



**SOUTH
KESTEVEN
DISTRICT
COUNCIL**

Planning Committee

09 December 2020



S20/0464

Proposal: Section 73 application to vary conditions 2 (approved plans), 4 (soft-landscaping), 6 (hard landscaping) and 11 (footway connection) of planning approval S18/1207 to alter properties, landscaping and pedestrian connection

Location: Land off Kettering Road, Stamford

Applicant: Simon Boon Homes Ltd

Agent: John Trotter, Wythe Holland Ltd

Application Type: Full Planning Permission (Major)

Reason for Referral to Committee: Section 73 application related to a major application

Key Issues: Principle of development
Impact on the character of the area and the setting of heritage assets
Highway impacts

Technical Documents: N/A

Report Author

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Corporate Priority:

Growth

Decision type:

Regulatory

Wards:

Stamford St Mary's

Reviewed by:

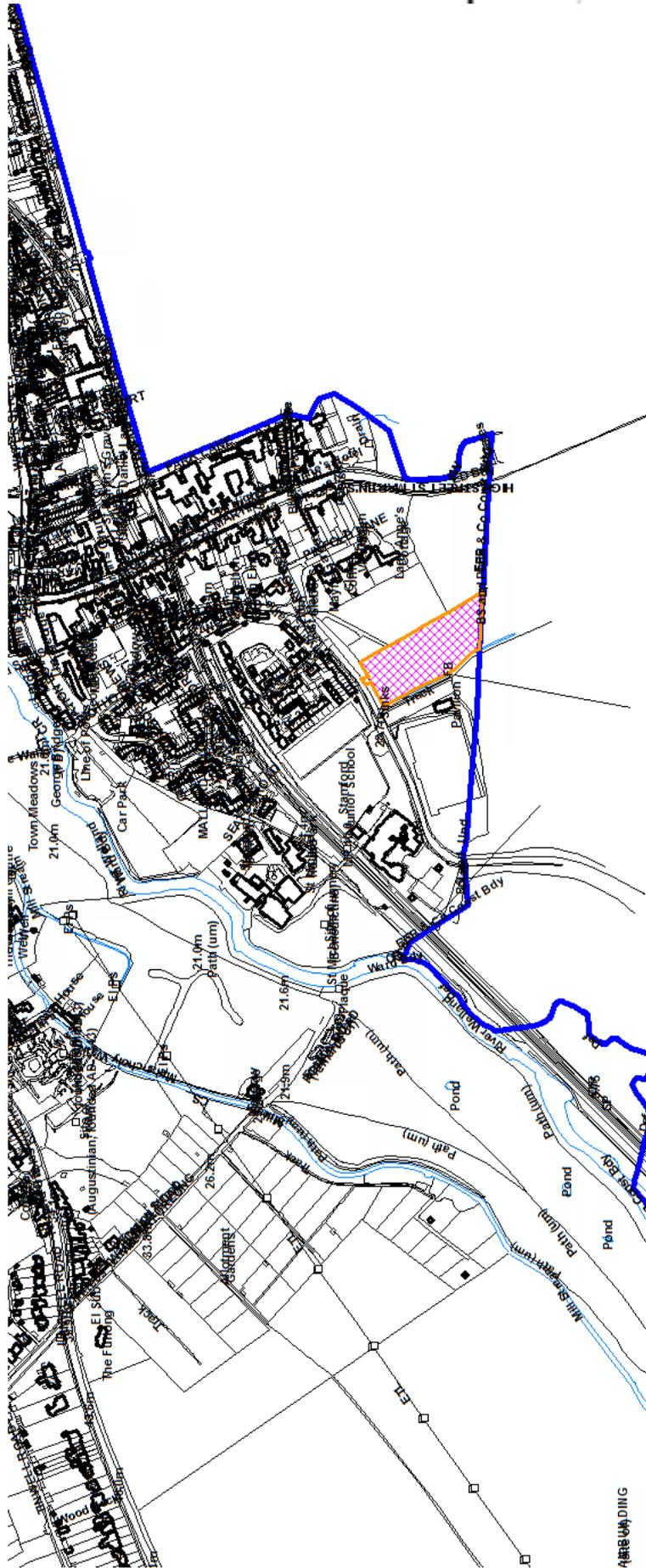
William Richards, Head of Development Management

