

| Agenda Item A8 | Committee Date 13 November 2017 | Application Number 17/00203/VCN |
|---|--|---|
| <p align="center">Application Site</p> <p align="center">St Georges Quay Development Site St Georges Quay Lancaster Lancashire</p> | <p align="center">Proposal</p> <p align="center">Erection of 149 dwellings with associated landscaping and car parking (pursuant to the variation of conditions 2, 4, 6, 7, 12 and 30 and removal of condition 25 on planning permission 14/01186/VCN to amend the layout to include the substation, agree external materials and detailing of the development, reduce the minimum recess from 100mm to 85mm for doors and windows to the frontage units, to vary the trigger for the implementation of an agreed off-site highway improvement scheme and to remove the requirements for a risk assessment to be agreed alongside Network Rail's operational land).</p> | |
| <p align="center">Name of Applicant</p> <p align="center">Persimmon Homes</p> | <p align="center">Name of Agent</p> <p align="center">N/A</p> | |
| <p align="center">Decision Target Date</p> <p align="center">Extension of Time agreed to 24 November 2017</p> | <p align="center">Reason For Delay</p> <p align="center">Negotiations to secure an updated remediation strategy and agreement of a deliverable off-site highway improvement scheme.</p> | |
| <p>Case Officer</p> | <p>Mrs Jennifer Rehman</p> | |
| <p>Departure</p> | <p>No</p> | |
| <p>Summary of Recommendation</p> | <p>Approve</p> | |

1.0 The Site and its Surroundings

- 1.1 The 3.6ha brownfield site is located between the St George's Quay to the north, the elevated West Coast Main Line embankment, viaduct and Carlisle Bridge to the east and the embankment of the former Glasson branch line to the south west. It is triangular in shape and is relatively flat. It forms part of the wider Luneside East regeneration site. Surrounding land uses (with the exception of the transport corridors that abut the site), are predominately a combination of open space and residential development. At the western corner of the site, an existing nursing home neighbours the site with residential development situated to the east of Carlisle bridge fronting the quayside and also residential development fronting Long Marsh Lane to the south.
- 1.2 The site is located approximately 850m from the edge of the city centre (and the bus station) via St George's Quay and circa 535m to the railway station. St Georges Quay and New Quay Road also form part of the District's strategic cycle network making it a highly sustainable location. There are two principal access routes to the site; one via St George's Quay/Damside Street or the other via Lune Road/West Road/Meeting House Lane. Long Marsh Lane runs alongside the landscaped embankment to the south of the site which provides direct access towards the railway station via Giant Axe recreational fields. Long Marsh Lane also provides a direct route towards the Castle precinct.

- 1.3 The site is allocated as a Housing Opportunity Site in the saved Local Plan and forms part of the wider Luneside strategic regeneration site. The embankments to the south and east of the site contain trees which are protected under Tree Preservation Order No.531(2014) and the site is partly located within flood zones 2 and 3 but does benefit from flood defences. There are no other specific allocations/designations on the site itself.
- 1.4 Nearby, however, there are a number of notable designations that are of interest. The site is situated opposite the River Lune, which is a designated Biological Heritage Site. It is also located circa 1.7km to the east of the Lune Estuary Site of Special Scientific Interest (SSSI) and Morecambe Bay Special Protection Area (SPA), Special Area of Conservation (SAC) and Ramsar Site. Lancaster's Conservation Area is situated immediately east of Carlisle Bridge in close proximity to the proposed site where there are a number of important Listed buildings fronting St George's Quay in particular. The Castle and Priory (both Grade I Listed buildings) are elevated above the site approximately 300m away (as the crow flies at its closest point). In addition, the site is located close to a number of important areas of open space including the football grounds at Giant Axe Field, cricket grounds on Lune Road and Quay Meadow.

2.0 The Proposal

2.1 The applicant has submitted an application under Section 73 of the Town and Country Planning Act 1990 to vary a number of conditions attached to planning permission 14/01186/VCN.

2.2 The applicant seeks to vary the following conditions:

Condition 2 – to vary the approved site layout plan to account for the inclusion of a sub-station not previously included.

Condition 4 – to vary the external materials to allow a mix of brick and stone throughout the development and as part of this, update the condition to reflect materials agreed as part of the earlier discharge of condition application.

