

DEVELOPMENT MANAGEMENT COMMITTEE 20th NOVEMBER 2023

Case No: 23/00827/S73

Proposal: Variation of Condition 5 of 20/00285/FUL - Removal of M4(2) (lifts) requirement to Blocks D1-D3.

Location: F Vindis And Sons St Ives Ltd

Applicant: Helen Pearson (Settle Group)

Grid Ref: 530974 270460

Date of Registration: 09.05.2023

Parish: Fenstanton

RECOMMENDATION - APPROVE

This application is referred to the Development Management Committee (DMC) because the officer recommendation of approval conflicts with Fenstanton Parish Council's recommendation of refusal.

1. DESCRIPTION OF SITE AND APPLICATION

- 1.1 This application relates to the former Vindis commercial vehicles sales and repair site. Full planning permission was granted in March 2022 under planning reference 20/00285/FUL for "Demolition of existing structures and proposed erection of 94 dwellings together with associated works including a pedestrian boardwalk."
- 1.2 Planning permission 20/00285/FUL was issued as a delegated decision because the Officer recommendation aligned with Fenstanton Parish Council's recommendation of approval. Pre-commencement conditions have since been discharged and development has commenced.
- 1.3 Condition 5 of planning permission 20/00285/FUL states, "*The development hereby approved shall comply with the requirements of points f) of Policy LP25 of the Huntingdonshire Local Plan such that all dwellings meet Building Regulation requirement M4(2) 'accessible and adaptable dwellings' (or replacement standards).*" The reason for imposing the condition was to ensure that the housing meets the needs of the District as required by Policy LP25 Housing Mix of the Huntingdonshire Local Plan to 2036.

2. NATIONAL GUIDANCE

- 2.1 The National Planning Policy Framework 2023 (NPPF 2023) sets out the three objectives - economic, social and environmental - of the planning system to contribute to the achievement of sustainable development. The NPPF 2023 at paragraph 10 provides as follows: “So that sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development (paragraph 11).”
- 2.2 The NPPF 2023 sets out the Government's planning policies for (amongst other things):
- delivering a sufficient supply of homes;
 - building a strong, competitive economy;
 - achieving well-designed, beautiful and safe places;
 - conserving and enhancing the natural, built and historic environment
- 2.3 Planning Practice Guidance (PPG) and the National Design Guide 2023 are also relevant and material considerations.
- 2.4 For full details visit the government website [National Guidance](#)

3. PLANNING POLICIES

- 3.1 Huntingdonshire's Local Plan to 2036 (Adopted 15th May 2019)
- LP1: Amount of Development
 - LP2: Strategy for Development
 - LP3: Green Infrastructure
 - LP4: Contributing to Infrastructure Delivery
 - LP5: Flood Risk
 - LP6: Waste Water Management
 - LP7: Spatial Planning Areas
 - LP11: Design Context
 - LP12: Design Implementation
 - LP14: Amenity
 - LP15: Surface Water
 - LP16: Sustainable Travel
 - LP17: Parking Provision and Vehicle Movements
 - LP24: Affordable Housing Provision
 - LP25: Housing Mix
 - LP30: Biodiversity and Geodiversity
 - LP31: Trees, Woodland, Hedges and Hedgerows
 - LP34: Heritage Assets and their Settings
 - LP37: Ground Contamination and Groundwater Pollution
- 3.2 Supplementary Planning Documents
- Huntingdonshire Design Guide (2017)
 - Developer Contributions SPD (2011)

- Huntingdonshire Townscape and Landscape Assessment SPD (2022)
- Cambridgeshire Flood and Water SPD 2017
- Huntingdonshire Tree Guidance Note 3
- Annual Monitoring Report
- ECAP CCC Waste Management Design Guide (CCC SPD) 2012

