



Anna Horn
Development Control
Sevenoaks District Council
Argyle Road
Sevenoaks
Kent
TN13 1HG

27 October 2023

Our ref: ST/31813

Dear Anna,

LAND WEST OF CHEQUERS BARN CHEQUERS HILL BOUGH BEECH KENT
PLANNING PERMISSION REF: 22/01146/FUL
SECTION 73 APPLICATION

We write on behalf of our client to make a section 73 planning application for the variation of the conditions listed below for the development at land west of Chequers Barn, Chequers Hill, Bough Beech (ref. 22/01146/FUL). The variation of the conditions are sought to provide a phasing plan to allow the affordable housing element of this scheme to be delivered separately from the market dwellings, and to allow sufficient flexibility for the market dwellings to come forward as self-build housing units.

Submitted Information

In addition to this covering letter this application includes the duly completed application form, relevant CIL forms and CIL phasing plans. The application fee of £234 (plus the Planning Portal admin charge) has been provided through the Planning Portal.

The Non-Material Minor Amendment

Section 73 of the Town & Country Planning Act 1990 allows for the variation of a planning condition to the previous permission it was granted under.

The description of the proposal is as follows:

Section 73 application to planning permission ref. 22/01146/FUL to allow for the variation of planning conditions 2, 3, 4, 5, 7, 8, 9, 10, 12, 13, 15, 17 and 18. The purpose of the amendments are to allow sufficient flexibility for the market dwellings to come forward as self-build units.

Below are the proposed changes to the conditions requested to allow the affordable housing element of this scheme to be delivered separately from the market dwellings, and to allow sufficient flexibility for the market dwellings to come forward as self-build housing units.



Condition 2 currently reads as follows:

“The development hereby permitted shall be carried out in accordance with the following approved plans and details: 3500.13, 15B, 16A, 24, 25, 26, 27, 31, 32, 33, 34, 35.

For the avoidance of doubt and in the interests of proper planning.”

Revised wording

*“The development hereby permitted shall be carried out in accordance with the following approved plans and details: 3500.13, 15B, 16A, 24, 25, 26, 27, 31, 32, 33, 34, 35, **39 and 40**.*

For the avoidance of doubt and in the interests of proper planning.”

Condition 3 currently reads as follows:

“No development shall commence on site until a detailed reptile mitigation strategy and management plan is submitted and approved in writing by the local planning authority. The translocation will be completed prior to works starting on the development site. The reptile mitigation strategy and management plan must include an updated timetable of proposed works including the installation of enhancements within the receptor site. The management plan shall also include updated details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with a management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the management plan are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

In the interests of safeguarding and preserving protected species and reptiles on the site, in accordance with local policy SP11 of the Core Strategy and the aims of the National Planning Policy Framework.”

Revised wording

*“The development hereby permitted shall be carried out in accordance with the following approved details **pursuant to the approval of Condition 3 of application 22/01146/FUL under planning application 23/01332/DETAIL: Reptile Method Statement (prepared by Calumma Ecologists, dated 18 April 2023), The Reptile Management Plan (prepared by Calumma Ecologists, dated 19 April 2023) and the Construction and Environment Management Plan (CEMP): Biodiversity (Prepared by Ecology & Land Management, dated April 2023).***

In the interests of safeguarding and preserving protected species and reptiles on the site, in accordance with local policy SP11 of the Core Strategy and the aims of the National Planning Policy Framework.”

Condition 4 currently reads as follows:



“No development, which includes the creation of trenches or culverts or the presence of pipes, shall commence until measures to protect badgers from being trapped in open excavations and/or pipe and culverts are submitted to and approved in writing by the local planning authority. The measures may include: a) creation of sloping escape ramps for badgers, which may be achieved by edge profiling of trenches/excavations or by using planks placed into them at the end of each working day; and b) open pipework greater than 150 mm outside diameter being blanked off at the end of each working day. If any badgers or badger sett are encountered during construction, works must stop immediately and an experienced ecologist contacted for advice. The construction shall be carried out in accordance with the approved measures.

In the interests of safeguarding and preserving protected species and badgers on the site, in accordance with local policy SP11 of the Core Strategy and the aims of the National Planning Policy Framework.”

