

Planning Committee: 19 June 2018

Item Number: 6

Application No: [W/18/0138](#)

Town/Parish Council: Radford Semele
Case Officer: Dan Charles

Registration Date: 30/01/18

Expiry Date: 01/05/18

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**Land On The South East Side Of, Radford Semele, Leamington Spa, CV31
1TN**

Variation of Condition 1 of planning permission ref: W/17/0152 to replace reference to approved drawing 'RAD2-05-002 rev B' with reference to the following drawing numbers:- Private Drainage & External Works, Sheet 1 of 6, Dwg No. RAD2-05-P180 rev C Private Drainage & External Works, Sheet 2 of 6, Dwg No. RAD2-05-P181 rev D Private Drainage & External Works, Sheet 3 of 6, Dwg No. RAD2-05-P182 rev C Private Drainage & External Works, Sheet 4 of 6, Dwg No. RAD2-05-P183 rev C Private Drainage & External Works, Sheet 5 of 6, Dwg No. RAD2-05-P184 rev D Private Drainage & External Works, Sheet 6 of 6, Dwg No. RAD2-05-P185 rev C, in order to reflect changes in the finished levels across the site FOR Bovis Homes Limited

This application is being presented to Committee due to the number of objections and an objection from the Parish Council having been received.

RECOMMENDATION

Planning Committee is recommended to grant the variation of condition.

DETAILS OF THE DEVELOPMENT

This application is made under section 73 of the Town and Country Planning Act 1990 that relates to the determination of applications to develop land without compliance with conditions subject to which a previous planning permission was granted, subject to the revised/new conditions meeting the requirements of 'Use of Planning Conditions' (ID: 21a Updated 06.03.2014) of the PPG.

In deciding an application under Section 73, the Local Planning Authority must only consider the disputed condition that is the subject of the application – it is not a complete re-consideration of the application (PPG Paragraph 031 Reference ID: 21a-031-20140306). In this case the applicant is seeking a variation to the wording of a condition through the use of a Section 73 application (PPG Paragraph 13 Reference ID: 17a-013-20140306).

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.

This application is for the variation of Condition 1 of planning permission W/17/0152 for;

"Reserved matters application for the layout, landscaping, scale and appearance of 150 dwellings together with associated infrastructure and engineering pursuant to previously approved outline application ref: W/16/0196."

Condition 1 refers to the approved plans and this application seeks to vary the approved finished floor levels across the development to take into account the requirements regarding the drainage of the site as stipulated by Severn Trent and to reduce the requirement for retaining walls on the boundary of the site.

THE SITE AND ITS LOCATION

The application site relates to an arable field of approximately 6.8 hectares located on the northern side of Southam Road (beyond an existing development site – Phase 1) and south of Offchurch Lane. The western site boundary adjoins the rear gardens of properties in The Greswoldes, a residential cul-de-sac that forms part of the built up edge of Radford Semele village. The site sits outside but adjacent to the village envelope and is located to the eastern edge of the village. The site is within open countryside.

PLANNING HISTORY

W/17/0152 - Reserved matters application for the layout, landscaping, scale and appearance of 150 dwellings together with associated infrastructure and engineering pursuant to previously approved outline application ref: W/16/0196 – Granted 14.07.2017.

W/16/0196 - Outline planning application on land south of Offchurch Lane, Radford Semele with means of vehicular access from Southam Road, Radford Semele and pedestrian/cycle/emergency access from Offchurch Lane for consideration, all other matters (layout, appearance, scale and landscaping) reserved for subsequent approval, for the erection of up to 150 dwellings, of which 40% will be affordable, landscaping including change of use, earthworks to facilitate surface water drainage and all other ancillary infrastructure and enabling works – Granted 03.05.2016.

