

CONDITION 2 TO BE VARIED

IMPROVED LAYOUT TO AVOID MAIN ROOMS FACING UNSIGHTLY EXISTING COMMERCIAL OPERATIONS AND ASSOCIATED VEHICULAR MOVEMENTS. THE SUBMITTED DRAWINGS SHOW THE PREFERRED LAYOUT FAVOURED BY THE DEVELOPER, SELLING AGENT AND DESIGNER. THERE IS NO JUSTIFICATION FOR PLOTS 1-4 TO BE BLIGHTED BY HAVING THE FRONT OF THE PROPERTIES FACING THE COMMERCIAL ACCESS AND PREMISES.

PROPOSED CONDITION 2

The development hereby approved shall be carried out strictly in accordance with the amended plans (Nos. 02, 10, Site Survey, Coal Mining Risk Assessment dated 4th February 2021, Arboricultural Report and Impact Assessment dated June 2021) and specifications as approved unless required by any other conditions in this permission.

CONDITION 10 TO BE REMOVED

THIS SITE IS ONE OF A NUMBER OF SIMILAR FORMER GARAGE SITES THAT HAVE BEEN SOLD BY BARNESLEY M.B. C. AT AUCTION AND HAVE BEEN REDEVELOPED. THE REDEVELOPMENT HAS BEEN FOR RESIDENTIAL DEVELOPMENT.

EXAMPLES OF THE TOWN & COUNTRY PLANNING APPLICATIONS ARE LISTED BELOW

2014/1410 Hillside Mount

2020/0634 Martin Croft

R4408/W20/3254559 Martin Croft

2020/0409 Woodland Avenue

2017/0672 Lynton Place

Site at Clayroyd 2019/0408

Site at Hardwick Crescent 2019/0947

Site at Ravenfield Drive 2019/0954

Site at Heysham Way 2019/0534

NONE OF THE PLANNING APPROVALS FOR ALL OF THE ABOVE SITES REQUIRED A PHASE 1 STUDY. THERE IS NO EVIDENCE THAT ANY OTHER APPLICATIONS FOR SIMILAR SITES HAS REQUIRED A PHASE 1 STUDY TO BE PROVIDED.

THERE IS NO EVIDENCE THAT ANY DEVELOPMENT OF THE FORMER GARAGE SITES HAS RAISED ANY CONTAMINATION ISSUES DURING CONSTRUCTION.

DUE TO THE SUCCESSFUL REDEVELOPMENTS OF SIMILAR SITES WITHOUT PHASE 1 STUDIES OR INCIDENTS ARISING FROM CONTAMINATION ETC THERE IS NO REASON FOR THE LPA TO TREAT THE SITE AS 'CONTAMINATED'.

THEREFORE, THIS CONDITION IS INAPPROPRIATE AND SHOULD BE REMOVED.

CONDITION 14 TO BE REMOVED.

THE CONDITION IS VAGUE AS THE ADOPTED HIGHWAY NETWORK IS INFINITE.

IF THE LOCAL HIGHWAY WAS TO BE USED EXCLUSIVELY BY THE DEVELOPER'S CONSTRUCTION TRAFFIC THE CONDITION MAY BE APPLICABLE. HOWEVER, BLOEMFONTEIN STREET, THE SITE ACCESS AND BACK ROAD THAT SERVES THE REAR OF THE PROPERTIES ALONG BLOEMFONTEIN STREET IS USED BY RESIDENTS, COMMERCIAL VEHICLES AND REFUSE COLLECTION VEHICLES. THE DEVELOPER HAS NO CONTROL OVER THIS

THE DEVELOPER CANNOT BE EXPECTED TO BE ACCOUNTABLE FOR ANY DAMAGE TO THE HIGHWAY DURING THE CONSTRUCTION PERIOD.