Local policies are viewable at <https://www.huntingdonshire.gov.uk>

4. PLANNING HISTORY

- 4.1 20/00285/FUL - Demolition of existing structures and proposed erection of 94 dwellings together with associated works including a pedestrian boardwalk.
Permission granted 28.03.2022
- 4.2 22/80218/COND - Conditional Information for 20/00285/FUL: C9 (Future Maintenance), C22 (Surface Water During Construction) Conditions discharged 16.11.2022
- 4.3 22/80236/COND - Discharge of conditions 16 (CEMP) and 26 (Contamination) of 20/00285/FUL
Conditions discharged 02.03.2023
- 4.4 22/80249/COND - Discharge of conditions 17 (LEMP) and 37 (Biodiversity Enhancements) for 20/00285/FUL
Conditions discharged 20.01.2023
- 4.5 22/80254/COND - Discharge of condition 27 (Bat Licence) of 20/00285/FUL
Condition discharged 06.10.2022
- 4.6 22/80262/COND - Discharge of Conditions C20 (Foul Drainage), C21 (Surface Water Drainage) and C33 (Levels) of 20/00285/FUL.
Conditions discharged 12.05.2023
- 4.7 22/80274/COND - Discharge of condition 30 (Written Scheme of Investigation) of 20/00285/FUL
Condition partially discharged 16.02.2023
- 4.8 23/80059/COND - Discharge Of Conditions 3 (Materials), 25 (Architectural Details) and 38 (Elevations plot A3) for 20/00285/FUL
Conditions not discharged 23.03.2023
- 4.9 23/80060/COND - Discharge of Conditions 15 (Ventilation Strategy) and 36 (External Plant) of 20/00285/FUL
Pending consideration

- 4.10 23/80061/COND - Discharge of conditions 18 (Fire Hydrants) and 35 (Flood Mitigation Measures) for 20/00285/FUL
Pending consideration
- 4.11 23/80168/COND - Discharge of Conditions 3 (Materials), 25 (Architectural details) and 38 (Elevations for Plot A3) for 20/00285/FUL
Conditions discharged 02.06.2023

5. CONSULTATIONS

- 5.1 **Fenstanton Parish Council: Recommend refusal** – This development was granted approval as affordable housing and as such will likely be occupied by young families, single parent families with pushchairs, elderly and disabled. LP25 of Huntingdonshire's Local Plan – Section 7.21 states:- *Homes meeting M4(2) accessible and adaptable dwellings standards include design features that enable mainstream housing to be flexible enough to meet the current and future needs of most households, including in particular older people and those with disabilities, and also families with young children. Homes meeting M4(3) wheelchair dwellings include further design features so that homes are capable of meeting or being adapted to meet the needs of most wheelchair users.*

And Planning Permission was granted subject to a number of conditions including: - 5. Condition. *The development hereby approved shall comply with the requirements of points f) of Policy LP25 of the Huntingdonshire Local Plan such that all dwellings meet Building Regulation requirement M4(2) 'accessible and adaptable dwellings' (or replacement standards).*

Removal of the lifts in blocks D1-D3 would therefore breach the conditions on which planning application approval was granted and would mean that the properties in these blocks would not be accessible as there are no properties on the ground floor. Fenstanton Planning Committee strongly objected to this application.

- 5.2 **HDC Policy and Enabling Officer: Support** - This is to be a 100% Affordable Housing development comprising 94 dwellings. Ordinarily only 38 would be affordable housing therefore an additional 56 affordable homes will be provided for which, there continues to be high need. In addition, Settle have secured Homes England grant of £5,750,000 to enable this.

The site was acquired with detailed consent and should ideally be to m4(2) standard. There are some unusual design features due to flood risk which means no dwellings are at floor level. The previous owners/applicants proposed to address m4(2) and flooding generally, by providing lifts.

However due to layout at blocks D1-D3 there is in effect, a lift serving just 4 dwellings each. Bearing in mind that these are affordable dwellings, this results in abnormally high costs which would fall on occupants by way of service charge. This would be contrary to our affordable housing objectives (to provide housing that is affordable for people unable to afford market homes).

