

Email sent by Judy Webb to the Project Officer for the development, James Graham, on 4 August 2019

Unfortunately my work commitments do not allow me the time for a further site meeting with you for discussions. However, with respect to the 10 affordable house development at Warren Crescent it would seem helpful for the points we discussed at our meeting on 22.05.2019 on site to be summarised for future reference and to ensure that the Conditions are fulfilled as required and not merely glossed over.

I was most concerned to see that the Conditions summarised under Application 13/01555/CND4 were approved on 31 July 2019 yet the site plan still shows the unwanted Bod paving/Grasscrete (see Condition 16), the swale is furnished with flowers as a landscape feature, the swale is labelled as being 'over deepened to form a pond' (??? Contrary to its main purpose and the detailed design which is infiltration). Flowers are to be sown contrary to our discussion where I said the swale area needed regular close mowing to aid functioning and dissuade dumping, and is shown unfenced despite the need for this as I emphasised to you (because there must be no public access to avoid dumping and pollution).

Many Conditions explicitly state that they MUST be fulfilled BEFORE any development commences. Many are outstanding.

The Local Plan states quite categorically: (This is from the Adopted plan Feb 2013, 'Policy SP60 Warren Crescent extract '... Planning permission will only be granted for residential development at Warren Crescent if it can be proven that there will be no adverse impact upon surface and groundwater flow and the Lye Valley SSSI. Development proposals must incorporate sustainable drainage with an acceptable management plan....')

In summary the following Conditions have not yet been satisfactorily met (for some reports are awaited):

Condition 4: Means of enclosure for all boundaries including the swale

Condition 8: No felling, lopping or cutting trees or shrubs without written consent of the Local Planning Authority.

Condition 11: The SUDS, swale and specifically:

- Preventing installation of hard landscaping in back gardens with tenants or with Right to Buy
- Action on a monitoring plan for the drainage system- contractors must be in place before work starts

Condition 13: 'Method Statement for preserving the ecology on site and the adjacent Lye Valley SSSI'

Condition 16: Details of allotment access and parking areas – Bod paving not needed and should not encroach on LNR

Condition 20: Arrangements to ensure that the accommodation is affordable both for first and subsequent occupiers of the affordable housing

Condition 24: Removal of permitted development rights (Right To Buy)

Condition 25: External lighting to not damage the biodiversity adjacent (glow worms and moths)

Condition 26: Phase 3 Scheme of remediation for identified ground contamination from the made ground and to 'ensure the site is suitable for its proposed use'

Plus: Not Listed as Conditions but Imperative to the Development:

Piling: Additionally and not in conditions but mentioned in all planning docs presented on OCC website before permission achieved – foundations of buildings must not involve piling so as not to interrupt water flow underground to the SSSI – see crucial point in planning policy statement above in Local Plan. You have told me that piling will not occur under any circumstance, but I have no confidence in this as the development is on a tipped embankment of made ground. Expert reports on ground conditions the Council commissioned as far back as Dec 2012 suggest piling or suspended concrete platforms (which may need to go on concrete pillars) might be needed if made ground is deeper than 60cm and it is much more than that over much of the site.

Ref: 13_01555_CT3-PHASE_1_GROUND_CONDITION_ASSESSMENT-1381056

It is 35.7 megabytes and too big to email. Despite your assurances it is possible the developers will start the development and halfway through demand to do piling for safety of buildings? Will the development simply be stopped if the strip pads or ground slabs foundations prescribed in the Planning Permission grant are judged to be inadequate? I look forward to receiving news on the recent investigation of ground conditions to which you have referred.

Sewerage issues: sewer replacement is of course essential, but I requested sealed joints to ensure no future leakage to contaminate groundwater which

travels to the fen – information on replacement sewer design needed. The existing old sewer runs under where houses will go so there must be a replacement along a different route. This is not a Condition as it has to be replaced. FOLV have asked for a sewer with sealed joints so that there can be no sewage leakage to ground water, now or in future years as the sewer ages. Considerable nitrate in the springs emerging in the fen near the tipped embankment of made ground indicate current sewage leakage, mentioned by WSP in their baseline water quality report. ‘Betterment’ can be achieved in Water Quality in the SSSI/LNR by sewer replacement – stated by your contractors WSP in their report. FOLV have asked for sealed joints in the new sewer to stop any future sewage leak when the system comes under high pressure or ages. Thames Water told FOLV that it is possible to have sealed sewer joints in situations where there must be no leakage. Sewers normally only have push fit joints so that willow or poplar tree roots could grow into the non-sealed joints to widen them and cause a leak. Push fit joints will leak when any sewer is fully loaded/over loaded (under pressure). No wonder there is always groundwater pollution in urban areas. Sealed joints will make the groundwater pollution situation better because the old sewer may be leaky.

