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Planning Committee

15 September 2022

Report of: Assistant Director for Planning

21/00825/VAC - Variation of conditions 5, 8 and 23, and discharge of conditions 3, 4, 11, 12, 16, 17, 18, 19, 20 and 21 of planning approval 18/00721/OUT

OS 4240, Burdetts Close, Great Dalby

Corporate Priority:	Delivering sustainable and inclusive growth in Melton
Relevant Ward Member(s):	Cllr R Child
Date of consultation with Ward Member(s):	21 July 2021
Exempt Information:	No

1 Summary



- 1.1 The submission seeks to vary conditions 5 (approved access plan), 8 (parking and turning) and 23 (approved plan) attached to outline planning approval 18/00721/OUT. In addition to varying these conditions, the formal discharge of conditions 3 (landscape scheme), 4 (landscape maintenance schedule), 11 (construction management plan), 12 (footpath management plan), 16 (archaeological written scheme of investigation), 17 (surface water drainage scheme), 18 (surface water management during construction), 19 (long term surface water management), 20 (infiltration testing) and 21 (arboriculture method statement) also attached to outline planning approval 18/00721/OUT is also sought.
- 1.2 Condition 5 of 18/00721/OUT details;

"No part of the development hereby permitted shall be occupied until such time as the access arrangements shown on ADC drawing number ADC1793-DR-001 Rev P2 have been implemented in full. The proposed access shall have a gradient of no more than 1:20 for a distance of at least 10 metres behind the highway boundary."

1.3 Condition 8 of 18/00721/OUT details;

"The development hereby permitted shall not be occupied until such time as the parking and turning facilities have been implemented in accordance with Hayward Brown drawing number 3353-02 Rev K. Thereafter the onsite parking provision shall be so maintained in perpetuity.2

1.4 Condition 23 of 18/00721/OUT details;

"The development hereby permitted shall be carried out in accordance with drawings numbered 3353 - 02K received by the Local Planning Authority on 20th November 2018. The development should also conform to the guidelines in design and access statement also provided on 29th October 2018."

- 1.5 The application forms submitted with the application sets out that these conditions are proposed to be varied in order to ensure that the road is developed in a manner that meets current standards and enables it to be adopted to current standards as opposed to historic standards that were in place at the time of outline permission being granted.
- 1.6 The outline planning approval, reference 18/00721/OUT, granted outline permission for the construction of up to 35 no. dwellings (Class C3) (amended from 38) including access and layout with associated open space, landscaping and access, drainage and services infrastructure. Access to and from the site approved as part of the outline permission was via Burdetts Close.
- 1.7 The reserved matters application, relating to scale, appearance and landscaping, is currently under consideration by the Local Planning Authority (LPA) under reference 21/00289/REM.
- 1.8 The site is accessed by vehicle off Burdetts Close and currently takes the form of a field across which public rights of way traverse which are in the process of being diverted. Ground levels on site fall toward Burdett Close. A combination of trees and hedgerows comprise the majority site boundaries. The site adjoins Great Dalby village the north and western site boundaries while agricultural land is to the east and south.

RECOMMENDATION(S)

Recommend approval of changes to conditions 5, 8 and 23 and discharge of conditions 3, 4, 11, 12, 16, 17, 18, 19, 20 and 21.

2 Reason for Recommendations

- 2.1 The submission can be separated into 2 parts 1) the variation to conditions 5, 8 and 23 setting out approved drawings relating to highway related matters attached to the outline planning approval 1800721/OUT; and 2) the discharge of conditions 3, 4, 11, 12, 16, 17, 18, 19, 20 and 21 also attached to outline planning approval 18/00721/OUT.
- 2.2 In respect of the proposed variation of conditions following assessment by officers and LCC as the Highway Authority, consideration, discussions and amended plans having been received, the variations are considered to be acceptable. They would also ensure that the roads would be a standard capable of adoption.
- 2.3 With regards to the conditions sought to be discharged, officers and technical consultees consider that on the basis of both the submitted and amended plans and documents provided, they can be discharged subject to the development being carried out in accordance with the approved details.

3 Key Factors

3.1 Reason for Committee Determination

3.1.1 This application is required to be presented to the Committee due to receiving more than 10 letters of objection from separate households contrary to the recommendation.

