

BOSTON BOROUGH COUNCIL

Planning Committee – 7th February 2017

Reference No: B/16/0457

Expiry Date: 28-Feb-2017

Application Type: Approval of Reserved Matters

Proposal: Application for the approval of reserved matters for the construction of 26 dwellings including access, appearance, layout, landscaping and scale following the grant of outline planning permission for residential development ref B/15/0456 plus the discharge of conditions 5 (biodiversity), 9 (fire hydrant) and 10 (highway improvement works) attached to B/15/0456 and partial discharge of condition 4 (affordable housing)

Site: Land adjacent to London Road/Drainside South, Kirton, Boston, Lincolnshire, PE20 1JH

Applicant: Richard Reed (Builders) Ltd

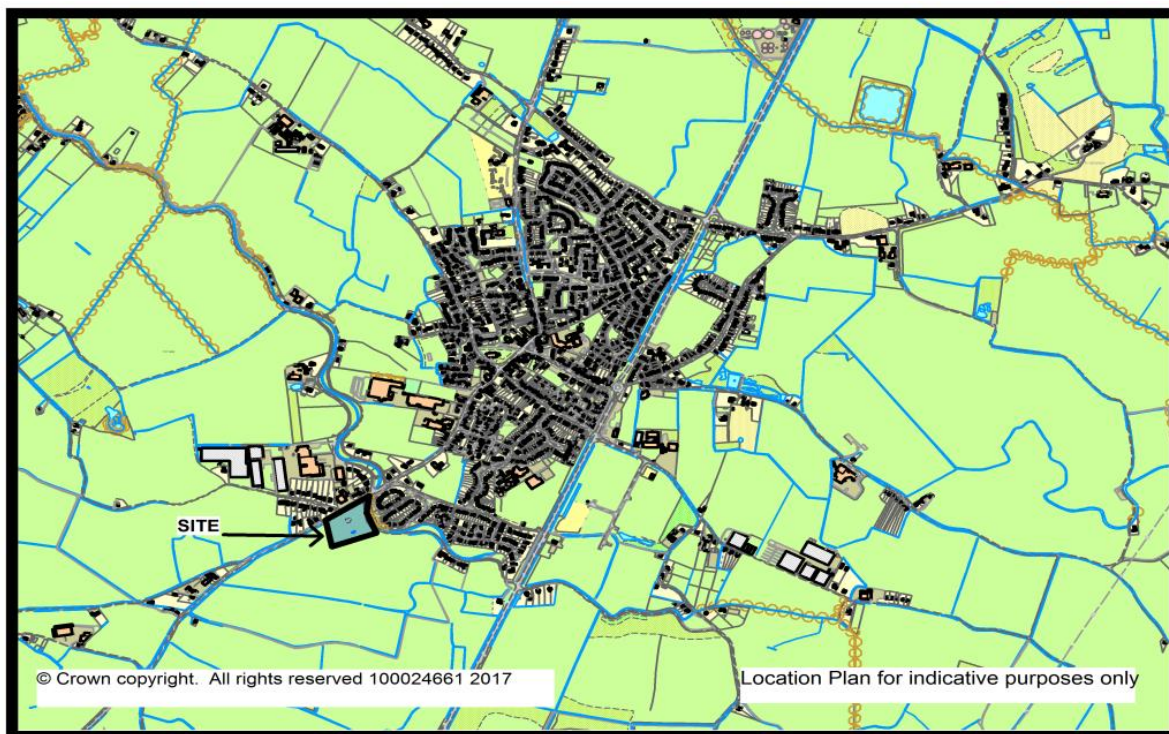
Ward: Kirton & Frampton

Parish: Kirton Parish Council

Case Officer: Trevor Thompson

Third Party Reps: None

Recommendation: GRANT



1.0 Reason for Report

- 1.1 This application for the approval of reserved matters has been presented to the Planning Committee following the resolution of Committee, at the grant of outline permission that the reserved matters when submitted would come to Committee.

