

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Development and Conservation Control Committee

5th April 2006

AUTHOR/S: Director of Development Services

Breach of Conditions – Wellbrook Way, Girton

Recommendation: Authorise Breach of Condition Notices And Appropriate Legal Action in respect of Non compliance with Sc106

Background

1. Reserved matters consent (ref S/0691/03RM) was granted in July 2004 for 150 dwellings on this first of two phases of the site (3.81ha / 9.4 acres). The site backs onto Thornton Road and Thornton Way, and is accessed via Wellbrook way, off Girton Road.
2. At the meeting of this Committee on 5th October 2005, Members approved the open space arrangements for the site, a controversial topic due to the existing enjoyment of the wooded space by walkers, previous flooding history, and the need to accommodate a surface water drainage pond. That approval allowed further work to take place to finalise the landscaping, ecological enhancement and drainage arrangements. Over 50 houses had been occupied contrary to certain conditions, and Members authorised Breach of Conditions Notices (if required) in respect of conditions 9 (submission habitat management plan), 14 (provision of LAPs before 50 occupations), and 15 provision of boundary footpath by 50th occupation).

Update

3. Negotiations, particularly on the habitat management plan, have continued. No action has yet been taken in relation to the authorised breach of condition notices. Over 60 houses have now been occupied.
4. A review of the planning files and the situation on site reveals that several other conditions are still to be complied with:
5. Outline planning permission (Ref S/1284/02/0) conditions 5 and 6 required foul and surface water drainage schemes to be submitted, approved and implemented prior to 50 occupations. Despite various submissions and negotiations, mainly revolving around the landscaping, these have yet to be finally submitted and agreed. Meanwhile, I have requested confirmation as to how foul and surface water is being dealt with in the meantime and will report verbally.
6. Outline planning permission condition 7 requires a scheme for the improvement of the Girton Road junction, off the site. Plans are still being finalised between the applicant and highway authority, before submission to SCDC for approval, after which the actual work will have to be tendered and implemented. Implementation was required by the condition before 50 houses were occupied.
7. The S106 deed of variation requires the submission of an application for a Local Equipped Area for Play (LEAP) by 40 houses occupied and to be handed over by 80th occupation (or 18 months from commencement on site if earlier). The LEAP has

been submitted as part of the reserved matters application for phase 2 adjacent to this site, which is the subject of another item on this agenda (Ref S/0162/06/RM). Given that that application is recommended for refusal, it appears unlikely that this facility will be provided on time. Whilst action cannot be taken in this regard at present as the trigger has not yet been breached, Committee is asked to authorise appropriate legal action should this element of the Sc106 agreement not be met or a satisfactory alternative arrangement made.

8. Reserved matters Condition 1. This required various submissions of detail for approval; the only outstanding issue is the window detailing, and a large scale drawing has been requested to regularise the matter.
9. Condition 2. Landscaping scheme. There is only one matter unresolved, which is the size of a proposed horse chestnut tree. This should be resolved shortly and can then be approved.
10. Condition 4. Tree protection measures. This simply required compliance on site but some spoil has been dumped over and beyond the protective fence. A timescale for this to be rectified has been requested.
11. Condition 9. Habitat management plan. In spite of the authorisation for a breach of condition notice, this is still outstanding. Although a habitat management plan has recently been submitted, in content it is only a landscape management plan and needs significant further work. It is important to get this right, as Girton Parish Council is likely to be taking on the responsibility for the open spaces.
12. Condition 10. Pumping station. The siting was approved in March 2005, and the landscaping has been negotiated and included into the overall landscape scheme. However, the design, materials and means of access remain to be submitted for approval.
13. Condition 14. Provide LAPs before 50 occupations. A site inspection to confirm whether they have been laid out and made available for use has been arranged, and the results reported verbally.
14. Condition 15. Details of footpath in north-east landscape buffer. This required submission of details before any occupations, and implementation on site before 50 occupations. The details are shown in the landscaping scheme, and a site inspection to confirm implementation has been arranged. The results will be reported verbally.
15. Condition 16. Boundary treatment to be implemented before any occupation. This was deferred pending the negotiation of the landscaping scheme, which has a direct effect. Details have been requested for formal approval.
16. Condition 17. Fire hydrants. Some have been installed on site, but plans showing the design and locations have requested for consultation with the Fire Authority and formal approval.
17. Condition 19. Lighting Scheme. Plans for the location and designs of lights for both the adoptable roads and private parking courts on the site have been requested for formal approval.
18. Condition 20. Construction of access from the highway. This relates to the access from the Wellbrook Way spur. I await confirmation from the County Council as to

whether the estate road links into the adopted highway to an adoptable standard. If so, I will be able to confirm compliance with this condition.

19. Condition 21. Construction parking, turning, loading/unloading area. Plan for the location and extent of this compound have been requested for approval in order to regularise this matter.

Planning Comments – Key Issues

20. Whilst it is unfortunately not uncommon for officers to be chasing submissions for compliance of conditions after work has commenced, in this case I am concerned about the number of issues that remain outstanding. Significant occupations have taken place without important work being carried out. I am particularly concerned about the drainage and ecology conditions because these affect the open area, which is likely to be offered to the Parish Council for permanent maintenance, and therefore involves substantial consultation. The junction improvements are also of concern, and whilst it would be wrong to attribute the recent death of a cyclist to this development, it highlights the safety issue behind the condition.
21. I have written to the applicant to request submissions/comments in respect of all the conditions referred to above, and will report the response verbally at the meeting. In addition to the breach of condition notices Members have already authorised, I will be recommending a breach of condition notice at least for the junction improvements (outline condition 7), and any others where progress is not being made. This will enable all outstanding conditions to be enforced together, preventing further occupations until the matters have been resolved.

Recommendation

22. Authorise
- i) Breach of Condition Notice(s) preventing further occupations until the outstanding conditions have been met, an update to be reported verbally.
 - ii) Delegated powers be given to take appropriate legal action should the provisions of the Sc106 agreement not be met relating to the provision of the LEAP or a satisfactory alternative arrangement made.

Background Papers: the following background papers were used in the preparation of this report:

- South Cambridgeshire Local Plan 2004 (Delete as appropriate)
- Cambridgeshire and Peterborough Structure Plan 2003 (Delete as appropriate)
- Planning files ref: S/0691/03/RM, S/1284/02/O.

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