Condition 6 – to amend the minimum window and door recess from 100mm to 85mm to the frontage properties. The applicants suggested condition is as follows:

“Notwithstanding the details indicated on the approved plans and supporting documents, the windows and doors to the properties fronting St George's Quay shall be recessed a minimum distance of 85 millimetres from the face of the outer wall and retained as such at all time thereafter”.

Condition 12 – to update the refuse/cycle provision within the development site which has resulted in changes to the site layout and parking arrangements.

Condition 25 – the applicant initially sought to vary this condition to allow for commencement of development on site in the areas that do not impact Network Rail assets. The applicant is now seeking to remove the condition on the grounds it is unnecessary as such works are controlled under separate legislation.

Condition 30 – the applicant initially sought to vary this condition to allow commencement on site without an off-site highway scheme being agreed until a later date. Specifically, the applicant sought to vary the condition as follows:

“Prior to the occupation of the 50th dwelling, a scheme for off-site highway works will be submitted to, and approved in writing by, the Local Planning Authority. The agreed scheme will be implemented prior to the occupation of the 100th dwelling or a timetable that has been submitted to, and agreed in writing by, the Local Planning Authority after which the works shall be completed in accordance with the approved timetable.”

During the course of the determination period, Officers have been able to secure an agreed off-site highway improvement scheme. The applicant now proposes to vary condition 30 to ensure the agreed off-site highway improvement scheme is implemented in full before the occupation of the 30th dwelling.

3.0 Site History

3.1 The site has a long and complex planning history. The most relevant planning permissions are listed in the table below:

| Application Number | Proposal | Decision |
|--------------------|--|-----------|
| 01/01287/OUT | Outline application for comprehensive mixed use development as an urban village comprising of up to 350 residential units and up to 8,000 square metres of business floor space and ancillary leisure uses and other support uses. | Permitted |
| 06/00126/FUL | Modification of conditions 1 and 12 attached to outline planning 01/01287/OUT - to extend the time limit for the submission of reserved matters. | Permitted |
| 07/00442/REM | Reserved Matters Application For Phase 1a Of Luneside East Masterplan: Buildings 5, 7, 8, 9, 12 and 14 only. 11,000 sqm Office Space, Ground Floor Retail Space and Residential Flats, and Discharging of Condition Nos 2, 10, 12, 14, 17, 22, 24, and 30 on Application 01/01287/OUT in respect of Phase 1a. | Permitted |
| 13/01200/FUL | Erection of 149 dwellings with associated landscaping and car parking. | Permitted |
| 14/01186/VCN | Erection of 149 dwellings with associated landscaping and car parking (pursuant to the variation of condition 2 on planning permission 13/01200/FUL to amend plans for the Greyfriars house type and the apartment blocks). | Permitted |
| 15/01036/VCN | Erection of 149 dwellings with associated landscaping and car parking (pursuant to the variation of condition 6 on application no. 14/01186/VCN relating to external window reveals to change from 100mm to 50mm). | Withdrawn |
| 16/00574/FUL | Demolition of existing mill building, erection of 3 buildings comprising ground floor ancillary uses (Classes A1-A4, B1a, D1 and D2) and student accommodation above and 1 building of student accommodation, conversion of existing pump house to a mixed use communal facility (Classes A2, B1a and D1), and associated access, parking, servicing and landscaping / public realm works. | Permitted |

4.0 Consultation Responses

4.1 The following responses have been received from statutory and non-statutory consultees:

| Consultee | Response |
|------------------------------|--|
| County Highways | No objection – the off-site highway scheme has been designed and agreed with the Highway Authority in conjunction with the City Council (as land owner). The trigger that the agreed off-site highway works shall be delivered in full upon the occupation of the 30 th dwelling is agreeable. |
| Contaminated Land Officer | No objection – the contaminated land officer is satisfied with the revised site-specific remediation report which must be conditioned. |
| Environmental health Officer | Concerns over the method of pile driving and associated noise and vibration levels in relation to the updated report (condition 22). |
| Network Rail | No objection – Network Rail has confirmed that a Build Asset Protection Agreement is in place between the developer and Network Rail so they have no concerns with development proceeding and the condition being removed. |
| Electricity North West | Advice that there are ENW assets running across the site therefore care must be taken with any excavation. ENW recommends the developer refers to HSE documents concerning avoidance of danger from underground and overhead services during construction. |
| Lancaster Civic Society | At the time of compiling this response no comments received. |
| Conservation Officer | No objection |

