

SOUTH LAKELAND LOCAL AREA PLANNING COMMITTEE REPORT

Planning Application Reference No. 2023/1156/NMA

Proposal: Application for a non-material amendment following grant of planning permission SL/2017/0841 (Erection of 106 dwellings with associated infrastructure).

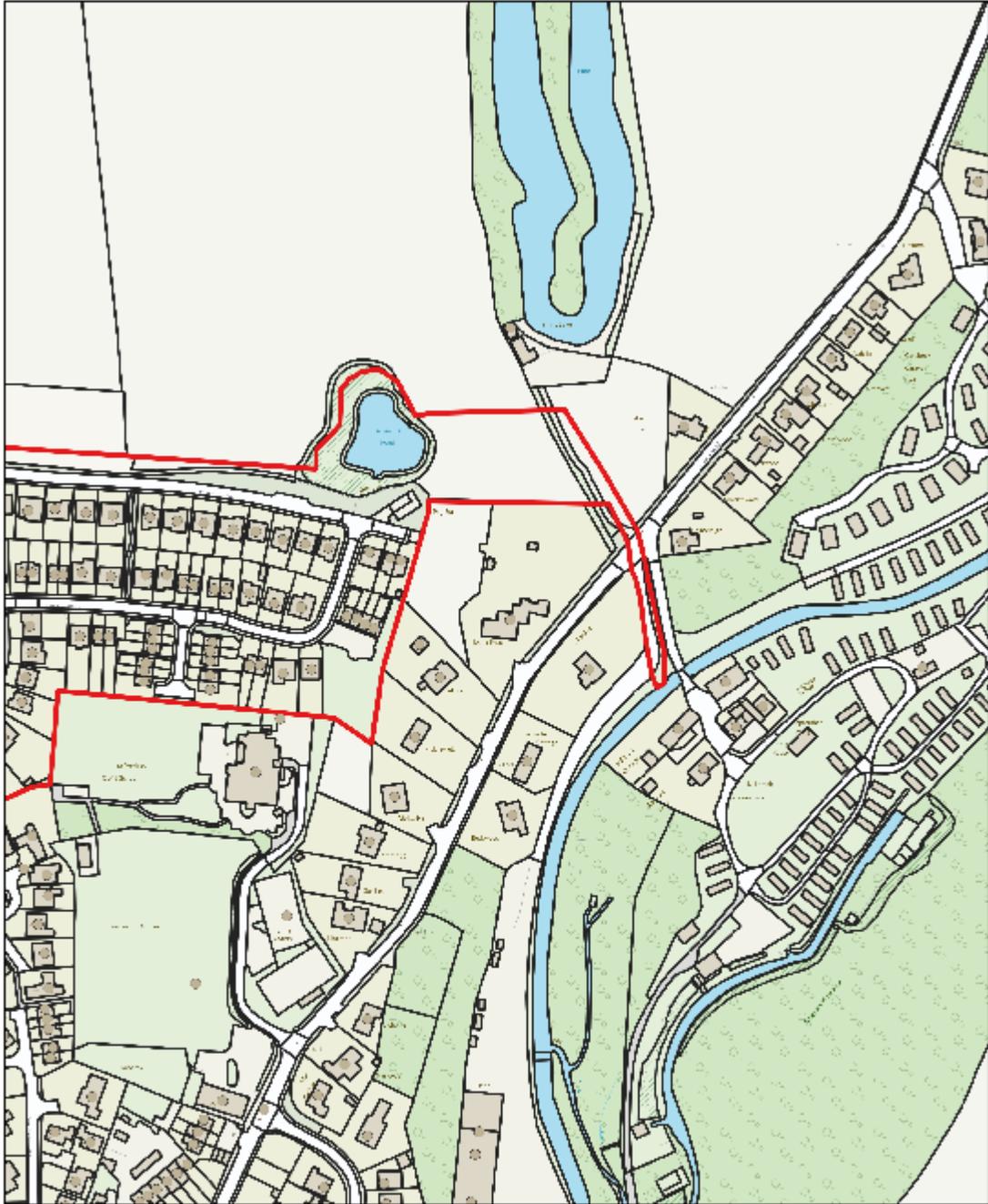
Location: Land North of Sycamore Close, Endmoor, Kendal

Applicant: Story Homes

Committee Date: 11th April 2024

Reason for Committee Level Decision: Councillor Call In.

