



**SOUTH
KESTEVEN
DISTRICT
COUNCIL**

Planning Committee

09 December 2020



S20/1152

Proposal: Section 73 application for the removal of Condition 8 (pedestrian footway) and to vary conditions 2 (approved plans) and condition 6 (schedule of materials), of planning permission S19/1138

Location: Land Off Easthorpe Road, Great Gonerby, Grantham, NG31 8LZ

Applicant: Longhurst & Havelok Homes Ltd

Agent: Mr Robert Jay, Lindum Group 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
Highway impacts

Technical Documents: N/A

Report Author

Phil Jordan, Principal Planning Officer



01476 406074



p.jordan@southkesteven.gov.uk

Corporate Priority:

Growth

Decision type:

Regulatory

Wards:

Peascliffe & Ridgeway

Reviewed by:

William Richards, Head of Development Management

23 November 2020

Recommendation (s) to the decision maker (s)

Approve subject to conditions

1 Description of Site

- 1.1 The application site is located to the east of Easthorpe Road and to the south of Belton Lane on the north-eastern edge of Great Gonerby. To the north, south and west of the site are residential properties with open countryside to the east and south-east. The site has a public right of way to the south of the site, running west to east adjacent the southern boundary, and a further right of way along the eastern boundary, running north to south. To the south of the site is a Grade II listed farmhouse which is located off Lord Drive.
- 1.2 The site benefits from planning permission under S19/1138 for the construction of 46 dwellings and associated infrastructure. It is noted that a material start has been made on-site and that permission has been implemented.

2 Description of Proposal

- 2.1 The application proposes an amendment to the previously approved scheme. The proposed amendment would remove the footpath on the east side of Easthorpe Road and replace it with two tactile crossing points that would link the development to the existing footpath on the west of Easthorpe Road. This has been necessary and detailed survey work post approval of S19/1138 revealed it would not be possible to retain the hedgerow that fronts Easthorpe Road and construct the footpath.
- 2.2 Details of an amended brick type have also been included with the application.

3 Relevant History

Reference	Proposal	Decision	Date
S18/1858	Construction of 46 dwellings, including vehicular access, pedestrian and cycle links, public open space, car parking, landscaping, drainage and associated works	Refused	16/04/2019
S19/1138	Construction of 46 dwellings, including vehicular access, pedestrian and cycle links, public open space, car parking, landscaping, drainage and associated works.	Approved Conditionally	30/10/2019
S20/0804	Submission of details reserved by conditions 3 (no dig construction) and 5 (sections) pursuant to S19/1138 (erection of 46 affordable dwellings)	Condition(s) discharged	08/07/2020

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 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.

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 no letters of representation have been 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 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 S19/1138.

7.1.2 The effect of granting permission would be to issue a new permission with condition 8 removed and conditions 2 (approved plans) and 6 (materials) 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

- 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 An important consideration in the approval of S19/1138 was the retention of a significant portion of the hedge that fronts Easthorpe Road. That existing feature to the front of the site has an important role in softening the visual impact of the proposal and assimilating the site with the surrounding context. Therefore, the continued retention of that hedge through this submission is welcomed.
- 7.2.3 The change in brick type from the approved Weinerberger Cranbrook Red to Weinerberger Berkshire Red would have minimal impact of the overall appearance of the scheme as the bricks are very similar.

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 Lincolnshire County Council (as local highway authority) who requested the original condition regarding the footpath have raised no objection to the proposed amendment. There is a footpath that runs along the west side of Easthorpe Road and the provision of the two tactile crossing points would link the development to that existing footpath and allow a suitable and safe pedestrian route to services and facilities in the main part of the village.

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 is for the removal of condition 8 (pedestrian footway) and variation of conditions 2 (approved plans) and condition 6 (schedule of materials) under Section 73 of the Town and Country Planning Act 1990 of planning permission S19/1138.

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, DE1 and ID2 the NPPF (sections 9 and 12). 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 S19/1138. 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:

- i. Site Location Plan, drawing No. 41026/003A received 24.06.2019
- ii. Site Layout Plan, drawing no. 41026/008P received 13.07.2020
- iii. House Type AA, drawing No. 41026/013A received 24.06.2019
- iv. House Type AAA, drawing No. 41026/014 received 24.06.2019
- v. House Type BB, drawing No. 41026/015 received 24.06.2019
- vi. House Type CC, drawing No. 41026/016 received 24.06.2019

- vii. House Type CC Plot 29-30 and 45-46, drawing No. 41026/017 received 24.06.2019
- viii. House Type DD, drawing No. 41026/018 received 24.06.2019
- ix. House Type FF1 - Plots 15-16, drawing no. 41026/043 received 02.09.2019
- x. House Type FF1 Plot 11-12, drawing No. 41026/042 received 24.06.2019
- xi. House Type LA Plot 1-2, drawing No. 41026/038 received 24.06.2019
- xii. House Type LA Plot 27-28, drawing No. 41026/039 received 24.06.2019
- xiii. House Type LA Plot 43-44, drawing No. 41026/041 received 24.06.2019
- ix. Proposed pond sections plans, drawing No. 17-0383-SK170 received 24.06.2019

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 development must be carried out in accordance with the tree protection details approved under S20/0804 as follows:
 - o Construction and layout details drawing no. ERGG-BSP-ZZ-XX-DR-C received 22 May 2020
 - o Tree Protection Plan drawing no. Figure 3A Tree Protection Plan received 22 June 2020
 - o Tree Protection Plan drawing no. Figure 3B Tree Protection Plan received 22 June 2020

Reason: To prevent unnecessary damage to existing trees and in accordance with Local Plan Policy EN2.

