

43/13/0097

PERSIMMON HOMES (SW) LTD

VARIATION OF CONDITION NO. 10 OF APPLICATION 43/10/0127 TO ALLOW A FABRIC FIRST APPROACH TO REDUCING ENERGY DEMAND SEEKING MORE ENERGY EFFICIENT BUILDINGS RATHER THAN PROVIDING ON SITE RENEWABLE AT LAND AT CADES FARM, OFF TAUNTON ROAD, WELLINGTON

Location: CADES FARM, TAUNTON ROAD, WELLINGTON, TA21 9HG

Grid Reference: 314811.121053

Removal or Variation of Condition(s)

RECOMMENDATION AND REASON(S)

Recommended Decision: Conditional Approval subject to a S106 agreement bringing the obligations on planning permission 43/10/0127 forward to any new permission.

RECOMMENDED CONDITION(S) (if applicable)

1. Approval of the details of the layout, scale, appearance, access and landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.

Application for approval of the reserved matters for the first phase of development (as agreed by condition 3 below) shall be made to the Local Planning Authority not later than the expiration of three years from the date of this permission.

Application for approval of the reserved matters for the final phase of development (as agreed by condition 3 below) shall be made to the Local Planning Authority not later than the expiration of five years from the date of this permission.

The development of each phase hereby permitted shall be begun not later than the expiration of two years from the final approval of the reserved matters for the phase to which it relates or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: In accordance with the provisions of S92 (2) Town and Country Planning Act 1990 (as amended by S51 (2) Planning and Compulsory Purchase Act 2004) and to ensure that development progresses in a timely manner as this permission is granted contrary to the development plan in order to secure the delivery of housing.

2. The development hereby permitted shall be carried out in accordance with those plans permitted under application 43/10/0127 and those subsequently submitted to and approved pursuant to condition 1.

Reason: For the avoidance of doubt and in the interests of proper planning.

3. The phasing program approved pursuant to condition 3 of planning permission 43/10/0127 shall apply to this planning permission.

Reason: To allow efficient management of the development and a phased submission of reserved matters and discharge of conditions where appropriate.

4. The surface water drainage masterplan submitted to, and agreed in writing by, the Local Planning Authority pursuant to condition 4 of planning permission 43/10/0127 is approved for this planning permission. The development shall be implemented in accordance with the approved scheme.

Reason: To prevent the increased risk of flooding as a result of the development.

5. Surface water shall not be allowed to discharge from any private drives onto the public highway and details of how such will be achieved shall be submitted to and approved with any reserved matters application made pursuant to condition (1). The agreed details shall be implemented prior to the occupation of the dwelling to which they relate and shall thereafter be retained as such.

Reason: In the interests of highway safety.

6. Prior to the commencement of any phase (as agreed pursuant to condition 3) of the development hereby permitted, the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the Local Planning Authority:

a) A preliminary risk assessment which has identified:

- all previous uses;
- potential contaminants associated with those uses;
- a conceptual model of the site indicating sources, pathways and receptors;
- potentially unacceptable risks arising from contamination at the site.

b) A site investigation scheme, based on (a) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

c) The site investigation results and the detailed risk assessment (b) and, based on these, an options appraisal and remediation strategy giving full

details of the remediation measures required and how they are to be undertaken.

d) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (c) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express consent of the Local Planning Authority. The scheme shall be implemented as approved.

Reason: To protect controlled waters and ensure the appropriate remediation of the land.

7. Before any phase (as agreed pursuant to condition 3) of the development commences (including site clearance and any other preparatory works) a scheme for the protection of trees and hedges within that phase to be retained shall be submitted to and approved in writing by the Local Planning Authority. Such a scheme shall include a plan showing the location of the protective fencing, and shall specify the type of protective fencing, all in accordance with BS 5837:2005. Such fencing shall be erected prior to commencement of any other site operations and at least two working days notice shall be given to the Local Planning Authority that it has been erected. It shall be maintained and retained for the full duration of works for that phase or until such time as may otherwise be agreed in writing with the Local Planning Authority. No activities whatsoever shall take place within the protected areas without the prior written agreement of the Local Planning Authority.

Note: The protective fencing should be as specified at Chapter 9 and detailed in figures 2 and 3 of BS 5837:2005.

Reason: To ensure the enhancement of the development by the retention of existing trees and natural features during the construction phase.

8. The development shall provide public open space and children's play facilities in accordance with the details indicated on the parameters plan (Drawing 400-001 Rev H permitted pursuant to planning permission 43/10/0127) hereby permitted. Full details of the open space, including any required children's play equipment, benches, bins or any other required paraphernalia shall be submitted to and approved in writing by the Local Planning Authority as part of the details required pursuant to condition (1) with the phase (as agreed pursuant to condition 3) to which it relates. The open space and any associated equipment shall be fully provided and operational prior to the occupation of 75% of the dwellings within the phase to which it relates and shall thereafter be maintained as such.

