

Item No. 8

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| APPLICATION NUMBER | CB/17/00442/VOC |
| LOCATION | Land rear of 7 - 37 Barton Road, Gravenhurst, Bedford, MK45 4JP |
| PROPOSAL | Variation of condition 14 attached to planning permission reference CB/15/04081/OUT dated 17th January 2017 so that landscaping on the south-eastern boundary of the site is carried out in accordance with drawing number WHK20175-11E (Southern Boundary Proposals) |
| PARISH | Gravenhurst |
| WARD | Silsoe & Shillington |
| WARD COUNCILLORS | Cllr Ms Graham |
| CASE OFFICER | Martin Plummer |
| DATE REGISTERED | 27 January 2017 |
| EXPIRY DATE | 28 April 2017 |
| APPLICANT | The RonCon Trust |
| AGENT | David Coles architects ltd |
| REASON FOR COMMITTEE TO DETERMINE | Major application - objection from Parish Council |
| RECOMMENDED DECISION | Variation of Condition - Recommended for Approval |

Reason for Recommendation

Outline planning permission for residential development at this site has previously been granted despite the conflict with Policy DM4 of the Core Strategy and Development Management Policies Document 2009. The application proposes to remove a planning condition attached with the original outline permission which requires retention of existing planting to the south eastern boundary of the application site. That 'planting' comprises a mixture of low quality trees (in arboricultural terms) and other landscape features which are not protected by Tree Preservation Order or Conservation Area designation. The removal of that planting will result in some harm to the character of the site and surroundings but such harm is outweighed by other material considerations and the proposal will result in a sustainable form of development. The planning condition requiring retention of all planting to the south east boundary is varied to retain some trees (but not all) and the scheme is acceptable in planning terms.

Site Location:

The application site consists of an undeveloped plot located adjacent to the settlement envelope of Upper Gravenhurst. Access can be gained from an existing arrangement off Barton Road. The site is predominantly open and undeveloped other than mature landscape planting and trees to the south east and eastern boundaries. The site abuts residential gardens on its southwestern and north western boundaries. A lower school is located to the north. A public right of way

which connects Barton Road to Shillington Road is approximately 250 metres to the south of the application site.

The Application:

Outline planning permission was granted by the Development Management Committee on 30 March 2016 for a residential development on this site under LPA reference CB/15/04081/OUT for the erection of up to 24 dwellings. The Officer Report relating to that approved application is attached as an appendix to this report.

The outline planning permission incorporated an indicative layout which showed one possible way in which the 24 dwellings could be provided within the site. The outline permission is subject to a legal agreement requiring the developer to provide affordable housing on site and make various financial contributions towards infrastructure projects. There are also several planning conditions attached to the outline permission including planning conditions 14 which was attached by Members of the Committee:-

Notwithstanding the details in the approved plans the existing planting at the southeastern boundary of the site, referred to as G8 and G9 in the Tree Survey Schedule prepared by ACD Arboriculture Ref: WHK20175tr (dated 30 September 2015) and shown on Drawing Number WHK20175-01 which accompanies the report shall be retained. Any reserved matters proposal shall be submitted incorporating this existing landscape feature into the detailed design.

Reason: To ensure the retention of existing landscape features of value and to ensure that the appearance of the site would be acceptable in accordance with Policy DM3 of the Core Strategy and Development Management Policies 2009.

This application seeks permission to vary this planning condition.

Plans were originally submitted with the application which incorporated the removal of all trees and landscape features to the south east boundary of the application site and the provision of a 3 metre area along the south eastern boundary of the site for new tree and hedge planting.

During the application process various discussions with the applicant has resulted in the retention of more trees to the south eastern boundary and a slightly enlarged area for planting /retention of tree along the south east and south west boundary of the application site.

RELEVANT POLICIES:

National Planning Policy Framework (NPPF) (March 2012)

Core Strategy and Development Management Policies - North 2009

CS1 Development Strategy

CS5 Providing Homes

DM1 Renewable Energy

DM2 Sustainable Construction of New Buildings

DM10 Housing Mix
DM4 Development Within & Beyond the Settlement Envelopes
CS14 High Quality Development
DM3 High Quality Development
CS7 Affordable Housing
CS2 Developer Contributions

The Central Bedfordshire Pre-Submission Local Plan

Section 38(6) of The Planning and Compulsory Purchase Act 2004 and Section 70(2) of The Town and Country Planning Act 1990 require all planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan currently consists of the South Bedfordshire Local Plan Review (2004), the Core Strategy and Development Management Policies Development Plan (2009) and the Minerals and Waste Local Plan; Strategic Sites and Policies (2014). The National Planning Policy Framework (2012) must be taken into account in the preparation of local and neighbourhood plans and is a material planning consideration in planning decisions.

