

**BOSTON BOROUGH COUNCIL**

**Planning Committee – 27<sup>th</sup> April 2021**

Reference No: B/16/0380/CD1

Expiry Date: 09<sup>th</sup> July 2020

Extension of Time: To be confirmed

Application Type: Condition Discharge

Proposal: Application for approval of conditions 11 (foul water), 12 (surface water), 14 (finished floor level), 16 (acoustic bund details), 17 (construction management plan) and 18 (geographical survey) attached to planning permission B/16/0380 (Outline application for the erection of up to 215 dwellings with all matters (scale, layout, landscaping, appearance) except access reserved with public open space and drainage infrastructure)

Site: Land at Middlegate Road, Frampton, Boston, PE20 1BX

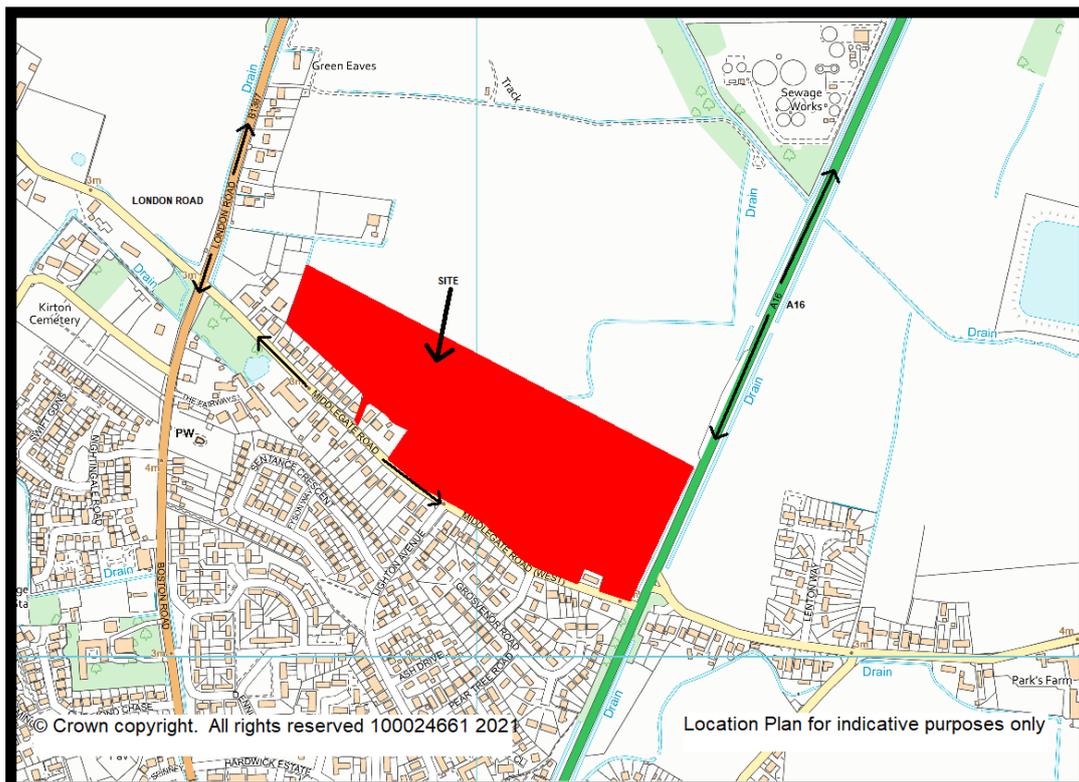
Applicant: Larkfleet Homes

Agent: ---

Ward: Kirton & Frampton Parish: Frampton

Case Officer: Richard Byrne Third Party Reps: 4

**Recommendation: Details agreed for conditions 11 & 12**



## **1.0 Reason for Report**

- 1.1 Ordinarily an application to discharge planning conditions would not be presented to Planning committee as it relates to the detailed matters which follow post-decision.
- 1.2 However, in resolving to grant permission to the reserved matters application which was approved on 15 November 2018, Members requested that the drainage conditions were brought back to Planning Committee once the final solutions were defined. This was on the basis of concerns regarding the drainage of the site and the implications to the immediate area which were raised at that time.
- 1.3 To that end, these conditions are reported back to the Planning Committee in accordance with the earlier resolution.
- 1.4 Members will note that the overall condition compliance for this site is in two parts, the first relating to conditions attached to the Outline, and the second relating to conditions attached to the Reserved Matters, these are subject to separate condition discharge request as set out later in this report. Furthermore, each request seeks to cover a number of conditions. However, it is only those conditions which relate to drainage (as set out in the report) which are the subject of the Planning Committee's consideration.
- 1.5 The Planning Committee are recommended to support the views of Officers on the drainage information, and that conditions 11 & 12 of B/16/0380 may be agreed. All other conditions remain under consideration by Officers.