Revised wording

*“No development **of any Phase of the development** which includes trenches or culverts or the presence of pipes, shall commence until measures to protect badgers from being trapped in open excavations and/or pipes and culverts are submitted and approved in writing by the local planning authority **for the relevant phase of development**. The measures may include a) creation of sloping escape ramps for badgers, which may be achieved by edge profiling of trenches/excavations or by using planks placed into them at the end of each working day; and b) open pipework greater than 150 mm outside diameter being blanked off at the end of each working day. If any badgers or badger setts are encountered during construction, works must stop immediately, and an experienced ecologist contacted for advice. The construction shall be carried out in accordance with the approved measures.*

In the interests of safeguarding and preserving protected species and badgers on the site, in accordance with local policy SP11 of the Core Strategy and the aims of the National Planning Policy Framework.”

Condition 5 currently reads as follows:

“No development shall take place, including ground works and vegetation clearance, until a construction environmental management plan (CEMP - Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following: a) Risk assessment of potentially damaging construction activities; b) Identification of 'biodiversity protection zones', including trees and hedgerows;c) Practical measures (both physical measures and sensitive working practises) to avoid or reduce impacts during construction (may be provided as a set of method statements); d) The location and timing of sensitive works to avoid harm to biodiversity features; e) The times during construction when specialist ecologists need to be present on site to oversee works; f) Responsible persons and lines of communication; g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person; h) Use of protective fences, exclusion barriers and warning signs where new buildings, paths, roads are set back at least 3 metres from the outside of the retained hedgerows. The approved CEMP (Biodiversity) shall be adhered to and implemented throughout the construction period in accordance with the approved details.



In the interests of safeguarding and preserving protected species and badgers on the site, in accordance with local policy SP11 of the Core Strategy and the aims of the National Planning Policy Framework.”

Revised wording

“The development shall be implemented in accordance with the Construction and Environment Management Plan (CEMP): Biodiversity (Prepared by Ecology & Land Management, dated April 2023) pursuant to the approval of Condition 5 of application 22/01146/FUL under application 23/01369/DETAIL.”

In the interests of safeguarding and preserving protected species and badgers on the site, in accordance with local policy SP11 of the Core Strategy and the aims of the National Planning Policy Framework.”

Condition 7 currently reads as follows:

“Prior to the commencement of development, a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The plan shall include the following: (a) Routing of construction and delivery vehicles to / from site; (b) Parking and turning areas for construction and delivery vehicles and site personnel; (c) Timing of deliveries; (d) Provision of wheel washing facilities; (e) Temporary traffic management / signage.

To ensure details of construction are provided in accordance with policies EN1 and T2 of the Allocations and Development Management Plan.”

Revised wording

*“Prior to the commencement **of each phase** of the development, a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The plan shall include the following: (a) Routing of construction and delivery vehicles to / from site; (b) Parking and turning areas for construction and delivery vehicles and site personnel; (c) Timing of deliveries; (d) Provision of wheel washing facilities; (e) Temporary traffic management / signage.*

To ensure details of construction are provided in accordance with policies EN1 and T2 of the Allocations and Development Management Plan.”

Condition 8 currently reads as follows:

“No development shall take place until full details, of both hard and soft landscape proposals and boundary treatments, including a schedule of landscape maintenance for a minimum period of 5 years, have been submitted to and approved in writing by the local planning authority. The approved landscape scheme (with the exception of planting, seeding and turfing) shall be implemented prior to the occupation of the development hereby approved and thereafter retained. All planting, seeding or turfing approved shall be carried out in the first planting and seeding season following the occupation of the development or the completion of the development, whichever is the sooner. Any trees or plants which, within a period of five years after planting, are removed, die or become seriously damaged or diseased in the opinion of the local planning authority, shall be



replaced in the next available planting season with others of similar size, species and number, unless otherwise agreed in writing by the local planning authority.

To ensure the provision, establishment and maintenance of an appropriate landscape scheme in the interests of the visual amenities of the locality in accordance with Policy EN1 of the Sevenoaks Allocations and Development Management Plan.”

Revised wording

*“No development **of phases 2, 3, 4, and 5** shall take place until the full details, of both hard and soft landscape proposals and boundary treatments **for the relevant phase of development**, including a schedule of landscape maintenance for a minimum period of 5 years, has been submitted to and approved in writing by the local planning authority **for the corresponding phase**. The approved landscape scheme (with the exception of planting, seeding and turfing) shall be implemented **into each individual phase** prior to the occupation of the **development within that phase**, hereby approved and thereafter retained. All planting, seeding or turfing approved shall be carried out in the first planting and seeding season following the occupation of the development or the completion of the development, whichever is the sooner. Any trees or plants which, within a period of five years after planting, are removed, die or become seriously damaged or diseased in the opinion of the local planning authority, shall be replaced in the next available planting season with others of similar size, species and number, unless otherwise agreed in writing by the local planning authority.*

To ensure the provision, establishment and maintenance of an appropriate landscape scheme in the interests of the visual amenities of the locality in accordance with Policy EN1 of the Sevenoaks Allocations and Development Management Plan.”