5.0 Neighbour Representations

5.1 At the time of drafting this report, 7 letters of objection have been received. The majority of the objectors are principally concerned with the proposed variation to condition 30. A summary of the reasons for opposition are as follows:

- Delaying the agreement of off-site road safety measures is not acceptable and would be unsustainable and unsafe;
- Increased traffic as a consequence of the development (and cumulative impacts of other new developments in the area) should be mitigated with the implementation of traffic calming measures before occupation;
- Increased traffic along Long Marsh Lane and surrounding roads leading to increase in noise and air pollution;
- Closure of the road to through traffic at the bridge is an ideal outcome but if this cannot be achieved suitable signage should be sufficient to achieve this;
- Preference for one-way uphill and provision of a footway to Long Marsh Lane rather than no through traffic and closure;
- Long Marsh Lane on the hill has no footway and is poorly lit with blind corners therefore increasingly unsafe for pedestrians/cyclists;
- Failure to mitigate the increase in traffic along Long Marsh Lane towards Castle Precinct would be detrimental to the long term aims to make the Castle a cultural and tourist destination;
- The trees to the embankment should be retained;
- Concerns over vibration during construction;
- There has been standing water on the site – flood risk concerns;
- Access to nearest playground is on Furness Street – crossing facilities on Long Mash Lane should be improved.

Further consultation has been carried out to provide residents with an opportunity to comment on the amended off-site highway works, principally the changes to the direction and flow of traffic along Long Marsh Lane. The consultation period for this expires on 13 November 2017 (Committee date). A verbal update of any additional representations will be provided at the Committee meeting.

6.0 Principal National and Development Plan Policies

6.1 National Planning Policy Framework

Paragraphs 7, 12 and 14 – Achieving Sustainable Development
Paragraph 17 – Core Principles
Paragraphs 32 and 39 – Promoting Sustainable Transport
Section 6 – Delivering a wide choice of high quality homes
Paragraph 56 – 64 – Requiring good design
Section 11 – Conserving and enhancing the natural environment
Section 12 – Conserving and enhancing the historic environment
Paragraphs 120 – 123 – Land stability, contamination and noise
Paragraphs 187 – Decision Taking
Paragraphs 196 -197 – Determining Applications
Paragraphs 203, 206 – Planning Conditions

6.2 Local Planning Policy Overview

At the 14 December 2016 meeting of its Full Council, the local authority resolved to undertake public consultation on:

- (i) The Strategic Policies and Land Allocations Development Plan Document (DPD); and,
- (ii) A Review of the Development Management DPD.

This enabled progress to be made on the preparation of a Local Plan for the Lancaster District. Public consultation took place from 27 January 2017 to 24 March 2017. Whilst the consultation responses are currently being fully considered, the local authority remains in a position to make swift progress in moving towards the latter stages of: reviewing the draft documents to take account of consultation outcomes, formal publication and submission to Government, and, then independent

Examination of the Local Plan. If an Inspector finds that the submitted DPDs have been soundly prepared they may be adopted by the Council, potentially in 2018.

The **Strategic Policies and Land Allocations DPD** will replace the remaining policies of the Lancaster District Core Strategy (2008) and the residual 'saved' land allocation policies from the 2004 District Local Plan. Following the Council resolution in December 2016, it is considered that the Strategic Policies and Land Allocations DPD is a material consideration in decision-making, although with limited weight. The weight attributed to this DPD will increase as the plan's preparation progresses through the stages described above.

The **Review of the Development Management DPD** updates the policies that are contained within the current document, which was adopted in December 2014. As it is part of the development plan the current document is already material in terms of decision-making. Where any policies in the draft 'Review' document are different from those adopted in 2014, and those policies materially affect the consideration of the planning application, then these will be taken into account during decision-making, although again with limited weight. The weight attributed to the revised policies in the 'Review' will increase as the plan's preparation progresses through the stages described above.

6.3 The relevant policies of the emerging Local Plan relating to this application site are policies H1 (Residential Development in Urban Areas) and DOS2 (Development Opportunity Sites – Luneside East) of the Strategic Policies and Land Allocations DPD. The former policy recognises that Luneside East can accommodate a quantum of residential development to contribute towards meeting the housing needs of the district and such will be supported subject to compliance with other relevant policies in the Development Plan. The latter policy recognises Luneside East as a development opportunity site with a focus for a residential-led mixed use development. This policy is supportive of the regeneration of this site subject to a number of design-related objectives.