The Central Bedfordshire Local Plan has reached pre-submission stage and is out for consultation in accordance with regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012 until 22nd February 2018.

The National Planning Policy Framework (paragraph 216) stipulates that from the day of publication, decision-takers may also give weight to relevant policies in emerging plans unless material considerations indicate otherwise.

The apportionment of this weight is subject to:

- the stage of preparation of the emerging plan;
- the extent to which there are unresolved objections to relevant policies;
- the degree of consistency of the relevant policies in the emerging plan to the policies in the Framework.

In summary it is therefore considered that reference should be made to the emerging plan but limited weight should be applied to the Central Bedfordshire Pre-Submission Local Plan taking into account its stage of preparation, the level of consistency with the Framework and acknowledging that the draft site allocations have not yet been subject to statutory public consultation. Where there are site specific Pre-Submission Local Plan policies these will be acknowledged for those specific applications on this agenda.

Supplementary Planning Guidance/Other Documents

Central Bedfordshire Design Guide (March 2014)

Relevant Planning History:

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| Application Number | CB/15/04081/OUT |
| Description | Outline: Residential development of up to 24 dwellings with ancillary works. All matters reserved except access |
| Decision | Approved subject to conditions. |
| Decision Date | 28.12.2016 |

Consultees:

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|------------------------------------|--|
| Parish/Town Council | <p>Objection:-</p> <ul style="list-style-type: none">• The report concentrates solely on the trees suggesting that they are unviable, but the condition requires retention of the existing planting which they identify includes scrubby vegetation, not solely trees;• The existing planting represents the remnants of what was previously a significant area for wildlife and bird population and the older trees support lichen which is a rich habitat for grubs, beetles and insects which helps sustain the birdlife;• Approximately 80% of trees were previously removed from the site and the removal of the remainder will not result in benefit or enhancement to the village or its environs;• A number of trees within the site are anticipated to live longer than ten years and it is unsustainable to remove them and the compensatory planting is not sufficient to outweigh the loss. |
| Highways | No objection – the planning condition does not impact on highway matters. |
| Independent Drainage Board | No comment. |
| Pollution Team | No comment. |
| Waste Services | No comment. |
| Strategic Travel – Transport Plans | No comment. |
| SuDS Officer | No comment. |
| Housing Officer | No objection. |
| Green Infrastructure Officer | <p>Does not support removal of the condition.</p> <p>The condition protects the remaining green infrastructure asset on site. This area is important for landscape screening, and also protects the priority habitat associated with the orchard.</p> <p>The updated proposals claim that on arboricultural grounds, the trees do not require protection, and the condition protecting this landscaping strip is not required.</p> |

The importance of the area of land goes beyond pure arboricultural interest.

Ecology

Objection.

The application shows retention of more of the existing fruit trees than originally proposed. However, the retained trees are not shown in the context of the proposed planning layout which, in effect, could place these retained trees into the curtilages of individual dwellings. This is not satisfactory as the trees would then be at risk from removal by the householder.

The government has recently released its 25 year plan for the environment within which it recognises the value of existing trees beyond the promotion of planting new ones stating 'we will also support increased protection of existing trees'.

It is understood that the remaining fruit trees from the North of the site were removed in January 2018 thereby increasing the overall loss of biodiversity across the site and in doing so the value of those remaining to the south.

Tree and Landscape
Officer

Objection.

Three documents supplied include Tree Protection Plan WHK20175-04A, Southern Boundary Proposals WHK20175-11E and Illustrative Site Layout 15016(D) 101. Currently it would seem that these three plans do not overlay to show retention of trees with the Illustrative Site Layout clearly not showing retention of all the trees shown on the Southern Boundary Proposals as such it is not acceptable.

Trees to be removed include C2 category tree T35. I would suggest that this would be acceptable giving more space for T34.

Landscape Officer

Objection.

Key landscape mitigation / planting to the south eastern site boundary must be retained at an effective scale and within the public realm and in accordance with the CBC design Guide SPD.

Trees and hedgerows within private gardens / forming private garden boundaries are notoriously poorly managed or removed by householders; this would have a significant impact on landscape mitigation / integrating development, landscape character and impact green infrastructure/ habitat connectivity.

