



**SOUTH
KESTEVEN
DISTRICT
COUNCIL**

Planning Committee

9 December 2020



S19/2094

Proposal: Section 73 application to vary condition 11 (relating to SSSI Working Method Statement) of planning permission S17/1134 (for 87 dwellings)

Location: The Old Quarry, Station Road, Castle Bytham

Applicant: Dr Dallas Burston

Agent: Framptons Planning

Application Type: Outline Planning Application with EIA

Reason for Referral to Committee: Major Application

Key Issues: Ecology and Biodiversity

Technical Documents: Phase 1 habitat Survey
SSSI Working Method Statement

Report Author

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Corporate Priority:

Growth

Decision type:

Regulatory

Wards:

Glen

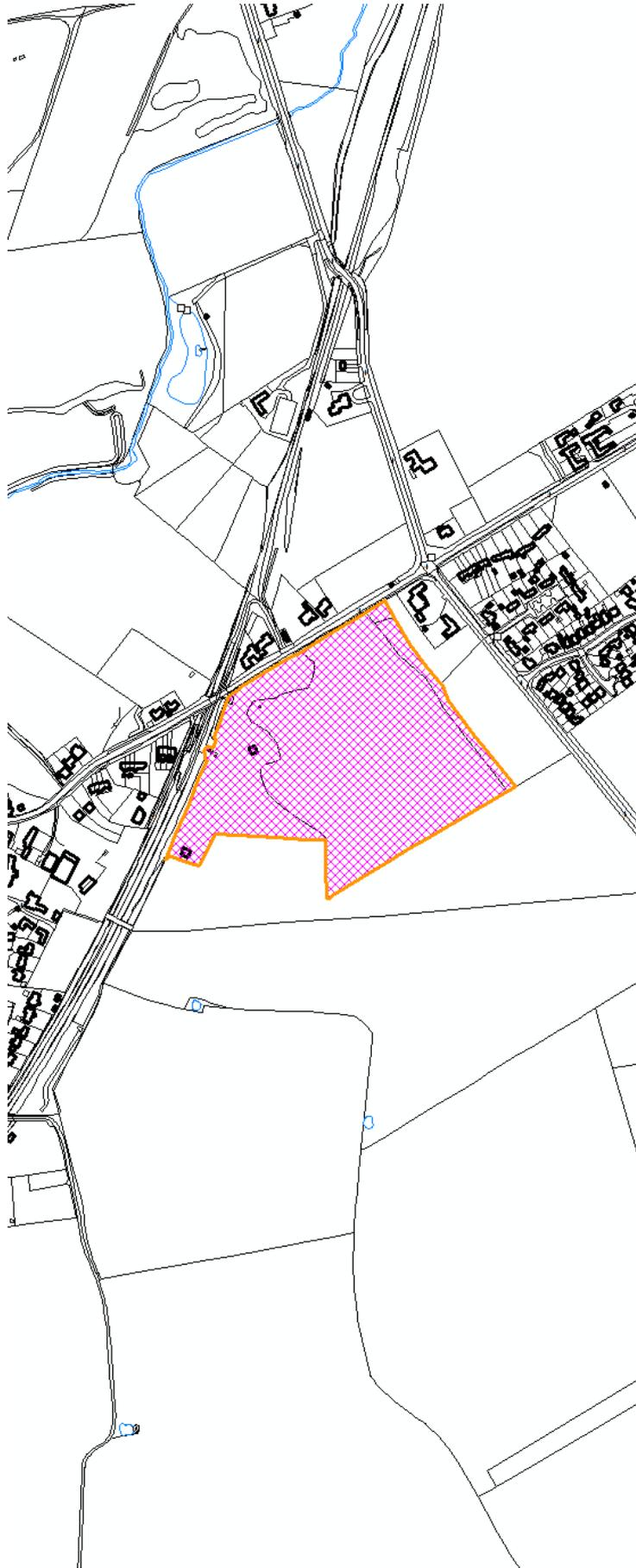
Reviewed by:

William Richards, Head of Development Management

23 November 2020

Recommendation (s) to the decision maker (s)