2.0 Application Site and Proposal

- 2.1 The application site is located within countryside at the edge of Kirton and covers 1.6 hectares (4.18 acres). The site is uncultivated land and includes a number of large mature trees, some of which are protected by a Tree Preservation Order. The north- eastern boundary of the site fronts onto Drainside South and the north- western boundary of the site fronts onto London Road. There are residential properties within the immediate proximity of the site to the east at Marketstead Estate and to the north- west, opposite the site along London Road and Meeres Lane.
- 2.2 This is an application for the approval of reserved matters required by Condition 1 of the outline approval for the construction of 26 dwellings including access, appearance, layout, landscaping and scale following the grant of outline planning permission for upto 45 units on this site in May last year. Thus the principle of development has been secured and this application is to consider the reserved matters (and details).
- 2.3 The proposed development consists of 22 detached two storey market dwellings and 4 semi detached two storey affordable units. The issue relating to the number of the affordable housing units is discussed in section 7 of this report.
- 2.4 It is also proposed to construct an estate road with cul-de sacs and private drives to serve this development along with a new vehicular access onto London Road. There would be road improvement works to the existing triangular central island at the London Road/ Drainside South junction and to the existing footway along the south eastern side of London Road. These works, as required by condition, are in order to provide an appropriate and accessible link between the site and the existing footpath network.
- 2.5 This application also includes details relating to biodiversity, fire hydrant and highway improvement works in order to discharge the requirements of conditions 5, 9 and 10 attached to the outline permission granted last year and the partial discharge of condition 4 (affordable housing). These 'reserved details' conditions are included as part of a reserved matters application.
- 2.6 Condition 11 attached to the outline permission limited the development to no more than 45 dwellings.

3.0 Relevant History

- 3.1 Outline planning permission was granted in June 2015 subject to 13 conditions for the erection of 16 dwellings and garages and associated works on this site. That application included access with matters relating to scale, landscaping, layout and appearance reserved for later approval. (ref B/14/0282). This permission remains extant.

3.2 In June 2016, outline planning permission was granted for the erection of up to 45 dwellings on this site with all matters reserved subject to 11 conditions (ref B/15/0456). This is the permission from which the reserved matters application follows.

4.0 Relevant Policy

Boston Borough Adopted Local Plan

4.1 This reserved matters application is to discharge conditions imposed on the outline and thus the principle of development is not for consideration. S.38(6) of the 2004 Act requires that determination must be made in accordance with the plan unless material considerations indicate otherwise.

4.2 The saved Local Plan Policies of relevance to this application for reserved matters are as follows:

- Policy G1 – Amenity
- Policy G2 – Wildlife and Landscape Resources
- Policy G3 – Surface and Foul Water Disposal
- Policy G4 – Safeguarding the Water Environment
- Policy G6 – Vehicular and Pedestrian Access
- Policy T2 – Roads and Footpaths in New Developments

Housing policies

- Policy H3 – Quality of Housing Developments
- Policy H4 – Open Space on Housing Estates

5.0 Representations

5.1 No letters of representation have been received.

6.0 Consultations

6.1 Kirton Parish Council has no objections.

6.2 The Environment Agency has no objections subject to the requirements of existing condition 7 attached to the outline permission.

6.3 NHS England has written to say that it will not be requesting contributions or commenting on the application.

6.4 The County Highway Authority has no objections subject to conditions.

6.5 Lincolnshire County Council Strategic Development Officer has written to say he has no comments.

6.6 Natural England has written to say it has no comments.

6.7 Local Housing Authority has raised objection relating to the level of affordable housing contributions. This matter is discussed in detail below.

6.8 Black Sluice Internal Drainage Board has no objections.

6.9 Lincolnshire Fire and Rescue (LFR) has raised on the grounds of inadequate water supplies. (Note: An amended plan has been submitted which shows the location of a fire hydrant at the entrance to the estate. LFR has been re-consulted on this amendment).

7.0 Planning Issues and Discussions

7.1 The principle of residential development on this site has been established by the extant outline planning permissions that have been granted on this site last year and in 2015. As indicated above the outline permission granted last year, was for the erection of **up to** 45 dwellings on this site. This application for the approval of reserved matters is for the erection of **26** dwellings. Planning legislation allows a developer to submit an application for the approval of reserved matters for a scheme which is less than the number of dwellings identified at outline stage but not for a scheme which is more than this number. In such a case, a fresh full application would be required.

7.2 The applicant says that the decision to reduce the number of dwellings was influenced by the concerns expressed by the Planning Committee over the increase in numbers of dwellings on the site compared to the original scheme when determining the outline application last year.

7.3 The main considerations in the determination of this application are:

- Density
- Vehicular and Pedestrian access
- Impact on protected trees
- Flood risk and surface water drainage
- Biodiversity
- Design and layout
- Affordable housing
- Impact on residential amenity

Density

7.4 The application site area is 1.6 hectares and the reserved matters are for 26 dwellings. This represents a density of around 16 dwellings per hectare (dph). The 'parent' outline planning permission is for 45 dwellings which equated to around 28 dwellings per hectare. The outline application granted in 2015 was for 16 dwellings (i.e. around 10 dph.) The density surrounding the site varies from about 8dph to the north-west and between 21-23 dph to the north east.

