

Late observations for Planning Committee - 6 October 2022

Application 21/1143 (agenda item 1):

Applicant comments on proposed conditions:

The applicant has made comments concerning the wording of suggested conditions 2, 13, 21, 25, 28 and 35 as presently set out on pages 43-55 of the agenda papers. In particular, the comments request that:

1. The wording of condition 2 be amended to either: i) remove the first paragraph of the condition relating to the trigger for the delivery of on-site infrastructure; or; ii) remove reference to “private drives” and the term “completed and made”; and alter the trigger in the first paragraph to require the delivery of on-site infrastructure “where practically possible before 90% of the dwellings within that parcel are occupied”. This is to avoid a scenario where the final 10% of dwellings within each parcel need to be built out in their entirety before they can be sold.
2. The wording of conditions 13, 21, 25 and 28 be updated to replace the current ‘pre-commencement’ triggers with ‘pre-occupation’ triggers for the provision of the details required by each condition.
3. The wording in the final part of the first paragraph of condition 35 be updated to read “and the construction of the carriageway and footways of the estate road up to the shared ownership boundary with parcel 3 where practically possible – before any of the dwellings on plots 296-301 and 306-311 (inclusive) are first occupied”. This is because, if the applicant is unable to gain control of parcel 3, there will be no means for them to re-grade the land on that parcel to tie in with the raised level of a road built up to the shared ownership boundary.

Additional neighbour representations:

Since the publication of the committee agenda one additional letter of representation has been received in connection with the application. The points raised in the letter are summarised as follows:

- There is a proposal to culvert the existing poor quality drainage ditch along the south boundary using a 450 dia. upvc pipe with a 1: 450 gradient - the gradient is inadequate and likely to silt. No stormwater Management and Maintenance measures are supplied. No drainage calculations appear to have submitted to support or justify the installation of the proposed culvert, and hence no consideration for climate change.
- The existing groundwater levels are high so there is a high risk of buoyancy to the culvert – no details are submitted as to how to compensate for this risk and mitigate flood risk to existing neighbouring properties.
- The proposed culvert goes against Environment Agency policy which is also supported by LCC Ordinary Watercourse Consenting and Enforcement policy to improve existing open channels, encourage biodiversity and protect watercourses.
- Surface water from the development to date appears to discharge to northward into a riparian owned network of poorly maintained ditches, which connect into the EA designated ‘Main River’, Moss Sluice, which ultimately joins Liggard Brook, much of which is poorly maintained and laden with silt. It is unclear what attenuation measures are proposed to future proof and mitigate flood risk to existing neighbours in the immediate area and downstream.
- There will be a dramatic increase in impermeable surface area as a result of the development and it is unclear what measures are proposed to compensate for this loss. There is no indication of permeable surfacing or tapping into the potential SuDS benefits to be gained from additional attenuation in permeable paved driveways.

- It seems much of the drainage for the existing phases does not comply with the CIRIA SuDS manuals, either C697 or the current C735. Furthermore, an area of the Moss that was to be part of a series of stepped levees or bunds with tree planting has been poorly managed, with trees dying, plastic tree protectors blowing about the Moss and since partially cleared to make way for the North Houses Link Road. This should be restored and replenished.
- The plans indicate that the existing tree cover within phase 3 is to be lost and there is a lack of compensatory planting to offset this.
- There is no indication of the proposed finished ground levels in relation to existing property levels, however, it is clearly apparent from the huge volume of imported fill to the site that the levels will rise. Furthermore, much of the area has superficial deposits of Sand, bands of peat and some gravel in places. Part of the infilling exercise is designed to consolidate the peat and this will squeeze out the water – which will only go sideways and up and increase the localised groundwater levels and damage potentially the net positive gains of locking in carbon, perhaps even releasing trapped carbon in the process, particularly when piling commences, causing further climate damage.
- The heavy construction traffic over the last two years has caused major vibration and damage to neighbouring properties. The building is on poor land and has had some settlement many years ago. However, recently many cracks have opened up, old ones are becoming wider and new cracks in every room. The piling rig on the Moss has not helped.

Officer response:

Applicant comments on proposed conditions:

Officer's comments concerning each of the applicant's requests summarised above are as follows:

