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AGENDA FOR

PLANNING CONTROL COMMITTEE



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To: All Members of Planning Control Committee

Councillors : G McGill (Chair), N Boroda, J Harris,
M Hayes, J Lancaster, D Quinn, C Tegolo, D Vernon,
C Boles, J Mason and K Thomas

Dear Member/Colleague

Planning Control Committee

You are invited to attend a meeting of the Planning Control Committee which will be held as follows:-

Date:	Tuesday, 26 April 2022
Place:	Learning Hub Room, Bury Town Hall
Time:	7.00 pm
Briefing Facilities:	If Opposition Members and Co-opted Members require briefing on any particular item on the Agenda, the appropriate Director/Senior Officer originating the related report should be contacted.
Notes:	

AGENDA

4 PLANNING APPLICATIONS (*Pages 3 - 16*)

Reports attached.

BURY COUNCIL
DEPARTMENT FOR BUSINESS, GROWTH AND INFRASTRUCTURE
PLANNING SERVICES

PLANNING CONTROL COMMITTEE

26 April 2022

SUPPLEMENTARY INFORMATION

Item:01 223A Bury Old Road, Prestwich, Manchester, M25 1JE Application No. 67257

Retrospective change of use from 1st floor residential flat (C3 use) to tattoo/beauty business (Class E)

Additional Representations

Additional correspondence and recorded footage has been received from a nearby property. Points made include:

- The anti-social behaviour is encouraged by the large commercial bin placed on a residential street, close to a residential home. People use it to hide whilst urinating and vomiting. This is quite intimidating for a resident.
- The pattern of antisocial behaviours has been evidenced across the country, when commercial bins are inappropriately placed.
- The officer report says "The existing large yellow bin at the side of the property on Upper Wilton Street (see photo) is not used by either the tattoo or beauty parlour but the sandwich shop next door at no.223 Bury Old Road. As such any issues with this bin are not associated with this application and should not be used to refuse this application."
- I am unsure why Bury Council's planning department are misleading the planning committee into believing that 223a is a separate property to 223 Bury Old Road? Both are the same property, owned by Mr and Mrs Ambrose as on land registry documents.
- There are agreements within the land registry deeds in relation to use of the one business property: 'Not to use the property hereby conveyed for any purpose other than that of a confectioners shop, Cafe and Bakehouse without the previous consent in writing of the vendors' (point C2a). This agreement was ignored by Bury Council, when it allowed part of the 223 Bury Old business property to be used a tattoo parlour.
- In 2018 a planning application was made for the part of the 223 business property to be used as a tattoo parlour (application 61274). This application is within the 'related cases' tab of the planning application 67257 on the Bury planning portal, as it is the same tattoo business/ same business property. The planning application was agreed providing that the sandwich business part of the property would be able to move their bins through the back of the tattoo parlour, on bin collection days. This routine continued for several months after the planning application was agreed, and then stopped.
- There is now a large yellow Bury Council commercial bin permanently placed on the public pavement by a residential home. Today, as second large commercial BIFFA bin has appeared close to my home, on Upper Wilton Street.
- If there was room all along for the tattoo parlour 'Sword and Sparrow' to expand upstairs, they could have allowed the sandwich shop to use the back half of the tattoo parlour for bin exit/ access.
- Instead, another business is being crammed into the one business property. The owners of the business property are making maximum profit, by fitting as many businesses as possible into one business property. Meanwhile residents are paying the cost in terms of unacceptable negative impacts on safety, well-being and environment.
- I am not sure how/ why these agreements are being made between local businesses and Bury Council employees?
- I have repeatedly asked the question about the tenancy of the planning applicant. According to the application form, the applicant needs to be: "owner" is a person

- with a freehold or leasehold interest with at least 7 years to run.' Has the tenancy agreement been checked of Lewis Tudor (the planning applicant and tenant of the tattoo parlour area) to ensure that it lasts for at least seven years?
- Has the applicant disclosed relations (i.e. father) who have previously been employees at Bury Council (as required in point 24 of the application form)?
 - I am also confused about why this planning application was submitted in July 2021, and is only just being decided over nine months later?
 - I am confused as to why residents were given a tight frame to respond (by mid December) and yet the applicant has been permitted until April 2022 to submit documents/ comments?
 - I am confused as to why the 'Hush Healing' beauty parlour has been allowed to operate for over a year without business premises permission?
 - I am unclear as to why Bury Council allowed the 'Sword and Sparrow' tattoo parlour to operate for over a year without business premises permission?
 - I would also like a review of how the fourth space within the same business property (currently described as a residential flat) is actually being used?