Condition 9 currently reads as follows:

“Prior to the commencement of development the applicant, or their agents or successors in title, will secure: i) archaeological field evaluation works in accordance with specification and written timetable which has been submitted to and approved in writing by the Local Planning Authority; and ii) further archaeological investigation, recording and reporting, determined by the results of the evaluation, in accordance with a specification and timetable which has been submitted to and approved by the Local Planning Authority; iii) programme of post excavation assessment and publication.

To ensure that features of archaeological interest are properly examined, recorded, reported and disseminated.”

Revised wording

*“The development shall be carried out in accordance with the details submitted regarding the archaeological field evaluation works in accordance with a specification and written timetable which has been submitted to and approved in writing by the Local Planning Authority; and ii) further archaeological investigation, recording and reporting, determined by the results of the evaluation, in accordance with a specification and timetable which has been submitted to and approved by the Local Planning Authority; iii) programme of post excavation assessment and publication **approved [Insert Date], pursuant to condition (9) of planning permission 22/01146/FUL**”.*



To ensure that features of archaeological interest are properly examined, recorded, reported and disseminated.”

Condition 10 currently reads as follows:

“Prior to the commencement of works, a detailed sustainable surface water drainage scheme for the site shall be submitted to and approved in writing by the local planning authority. The detailed drainage scheme shall be based upon the Foul and SuDS Drainage Assessment prepared by GTA 11 April 2022 and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of without increase to flood risk on or off- site. The drainage scheme shall also demonstrate (with reference to published guidance): 1. That silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters; 2. Appropriate operational, maintenance and access requirements for each drainage feature or SuDS component are adequately considered, including any proposed arrangements for future adoption by any public body or statutory undertaker. The drainage scheme shall be implemented in accordance with the approved details.

To ensure the development is served by satisfactory arrangements for the disposal of surface water and to ensure that the development does not exacerbate the risk of on/off site flooding. These details and accompanying calculations are required prior to the commencement of the development as they form an intrinsic part of the proposal, the approval of which cannot be disaggregated from the carrying out of the rest of the development.”

Revised wording

*“Prior to the commencement of work **on any phase**, a detailed sustainable surface water drainage scheme for the site shall be submitted to and approved in writing by the local planning authority. The detailed drainage scheme shall be based upon the Foul and SuDS Drainage Assessment prepared by GTA 11 April 2022 and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100-year storm) can be accommodated and disposed of without increase to flood risk on or off- site. The drainage scheme shall also demonstrate (with reference to published guidance): 1. That silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters; 2. Appropriate operational, maintenance and access requirements for each drainage feature or SuDS component are adequately considered, including any proposed arrangements for future adoption by any public body or statutory undertaker. The drainage scheme shall be implemented in accordance with the approved details.*

To ensure the development is served by satisfactory arrangements for the disposal of surface water and to ensure that the development does not exacerbate the risk of on/off site flooding. These details and accompanying calculations are required prior to the commencement of the development as they form an intrinsic part of the proposal, the approval of which cannot be disaggregated from the carrying out of the rest of the development.”

Condition 12 currently reads as follows:



“Prior to the development reaching above damp proof course, details of samples and specifications of the materials to be used in the external elevations, roof tiles and window finishes shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

To ensure that the appearance of the development is in harmony with the existing character of the area as supported by Policy EN1 of the Sevenoaks Allocations and Development Management Plan.”

Revised wording

*“Prior to the development **in phases 2, 3, 4, and 5**, reaching above damp proof course details of samples and specifications of the materials to be used in the external elevations, roof tiles and window finishes **for the relevant phase** shall be submitted to and approved in writing by the local planning authority **in respect of that phase of development**. The development shall be carried out in accordance with the approved details.*

To ensure that the appearance of the development is in harmony with the existing character of the area as supported by Policy EN1 of the Sevenoaks Allocations and Development Management Plan.”

