

Delegated Report

Planning Ref: 24/00343/CONDIT
Applicant: MR K MAUGHAN
Ward: Wellsborough



Hinckley & Bosworth
Borough Council

Site: Land West Of Breach Lane, Earl Shilton, Leicestershire

Proposal: Variation of condition 2 (plans) to planning application 23/00206/CONDIT



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Recommendations

1.1. **Approve variation of condition 2 of planning permission ref: 23/00206/CONDIT for the reason below.**

1.2 This application seeks the variation of condition 2 attached to the decision on application 23/00206/CONDIT & is for an amendment to the design of the dwellings approved for Plot 1 & 9. Condition 2 of permission 23/00206/CONDIT reads as follows:

2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows:

*Proposed Hard Landscaping, Drg No. 22-61 PL08-A
Proposed Drainage Layout, Drg No. 82639 101 Rev P2
Both received 24.04.2023
Landscaping Plan received on 06.04.2023*

Proposed House Type A, Plot 2, Floor, Roof Plan, Elevations, Drg No. 22-61 -PL02
Proposed House Type B, Plots 3 & 7, Floor, Roof Plan, Elevations, Drg No. 22-61 -PL03
Proposed House Type C, Plots 4 & 6, Floor, Roof Plan, Elevations, Drg No. 22-61 -PL04
Proposed House Type D, Plot 5, Floor, Roof Plan, Elevations, Drg No. 22-61 -PL05
Proposed House Type E, Plots 1 & 9, Floor, Roof Plan, Elevations, Drg No. 22-61 -PL06
Proposed House Type F, Plot 8, Floor, Roof Plan, Elevations, Drg No. 22-61 -PL07
Proposed Hard Landscaping, Drg No. 22-61 PL08-A
Proposed Boundary Treatments, Drg No. 22-61 -PL09

All received 06.03.2023

Reason: *To ensure a satisfactory form of development in accordance with Policies DM1 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).*

- 2.1. The proposed wants to remove the balcony to plots 1 & 9 and reduce all first floor windows to be max. 1200mm high. The proposed change to condition 2 is to change the design of the approved development & to amend the drawing numbers stated on condition 2 to those attached to this application The proposed condition reads as follows:

2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows:

- Proposed plans Drawing PL06-B received by the LPA on 11/04//2024

Reason: *To ensure a satisfactory form of development in accordance with Policies DM1 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).*

Description of the Site and Surrounding Area

- 3.1. The application site comprises a disused paddock in Earl Shilton, 1.8 acres (0.7 hectares) in area and located off the adopted highway known as Breach Lane via an un-adopted, private road.
- 3.2. The application site is situated outside the settlement boundary (with the exception of the Breach Lane junction) but surrounded by existing dwellings to the north, dwellings along Station Road to the west and allotments to the east. The Clickers Way bypass south of the application site runs east to west and encloses the south of Earl Shilton, severing the application site from the wider countryside.
- 3.3. The existing private highway that the application site is accessed from is characterised by ribbon development. The existing dwellings fronting the highway occupy large plots set back from the roadway and comprise detached two storey dwellings of varied designs and finishes. The un-adopted, private highway also provides pedestrian access to the Clickers Way bypass and the countryside beyond.
- 3.4. Land levels adjoining the un-adopted, private highway gradually decline towards the south.

4.0 Relevant planning history

23/00775/DISCON

- Application to discharge C4 (Drainage) C5 (Materials) C8 (Archaeology) attached to planning permission 23/00206/CONDIT
- Split Decision (The details submitted are ACCEPTABLE and Condition 4 is hereby DISCHARGED, and Condition 5 is Re-discharged with the change of roof tile only subject to the scheme being carried out strictly with the full terms of the conditions and previously approved materials).
- 17.10.2023

23/01101/DISCON

- Application to discharge planning condition 4 (surface water drainage) and re-discharge condition 5 (materials) on planning application 23/00206/CONDIT
- Discharged 15.01.2024

23/00206/CONDIT

- Variation of Conditions 2, 6 and 9 to Planning Application 21/00607/FUL. Amendment to include approved plans, windows, colour and materials, hard and soft landscape works, waste and recycling storage, construction traffic management plan, and time for construction works of the development.
- Approved
- 26.06.2023

21/00607/FUL

- Erection of 9 detached dwellings
- Approved
- 06.01.2022

17/00532/OUT

- Erection of five dwellings (Outline - access only)
- Withdrawn
- 10.08.2017

18/00530/OUT

- Erection of three dwellings (Outline - access only)
- Outline planning permission granted
- 15.11.2018

19/00607/FUL

- Erection of 3 detached dwellings
- Planning permission granted
- 19.03.2020

5.0 Publicity

- 5.1. The application has been advertised by means of a site notice and neighbour notifications. No representations have been received.