6.4 Saved Lancaster District Local Plan Policies:
H3 – Housing opportunity site
SPG 4 – Luneside East Development Brief

6.5 Core Strategy
SC1 Sustainable Development
SC4 Meeting the Districts Housing Requirements
ER2 Regeneration Priority Areas

6.6 Development Management DPD
DM20 Enhancing Accessibility and Transport Linkages
DM21 Walking and Cycling
DM29 Protection of Trees, Hedgerows and Woodland
DM32 The Setting of Designated Heritage Assets
DM33 Development affecting Non-designated Heritage assets
DM34 Archaeology
DM35 Key Design Principles
DM36 Sustainable Design
DM38 Development and Flood Risk
DM39 Surface water run-off and Sustainable Drainage
DM41 New Residential Dwellings
Appendix B – Car Parking standards

7.0 Comment and Analysis

7.1 The main issues in the consideration of this application are as follows:

- Principle of development
- Design and traffic-related implications/considerations arising from the proposed variations to the conditions.

The applicant has submitted an application under Section 73 of the Town and County Planning Act 1990 to vary some of the conditions imposed on the last consent (14/01186/VCN). 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. It is not therefore a

complete review of the whole development. The critical considerations here will relate to whether the proposed amendments to the conditions would fundamentally go to the heart of the consent and that in their amended form would make the development unacceptable.

7.2 The principle of the redevelopment of the site for housing is rooted in strategic planning policy with the site allocated for housing in the saved local plan (policy H3). Despite the scheme coming forward in isolation from other parts of site allocation and not as aspirational as originally envisaged through the development brief for the site, Persimmon Homes' planning application for 149 houses (13/01200/FUL) was, on balance, supported having regard to benefits of regenerating a large proportion of this former brownfield site. This permission was later varied to allow for some amendments to some of the house types proposed. It is this later permission the applicant seeks to vary. The applicant's proposal does not materially deviate from what was previously permitted. It maintains the same quantum of development, the same layout and principally the same design. Subsequently, the principle of the redevelopment of the site for residential development is not disputed.

7.3 For the purposes of clarity, the following section of the report will address each of the conditions the applicant seeks to vary.

Condition 2 – To vary the approved plans to include a sub-station

At the time the applicant initially sought planning permission it was envisaged that a sub-station was not needed on their part of the site. It now transpires a sub-station is required to service the development. The applicant and Officers have been in negotiations for some time where the sub-station would be best located. During earlier discharge of condition negotiations the sub-station was proposed alongside the pedestrian walkway at its junction with Long Marsh Lane. This was rejected as an unsuitable location due to its visually prominent position which would weaken the "green" gateway into the site from Long Marsh Lane. The amended scheme now proposes the sub-station within the body of the development to the rear of plot 45 within the internal parking court. This has resulted in the loss of two visitor parking spaces from this part of the development. Visually this is relatively discrete and would not unduly compromise the design or layout of the development. This would, however, reduce parking availability for a group of 15 two and three-bed properties from 24 spaces to 22 spaces. This is below the maximum parking standards set out in the DM DPD but given the site's sustainable location and that the development layout could accommodate some modest on-street parking, the provision of the sub-station in the location proposed is considered reasonable and would not unduly conflict with planning policy. Members are recommended to support the inclusion of the sub-station in the position proposed.

7.4 Conditions 4, 6 and 7 – To vary the palette of materials for the external elevations, reduce the window/door recess and maintain a consistency in the colour of windows across the development frontage.

The applicant seeks to update the materials, including external surfacing materials, to be used in the construction of the development. This covers conditions 4, 6 and 7 of 14/01186/VCN. The external materials have by in large been agreed as part of the discharge of condition application(s) and are either consistent or an improvement from what was granted by the parent permission. Where the applicant has sought to amend the external materials and surfacing treatments this has mainly been to improve the overall quality of the development along key routes adjacent and through the development and to add some variety. The applicant seeks to vary the external facing materials to allow a mix of brick and stone, rather than stone throughout as required by the condition. The applicant and Officers have reviewed various brick samples and have now agreed a brick sample that is available and will complement the approved stone. It has some pleasant colourisation and texture to reflect on the brick of the Pump House and the brick built terraces along Long Marsh Lane and should add some interest to the scheme. The composition of where brick and stone will be used within the development is not as organic or varied throughout the whole scheme as Officers would have hoped but on balance it is considered a reasonable response to the built environment in this location. However, to bring the scheme together the external surfacing materials have been vastly improved with a simple palette of high quality Tegula paving blocks consistent with materials used elsewhere in the city. In an ideal scenario we would have been hoping for natural stone and slate across the development. However, at the time the parent permission was being considered this was proven not possible (via viability evidence) and so reconstituted stone and concrete tiles were accepted across the site with the exception of natural slate to the frontage buildings. The mix of brick, stone, slate (to the frontage units) and a thin leading roof tile with high quality surfacing