1. The main purpose of the first paragraph of condition 2 is to ensure there is a specified trigger for the delivery of the on-site infrastructure contained within each parcel. Without that, there is no defined point in time when the developer is required to provide the various elements of infrastructure within each parcel. Moreover, the trigger for the delivery of on-site infrastructure set out in condition 2 is cross referenced in conditions 8, 9, 22 and 33. Accordingly, the first paragraph of condition 2 must be retained. The wording in condition 2 which refers to "private drives" is intended to refer to the "shared drives" highlighted on the planning layout, rather than the driveways which are to provide car parking for individual dwellings, and so this text has been altered. The condition would continue to have the required effect if re-worded to include the text "where practically possible" prior to the 90% occupation trigger, provided that terminology is combined with a backstop date at the end of the condition which requires all the on-site infrastructure within each parcel to be completed and made available for use "in any event before the last dwelling within each associated parcel is occupied." Updated wording is suggested below for condition 2 in this respect.
2. While the current wording for conditions 13, 21, 25 and 28 retains the 'pre-commencement' triggers for the same conditions which appear in reserved matters approval 15/0400, there is no particular reason why, or harm that would arise from, these triggers being altered to require the details in each condition prior to occupation of the dwellings within each parcel instead. Indeed, paragraph 56 of the NPPF seeks to avoid the use of pre-commencement conditions wherever possible. In addition to those instances highlighted by the applicant, the wording of conditions 7, 8, 14 and 22 has also been amended to replace 'pre-commencement' triggers with 'pre-occupation' triggers.
3. The additional wording within condition 35 proposed by the applicant would have the effect of allowing a scenario where the road in parcel 4 does not need to be constructed up to the shared ownership boundary with parcel 3. However, the Local Planning and Highway

Authorities cannot accept a situation, for any reason, where a ransom strip is created which jeopardises the provision of a continuous road connection between parcels 3 and 4. The effect of the suggested alternative wording requested by the applicant would be to allow that to happen on the basis that the delivery of this connection is not “practically possible” and so fundamentally undermine the purpose of the condition. Therefore, the wording of condition 35 cannot be amended in this manner.

Additional neighbour representations:

The additional letter of representation raises technical matters which relate principally to the drainage strategy for the development and the proposal to culvert existing drainage ditches on the site. These matters are, however, dealt with through a combination of conditions imposed on the outline permission (with respect to the site-wide drainage strategy) and recommended condition 34 of this application which relates specifically to the diversion and/or culverting of existing drainage ditches within parcel 4. Importantly, it is the case that the scheme granted by reserved matters approval 15/0400 would require similar works to be carried out to the drainage ditches within parcel 4 to deliver the development as already consented. Accordingly, the current scheme does not introduce anything new in this regard. This is also the case with respect to the removal of existing trees within parcel 3 and the compensatory planting which has already been introduced within the nature park.

The applicant is not required to submit detailed drainage design information as part of this S73 application and the Lead Local Flood Authority (LLFA) have not objected to the application on flood risk grounds. Instead, matters relating to the detailed design of drainage infrastructure would be dealt with through the condition discharge process, in consultation with the LLFA in their role as a statutory consultee. In addition, the culverting/diversion of an ordinary watercourse would also require land drainage consent from the LLFA under their separate consenting regime which sits outside the planning system.

Accordingly, the additional representations made in connection with the application do not alter the officer recommendation or the wording of the suggested conditions.

Modifications to conditions and recommendation:

As a result of the applicant’s request summarised above, it is recommended that members of the committee resolve that authority be delegated to the Head of Planning to GRANT planning permission in accordance with the resolution contained on p. 42-43 of the agenda papers, subject to the following amendments to suggested conditions 2, 7, 8, 13, 14, 21, 22, 25 and 28 (with the changes highlighted in bold for clarity):

2. All elements of supporting on-site infrastructure (including all estate roads, **shared drives** and footways, vehicle/pedestrian/cycle linkages with other development parcels and/or land outside the site, areas of open space, play areas and landscaping) falling within each individual parcel of the development identified (through numbering and colour coding) on drawing no. R108-1-PP Rev F shall be completed and made available for use **where practically possible** before 90% of the dwellings within that parcel are occupied, **and in any event before the last dwelling within each associated parcel is occupied.**

All elements of supporting off-site infrastructure shown on drawing no. R108-1-PP Rev F shall be completed and made available for use in accordance with the triggers and timescales identified on the approved plan.

Reason: In order that the on and off-site infrastructure required to support and/or mitigate the development's impact is put in place concurrently with each parcel of housing and/or the triggers established by the extant planning permissions in the interests of ensuring a comprehensive, master planned approach to the development of the strategic housing site in accordance with the objectives of Fylde Local Plan to 2032 (incorporating Partial Review) policies M1, GD7, T4, ENV1 and ENV4.

7. Notwithstanding any details shown on the approved plans and the requirements of condition 1 of this approval, **none of the dwellings** on parcels 3-8 inclusive (the areas of which are identified on drawing no. R108-1-PP Rev F) shall **be occupied** until a scheme detailing the precise location, size and appearance of all boundary treatments **for the relevant parcel**, including the planting schedule for any hedge planting, has been submitted to and approved in writing by the Local Planning Authority. The development of the relevant parcel shall be implemented in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority and retained thereafter.

Reason: In the interests of the security of future occupiers, to achieve clear demarcation of public and private areas and to ensure that the design of boundary treatments is sympathetic to the character and appearance of the area in accordance with the requirements of Fylde Local Plan to 2032 (incorporating Partial Review) policy GD7 and the National Planning Policy Framework.