## **2.0 Application Site and Proposal**

- 2.1 The application site currently consists of approximately 10ha (25acres) of relatively flat agricultural land site located off Middlegate Road West. The site lies outside the northern settlement boundary of Kirton in open countryside and it is within the Parish Boundary of Frampton. The site is bordered on its eastern flank by the A16, which presently provides relatively open views across the development site. The western boundary of the site is framed by London Road and also the rear garden of 8 Middlegate Road West. The northern edge of the site leads to a boundary shared with existing agricultural fields which would be retained. Along the south western perimeter the rear gardens of dwellings consist predominantly of bungalows fronting along 14 - 40 (evens) Middlegate Road West, face towards application site. The frontage along the Middlegate Road West which bounds the application contains trees protected by a Tree Preservation Order; a number of these trees have been removed due to their condition.
- 2.2 An application has been submitted to apply for the discharge of a number of planning conditions which were attached to the outline consent. The outline having been granted at Appeal but the Inspector. They are: (drainage conditions in bold)
  - **Condition 11 (foul water)**

- **Condition 12 (surface water)**
- Condition 14 (finished floor level)
- Condition 16 (acoustic bund details)
- Condition 17 (construction management plan)
- Condition 18 (geographical survey)

2.3 Condition No. 11 reads as follows:

Prior to development commencing a scheme of foul water drainage provision which may include a new direct sewer to Frampton WRC including the timeframe for implementation, shall be submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved scheme.

2.4 Condition No. 12 reads as follows:

No development shall take place until a surface water drainage scheme, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development has been submitted to and approved in writing by the local planning authority. The scheme shall:

- i) provide details of how run-off will be safely conveyed and attenuated during storms up to and including the 1 in 100 year critical storm event, with an allowance for climate change from all hard surfaced areas within the development into the existing local drainage infrastructure and watercourse system without exceeding the run – off rate for the undeveloped site and to specifically demonstrate how existing properties will be protected from above ground run-off as a result of raised land levels.
- ii) provide attenuation details and discharge rates which unless otherwise agreed with the surface water receiving body, shall be restricted to 1.4 litres per second per hectare.
- iii) provide details of the timetable for and phasing of the implementation of the drainage scheme; and
- iv) provide details of how the scheme shall be maintained and managed over the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

2.5 It is important to note some of the comments of the Inspector which were set out in paragraphs 52-56 of their decision, which relate to drainage:

- Awareness of flooding events in the recent past and that is why this matter is of particular concern to local residents. Noting a Flood Risk Assessment was submitted which included a drainage strategy.
- In terms of foul water I am advised that there is capacity for the treatment of wastewater at the Frampton Waste Recycling Centre but that there is no capacity in the local sewer network to take wastewater from the appeal site. Either the existing sewers would need to be upgraded or a separate direct connection to the Recycling Centre would be required.

- Surface water, it is proposed that this be dealt with through a system of swales and ponds which would be designed in accordance with sustainable drainage principles. The ponds would accommodate a 1 in 100 year flood with an allowance of 40% for climate change. This would be a sealed system connecting to the nearby watercourse and regulated to flow at the existing green field run off rate. There would be no connection to Middlegate Road West.
- The Inspector was satisfied that appropriate foul and surface water drainage provision can be made.

2.6 The application has been supported by plans and documents relating to the relevant planning condition for consideration. The drainage plans have been subject to consultation and discussion with the relevant lead authorities, namely the Internal Drainage Board (IDB) namely Black Sluice, Lead Local Flood Authority (LLFA) which is Lincolnshire County Council, and Anglian Water. The plans have been revised during the application process to take account of comments received by these bodies.

