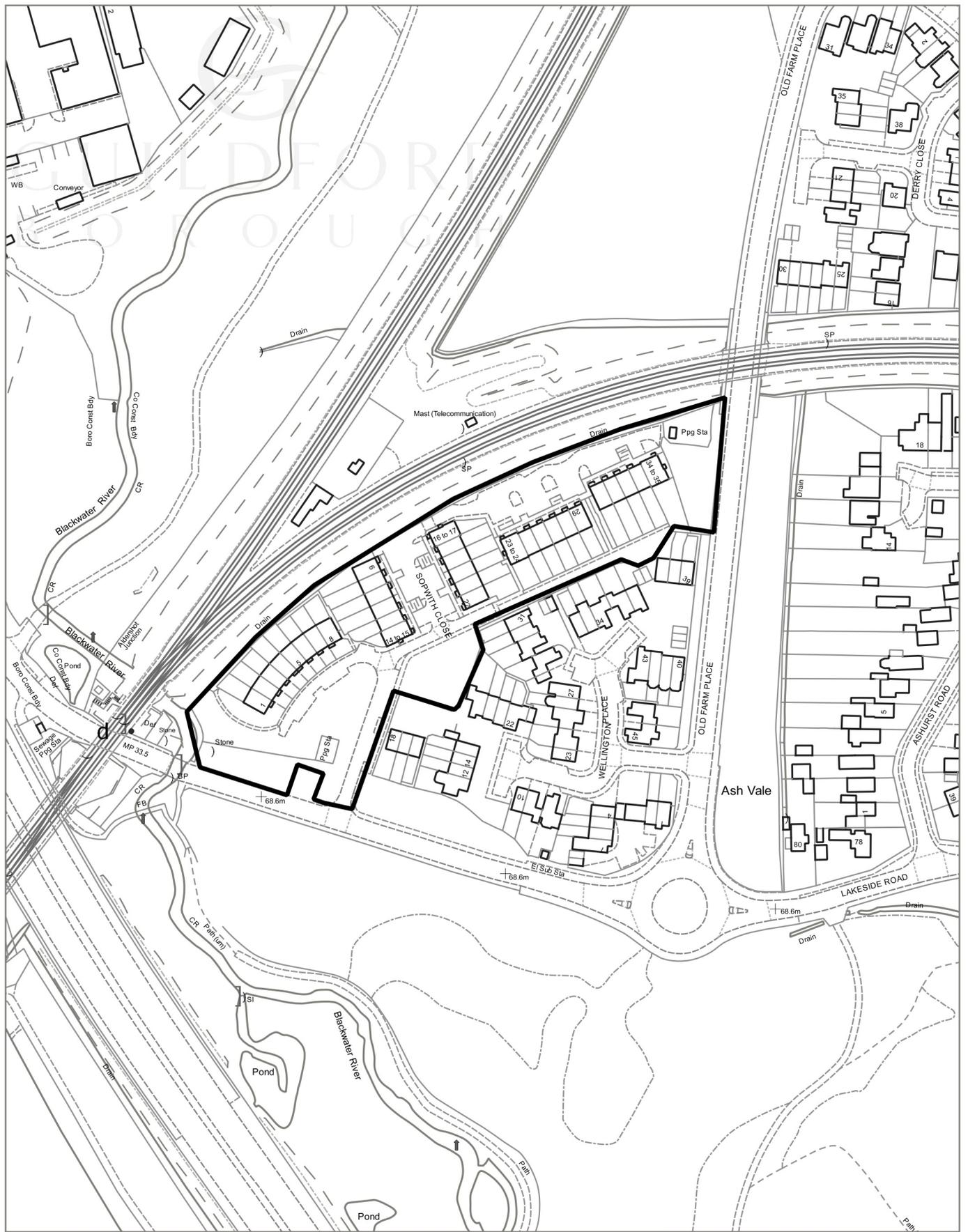


21/P/01858 - Lakeside Close, Lakeside Close



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Print Date: 22/12/2021



Not to Scale



GUILDFORD
BOROUGH

App No: 21/P/01858
Appn Type: Full Application
Case Officer: James Overall
Parish: Ash
Agent :

8 Wk Deadline: 05/01/2022

Ward: Ash South & Tongham
Applicant: Ms Rachel Harper
Guildford Borough Council
Millmead House
Millmead
Dorking
RH4 2DS

Location: Lakeside Close, Lakeside Close, Ash Vale GU12
Proposal: Variation of Condition 14 (flood and surface water drainage) relating to Planning Application 12/P/01005 approved 10/04/2013.

Executive Summary

Reason for referral

This application has been referred to the Planning Committee because it is a major planning application and the applicant is Guildford Borough Council.

