any physical site investigation, a methodology shall be approved by the Local Planning Authority. This shall include an assessment to determine the nature and extent of any contamination affecting the site and the potential for off-site migration.

- ii) Where necessary a scheme of remediation to remove any unacceptable risk to human health, buildings and the environment (including controlled waters) shall be approved by the Local Planning Authority prior to implementation.

- iii) Any additional or unforeseen contamination encountered during development shall be notified to the Local Planning Authority as soon as practicably possible and a remedial scheme to deal with this approved by the Local Planning Authority.

- iv) Upon completion of any approved remediation schemes, and prior to occupation, a completion report demonstrating that the scheme has been appropriately implemented and the site is suitable for its intended end use shall be approved in writing by the Local Planning Authority.

The discharge of this planning condition will be given in writing by the Local Planning Authority on completion of the development and once all information specified within this condition and other requested information have been provided to the satisfaction of the Local Planning Authority and occupation/use of the development shall not commence until this time, unless otherwise agreed by the Local Planning Authority.

4. As per the recommendations of the submitted Phase 1 Desk Study REF GRM Development Solutions Ref P8353 Prior to commencement of development a ground intrusive investigation and risk assessment to assess the nature of the sites ground conditions shall be submitted to and approved in writing by the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The report of the findings must include:

- (i) a survey of the ground conditions and geotechnical characteristics;

- (ii) an assessment of the potential risks to:

- property (existing or proposed)
- adjoining land,
- groundwaters and surface waters,

- (iii) an appraisal of slope stability, engineering options, and details of the preferred option(s).

This must be conducted in accordance with BS10175:2011 and BS5930:215 and comprise of either window sampling or trial potting to confirm the sites ground conditions.

The development shall be carried out in accordance with the approved report including any engineering recommendations.

5. Notwithstanding any description of materials in the application, no above ground construction works shall take place until samples and/or full specification of materials to be used: externally on the buildings; in the construction of all boundary walls, fences and railings; and, in the finishes to all external hard-surfaces have been submitted to, and approved in writing by, the local planning authority. Such details shall include the type, colour and texture of the materials. Development shall be carried out in accordance with the approved details.
6. Prior to the first occupation of any of the dwellings hereby approved, details of the boundary treatments to be installed as part of the development shall be submitted to and approved in writing by the Local Planning Authority. The details shall include scaled plans of the treatments and details of the construction material and the finish to be applied. The boundary treatments for each dwelling shall be installed in accordance with the approved details prior to the first occupation of that dwelling.
7. No development shall commence until such time as a Construction Environment Management Plan has been submitted to and approved in writing by the Local Planning Authority. This shall include details of:
 - Wheel wash facilities for construction vehicles;
 - Arrangements for temporary construction access;
 - Contractor and construction worker car parking;
 - Turning facilities during the remediation and construction phases;
 - Details of on-site storage facilities;The development shall be carried out in accordance with the approved Construction Environmental Management Plan.
8. No construction or site clearance works shall take place until a scheme for the management of deliveries and vehicular movements associated with such works, avoiding periods when children are entering or leaving the school, has been submitted to and agreed in writing by the local planning authority.
9. 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.
10. The development shall not commence until details of the road works and traffic management measures necessary to secure satisfactory access to the site have been submitted to and approved in writing by the Local Authority. The approved works shall be completed to the satisfaction of the Local Planning Authority prior to the occupation of any part of the development.
11. Prior to the first occupation of any of the dwellings hereby approved, details of measures to be employed to ensure appropriate management and maintenance of the trees outside of the curtilage of any of the properties within the development shall be submitted to and approved in writing by the Local Planning Authority. The measures shall include provision for the replacement of any tree that is damaged, diseased or dies within the next planting season. The development shall be maintained in accordance with the approved details.
12. Prior to the commencement of any development, a surface water drainage scheme, based on the hierarchy of drainage options in the National Planning Practice Guidance with evidence of an assessment of the site conditions shall be submitted to

and approved in writing by the Local Planning Authority. The surface water drainage scheme must be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards. Foul and surface water shall be drained on separate systems and in the event of surface water draining to the public surface water sewer, details of the flow rate and means of control shall be submitted. The scheme shall include details of on-going management and maintenance of the surface water drainage system to be installed. The development shall be completed in accordance with the approved details and retained and maintained as such thereafter.

13. The car parking spaces to serve the development hereby approved shall be laid out as shown on the approved proposed site plan (Drg no. 5435S P9/10), prior to the first occupation of any of the dwellings hereby approved and shall be retained free from obstruction for their intended use thereafter.
14. No tree felling or vegetation removal shall take place during the optimum period for bird nesting (March to July inclusive) unless otherwise agreed in writing with the Local Planning Authority.
15. No development above ground level shall commence until a ecological walkover survey has been conducted. The survey shall make appropriate recommendations for Biodiversity enhancement measures to be installed as part of the development hereby approved has been submitted to and approved in writing by the Local Planning Authority. The details shall include a specification of the installations and scaled plans showing their location within the development. The approved enhancement measures shall be installed in accordance with the approved details, prior to the first occupation of any of the dwellings and shall be retained as such thereafter.
16. No development shall commence until tree protection measures to meet the requirements of BS5837:2012 have been installed around all of the trees on the site to be retained (including the trees protected by Tree Preservation Orders within the site and adjacent to the boundaries of the land.) These measures shall remain in place throughout the duration of the demolition and construction phases of the development, in accordance with the approved details.
17. The driveways to serve each of the dwellings hereby approved shall be constructed from a bound material and on a level which prevents displacement of materials or surface water onto the highway and shall be retained as such thereafter.
18. None of the dwellings hereby approved shall be occupied until details of the bin storage arrangements to serve the development have been submitted to and approved in writing by the Local Planning Authority. The details shall include scaled plans showing the location of the bin stores and elevations of the means of enclosure and shall provide details of the construction material and colour finish. The bin storage arrangements for each shall be erected in accordance with the approved details, prior to the first occupation of that dwelling and shall be retained as such thereafter.
19. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 and subsequent amendments express planning consent shall be required for any development referred to in Schedule 2, Part 1, Class A, Class B, Class C and Class E of that Order.

