

Case Officer: Katherine Daniels

Recommendation: Approval

Applicant: Desiman 2 Ltd

Proposal: To change the wording of Conditions 7-11 of application reference 14/02121/OUT to include 'Prior to or alongside the submission of the first application for approval of reserved matters' in place of the words 'Prior to the submission of the first reserved matters' on each of the noted conditions and update to the relevant condition title. (Proposed as non-material amendment to 14/02121/OUT)

Expiry Date: 2 September 2022

Extension of Time: No

1. APPLICATION SITE AND APPROVED DEVELOPMENT

- 1.1. The application site is situated to the north west of Bicester, north of Middleton Stoney Road and west of Howes Lane and it forms part of the wider NW Bicester Eco Town area within the extent of the site allocated by Policy Bicester 1. The land sits detached from the Western extent of the town and is separated from it by Howes Lane and a parcel of land also part of the allocated site, which benefits from planning permission and on which commercial development has been provided. A property called Lovelynych House sits outside the site boundary but is within the overall allocated site and it is a private residence. The land extends to approximately 90.3ha and is currently agricultural land divided by field hedgerows.
- 1.2. Outline planning permission was granted by 14/02121/OUT for 1700 houses, including affordable housing, supporting infrastructure including a primary school, non-residential uses and open space. The development is proposed to meet true zero carbon. All matters are reserved.

2. DESCRIPTION OF PROPOSED AMENDMENT(S)

- 2.1. The proposed Non-Material Amendment seeks to alter planning conditions 7-11 of outline planning permission 14/02121/OUT. These relate to conditions required to be complied with prior to the submission of the first reserved matters application. The proposal is to alter the wording, to allow the conditions to be complied with prior to or alongside the submission of the first application for approval of reserved matters. A change to the header of this section of the planning permission is also sought for completeness.

- 2.2. Condition 7 states the following:

Prior to the submission of the first reserved matters application, a phasing plan covering the entire site the subject of this application, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter each reserved matters application shall refer to a phase, phases, or part thereof identified in the approved phasing plan and development shall proceed in accordance with the approved phasing.

- 2.3. Condition 7 seeks to reword the condition to the following:

Prior to or alongside the submission of the first application for approval of reserved matters, a phasing plan covering the entire site the subject of this application, shall be submitted to and approved in writing by the Local Planning Authority prior to the determination of the first reserved matters application. Thereafter each reserved matters application shall refer to a phase, phases, or part thereof identified in the approved phasing plan and development shall proceed in accordance with the approved phasing.

2.4. Condition 8 states the following:

Prior to the submission of the first reserved matters application (other than on the area annotated as 'Other Uses' on Land Use Parameter Plan 4 drawing number 592-PL-103 Rev K where a Masterplan has been approved for that area pursuant to condition 9), a site wide Masterplan and Design Code shall be submitted to and approved in writing by the Local Planning Authority. The Masterplan and Design Code shall set out the urban design approach for the site to include a regulating plan and supporting information to include:

- *Details to provide continuity with adjacent development*
- *A detailed masterplan for the area fronting the Middleton Stoney Road annotated as 'Other Uses' on Land Use Parameter Plan 4 drawing number 592-PL-103 Rev K showing the location of each of the land uses*
- *Key approaches to deliver sustainable development that as a minimum meets the Eco Town PPS standards*
- *The identification of Character areas and for each, the built form and green spaces to include their key features, density, block layout and principles, structure and permeability*
- *Movement network and principles of streetscape including access locations, hierarchy, street type, form and design, cross sections, surface materials and landscaping, cycleways, footways, crossing points, street furniture, bus routes and stop locations*
- *Parking strategy including car and cycle parking standards and approach for residential and non-residential uses*
- *Public realm*
- *Building heights, scale, form, design features materials, architectural details and frontages*
- *Boundary treatments*
- *Key views, vistas, landmarks*
- *Landscape character, landscape types, green infrastructure, amenity spaces, public open space, play areas including their distribution, existing trees and retained hedges and biodiversity measures*
- *Provision and details of buffers to retained hedgerows and dark corridors for biodiversity*
- *Legibility and diversity of built form and landscape*
- *Landscape and boundary treatment principles for the buffer surrounding Himley Farm*
- *Drainage including sustainable urban drainage features*
- *Adaptability*

All reserved matters applications shall be made and the development shall thereafter be carried out in accordance with the principles of the approved Masterplan and Design Code.