Key information

This application is submitted under Section 73 of the Town and Country Planning Act (as amended). The provisions of Section 73 relate to the variation or removal of planning conditions attached to a grant of planning permission. The intention is that such matters would represent a minor material change to the original grant of planning permission.

The application must be determined on the basis of the effect of varying/removing the specified conditions. No other matters can be taken into account for example the principle of the original permission cannot be re-visited. Additionally it is not appropriate to dismiss a proposal simply on the grounds that conditions were originally proposed and therefore by default should be retained. The local planning authority must consider whether any planning harm would result from the variation.

The proposal seeks to amend the wording of condition 14 to remove reference to the AMEC FRA 'options'.

Summary of considerations and constraints

The drainage strategy that was approved under application 12/P/01005 was not installed correctly, and subsequently resulted in flooding in the surrounding area.

Given that the condition imposed was required to ensure the development accorded with the requirements and tests of the National Planning Policy Framework; and the development has since been implemented in breach of condition 14 of the permission, it is not deemed appropriate to amend the wording, as doing so will mean the development fails the requirements and tests of the National Planning Policy Framework.

RECOMMENDATION:

Refuse - for the following reason(s) :-

1. The Local Planning Authority cannot be satisfied that the variation to condition 14 presents an acceptable drainage strategy for the site. The information submitted with the application indicates that soakaways may be within Groundwater reducing storage levels. It is therefore unclear as to whether infiltration is an appropriate means for the site. Furthermore, the application does not demonstrate that the soakaways can manage storm event flows. Little information has been provided to demonstrate that the scheme as set out has actually been installed correctly. Therefore the Local Planning Authority does not consider that condition 14 should be varied. No other conditions can currently be suggested and therefore the original conditions should remain in place. The proposal therefore fails to accord with the non-statutory technical standards for sustainable drainage systems, the requirements of the National Planning Policy Framework and Policy P4 of the adopted Guildford Borough Local Plan Strategy and Sites 2019.

Informatives:

1. This statement is provided in accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. Guildford Borough Council seek to take a positive and proactive approach to development proposals. We work with applicants in a positive and proactive manner by:
 - Offering a pre application advice service
 - Where pre-application advice has been sought and that advice has been followed we will advise applicants/agents of any further issues arising during the course of the application
 - Where possible officers will seek minor amendments to overcome issues identified at an early stage in the application process

However, Guildford Borough Council will generally not engage in unnecessary negotiation for fundamentally unacceptable proposals or where significant changes to an application is required.

Pre-application advice was not sought prior to submission, however informal advice was sought with regard to the type of application required i.e. to vary the condition as opposed to discharge condition or seek NMA.

There are significant objections to the application that minor alterations would not overcome, it was not considered appropriate to seek amendments through the course of this application.

Officer's Report

Site description

The site is in the urban area of Ash and within an area of floodplain. There is a railway line running along the northern boundary of the site behind a tree screen. Access into the site is from

the south off Lakeside Park. There is a residential estate located to the south and east of the site.

The site lies within 5km of the nearest Special Protection Area.

Proposal

Variation of Condition 14 (flood and surface water drainage) relating to Planning Application 12/P/01005 approved 10/04/2013.

Relevant planning history

Reference:	Description:	Decision Summary:	Appeal:
12/P/01005	Proposed redevelopment of 30 unit mobile home site with 35 new homes comprising 8 x one/two bedroom flats and 27 x two/three/four bedroom terrace houses (amended plans received 23/08/2012 revising window detail to plot 8 and amended site plan received 26/10/2012).	Approve 11/04/2013	N/A

Consultations

Statutory consultees

County Highway Authority: The Highway Authority considers that the variation in condition is unlikely to have a material impact on highway safety issues.

Lead Local Flood Authority - SCC SUDs:

The following comments were made with reference to Technical Note Rev B by Gyoury Self.

"We are not satisfied that the as-built drainage scheme meets the requirements as set out within planning condition 14 because significant issues have been identified.

It is unclear how the design soakage rates were obtained. The extracts from the intrusive site investigations (Appendix B) carried out in April 2012 appear to show that the 4 trial pits that were used for soakage testing all struck groundwater at approx. 2mbgl. The groundwater then rising to between 1.5mbgl to 0.9mbgl.

The soakaways that have been installed appear to have a base level of 1.375 to 1.475mbgl which could be within groundwater levels meaning that there is not a 1m unsaturated zone from the base of the soak-away to the highest groundwater level and a potential ingress of groundwater within the soakaways themselves, thus reducing the amount of storage capacity and efficiency of the installed soak-aways.

The calculations submitted (Appendix C) appear to contradict the surface water drainage layout and do not clearly demonstrate that the soak-aways installed can effectively manage the 1 in 30 & 1 in 100 (+climate change) storm events. The submitted drawings show soak-aways SAT 1 (A-E), SAT 2 (A-F), SAT 3(A-F) and SAT 4(A-D). The calculations submitted are for SAT 2, 3 and 4.

