
MAIN CASE

Reference No: 18/00379/VARM

Proposal: Variation of condition 13 (External Lights) of previously approved 16/01364/F3M for The construction of 13 dwellings consisting 8 affordable dwellings, including associated external works and parking.

Site Address: Covell Corner The Shade Soham Cambridgeshire

Applicant: E.N. Sutter & Sons Ltd

Case Officer: Andrew Phillips Senior Planning Officer

Parish: Soham

Ward: Soham North
Ward Councillor/s: Councillor Hamish Ross
Councillor Ian Bovingdon
Councillor Dan Schumann

Date Received: 29 March 2018 **Expiry Date:** 28 June 2018

[T19]

1.0 **RECOMMENDATION**

1.1 Members are recommended to approve the application subject to the recommended conditions below (see Appendix 1 for full wording of conditions):

- 1 Approved Plans
- 2 Materials
- 3 Biodiversity Improvements
- 4 Sustainability (Energy)
- 5 Surface Water Drainage
- 6 Unexpected Contamination
- 7 Construction Environmental Management Plan
- 8 Soft landscaping scheme
- 9 Hard Landscaping Scheme
- 10 Entering/Leaving in a Forward Gear
- 11 Cycle Storage
- 12 No External Lights

2.0 SUMMARY OF APPLICATION

- 2.1 Planning application 16/01364/F3M was granted delegated approval subject to recommended conditions and completion of a S106 Agreement by Members at the 1 February 2017 Planning Committee. The application was granted approval on the 28 April 2017 following completion of the S106 Agreement. The development has been substantially built at the time of the Case Officers visit on the 1 May 2018.
- 2.2 The proposal seeks to vary condition 13 of the original permission to erect two 76 watt street lights mounted at 5m above ground level in the proposed car park as the condition restricted additional lighting.
- 2.3 The application was amended as the agent had not notified the relevant landowner prior to submission of the application.
- 2.4 This application has been called into committee by the Chair in order for it to be discussed in a public forum.
- 2.5 The full planning application, plans and documents submitted by the Applicant can be viewed online via East Cambridgeshire District Council's Public Access online service, via the following link <http://pa.eastcambs.gov.uk/online-applications/>. **Alternatively a paper copy is available to view at the East Cambridgeshire District Council offices, in the application file.**

3.0 PLANNING HISTORY

3.1

16/01364/F3M	The construction of 13 dwellings consisting 8 affordable dwellings, including associated external works and parking.	Approved	28.04.2017
16/01364/DISA	To discharge conditions 3 (External Materials), 5 (Sustainability), 6 (Surface Water Scheme), 8 (Construction Environmental Management Plan), 10 (Hard Landscaping) and 12 (Cycle Storage) on Decision Notice dated 28.4.17 for the construction of 13 dwellings consisting 8 affordable dwellings, including associated external works and parking.	Approved	11.10.2017
16/01364/NMAA	Non-material amendment request for:	Agreed	29.08.2017

1. Doors to juliette balconies amended to windows, external glass balustrades omitted.
2. Triangular windows to second floor flats amended to corner panels of Rockpanel
3. Bin store wall construction amended and minor dimensional change.
4. French doors to replace single doors on rear elevations of plots 10,11,12 and 13.
5. Side light on ground floor of plots 10 & 13 increased in width.

4.0 THE SITE AND ITS ENVIRONMENT

4.1 The site is currently a construction site at the time of the Case Officers site visit, with a substantial amount of the external walls/roof etc appearing to have been completed. Scaffolding was still up and landscape works were still needing to be carried out.

4.2 A Primary School is located to the north. Public Highways defined the eastern and southern boundary with a public footpath defining the western boundary.

5.0 RESPONSES FROM CONSULTEES

5.1 The full responses are available on the Council's web site.

Soham Town Council – (3 May 2018) It has no concerns over proposal.

Design Out Crime Officers (Police) – (10 April 2018) Considered the details to be acceptable.

Local Highways Authority – (19 April 2018) Proposal not expected to affect the highway therefore no comment.

Environmental Health – (23 April 2018) Details are acceptable.

Trees Officer – (10 May 2018) No objection to proposal, but it is disappointing to sacrifice soft landscaping for lighting.

Cllr Josh Schunmann – As Planning Chair has asked for this application to be determined in a public forum.

Ward Councillors - No Comments Received

Asset Information Definitive Map Team - No Comments Received

Housing Section - No Comments Received

Waste Strategy (ECDC) - No Comments Received

Cambridge Ramblers Association - No Comments Received

Parks and Open Space - No Comments Received

5.2 Neighbours – 6 neighbouring properties were notified and the responses received are summarised below. The latest site notice was put up on the 25 April 2018 and the latest press notice was put in the newspaper on the 26 April 2018. A full copy of the responses are available on the Council's website.

