

SW/01/n1554

Planning & Building Control Service
Development Management
Westgate Plaza
PO Box 603
Barnsley, S70 9FE

27th June 2022

Dear Sir/ Madam,

Discharge of Condition Application pursuant to Condition 9 (Provision of Electric Vehicle Charging Points) of Planning Permission 2019/0902.

Land at St Helens Boulevard, Carlton, Barnsley, S71 2AZ

nineteen47 Ltd. is instructed by Keepmoat Homes ["the Applicant"] to prepare a re submission to discharge condition 9 of planning permission for residential development of 93no. dwellings with associated access, car parking and landscaping. ["the Proposed Development"] at Land St Helens Boulevard, Carlton Road, Barnsley, S71 2AZ ["the Site"], pursuant to planning permission reference 2019/0902 ["the Application"], which was issued on 7th August 2020.

Condition 9 of the above referenced permission relates to the provision of Electric Vehicle Charging Points ["EVCP"] as set out below:

Prior to first occupation of the development hereby permitted, details for the provision of electric vehicle charging points (EVPCs) shall be submitted to and approved in writing by the Local Planning Authority. These EVCPs shall be installed in accordance with the approved details prior to first occupation of the development and retained thereafter available for that specific use.

Reason: In interests of promoting sustainable travel opportunities in accordance with Policy 11 of the Local Plan.

This is a resubmission in order to discharge condition 9 following a previous refusal under reference 2020/0913. That decision was issued in the form of a refusal letter which contains some errors, as described below, and did not contain concise reasons for refusal as would be expected in a standard decision notice.

Following the refusal, the Applicant has sought guidance from industry experts and an electrical technician. This resubmission is supported by a Technical Report, Technical Details and the supporting statement contained in this letter. The level of detail and supporting information provided alongside this application alters the content of the submission and, therefore, it is considered that this Discharge of Conditions application constitutes a materially different application to the previous submission and should be viewed on that basis. The information included in the submission is as follows:

- Electric Vehicle Charging Points Plan 2028 Y2 04 02 Rev B
- Technical Report prepared by Robert Thompson Electrical
- Guide to EV Charging (Technical Details)

Proposed EVCP Specification

In order to discharge condition 9, the specifications of the charging point are more detailed than information submitted with the previously refused discharge application and is based on industry standard installations, as demonstrated by the report prepared by Robert Thompson Electrical. The specification encompasses:

- A single 32amp external socket to be installed within garages or adjacent driveways and parking spaces, therefore allowing the occupant to upgrade to a charging Pod at a later date if needed (agreed with Technical Pollution Control Officer).
- FOG's and plots with integral garages with ECVP within garages only.
- Minimum P66 Rated socket.
- Positioning of socket to be 1000mm from Ground Level.

The specification listed above are acceptable in industry standards and are compliant with Local Plan Policy and accompanying guidance.

The proposed infrastructure to each dwelling (a single 32amp external socket) will support the Mode 3 charging solution sought by the Council. The Applicant's proposal is for a 32amp external socket (mode 2) to then be fitted, as the majority of car manufacturers supply a mode 2 cable with three pin plug as standard. The infrastructure proposed will be capable of accommodating a Mode 3 charging pod if required by the occupier without the need to upgrade wiring and a £350 Government grant is available for this installation if required.

The Applicant is not proposing to install a Mode 3 pod from the outset as there are currently a range of different Mode 3 options available from UK car manufacturers and a standard product installed in line with the Council's request specification could immediately become obsolete depending on the occupier's chosen vehicle. By contrast, the proposed provision of a Mode 2 connection is more widely compatible with vehicles as standard and leaves the choice of appropriate connection to the occupier.

The difference in charging times depends on the Mode 3 pod selected but both mode 2 and 3 charging times are compatible with an overnight charge appropriate to residential properties.

On this basis, we consider the proposed solution to be both an appropriate and compatible with the spirit of the Council's guidance on the matter.

This remainder of this letter goes into further detail about the suitability of the proposed specifications in order to discharge condition 9, including highlighting the relevant policy context, outlining the case in support of the submission and responding to matters raised in the previous decision notice reference 2020/0913, which was issued on 18th October 2021.

