

Agenda Item A8	Committee Date 16 October 2017	Application Number 17/00925/RCN
Application Site Land Off Sycamore Road Brookhouse Lancashire		Proposal Outline application for the demolition of existing bungalow and erection of up to 31 dwellings with associated access (pursuant to the variation of condition 4 on planning permission 14/00270/OUT to vary the scheme for off-site highway works).
Name of Applicant Oakmere Homes		Name of Agent Mr Daniel Hughes
Decision Target Date 27 October 2017		Reason For Delay None
Case Officer		Mrs Jennifer Rehman
Departure		N/A
Summary of Recommendation		Approve

1.0 The Site and its Surroundings

- 1.1 The site relates to an agricultural field and an existing residential property located adjacent to the north western edge of the village of Brookhouse within the Forest of Bowland Area of Outstanding Natural Beauty (AONB). The site is accessed off Sycamore Road (at the end of the cul-de-sac) situated to the rear of existing residential development fronting or accessed off Brookhouse Road. The 0.75 hectare site is surrounded by existing residential development to the east and south and open countryside to the north and west used for grazing and equestrian purposes.
- 1.2 The topography varies markedly across the site. The most significant falls across the site are in a south to north direction and also a south-east to north-west direction. Levels range from approximately 12.5m AOD on the southern boundary to approximately 8m AOD along the northern boundary where there is a distinct depression marked by a small area of wetland habitat. Other than the AONB and Countryside Area designations the site is largely unconstrained; it is not within flood zone 2 or 3, and there are no public rights of way, designated heritage assets or protected trees within the site boundaries. There are protected trees on neighbouring land to the south of the site. The site is located within a Minerals Safeguarding Area and has some areas affected by surface water flooding.

2.0 The Proposal

- 2.1 The applicant originally sought to remove condition 4 on planning permission 14/00270/OUT, which reads as follows:

Prior to the commencement of development, a detailed scheme for off-site highway works, including:

- *Upgrading of bus stop facilities to Lancashire County Council's quality bus stop standards (Ref stop ID 2500DCL3172 & 2500LAA00237);*
- *Introduction of speed reduction measures along Brookhouse public highway in the vicinity of its junction with Sycamore Road through the laying of thermoplastic/ zebra flex centre line hatching;*
- *Introduction of carriageway thermoplastic "H" bar markings on Sycamore Drive; and,*

- *re-alignment of contiguous lengths of footway adjacent property numbers 45 & 88 Sycamore Road with stopping up of intervening lengths of the afore-mentioned carriageway. Shall be submitted to and agreed in writing with the local planning authority. The agreed works shall be implemented and carried out in full prior to first occupation of the development.*

2.2 During the determination period of this application and following negotiations with the developer in consultation with the highway authority, the applicant now seeks to vary condition 4 by reducing the level of off-site highways works required by the development. The applicant seeks to maintain the requirements to undertake improvements to the bus stop facilities referenced in the original condition but seeks to remove all other off-site highway requirements.

3.0 Site History

3.1 The relevant planning history is set out in the table below:

Application Number	Proposal	Decision
14/00270/OUT	Outline application for the demolition of existing bungalow and erection of up to 31 dwellings	Approved
16/01603/FUL	Demolition of existing dwelling and erection of 21 dwellings with associated access, landscaping and parking	Withdrawn
17/00730/REM	Reserved matters application for the erection of 22 dwellings	Approved
17/00924/VLA	Variation of legal agreement attached to planning permission 14/00270/OUT to remove the obligation relating to allotment provision on or off site.	Approved, subject to Deed of Variation
17/00133/DIS	Application to agree details reserved by conditions 6, 8, 9, 11, 12 and 15 on the outline permission 14/00270/OUT	At the time of compiling this report, this application is still pending
17/00140/DIS	Application to agree details reserved by conditions 3 and 5 on the outline permission 14/00270/OUT	At the time of compiling this report, this application is still pending

4.0 Consultation Responses

4.1 The following responses have been received from statutory and non-statutory consultees:

Consultee	Response
County Highways	No objections to the variation of condition 4 to secure improvements to raise the adjacent kerbs to the two proximal bus stops to assist boarding and alighting and to remove all other off-site highway work requirements.
Parish Council	The Parish Council has requested further information in respect of the bus stop improvements and have subsequently not provided a position on the application. The Case Officer has provided the relevant information to the Parish for further comment. A verbal update will be provided if a response is received.

5.0 Neighbour Representations

5.1 At the time of compiling this report, one letter of objection has been received raising concerns in relation to the impact on the highway network and safety, commenting the site access is unsuitable; impact on the sewerage system; and concerns over the impact of construction vehicles.

