

**A04**

**F/TH/13/1035**

**PROPOSAL:** Variation of condition 7 attached to planning permission F/TH/10/1085 to remove pedestrian access during construction

**LOCATION:** CAR PARK, VERE ROAD, BROADSTAIRS

**WARD:** Bradstowe

**AGENT:**

**APPLICANT:** Uprise Limited

**RECOMMENDATION:** **Approve**

Subject to the following conditions:

- 1 The development hereby approved shall be constructed in the following materials are approved in letter dated 29th April 2013:  
**Bricks** – Wienerberger Tabasco Multi Red for units 3,4,7,8,13 & 14, Wienerberger Olde Alton Yellow Multi units 1,2,5,6,9,10,11 & 12

**Weatherboarding** – Marley Eternit Cedral, Sand yellow (C08) for unit 11, Lavender Blue (C12) for units 5,9,12 & 14, Lilac blue (C13) for units 1,2,4 & 7

**Render** – Render through colour Light Ivory (RAL 1025) for units 3,6,8,10 & 13

**Roofing** – Redland Rosemary red plain tiles for units 3,7,8,11,13 & 14, Blue/black Spanish slate for units 1,2,4,5,6,9,10,& 12.

**GROUND:**

In the interests of visual amenity in accordance with Policy D1 of the Thanet Local Plan.

- 2 The vehicle parking spaces and garages, including car parking spaces for the dwellings, hereby approved, public car parking spaces and coach parking spaces, shown on the submitted plan, shall be operational prior to the first use of the site and thereafter maintained for that purpose.

**GROUND:**

To ensure that sufficient parking provision is made for the development, in accordance with Thanet Local Plan policies TR10 and TR16.

- 3 The turning facilities, shown on the submitted plan, shall be operational prior to the first use of the site and thereafter maintained for that purpose.

**GROUND:**

In the interests of highway safety.

- 4 Prior to the first occupation of any of the residential units, hereby approved, the:

- (a) footways and/or footpaths, with the exception of the wearing course;
- (b) carriageways, with the exception of the wearing course, but including turning facilities, highway drainage, visibility splays, street lighting, street name plates and highway structures (if any)

shall be operational.

**GROUND:**

In the interests of highway safety.

- 5 Parking facilities for construction workers and temporary arrangements for car parking shall be provided, in accordance with drawing titled Annex 1 submitted on 25th March 2013.

**GROUND:**

In the interests of highway safety and to ensure the proper development of the site without prejudice to the amenities of the public.

- 6 A safe route for pedestrians between the footpath to the east of the site and Vere Road shall be provided and maintained free of obstruction subsequent to completion of the development.

**GROUND:**

To ensure the protection of this public amenity.

- 7 The development shall be carried out concurrently with the provisions made in the Archaeological Evaluation Report (Ref 76970.01) submitted on 25th March 2013.

**GROUND:**

To ensure that the archaeological history of the site is recorded in accordance with Policies HE11 and HE12 of the Thanet Local Plan and the National Planning Policy Framework.

- 8 The proposed means of surface water drainage shall be carried out in accordance with details in drawing no.613843/sk02 submitted 25th March 2013.

**GROUND:**

To reduce any impact of flooding and to prevent pollution in accordance with the National Planning Policy Framework.

- 9 All hard and soft landscape works shall be carried out in accordance with the approved landscaping details shown in drawing 022A submitted on 19th February 2014. The works shall be carried out prior to the occupation of any part of the development, or in accordance with a programme of works to be agreed in writing with the Local Planning Authority. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority gives any written consent to any variation.

**GROUND:**

In the interests of the visual amenities of the area in accordance with Policy D1 of

the Thanet Local Plan.

- 10 The development hereby approved shall be carried out in accordance with the submitted plans as amended by revised drawings numbered 1464-01-1, 02-1, 03-1, 04-1, 05-1, 07-1, 08-1 received 19 January 2011 and 1464-06-1 received 1 March 2011 and 1464-10-0 received 14 March 2011.

**GROUND:**

To secure the proper development of the area.

- 11 Prior to the first occupation of the development hereby approved, the toilet block shall be provided in accordance with the submitted details.