23 November 2020

Recommendation (s) to the decision maker (s)

Approve subject to conditions and deed of variation to S106 Agreement

S20/0464 – Land Off Kettering Road, Stamford



AGREED DING

1 Description of Site

- 1.1 The application site is approximately 0.9 hectares in size and is located on the edge of the built up area of Stamford in an area where there is a strong contrast between the tightly-knit urban character of the town and the rural landscape surrounding it. Stamford Conservation Area extends across the historic core of the town, with the area known as St Martin's closest to the application site. The application site is not located within the Conservation Area, although there are several heritage assets in the wider context.
- 1.2 The application site is located on the southern side of Kettering Road close to the administrative boundary with Peterborough City Council. The land gently falls from south to north across the site. The field is bounded by with trees and hedgerows. A public footpath diagonally crosses the site, whilst a second public footpath passes close to the south eastern corner of the site.
- 1.3 The site benefits from planning permission under S18/1207 for the construction of five detached houses which has commenced and is on-going.

2 Description of Proposal

- 2.1 The application proposes the following amendments to the previously approved scheme.
- 1) Minor amendments to approved dwellings;
 - 2) Adjusted pedestrian connection to Kettering Road;
 - 3) Further details relating to public right of way boundary treatments and finished surface;
 - 4) Amended soft-landscaping details.
- 2.2 It is noted that the details of the public right of way boundary treatments and finished surface were amended during the life of the application following concern raised after the initial round of consultation.

3 Relevant History

Reference	Proposal	Decision	Date
S18/1207	Erection of 5 detached houses	Approved Conditionally	19/07/2019
S20/0433	Submission of details reserved by conditions 3 (materials) and 8 (bat and bird boxes) of S18/1207 erection of 5 detached houses	Condition(s) discharged	19/05/2020

4 Policy Considerations

- 4.1 **National Planning Policy Framework (NPPF)**
Section 9 - Promoting sustainable transport
Section 12 - Achieving well-designed places

- 4.2 **South Kesteven District Council Local Plan 2011 – 2036**
Policy SP2 – Settlement Hierarchy
Policy EN1 - Landscape Character
Policy EN6 – The Historic Environment
Policy DE1 – Promoting Good Design
Policy ID2 – Transport and Strategic Transport Infrastructure

5 Representations Received

5.1 LCC Highways & SuDS Support

- 5.1.1 Having given due regard to the appropriate local and national planning policy guidance (in particular the National Planning Policy Framework), Lincolnshire County Council (as Highway Authority and Lead Local Flood Authority) has concluded that the proposed development is acceptable and accordingly, does not wish to object to this planning application.

5.2 Highways England

- 5.2.1 No comments to make.

5.3 Lincolnshire County Council (Countryside Service)

- 5.3.1 Stamford Public Footpath No. 14 is affected by the proposed development.
- i) It is expected that there will be no encroachment, either permanent or temporary, onto the right of way as a result of the development. The minimum path width should be 2m.
 - ii) The proposed development should not pose any dangers or inconvenience to the public using the right of way.
 - iii) If any existing gate or stile is to be modified or if a new gate or stile is proposed on the line of the public rights of way, prior permission to modify or erect such a feature must be sought from the County Council.
 - iv) The footpath surface should not be disturbed nor should any surfacing works take place without the permission of Lincolnshire County Council –Countryside Team.

5.4 Environment Agency

- 5.4.1 No comments to make.

5.5 Historic England

- 5.5.1 No comments to make.

5.6 Stamford Town Council

- 5.6.1 The Public Right of Way across the site should not be affected by these amendments. Defer to SKDC Planning Officer.

5.7 Stamford Civic Society

- 5.7.1 No objection.