Approve subject to conditions and section 106 agreement



Key



Application
Boundary



1 Description of Site

- 1.1 The application site, which extends to some 9.6 hectares in area, comprises a former limestone quarry immediately to the west of Station Road and to the north of Clipsham Road in Castle Bytham. As would be expected, excavation levels within the quarry area differ greatly, and are generally below that of the surrounding land. The land comprising the northern part of the site remains at a higher level and adjoins the cutting of the former railway line. That part of the site which is directly adjacent to Station Road is level with the road.
- 1.2 The quarry site includes a Site of Special Scientific Interest (SSSI). There are established hedgerows to the Station Road frontage of the site and to the northern and southern boundaries. There are also a number of mature trees towards the northern boundary. The site itself includes areas of mixed grassland and flora that have become established following the abandonment of the quarry use.
- 1.3 Residential dwellings are located on the opposite (south-eastern) side of Station Road and beyond the former railway cutting (to the north) are residential properties either fronting onto or served off Station Road. There is a recently constructed village shop and car park on the eastern side of the site adjacent to station road. There is open land beyond the quarry to the west.

2 Description of Proposal

- 2.1 The application seeks to vary condition 11 (SSSI Working Method Statement) of outline planning permission S17/1134 following an updated phase 1 habitat survey of parcel A.
- 2.2 Condition 11 of S17/1134 states:
- “The development hereby permitted shall be carried out in accordance with the working method statement approved under approval of details required by condition application S17/1195.”*
- 2.3 The proposed amended condition would refer to the updated SSSI Working Method Statement submitted with this application.

3 Relevant History

- 3.1 The site was originally granted outline planning permission in 2017 (S14/3097) for 85 dwellings and a shop.
- 3.2 A section 73 application was approved in 2018 (S17/1134) which amended the development to 87 dwellings and a shop.
- 3.3 Since then, a number of reserved matters applications for residential development and a full application for the shop have been approved.

- 3.4 The shop has been completed and a material start to the residential development has been made through construction of an access road on Plot A.

4 Policy Considerations

4.1 SKDC Local Plan 2011 - 2036

Policy EN2 – Protecting Biodiversity and Geodiversity

4.2 National Planning Policy Framework (NPPF)

Section 15 – Conserving and enhancing the natural environment

5 Representations Received

5.1 Castle Bytham Parish Council

5.1.1 Application acknowledged, no further comments.

5.2 Natural England

5.2.1 No objection, subject to appropriate mitigation being secured.

6 Representations as a Result of Publicity

6.1 This application has been advertised in accordance with the Council's Statement of Community Involvement and one letter of objection has been received.

6.2 The objection relates to the principle of development and appears to relate to the original 2017 application rather than the issues relating to the proposed variation of condition.

7 Evaluation

7.1 Principle of Development

7.1.1 The purpose of an application made under section 73 of the Town and Country Planning Act 1990 (As Amended) is to vary or remove conditions associated with a planning permission.

7.1.2 The Act is very clear that:

"On such an application the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted."

7.1.3 In other words, the LPA cannot revisit the principle of development, or those issues which are not covered by the conditions, and only minor material changes can be considered.

7.1.4 The relevant condition is condition 11 of S17/1134 which requires the approved development to be carried out in accordance with the working method statement previously approved under approval of details required by discharge of condition application S17/1195.

- 7.1.5 The effect of granting permission would be to issue a new permission with the condition amended as requested, together with any other relevant conditions from the original permission.
- 7.1.6 Outline permission S17/1134 was granted in 2018 for up to 87 dwellings and a shop. Since application S17/1134 was determined, a number of reserved matters consents have been granted on the site and a material start has been made to the development.
- 7.1.7 Following the commencement of development, an updated phase 1 habitat survey was carried out which has been submitted as part of this application. The survey demonstrated a reduced area of calcareous grassland within the site boundary of Plot A. As a result, the plan at Appendix 2 of the Working Method Statement has been updated to reflect the current status of the land.
- 7.1.8 It is noted that reserved matters including details of layout and landscape have already been approved for Plot A. A landscape and biodiversity management plan for this part of the site was also approved under S19/1140. A significant area of grassland habitat was also retained and preserved within Plot B reserved matters approval under S20/0286.
- 7.1.9 Local Plan Policy EN2 seeks to minimise the loss of irreplaceable or rare habitats, to enhance ecological networks and to deliver a net gain on all proposals.
- 7.1.10 The site is designated as a site of special scientific interest (SSSI). However, it is the geological significance of exposed rock faces of the quarry which are the reason for the designation. The part of the site where Plot A is located is on the higher unexcavated ground adjacent to Station Road. There would therefore be no additional impact on the important features of the SSSI.
- 7.1.11 The amended phase 1 habitat survey together with the amended Working Method Statement have been assessed by Natural England and are considered to be robust and acceptable. Natural England do not object, subject to appropriate mitigation being secured by condition.
- 7.1.12 An amendment to condition 11 is proposed as follows:
- “The development hereby permitted shall be carried out in accordance with the working method statement submitted as part of this application dated November 2019”*
- 7.1.13 This would ensure that the remainder of the site would be developed without harmful effects on the SSSI and with a net increase in biodiversity through the already approved landscaping and biodiversity management plan details, in accordance with Local Plan Policy EN2 and NPPF (section 15).
- 7.2 **Other matters**
- 7.2.1 The original Section 106 agreement would require a deed of variation to link it to this new permission.