Here is more detail:

Treatment of Trees in the hedge H26 to rear of development on east side (Condition 8) and Footpath issues

The tree protection report (2123151) up on website is out of date (2013) it states this line of field maple trees (H26) should be kept as tall as possible and best left alone as a solid barrier for the nature reserve adjacent, but it will significantly shade the houses and back gardens. To reduce shading this report suggests 3m reduction in crown height and 2m off lateral spread over gardens, but it would seem much more reduction than this is likely (our conversation on 22.05.2019 on site) to be necessary near the houses. Additionally this report does not cover the new plan which is that the field maple trees in this line H26 alongside the swale will need to be coppiced (cut to ground) to then be allowed to regrow and just be a hedge from our conversation on site (to reduce leaf fall into adjacent swale – too much leaf input would reduce its functioning). This severe cutting back of trees affects light pollution into the valley (will be more), visual amenity of a walk down the valley boardwalk (reduced since the new development will be clearly visible),

a bat flight corridor severely affected (Condition 13 relevant here). The new plan for the footpath diversion (along the top of the bank at back of gardens) is now up as part of the Landscape Design but the new footpath position affects the field maple trees as it is located in their root protection zones. Also the route of the footpath in relation to the swale needs to also have the fencing absolutely necessary – I see it goes between the headwall of the swale and the south end house. The swale must be fenced from public access to prevent dumping of materials or chemicals and thus pollution of the swale (Condition 4).

Light Pollution (Condition 25)

Light pollution will interfere with the mating flights of moths and glow worms (an iconic and much loved species in the valley which is declining nationally) which fly in the valley directly below the proposed development. Males are confused by lighting and cannot find female glow worms. This will result in decline of the species. There is so far no information on preventing this which is Condition 25. External lighting location and light spillage is not specified. 'Ranex' External wall lights are detailed – but where they will go and how will they are installed so as NOT to spill light and attract/affect this wildlife is not explained. Of course tenants could replace them with brighter lights. Light streaming from rear windows in the development should also be considered; the trees would screen this but they are to be lopped (see above). How much light they will spill into the Valley after tree works is not calculated or stated in Condition 25.

Water Quality Monitoring (Condition 11)

The need for ongoing water monitoring to ensure the SSSI is not being affected (for 5 years). The plans for this are detailed on website but monitoring contract needs to be awarded because a first monitoring round of Water Quality sampling should happen just as groundworks are commenced. So the developer should not start the groundworks until the Water Quality monitoring plan is in place and the contractor ready to take samples. The number of sample sites and positions should be the same as in the baseline year or not comparable. Then samples are needed at regular intervals i.e. bi monthly (ie every 2 months) through the works period and thereafter as in the baseline. Regular reporting needs to happen and the reports to be publicly available for inspection.

The functioning of the Swale and protection of the adjacent fen water chemistry (relevant to Condition 11)

Since, as you said, 'people will not be allowed to wash their cars on their drives' in case the chemicals (phosphates) in the detergent or adversely affect the Valley as water from paving will be conducted to the SSSI fen springs via the swale. The rare fen habitat of the SSSI is critically dependent on low phosphate, the swale limestone may remove it or it may not. They will also be banned from doing car maintenance on the front paving in case of oil spillage for the same reason (you said). Will tenants be forbidden to use fertilizer or weed-killer on their front drives and plants? These would also filter down through the ground or be conducted via the permeable paving to swale into the fen and cause possibly irreparable damage to the fen. A good visual image to hold in mind is that the swale is a mainline route for substances to be carried into the heart of the sloping west side SSSI fen. What will the Council do then to remediate the fen, if the rare plants in the spring emergence area have been affected and the water quality monitoring in the fen shows contamination? I cannot see how one could trace any pollution incident in the fen back to the activities of any particular tenant in order to stop them doing the activity; and would they be evicted if they continued the activity? For using fertilizer or weedkiller or washing or maintaining a car?