RELEVANT POLICIES

- National Planning Policy Framework
- FW1 - Development in Areas at Risk of Flooding (Warwick District Local Plan 2011-2029)

- DS2 - Providing the Homes the District Needs (Warwick District Local Plan 2011-2029)
- DS3 - Supporting Sustainable Communities (Warwick District Local Plan 2011-2029)
- DS6 - Level of Housing Growth (Warwick District Local Plan 2011-2029)
- H0 - Housing (Warwick District Local Plan 2011-2029)
- H1 - Directing New Housing (Warwick District Local Plan 2011-2029)
- H2 - Affordable Housing (Warwick District Local Plan 2011-2029)
- H4 - Securing a Mix of Housing (Warwick District Local Plan 2011-2029)
- BE1 - Layout and Design (Warwick District Local Plan 2011-2029)
- BE2 - Developing Strategic Housing Sites (Warwick District Local Plan 2011-2029)
- BE3 - Amenity (Warwick District Local Plan 2011-2029)
- TR1 - Access and Choice (Warwick District Local Plan - 2011-2029)
- TR2 - Traffic generation (Warwick Local Plan - 2011-2029)
- TR3 - Parking (Warwick District Local Plan - 2011-2029)
- TR4 - Safeguarding for Transport Infrastructure (Warwick Local Plan - 2011-2029)
- HS1 - Healthy, Safe and Inclusive Communities (Warwick District Local Plan 2011-2029)
- HS6 - Creating Healthy Communities (Warwick District Local Plan 2011-2029)
- HS7 - Crime Prevention (Warwick District Local Plan 2011-2029)
- CC1 - Planning for Climate Change Adaptation (Warwick District Local Plan 2011-2029)
- CC2 - Planning for Renewable Energy and Low Carbon Generation (Warwick District Local Plan 2011-2029)

SUMMARY OF REPRESENTATIONS

Radford Semele Parish Council: Objection:

- It has been accepted that this is a technical matter and the drawings attached to the application are difficult to read and understand.
- The development has been the subject of concern to those that live adjacent to the site and highlighted by the number of objections forwarded in response to the Reserved Matters applications, the majority of which referred to the fact that the developer appeared to have no regard whatsoever for conditions that had been applied.
- The manner in which Bovis have behaved during the building of this development has left much to be desired, without doubt inconsiderate.
- The developer had been made aware of the existence of the water mains on the site and chose to ignore the fact until Severn Trent imposed their restrictions.
- The Engineering Statement, which outlines the rationales for level changes across the development, makes for interesting reading. The final paragraph claims the rationale for the remainder of the site was to remove as much as possible the need to import material to fill the site, which is a disruptive, noisy and messy operation. The need was not removed, it was disruptive, noisy and messy. The A425 was covered in mud even though a road cleaner was employed.
- Many lorry loads of material were brought to the site over the past few months. Material was also removed. Residents living adjacent to the site have

reported, what they call, "recreational earth moving". Earth was regularly moved around the site. Whether this was to keep employees occupied or it could not be decided where the earth should be, is a matter of conjecture.

- Because of the very technical nature of this application and lack of access to civil engineering expertise it is not known whether these level adjustments will have a detrimental effect on those who reside in properties on the western boundary of the site.
- We are placing our faith with the WDC Planners to ensure that Bovis adhere to all the conditions/restrictions placed upon them.

WCC Ecology: No objection.

WCC Highways: No objection.

WCC Landscape: No objection.

WCC Flood Risk Management: Require further information to demonstrate that the revised proposal will not result in any increased flood risk or where possible, decrease any potential flood risk overall.

Public Response: 10 letters of objection received making the following comments;

- Increased levels will exacerbate flooding.
- Increased levels will increase overlooking of adjacent properties.
- Any levels changes alter the topography and landscape on the site.
- Changes diminish the rural character of the site.
- Will result in overshadowing.
- Will result in a loss of privacy.
- Site has a history of enforcement breaches.
- This issue should have been dealt with at an earlier stage.

Significant amounts of earth have been brought onto site, contrary to what was previously stated.

ASSESSMENT

History/Background

This application was deferred from the May Planning Committee to seek additional information from the applicants in the form of cross sections and street scene drawings to demonstrate how the levels changes affect the overall appearance of the site. Additional detailed drainage information was also requested as per the requirements of the County Flood Team.

These drawings and information have now been submitted and are incorporated into the presentation for consideration by Members of the Planning Committee.

