



GRANT OF PLANNING PERMISSION

TOWN AND COUNTRY PLANNING ACT 1990

APPLICATION NO. 2009/0124

To VHE Construction PLC
Phoenix House
Hawthorne Park
Coal Road
Leeds
LS14 1PQ

DESCRIPTION Construction of a balancing pond
LOCATION Land off Weetshaw Lane, Cudworth, Barnsley

Permission is granted for the proposals which were the subject of the Application and Plans registered by the Council on 16 April 2009 and described above.

The approval is subject on compliance with the following conditions:

- 1 The development hereby permitted shall be begun within 3 years from the date of this permission.
Reason: To comply with the requirements of Section 91 (as amended) of the Town and Country Planning Act 1990.
- 2 The Local Planning Authority (LPA) shall be notified in writing of the date of commencement at least 7 days, but not more than 14 days, prior to the commencement of the development.
Reason: To enable the LPA to monitor compliance with the conditions of the planning permission.
- 3 The applicant shall be responsible for ensuring that, from the commencement of the development, a copy of this permission, including all plans and documents hereby approved and any plans or documents subsequently approved in accordance with the permission, shall always be available at the site for inspection by the LPA during normal working hours.
Reason: To ensure that the development is carried out in accordance with the approved details.

The grant of this consent does not constitute or imply permission, approval or consent by the Local Authority for any other purpose.

Signed *Stephen Moralee*
Assistant Director, Planning and Transportation

Dated 14 July 2009

- 4 The development hereby permitted shall only be carried out in accordance with the following documents, unless otherwise agreed in writing by the LPA, or where amendments are made pursuant to the other conditions below:
- a) Drawing number VHE508/WL PD PA RL/001 Rev 0 - Cudworth and West Green Bypass - Red Line Boundary Construction of Balancing Pond, Land Off Weetshaw Lane, Cudworth, Barnsley, Application Number 2009/0124, dated 10/02/09;
 - b) Drawing Number VHE508/WL PD PA/001 Rev 1 - Cudworth and West Green Bypass - Site Survey of Balancing Pond, Land Off Weetshaw Lane, Cudworth, Barnsley, Application Number 2009/0124, dated 10/02/09;
 - c) Drawing number H - 05-006 Rev P2 - Cudworth and West Green Bypass - Proposed Highways Drainage, Proposed Balancing Pond Plan, Sections and Details dated Nov.2008;
 - d) Drawing number H - 05-005 Rev P3 - Cudworth and West Green Bypass - Proposed Highways Drainage dated Oct.2008;
 - e) Drawing number D/L/1277/23 - Cudworth and West Green Bypass -Weetshaw Lane Pond Planting Plan dated Feb 09;
 - f) Supporting Planning and Design and Access Statements accompanying the planning application form;
 - g) Works Method Statement attached to letter from VHE Land Regeneration Services dated 2 March 2009 and received by Barnsley MBC on 6 April 2009; and
 - h) Weetshaw Balancing Pond - Habitat Creation statement attached to letter from VHE Land Regeneration Services dated 19 May 2009 and received by Barnsley MBC on 20 May 2009.
- Reason: For the avoidance of doubt.**
- 5 Unless otherwise agreed in writing by the LPA, all site works including deliveries and maintenance shall be limited to the hours between 0730 hours and 1730 hours on Monday to Friday, 0730 hours and 1200 hours on Saturdays, and not at all on Sundays, Bank and Public Holidays.
- Reason: In the interests of local amenity.**
- 6 No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the LPA, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters.
- Reason: To prevent pollution of the adjacent watercourse, a tributary of Pools Dyke from potential contaminants in the Weetshaw Lane landfill area.**
- 7 Prior to the commencement of development, a scheme shall be submitted to, and approved in writing by, the LPA, identifying measures to be taken to ensure that all vehicles leaving the site are in such condition as not to leave dust, slurry or mud on the highway. The development shall thereafter be undertaken in accordance with the details of the approved scheme. Notwithstanding such arrangements, should any material nevertheless be accidentally deposited on the public highway, the operator shall immediately remove such material, and in any event, during the same working day.
- Reason: In the interests of highway safety.**