3.2 Relevant Policies

- 3.2.1 Policy SS1 Presumption in favour of Sustainable Development
- 3.2.2 Policy SS2 Development Strategy
- 3.2.3 Policy EN1 Landscape
- 3.2.4 Policy EN11 Minimising the Risk of Flooding
- 3.2.5 Policy EN13 Heritage Assets
- 3.2.6 Policy IN2 Transport Accessibility and Parking
- 3.2.7 Policy D1 Raising the Standard of Design

3.3 Main Issues

- 3.3.1 The issues for consideration fit under 2 umbrellas the first relating to the variation of conditions 5, 8 and 23, and secondly the discharge of conditions 3 (landscape scheme), 4 (landscape maintenance schedule), 11 (construction management plan), 12 (footpath management plan), 16 (archaeological written scheme of investigation), 17 (surface water drainage scheme), 18 (surface water management during construction), 19 (long term surface water management), 20 (infiltration testing) and 21 (arboriculture method statement). These will be dealt with below under the sub-headings of Variation of Conditions and Discharge of Conditions.
- 3.3.2 In respect of the proposed variation of conditions, the issues for consideration relate to highway safety, layout and amenity.

- 3.3.3 With regards to the conditions proposed to be discharged, the matters for consideration relate to whether the details submitted, and or as amended, are such that the Local Planning Authority (LPA) or respective technical consultees are satisfied the submitted details are acceptable for the conditions to be discharged subject to being carried out in accordance with the submitted details.
- 3.3.4 It should be noted that the application for consideration here relates only to the variation of 3 conditions attached to the outline planning approval and the discharge of 10 precommencement conditions. These 10 conditions sought to be discharged are all of the conditions required to discharged prior to commencement of the development.

4 Report Detail

Variation of Conditions

4.1 **Position under the Development Plan Policies**

- 4.1.1 Planning law states that planning decisions must be made in accordance with the development plan unless there are material considerations which indicate otherwise (section 70(2) Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004.
- 4.1.2 The Melton Local Plan forms the development plan and was adopted on 10th October 2018 and has full weight in decision making.
- 4.1.3 The National Planning Policy Framework (NPPF) and the associated National Planning Policy Guidance are very important material consideration that carry great weight.
- 4.1.4 In the consideration of this submission, adopted Local Plan policies relate to the conditions for which permission is sought to vary.

4.2 Principle of Development

- 4.2.1 Outline planning permission, including layout and access, was approved on 12 July 2019 and forms the basis from which the principle of development has become established and acceptable.
- 4.2.2 The application relating to the outstanding reserved matters was submitted to the LPA on 11 March 2021 and is currently under consideration. As such it was submitted within the required 3 year time period as required by condition.

4.3 Highways impact through the variation of plans on conditions 5, 8 and 23

- 4.3.1 The conditions for which permission is sought to vary, all relate to plans conditioned in associated with highway and access set out as part of the outline permission. The applicant wants to amend the internal road layout so it can meet a standard that is and can be adopted by Leicestershire Council as the relevant Highway Authority.
- 4.3.2 On this basis the Highway Authority were consulted who commented objecting to the variation of conditions 5 and 23 on the grounds of technical issues with the details submitted.
- 4.3.3 They had no objections to the proposed variation of condition 8 as originally submitted.
- 4.3.4 As a result of the objection to the variation of conditions 5 and 23, and following discussions amended plans were submitted with the Highway Authority re-consulted.
- 4.3.5 The assessment of the amended details in respect of conditions 5 and 23 by Highways was such that they now consider that the road layout is suitable for adoption and to go

through the Section 38 technical approval process and pose no unacceptable highway or pedestrian impact.

4.3.6 In respect of the amended plans and condition 8, the Highway Authority consider the details to be acceptable and not impact on highway or pedestrian safety.

Within the objection letters received on the application, a large number of points are made in respect of the access arrangements and restricted nature of Burdett Close during times when residents are at home. While the points made are noted in their content, it is important to note that the access arrangements were approved as part of the outline application and are not being re-considered here with the Highway Authority continuing to be satisfied that the highway elements of the development continue to be acceptable. The changes to the 3 conditions here, which relate to highways matters, are proposed in order to ensure the access and roads are all capable of meeting the necessary standards for adoption. Taking account of the comments of the Highway Authority on the application which, following discussions, has resulted in amended plans on which the Highway Authority find acceptable from a highway perspective.

