

NORTH LINCOLNSHIRE COUNCIL

PLANNING COMMITTEE

**INCOMPLETE RESIDENTIAL DEVELOPMENT
WEST STREET, WEST BUTTERWICK**

1. OBJECT AND KEY POINTS IN THIS REPORT

- 1.1 To update members on the issues surrounding a housing development that has been commenced in West Butterwick but which has not been completed within a period considered satisfactory or reasonable.

2. BACKGROUND INFORMATION

- 2.1 A report was submitted to the committee at the meeting held on 30 June 2010 concerning an extant planning permission on land off West Street, West Butterwick which was granted outline planning permission for residential development in 1999 under reference PA/1998/1295 and subsequent reserved matters for the erection of 31 dwellings in 2003 under reference PA/2001/1162. The developers started work on the development within the requisite period by the installation of a visibility splay and some foundation work which kept the permission live but the site has since lain dormant with no building works.
- 2.2 Section 94 of the Town and Country Planning Act 1990, as amended, ('the Act') allows a local planning authority to serve a completion notice requiring an implemented development to be completed within a specified period of time. The completion notice requires confirmation by the Secretary of State and would not take effect immediately; it must specify a period of at least 28 days before it takes effect and any person served with the notice can require the Secretary of State to hold an inquiry before he confirms the notice. The notice must also give a minimum of 12 months in which to comply.
- 2.3 If a notice is confirmed by the Secretary of State, and the development is not completed by the date specified, the planning permission to which it relates becomes invalid. This means that no further work can take place under that permission. The local planning authority cannot take action against any work that has already been carried out in accordance with the permission up to the specified date. If only half the number of dwellings on a site had been built by the specified date, the remaining half could not be built under that permission.
- 2.4 At the meeting on 30 June 2010, the committee agreed with the officer recommendation and resolved that:
- “the council serves notice under Section 94 of the Town and Country Planning Act, the period of compliance being 12 months.”

3. Current status

- 3.1 Following the committee meeting of 30 June 2010, the applicants, Fleet Developments Ltd, met with officers to seek a solution to the incomplete development. This was followed by the submission of a planning application (reference PA/2011/0773) in which the developer sought minor material amendments to house types approved on this site. Planning Committee granted planning permission for these amendments on 21 September 2011. Following the approval the developers advised that it was their intention to resume development of this site in February/March 2012, weather permitting.
- 3.2 In order to develop the site the developers have had to apply to the council's highway department for a Section 38 agreement in respect of the access road for the development; this has recently been received and is currently awaiting determination. This, to a certain extent, demonstrates the developers' intent to return to the site. The developers' desire to return to site and complete the development once the Section 38 agreement is in place has been indicated by contact with the developers' agent in April 2012, but the timescale is again unclear.
- 3.3 Since the committee meeting of 30 June 2010 and approval of the amended planning application on 21 September 2011 no further development has taken place on site. However a completion notice has not been served due to the change in circumstances.

4. OPTIONS FOR CONSIDERATION

- 4.1 **Option 1:** Continue to pursue formal action by way of the service of the completion notice in respect of the original planning permission as amended, requiring completion within 12 months.
- 4.2 **Option 2:** Hold in abeyance any formal action and allow the developers to demonstrate their intent to develop the site under the remit of the amended planning permission over the coming 18 months and re-assess the situation at the end of that period.
- 4.3 **Option 3:** Do nothing and allow the developers to lawfully develop the site as and when considered appropriate by them.
- 4.4 It should be noted that none of the options will overcome the fact that the development does not comply with all current policies, a situation that has been previously reported in the reports dated 30 June 2010 and 21 September 2011. These issues cannot be revisited.

5. ANALYSIS OF OPTIONS

5.1 Option 1

- 5.1.1 Service of a completion notice under Section 94, as considered in paragraph 4.1, in terms of the original planning permission, has previously been agreed by the Planning Committee (30 June 2010). However, as the site now benefits from an amended planning permission, if the council were minded to pursue formal action to seek

the completion of the development then the notice would also need to be issued in respect of the amended planning permission.

- 5.1.2 The service of completion notices under Section 94 may be considered onerous as the amended planning permission has only been approved for approximately 7 months. It may be considered that the local planning authority has not given the developers a proper opportunity to develop the site in accordance with this specific planning permission.
- 5.1.3 The development has remained incomplete for approximately 8 years and although this course of action will not resolve the issues of non-compliance with current policies, it will terminate the development and remove the uncertainty surrounding it, assuming the notice is confirmed by the Secretary of State. However, if a guillotine comes down on the site then building works would have to cease under that permission and there would be little certainty about the condition of the site that would be achieved.
- 5.1.4 The council's spatial planning, housing and development team has expressed concern at the possibility of 30 houses being built on this site within a 12-month period. This is considered unrealistic bearing in mind the current housing environment based on completion rates for this and similar settlements.

