

17 December 2024

Project Ref: 333100638

VIA PLANNING PORTAL ONLY

Ribble Valley Borough Council
Planning Department
Council Offices
Church Walk
Clitheroe
BB7 2RA

Dear Sir / Madam,

**RE: SECTION 73 OF THE TOWN AND COUNTRY PLANNING ACT 1990 TO VARY CONDITION 1
ATTACHED TO PLANNING PERMISSION REFERENCE: 3/2021/0010 AT LAND EAST OF
CHIPPING LANE, LONGRIDGE**

Introduction

On behalf of our Client, BDW Trading Ltd, we hereby submit an application under Section 73 of the Town and Country Planning Act, to vary Condition 1 (Approved Drawings) attached to planning permission reference 3/2021/0010 at Land East of Chipping Lane, Longridge ('the Site').

The Site forms part of Phases 2 and 3 of the wider scheme known as Bowland Meadow where the majority of the homes are now constructed. However, the built Finished Floor Levels (FFL) of several plots do not align with the FFL shown on drawing no. 459/ED/02 which is listed as an approved drawing under the original Phase 2 and 3 reserved matters consent (ref. 3/2018/0975).

Notwithstanding the differences of the approved FFLs, it should be noted that the Site has been developed in accordance with latest reserved matters permission for Phases 2 and 3 under reference 3/2021/0010 (as amended).

This Application is accompanied by the following documents and plans:

- Application Forms;
- Application Fee;
- Proposed Finished Floor Levels (drawing no. 459/ED/02);
- Engineering Layout (drawing no. 459/ED/102 Rev.U);
- Finished Floor Level Comparison Plan (drawing no. 459/ED/166 Rev.C);
- Report on Drainage Strategy to Accompany Planning Application 3/2017/0232 Condition 8;
 - Appendix A - Planning Application Reference Plan;
 - Appendix B – Site Survey;
 - Appendix C – Phase 1 Ground Investigation Report;
 - Appendix D – Ground Investigation Report (April 2016);
 - Appendix E – Flood Risk Assessment and Sustainable Drainage Assessment (March 2016);
 - Appendix F – Flood Risk Assessment and Drainage Strategy (Nov 2021);
 - Appendix G – Betts Hydro Flow Rates Change Letter;
 - Appendix H – Hydraulic Assessment;
 - Appendix I – Developable Areas Plan;
 - Appendix J – Drainage Calculations;
 - Appendix K – Post Construction Overland Flow Routes;
 - Appendix L – Operation and Maintenance Manual;

Background

Prior to the submission of this S.73 application, the Applicant submitted a pre-application advice request to the Council on 22 April 2024 to establish officers' views on the proposed changes to the FFL at the Site. The pre-application submission requested the opinion of the Council in relation to the design and residential amenity issues associated with the revised FFL, comments in respect of matters of drainage and as to whether these matters should be addressed by way of a variation of condition application (S.73) or a full retrospective planning application.

A pre-application enquiry response was issued by the Council on 12 August 2024. In its response, the Council encouraged the submission of an application to regularise the current situation. It was considered that the cumulative extents of the changes in land levels would go beyond that which could reasonably be dealt with under the remit of a S.73 application, as such the local planning authority considered the changes would necessitate the need for the submission of a full retrospective application.

Notwithstanding the Council's response, our Client is of the view that the proposed FFL regularisation comprises a minor material amendment to the scheme. For the reasons set out in this letter, we consider the proposals should be dealt with via a S.73 application. The Bowland Meadow development has now largely been completed, with Phases 2 and 3 homes being occupied. A full planning application, is not considered to be proportionate or appropriate for the minor alterations which are involved, which give rise to no material impacts or fresh planning policy considerations.

An overview of the planning history for the Site is set out below.

Outline Consent

Outline planning permission was granted, for the Site's development for up to 363 homes, in October 2015 (ref: 3/2014/0764).

Subsequently, a S.73 application was submitted which sought to vary condition 8 (drainage) of outline permission 3/2014/0374, in relation to Phase 1. This was granted on 12th June 2017 (ref. 3/2017/0232).

A recent S.73 application has been submitted to regularise the discharge rates stated under Condition 8 of permission 3/2017/0232 (above) to include the rates which have already been approved by the Council for Phases 2 and 3 under permission 3/2021/1134 (a full planning permission to re-plan part of Phases 2 and 3 – see further details below). This application is awaiting validation and is pending determination.

Phase 1

An application for the approval of reserved matters for Phase 1 (located to the west of the Site) comprising of 118 dwellings was approved on 7th September 2016 (ref. 3/2016/0193). However, this was never implemented.

A subsequent application for the approval of reserved matters for Phase 1 comprising of 124 dwellings was later approved by the Council on 14th August 2018 (ref. 3/2018/0404). Phase 1 has now been implemented.

