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Our ref.
Your ref.

29th July 2022

Dear Sir/Madam,

**SECTION 73 VARIATION OF CONDITION APPLICATION – VARIATION OF CONDITION 2
PURSUANT TO RESERVED MATTERS APPLICATION 2020/70/93254/E**

LAND OFF FIELD HEAD LANE, BIRSTALL, BATLEY

PLANNING PORTAL REF: PP-11435582

We have today submitted a Section 73 variation of condition application via the Planning Portal (PP-11435582) pursuant to application 2020/70/93254/E. This Section 73 Application seeks the permission of Kirklees Council to vary Condition 2 of the reserved matters planning permission granted for the erection of 32 dwellings on Land off Field Head Lane, Birstall, Batley.

The existing wording of Condition 2 of the reserved matters planning permission is as follows:-

Prior to development commencing, a scheme detailing the proposed internal adoptable estate roads shall be submitted to, and approved in writing by, the Local Planning Authority. The scheme shall include full sections, drainage works, street lighting, signing, surfacing, and the treatment of sight lines, together with a safety audit covering all aspects of the work. The agreed scheme shall be implemented in accordance with an agreed timetable, and thereafter retained for the lifetime of the development.

Reason: In the interests of highway safety, in accordance with Policy LP21 of the Kirklees Local Plan.

It is noted that the reserved matters condition above is aligned to the provisions of Condition 5 of the outline permission (Application Reference 2017/60/93347/E).

The applicant Stonewater submitted two discharge of condition applications in January 2022. The first of the two applications (Application Ref: 2022/90153 pursuant to the outline planning permission) seeks to discharge Condition 5. The second application (Application Ref: 2022/90154 pursuant to the reserved matters permission) seeks the discharge of conditions 2, 10 and 11. Consultation responses received for these two applications require further information to be submitted on highways matters and Geotechnical queries have been raised by Geotech at Leeds City Council which have timescales that are unspecified. The applicant is concerned that addressing these matters without assurance of timescales poses a substantial risk to the expiry of the planning consent on the 11th September 2022.

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In order to resolve this issue, discussions have taken place with Nick Hirst, Senior Planning Officer, who was involved with the reserved matters planning application (Application Ref: 2019/61/92710/E). Nick has advised via email on 25th July 2022 that as a result of internal discussions, the Council principally agree to amend the wording of Condition 2 of the outline and Condition 5 of the reserved matters permissions as follows:-

There shall be no construction works associated with the installation of any part of the approved Highway and/or Drainage infrastructure until a scheme detailing the proposed internal adoptable estate roads has been submitted to, and approved in writing by, the Local Planning Authority. The scheme shall include full sections, drainage works, street lighting, signing, surfacing, and the treatment of sight lines, together with a safety audit covering all aspects of the work. The agreed scheme shall be implemented in accordance with an agreed timetable, and thereafter retained for the lifetime of the development.

Reason: In the interests of highway safety, in accordance with Policy LP21 of the Kirklees Local Plan.

The proposed wording is agreed by the Applicant and is the basis upon which this application is made.

Varying the condition in this manner ensures that the planning consent can be appropriately and legally implemented, securing an extant permission and the much-needed delivery of housing within the District. The pre-agreed wording, as set out above, does not prejudice highway safety and all necessary details are still be agreed with the Local Planning Authority in advance of installation of the Highway/ Drainage Infrastructure. The variation does however allow the developer to undertake other enabling and preparatory works associated with the commencement of development.

In addition, the Applicant remains dedicated to continued and ongoing discussion regarding the Section 38 works and can confirm that any works done on the site during the commencement of development should not prevent the approved highway works being implemented in full accordance with the Council's requirements.

On validation of this Section 73 application to vary Condition 2 of the reserved matters planning permission and a second Section 73 application to vary Conditions 5 and 14 of the outline planning permission, it is the applicant's intention to withdraw the two discharge of condition applications, these being Application Refs 2022/90153 and 2022/90154. Subsequent discharge of condition applications will be required once this S73 application is determined.

Should you have any questions regarding this application then please do not hesitate to contact me.

I look forward to receiving notification that this application has been validated.

Yours faithfully

Jennie Hanbidge
Senior Planner

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