7.5 It is considered that the proposed reduced density at 16 dph at this edge of village location is now much more acceptable than 28dph as previously approved at outline stage and better reflects the settlement pattern of the area.

Vehicular and Pedestrian access

7.6 It is proposed to construct a new vehicular access off London Road to serve this development with an internal pedestrian footpath along the north-western boundary connecting onto Drainside South, close to the nearest footway along London Road. This footpath will run through the proposed public open space from the estate road. It is not intended to provide a footpath along the London Road frontage since this may have an adverse impact on protected trees along this frontage. The proposed access onto London Road will be about 45m from the junction of Drainside South.

- 7.7 An adoptable estate road would lead into the site with turning areas and private drives leading off the estate road. Condition 10 attached to the outline permission requires road improvement works to provide a satisfactory pedestrian access from the site to the existing footpath along London Road leading into the village. It is intended to re-surface and provide a footway crossing over the 'island' at the junction of London Road and Drainside South and improve/extend the footway connection at the southern end of the London Road frontage. These works will accord with LCC highway specifications and will be secured through a legal agreement with the County Council. Condition 10 requires such works to be completed prior to the occupation of any dwelling on site. Recommended Condition 8 below requires such works to be carried out in accordance with approved plan ref plan 8881-122.
- 7.8 The County Highways Authority has no objections subject to conditions.

Impact on protected trees

- 7.9 The layout of the site has been influenced in part by the protected trees which lie within and along the frontage of the site and their root protection areas. The outline application was accompanied by a tree report which indicated that a number of trees had recently been felled at the request of the Highway Authority because they were considered to be a danger to road safety and recommended that a further 6 trees should be felled because the trees were in poor health.
- 7.10 No trees are to be felled to facilitate the proposed access onto London Road and no more trees are to be felled than envisaged at outline stage as a result of this development. Conditions recommended (2 and 3 below) are designed to protect these trees during construction works and in the future following occupation.

Flood risk and surface water drainage

- 7.11 Condition 8 attached to the outline permission requires the submission for approval of a surface water drainage scheme and Condition 7 restricts finished floor levels to no lower than 3.2m AOD.
- 7.12 Surface water from the development is to be discharged into a watercourse to the east via a sustainable drainage scheme. It is intended to install permeable pavements and a surface water pond within the public open space that will provide on-site attenuation. Soil investigation of the site indicates that the soakaway potential is very limited.
- 7.13 It is intended that drainage systems, including the SuDs features are to be adopted and maintained by Anglian Water and the main road by Lincolnshire County Council. The private areas of permeable pavements are to be maintained in perpetuity by a private management company set up by the developer and owned by the residents.
- 7.14 The Local Lead Flood Authority has no objections.

Biodiversity

- 7.15 Condition 5 attached to the outline permission requires the submission for approval of details of measures to enhance the biodiversity of the site as a consequence of the development together with a timescale for implementation. The applicant says that since this is a greenfield site, there will be an inevitable loss of existing habitat by virtue of the introduction of a built environment. However the applicant also points out that flora and fauna would be enhanced through the provision of gardens areas, a drainage pond (i.e. surface water attenuation pond) and that the majority of the existing mature trees will be retained.
- 7.16 The applicant also intends to provide seven bird boxes and four bat boxes which are to be fitted on some of the dwellings which form part of this scheme. It is recommended that Condition 5 be discharged.

Design and layout

- 7.17 The scheme is for 22 detached dwelling houses and two pairs of semi detached houses site plus an area of public open space which is to be located at the north eastern corner of the site. Additional areas of open, informal amenity areas will also be provided along the north-western (London Road) and western boundaries. The density of this development is relatively low at around 16dph and this scheme will not appear cramped, over-developed or out of character with this edge of village location. However, it is essential that the boundaries of the site are extensively landscaped with hedging and additional tree planting in order to soften the transmission of a rural environment to a semi -urban area.
- 7.18 The public open space in total will cover about 0.15 hectares. Commentary to Local Plan Policy H4 requires 7.5% of a housing site to be dedicated to the provision of an equipped public open space. The proposed open space equates to around 9.5% of the site area and therefore meets policy requirements. The proposed play area will be located near the entrance of the estate and will be overlooked by the occupiers of the proposed dwellings located adjacent to this area.
- 7.19 The layout is essentially organic, characterised by a range of dwelling types and designs many of which with large, spacious garden areas with good separation distances between each dwelling house. The development will be of high quality and will provide a sense of individual identity when compared with the surrounding housing area which will assimilate well within this edge of settlement location.

