

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Planning Committee

7th November 2007

AUTHOR/S: Executive Director / Corporate Manager - Planning and Sustainable Communities

**S/1390/07/RM - Longstanton
Erection of 159 Dwellings on Land West of Longstanton
(Phase 3b - Home Farm) for David Wilson Homes and Peter Longwill Stroude**

**Recommendation: Approval
Date for Determination: 22nd October 2007 (Major Application)**

1. Attached is the report to the 3rd October 2007 meeting.

Update

2. Members will recall deferring consideration of the proposal pending an assessment by the Council's Principal Legal Officer of the issues of the timing of the bypass in relation to dwelling occupancy rates, the extension to the recreation ground and the adequacy of the sewage infrastructure to accommodate the 159 dwellings.
3. The application has not been further revised. However, Members may recall the updates given verbally to the report at the October meeting and the comments given by the Council's Ecology Officer and Drainage Officer. I consider that the outstanding matters referred to in that report have either been addressed or can be addressed through appropriate conditions.
4. A duplicate application was submitted on 8th October 2007.

Further Consultation responses

5. **Longstanton Parish Council**

"The Parish Council has no particular view on the layouts proposed in the application. However, the layouts are for a total of 159 new homes, and the Parish Council objects to these new homes being built at all until vital infrastructure is in place as follows.

- 1) The sewage system currently in place is well in excess of capacity. This is evidenced by frequent pumping into lorries on the High Street and continual reports of garden flooding and backed up toilets. A promise by Anglian Water to upgrade the system is welcome, but a promise is not the same thing as delivery of the improvements, which is not scheduled until later next year. Any assertion that the current system can cope with the current load is not born out by the facts on the ground, and therefore must not be taken as correct. It would be reckless to approve any further development discharging into an already over-capacity system until the system has actually been upgraded.
- 2) There are already more homes approved than the outline consent permits occupation of until the permanent bypass is in place. This bypass is not scheduled for opening until later next year. Approving more homes without the

bypass in place would not permit proper enforcement of the terms of the outline consent.

- 3) The outline application included an extension to the parish's recreation ground. This extension has not been delivered and there is no schedule for its delivery. Until the District secures a schedule for its delivery under Phase 2 of the development, no further applications should be entertained.
- 4) We are unclear how this amended application is in any way different from the application that was turned down.

The Parish believes it is vital that the District ensure that the recreation ground extension, sewage improvements, and B1050 bypass are in place before the application is approved.”

6. **Anglian Water**

“Improvement works have been highlighted to the existing foul system in order to accommodate flows from the proposed development area. The works have been programmed for September 2008. We will therefore require confirmation on proposed timescales for development. Full drainage proposals would be subject to technical approval following Section 104 proposals.

Surface water will need to discharge to soakaways or direct to watercourses, which is outside the jurisdiction of Anglian Water.

Should the Council be mindful of granting planning approval, we would recommend the following condition:

Details of foul and surface water drainage for the site shall be submitted to and approved by the Local Planning Authority before any work on the site commences. The drainage works shall be constructed in accordance with the approved plans. (Reason – To ensure satisfactory drainage of the site and to prevent flooding).”

7. **Local Highway Authority**

“The proposed palette of materials for the Square clearly differentiates between ‘carriageway’ and ‘footway’. In this area there should be no clear distinction between the various users of the highway. A single surfacing material should be used throughout to reinforce the message that no user of the highway has priority within the Square.

The Lanes to the western side of the development have not been dimensioned.

The Highway Authority has agreed a design for the junction between the shared use areas and the Lanes/Greenways and would seek to have this drawing included within those approved as part of the planning process.”

8. **Natural England**

Withdraws its previous objection but suggests a condition to ensure that all site clearance operations take place outside the bird breeding season. Provision should also be made for nesting birds through the erection of bird boxes etc.

9. **Council's appointed Urban Design Officer**

Comments are awaited in relation to the most recent amendment. Members will be updated at the meeting.

10. **Comments of the Principal Legal Officer**

"The Provision of the Bypass

1. In the Section 106 Agreement dated 16th October 2000 the provision of the bypass is contained on page 25 and says as follows:-

"The estate owners will complete the Longstanton bypass prior to the occupation of the 251 dwellings on the property".

Various figures with regard to the completion of dwellings were considered but as far as I am aware an actual figure has not yet been established although in my discussions with a representative from the company he indicated that approximately 190 dwellings have been occupied. I think we should seek clarification from the Developer as to how many have been occupied and seek an update on the proposals for the completion of the bypass. However I cannot see how legally the Committee could decline to determine a reserved matters planning application on the basis of an alleged breach of the Section 106 Agreement. If we turn down their application based on an alleged breach of the Section 106 Agreement we could not defend this point at an Appeal and are certain to lose and would have a good chance of costs being awarded against us. A Section 106 Agreement is a contract which can be enforced against the original covenantor and any successor in title. The normal remedy is the granting of an injunction since the Local Planning Authority itself would not normally suffer financial loss.

2. **The Transfer to the Parish Council of the Recreation Ground Extension**

This matter is not dealt with in the Section 106 Agreement dated the 16th October 2000, as that Agreement relates to the highway works and the education contribution.

The usual situation would be that the landowner would covenant to make land up to a certain standard being public open space and once the land had been made up to that standard it will be transferred to the Parish Council at a nominal value. I expected to find a Section 106 Agreement which would deal with this but have been unable to locate one. However, if as I suspect there is a covenant to do this and this covenant is not being fulfilled then the Developer should be pursued on that covenant. Refusal of this reserved matters application based upon contravention of a covenant in a Section 106 Agreement is not a valid ground for refusing this application and again if we did this and the matter went to Appeal we would stand a good chance of costs being awarded against us.