Case Officer: Charlotte Pinch



2023/1156/NMA
Land North of Sycamore Close
Endmoor



Westmorland
& Furness
Council

Scale 1:2500

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1.0 SUMMARY

- 1.1 A non-material amendment is sought for a revised boundary treatment scheme along the eastern boundary of the site, over and above that previously approved under application SL/2017/0841 at Land North of Sycamore Close, Endmoor.
- 1.2 It is recommended that the proposed change is accepted as non-material, and therefore the amendment be granted.
- 1.3 The application is reported to Planning Committee, in accordance with the Council's Constitution and Scheme of Delegation, at the request of a Councillor due to the sensitivity and public interest in the site.

2.0 RECOMMENDATION

- 2.1 It is recommended that the proposed change to the proposed boundary treatment scheme is accepted as non-material, and therefore the amendment be granted.

3.0 THE PROPOSAL

- 3.1 This application proposes a revised boundary treatment scheme along the eastern boundary of the site, over and above that previously approved under application SL/2017/0841.
- 3.2 Planning permission SL/2017/0841 approved boundary treatment along the eastern boundary of the site to comprise of 1.8m close boarded fencing. This has not yet been implemented.
- 3.3 This revised proposal seeks to amend the boundary treatment on the eastern boundary to comprise of:
 - 1.8m feather edge fence along the southern, south eastern corner and southern section of the eastern boundary. In addition to a section adjacent to Plot 35.
 - Retained natural landscaping, trees and hedgerow.
 - 1.1m metal railing, atop existing brick boundary wall, to the side of Plot 35.
 - 1.2m heavy duty stock proof fencing, with wooden posts, netting and wire adjacent to the substation.
 - 1.2m post and three rail fencing, for a short section on the northern end of the eastern boundary.
- 3.4 The revised boundary treatments are detailed in 'Boundary Treatments Plan' END-SL-003 Rev AH (28.11.23). In addition to specification details of the 'Heavy Duty Stock Proof Fence' 40020-SD0001 RevA and '1850mm High Open Boarded Fence' SD100-A-001 RevA.
- 3.5 There are no other alterations proposed to the approved plans or conditions.

4.0 SITE DESCRIPTION

- 4.1 This is an ongoing development of 106 dwellings to the east of the A65 and west of Gatebeck Road, on the northern edge of Endmoor. The site is within the development boundary of Endmoor.

4.2 The development is proceeding in accordance with planning permission SL/2017/0841.

5.0 SITE PLANNING HISTORY

SL/2017/0841

Erection of 106 dwellings with associated infrastructure.

Approved with Conditions.

SL/2020/0573

Application for a non-material amendment following a grant of planning permissions SL/2017/0841 (Erection of 106 dwellings with associated infrastructure).

Plot 17 and 20 handed to the opposite orientation. Reposition plot 87 by 300mm.

Approved. 2020.

SL/2020/0812

Application for a non-material amendment following a grant of planning permissions SL/2017/0841 (Erection of 106 dwellings with associated infrastructure).

Relocation of the electricity sub-station away from Plot 13.

Approved. 2020.

SL/2023/0514

Application for a Non-Material amendment following a grant of planning permission SL/2017/0841 (Erection of 106 dwellings with associated infrastructure).

Withdrawn. 2023.

6.0 CONSULTATIONS

The following persons/organisations were consulted in relation to the development:

Consultee:	Nature of Response:
Cllr Battye	Would like to highlight local residents concerns, of Gatebeck Road, Endmoor, whose back gardens are alongside this development. Looking for reassurance that the boundary treatment will protect their privacy and the agreed works will be implemented.

Preston Richard Parish Council	Object. Proposed amendments to the boundary treatment compromise privacy and visual amenity for existing residents outside the site. Non-adherence by the developer to the originally approved permission.
Neighbour Responses:	
<p>Two letters of objection were received from neighbouring occupiers, their comments can be summarised as follows:</p> <ul style="list-style-type: none"> - Retrospective works are unacceptable. - Impacts on residential amenity. - Proposed fencing will not stop people entering neighbouring properties land. - Compromised security, noise and privacy as a result of amended boundary treatment. <p>One letter of comment was received from a neighbouring occupier, their comment can be summarised as follows:</p> <ul style="list-style-type: none"> - Revised plan proposes to erect 1.8m fence along the boundary with an adjacent dwelling. Which is in accordance with the original permission. - No objections were raised in this regard to the original permission, therefore no objections are raised to this amendment. 	