Phases 2 and 3

An application for the approval of reserved matters for Phases 2 and 3 comprising 193 dwellings was approved on 12th April 2019 (ref: 3/2018/0975).

Condition 1 of the reserved matters approval lists the **Proposed Finished Floor Levels (drawing no. 459/ED/02)** as an approved drawing which contained details of FFL for each plot. We enclose this drawing alongside this letter for ease of reference.

A S.73 application to amend Condition 1 of permission reference 3/2018/0975 for plot and house type substitutions was subsequently granted on 9th June 2021 (reference: 3/2021/0010). As part of this application, revised FFLs were submitted as shown on the **Engineering Layout (drawing no. 459/ED/102 Rev.Q)**. However, this was never cited as an approved drawing under the amended consent. This drawing is also included as part of this S.73 application for ease of reference.

Set within this context, the FFL for Phases 2 and 3 have been broadly constructed in accordance with drawing no. 459/ED/102 Rev.Q with the developer genuinely believing this to be an approved drawing on the basis that it was submitted to the Council alongside the varied plot and houstypes with the approved S.73 application 3/2021/0010. However, because the Council failed to list this plan as an approved drawing on the decision notice for S.73 application 3/2021/0010, the built FFL are technically in breach of Condition 1 of the reserved matters approval.

Phases 2 and 3 'Re-plan Area'

Full planning permission was granted on 3rd April 2023 for a 're-plan area' within Phases 2 and 3, which includes plot substitutions and an increase in dwelling numbers from 42 to 47 (ref. 3/2021/1134).

Details of the FFL for the 47no. plots within this re-plan area are secured by Condition 15 attached to permission reference 3/2021/1134. As such, the FFL for these plots are dealt with separately. An application to discharge Condition 15 was submitted on 31st August 2023 (ref. 3/2023/0701) and is pending determination.

Therefore, the remaining plots within Phases 2 and 3, which sit outside the re-plan area referred to above, are the subject of this S.73 application (i.e. the Site). This area includes 151 plots.

For ease of reference, the re-plan area is hatched out on the Engineering Layout (drawing no. 459/ED/102 Rev.U) and the Finished Floor Levels Comparison Plan (drawing no. 459/ED/166 Rev.C), which are submitted in support of this S.73 application.

Proposed FFL Amendments

Of the 151 plots within the Site, the FFL for 3no. plots have been constructed in accordance with approved drawing no. 459/ED/02. This includes plots 16, 67 and 173.

However, the FFL for the remaining 148 plots do not align with drawing no. 459/ED/02. Therefore, the Applicant is seeking to replace the approved drawings listed under condition 1 attached to permission 3/2021/0010 to show the correct FFL (as constructed).

The FFL (as constructed) are shown on the **Engineering Layout (drawing no. 459/ED/102 Rev.U)** which is submitted in support of this application.

To assist Officers in understanding how the built FFL differ to the approved FFL, the Applicant has prepared a **Finished Floor Level Comparison Plan (drawing no. 459/ED/166 Rev.C)**. This includes a schedule which compares the approved FFL as shown on drawing no. 459/ED/02 with the built FFL as shown on drawing no. 459/ED/102 Rev.U. A column is included which shows the total difference of FFL in millimetres. However, it is not necessary for this to be listed as an approved drawing.

In summary, the changes range from -150mm (Plots 2, 174 and 180) to +1,275mm (Plot 41).

Planning Considerations

As stated earlier in this letter, the Site has been constructed in accordance with permission reference 3/2018/0975 (as amended by permission reference 3/2021/0010). The only changes relate to the FFL as discussed above. Therefore, we do not seek to repeat our planning assessment which has been previously accepted by the Council. Our assessment below relates to design and amenity matters only.

Policy DMG1 of the Core Strategy requires development to be of a high standard of building design, which is sympathetic to existing and proposed land uses and should consider its relationship with other

buildings. Particular emphasis is placed on visual appearance and relationship to its surroundings such as existing amenities.

This is broadly reflected in Policy LNDP3 of the Longridge Neighbourhood Plan.

Whilst the FFL have increased at some plots, only 3no. plots include a difference greater than 1m. The difference in FFL for all other plots is below 1m, and in some cases the difference is a lower FFL of -150mm (Plots 2, 174 and 180). We, therefore, consider these differences to be very minor in nature when considered in the context of the wider development.

In terms of impact on the amenity of nearby properties, the southern extent of the Site has a direct interface with the gardens of neighbouring properties along Crumpax Meadow, Redwood Drive and Firwood Close. As such, we have given consideration to any potential harm to the amenity of these residents.

The plots along the southern extents of the Site includes plots 14-22, 36-44, 65-75 and 81-87. The largest difference in FFL amongst these plots is at Plot 41 whereby there is a difference in +1,275mm compared to the approved FFLs.

