

Application No: 19/1923N

Location: ELEPHANT AND CASTLE INN, 289, NEWCASTLE ROAD, SHAVINGTON, CW2 5DZ

Proposal: Variation of condition 24 (concerning Traffic regulation Order) on approval 17/2483N - Affordable Housing Development Comprising 45 no. dwellings & Ancilliary Works

Applicant: Magenta Living & MCI Developments

Expiry Date: 30-Jul-2019

SUMMARY

The principle of development of this site for residential purposes in the form of 45 affordable dwellings as a rural exceptions site (6 x four bed dwellings, 18 x three bed dwellings, 15 x two bed dwellings, 2 x two bed bungalows and 4 x one bed maisonettes) has been accepted. The tenure mix as approved is for 23 units (51%) to be made available for shared ownership and 22 units (49%) will be affordable rented units.

Whilst some trees have been removed and site preparations have occurred including works to the existing pub car park (as approved by 17/2484N) the development has not commenced. The majority of pre-commencement conditions have been discharged, however, this condition relating to the TRO scheme, affordable housing scheme, contamination land and drainage remain to be discharged.

The proposed alternative TRO scheme as amended will have a neutral impact upon the social, economic and environmental strands of sustainability.

As this is a S73 application, the Local Planning Authority, whilst not being able to revisit the principle of the development, can vary, remove or add conditions if it is appropriate to do so in the context of the application seeking to be varied at the time it seeks to be varied.

SUMMARY RECOMMENDATION

APPROVE subject to a deed of variation to append this decision to the Original Unilateral Undertaking attached to 17/2483N and conditions

REASON FOR REFERRAL

This application is referred to Southern Planning Committee at the request of Cllr Marren for the following reasons;

'I request that this application be considered by Southern Planning committee as the application appears to be chasing profit over pedestrian safety, traffic flow and good public order.

The proposal to develop 45 affordable dwellings on land at the rear of the Elephant Public House, Main Road, Shavington was approved in February 2018. Attached to the approval was Condition 24 requested by the Highway Authority:

The development shall not commence unless and until a traffic regulation order changing Main Road to a one way system/provision of pavement widening

Whilst there may well have been objections to the TRO proposal, the Highway Authority do not request TROs lightly and presumably share the concerns of the Parish Council and local residents about pedestrian safety and the potential for traffic chaos.

The proposed one way order was to be installed on Main Road to the north of the permitted site access onto Main Road and it was designed to prohibit southbound movements along Main Road. The road is named for obvious reasons; it is a road that carries very many vehicles through the village.

In relation to the Transport Statement that supports the application I raise the following concerns:

The photograph at page 2 of SCPs traffic report shows no parked vehicles and that is particularly unusual as there are often one or two parked cars and it would only take a single parked HGV to prevent traffic passing at all. It is remarkable that by chance SCP should choose a day to take a traffic survey and the road was clear.

Paragraph 2.3 (page 3) of the Traffic report admits that the survey was taken two years ago in May 2017 but there has been considerable development growth in the village since then which the report can't possibly have taken account of; It is simply out of date and therefore cannot be relied upon. The fact that the report implies no HGV traffic because none were supposedly recorded doesn't mean there isn't any, for instance there are bound to be delivery vehicles, skips and refuse collection, this is just everyday life.

Even if the additional vehicle calculation is correct, it is contended that the baseline figure is wrong because it hasn't been able to reflect the additional traffic flow associated with new development in Shavington.

Para 3.4 of SCPs Traffic Statement indicates arrivals/departure flows of pedestrians and they also seem remarkably low. This development is for 45 affordable dwellings and there is bound to be a high incidence of families with children, many of whom will be children at either the local primary school or high school.

Para 3.8 assumes the traffic impact associated with the proposals would not lead to a severe cumulative impact upon the section of Main Road between the permitted site access and the junction with Main Road to the north. The additional vehicle calculation is not disputed but the baseline figure is as it is two years old. Two way traffic, with parked vehicles which could include HGVs or other large vehicles in addition to kerb build-outs is a recipe for traffic chaos and calls out for a TRO as was the original intention.

