



## 21/01213/VAC Vary conditions 20 'Details of Open Space' and 21 'Maintenance and management of Open Space', to remove reference to play areas attached planning permission ref.16/00539/OUT Field OS 6934 Bypass Road, Asfordby

<b>Corporate Priority:</b>	Delivering sustainable and inclusive growth in Melton
<b>Relevant Ward Member(s):</b>	Cllrs S Carter (Asfordby) and R de Burle (Asfordby)
<b>Date of consultation with Ward Member(s):</b>	24 November 2021
<b>Exempt Information:</b>	No

### 1 Summary



- 1.1 This application was reported to 28 April Planning Committee however was deferred to allow for discussions with the Parish Council, the Applicant and Officers to agree an approach on the provision of an equipped play area within the application site. A meeting between the applicant, their agent, officers and the Chair of the Parish Council, (who is also one of the Ward Councillors), Cllr. de Burle took place on 3<sup>rd</sup> May 2022.
- 1.2 Further consideration has been given in respect of the need for an equipped play area to be provided within the application site.
- 1.3 The original Committee report for 28 April Planning Committee is provided at Appendix B for information and only the above factors for reasons why the application was deferred will be considered within this further report.

<b>RECOMMENDATION(S)</b>
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| <p>1. It is recommended the application is approved, subject to:</p> <p>(i) Conditions as set out in Appendix A</p> |
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## **2 Reason for Recommendations**

- 2.1 Appendix B contains is the Committee report considered at the 28 April 2022 meeting of Planning Committee and is included to provide information on the other material planning considerations and issues and representations raised in respect of this application separate from the matter relating to the outcome of discussions subsequent to the meeting.
- 2.2 The reasons behind Committee's resolution to defer the application on 28 April are considered to have been addressed. The officer's recommendation remains unchanged. The proposal accords with the requirements of Policy EN7 which does not require the provision of an equipped play area as part of a scheme for residential development unless there is an identified deficit in the area. The proposal is also considered to be in accordance with Policy C9 through the provision of good quality, accessible green spaces within the application site; as well as improved pedestrian links, including as a result of the traffic calming measures along Saxleby Road, between the site and the existing equipped play areas within the settlement of Asfordby. The Local Cllrs. and the Parish Council do not object to the proposal.
- 2.3 The recommended conditions are contained with Appendix C.
- 2.4 The proposed development would therefore accord to the relevant policies of the Melton Local Plan.

### **3 Key Factors**

#### **3.1 Reason for Committee Determination**

- 3.1.1 This report relates to an application which was deferred at 28 April Planning Committee. The application was initially required to be presented to committee as The Director for Growth and Regeneration in consultation with the Chair of Planning Committee considered this application likely to raise matters which should be considered by the Committee.
- 3.1.2 The full committee report is appended to this report.

### **4 Report Detail**

#### **4.1 Removal of an equipped play area from the application site**

- 4.1.1 There was a change to the planning policy context between the approval of outline planning application ref. 16/00539/OUT on 08.05.2018 and the submission, and subsequent determination, of the reserved matters application ref.19/01291/REM on 21.11.2019 and 11.06.2020. Policy H11 of the 1999 Local Plan was superseded by Policy EN7 of the current Local Plan which was adopted in October 2018.
- 4.1.2 Policy EN7 'Open Space, Sport and Recreation' requires a contribution towards open space sport and recreation "where there are identified local deficiencies". The supporting evidence for policy EN7 is the 'Melton Space Study Open Space Assessment Support' (2014) (space study). For the purposes of the space study Asfordby lies within the 'Central Area', there are no identified local deficiencies for equipped play areas in this area. Policy EN7 is still considered to be up to date and in accordance with the National Planning Policy Framework (NPPF). For these reasons it is considered that there is no planning policy justification for the provision of an equipped play area within the application site.
- 4.1.3 A meeting has taken place with the applicant, their agent, and the chair of the Parish Council to discuss the need for a new equipped play area within the application site. The Parish Council have subsequently unanimously resolved to support the removal of the requirement to provide children's play facilities on the site. This approach is supported by the Local Cllrs.
- 4.1.4 It is noted that the Parish Council's comments suggest that as a result in the increase in affordable housing provision on site, which increased from 4% at the outline stage to 64% at the reserved matters stage, other developer contributions were not provided. This is not the case. A Section 106 legal agreement was attached to the outline planning permission securing contributions towards bus passes, civic amenities, libraries, secondary education, and travel packs. In addition to this a contribution towards off site affordable housing was secured. This item was removed via a deed of variation justified by the increased on site affordable housing provision. The other developer contributions secured at the outline stage remain unchanged.
- 4.1.5 The applicant has put forward a voluntary sum to be used by the Parish Council to enhance the existing open space within the site, specifically in the form of the provision of two ground mounted rubbish collection bins. Given that the draft Asfordby Neighbourhood Plan is at an early stage of adoption very limited weight can be afforded to it. However, it is noted that in the supporting text for Policy A15 'Children's Play Areas' contained within

the Neighbourhood Plan at para. 7.22: “The new housing developments we are planning are well located in relation to existing play areas. Rather than provide new Local Equipped Areas for Play, it would be better if new development contributed to the improvement of the existing play areas.”

