

Parish:	Marshland St James	
Proposal:	REMOVAL OR VARIATION OF CONDITIONS 6 AND 7 OF PERMISSION 17/01675/O: Outline application for the construction of 6 dwellings on vacant land	
Location:	Land Between 135 And 145 Smeeth Road Marshland St James KINGS LYNN	
Applicant:	Mrs Ruth Rijk	
Case No:	21/00086/F (Full Application)	
Case Officer:	Mrs C Dorgan	Date for Determination: 16 March 2021 Extension of Time Expiry Date: 21 May 2021

Reason for Referral to Planning Committee – Officer recommendation contrary to Parish Council recommendation and the Sifting Panel requires the application to be determined by Planning Committee.

Neighbourhood Plan: No

Case Summary

The application site is situated to the east of Smeeth Road in Marshland St James, which is approximately 50m northeast of the Village Hall.

This application seeks retrospective consent to regularise existing development under ref 17/01675/O 'Outline application for the construction of 6 dwellings on vacant land'. Specifically conditions 6 and 7 of this consent which required a detailed scheme for increasing the width of the footway to 1.8m along the site frontage onto Smeeth Road, and that these improvement works should be completed to the written satisfaction of the Local Planning Authority.

Only two of the six dwellings permitted have been constructed, and the applicant is seeking retrospective consent to reduce the length of footpath to be widened to only include the frontage to the two completed plots, rather than the wider site. There is an existing footpath network in place along Smeeth Road which would be retained.

Key Issues

Principle of Development
Highways / Footpath

Recommendation

APPROVE

THE APPLICATION

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SUPPORTING CASE

The original outline planning application for the site (ref: 17/01675/O) was approved in February 2018 with pre-occupation condition 7 imposed, as suggested by the Highway Authority, requesting off site highway improvements in the form of a 1.8m wide footway extension along the application site frontage (all 6 plots).

In July 2018 a Reserved Matters application (ref: 18/00837/RM) was approved for the dwellings on the first 2 plots (plots 1 & 2), which were completed in March 2021. A revised general arrangement plan for the frontage of the 2 plots was submitted as part of this application for the variation of a planning condition (ref: 21/00086/F). The footway works in front of the 2 plots were completed and signed off by the Highways Authority in February 2021.

To ensure the applicant is not in breach of pre-occupation condition 7 of the original outline planning application, the footway along the entire frontage of the 6 plots is required to be widened. However the costs associated with the construction of the entire footway is significantly out of balance with the project's finances with only 2 of 6 plots being completed and the outline planning permission having expired for the remaining 4 plots in February 2021.

This application therefore looks to re-word the condition, or phase the condition so that only the footway to the front of plots 1 & 2 is due for completion prior to the occupation of plots 1 & 2, with the remaining footway to follow prior to the occupation of plots 3-6 - when more funds will be available from the sale of those houses to fund the phase 2 footway works.

The Highway Authority has indicated that it would not be against the variation of conditions 6 & 7, and the applicant is in no way trying to avoid responsibility for the second phase and will still be bound by the condition to complete the works prior to occupation of the remaining plots.

PLANNING HISTORY

17/01675/DISC_A: Discharge of Condition final letter: 15/03/19 - DISCHARGE OF CONDITIONS 5 AND 6 OF PLANNING PERMISSION 17/01675/O: Outline application for the construction of 6 dwellings - Land Between 135 And 145 Smeeth Road

18/00837/RM: Application Permitted: Delegated decision 09/07/18 - Reserved Matters Application for plots 1 and 2 - Land Between 135 And 145 Smeeth Road

17/01675/O: Application Permitted: Delegated decision 27/02/18 - Outline application for the construction of 6 dwellings on vacant land between Nos 135 and 145 - Land Between 135 And 145 Smeeth Road

17/00025/PREAPP: PreApp -Possible Approval with Amendment: 21/03/17 - Pre-application enquiry (Outline with consultations): Residential development - Land NE of 145 And SE of 142 Smeeth Road

16/01856/LDE: Was Lawful: 14/12/16 - Lawful Development Certificate: Use of land as garden land for more than 10 years – Brenwilber 135 Smeeth Road

06/02034/F: Application Permitted: 15/11/06 - Internal alterations, pitched roof to replace existing flat roof area and construction of utility room extension to side of dwelling. – Brenwilber

07/01445/F: Application Permitted: 11/09/07 - Alteration to roof and addition of chimney in connection with loft conversion – Brenwilber

2/00/1539/O: Application Refused: 06/12/00 - Site for construction of 2 dwellings - Adj 145 Smeeth Road

RESPONSE TO CONSULTATION

Parish Council: OBJECTION

The Parish Council considered the above application at a meeting on 8 February 2021 and agreed to OBJECT to the application as it was felt that the original conditions should remain and the work on the footpath should be carried out at the same time for the full length of the development.