There are a number of other real concerns connected with the junction of Main Road with Newcastle Road:

- If Main Road is congested/stationary it would tempt drivers to reverse back out on to Newcastle Road which is dangerous.*
- If Main Road is congested vehicles could become stationary in the carriageway waiting to turn from Newcastle Road into Main Road which is Dangerous.*
- Drivers may indicate to turn into Main Road and on seeing vehicles queuing, because of the combination of traffic calming measure and stationary vehicles, may decide to continue onwards causing a potential accident.*
- Newcastle Road is 40mph, which has been described by CEC as good for the fast dispersal of traffic from the Shavington park development, however drivers do speed and in doing so will create an additional hazard for vehicles delayed from turning into Main Road.*
- If one side of the triangle has a traffic calming measure it will send more traffic to the Dig Lane junction which has extremely poor visibility and isn't able to deal with two large vehicles at the same time.*

Para 3.9 is an inadvertent admission that the road will require a TRO. "The width of Main Road is sufficient to allow two cars to pass side by side along the majority of the route", but not all of it. Parked vehicles will aggravate the passing problem. There is the potential for gridlock, exacerbated by the kerb build outs and perhaps only currently avoided by the goodwill of residents removing vehicles off the road. Goodwill cannot be relied upon as the means to allow the development to proceed without the TRO.

Paragraph 3.10 shows naivety in that there is an admission that "the western hard margin is too narrow to of any realistic use for pedestrians" but assumes pedestrians with push chairs and children and users of mobility scooters will cross over at the "informal crossing" to walk on a wider pavement with overhanging hedges after Highways have, presumably, enforced the "judicious trimming of hedges along its length".

The suggestion that all children (particularly unaccompanied children) will cross over at the informal crossing point is doubly naïve because the children will have to cross back over the road at the junction of Main Road with Main Road to the north of the site. The western hard margin is the natural walking route to and from both schools and children will be tempted to take the easiest route not necessarily the safest route and on their way to school their backs will be to the traffic. The telegraph poles that obstruct the easiest route will force children, pushchair users and mobility users either into the road or forced to undertake to road crossings amidst traffic that could be backed up or coming at speed off Newcastle Road.

This proposal has an unacceptable impact on Traffic Safety'

PROPOSAL

Permission is sought to vary condition 24 on 17/2483N which requires a TRO scheme for making part of Main Road into a one way street to be approved prior to commencement of the approved affordable housing scheme

Condition 24 requires -

The development shall not commence unless and until a Traffic regulation Order changing Main Road to a one way system/ provision of pavement widening as detailed on SCP drawing SCP/13289/SK Rev C has been Made and any legal challenges concluded.

Reason: For the avoidance of doubt and in the interests of highway safety.

The scheme as originally designed was for a one way TRO on a section of Main Road with a 2m wide footway to the western side of Main Road. A TRO scheme was submitted to the Highways Authority to satisfy the original planning condition but has not been approved.

The Highway Authority has received over 300 objections to the original TRO proposals as put forward in accordance with the scheme of improvements originally detailed on plan SCP/13289/SK Rev C.

The Applicant has therefore sought an alternative design to the TRO works, which requires approval under the Planning Act by virtue of the fact that the explicit wording of the condition references a specific design which requires formal TRO confirmation prior to any development commencing.

The TRO process remains a separate process from the planning process. The TRO process would also need to be satisfied.

The proposed wording of condition 24 is -:

'The development shall not commence unless and until a Traffic Regulation Order changing Main Road to a one way system/ provision of pavement widening as detailed on SCP drawing SCP/13289/SK11 has been Made and any legal challenges concluded.

Reason: For the avoidance of doubt and in the interests of highway safety.'

The revised proposals seeks permission for the one way TRO which proposes a 1.5m footway along the eastern side of Main Rd from the site access, instead of having a 2m footway along the western side of Main Rd as originally detailed under the approved plan SCP/13289/SK Rev C. These revisions also allow for some on street parking on part of Main Road, whilst also allowing for traffic to pass, whereas in the originally approved plan no such provision was made.

