

Application No: 22/4684M

Location: Land Between Chelford Road And Whirley Road, HENBURY

Proposal: Variation of Condition 9 on approval 17/4277M for Outline application for the erection of up to 135 dwellings with access from Chelford Road and Whirley Road and associated open space

Applicant: Mr Jonathan Penrose, Bellway Homes Limited (Manchester)

Expiry Date: 27-Feb-2023

SUMMARY

The construction of 134 dwellings on the site has already been approved under outline planning approval ref; 17/4277M and reserved matters approval ref; 19/3098M. Works to implement the scheme have already begun.

Condition no. 9 of the outline approval requires the construction of a zebra pedestrian crossing on Gawsorth Road prior to the first occupation of any of the dwellings. The zebra crossing was shown in detail as part of the highway improvement works submitted with the outline planning application. The location of the zebra crossing has since changed because of the s278 highway works approval process. As such, the drawing number referenced in condition no 9 needs to be amended to reflect the newly positioned zebra crossing.

The Council's Head of Strategic Infrastructure (HSI – Highways) has advised that the revised positioning of the zebra crossing would be preferable because it would be on a better desire line for pedestrians with sufficient space. The original zebra crossing does not meet technical standards. In highway terms there are no highways reasons to object to the proposed variation.

The newly positioned zebra crossing would be located closer to two Grade II Listed Buildings and would cause less than substantial harm to their setting. However, this harm would be outweighed by the public benefits of providing a safer pedestrian environment for users crossing Gawsorth Road than the consented scheme.

The proposal is not considered to have any significantly greater impact on the character and appearance of the area, noise impacts, air quality, contaminated land or the living conditions of residents compared to the existing permission.

The proposal is therefore considered to comply with the relevant development policies. The application is recommended for approval, subject to conditions and a formal deed of variation to the existing s106 legal agreement. The conditions will reflect those on the original consent amended to take account of those that have already been discharged.

SUMMARY RECOMMENDATION

Approve subject to conditions and formal deed of variation to s106

PROPOSAL

This application seeks approval to vary condition no. 9 of planning ref; 17/4277M, which granted outline planning permission for the construction of up to 135 dwellings on land between Chelford Road and Whirley Road. Condition no. 9 requires the construction of a zebra pedestrian crossing on Gawsworth Road prior to the first occupation of any of the dwellings. Condition no 9 is worded accordingly:

9. *“Prior to the first occupation of the development hereby permitted, the pedestrian crossing on Gawsworth Road as shown on plan reference 1916-F06 shall be carried out to the full written satisfaction of the Local Planning Authority.*

Reason: To ensure the highway impact of the development is mitigated against.”

The application seeks permission to vary this condition under s73 of the Town and Country Planning Act (1990) to reference a new drawing showing the zebra crossing in a different position to that shown at outline stage. As such, the drawing number referenced in condition no. 9 needs to be amended to reflect the newly positioned zebra crossing. Condition no. 9 would be reworded as follows:

*“Prior to the first occupation of the development hereby permitted, the pedestrian crossing on Gawsworth Road as shown on plan reference **2560-F01** shall be carried out to the full written satisfaction of the Local Planning Authority.”*

SITE DESCRIPTION

This application relates to a housing development lying to the west of Macclesfield to the north of Chelford Road and to the South-West of Whirley Road and stretches between Macclesfield and Henbury. The site measures approximately 5.37 hectares in size and is positioned directly to the rear of properties fronting Chelford Road and Whirley Road. The site forms part of an allocated site for housing development under Policy LPS 18 of the Cheshire East Local Plan Strategy (CELPS). Works to implement the scheme has already begun and are being carried out by Bellway Homes.

RELEVANT HISTORY

17/4277M - Outline application for the erection of up to 135 dwellings with access from Chelford Road and Whirley Road and associated open space – Approved 22-Jan-2019

19/3098M - Erection of 23no. dwellings, vehicular access, roads and footways, hard and soft landscaping, drainage and other associated works – Allowed on appeal - 05-Sep-2022

21/5403M - Advertisement consent for 3050 x 1500mm post mounted signage – Approved 01-Mar-2022

20/5442M - Removal of condition 6 on approved application 17/4277M - Outline application for the erection of up to 135 dwellings with access from Chelford Road and Whirley Road and associated open space – Withdrawn 25-Jul-2022

22/4888M - Non-material amendment to condition 9 on approved application 17/4277M: Outline application for the erection of up to 135 dwellings with access from Chelford Road and Whirley Road and associated open space – Pending

22/3602M - Non-material amendment to application 17/4277M - Outline application for the erection of up to 135 dwellings with access from Chelford Road and Whirley Road and associated open space – Pending