I hope this application will be thoroughly considered in the context of the prior 2018 planning application for the same tattoo business/ business property (planning application 61274). Rather than the narrative being relayed by Bury Council, that this is an entirely separate planning application/ business/ business property (application 67257).

Response to objections

Antisocial Behaviour - This issue was extensively considered during the formal complaints process and subsequent Ombudsman complaint. The Ombudsman stated in their decision in 2020, *"The ASB team reviewed the CCTV footage and diary sheets Ms B submitted. They properly explained that Mr and Mrs X could not be held responsible for the actions of members of the public. Officers also explained they would not be able to take action unless there was sufficient evidence that the behaviour was being repeated by the same individuals. In the absence of such evidence, no action could be taken because the perpetrators were unknown and did not appear to be repeat offenders. Officers have confirmed they will re-open the case if Ms B is able to provide further evidence."* This remains available to the complainant.

Commercial Bin – This issue had also been extensively looked in to following formal a complaint and Ombudsman case relating to the siting/use of the commercial bin. This is commissioned to the Sandwich Shop and no other business. It is irrelevant who owns the building complex. Bin storage for the application site is contained within the premises yard area and the upstairs salon has access to the side door and to the bin storage area. The tattoo studio also have access to the enclosed yard area and also have their own clinical waste requirements again using the yard area.

The locating of a commercial bin on the highway has no relevance to this application and has been thoroughly considered in terms of obstruction and antisocial behaviour concerns.

The Ombudsman concluded *"I am satisfied the Council has properly investigated Ms B's concerns that the commercial bin was causing nuisance and antisocial behaviour. The planning, highways, waste management and ASB teams have worked together to try to resolve the situation. I do not consider the Council could do any more without further evidence as explained by the ASB team. Ms B says the Council should remove the commercial bin and require Mr and Mrs X to use smaller bins which are*

easily movable from their storage yard or insist they make alterations to their property so the commercial bin can be stored in the yard. There is no requirement for the Council to do this. It is satisfied there has been no breach of planning permission so there are no grounds to take enforcement action. It is also satisfied the bin is not creating an obstruction to the highway so there are no grounds to require it to be removed."

Biffa Bin – This currently appears to have 221 Bury Old Road's address on the bin, which is nearer to the Metrolink and is not part of this application consideration. However, the Highway Authority have been made aware and will consider the issue as appropriate.

NB - Notices can be served section 47 Environmental Protection Act 1990 concerning the placing of the waste receptacles for the purpose of facilitating the emptying of them and access to them.

Property Constraints - Covenants within deeds are private civil matters, which the business/land owner would need to address separately to the planning process.

Consents/Approvals - Each application and associated issue is considered on their own merits and with the governing body. Agreements reached are part of the day to day process of governance and on occasion may not please other people, there are complaints processes open and available to use if someone is aggrieved on an issue.

Ownership – The applicant has completed certificate B, which confirms that the applicant is not the owner. The applicant serves a notice upon the owner. Certification is completed and received on 'face value' and is only a matter of challenge when and if contrary evidence is provided. There are no issues in relation to the certification of the application or otherwise evidenced.

Family connection – There is no known connection to the Development Management Team or other close department to infringe the constitution. The objection states "previously been employees..." as such there is nothing to declare.

Timeframes – The application was submitted on 7/7/21 and was held invalid as information was lacking. The LPA took the decision as we state on our correspondence that we retain the right to process an application without information and will determine the application accordingly. Plans were submitted when required.

Neighbour notification periods are set out in legislation and are not locally determined. The minimum period of 21 days is protected where an application cannot be determined so that interested parties can make representations. Neighbour notification periods are set out in the main report and were undertaken 24/11/21. Representations can be received up to the point of decision (presently the April PCC meeting). This often means that interested parties have more than 21 days to respond. However, legislation provides a minimum protected period. That has been met and exceeded in this case.

Lack of Planning permissions - S73A permits applications to be made retrospectively. It is not unlawful to operate a business unless permission has been refused and/or formal enforcement action has been instigated. The expediency test applies in all Enforcement considerations and often, going through the planning process is a reasonable solution to this, where it is considered that there will be a need for planning controls.

