

MICKLEFIELD PARISH COUNCIL

The Case Officer
Planning Services
Leeds City Council

Ms Joanne Hebden
Clerk & RFO to the Council
Micklefield Parish Council

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Date : 1st September 2020

PLANNING APPLICATION : 20 / 02915 / FU / E

Applicant : Mr Darren Hirst of 'Willowdene', Ninelands Lane, Garforth, Leeds, LS25 1NT.
Planning Agent : Rose Consulting (Adrian Rose), 16 Rhodesia Avenue,
Halifax, HX3 0PB.

Location : Former School Site, Great North Road, Micklefield near Leeds, LS25 4AF.

Description : Full Planning for Residential Development of 9 Houses (8 four-bedroom and 1 five-bedroom) with Vehicular Access direct from the Great North Road.

Dear Sir,

At the Ordinary meeting of Micklefield Parish Council held on Thursday 2nd July 2020, it was resolved that the Parish Council:

- (A) Acknowledges the legitimate basis for the submission of a Full Planning Application for residential development on this site, which already has Outline Planning Approval for housing, *in principle*, but **OBJECTS** to certain elements of the development that is now proposed in this Full Planning Application.
- (B) Requests that if officers are minded to approve this Full Planning application, that the application (even if it is revised) is not approved by officers under delegated powers and is instead brought to a meeting of the North & East Plans Panel and determined by Panel Members.

In reaching this view, the Parish Council has considered the following issues:

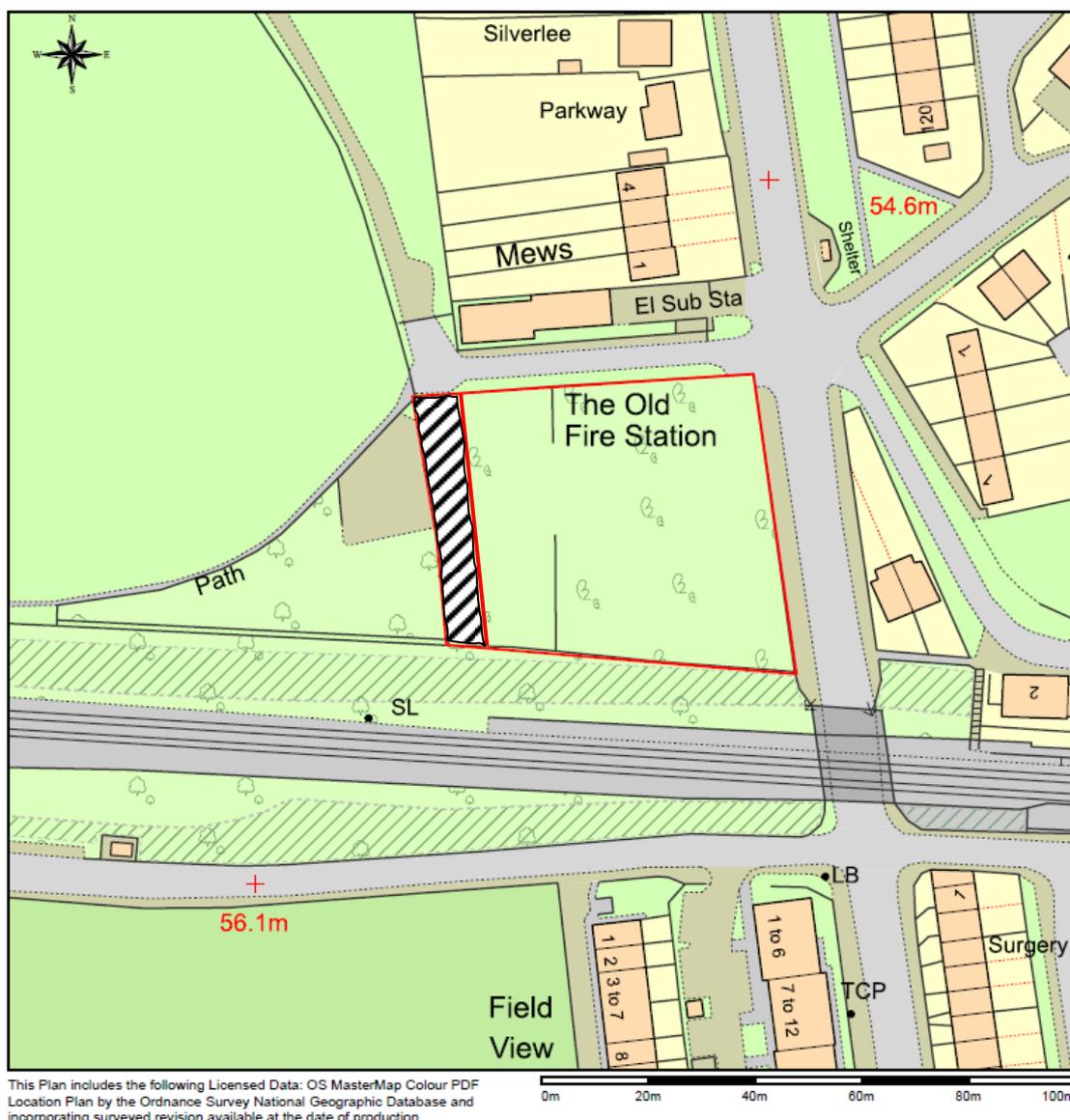
1.0 PRINCIPLE OF RESIDENTIAL DEVELOPMENT