Principle of Development

The principle for the housing development of 150 units was established following the grant of outline planning permission ref: W/16/0196 by Planning Committee on 3rd May 2016. This application also dealt with matters associated with the

principle for the development, including loss of agricultural land, affordable housing, the impact upon local services and infrastructure and agreed the access point. The outline application was subject to a Section 106 legal agreement securing necessary contributions.

The appearance, landscaping, layout and scale of the development has already been granted under reserved matters permission ref: W/17/0152.

This current application seeks to alter the approved land levels and finished floor levels to comply with the requirements stipulated by Severn Trent in relation to levels associated with drainage and to reduce the need for retaining walls to the site boundaries. The housing mix, parking and scale/design remain as approved.

Therefore the main issues relevant to the consideration of this application are as follows:

- The impact on the character and appearance of the area;
- The impact on the living conditions of nearby dwellings;
- Drainage and flood risk;
- Health and wellbeing.

Impact on the character and appearance of the area

Policy BE1 of the Warwick District Local Plan states that new development should positively contribute to the character and quality of its environment. The policy requires the provision of high quality layout and design in all developments that relates well to the character of the area.

The layout and building designs remain as previously approved and the changes just therefore focus on levels. The development of the site is substantially complete.

The levels changes across the site vary from -100mm to +400mm across the site. The revised levels show;

- 29 plots with a finished floor level higher than originally approved, varying from +50mm to +1300mm across the site.
- 119 plots with a finished floor level lower than originally approved, varying from -50mm to -2250mm across the site.
- 1 plot that remains with a finished floor level as approved.

The overall visual impact will be minimal as the houses are viewed in the context of a wider building group forming the new housing development.

The finished floor levels of visually prominent dwellinghouses located adjacent to Offchurch Lane at Plots 185 to 187 in the north western corner of the site have levels higher than approved with the maximum being 400mm on Plot 185. Dwellings located adjacent to Offchurch Lane to the north of the site at Plots 191 to 193 have levels that are lower than previously approved at -300mm (Plot 191) to -1950mm (Plot 193). The remaining plots that front the main estate road are all proposed with lower levels of between -5 to -1250mm. The

predominant feature of the levels changes to the central areas of the site are a decrease in the overall levels.

The key area of substantive levels increases are located at Plots 203-206 and 209 and 210 where the levels changes vary from +50mm to +1300mm. These plots are located in the north eastern corner of the site where the properties front onto the balancing pond with the exception of Plots 209 and 210.

When viewed as a run of houses, Plots 203 to 206 rise with the land level of the sloping site and do not have the visual appearance of having raised levels that appear excessive or out of character with the wider development.

Plots 109-115 also are proposed with increased land levels varying from no change to +450mm. These plots share a relationship with the newly built properties of Phase 1 and the impact of these level changes is minor on the character of the area.

The final key area of increase is at Plots 171-174 and Plot 177 where the properties will be adjacent to existing dwellings at The Greswoldes to the west and properties fronting Offchurch Lane. The increase varies between +50mm to +350mm (Plot 171). The varying levels changes of these plots where they share a boundary would result in some variations in overall built height but the rear to rear relationship and existing boundary treatments would ensure that the scheme would be viewed as out of keeping with the adjacent properties.

Overall, Officers are satisfied that the changes to the finished floor levels will not affect the visual amenity of the streetscene or wider views compared to the approved scheme and there is not considered to be any reasonable planning policy justification to refuse the scheme.

Impact on adjacent properties

Policy BE3 of the Warwick District Local Plan states that new development will not be permitted that has an unacceptable adverse impact on the amenity of nearby uses and residents.

The layout is unchanged and the separation distances therefore remain in accordance with the Council's guidelines. The changes in levels across the site do not affect these distances and the scheme will still provide an acceptable level of outlook and amenity for future occupiers.

The key plots subject to increased levels that have a relationship with existing neighbouring properties are Plots 171 to 174 where adjacent to existing dwellings at The Greswoldes to the west and properties fronting Offchurch Lane, Plots 185 to 187 fronting Offchurch Lane.

Plot 171 has an increase of 350mm and shares a common boundary with both 3 and 5 The Greswoldes and Spring Cottage fronting Offchurch Lane. The relationship is side to rear with the properties on The Greswoldes and rear to rear with Spring Cottage. Having considered the relationships with the adjacent properties, Officers are satisfied that a 350mm increase would result in an

appropriate relationship and would prevent the need for substantial use of retaining walls between the properties.