Additionally SAT 4 appears to have a total of 9.5m³ storage available but requires 17.6m³ according to the calculations.

The submitted drainage plan (Appendix C) shows multiple inlets to the swale (3 no.) and 1 no. outlet, none of which were picked up by the site walk over carried out in Sep 2020 (section 7.1.1 and 7.1.2 of Technical Note). It is unclear if they have been installed correctly.

It is unclear why the drainage strategy that was approved was not installed. It does not appear that infiltration is a feasible solution for surface water disposal. It is also unclear whether the surface water drainage installed has been done so correctly. Therefore we are not content that the wording of planning condition 14 should be amended."

After review of the latest document: 'Technical Note Rev C' by Gyroury Self, it is considered that the minor amendments do not impact the response, for our comprehensive comments please refer back to our letter dated 12/10/2021 reference LLFA-GU-21-0916

Environment Agency:

The Environment Agency are no longer the statutory consultee for surface water management and therefore it will be for the Lead Local Flood Authority to advise on this proposal.

However, the site is at risk of fluvial flooding and we recommend that consideration is made to potential inundation of attenuation areas from a fluvial source. If attenuation features are inundated from a fluvial source then this may result in a reduction of available volumes within the attenuation features to manage surface water for subsequent storm events. Therefore, if measures could be implemented to reduce fluvial inundation to attenuation this would be beneficial.

The submitted technical note prepared by Gyoury Self Consulting Engineers, reference C1427, dated 7 May 2021, does address other condition requirements as follows:

- It has been confirmed that the existing failing flood defence wall along the Blackwater river has been removed.
- An as built survey of the site shows that access routes are above 68.50m above ordnance datum (AOD)
- An as built survey of the site shows that all finished floor levels are set above 68.80m AOD

Thames Water:

Waste Comments - The application indicates that SURFACE WATER will NOT be discharged to the public network and as such Thames Water has no objection, however approval should be sought from the Lead Local Flood Authority.

Should the applicant subsequently seek a connection to discharge surface water into the public network in the future then we would consider this to be a material change to the proposal, which would require an amendment to the application at which point we would need to review our position.

Water Comments - No water comments

Supplementary Comments - As Surface Water does not discharge to Thames Water's public network, we have no comments to make regarding this condition variation.

Internal consultees

Head of Environmental Health and Licensing: No response received.

Parish Council

No response was received from Ash Parish Council.

Third party comments

33 letters of representation have been received raising objections and concerns relating to flooding.

Planning policies

National Planning Policy Framework (NPPF):

Chapter 14: Meeting the challenge of climate change, flooding and coastal change

South East Plan 2009:

NRM6 Thames Basin Heath Special Protection Area

Guildford Borough Local Plan: Strategy and Sites 2015 - 2034 (adopted 25 April 2019):

The Guildford Borough Local Plan: Strategy and Sites was adopted by Council on 25 April 2019. The Plan carries full weight as part of the Council's Development Plan. The Local Plan 2003 policies that are not superseded are retained and continue to form part of the Development Plan (see Appendix 8 of the Local Plan: strategy and sites for superseded Local Plan 2003 policies).

Policy P4: Flooding, flood risk and groundwater protection zones

Guildford Borough Local Plan 2003 (as saved by CLG Direction 24 September 2007):

Policy G1(3): Protection of Amenities Enjoyed by Occupants of Buildings

Supplementary planning documents:

Climate Change, Sustainable Design, Construction and Energy SPD 2020

Emerging Local Plan (Development Management Policies):

The document 'Development Management Policies' will eventually form the second part of the adopted Local Plan, but currently it is in the early stages of development. The Regulation 18 consultation marks the start of the engagement stage of the Plan and represents the scoping stage to decide what should be included in the Plan. The Regulation 18 consultation took place between 3 June 2020 and 22 July 2020. Currently the next version of the plan is being prepared for consultation: the Regulation 19 Proposed Submission Local Plan: development management policies.

Planning considerations

This application is submitted under Section 73 of the Town and Country Planning Act (as amended). The provisions of Section 73 relate to the variation or removal of planning conditions attached to a grant of planning permission. The intention is that such matters would represent a minor material change to the original grant of planning permission.

The application must be determined on the basis of the effect of varying/removing the specified conditions. No other matters can be taken into account for example the principle of the original permission cannot be re-visited. Additionally it is not appropriate to dismiss a proposal simply on the grounds that conditions were originally proposed and therefore by default should be retained. The local planning authority must consider whether any planning harm would result from the

variation.

Section 73, gives two options when considering such applications:

- a) if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and
- b) if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.

Under Section 73(a) officers should not limit themselves to assessing just the specific variation or removal suggested by the applicant. If an alternative change to the conditions would be acceptable then permission should be granted to that effect.