- 1.1 It is accepted that *the substantive part* of the application site is a vacant brownfield site, following clearance of the remaining school buildings in the late 1980s and early 1990s. Although unallocated in the adopted Leeds Site Allocations Plan 2019, *the substantive part* of the application site does benefit from Outline Planning Permission for 5 detached houses (16/01078/OT/E), which was granted on 28th April 2017.
- 1.2 The Parish Council also appreciates that a previous Outline Approval for 9 Flats on *the substantive part* of this application site (33/10/94/OT) had been granted on 24th February 1995, renewed on 29th April 2002 (33/320/99/RE) and renewed yet again on 11th March 2005 (33/029/05/RE), but then lapsed on 11th March 2008.
- 1.3 Therefore, a residential development of the *substantive part* of this application site with houses or flats has been considered appropriate and approved by the Local Planning Authority on various occasions over the last 25 years. The principle of the existing Outline Approval cannot be undone and there is no mechanism for the LPA, Micklefield Parish Council or anybody else prescribing a different class of development for this site.

1.4 It is a great pity that this is the case , as significant expansion of Micklefield has been in the pipeline for nearly thirty years , with the resulting housing allocations now being built out , and there is a need for a mid-range grocery/convenience store / Post Office in the village . Given its particular location , the frontage of the Old School Site would have been ideal for such a provision , but it is quite clear that the Town & Country Planning Act 1990 destroyed the concept of holistic forward planning at the micro level .

2.0 LAND WITHIN THE SUBMITTED RED LINE LOCATION PLAN WHICH THE APPLICANT CERTAINLY DOES NOT OWN AND WHICH WAS CORRECTLY EXCLUDED FROM THE REVISED PLANS GRANTED OUTLINE PLANNING APPROVAL AS 16/01078/OT/E

2.1 The western part of this application site , shown as black hatching below , is not owned by the applicant . It forms the south eastern portion of Micklefield Recreation Ground , a Charity (523780) , and the Title to which is vested with Micklefield Parish Council as Sole Trustee .



2.2 However , we appreciate that the applicant did submit an accurate red line site plan to omit the Charity land from this application , only to face the problem that for a revised application to not incur a new fee , it must use and relate to the same red line site plan as for the previous application .