2.5. Condition 8 seeks to be reworded as the following:

Prior to or alongside the submission of the first application for approval of reserved matters (other than on the area annotated as 'Other Uses' on Land Use Parameter Plan 4 drawing number 592-PL-103 Rev K where a Masterplan has been approved for that area pursuant to condition 9), a site wide Masterplan and Design Code shall be submitted to and approved in writing by the Local Planning Authority **prior to the determination of the first reserved matters application.** The Masterplan and Design Code shall set out the urban design approach for the site to include a regulating plan and supporting information to include:

- Details to provide continuity with adjacent development
- A detailed masterplan for the area fronting the Middleton Stoney Road annotated as 'Other Uses' on Land Use Parameter Plan 4 drawing number 592-PL-103 Rev K showing the location of each of the land uses
- Key approaches to deliver sustainable development that as a minimum meets the Eco Town PPS standards
- The identification of Character areas and for each, the built form and green spaces to include their key features, density, block layout and principles, structure and permeability
- Movement network and principles of streetscape including access locations, hierarchy, street type, form and design, cross sections, surface materials and landscaping, cycleways, footways, crossing points, street furniture, bus routes and stop locations
- Parking strategy including car and cycle parking standards and approach for residential and non-residential uses
- Public realm
- Building heights, scale, form, design features materials, architectural details and frontages
- Boundary treatments
- Key views, vistas, landmarks
- Landscape character, landscape types, green infrastructure, amenity spaces, public open space, play areas including their distribution, existing trees and retained hedges and biodiversity measures
- Provision and details of buffers to retained hedgerows and dark corridors for biodiversity
- Legibility and diversity of built form and landscape
- Landscape and boundary treatment principles for the buffer surrounding Himley Farm
- Drainage including sustainable urban drainage features
- Adaptability

All reserved matters applications and the development shall thereafter be carried out in accordance with the principles of the approved Masterplan and Design Code.

2.6. Condition 9 states the following:

Prior to the submission of the first reserved matters application and in the event that the Design Code has not been approved, a detailed masterplan for the area fronting the Middleton Stoney Road annotated as 'Other Uses' on Land Use Parameter Plan 4 drawing number 592-PL-103 Rev K, shall be submitted to and approved in writing by the Local Planning Authority. The masterplan shall show the location of each of the land uses, access and parking locations, key frontage and public space conditions and landscape principles. All reserved matter applications for the area covered by the Masterplan approved by this condition 9 shall be made and the development shall thereafter be carried out in accordance with the principles of the approved Masterplan.

2.7. Condition 9 seeks to be reworded as:

Prior to or alongside the submission of the first application for approval of reserved matters and in the event that the Design Code has not been approved, a detailed masterplan for the area fronting the Middleton Stoney Road annotated as 'Other Uses' on Land Use Parameter Plan 4 drawing number 592-PL-103 Rev K, shall be submitted to and approved in writing by the Local Planning Authority **prior to the determination of the first reserved matters application**. The masterplan shall show the location of each of the land uses, access and parking locations, key frontage and public space conditions and landscape principles. All reserved matter applications for the area covered by the Masterplan approved by this condition 9 shall be made and the development shall thereafter be carried out in accordance with the principles of the approved Masterplan.

2.8. Condition 10 states the following:

Prior to the submission of the first reserved matters application, a Bio Diversity Strategy for the site shall be submitted to and approved in writing by the Local Planning Authority. Each reserved matter application shall be accompanied by a statement setting out how the proposed development will contribute to achieving the Bio Diversity Strategy and net biodiversity gain. The development shall be carried out in accordance with the approved Bio Diversity Strategy.

2.9. Condition 10 seeks to be reworded to the following:

Prior to or alongside the submission of the first application for approval of reserved matters, a Bio Diversity Strategy for the site shall be submitted to and approved in writing by the Local Planning Authority **prior to the determination of the first reserved matters application**. Each reserved matter application shall be accompanied by a statement setting out how the proposed development will contribute to achieving the Bio Diversity Strategy and net biodiversity gain. The development shall be carried out in accordance with the approved Bio Diversity Strategy.