6.0 Consultation

- 6.1. Earl Shilton Town Council – No comments received
- 6.2. HBBC Drainage – No objection to variation of condition as suitable SuDS scheme covered by condition on application 21/00607/FUL
- 6.3. LCC Ecology- No objection
- 6.4. HBBC Affordable Housing- No comments
- 6.5. LCC Archaeology- No comments to make in relation to this variation of conditions consultation.
- 6.3 HBBC Pollution- No objection

Policy

- 7.1. Core Strategy (2009)
- Policy 2: Development in Earl Shilton
 - Policy 19: Green Space and Play Provision
- 7.2. Site Allocations and Development Management Policies DPD (2016)
- Policy DM1: Presumption in Favour of Sustainable Development
 - Policy DM3: Infrastructure and Delivery
 - Policy DM4: Safeguarding the Countryside and Settlement Separation
 - Policy DM6: Enhancement of Biodiversity and Geological Interest
 - Policy DM7: Preventing Pollution and Flooding
 - Policy DM10: Development and Design
 - Policy DM17: Highways and Transportation
 - Policy DM18: Vehicle Parking Standards
- 7.3. National Planning Policies and Guidance
- National Planning Policy Framework (NPPF) 2023
 - Planning Practice Guidance (PPG)
- 7.4. Other relevant guidance
- Housing and Economic Development Needs Assessment (HEDNA)
 - Earl Shilton and Barwell Area Action Plan (AAP)
 - Open Space and Recreation Study (2016)
 - Good Design Guide (2020)
 - National Design Guide (2019)

8.0 Appraisal

- 8.1. The principle of development has been established via approval 21/00607/FUL. This application should be read in conjunction with the previously approved application and 23/00206/CONDIT & in particular a comparison made between the '*Proposed*

House Type E, Plots 1 & 9, Floor, Roof Plan, Elevations, Drg No. 22-61 -PL06' associated with 23/00206/CONDIT & the amended proposed plan for the current proposal '*Proposed House Type E, Plots 1 & 9, Floor, Roof Plan, Elevations, Drg No. 22-61 -PL06-B*'. The key issues are therefore:

- Design and impact upon the character of the area
- 8.2. Policy DM4 of the SADMP requires that development in the countryside does not have an adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside, does not undermine the physical and perceived separation and open character between settlements and does not create or exacerbate ribbon development.
 - 8.3. Policy DM10 of the SADMP requires new development to complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features.
 - 8.4. The scale of the dwellings in Plot 1 & 9 would not change when compared to the approved plans. The proposed would remove the balcony to plots 1 & 9 and reduce all first floor windows to be a max. 1200mm high and is acceptable from a design perspective.
 - 8.5. The proposed limit to window height would not result in major visual changes and is also considered acceptable. The proposed changes to the dwellings for Plots 1 & 9 would not impact upon the openness of the countryside area. The proposed materials are also acceptable and overall, the proposed is considered to accord with Policies DM4 & Policy DM10 of the SADMP.
 - 8.6. In terms of neighbouring amenity impacts, the nearest neighbouring dwelling would be approx. 60m east on Oaklands Drive. The approved balconies were on the eastern side of the dwellings in Plot 1 & 9 at the entrance to the larger site but they have been removed as a result of this proposal. No other neighbours would potentially be affected by this proposal.
 - 8.7. It is considered that due to the boundary treatments, separation distance and intervening outbuildings there would be no adverse impact upon the residential amenity of the neighbouring dwellings to the east in terms of overlooking, overbearing impact or loss of light. The proposal therefore accords with DM10 in this regard.
 - 8.8. It is not considered that there are any other material considerations that are relevant to the determination of this application.
 - 8.9. It is concluded that the proposed change to condition 2 of 23/00206/CONDIT is acceptable and in accordance with national planning policy and guidance and Policies DM10 of the SADMP.

Equality Implications

9.1 Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-

- (1) A public authority must, in the exercise of its functions, have due regard to the need to:

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

9.2 Officers have taken this into account and given due regard to this statutory duty, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application.

9.3 There are no known equality implications arising directly from this development.

9.4 The decision has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including General Data Protection Regulations (2018) and The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

10. Conclusion

10.1 The proposal is considered to comply with relevant national and local policy and guidance as it proposes a suitable amendment to the design of the approved dwellings. The proposal would have an acceptable impact on the character and appearance of the application site and wider area or neighbour amenity, therefore complies with Policies DM4 & DM10 of the SADMP.

10.2. Taking national and local planning policies into account, along with all relevant material considerations, it is recommended that planning permission be refused, for the reasons set out below.

11. Recommendation

11.1 **Approve planning permission** with the Conditions set out the below.