SITE DESCRIPTION

The site is an open field to the rear of the existing Elephant public house, located at the junction of Main Road and Newcastle Road Shavington. To the western boundary lies the Blakelow Business Park, to the southern boundary are dwellings on Newcastle Road and the Elephant public house. To the eastern boundary are dwellings on Main Road. To the northern boundary is Puseydale Farm and a site with extant planning permission for 3 dwellings (16/4767n).

The field is relatively level and is regularly mown. The public house landlord has rented out the field for car boot sales for the last 3 years or so (April to September) and a bi-annual dog show and an annual car show have been temporary uses organised by the publican to generate additional income for the public house. Such uses are temporary and form no part of the lawful

planning history of the site. The field is private land and the publican does not allow dog walkers or children to use it. It is therefore not a community asset in land use terms.

The site is located within the Open Countryside and Green Gap as identified by the Development Plan and covers an area of 1.23 ha.

RELEVANT HISTORY

17/2483N - Affordable Housing Development Comprising 45 no. dwellings & Ancilliary Works – Approved subject to S106 Agreement February 2018

17/2484N - New access to car park, reconfigured car park, new garage (including access) and bin store, new garden area, paths and boundary treatment . Approved November 2017. Development Implemented

POLICY

Cheshire East Local Plan Strategy – Adopted Version (CELPS)

PG1 - Overall Development Strategy
PG2 – Settlement Hierarchy
PG5 - Strategic Green Gap
PG6 - Open Countryside
PG7 – Spatial Distribution of Development
SC4 – Residential Mix
SC5 – Affordable Homes
SC6 - Rural Exceptions Housing for Local Needs
SD1 - Sustainable Development in Cheshire East
SD2 - Sustainable Development Principles
SE3 – Biodiversity and Geodiversity
SE5 – Trees, Hedgerows and Woodland
SE 1 - Design
SE 2 - Efficient Use of Land
SE 3 - Biodiversity and geodiversity
SE 4 - The Landscape
SE 5 - Trees, Hedgerows and Woodland
SE 6 – Green Infrastructure
SE9 - Energy Efficient Development
SE12 - Pollution, Land contamination and land instability
SE13 - Flood risk and water management
CO1 - Sustainable Travel and Transport
CO4 - Travel plans and transport assessments
IN1 – Infrastructure
IN2 – Developer Contributions

Crewe and Nantwich Local Plan

NE.5 (Nature Conservation and Habitats)
NE.8 (Sites of Local Importance for Nature Conservation)

NE.9 (Protected Species)
 NE17 (Pollution control
 NE.20 (Flood Prevention)
 BE.1 (Amenity)
 BE.3 (Access and Parking)
 BE.4 (Drainage, Utilities and Resources)
 BE.6 (Development on Potentially Contaminated Land)
 RES.5 (Housing in the Open Countryside)
 TRAN.3 (Pedestrians)
 RT.3 (Provision of recreational open space and children's play space in new housing developments)

Shavington Neighbourhood Plan - This Plan is at Regulation 14 Stage; Accordingly limited weight can be attached to any policy within it at this stage since it is yet to go through examination.

TRA1: Sustainable Transport

Other Material Considerations

National Planning Policy Framework (2012)
 National Planning Practice Guidance
 The EC Habitats Directive 1992
 Conservation of Habitats & Species Regulations 2010
 Circular 6/2005 - Biodiversity and Geological Conservation - Statutory Obligations and Their Impact within the Planning System
 Development on Backland and Gardens
 Cheshire East Design Guide

CONSULTATIONS

Highways Officer - No objection subject to the revised drawing SCP drawing SCP/13289/SK11 being implemented

VIEWS OF THE PARISH COUNCIL

Shavington Parish Council – Object on the following grounds - The footway is too narrow and there is insufficient visibility from the West side of Newcastle Road. There should not be an informal crossing point because all village facilities are on the West side. The kerb-line re-alignment on Newcastle Road does not give adequate access/egress from the Main Road. The assessment of traffic predictions in S3 of the Transport Statement is too low at 11 vehicles an hour (during peak times) and 10 vehicles an hour during evening peak times. The figures do not correlate with the reality of the situation. The potential for a weight limit for HCVs is unlikely to be approved.

