

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY
**TOWN AND COUNTRY PLANNING ACT 1990 (as amended by the PLANNING
AND COMPENSATION ACT 1991)**

BREACH OF CONDITION NOTICE

Issued by: North East Lincolnshire Borough Council

1. **This is a formal notice** which is issued by the Council, under Section 187A of the above Act, because the Council considers that conditions imposed on a grant of planning permission Appeal Reference APP/B2002/A/06/2028813 relating to the land described below, have not been complied with. It considers that you should be required to secure compliance with the conditions specified in this notice.

2. **The land affected by the notice**

The land known as Rear of 126 Station Road (Station Mews), New Waltham, North East Lincolnshire (edged red on the attached plan).

3. **The relevant planning permission**

The relevant planning permission to which this notice relates is the permission granted by the Planning Inspectorate on the 30th January 2007 appeal reference number APP/B2002/A/06/2028813 (attached hereto).

4. **The breach of conditions**

The following condition has not been complied with:-

Condition 3

No development shall take place until full details of both hard and soft landscaping, have been submitted to and approved in writing by the Local Planning Authority, and these works shall be carried out as approved. Details of hard landscape works shall include boundary treatments, pathways and all other hard surfacing materials. Details of soft landscape works shall include species of trees and shrubs and their sizes and positions as well as indications of all existing trees and hedgerows on the land, and details of those retained, together with measures for their protection in the course of development. If within a period of 5 years from the date of planting, any tree or plant is removed, uprooted, destroyed or dies, another of the same species and size shall be planted at the same place, unless the Local Planning Authority gives its written consent to any variation.

5. What you are required to do

As the person responsible for the breach of conditions specified in paragraph 4 of this notice, you are required to comply with the stated conditions by taking the following steps:-

Requirement No. 1

Carry out the landscaping as detailed on the approved plans.

Time for Compliance:

Requirement No.1

60 Days from the date this notice takes effect.

6. When this notice takes effect

This notice takes effect immediately it is served on you or you receive it by postal delivery.

Signed:



Dated:

24th June 2011

On behalf of: North East Lincolnshire Borough Council

WARNING

There is no right of appeal against the notice

It is an offence to contravene the requirements stated in paragraph 5 of this notice after the end of the compliance period. You will then be at risk of immediate prosecution in the Magistrates' Court, for which the maximum penalty is £1,000 for a first offence and for any subsequent offence. If you are in any doubt about what this notice requires you to do, you should get in touch immediately with Miss K Walker, Planning and Transportation Department, Origin One, Origin Way, Europarc, Grimsby DN37 9TZ. Tel. 01472 324998

If you need independent advice about this notice, you are advised to contact urgently a lawyer, planning consultant or other professional adviser specialising in planning matters. If you wish to contest the validity of the notice, you may only do so by an application to the High Court for judicial review. A lawyer will advise you on what this procedure involves.

Do not leave your response to the last minute



Appeal Decision

Site visit made on 15 January 2007

By Michael Evans BA MA MPhil DipTP MRTPI

an Inspector appointed by the First Secretary of State

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN
Tel: 0117 372 6372
e-mail: enquiries@planning-
inspectorate.gov.uk

Date: 30 January 2007

Appeal Ref: APP/B2002/A/06/2028813

Rear of 126 Station Road, New Waltham DN36 4QQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Station Mews Development Co. against the decision of North-East Lincolnshire Borough Council.
- The application (Ref:DC/453/06/HUM), dated 3 April 2006, was refused by notice dated 23 August 2006.
- The development proposed is the erection of two bungalows and five houses.

Decision

1. I allow the appeal and grant planning permission for the erection of two bungalows and five houses at the rear of 126 Station Road, New Waltham DN36 4QQ, in accordance with the terms of the application (Ref:DC/453/06/HUM), dated 3 April 2006, and the plans submitted therewith, subject to the conditions set out in the schedule attached to this decision letter.