Remaining Use – The additional premises described above the sandwich shop is irrelevant to this application. There is no reason to investigate the premises as far as this case is concerned.

Item:02 Land adjacent 2 Tanners Street, Ramsbottom, BL0 9ES Application No. 67553

Erection of one dwelling with associated garage, parking/manoeuvring space and garden curtilage, to be accessed via Tanners Street

Add Condition

19 - Where the development hereby approved is to be carried out incorporating retaining structures, the details of such structures including their finish appearance shall be submitted to and approved by the Local planning Authority. The approved details only shall be implemented.

Reason - To ensure that the character of the conservation area is maintained pursuant to UDP Policy EN2/1 - Character of the Conservation Area.

Item:03 22 Cockey Moor Road, Radcliffe, Bury, BL8 2HB Application No. 68038
Erection of detached dwelling

Plans

Revised plans received to show the retention and repair of the existing front boundary wall and layout of the site.

Revised boundary plan details submitted to show a new boundary fence to the side and rear of the site only.

Conditions

Therefore, Condition 2 re-worded to include the amended plan numbers - This decision relates to revised drawings numbered PS-2172-TS/00, RAD/2289/20/5C, RAD/2289/20/6/A, RAD/2289/20/7A, RAD/2289/20/8/B and swept path plans 274-21-1 to 5. The development shall not be carried out except in accordance with the drawings hereby approved.

Reason. For the avoidance of doubt and to ensure a satisfactory standard of design pursuant to the policies of the Bury Unitary Development Plan listed.

Condition 8 deleted as there is now no requirement to submit details for boundary treatment and condition 12 (now condition 11) re-worded as follows -

The development hereby approved shall not be first occupied unless and until the car parking, driveway and boundary wall alterations and bin storage arrangements indicated on approved plan reference RAD/2289/20/8 Revision B, incorporating a hardstanding in a permeable/porous material and/or measures to prevent the discharge of surface water onto the adopted highway, demarcation of the limits of the adopted highway and all associated footway remedial works required to reinstate the footway to its former condition prior to commencement of the development, have been implemented in full to an agreed specification and to the written satisfaction of the Local Planning Authority.

Reason. To ensure good highway design, ensure the intervisibility of the users of the

site and the adjacent highways and maintain the integrity of the adopted highway' in the interests of highway safety pursuant to UDP Policy H2/3 Extensions and Alterations.

Conditions re-numbered.

Item 02



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IN ACCORDANCE WITH THE REQUIREMENTS OF THE CIVIL REGULATIONS 2015 THE FOLLOWING INFORMATION HAS NOT BEEN DESIGNED OUT OF THIS PROJECT AND MUST BE PROVIDED TO THE CONTRACTOR BY THE CONTRACTOR'S PLANNING TO UNDERSTAND THE WORKS SHOWN ON THIS DRAWING.

SITE SPECIFIC HAZARDS

KEY OF MATERIALS:

1. STONE WALL WITH ASTON DETAIL
2. CHARCOAL GREY FACING BRICK
3. DOUBLE GLAZING ANTHRACITE UPVC WINDOWS & DOORS
A. DARK GREY GLAZING ON SECOND FLOOR
B. LIGHT GREY GLAZING ON OTHER FLOORS
4. GREY FINISH RENDER
5. GREEN WALL (SUSTAINABLE LIVING WALL SYSTEM)
6. GLASS BALUSTRADE
7. TIMBER DOOR
8. ANTHRACITE INSULATED GARAGE DOOR
9. TIMBER CLOSED BOARDED METAL FRAMED SLIDING GATE STAINED MEDIUM OAK

REV H 15.02.22 UPDATED AS COMMENTED BY B&B M.C. DB
REV G 07.12.20 GENERAL UPDATE SPL
REV F 06.12.20 GENERAL UPDATE SPL
REV E 16.11.20 PLANNING STATUS SPL
REV D 20.07.20 UPDATED GROUND FLOOR LBS AAS
REV C 21.04.20 UPDATED TO HIGHWAYS ENDS AAS
REV B 18.03.20 COMMENTS AAS
REV A 16.01.20 TREES ADDED SPL
REV. DATE NOTES INT.

