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Our ref. JM260043
Your ref. 2023/91212

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PRIVATE AND CONFIDENTIAL

Dear Mr Grayson

DISCHARGE OF CONDITION 10 (HIGHWAYS WORKS)
PURSUANT TO APPLICATION REFERENCE 2023/91212

Following our recent telephone conversation, I am writing to you to provide additional clarity regarding the proposed approach to discharging Condition 10 in relation to planning consent 2023/91212.

This letter relates to the residential development at Bankfield Drive, Holmbridge allocated for housing in the Local Plan. Condition 10 of 2023/91212 required off-site highways works as *shown on drawing 22027/GA/01 rev D*, "*unless otherwise agreed in writing*" (i.e. a written agreement). A Section 106 Agreement is understood to constitute a written agreement, therefore would satisfy the requirements of Condition 10, the condition is detailed below for reference:

10. Unless otherwise agreed in writing by the Local Planning Authority, no development shall commence on the superstructure of any dwelling hereby approved until the off-site highway works shown on drawing 22027/GA/01 rev D have been completed in full.

Reason: To ensure suitable access is provided, in the interests of highway safety, and to accord with Policies LP20, LP21, LP24 and LP67 of the Kirklees Local Plan and the National Planning Policy Framework.

The Council has confirmed that a commuted sum of £114,664.12 is a suitable amount to mitigate the proposed development (letter dated 19.03.26). This commuted sum relates solely to the application site and comprised no consideration of the wider benefits that would arise as a result of enabling the Council to deliver of these highways works (by providing moneys). One such wider benefit would be unlocking the delivery of 1.17ha of Safeguarded Land (SLS15) to the west of the Site, potentially delivering a further c.41 dwellings. As the Council cannot currently demonstrate a 5-year land supply, significant weight should be attached to housing delivery in the district.

Orion Homes has proposed to discharge Condition 10 by securing a commuted sum via a signed section 106 agreement (cosigned by the Council). The wording of this agreement would detail the timing of payment,

which would need to be agreed by both parties. This payment would enable the Council to deliver the works detailed as shown on drawing *22027/GA/01 rev D*.

There are no existing Council assets (roads, bridges, culverts etc.) that have been identified as a risk to public safety or at risk of being damaged as a result of the proposed development, the integrity of existing Council assets is therefore not a relevant consideration. It has been confirmed that the additional traffic from the proposed development would not undermine the structural integrity of any relevant highways assets. The Council has not identified any immediate danger in need of immediate remediation at the relevant location. No comments from KC highways have highlighted this at any point during the course of the application or any subsequent attempts at discharging any conditions. Further, the comments from the KC Highways Structures team have not provided a clear reason for including the conditions and have not identified any safety concerns in relation to the structural integrity of any retaining walls nor any highways. The existing structures are therefore capable of accommodating the existing highways users and the only concern from the Council relates to the suggested increased potential for vehicular collisions. This position is not agreed by the applicant.

KC highways confirmed that '*no personal injury accidents have been identified at this junction'* (consultation response 19.06.23, Ref: HDC 3-26/3), and my understanding of our phone conversation is that the Council do not consider that this area as a 'high priority' for highways improvements/remediations. This suggests that the Council do not have any existing significant concerns regarding highways safety in this location.

If this junction (as existing) were to be generally unsafe in highways terms, there would be two critical facts:

1. The Council would be planning and prioritising works to improve public safety in the locality; and

2. The site would not have been allocated for housing (or would have at least included policy wording requiring offsite highways improvements).

Neither of these statements reflect the current reality.

The Council confirmed (HDC response, 14.10.24) that "***vehicles speeds on Dobb Top Road are relatively low*** *(85th percentile speed of 20.7mph). Existing traffic* ***flows are also relatively low****, with a total of 59 and 45 vehicle movements recorded in the AM (08:45-09:45) and PM (17:30-18:30pm) weekday peak hour periods…*". The entire development is confirmed to generate a **maximum** of 16 cars in the AM peak hour, equating to **one car every 3.75 minutes.** The Council also confirmed that "**following development, traffic flows at the Bankfield Drive / Dobb Top Road junction would still be low**."

The Council summarised: "***the additional development traffic that is generated on the local highway network would not have a significant impact on it's operation, both in terms of capacity and highway safety*****".** The level of impact is therefore evidently low, and the sensitivity of the junction is evidently low.

