

Committee Report

Item No: 6B

Reference: DC/22/01674

Case Officer: Elizabeth Flood

Ward: Long Melford.

Ward Member/s: Cllr John Nunn. Cllr Elisabeth Malvisi.

RECOMMENDATION –PLANNING PERMISSION WITH CONDITIONS

Description of Development

Application under S73 of The Town and Country Planning Act 1990 relating to DC/19/03126 for the variation of Condition 2 (List of Approved Drawings) Condition 4 (Soft landscaping) and Condition 16 (Drainage/foul)

Location

Land South Of, Tamage Road, Acton,

Expiry Date: 06/10/2022

Application Type: FUW - Full App Without Compliance of Condition

Development Type: Major Small Scale - Dwellings

Applicant: Bloor Homes Eastern

Parish: Acton

Site Area: 3.43

Details of Previous Committee / Resolutions and any member site visit: Members visited the site in relation to application DC/19/03126 on 18th September 2019.

Has a Committee Call In request been received from a Council Member: No

Has the application been subject to Pre-Application Advice: No

PART ONE – REASON FOR REFERENCE TO COMMITTEE

The application is referred to committee for the following reason/s:

The application is for a major development of 15+ dwellings.

PART TWO – POLICIES AND CONSULTATION SUMMARY

Summary of Policies

CN01 - Design Standards

CN06 - Listed Buildings - Alteration/Ext/COU

CLASSIFICATION: Official

CS01 - Applying the presumption in Favour of Sustainable Development in Babergh
CS02 - Settlement Pattern Policy
CS03 - Strategy for Growth and Development
CS11 - Core and Hinterland Villages
CS15 - Implementing Sustainable Development
TP15 - Parking Standards - New Development

Neighbourhood Plan Status

This application site is within a Neighbourhood Plan Area.

The Neighbourhood Plan is currently at:-

Stage 1: Designated neighbourhood area

Accordingly, the Neighbourhood Plan has no weight:

Consultations and Representations

During the course of the application Consultation and Representations from third parties have been received. These are summarised below.

A: Summary of Consultations

Town/Parish Council

Acton Parish Council continues to object to the approval of this application. The Council's concerns raised earlier remain.

At first this application appears to have come about because of the requirement to make adjustments to the approved drawing. However, in fact, it represents a redesign of the important sustainable urban drainage system for the whole development including the enclosed younger children's play park and public open space area which are closely integrated with the open drainage area.

The application documentation is poorly written and confusing. There is no clear explanation of the design and no method statement. It is not clear whether a wetland area is designed to be part of the system and or what the area and depth the wetland area should be. This seems to depend on which document is read. Some documentation suggests that for the majority of the time the basin will be completely dry but other documentation says different. It is therefore confusing that following period of exceptionally dry weather, a visit to the site at 10.30am on the 24th August 2022 observed approximately one meter of water remaining in the bottom of the main area of the basin.

Acton Parish Council continues to be concerned that it has not been demonstrated that the drainage system has been properly designed and that it will continue to work without constant attention and monitoring. The application documentation uses a combination of drawings produced from different sources. These do not show clearly what has been built and how it will be reworked.

The current construction of the pond has steep and dangerous banks towards the open water. The drawings within the application do not indicate that the public open space and play area are currently substantially higher than in the original specification, adding further concerns that the open space area has steep drops towards the pond.

The application drawings do not appear show the raised ground level of the public open space area which has degraded the value of public observation of the open water from the ground level along Ranulf Way and from within the dwellings designed to provide casual overlooking the area. The pond is now hidden out of sight.

This is a major piece of infrastructure for the village, especially for the dwellings downstream of the development. It is difficult to believe the design is credible. The new outlet from the system is currently hidden at the base of the ditch in Sudbury Road and despite a period of exceptional dry weather, it is already partially silted up. Further concerns are: what will be the impact of this drainage system feeding into the existing poorly maintained and fragile water course? Who will be responsible for maintenance and the additional impact on the already fragile watercourse?

County Council Responses

Suffolk County Council – Floods and water officer: No objection

Internal Consultee Responses

Place Services (landscape) – As the basin will be seeded with a mix of grasses and wildflower mix, good ground preparation will be essential to control weeds and produce a good quality seed bed before sowing, as per recommendation by the seed supplier. The suggested 200mm of topsoil is not appropriate. As per previous comments, subsoil should be used instead or a low nutrient soil. Whilst we welcome the use of wildflower seeding, it is disappointed that the basin will not have any other planting beyond the proposed grass and wildflower meadow. We have no issues with the proposed erosion method of boulders installed at inlets and outlets. Generally, we have no objections to the proposals subject to following the seed supplier recommendations on good ground preparation, seeding, establishment and long-term management to ensure the wildflower mix establishes successfully.

