

Application Number:	2022/0206	Application Type:	S.73 (Variation of Conditions)
Proposal:	S.73 application: variation of condition 6 (HGV movements / delivery times) pursuant to planning permission 2018/0318.	Location:	Former Spring Mill Market Street Whitworth Rochdale Lancashire
Report of:	Planning Manager	Status:	For publication
Report to:	Development Control Committee	Date:	06/07/2021
Applicant:	Mr Johnson Mulk (Gleeson Homes)	Determination Expiry Date:	30/07/2021
Agent:	Miss Hannah Caudwell (Pegasus Group)		

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REASON FOR REPORTING	
Outside Officer Scheme of Delegation	
Member Call-In Name of Member: Reason for Call-In:	
3 or more objections received	✓
Other (please state):	Major Application

HUMAN RIGHTS

The relevant provisions of the Human Rights Act 1998 and the European Convention on Human Rights have been taken into account in the preparation of this report, particularly the implications arising from the following rights:

Article 8

The right to respect for private and family life, home and correspondence.

Article 1 of Protocol 1

The right of peaceful enjoyment of possessions and protection of property.

1. RECOMMENDATION

Approval subject to the conditions set out in this report.

2. SITE

The application relates to a site of approximately 3.5ha, located to the rear of houses fronting Eastgate and Westgate in Whitworth. The site is accessed off Wallbank Drive.

Formerly occupied by Spring Mill, the site is currently undergoing development for the construction of 119 dwellings, approved under 2018/0318.

3. RELEVANT PLANNING HISTORY

X/2002/261 - Outline - Erection of 45 no residential units including access (amended scheme) (Approved)

2008/0726 - Variation of condition from planning application 2002/261 (Withdrawn)

2009/0360 - Application for Reserved Matters Approval pursuant to Outline Permission 2002/261 for Erection of 45 no. Residential Units, and entailing diversion of Public Footpath No. 70 Whitworth (Approved)

2010/0433 - Extension of time limit 2002/261 (Approved)

2018/0318 - Erection of 119 no. two-storey (2, 3 and 4 bed) houses, with associated infrastructure and access works (Approved)

2019/0553 - Discharge of conditions 3 (fences), 4 (materials), 5 (construction method statement), 11 (driveways), 18 (SUDS management plan), 20 (site investigation / remediation) and 22 (Piling) in relation to planning approval 2018/0318 (Refused)

2020/0059 - Approval of details reserved by Conditions 3 (boundary treatment), 4 (materials), 5 (construction method statement), 7 (access, bridleway and off-site highway works), 16 (sustainable drainage scheme), 18 (sustainable drainage management plan), 20 (site investigation / remediation), 28 (details of LEAP) pursuant to planning permission 2018/0318 (Approved)

4. PROPOSAL

Following the approval of planning application 2018/0318, the applicant seeks to vary condition 6 pursuant to that planning approval, to permit additional time for HGV deliveries to access the site.

Condition 6 of 2018/0318 stated the following:

“Any HGV construction traffic movements to and from the site shall not occur before 9.30am or between 2.30pm - 3.30pm Monday-Friday during school term time.

Reason: In the interests of highway and pedestrian safety.”

The applicant seeks to include the hours of between 07:15-08:00 during school term time to the wording of the condition, to allow HGV deliveries / movements at the above times in addition to the times already permitted under the condition.

The applicant's supporting statement includes the following justification for the application:

"The aim of the variation is to alleviate the current restrictive timeslots, improve construction efficiency at the site, but also to prevent any conflicts during the drop off and collections at the nearby school. In order to achieve this, it is requested that additional delivery times are allowed at the site, specifically between 07:15hrs and 08:00hrs.

The times suggested will also reflect a previously approved planning application at Whitworth High School (ref: 2021/0270). Condition 10 of that planning permission states:

'The Deliveries to the approved development shall only be accepted between the hours of 7:15hrs and 08:00hrs; 09:00hrs and 14:45hrs; 15:30hrs and 18:00hrs Monday - Friday, and 07:15hrs to 13:00hrs on Saturday to avoid peak traffic on the surrounding highway network during term time.'

The approval of the application at Whitworth School, is clear in that it is 'to avoid peak traffic on the surrounding highway network during term time'.

It is considered that there would be no disruption if similar delivery times were applied to both developments.