- 2.3 To obviate a new fee , the applicant has reverted to using the previously submitted red line site plan , but in so doing has correctly served notice on Micklefield Parish Council and signed Certificate B in Section 25 of the planning application form . The applicant's Agent has explained this procedural quirk to the Parish Council by separate letter of 3rd June 2020 , in which the Agent also acknowledged that the strip of land *is* owned by the Parish Council and had been included in error in the previous application (19 / 07640 / FU / E) .
- 2.4 It is now clear that the applicant does accept that the land shown in black hatching (which has not had any extant Outline Planning permission for residential development for twenty years) is owned by the Parish Council . To be fair , the applicant has always appeared to be aware on some level of this issue , as the Proposed Site Layout and Ground Floor Plan drawing submitted with the applicant's previous application did appear to limit all and any development activity relating to the proposed residential development to the correct boundary with Micklefield Recreation Ground . This also appears to be the case with this resubmitted application in its revised form and must continue to be the case .
- 2.5 It is also important for everybody to note that the existing palisade fencing belongs to the Parish Council . Because the boundary line between the applicant's land and the Charity land 'belongs' to the applicant , when the palisade fencing was installed it was carefully located on the Charity land , *inside* from the boundary .
- 2.6 In effect , the palisade fencing is an additional fence within the Charity land and must not be removed by the applicant . This means that the new owners of the houses on the west side of the development must not be inadvertently left to think that the palisade fencing was erected as part of the residential development , and thus belongs to them . The best way of ensuring that would normally be for any approved development to provide a close boarded timber fence on the boundary line adjacent and parallel to the palisade fence .
- 2.7 The existing palisade fence was quite adequate for the protection of the Charity land from the substantive part of the applicant's site , when it was a vacant brownfield site ; it would not normally be suitable as the only boundary treatment protecting the new residential gardens from the publicly accessible Charity land .
- 2.8 However , an additional close boarded timber fence parallel to the existing palisade fence will create a litter trap , which will collect wind - blown litter drifting over the exposed Recreation Ground . This will be difficult to manage , as it will be almost impossible to remove the litter from the gap between the palisade fence and an additional timber close boarded fence , which means it could also become a fire hazard .
- 2.9 Boundary shrub planting on the applicant's side of the palisade fence could be appropriate , but that would eventually lead to the garden planting protruding through the palisade fencing , thus creating another maintenance problem for the Parish Council which it currently does not have .
- 2.10 The Case Officer will need to carefully decide what the boundary treatment should actually be on the western edge of the development , so that it is a sensible and effective solution to the particular circumstances regarding the palisade fence .
- 3.0 CONFIRMATION IS REQUIRED THAT LEEDS CITY COUNCIL DOES NOT STILL OWN , OR RETAIN ANY PROPRIETORIAL INTEREST IN , THE PARCEL OF LAND THAT FORMED THE MAJORITY OF THE FRONTAGE TO THE APPLICATION SITE**
- 3.1 As recounted above , the applicant's agent has signed Certificate B in section 25 of the planning application form , but only in relation to Micklefield Parish Council .
- 3.2 The submission date for the applicant's previous planning application was 23/10/2019 , so 21 days before that would have been 02/10/2019 . As at 30/01/2020 , the Land Registry still had the registered title to the majority of the land in the substantive application site as being held by Ashdale Land & Property Co. Ltd.. Even more importantly , on the same date , the title to the parcel of land across the frontage of the site (WYK888775) was still registered as being held by Leeds City Council .

- 3.3 The Parish Council accepts that an extract from the register held by the Land Registry which showed information current on 30/01/2020 would not take account of any application made before that time to register a land transfer , if the application was still pending in HM Land Registry when the extract was issued .
- 3.4 However , in the report to the City Council's Executive Board meeting on 7th January 2020 , regarding the Capital Receipts Programme Update and Approval of Future Disposals , the " Micklefield School , Former , Micklefield " site was listed in the schedule of sites " to complete " during 2019/2020 . The only sensible conclusion that Micklefield Parish Council can reach is that as at 07/01/2020 , Leeds City Council still owned the parcel of land that formed the majority of the frontage to the application site .
- 3.5 Even if a disposal was in progress , the sale of the City Council's land within the Old School Site had not " completed " , not as of 07/01/2020 and certainly not prior to 02/10/2019 . Unless the report to the Executive Board was in error and a fundamentally inaccurate update , then the applicant could not have owned *the whole* of the substantive part of the application site on 02/10/2019 .
- 3.6 It is arguable that the applicant's agent should have served notice on Leeds City Council and signed Certificate B in Section 25 of the planning application form in respect of the City Council's land ownership . There was also the possibility that the applicant's agent should have also served notice on Ashdale Land & Property Co. Ltd., although that is less easy for the Parish Council to know for certain . In any event , the Parish Council has not seen any evidence that Leeds City Council has disposed of its parcel of land within the substantive part of the application site at any point since 07/01/2020 .
- 3.7 Fundamentally, if Leeds City Council still owns a parcel of the substantive part of this application site , *or still owned it at any point after the date this revised and resubmitted application was validated* , then if officers are minded to approve this Full Planning application , the application should not be approved by officers under delegated powers and must surely be brought instead to a meeting of the North & East Plans Panel and determined by Panel Members .
- 3.8 The Parish Council's request for the application to go to Panel still stands , albeit now solely for the above reason if it does apply , as a proprietorial and financial interest of the City Council in the development of a parcel of this land would suggest an overarching requirement for a Panel decision .
- 3.9 Whether the Certificates in Section 25 of the application form still need to be regularised , and notice served on other landowners , is presumably for the Case Officer to decide , depending on the facts and whether it is expedient for the LPA to insist on such accuracy .