Condition 13 currently reads as follows:

“Prior to development reaching the damp proof course, details of the location and type of electrical charging points shall be submitted to and approved in writing by the local planning authority. The details shall indicate the location of charging point and appearance of charging point. The approved charging points shall be installed prior to first occupation of the development and shall be maintained thereafter.

To encourage the use of low emissions vehicles in accordance with policy T3 of the Sevenoaks Allocations and development Management Plan.”

Revised wording

*“Prior to development **in phases 2, 3, 4, and 5** reaching the damp proof course, details of the location and type of electrical charging points **for the relevant phase** shall be submitted to and approved in writing by the local planning authority. The details shall indicate the location of charging point and appearance of charging point **within that phase**. The approved charging points shall be installed prior to first occupation of the development **for each phase** and shall be maintained thereafter.*

To encourage the use of low emissions vehicles in accordance with policy T3 of the Sevenoaks Allocations and development Management Plan.”

Condition 15 currently reads as follows:

“Prior to the completion of the development, the ecological enhancement measures outlined on plan number 3500.16A, shall be implemented and thereafter retained.

In the interests of securing biodiversity enhancements on the site, in accordance with local policy SP11 of the Core Strategy and the aims of the National Planning Policy Framework.”



Revised wording

*“Prior to the completion **of phases 2, 3, 4 and 5** of the development, the ecological enhancement measures outlined **for each phase** on plan number 3500.16A shall be implemented and thereafter retained **for the corresponding completed phase**.”*

Condition 17 currently reads as Follows:

“Prior to the first occupation of the development, the vehicle parking spaces and garages shown on approved plan 3500.15B shall be provided and thereafter retained.

To ensure sufficient parking is provided in accordance with policies EN1 and T2 of the Allocations and Development Management Plan.”

Revised wording

*“Prior to the first occupation of **phases 2, 3, 4, and 5 of the development** the vehicle parking spaces and garages shown on approved plan 3500.15B **for the relevant phase of the development** shall be provided and thereafter retained.*

To ensure sufficient parking is provided in accordance with policies EN1 and T2 of the Allocations and Development Management Plan.”

Condition 18 currently reads as follows:

“Prior to the first occupation of the development, the cycle parking facilities shown on the submitted plan 3500.15B shall be provided and thereafter retained.

To ensure sufficient cycle parking and storage is provided in accordance with policies EN1 and T2 of the Allocations and Development Management Plan.”

Revised wording

*“Prior to the first occupation of the development **in phases 2, 3, 4, and 5**, the cycle parking facilities shown on the submitted plan 3500.15B shall be provided **for the relevant phase of the development** and thereafter retained.*

To ensure sufficient cycle parking and storage is provided in accordance with policies EN1 and T2 of the Allocations and Development Management Plan.”

It should be noted that there is no intention to seek to amend the S106 agreement which requires the affordable housing element to be constructed prior to first occupation of the first Open Market Property. The proposed amendment is related solely to the phasing of the market dwellings to allow these to come forward in different phases if necessary. The purpose of the amendments are to allow sufficient flexibility for the market dwellings to come forward as self-build units if desired, enabling the purchasers of any self-build plots to customise the materials or other design elements of the scheme on a phase-by-phase basis if they so wish.

It should also be noted that Clause 2.3 of the S106 Agreement for the original permission ensures that the terms of that agreement would bind equally this and any subsequent S73 permission, so there is no need for a deed of amendment to the S106.



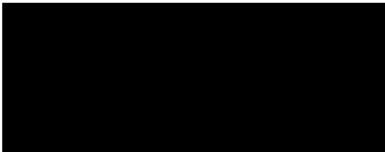
Summary and Conclusion

The proposed amendment to the conditions seeks to allow the affordable housing and market dwellings to be delivered in four phases and provide sufficient flexibility for the market dwellings to be delivered by a single or multiple house builders or individuals with the affordable housing being built by a Registered Housing Provider (England Rural Housing Association).

In this way, it is considered that the proposed amendments will ensure the revised conditions align with the requirement for planning conditions to be 'necessary' and 'reasonable in all other respects', as required by paragraph 56 of the National Planning Policy Framework (updated September 2023). In addition, the amended conditions would continue to align with the original permission previously approved by Sevenoaks District Council.

We trust the enclosed information will enable the application to be promptly registered, but please do not hesitate to contact me should you have any questions in connection with the submitted documents or require any additional information at this stage.

Yours sincerely,



Seth Tyler
Senior Planner
DHA Planning Ltd

seth.tyler@dhaplanning.co.uk