Affordable housing

- 7.20 The principal issue is whether the level of 4 affordable houses (i.e. 15%) of a development now consisting of the reduced number of 26 dwellings (down from 45) is acceptable given the planning history of the site, policy implications and the matters set out by the applicant detailed below.

- 7.21 The outline permission granted last year was for up to 45 dwellings and Condition 4 attached to that permission requires 13 (i.e. 28.8%) of the then 45 dwellings to be affordable units. Four out of twenty-six are now proposed.
- 7.22 At the time the outline application was first submitted this Council's position on affordable housing as contained within the 2006 Interim Affordable Housing Policy was to seek 30%. However Members may recall that at the meeting held on the 26th April 2016 (i.e. the same meeting where the outline was originally considered), it was resolved to reduce the level of affordable housing on major housing sites to a minimum of 15%, in accordance with current evidence base behind the SELLP Consultation Draft. Legal advice at that time confirmed that the 2006 Interim Affordable Housing Policy was out of date.
- 7.23 Members also agreed that this new resolution took effect for all new applications received after the 26th April 2016 and for any applications already received, the contribution remained at 30%. It was also agreed that the minimum level of 15% was an interim measure until a final version of the emerging SELLP may be afforded significant weight.
- 7.24 Whilst the outline application was submitted before the decision was made to reduce the level of affordable units, this reserved matters application has been submitted after this resolution was made.
- 7.25 Clearly the provision of 13 affordable homes to accord with Condition 4 on a development now consisting of 26 units would far exceed (50%) the required percentage of affordable housing provision set by this condition. In order to provide 30% of affordable homes on a 26 dwelling development, the applicant would need to provide 8 dwellings.
- 7.26 The applicant says that in view of the Planning Committee's concerns over the increased numbers on site last year, he has decided to reduce the number of dwellings to a point between the original consent for 16 dwellings (B/14/0282 June 2015) and the subsequent approval of 45 dwelling (B/15/0456 May 2016). The applicant also says that the requirements to raise the site for flood risk purposes adds to the construction costs as does the design of the surface water scheme due to poor percolation results. The applicant adds that increasing the amount of affordable housing beyond that now required (15%) should be balanced against the issues surrounding the site.
- 7.27 The Local Housing Authority however objects to this application because the applicant now proposes only 4 affordable units without any supporting viability information for the reduction in the level of affordable housing contribution from 13 units (i.e. 28.8%). That Authority adds that even with a reduction in the proposed number of units and change in approach to a minimum of 15%, it is not an adequate reduction that can be supported without a viability assessment to identify the viable affordable housing contribution. The LHA also say that there is a high need in Kirton for 1 and 2 bed properties and some demand for 2 and 3 bedroom properties. The proposed 4 affordable units are 2 x 2 bed properties and 2 x 3 bed properties. The LHA considers that the proposed units do not meet the affordable need identified.

- 7.28 This application initially included the discharge of Condition 4 relating to affordable housing but this element of the application has been amended so that now the application seeks the 'partial' discharge of the condition; that is as part of the reserved matters the location and hence number of affordables are being identified, but not the full mechanism for delivery and securing in perpetuity. This is because the necessary information relating to delivery of the affordable housing units, tenure, occupancy criteria etc has not been submitted. Any approval of these reserved matters will implicitly agree the numbers but the outstanding issues would need to be the subject of a further application to discharge the condition.
- 7.29 Clearly each application needs to be judged on its own merits and there have been recent cases where this Council has agreed reduced levels of affordable housing contributions of less than 30% which sometimes has been the result of other contributions such as health and education. Such decisions have been made to accord with the Government's drive for authorities to take a more pragmatic and proportionate approach towards viability, especially where the affordable housing requirement may be holding back development.
- 7.30 In this case, given the planning history of this site and that this development meets the minimum requirement of 15% affordable housing; it is considered that that this reduced level of affordable housing should be supported. Any insistence on increasing this level of contribution may inhibit the construction of this relatively low density scheme and may force the developer to re-consider a development of a much higher density.
- 7.31 The applicant has however been requested to provide some further clarification to his comment that the flood mitigation requirements have added to construction costs and an update on what has been received will be given to Committee, together with the Housing Authority's response.