4.0 DENSITY OF THE PROPOSED RESIDENTIAL DEVELOPMENT

- 4.1 The application site area is stated as being 0.28 hectares , in both the Full Planning Application form and in the Design & Access Statement . This is the area that was granted Outline Planning Approval as per 16 / 01078 / OT / E , so we can assume the applicant is stating the correct developable area .
- 4.2 Nine houses in a site area of 0.28 hectares equate to a density of 32 dwellings per hectare . This would be just about an acceptable density , given that the four terraced 2 bedroom houses recently erected at Railway Mews equate to a density of 33 dwellings per hectare .
- 4.3 However , that said , there are site - specific constraints which lead the Parish Council to conclude that 8 houses is what is actually achievable in this location . There is a problem with plots 1 & 9 , where these houses are very close to the Great North Road and have longer - than - normal gable ends facing the street . Although the Street Elevations drawing suggests two small ground floor windows and one small first floor window in these gable ends , the various Layout Plans all seem to show only *one* small ground floor window . These gable ends will be a very solid and drab feature with these two houses so close to the main road .

5.0 VEHICULAR ACCESS

- 5.1 The proposed vehicular access directly to / from the Great North Road is a sound choice , given that a right angle 'T' junction can be provided with the appropriate visibility splays along the Great North Road for vehicles that would be exiting the development .
- 5.2 However , the approval of Outline Planning application 16 / 01078 / OT / E was based on “ the first 10m section of the access being at 4.8m width ” , whereby “ the access would be acceptable for five dwellings ” . Any more than 5 units would require an Adopted highway , whereby the carriageway should be 5.5m wide with at least a 600mm margin or a footway around its complete length with any parking positioned at the rear of the margin or footway .
- 5.3 The applicant has indeed proposed a carriageway 5.5m wide with a 600mm margin or a footway around its complete length with all parking spaces positioned at the rear of the margin or footway . The applicant has also correctly carried forward from 16 / 01078 / OT / E the uphill ramp leading into the site from the Great North Road , which is vital (for the reasons set out later in our consultation response) .

6.0 OFF - STREET PARKING PROVISION

- 6.1 The application form states a total of 18 off - street parking spaces for the 9 houses . However, the Housing Layout Plan Rev J appears to show 19 off - street parking spaces , plus 2 vehicular - width garages , although two of the off street parking spaces appear to have a tree planted within them . So long as there are at least 18 off street parking spaces provided as per the application form , then this will accord with the relevant guidance .