2 The Shade – (16 April 2018) The occupant is objecting to the proposal as they cannot see where the lights are being proposed. The proposal currently completely overlooks their property and is concerned that additional lights will affect sleep.

6.0 The Planning Policy Context

6.1 East Cambridgeshire Local Plan 2015

GROWTH 1	Levels of housing, employment and retail growth
GROWTH 2	Locational strategy
GROWTH 3	Infrastructure requirements
GROWTH 4	Delivery of growth
GROWTH 5	Presumption in favour of sustainable development
ENV 1	Landscape and settlement character
ENV 2	Design
ENV 4	Energy efficiency and renewable energy in construction
ENV 7	Biodiversity and geology
ENV 8	Flood risk
ENV 9	Pollution
COM 3	Retaining community facilities
COM 7	Transport impact
COM 8	Parking provision

6.2 Supplementary Planning Documents
Design Guide
Contamination
Cambridgeshire Flood and Water

6.3 National Planning Policy Framework 2012

- 10 Meeting the challenge of climate change, flooding and coastal change
- 4 Promoting sustainable transport
- 6 Delivering a wide choice of high quality homes

- 7 Requiring good design
- 11 Conserving and enhancing the natural environment

6.4 Submitted Local Plan 2017

- LP1 A presumption in Favour of Sustainable Development
- LP2 Level and Distribution of Growth
- LP3 The Settlement Hierarchy and the Countryside
- LP5 Community-led development
- LP6 Meeting Local Housing Needs
- LP16 Infrastructure to Support Growth
- LP17 Creating a Sustainable, Efficient and Resilient Transport Network
- LP18 Improving Cycle Provision
- LP19 Maintaining and Improving Community Facilities
- LP20 Delivering Green Infrastructure, Trees and Woodland
- LP21 Open Space, Sport and Recreational Facilities
- LP22 Achieving Design Excellence
- LP23 Water Efficiency
- LP24 Renewable and Low Carbon Energy Development
- LP25 Managing Water Resources and Flood Risk
- LP26 Pollution and Land Contamination
- LP28 Landscape, Treescape and Built Environment Character, including Cathedral Views
- LP30 Conserving and Enhancing Biodiversity and Geodiversity
- Soham 3 Allocation Sites

7.0 PLANNING COMMENTS

7.1 Principle of Development

7.2 This application seeks to vary condition 13 of the original permission which required the developer to seek agreement of any additional lights prior to above ground works commencing.

7.3 The principle of development was defined under planning application 16/01364/F3M, which granted planning approval for the 13 dwellings which have now been commenced on site. The principle of this development has been further established by the site allocation under the Submitted Local Plan 2017 (Soham3) and forms part of the Council's continuous 5 year land supply of new dwellings.

7.4 The principle of development is, therefore, considered to be acceptable.

7.5 Residential Amenity

7.6 The proposal is for two street lamps approximately 5m high in the previously approved communal car park to serve the 13 dwellings.

7.7 The submitted details show that the majority of light pollution will be over the car park, though might have a minor impact upon the flats in particular as these are not protected by any boundary fences. However, whilst weighing slightly against the application, this is not considered sufficient reason to refuse this proposal.

- 7.8 The existing residents to the east and south of the site will be protected by the development itself so should not suffer from any impact to their residential amenity.
- 7.9 The Environmental Health Officer backs up this view by not raising any objection to the proposal.
- 7.10 The proposal is considered to be in accordance with policies ENV2 and ENV9 of the East Cambridgeshire Local Plan 2015 and LP22 and LP26 of the Submitted Local Plan 2017.
- 7.11 Visual Amenity
- 7.12 The proposal will have a very minor impact upon the appearance of the development. However, a suitable landscaping scheme will still need to be agreed in order to both enhance the development and encourage biodiversity that should also help to assimilate the lighting.
- 7.13 The proposal is considered to be in accordance with policies ENV2 of the East Cambridgeshire Local Plan 2015 and LP22 of the Submitted Local Plan 2017.
- 7.14 Highways
- 7.15 The view of the Local Highways Authority is noted and agreed with by the Case Officer. The proposal will not have any detrimental impact upon the users of the public highway.
- 7.16 The proposal is considered to be in accordance with COM7 and COM8 of the East Cambridgeshire Local Plan 2015 and LP17 of the Submitted Local Plan 2017
- 7.17 Ecology
- 7.18 The limited amount of external lighting that is stated as causing 0% sky glow is considered to be acceptable in regards to potential impact to nocturnal species. The proposal is considered to be in accordance with policies ENV1, ENV2 and ENV7 of the East Cambridgeshire Local Plan 2015 and LP28, LP22 and LP30 of the Submitted Local Plan 2017.
- 7.19 Other Material Matters
- 7.20 The previous conditions, as discharged where applicable, should be added to any new consent to ensure full compliance by the developer as a variation of condition decision is in essence a new permission.
- 7.21 The developer has confirmed they are willing to comply with the requirements of the S106 detailed within the original application (16/01364/F3M) as defined by paragraph 13.1.
- 7.22 Planning Balance