- 3 All existing trees shown on the approved plan to be retained shall have been fenced off to the limit of their branch spread in accordance with BS 5837. No works including:
 - i. removal of earth,
 - ii. storage of materials,
 - iii. vehicular movements or
 - iv. siting of temporary buildings

shall be permitted within these protected areas.

Reason: To prevent unnecessary damage to existing trees and in accordance with Local Plan Policy EN2.

- 4 The development must be carried out in accordance with the sections and levels details approved under S20/0804 as follows:
 - o Proposed site sections drawing no. ERGG-BSP-ZZ-XX-DR-C-185-P03 received 22 May 2020

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

- 5 Before any part of the development hereby permitted is occupied, the external elevations shall have been completed using only the materials on the Materials Distribution Plan, drawing no. 41026/010D received 04.08.2020.

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

- 6 The development shall be carried out in accordance with the recommendations of the submitted Ecological Appraisal dated July 2017, Bat Survey dated June 18 and Reptile Survey dated June 2018 unless otherwise agreed in writing with the local planning authority.

Reason: In the interests of ecology and biodiversity.

Before the Development is Occupied

- 7 Before any dwelling is occupied, all of that part of the estate road and associated footways that forms the junction with the main road and which will be constructed within the limits of the existing highway, shall be laid out and constructed to finished surface levels in accordance with details to be submitted to, and approved in writing by, the Local Planning Authority.

Reason: In the interests of safety, to avoid the creation of pedestrian trip hazards within the public highway from surfacing materials, manholes and gullies that may otherwise remain for an extended period at dissimilar, interim construction levels.

- 8 Before any part of the development hereby permitted is occupied, the works to provide the surface drainage shall have been completed in accordance with the approved details.

Reason: To ensure the provision of satisfactory surface is provided in accordance with Local Plan Policy EN5.

- 9 Before the end of the first planting/seeding season following the occupation/first use of any part of the development hereby permitted, all hard and soft landscape works shall have been carried out in accordance with the approved landscaping details on the Landscape Masterplan, drawing no. N0618/(08)001B received 02.09.2019.

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

- 10 Before any part of the development hereby permitted is occupied, the boundary treatments shall have been completed in accordance with the approved details as

shown on the Boundary Treatment Plan, drawing no. 41026/011C received 02.09.2019.

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

- 11 Before any part of the development hereby permitted is occupied, a landscape management plan shall have been submitted to and approved in writing by the Local Planning Authority. The plan shall include:
- i. long term design objectives,
 - ii. management responsibilities and
 - iii. maintenance schedules for all landscape areas, other than privately owned, domestic gardens.

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

Ongoing Conditions

- 12 For a period of not less than 5 years following the first occupation of the final dwelling hereby permitted, the approved Landscape Management Plan shall be adhered to in full unless otherwise agreed in writing by the Local Planning Authority.

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

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.
- 2
 - i) It is expected that there will be no encroachment, either permanent or temporary, onto any right of way as a result of the proposal. It is suggested that no additional shrubs or trees are planted within 4m of any public footpath.
 - ii) The proposed development should not pose any dangers or inconvenience to the public using any 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 any public rights of way, prior permission to modify or erect such a feature must be sought from the County Council.
- 3 Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087.

- 4 Protection of existing assets - A public sewer is shown on record plans within the land identified for the proposed development. It appears that development proposals will affect existing public sewers. It is recommended that the applicant contacts Anglian Water Development Services Team for further advice on this matter. Building over existing public sewers will not be permitted (without agreement) from Anglian Water.
- 5 Building near to a public sewer - No building will be permitted within the statutory easement width of 3 metres from the pipeline without agreement from Anglian Water. Please contact Development Services Team on 0345 606 6087.
- 6 The developer should note that the site drainage details submitted have not been approved for the purposes of adoption. If the developer wishes to have the sewers included in a sewer adoption agreement with Anglian Water (under Sections 104 of the Water Industry Act 1991), they should contact our Development Services Team on 0345 606 6087 at the earliest opportunity. Sewers intended for adoption should be designed and constructed in accordance with Sewers for Adoption guide for developers, as supplemented by Anglian Water's requirements.
- 7 The permitted development requires the formation of a new 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 Highway Authority in accordance with the Authority's specification that is current at the time of construction. For further information, please telephone 01522 782070.
- 8 All roads within the development hereby permitted must be constructed to an engineering standard equivalent to that of adoptable highways. Those roads that are to be put forward for adoption as public highways must be constructed in accordance with the Lincolnshire County Council Development Road Specification that is current at the time of construction and the developer will be required to enter into a legal agreement with the Highway Authority under Section 38 of the Highways Act 1980. Those roads that are not to be voluntarily put forward for adoption as public highways, may be subject to action by the Highway Authority under Section 219 (the Advance Payments code) of the Highways Act 1980.
- 9 Please contact the Lincolnshire County Council Streetworks and Permitting Team on 01522 782070 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.

Site Layout Plan