Part of the assessment under Section 73(b) should also be whether this would cause more than a minor material change to the original permission. In such cases permission should also be refused.

In this instance the application suggests the variation of condition 14 of planning permission 12/P/01005 which states:

"The development permitted by this planning permission shall be carried out in accordance with the approved AMEC Flood Risk Assessment (FRA) March 2012 (doc reg no. 30980-02 v2) and the following mitigation measures detailed within the FRA:

1. *Limiting the surface water run-off generated to 24 l/s and provide 165m³ of surface water storage for the 1% climate change so there is no increase in the risk of flooding off-site. The surface water strategy is installed with either of the options discussed in the FRA.*
2. *The existing failing 'flood defence' wall along the Blackwater River bank will be removed.*
3. *Access routes set no lower than 68.65m AODm and the identification and provision of safe route(s) into and out of the site as agreed by Guildford Borough Council.*
4. *Finished floor levels are set no lower than 68.8m above Ordnance Datum (AOD) and provision of voids beneath the finished floor to allow flood water to flow under the properties.*

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing/phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site, in accordance with the drainage strategy. To ensure safe access and egress to and from the site. To reduce the risk of flooding to the proposed development and future occupants. In accordance with policy G1(6) of the Guildford Borough Local Plan 2003 (as saved by CLG Direction on 24/09/07)."

The proposal seeks to amend the wording of condition 14 to remove reference to the AMEC FRA 'options', which were produced at an early stage of the design development process when the site conditions, particularly the ability to use infiltration techniques, were not fully understood. The SUDS design was developed to reduce reliance on swales and discharge of surface water into the watercourse, placing greater emphasis of infiltration to ground, as detailed in the technical note. These details were all agreed with the Environment Agency (the application pre-dates SCC involvement on SUDS matters) at the time, but no variation to the wording of the planning condition was sought. This application seeks to address this issue.

If permitted, condition 14 will be varied to the following wording:

"The development permitted by this planning permission shall be carried out in accordance with the approved AMEC Flood Risk Assessment (FRA) March 2012 (doc reg no. 30980-02 v2) and the following mitigation measures detailed within the FRA:

- 1. Limiting the surface water run-off generated to 24 l/s and provide 165m³ of surface water storage for the 1% climate change so there is no increase in the risk of flooding off-site.*
- 2. The existing failing 'flood defence' wall along the Blackwater River bank will be removed.*
- 3. Access routes set no lower than 68.65m AODm and the identification and provision of safe route(s) into and out of the site as agreed by Guildford Borough Council.*
- 4. Finished floor levels are set no lower than 68.8m above Ordnance Datum (AOD) and provision of voids beneath the finished floor to allow flood water to flow under the properties.*

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing/phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site, in accordance with the drainage strategy. To ensure safe access and egress to and from the site. To reduce the risk of flooding to the proposed development and future occupants. In accordance with policy G1(6) of the Guildford Borough Local Plan 2003 (as saved by CLG Direction on 24/09/07)."

The primary consideration resulting from this change would be:

- Flooding and land drainage

Flooding and land drainage

Due to the constraints with regards to development site allocations in the borough, coupled with pressures to meet housing need, the Council identified this site as a key council owned re-development site. In accordance with the requirements of the NPPF, a sequential test was carried out by the Council which concluded that there were no suitable available alternative sites at less risk of flooding.

An Exception test was undertaken and this was required to demonstrate that:

1. the development provided wider sustainability benefits to the community that outweigh flood risk, and
2. a site specific flood risk assessment demonstrated that the development will be safe for its lifetime without increasing flood risk elsewhere and where possible reducing flood risk overall.

It was concluded that both of these points were met, and application 12/P/01005 was permitted with reasonable and necessary conditions imposed to ensure the FRA strategy was carried out appropriately. Without these conditions, the development would not have accorded with the requirements and tests of the National Planning Policy Framework.

These conditions resulted from the Environment Agency who were fully involved in the proposal from its genesis and the imposed conditions were deemed as required to ensure that the permitted redevelopment did not result in flooding on the site or adjoining sites.

Paragraph 167 of the NPPF 2021 states that "*Development should only be allowed in areas at risk of flooding where, in the light of...[a site-specific flood-risk] assessment (and the sequential*

and exception tests, as applicable) it can be demonstrated that: c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;"

The drainage strategy that was approved under application 12/P/01005 was not installed correctly, and there has subsequently been flooding in the surrounding area.

Given that the conditions imposed were required to ensure the development accorded with the requirements and tests of the National Planning Policy Framework; and the development, which has since been implemented has been carried out in breach of condition 14 of the permission, it is not deemed appropriate to amend the conditions wording to suit the applicant. The development which has been implemented is therefore considered to fail the requirements and tests of the National Planning Policy Framework.