CLIENT / PROJECT

BLAKEMAN DESIGN & BUILD
TANNERS STREET
RAMSBOTTOM

PROPOSED FRONT ELEVATION

DRAWING TITLE

STATUS PLANNING

DATE	DRAWN		SCALE @ A3	
JAN 2020	WNH		1:100	
PROJECT NUMBER	UNIT / BLOCK	CI / R/FB CODE	TYPE A NUMBER	REVISION LETTER

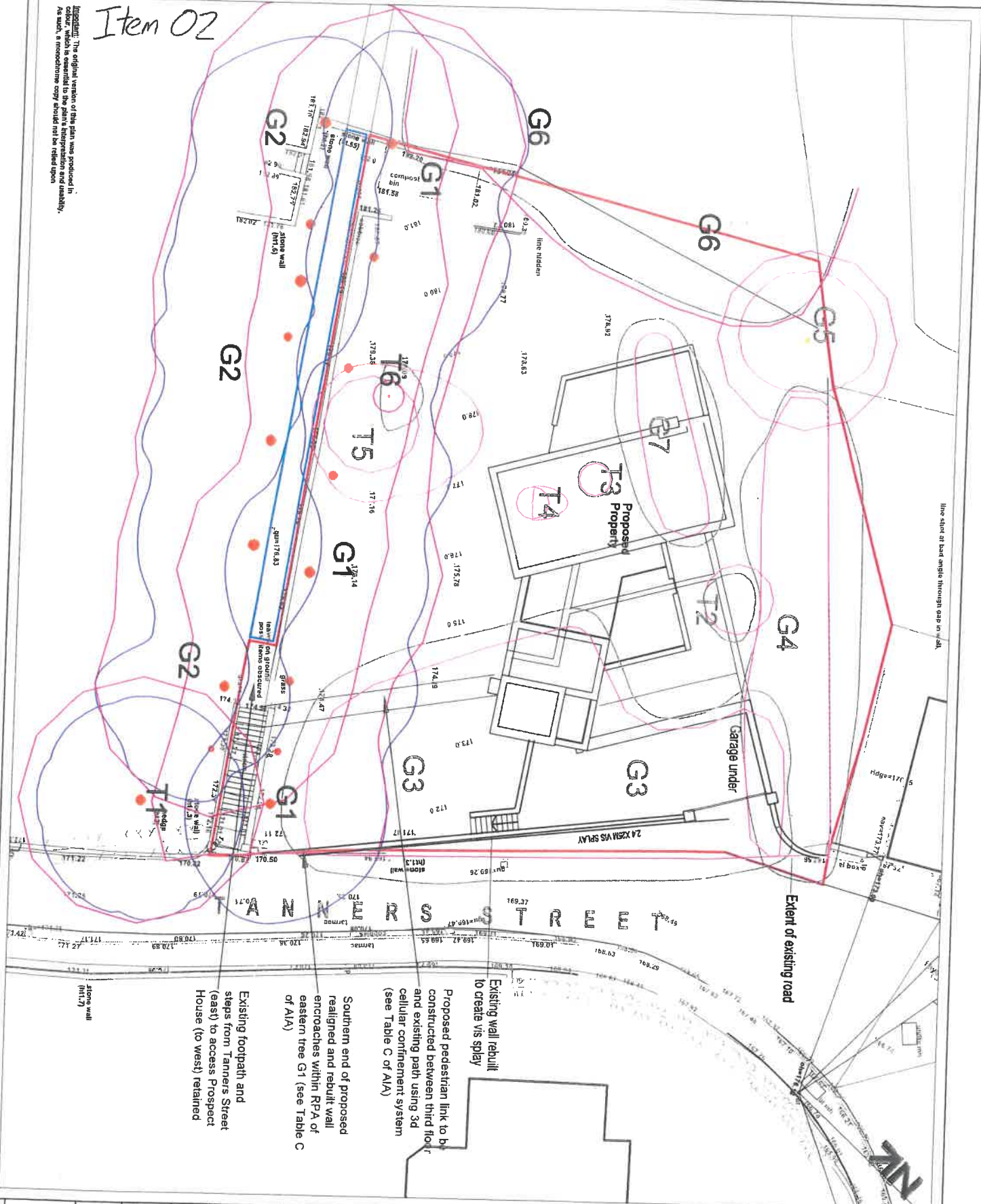
THE RATCLIFFE GROVES PARTNERSHIP

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LONDON WC1R 4E9
T. 020 7590 5566 E. london@gp-uk.com

Item 02

Important: The original version of this plan was produced in colour, which is essential to the plan's interpretation and usability. As such, a monochrome copy should not be relied upon.