3. **The Anglian Water Sewage Infrastructure Improvements**

As I understand it Members are unhappy as to whether the proposed development can be accommodated by the sewage infrastructure but the company have told me that Anglian Water have approved their scheme and as such I cannot see how the District Council's Planning Authority could go

behind that approval given that they are the people who have to approve such a scheme and are the experts. Again if we refused this reserved matters application on the basis of our concerns about the sewage infrastructure improvements and these have already been approved by Anglian Water we would have little or no prospect of success at an Appeal and we have a good chance of costs being awarded against us.

My overall conclusion is therefore that for the reasons as indicated above Members cannot rely upon any of the three matters of concern raised at the last Planning Committee as being a reason for refusal of the application and unless they have any genuine planning concerns of which I know none at the moment then this application now needs to be approved.”

11. Further Representations from the Applicant

Attached is a copy letter from the applicant's solicitors.

Planning Comments

Overall approach

12. I am mindful of the advice of the Council's Principle Legal Officer and the concerns of Members expressed at the October Committee Meeting. Clearly these concerns should not form reasons for refusal of this Reserved Matters application but must nevertheless be addressed. I would invite Members to agree that there are two distinct issues here. On the one hand the details of layout, scale, appearance and access that should be the only matters for consideration of this application and on the other the concerns relating to the timing of the bypass, the extension to the recreation ground and the adequacy of the sewerage infrastructure that apply to the site as a whole.
13. I have asked the applicant's to consider these concerns and to write to Members prior to the November meeting with a detailed account of their position in relation to these issues.

Bypass

13. In my opinion, it will be some time before any of the houses within Phase 3B could be built bearing in mind the need to build the road into the site and the applicants own build program.
14. Notwithstanding the Council's controls through the S106, as detailed above, the new dwellings are unlikely to be ready for occupation significantly before the completion of the bypass which is projected to take 10 months to construct.
15. I understand that 20% of the bypass is already constructed and that the remaining 80% is dependent on funding from Phase 3. The bypass itself is phased and the funding for it is from the revenue received from the developers of each phase through the purchase of the land. These funds cannot be forthcoming until Reserved Matters have been granted.
16. Notwithstanding the above I am mindful that Phase 3A Reserved Matters have been approved. In this regard 351 dwellings can already be built (total of approvals for phases 1, 2 and 3A) and Members' concerns that the 250 limit could be breached are already pertinent.

17. I propose, therefore, that the occupation rate on the whole site should be monitored on a monthly basis and that the developers should provide this information to be checked by officers. The applicant's have agreed to this but I have yet to approach the developers of the other phases. In any case officers will be able to monitor the situation. Should occupancy rates approach the 250 limit the developers will be reminded of the possibility of an injunction and should the limit be exceeded such action can be taken.
18. With regard to comments made at the October meeting in relation to breaches of trigger points at Cambourne, the applicants have not currently breached any planning controls and I do not therefore consider the Council's approach to that situation to be relevant to this application.

Extension to the recreation ground

19. I am mindful of the advice of the Council's Principle Legal Officer. The matter is currently under discussion between the various parties and I have asked the applicants to provide information on their role and the likely timing of the provision. I expect this information to be contained within the letter to Members from the applicant but if not Members will be updated at the meeting.

Sewerage infrastructure

20. I would remind Members that Anglian Water has a duty to provide the appropriate infrastructure. Anglian Water has confirmed that it is able to do this and as a result the relevant conditions contained within the Outline Planning Permission have been discharged. I understand that the applicants may have some up to date information that will be available before the committee meeting. Members will be updated at the meeting if relevant.

Footpath link to Fews Lane

21. I have received a further clarification from the occupiers of the Retreat that they do not object to the existing route of Public Footpath Number 3 into Fews Lane but they do not wish to see Phase 3B linked to this.
22. The proposed link from Phase 3B to Fews Lane will add permeability to the development but residents of this phase will be able to access Fews Lane via the central open space in any case. Fews Lane is already part of a public footpath that links up with Over Road. I recommend that Members allow the link, however, the scheme will work without it if Members are so minded.

Conclusion

23. Member's have clear concerns about the Home Farm development as a whole which I understand. However, I do not consider it appropriate to withhold the Reserved Matters Consent for these reasons. They apply to the whole site and not just to this part of Phase 3. I hope the above and the information yet to be received from the applicants will help to address these concerns.
24. Final comments are expected from the Council's appointed Urban Design Consultant. However, I consider the scheme to be acceptable as submitted. Any further detailed changes suggested will be reported verbally and dealt with either by condition, where relevant, or, with the agreement of the applicants, through post decision

amendments. Following the lengthy pre application discussions and the amendments to the application (the layout plan is on its fifth revision) any further changes are likely to be minor.

Recommendation

25. Approval in accordance with the submitted plans as amended by plans ref. DWSM3 SL2 rev E, LS3/LS3B/01B and SB8 drawings 1 and 2 all date stamped 23rd October 2007 and subject to safeguarding conditions. Authorisation to take injunctive action should there be a breach of the occupancy trigger point contained within the S106 agreement to be monitored by officers.

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

- Reserved Matters Application File Ref S/1390/07/RM and application files referred to in the 'History' section of this report.
- Cambridgeshire and Peterborough Structure Plan 2003
- South Cambridgeshire Local Plan 2004
- South Cambridgeshire Local Development Framework Development Control Policies Development Plan Document 2007
- Development Brief for Home Farm, Longstanton 1998
- Documents referred to in the report including appendices on the website only and reports to previous meetings

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