6.0 Principal National and Development Plan Policies

6.1 National Planning Policy Framework
 Paragraphs 7, 12 and 14 – Achieving Sustainable Development
 Paragraph 17 – Core Principles
 Paragraphs 32 and 39 – Promoting Sustainable Transport
 Paragraphs 203 and 206 – Planning Conditions

6.2 **Local Planning Policy Overview – Current Position**

At the 14 December 2016 meeting of its Full Council, the local authority resolved to undertake public consultation on:

- (i) The Strategic Policies and Land Allocations Development Plan Document (DPD); and,
- (ii) A Review of the Development Management DPD.

This enabled progress to be made on the preparation of a Local Plan for the Lancaster District. Public consultation took place from 27 January 2017 to 24 March 2017. Whilst the consultation responses are currently being fully considered, the local authority remains in a position to make swift progress in moving towards the latter stages of: reviewing the draft documents to take account of consultation outcomes, formal publication and submission to Government, and, then independent Examination of the Local Plan. If an Inspector finds that the submitted DPDs have been soundly prepared they may be adopted by the Council, potentially in 2018.

The **Strategic Policies and Land Allocations DPD** will replace the remaining policies of the Lancaster District Core Strategy (2008) and the residual 'saved' land allocation policies from the 2004 District Local Plan. Following the Council resolution in December 2016, it is considered that the Strategic Policies and Land Allocations DPD is a material consideration in decision-making, although with limited weight. The weight attributed to this DPD will increase as the plan's preparation progresses through the stages described above.

The **Review of the Development Management DPD** updates the policies that are contained within the current document, which was adopted in December 2014. As it is part of the development plan the current document is already material in terms of decision-making. Where any policies in the draft 'Review' document are different from those adopted in 2014, and those policies materially affect the consideration of the planning application, then these will be taken into account during decision-making, although again with limited weight. The weight attributed to the revised policies in the 'Review' will increase as the plan's preparation progresses through the stages described above.

6.3 Saved Lancaster District Local Plan Policies:

- E3 AONB
- E4 Countryside Area

6.4 Core Strategy

- SC1 Sustainable Development

6.5 Development Management DPD

- DM20 Enhancing Accessibility and Transport Linkages
- DM21 Walking and Cycling
- DM35 Key Design Principles

7.0 Comment and Analysis

7.1 The applicant has submitted an application under Section 73 of the Town and County Planning Act 1990 to vary a condition imposed on the original planning consent. Where an application under Section 73 is granted, the effect is the issue of a new planning permission, sitting alongside the original permission, which remains intact and un-amended. It is not therefore a complete review of the whole development. The principal consideration in the assessment of this proposal is whether the requirements of condition 4 (as originally worded) remain necessary to make the development acceptable.

7.2 Paragraph 206 of the NPPF clearly states that planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects (known as 'the 6 tests'). The purpose of conditions, when used properly, is to enhance the quality of development and enable development proposals to proceed where it would otherwise have been necessary to refuse planning permission, by mitigating the adverse effects of the development (National Planning Practice Guidance (NPPG), Ref ID:21a-001-20140306).