Existing wall rebuilt to create vis splay

Proposed pedestrian link to be constructed between third floor and existing path using 3d cellular confinement system (see Table C of AIA)

Southern end of proposed realigned and rebuilt wall encroaches within RPA of eastern tree G1 (see Table C of AIA)

Existing footpath and steps from Tanner's Street (east) to access Prospect House (to west) retained

KEY

T = Individual Tree
G = Group of Trees

Please refer to the attached Landscape Impact Assessment for specific details in respect of these trees.

Tree Categorisation:

Those to be Considered for Retention:

Category 'A' Tree Group
Those of a high quality with an estimated remaining life expectancy of at least 40 years

Category 'B' Tree Group
Those of moderate quality with an estimated remaining life expectancy of at least 20 years

Category 'C' Tree Group
Those of low quality with an estimated remaining life expectancy of at least 10 years or young trees

Those Considered Unsuitable for Retention:

Category 'U' Tree Group
Those of such a condition that they cannot realistically be retained as Living Trees in longer than 10 years

Root Protection Area (RPA):

RPA is the area around the base of the tree trunk and the surrounding area which is protected by a tree protection fence to ensure the tree's health and growth.

Proposed developments:

Proposed developments are shown in red on the plan.

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Bowland Tree Consultancy Ltd
a Bowland Tree Consultancy Ltd
11200043
March 2021
EA & JL
PH
Ref: BT2116-TP Rev: 1