7.23 The principle of the proposal is considered to be acceptable as it has already been approved and implemented. The proposed two external lights that are sought as part of this application are not considered to cause any detrimental harm to residential amenity or biodiversity. On this basis the application is recommended for approval, subject to the recommended conditions.

8.0 COSTS

8.1 An appeal can be lodged against a refusal of planning permission or a condition imposed upon a planning permission. If a local planning authority is found to have acted unreasonably and this has incurred costs for the applicant (referred to as appellant through the appeal process) then a cost award can be made against the Council.

8.2 Unreasonable behaviour can be either procedural ie relating to the way a matter has been dealt with or substantive ie relating to the issues at appeal and whether a local planning authority has been able to provide evidence to justify a refusal reason or a condition.

8.3 Members do not have to follow an officer recommendation indeed they can legitimately decide to give a different weight to a material consideration than officers. However, it is often these cases where an appellant submits a claim for costs. The Committee therefore needs to consider and document its reasons for going against an officer recommendation very carefully.

8.4 In this case members' attention is particularly drawn to the following points:

- The majority of the overall application has already been approved and commenced, this application is only seeking a variation of condition 13 to allow for the proposed external lighting.

9.0 APPENDICES

9.1 Appendix 1 - Conditions

<u>Background Documents</u>	<u>Location</u>	<u>Contact Officer(s)</u>
18/00379/VARM	Andrew Phillips Room No. 011 The Grange	Andrew Phillips Senior Planning Officer
16/01364/F3M 16/01364/DISA 16/01364/NMAA	Ely	01353 665555 andrew.phillips@ea stcambs.gov.uk

National Planning Policy Framework -

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6077/2116950.pdf

East Cambridgeshire Local Plan 2015 -

<http://www.eastcambs.gov.uk/sites/default/files/Local%20Plan%20April%202015%20-%20front%20cover%20and%20inside%20front%20cover.pdf>

APPENDIX 1 - 18/00379/VARM Conditions

- 1 Development shall be carried out in accordance with the drawings and documents listed below

Plan Reference	Version No	Date Received
D30157/PY/B		22nd March 2018
TGA-03	T2	10th August 2017
TGA-02	T2	10th August 2017
TGA-01	T1	10th August 2017

- 1 Reason: To define the scope and extent of this permission.
- 2 The External Materials shall comply with the following -
Main Brick to external walls - Clumber Red Mixture by Forterra
Feature Brick to external walls, used on plinth, and high level feature band Rufford Brown by Traditional Brick and Stone
Main cladding board to front elevations - Rockpanel colour RAL 7037 (grey)
Feature cladding board to gables - Rockpanel colour RAL 0504040 (brown-red)
Fascias and soffits - Rockpanel colour RAL 7037 (grey)
Windows & doors - UPVC grey 7015
Roof tile - Wienerberger Concrete Shire Pantile - Colour Rustic Smooth faced
Rainwater goods - Brett Martin 115mm Deepstyle uPVC Cast Iron style gutters and downpipes in black
Development shall be carried out in accordance with the approved details, as detailed under drawings TGA-02 Revision T2 and TGA-03 Revision T2, and as confirmed within discharge of condition 16/01364/DISA.
- 2 Reason: To safeguard the character and appearance of the area, in accordance with policy ENV2 of the East Cambridgeshire Local Plan 2015 and LP22 of the Submitted Local Plan 2017.
- 3 Prior to occupation a scheme of biodiversity improvements shall be submitted to and agreed in writing with the Local Planning Authority. The biodiversity improvements shall be installed prior to the first occupation of the hereby approved development and thereafter maintained in perpetuity.
- 3 Reason: To protect and enhance species in accordance with policies ENV1, ENV2 and ENV7 of the East Cambridgeshire Local Plan 2015 and LP28, LP22 and LP30 of the Submitted Local Plan 2017.
- 4 The development shall comply with Sustainability - An Energy Statement was received by ECDC on 28 July 2017.