As such, it is proposed to amend the wording of condition 6 of planning approval 2018/0318 to state:

'Any HGV construction traffic movements to and from the site shall not occur before 7:15hrs, between 08:00hrs and 09:30hrs, between 14:45hrs and 15:30hrs and after 18:00hrs Monday-Friday during school term time.'

5. POLICY CONTEXT

National

National Planning Policy Framework

- Section 2 Achieving sustainable development
- Section 4 Decision making
- Section 5 Delivering a sufficient supply of homes
- Section 8 Promoting healthy and safe communities
- Section 9 Promoting sustainable transport
- Section 11 Making effective use of land
- Section 12 Achieving well-designed places
- Section 14 Meeting the challenges of climate change, flooding and coastal change
- Section 15 Conserving and enhancing the natural environment

Development Plan Policies

Rossendale Local Plan

- Strategic Policy SS: Spatial Strategy
- Strategic Policy SD1: Presumption in Favour of Sustainable Development
- Strategic Policy SD2: Urban Boundary and Green Belt

Policy SD3: Planning Obligations
 Strategic Policy HS1: Meeting Rossendale's Housing Requirement
 Policy HS2: Housing Site Allocations
 Policy HS6: Affordable Housing
 Policy HS7: Housing Density
 Policy HS8: Housing Standards
 Policy HS10: Open Space Requirements in New Housing Developments
 Policy HS11: Playing Pitch Requirements in New Housing Developments
 Policy HS12: Private Outdoor amenity space
 Strategic Policy ENV1: High Quality Development in the Borough
 Policy H21 - Land at Blackwood Road, Stacksteads
 Policy ENV4: Biodiversity, Geodiversity and Ecological Networks
 Policy ENV6: Environmental Protection
 Policy ENV9: Surface Water Run-Off, Flood Risk, Sustainable Drainage and Water Quality
 Policy ENV10: Trees and Hedgerows
 Policy TR1: Strategic Transport
 Policy TR2: Footpaths, Cycleways and Bridleways
 Policy TR3: Road Schemes and Development Access
 Policy TR4: Parking

Other Material Planning Considerations

National Design Guide
 National Planning Practice Guidance

6. CONSULTATION RESPONSES

Consultee	Summary of Comments received
LCC Highways	No objection
RBC Environmental Health	No objection

7. NOTIFICATION RESPONSES

To accord with the General Development Procedure Order a site notice was posted and letters were sent to neighbours. A notice was also published in the Rossendale Free Press.

Ten objections were received, raising the following points:

- Noise nuisance
- Highway and pedestrian safety
- Danger to school children
- Developer has not adhered to previous conditions
- Loss of privacy / harm to neighbour amenity
- Access issues

8. ASSESSMENT

The main considerations of the application are:

- 1) Highway and Pedestrian Safety
- 2) Neighbour Amenity

Highway and Pedestrian Safety

The Local Highway Authority (LCC Highways) has raised no objection to the proposed amendments to condition 6, and considers the proposed amendments to be acceptable from a highway safety perspective.

All other relevant conditions from the previous approval (2018/0318) in relation to highways matters would be carried forward.

Neighbour Amenity

Comments from local residents are noted.

However, the Council's Environmental Health team has been consulted on the application, and raises no objection to the proposed amendments to condition 6 in relation to amenity matters. The Environmental Health team provides specialist advice to the Local Planning Authority in relation to matters relating to nuisance, disturbance and amenity.

As such, the application is considered acceptable from a neighbour amenity perspective.

9. SUMMARY REASON FOR APPROVAL

The proposed amendment to the condition in question is considered acceptable in terms of impacts on highway and pedestrian safety. The development accords with the National Planning Policy Framework and the Council's Local Plan.