7.0 RISK OF FLOODING FROM SURFACE WATER

- 7.1 There are significant issues in Micklefield regarding the foul sewer and surface water drains and the provision of an adequate and effective drainage system for any new dwellings . According to the Environment Agency's online mapping system , the junction of Garden Village with Great North Road already has a quantifiable risk of flooding from surface water .
- 7.2 This is where , during sustained heavy or very heavy rainfall , rainwater does not drain away through the normal drainage systems or soak into the ground , but lies on or flows over the ground instead . The area around the junction of Garden Village with Great North Road is defined as part 'Medium Risk' and part 'High Risk' .
- 7.3 This matches the Parish Council's own understanding of what happens at this junction during sustained heavy or very heavy rainfall . However, there is an even more profound effect from external surface water flooding , directly on the Old School Site which must be recognised and addressed .
- 7.4 During the well - reported cloudburst that occurred over Micklefield on the evening of 8th August 2014 , the surface run - off from New Micklefield (south of the railway) completely flooded the stretch of the Great North Road from south of the railway bridge to the junction with Garden Village , immediately to the east of the Old School Site , for several hours .
- 7.5 This is a crucial matter in relation to how the frontage of this Application site and the vehicular access into the site from the Great North Road would have to be designed , should any revised proposal be ultimately approved .
- 7.6 The following 4 photographs were taken on the evening of 8th August 2014 , and the Parish Council is sure that (once again) they will be extremely useful in helping the Local Planning Authority rationalise how the site frontage and the vehicular access from the Great North Road should actually be thought through before this or any other Full Planning Application gets to the determination stage , and what remediation measures would be required .
- 7.7 This is all on public record and is described in considerable detail in the Officer Delegation Report which accompanied the Decision Letter for the approval of Outline Planning Application 16 / 01078 / OT / E .





- 7.8 The Parish Council would be most grateful if you would forward our consultation response , including these 4 photos , to officers in the City Council's Flood Risk Management Team , so that they can be sure of understanding (once again) the extent to which this stretch of the Great North Road really does act as a natural sump point when there are flash floods .
- 7.9 That way , they will have a reminder of the accurate visual information , previously given to them in relation to 16 / 01078 / OT / E , to enable them to work out how best this can be remediated in *any* approvable development of the substantive part of this Application site .
- 7.10 Given the undoubted risk of surface water flood ingress to the site , it was actually for this reason that the Outline Planning Permission for 16 / 01078 / OT / E Conditioned the effective retention of the magnesian limestone wall .
- 7.11 In the Officer Delegation Report which accompanied the Decision Letter for the approval of Outline Planning Application 16 / 01078 / OT / E , the then Case Officer (David Jones) stated :
- “ The information in the Micklefield Parish Council consultation was not available at the time of the original Flood Risk Assessment Report and , whilst the information relating to surface water flooding on Great North Road was known , the photographs of the flooding along the frontage of the site on the 8th August 2014 show the flooding to several 100mm above the road surface . The Parish Council Report recommends that the boundary wall fronting Great North Road is retained , apart from the new access , and is extended along the access road to the recreation ground . This is considered to be a very sensible approach to a potential problem ” .*
- 7.12 Whilst it might not be appropriate for the entire boundary treatment facing the approach road into the Recreation Ground to comprise a solid masonry wall along the whole of the northern boundary of the Application site , the magnesian limestone wall should certainly be extended around the north eastern corner , and that should be enough to prevent any surface water flood ingress across the northern flank of the Application site .
- 7.13 As proposed in this Full Planning application , the access road into the Application site should indeed incline as soon as it leaves the Great North Road , so that it reaches a suitable height above the flood level shown in the above photographs . This means (though it is not obviously shown in the plan drawings) that the surrounding land formation would also need to be elevated to the same extent above the carriageway and footway of the Great North Road , at least part - way into the site .

- 7.14 Lastly , the retained stretches of the limestone wall either side of the new vehicular access should then be extended around the access road up to the point where the access road reaches the required height above the level of the Great North Road , to prevent ingress to the rest of the site of any surface water flooding which may occur again on this stretch of highway to the extent as shown in the above photographs .
- 7.15 Development of any part of the substantive part of the application site for housing will , in any case , require an assessment of the cumulative impact of the outflow of sewage and surface water on the existing foul sewer and surface water drains in Micklefield .
- 7.16 Where necessary , mitigation measures will need to be provided so that there will be no negative cumulative impact on the wider drainage system or the surface water flood risk elsewhere in Micklefield , *especially in Micklefield Recreation Ground* – the eastern flank of which is at a lower level than the substantive part of this Full Planning Application site .