- 7.2.2 The other conditions will be amended to reflect the fact that reserved matters consents have been granted, a material start has been made, and various conditions requiring submission of details have been approved.

8 Crime and Disorder

It is considered that the proposal would not result in any significant crime and disorder implications.

Human Rights Implications

Articles 6 (Rights to fair decision making) and Article 8 (Right to private family life and home) of the Human Rights Act have been taken into account in making this recommendation. It is considered that no relevant Article of that act will be breached.

Conclusion

- 10.0 The minor changes to the SSSI Working Method Statement, following the updated phase 1 habitat survey are acceptable and would ensure that ecology and biodiversity are protected and enhanced in accordance with Local Plan Policy EN1 and NPPF Section 15.
- 10.1 The amendment to condition 11 is therefore acceptable and brings the consent for the site in-line with the reserved matters and details reserved by condition that have been approved to date.

11 Recommendation

- 11.1 Approve the application subject to the conditions set out in the report and subject to the completion of a deed of variation to the S106 agreement agreed under S17/1134. Where the deed of variation has not been concluded prior to the Committee, a period not exceeding twelve weeks after the date of the Committee shall be set for the completion of that obligation.
- 11.2 In the event that the agreement has not been concluded within the twelve-week period and where, in the opinion of the Head of Development Management, there are no extenuating circumstances which would justify a further extension of time, the related planning application shall be refused planning permission for the appropriate reason(s) on the basis that the necessary criteria essential to make what would otherwise be unacceptable development acceptable have not been forthcoming.

Approved Plans

- 1) The development hereby permitted shall be carried out in accordance with the following list of approved plans:

Drawing No. DALL140521 SKL-02 Rev F, in relation to the location of the accesses, and extent of land parcel C only (received on 11 August 2017)
Drawing No. DALL140521 SLP-01 (received on 7 January 2015)

Drawing No. 605-SK01 (received on 7 January 2015)

Drawing No. 605-SK02 Rev A (received on 7 January 2015)

Drawing No. 605-SK05 (received on 7 January 2015)

Parcel A - Plans Approved under reserved matters consents S19/0180 or S19/0286

Parcels B and C – Plans approved under reserved matters consents S18/2142 or S19/2208

Unless otherwise required by another condition of this permission.

Reason: To define the permission and for the avoidance of doubt.

- 2) The maximum number of dwellings on the application site shall not exceed 87.

Reason: To define the permission and for the avoidance of doubt.

Before the Development is Commenced

- 3) The development shall be carried out in accordance with the written scheme for the archaeological recording of the (former) kilns on the approved under approval of details required by condition application S17/0724.

Reason: In order to provide a reasonable opportunity to record the history of the site and in accordance with Local Plan Policy EN6.

- 4) Before any part of the development hereby permitted is commenced on parcel B a surface water drainage scheme for that part of the site, based on sustainable urban drainage principles and an assessment of the hydrological and hydrogeological context of the development, shall be submitted to and approved in writing by the Local Planning Authority.

The scheme shall:

- a) Provide details of how run-off will be safely conveyed and attenuated during storms up to and including the 1 in 100 year critical storm event, with an allowance for climate change, from all hard surfaced areas within the development into the existing local drainage infrastructure and watercourse system without exceeding the run-off rate for the undeveloped site;
- b) Provide attenuation details and discharge rates which shall be restricted to 3.8 l/s/ha;
- c) Provide details of the timetable for and any phasing of implementation for the drainage scheme; and
- d) Provide details of how the scheme shall be maintained and managed over the lifetime of the development, including any arrangements for adoption by any public body or Statutory Undertaker and any other arrangements required to secure the operation of the drainage system throughout its lifetime.

Reason: to ensure that surface water run-off from the development will not adversely affect, by reason of flooding, the safety, amenity and commerce of the

residents/users of this site, and others off-site.

