

Mr. S. Bambrick  
Service Director Planning and Environment  
Aylesbury Vale District Council  
The Gateway  
Gatehouse Road  
Aylesbury HP19 8F

08 August 2023

Our Ref: J004042

Dear Mr. Bambrick,

**Application for the Discharge of Condition 5 of planning permission approved under 21/04443/APP (PINS Ref: APP/J0405/W/22/3295762) regarding Plot 16, Sunset Park Homes, Whitfield Road, Brackley, NN13 5TD**

I refer to the above. WS Planning & Architecture have been instructed by Mr. Tom Ward to prepare and submit an Application for the Discharge of Condition 5 of planning permission approved under 21/04443/APP (PINS Ref: APP/J0405/W/22/3295762) on Plot 16, Sunset Park Homes, Whitfield Road, Brackley, NN13 5TD. In support of the application we attach,

- 01 Completed application forms,
- 02 Drawing no. J004042-TD01 – Site Development Plan,
- 03 Drawing no. J004023-TD00A – Site Development Masterplan
- 04 ACD Environmental Ltd – Landscape Ecological Management Plan
- 05 As-agreed-during-appeal Baseline Masterplan
- 06 Integrated Designs & Associates Ltd – Sustainable Drainage Strategy Proposal June 2023
- 07 Premier-Tech Cesspit Drawing
- 08 EV Charging Point Specification Sheet
- 09 Lighting Specifications

This covering letter should be read in conjunction with the submitted documents.

**WS Planning & Architecture**

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## **Preliminary Matters**

This application is the second application made to discharge the required details. The LPA previously deemed the details submitted in respect of Layout and Lighting acceptable, but required further detail on matters relating to:

- EV Charging point specifications,
- Drainage Strategy (LLFA) regarding Surface Water
- Orientation of Cesspits within Pitches to be showed on plan,
- Landscape Ecological Maintenance Plan

These details have now been secured, reviewed, and reviewed again. All matters are agreed by the “Developer”, who in this instance is the Applicant.

Whilst it is expected that the applications should now be favourably determined, the wording of the decision notice, and the conditions sought to be discharged are necessary to be considered. In this regard, the LPA are reminded that the necessary tests to be applied on such matters (conditions details) was re-emphasised by the courts on 12 August 2022 in **R. (on the application of Cathie) v Cheshire West and Chester BC**, Bird J held at [65] that the relevant test was,

*“...I am satisfied that the test for discharge in the present case is whether the OMP proposed a “satisfactory” solution to the impact of the farming operations on residential amenity at the House. It is plain that a satisfactory solution does not need to be an ideal solution...”*

Therefore, whilst it is recognised that comments in response to the details supplied may be forthcoming, and amendments may be requested, the test to be applied is whether or not the details are satisfactory, i.e. a workable solution and meeting the requirements of the condition as it is worded. As such, whilst amendments could be sought, such requests are not a reasonable recourse to refusing the applications made in respect of the 21 appeal permissions granted on 23 December 2022. The details are considered to meet the requirements of the condition imposed, and present to the LPA workable solutions, that are satisfactory solutions.

## **Condition 5 – Site Development Scheme**

Condition 5 of the decision notice states that,

- “5. The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 28 days of the date of failure to meet any one of the requirements set out in (i) a) to e), ii, iii and iv below:**
- (i) Within 3 months of the date of this decision a ‘site development scheme’ shall be submitted to include:**
    - a) The internal layout of the site, including the layout of caravans;**

- b) the means of foul and surface water drainage of, and water supply to, the site, including the location and specification of cess pits, vertical and horizontal drain runs and water supply pipes and means of managing the foul water system and emptying any cess pit;**
- c) proposed and existing external lighting on the boundary of and within the site;**
- d) the location and details of one electric vehicle charging point; and**
- e) a scheme to achieve measurable biodiversity net gain and mitigation including a timetable for implementation, monitoring and management and details of the baseline;**

**(Hereafter referred to as the site development scheme), shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.**

- (ii) If within 11 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.**
- (iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.**
- (iii) The approved scheme shall have been carried out and completed in accordance with the approved timetable. Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter retained.”**

The condition requires submission of a Site Development Scheme within 3 months of the date of the decision letter, i.e. by 23 March 2023. This requirement was met, and therefore it remains the case that by 23 November 2023 the details required by this condition are either approved, or an appeal will have been made to the secretary of state.

This letter, and the enclosed documents, should be read together as whole. This letter forms a part of the proposed Site Development Scheme (SDS), and its implementation timetable and maintenance plan.

### **The Site Development Scheme**

I set out as follows the details prepared and submitted for the approval of the Local Planning Authority, which are contained within this letter, and the submitted documents.

**Criteria (a) - The internal layout of the site, including the layout of caravans**

With regard to the detail submitted on this matter, refer to the drawing labelled J004042-TD01. This plan details the layout of the plot, including the layout of the individual caravans.

All caravans are sited such that they are situated 6m away from another caravan occupied as a habitable space, and 2m away from a public highway or internal access road.

The details are considered, as previously noted by the LPA, to be acceptable, and satisfactory. This criterion of Condition 5 is therefore met.

