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| Agenda Item A7 | Committee Date 12 December 2016 | Application Number 16/01183/VCN |
| Application Site Lancaster Leisure Park Wyresdale Road Lancaster Lancashire | Proposal Erection of 71 dwellings including associated parking and landscaping (pursuant to the variation of condition 2 on planning permission 12/01109/FUL to vary the amended plans) | |
| Name of Applicant Mr James Carman | Name of Agent | |
| Decision Target Date 29 January 2017 | Reason for Delay N/A | |
| Case Officer | Mr Mark Potts | |
| Departure | No | |
| Summary of Recommendation | Approval subject to a Deed of Variation to the extant Section 106 | |

1.0 The Site and its Surroundings

- 1.1 The 2.31 hectare application site is situated on the east side of Lancaster within the Lancaster Leisure Park complex that falls between the M6 motorway and the residential area known as Golgotha. The site is bounded by an abattoir and the Leisure Park's main car park to the west, open fields to the south west and south east, The Ashton Guest House and Well House Farm to north east and Wyresdale Road to the north. Development on the site begun in 2014 with the new housing estate substantially complete.
- 1.2 The M6 motorway and Golgotha command higher positions to the east and west respectively with the application site sat within the bottom of a shallow valley between these 2 features. The site is generally flat on the western half of the site gradually climbing towards the eastern boundary. There are trees to the Wyresdale Road frontage, along the western side of the access road, to the south west boundary and on the boundary with The Ashton and Well House Farm (protected by Tree Preservation Orders).

2.0 The Proposal

- 2.1 Planning permission was granted in 2014 for the erection of 71 dwellings, access and landscaping under planning permission 12/01109/FUL. The majority of the units associated with the extant planning permission are built, with many of them occupied. This application seeks to remedy a breach of planning control associated with Plots 36 and 37 which are substantially complete despite their footprint being up to 1 metre different to that approved as part of the original application. A minor change is also proposed to the house type on Plot 37 from a conventional gable to a part hipped roof.
- 2.2 The original red edge plan which was approved in 2014 included land outside of the applicant's control, which has only recently come to light. The applicant seeks to correct this via this application. The parking spaces associated with the courtyard units (Plots 16, 17, 18, 19 and 20) are also different compared to the approved plans and therefore this application seeks to remedy this breach of planning control also.

3.0 Site History

3.1 There is a long and varied planning history across Lancaster Leisure Park, but the most relevant to this proposal relates to a planning consent for the 71 dwellings granted in 2014.

| Application Number | Proposal | Decision |
|---------------------------|---|-----------------|
| 12/01109/FUL | Erection of 71 dwellings including associated parking and landscaping | Approved |

4.0 Consultation Responses

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

| Consultee | Response |
|-----------------------------------|--|
| Environmental Health | No objection. |
| County Highways | Initial objection on the basis that the applicant's original application form discussed varying condition 3 which referred to surfacing materials. However, following re-consultation no objection is raised to the amendments. |
| Tree Protection Officer | Initial objection as the AMS and TWS were unacceptable. Following the receipt of additional information the objection has since been removed and no objection has been raised. |
| Lead Local Flood Authority | No observations received within the required timescales |

5.0 Neighbour Representations

5.1 No representations have been received.

6.0 Principal National and Development Plan Policies

- 6.1 National Planning Policy Framework
Paragraphs **7, 12, 14, 17** - Sustainable Development and Core Principles
Paragraph **49** and **50** - Delivery a wide choice of high quality homes
Paragraphs **56, 57, 58, 60, 61** and **64** – Design
- 6.2 Lancaster Local Plan saved policies
H5 Housing Development Sites
E4 Open Countryside
- 6.3 Lancaster Core Strategy
SC1 Sustainable Development
SC3 Rural Communities
SC4 Meeting the District's Housing Requirements
SC5 Achieving Quality in Design
- 6.4 Lancaster Development Management DPD
DM20 Enhancing Accessibility and Transport linkages
DM22 Vehicle Parking provision
DM27 The Protection and Enhancement of Biodiversity
DM28 Development and Landscape Impact
DM29 Protection of Trees, Hedgerows and Woodland
DM35 Key Design Principles
DM39 Surface Water Runoff and Drainage
DM40 Protecting Water Resources
DM41 Affordable Housing
DM42 Managing Rural Housing Growth
Appendix B Car Parking Standards

