

Wealden District Council Response to Redrow Homes Planning Application
WD/2024/1626/MFA

Advice Note to East Hoathly with Halland Parish Council

The parish council has asked Steve Tilbury Consulting to advise on whether there are any obvious defects in the way in which Wealden District Council (the 'LPA') has considered this planning application and whether the parish council could have done more by way of a response.

Background

WD/2024/1626/MFA is a Section 73 application for a variation to Condition 29 attached to the approved full application WD/2022/0341/MAJ. Condition 29 lists the plans in accordance with which development must take place. The applicant sought a number of amendments to the affordable housing mix, house type design and layout, to be achieved by substituting new plans so that development is regulated by with these, rather than those previously agreed. There is nothing abnormal or unusual about this process.

When a Section 73 application is made the LPA can only consider the matters raised in the application – the proposed changes – and whether to approve or refuse them.¹ It cannot take the opportunity to revisit other matters and there is no point in consultees raising these because they cannot be considered.

Proposed Amendments

The parish council is concerned that there may have been changes to the proposed surface water drainage proposals which have not been properly considered by the LPA as part of decision making for WD/2024/1626/MFA .

From my review I do not think this is the case, although I can understand why the question arises.

No amendment has been agreed under WD/2024/1626/MFA which will see Long Pond being used as any part of the surface water drainage system for the housing development. Long Pond is, and always has been, retained only as an ecological feature and for its environmental benefit. The surface water drainage proposals which are agreed by WD/2024/1626/MFA are adjustments that need to be made to pipe runs etc as a result of the minor (and limited) layout changes. There is nothing the parish council could or should have responded to in more detail than it did in this regard.

¹ If a Section 73 application is agreed it results in a new planning consent being issued – as before but with the changes made. The original planning application remains 'live' as well.

WD/2024/1626/MFA also contained a request to remove two trees so that 'safe construction' can take place in relation to Long Pond.

Unfortunately the officer update to the planning committee somewhat conflates two issues relating to the reason for the request to remove the trees. One is the installation of the new drainage pipe from the highway. The second is dredging of the pond which is considered necessary to improve its condition.

Long Pond will receive some water from the highway via gullies which are being installed under a Section 278 highway agreement with East Sussex County Council. Although this may only have been 'noticed' when reviewing plans submitted with WD/2024/1626/MFA, this is not a new addition to the scheme and the gullies appear on at least one plan associated with the detailed application in 2022. Provided the developer's advisors and the County Council are content with the proposal there is no reason why this should not be acceptable. It is not (so far as I can see from any submissions) a change which could be objected to or reviewed under WD/2024/1626/MFA.

Whether dredging of the pond is necessary or desirable is a matter for the landowner in consultation with the relevant authorities. It is certainly not ruled out by any of the previous ecological assessments or the approved management plan and may be necessary as part of restoration proposals. There was no basis for the parish council, or anyone else, to object to it under WD/2024/1626/MFA. In relation to the disturbance of great crested newts the parish council has confirmed that the developer holds an up to date licence under the district wide scheme.

Whether or not removal of the two trees which was proposed under WD/2024/1626/MFA was acceptable was a matter of planning judgement for the LPA which they made on the advice they received. Had the trees been more established or had been veteran trees, then they may well have reached a different decision. But so far as I can see there is nothing 'wrong' with the decision they made even if there are strongly held views to the contrary.

Observation

Long Pond has been the subject of ecological evaluation as part of the decision making process. I am surprised, as a non-expert in ecological matters, that none of those evaluations seems to have given explained whether the changes in the local environment post development might affect the pond and what might need to be done to ensure that there are no negative impacts on its habitat. I am not suggesting that there is anything defective about the assessment process – only that it would have been helpful if this information had been articulated and that it had been included in a single reference document. This could have brought together the assessment of the condition of the pond, set aims and objectives for its management and maintenance and provided some guidance on how this should be achieved. This information is by and large

available in different documents, but as a result is somewhat scattered about and not easy to interpret. With hindsight this might have been something for the parish council to press for, given the status of Long Pond as a Local Green Space.

The wider problem which it may be worth raising with Wealden is that LPAs often do not realise just how difficult it can be for parish councils and other non-professionals to keep track of proposed amendments or to follow the process by which they are being considered. A similar situation often arises when an application is amended before a decision and new plans and drawings are submitted for public re-consultation.

Asking applicants to provide a single document with a simple to follow explanation of what changes are proposed (including making clear which are instrumental and which are consequential) and why they are needed would be helpful.

Conclusion

In my view the details of the proposed amendments were made available adequately and I do not see anything to fault technically in the way in which the LPA handled the application. There were no changes proposed which the parish council could have effectively objected to given the consultation responses.

Steve Tilbury

Steve Tilbury Consulting

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