materials throughout will not be dissimilar to other new development along the quayside and is, on balance, considered acceptable.

- 7.5 Condition 7 required a scheme for the colour of windows and doors to St George's Quay to be agreed with the local planning authority and that this should be matt white, matt dark green and matt dark grey with the intention of each block of development along the quay being a different colour. The applicant and Officers have agreed through the discharge of condition application process that a mix of colours as envisaged by the condition is not necessary to make the development acceptable and that all windows along the site frontage shall be a dark grey. It was agreed that the style of development proposed is not reflective of the former warehouse-styled development further down the quayside where the colour variation is apparent and fitting and instead a more consistent approach to the window colours across this development would work better. To ensure this change results in an improvement to the overall scheme, Officers have secured a high-quality aluminium window to all openings on the front and sides of the development fronting St George's Quay. Officers have also secured as part of the negotiations grey uPVC windows (opposed to white uPVC throughout) to dwellings within the body of the development in prominent locations.
- 7.6 These negotiations are also the basis for justifying the applicant's request to reduce the recess of the frontage windows and doors from 100mm to 85mm as required by condition 6. Whilst there is always a preference for deep reveals to windows/doors to articulate the building elevations, the produced 85mm recess shall be complemented by a modern, powder-coated aluminium window specification rather than UPVC, which is considered a reasonable compromise in the interests of the overall design of the scheme and the wider streetscene. There are no policies within the Development Plan which specifically stipulate required recess measurements but that new development should reflect local vernacular. There are other new housing developments in the locality (Luneside West for example) where a 100mm recess has not been required or provided. Whilst it is acknowledged this development is closer to the Conservation Area boundary and falls within the setting of 2 Grade I Listed buildings, the proposed changes to the window reveal detail along the frontage buildings would not lead to significant harm to the design of the overall development or the setting of these heritage assets. On this basis, Members are recommended to accept the applicant's request for the reduced recess from 100mm to 85mm subject to controlling the improved window specification as part of the re-worded condition. Members are also advised that a condition can be imposed to ensure future occupants do not seek to change these windows in the future (unless like for like).
- 7.7 Condition 12 – refuse and cycle storage
The developer originally proposed uncovered cycle stands to the fronts of the apartments along St Georges Quay and some within the site. This was a minimal approach in terms of overall provision. This was principally because of the lack of available space within the layout to provide covered cycle storage. It would not be reasonable to require the applicant to remove dwelling units to secure this provision as the number of units and the layout of the development had been accepted and permitted previously. During the discharge of condition application, Officers have re-negotiated improvements to the level and type of cycle storage to be provided. The revised plans now include secure and covered cycle parking for the apartment blocks but in order to achieve this two visitor car parking spaces have been removed from the apartments to the rear of the site and a two further visitor spaces to the apartments along the site frontage. On balance, given the parking standards are maximum standards and the site occupies a sustainable location, the provision for improved cycle provision is considered to outweigh the impacts that may arise from the loss of these visitor parking spaces associated with the development. There are no major changes or implications to the applicant's refuse storage areas other than the design of the refuse compound is now integral to the new cycle stores. The applicant seeks to update the condition by reference to the cycle/refuse plans to reflect the agreed changes. It is noted that the original planning permission does not secure the provision of car parking and its retention. Subsequently, due to the loss of parking, it is considered necessary and reasonable to now impose a condition to secure the car parking is provided before occupation.
- 7.8 Condition 25 – risk assessment for work alongside the railway
This condition requires a risk assessment and method statement to be agreed with the local planning authority in the interests of railway safety. The applicant sought to vary this condition to enable the risk assessment to be submitted at the point the development would impact Network Rail's assets, (i.e. the development was closer to the railway line/infrastructure). However, during the course of the consideration of this application the applicant has a Build Asset Protection Agreement (BAPA)

now in place with Network Rail. This is a separate agreement between the two parties to ensure the railway line is protected from the impacts of the construction of the development. In this case, it is contended that this existing condition does not meet the condition tests set out in the NPPF as it is a condition requiring compliance with other regulatory regimes, namely Network Rail's asset protection team and therefore fails to meet the tests of necessity. Network Rail has advised that with the BAPA in place they have no objections to the removal of this condition.