22/3159M - Advertisement Consent for double aspect V board to be displayed by entrance to development and 3 no. flags to be displayed along roadside by entrance to development off Chelford Road – Pending

22/1913M - Non material amendment to application 19/3097M - Reserved Matters application for the erection of 134no. dwellings, vehicular access, roads and footways, hard and soft landscaping, drainage and other associated works following outline approval 17/4277M - Pending

POLICIES

Development Plan

Cheshire East Local Plan Strategy

MP1 Presumption in favour of sustainable development

PG1 Overall Development Strategy

PG2 Settlement hierarchy

PG7 Spatial Distribution of Development

SD1 Sustainable Development in Cheshire East

SD2 Sustainable Development Principles

IN1 Infrastructure

IN2 Developer Contributions

SC1 Leisure and Recreation

SC2 Indoor and Outdoor Sports Facilities

SC3 Health and wellbeing

SC4 Residential Mix

SC5 Affordable Homes

SE1 Design

SE2 Efficient use of land

SE3 Biodiversity and geodiversity

SE4 The Landscape

SE5 Trees, Hedgerows and Woodland

SE6 Green Infrastructure

SE7 The Historic Environment

SE9 Energy Efficient development

SE10 Sustainable Provision of Minerals

SE12 Pollution, land contamination and land stability

SE13 Flood risk and water management

CO1 Sustainable travel and transport
CO3 Digital connections
CO4 Travel plans and transport assessments
LPS 18 Land between Chelford Road and Whirley Road, Macclesfield

Site Allocations and Development Policies Document – (SADPD)

PG 9 Settlement Boundaries
GEN 1 Design Principles
GEN 5 Aerodrome Safeguarding
ENV 7 Climate Change
ENV 12 Air Quality
HER 1 Heritage Assets
HER 4 Listed Buildings
HOU 12 Amenity
INF 1 Cycleways, bridleways and footpaths
INF 3 Highway Safety and Access

Other Material Considerations

The National Planning Policy Framework
National Planning Practice Guidance
Cheshire East Design Guide

CONSULTATIONS

Environmental Protection - No objection

Head of Strategic Infrastructure (Highways) – No objection

Manchester Airport – No objection

Natural England – Comment that they cannot fully assess the proposals and it is for the local authority to determine whether or not the proposal is consistent with national and local environmental policies

VIEWS OF THE TOWN AND PARISH COUNCILS

Macclesfield Town Council (MTC) – No comments received at the time of report preparation.

Henbury Parish Council – No comments received at the time of report preparation.

REPRESENTATIONS

Letters of representation have been received from 7 addresses, 1 in support and 6 objecting to this application on the following grounds:

- All planning conditions should be met as agreed
- Safety of pedestrians should come before the sale of houses and increased traffic
- Narrowing of Princes Way will cause traffic to become significantly worse

- With the temporary traffic lights at Broken Cross, traffic has been massively backed up along Princes Way, making it almost impossible for those turning left and right onto Gawsorth Road
- The exit of Princes Way onto Gawsorth should be made wider than the existing exit, rather than narrower
- The whole area around broken cross and local environment will suffer with the increase of number of residents from this development.
- No consideration has been given to pollution, extra traffic, danger to children with-said traffic, the fact any green land has been sold off
- Plans drawn without the benefit of a site visit
- To obtain wider footpaths at the proposed location Gawsorth Road is being made narrower in order for the crossing to be accommodated next to a new wider footpath
- Cars will still drive over the extended verge to turn left off Princes Way
- The crossing has been placed at the junction of 5 intersecting roads
- There is no proposal on the submitted plans for a dropped kerb, wheel chair access tactile paving across Princes way
- The original approved location was far safer and far more visible
- There must be no vehicular access to this site from Whirley Road
- There is a significant body of water in the north west corner of the site
- The increased dwelling number will put a strain on school places
- Increased pollution close to an air quality management area, and in a pandemic setting a strain on already over-stretched medical facilities and the NHS
- Increased traffic flow from the sudden and inexplicably idiotic increase in dwellings
- Impact on health
- The new location is better than the original location especially in a Borough with a Walking and Cycling Champion

BACKGROUND

The site received outline planning permission in early 2019 under planning ref; 17/4277M for the erection of up to 135 dwellings with details of access from Chelford Road and pedestrian access from Whirley Road. The access was agreed at outline stage and the access points remain as originally proposed. The outline consent also secured as scheme of highway improvement works to Broken Cross, which are currently being implemented under a s278 highways agreement.

As part of the Broken Cross Highway Improvement Scheme, a zebra crossing was shown to be delivered at a point 13 metres south of where Pexhill Road junctures with Gawsorth Road. This was secured by condition no. 9. However, as part of the s278 highways agreement, the scheme has been amended to show the same zebra crossing located in an alternative position. The new position would be located 30 metres north of where Pexhill Road junctures with Gawsorth Road and immediately south of Princes Way.