SITE PLAN

1:1250

REVISED PLAN

451331

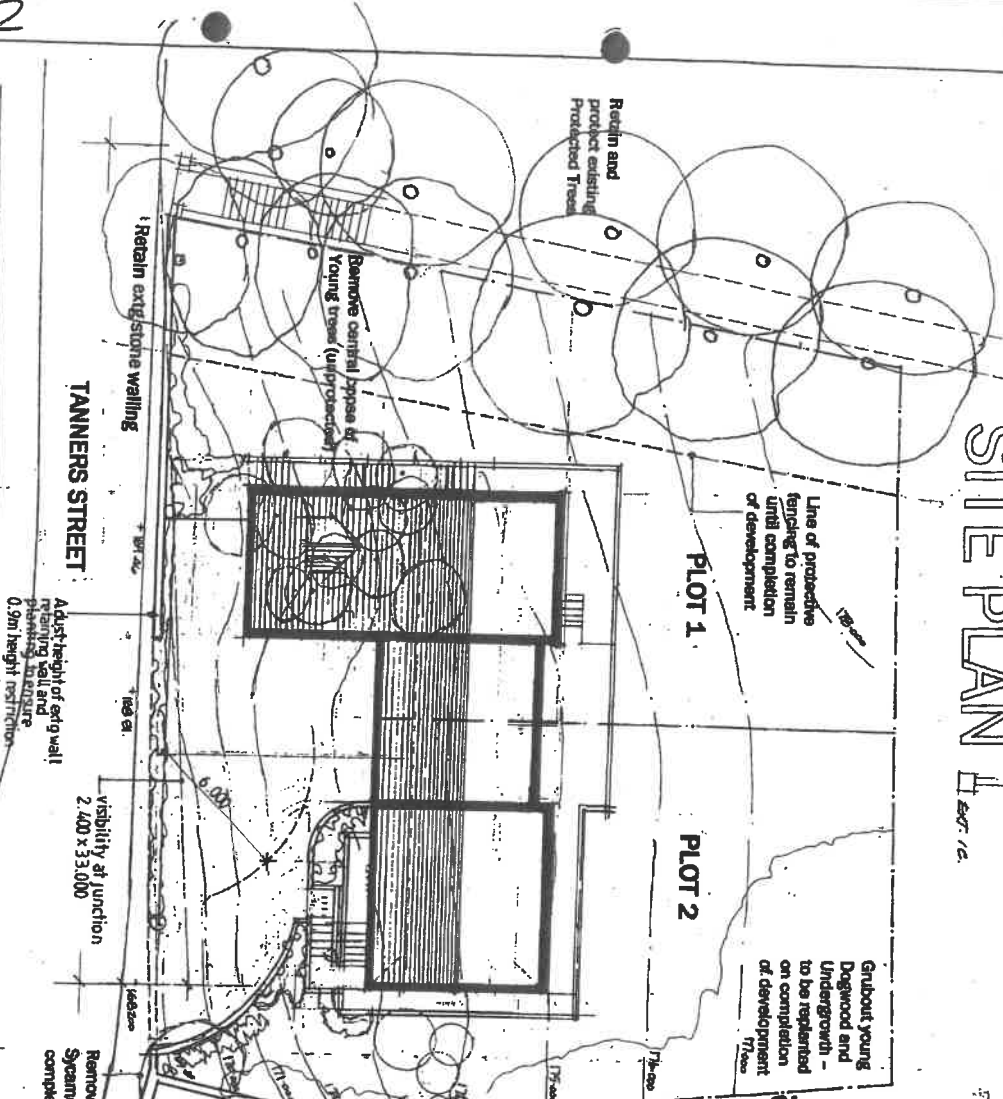
REPRODUCED BY THE
 REPRODUCED BY THE
 COUNTY PLANNING ACT

10 NOV 2005

Rev. N. J. J. J.

Chief Planning Officer

DEVELOPMENT SERVICES
 - 2 NOV 2005



LOCATION PLAN 1:1250

PROPOSED DEVELOPMENT OF LAND
 ADJOINING 2 TANNERS STREET, RAMSBOTTOM
 FOR ERECTION OF SPLIT LEVEL BUILDING
 COMPRISING 2 NO DWELLINGS.

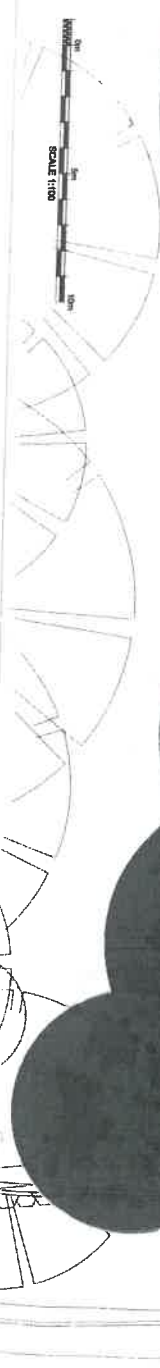
Item 02

Ref: P1375/FW/05/1.A
 Scale: 1:200
 Date: February 2005

A. Approved site plan 2005
 B. Approved DWG & notes visibility 2005
 C. Notes 1:2005 relating to protected trees, October 2005.

Frank Whittaker
 PLANNING CONSULTANTS

RON WOOD DEVELOPMENTS LTD



5. YD2 SHALL BE NOTIFIED OF ANY DISCREPANCIES
CONSTRUCTION

11/11/2011 11:11 AM

[illegible]

YD2 YE

REVISION



 12km/s surface speed
 10km/s wall velocity
 10km/s constant depth

Ok **Impurities indicator**

The Client must ensure compliance with any law, order or regulation in part or in whole, which may be applicable to the project, including but not limited to, the following:

- Building Regulations, including but not limited to the Building Regulations 2010
- The Client must ensure compliance with any law, order or regulation in part or in whole, which may be applicable to the project, including but not limited to, the following:
- Building Regulations, including but not limited to the Building Regulations 2010
- The Client must ensure compliance with any law, order or regulation in part or in whole, which may be applicable to the project, including but not limited to, the following:
- Building Regulations, including but not limited to the Building Regulations 2010

RAD

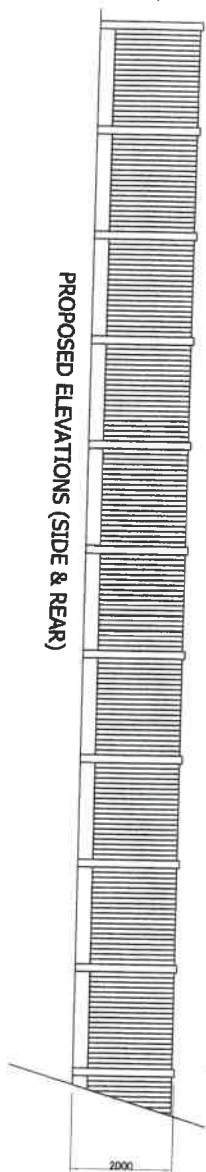
The Little House,
43-46 Cherry Hill Road,
Boston
MA 042