Reasons for the Decision

2. The appeal site formerly comprised a railway station and the associated yard. There are some shed-like structures on the site as well as other features such as a caravan, storage container and piles of rubble and spoil. There are also relatively extensive concrete hardstandings. There are existing dwellings to either side of the broadly rectangular site.
3. The development would be a significant distance from the street in Station Road. The closest dwelling, the bungalow on plot one, would be set further back than the existing dwellings to either side of the access road. The development would not therefore appear cramped in relation to frontage development. The rest of the development would be set behind the dwelling to the east, the Station House and the bungalow on plot one. Due to these factors the development would effectively create its own environment. The distance of dwellings from the street in Station Road also varies appreciably.
4. Therefore, although the dwellings on plots one to four would be relatively close to the internal access road this would not be unduly detrimental to the character and appearance of the area. I reach this conclusion despite the fact that the dwelling on plot two would be at a higher level. There is a diversity of garden sizes in the area so that those relating to plots five to seven would not be unduly restricted in this context. In any case they would not be apparent from the street. I conclude that the development would not harm the character and appearance of the locality. In consequence, the underlying aims of Local Plan policies GEN1 and H6 would not be unduly compromised.

31 JAN 2007

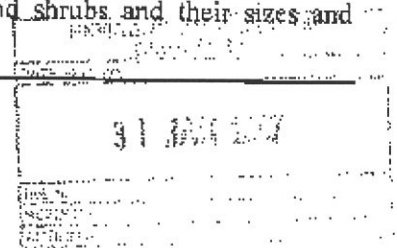
5. There is a bungalow at 298 Station Road that is set back from the street an appreciable distance and is adjacent to the eastern boundary of the appeal site. Because of its single storey height and distance from the proposed dwellings it would not result in any undue loss of privacy from overlooking. This is especially so as the back garden of the dwelling on plot two would be largely shielded from the existing bungalow by the new building itself. Overlooking of 298 Station Road and houses in Margaret Place from the terrace on plots five to seven would be at such a distance and at a sufficiently oblique angle to prevent any undue loss of privacy.
6. The two storey houses on plots three and four would face towards the side of the rear garden of the bungalow on plot two as well as the side elevation of the dwelling itself. A boundary feature, such as a fence, would be sufficient to ensure that the windows in the side elevation of the bungalow were not unacceptably overlooked. Overlooking of the rear garden from the house on plot three would be at a particularly oblique angle so that it would not be unduly intrusive. That from the house on plot four would concern a bathroom and bedroom window at first floor level. The former opening would be likely to have obscured glazing and I do not consider that overlooking from one window at the distance and relationship proposed would result in an unacceptable level of privacy.
7. The proposed access road within the development would be set back from the boundary with 298 Station Road with the greatest distance being achieved immediately adjacent to the bungalow. This adjacent dwelling would not have its main outlook towards the access road. The bungalow on plot two would have its largest bedroom and the lounge with windows in the rear elevation, looking away from the road and shielded by the body of the building. Because of these factors, occupiers of these dwellings would not suffer undue noise and disturbance from the relatively limited number of intermittent vehicle movements associated with the new development. For similar reasons glare from vehicle headlights would not be unduly detrimental.
8. In reaching all the above views in relation to living conditions, I have considered the difference in levels within the site and in relation to adjacent dwellings. However, these differences are not so great as to invalidate the above findings. I therefore conclude that the living conditions of the occupiers of the new dwellings and those adjacent to the site would not be harmed. In these respects I therefore find no conflict with the aims of Local Plan policies GEN1 and H6.
9. The scheme would make provision for one car parking space per dwelling. The Council appears to argue that three additional spaces should be provided to allow for visitor parking. However, the standards contained in the Council's Supplementary Planning Guidance, *Note No 3 Mobility and Parking Standards, April 2004*, are a maximum requirement. The Council has, in any case, not identified any specific conflict with the advice in this SPG. I note that the Council's internal Highways consultee raised no objection to the development or to the number of spaces. The new dwellings would all have two bedrooms and be of a relatively modest size. It is therefore unlikely that there would be particularly high levels of car ownership.
10. Government policy in Planning Policy Guidance Note 13: *Transport* (PPG13) indicates that developers should not be required to provide more spaces than they themselves wish, other than in exceptional circumstances, which might include where there are significant implications for road safety. I am not satisfied that the parking of vehicles in the access