4.3.7 Impact on residential amenities

- 4.3.8 As part of the submission and as a result of the amended plans provided in respect of the conditions proposed to be varied, amended site layout plans have been provided. The changes to the conditions, as already indicate, are proposed to enable the roads to be capable of adoption.
- 4.3.9 The changes proposed are such that there will be the potential for impacts such as noise and traffic on existing residential amenity by virtue of the fact that the site is being accessed off Burdetts Close, an existing residential street. The conditions sought to be varied represent changes to ensure access arrangements are an increase from historic to current highway standards, impacts were considered as part of the outline planning application.
- 4.3.10 Dwelling numbers are not changing resulting in the number of vehicles associated with the development also remaining unaffected. Furthermore, the layout of the development as a whole and as approved in the outline planning permission will also not change as a result of the variation of the 3 conditions sought here. Due to these factors, alongside the fact that the conditions to be varied are to be changed to ensure the highways are to an adoptable standard, it is considered that the scheme would not impact on amenities.

Discharge of Conditions

4.4 **Condition 3 – landscaping scheme**

4.4.1 Condition 3 of the outline permission states:

"No development shall start on site until a landscape scheme has been submitted to and approved in writing by the Local Planning Authority. This scheme shall indicate full details of the treatment proposed for all hard and soft ground surfaces and boundaries together with the species and materials proposed, their disposition and existing and finished levels or contours. The scheme shall also indicate and specify all existing trees and hedgerows on the land which shall be retained in their entirety, unless otherwise agreed in writing by the Local Planning Authority, together with measures for their protection in the course of development."

4.4.2 As part of the submission, a layout plan was provided showing general landscaping details alongside a further plan showing specific details. These were amended as a result of discussions including comments received from the Highway Authority.

- 4.4.3 The amended plans provided show full details of all soft and hard landscaping proposed as part of the development. With regards to the soft landscaping proposed the amended drawing details, alongside the use of grass, all trees and shrubs to be used alongside their location within the site. The soft landscaping, amongst others, includes the use of Rowan and Maple trees alongside Hornbeam, Hazel, Elder and Hawthorn hedging while also having Lavender, Honeysuckle and Cherry Laurel shrubs and plants. Full details of their numbers and locations are also provided on the amended drawings provided. In respect of hard landscaping details provided include the use of tarmac on roads and footpaths where they are to be adoptable while the use of pavers and gravel on private area.
- 4.4.4 While the discharge of this condition is not specifically a Highway Authority matter, they did initially object to the conditions discharge on the grounds that elements of the scheme originally proposed could / would impede highway and pedestrian safety. As a result of the amended plans requested and provided, the Highway Authority are satisfied that the proposal will not impact on highway and pedestrian safety.
- 4.4.5 The amended plans have been assessed and considered by Officers. With respect to the hard landscaping proposed, they are of a nature and type found locally within the village at varying locations such as to not be considered out of keeping with the character and appearance of the area. Turning to the soft landscaping, a reasonable amount is proposed that are of types similar to others within the locality so enabling them to fit in without raising any adverse or detrimental impacts. They are therefore considered to be acceptable and will be appropriate in association with the development, the site and surrounding area.
- 4.4.6 On this basis Officers consider the amended landscaping plans to be acceptable and thus recommend the condition is discharged in part with the development to be undertaken in accordance with the approved details.