Impact on residential amenity

- 7.32 There are residential properties within the proximity of the site but all are separated from the site either by London Road or by Drainside South and an open watercourse. It is unlikely that the siting or design of the proposed dwellings on this site will affect the amenity of the neighbours in terms of loss of privacy or overlooking but some of the residents along Drainside South and London Road may experience some noise from additional traffic along this road that may be generated by this development.
- 7.33 This application is for a relatively low density scheme and the design and layout of the scheme will provide a high quality residential area for the future residents of this estate. It is considered that this development accords with the requirements of Local Plan Policies G1 (amenity) and H3 (quality of housing schemes).

8.0 Summary and Conclusion

- 8.1 The principle of residential development on this site has been established by the extant outline planning permissions granted in 2015 and 2016. This is an application for approval of reserved matters under the 2016 consent.

- 8.2 The designs of the dwellings, drainage, density, layout and access to the site, both pedestrian and vehicular, are all satisfactory. Surface water drainage discussions are continuing so that condition discharge has been removed from the submission.
- 8.3 The development will not harm any protected trees and no further protected trees will need to be felled to facilitate this development.
- 8.4 The residential amenities of the occupiers of the neighbouring occupiers will not be substantially harmed by this development
- 8.5 In terms of affordable housing, the issue to consider is whether a level of 15% affordable housing units is acceptable given the merits of the application having regard to issues including the site's planning history, the lack of plan policy, condition 4 attached to the outline approval and that the applicant has reduced the numbers on site with approval from 45 down to 26 in order to seek to find satisfaction from the planning authority.
- 8.6 It is considered that the level of affordable housing at 15% is acceptable in this instance for approval of these reserved matters; the full requirements of Condition 4 attached to outline permission B/15/0456 remain to be fully addressed.

9.0 Recommendation

- 9.1 It is recommended that Committee grants the approval of reserved matters subject to the conditions set out below and approves the discharge of conditions 5, 9 and 10 of outline permission B/15/0457
1. The development hereby permitted shall be carried out in accordance with the following approved plans and documents:
- Location Plan ref 1170-02-LP01 (1/16)
 - Sketch proposed house type 1 ref 1170-2-SK-01 Rev B (2/16)
 - Sketch proposed house type 2 ref 1170-2-SK-02 Rev C (3/16)
 - Sketch proposed house type 4 ref 1170-2-SK-04 Rev C (4/16)
 - Sketch proposed house type 6 ref 1170-2-SK-06 Rev C (5/16)
 - Sketch proposed house type 7 ref 1170-2-SK-07 Rev B (6/16)
 - Sketch proposed house type 8 ref 1170-2-SK-08 Rev A (7/16)
 - Sketch proposed house type 9 ref 1170-2-SK-09 Rev A (8/16)
 - Sketch proposed house type 10 ref 1170-2-SK-10 Rev A (9/16)
 - Sketch proposed house type 11 ref 1170-2-SK-11 Rev A (10/16)
 - Sketch proposed garage (single and double) ref 1170-2-SK-12 (11/16)
 - Proposed site layout ref 1170-02-SL01 Rev I (12/16)
 - Drainage strategy plan ref 8881-107-1 (13/16)
 - Road and footway improvement works ref 8881-122 (14/16)
 - Drainage areas ref 8881-109 (15/16)
 - Site layout ref 8881-101 Rev A (16/16)
 - Brick and tile specification
 - Proposed landscaping and boundary treatment plan ref 1170-02-SL02 rev A.

Reason: To ensure the development is undertaken in accordance with the approved details and to accord with Adopted Local Plan Policy G1.

2. The trees subject to the Kirton, Sutterton and Algarkirk Tree Preservation Order No 1 shall be protected during construction work by chestnut pale fencing or similar fencing 1.5 metres in height erected around the tree(s) at a distance from the trunk(s) equal to the spread of the crown(s) of the tree(s) or in accordance with the root protection areas as shown on plan no. ref 1170-02-SL01 Rev I. The fence shall be retained until all construction works have been completed. Within the protected area no alteration to the ground level shall take place, no additional water shall be allowed to flow in, no vehicles shall be allowed to pass, no materials shall be stored, no waste tipped, no fires lit, no pruning of branches shall take place, no services shall be routed without the written permission of the local planning authority.

