



**OFFICE OF THE
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Our Ref: APP/V2635/V/02/1090709
1090711

19 November 2003



2/01/1281

Dear Sirs,

**TOWN AND COUNTRY PLANNING ACT 1990 - SECTION 77
APPLICATIONS BY BENNETT PLC AND ABBEY DEVELOPMENTS LIMITED
LAND OFF BENNETT STREET/GRIMSHOE ROAD, DOWNHAM MARKET
APPLICATION NOS: 2/01/1281/F AND 2/01/1126/F**

1. I am directed by the First Secretary of State to say that further consideration has been given to the report of the Inspector, Martin Pike BA MA MRTPI, who held a public inquiry, between 3rd December and 5th December 2002 into applications by:

Bennett plc - for the construction of 135 houses, 53 bungalows and 24 flats ("Bennett")

Abbey Developments Limited - for the erection of 155 1,2,3,4 & 5 -bedroom dwellings with associated access and parking ("Abbey")

on land off Bennett Street/Grimshoe Road, Downham Market. On 7th May 2002, the Secretary of State directed, in pursuance of section 77 of the Town and Country Planning Act 1990, that the Bennett and Abbey schemes be referred to him rather than being dealt with by the local planning authority, King's Lynn and West Norfolk Borough Council.

2. The Secretary of State's letter of 2 June 2003 (copy attached at Annex C) enclosed a copy of the Inspector's report. A further copy of that report is not therefore attached to this letter, but can be made available on request.
3. The Inspector recommended that full planning permission be granted to both applications, subject to conditions.

**Procedural matters - Minded to dismiss letter dated 2 June 2003
Minded to allow letter dated 14 October 2003**

4. Having considered the Inspector's report, the Secretary of State wrote to the parties on 2 June 2003, setting out his conclusions on each of the main issues and the reasons why the Secretary of State was minded to refuse your client's application for planning permission. He accordingly invited further representations on his disagreement with the Inspector's conclusion regarding the basis of the density calculation for both schemes and in particular the treatment of the distributor road. The Secretary of State in his letter also highlighted a number of other concerns relating to the Bennett proposal relating to design, site layout, mix of housing and best use of land.
5. In the light of the further representations submitted in response to his letter of 2 June, the Secretary of State wrote to the parties on 14 October (copy attached at annex D) setting out his conclusions on the further submissions and the reasons why he was minded to allow your client's applications subject to conditions.
6. The Secretary of State has also taken into account the planning obligations under section 106 of the 1990 Act submitted by Abbey Developments Ltd dated 6 December 2002 and Bennett PLC dated 19 June 2003.

Further representations received

7. The representations received in response to the Secretary of State's letter of 14 October are attached at Annex E. The letters have not been previously circulated to parties since, in the Secretary of State's view, they do not raise new issues necessitating further consultation. They have however been taken into account in his final considerations.
8. Both Abbey Developments Limited and Bennett PLC have accepted the conditions proposed by the Secretary of State in his letter of 14 October as a result, his previous objections to the schemes have been overcome. In response to the Secretary of State's invitation in his letter of the 14 October, the developers representations also put forward conditions to deal with the glazing of certain windows on the site, with which the Secretary of State, subject to minor amendment, is satisfied.

Formal decisions

Bennett

9. For the reasons given above, the Secretary of State accepts the Inspector's recommendation. He hereby grants planning permission for the application for the construction of houses, bungalows and flats on land off Bennett Street/Grimshoe Road, Downham Market, in accordance with application 2/01/1281/F, dated 15 August 2001, as amended by Gerald Eve's letter of 31 October 2003 and subject to the conditions listed in Annex A.

Abbey

10. For the reasons given above, the Secretary of State accepts the Inspector's recommendation. He therefore grants planning permission for the application for full planning permission for the erection of 1,2,3,4&5-bedroom dwellings with associated access and parking on land off Bennett Street, Downham Market, in accordance with application 2/01/1126/F, dated 18 July 2001, as amended by Abbey Developments Ltd's letters of 30 and 31 October 2003 and subject to the conditions listed in Annex B.
11. An applicant for any consent, agreement or approval required by a condition of this permission has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the local planning authority fail to give notice of their decision within the prescribed period.
12. This letter does not convey any approval or consent which may be required under any enactment, bye-law or regulation other than that required under section 57 of the Town and Country Planning Act 1990.
13. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court.
14. A copy of this letter has been sent to King's Lynn and West Norfolk Borough Council and to all those who appeared at the inquiry.