CONDITION 16 TO BE REMOVED OR VARIED

PRIOR TO THE DECISION ON THE APPLICATION THE LPA WOULD NOT APPROVE THE SCHEME UNLESS THE DEVELOPER AGREED TO DEDICATE AN AREA OF THE SITE FOR BIN STORAGE FOR DWELLINGS BEYOND THE SITE BOUNDARY.

IT WAS POINTED OUT THAT THE RESPONSIBILITY FOR PROVIDING BIN STORAGE FOR PROPERTIES BEYOND THE SITE BOUNDARY SHOULD NOT REST WITH THE DEVELOPER.

THE PROPOSED DEVELOPMENT DOES NOT IMPEDE THE EXISTING BIN STORAGE OR COLLECTION ARRANGEMENTS FOR OTHER PROPERTIES.

THE LPA DID NOT PROVIDE ANY EVIDENCE TO SUGGEST OTHERWISE.

NEVERTHELESS, THE LPA USED THE PROVISION OF THE BIN STORES FOR PROPERTIES, WHO'S BIN COLLECTION ARRANGEMENTS WERE NOT AFFECTED, AS A REQUISITE TO OBTAIN APPROVAL. THIS WAS AND REMAINS UNREASONABLE.

DUE TO BMBC INTER-DEPARTMENTAL PROBLEMS REGARDING THIS MATTER THE ISSUE DELAYED THE ISSUING OF AN APPROVAL TO AN UNACCEPTABLE LEVEL. THIS WAS HAVING AN IMPACT UPON THE DEVELOPER'S BUSINESS SO IT WAS AGREED THAT, DESPITE THE JUSTIFIED OBJECTIONS, THE DEVELOPER AGREED TO ALLOW BIN STORAGE ON A SECTION OF THE SITE.

IT WAS MADE CLEAR BY THE DEVELOPER THAT NO SURFACING OR FUTURE MAINTENANCE SHOULD BE THE RESPONSIBILITY OF THE DEVELOPER. THIS IS NOT UNREASONABLE AS LEGALLY ANY OBLIGATION TO MAINTAIN BIN STORAGE FOR THIRD PARTIES WOULD PASS TO THE FUTURE RESIDENTS OF 8 INDIVIDUAL DWELLINGS. IT IS LIKELY THAT THE IMPOSITION OF MANAGEMENT AND MAINTENANCE COSTS FOR THIRD PARTIES WOULD NOT SIT WELL WITH POTENTIAL PURCHASERS.

FURTHER, THE BIN STORE MAY BE ABUSED BY LOCALS WHO HAVE NO RESPONSIBILITY OR INTEREST IN MAINTAINING THE AREA. IT MAY ALSO RESULT IN THE UNAUTHORISED USE OF THE BIN STORE AREA OR DAMAGE TO THE FABRIC ON THE NEW DEVELOPMENT

THE ISSUE OF PROVIDING BIN STORAGE SPACE FOR THIRD PARTIES WAS NOT INCLUDED IN THE SALES PARTICULARS, THE LEGAL AGREEMENTS OR TITLE DOCUMENTS.

THE REQUIREMENT WAS NOT RAISED IN THE PRE-APPLICATION ENQUIRY.

THE LPA DID NOT PROVIDE ANY JUSTIFICATION FOR THE ENCROACHMENT OF FACILITIES SERVING OTHER PROPERTIES ONTO THE SITE OWNED BY THE DEVELOPER.

THE LPA DISREGARDED THE MATTERS RAISED. OFFICERS ACCEPTED THE GENEROSITY OF THE DEVELOPER BY ALLOWING LAND TO BE USED BASED ON SPURIOUS ALLEGATIONS. THE INJUSTICE WAS THEN COMPOUNDED BY ADDING CONDITION 16 THAT DOES NOT LIMIT THE REQUIREMENTS TO THE BINS STORES TO BE PROVIDED TO SERVE NEW PROPERTIES ON THE SITE.

THE CONDITION SHOULD BE REMOVED OR VARIED TO RELATE TO THE ON-SITE BIN AREAS FOR THE NEW PROPERTIES ONLY.