This affects 28 of the dwellings but lifts would remain for the other 66 dwellings so they will still be to m4(2) standards. We would therefore support the removal of the lifts at locations indicated.

It should be noted that in this case, the number of homes to be served by a lift (just 4) is particularly low and disproportionately results in high service charge. In addition, Settle acquired the site with consent secured and were not involved in design aspects. Prior to the introduction of m4(2) Registered Provider's were regularly providing (particularly for apartments) affordable housing of up to 3 storeys without a lift. In terms of the Parish Council concerns that these will likely be occupied by young families, single parent families with pushchairs, elderly and disabled, when considering tenants the affected homes can be directed to tenants who do not have significant mobility issues.

- 5.3 **HDC Urban Design: No objection** - The application seeks to vary condition 5 in order to waive the requirement for M4(2) compliance for the 28 flats within Blocks D1-D3 fronting Low Road and London Road for affordability reasons. This results in the removal of 10 lifts serving between 4 and 13 units each. Blocks E, F and G exceed 3 storeys and will retain the lifts as approved.

Comments should be sought from Housing and Policy colleagues in the first instance. Urban Design raise no objections to the loss of lifts within these 3 storey units.

- 5.4 **Lead Local Flood Authority: No objection** - The proposed amendment does not appear to have any surface water flood risk or drainage implications therefore we have no comments to make.

- 5.5 **Highways England: No objection**

- 5.6 **CCC Highways: No objection** - Following a careful review of the documents provided to the Highway Authority as part of the above planning application, it was noted that the Condition refers to lifts within the buildings. Therefore, I have no comments to make.

- 5.7 **HDC Environmental Health: No objection** - I can confirm I have no issues to raise.

5.8 **Cambridgeshire Constabulary Designing Out Crime Officer: No objection** - I have no comment or objection regarding the variation of condition 5.

5.9 **HDC Conservation: No objection** - This application relates to an aspect of the development (accessibility) which does not have an impact on heritage assets and does not require conservation advice.

6. REPRESENTATIONS

6.1 No representations received.

7. ASSESSMENT

7.1 Section 73 of the Town and Country Planning Act 1990 relates to applications for planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted.

7.2 Part 2 of Section 73 states that on such an application, the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted, and —

(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.

7.3 The PPG advises that "Where an application under section 73 is granted, the effect is the issue of a new planning permission, sitting alongside the original permission, which remains intact and unamended. A decision notice describing the new permission should be issued, setting out all of the conditions related to it. To assist with clarity decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission unless they have already been discharged".

7.4 In this case, the principle of the development has been established under planning permission 20/00285/FUL which has been implemented and is now in the construction phase. Pre-commencement conditions have been cleared and significant progress has been made in discharging several other conditions in consultation with technical consultees. Therefore, the sole

matter for assessment under this application is accessible and adaptable homes.

Accessible and Adaptable Homes

- 7.5 Policy LP25 of the Huntingdonshire Local Plan to 2036 (the Local Plan) states, *“A proposal that includes housing will be supported which meets the optional Building Regulation accessibility standards (or replacement standards) as set out below, unless it can be demonstrated that site-specific factors make achieving this impractical or unviable:*

f. ensuring 100% of new dwellings, across all tenures provided, meet Building Regulation requirement M4(2) ‘accessible and adaptable dwellings’ (or replacement standards); and

g. within a large scale development proposal the construction standards of a proportion of new market dwellings should be further enhanced to meet Building Regulation requirement M4(3) ‘wheelchair adaptable dwellings’ (or replacement standards); and

h. for all affordable housing an appropriate proportion meeting Building Regulation requirement M4(3) ‘wheelchair adaptable dwellings’ (or replacement standards) should be negotiated with the Council's Housing Strategy team.”