**GROUND:**

To ensure retention of a community facility in accordance with Thanet Local Plan Policy CF2.

- 12 The measures as agreed with Southern Water as confirmed in correspondence dated 22nd April 2013 shall be undertaken to protect the public sewers.

**GROUND:**

To prevent pollution in accordance with guidance within National Planning Policy Framework.

#### SITE, LOCATION AND DESCRIPTION

The site is located at the northern end of Vere Road, Broadstairs. It is a coach and car park, and is a mixture of hard surfaced treatments. The site also contained recycling and public toilet facilities. The principle vehicular access to the site is via Vere Road, a predominantly residential street, containing a mix of houses and bungalows. Vere Road has a steep gradient dropping down into the site. To the north east of the site are allotment gardens, and to the north and west are the rear gardens of properties fronting Bradstow Way and Carlton Avenue. To the east of the site is a pedestrian access to the seafront via Alexandra Road. The site is currently under development.

#### RELEVANT PLANNING HISTORY

F/TH/09/0465 - an application was approved for the erection of 14 dwellings, the erection of toilet building together with resurfacing of the car park.

F/TH/10/0753 - an application was approved for the erection of 14 dwellings, the erection of toilet building together with resurfacing of the car park

F/TH/10/1085 - an application was approved for the erection of 14 dwellings, the erection of toilet building together with resurfacing of the car park. This is the planning application with has been implemented on site, and the proposed variation to condition 7 of this permission is the subject of this application.

#### PROPOSED DEVELOPMENT

The proposal is for the variation of Condition 7 attached to planning permission

F/TH/10/1085, which states that 'a safe route for pedestrians between the footpath to the east of the site and Vere Road shall be provided and maintained free of obstruction both during the course of development and subsequent to completion'. The proposal is for the variation of this condition, which would allow for the closure of the pedestrian link connecting Vere Road and the footpath to the east of the site (leading from Alexandra Road) during the construction period of the development in Vere Road car park. The completion date of the development has been estimated as being the 19th December 2014. Following the completion of the development, the pedestrian link will again be open to the public.

The applicant has stated that they are unable to retain a pedestrian link through the site during the construction period on grounds of health and safety. The applicant has submitted a phasing plan with his application which shows that within the area previously accommodating the pedestrian link there will be significant plant movement (including construction delivery vehicles and forklift trucks), deep excavation (required across the full width of the site for new drainage pipes and soakaways, scaffolding (which is required for the construction of the new WC block on land immediately adjacent to the eastern footpath), the storage of construction material, along with the need to lay the car parking surface material.

The applicant has also advised that they have discovered a large electrical cable running through the site, close to the eastern footpath, which is currently exposed and could cause a fatality if the site were accessed by unauthorised personnel.

The Health and Safety Advisors of the developer have commented that it is a severe risk to public safety to allow anyone access to the construction site at this stage of the development, as a number of potentially hazardous operations will be taking place and it is not possible to provide a safe route whilst this is happening.

## DEVELOPMENT PLAN POLICIES

### **Thanet Local Plan**

D1 – Design

## NOTIFICATIONS

Neighbouring occupiers have been notified and a site notice has been posted. 44 objections have been received, outlining the following concerns:

- Loss of footpath during construction.
- Closure is inconvenient and unnecessary.
- Loss of allotments from within the site with no viable alternative.
- Development of the site is unacceptable.
- Loss of link through the site to the beach.
- General reduction in public amenity.
- Footpath is a public right of way.
- Harm to Broadstairs as a tourist destination.
- Footpath closed without consent being granted allowing for the closure.

9 letters of support were received for the application, raising the following points:

- Closing the footpath is necessary and helps to expedite the development.
- Dangerous to allow public access to a construction site.

- Improvement to footpath once properly surfaced.

**Broadstairs Town Council** - Recommend the refusal of the application. Site safety is a legal duty, but appropriate phasing of the works can ensure safety and compliance with Condition 7.

**Broadstairs Society** - Object to the application on the grounds that Condition 7 was specifically put there by Thanet District Council to protect public amenity.