10. CONDITIONS

1. The development shall be carried out in accordance with the following plans and documents unless otherwise required by the conditions below:

- Application form received on 30th August 2018.
- Site Location Plan (Rev. B) received on 20th June 2019.
- Planning Layout (Drawing Number 1013-025 REV. H) received on 20th August 2019 (amended to show 3m wide bridleway link and United Utilities access route).
- North West Materials Choice Schedule received on 30th August 2018.
- 201 Dwelling Type (Drawing Number 201/1F) received on 30th August 2018.
- 202 Dwelling Type (Drawing Number 202/1F) received on 30th August 2018.
- 212 Dwelling Type (Drawing Number 212/1-) received on 30th August 2018.
- 301 Dwelling Type (Drawing Number 301/1G) received on 30th August 2018.
- 304 Dwelling Type (Drawing Number 304/1E) received on 30th August 2018.
- 307 Dwelling Type (Drawing Number 307/1B) received on 30th August 2018.
- 309 Dwelling Type (Drawing Number 309/1E) received on 30th August 2018.
- 311 Dwelling Type (Drawing Number 311/1A) received on 30th August 2018.

- 313 Dwelling Type (Drawing Number 313/1-) received on 30th August 2018.
- 314 Dwelling Type (Drawing Number 314/1-) received on 30th August 2018.
- 401 Dwelling Type (Drawing Number 401/1G) received on 30th August 2018.
- 403 Dwelling Type (Drawing Number 403/1H) received on 30th August 2018.
- Proposed Sections (Drawing Number GLE-020) received on 30th August 2018.
- Preliminary Drainage Strategy (Drawing Number SWR-AJP-XX-00-DR-C-0900 P1) received on 30th August 2018.
- Proposed Sections (Drawing Number GLE-020) received on 30th August 2018.
- Travel Plan (Westgate Consulting Ref: 78 v3) received on 30th August 2018.
- Flood Risk Assessment (JOC Consultants ref: 16/041.01) received on 30th August 2018.
- Detailed Landscape Proposals (1 of 2) (Drawing Number 2931-1C) received on 7th November 2018.
- Detailed Landscape Proposals (2 of 2) (Drawing Number 2931-2C) received on 7th November 2018.
- Access Swept Path Drawing (Drawing Number 16/424/ATR/002 REV. A) received on 23rd January 2019.
- Proposed Site Access (Drawing Number 16/424/TR/001 REV. F) received on 23rd January 2019.
- Arboricultural Impact Assessment (Ascerta Rev. B) received on 30th August 2018.
Reason: To ensure the development complies with the approved plans and submitted details.

Reason: To define the permission and in the interests of the proper development of the site.

2. No dwelling shall be occupied until all fences, walls, gates and other means of enclosure to bound its plot have been erected in conformity with the details approved under 2020/0059 as listed below:

- Proposed Boundary Treatments document, incorporating annotated version of Planning Layout
- Boundary Treatment Key
- Hedge Boundary Detail (2931/3 REV. A)
- 1800mm high fence & brickwork wall (NSD111)
- 1.8 meter high close board timber fencing (SD-100)
- Post and wire fencing detail (SD-103)
- Typical elevations and sections of fencing / hedging / walling

All other fences and walls shown in the approved details shall be erected in conformity with the approved details prior to substantial completion of the development.

Reason: To ensure a visually satisfactory form of development and to provide reasonable standards of privacy to residents.

3. The materials to be used in the construction of the development shall accord with those approved under 2020/0059, as listed below:

- Whitworth Materials Schedule 2019 document (incorporating annotated version of Planning Layout)

Reason: In the interests of visual amenity.

4. The development shall take place in accordance with the details contained in the approved Construction Management Plan (updated 03/06/2020), as approved under 2020/0059.

Reason: In the interests of highway safety.

5. Any HGV construction traffic movements to and from the site shall not occur before 07:15hrs, between 08:00hrs and 09:30hrs, between 14:45hrs and 15:30hrs and after 18:00hrs Monday-Friday during school term time.

Reason: In the interests of highway and pedestrian safety.

6. The development shall be implemented in accordance with the details approved under 2020/0059 in respect of access, bridleway and off-site highway works.

The development shall include the following:

- a) Enhanced pedestrian provision at the junction Eastgate / Westgate / Wallbank Drive, including kerb re-alignment, tactile paving, street lighting assessment/upgrade.
- b) Upgrade existing Bus Stop on Westgate to quality bus standard.
- c) Upgrade and link bridleway 114 from Moss Lane along the identified off-street link track through the site (as shown on drawing number 1013-025 REV.F) to bridleway 140, providing a minimum bridleway width of 3m, with a suitably constructed base and surfacing. Suitable measures to prevent unauthorised access by motor vehicles to the bridleway network shall also be incorporated.
- d) Pedestrian and cycle signage to off-road routes.