5.8 SKDC Conservation Officer

- 5.8.1 No objection.

5.9 SKDC Environmental Protection

5.9.1 No comments on amended plans.

5.10 Peterborough City Council

5.10.1 Object to the proposal on the grounds of impact on heritage assets including Burghley House and Park, and Wothorpe Park as well as concerns about erosion of the open countryside separating Stamford and Wothorpe.

5.11 Wothorpe Parish Council

5.11.1 Objected to public right of way proposals on initial plans, but no objection following amended plans. Requested condition for protection of soft-landscaping.

6 Representations as a Result of Publicity

6.1 This application was advertised in accordance with the Council's Statement of Community Involvement and 18 letters of representation were received following the initial round of consultation. The points raised can be summarised as follows:

- 1) Objection to proposed surfacing and boundary treatments to public right of way;
- 2) Houses too large;
- 3) Objecting to principle of developing site.

Following receipt of amended plans which showed a revised boundary treatment and surfacing for the public right of way, a further round of consultation was undertaken and no further representations were received.

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 is to vary or remove conditions associated with a planning permission. One of the uses of a section 73 application is to seek amendments, where there is a relevant condition(s) that can be varied. This is the case with the current application, in which the applicant is seeking to make minor amendments to the existing approval under S18/1207.

7.1.2 The effect of granting permission would be to issue a new permission with conditions 2 (approved plans), 4 (soft-landscaping), 6 (hard-landscaping) and 11 (pedestrian footway) amended, together with any other relevant conditions from the original permission, including details that have already been approved.

7.1.3 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." 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 application is a minor amendment to a previously approved scheme and therefore the principle of development has already been established.

7.2 Impact on the character of the area and the setting of heritage assets

- 7.2.1 Local Plan Policies DE1 and EN1 seek to ensure development is appropriate for its context and landscape character. Further, para 127 of the NPPF provides that planning policies and decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change.
- 7.2.2 Sections 66 & 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 require decision makers to have special regard to the desirability of preserving listed buildings or their settings or any features of special architectural or historic interest which they possess as well as the desirability of preserving or enhancing the character or appearance of conservation areas.
- 7.2.3 Case law has established that considerable importance and weight must be attached by the decision maker to the desirability of preserving the setting of heritage assets when balancing harm against public benefits.
- 7.2.4 Local Plan Policy EN6 states amongst other criteria that the Council will seek to protect and enhance heritage assets and their settings, in keeping with the policies in the National Planning Policy Framework. The importance of considering the impact of development on the significance of designated heritage assets is expressed in the NPPF (section 16).
- 7.2.5 The proposed amendments to the dwellings are minor and would not result in any further impact on the character of the area or on any heritage assets beyond the approved scheme. None of the heritage consultees have raised any objections to these amendments and the proposed development would remain acceptable in this context.
- 7.2.6 There was objection raised to the initial proposals to the public right of way boundary treatments and finished surface material. The scheme was amended to take on board the concerns that were raised and this broadly involved replacing elements of close boarded fencing with a mixture of high quality walling, post and rail fencing and hedging. This was considered necessary as the public right of way is well used and marks an important transition from the rural landscape to the urban area of Stamford. The footpath surfacing is proposed to be of granite chippings as agreed with Lincolnshire County Council Countryside Service.
- 7.2.7 Some minor amendments were also made to the tree species within the development following advice from the Council's landscape architect.

7.3 Impact on the neighbouring properties

- 7.3.1 Local Plan Policy DE1 states (amongst other criteria) that all development proposals will be expected to ensure there is no adverse impact on the amenity of neighbouring users. Paragraph 127 of the NPPF states that developments should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

7.3.2 The proposed amendments would have very little impact on neighbouring properties beyond the approved scheme and is considered to be in accordance with Policy DE1.