## 5 Consultation & Feedback

- 5.1 Since the Planning Committee meeting held on the 28 April 2022 comments have been received from the Parish Council and the two Ward Members Cllr. Carter and Cllr. de Burle.
- 5.2 In summary the Parish Council made the following comments: “Recent enquiries suggest that the original access application granted with the support of the Parish Council under planning rules applicable at the time, which included a percentage of affordable dwellings as prescribed in the MLP for Asfordby, and the provision of a children’s play area, had, at some stage been substantially changed. It is understood that the evidence used to support the deferral are two communications received by the planning department during November 2021, one from the Parish Council objecting without qualification to the proposals, and one from a ward Councillor stating that it was his opinion that a decision should not be made without further information being made available. The affordable housing requirement in the site had been considerably increased beyond the originally approved level specified for Asfordby, frustrating the potential for any local 106 support. And that the rules applicable to the development had also changed, such that there was now no legal requirement to provide a funded children’s play area, and the increase in the level of affordable dwellings made it impossible for the developer to support the provision or any ongoing maintenance of a play area. Asfordby Parish Council reviewed its activities in preparation for setting its annual budget, the Parish estates children’s recreational play facilities, of which the Parish has 4 equipped sites together with 3 additional open space play areas, and one or another of which are within a 5 minute walk of any part of the developed conurbation of the villages. The cost to inspect, maintain, service and repair during 2021 is estimated to have been in excess of £20,000 with vandalism being a major factor, given this background the Parish Council had informally decided that it had no appetite to provide more children’s play facilities in the current climate. On the 21<sup>st</sup> February Mr Dean Weldon contacted the Chairman of the Parish Council with a request to understand where matters lay. He was advised that the Parish would not contest the removal of the planning requirement and in fact supported it on the basis that the Parish was already adequately equipped, he accordingly wrote to the Melton Borough planning department confirming that position, that communication appears to have been overlooked by committee in the decision making process. The Parish Council unanimously resolved to support the removal of the requirement for Deeley Homes to provide children’s play facilities on the Field OS 6934 development. It was further noted that the Parish Council would happily accept a contribution towards the maintenance costs of existing play equipment within the Parish. However, they would prefer it if the developer would provide two suitably positioned large good quality ground mounted rubbish collection bins (not on posts), one close to the development and school entrances, the other close to or on the green space, both easily accessible for the Biffa refuse collection team to be able to service”.
- 5.3 Cllr Carter and Cllr de Burle have confirmed they support the comments made by the Parish Council.

## 6 Financial Implications

6.1 No financial implications have been identified.

**Financial Implications reviewed by: N/A**

## 7 Legal and Governance Implications

7.1 No legal or governance issues have been identified.

**Legal Implications reviewed by: Tom Pickwell (Solicitor)**

## 8 Background Papers

8.1 Committee report for planning application ref. 16/00539/OUT

8.2 Committee report for planning application ref. 19/01291/REM

## 9 Appendices

Appendix A – Recommended Planning Conditions

Appendix B – Committee report from 28 April 2022 Planning Committee

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## Appendix A : Recommended Conditions

