

Case Officer: Laura Bell

Recommendation: Approval

Applicant: Graven Hill Village Development Company

Proposal: Non-material amendment to 21/00585/REM - change in proposed levels, kerbs and footways and landscaping to proposed road in response to comments from OCC Road Agreements Team

Expiry Date: 28 December 2022

Extension of Time: No

APPLICATION SITE AND APPROVED DEVELOPMENT

- 1.1. The application site is situated to the south of Bicester and the A41 and is part of an extensive MOD site of some 600ha. The site forms part of a strategic development allocation in the adopted Cherwell Local Plan 2011-2031 and is currently being developed. The road which is the subject of this application is, as set out below, part of a larger area being developed. The parent application provided the technical details of the western spine road to serve the development running from the main access road within the site, westwards to serve development granted outline consent, situated on the western part of the overall strategic site.

DESCRIPTION OF PROPOSED AMENDMENT(S)

- 2.1. Since the approval of the parent application, GHDVC have made a technical submission to the LHA Road Agreements Team regarding the future adoption of the highway and its associated infrastructure. This has resulted in a number of changes to the proposed scheme, as follows:

- Kerb & Footways - Alternative kerb types to those identified in the original planning submission are proposed; drawings 11386-WSR-90-1111 and 11386-WSR-90-1112. Planning application reference 22/02313/REM (which is yet to be determined) for Block A, 44 apartments and 626 sqm commercial space requires an additional vehicular access from the Western Spine Road to allow for service vehicles to access and egress in a forward gear; as per drawings 11386-WSR-90- 1111 and 11386-WSR-90-1112.
- Landscaping - Amendments have been made to the proposed location of trees specifically along the Western Spine Road to ensure clashes with street lighting are avoided; drawings 11386- WSR-74-100-P03, 11386-WSR-74-101-P03 and 11386-WSR-74-102-P03.
- General Arrangement – Amendments have been made as follows:
 - *Ramps added to LTN1/20.*
 - *Access added on Anniversary Avenue.*
 - *Austin Way Parking Bay removed.*

- *Anniversary Avenue Sheet 1 – Full scale levels changes (CH900 increase in level from 67.834m to 68.983m, CH750 decrease in level from 69.332m to 68.883m, CH600 increase in level from 69.030m to 70.379m)*
- *Anniversary Avenue Sheet 2 – Full scale levels changes (CH500 increase in level from 70.048m to 70.081m, CH430 increase in level from 70.725m to 70.683m)*
- *Anniversary Avenue Sheet 4 – Full scale levels changes (CH40 decrease in level from 69.954m to 69.951m, CH100 decrease in level from 68.728m to 68.692m)*

RELEVANT PLANNING HISTORY

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

Application: 19/00937/OUT Permitted 3 January 2020

Variation of Conditions 2 (plans), 28 (Phasing) and 29 (Masterplan and design code) of 18/00325/OUT - to amend the site wide phasing plan and to include proposed earlier phasing for the employment land. (Original outline reference 11/01494/OUT, amended by 15/02159/OUT, 16/01802/OUT. Outline - Redevelopment of former MOD sites including demolition of existing buildings, development of 1900 homes; local centre to include a 2 form entry primary school (class D1), a community hall of 660sqm, five local shops or facilities to include A1, A2, A3, A5 and D1 uses totalling up to 1358sqm, up to 1000sqm gross A1 uses, a pub/restaurant/hotel (class A4/A3/C1) up to 1000sqm and parking areas; employment floor space comprising up to B1(a) 2160sqm, B1(b) 2400sqm, B1(c) and B2 20520spm and B8 uses up to 66960sqm; creation of public open space and associated highway improvement works, sustainable urban drainage systems, biodiversity improvements, public transport improvements and services infrastructure. Erection of a 70400sqm fulfilment centre on 'C' site and associated on site access improvement works, hardstanding, parking and circulation areas)

Application: 21/00585/REM Permitted 17 September 2021

Reserved matters application to 19/00937/OUT - Proposed details of Western access road

Application: 21/03749/F Permitted 22 March 2022

Variation of condition 2 (plans) of 19/00937/OUT - The submitted proposals show the relocation of the Community Centre, Extra Care Facility, Nursery and Pub, as explained in the submission. The masterplan is amended to include these proposals, and excludes the employment land, for clarity

Application: 22/02312/REM Pending

Reserved matters application for 21/03749/F - Zone 3a Home Zone 2 & 3 (93

units including 6 x 1 bed apartments)

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. However the following comments have been received:
- 4.2. OCC as LHA – No objection.
- 4.3. CDC Landscape - The root barriers for individual trees are shown as squares going under the road surface. I wonder how practical it will be to install these. I would normally expect to see them round the edge of the adjacent soft landscaping. Slopes need to be a maximum gradient of 1:3 for mowing. I can't tell what we have here. *[Officer comment: GHVDC have confirmed that all of the slopes are a maximum gradient of 1:3]*
- 4.4. Responses are available to view in full on the Council's website, via the online Planning Register.

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. In this case, the LHA have confirmed that all of the changes are minor in nature. The level changes are between 20-80cm and the road alignment is the same as previously approved. The extent of the changes is mainly related to kerb materials and minor surface changes to junctions, bringing them in closer alignment with LTN 1/20 standards. The changes have also been prompted by the Road Agreements Team.
- 5.5. Consequently, given the minor scale of the proposed changes and absence of any objection from Highways, it is considered that the proposal is non-material and remains within the scope of the outline and reserved matters parameters.

CONCLUSION

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

Case Officer: Laura Bell

DATE: 5 June 2023

Checked By: Caroline Ford

DATE: 15 June 2023