drive would necessarily result in any significant danger as the width of this road appears to be adequate to allow cars to pass. I am also not persuaded that the ability of emergency and service vehicles to turn around would be unduly restricted.

11. I conclude that the proposal would not prejudice highway safety and there would be no undue conflict with the underlying aims of Local Plan policy T6 and the Council's SPG.
12. Some interested parties have expressed concerns about encroachment onto land in their ownership. However, this is a matter for the respective parties and not for me to consider. I share the view of other local residents that the development would improve the appearance of the site by removing unsightly structures. Due to this factor, the absence of harm that I have found and taking account of all other matters raised, I determine that the appeal succeeds.
13. In deciding on conditions I shall have regard to the suggestions made by the Council. To protect the appearance of the locality the facing materials of the dwellings needs to be controlled. For the same reason hard and soft landscaping should be subject to a condition. This would also allow features to be retained and protected during development, such as boundary hedges. This condition would also cover the need for boundary treatments to protect privacy. Because of the previous use of the site there is a possibility of ground contamination. I shall impose a condition requiring investigation of this and any necessary remediation. I am not satisfied that all the conditions suggested by the Council are necessary to address this matter. Adequate surface water and foul drainage are needed to prevent unacceptable flooding and pollution. In the interest of highway safety the proposed car parking spaces and access road should be provided and retained.
14. Circular 11/95 states that there is a presumption against the removal of permitted development rights unless there are exceptional circumstances. In this case I am not satisfied that the development would be so restricted that such a condition is justified. Conditions concerning various aspects of construction and wheel cleaning seek to address matters that are subject to other legislation. I see no reason why refuse storage should not be a matter for the occupiers of the respective dwellings rather than the subject of a condition.

Schedule of Conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this decision.
- 2) No development shall take place until details of the materials to be used in the construction of the external surfaces of the dwellings hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 3) No development shall take place until full details of both hard and soft landscape works, including a timetable for their implementation, have been submitted to and approved in writing by the Local Planning Authority, and these works shall be carried out as approved. Details of hard landscape works shall include boundary treatments, pathways and all other hard surfacing materials. Details of soft landscape works shall include species of trees and shrubs and their sizes and