- 7.6 The application is accompanied by a supporting letter from the applicant, Settle Group, which sets out that the approved drawings include for ten lifts serving between 4-13 units each and providing step-free access to the flats (to comply with M4(2) standards). The supporting letter states that the inclusion of lifts generates significant service change in ensuring suitable ongoing management and maintenance together with the day to day running costs. It is stated that from experience of other schemes they manage, the applicant predicts an annual cost of around £2,000 per lift which on this site would add £14,000 to the annual service charge or £500 per property served by these lifts. It is proposed to retain lifts in blocks E, F & G as they will exceed three stories. The proposal is to remove the requirement to provide lifts in blocks D1 – D3 which contain 28 flats.
- 7.7 The Section 106 Agreement signed in relation to the approved development (20/00285/FUL) requires a policy compliant 40% affordable housing to be provided which equates to 26 dwellings taking into account the deduction for vacant building credit. Therefore, there would be 68 market dwellings.
- 7.8 Following the completion of the S106 Agreement and grant of planning permission, Settle Group have taken on the site and will deliver the development as 100% affordable housing. This has been secured through CIL exemption for social housing on the remaining 68 dwellings which were not secured as affordable

through the Section 106 Agreement. The CIL exemption has a 7-year clawback period from the date of commencement (7th November 2022). The submitted supporting letter states that the 26 affordable units from the S106 requirement are contained within blocks D1-D3.

- 7.9 Policy LP25 of the Local Plan allows some flexibility in meeting Building Regulations accessibility standards but only where it can be demonstrated that site-specific factors make achieving this impractical or unviable. Paragraph 7.22 of the Local Plan states, *“Where proposals state that meeting such requirements would be impractical or unviable, such as may be the case where floor levels need to be raised due to flood risk and this would necessitate significant ramping to comply with the standards, they should provide evidence supporting this conclusion.”*
- 7.10 The key site-specific factor relevant to this case is that the site is in Flood Zone 3a (high risk of flooding) and therefore to mitigate the risk of flooding to future occupiers, the approved development features no habitable rooms at ground floor level. The design is in-effect a stilted development with the living areas at first floor and above. It was confirmed by the Council’s Building Control officers that lifts are required to all flats to comply with M4(2).
- 7.11 The seven D blocks contain 4 flats each meaning these lifts would serve only 4 flats each. The applicant states that the management and maintenance costs of providing these lifts would increase the annual service charge to around £500 per property served by these lifts. It is considered that the costs associated with lifts serving 4 units each would place a burden on future occupiers which brings into question the viability of these plots for affordable housing. Lifts are still proposed for the larger blocks of flats which contain more units (between 11-13 each), and therefore the service charge associated with those lifts would be shared by a much greater number of properties.
- 7.12 The applicant proposes to install the lift shafts within the D blocks as approved but not the lifts themselves. Provision of the lift shafts would allow potential for future adaption to serve the needs of occupiers if required, and this is welcomed. It is also recognised that Settle Group are a Registered Provider of affordable housing and would be able to direct potential occupiers to plots which most suit their needs.
- 7.13 Overall, taking into account the site-specific factors and noting that the potential for future adaption to provide lifts to the D blocks would remain, it is considered that the proposed variation to Condition 5 to not comply with M4(2) Building Regulations standards for the flats contained within the D block, would be acceptable in this instance because the associated costs to future occupiers (acknowledging the development is to be

delivered as 100% affordable housing) would unacceptably conflict with the objective of providing housing that is affordable for people unable to afford market homes.

Other Matters

- 7.14 Paragraph 4 on page 11 of the signed Section 106 Agreement related to the full planning permission (20/00285/FUL) states “An application approved by the Council pursuant to section 73 of the Act to vary or release any condition contained in the Planning Permission shall be deemed to be bound by the covenants and provisions of this Agreement which shall apply in equal terms to the new planning permission unless otherwise stated by the Council in writing”
- 7.15 Therefore, if approved, this application would be bound by the covenants and provisions of the Section 106 Agreement signed in relation to Planning Permission 20/00285/FUL.