Condition no. 9 of that approval requires the zebra pedestrian crossing on Gawsorth Road to be built as per the original approved drawing prior to the first occupation of any of the dwellings. This application is to vary the condition to reference the amended plan and permit the new position to the north.

The principle of development has been accepted and the purpose of this application is to agree the revised pedestrian crossing detail of the scheme. It is not the purpose of this application to revisit the merits of developing the allocated site for residential purposes.

APPRAISAL

Highways

SADPD Policy INF 3 states that development proposals should:

- i. comply with the relevant Highway Authority's and other highway design guidance;
- ii. provide safe access to and from the site for all highway users and incorporate safe internal movement in the site to meet the requirements of servicing and emergency vehicles;
- iii. make sure that development traffic can be satisfactorily assimilated into the operation of the existing highway network so that it would not have an unacceptable impact on highway safety, or result in severe residual cumulative impacts on the road network;
- iv. incorporate measures to assist access to, from and within the site by pedestrians, cyclists and public transport users and meets the needs of people with disabilities; and
- v. not generate movements of heavy goods vehicles on unsuitable roads, or on roads without suitable access to the classified highway network.

The original proposed location for the crossing on Gawsworth Road did not meet technical standards in terms of design and additionally was not located on the desire line for pedestrian movements. This is because there was a pinch point between the beginning of the crossing and the rear boundary of no. 4 Pexhill Road where it backs onto Gawsworth Road. Further, the crossing to the south of Pexhill Road would have meant pedestrians having to cross Pexhill Road to cross onto the opposite side of Gawsworth Road. By relocating it further north, this would no longer be the case.

The proposed amended location provides adequate footpath space and visibility to meet design standards and is also located on the desire line for pedestrians and children walking to school (e.g. to Broken Cross Primary Academy and Nursery). The pedestrian footpath width would be achieved by building out the footway into the carriageway as part of the approved s278 highway works. This would create safer pedestrian environment and accords with Policy INF 3

With respect to traffic impact, this proposal to relocate the crossing would not affect traffic generation and this has already been accounted for. The Council's Head of Strategic Infrastructure (HSI – Highways) has advised that there are no objections to the variation of condition 9. On this basis, it is considered that the proposal is acceptable in highways terms.

Heritage Assets

The new location for the proposed zebra crossing would be adjacent to two designated heritage assets, no.s 3-5 Pexhill Road and no. 1 Pexhill Road. These are both Grade II listed buildings. The previously approved location was 60-70 metres further to the south. As such, the revised proposals would have a greater impact on the setting of these two assets.

No. 1 Pexhill Road is three storeys dating from the 1750s and is rendered over brick with a stone-flagged roof. No.s 3-5 Pexhill Road is a pair of houses, possibly formerly a row of 3 dating from the late C17th with early C19th additions. The building is rendered over brick with a possible timber-framed core and a heavy stone-flagged roof. Both properties frame the north side of Pexhill Road where the original alignment of Pexhill Road ran but now terminates for access only.

The position of the new crossing would be in front of these heritage assets (more so no. 1), with the impacts on no.3-5 partly softened by the presence of a cottage (no. 2 Pexhill Road) directly to the front. By virtue of the close relationship that the position of the new crossing would have on these 2 listed buildings, it is considered that there would be harm, but that this harm would be 'less than substantial' on the basis that the proposals would be highway works predominantly within the existing adopted highway i.e. changes to surfacing materials and road markings with the only above ground development comprising the zebra crossing posts.

NPPF para 202 states that "where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use". In this case, there are clear benefits of the scheme outweighing this harm, which are:

- Amended location of the zebra crossing would be better positioned and would meet highway technical standards. The approved crossing does not meet these standards.
- Improved pedestrian safety for users by being on the desire line and negating the need to cross Pexhill Road to use the crossing.
- Would improve pedestrian safety assisting in sustainability and accessibility.

Taking the above into account, the proposal is found to be in accordance with CELPS Policy SE 7 and SADPD Policies HER 1 and HER 4.

Residential Amenity

Although a different location, the proposal would have a similar relationship with residential properties than the position of the consented crossing. There are no objections from Environmental Protection. The scheme is therefore found to be acceptable in terms of its impacts on residential amenity.

Other matters

Given the highway specific nature of the proposed change, the proposal is not considered to have any significantly greater impact upon noise impacts, air quality, contaminated land, landscape and trees, ecology, design and the character of the area, the living conditions of residents or flood risk compared to the existing permission.

The comments received in representation relating to air quality are acknowledged. However, Environmental Protection have not raised any air quality concerns regarding the proposed variation. If there was any additional impact to local air quality arising from the proposal, this would be to a negligible degree.