6.5 Other planning policy/guidance documents

- Meeting Housing Needs Supplementary Planning Document (SPD)
- National Planning Practice Guidance (NPPG)
- Householder Design Guide Planning Advisory Note (PAN)

7.0 Comment and Analysis

7.1.1 An application can be made under Section 73 of the Town and Country Planning Act 1990 to vary or remove conditions associated with a planning permission. One of the uses of a section 73 application is to seek a minor material amendment, where there is a relevant condition that can be varied (amendments that are more than 'non-material' but are such that the amendments would not result in a substantially different development to that approved).

7.1.2 In the summer of 2016 Officers were contacted by a local resident who felt that two of the houses (plots 36 and 37) were being built closer to his boundary than that shown on the approved plans. Following a site visit in August 2016 it was deemed that the original red edge plan included land outside the control of the applicant and the resident's concerns were fully justified as the approved plans showed a larger buffer between plots 36 and 37 and the property known as Well House Farm (plot 37 was proposed at 4.5 metres compared to 1.3 metre, which is currently the case). The applicant has sought to regularise this issue and has supplied a new red edge plan together with an amended site layout plan which shows the units in the "as built" positions. Whilst the applicant admits an error with respect to the plans, plot 37 is still in excess of 35 metres from Well House Farm and therefore is well in excess of the distances required by Policy DM35 of the DM DPD which would require 12 metres between habitable windows and a blank elevation.

7.1.3 Whilst plot 37 is slightly outside of its originally permitted location, the applicant has tried to minimise the impact of the development on Well House Farm by changing the roof from the permitted gable to a hipped roof on the elevation towards Well House Farm. This has been arrived at following discussions between Miller Homes and the resident at Well House Farm. In design terms the change does appear quite alien given all the other properties have the standard gable. The applicant has shared a street scene drawing to show how this would look, and it is noted that this is an end property and so views to it will be relatively constrained. The amendment helps to further limit impact on Well House Farm and therefore is supported.

7.2 Trees

7.2.1 Plots 36 and 37 are in close proximity to trees that benefit from Tree Preservation Orders, and the Local Authority is currently investigating alleged damage to these trees (court proceedings are ongoing). This has occurred due to ground works and inadequate tree protection measures. The Local Authority is of the opinion that a large mature Horse Chestnut tree (referred to as T22 on the applicant's statement – to the north of plot 36) has sustained damage to its root system. The applicant was wishing to remove a significant amount of live branches from the southern and eastern aspect of the horse chestnut canopy without a period of recovery or monitoring of the tree's ongoing health, vitality, and stability. This was unacceptable. The applicant was also proposing to undertake works to a mature, 13m high Beech tree, which include raising the overall canopy height to 6m above ground level. Again this is considered excessive and would result in an adverse impact from an amenity perspective (loss of amenity to this trees). An amended statement has since been received with the applicant removing the crown lift element on the Beech tree and the works proposed to the Horse Chestnut tree and therefore the proposals can now be supported.

7.3 Highways

7.3.1 The application seeks to regularise the parking arrangements associated with plots 16, 17, 18, 19 and 20. The change is minor and County Highways raises no objection to this amendment and therefore can be seen on balance to be acceptable.

7.4 Other Matters

7.4.1 The original planning permission required the onsite play facility to be operational by the time 35 units had been occupied. This has been exceeded. The applicant has stated that due to them providing the affordable housing units early in the development this has changed the route of the build programme, and if the play area was constructed in accordance with the condition there would be issues associated with health and safety (given in essence the play area would be located within the centre of a building site). The applicant should have sought to modify the condition earlier. However, they have stated that the play area will be implemented within the next two months and that this can be conditioned (should Members choose to support the scheme).