Reason: To ensure that the required public open space is provided, to meet the needs of the residents of the new development.

9. Details of the proposed street (and other external) lighting for the development shall be submitted to and agreed by the Local Planning Authority as part of the details submitted pursuant to condition (1).

Reason: To ensure that the street lighting is designed in such a way that the favourable conservation status of dormice is maintained.

10. At least 10% of the energy supply of the development shall be secured from decentralised and renewable or low-carbon energy sources or there shall be a 10% reduction in the energy consumption of the dwelling when compared to the Building Regulations prevailing at the time of the commencement of the development. Details and a timetable of how this is to be achieved, including details of physical works on site shall be submitted to and approved in writing as part of the reserved matters submission pursuant to condition 1. The approved details shall be implemented in accordance with the approved timetable and retained as operational thereafter, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To reduce the environmental impact of the development and promote the use of renewable energy.

11. No development shall take place on land to which reserved matters relate until the detailed drainage design for each plot, phase or parcel of land, incorporating sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development, have been submitted to and approved by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

Reason: To prevent the increased risk of flooding as a result of the development.

12. The eastern and western basins shall be constructed in accordance with details that shall previously have been submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development of the phase(s) to which they relate and shall thereafter be maintained as such.

Reason: To enhance the biodiversity value of the site.

13. The Landscape and Wildlife strategy submitted to and approved in writing by the Local Planning Authority pursuant to condition 13 of planning permission 43/10/0127 is hereby approved for this planning permission.

The required works shall be implemented in accordance with the approved details and timing of the works, unless otherwise approved in writing by the

Local Planning Authority. No phase (as agreed by pursuant to condition 3) of the development shall be occupied until the scheme for the maintenance and provision of the new bird, dormice and bat boxes and related accesses relevant to that phase have been fully implemented. Thereafter the resting places and agreed accesses shall be permanently maintained.

Reason: To ensure that wildlife interests are properly protected on site and to ensure that the favourable conservation status of dormice and bats is maintained.

14. The management strategy for the retained hedgerows approved pursuant to condition 14 of planning permission 43/10/0127 is hereby approved for this planning permission and shall hereafter be strictly adhered to.

Reason: To ensure that the hedgerows are properly managed in perpetuity in order to maintain the Favourable Conservation Status of dormice.

15. For any phase of the development (as agreed pursuant to condition 3) the proposed estate roads, footways, footpaths, tactile paving, cycleways, bus stops/bus lay-bys, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car parking, and street furniture shall be constructed and laid out in accordance with details that shall first have been approved by the Local Planning Authority in writing before their construction begins. For this purpose, plans and sections, indicating as appropriate the design, layout, levels, gradients, materials and method of construction, shall be submitted to the Local Planning Authority.

Reason: To ensure that the adequate facilities are available for the traffic likely to be attracted to the site.

16. (i) The landscaping/planting scheme shown on any plans submitted and agreed in respect of condition (1) shall be completely carried out within the first available planting season from the date of commencement of the phase (as agreed pursuant to condition 3) of the development to which it relates.

(ii) For a period of five years after the completion of the landscaping scheme, the trees and shrubs shall be protected and maintained in a healthy weed free condition and any trees or shrubs that cease to grow, shall be replaced by trees or shrubs of similar size and species or other appropriate trees or shrubs as may be approved in writing by the Local Planning Authority.

Reason: To ensure that the proposed development makes a satisfactory contribution to the preservation and enhancement of the local character and distinctiveness of the area.

17. No more than 150 dwellings shall be occupied until the link to Gay Close

detailed on Drawing Number 2371.06B permitted pursuant to planning permission 43/10/0127, or some other drawing as may have first been agreed in writing by the Local Planning Authority, has been fully implemented and is capable of use.

Reason: To ensure that an emergency access and sustainable travel links between the site and surrounding area are available for users of the development, in accordance with Policy S1 of the Taunton Deane Local Plan.

18. In this condition “retained tree” means an existing tree which is to be retained in accordance with the approved plans and particulars as agreed in respect of condition (1); and paragraphs (a) and (b) below shall have effect until the expiration of 1 year from the completion of the phase to which it relates.

(a) No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the Local Planning Authority. Any topping or lopping approved shall be carried out in accordance with [British Standard 3998:1989 (Tree Work)].

(b) If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place within 12 months of its destruction or death. The species and size of that replacement tree shall first have been agreed in writing by the Local Planning Authority.

Reason: To ensure that the proposed development makes a satisfactory contribution to the preservation and enhancement of the local character and distinctiveness of the area.