The treatment of all landscape boundaries, and especially the south eastern boundary, must ensure appropriate and effective landscape mitigation of scale and character and arranged according to the above advice.

Other Representations:

Neighbours

13 representations in objection for the following reasons:-

- Unjustified removal of trees;
- Harmful impact on village and wider landscape setting;
- Trees and landscape features have valued ecological benefit which is not outweighed by compensation planting;
- Trees are vital for drainage of the site;
- Harmful impact on living conditions of neighbouring properties in regard to overlooking, loss of privacy and light pollution;
- Development is overbearing and out of scale in the area;
- Development will set a harmful precedent.

Determining Issues:

The main considerations of the application are whether or not the planning condition meets the relevant tests in the NPPG and whether, if the planning condition is varied, the development will represent a sustainable form of development. In considering this application the below is relevant:-

1. Principle
2. Affect on the Character and Appearance of the Area
3. Whether the development is sustainable
4. Neighbouring Amenity
5. Other Considerations

Considerations

1. Principle

- 1.1 The site lies outside of the settlement boundary and there is therefore conflict with policy DM4 which restricts development for housing being brought forward to within settlement boundaries.
- 1.2 The original outline planning permission was considered and determined at a time when the Council was unable to demonstrate a five year supply of housing. The 'tilted-balance' was therefore applied given that policy DM4 was not previously considered to be an up to date policy for the supply of housing. The outline development proposal was nonetheless considered to be a sustainable form of development when the various planning matters and material considerations were taken into account.

- 1.3 This application is being determined in light of a different policy position – the Council are now able to demonstrate a five year supply of housing and the ‘tilted-balance’ assessment required in paragraph 14 of the NPPF is not therefore engaged. However, the aforementioned paragraph of the NPPF requires that planning permission be approved without delay for sustainable development – this is therefore the relevant assessment now.
- 1.4 The Central Bedfordshire Local Plan has also, as noted above, reached pre-submission stage. This is a material consideration as is the proposed allocation of a site for housing to the north of this site. Very limited weight however is attached to this allocation and other related policies given the stage of preparation of the Local Plan.
- 1.5 Outline planning permission has been granted for a residential development on this site – the principle of residential development has therefore been clearly established.

2. Affect on the Character and Appearance of the Area

- 2.1 The original Officer Report for the outline planning permission (as appended to this report) sets out the relevant considerations in respect of the impact of the development on the character and appearance of the area – the report acknowledges the loss of trees and the impact associated with an urban extension to the existing settlement. The harm associated with these matters is not considered, in that report, to outweigh the benefits of the development.
- 2.2 It is understood that some concern was raised by Members in regard to the comments raised by consultees and third parties with regard to the removal of trees within the site and planning condition 14 was added to the permission. That condition requires retention of existing planting to the south east boundary to ensure retention of ‘valued’ landscape features and in the interests of the character and appearance of the site.
- 2.3 The Parish Council, third parties, Landscape, Ecology and Green Infrastructure Officers object to this current application and, in summary, consider that the trees do have landscape and ecological value. The trees are considered to play an important role in screening development in views from the south and public vantage points along Barton Road and the public right of way. Concern is also raised in respect of the long term protection of such landscaping within the domestic curtilage of dwellings.
- 2.4 The application is supported by a Tree Report which focuses solely on the trees the subjection of this application. The Report sets out that the trees are categorised as either C or U classification. C classification trees will not usually be retained where they would impose a significant constraint to development. U classification trees are in such a condition that they will be lost within 10 years and may therefore be removed as good arboricultural practice. The report recommends that the trees are not of a quality such that they should represent any constraint to development and are not suitable for long-term retention and a better result would be their removal and replacement.