After completion of the full development, the reality of just one more car every c. 4 minutes at this junction is not a serious concern and will barely be noticeable. All of the above comments from the Council confirm that a marginally higher frequency of cars at this junction is highly unlikely to exceed the capacity of the junction until the latter phases of construction, if at all.

The Council have not provided a point (a threshold) at which the occupancy of individual dwellings would exceed the junction capacity to such a degree that would directly result in additional risk at the junction that would render this junction significantly more unsafe than the existing situation. Although the Council has suggested that occupancy of one additional dwelling in this location is enough to tip the balance towards the Dobb Top Rd junction becoming unsafe, this claim has not been justified. It is therefore clear that a proportion of the approved dwellings could be occupied prior to completion of the offsite highways works.

The KC highways response (19.06.23) noted the Safeguarded Land site, adjacent to the application Site. It is noted that the sum paid by Orion will enable the Council to unlock this Safeguarded Land site (SLS15, Land to the south of, Dobb Top Road, Holmbridge), which will help to rectify their current chronic housing supply shortfall issues. Using this safeguarded land will enable a planned approach to fulfilling the housing land supply issue and will eventually help to rebut ad hoc Grey Belt applications across the district.

The KC highways response (14.10.24) confirmed that:

"*In addition to the benefits of the amended road markings to the users of Bankfield Drive, the changes to the giveway line position for the adjacent Dobb Top Road junction (e.g. bringing the give-way line forward) will improve visibility for vehicles exiting Dobb Top Road, to the benefit of these users. The proposals also include additional centreline markings on Dobb Top Road / Smithy Lane and edge of carriageway markings, as recommended by the Stage 1 Road Safety Audit. In light of the above,* ***the proposed road marking changes at the Bankfield Drive / Dobb Top Road / Smithy Lane junction are supported; and will be of benefit to existing and proposed highway users****."*

In relation to Condition 10, there are no approved physical works to any junctions that would undermine the integrity of the junction. The only additional risk that would arise as a consequence of the development relates to the marginal increase in number of cars per hour at this location. Upon completion of the full development, the nature of vehicles using this junction will remain unchanged (primarily cars accessing residential properties).

Whilst the requested sum on £114,664.12 is not considered to be appropriately justified, the applicant has reluctantly confirmed acceptance of the one-off highways contribution. This agreement is hoped to expedite delivery of this allocated site to the benefit of the developer and Council. Given that the aforementioned figure is more than what the applicant believes is the true cost of works, it is understood that this figure will allow the Council to facilitate the works at the earliest opportunity and without delay.

In addition to the above agreed figure, Orion Homes are also willing to pay for and complete (prior to 1st July 2026) the proposed road marking changes at the Bankfield Drive / Dobb Top Road / Smithy Lane junction. Whilst the £114,664.12 includes a scope of work to allow the Council to deliver road marking upgrades; as a gesture of good will, the applicant proposes to complete these works in the short term. Orion are not seeking to renegotiation of the commuted sum amount, however ask that the Council agree to the proposed approach to discharging Condition 10. The Proposed Road Marking Improvements comprise:

- *the amended road markings to the users of Bankfield Drive*

- *the changes to the giveway line position for the adjacent Dobb Top Road junction (e.g. bringing the give-way line forward)*
- *additional centreline markings on Dobb Top Road / Smithy Lane*
- e*dge of carriageway markings.*

The four above elements are detailed on the "*2405-03-007 - Proposed Road Marking Improvements*" (17.04.26) and will result in a tangible "benefit to existing and proposed highway users", as confirmed by the KC Highways DC response (14.10.24). This will provide a benefit for the wider population that will likely change driving behaviours prior to any new residents occupying the new homes. Drawing reference "*2405-03-007 - Proposed Road Marking Improvements*" can be referenced in the section 106 agreement to tie to delivery of the works into a legal agreement that can also be time constrained.

Although Orion Homes consider that that this is not entirely necessary to make occupancy of the homes acceptable, the Council raised concerns regarding highways safety (albeit seemingly contradicting the highways consultation comments detailed within the letter). In light of the Council's comments, it is considered that delivering the road marking improvements will improve highways safety sufficiently until such time that the Council can implement the remaining works, as detailed within the Transport Assessment and in accordance with the wording of the imminent Section 106 agreement .

On balance it is therefore considered that the combination of the commuted sum and the offsite road markings (secured via a Section 106 written agreement) will satisfy the requirements of Condition 10, hence would form a suitable approach to the Discharge of Condition 10.

Yours sincerely

jperkins

Joseph Perkins MRTPI
Principal Planner