Notes to Applicant

PROPOSAL

This application seeks to vary condition 10 of planning permission 43/10/0127. The permission is for the residential development of Cades Farm and condition 10, in essence, requires 10% of the energy requirement for the development to be provided by on-site renewable or other decentralised low carbon sources.

The application seeks to vary the condition to require provision of more energy efficient buildings than would otherwise have been built in lieu of the on-site renewable energy generation. A report submitted with the application identifies that this could be achieved through measures that would result in a 12% reduction in CO₂ emissions when compared to the permitted scheme.

The applicant has confirmed that they are not seeking approval for the measures contained within the report, but that the report provides a suggestion of how a 10% reduction in energy demand from the National Grid could be achieved.

SITE DESCRIPTION AND HISTORY

Planning permission was granted under application 43/10/0127. The first phase of reserved matters, currently under construction, was approved under application 43/12/0103.

CONSULTATION AND REPRESENTATION RESPONSES

Consultees

SCC - TRANSPORT DEVELOPMENT GROUP – No comments received.

WELLINGTON TOWN COUNCIL – Recommend that the application be REFUSED for the following reasons:

1. The Town Council saw no reason to defer from the condition originally imposed.
2. The proposal did not show a greater overall gain in energy efficiency.

Representations

One letter of OBJECTION raising the following issues:

- It appears that the original application is being changed bit by bit to become a completely new entity than the one given permission.
- To make the houses more thermally efficient is to be commended, but it does not mean that this will actually be achieved – that will depend on the individuals that inhabit the houses. However, renewable generation will be on-going and benefit the country in reducing carbon emissions.

PLANNING POLICIES

W1 - TDBCLP - Extent of Wellington,
STR2 - Towns,
STR4 - Development in Towns,
W3 - TDBCLP - Cades Farm Housing Allocation,
H9 - TDBCLP - Affordable Housing within General Market Housing,
C4 - TDBCLP - Standards of Provision of Recreational Open Space,
EN28 - TDBCLP - Development and Flood Risk,
EN12 - TDBCLP - Landscape Character Areas,
ROW - Rights of Way,

LOCAL FINANCE CONSIDERATIONS

None.

DETERMINING ISSUES AND CONSIDERATIONS

The main issue is whether the required energy efficiency gains can be met through improvements to the existing fabric of the building or whether the provision of on-site renewable energy generation should still be insisted upon.

Following scrutiny of the report, in consultation with Building Control officers, it is accepted that the methods stated would result in at least a 10% reduction in energy required to the dwelling for space heating requirements. However, this does not necessarily automatically translate to a 10% reduction in energy demand because energy is required for more things than just space heating. With modern dwellings being reasonably efficient in any case and an increase in energy being required for electrical products, a greater proportion of energy is required for electricity generation than in the past, even if this does not yet fully equate to or exceed the requirement for space heating. However, the submitted report is not seeking approval for the methods of complying, it is merely supporting the application by providing a suggestion of methods for reducing energy demand. The detail can be re-appraised when it is submitted in accordance with the condition.

The provision of energy from decentralised renewable sources has a benefit beyond a pure reduction in energy demand. It places less reliance on the national grid, which itself still relies heavily on non-renewable sources, and makes individual communities more resilient to increases in energy prices and global fuel supply issues. Your officers, therefore, do not agree that a 12% reduction in the energy requirement for the dwelling effectively has the same effect, although it may be similar in terms of energy demand from the National Grid.

The condition was imposed both to reduce the impact of the development on the environment and to promote renewable energy. It could only, possibly, continue to meet the first of these aims if it were varied in the way sought. As noted in third party representations, energy efficient buildings (in terms of space heating, at least) need to be properly understood in order to result in proper energy gains. For example, the benefits may only be beneficial if windows are not left open and if the heating systems are used correctly. So much is, therefore, dependant on the behaviour of the end user, whereas the presence of renewable energy sources supplying the home cannot fail to reduce the overall energy demand of the home, whatever the behaviour of its occupants.

It is clear from the above, that on simple facts, the proposal is somewhat balanced and could be argued either way. However, planning decisions must be made in accordance with the development plan unless material considerations indicate otherwise. The relevant policy is DM5 of the Core Strategy. Policy DM5 cannot be properly implemented through the development management process until an SPD is produced. This is made quite clear in the supporting text and this is the reason why similar conditions have not been imposed as a matter of course on permissions granted after adoption of the Core Strategy.

In any case, the principles of DM5 should inform thinking on the current application and it is clear that it favours an approach where building efficiency is improved above any beyond the provision of on-site renewable energy. It would be very

difficult to argue, in the context of DM5, that on-site generation should be favoured. The flexible approach proposed is, therefore, considered to be acceptable and it is recommended that planning permission is granted.

In preparing this report the Planning Officer has considered fully the implications and requirements of the Human Rights Act 1998.

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