Ground Contamination (Condition 26 Phase 3)

The outstanding issue of the soil being polluted (this relates to Condition 26 where Phase 3 of the development requires that 'a scheme of remediation/and or monitoring to ensure the site is suitable for its proposed use be submitted and approved in writing by the LPA.' Complete removal of the topsoil was recommended in a report by contractors WSP – (how much and for how deep is not stated) and replacement with other clean topsoil. How much would this cost and what would be done with the contaminated soil? We await more information. Maybe the Council prefers to leave the topsoil as is, since as you informed me at our site meeting that 'people will not be allowed to dig their gardens' – nor presumably will children be allowed to play there just in case they ingest some of the contaminated soil which contains PCAH compounds (from bitumen) which are carcinogens. Many children ingest the odd handful of dirt either accidentally or as an experiment – they also get it on their hands and eat an ice cream or whatever. Is there a potential tortious liability to the Council for personal injury from the contamination if this soil is left in place? If people are not allowed to dig their

gardens the obvious route is to concrete them over as play/barbie area – further depriving the fen of rainfall infiltration. This hard surfacing in gardens is supposed to be forbidden (Condition 11, point ii) but there is no information as to how this condition will realistically be enforced.

Conditions 24 and 11 Removal of permitted development rights

To ensure no paving, hard landscaping or extensions in back gardens which would restrict water infiltration. How will this be achieved? FoLV were promised at the time of achievement of planning permission that Right to Buy would be removed. You said you would enquire of the council's lawyers. What news on this? Obviously, independent owners can/will do as they wish as regards garden use including cultivation, paving the garden or building an additional 8 metre extension into the back garden (contrary to Condition 11) use chemicals e.g. in vehicle maintenance or repair, gardening e.g. weedkiller use etc. Even with 'restrictive covenants' there is no plan for enforcement and, as any solicitor will tell you, 'covenants aren't worth the paper they are written on.' So the same issues of enforcement would apply as with Council tenants – only with no enforcement whatever, especially if the owners, as is common, are Buy to Let overseas investors. Details of your arrangements for enforcing Conditions 24 and 11 would be appreciated.

Retention of Affordable Housing: Condition 20 especially section iv

No arrangements/information have been provided 'to ensure that the accommodation is affordable both for first and subsequent occupiers of the affordable housing' nor 'details of the transfer to an affordable housing provider' have been published by the Council.

But 'The development shall not begin' until this has been sorted out.

Conditions 13 and 8 : Method Statement for 'preserving the ecology on site and the adjacent Lye Valley SSSI'

This has not been produced at all. In supposed fulfilment of this condition the Council's website displays the 2012 Ecological Appraisal by BSG. This Appraisal is not a Method Statement. It is years out of date (using completely outdated wildlife survey data) and not revised, just re-issued in apparently identical form in 2019. It was done in 2012 and completely ignores the subsequent bat, bird, reptile, amphibian, and butterfly species data in the adjacent SSSI/LNR

which have been compiled as part of the on-going fen management. Also it does not address the severe treatment of the line of field maple trees H26 (coppicing/heavy pruning) which will be necessary at the east margin of the development, at the bottom of proposed house gardens to give light to the gardens and to stop tree leaf fall into the swale. This severe treatment is necessary, is actually contrary to requirement of Condition 8. This line of trees is reported by BSG as a likely bat flight corridor and the severe treatment lopping/felling is likely to affect bat flight. A Method Statement would need to take this big change into account and it clearly does not. The Method Statement would also need to also cover the impact of the very recent (July 2019) decision to route the footpath under these trees along the top of the bank and in their root zone A new, relevant, up to date Method Statement for preserving ecology is needed – one which is fit for purpose which this is not.

Condition 16 – Allotment access and Bod Paving/Grasscrete or similar Intrusion to the LNR

This specifies that the allotment access must be in accordance with the approved plans which show bod paving (similar to grasscrete). The BSG document (2012, re issued 2019) you have had for years advises that the access to Town Furze allotments for tractors at the northern end of the site (installation of bod paving) actually impinges on the LNR/LWS going over into the nature area by 200m². This seems to have been ignored. This incursion of partial hard surfacing into the LNR is not acceptable and this Bod paving is not actually wanted by allotment tenants since tractor/trailer access is required at most twice per year which obviates the need for partial hard surfacing. The greensward of Warren Meadow, on which the development will take place, has shown no visible sign of damage from the effects of tractor and trailer access over the past 70 years, nor, for that matter, from tractor access for mowing. Bod paving is an unnecessary expense here. The money would be better spent on other important things like fencing the swale.

One has to ask: given the rarity of the SSSI, the risks to its unique water flow, the dangers of contamination to people, especially to pregnant mums and unborn children, the expense of topsoil replacement, the ban on piling the foundations constructed on tipped embankment, the difficulty of enforcing any restrictions on tenants or purchasers – is this site really suitable for development?