

## BABERGH DISTRICT COUNCIL

<b>From: Chief Planning Control Officer</b>	<b>Report Number: L62</b>
<b>To: Development Committee</b>	<b>Date of meeting: 7 September 2011</b>

### **PROPOSED NON MATERIAL AMENDMENT – OMISSION OF FOOTPATH ADJACENT TO BLACKFRIARS (ESTATE ROAD) IN CONJUNCTION WITH THE CATESBY MEADOW DEVELOPMENT SUDBURY**

#### **1. Purpose of Report**

- 1.1 To agree a non-material amendment to the approved residential development at Catesby Meadow in Sudbury by the omission of the construction of a footpath on the Blackfriars estate road leading to Catesby Meadow (reserved matters application approved on 9 December 2005).

#### **2. Recommendation**

- 2.1 That subject to no new material issues being raised by the Local Highway Authority, the Chief Planning Control Officer be authorised to approve the proposed non material amendment to the reserved matters B/01/02018/RES.

The Committee is able to resolve this matter.

#### **3. Financial Implications**

- 3.1 There are no financial implications arising directly from this report.

#### **4. Risk Management**

- 4.1 There are no significant risks arising directly from this report.

#### **5. Consultations**

- 5.1 The proposed change has been subject of consultation with the Town Council, the Local Highway Authority and the occupiers of neighbouring properties. The responses received are as follows:-

- Sudbury Town Council – object – the omission of a footway in this area is not accepted.
- LHA – views awaited
- Email from Councillor Nigel Bennett stating that the area is used for parking most of the time and landscaping would be lost, yet it is important to note that the path leads to Hanover Court and would be beneficial to elderly residents of the new development on journeys to the town centre. On balance the non provision of the path is acceptable.

- Email from Councillor Jack Owen asking for more information about the proposal
- One representation has been received from a resident in Priory Walk stating that “she is horrified that another 42 dwellings would be built within the area as we are still suffering from the results of the most recent (Catesby Meadow) development (including extra traffic and pints of milk and a doormat which has been stolen). Where are these extra houses going??”

5.2 Any additional responses to those listed above will be reported to Development Committee.

## **6. Equality and Diversity Impact**

6.1 There are no Equality and Diversity implications arising directly from this report.

## **7. Key Information**

7.1 On the 9 December 2005, the reserved matters application submitted under reference B/01/02018/RES for the erection of 60 two storey dwellings and associated garages. This reserved matters application followed the approval of an outline planning permission on the 11 December 2000 for residential development (B/99/00512/OUT). This application included the means of access to the site and gave permission for the land to be constructed with an estate road onto Blackfriars (a residential estate) which itself has a junction with Friars Street Sudbury.

7.2 As part of those permissions and under the accompanying separate legal agreement between Highways and the developer, a section of footpath was to be provided to the north of the entrance to Catesby Meadow which would link with existing footway on the Blackfriars development. This currently missing section of footway contains a number of semi mature trees which afford the only soft landscaping of any appreciable height within the Blackfriars street scene between the entrance into Blackfriars from Friars Meadow and the junction of Blackfriars with Catesby Meadow.

7.3 The proposed non material amendment to the approved plans provide for the:-

- omission of the footway (described above)

### **Assessment**

7.4 S96a of the Town and Country Planning Act 1990 (as amended) sets out the following when considering an application for a non-material amendment:-

“In deciding whether a change is material, a Local Planning Authority must have regard to the effect of the change, together with any previous changes made under this section, on the planning permission originally granted”.

7.5 There is no clear definition of what can or cannot be considered as a non material amendment as each case should be judged on its own merits. However, to assist Members, the tests are that normally applied when considering a proposal for an amendment are whether:

- the proposed amendments are so slight (de minimis) and as such do not amount to a 'material' change from the approved plan, to the extent that the proposed alterations could be considered to be lawful within the scope of the existing planning permission;
  - the development now proposed is the same development as that granted permission;
  - the description for the development would need to be changed as a result of the amendment; and,
  - the external impact of the changes now proposed would be contrary to any planning policy of the Council.
- 7.6 Each request must be considered on its merits having regard to all relevant circumstances.
- 7.7 As stated in paragraph 7.1 above both outline planning permission and reserved matters approval have been granted for the residential development known as Catesby Meadow in Sudbury. The developer has formally requested (through the non material amendment process) that a planned section of footway (to be constructed as part of the final works associated with the completion of the estate road junction from the estate onto Blackfriars) be omitted from the approved highway scheme. This request has arisen following discussions between the developers and your Officers as a result of a reassessment of the final completion works. During this reassessment it became apparent that the construction of this section of footway would result in the loss of a number of semi mature trees (owned and maintained by the Council) which afford the only soft landscaping of any appreciable height within the Blackfriars street scene between the entrance into Blackfriars from Friars Meadow and the junction of Blackfriars with Catesby Meadow.
- 7.8 The benefits of the provision of this footway are that it would provide a section of footpath that is missing between Catesby Meadow (and Hanover Court) and Friars Street and would allow a continuous stretch of footway for pedestrian usage to be provided on this side of Blackfriars.
- 7.9 However if this section of footway were to be provided it would result in the loss of the trees (referred to above) which would have a negative impact on the visual amenities on the streetscape in Blackfriars and be detrimental to the appearance of the area. In addition, this easterly section of the Blackfriars estate road is frequently used for on street parking as there are no waiting or parking restrictions in force. If the footway were provided it may allow the opportunity for cars to bump up and park on part of the planned pavement leaving wider access for vehicles through the Blackfriars estate road. Although this practice is not acceptable in highway safety or legal terms, it is a practice which sometimes occurs in residential estates where waiting or parking restrictions are not in place. Should this occur it could prevent pedestrians from using the path which would result in them either walking around parked cars within the estate road or alternatively crossing the road to use the existing footpath on the opposite side of the road within the Blackfriars estate.
- 7.10 The views of the Local Highway Authority have been requested but have not yet been received and will either therefore be included in the Addendum Paper or reported at the meeting.

- 7.11 To conclude, it is important to weigh up the benefits of the planned footpath construction against the disbenefits that would accrue should it not be provided, taking into account the highway and visual impacts of the developers formal request.
- 7.12 It is considered that the negative impacts which would be caused by the loss of the trees should outweigh the highway benefits as set out above providing that the Local Highway Authority do not raise any other material issues. On this basis the recommendation is that this proposal to omit the planned section of footpath from this scheme should be supported so that the trees can be retained.

## 8. Appendices

8.1 None

## 9. Background Papers

Title	Location
Relevant papers of Planning File B/01/02018/RES	

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