



19/01379 and 19/01380/VAC - Field OS3500, Hecadeck Lane, Nether Broughton

- (i) 19/01379/VAC : Vary condition 24 (maximum of 20 dwellings) of planning permission 15/01019/OUT to 21 dwellings
- (ii) 19/01380/VAC : Vary conditions 19 and 25 (Wildlife Corridor and Wildlife Buffer) of planning permission 15/01019/OUT

Applicant : Grace Homes Ltd and J and P Manchester

Corporate Priority:	3: Delivering Sustainable and Inclusive Growth in Melton
Relevant Ward Member(s):	Old Dalby Ward : Councillor Joe Orson
Date of consultation with Ward Member(s):	10 January 2020
Exempt Information:	None

1 Summary

- 1.1 The application site is on the edge of the village of Nether Broughton and is currently a green field site. Outline planning permission was granted in 2017 for residential development with access only for consideration at that time. Permission was granted by the committee subject to conditions and a Section 106 Agreement.
- 1.2 This report relates to two applications to vary the original outline permission granted in 2017. The first application seeks to vary condition 24 which states:
 - 24. Notwithstanding the plans hereby permitted, no more than 20 houses shall be developed on the site.*
- 1.3 19/01379/VAC seeks to vary this condition so that the subsequent reserved matters application can apply for 21 dwellings on the site.
- 1.4 The second application seeks to vary conditions 19 and 25 which state:

19. The layout to be in accordance with that appended to the revised GCN survey (Brindle & Green, June 2015 revised 31/3/2016). Any amendments to this must retain a minimum of a 10m buffer surrounding the pond and a 4 to 5m buffer between the development (including garden boundaries) and the boundary hedgerows.

25. Notwithstanding the plans hereby permitted, the wildlife buffer shown on the Development Framework Plan (plan no AND0093.02 (Rev B)) shall be a minimum of 10m in width.

- 1.5 19/01380/VAC seeks to vary these conditions as the applicants take the view that they appear to contradict each other so that condition 19 prevails and a 4-5m buffer only is required between the development and the eastern boundary hedgerows.

2	Recommendation(s)
2.1	That planning permission is REFUSED for application 19/01379/VAC, for the reasons set out in full in Appendix C;
2.2	That planning permission is APPROVED for application 19/01380/VAC in respect of conditions 19 and 25, in order to amend condition 19 and retain condition 25, as set out in Appendix C.

3 Reason for Recommendations

- 3.1 The proposed amendments are considered to be a retrograde step, contrary to enhancements to the scheme agreed at the time of the outline permission being granted. The reversal of these enhancements would have a detrimental impact on the character and appearance of the development and would fail to provide the agreed level of biodiversity safeguards.

4 Key Factors

4.1 Reason for Committee Determination

- 4.1.1 The application is required to be presented to the Committee as a variation of a permission originally granted by the committee subject to these conditions.

4.2 Relevant Policies

- 4.2.1 The Melton Local Plan 2011-2036 was adopted on 10th October 2018 and is the Development Plan for the area.

- No inconsistency with the NPPF has been identified that would render Local Plan policies 'out of date'.

- 4.2.2 Please see Appendix D for a list of all applicable policies

4.3 Main Issues

- 4.3.1 As the principle of development is established the main issues for this application are considered to be:

- Impact upon the character of the area
- Impact on ecology

5 Report Detail

5.1 Position under the Development Plan Policies

- 5.1.1 The site is adjacent to the settlement of Nether Broughton and the outline permission was granted before the adoption of the Local Plan and when the Authority did not have a five year supply of housing, and was operating under the NPPF 'regime' of the presumption in favour of sustainable development, i.e. to approve applications unless their harm significantly outweighed their benefits (as set out in the (then) NPPF. The conditions concerned were integral to this balance by securing qualitative measures into the development to both assist its benefits and mitigate its harm.
- 5.1.2 Whilst the principle of residential development is established through the fact that there is an extant outline permission for development, the current variation applications need to be considered in light of the current policy context.
- 5.1.3 Nether Broughton is identified in the Melton Local Plan as a Rural Settlement. Policies SS1, SS2 and SS3 apply. These policies reflect the presumption in favour of sustainable development within the National Planning Policy Framework (NPPF) and sets out the strategy of delivering housing across Melton borough through identifying the most suitable locations for new housing within a hierarchy, according to sustainable credentials. Nether Broughton is not one of the areas identified in the Local Plan as being amongst the most sustainable for new housing development and new housing is accepted only within the strict criteria of Policy SS3. However, there is outline permission for 20 dwellings granted in June 2017 and with access approved onto Hecadeck Lane. An application for the approval of the 'reserved matters' is required to be submitted within three years of this decision (ie. June 2020).
- 5.1.4 The Nether Broughton and Dalby Neighbourhood Plan was made in 2018. The site is included within the settlement boundary of Nether Broughton (Policy S2).