Highways Authority: NO OBJECTION

The submitted plan is acceptable and therefore the application can be approved on the basis of the appropriate mechanism being in place.

REPRESENTATIONS

No comments received.

LDF CORE STRATEGY POLICIES

CS06 - Development in Rural Areas

CS08 - Sustainable Development

CS11 – Transport

CS12 - Environmental Assets

SITE ALLOCATIONS AND DEVELOPMENT MANAGEMENT POLICIES PLAN 2016

DM15 – Environment, Design and Amenity

NATIONAL GUIDANCE

National Planning Policy Framework (NPPF)
Planning Practice Guidance (PPG)
National Design Guide 2019

PLANNING CONSIDERATIONS

The matters under consideration for this application include-

Principle of Development
Highways / Footpath

Principle of Development

The original application site included land allocated for residential development under Policy G57.2 for Marshland St James. It comprised 0.28Ha of 0.75Ha allocated, roughly half the depth to constitute frontage/linear development while maintaining the garden to No.135 Smeeth Road, and avoiding ancient orchard land. The view was taken that the allocation (at least 10 dwellings) appeared to be excessive and the scheme permitted maintained the linear form and character of detached dwellings along this road frontage. Six dwellings were given outline planning consent under reference 17/01675/O. The reserved matters application for Plots 1 and 2 were submitted and approved. However, the outline consent has now expired and therefore Plots 3-6 require the submission of a further application.

Plots 1 and 2 have been constructed, are complete and have very recently been occupied. However the scheme is not in compliance with the approved consent, by failing to provide the off-site highways works as required by conditions 6 and 7 of the outline consent.

Section 73A of the Town and Country Planning Act 1990 considers planning permission for development already carried out -

(1)On an application made to a local planning authority, the planning permission which may be granted includes planning permission for development carried out before the date of the application.

(2)Subsection (1) applies to development carried out—
...(c)without complying with some condition subject to which planning permission was granted.

(3)Planning permission for such development may be granted so as to have effect from—
(a)the date on which the development was carried out;...

Given the development is completed and occupied, this application is seeking retrospective consent, in line with Section 73A, to retain the development as constructed in accordance with revised conditions.

Highways / Footpath

Under application 17/01675/O the Local Highway Authority requested that the existing footway on Smeeth Road was widened from 1.3m to 1.8m across the entire application site frontage to meet current standards and allow pedestrians with buggies, wheelchairs etc. to pass with safety. This application seeks to reduce the length of the widened footpath in line with the two

constructed plots only, with the intention that the rest of the footpath could be widened as the remainder of the site is developed in the future.

The Local Highway Authority does not object to the revised scheme on the basis that the demand for the use of the footway would be reduced with the fewer residential dwellings. Their comments are subject to the footpath being widened and completed to the required standard (with a squared off section at the north east end so as future widening can be added to in the future) in line with the amended plans submitted as part of this application. Also, that there is a clear mechanism to ensure that the extended widening would ultimately have to come forward should further development of the remainder of the original site progress in the future.

The Parish Council are, however, of the view that the original conditions should remain and the work on the footpath should be carried out at the same time for the full length of the proposed development.

Currently the existing footpath runs from the junction with Bonnetts Lane to the north through the village past the application site and down to number 285 Smeeth Road to the south (which is also adjacent to the route of the old railway line). The existing footpath network would still be retained but only widened to the front of plots 1 and 2, rather than for a greater distance. On balance given there is an existing footpath network in place, and in the absence of an objection from the Local Highway Authority it is considered that the revised scheme is acceptable and that the application is in accordance with the NPPF, Core Strategy Policy CS11 (2011) and Policy DM15 of the Site Allocations and Development Management Policies Plan (2016).

Any other matters

The conditions attached to the original outline consent have been reviewed, and given the development is complete and is mostly in accordance with these conditions, then there are no additional conditions to carry forward into this consent.

CONCLUSION

This planning application seeks retrospective consent under Section 73A of the Town and Country Planning Act 1990 to regularise a scheme approved under application 17/01675/O, which required the widening of the footpath along Smeeth Road. Only two of the six dwellings permitted have been constructed, and the applicant is seeking to reduce the length of footpath to be widened accordingly. The Parish Council object to the application and are of the view that the full works should be completed. The Local Highway Authority does not object to the revised scheme on the basis that the footpath widening is in accordance with the submitted plans, and that future widening could be incorporated in development of the remainder of the site at a future time. The application is duly recommended for approval and is in accordance with the NPPF and adopted Local Plan.

RECOMMENDATION:

APPROVE subject to the imposition of the following condition(s):

- 1 Condition: Within three months of the date of this decision being issued the off-site highway improvement works increasing the width of the footway to 1.8m along the site frontage onto Smeeth Road shall be completed in accordance with Drawing No 2190-04 I and to the written satisfaction of the Local Planning Authority.

- 1 Reason: To ensure that the highway network is adequate to cater for the development proposed.