8. RECOMMENDATION - APPROVAL subject to conditions to include the following

- Approved plans
- External materials to be in accordance with details approved under application 23/80168/COND.
- Development shall not exceed 94 dwellings.
- M4(2) accessible and adaptable standards to apply for all dwellings except flat blocks D1-D3.
- Scheme of hard and soft landscaping to be agreed.
- Details of external lighting to be agreed prior to installation.
- Future management and maintenance of streets to be in accordance with details approved under application 22/80218/COND.
- Removal of PD rights for gates across access
- Detailed scheme of vehicular access to be agreed prior to occupation.
- Access to be constructed to CCC specification.
- Implement and retain parking and turning areas.
- Access to be laid out with 6m radius kerbs.
- Ventilation strategy, if not resolved by details in 23/80060/COND, or to be in accordance with details in 23/80060/COND if approved.
- Construction Environmental Management Plan to be in accordance with details approved under 22/80236/COND.
- Landscape and Ecological Management Plan to be in accordance with details approved under 22/80249/COND.
- Fire hydrants in accordance with details approved under 23/80061/COND.
- Construction and delivery time restrictions.
- Foul water drainage to be in accordance with details approved under application 22/80262/COND.

- Surface water drainage to be in accordance with details approved under application 22/80262/COND.
- Surface water drainage during construction to be in accordance with details approved under application 22/80218/COND.
- Survey and report of surface water drainage system and any required corrective works to be submitted to and approved by LPA prior to adoption.
- Removal of PD rights for Schedule 2, Part 1, Classes A – F and Schedule 2, Part 2, Classes A – C of GPDO.
- Architectural details to be in accordance with details approved under application 23/80168/COND.
- Contamination remediation scheme to be in accordance with details approved under application 22/80236/COND. Verification to be submitted and approved prior to occupation.
- Compliance with approved tree protection measures.
- Compliance with LP12 part J Water Efficiency standards.
- Written Scheme of Investigation to be in accordance with details approved under application 22/80274/COND. Completion of post-excavation programme required.
- Full details of off-site highway improvement works to be submitted, approved and implemented prior to occupation.
- Travel Plan to be submitted to and approved by LPA prior to development being brought into use.
- Levels to be in accordance with details approved under application 22/80262/COND.
- No burning of waste during construction.
- Flood mitigation measures in accordance with details approved under 23/80061/COND.
- Details of any external plant to be agreed prior to installation.
- Biodiversity enhancements to be in accordance with details approved under application 22/80249/COND.
- Elevations for plot A3 to be in accordance with details approved under application 23/80168/COND.

If you would like a translation of this document, a large text version or an audio version, please contact us on 01480 388388 and we will try to accommodate your needs.

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Application Number: 23/00827/S73 Case Officer Lewis Collins

Proposal: Variation of Condition 5 of 20/00285/FUL - Removal of M4(2) (lifts) requirement to Blocks D1-D3.

Location: F Vindis And Sons St Ives Ltd Low Road Fenstanton

Observations of Fenstanton Town/Parish Council.

Please ✓ box as appropriate

Recommend **approval** because(please give relevant planning reasons in space below)

Recommend **refusal** because...(please give relevant planning reasons in space below)

This development was granted approval as affordable housing and as such will likely be occupied by young families, single parent families with pushchairs, elderly and disabled.

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Removal of the lifts in blocks D1-D3 would therefore breach the conditions on which the planning application approval was granted and would mean that the properties in these blocks would not be accessible as there are no properties on the ground floor. Fenstanton Planning Committee strongly objected to this application.

No observations either in favour or against the proposal

Clerk to Fenstanton Parish Council. (For GDPR purposes please do not sign)

Date : 02/06/2023

Failure to return this form within the time indicated will be taken as an indication that the Town or Parish Council do not express any opinion either for or against the application.

Please send response to email address below:-

Development.control@huntingdonshire.gov.uk

(Development Management)

Development Management Committee



Scale = 1:2,500

Date Created: 07/11/2023

Application Ref: 23/00827/S73

Parish: Fenstanton

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