## CONSULTATIONS

**KCC Highways** - The removal of pedestrian access is undesirable from a pedestrian permeability perspective, however I understand that health and safety is also a strong consideration that needs to be balanced. The pedestrian route does not appear to be part of the registered highway or public right of way network, however I would advise that some advisory signs is provided at the top of Vere Road (junction with High Street) and Alexandra Road (junction with Albion Street) to warn pedestrians that this route is closed for the duration of the works.

**Environmental Health** - No objections.

**Public Protection Health and Safety Officer** - Having spoken to a Health and Safety Executive construction officer, there MUST be clear and defined separation between any construction works and any public footpath or other access to the site. If the footpath runs across the site, then there must be a temporary reroute of the path keeping the non construction people off the site. There have been exceptions to this e.g. where a fire escape route has had to cross a construction site - this apparently was the subject of a documented and practiced risk assessment procedure.

## COMMENTS

This application has been called before members by Councillor David Saunders due to the loss of convenience and the level of public interest that has been generated following the temporary closure of the access route.

The condition to retain a pedestrian link through the site, between Vere Road and the footpath, was imposed to ensure the protection of this public amenity, both during and after the construction of the development. The presumption therefore is to seek to ensure that the footpath be provided unless it would be impractical and unreasonable to do so. In consideration of this application to vary the condition, however, we must give full consideration to the health and safety concerns raised about the practicalities of providing this link across the site, and to conclude whether it would be reasonable to maintain the requirement for a footpath to be provided for the duration of construction works.

The health and safety requirement is that there must be a clear and defined separation between any construction works and any public footpath or other access to the site. The Council's Environmental Officer has advised that he has spoken with the Health and Safety Executive Construction Officer, and states that if the footpath runs across the site, then there must be a temporary rerouting of the path keeping the non construction people off the site.

It is clear that a path could not reasonably be retained across the centre of the site whilst construction takes place as this would cause a significant and unacceptable risk to public

safety. However, officers have asked the applicant to provide further detail about the potential to re-phase the works, and provide a footpath from Vere Road around the perimeter of the site along the western side of the access road to the north, running east above the approved terrace of the three dwellings, then following the fence line of the allotments to the footpath.

The applicants have responded that there would be a conflict with site plant moving up and down the access road into the coach park (to be used as a store of building materials during construction) at the only entry point, which means that a safe access would not be possible through the site. It is also the case that the building of the three new dwellings adjacent to the potential path would make this route unavailable during the construction of these dwellings. An additional constraint relates to the new toilet block at the eastern edge of the site, which would not be possible to be carried out without restricting access to the site, due to its position.

Due to the approved position of the row of 11 dwellings, no route is feasible during construction along the southern boundary of the site. The location of the car parking area, and the need to move the electrical cable plus the use of the car park for construction traffic, means that a route across this part of the site is also not possible. Therefore having carefully considered all possible options, it is clear to officers that a pedestrian route through the site during construction would be unpractical and unreasonable.

#### **Other matters**

A number of residents have raised concern with the lack of access to the allotments, however, this was not a requirement of the condition, and is not a material consideration to this application. The closure of the footpath will only be temporary, and it is not considered that this will significant harm the provision of tourist facilities within Broadstairs.

In regard to the objection on the grounds that the development has already occurred, the Local Planning Authority are obliged to consider the planning application on its merits, irrespective of whether the change to the condition has already occurred.

KCC Highways have advised that the footpath is not a registered public right of way.

#### **Conclusion**

It is considered that it would be unpractical and unreasonable, having regard to the issues relating to the provision of a path, to require a path to be open during construction. However the proposed variation to the condition does not remove the obligation on the developer to ensure that access is provided following completion of the development. The developer will be providing a good quality pedestrian link following the completion of the development, which will again allow for pedestrian movement between Vere Road and the footpath, however, in the meantime, the potential risk to human safety through the provision of a pedestrian link through the construction site and the significant practical difficulties are considered to outweigh the temporary loss of this public amenity.

Therefore the proposed variation is considered to be appropriate, and members are recommended to approve the variation of the condition.

#### **Case Officer**

Emma Fibbens

# Title: F/TH/13/1035

Project name: Car Park, Vere Road, Broadstairs

Notes:

Scale: 1:1,250

Author:



Legend

F/TH/13/1035

CAR PARK, VERE ROAD, BROADSTAIRS