7.4 Highway Impacts

7.4.1 Local Plan Policy ID2 seeks to minimise the use of travel by car and maximise sustainable transport modes. The policy also requires development proposals not to result in any unacceptable highway safety impacts or result in severe cumulative traffic impacts. The NPPF (section 9) states development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

7.4.2 The proposed footway to the front of the site has been amended to now include a tactile crossing point that links the development to the existing footway to the north of Kettering Road. Lincolnshire County Council (as local highway authority) who requested the original condition regarding the footpath have raised no objection to the proposed amendment. The amended footway would connect the development to the existing network of pedestrian footways and allow a suitable and safe pedestrian route to services and facilities in the main part of the town.

8 Crime and Disorder

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

9 Human Rights Implications

9.1 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.

9.2 It is considered that no relevant Article of that act will be breached.

10 Conclusion

10.1 The application seeks amendments to with conditions 2 (approved plans), 4 (soft-landscaping), (6 (hard-landscaping) and 11 (pedestrian footway) under Section 73 of the Town and Country Planning Act 1990 of planning permission S18/1207.

10.2 Taking the above into account, the amended scheme would be appropriate for its context and retain an appropriate level of pedestrian connectivity in accordance with Local Plan Policies SP2, EN1, EN6, DE1 and ID2 the NPPF (sections 9, 12 and 16). There are no material considerations that indicate otherwise although conditions have been attached.

11 Recommendation

- 11.1 Approve the application subject to the conditions set out below and subject to the completion of a deed of variation to the S106 agreement agreed under S18/1207. 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:
- Block Plan drawing no. 1945-03b
 - Plot 1 drawing nos. 06a,07a, 08a, 09b
 - Plot 2 drawing nos. 10a, 11a, 12a, 13b, 14b
 - Plots 2 and 3 garages drawing nos. 15a, 16a, 17a
 - Plot 3 drawings nos. 18a, 19a, 20a
 - Plot 4 drawing nos. 21a, 22a, 23a, 24a
 - Plot 5 drawing nos. 25a, 26a, 27a, 29a
 - Landscaping plan drawing no. 1945-0.4b
 - Proposed footpath plan drawing no. 1945-0.6a

Unless otherwise required by another condition of this permission.

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

During Building Works

- 2 The trees on site shall be protected in accordance with the protection measures specified in the arboricultural report submitted under S18/1207.

Reason: To protect the trees from unnecessary damage during construction.

Before the Development is Occupied

- 3 Before any part of the development hereby permitted is occupied/brought into use, all hard landscape works shall have been carried out in accordance with the approved hard landscaping details drawing no. 1945-0.4b.

Reason: Hard landscaping makes an important contribution to the development and its assimilation with its surroundings and in accordance with Local Plan Policy DE1.

- 4 Prior to completion of any of the dwellings, the details of the bat and bird boxes approved under S20/0433, as listed below, shall be installed prior to occupation and retained thereafter.

- Bird and bat boxes drawing no. 1945 0.5 received 13 March 2020

Reason: To preserve and enhance local wildlife.

- 5 Before any part of the development hereby permitted is occupied/brought into use, the external surfaces shall have been completed in accordance with the details approved under S20/0433.

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

- 6 The development hereby permitted shall not be occupied before the footway shown on Block Plan drawing no. 1945-03b has been completed.

Reason: To ensure safe access for pedestrians to the development site without increasing flood risk to the highway and surrounding area.

- 7 Before the end of the first planting/seeding season following the occupation/first use of any part of the development hereby permitted, all soft landscape works shall have been carried out in accordance with the approved soft landscaping details drawing no. 1945-0.4b.

Reason: Soft landscaping and tree planting makes an important contribution to the development and its assimilation with its surroundings and in accordance with Local Plan Policy DE1.

Ongoing Conditions

- 8 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.

Standard Note(s) to Applicant:

- 1 The permitted development requires the formation of a new/amended vehicular access. Applicants should note the provisions of Section 184 of the Highways Act 1980. The works should be constructed to the satisfaction of the Highways Authority

in accordance with the authority's specification that is current at the time of construction. For further information, contact 01522782070.