- 7.3 At the time the outline planning permission was granted the Local Planning Authority - in consultation with the Highway Authority - considered it NPPF-compliant to impose a planning condition requiring off-site highway improvement works to mitigate the impacts of the development and to maximise sustainable travel opportunities, comprising four items:
1. *Bus stop upgrades to bus stops 2500DCL3172 and 2500LAA00237 (these are the bus stops located to the east of the Brookhouse/Sycamore Road junction in both directions);*
 2. *Speed reduction measures along Brookhouse Road in the vicinity of the junction with Sycamore Road;*
 3. *"H" bar markings on Sycamore Road, and;*
 4. *Stopping up of intervening lengths of carriageway;*
- 7.4 Following the grant of outline planning permission, a developer (Oakmere Homes) submitted a full planning application for 21 dwellings (10 dwellings less that the development considered as part of the outline application) under planning reference 16/01603/FUL. As part of the publicity and consultation of this application, the Highway Authority formally advised that there were no requirements for any off-site highway works for the 21-dwelling scheme. This was questioned by the local planning authority at the time due to the requirements set out in the outline permission, but the Highway Authority maintained their position that no works were considered necessary to make the development acceptable.
- 7.5 During the assessment of the full planning application development viability was a key consideration. Following lengthy viability negotiations, the developer subsequently chose to submit a Reserved Matters application for 22 dwellings (to deliver an additional dwelling and improve viability). As part of the consideration of the full application (before it was withdrawn) and the Reserved Matters application, the assessment of development viability assumed no off-site highway works were necessary as per the Highway Authority's formal position set out under the full planning application.
- 7.6 In light of the above sequence of events, understandably the applicant then submitted this pending application to remove the condition in full on the grounds that the off-site highway works originally set out in the outline permission were no longer necessary to make the development acceptable.
- 7.7 The Highway Authority has been consulted on this application. Their initial response stated that the bus improvement works and the speed reduction measures (items 1 and 2 listed in paragraph 7.3 above) did remain necessary despite their comments to the full application, but items 3 and 4 were no longer necessary. This highway response was queried by the local planning authority, who must have regard (during decision-making) to the provisions of Paragraph 206 of the NPPF (see Paragraph 7.2 of this report). Conditions which place unjustifiable and disproportionate financial burdens on an applicant are likely to fail the test of reasonableness. As viability has been a key consideration in the assessment of the Reserved Matters application and the affordable housing scheme agreed under the planning obligation, the local planning authority must ensure the Highway Authority's requests for off-site works can be robustly justified.
- 7.8 The Highway Authority has provided a further response concluding all the original off-site works except for bus stop improvements, are no longer required. The bus stop improvements comprise alterations to the adjacent kerbs to assist boarding and alighting at the bus stops to bring them to quality bus standards. The Highway Authority concludes that the speed reduction measures are not necessary due to the existing 20mph speed limit in the vicinity of the junction with Sycamore Road and the fact that such works have limited connection to the development proposal. The "H" markings are unnecessary and are noted to have little benefit from a highway perspective and the stopping up of the turning head outside of 88 Sycamore Road will not be required as the proposed estate road is not going to be adopted.
- 7.9 National and local planning policy requires new development to reduce the reliance on private car and maximise opportunities for the use of walking, cycling and public transport. Policy DM20 states that development proposals will be supported where they seek to make best use of existing public transport services and, where appropriate, provide opportunities for improving and sustaining the viability of those services. The proposed bus improvement works are small in scale but will enable the bus stops to meet the County's quality bus stop standard, making the services more accessible for all. The costs associated with the works are not significant so will not place a financial burden on the development. Officers are satisfied that the proposed works would meet the 6 condition tests set out in the NPPF.

- 7.10 An approval under s73 of the Act results in the grant of a new stand-alone planning permission therefore all existing planning conditions have been reviewed to ensure they remain necessary and relevant with revisions made where appropriate (see condition list below). In short, only condition 2 (illustrative plans) has been removed as this is now unnecessary. A number of the other conditions are subject to pending discharge of condition applications. If these are discharged before the consideration of this application, a verbal update will be provided.

8.0 Planning Obligations

- 8.1 The original planning obligation agreed and signed under the outline permission remains in force and is tied to all subsequent planning applications pursuant under s73 of the Act.

9.0 Conclusions

- 9.1 The proposal to vary condition 4 to reduce the scale of off-site highway improvements works associated with the development is considered acceptable and proportionate to the scale of the development. The off-site highway works to be removed from the condition (items 2-4) are regarded unnecessary by the highway authority and would not therefore meet the condition tests set out in paragraph 206 of the NPPF. There are no reasonable planning grounds to insist these requirements are retained. On this basis, Members are recommend to support the application to require off-site bus improvements works only.

Recommendation

That the variation of Condition 4 to reduce the scale of off-site highway works **BE GRANTED** subject to the following conditions:

1. Time Limit Condition (varied to account for the approved of reserved matters application)
2. Access details
3. Off-site highway works (previously condition 4) requiring kerb improvements to bus stops 2500DCL3172 & 2500LAA00237 to be undertaken and provided in full before occupation of the 1st dwelling on site.
4. Foul and surface water drainage details
5. External lighting details
6. Nesting bird season condition
7. Scheme for compensation of nesting bird habitat loss
8. Development to be carried out in accordance with the bat survey addendum
9. Tree condition – no works without consent
10. Tree Protection Plan
11. Construction and Traffic Method Statement
12. Hours of construction condition
13. No impact pile driving without approval of noise assessment
14. Details of finished flood levels
15. Risk Assessment condition
16. Soil Importation standard condition
17. Unforeseen contaminated land condition

Article 35, Town and Country Planning (Development Management Procedure) (England) Order 2015

In accordance with the above legislation, the City Council can confirm the following - Officers have made this recommendation in a positive and proactive way to foster the delivery of sustainable development, working proactively with the applicant to secure development that improves the economic, social and environmental conditions of the area. The recommendation has been taken having had regard to the impact of development, and in particular to the relevant policies contained in the Development Plan, as presented in full in the officer report, and to all relevant material planning considerations, including the National Planning Policy Framework, National Planning Practice Guidance and relevant Supplementary Planning Documents/ Guidance.

Background Papers

None