8. Notwithstanding any details shown on the approved plans and the requirements of condition 1 of this approval, **none of the dwellings** on parcels 3-8 inclusive (the areas of which are identified on drawing no. R108-1-PP Rev F) shall **be occupied** until a detailed soft and hard landscaping scheme **for the relevant parcel** has been submitted to and approved in writing by the Local Planning Authority. The submitted soft landscaping scheme shall include details of private and public landscape areas, including the planting of trees, shrubs and grassed areas. The details of hard landscaping shall include the surfacing of roads and driveways. The duly approved soft and hard landscaping shall be carried out in accordance with the timescale identified in condition 2 of this approval and the areas which are soft landscaped shall be retained as landscaped areas thereafter. Any trees, hedges or shrubs removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced by trees, hedges or shrubs of similar size and species to those originally required to be planted.

Reason: To ensure appropriate landscaping of the site in the interests of visual amenity, to enhance the character of the street scene and to provide biodiversity enhancements in accordance with the requirements of Fylde Local Plan to 2032 (incorporating Partial Review) policies GD7, ENV1 and ENV2, and the National Planning Policy Framework.

13. Notwithstanding any details shown on the approved plans and the requirements of condition 1 of this approval, **none of the dwellings** on parcels 3-8 inclusive (the areas of which are identified on drawing no. R108-1-PP Rev F) shall **be occupied** until a scheme of street lighting design **for the relevant parcel** has been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved scheme and be retained thereafter.

Reason: In the interests of visual amenity and highway safety, and to ensure an appropriate appearance for street lighting within the development in accordance with the requirements of Fylde Local Plan to 2032 (incorporating Partial Review) policy GD7.

14. Notwithstanding any details shown on the approved plans and the requirements of condition 1 of this approval, **none of the dwellings** on parcels 3-8 inclusive (the areas of which are identified on drawing no. R108-1-PP Rev F) shall **be occupied** until details of the on-going maintenance of the communal areas of public open space/amenity landscaping, and equipped play area (where relevant) within each associated parcel have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be maintained in accordance with the approved schedule of maintenance.

Reason: To ensure that appropriate measures are put in place for the ongoing management maintenance of areas of public open space, amenity landscaping and play areas in accordance with the requirements of Fylde Local Plan to 2032 (incorporating Partial Review) policies GD7, ENV1 and ENV4.

21. All attenuation basins and flow control devices/structures **within each parcel (the areas of which are identified on drawing no. R108-1-PP Rev F)** shall be constructed and operational prior to **any of the dwellings within each associated parcel being occupied**.

Reason: To ensure site drainage during the construction process does not enter the watercourses at un-attenuated rate, and to prevent a flood risk during the construction of the development in accordance with the requirements of Fylde Local Plan to 2032 (incorporating Partial Review) policies CL1 and CL2.

22. **None of the dwellings** on parcels 3-8 inclusive (the areas of which are identified on drawing no. R108-1-PP Rev F) shall **be occupied** until an estate street phasing and completion plan for each associated parcel has been submitted to and approved in writing by the local planning authority. The estate street phasing and completion plan shall set out the development phases and the standards that estate streets serving each parcel of the development will be completed to. The development shall thereafter be constructed in accordance with the approved details unless otherwise agreed in writing with the local planning authority.

Reason: To ensure an appropriate phased completion of the estate streets concurrently with the delivery of housing within each parcel in the interests of highway safety and amenity in accordance with the requirements of Fylde Local Plan to 2032 (incorporating Partial Review) policy GD7.

25. **None of the dwellings** on parcels 3-8 inclusive (the areas of which are identified on drawing no. R108-1-PP Rev F) shall **be occupied** until full engineering, drainage, street lighting and constructional details of the streets proposed for adoption within the relevant parcel have been submitted to and approved in writing by the local planning authority. The development shall thereafter be constructed in accordance with the approved details, unless otherwise agreed in writing with the local planning authority.

Reason: To ensure a satisfactory standard of engineering works for estate roads in the interests of highway safety and amenity in accordance with the requirements of Fylde Local Plan to 2032 (incorporating Partial Review) policy GD7.

28. Notwithstanding any details shown on the approved plans and the requirements of condition 1 of this approval, **none of the dwellings** on parcels 3-8 inclusive (the areas of which are identified on drawing no. R108-1-PP Rev F) shall **be occupied** until a scheme detailing provision of cycling facilities within the relevant parcel has been submitted to and approved in writing by the Local Planning Authority. The cycling facilities shall be provided in accordance with the duly approved

scheme before occupation of the associated dwelling(s) to be served by those cycling facilities and permanently maintained thereafter.

Reason: To promote modal shift and to encourage travel to the site by more sustainable modes of transport in accordance with the objectives of Fylde Local Plan to 2032 (incorporating Partial Review) policies GD7 and T4, and the National Planning Policy Framework.