B: Representations

At the time of writing this report at least seven letters/emails/online comments have been received. It is the officer opinion that this represents objections from three different parties. A verbal update shall be provided as necessary.

Views are summarised below:

- Slopes within area of public open space are unsafe
- Post and rail fence around SUDS basin in insufficient for safety
- Inaccurate and confusing plans
- Proposals will lead to flooding elsewhere
- Loss of public open space
- Proposed drainage scheme may not be appropriate.

(Note: All individual representations are counted and considered. Repeated and/or additional communication from a single individual will be counted as one representation.)

PLANNING HISTORY

REF: DC/19/03126

Planning Application - Erection of 100 dwellings, vehicular access, open space and associated infrastructure.

DECISION: GTD
30.07.2020

PART THREE – ASSESSMENT OF APPLICATION

1.0 The Site and Surroundings

- 1.1. The site comprises a former agricultural field, now a partly-built housing estate, surrounded on all sides by roads, hedgerows and some trees form the boundary of the field. To the North East of the site is Tamage Road and beyond this a 1970s housing estate. Vicarage Lane borders the site on two sides, to the South and East. To the West of the site is Sudbury Road which provides access from Acton to Sudbury via Newman's Green.
- 1.2. The access road into the site is opposite 40 Tamage Road. On the western side of the site access is a small children's play area surrounded by fencing and a SUDS basin, currently fenced off with a knee-high fence and additional Heras fencing. The children's play area and surrounding landscaped area rises above the road and surrounding houses and the land then slopes down to the SUDS basin.

2.0 The Proposal

- 2.1. The proposal is an application under S73 of The Town and Country Planning Act 1990 relating to DC/19/03126 for the variation of Condition 2 (List of Approved Drawings), Condition 4 (Soft Landscaping) and Condition 16 (Drainage) to allow for an alternative design for the SUDS basin and the raising of the land surrounding the SUDS basin. The existing SUDS basin has not been built in accordance with the approved plans and an alternative design is now being proposed. This is to be a redesign of the current unauthorised SUDS basin.

3.0 History of the original application

- 3.1. DC/19/03126 for the Erection of 100 dwellings, vehicular access, open space and associated infrastructure (including SUDS basin) was originally considered at Planning Committee on the 11th March 2020 where the application was deferred for various reasons including concern relating to the closeness of the Children's Play Area to the SUDS basin. Revised plans were provided which included moving the play area away from the SUDS basin and a change in the steepness of the slope of the SUDS basin from 1 in 3 to 1 in 4.
- 3.2. Planning permission for the development was approved at Planning Committee on the 3rd June 2020 and included Condition 16 which stated that:

the strategy for the disposal of surface water as set out in the Flood Risk Assessment (FRA), prepared by G H Bullard (dated November 2019, ref: 217/2016/FRADS P6) and Attenuation Basin Layout Note, prepared by MLM (dated 7th April 2020, ref: Rev 1-619946_MLM_ZZ_XX_RP_C_0001), drawings 619946-MLM-ZZ-XX-SK-C-0006-P04, 619946-MLM-ZZ-XX-SK-C-0008-P03 and 217/2016/01/P12 shall be implemented as approved in writing by the local planning authority. The strategy shall thereafter be managed and maintained in accordance with the approved strategy.

- 3.3 During construction of the development, it appears that rather than soil being removed from the site, when the land was excavated, it was spread over the landscaping area to the front of the site. This increased the height of this area by up to 1.5 metres higher than the original design. This has resulted in the children's play area being raised up and then a longer slope down to the bottom of the SUDS basin.
- 3.4 The Council's Enforcement Team was made aware of these alterations and subsequently the s.73 application to alter the approved drawings has been received.

4.0 The Principle Of Development

- 4.1. The principle of the residential development and the related infrastructure, including the SUDs basin were accepted by the granting of planning permission for planning application DC/19/03126. However, the details require consideration here.