7.9 Condition 30 – off-site highway works

The applicant sought to vary this condition initially to allow the development to commence and the off-site highway scheme to be agreed before the occupation of the 50th dwelling. This caused significant concern to some of the local community. The applicant's original scheme proposed traffic calming measures along West Road and Lune Road and bollards on Long Marsh Lane to prevent this road being a through-route.

7.10 The applicant has commenced on site in breach of this condition. However, the delay has not been on the developer's part. The City Council (as landowner) and the County Council (as Highway Authority) have been working with the local planning authority to secure the applicant's intended proposal on Long Marsh Lane by trying to facilitate a suitable and feasible location for a turning facility. The lack of a turning facility was causing a problem to the Highway Authority initially. Through negotiation a turning head is now proposed along Long Marsh Lane into Giant Axe Field (but not affecting its recreational use). This is agreed in principle with all parties and can be secured via a s278 legal agreement with the Highway Authority.

7.11 The trigger for when the agreed off-site works shall be implemented in full has been subject to detailed discussion. The applicant initially suggested that the off-site highway works could be implemented upon occupation of the 50th dwelling. This was supported by a technical highway note expressing the level of traffic associated with 50 dwellings being occupied would not lead to material traffic impacts on Long Marsh Lane and West Road/Lune Road.

7.12 County Highways has advised Officers that they do not accept this trigger for implementation but have subsequently accepted 30 dwellings could be occupied before the off-site highway scheme has to be implemented in full. Subsequently, there are no objections from the Highway Authority in relation to the off-site highway improvement scheme or the amended trigger for implementation. Consultation with the community is still outstanding on this matter, but in light of the objections initially received it is hoped that the proposed traffic calming scheme will be welcomed by most. A verbal update will be provided on this additional consultation. In the meantime, Officers recommend that the proposed traffic calming scheme and the trigger for implementation is reasonable in planning terms and that the applicant's proposal to vary this condition can be supported.

7.13 Other matters

An approval under s73 of the Act results in the grant of a new standalone planning permission. Therefore all existing planning conditions have been reviewed to ensure they remain necessary and relevant with revisions made where appropriate (see condition list below). By in large most of the original conditions shall be retained and re-worded to reflect details agreed through the discharge of condition applications and the subsequent determination of this application, including materials, detailing, sustainable design measures, access details, refuse/cycle enclosures, landscaping, external lighting, construction method statements and drainage. Some of these conditions, such as conditions 4, 5 and 7 relating to materials can be merged into a single condition to avoid unnecessary repetition. Condition 1 relating to the time limit to implement the consent will not be repeated as the development has commenced within the 3 year time limit period (before 18 February 2018).

7.14 Condition 19 on the original application required the development to be carried out in accordance with the original site-wide land remediation report. This has now been supplemented by a further amended report (following investigation and modelling) to outline specific development-phase geo-environmental remediation requirements for the development site in compliance with paragraph 120 of the NPPF. The Council's Contaminated Land Officer has reviewed this report and is satisfied with the details therein. The relevant contaminated land condition will therefore need to be revised to reflect this updated, site-specific remediation report.

7.15 Condition 22 relates to a noise impact assessment being agreed with the local planning authority (by condition) if impact pile driving is proposed. The previous assessment was not accepted, though the level of harm caused did not lead to severe impacts due to its short duration. Notwithstanding this, Officers sought a revised noise impact assessment during the course of this application to ensure more appropriate mitigation was secured before any further pile driving started on site. A revised noise assessment has been submitted which includes the following mitigation:

- 1) Limiting piling hours to a maximum of 8 hours a day and not starting work before 09:00
- 2) Limiting the drop height on the piling hammer
- 3) Using a wooden 'dolly' to reduce hammer/pile contact noise
- 4) Duration of piling works is 3-4 days (for phase 2)
- 5) Monitoring of vibration to provide reassurance against property damage; and
- 6) Notification of nearby residents.