Wybunbury Parish Council - Wybunbury Parish Council raised the matter of traffic problems in the Main Road Shavington Triangle area in the late 70's early 80's with Cheshire County Council as the highways authority then, traffic calming, one way systems were all looked at the time in consultation with the residents as the area then was in the parish of Wybunbury. The outcome of the consultation was what you see today carried out by CCC and has worked with in the area for the current residents.

The proposed scheme will not help or benefit residents or road users in any shape or form, the proposed 20mph scheme and the police & highway officer's state must be self-policing. Over such a short distance this would be ineffective & not resolve the problem but would create more traffic problems at the Newcastle Rd end & at the Shavington village end of the triangle as you can find standing traffic now waiting to use the western leg of Main Road. It will also put more pressure on the Eastern leg of the Triangle as traffic from Shavington village wishing to go to Nantwich will use this leg to gain access to the Newcastle Road which is already dangerous with the line of site to the west short & obscured at times by parked cars on the Newcastle Road between the two sections of Main Road.

The Parish Council therefore supports residents in their objection to these proposals.

OTHER REPRESENTATIONS

The initial neighbour consultation period was for the statutory time period. A further 14 days additional consultation period was undertaken for the revised scheme

Approx 100 representations from individual properties and an agent representing local residents received to both rounds of neighbour consultation raising the following points:

- Principle of the housing development
- Impact upon schools, health care etc
- Objections on grounds of Road Traffic Act
- A safety audit and risk assessment should be provided
- Increased traffic in area as a result of new developments already undertaken
- Not enough space left for emergency vehicles
- Travel distances for future residents
- Objection to the alteration to the scheme 'giving residents little time to decipher'
- The recent changes to the Public House car park now have vehicles parking up to the boundary wall with Newcastle Road which reduces visibility even more, the build out of Main Road and centre line realignment of Newcastle Road will not help as the new parking will still impede the view.
- The proposals are unsafe for existing residents
- There were more than 300 objections to it mainly on safety issues including comments on the safety issues from a high ranking police officer from Cheshire Traffic Police.
- To make Main road One way will make residents have to commit traffic offences I consider this to be a breach of duty of care by the Council
- As we see it nothing has changed only that the footpath will be widened on one side only which will help pedestrians.
- The new proposal will still send all the village motorists wishing to exit the village via Main Road to the three way junction with Main Road Digg Lane and Newcastle Road which has very limited

visibility and could cause queuing traffic attempting to join Newcastle Road which has a 40 mph and is a very heavily use road. This will also cause extra pollution and noise for local property.

- There will be no less movement from the planned 45 houses and the Elephant pub than stated previously; in fact it will be worse with the increase in pedestrians, motorists and residents.
- The calming measures on Main Road will create a back-up of traffic causing vehicles to queue back onto Newcastle Road. This will affect traffic turning off Newcastle Road, from Nantwich and Hough to enter the proposed new development and the pub. This will be very dangerous. When vehicles see the hold-up down Main Road they will change direction and pull out to drive onto Dig Lane/Main Road crossing, creating a potential accident.
- Road is a rat run and people will undertake dangerous manoeuvres causing danger to pedestrians
- All traffic turning right from the proposed development and the pub, into Main Road, towards Newcastle Road will still cross moving traffic and as it will be a two way system, join a queue of traffic waiting to join Newcastle Road. Vehicles travelling from the village end of Main Road will also queue at the "V" to turn right into Main Road, again causing holdups. Visibility from this junction is often blocked by parked cars.
- The informal crossing is adjacent to the exit of the pub car park and the proposed development which will be very busy. It also directs pedestrians into a driveway and onto a footpath which is too narrow to accommodate a wheelchair, pram, or a mother holding a child's hand walking to school. Cutting back of hedges will not increase the sub-standard width of the existing pavement, as these hedges are well established and there is a wall at one point.
- The proposed 20mph speed limit for Main Road, will have little effect on cars turning from Newcastle Road by the time they reach the informal crossing. Creating an increased risk of accidents particularly with slow crossing young families.
- The calming measures are only situated on the pub side of Main Road, therefore anyone walking on that side of the road will have to walk on the road, between build outs, stepping into traffic approaching from the rear. Again, very dangerous.
- The proposed build outs of the footpath will be directly in front of some houses, therefore how will residents enter their driveways? Also, visitors to these houses will park either side of the build outs creating a line of stationary cars.
- Recent environmental reports indicate young children who have been subjected to pollution from queueing traffic on a regular basis, have developed asthma and bronchial conditions. This is certainly a situation which families will experience when walking down Main Road at peak times.
- There has been no safety audit
- The footpath will not be wide enough, and the road layout will be dangerous. This does not meet minimum standards and will be a hazard to pedestrians and vehicles. 40 homes generate at least 40 cars, most of which move at peak times. There will be more than 11 movements per hour. This proposal must be rejected.
- The improvements to the easterly footpath will still require pedestrians between the Elephant site and Shavington village direction to have to cross Main Road twice to avoid the blocked westerly pavement , there is no safe crossing here and nothing planned.
- Making Main Road one way forces traffic to enter Newcastle Road at the Dig Lane cross roads , turning right is dangerous as the visibility at this junction is far less than that of the Main Road Junction and cars do not stick to the 40mph limit
- If the council approves this application, and accepts the widening of the easterly footpath as a suitable solution to the permanent blockage of the westerly footpath, the council should consider applying a condition that a safety assessment be carried out in respect of the safety risk to pedestrians walking through Main Road, and that a condition be applied in respect of the installation of a safe crossing point (at least a 'zebra' type) at both the Elephant PH, and Main

