

About the application

Application number: 2024/92517	
What is the application for?:	Variation of condition 17 (drainage) of previous permission 2018/93591 for erect
Address of the site or building:	Victoria Tower, Lumb Lane, Castle Hill, Almondbury, Huddersfield, HD4 6TA
Postcode:	

User comments

Type of comment: An objection	
Do you wish your comments to be published on the website anonymously?	Yes
Comment: Whilst the application makes reference to condition 17, it does not make clear within which document. However, after diligent research, it would seem this applies to the Deed signed on 9 February 2022. It should also be noted that the application specifically introduces use of the term 'Superstructure' in a manner which attempts to: <ul style="list-style-type: none">• split the overall development into 2 parts,• distinguish superstructure as the only aspect of significance for SMC, and• dismiss substructure as a minor matter Given the nature of the scheduled asset, this demonstrates either a fundamental failing of understanding as to the nature of the protected asset, or a deliberate attempt to misdirect. My objection and why: The subject of the application is one of many conditions relating to a significant development 2018/93591 proposed for Castle Hill. The conditional planning approval for the 'overall development' is subject to the applicant obtaining Scheduled Monument Consent (SMC). The relevant drainage clause is no different to any other element of the development as all elements are subject to SMC be they drainage, superstructure or substructure. The overall development was approved 10 Feb 2022. The time limit applicable to the approved plans expires on 09 Feb 2025 unless ALL conditions are met - a clear rule known to the applicant throughout. It is my understanding that Historic England (HE) have yet to receive an application for SMC for the overall scheme (which should also address the drainage). Given the applicant has failed to apply to for the entire scheme (despite the passing of approx. 90% of the 3yr planning timeframe), it appears obscure that a planning extension is requested, so late in the day, merely for a single condition. The only logic for a planning extension to be granted on a single condition is surely when all other conditions have been met, otherwise such approval would lead to a wholly inappropriate extension of the entire project	

inappropriate extension of the entire project.

It is particularly relevant that HE (a statutory consultee) maintained their objection to the planning application. As such, when the Planning Committee granted permission, conditional on resolving that objection, they clearly anticipated the condition being met within the 3yrs allowed or the permission time-expiring at the deadline. If this were not the case, then the obvious route would have been to refuse the application, as the development could not progress in the absence of SMC.

The 3yr time limit, the SMC condition and the fact that absolutely no works can commence on site without SMC consent, have been known to the applicant throughout.

Clearly, it would be wholly inappropriate to seek SMC approval for a single element of the development, which may prove unnecessary, where the scheme may never be approved.

To permit the requested extension, for what is a single element of a large project, would open the Council to a claim that works on the overall project have begun and thereby the 'commencement of works' criteria could be argued to have been met. This would leave the entire site under a long term cloud of uncertainty into the future. The 3yr commencement rule is intended to avoid this exact situation.

The terms of the planning approval have been known to the applicant for almost 3yrs. Despite this, the applicant has failed to prepare and submit an SMC request (the most critical requirement on which approval of the entire development hinges). Under such circumstances:

- The existing time limit should be strictly maintained, and
- where the conditions are not met, the provisional permission withdrawn

In view of the above, I formally request the application be refused. Should Kirklees not do so, it would expose KC Planning to a precedent many other developers would look to exploit into the future, creating growing areas of uncertainty across the district.