5.0 Design And Layout

- 5.1. The approved SUDs basin had a sediment forebay at the southern end which would have had a low level (35cm) of semi-permanent water. The slopes of the SUDS basin would have been 1 in 4 and at the eastern end the slope would have been approximately 5.7 metres in length, leading to a flat area and then the children's play area. The sides of the SUDs basin would have been straight. The SUDs basin would have been planted with tussocky grassland and seasonal wetland plants in the sediment forebay area.
- 6.2 The *proposed* SUDs basin would not have a sediment forebay but instead low flow channels across the basin. The existing SUDs basin would be partially filled with granular material to raise the height of the bottom on the basin. This will mean that it would be unlikely that there would ever be water within the basin, even in periods of heavy rains.
- 6.3 It is proposed that there would be soil above the granular material and this would be planted with a wildflower mix. The slopes of the SUDS basin would remain at 1 in 4, but the slopes would be longer, due to the raised nature of the surrounding land. At the eastern end, the slope from the children's play area to the bottom of the basin would be approximately 9.5 metres. The side of the SUDs basin are to remain as build and are more curved than approved, it is proposed to retain the knee high fence around the basin.
- 6.4 As the land around the basin has been raised, the slopes down to the basin, although at the same angle as approved, would be longer (by around 3.3 metres) and the basin, therefore, has the impression of being deeper. The revised design of the SUDS basin and surrounding landscaping is of a lower quality than that previously approved, as it involves a more contrived design, artificial raising of the land and the loss of opportunities for casual overlooking of the SUDS basin by nearby dwellings.

7.0 Landscape Impact

- 7.1. The raising of the land and subsequent changes to the SUDS basin has affected the landscape of the area of public open space and this area of landscaping now is artificially raised, which does not reflect the surrounding levels. However, this area of landscaping is only seen within a local context and subject to conditions relating to appropriate establishment of the wildflower meadow, it is considered that the landscaping of the SUDS basin with wildflowers is acceptable.

7.2 The proposals now include fencing off the SUDS basin with a knee-high timber fence, such a fence does not appear to have been previously approved. As such, the SUDS basin would not be available for public open space. However if the fence is removed then there would be a long, relatively steep slope from the play area to the bottom of the basin which could be hazardous. While the development includes 10% of the site as public open space not including the SUDS basin, and would therefore remain policy compliant, the loss of any recreational space decreases the quality of design of the development and amenity of the occupiers.

8.0 Flood Risk

8.1. The Flood and Water Officer has no objections to the proposal. Although the original design was preferable and the deeper SUDS basin is less desirable, it is considered that the designed SUDS basin will work as intended.

9.0 Impact On Residential Amenity

9.1. The nearest neighbours are located on the driveway opposite the SUDS basin. The raising of the levels has changed the outlook for the occupiers of these properties but not to an extent that it is considered to be detrimental to the amenity of these occupiers.

10.0 Parish Council Comments

10.1 The majority of the Parish Councils comments have been considered in the report above. It is accepted that the application has been subject to a number of different designs, as the Developer has worked with Flood and Water Officer and the Landscape Officer to find an acceptable solution. It is considered that such a solution has been found and that the proposed approved drawings adequately show the proposals.

PART FOUR – CONCLUSION

11.0 Planning Balance and Conclusion

11.1. Paragraph 135 of the NPPF states that:

Local planning authorities should seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used).

11.2 The proposed changes to the levels of the landscaped area and resulting changes to the SUDS basin have, to an extent, diminished the quality of the scheme. In addition, the introduction of the fence around the SUDS basin has removed this area from the public open space, detrimentally impacting on the opportunities for residents to use the land for recreation and play.

11.3 Refusing the Section 73 application and requiring the developer to revert to the original plans would have significant consequences for the occupiers of the new development. 90% of the dwellings on the development have been sold and a significant number of households are now occupying the site, including the houses closest to the SUDS basin. Approximately 30 to 40 lorries would be

required to remove the additional soil, which would need to share the access with the existing residents and the play area would need to be temporarily removed and reinstated.

- 11.4 The LPA has therefore negotiated with the Developer to provide a compensatory improvement to the retained public open space in the form of additional play equipment. The current play area is a LAP with three small pieces of equipment suitable for toddlers. Adding four pieces of adventurous play equipment would elevate the play area to a LEAP and provide play opportunities for older children who potentially would have used the SUDs basin for adventurous play. While there will be residents who would have used the SUDs basin for recreation who will not use play equipment (for example, dog walkers); it is considered that, overall, the additional play equipment is a pragmatic solution to the loss of quality of the overall design of the landscaped area.

RECOMMENDATION

That the application is GRANTED S.73 planning permission and includes the following conditions:-

- Timescale for undertaking alterations to the SUDs basin
- Details of additional play equipment and installation of play equipment within 3 months of approval.
- Following the seed supplier recommendations on good ground preparation, seeding, establishment and long-term management to ensure the wildflower mix establishes successfully.
- All relevant conditions from planning application DC/19/03126.

- Any other conditions the Chief Planning Officer may deem appropriate.

Standard Informatives.