4.5 **Condition 4 – Landscape Management Schedule**

- 4.5.1 Condition 4 of the permission requires a schedule of Maintenance for Landscaped areas to be submitted and approved by the Local Planning Authority and to be accompanied by a written undertaking including the arrangements for its implementation.
- 4.5.2 This was provided alongside the landscaping plan submitted, but also sits alongside the amended plan provided. It sets out long terms goals of the landscaping in retaining and enhancing existing landscaping features to be retained while also providing long term landscaping improvements to the area through the landscaping shown on the original and amended landscape plans provided. In respect of all planting it sets out that the ground will be cultivated to a minimum depth of 0.2m and comprise a mixture of subsoil and topsoil with trees also having manure / compost as well while also being set at 1m intervals. Further details indicate the use of mulch in locations. Hedging will be in double rows with each row comprising 5 per linear metre while shrubs will be in groups of 1, 3, 5 or 7 on de-compacted soil with mulch on. Turning to general maintenance it is set out that all planting will be maintained by the installation contractor for at least 1 year after which it will fall within the estate management plan. Watering is detailed as being when needed with close attention over the first 2 years and dry spells. Details on the professional maintenance of trees and shrubs are also detailed while it sets out that the gardens forming part of the residential dwellings will be the responsibility of the home owners.
- 4.5.3 An estate management plan was also provided that works alongside the landscape management plan provided. It sets out that the management of the estate, including soft

landscaping, public open space, sustainable urban drainage features, shared permeable paved driveways and public rights of way, will be passed to an estate management company and details the way in which the estate will be managed with a view to maintaining the area and providing a contact point for the management of these communal areas.

- 4.5.4 Officers consider that the details provided are acceptable and will work well alongside the amended landscaping plan. Together the landscape management plan and estate management plan will ensure that the landscaping is maintained in the immediate (post implementation) and longer terms in a manner beneficial to the development and area.
- 4.5.5 On this basis the condition is recommended to be discharged in part with the development to be undertaken in accordance with the approved details.

4.6 **Condition 11 - Construction Management Plan**

- 4.6.1 This condition requires no development to commence on site until such time as a construction traffic management plan, including as a minimum details of the routing of construction traffic, wheel cleansing facilities, vehicle parking facilities, and a timetable for their provision, has been submitted to and approved in writing by the Local Planning Authority. Thereafter the construction of the development shall thereafter be carried out in accordance with the approved details and timetable.
- 4.6.2 This has been provided and sets out the hours of work (0700 to 1900 Monday to Friday and 0800 to 1300 on Saturday), construction programme, environmental matters (dust suppression, road contamination, noise and vibration, waste management and recycling), neighbouring properties, pond and wildlife corridor management and the management of the site including monitoring of traffic management issues, parking, deliveries and wheel washing.
- 4.6.3 To enable the detailed consideration of this, LCC Highways were consulted as the relevant technical consultee to ensure that it contains the relevant provisions so as to enable construction in a positive, productive manner.
- 4.6.4 Their response comments that the Applicant has submitted detail ensuring that construction traffic will avoid travelling through Great Dalby, routing via Dalby Road. The LHA welcome the provision of a wheel wash facility at the site access. Further, the LHA also welcome detail that site deliveries will be monitored by a banksman.
- 4.6.5 On the basis of the LHA comments on the submitted details, the Local Planning Authority are satisfied that the condition can be discharged.
- 4.6.6 In terms of the hours of work contained in the plan submitted, this is as per condition 22 of the outline approval which was attached at the request of Environmental Health officers. It is therefore considered acceptable.
- 4.6.7 The details provided in respect of this condition are to the satisfaction of the Highway Authority and in accordance with the hours of work condition on the outline approval. Officers consideration of the details provided, taking account of the Highway Authority comments and compliance with the hours of work condition, are that the proposed construction management plan is acceptable and can be discharged subject to the development being carried out in accordance with the approved details.

4.7 **Condition 12 - Footpath Management Plan**

4.7.1 The provisions of this condition require that no development shall commence on site until a footpath management plan has been submitted to and approved in writing by the Local

Planning Authority. Such a plan shall include details of both permanent and temporary diversion, fencing, surfacing, signposting and a timetable for provision.

- 4.7.2 Pursuant to the discharge of this condition a Footpath Management Plan has been produced by the applicants and submitted to discharge this condition. It sets out the existing right of way arrangements and their interaction with both the area and the heritage asset visible from the site in the form of the church. It also details that in association with risks posed in the implementation of the scheme, there will be a need for the temporary rerouting of the footpaths crossing the site during construction with this being reviewed as construction takes places. The plan within the document shows the 2 footpaths re-routed around the edge of the site in parts to ensure the footpath network can still be used.
- 4.7.3 To enable the detailed consideration of this, LCC Highways were consulted as the relevant technical consultee.
- 4.7.4 Within their response they comment that based on the information provided the Highway Authority are satisfied that the proposals satisfy the above condition. On the basis of this advice the LPA are satisfied the condition can be discharged subject to compliance with the details submitted.