1. The development shall be carried out in accordance with the reserved matters including details of the layout, scale, external appearance of the buildings, and the landscaping of the site approved under planning permission ref.19/01291/REM
2. The reserved matters as required by condition 1 above, shall provide for a mixed of types and sizes of dwellings that will meet the area's local market housing need.
3. The development shall be carried out in accordance with the approved material schedule no.3739-60 Rev.D submitted on 15<sup>th</sup> October 2020.
4. A Landscape Management Plan, including a maintenance schedule and a written undertaking, including proposals for the long term management of landscape areas (other than small, privately occupied, domestic garden areas) shall be submitted to and approved by the Local Planning Authority prior to the occupation of the development or any phase of the development, whichever is the sooner.
5. The approved landscape scheme (both hard and soft) shall be carried out before the occupation of the buildings or the completion of the development, whichever is the sooner; unless otherwise agreed in writing by the Local Planning Authority. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.
6. The approved surface water drainage scheme: 'Technical Note: Discharge of Planning Conditions 5 & 7 November 2010 ref.21511-01-TN-01a' submitted on 18 November 2020 shall be fully implemented and subsequently maintained, in accordance with the timing and phasing arrangements embodied within the scheme or within any other period as may subsequently be agreed, in writing by the local planning authority.
7. Prior to the first occupation of the development the approved acoustic fencing, and any other physical noise mitigation features detailed on drawing no.3739-52 Rev.B submitted on 10 March 2020 and 2019-PL1-02 submitted on 19 November 2020 shall be fully implemented and retained for the lifetime of the development.
8. The development shall be carried out in accordance with the approved details and timetable set out in the Construction Management Plan received on 6 August 2020, tracking and visibility drawing no.21511\_03\_110\_03 received on 18 August 2020, Construction Method Statement v 1.4 received on 21 August 2020, and Temporary Access drawing 21511\_03\_020\_02 rev.B received on 21 August 2020.
9. Notwithstanding MEC drawing 21151\_08\_020)01 revision A appended as Appendix H within the submitted Transport Statement, the entire extent of forward visibility shall fall within existing or prospective adopted highway as detailed in the approved 'Section 278 Road Setting Out Plan' drawing no.21511\_03\_050\_01 Rev.A submitted to the Local Planning Authority on 1 September 2021.

10. The existing field vehicular accesses that become redundant on Saxelby Road and Regency Road as a result of the development shall be closed permanently and the existing vehicular crossings reinstated in accordance with a scheme that shall be first submitted to and approved in writing by the Local Planning Authority within one month of the new site access being brought into use.
11. There shall be no vehicular through routes from the development site onto Regency Road; the sole point of vehicular access shall be on Saxelby Road
12. Traffic Calming Scheme in the vicinity of Captain's Close Primary School on Saxelby Road shall be implemented in accordance with the approved scheme as detailed in amended drawing no.21511\_03\_080\_01B and The Road Safety Audit submitted on 21 October and 19 January 2021.
13. Prior to first occupation, the nearest pair of bus stops shall be upgraded to include flags, poles and information display case on Regency Road the details of which shall be first submitted to and approved in writing by the Local Planning Authority and thereafter implemented in accordance with the approved details.
14. No development shall take place until a scheme for protecting the occupants of the proposed development from noise from the A6006 By-Pass Road has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be completed prior to the first occupation of the development and shall thereafter be retained.
15. No demolition/development shall take place other than in accordance with the Archaeological Desk Bases assessment by Border Archaeology dated April 2019, Written Scheme of Investigation by Border Archaeology dated April 2019, and Archaeological Field evaluation by Border Archaeology dated September 2019.
16. The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation by Border Archaeology dated April 2019; and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.
17. All development to be in accordance with the recommendations of the Ecological Appraisal and Protected Species Survey.
18. No development shall take place until a scheme for the provision of all open space has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall include details of the laying out and construction of the open space and a timetable for its provision.
19. No development shall take place until details of the implementation, maintenance and management of the open space provided in accordance with condition 18 above has been submitted to and approved in writing by the Local Planning Authority. The provision of the open space shall be implemented and thereafter managed and maintained in accordance with the approved details.

The details of the scheme shall include:

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- a) a timetable or its implementation; and
- b) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by a public body or statutory undertaker, or any other arrangements to secure the maintenance of the open space throughout its lifetime.

The reasons for the conditions are:-

1. The application is in outline only.
2. To ensure that the housing needs of the borough are met.
3. To ensure the external appearance of the development is acceptable.
4. To ensure that due regard is paid to the continuing enhancement and preservation of amenity afforded by landscape areas of communal, public, nature conservation or historical significance.
5. To provide a reasonable period for the replacement of any planting.
6. To prevent flooding by ensuring the satisfactory storage of and disposal of surface water from the site.
7. To ensure that these features are integrated into the overall design and layout of the site.
8. To reduce the possibility of deleterious material (mud, stones etc.) being deposited in the highway and becoming a hazard to road users, and to ensure that construction traffic/site traffic associated with the development does not lead to on-street parking problems in the area.
9. In the interests of highway safety.
10. To protect footway users in the interests of pedestrian safety, and to reduce the number of vehicular accesses to the site to reduce the number of potential conflict points.
11. In the interests of highway safety and to reduce the number of vehicular accesses to the site to reduce the number of potential conflict points.
12. In the interests of highway and pedestrian safety on Saxelby Road.
13. To provide improved public transport facilities to encourage modal shift and to inform new residents of the nearest bus services.
14. In order to control the noise in the interest of residential amenity.
15. To ensure satisfactory archaeological investigation and recording.
16. To ensure satisfactory archaeological investigation and recording.
17. In the interests of the ecology of the area.



18. To ensure the provision of adequate public open space.

19. To ensure the future maintenance of public open space.