The Council's Environmental Health Officer (EHO) indicates that the assessment submitted identifies that during the period of piling there will be significant impacts in terms of noise and vibration and as a consequence mitigation would be proposed. The EHO has queried the piling method noting that during the last period of piling vibration levels were high – but not such that would lead to structural damage. The applicant has responded noting this is the most feasible piling method due to the condition of the ground (buried obstructions) and that they are content their mitigation is sufficient given the short duration of the works. Officers are still in negotiations on this matter, but in any case such can be dealt with via the planning condition. A verbal update will be provided if agreement is reached by the time the application is reported to Committee.

8.0 Planning Obligations

8.1 The original planning application was not subject to a legal agreement. There are no requirements for a legal agreement as a consequence of the proposed changes.

9.0 Conclusions

9.1 The changes proposed by this application are not significant and do not go to the heart of the consent. The amendments to the design and appearance of the development do not materially alter the previously approved development and where there have been some concessions, improvements have been sought elsewhere to ensure the overall design is not weakened. Despite the applicant's initial proposed variation to condition 30, a scheme for off-site highway improvements has now been agreed so the variation now seeks to regulate the present situation (as the developer is continuing to develop in breach of this condition) and vary the trigger for full implementation. The amendments to the trigger for the delivery of the traffic calming scheme is not unreasonable and is proportionate for a scheme of this scale. Subject to outstanding consultation, Members are advised that the applicant's proposed changes can be supported.

Recommendation

That conditions 2, 4, 6, 7, 12 and 30 be varied as set out in the submission and that condition 25 be removed. This Section 73 application can **BE GRANTED** subject to the following conditions:

1. Approved Plans list (reflecting and including additional detail agreed by conditions)
2. In accordance with previously agreed phasing scheme
3. Development to be carried out in accordance with agreed materials plan (list materials and colour of windows and detailing/eaves detail)
4. Minimum recess condition – amended to 85mm in accordance with agreed specification
5. Development to be carried out in accordance with agreed sustainability measures
6. Development to be carried out in accordance with agreed access details
7. Protection of visibility splays (retain as originally worded)
8. Travel Plan condition
9. Refuse and cycle storage provision to be provided and retained
10. Agreed landscaping to be implemented and maintained
11. No development shall occur within 3 m of the base of the functional and disused railway (retain as originally worded)
12. Ecological mitigation to be implemented in full (retain as originally worded)
13. Development to be carried out in accordance with agreed external lighting

14. Separate foul and surface water drainage (retain as originally worded)
15. Development to be carried out in accordance agreed drainage scheme
16. Development to be carried out in accordance with site-specific remediation report (contamination)
17. Development to be carried out in accordance with agreed Construction Method Statement
18. Hours of construction (retain as originally worded)
19. No impact pile driving without noise impact assessment and mitigation being agreed. *TBC subject to ongoing discussions.*
20. Archaeology condition
21. Public sewer condition (retain as originally worded)
22. Development to be carried out in accordance with approved noise mitigation set out in Noise and Vibration report (retain as originally worded)
23. Development to be carried out in accordance with approved secure by design scheme
24. Tree Protection condition (retain but worded tweaked to account for tree protection currently in place)
25. Flood risk assessment condition (retain as originally worded)
26. Agreed off-site highway works comprising traffic calming measures to West Road/Lune Road and the stopping up of Long Marsh Lane as a through-route with a turning head as illustrated on the submitted drawings to be implemented in full before the occupation of the 30th dwelling, unless an alternative timetable for implementation is otherwise agreed in writing with the LPA.
27. Removal of PD to limit future occupants inserting new windows/doors to the frontage plots
28. Car parking to be made available before occupation of each dwelling house/apartment block and retained at all times thereafter.

Article 35, Town and Country Planning (Development Management Procedure) (England) Order 2015

In accordance with the above legislation, the City Council can confirm the following:

Officers have made this recommendation in a positive and proactive way to foster the delivery of sustainable development, working proactively with the applicant to secure development that improves the economic, social and environmental conditions of the area. The recommendation has been taken having had regard to the impact of development, and in particular to the relevant policies contained in the Development Plan, as presented in full in the officer report, and to all relevant material planning considerations, including the National Planning Policy Framework, National Planning Practice Guidance and relevant Supplementary Planning Documents/ Guidance.

Background Papers

None