Tel : 01204 372196
Fax : 01204 316110
Mobile: 07790 361104
Email: info@rsdesigns.co.uk

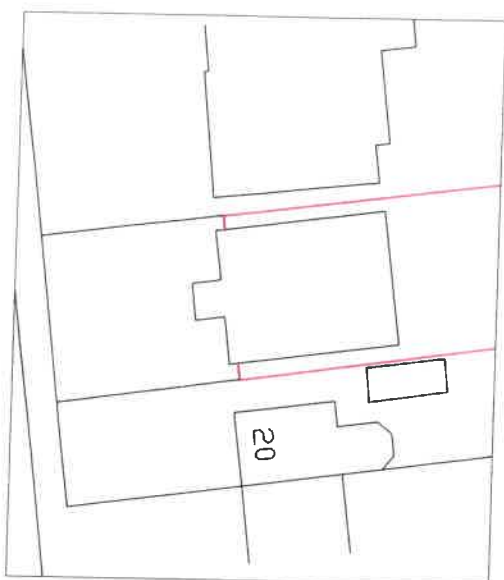
22 COCKEY MOOR ROAD
BLURY
BL9 2HB

RA
JUL 14
NOVEMBER 2021
JUL 14
1:100 @ A1 / 1:200 @ A2

BOUNDARY FENCE :
2m high close-boarded timber fence with concrete posts and base panel



PROPOSED ELEVATIONS (SIDE & REAR)



SITTE PLAN (1:200)
© Crown copyright and database rights 2020
Ordnance Survey 0100031673

[illegible]

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Reprint directions: All permissions over stated measurements from the *Journal*, all dimensions and drawings to be checked by Client and Contractor and discrepancies identified with the Client prior to construction.

The *Journal* of the works in compliance with Planning Approval Conditions and Building Regulations to be submitted to Planning Approval.

The Client must ensure the project complies with the Construction (Design and Management) Regulations 2015.

The Client must ensure compliance from any involvement or participation purely in construction, as well as compliance with any other CD 1996.

Notes

RAD

The White House,
42-44 Chrysler Bldg. Road,
Boston

Tel: 01204 322196
Fax: 01204 214110
Mobile 07790 261104
Email: info@rtdinstruments.com

22 COCKEY MOOR ROAD
BURY
BL8 2HB

Colours*	
RA	
Dis for	OCTOBER 2021
XC014*	1:100 @ A1 / 1:200 @ A3

Costs Decision

Site visit made on 22 February 2022

by **F Rafiq BSc (Hons) MCD MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 18 March 2022

Costs application in relation to Appeal Ref: APP/T4210/W/21/3283822 5 Holmfield Avenue, Prestwich M25 0BH

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr & Mrs Rose for a full award of costs against Bury Metropolitan Borough Council.
 - The appeal was against the refusal of planning permission for the demolition of the existing dwelling and erection of a new detached single dwelling house.
-

Decision

1. The application for an award of costs is refused.

Reasons

2. Planning Practice Guidance (PPG) advises that costs may be awarded where a party has behaved unreasonably, and the unreasonable behaviour has caused another party to incur unnecessary or wasted expense in the appeal process. The type of behaviour that can lead to a costs award includes substantive matters such as unreasonably refusing a planning application.
3. The applicant has set out that the development was in clear accordance with referenced planning policies and the refusal of the application failed to give weight to the fallback position. I have however found in the accompanying appeal decision that the development would be harmful to the character and appearance of the area. Although in considering the previously approved scheme, I have found in the applicant's favour, in that the proposal would result in no greater harm to the character and appearance of the area than the fallback scheme, the weight to be attributed to this consideration is a matter for the decision-maker.
4. It is evident from the Council's Delegated Report and the subsequent Appeal Statement that regard was had to the previous approval to extend the dwelling. I am therefore satisfied that the Council gave sufficient consideration to the fallback position and accordingly, I do not find that it has acted unreasonably in this regard.

Conclusion

5. With the above in mind, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. An award of costs is therefore not justified in this instance.

F Rafiq INSPECTOR

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