The sustainability/energy efficiency improvements shall be installed prior to occupation of the hereby approved development and thereafter maintained in perpetuity as confirmed within discharge of condition 16/01364/DISA.
- 4 Reason: To ensure that the proposal meets with the requirements of sustainability as stated in policy ENV4 of the East Cambridgeshire Local Plan 2015 and LP23 and LP24 of the Submitted Local Plan 2017.

- 5 The details of this condition were agreed in planning reference 16/01364/DISA. Development shall comply with Surface Water - A drainage strategy (1787 rev A) and The Shade Soham Service Report (1787) dated October 2016 as confirmed by discharge of condition 16/01364/DISA.

The schemes shall be implemented prior to first occupation.

- 5 Reason: To prevent the increased risk of flooding and to improve and protect water quality, in accordance with policies ENV2 and ENV8 of the East Cambridgeshire Local Plan 2015 and LP22 and LP25 of the Submitted Local Plan 2017.
- 6 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported to the Local Planning Authority within 48 hours. No further works shall take place until an investigation and risk assessment has been undertaken and submitted to and approved in writing by the Local Planning Authority. Where remediation is necessary, a remediation scheme must be submitted to and approved in writing by the Local Planning Authority. The necessary remediation works shall be undertaken, and following completion of measures identified in the approved remediation scheme a verification report must be prepared, and approved in writing by the Local Planning Authority.
- 6 Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with policy ENV9 of the East Cambridgeshire Local Plan 2015 and LP26 of the Submitted Local Plan 2017.
- 7 The development shall comply with the Construction Management Plan (2nd October 2017) submitted on the 2 October 2017 at all times as confirmed by discharge of condition 16/01364/DISA.
- 7 Reason: To safeguard the residential amenity of neighbouring occupiers, in accordance with policy ENV2 of the East Cambridgeshire Local Plan 2015 and LP22 of the Submitted Local Plan 2017.
- 8 Prior to first occupation or commencement of use a full schedule of all soft landscape works shall be submitted to and approved in writing by the Local Planning Authority. The schedule shall include, planting plans, a written specification; schedules of plants noting species, plant sizes, proposed numbers/densities; and a detailed implementation programme. It shall also indicate all existing trees and hedgerows on the land and details of any to be retained. The works shall be carried out in accordance with the approved details prior to the end of the first planting season following occupation of the development. If within a period of five years from the date of the planting, or replacement planting, any tree or plant is removed, uprooted or destroyed or dies, another tree or plant of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written consent to any variation.

- 8 Reason: To safeguard the character and appearance of the area, in accordance with policy ENV2 of the East Cambridgeshire Local Plan 2015 and LP22 of the Submitted Local Plan 2017.
- 9 Hard Landscaping shall be completed prior to first occupation and comply with the following: -
- Paving slabs throughout - Bradstone Paek Riven, colour Buff 450x450
 Permeable block paving to pedestrian footpath areas - Marshalls Drivesett Tegula Priora, colour Harvest
 Contrasting permeable block paving to all vehicular areas - Marshalls Drivesett Tegula Priora, colour Traditional as confirmed by discharge of condition 16/01364/DISA.
- 9 Reason: To safeguard the character and appearance of the area, in accordance with policy ENV2 of the East Cambridgeshire Local Plan 2015 and LP22 of the Submitted Local Plan 2017.
- 10 Prior to first occupation or commencement of use of the development sufficient space shall be provided within the site to enable vehicles to enter, turn and leave the site in forward gear and to park clear of the public highway. The area shall be levelled, surfaced and drained and thereafter retained for that specific use.
- 10 Reason: In the interests of highway safety, in accordance with COM7 and COM8 of the East Cambridgeshire Local Plan 2015 and LP17 of the Submitted Local Plan 2017.
- 11 Cycle Storage shall be comply and be completed prior to first occupation in accordance with: -
 New Sheffield cycle shelter BXMW/SEF in black as located on drawing number TGA-01 Revision T1 as confirmed by discharge of condition 16/01364/DISA.
- 11 Reason: In the interests of highway safety, in accordance with COM7 and COM8 of the East Cambridgeshire Local Plan 2015 and LP17 of the Submitted Local Plan 2017.
- 12 No external lights shall be erected within the site (either freestanding or building-mounted) other than those expressly authorised within this application.
- 12 Reason: To protect and enhance species in accordance with policies ENV1, ENV2 and ENV7 of the East Cambridgeshire Local Plan 2015 and LP28, LP22 and LP30 of the Submitted Local Plan 2017.