- 2 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.
- 3 The road serving the permitted development is approved as a private road which will not be adopted as a highway maintainable at the public expense (under Highways Act 1980). as such, the liability for the future maintenance of the road will rest with those who gain access to their property from it.
- 4 Please contact Lincolnshire County Council Streetworks and Permitting Team on 01522782070 to discuss any proposed statutory utility connections and any other works which will be required within the public highway in association with the development permitted under this consent. This will enable Lincolnshire County Council to assist in the coordination and timings of these works.
- 5 The highway improvement works referred to in the above condition are required to be carried out by means of a legal agreement between the landowner and the County Council as local highway authority.

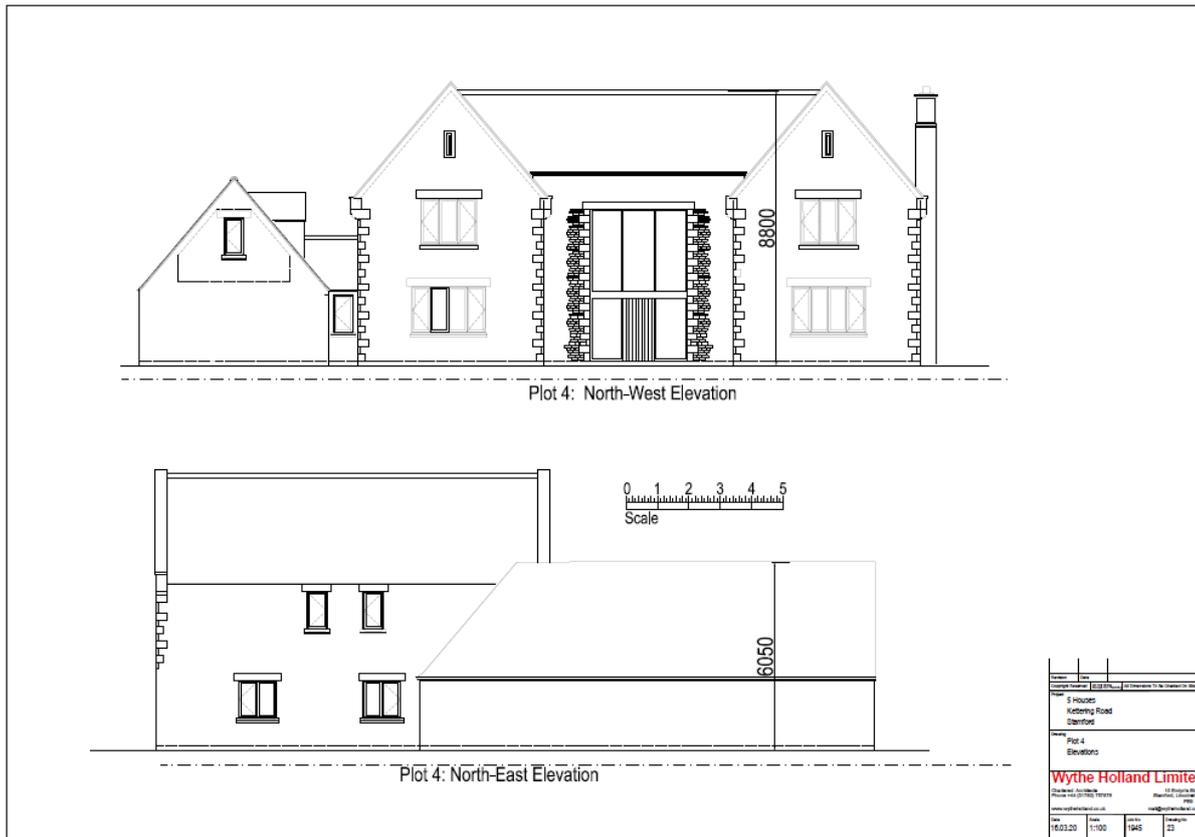
Plot 2 Elevations



Plot 3 Elevations



Plot 4 Elevations



Plot 5 Elevations