Reason: To protect the trees during construction work and to accord with the objectives of the NPPF (2012)

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any amendment or successor), no extensions or outbuildings shall be built underneath the canopies of the trees on this site subject to the Kirton, Sutterton and Algarkirk Tree Preservation Order No 1 without the prior approval of the Local Planning Authority

Reason: To protect the health and stability of the protected trees and to accord with the objectives of the NPPF (2012)

4. All landscape works shall be carried out in accordance with the approved details within 6 months of the date of the first occupation of any building or completion of development whichever is the sooner. Any trees, plants, grassed areas which within a period of 5 years from the date of planting die, are removed or become seriously damaged or diseased shall be replaced in the first available planting season with others of similar size species or quality.

Reason: In the interests of visual amenity and in accordance with Section 197 of the 1990 Act which requires Local Planning Authorities to ensure, where appropriate, adequate provision is made for the preservation or planting of trees, and to ensure that the approved scheme is implemented satisfactorily. The condition accords with Adopted Local Plan Policy G1

5. Prior to the commencement of the development hereby permitted, a Construction Management Plan shall be submitted to the local planning authority for approval. The Construction Management Plan will prescribe how the construction of the site will be phased, where site accommodation and welfare facilities will be placed, hours of working, where site vehicles and the vehicles of site personnel will be parked and where materials will be delivered and stored within the site. Construction of the permitted development shall be undertaken in accordance with the approved Construction Management Plan.

Reason: In the interests of the safety and free passage of the public and to accord with the objectives of Local Plan policies G1 and G6. This is a pre-commencement condition due to the fact that the management of plant, site equipment etc needs to be agreed prior to the commencement of any development to ensure that neighbour's amenity and safety are respected

6. The proposed area of public open space in the north east corner of the site as shown on approved plan 1170-02-SL01 Rev I shall be laid out in a manner to be submitted to and agreed in writing by the Local Planning Authority and shall be made available for use before the 13th dwelling constructed on the application site is first occupied.

Reason: To provide a satisfactory level of publicly available amenity open space within the development and to accord with Adopted Local Plan Policy H4.

7. A landscape management plan including management responsibilities and maintenance schedules of the public open space and play equipment if applicable shall be submitted to the local planning authority before the occupation of any dwelling. The landscape maintenance plan shall be carried out as approved thereafter.

Reason: To ensure the long term maintenance of the public open space and play equipment, in the interests of the amenity of residents and to accord with the objectives of Local Plan policy H4.

8. Prior to the occupation of any dwelling hereby permitted, the footway improvement works on the south side of London Road, shown indicatively on the submitted drawing numbered 8881-122 dated Nov. 2016, shall be completed in accordance with those details.

Reason: In the interests of providing safe and adequate means of pedestrian access to the permitted development and to accord with the objectives of Local Plan policy G6.

9. Before each dwelling is occupied the roads and/or footways providing access to that dwelling, for the whole of its frontage, from an existing public highway, shall be constructed to a specification to enable them to be adopted as Highways Maintainable at the Public Expense, less the carriageway and footway surface courses.

The carriageway and footway surface courses shall be completed within three months from the date upon which the erection is commenced of the penultimate dwelling.

Reason: To ensure safe access to the site and each dwelling/building in the interests of residential amenity, convenience and safety and to accord with the objectives of Local Plan policy G6.

10. No dwellings shall be commenced before the first 60 metres of estate road from its junction with the public highway, including visibility splays has been completed to binder course level.

Reason: In the interests of safety of the users of the public highway and the safety of the users of the site and to enable site vehicles and material delivery vehicles to wait clear of the carriageway of London Road and to accord with the objectives of Local Plan policy G6.

11. Before any dwelling is commenced, all of that part of the estate road and associated footways that forms the junction with the main road and which will be constructed within the limits of the existing highway, shall be laid out and constructed to finished surface levels in accordance with details to be submitted and approved by the local planning authority.

Reason: In the interests of safety of the users of the public highway and the safety of the users of the site and to accord with the objectives of Local Plan policy G6.

12. Before any dwelling is commenced a scheme to provide play equipment shall be submitted and approved in writing by the Local Planning Authority. The scheme as may be approved shall be implemented before occupation of the 13th dwelling on the site.

Reason: In the interests of the amenity and well being of the occupants of the development and to accord with the objectives of Local Plan Policy H3.

In determining this application the authority has taken account of the guidance in paras 186 – 187 of the NPPF (2012) in order to seek to secure sustainable development that improves the economic, social and environmental conditions of the Borough.

Paul Edwards
Development Control Manager