The above works shall all be carried out in full prior to substantial completion of the development.

Reason: In the interests of highway, bridleway and pedestrian safety.

7. Within one month of the date of this permission, full details of the proposed arrangements for future management and maintenance of the estate road within the development shall be submitted to the Local Planning Authority for its approval.

The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into with the Highway Authority or a private management and maintenance company has been established.

Reason: In order to ensure proper management and maintenance of the streets within the development.

8. Within one month of the date of this permission, engineering, drainage, street lighting and constructional details to adoptable standards (LCC specification) of the internal estate roads shall be submitted to the Local Planning Authority for its approval.

The development shall, thereafter, be constructed in accordance with the approved details, unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interests of highway safety.

9. The internal estate roads shall be constructed in accordance with the approved engineering details and to at least base course level prior to first occupation of any dwelling.

Reason: In the interests of highway safety.

10. Prior to the occupation of each dwelling, its associated driveways and parking areas shall be constructed in a bound porous material and made available for use. The driveways and parking areas shall be maintained as such and kept available for the parking and manoeuvring of vehicles for as long as the development is occupied.

Reason: In the interests of highway safety.

11. Prior to first occupation of each dwelling, it shall be provided with a secure cycle store for at least 2 cycles.

Reason: To promote sustainable modes of transportation in the interests of sustainable development.

12. Prior to the first occupation of each dwelling, it shall be provided with an electric vehicle charging point.

Reason: To promote sustainable modes of transportation in the interests of sustainable development.

13. The Framework Travel Plan submitted with the application shall be adhered to throughout the stated period of implementation and monitoring. This will include the provision of cycle vouchers to occupants of every dwelling.

Reason: In the interests of highway safety and to promote sustainable modes of transportation in the interests of sustainable development.

14. Foul and surface water shall be drained on separate systems.

Reason: To secure proper drainage and to manage the risk of flooding and pollution.

15. The development shall be implemented in accordance with the following drainage details approved under 2020/0059:

- Con 16 Flood Risk Assessment document (Rev. 01)
- Finished Levels and Retaining Walls Sheet 1 (SWR-AJP-XX-00-DR-C-1400 P7)
- Finished Levels and Retaining Walls Sheet 2 (SWR-AJP-XX-00-DR-C-1401 P7)
- Flood Routing Plan (WR-AJP-XX-00-DR-C-1030 P1)
- SW Network Calculations dated 29/07/2020
- Clarification on external levels provided by email by Martin Hodgkiss to Kevin Kellett (LLFA) on 25/09/2020.

The scheme shall be implemented in accordance with the approved details prior to first occupation of any of the approved dwellings, or completion of the development, whichever is the sooner.

Thereafter the drainage system shall be retained, managed and maintained in accordance with the approved details.

Reason: To ensure that the proposed development is adequately drained and to ensure that there is no flood risk on or off the site resulting from the proposed development.

16. None of the development hereby permitted shall be occupied until the sustainable drainage scheme for the entire site has been completed in accordance with the submitted details.

The sustainable drainage scheme shall be managed and maintained thereafter in accordance with the agreed management and maintenance plan.

Reason: To ensure that the drainage for the proposed development can be adequately maintained and to ensure that there is no flood risk on- or off-the site resulting from the proposed development or resulting from inadequate the maintenance of the sustainable drainage system.

17. The development shall be implemented and subsequently managed / maintained in accordance with the following drainage details approved under 2020/0059:

- Con. 18 S.104 Agreement Details
- Sustainable Urban Drainage System Management Plan (Con 18) December 2019

The plan shall be implemented in accordance with the approved details prior to first occupation of any of the approved dwellings, or substantial completion of the development, whichever is the sooner.

Thereafter the sustainable drainage system shall be managed and maintained in accordance with the approved details.

Reason: To ensure that appropriate and sufficient funding and maintenance mechanisms are put in place for the lifetime of the development, to reduce the flood risk to the development as a result of inadequate maintenance, and to identify the responsible organisation/body/company/undertaker for the sustainable drainage system.

18. All attenuation basins and flow control devices/structures shall be constructed and operational prior to the commencement of any other development and prior to any development phase (other than works associated with site stripping, remediation and regrading of the site to provide a development platform).