- 5) Before any part of the relevant phase of the development permitted is commenced, (except parcel A) plans showing the existing and proposed land levels of the relevant site area including site sections, spot heights, contours and the finished floor levels of all buildings with reference to a fixed off site datum point shall have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of the visual amenities of the area and in accordance with Local Plan DE1.

- 6) Before parcel B of the development hereby permitted is first commenced, a landscape and biodiversity management plan (including a programme of implementation), shall have been submitted to and approved in writing by the Local Planning Authority. The plan shall provide for the following:
 - a) Details of the trees and the areas of flora and fauna to be retained as part of the landscaping scheme for the site.
 - b) Details of a scheme to provide for the protection of the trees and the areas of flora and fauna to be retained (as part of the landscaping scheme for the site) during the construction phase.
 - c) For an ecological/protected species survey to be carried out, at the appropriate time(s) of year, no more than 12 months before the commencement of any phase of the development on the site to determine whether any protected or important species or habitats are present and to provide for mitigation measure(s) where necessary.
 - d) Details of biodiversity enhancement measures including tree and other planting to be implemented as part of the landscaping scheme.
 - e) Details of a scheme for the provision of any play area(s)/play trail.
 - f) Details of a scheme showing how the areas of the site which are subject to the Site of Special Scientific Interest (SSSI) designation are to be protected from damage during the occupation phase of the development.
 - g) Details of the long term design objectives, management responsibilities and maintenance schedules for all landscape/open space/play areas, other than privately owned, domestic gardens.

Reason: Landscaping makes an important contribution to the development and its assimilation with its surroundings; to provide for formal/informal recreation facilities at the site; and to provide for the protection of the ecological environment and to enhance the biodiversity of the site and in accordance with Local Plan Policy EN2.

During Building Works

- 7) The development hereby permitted shall be carried out in accordance with the mains foul sewage infrastructure scheme approved under approval of details required by condition application S17/0918

Reason: To prevent flooding, pollution and detriment to public amenity through the provision of suitable water infrastructure.

- 8) The development hereby permitted shall be carried out in accordance with the working method statement submitted as part of this application dated November 2019.

Reason: To ensure that the features for which the land is designed a Site of Special Scientific Interest are not harmed during the development period and in accordance with the National Planning Policy Framework.

- 9) The phasing of the development of the site shall be undertaken in accordance with the details approved under approval of details required by condition application S18/1524.

Reason: To enable the Local Planning Authority to control the development in detail and to comply with Section 92 (as amended) of the Town and Country Planning Act 1990; to protect the biodiversity interests of the site.

- 10) If, during any part of the construction phase of the development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer(s) has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority.

Reason: To ensure that any unforeseen contamination encountered at the site is dealt with in an appropriate manner to protect controlled waters.

- 11) Any remediation strategy in relation to (unforeseen) contamination encountered at the site during any part of the construction phase of the development shall be strictly implemented as approved.

Reason: To ensure that any unforeseen contamination encountered at the site is dealt with in an appropriate manner to protect controlled waters.

- 12) Before any approved access road from the development site onto Station Road is first brought into use visibility splays of 2.4 metres by 43 metres shall have been provided at the junction of the access road and Station Road. The land within the visibility splays shall be kept clear of any item/vegetation over a height of 0.6 metres thereafter at all times.

Reason: To ensure adequate visibility is maintained for traffic entering the existing

highway from the new development, in the interests of highway safety.

- 13) Before the works to provide the boundary treatments on the relevant phase of the development permitted are commenced, a plan indicating the heights, positions, design, materials and type of boundary treatment to be erected shall have been submitted to and approved in writing by the Local Planning Authority.

Reason: To provide a satisfactory appearance to any boundary treatments and by screening rear gardens from public view, in the interests of the privacy and amenity of the occupants of the proposed dwellings and in accordance with Local Plan Policy DE1.

- 14) Before any of the works on the external elevations of the building(s) on the relevant phase of the development are begun, samples of the materials (including colour of any render, paintwork or colourwash) to be used in the construction of the external surfaces shall have been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure a satisfactory appearance to the development and in accordance with Local Plan Policy DE1.

- 15) The approved Landscape and Biodiversity Management Plan (including the programme of implementation), including those details approved under approval of details required by condition application S19/1140, shall be strictly adhered to at all times during the construction phase(s) of the development and thereafter during the lifetime of the development unless otherwise agreed in writing by the Local Planning Authority

Reason: Landscaping makes an important contribution to the development and its assimilation with its surroundings; to provide for recreation facilities at the site; and to provide for the protection of the ecological environment and to enhance the biodiversity of the site and in accordance with Local Plan Policy EN2.