2.7 At this point it is important to highlight that in seeking approval for drainage matters, there are a number of non-planning technical consents which are required by the various statutory undertakers as highlighted above. Some of these have crossover with the content of planning conditions, and some of which go far beyond the planning remit. Members should be assured that regardless of the need to comply with the planning conditions, the developer would be required to comply with the requirements of those statutory undertakers and their associated legislation. Therefore there are many layers of legislation and technical detail, which collectively seek to ensure that an appropriate form of drainage is provided to serve the development, without exacerbating or worsening pre-existing local issues.

2.8 There are other plans and documents which accompany the application, however, they relate to other planning conditions which are not subject of this report. Those matters have and continue to be separately assessed by Officers through typical condition discharge processes. In responding to the discharge requests, the options available are: deem them acceptable/unacceptable in full or in part; or seek additional information. Officers continue to work with the developer to ensure that conditions are agreed promptly where possible.

### **3.0 Relevant History**

3.1 B/18/0039/CD1 - Application for approval of conditions 2(Landscaping buffer), 3(Play equipment), 4(Pump station), 5(garages elevations), 7(soft landscaping) and 8(Management plan) attached to planning permission B/18/0039 (Approval of reserved matters (scale, layout, landscaping and appearance) following outline approval B/16/0380 (Erection of up to 195 dwellings including access off Middlegate Road West, public open space and drainage infrastructure). Currently pending.

3.2 B/18/0039/NMA - Application for a non-material amendment to alter the parking area serving plots 102 - 109 and to change the affordable housing units from plots 92 - 95 to plots 106 - 109 of condition 1 of planning permission B/18/0039. Granted 22 December 2020.

- 3.3 B/18/0039 - Approval of reserved matters (scale, layout, landscaping and appearance) following outline approval B/16/0380 (Erection of up to 195 dwellings including access off Middlegate Road West, public open space and drainage infrastructure). Granted 15 November 2018.
- 3.4 B/16/0380 – Outline application for the erection of up to 215 dwellings with all matters (scale, layout, landscaping, and appearance) except access reserved with public open space and drainage infrastructure. Refused on 12 January 2017 however, an appeal was subsequently lodged with the Planning Inspectorate and on 25 October 2017:

“...the appeal was allowed and outline planning permission was granted for the erection of up to 195 dwellings including access off Middlegate Road West, public open space and drainage infrastructure on land at Middlegate Road West, Frampton, Boston PE20 1BX in accordance with the terms of the application, Ref B/16/0380, dated 29 September 2016, subject to the conditions in the attached Schedule...”

#### **4.0 Relevant Policy**

##### **South East Lincolnshire Local Plan (2011-2036).**

- 4.1 The following policies will be relevant in the resolution for Condition 12:

##### Policy 2: Development Management

This policy seeks to ensure that all new development will be sustainable. It sets out nine particular sustainable development considerations against which planning applications will be judged.

##### Policy 3: Design of New Development

This policy seeks to ensure that all new development will make a positive contribution to the character and quality of its surroundings. It sets out fifteen particular design issues against which planning applications will be judged.

##### Policy 4: Approach to Flood Risk

This policy seeks to ensure that new development is not unnecessarily exposed to flood risk, and does not increase flood risk elsewhere. It identifies the process by which planning applications in Flood Zones 2 and 3 will be considered, and sets out particular requirements for applications to change the use of buildings, and for caravans, mobile homes, etc.

#### **5.0 Representations**

- 5.1 The application for the discharge of planning conditions is not normally advertised in the same manner as a planning application. Although the application will be on the Council's website a third party can view the information and if they wish to submit a representation. The content, if relevant to the nature of the condition will be considered together with the input from a consultee who will be an expert in the matter being considered. In this instance representations have been received from the occupiers of the following properties:

- The Croft, Middlegate Road East, Frampton
- 25 Middlegate Road, Frampton
- 26 Middlegate Road West, Frampton
- 3 Lighton Avenue, Frampton

5.2 The objections and comments on the basis of the original submitted plans, documents and information. They raise a number of points, however, only those relevant to drainage are considered here, they are summarised as follows:

- Condition 12 set out by the inspector is not satisfied as yet. The inspector made it clear that the applicant must provide details of how run off from storms including a 1 in 100 event. As we already experience flood from normal weather pattern. It hasn't been made clear how the applicant is going to protect us from the slope down from the new properties let alone a 1 in 100 event. The details are very limited (potential) and do not satisfy the condition set.
- 7343-L-04A cross section 1 - The new properties which will back onto the existing Middlegate bungalows are having their ground level raised by 1.25m with the gardens sloping down to the bungalow gardens. There appears to be no watercourse at the bottom of the new gardens for the water falling on the raised ground to drain into. There is already a problem with standing water in the back gardens of the bungalows, so to have extra water running off the new properties is not acceptable.
- There does not appear to be a scheme for getting excess surface water from the western side of the site to retention ponds at all and no provision to stop surface water from simply running down the entry roads and the footpath (opposite our house). Water runs to the lowest point - Middlegate Road. Swales at the sides will not stop gravity during normal rain storms, let alone the required 1 in 100 year event. Their own original geological report made a point of stating that the absorption properties of this land made soakaways very poor.

## 6.0 Consultations

6.1 Anglian Water have confirmed that the foul drainage strategy is acceptable to Anglian Water and that they recommend discharge of the condition. Anglian water advise that as the surface water strategy does not involve discharge to their assets they have no comments to make on the surface water scheme.

6.2 Black Sluice IDB have provided 2 sets of comments, their most recent comment follows dialogue with the developers to address initial concerns, the comments are summarised as:

- Surface Water scheme – there are no particular concerns, however, formal discharge consents to their watercourses will be required. This will be via separate agreement with the Board.
- Proposals for surface water on the southern and western boundaries need to ensure that a filter drain as recommended by the consultants is installed, and that the flows do not discharge to the riparian watercourse to the north-west.

- The design of the headwalls for outfalls are unlikely to secure consent from the board and may need to be redesigned
- The new highway culvert will require more clarification and details to secure IDB approval.
- Applications under S23 of the Land Drainage Act 1991 will be required.

6.3 Lead Local Flood Authority (LLFA) have provided interim comments. They have advised that they are still considering the details through the S38 (Highway adoption) process having been in dialogue with the developer for many months. They advise they are not in a position to recommend formal discharge until that process is complete, however, in principle, they have no objections subject to the demonstration of technical compliance and satisfactory outcomes on outstanding matters. In addition, they have highlighted:

- The highway drainage enters into an AW system before discharging to the IDB drain. A Section 104 Agreement from AW or the consent to discharge from the IDB is required - but should this be forthcoming then in principle there shouldn't be any showstoppers for the highway drainage element – any changes required should be minor in nature and not prohibit the discharge of condition.
- If Anglian Water and the IDB have recommended approval of the surface water drainage condition then we assume there are no fundamental concerns with the drainage strategy which would prohibit the respective S104/ consent to discharge which the highway drainage relies upon.
- LLFA drainage engineer has confirmed that they are satisfied that the highway element of the drainage strategy is acceptable. There are some outstanding matters that require clarification, such as confusion over which authorities will manage and maintain which assets, but providing these matters are overcome, the S104 Agreement with Anglian Water is signed and the consent to discharge from the IDB is provided, we will be in a position to offer technical approval on the S38.
- LLFA anticipate there are no fundamental issues with the overall drainage strategy for the site, but we will only recommend that the condition is discharged when S38 technical approval is granted.

## **7.0 Planning Issues and Discussions**

### **7.1 Condition No.11 – Foul Water**

7.2 The drainage strategy and associated plans show all of the foul drainage for all properties being picked up by various pipes within the site, which would then be directed to a pumped rising main which would be located within the south-eastern corner of the site. This pumped solution would then follow the route of the internal road layout before connecting to Middlegate Road at a point to be specified by and agreed with Anglian Water who would also specify the discharge rate. All of the foul sewers and associated infrastructure are shown as being adopted by Anglian Water, therefore it is anticipated that they would meet any required specifications. The proposed pump station and adopted site drainage system has been designed to accommodate the flows from the development and also provide additional volume within the system to accommodate effluent storage in the unlikely event of a pump

failure. This ensures that the existing surrounding area is protected against flooding from this development. The technical consultants have designed the scheme in full liaison with Anglian Water to ensure that it is fit for purpose and that there will be no exacerbation of any existing drainage issues in this area from the development.