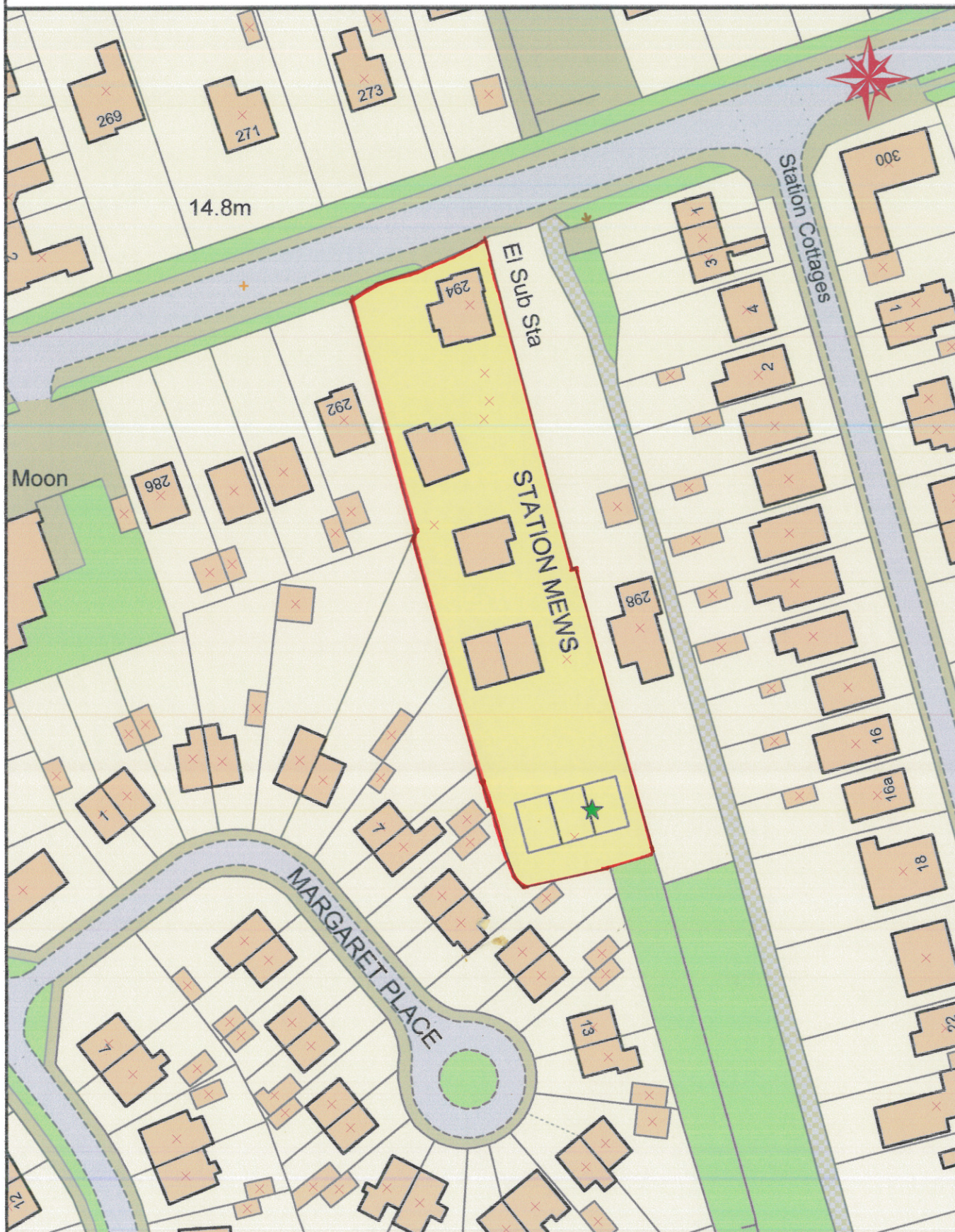
positions as well as indications of all existing trees and hedgerows on the land, and details of those to be retained, together with measures for their protection in the course of development. If, within a period of 5 years from the date of planting, any tree or plant is removed, uprooted, destroyed or dies, another of the same species and size shall be planted at the same place, unless the Local Planning Authority gives its written consent to any variation.


- 4) Prior to occupation of any of the proposed dwellings the access road and car parking spaces shall be provided in accordance with the approved plan and thereafter be retained and used for no other purpose.
- 5) Prior to the commencement of development an investigation and risk assessment of land contamination of the appeal site shall be carried out and any necessary remedial measures undertaken, in accordance with details to be submitted to and approved in writing by the Local Planning Authority.
- 6) Prior to the commencement of development details of foul and surface water drainage shall be submitted to and approved in writing by the Local Planning Authority. The details shall include a timetable for implementation. Development shall be carried out in accordance with the approved details.

M Evans

INSPECTOR

Location Map



 NORTH EAST LINCOLNSHIRE COUNCIL www.nelincs.gov.uk	Details Plotting in MapInfo made easier			Rev No.		This product includes mapping data licensed from Ordnance Survey with the permission of the Controller of HMSO. © Crown Copyright 2006. All rights reserved. Licence number 100020759
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