Before the Development is Occupied

- 16) No dwelling within each phase (other than parcel C) shall be occupied until sufficient fire hydrants have been provided on site to serve that phase, in accordance with details to be submitted to and approved in writing by the Local Planning Authority

Reason: In the interest of the amenities of the future residents of the site.

- 17) Before any part of the development hereby permitted is occupied/brought into use, a verification report confirming that remedial works approved under discharge of condition application S17/0725, have been completed shall have been submitted to

and approved in writing by the Local Planning Authority. The report shall have been submitted by the nominated competent person approved, under S17/0725. The report shall include:-

- i. A complete record of remediation activities, and data collected as identified in the remediation scheme, to support compliance with agreed remediation objectives;
- ii. As built drawings of the implemented scheme;
- iii. Photographs of the remediation works in progress; and
- iv. Certificates demonstrating that imported and/or material left in situ is free from contamination.

The scheme of remediation shall thereafter be maintained in accordance with the approved scheme.

Reason: Previous activities associated with this site may have caused, or had the potential to cause, land contamination and to ensure that the proposed site investigations and remediation will not cause pollution in the interests of the amenities of the future residents and users of the development; and in accordance with Local Plan Policy EN4.

- 18) Before any part of the relevant phase of the development permitted is first occupied/brought into use, the works to provide the foul water drainage shall have been completed in accordance with the approved details.

Reason: To prevent flooding, pollution and detriment to public amenity through the provision of suitable water infrastructure.

- 19) Before any part of the relevant phase of the development permitted is first occupied/brought into use, the works to provide the surface water drainage scheme(s), shall have been completed in accordance with the approved details. including those details approved under approval of details required by condition application S19/0471.

Reason: to ensure that surface water run-off from the development will not adversely affect, by reason of flooding, the safety, amenity and commerce of the residents/users of this site, and others off-site.

- 20) The approved works to provide the boundary treatments on the relevant phase of the development permitted shall be provided before the relevant dwelling is first occupied/the relevant building is first brought into use and shall be kept permanently free for such use at all times thereafter.

Reason: To provide a satisfactory appearance to any boundary treatments and by screening rear gardens from public view, in the interests of the privacy and amenity of the occupants of the proposed dwellings and in accordance with Local Plan Policy DE1.

21) Before any part of the development hereby permitted is first occupied/first brought into use, the external surfaces to buildings shall have been completed in accordance with the approved details.

Reason: To ensure a satisfactory appearance to the development and in accordance with Local Plan Policy DE1.

22) Before any building/dwelling hereby permitted is first occupied/first brought into use, the finished floor levels for that building/dwelling and the finished land levels of the surrounding lands (including any curtilage/garden area) shall have been constructed in accordance with the approved details, including those approved under approval of details required by condition application S19/0813.

Reason: In the interests of the visual amenities of the area and in accordance with Local Plan Policy DE1.

23) The approved scheme for the provision of fire hydrant(s) on the site area shall be completed before any dwelling to be served by the fire hydrant(s) is first occupied/building is first brought into use.

Reason: In the interest of the amenities of the future residents of the site.

Ongoing Conditions

24) Within a period of five years from the first occupation of the final dwelling/unit of the development hereby permitted, any trees or plants provided as part of the approved soft landscaping scheme, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced in the first planting season following any such loss with a specimen of the same size and species as was approved in condition above unless otherwise agreed by the Local Planning Authority.

Reason: To ensure the provision, establishment and maintenance of a reasonable standard of landscape in accordance with the approved designs.

25) The approved surface water drainage system(s) shall be retained and maintained in full in accordance with the approved details.

Reason: to ensure that surface water run-off from the development will not adversely affect, by reason of flooding, the safety, amenity and commerce of the residents/users of this site, and others off-site.

26) The approved arrangements for the parking/turning/manoeuvring/loading/unloading of vehicles within any phase of the development permitted shall be provided before the relevant dwelling is first occupied/the relevant building is first brought into use and shall be kept permanently free for such use at all times thereafter.

Reason: In the interest of highway safety; to ensure that sufficient off-street car parking facilities are provided and retained and to allow vehicles to enter and leave the highway in a forward gear in the interests of highway safety.

Standard Note(s) to Applicant:

1 In reaching the decision the Council has worked with the applicant in a positive and proactive manner by determining the application without undue delay. As such it is considered that the decision is in accordance with paras 38 of the National Planning Policy Framework.

SSSI Constraints Plan