Yours faithfully,



Susan Turner
Authorised by the First Secretary of State
to sign in that behalf

ANNEX A

CONDITIONS ATTACHED TO THE BENNETT SCHEME : APPLICATION No 2/01/1281/F, dated 15 August 2001

1. The development hereby permitted shall be begun within five years from the date of this permission.
2. The residential development hereby permitted shall have an overall net residential density of at least 30 dwellings per hectare as defined in PPG3: Housing.
3. Notwithstanding the details shown on plan 9020/1A details of layout and design shall be as approved in writing by the Local Planning Authority.
4. Notwithstanding the details shown on the house type plans, the elevations of the house types hereby permitted shall be submitted to and approved in writing by the Local Planning Authority.
5. Notwithstanding the location of the affordable housing units shown on Plan 9020/1A the details and location of the 25 affordable units hereby permitted shall be submitted to and approved in writing by the Local Planning Authority in not less than two separate locations on the application site.
6. Notwithstanding the details shown on Plan 9020/1A the provision of freestanding garages shall be as approved in writing by the Local Planning Authority.

Highway Issues/Conditions

7. Prior to the commencement of development, a timetable shall be agreed with the Borough Planning Authority for the completion of the foot/cycle paths shown on the approved plan (Drawing No 9020/1A) and these shall be provided in accordance with the agreed timetable.
8. The main distributor road through the site and the connection to the southern site boundary and to Grimshoe Road shall be constructed and completed in accordance with the approved details before the occupation of any of the dwellings hereby permitted, or in accordance with such other timescale as may be agreed in writing with the Borough Planning Authority.
9. Construction traffic to be used in connection with this development shall only access and exit the site from Bennett Street.
10. Prior to the occupation of any dwelling hereby permitted the access and any parking area shall be laid out, surfaced and drained in accordance with the approved details.
11. Before the start of the development, facilities shall be provided to enable vehicle wheels to be washed prior to the vehicle entering the public highway. Such facilities shall be used as necessary to prevent extraneous material being carried onto the public highway.

General Estate Conditions

- 12 Notwithstanding the submitted details, prior to the start of development a schedule giving full details of all the external building materials shall be submitted to and agreed in writing with the Borough Planning Authority. Development shall be carried out in accordance with the approved details.

Open Space/Play Equipment

- 13 Before the start of the development hereby approved full details of the maintenance arrangements for the areas of public open space on the estate shall be submitted to and approved by the Borough Planning Authority. If the maintenance is to be other than by adoption of the areas by the Borough Council then these details shall include reference to specific arrangements and timing with a named contractor and/or local residents organisation.
- 14 Prior to the commencement of development, full details of the equipment to be provided, and layout of the local areas of play (LAPs) and the local equipment area for play (LEAP) which shall be in a position on the main area of Public Open Space on the site, shall be submitted to and agreed in writing by the Borough Planning Authority. These areas shall be laid out, equipped and completed to the satisfaction of the Borough Planning Authority within 12 months of the commencement of building operations or such longer period as may be agreed in writing and maintenance shall be carried out as approved. The areas and equipment shall thereafter be used for that purpose only.
- 15 Before the start of the development hereby approved full details of the maintenance arrangements for the LAPs and the LEAP on the estate shall be submitted to and approved by the Borough Planning Authority and completed in accordance with the approved details. If the maintenance is to be other than by adoption of the areas by the Borough Council then these details shall include reference to specific arrangements and timing with a named contractor and/or local residents organisation.
- 16 Notwithstanding the submitted details, prior to the commencement of development, the precise details of a fence along the (western) area of open space with the purpose of separating it from the adjacent dyke, shall be submitted to and agreed in writing by the Borough Planning Authority and maintenance shall be carried out as approved. The agreed fence shall be erected within 12 months of the commencement of building operations or some other period agreed in writing by the Borough Planning Authority.

Amenity

- 17 Prior to their occupation, the rear facing bedroom windows on any dwellings within 15 metres of the western boundary of the application site shall be glazed to a specification which shall have previously been agreed in writing with the Borough Planning Authority.
- 18 . Prior to the commencement of development a scheme showing all boundary treatments proposed around the site (except those required by Condition 12) shall be

submitted to and agreed in writing with the Borough Planning Authority and implemented as per the approved scheme.