Planning Policy Context

The Development Plan for the area currently comprises the following:

- Barnsley Local Plan (Adopted January 2019)

- Sustainable Travel Supplementary Planning Document (Adopted November 2019)

The policy referenced in the reason for condition 9 being applied to the full permission is Policy 1 Infrastructure and Planning Obligations, of the Local Plan, which aims to generally promote sustainable travel opportunities. This policy states:

Development must be supported by appropriate physical, social, economic and communications infrastructure, including provision for broadband. Development must contribute as necessary to meet all on and off site infrastructure requirements to enable development to take place satisfactorily. Where the necessary provision is not made directly by the developer, contributions will be secured through planning obligations. Where appropriate, pooled contributions will be used to facilitate delivery of the necessary infrastructure.

The LPA referenced policies T1 Accessibility Priorities and T3 New Development and Sustainable Travel in the decision letter (2020/0913) on the refused discharge application. However, neither of these policies are referenced in the reasons for condition 9, and therefore the objectives of these policies should not directly inform the discharge of condition 9. It is also noted that neither T1 or T3 are prescriptive about the specification for EVCPs and focus more broadly on sustainable travel and infrastructure.

Supplementary Planning Documents and Guidance

The Sustainable Travel Supplementary Planning Document was adopted in November 2019 and is intended to support Policies T1, T3 and 1 of the Local Plan. It is, therefore, relevant to this application as condition 9 was written in the context of Policy 1 of the Local Plan.

The Barnsley Metropolitan Borough Council Air Quality and Emissions Good Practice Planning Guidance (2020) is a technical guidance note but has not been adopted as part of the Development Plan. This planning practice guidance note is not referenced in the Local Plan. It is also noted that the 2019 Government Consultation on which the Good Practice Guidance is based has not progressed beyond consultation and it is not considered that the Government's consultation proposals were intended to be rigidly applied without consideration of the wider context of the proposals.

National Guidance

The National Planning Policy Framework (NPPF) (2021) is generally supportive of sustainable technology, however, the guidance is again not prescriptive regarding EVCP specification. It is not the intention of the NPPF to impose rigid standards on an evolving technology in this manner and the document simply requiring the following:

"Within this context, applications for development should: ...e) be designed to enable charging of plug in and other ultra low emission vehicles in safe, accessible and convenient locations."
(Para 112)

The National Planning Practice Guidance (NPPG) [ref D 21a 006 20140306] encourages pre discussion between applicants and the LPA regarding conditions stating:

Where it is practicable to do so, such conditions should be discussed with the applicant before permission is granted to ensure that unreasonable burdens are not being imposed.

The specifications for the EVCP on the scheme were discussed during the application process in the interests of expedient agreement as detailed below and the wider design of the scheme was based on reasonable assumptions drawn from these discussions.

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The proposals as now submitted include the Electric Vehicle Charging Points Plan [2028 Y2 04 02 Rev B], which outlines the locations of EVCP throughout the development, as well as a detailed specification for these charging points as outlined above. Under this strategy, all plots benefit from an EVCP installed within garages, adjacent to driveways and private parking spaces.

Policy 1 as referenced in the reason for condition 9 being applied, does not explicitly refer to the type of EVCP's to be provided or their specification. The explanatory note to the policy reads as follows:

It is important to ensure that development is adequately supported by appropriate infrastructure, whether existing or new.

Therefore, in determining the acceptability of the EVCP strategy to accord with the intentions of Policy 1, it is important to consider whether the proposed EVCP Strategy constitutes '*appropriate infrastructure*'.

The letter from Robert Thompson Electrical as part of this submission demonstrates that the specification of a single 32amp external socket will support the Mode 3 charging solution sought by the LPA. Mode 2 accords with the majority of car manufacturers who supply a mode 2 cable with pin plug as standard. This constitutes 'appropriate infrastructure' in line with the Local Plan.