7.0 RELEVANT PLANNING POLICY

7.1 Section 96A(1) of the Town and Country Planning Act 1990 states:

A local planning authority may make a change to any planning permission (granted following an application to the authority), relating to land in their area if they are satisfied that the change is not material.

7.2 Section 96A(3) makes clear that:

The power conferred by subsection (1) includes power to remove or alter existing conditions.

7.3 Under the heading of Flexible options for planning permissions the Government's Planning Practice Guidance states:

'There is no statutory definition of non-material. This is because it will be dependent on the context of the overall scheme an amendment that is non-material in one context may be material in another. The local planning authority must be satisfied that the amendment sought is non-material in order to grant an application'

8.0 PLANNING ASSESSMENT

The Non Material Amendment

- 8.1 The proposed amendment to the boundary treatment, as detailed above, seeks to replace a previously approved continuous 1.8m close boarded fence along the eastern boundary of the site.
- 8.2 Concerns have been raised by neighbouring occupiers regarding compromised privacy and residential amenity as a result of the boundary treatment amendments. Over and above the boundary treatment previously approved under application SL/2017/0841, a section of fencing will not be implemented on the rear boundary of 'Akora', by virtue of the existing mature, dense hedgerows and trees which run along this boundary and provide significant screening between the development and 'Akora'.
- 8.3 A length of 1.8m close boarded fencing is proposed adjacent to Plot 35, as previously approved. From the side of the dwelling in Plot 35 north up to the existing drainage pond is to comprise of a section of 1.1m metal railings atop an existing retaining wall, a section of 1.2m heavy duty stock proof fencing and a section of 1.2m post and three rail fence. All of which have been used elsewhere within the development.
- 8.4 Whilst it is acknowledged that the proposed railings and post and rail fencing will not provide the same level of reduced visibility between the development site and existing dwellings to the east, namely 'Holme Moss'. It would provide a clear hard barrier around the development site and be of benefit visually to the character of the area, providing a softer boundary treatment and allow landscape views beyond the development site, preferable to a harsh opaque barrier.
- 8.5 With regards to detrimental impacts on residential amenity, over and above a 1.8m close boarded fence in this location, it must be acknowledged that the property of 'Holme Moss' is located 40m to the east of the site boundary, with the properties garden being 26m from the site boundary at the closest point, further to the north this increases to 34m. 'Holme Moss' is located at a lower land level than the development site, with a small paddock which would not be considered domestic garden area, separating the two sites. 'Holme Moss' also benefits from mature soft landscaping around the domestic garden area in which the dwelling is set, significantly reducing visibility of the dwelling from the development site. Taking this into account and when looking east from within the development site, it is not considered that the proposed replacement of a 1.8m closes boarded fence, with a combination of metal railings and post and rail fencing would result in unacceptable impacts on privacy or residential amenity to existing or future occupiers.
- 8.6 Whilst it is acknowledged that the amended boundary treatment is not in accordance with that approved under application SL/2017/0841, the proposed amended boundary treatments would not result in significant detrimental impacts on residential amenity or the character of the area.
- 8.7 In this context the proposed amendment is considered to be non-material.

Cumulative Impacts

- 8.8 Section 96A requires a consideration of the effect of the proposed change and the cumulative effects of any other non-material amendments that may have

approved. To date there have been two, both approved in 2020. These were for amendments to two plots design, one plot siting and relocation of a substation. Having considered the detail of these various proposals it is concluded that the chance of any cumulative impacts is very remote.

9.0 CONCLUSION

- 9.1 In assessing the proposed amendment to the boundary treatment, it is considered this change on balance would result in no material impacts on residential amenity or the character of the area.
- 9.2 In summary, it is recommended that the proposed change is accepted as non-material and the amendment be granted.
- 9.3 Under Section 149 of the Equality Act 2010 Local Planning Authorities must have due regard to the following when making decisions (i) eliminating discrimination, (ii) advancing equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it, and (iii) fostering good relations between persons who share a relevant protected characteristic and persons who do not share it. The protected characteristics are age (normally young or older people) disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation.
- 9.4 In determining applications, the Council must ensure that all parties get a fair hearing in compliance with the provisions of Article 6 under the European Convention on Human Rights, as now embodied in UK law in the Human Rights Act 1998.

10.0 RECOMMENDATION

- 10.1 The proposed change is accepted as non-material and the amendment be granted.