- 2.5 In considering this application, the Council must acknowledge and attach significant weight to the fact that none of the trees within the site are protected by Tree Preservation Order or Conservation Area designation. The trees are therefore able to be removed at any time without any permission from the Local Authority.
- 2.6 Those in objection are not necessarily in objection to the way in which the trees have been classified in purely arboricultural grounds but there is clearly a difference of opinion between the applicant and objectors to the planning application as to the significance of the trees/landscape features and the role in which they currently make in the village setting and the potential role in which they may make in softening the impact of built form and helping to 'contain' development within the site.
- 2.7 The applicant has, it must be noted, acknowledged the concerns raised by objectors through the application process and has shown an amended plan which seeks to retain a proportion of the trees within the site. The trees which are proposed to be retained are those of greater arboricultural value to the southern part of the site – they are however classified as 'C' trees and are not considered to be a constraint to development, in arboricultural terms.
- 2.8 None of the trees are protected and they have been identified as being of limited value in arboricultural terms. It is unreasonable to require U classification trees to be retained. The applicant has taken steps within the process of this application to show retention of some of the trees and shown an acceptable level of space for the provision of new replacement trees to the south eastern boundary. Whilst the development of the site for residential development will inevitably result in some harm to the character and appearance of the site, it is not considered that the harm would be increased to an unacceptable level through removal of trees to the south eastern boundary and through provision of replacement planting. Landscaping is a reserved matter and detailed landscape planting on the south east boundary, within the site and the overall scale and design of the development is therefore to be considered at a later stage.
- 2.9 The comments regarding the provision of trees within garden curtilages is acknowledged – the indicative site plan shows just one possible layout for the development and it is not yet known what layout will be brought forward. Detailed considerations regarding the layout of development, including siting of existing and proposed landscaping will be considered at reserved matters stage.

3. Neighbour amenity impact

- 3.1 A representation raises concern with the impact on living conditions associated with the development – the concerns raised do not appear to relate specifically to the removal of trees and landscape features to the south east boundary of the site but rather to the principle of development of the site for residential dwellings. This matter has previously been considered in the grant of outline permission. Layout and scale are reserved matters where the relationship with neighbouring properties will be considered in more detail.

4. Impact on ecology/drainage

- 4.1 Some third parties and the Parish Council refer to the impact of the proposed removal of trees on the ecological value and drainage within the site.

- 4.2 The reason attached to the planning condition does not relate to the need to protect or ensure adequate provision for ecology and it would be unreasonable to now raise this as an issue.
- 4.3 The original outline application and associated drainage submissions was made on the basis of removal of all trees to the south east boundary – that application was approved. Accordingly, it would be unreasonable to now raise a drainage concern associated with removal of the trees.

5. Sustainability - summary

- 5.1 The NPPF sets out that there is a presumption in favour of sustainable development which should be seen as the golden thread running through decision making. Paragraph 8 of the NPPF identifies that the three dimensions of sustainable development (social, economic and environmental) should not be undertaken in isolation, because they are mutually dependent. Economic growth can secure higher social and environmental standards, and well-designed buildings and places can improve the lives of people and communities. Therefore, to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system.
- 5.2 The Officer report for the original permission sets out the positive weight to be attached to the provision of housing and affordable housing and the benefits associated with the economic and social dimension. Financial contributions have been agreed through a S106 agreement to offset the impact on existing infrastructure. A Deed of Variation will be required to ensure that previously agreed obligations are secured as part of this application also. The previous report identified some harm to the character and appearance of the area but did not consider this to be significant.
- 5.3 Significant positive weight can continue to be attached to the provision of housing in an edge of settlement location in terms of the economic and social dimension. There continues to be harm on the character and appearance of the site and locality but it is not considered that removal of trees (and provision of replacement planting) on the south east/west boundaries, adds any further significant weight against the development such that would render it inherently unsustainable in planning terms.
- 5.4 It is therefore recommended that the planning condition be varied to refer to the latest plans showing retention of some trees and provision of replacement planting to the south east boundary. The application does not seek to vary any of the other planning conditions attached with the outline permission and it is therefore recommended that they be included within the new planning permission.

Recommendation:

That Planning Permission be APPROVED subject to the signing of a Deed of Variation linking previously approved obligations to this permission and, subject to the following:

RECOMMENDED CONDITIONS

- 1 Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.

Reason: To comply with Section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 Details of the layout, scale, appearance and landscaping, including boundary treatments (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

Reason: To comply with Article 3 of the Town and Country Planning (General Development Procedure) Order 1995 (as amended).

- 3 The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.

Reason: To comply with Section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 4 **No development shall take place until an Environmental Construction Management Plan detailing access arrangements for construction vehicles, on-site parking, loading and unloading areas, materials storage areas and wheel cleaning arrangements shall be submitted to and approved in writing by the Local Planning Authority. The construction of the development shall be carried out in accordance with the approved Environmental Construction Management Plan.**

Reason: In the interest of highway safety, to ensure a satisfactory standard of construction and layout for the development and to comply with Policy DM3 of the Core Strategy and Development Management Policies 2009.