2.10. Condition 11 states the following:

Prior to the submission of the first reserved matters application, a full surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development, shall have been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall also include:

- Discharge Rates
- Discharge Volumes
- Sizing of features - attenuation volume
- Infiltration in accordance with BRE365
- Detailed drainage layout with pipe numbers
- SUDS - Swales, Ponds, Permeable Paving, Filter Strips, Rain Gardens
- Network drainage calculations
- Phasing

2.11. Condition 11 seeks to be reworded to the following:

Prior to or alongside the submission of the first application for approval of reserved matters, a full surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development, shall have been submitted to and approved in writing by the local planning authority **prior to the determination of the first reserved**

matters application. *The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall also include:*

- *Discharge Rates*
- *Discharge Volumes*
- *Sizing of features - attenuation volume*
- *Infiltration in accordance with BRE365*
- *Detailed drainage layout with pipe numbers*
- *SUDS - Swales, Ponds, Permeable Paving, Filter Strips, Rain Gardens*
- *Network drainage calculations*
- *Phasing*

3. RELEVANT PLANNING HISTORY

3.1. The following planning history is considered relevant to the current proposal:

3.2. 14/02121/OUT – Development to provide up to 1, 700 residential dwellings (Class C3), a retirement village (Class C2), flexible commercial floorspace (Classes A1, A2, A3, A4, A5, B1 and C1) social and community facilities (Class D1), land to accommodate one energy centre and land to accommodate one new primary school (up to 2FE) (Class D1). Such development to include provision of strategic landscape, provision of new vehicular, cycle and pedestrian access routes, infrastructure and other operations (including demolition of farm buildings on Middleton Stoney Road). Permitted.

4. PUBLICITY AND CONSULTATION

4.1 There is no statutory requirement to consult on, or publicise, applications seeking approval for non-material amendments to an existing planning permission.

5. APPRAISAL

5.1. The key issue for consideration in this case is whether the proposed change(s) can be accepted as non-material; there is no consideration of the planning merits of the proposed changes.

5.2. Section 96A of the Town and Country Planning Act 1990 (as amended) states that: "A local planning authority in England may make a change to any planning permission relating to land in their area if they are satisfied that the change is not material". It is also stated that: "In deciding whether a change is material, a local planning authority must have regard to the effect of the change, together with any previous changes made under this section, on the planning permission as originally granted".

5.3. The National Planning Practice Guidance states that: "There is no statutory definition of non-material. This is because it will be dependent on the context of the overall scheme - an amendment that is non material in one context may be material in another. The Local Planning Authority must be satisfied that the amendment sought is non-material in order to grant an application". The judgement on materiality in any particular case is one of fact and degree, also taking into account the likely impacts of the amendment. Materiality is considered against the development as a whole, not just part of it. The benchmark for forming the judgement on materiality is always the original permission.

5.4. The proposal seeks to alter the wording of the conditions to allow for the submission of a phasing plan (condition 7), submission of a masterplan and design code for the whole site (Condition 8), In the event of a design code not being approved

submission of a detailed master plan for the area fronting Middleton Stoney Road (Condition 9), a Bio-diversity strategy for the site (Condition 10), and submission of a full surface water drainage scheme for the site (Condition 11) prior to or alongside the submission of the first application for approval of reserved matters. This means that rather than being agreed prior to any reserved matter submissions being made, they could be made alongside submissions for reserved matters.

- 5.5. The alteration to the wording of these conditions allows for flexibility for the submission of these documents at the same time as the first reserved matters applications. The conditions that are proposed to be altered do not go to the heart of the permission, as works will not be able to be undertaken on site until the approval of those conditions and any reserved matters application.
- 5.6. The alteration in the planning conditions, still ensures the same information is submitted to the LPA for determination prior to commencement of development, which results in the same outcome whether the details have been submitted to the LPA prior to the submission of the first reserved matters application or at the same time as the first reserved matters application. Officers have identified that there should also then be a subsequent trigger for ensuring that those documents are approved prior to the determination of the first reserved matters application. This additional wording is highlighted in bold above.
- 5.7. This change could lead to some difficulties in ensuring a reserved matter application complies with those overarching documents that apply site wide but it is considered that the proposed amendment enables a pragmatic way forward that would enable discussions to be undertaken alongside each other which could assist in avoiding later delays on site. As the conditions are required to be approved prior to the determination of the first reserved matters application, this ensures that they are still a matter that will be determined early and therefore influence any reserved matter applications whether they are submitted alongside any such submission or not..
- 5.8. The change to the title for this section of the condition is acceptable and required for completeness.

6. CONCLUSION

- 6.1. The proposal is considered to be non-material and the application is therefore recommended for approval.

Case Officer: Katherine Daniels

DATE: 30 August 2022

Checked By: Caroline Ford

DATE: 2nd September 2022