Paragraph: 002 Reference ID: 21a-002-20140306 of the Planning Practice Guidance (NPPG) and paragraph 57 of the NPPF makes it clear that conditions should only be imposed where they are (i) necessary; (ii) relevant to planning and; (iii) to the development to be permitted; (iv) enforceable; (v) precise and; (vi) reasonable in all other respects. If a proposed condition fails to meet any of the 6 tests, then the condition should not be imposed. Condition no. 9 meets these tests in terms of its spirit in securing highway / pedestrian mitigation.

CONCLUSION

The construction of 134 dwellings on the site has already been approved under outline planning approval ref; 17/4277M and reserved matters approval ref; 19/3098M. Works to implement the scheme have already begun.

Condition no. 9 of the outline approval requires the construction of a zebra pedestrian crossing on Gawsworth Road prior to the first occupation of any of the dwellings. The zebra crossing was shown in detail as part of the highway improvement works submitted with the outline planning application. The location of the zebra crossing has since changed because of the s278 highway works approval process. As such, the drawing number referenced in condition no 9 needs to be amended to reflect the newly positioned zebra crossing.

The Council's Head of Strategic Infrastructure (HSI – Highways) has advised that the revised positioning of the zebra crossing would be preferable because it would be on a better desire line for pedestrians with sufficient space. The original zebra crossing does not meet technical standards. In highway terms and there are no highways reasons to object to the proposed variation.

The newly positioned zebra crossing would be located closer to two grade II listed buildings and would cause less than substantial harm to their setting. However, this harm would be outweighed by the public benefits of providing a safer pedestrian environment for users crossing Gawsworth Road than the consented scheme.

The proposal is not considered to have any significantly greater impact upon on the character and appearance of the area, noise impacts, air quality, contaminated land or the living conditions of residents compared to the existing permission.

The proposal is therefore considered to comply with the relevant development policies. The application is recommended for approval, subject to conditions and a formal deed of variation to the existing s106 legal agreement. The conditions will reflect those on the original consent amended to take account of those that have already been discharged.

RECOMMENDATION

APPROVE subject to the completion of a S106 Deed of Variation to ensure that the obligations contained within the original S106 apply to this decision and the following conditions;

1. Accordance with Approved Plans
2. Site access (either priority junction and ghost right turn or roundabout) to be constructed in accordance with approved plan prior to first occupation

3. The vehicular access to serve the development will be via the new junction onto Chelford Road with no vehicular access to Whirley Road
4. Implement Broken Cross highway improvements prior to first occupation of any dwelling on the site
5. Development shall be carried out in accordance with the Construction Management Plan approved under discharge of conditions ref; 20/5102D
6. Development shall be carried out in accordance with the Travel Plan approved under discharge of conditions ref; 20/5102D
7. Zebra crossing on Gawsorth Road to be provided in accordance with revised plan ref; 2560-F01
8. Development shall be carried out in accordance with the Scheme of Piling Works approved under discharge of conditions ref; 21/4032D
9. Development shall be carried out in accordance with the Dust Control Scheme approved under discharge of conditions ref; 20/5102D
10. Accordance with Noise mitigation scheme and Acoustic Report
11. Provision of electric vehicle infrastructure (charging points) at each property prior to first occupation in accordance with detail approved under discharge of conditions ref; 21/4032D
12. Development shall be carried out in accordance with the Contaminated Land Remediation Strategy approved under discharge of conditions ref; 20/5102D
13. Verification of contaminated land
14. Development shall be carried out in accordance with the Drainage Strategy approved under discharge of conditions ref; 20/5102D
15. Development to be carried out in accordance with submitted Flood Risk Assessment
16. Development shall be carried out in accordance with the foul and surface water drainage scheme approved under discharge of conditions ref; 20/5102D
17. Accordance with updated Bat Survey
18. Accordance with management of invasive non-native plant species
19. Development to be carried out in accordance with in accordance with the recommendations of the submitted Ecological Report
20. Development shall be carried out in accordance with the new pond and detailed specification for the deepening and enhancement of the retained pond
21. Nesting Birds Survey to be carried if works are to be carried out during the bird breeding season
22. Accordance with scheme of features suitable for use by roosting bats and nesting birds
23. Signage scheme directing users to local cycle and footpath routes to be submitted

In the event of any changes being needed to the wording of the Committee's decision (such as to delete, vary or add conditions / informatives / planning obligations or reasons for approval/refusal) prior to the decision being issued, the Head of Planning (Regulation) has delegated authority to do so in consultation with the Chairman of the Strategic Planning Board, provided that the changes do not exceed the substantive nature of the Committee's decision.