Policy 1 does not explicitly reference any other supporting technical or supplementary document and we have provided evidence that the majority of car manufacturers supply a Mode 2 cable with three pin plug as standard. Whilst it is considered that the direct and prescriptive application of more detailed guidance including the specification document 'Guide to EV Charging (Technical Details)' as referenced within the Barnsley Metropolitan Borough Council Air Quality and Emissions Good Practice Guidance (March 2020) is inappropriate, it is noted within that document that Mode 2 is likely to be the default lead that comes with your car and that such a connection is adaptable to different vehicles.

The specifications for the EVCP within the scheme were discussed during the original application process in the interests of co operation between applicant and LPA as encouraged in the NPPG [ref D 21a 006 20140306], so as to avoid, '*unreasonable burdens are not being imposed [on the applicant]*'. This discussion informed the design of the EVCP scheme for the site, which in turn informs the wider design of the scheme to ensure that sufficient infrastructure, including new electricity substations are included within the Site. It was agreed and confirmed in an email from the LPA dated 14th February 2020 that the proposed EVCP specification put forward by the Applicant was acceptable. On this basis the Applicant agreed to the condition as worded being attached to the permission.

The LPA's subsequent refusal letter regarding the discharge of condition 9 (ref: 2020/0913) argues that the specification agreed by the Air Quality Officer was agreed without prejudice to the final determination of an application. However, it is considered that within the context of point 5 of paragraph 003 (Ref D 21a 003 20190723) of the NPPG, which requires planning conditions to be 'precise', the Applicant could not have anticipated the overly prescriptive application of subsequently published SPD and guidance notes in putting forward their proposed specification.

The LPA have previously accepted that the wording of Condition 9 does not include specific reference to Mode 3 charging points but highlight that the condition requires details to be submitted and approved in writing.

The LPA did impose more precisely worded conditions to other decisions issued around the time of the original permission for this site, including permission reference 2019/0089 at the former Wombwell High School site, which includes condition 18 which states:

“Prior to first occupation of the development hereby permitted, details for the provision of electric vehicle charging points (Mode 3) shall be submitted to and approved in writing by the LPA. These EVCP’s shall be installed in accordance with the approved details prior to first occupation of the development and retained thereafter available for that specific use. Reason: In interests of promoting sustainable travel opportunities in accordance with Policy T3.”[Authors emphasis]

If it was the LPA’s intention to control the design of the EVCP’s within this scheme to the same degree as other sites, a more tightly worded condition should and could have been applied to this permission, but it was not. It is therefore considered that the LPA cannot be overly prescriptive in the precise specification of the EVCP proposed.

Conclusion

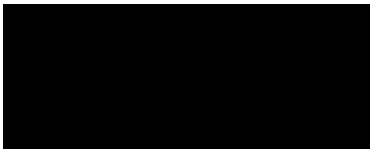
Condition 9 subject to this application sets out a general objective to deliver electric vehicle charging points within the development, to support the sustainable travel objectives set out within the Development Plan. The condition is not prescriptive in its wording to require a specific mode of charging point and the specification was discussed with the LPA at an early stage in order to inform the wider design of the scheme.

In determining the EVCP strategy’s suitability to accord with the intentions of Policy 1, it is important to consider whether the proposed EVCP Strategy constitutes ‘appropriate infrastructure’. This submission demonstrates that the specification proposed will allow a broad use of the proposed connection by potential future users and the infrastructure provided can also be easily upgraded in the future as the technology evolves. On this basis, the detailed specification provided within this application is considered to constitute ‘appropriate infrastructure’ in line with the Local Plan.

The Applicant strongly supports the LPA’s aspirations to achieve sustainability goals and will provide EVCP’s to every plot across the site in accordance with the SPD. However, it is not considered that the updated specification now being requested by the LPA, can be reasonably required under the imposed conditions. It is not the intention of the Framework to impose rigid standards on an evolving technology in the prescriptive manner that has been proposed by the LPA and the proposed scheme at Carlton Road achieves the intentions of both national and local policy in relation to EVCPs. The Applicant had reasonable expectation of what was to be expected, which have been worked to in delivering the site and in accordance with policy is acceptable. Its strategy will also encourage the broadest update of the technology as possible on the site.

It is therefore respectfully requested that the discharge of condition 9 is approved which will enable the timely delivery of the site.

Yours faithfully



Sarah Wills
Associate Director