However, as shown on the Finished Floor Level Comparison Plan (drawing no. 459/ED/166 Rev.C), Plot 41 is orientated on its side and is set back from adjacent properties to the south. This is shown in the extract in **Figure 1** below which demonstrates that plot 41, which has the largest difference in FFL, is not positioned close to existing properties to the south, at approximately 45m away. Therefore, we consider any impact on residential amenity to be negligible in relation to those dwellings which existed before Bowland Meadow was constructed.

Figure 1: Extract of Comparative FFL Plan – Plot 41



Furthermore, the other plots situated along the southern extent of the Site, as identified above, also ensure suitable interface distances between habitable windows and garden areas of nearby properties,

ranging from circa 20m to 30m. This is achieved through appropriate building orientation, location of driveways, separation created by Camellia Street and Fuchsia Way, and the presence of the southern green-buffer margin and associated footpath/cycleway which separates the Site from existing properties to the south. These separation distances have already been deemed appropriate when the Council approved the reserved matters for Phases 2 and 3. Consequently, the variance in FFL raises no issues of a potential conflict with planning policy or space about dwellings standards. Clearly, the newly built properties are occupied and the existing residents of the properties find the relationship with neighbouring properties to be acceptable, both on the southern boundary and indeed elsewhere within the development.

Overall, we do not consider the difference in FFL to give rise to any adverse impact on the amenity of adjoining occupiers by virtue of a loss of privacy, loss of light, direct overlooking or outlook.

On the basis of the above, given that the difference in FFL is minor for most plots, and there is ample separation on the interface with the gardens of neighbouring properties along the southern extent of the Site, where the difference is greatest, it is not considered that the change in FFL would cause any detriment to residential amenity.

We, therefore, consider the proposals are acceptable in the context DMG1 of the Core Strategy and LNDP3 of the Longridge Neighbourhood Plan.

Regarding flood risk and drainage, Policy DME6 of the Core Strategy states development will not be permitted where it would result in unacceptable risk of flooding. Development should contribute towards reducing the risk of surface water flooding and all applications should include details for surface water drainage and means of disposal.

A Flood Risk Assessment and Drainage Management Strategy was prepared by Betts Hydro in November 2021 and covers Phases 2 and 3. This document is based on the built FFL subject to this S.73 application (i.e. as built) and was submitted and approved as part of application reference 3/2021/1134. Condition 16 of the permission states:

“The development hereby permitted shall be carried out in accordance with the principles set out within the site-specific flood risk assessment (22nd November 2021 / HYD371_Chipping.Lane_FRA&DMS Version 2 / Betts Hydro).”

In parallel with this S.73 application, the Applicant has submitted a S.73 application seeking to amend the outline discharge rates secured under condition 8 of permission 3/2017/0232. Whilst this is pending determination, it seeks only to regularise the discharge rates for Phases 2 and 3 (based on the constructed FFLs) which have already been found acceptable by the Lead Local Flood Authority (LLFA) under applications 3/2021/1134 and 3/2024/0395.

The drainage pack, which has been approved by the LLFA under application reference 3/2024/0395 is submitted in support of this S.73 application.

The Council and the LLFA have, therefore, already approved the drainage strategy for Phases 2 and 3 based on the constructed FFL. As such, the proposals comply with Policy DME6 of the Core Strategy.

Variation of Condition 1

Based on the above, the Applicant is seeking to replace the following drawing cited in Condition 2:

“459-ED-02 - Proposed Finished Floor Levels”

With:

“459/ED/102 Rev.U - Engineering Layout”

Summary

The built FFL differ to the approved FFL shown on drawing no. 459/ED/02 which was approved under permission 3/2018/0975. The Site has been developed in accordance with the approved plans and drawings listed in Condition 1 of permission 3/2021/0010 (as amended) in all other respects.

The Applicant is, therefore, seeking to regularise the FFL which were not approved as part of S.73 application 3/2021/0010 as intended.

The difference in levels is considered to be minor in nature and has a no impact on residential amenity and visual appearance in the context of the wider scheme at Bowland Meadow. The Council and the LLFA has also previously accepted the drainage strategy for Phases 2 and 3 based on the constructed FFL which is being sought retrospectively.

Based on the above, we consider the change in FFL is acceptable in the context of Policy DMG1 of the Core Strategy and LNDP3 of the Longridge Neighbourhood Plan and will not cause unacceptable risk of flooding in accordance with Policy DME6. Therefore, a presumption in favour of sustainable development should be applied in accordance with Key Statement DS2 of the Core Strategy. In light of this regularisation of FFL raises no new material planning considerations that would justify anything other than a S.73 application.

We trust the above information and the enclosed plans are sufficient for Officers to consider the differences in FFL, and approve this application accordingly. However, should you require anything further, please do not hesitate to get in touch.

Yours faithfully,



JORDAN CLARK
Senior Planner

STANTEC UK LIMITED