4.8 **Condition 16 - Archaeological Written Scheme of Investigation**

- 4.8.1 Condition 16 requires a Written Scheme of Investigation (WSI) for the site in respect of the archaeological nature of the site be submitted to and approved by the LPA and development carried out in accordance with it.
- 4.8.2 In order to discharge this condition a Written Scheme of Investigation (WSI) in the form of an Archaeological Investigation for the site was provided. The report summarised that during the investigations undertaken, some archaeological heritage was found in the form of Saxo-Norman pottery and a field trench.
- 4.8.3 LCC Archaeology were consulted on the submission. In their initial response they detailed that they have reviewed the evaluation report and while the report is satisfactory, further archaeological work was needed to discharge condition 16. The evaluation found agricultural features and a Saxo-Norman trackway in the north-western part of the site with the Saxo-Norman trackway being identified as locally significant due to the rarity of features dated to this period in the local environment. Therefore, archaeological mitigation consisting of an archaeological strip, plan and record of the area is needed before any other intrusive works takes place which will require a further WSI. LCC Archaeology continued that once this mitigation work and a final report has been completed it can then recommend discharge of the condition.
- 4.8.4 This was relayed back to the agent and applicant with further work undertaken resulting an up-dated report being provided to address the points raised. In response to the reconsultation on this, LCC Archaeology commented that they considered the additional report to be acceptable so that the condition could be discharged.

4.9 **Condition 17 – Surface Water Drainage Scheme**

4.9.1 This condition requires no development approved by the outline planning permission to take place until such time as a surface water drainage scheme has been submitted to, and approved in writing by, the local planning authority. Thereafter surface water shall not drain into the Public Highway and thereafter shall be so maintained.

- 4.9.2 As part of the submission a variety of documents were submitted that detailed how the surface water drainage of the scheme would operate and flow.
- 4.9.3 Due to the technical nature of the submission the Lead Local Flood Authority (LLFA) were consulted. Original comments raised concerns that insufficient information had been provided in respect of conditions 17 and 18. These comments were provided to the agent and applicant and the necessary information provided.
- 4.9.4 On the basis of the information provided, in respect of condition 17, the LLFA were reconsulted and subsequently commented that the information was such that their concerns were addressed and the condition could be discharged.

4.10 **Condition 18 – Surface Water Management during Construction**

4.10.1 This condition states that:

"No development approved by this planning permission (18/00721/OUT) shall take place until such time as details in relation to the management of surface water on site during construction of the development has been submitted to, and approved in writing by, the Local Planning Authority."

- 4.10.2 In association with the provisions of this condition and alongside the information provided in association with condition 17, full details of how surface water would be managed during construction was submitted by the applicant. This comprised drawings indicating drainage details as well as a drainage statement that contained detailed, technical information as well as confirmation from Severn Trent Water that foul Sewage connection to existing infrastructure would be acceptable.
- 4.10.3 As with the discharge of condition 17 detailed in paragraph 4.11 above, due to the technical nature of the submission the Lead Local Flood Authority (LLFA) were consulted. Original comments raised concerns that insufficient information had been provided in respect of conditions 17 and 18. These comments were provided to the agent and applicant and the necessary information provided to address the points made.
- 4.10.4 On the basis of the information provided, in respect of condition 18, the LLFA were reconsulted and subsequently commented that the information was such that their concerns were address and the condition could be discharged.

4.11 Condition 19 - Long Term Surface Water Management

- 4.11.1 Through this condition no development approved by the outline planning permission, shall take place until such time as details in relation to the long-term maintenance of the sustainable surface water drainage system within the development have been submitted to, and approved in writing by, the Local Planning Authority.
- 4.11.2 The applicant and agent submitted details in terms of the long term surface water management within the Drainage Strategy which contains the proposed general and technical details.
- 4.11.3 As with conditions 17, 18 and 20, the technical nature was such that the LLFA were consulted. In their initial response they detailed the information submitted associated with this condition was acceptable such that the condition could be discharged. On the basis that the LLFA, as the technical consultee who requested the condition and have commented on the details submitted, are satisfied that the details provided are acceptable,

officers consider that the condition can be discharged subject to the development being undertaken in accordance with the details to be approved.