5.2 Impact upon the character of the area

- 5.2.1 When the original outline application was considered by the Committee in 2016, the application was deferred to request the applicant to consider a reduction in the number of houses and to increase the margin of the wildlife corridor from the width of 4m shown in the indicative plan. An update was provided for the Committee at the meeting on 10th November 2016. This states that the applicant was willing to reduce the number of dwellings to 20. It was concluded that as the application was seeking outline permission for 'up to 25 dwellings' the change did not change the nature or scale of the proposal and so the imposition of a condition requiring no more than 20 dwellings was appropriate. This application would seek to increase this to 21, contrary to the previous committee request and subsequent agreement.
- 5.2.2 The Committee update also confirmed that the applicants were agreeable to an increase in the wildlife corridor from 4m to 10m. This effectively results in an area at the eastern of the site and to the other side of the proposed access road which remains an extensive wildlife area, extending the adjacent area outside the site where there is evidence of Great Crested Newts. The indicative layout provided with this variation application retains a 10m buffer around the existing pond but only allows a corridor of 4m between this area and the new SUDs feature, allowing two dwellings to be sited on the eastern side of the access road on the indicative layout plan. The application therefore reverses the agreement reached during the consideration of the original outline application.

- 5.2.3 The wording of conditions 19 and 25 are inconsistent, this is a result of the fact that they relate to different aspects of the development i.e. the protection of hedgerows as an important habitat for wildlife and also the requirement for a corridor for Great Crested Newt habitat.
- 5.2.4 However, the impact on the visual quality of the development as a result of these changes is generally a negative one. Reserved Matters should adhere to both and therefore the latter – whose demand is ‘greater’ (in terms of the width required) - should take precedence.
- 5.2.5 The implications of both the increase in the number of dwellings by one and the reduction of the corridor buffer allowing two dwellings to be sited to the other side of the access road are likely to have adverse implications on the character and appearance of the development and how it relates to its context.
- 5.2.6 The density of the development as originally proposed (up to 25 dwellings) was a concern for the Committee, as this part of Nether Broughton is characterised by very spacious, low density development. The reason for condition 24 is stated in the Decision Notice as ‘To secure the applicants proposals for the site, in the interest of road safety and the character and appearance of the area.’ It is therefore considered unacceptable to simply disregard the conditions as superfluous because it is possible to get more dwellings on the site. The National Planning Policy Framework (NPPF) advises that good design is a key aspect of sustainable development. Paragraph 127 states that:
- Planning policies and decisions should ensure that development:*
- a) *Will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*
 - b) *Are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*
 - c) *Are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);*
 - d) *Establish or maintain a strong sense of pace, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;*
 - e) *Optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and*
 - f) *Create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users and where crime and disorder and the fear of crime, do not undermine the quality of life or community cohesion and resilience.*
- 5.2.7 The proposal to increase the number of dwellings to 21 is considered to conflict with the advice in paragraph 127, particularly b) and d).
- 5.2.8 **The proposals are not considered to be acceptable on the grounds of visual amenity**
- 5.3 **Impact upon ecology**

- 5.3.1 Condition 19 imposed on the permission reflects the advice in the ecology report that a 10m buffer should be provided around the existing pond and a 4m buffer between this and the proposed SUDs area to the north. The County Ecologist has confirmed that this is acceptable. However, condition 20 reflects the voluntary widening of the whole of the buffer to 10m following the deferral of the original outline application in 2016. Upon its return to the Committee it had been agreed that the not only would a 10m buffer be provided around the pond but also a 10m corridor (increased from 4m). The current application to reduce the corridor back to 4m is a retrograde step and as such would reduce the previous ecological benefit of the development.
- 5.3.2 Policy EN2 of the Local Plan requires the Borough Council to seek to achieve net gains for nature and proactively seek habitat creation as part of new development proposals. It is considered that this proposal would not comply with Policy EN2 of the Local Plan and would also be contrary to paragraph 170 d) of the NPPF which states that decisions should contribute to and enhance the natural and local environment by:
- Minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.*
- 5.3.3 **The proposals are considered to be contrary to Policy EN2 of the Local Plan and the NPPF.**

6 Consultation & Feedback

- 6.1 A site notice was posted and neighbouring properties consulted. As a result representations have been received as summarised in this report.

