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Our ref.
Your ref.

20 April 2021

Dear Sir/Madam,

SECTION 73 – VARY CONDITIONS 3, 4 AND 15 OF PLANNING APPLICATION 2017/0753 - BLEACHCROFT WAY, STAIRFOOT, BARNSLEY, S70 3PA

As you will be aware an application can be made under Section 73 of the Town and Country Planning Act 1990 to vary or remove conditions associated with a planning permission.

One of the uses of a Section 73 application is to seek a minor material amendment, where there is a relevant condition that can be varied.

Where an application under section 73 is granted, the effect is the issue of a new planning permission, sitting alongside the original permission, which remains intact and unamended.

A decision notice describing the new permission is issued, setting out all of the conditions related to it. To assist with clarity decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged.

Further information about conditions can be found in the guidance for use of planning conditions.

As a section 73 application cannot be used to vary the time limit for implementation, this condition must remain unchanged from the original permission. If the original permission was subject to a planning obligation then this may need to be the subject of a deed of variation.

There is no statutory definition of a 'minor material amendment' but it is likely to include any amendment where its scale and/or nature results in a development that is not substantially different from the one which has been approved.

It is our intention to vary Conditions 3, 4 and 15 in order to reflect the imminent Reserved Matters submission. The conditions as they currently read, alongside the proposed variations are set out below: -

Condition 3 *"The reserved matters application shall be in general accordance with the parameters as shown on the approved plan Drawing ref: 18 5221 SK04 received 17th June 2019 unless required by any other conditions in this permission and shall provide a minimum number of 230 dwellings.*

Reason: In the interests of the visual amenities of the locality and in accordance with Local Plan Policies D1 and GD1."

It is requested that the wording of Condition 3 be varied to state the following:-

"The reserved matters application shall be in general accordance with the parameters as shown on Drawing ref: PL-001 unless required by any other conditions in this permission and shall provide a minimum number of 230 dwellings.

Reason: In the interests of the visual amenities of the locality and in accordance with Local Plan Policies D1 and GD1."

Condition 4 "*The reserved matters submission shall substantially accord with the feasibility sketch layout drawing ref: 18 5221 SK04 received 17th June 2019 and shall include a central area of open space of sufficient size to accommodate children's play (minimum LEAP standard), a youth facility and open land for informal play in accordance with S11 of the adopted SPD Open space provision on new housing development.*

Reason: To provide for the needs of children and create an attractive and successful neighbourhood in accordance with Local Plan Policy GS1 and D1."

It is requested that the wording of Condition 4 be varied to state the following:-

"*The reserved matters submission shall substantially accord with the site layout drawing ref: PL-001 and shall include areas of open space, a youth facility and open land for informal play in accordance with S11 of the adopted SPD Open space provision on new housing development.*

Reason: To provide for the needs of children and create an attractive and successful neighbourhood in accordance with Local Plan Policy GS1 and D1."

Condition 15 "*A detailed scheme of ecological mitigation and enhancement and maintenance shall be submitted with the reserved matters application. The scheme shall broadly follow the measures set out in the Preliminary Ecological Appraisal and Addendum to Preliminary Ecological Appraisal dated 1st November 2017. The scheme shall identify a timetable for implementation and maintenance for 5 years. The scheme shall be accompanied by a plan which clearly identifies what ecological features are proposed to be retained, mitigated and enhanced. Thereafter the development shall be carried out in accordance with the approved measures.*

Reason: In the interests of biodiversity and in accordance with Local Plan Policy POL1"

It is requested that the wording of Condition 15 be varied to state the following:-

"*A detailed scheme of ecological mitigation and enhancement and maintenance shall be submitted with the reserved matters application. The scheme shall identify a timetable for implementation and maintenance for 5 years. The scheme shall be accompanied by a plan which clearly identifies what ecological features are proposed to be retained, mitigated and*

enhanced. Thereafter the development shall be carried out in accordance with the approved measures.

Reason: In the interests of biodiversity and in accordance with Local Plan Policy POL1"

These conditions are requested to be varied in order to remove restrictions in relation to feasibility sketch layout drawing ref: 18 5221 SK04. Initial discussions have taken place with the Council on this matter and have indicated that they are supportive of the approach subject to a suitable Reserved Matters application. Drawing ref 18 5221 SK04 provided several design elements which are not practical to the deliverability of the site, primarily:

- SK04 provides areas of open space/play provision on the flattest part of the site.
- The layout builds into steep areas with no recognition for retaining structures or engineering solutions.
- House types shown on plan do not meet internal space standard requirements.
- The site utilises areas not available for purchase – i.e. deliverability of PROW improvements to the front of the commercial buildings and an area of POS.
- SK04 relies on outdated drainage outfall details which resulted in no onsite storage. Modern outfall details are a lot more restricting and now requires a large attenuation basin.
- The applicant is committed to providing an area of improved grassland, which they are looking to reduce and improve additional areas in the supporting PEA/BMP detail.

Varying the wording of restrictive conditions which tie the Reserved Matters submission to approved plan ref. 18 5221 SK04 will allow the applicant to deliver a scheme which meets up-to-date national and local policy requirements.

It is hoped that these minor material amendments are acceptable and that we are able to move forward on this basis.

As always please feel free to give me a call if you need to discuss anything further.

I look forward to hearing from you.

Yours faithfully



Mark Johnson
Managing Director

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