- 5 Any application for reserved matters shall include details of the existing and final ground, ridge and slab levels of the buildings. The details shall include sections through both the site and the adjoining properties and the proposal shall be developed in accordance with the approved details.

Reason: To ensure that an acceptable relationship results between the new development and adjacent buildings and public areas in accordance with policy DM3 of the Core Strategy and Development Management Policies (2009).

- 6 No above ground building work shall take place until details of hard and soft landscaping (including details of boundary treatments and public amenity open space) together with a timetable for its implementation have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out as approved and in accordance with the approved timetable.

Reason: To ensure that the appearance of the development would be acceptable in accordance with Policy DM3 of the Core Strategy and Development Management Policies 2009.

- 7 **Prior to first occupation of the development a Landscape Maintenance and Management Plan for a period of ten years from the date of its delivery in accordance with Condition 6 shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the management body, who will be responsible for delivering the approved landscape maintenance and management plan. The landscaping shall be maintained and managed in accordance with the approved plan following its delivery in accordance with Condition 6.**

Reason: To ensure that the appearance of the site would be acceptable in accordance with Policy DM3 of the Core Strategy and Development Management Policies 2009.

- 8 No development shall commence until a detailed surface water drainage scheme, including construction and maintenance plans, for the site based on the agreed Surface Water Drainage Strategy (October 2015) has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include provision of attenuation and a restriction in run-off rates as outlined in the Surface Water Drainage Strategy (October 2015). The scheme shall be implemented in accordance with the approved details before the development is completed and shall be managed and maintained thereafter in accordance with the agreed maintenance plan.

Reason: To prevent the increased risk of flooding, to improve and protect water quality, and improve habitat and amenity in accordance with Policy 49 of Development Strategy for Central Bedfordshire Revise Pre-Submission Version June 2014.

- 9 **No development shall take place until a foul water strategy has been submitted to and approved in writing by the Local Planning Authority. Unless otherwise agreed in writing the works shall be carried out in accordance with the approved details prior to the occupation of any dwelling subsequently approved.**

Reason: To prevent the increased risk of flooding, to improve and protect water quality, and improve habitat and amenity in accordance with policy DM2 of the Core Strategy and Development Management Policies 2009.

- 10 **No development shall take place until details have been submitted to and approved in writing by the Local Planning Authority showing how renewable and low energy sources would generate 10% of the energy needs of the development and also showing water efficiency measures achieving 110 litres per person per day. The works shall then be carried out in accordance with the approved details.**

Reason: In the interests of sustainability.

- 11 **No development shall take place until details of the junction between the proposed access road and the highway have been approved by the Local Planning Authority and no building shall be occupied until the junction has been constructed in accordance with the approved details.**

Reason: In order to minimise danger, obstruction and inconvenience to users of the highway and of the proposed estate road.

- 12 No dwelling hereby approved shall be occupied until visibility splays have been provided on each side of the junction of the access road with the public highway. The minimum dimensions to provide the required splay lines shall be 2.4m measured along the centre line of the proposed access road from its junction with the channel of the public highway and 43m measured from the centre line of the proposed access road along the line of the channel of the public highway. The vision splays required shall be provided and defined on the site by or on behalf of the developers and be kept free of any obstruction.

Reason: To provide adequate visibility between the existing highway and the proposed access and to make the access safe and convenient for the traffic that is likely to use it.

- 13 **No development shall take place until detailed plans and sections of the proposed access road, including gradients and method of surface water disposal have been approved by the Local Planning Authority and no building shall be occupied until the section of road which provides access has been constructed (apart from final surfacing) in accordance with the approved details.**

Reason: To ensure that the proposed roadworks are constructed to an adequate standard.

- 14 Trees not scheduled for removal, as shown in drawing WHK20175-04A shall be protected from damage in accordance with the details shown on approved drawing WHK20175-04A for the duration of the implementation of the development.

Reason: To ensure retention of existing landscape features and to ensure an acceptable appearance of the development in accordance with policy DM3 of the Core Strategy and Development Management Policies 2009.

- 15 The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers 15016 (D) 090 and TS/APPENDIX 1 Rev B.

Reason: To identify the approved plans and to avoid doubt.

Statement required by the Town and Country Planning (Development Management Procedure) (England) Order 2015 - Part 6, Article 35

The Council acted pro-actively through positive engagement with the applicant during the determination process which led to improvements to the scheme. The Council has therefore acted pro-actively to secure a sustainable form of development in line with

the requirements of the Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

DECISION

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