7 Financial Implications

- 7.1 There are no financial implications identified.

Financial Implications reviewed by: N/A

8 Legal and Governance Implications

- 8.1 Legal and Governance issues have been considered throughout the report. Under s73 of the Act, in order to vary the content of a condition it is necessary to approve permission and issue a fresh decision to include the revisions.
- 8.2 The application is required to be presented to the Committee as a variation of a permission originally granted by the committee subject to these conditions.

Legal Implications reviewed by: Deputy Monitoring Officer

9 Background Papers

- 9.1 The previous outline application reference 15/01019/OUT was approved in June 2017.

10 Appendices

A: Consultation responses

B: Representations received

C: Reasons for refusal

D: Applicable Development Plan Policies

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Appendix A : Consultation replies summary

Parish Council: Objection. The proposals should be refused. The reason for condition 24 is stated as being 'in the interests of road safety and the character and appearance of the area'. The Parish Council do not consider that conditions 19 and 25 are in conflict. The ecologist outlined a larger buffer zone for both areas in February 2016.

Lead Local Flood Authority: No objections.

Environment Agency: No objections

LCC Archaeology: No objections

LCC Highways: No objection to variation of condition 24.

LCC Ecologist: I agree that conditions 19 and 25 are in conflict. Condition 19 is correct and as long as the layout is in accordance with this, no objections to it as far as impacts on GCN are concerned.

LCC Developer Contributions: No comments.

Designing out Crime Officer: No objections. Makes general security recommendations.

Housing Policy Officer: The amendments do not affect condition 3 of the permission, namely that the reserved matters application shall provide for a mix of types and sizes of dwellings that will meet the area's local market housing need. The affordable housing provision has been secured in a S106 Agreement (to be set out as 40% of dwellings).

Building Control: The access appears to be suitable for fire access but refuse collection will need to be addressed.

Appendix B : Summary of representations received

Representations from 5 neighbouring properties have been received objecting on the following grounds:

- There is a well in the field
- The committee requested these conditions
- Lack of highways and ecologist objections are irrelevant
- The reason for the conditions being imposed was not lack of space
- Conditions 19 and 25 are not in conflict as they relate to different things (protection for hedgerows and protection for Great Crested Newts)
- The village is not a sustainable location in the Local Plan
- Impact on wildlife
- Out of keeping with the area
- Increased traffic
- Visual intrusiveness
- Noise and smell

Comments or letters of support were received from 10 parties

- No objections subject to safeguarding the public right of way received from one party.
- Letters of support are not from people in the village
- Good opportunity to enhance housing in the area
- Support subject to access from Hecadeck Lane
- Bungalows and homes for young people are needed

Appendix C : Reasons and amendments to conditions

19/01379/VAC

The proposed variation of condition 24 and increase in the number of dwellings would be detrimental to the character and appearance of the area by virtue of the loss of open space and increased density of the development which is not in keeping with the area or the edge of village location. The proposal is therefore contrary to Policy D1 of the Melton Local Plan and paragraph 127 of the National Planning Policy Framework.

19/01380/VAC – revised condition 19

19. The layout to be in accordance with that appended to the revised GCN survey (Brindle & Green, June 2015 revised 31/3/2016). Any amendments to this must retain a minimum of a 10m buffer surrounding the pond and between the development (including garden boundaries) and the boundary hedgerows.

Condition 25 retained, i.e :

25. Notwithstanding the plans hereby permitted, the wildlife buffer shown on the Development Framework Plan (plan no AND0093.02 (Rev B)) shall be a minimum of 10m in width.

Appendix D : Applicable Development Plan Policies

Local Plan

- Policy SS1 Presumption in Favour of Sustainable Development.
- Policy SS2 Development Strategy.
- Policy SS3 Sustainable Communities (unallocated sites)
- Policy C2 Housing mix
- Policy IN2 Transport, Accessibility and Parking.
- Policy D1 Raising the Standard of Design.
- Policy EN1 Landscape
- Policy EN2 Biodiversity
- Policy EN6 Settlement Character
- Policy EN9 Energy Efficient and Low Carbon Development
- Policy EN11 Minimising the risk of Flooding
- Policy EN12 Sustainable Drainage Systems

The Nether Broughton and Dalby Neighbourhood Plan was made in 2018. The site is included within the settlement boundary of Nether Broughton (Policy S2).

Policy ENV3 of the Neighbourhood Plan relates to wildlife corridors and habitat connectivity.