Landscaping

19 The approved landscaping scheme shown on plan Drawing No9020/1a shall provide for all planting, seeding and turfing to be completed within 12 months of the commencement of building operations (or such other period or phasing arrangement as may be agreed in writing by the Borough Planning Authority). Any plants which within a period of 5 years from completion of the development die or are removed, or become seriously damaged or diseased shall be replaced in the following planting season with plants of same species and size.

20 Prior to the commencement of development, full details of the future maintenance arrangements for:-

- i) the planting along the northern and eastern boundaries with Cock Drove;
- ii) the dense tree landscaped buffer area in the north-eastern corner of the site;
- iii) the existing pond along the northern boundary as shown on drawing No 9020/1A, shall be submitted to and agreed in writing by the Borough Planning Authority.

Contamination

21 Prior to the commencement of the development of a site investigation shall be carried out to establish whether a scheme of remedial works is necessary to deal with any land or water contamination found on the site, including that resulting from migrating landfill gas. Details of the site investigation, and if necessary the proposed remedial works, shall be submitted to and approved in writing by the Borough Planning Authority, and development shall not begin until any measures approved in the scheme of remedial works have been implemented.

Infrastructure

22 Prior to commencement of any development, a scheme for the provision and implementation of foul water drainage shall be submitted and agreed in writing with the Borough Planning Authority. The works/ scheme shall be constructed and completed in accordance with the approved plans. Prior to the commencement of any development, a scheme for the provision and implementation of surface water drainage shall be submitted and agreed in writing with the Borough Planning Authority. The works/scheme shall be constructed and completed in accordance with the approved plans.

23 Prior to the commencement of development full details of finished floor levels across the site shall be submitted to and approved by the Borough Planning Authority, and the development shall be carried out in accordance with the approved plans.

- 24 Prior to the commencement of development, full detail of all proposed hard surfacing across the scheme, which shall include a demarcation in surfacing between manoeuvring and parking areas, shall be submitted to and agreed in writing by the Borough Planning Authority, implemented as agreed and thereafter retained.
- 25 At no time shall the landscape strip along the northern and eastern boundary of the site, adjoining Cock Drove, be incorporated within the garden area of any of the adjoining plots.

ANNEX B

CONDITIONS ATTACHED TO THE ABBEY SCHEME: APPLICATION No 2/01/1126/F, dated 18 July 2001

- 1 The development hereby permitted shall be begun within five years from the date of this permission.
- 2 The residential development hereby permitted shall have an overall net residential density of at least 30 dwellings per hectare as defined in PPG3: Housing.
- 3 Notwithstanding the details shown on plan 1139/01c details of layout and design shall be as approved in writing by the Local Planning Authority.

Highway Issues/Conditions

- 4 Prior to the commencement of development, a timetable shall be agreed with the Borough Planning Authority for the completion of the foot/cycle paths shown on the approved plan (Drawing No 1139/01c), and these shall be provided in accordance with the agreed timetable.
- 5 No works on the construction of dwellings shall commence on the site until such time as:
 - i) the detailed design of the traffic signals proposed at the Bennett Street/Railway Road junction have been submitted to and agreed in writing by the Borough Planning Authority; and
 - ii) the necessary highway improvements referred to above in i) have been completed in accordance with the approved details.
- 6 The main distributor road through the site and the connection to Bennett Street and to the northern site boundary shall be constructed and completed in accordance with the approved details before the occupation of any of the dwellings hereby permitted, or in accordance with such other timescale as may be agreed in writing with the Borough Planning Authority.
- 7 Construction traffic to be used in connection with this development shall only access and exit the site from Bennett Street.
- 8 Prior to the occupation of any dwelling hereby permitted, its access up to base course level and any parking area for it shall be laid out, surfaced and drained in accordance with the approved details.
- 9 Before the commencement of the development, facilities shall be provided to enable vehicle wheels to be washed prior to the vehicle entering the public highway. Such facilities shall be used as necessary to prevent extraneous material being carried onto the highway.

General Estate Conditions

- 10 Before the commencement of any development full details of all the external building materials shall be submitted to and approved by the Borough Planning Authority. Development shall be carried out in accordance with the approved details.