4.12 Condition 20 - Infiltration Testing

4.12.1 Condition 20 states that

"No development approved by the outline planning permission shall take place until such time as infiltration testing has been carried out to confirm (or otherwise) the suitability of the site for the use of infiltration as a drainage element, and the flood risk assessment (FRA) has been updated accordingly to reflect this in the drainage strategy."

- 4.12.2 Technical data from the infiltration testing undertaken is contained within the Drainage Strategy which has also fed into the works to be done relating to other surface water matters required by other conditions.
- 4.12.3 As with conditions 17, 18 and 19, the technical nature was such that the LLFA were consulted. In their initial response they detailed the information submitted associated with this condition was acceptable such that the condition could be discharged.
- 4.12.4 Officers are of the opinion that as the LLFA, its technical advisor on the provisions of this condition, are satisfied that the details are satisfactory in order to discharge the condition, it should be discharged.

4.13 Condition 21 - Arboriculture Method Statement

4.13.1 This condition on the outline permission details:

"No operations shall commence on site in connection with the development hereby approved (including demolition works, tree works, fires, soil moving, temporary access construction and / or widening or any operations involving the use of motorised vehicles or construction machinery) until a detailed Arboricultural Method Statement (AMS) in accordance with BS5837:2012 Trees in relation to design, demolition and construction - Recommendations has been submitted to and approved in writing by the Local Planning Authority and the protective fencing is erected as required by the AMS."

- 4.13.2 In order to discharge this condition, the required arboricultural method statement has been provided setting out the trees to be removed as well as the trees to be retained. It is to be read in association with the landscaping plan submitted for discharge in association with condition 3 and which has been amended in association with that condition.
- 4.13.3 LCC Forrestry were consulted on the details provided. Within their response they commented that an Arboricultural Method Statement and Tree Protection Plan has been provided and that they were satisfied with their content.
- 4.13.4 From reviewing the submitted information, including the amended landscaping plan which still includes the information relevant to this condition, and taking account of LCC Forestry comments, officers are satisfied the details are acceptable and therefore sufficient such that condition 21 be discharged subject to the development being implemented in accordance with the approved details.

5 Consultation & Feedback

5.1 The application has been publicised through a press notice, site notice and neighbour notification letters.

5.2 Letters have been received from 18 addresses with 1 letter of representation and 17 letters of objection.

6 Financial Implications

6.1 Not applicable

Financial Implications reviewed by: N/A

7 Legal and Governance Implications

7.1 Legal implications have been included in the main body of the report. No specific issues are identified. Legal advisors will also be present at the meeting.

Legal Implications reviewed by: Tom Pickwell (Solicitor)

8 Background Papers

- 8.1 Planning History;
- 8.2 18/00721/OUT Outline planning application for the construction of up to 35 no. dwellings (Class C3) (amended from 38) with associated open space, landscaping and access, drainage and services infrastructure; to include details of layout and access off Burdetts Close, with all other matters reserved. Permitted subject to Section 106 agreement 12 July 2019
- 8.3 19/01376/OUT Outline planning application for the construction of 35 no. dwellings (Class C3) with associated open space, landscaping and access, drainage and services infrastructure; to include details of layout and access off Burdetts Close, with all other matters reserved – Withdrawn – 11 November 2020
- 8.4 21/00289/REM Reserve Matters application for Scale, External appearance of the building(s), Landscaping of the site (as listed in Condition 2 on the Outline Planning Approval 18/00721/OUT) Pending consideration

9 Appendices

- 9.1 Appendix A Summary of Statutory Consultee responses;
- 9.2 Appendix B Summary of Representations received;
- 9.3 Appendix C Recommended Planning Conditions;

Report Author:	Richard Redford, Senior Planner
Report Author Contact Details:	01664 502338 richardredford@melton.gov.uk
Chief Officer Responsible:	Peter Baguley, Assistant Director for Planning
Chief Officer Contact Details:	01664 502418 pbaguley@melton.gov.uk