8.0 DETRIMENTAL IMPACT ON THE HEALTH , EXPECTED LIFESPAN AND VISUAL AMENITY OF REASONABLY HEALTHY TREES WHICH ARE COVERED BY A TREE PRESERVATION ORDER , AND WHICH ARE *OUTSIDE* THE RED LINE LOCATION PLAN AND APPEAR NOT TO BE UNDER THE CONTROL OF THE APPLICANT

- 8.1 The Design and Access Statement asserts that “ The layout show (sic) that Plots 6 to 9 have been located a sufficient distance from the nearest trees (and their Root Protection Area) which are to the northern boundary of the site .” This is patently not the case , as the lounge wing of the house at Plot 6 would be built partially over the RPA of Tree T6 and the detached garage at Plot 9 would be built partially over the RPA of Tree T1 .
- 8.2 In the accompanying Arboricultural Report by JCA Ltd. , all the trees which are situated along the southern side of the approach road into the Recreation Ground are assigned a Category B1 Retention Rating , in other words : “ Retention Desirable ” due to their arboricultural qualities . Therefore , nothing must be done that will cause there to be any detrimental effect on the health and expected lifespan of these trees , but the plan , as proposed , would involve quite deep excavations into the RPAs of two of these trees , and this cannot be supported .
- 8.3 At least with this revised and resubmitted Full Planning Application , the applicant is not now proposing to fell any of the trees on the southern side of the approach road into the Recreation Ground . However , the visual amenity of the tree avenue is derived from the balance of the parallel lines of mature trees with *external fencing* on both sides of the approach road , where both lines of trees clearly form an integral and symmetrical part of the approach road and its internal vista .
- 8.4 In light of the above , it is absolutely vital that the Parish Council reiterates that T1 , T2 , T3 , T6 , T9 & T10 are all outside the red line site boundary . This is because the applicant is proposing to install internal fencing to the house plots beyond the red line site boundary and through the tree line right up to the southern kerb edge of the approach road into the Recreation Ground .
- 8.5 Consequently , the new fencing across the northern edge of the development would be immediately adjacent to the southern kerb edge of the approach road , and this would seriously unbalance the structural form of the symmetrically arranged tree - lined avenue .
- 8.6 The northern red line boundary on the Location Plan is correct . The northern boundary of the Old School Site is not the southern kerb edge of the approach road into the Recreation Ground , it is an appreciable distance to the south of that kerb edge . This is clearly and unequivocally the case if one examines any 1:1250 Ordnance Survey map of the locality .
- 8.7 Ashdale Land & Property Co. Ltd. have always insisted that they did not own the carriageway of the approach road , nor the verge with trees on the north side , nor even the verge with these six trees on the south side .

- 8.8 Even if the applicant has purchased (registration pending ?) the Ashdale part of the Old School Site , it is inconceivable that the sale has included or would include these six trees . The northern red line in the red line location plan has been consistently along the same precise line in every planning application for the Old School Site , so everything is telling the LPA that this applicant does not control T1 , T2 , T3 , T6 , T9 & T10 and has no legal authority to enclose them into the private gardens of the new houses , even if the LPA were to approve such a proposal .
- 8.9 When the application site was a functioning school , the timber fence along its northern boundary was therefore immediately to the *south* of these six trees , not to the north of them . There was another good reason for this , as a 2" Yorkshire Water main runs along the southern grass verge and there is a functioning service gulley roughly in the vicinity of T10 .
- 8.10 The Parish Council would have thought that Yorkshire Water would prefer this water main , and especially the service gulley , to stay just as accessible as they currently are , and not be newly enclosed inside the private gardens .
- 8.11 In any event , the red line boundary is the key to what can and should happen along the northern edge of the Old School Site . The new fencing across the northern edge of the development must be on , or within , the red line site boundary and must therefore be to the south of these six trees .

Whilst this revised and resubmitted Full Planning Application is a marked improvement on the previous iteration , Micklefield Parish Council is not able to support this proposal , as there are clearly problems with elements of the detailed design as submitted . As a result , our consultation response must be treated as an objection , unless the issues we have set out above are addressed and resolved in a satisfactory way .

Yours faithfully ,

Joanne Hebden (Clerk & RFO to the Parish Council)