Open Space/Play Equipment

- 11 Before the commencement of the development full details of the maintenance arrangements for the area of public open space on the estate shall be submitted to and approved by the Borough Planning Authority and maintenance shall be carried out as approved. If the maintenance is to be other than by adoption of the area by the Borough Council then these details shall include reference to specific arrangements and timing with a named contractor and/or local residents organisation.
- 12 Before the commencement of development, full details of the equipment to be provided, and layout of the local areas of play (LAPs) on the site, shall be submitted to and agreed in writing by the Borough Planning Authority. These areas shall be laid out, equipped and completed in accordance with the approved details within 12 months of the commencement of building operations or such longer period as may be agreed in writing. The areas and equipment shall thereafter be used for that purpose only.
- 13 Before the commencement of the development full details of the maintenance arrangements for the LAPs on the estate shall be submitted to and approved by the Borough Planning Authority and maintenance shall be carried out as approved. If the maintenance is to be other than by adoption of the areas by the Borough Council then these details shall include reference to specific arrangements and timing with a named contractor and/or local residents organisation.
- 14 Notwithstanding the submitted details required in condition 11, prior to the commencement of development, the precise details of a fence or other means of enclosure along the (western) area of open space with the purpose of separating it from the adjacent dyke, shall be submitted to and agreed in writing by the Borough Planning Authority. The agreed fence shall be erected within 12 months the commencement of building operations or some other period agreed in writing by the Borough Planning Authority.

Amenity

- 15 Prior to their occupation, the second floor rear facing bedroom windows to all houses or flats that are within the 35m noise contour of the near side track of the railway line shall be glazed to a specification that shall have previously been agreed in writing by the Borough Planning Authority.
- 16 Prior to the commencement of development a scheme showing all boundary treatments proposed around the site (except those required by condition 12) shall be submitted to and agreed in writing with the Borough Planning Authority and implemented as per the approved scheme.

Landscaping

- 17 Before the commencement of development, including site clearance, a scheme for the landscaping, at a scale of not less than 1 : 500 and showing a north point, of the development shall be submitted to and approved in writing by the Borough Planning Authority. The scheme shall include details of all existing trees and hedgerows on and abutting the site and those which are to be removed (if any). All planting, seeding and turfing shown on the approved scheme shall be completed within 12 months of the commencement of building operations (or such other period or phasing arrangements as may be agreed in writing by the Borough Planning Authority). Any plants which within a period of 5 years from the completion of the development die, or are removed, or become seriously damaged or diseased shall be replaced in the following planting season with plants of same species and size.
- 18 The details required to be submitted in accordance with condition 15 above shall include an accurate survey plan to a scale of not less than 1 : 500 which shall show:-
- i) the existing levels of the site;
 - ii) all existing trees (with a stem diameter of 75 mm or greater, taken 1.5 m above ground level) and hedgerows on and abutting the site, their species and canopy spread;
 - iii) all other natural features such as ponds, streams, areas of young trees ect.

These details shall be incorporated into landscaping scheme required to be submitted by condition 15 and a clear indication given as to which trees and hedgerows are to be removed and how other features are to be incorporated into development. Details shall also be submitted and agreed of how all existing plants and natural features are to be protected during building operations.

Contamination

- 19 Prior to the commencement of the development of a site investigation shall be carried out to establish whether a scheme of remedial works is necessary to deal with any land or water contamination found on the site, including that resulting from migrating landfill gas. Details of the site investigation, and if necessary of the proposed remedial works, shall be submitted to and approved in writing by the Borough Planning Authority, and development shall not begin until any measures approved in the scheme of remedial works have been implemented.

Infrastructure

- 20 Prior to commencement of any development, a scheme for the provision and implementation of foul water and surface water drainage shall be submitted and agreed in writing with the Borough Planning Authority. The works/scheme shall be constructed and completed in accordance with the approved plans.

- 21 Prior to the commencement of development full details of finished floor levels across the site shall be submitted to and approved by the Borough Planning Authority, and the development shall be carried out in Accordance with the approved plans.
- 22 Prior to the commencement of development, full details of all proposed hard surfacing across the scheme, which shall include a demarcation in surfacing between manoeuvring and parking areas, shall be submitted to and agreed in writing by the Borough Planning Authority, implemented as agreed, and retained thereafter.