The remaining plots that back onto the properties fronting Offchurch Lane (Spring Cottage, Stonecroft and Cotswold have a modest increase in levels of +50mm to +250mm. The relationship of these properties with a significant separation distance which is retained as approved is such that Officers are satisfied that there would be no harm to the amenity of occupiers.

Plot 177 would be located with its rear boundary adjacent to the back corner of Cotswold's rear garden and with an increase of 300mm, Officers are satisfied that the proposal would not result in any demonstrable harm to the occupier. Plot 187 has a side to side relationship with Cotswold and I am satisfied that the increase of 150mm would not result in any harm to the amenity of the occupiers.

Plots 185 to 187 face properties on the opposite side of Offchurch Lane. Due to the separation distances, Officers are satisfied that increased levels would not have any harmful impact on the properties opposite the site.

The remaining plots through the site would not have any impact on existing residents and Officers are satisfied that the changes in levels within the site would be shared by all properties leading to an acceptable relationship.

Highway Safety

Policy TR1 of the Warwick District Local Plan requires all developments provide safe, suitable and attractive access routes for all users that are not detrimental to highway safety. Policy TR3 requires all development proposals to make adequate provision for parking for all users of a site in accordance with the relevant parking standards.

There are no changes to the overall layout of the proposal that would affect highway safety. Separate consents are required from the County Highways Authority in terms of the adoption of the roads within the estate.

Impact on Ecology/Protected Species

Policy NE3 of the Warwick District Local Plan states that development proposals will be expected to protect, enhance and/or restore habitat biodiversity and where this is not possible, mitigation or compensatory measures should be identified accordingly.

There are no changes proposed that would have any impact on ecology or protected species. Previously imposed conditions were satisfactory for mitigating any potential harm and these are still relevant to the scheme.

Drainage

The County Flood Risk Management Team have requested additional information to demonstrate that the proposal will not result in any increased flood risk or where possible, the changes will decrease any flood risk potential. The

applicants have provided updated engineering data to demonstrate that the proposal does not increase flood risk outside of the site and has been designed in accordance with all relevant requirements and regulations.

The plans submitted have addressed the majority of the queries raised. The County Flood Officer has requested the inclusion of boundary treatment (such as a filter drain etc) along the boundary of the site adjacent to Offchurch Lane to mitigate the likelihood of flows leaving the site on to the highway and heading towards properties and this has now been provided by the applicants.

An additional condition is recommended to secure the implementation of these details.

Previously Imposed Conditions

Officers have considered the previously imposed conditions and are satisfied that the conditions are still relevant to the application.

The existing conditions are pre-occupation or conditions in perpetuity shall be carried forwards as previously worded but subject to the up to date Policy position.

Conclusion

The proposal seeks to vary condition 1 of a previous approval to regularise the as-built levels on the site compared to those approved under W/17/0152.

In assessing the proposal, Officers are satisfied that the variation of the condition to allow variations to levels across the site and the revised levels do not result in any significant harm to the character and amenity of the area, amenity of neighbours, highway safety or matters of ecological importance.

CONDITIONS

- 1 The development hereby permitted shall be carried out strictly in accordance with the details shown on the site location plan and approved drawings RAD2/02/210, RAD2/02/250, HTPD_P2B_AFF, HTPD_S110, HTPD_S241 LTH_1, HTPD_S351 LTH_1, HTPD_S351 LTH_3, HTPD_S461_1, HTPD_S461_3, HTPD_P2301 1 OF 2, HTPD_P2301 2 OF 2, HTPD_P2B, HTPD_P3407, HTPD_C3003CT 1 OF 2, HTPD_C3003CT 2 OF 2, HTPD_P3003v, HTPD_P3402 1 OF 2, HTPD_P3402 2 OF 2, HTPD_P4501 1 OF 2, HTPD_P4501 2 OF 2, HTPD_P506 1 OF 2, HTPD_P506 2 OF 2, HTPD_P507 1 OF 3, HTPD_P507 2 OF 3, HTPD_P507 3 OF 3, HTPD_P602 1 OF 3, HTPD_P602 2 OF 3, HTPD_P602 3 OF 3, RAD2/02/120 rev B, RAD2/02/290, RAD2/02/280 rev B and specification contained therein, submitted on 20 April 2017, approved drawings PD_AGD2-1 rev A, PD_AGS2-2 rev A, PD_AGS2-1 rev A, RAD2/02/230 rev C, RAD2/02/240 rev C and RAD2/02/260 rev C and specification contained therein, submitted on 15 May 2017, approved drawings RAD2-05-001 rev B, RAD2-05-003 rev B, RAD2-05-005 rev A, RAD2-05-006 rev A and specification contained therein, submitted on 2 June 2017,