Road ends of the pavement. There is a prospect of a parent using a pushchair walking a KS1 child to school, with no control over that child as they move from the new estate crossing Main Road to walk up the easterly footpath, then to cross back to the westerly footpath of Main Road in an easterly direction. To cross the open road twice, particularly with the revised traffic levels at the Main Road 'V' junction having NO recorded assessment under this application, with no safe method is utterly unacceptable.

- 100's of houses built since last Transport assessment. Should be updated to reflect this

APPRAISAL

Principle of development

The principle of development on this site has been established by the previous permission on this site comprising 45 affordable dwellings. Consequently, the principle of the development has already been established and this application does not present an opportunity to re-examine those issues.

The main issues in the consideration of this application is whether the proposed alterations to the proposed TRO works on Main Road will safeguard the highway and pedestrian safety of users.

In considering the application submitted it is necessary that planning conditions satisfy six tests as identified at paragraph 55 of the NPPF (2018) which states that conditions should only be imposed where they are:

1. Necessary;
2. Relevant to planning
3. Relevant to the development to be permitted
4. Enforceable;
5. Reasonable in all other respects.

The Planning Practice Guidance also states that in determining this application the local planning authority must only consider the disputed condition/s that are subject of the application – it is not an opportunity for the complete re-consideration of the original application.

National Planning Guidance advises that planning conditions must serve all 5 clauses and that 'It is important to ensure that conditions are tailored to tackle specific problems, rather than standardised or used to impose broad unnecessary controls'.

Therefore, in order to determine whether the TRO condition applied for to be varied serves a useful purpose it is necessary to examine it in the light of these 5 tests.

The condition sought to be revised is as follows:

Original wording -

24. *The development shall not commence unless and until a Traffic regulation Order changing Main Road to a one way system/ provision of pavement widening as detailed on SCP drawing SCP/13289/SK Rev C has been Made and any legal challenges concluded.*

Reason: for the avoidance of doubt and in the interests of highway safety

Proposed wording, as revised,

24. The development shall not commence unless and until a Traffic Regulation Order changing Main Road to a one way system/ provision of pavement widening as detailed on SCP drawing SCP/13289/SK11 has been Made and any legal challenges concluded.

Reason: for the avoidance of doubt and in the interests of highway safety.

Sustainability

The National Planning Policy Framework definition of sustainable development is:

“Sustainable means ensuring that better lives for ourselves don’t mean worse lives for future generations. Development means growth. We must accommodate the new ways by which we will earn our living in a competitive world. We must house a rising population, which is living longer and wants to make new choices. We must respond to the changes that new technologies offer us. Our lives, and the places in which we live them, can be better, but they will certainly be worse if things stagnate. Sustainable development is about change for the better, and not only in our built environment”

There are, however, three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:

an environmental role – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy

an economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;

a social role – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community’s needs and support its health, social and cultural well-being; and These roles should not be undertaken in isolation, because they are mutually dependent.