7.4.2 There are off-site highway measures which included the extension of the existing 30mph zone, cycle improvement, bus stop upgrades, traffic calming gateway and kerb line reconfiguration at the Wyresdale Road and Coulston Road junction. This has still to materialise and should have been implemented prior to the occupation of the first unit. Officers are aware that discussions are now taking place with the County Council (as the Highway Authority). However, a condition should be imposed ensuring the works are carried out in the shortest possible timescale (acknowledging the works do require the County Council to undertake them).

7.5 Conditions

7.5.1 In addition to the conditions already imposed on the original consent, which will be amended where appropriate to take into account those details which have approved, it is considered reasonable to attach a condition requiring details of the boundary fencing between plot 37 and Well House Farm to be addressed.

8.0 Planning Obligations

8.1 A deed of variation to the extant Section 106 is required as part of any approval to ensure that the requirements of the Section 106 carry forward to the varied consent.

9.0 Conclusions

9.1 Several breaches of planning control associated with this site have occurred which has resulted in alleged damage to a tree that benefits from a Tree Preservation Order. This is being investigated independently with this matter being presented to the Magistrates Court in December 2016. Notwithstanding this, the applicant has sought to address some of these concerns via the submission of this planning application and on balance the modifications can be found acceptable and therefore it is recommended that the application can be supported.

Recommendation

That Planning Permission **BE GRANTED** subject to the signing and completion of a Deed of Variation and the following conditions (though if the Deed is not signed and completed on or prior to the determination date the application is to be refused):

1. Standard 3 year timescale – **Remove**
2. Development in accordance with approved plans – **Amend**
3. Materials - elevational and roof, surface and site/plot boundary treatments –**Revise**
4. Sustainable construction - affordable housing to meet at least Code level 3 and open market housing to exceed Building Regulations 2010 Part L levels by at least 10% - **Retain**
5. Highway access - details required to Lancashire's adoptable standards – **Amend**
6. Visibility splays - provision and protection – **Retain**
7. Off-site highway works:
 - cycle improvements along Wyresdale Road
 - upgrades of the closest bus stops to Quality Bus Stops
 - Traffic Regulatory Order for the extension of the existing 30mph zone along Wyresdale Road
 - reconfiguration of kerb lines at the junction within Wyresdale Road / Coulston Road
 - traffic calming gateway to Wyresdale Road including pedestrian refuse and street lighting**Amend**
8. Construction Method Statement incl. dust control and wheel cleaning facilities – **Amend**
9. Separate drainage system – **Retain**
10. Development to be carried out in accordance with revised (10 October 2013) FRA and Drainage Strategy Report – **Retain**

11. Scheme for surface water drainage to be designed to a 1 in 100 year plus climate change critical storm to prevent risk of flooding off site – **Amend**
12. Tree protection plan – **Amend**
13. Arboricultural Method Statement and Tree Works Schedule – **Amend**
14. Landscaping scheme - details required. To be maintained at all times thereafter – **Amend**
15. Public open space and equipped play area provision - details required. To be maintained at all times thereafter – **Amend**
16. No pile driving – **Retain**
17. Hours of construction - 0800-1800 Mon to Fri and 0800-1400 Sat only – **Retain**
18. Standard land contamination condition – **Amend**
19. Prevention of new contamination – **Amend**
20. Importation of soil, materials and hardcore – **Amend**
21. Bunding of tanks – **Amend**
22. Ecology Measures - **Retain**
23. Garages solely used for vehicles – **Retain**
24. Cycle Storage / Bin Store– **Amend**
25. Car Parking Areas brought into use –**Retain**
26. Travel Plan – **Retain**
27. In accordance with Noise Mitigation - **Retain**

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:

Lancaster City Council has made the 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 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