- 8 Prior to the commencement of the development a scheme shall be submitted to, and approved in writing by, the LPA describing the methodology to be employed to suppress dust arising from the operations in the form of a Dust Action Plan. Such measures may include water bowsers, sprayers mobile and fixed, or similar equipment, regulating the speed of vehicles on the site, and such other steps as are appropriate. The operations shall thereafter be undertaken in complete accordance with the approved scheme. At such times, when due to site conditions the prevention of dust is not possible all site works contributing to the dust problem shall cease until such time as conditions improve to allow a resumption of works.
Reason: In the interests of local amenity and to protect the environment.
- 9 Dust monitoring shall be undertaken in accordance with a methodology and scheme that shall be submitted to, and approved in writing by, the LPA prior to the commencement of development. The results of any dust monitoring shall be available for the inspection of the LPA on request.
Reason: In the interests of local amenity and to protect the environment.
- 10 Prior to the commencement of the development a scheme shall be submitted to, and approved in writing by, the LPA describing the methodology to be employed to control and keep to a minimum noise arising from the operations in the form of a Noise Action Plan. The operations shall thereafter be undertaken in complete accordance with the approved scheme.
Reason: In the interests of local amenity.
- 11 Noise monitoring shall be undertaken for the duration of the construction phase of the development in accordance with a scheme that shall be submitted to, and approved in writing by, the LPA prior to the commencement of development. The results of any noise monitoring shall be available for the inspection of the LPA on request.
Reason: In the interests of local amenity.
- 12 Any visibly contaminated, noxious or odorous material encountered on site during the development shall be excavated and stockpiled at the site and the LPA shall be informed immediately. Unless otherwise agreed in writing by the LPA, information on the nature and degree of contamination of this material and a scheme to prevent any pollution shall be submitted to, and agreed in writing by, the LPA within 2 weeks of its excavation. The development thereafter shall be carried out in accordance with the approved scheme.
Reason: To protect the environment and ensure that the site is suitable for the proposed use.
- 13 Notwithstanding the submitted balancing pond scheme, unless otherwise agreed in writing by the LPA, prior to the commencement of development, a revised scheme including a detailed specification for the access track, aimed at enhancing ecological objectives shall be submitted to, and approved in writing by, the LPA. The development thereafter shall be carried out in accordance with the approved detailed scheme.
Reason: To ensure that ecological objectives are maximised and that a detailed specification for the access tracks is submitted and implemented in accordance with the approved details.
- 14 Unless otherwise agreed in writing by the LPA, all planting and seeding as approved shall be carried out in the first planting and seeding season following the completion of development. Any trees or shrubs planted as part of the scheme which are removed or, in the opinion of the LPA, become severely damaged or are found to be dying or seriously diseased within five years of planting shall be replaced within the next available planting season with trees or shrubs of a similar size and species to the satisfaction of the LPA.
Reason: To ensure that the approved landscape/planting scheme is implemented and established in the interests of visual amenity.

- 15 Unless otherwise agreed in writing by the LPA, within 6 months of the date of the commencement of development, a landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, shall be submitted to and approved in writing by the LPA. Landscape management shall be carried out in accordance with the approved plan.
Reason: To ensure the management of landscaped areas in the interests of visual amenity.
- 16 The balancing pond shall not be brought into use until the security fence has been installed and made secure. The security fencing shall be retained as such thereafter, unless otherwise agreed in writing by the Local Planning Authority.
Reason: In the interest of public safety.

