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Planning permission in principle at The Walled Garden, Oakfield.

Reference Number: 16/02183/PPP

Dear Sirs,

I am requesting that conditions 3 and 5 imposed be reviewed.

This outline planning took a year to gain.

Condition 3.

1. The demolition of the cottage was not discussed with the applicant.
2. The demolition and removal of the cottage is unnecessary.
3. There is a financial implication for the client to remove the building and clear the site.
4. The removal of material from the site adds to road problems.
5. The outline proposal has taken an unfair time to complete and the condition imposes a further time burden on the project.
6. The property has a value to the estate and should not be discarded. It could be used as ancillary storage on the estate and the roof could be repaired.

Papers relied upon;

Please see Gov.uk, use of planning conditions 06/03/14

Application of the 6 tests in National Planning Policy Framework

Paragraph 206.

Planning conditions should only be imposed where they are:

1. Necessary;
2. Relevant to planning and;
3. To the development to be permitted;
4. Enforceable;
5. Precise and;
6. Reasonable in all other aspects.

“Where it is practicable to do so, such conditions should be discussed with the applicant before permission is granted to ensure that unreasonable burdens are not being imposed.”

“Care should be taken when considering using conditions that prevent any development authorised by the planning permission from beginning until the condition has been complied with. This includes conditions stating that ‘no development should take place until...’ or ‘prior to any works starting on site...’

“Any proposed condition that fails to meet any of the 6 tests should not be used.”

“Conditions which place unjustifiable and disproportionate financial burdens on an applicant will fail the test of reasonableness”

“It is best practice for a local planning authority to agree proposed conditions with an applicant before a decision is taken, and as early in the planning application process as possible.”

Also gov.scot; Circular 4/1998

With respect to “Notes to applicant (1) Relative to application Number 16/02183/PPP

“5. Please be advised that the demolition of Auchindarroch cottage requires to be the subject of a separate application to the Planning Authority for Prior Approval for the Demolition of a Dwellinghouse.”

Circular 4/1998 states; “44. Authorities should seek to ensure, where possible that conditions other than those relating to reserved matters, are self contained and do not require further approvals to be obtained before development can begin.”

Also, “35. Even where a condition would not be so unreasonably restrictive as to be ultra vires, it may still be so onerous that as a matter of policy it should be avoided.”

Also, “7. Even before an application is made, informal discussions between the applicant and the planning authority can be very helpful. They can allow the applicant to formulate the details of a projects o as to take full account of the requirements of the authority and assist the authority in making sure that those requirements are reasonable in the light of the development proposed. Discussion can also reduce the need for conditions, enable the authority to explore the possible terms of the conditions which remain necessary and ensure that these are tailored to the circumstances of the case.”

And “8. Slavish or uncritical application of conditions is wholly inappropriate.”

The Planning Conditions specify that all demolition material be “removed from the estate grounds”

If Auchindarroch cottage did require to be demolished this would also be unreasonable for several reasons.

1. There are new and existing roads within the estate which would benefit from the use of crushed and screened material.
2. It is not an eco friendly policy to take good material away from the estate for land fill and then import new material.
3. On transport terms needless traffic movements are not good for the environment. It should be deemed satisfactory to use all demolition materials within the estate for normal use. Recycling is positively good.

At a pre application meetings with Peter Bain and Derek Hay it was intimated to the applicant that one new house at Oakfield would be tolerated by the Planning Authority.

Condition 5.

A method statement for an archaeological watching brief is required.

What evidence is there for this condition to be imposed?

Clarification is required. This condition seems to be based on a letter from The West of Scotland Service dated 23rd August 2016.

The requirement for a method statement for the archaeological watching brief is specifically associated with the access road close to some marker stones and not to the proposed house site.

“The watching brief would be required on the initial stage of any ground disturbance associated with upgrade of the access track in the vicinity or the recorded position of the standing stones, particularly in the areas where the existing track would need to be widened- realigned”

...”If it is the case that the existing track can be upgraded by simply depositing gravel on the current route without any alteration or ground disturbance then I would accept that there would be no need for monitoring on this element”

As far as the ground behind the walled garden, “Although the new house proposed under the current application would be located immediately to the north of the walled garden of the estate, I would not consider construction of a new building on this site to raise a particular archaeological issue in itself “

Some clarification of this planning condition is required as it does not apply to the house site, and as no work will be done to the access track at the noted area, other than the improving of the surface. This condition is therefore unnecessary.

Furthermore, after the planning application was submitted, Mr Shewan suggested to architect Caroline Slater in his email 11/11/16, that a Woodland Management Plan and a Garden Management Plan would be required.

Both these Plans were undertaken, at some expense, and it seems they were actually not required for the application.

What was the purpose of these demands?

I request that the appeal committee please remove conditions 3. And 5. from the Planning Consent.

Kind regards,

Jane Renfrew