approved drawings PD_AGT2-2 rev B and PD_AGT2-1 rev B and specification contained therein, submitted on 6 July 2017, approved drawing RAD2-02-300 and specification contained therein, submitted on 10 July 2017, approved drawings RAD2-03-100 Rev.E 1 of 5, RAD2-03-100 Rev.E 2 of 5, RAD2-03-100 Rev.E 3 of 5, RAD2-03-100 Rev.E 4 of 5, RAD2-03-100 Rev.E 5 of 5 and RAD2-03-101 Rev.D and specification contained therein, submitted on 14 July 2017, approved drawing RAD2-02-750 Rev.A and specification contained therein, submitted on 18 July 2017, approved drawing RAD2/02/100 rev G and specification contained therein, submitted on 19 July 2017 and RAD2-05-P180 Rev C, RAD2-05-P181 Rev D, RAD2-05-P182 Rev C, RAD2-05-P183 Rev C, RAD2-05-P184 Rev D and RAD2-05-P185 Rev C and and specification contained therein, submitted on 30 January 2018. **REASON** : For the avoidance of doubt and to secure a satisfactory form of development in accordance with Policies BE1 and BE3 of the Warwick District Local Plan 2011-2029.

- 2 No part of the development hereby permitted shall be commenced until a revised Biodiversity Impact Assessment (BIA) calculation has been undertaken by a suitably qualified ecologist and the report detailing the findings submitted to and approved in writing by the Local Planning Authority. **REASON:** To safeguard the presence and population of protected species in line with UK and European Law, the National Planning Policy Framework and Policy NE2 of the Warwick District Local Plan 2011-2029.
- 3 The landscaping scheme submitted as part of the application hereby permitted shall be completed, in all respects, not later than the first planting season following the completion of each phase of the development hereby permitted. Any trees removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced by trees of similar size and species to those originally required to be planted. **REASON:** To protect and enhance the amenities of the area, and to satisfy the requirements of Policies BE1 and NE4 of the Warwick District Local Plan 2011-2029.
- 4 The development hereby permitted shall be carried out in strict accordance with the updated details of surface and foul water drainage works submitted to the local planning authority. **REASON:** To ensure that adequate drainage facilities are available for the satisfactory and proper development of the site in accordance with Policies BE1 and FW2 of the Warwick District Local Plan 2011-2029.
- 5 The development shall not be occupied until the emergency access onto the C91 Offchurch Road has been constructed to include provision for pedestrian access including appropriate dropped crossings to both the north and south side of the carriageway together with the installation of traffic signs in accordance with the Traffic Signs Manual 4, diagram 562 with sub-plate 563 on the westerly approach to the emergency/pedestrian, together with all other ancillary works, in accordance with a scheme approved in writing by the Local Planning

Authority in consultation with the Highway Authority. **REASON:** In the interests of vehicular and pedestrian safety in accordance with Policy TR1 of the Warwick District Local Plan 2011-2029.

- 6 No dwelling/building shall be occupied until the estate roads including footways, serving it have been laid out and substantially constructed to the satisfaction of the Highway Authority in accordance with the details approved in writing by the Local Planning Authority. **REASON:** In the interests of highway safety in accordance with Policy TR1 of the Warwick District Local Plan 2011-2029.
- 7 The construction of the estate roads serving the development including footways, verges and footpaths shall not be other than in accordance with the standard specification of the Highway Authority. **REASON:** In the interests of highway safety in accordance with Policy TR1 of the Warwick District Local Plan 2011-2029.