7.3 Anglian Water have been consulted, and have raised no objections to the foul drainage scheme. As indicated, all of the sewers and infrastructure are designed to be adopted by Anglian Water. In addition, technical approval would be required by Anglian Water under the Water Industry Act, and as a result, any necessary off-site improvements to infrastructure could be secured through that route by the statutory undertaker.

7.4 On that basis, Officers consider that the foul drainage scheme is acceptable as presented. It is therefore recommended that these details are agreed.

#### 7.5 Condition No. 12 – Surface Water

7.6 The scheme as presented represents a comprehensive surface water drainage approach. The surface water drainage strategy for the site consists of a sustainable drainage system which intercepts and collects all the impermeable areas created by the development and directs these flows to two attenuation ponds (either side of the IDB maintained watercourse running through the site) before controlled flow outfall via flow controls before ultimate outfall into the IDB maintained watercourse. When the flow is restricted water backs up into the pond areas which are sized to take the volumes of water expected.

7.7 It includes a combination of Swales, piped drains, attenuation ponds, and regulated outfalls in to the existing watercourse which runs within the site. Hydrobrakes would be used to control the outflows to the watercourse, and regulate flows (5.0 l/s & 9.8 l/s). Surface water would not be connected to any infrastructure in Middlegate Road. The catchment plans provided clearly show all potential sources of surface water runoff have been considered, including rainwater from properties and impermeable areas. The drainage design ensures that the proposed on site drainage system accommodates up to and including the 1 in 100 year plus 40% climate change allowance without flooding of the drainage network on site. Therefore no flooding to adjacent land outside the development boundary. The controlled surface water discharge from the site post development is set at a total of 14.8 l/s which equates to 1.4 l/s/ha for the site application area – the agent has advised that the application for discharge of the surface water has been made to Black Sluice IDB who have confirmed this is being processed and have no objection.

7.8 The proposal includes for a combination of private drainage which would be within the responsibility of both property owners and a management company for the site, and also larger scale infrastructure (such as the swales) which are intended to be adopted by Anglian Water. The agent has advised that the roads are to be adopted and maintained by Lincolnshire County Council (LCC) along with the roadside swale top (grass area). The filter material under the swale and pipework is to be adopted and maintained by Anglian Water. All underground surface water sewers up to and including the headwalls into the attenuation ponds are to be adopted and

maintained by Anglian Water. The ponds and downstream flow controls are to be maintained by the management company for the site which will be funded by the service charges for each dwelling on the site linked to the deeds of the dwelling. Larkfleet Homes have a standard management and maintenance specification which is used on numerous sites which covers the maintenance regime for the assets in accordance with the guidance in the SUDs Manual C753.

- 7.9 Swales run alongside a number of the main internal routes, along the eastern and southern boundaries (adjacent to Middlegate Road). These would also be under-drained in some cases, and pipes would be used to connect these to form a single system.
- 7.10 The attenuation ponds are to be located in the centre of the site, to the east of the main access and would bound the existing watercourse. These would have a combined volume of c4300m<sup>3</sup>. These would be connected to the wider surface water system, acting as a gathering and holding point for the water. The outfalls from these would be restricted by hydrobrakes, to ensure appropriate drainage rates in to the existing watercourse which is managed by the IDB. In terms of timetables and phasing, the construction of the two attenuation ponds, flow controls and headwalls will be completed before there are any proposed impermeable areas constructed, ensuring that the control measures for surface water control are in place to safeguard against any unrestricted flows off site.
- 7.11 Perimeter land drains are also proposed along the southern and western boundaries (shared with properties on Middlegate Road), these would seek to capture any excess run-off from the proposed properties and their gardens owing to the raising of land-levels. The agent has advised that this land drain is to be 300mm diameter to provide robust spare flow capacity to ensure no water leaves the development site in times of rainfall, hence protecting the adjacent existing residential properties. This would then be piped in to the wider surface water system for the development. This has been raised by the IDB and accepted by the Developers engineers. The agent has advised that the proposed land drain to the western and southern boundaries shall be constructed alongside the initial earthworks programme for raising the site levels. This ensures that the land drains to protect the existing residential properties to the west and south are in place to intercept any run off from the raised land during the construction phase through to completion of the construction work.
- 7.12 It is also noted that existing and proposed IDB easements would be accounted for within the scheme.
- 7.13 Turning to the specific responses of the technical consultees:
- Members will note that Anglian Water have confirmed that none of the drainage for surface water is proposed to connect in to their assets and thus they have no comments on the proposal.
  - It can be seen that the Black Sluice IDB are generally satisfied with the proposals and are comfortable that sufficient clarification has been presented to show that the overall scheme is acceptable. There are some minor concerns, however, these can be addressed via discussion with the Board through the relevant Land

Drainage consenting process. This may result in minor changes to the scheme. In general terms it can be seen that they raise no objection to the proposals.