5.2 **Option 2**

- 5.2.1 The developers have informally committed to resuming development of the site in the near future under the remit of the amended planning permission. If the development was to resume and continue at a reasonable rate until completion of the development the need for formal action would be averted. A complete development of a controlled standard would be achieved.
- 5.2.2 Although the developers would be under no formal requirement to comply with their informal commitment, the council would have given them a further opportunity to develop the site without having to resort to formal action. If development has not commenced or is not progressing at a rate acceptable to the local planning authority the consideration for formal action can be re-addressed.
- 5.2.3 If this option is adopted, the situation in terms of the uncertainty over the scheduled end of the development would remain and the objecting residents may feel that the local planning authority is favouring the developers over residents. However, the whole ethos of good planning is 'balance' and the opinions of all parties concerned must be considered.
- 5.2.4 The council's spatial planning, housing and development team consider that the development and bringing to the market of 30 houses in this particular settlement would usually be a 7-10 year process, this figure being based on completion rates taken over a number years. Completion rates are not a definitive figure and are generally

determined by external factors such as supply and demand, and finance.

5.3 Option 3

5.3.1 This would maintain the status quo with no guarantees on timescale for delivery – the speed of development would depend on the housing market and the aspirations of the site owners.

6. RESOURCE IMPLICATIONS (FINANCIAL, STAFFING, PROPERTY, IT)

6.1 **Financial:** Appeal costs for defending the issue of the notice/notices.

6.2 **Staffing:** Existing staffing resources in Development Control and Legal.

6.3 **Property:** None.

6.4 **IT:** None.

7. OTHER IMPLICATIONS (STATUTORY, ENVIRONMENTAL, DIVERSITY, SECTION 17 – CRIME AND DISORDER, RISK AND OTHER)

7.1 **Statutory:** None.

7.2 **Environmental:** If development is allowed to proceed at the developers' own pace, this site could remain in its current 'implemented' but 'undeveloped' state for several years, or be built at a piecemeal rate. Whether this development is built at the developers' own pace or under the terms of a completion notice, the non-compliance with current policy and flood risk etc associated with the housing development on this site will be equal.

7.3 **Diversity:** None.

7.4 **Section 17 – Crime and Disorder:** None.

7.5 **Risk:** None.

7.6 **Other:** None.

8. OUTCOMES OF CONSULTATION

8.1 None.

9. RECOMMENDATIONS

9.1 That the council adopt the approach noted in Option 2 and at this stage use encouragement rather than the service of a formal completion notice to encourage the timely and organised development of this site.

HEAD OF DEVELOPMENT MANAGEMENT

Background papers used in the preparation of this report:

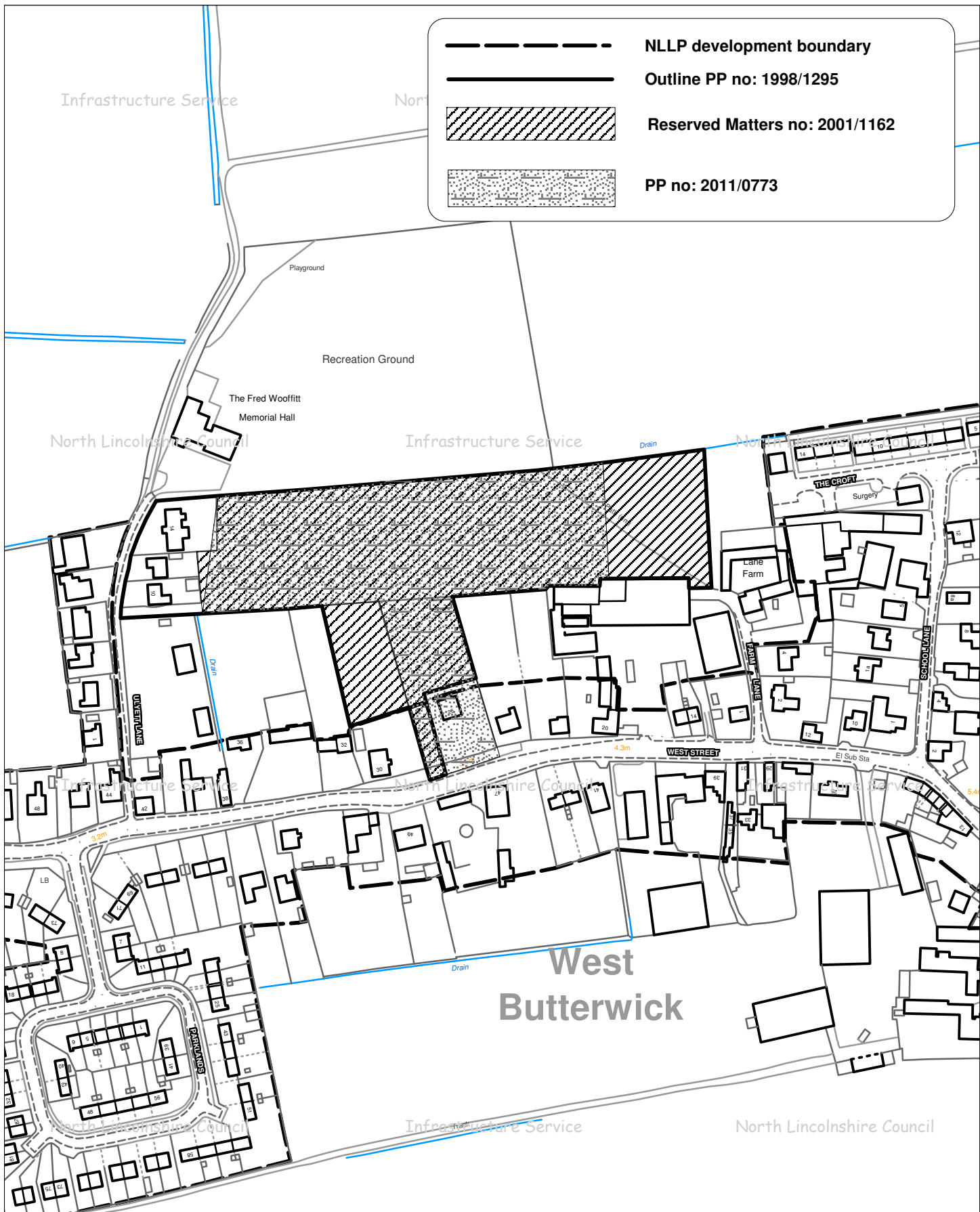
Outline planning permission PA/1998/1295

Approval of reserved matters PA/2001/1162

Amended planning permission PA/2011/0773


Two reports (dated 14/6/2010 and 21/09/2011)


Letters of representation from local residents



Drawing Title: Incomplete development - West Street West Butterwick

OS Grid Ref: SE83200591	Drawn by: KC	Scale: 1:2500	Date: 02/12/2011
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The Fred Wooffitt Memorial Hall

Recreation Ground

Drain

Track

ULYETT LANE

Drain

EXISTING HEDGE TO REMAIN

EXISTING FOOTPATH

EXISTING DYKE

EXISTING HEDGE AND TREE PLANTING TO BE THINNED TO ALLOW VEHICULAR ACCESS TO PLOTS 1 TO 4.

EXISTING HEDGE PLANTING TO BE RETAINED.

NEW ROAD CONSTRUCTION TO BE CONSTRUCTED AS REQUIRED.

EXISTING FOOTPATH ALONG WEST ST TO BE RECONSTRUCTED AS REQUIRED.

NEW VISIBILITY SPLAY OF 4.5 x 60m TO BE ACHIEVED

NEW LANDSCAPED AREA OF PUBLIC OPEN SPACE INCLUDING NEW FOOTPATH LINK ROUTE NORTH TO SOUTH

2 8 JUN 2011
DALE PRELIMINARY
RETURNED TO

RESIDENTIAL DEVELOPMENT
Land at West Street, West Butterwick
 Fleet Developments Ltd.
PROPOSED SITE LAYOUT PLAN
 Scale - 1:500
 Drg. No. FD/WB/002 - Rev. B
 Date : June 2011
 GDP PLANNING
 Town Planning & Development Consultants
 Telephone : 01630 698700
 e-mail : gdpplanning@hotmail.com

HOUSE TYPES
 Type 'A' - 4 Bedroom Dormer Bungalow - 12 No.
 Type 'B' - 3 Bedroom Bungalow - 4 No.
 Type 'C' - 4 Bedroom House - 7 No.
 Type 'F' - 4 Bedroom House - 7 No.