Social Sustainability

The development of 45 homes on this site as a 100% affordable housing scheme makes a very significant contribution to the social arm of sustainability. The Committee, when granting permission originally, gave significant weight in the planning balance to the proposal given that the local Housing Need Survey demonstrated that local delivery of affordable housing was insufficient.

This proposal was considered to contribute significantly to the social arm of sustainability. The impact is neutral in the case of the current proposals given that the proposals concern a variation to the TRO design of the one way system for Main Road and the affordable housing details are unchanged.

Environmental Sustainability

Highways

The proposed TRO design as previously approved is unchanged in detailed terms other than the proposed footway widening as now applied for involves a 1.5m footway along the eastern side of Main Rd from the site access is provided, instead of having a 2m footway along the western side of Main Road. Additionally, the revised TRO design allows for some on street parking on parts of Main Road where there was none in the original TRO scheme

There have many been numerous objections raised by neighbouring properties in relation to highway issues and the impact on the surrounding road network and the TRO application itself has been the subject of more than 300 objections.

The TRO process is separate to the planning application and this planning application should only consider the highways issues arising from the change in design in the TRO plan as submitted to vary condition 24.

The wider Shavington area is to the north of the site, including local destinations such as the Co-op, and primary and secondary schools. The pedestrian desire line from the site to these destinations follows along Main Road. The existing footway width along Main Road is sub-standard at no more than 1m on its eastern side and less so along the western side.

Given the existing constraints along Main Road the applicant has proposed a one-way system in order to reduce the carriageway width to allow for footway widening. It has been proposed to begin the one-way just north of the site access to allow for customers of the pub or for residents of the new development to exit onto Newcastle Road if need be.

The width of Main Road varies but is approximately 4.7m and reduces further at the northern end.

The proposed footway widening as now applied for, whilst an alteration from the original, would remain a significant improvement on the existing situation and would be a safety benefit for the current community.

Currently some pedestrians from existing dwellings or from the PH would have to walk along the road. The new footway, as revised in these proposals, will be wide enough for 2 adults to pass or a wheelchair user alongside a pedestrian, without someone having to step onto the carriageway. This will be a benefit for all compared to the current situation where pedestrians walk on the carriageway due to the narrow footway widths.

The proposed one way system still provides sufficient width for HGVs or emergency vehicles to pass down the road. A safe and suitable access can be provided for all users and a development

of this type and size would generate approximately 20 vehicle trips in the peak hour. This is unchanged from the previous permission

Previously submitted highways data has been accepted and is unchanged by this proposal. From peak hour traffic surveys this proposal would therefore result in an additional 50 vehicles using this road during the AM peak and an additional 20 during the PM peak. Spread over an hour the impact would be minimal.

Overall, notwithstanding the objections to the proposed variation to condition 24 from the local community, the Strategic Highways Engineer advises that the proposed revision to the design of the footway to allow for some on street parking on Main Road within the proposed TRO scheme will not be detrimental to highway or pedestrian safety and as such, the proposed variation of the condition can be supported.

ECONOMIC SUSTAINABILITY

With regard to the economic role of sustainable development, the proposed development will help to maintain a flexible and responsive supply of land for housing as well as bringing direct and indirect economic benefits to the local area including additional trade for local shops and businesses, jobs in construction and economic benefits to the construction industry supply chain.

It is considered that the proposals represent sustainable development in terms of the economic sustainability of the scheme which will provide benefits to the local area through the construction process and the use by residents of local businesses and the economic activity of future residents.

Levy (CIL) Regulations

In order to comply with the Community Infrastructure Levy (CIL) Regulations 2010 it is now necessary for planning applications with legal agreements to consider the issue of whether the requirements within the S106 satisfy the following:

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

The original permission on this site is subject to a Unilateral Undertaking requiring an education contribution which is necessary having regard to the oversubscription of secondary schools and SEN places and the demand that this proposal would add to the local provision. This is considered to be necessary, fair and reasonable in relation to the development.