Reason(s) for Granting Permission

- 1 Unique The Borough Council is of the opinion that the proposed development gives rise to no material harm, is in accordance with Government policy and guidance, and the policies in the Regional Spatial Strategy for Yorkshire and the Humber and the Barnsley Unitary Development Plan as set out below:

Government Policy and Guidance
PPS9: Biodiversity and Geological Conservation
PPS23: Planning and Pollution Control

Regional Spatial Strategy
ENV8: Biodiversity

Barnsley Unitary Development Plan
ES7: Contamination
GS15 and 16: Biodiversity
GS34: Urban Greenspace
T1, T2 and T4: Highways

Furthermore, having considered all planning matters raised by consultees, there are no other material considerations that indicate that the decision should be made otherwise and the balancing pond on the scale and in the location proposed is therefore considered acceptable. It is considered that the design of the proposed development is generally appropriate to its setting and that any potential harm during construction and operational activities to the living conditions of neighbouring residents would reasonably be mitigated by the imposition of the attached conditions.

Informative(s)

- 1 The development hereby permitted must be carried out in accordance with the Conditions attached to this planning permission and any approved plans and details. Failure to implement the permission in accordance with the planning conditions and approved details may render the development unlawful and could lead to enforcement action and prosecution. If at any stage, it becomes necessary to vary any of the approved plans or details you should contact the Local Planning Authority in advance of implementing any changes to ascertain whether the proposed changes require any further planning approval.
- 2 The proposed development lies within an area which could be subject to current coal mining or hazards resulting from past coal mining. Such hazards may currently exist, be caused as a result of the proposed development, or occur at some time in the future. These hazards include:
 - Collapse of shallow coal mine workings;
 - Collapse of, or risk of entry into, mine entries (shafts and adits);
 - Gas emissions from coal mines including methane and carbon dioxide;
 - Spontaneous combustion or ignition of coal which may lead to underground heatings and production of carbon monoxide;
 - Transmission of gases into adjacent properties from underground sources through ground fractures;
 - Coal mining subsidence; and
 - Water emissions from coal mine workings.

Applicants must take account of these hazards which could affect stability, health & safety, or cause adverse environmental impacts during the carrying out of their proposals and must seek specialist advice where required.

Additional hazards or stability issues may arise from development on or adjacent to restored opencast sites or quarries and former colliery spoil tips.

Potential hazards or impacts may not necessarily be confined to the development site, and Applicants must take advice and introduce appropriate measures to address risks both within and beyond the development site. As an example the stabilisation of shallow coal workings by grouting may affect, block or divert underground pathways for water or gas.

In coal mining areas there is the potential for existing property and new development to be affected by mine gases, and this must be considered by each developer. Gas prevention measures must be adopted during construction where there is such a risk. The investigation of sites through drilling alone has the potential to displace underground gases or in certain situations may create carbon monoxide where air flush drilling is adopted.

Any intrusive activities which intersect, disturb or enter any coal seams

- 3 The Environment Agency advises that a risk assessment should be carried out to ensure that there is no potential for leaching of contaminants that would cause pollution of controlled waters during construction or operation of the pond.
- 4 Under the terms of the Land Drainage Act 1991, the prior written consent of the Environment Agency is required for any proposal to divert, culvert, or otherwise obstruct the flow in any ordinary watercourse (including the provision of a connection to a culvert).

NOTES:-

Appeals to the Secretary of State

If you are aggrieved by the decision of the Council to grant permission for the proposed development subject to conditions then you can appeal to the Secretary of State for the Environment, Transport and Regions under Section 78 of the Town and Country Planning Act. If you want to appeal, then you must do so within six months of the date of this notice, using a form which you can get from The Planning Inspectorate, Room 3/24 Hawk Wing, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN.

The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State need not consider an appeal if it seems to him that the Local Planning Authority could not have granted planning permission for the proposed development or could not have granted it without the conditions it imposed, having regard to the statutory requirements, to the provisions of the development order and to any directions giving under the order. In practice, the Secretary of State does not refuse to consider appeals solely because the Local Planning Authority based its decision on a direction given by him.

Purchase Notices

If either the Local Planning Authority or the Secretary of State for the Environment, Transport and Regions refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor can he render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted. In these circumstances, the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of part VI of the Town and Country Planning Act 1990.

Compensation

In certain circumstances compensation may be claimed from the Local Planning Authority if permission is refused or granted subject to conditions by the Secretary of State on appeal or on reference to the application to him. These circumstances are set out in Sections 114 and related provisions of the Town and Country Planning Act 1990.