Reason: To ensure site drainage during the construction process does not enter the watercourses at un-attenuated rate and to prevent a flood risk during the construction of the development.

19. The development shall be implemented in accordance with the following details approved under 2020/0059:

- Spring Mill, Whitworth – Response to Comments from the Environmental Health Officer (ref. CAT/GCB/40265-009; dated 23 January 2020) by Eastwood & Partners Consulting Engineers
- Remediation Implementation Plan Issue 4 (Eastwood & Partners) 40265-005(I4)
- Earthworks Specification Issue 2 (40265-007(I2))
- Method of work within 8m of Prickshaw Brook, Whitworth, Rochdale

The development shall thereafter be carried out in full accordance with the approved remediation strategy. It is noted that the ground gas situation on site will be subject to review as the development progresses. Initially gas protection is proposed for all properties to facilitate development.

The developer shall liaise closely with their appointed remediation consultant, and any proposed deviation from the approved details must first be submitted to and approved in writing by the Local Planning Authority.

Reason: To safeguard against hazards associated with land contamination, and to prevent pollution.

20. Pursuant to condition 19 and prior to first occupation of any of the dwellings on site a verification report, which validates that all remedial works undertaken on site were completed in accordance with those agreed with the Local Planning Authority, shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To safeguard against hazards associated with land contamination, and to prevent pollution.

21. The development shall be implemented in accordance with the Piling Groundwater Risk Assessment (Eastwood and Partners) approved under 2019/0553.

Reason: To ensure that any proposed piling activity is protective of controlled waters.

22. No infiltration of surface water drainage into the ground shall be permitted as part of the development, other than with the prior written consent of the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure that the development is not put at unacceptable risk from, or adversely affected by, unacceptable levels water pollution caused by mobilised contaminants.

23. No vegetation clearance shall be undertaken during the optimum period for bird nesting (March to July inclusive) unless nesting birds have first been demonstrated to be absent by a suitably qualified person through the prior submission to, and approval by the Local Planning Authority, of a survey report before any such works are carried out.

Reason: To protect nesting birds.

24. At no time during the course of development shall works, machinery or materials encroach into the Biological Heritage Site and Local Nature Reserve at Healey Dell. Robust site fencing shall be erected for the duration of the construction period along the site boundaries to prevent any such encroachment.

Reason: In the interests of protecting biodiversity and preventing damage to biodiversity assets in the vicinity of the site.

25. Any construction works associated with the development hereby approved shall not take place except between the hours of 7:00 am and 7:00 pm Monday to Friday and 8:00 am and 1:00 pm on Saturdays. No construction shall take place on Sundays or Bank / Public Holidays.

Reason: In the interests of neighbour amenity.

26. The approved scheme of landscaping and planting shall be carried out in the first planting and seeding seasons following the occupation of any of the approved dwellings or the completion of the development, whichever is the earlier.

All trees to be planted shall have a minimum of 10-12cm girth.

Any trees or plants which within a period of 15 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of the same size and species.

Reason: In the interest of the appearance of the locality and to enhance biodiversity.

27. The LEAP forming part of the development shall be implemented in accordance with the following details approved under 2020/0059:

- Initial Annual Management Charge details (ref: 3918)
- Kompan Bespoke Playground Design document for Spring Mill, Whitworth (ref: SQ248182-4)

The LEAP shall thereafter be completed in accordance with the approved details and made available for use prior to first occupation of the tenth dwelling on site, or prior to substantial completion of the development, whichever is the sooner.

The LEAP shall be managed and maintained in strict accordance with the approved details for as long as the development is occupied.

Reason: To ensure the provision of satisfactory play / recreation facilities for occupants of the development, and to ensure the ongoing maintenance of such facilities.

28. At all times during development works tree protection fencing to BS 5837 (2012) shall be maintained in the locations as shown on the details included within the submitted Arboricultural Impact Assessment (Ascerta Rev. B).

The tree protection fencing shall be retained and maintained for the duration of development works on site.

Reason: To protect trees to be retained.

11. **INFORMATIVES**

1. The proposal complies with the development plan and would improve the economic, social and environmental conditions of the area. It therefore comprises sustainable development and the Local Planning Authority worked proactively and positively to issue the decision without delay. The Local Planning Authority has therefore implemented the requirement in Paragraph 38 of the National Planning Policy Framework.