- The LLFA have provided interim comments as seen earlier in the report. They have advised that in principle, the drainage strategy appears to be acceptable, although there are some outstanding S38 technical matters, and separate approvals from Anglian Water and the IDB which are required before they can sign off the S38 and recommend the conditions are discharged. This may result in minor changes to the scheme. In general terms it can be seen that they raise no objection to the proposals.

- 7.14 It is noted that there are concerns raised by third parties, which seem to suggest that the new development will compound existing problems. In this respect, it cannot be expected that the development would deliver a betterment of the existing situation, but moreover, that it is sufficient to ensure that the situation is not worsened. The concerns relate to the relationship with the land to the north of properties fronting Middlegate Road. As set out above, the proposals include provision for a land-drain to be located along the perimeter of the site. This was originally shown as a potential option (if required), but following discussions with the IDB, confirmation from the engineers to the IDB has been provided that this drain would be installed. This would provide a suitable solution that should avoid any negative impacts arising from the raising of the land levels and associated run-off. In the event that longer-term there were continued issues regarding the run-off in this area, it would be a civil matter between the parties relating to land drainage. It is therefore considered that the condition compliance has shown, as far as practicably possible in planning terms, that the proposed arrangements would be acceptable and would be compliant with the aims of the condition.
- 7.15 The overall solution is considered to be appropriate and reflect of a sustainable drainage solution. It comprises a number of relatively common techniques, including those used at the Quadrant. The scheme has been designed taking in to consideration the context established by the original Drainage Strategy presented at application stage, and follows technical evaluation of drainage conditions, ground conditions, run off rates, site size, permeable/impermeable area, quality of existing watercourses, capacity, and the requirements of the statutory bodies. In general terms therefore, Officers consider that the scheme is well conceived and reflective of policy objectives and those set out in the condition.
- 7.16 In detail, it is considered that all of the component parts of the condition have been demonstrated as being acceptable based on the submitted details. Therefore the details would appear to be acceptable.
- 7.17 As set out above, although these matters are controlled by planning conditions, there are also overlapping technical and other legislative requirements relating to surface water drainage which the Developer must achieve compliance with. It is noted that the LLFA and IDB both require further levels of detail in order to secure technical compliance in relation to their respective legislations (eg S38 of the Highway Act). However, this should not preclude the Local Planning Authority from taking its own decision in relation to the details that have been provided and whether they are sufficient to meet the requirements of the conditions which in simple terms are more

high-level, than the granular level of technical detail which is required for these respective statutory undertakers. Therefore, in terms of the level of detail that has been presented to satisfy the conditions, it is considered that an appropriate level of information has been provided to enable the Local Planning Authority to make an informed decision. That decision is influenced by the views of the relevant technical consultees, none of whom have any substantive or remaining objections to the proposals and who are better placed than the LPA to advise on the technical suitability of the proposals. To that end, Officers consider that the proposals appear to be acceptable, and there would appear to be no over-riding reason or consideration that would lead to a contra view. As such, Officers recommend that the details provided are acceptable to meet the pre-development requirements of the condition.

7.18 On that basis, Officers consider that the surface water drainage scheme is acceptable as presented. It is therefore recommended that these details are agreed.

## **8.0 Recommendation**

8.1 In light of the aforementioned report, Officers recommend to Members that the details provided in respect of conditions 11 & 12 relating to foul and surface water drainage are acceptable.

8.2 Members are therefore requested to endorse the view and conclusion of Officers so that we may respond to these matters accordingly within the formal response to the discharge of condition request that has been made. The recommendation being that the details for conditions 11 & 12 be agreed.

8.3 Members are also asked to delegate authorisation to the AD – Planning, to issue the final sign-off of the conditions, subject to any minor amendments that may be required.