A S106 Deed of Variation will be required to link this proposal to the original permission 17/2483N to secure the same Heads of Terms as previously approved.

PLANNING BALANCE

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that where in making any determination under the planning Acts, regard is to be had to the development plan; the determination shall be made in accordance with the plan unless material consideration indicates otherwise.

The principal of the development of the site for 45 affordable units is already accepted and this application is not an opportunity to revisit that principle.

The proposal will allow an alternative TRO design which will allow the delivery of the much needed affordable housing on this site. Whilst the objections of neighbours are noted, they can not be sustained as a reason to refuse the proposals.

The Council's Strategic Highways Manager has considered the TRO proposals as submitted and considers that the revisions will be safe for pedestrians and road users and will adequately mitigate for the impact of the development.

On this basis, the revised condition is considered to pass the tests of Paragraph 55 of the NPPF and is considered reasonable in planning terms

The balance weighs in favour of the development and there are no material planning considerations which would outweigh that assessment.

RECOMMENDATION

Approve subject to a Deed of Variation S106 / Unilateral Undertaking to link to the original permission 17/2483N and the following conditions:

- 1. Commencement of development (3 years)**
- 2. Development in accordance with approved plans on 17/2483N except as varied**
- 3. Materials as application 17/2483N**
- 4. Surfacing materials as approved 18/3014D**
- 5. 100% affordable housing**
- 6. Removal of permitted development rights for extensions classes A- E and means of enclosure/ boundary treatments forward of building line**
- 7. Nesting bird survey to be submitted**
- 8. Provision of features for breeding birds as approved under 18/3014D**
- 9. Compliance with Flood Risk Assessment (FRA) (ref: ES/16365/FRA Prepared by SCP) dated August 2016**
- 10. Implementation of landscaping**
- 11. LEAP (min 5 pieces of equipment) children's play area /POS in accordance with details as approved under 18/3014D**
- 12. Contamination - Phase II investigation to be submitted prior to operational commencement**
- 13. Contamination - Importation of soil**
- 14. Remediation of unexpected contamination**
- 15. All Arboriculture works in accordance with Tree Care Consultancy Arboricultural Implication Assessment (Ref AIA1-CSE-SW) dated 11th May 2016**
- 16. Boundary treatments (inc 1.8m high close boarded to rear gardens adj in accordance with Noise Report recommendations) as approved under 18/3014D**
- 17. Levels, existing and proposed as approved under 18/3014D**
- 18. Noise mitigation scheme compliance with recommendations of report**
- 19. Details of construction and highways management plan, inc on site parking for contractors/storage during development as approved under 18/3014D**

20. Electric vehicle charging points to be provided for dwellings as approved under 18/3014D
21. Residents Travel Information Pack
22. Cycle storage details as approved under 18/3014D
23. Bin Storage details as approved under 18/3014D
24. The development shall not commence unless and until a Traffic Regulation Order changing Main Road to a one way system/ provision of pavement widening as detailed on SCP drawing SCP/13289/SK11 has been Made and any legal challenges concluded.
25. Drainage strategy detailing on and off site drainage work to be submitted and implemented as approved
- 26 detailed calculations to support the chosen method of surface water drainage to be submitted and implemented as approved
27. Grampian condition for the one-way system to Main Road (condition 24) be fully implemented/ construction of the footways to Main Road and build-outs on Newcastle Rd should be complete prior to any occupation of the site
28. Compliance with bat report as application 17/2483N
29. Updated badger survey as approved under 18/3014D
30. Submission and implementation of a scheme for the future management and maintenance of all communal open space be submitted and implemented as approved
31. Bungalow/single storey accommodation - priority of occupation for over 55's/ persons reliant upon wheelchair
32. Garden sheds provided as approved under 18/3014D

In order to give proper effect to the Board's/Committee's intentions and without changing the substance of the decision, authority is delegated to the Head of Development Management in consultation with the Chair (or in his absence the Vice Chair) of Southern Planning Committee, to correct any technical slip or omission in the wording of the resolution, between approval of the minutes and issue of the decision notice.

Should this application be the subject of an appeal, authority is approved to enter into a S106 Agreement/ UU to provide a Deed of Variation to link this proposal to the original permission under 17/2483N