**Criteria (b) - the means of foul and surface water drainage of, and water supply to, the site, including the location and specification of cess pits, vertical and horizontal drain runs and water supply pipes and means of managing the foul water system and emptying any cess pit**

With regard to the detail submitted on this matter, refer to the drawing labelled J004042-TD01. This plan details the location of the installed cesspits, their orientation with the Plot, and submitted alongside this letter is a drawing of the Cesspit system to be installed as a replacement of the system in situ. The unit has capacity for 84,000L, and would be due to be emptied every 45 days, if not sooner. The unit is fitted with an alarm to ensure no overfilling.

The submitted drawing also demonstrates the location of the existing soakaway system, with the wider site drainage to be supplemented by the installation of a French drain along the access to the plot. Submitted alongside these details is the engineering report prepared by Integrated Designs, and the geotechnical tests undertaken which demonstrate the scheme proposed is a workable, and thus satisfactory, solution to surface water management.

Shown on the submitted drawing, on the overall "Masterplan", as indicated by the Key, is the location of Mains Water pipeline through the site.

Response to previous refusal to discharge

The submitted Masterplan details the orientation of each Plot's Cesspit, and demonstrates that each plot can accommodate the unit proposed without interfering with its neighbour, or adjoining land.

Submitted alongside these details is the engineering report prepared by Integrated Designs & Associates, and the geotechnical tests undertaken which demonstrate the surface water drainage scheme proposed is a workable, and thus satisfactory, solution to surface water management for the site as a whole, and this individual Plot.

The submitted detail is now considered satisfactory, and therefore this criterion of Condition 5 is considered to be met.

**Criteria (c) - proposed and existing external lighting on the boundary of and within the site**

External lighting is as shown on the plan. This lighting is to be retained, and is as evidenced in the attached specifications.

The details are, as previously considered, considered to be acceptable, and satisfactory. This criterion of Condition 5 is therefore met.

**Criteria (d) - the location and details of one electric vehicle charging point**

Refer to Drawing J004042-TD01. This plan denotes the location of the electric vehicle charging point on site.

Response to previous refusal to discharge

Submitted alongside this letter are details and specifications of the system proposed, which is a Sevadis MaxiCharger wall-mounted unit, providing a single outlet universal Type 2 socket EV charger.

This system is to be installed within 6 months of the approval of these details, and is subject to supplier availability of the product.

The submitted detail is now considered satisfactory, and therefore this criterion of Condition 5 is considered to be met.

**Criteria (e) - a scheme to achieve measurable biodiversity net gain and mitigation including a timetable for implementation, monitoring and management and details of the baseline**

As approved under 15/03749/APP have no grassed areas, no boundary vegetation, and are permitted to be separated by fencing. This plot has no demonstrable habitat save for vegetation denoted as being outside the application site (North).. Plot 16 is to have an area along the boundary of the site 0.9m (3ft) wide where all hardstanding is to be removed, and shrubs (native shrubs are to be planted in order to create a “green corridor” through and around the site. All fencing along boundaries will have small gaps formed to allow for wildlife to pass through unobstructed. The mix of shrub planting proposed is Primrose, Hazel, and Dogwood.

The Site Development Scheme proposes a significant gain for biodiversity across the whole of the wider site as well, with the fencing along the southern boundary (south of Plots 5-10) being removed and replaced with a hawthorn hedgerow.

Response to previous refusal to discharge

Refer to the LEMP prepared by ACD Environmental. A qualified ecologist undertook a walkover survey of the site to establish the baseline conditions, which recorded the site being as per the baseline conditions agreed within the appeal Inquiry, as per the “Baseline Masterplan” submitted.

The LEMP has since been prepared to address the requests of the LPA's Ecology Consultee, who, during the previous application, accepted that "*evidence to demonstrate a measurable net gain is not required...*".

The submitted LEMP contains within it a timetable for works to be undertaken, which will commence within 12 months of the approval of these details (during the next planting season thereafter). The Developer is responsible for the implementation of this strategy, and the Long Term management and monitoring of the effectiveness of the scheme itself. It is the Developer's responsibility to instruct ecologists every 3 years to monitor the scheme.

The submitted detail is now considered satisfactory, and therefore this criterion of Condition 5 is considered to be met.

### **Timetable for implementation of the SDS**

With reference to the Timetable for Implementation of the SDS, all the works proposed are to take place within 12 months of the approval of these details, which should allow the "next planting window" to occur for landscaping/planting matters to be addressed.

The LPA raised no objection to the timetable suggested, and whilst additional time has elapsed since the previous submission, the details to be approved have evolved with the input of expert consultants, thus the timetable should reflect.

### **Conclusion**

In summary, it is considered that the details submitted as part of the Site Development Scheme are acceptable, and that Condition 5 can be discharged. The LPA are reminded of the application of the *Cathie* judgement, and that should the details hereby submitted be found to be suitable and workable solutions which meet the requirements of the condition, then they should be deemed satisfactory. Whilst the details may not be deemed to be ideal, this does not preclude the detail being sufficiently satisfactory for discharge of the condition, and to allow the development to be lawfully implemented in accordance with Condition 5.

If you have any queries regarding the above, or require clarification on any matters please do not hesitate to contact me.

Yours sincerely,



**Peter Brownjohn**  
**Senior Planner**  
Enc.