

Development Management Delegated Decision Report

B/16/0380/NMA2



SUMMARY OF APPLICATION

Application Reference	B/16/0380/NMA2
Application Type	Non-material Amendments
Proposal	Application for a non material amendment to planning application B/16/0380 to allow for a material commencement on site (solely for the works to the access point at Middlegate Road West show on plan ref: L183/HWIM/01) without prior approval for planning conditions 11 (foul water) and C 12 (surface water) in respect of the timing of the conditions, to allow the partial construction of the access road prior to the submission of further details as required
Location	Land at Middlegate Road West, Frampton, Boston
Applicant:	Mrs H Guy, Larkfleet Homes
Agent:	
Target Decision Date:	
Statutory Expiry Date:	12-May-2021
Extension of Time:	
Recommendation	Approve
Report by:	Richard Byrne
Date:	09/09/2021
Proposed amendments relate to:	
Allow for a material commencement on site which solely relate to the works to the access point at Middlegate Road West in the absence of the details being approved to discharge planning conditions 11 (foul water) and C 12 (surface water).	
Officer Appraisal / Comments:	
<p>The Government recognises that issues may arise following the grant of a planning permission which may require modification to the proposals. Where such a change is not felt to be significant, this may be through the submission of a Non-Material Amendment application under Section 96A of the Town and Country Planning Act 1990.</p> <p>There is no statutory definition of what constitutes a Non-Material amendment. However, the Local Planning Authority must have regard to the effect of the change on the scheme as a whole.</p>	



Variation of a condition would normally be dealt with via a Section 73 application where the variation would materially alter the acceptability or otherwise of a proposal. However, there is no statutory reason why an amendment to a condition which does not materially alter the development or its acceptability cannot be dealt with by an NMA application.

The simple question being posed by the applicant under Section 96A is '*are the proposals non-material when considering the nature and effect of the changes proposed when considered against the nature and effect of the requirements of the original condition?*'. In order to determine whether or not the change is material, due regard must be given to the nature of the change proposed and its effect in the overall context of the application.

The premise of the conditions will remain the same and require details to be duly submitted and approved. The flexibility to make a commencement on part of the site which falls under the jurisdiction of Anglian Water and the Highway Authority will support delivery of housing on-site, and will re-inforce the commitment to supporting the delivery of development within the Borough, in line with the aspirations of the Government.

It is considered that the intention of the original condition (to ensure that the access to the development will be safe) will not be undermined by the proposed amendment, and that the proposed NMA does not materially alter the overall effect of the condition. The proposed amended wording is therefore considered to be acceptable as an NMA.

NOTES FOR DECISION NOTICE:

CONDITIONS / LIST OF AMENDED PLANS

Condition 11 is amended to read as follows:

No development beyond the works shown on Drawing Number L183/HWIM/01 shall take place unless and until a scheme of foul water drainage provision which may include a new direct sewer to Frampton WRC including the timeframe for implementation, shall be submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved scheme.

Condition 12 is amended to read as follows:

No development beyond the works shown on Drawing Number L183/HWIM/01 shall take place unless and until a surface water drainage scheme, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development has been submitted to and approved in writing by the local planning authority. The scheme shall:

- i. provide details of how run-off will be safely conveyed and attenuated during storms up to and including the 1 in 100 year critical storm event, with an allowance for climate change from all hard surfaced areas within the development into the existing local drainage infrastructure and watercourse system without exceeding the run – off rate for the undeveloped site and to specifically demonstrate how existing properties will be protected from above ground run-off as a result of raised land levels.
- ii. provide attenuation details and discharge rates which unless otherwise agreed with the surface water receiving body, shall be restricted to 1.4 litres per second per hectare.
- iii. provide details of the timetable for and phasing of the implementation of the drainage scheme; and
- iv. provide details of how the scheme shall be maintained and managed over the lifetime of the development which shall include the arrangements for adoption by any public

authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

LIST OF PLANS TO BE SUPERCEDED

Condition 11

Prior to development commencing a scheme of foul water drainage provision which may include a new direct sewer to Frampton WRC including the timeframe for implementation, shall be submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved scheme.

Condition 12

No development shall take place until a surface water drainage scheme, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development has been submitted to and approved in writing by the local planning authority. The scheme shall:

- i) provide details of how run-off will be safely conveyed and attenuated during storms up to and including the 1 in 100 year critical storm event, with an allowance for climate change from all hard surfaced areas within the development into the existing local drainage infrastructure and watercourse system without exceeding the run – off rate for the undeveloped site and to specifically demonstrate how existing properties will be protected from above ground run-off as a result of raised land levels.
- ii) provide attenuation details and discharge rates which unless otherwise agreed with the surface water receiving body, shall be restricted to 1.4 litres per second per hectare.
- iii) provide details of the timetable for and phasing of the implementation of the drainage scheme; and
- iv) provide details of how the scheme shall be maintained and managed over the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.