11.2 Conditions

1. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows:

Proposed Hard Landscaping, Drg No. 22-61 PL08-A
Proposed Drainage Layout, Drg No. 82639 101 Rev P2

All received 24.04.2023

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Proposed House Type D, Plot 5, Floor, Roof Plan, Elevations, Drg No. 22-61 -PL05
Proposed House Type F, Plot 8, Floor, Roof Plan, Elevations, Drg No. 22-61 -PL07
Proposed Hard Landscaping, Drg No. 22-61 PL08-A

Proposed Boundary Treatments, Drg No. 22-61 -PL09

All received 06.03.2023

Proposed House Type E, Plots 1 & 9, Floor, Roof Plan, Elevations, Drg No. 22-61 - PL06-B received on 11.04.2023

Reason: To ensure a satisfactory form of development in accordance with Policies DM1 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

2. All windows serving family shower rooms, family bathrooms, ensuites and master ensuite across all dwellings hereby approved shall be fitted with obscure glazing to a minimum of level 3 of the Pilkington scale and non-openable below 1.7m from internal floor level. Once so provided the window(s) shall be permanently maintained as such at all times thereafter.

Reason: To safeguard the amenities of neighbouring properties in accordance with Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).

3. The development shall be carried out in accordance with approved hard (Drg No. 22-61 PL08-A) and soft landscaping (landscaping plan sheet 1) scheme and boundary treatments plan (Drg No. 22-61 -PL09) for the site. The soft landscaping scheme shall be maintained for a period of five years from the date of planting. During this period any trees or shrubs which die or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted at which time shall be specified in writing by the Local Planning Authority.

Reason: To ensure that the development has a satisfactory external appearance in accordance with Policies DM4 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

4. The development shall be carried out in accordance with approved waste and recycling strategy (22-61-DOC-2) and drawing reference number 225-61 PL08-A which shows appropriate bin collection point.

Reason: To ensure the bin storage on site is not detrimental to the street scene and overall design of the scheme in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

5. The development shall take place in accordance with the written scheme of investigation approved under application 23/00775/DISCON.

Reason: To allow proper investigation and recording of the site, which is potentially of archaeological and historic in accordance with Policies DM11, DM12 and DM13 of the adopted Site Allocations Development Management Policies Development Plan Document (2016).

6. The development shall be carried out in accordance with approved construction traffic management plan by Stronghold Homes received on 6 March 2023.

Reason: To reduce the possibility of deleterious material (mud, stones etc.) being deposited in the highway and becoming a hazard for road users, to ensure that

construction traffic does not use unsatisfactory roads and lead to on-street parking problems in the area to accord with Policy DM17 of the adopted Site Allocations and Development Management Policies DPD (2016).

7. The development hereby permitted shall not be occupied until such time as off street car parking provision (with turning facilities) has been provided, hard surfaced and demarcated in accordance with approved Drg No. 22-61 PL08-A and Drg No: 22-61-PL09. Thereafter the onsite parking provision shall be so maintained in perpetuity.

Reason: To ensure that adequate off-street parking provision is made to reduce the possibility of the proposed development leading to on-street parking problems locally (and to enable vehicles to enter and leave the site in a forward direction) in the interests of highway safety and in accordance with Policy DM17 and DM18 of the adopted Site Allocations and Development Management Policies DPD (2016) Paragraphs 111 and 112 of the National Planning Policy Framework (2023).

8. No part of the development hereby permitted shall be occupied until such time as the access arrangements shown on drawing numbers 22-61-PL02 to 22-61-PL07 and 22-61-PL09 have been implemented in full.

Reason: To ensure that vehicles entering and leaving the site may pass each other clear of the highway, in a slow and controlled manner, in the interests of general highway safety and in accordance with Policy DM17 of the adopted Site Allocations and Development Management Policies DPD (2016) and Paragraphs 111 and 112 of the National Planning Policy Framework (2023).

9. The remediation measures recommended in the Geoenvironmental Assessment Report No: 19097/1 dated April 2019 document and received 11.05.2021 shall be implemented in accordance with the approved report and verification provided to the local planning authority for approval prior to the first dwelling on site being occupied.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised in accordance with Policy DM7 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

10. If during development, contamination not previously identified is found to be present at the site, no further development shall take place until an addendum to the scheme for the investigation of all potential land contamination is submitted in writing to and approved in writing by the Local Planning Authority which shall include details of how the unsuspected contamination shall be dealt with. Any remediation works so approved shall be carried out prior to the first dwelling being occupied.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised in accordance with Policy DM7 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

11. Construction work of the development, hereby permitted, shall not take place other than between the hours of 07:30 hrs and 18:00 hrs on weekdays and 08:00 hrs and 13:00 hrs on Saturdays and at any time on Sundays and Bank Holidays unless other agreed in writing.

Reason: To minimise disruption to the neighbouring residents in accordance with Policy DM7 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

12. The development shall be carried out in accordance with the surface water and foul water drainage details approved under 23/01101/DISCON.

Reason: To reduce the possibility of surface water from the site being deposited in the highway causing dangers to road users in accordance with Policy DM17 of the adopted Site Allocations and Development Management Policies DPD (2016) and Paragraph 108 and 110 of the National Planning Policy Framework (2023).

13. The development shall be carried out in accordance with the materials details approved under applications 23/00775/DISCON and 23/01101/DISCON.

Reason: To ensure that the development has a satisfactory appearance in the interests of visual amenity in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

10.1 Notes to Applicant

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at buildingcontrol@hinckley-bosworth.gov.uk or call 01455 238141.