DELEGATED DECISION REPORT

NMA/2020/0016 **Valid 08/04/2020**	**LAND AT CECILLY MILL OAKAMOOR ROAD CHEADLE**	**NON MATERIAL AMENDMENT RELATING TO SMD/2017/0660 FOR AMENDMENT OT WORDING OF CONDITIONS 17 AND 25** **(NON MATERIAL AMENDMENTS)**

MAIN ISSUES

- Whether or not the proposed amendments are "material"
- Flood Risk
- Ecology

DESCRIPTION OF SITE

The area of land comprises the site of Cecilly Mill and a triangular area of grassland to the rear. The site was most recently used by JCB Compact Products Ltd but has been vacant for over 12 months since manufacturing was transferred to JCB's Harewood Estate facility on the edge of the town. All buildings have been demolished down to the concrete slab and Cecilly Brook, which previously ran under the factory within a culvert, now crosses the site within an open channel.

The site measures 3.85ha and is bordered on three sides by existing residential development and has direct access from both Oakamoor and Churchill Roads.

PROPOSAL

Outline planning permission was granted last year for the re-development of this brownfield site and the triangular field to the rear, for residential purposes for up-to a maximum of 121 dwellings. The application was all matters reserved except for means of access.

The outline approval was subject to a number of conditions including the following:

> *17 The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA) Cecilly Mill, Oakamoor Rood, Cheadle v1.1 dated 29th January 2018 and the following mitigation measures detailed within the FRA:*
> *1. Finished floor levels of dwellings located within the Southern Section of the site as identified on figure 10 are set no lower than 156.47 m above Ordnance Datum (AOD).*

2. Finished floor levels of dwellings located within the Northern Section of the site as identified on figure 10 are set no lower than 156.95 m above Ordnance Datum (AOD).
3. There shall be no dwellings or structures located within 8m from the top of bank of the Cecilly Brook. The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by
the local planning authority.
Reason To reduce the risk of flooding to the proposed development and future occupants.

25. The reserved matters shall make provision for a 8m buffer zone, free from development, to either side of the Cecilly Brook. The reserved matters shall include details of the boundary treatment, landscaping and future management of the buffer zone. The buffer zone shall thereafter be provided and maintained in perpetuity in accordance with the approved details.
Reason : In the interests of ecology.

The site has now been sold to a housebuilder who has recently submitted an application for Reserved Matters approval (SMD/2019/0723 refers). In designing the site layout, it has become apparent that it is not possible to comply with the requirements of conditions 17 and 25 and the developer has sought to reduce the buffer zone in places and to deviate from the finished floor levels set out in condition 17. In order to ensure that the Reserved Matters complies with the outline permission therefore it is necessary to seek to vary the conditions in question as follows:

Condition 17 *- The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA) Cecilly Mill, Oakamoor Rood, Cheadle v1.1 dated 29th January 2018 and the following mitigation measures detailed within the FRA:*
1. Finished floor levels of dwellings located within the Southern Section of the site as identified on figure 10 are set no lower than 156.47 m above Ordnance Datum (AOD).
2. Finished floor levels of dwellings located within the Northern Section of the site as identified on figure 10 are set no lower than 156.95 m above Ordnance Datum (AOD).
3. There shall be no dwellings or structures located within the buffer zone to the Cecilly Brook as shown on drawing reference 19116-3000 Rev J.
The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.
Reason To reduce the risk of flooding to the proposed development and future occupants.

Condition 25 *- The reserved matters shall make provision for a buffer zone, free from development, to either side of the Cecilly Brook, as shown on drawing reference 19116-3000 Rev J. The reserved matters shall include*

details of the boundary treatment, landscaping and future management of the buffer zone. The buffer zone shall thereafter be provided and maintained in perpetuity in accordance with the approved details.
Reason : In the interests of ecology.

RELEVANT LOCAL AND NATIONAL PLANNING POLICIES

N/A

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

The site has a wide and varied planning history linked to its previous uses, none of this is however relevant to the wider redevelopment of the site.

SMD/2017/0660 -Outline permission with some matters reserved (except access) for residential development of up to 121 dwellings – Approved Nov 2019

CONSULTATIONS

Publicity

N/A

Public Comments

One comment has been received stating: The conditions as approved require an 8m buffer to each side of the brook. The conditions are there to improve the flood capability and ecological value of the Cecily Brook and the town and environs of Cheadle. The conditions should not be watered down.

Environment Agency

I'm happy to agree the wording of the conditions.

Staffordshire Wildlife Trust

I can confirm we are happy with the wording and plan. I would just suggest that for clarity the line showing the bank top be included in the key, and ideally the buffer area is shaded in some way to make it more obvious.

OFFICER COMMENTS

Principle

According to the Planning Practice Guidance, 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 under section 96A of the Town and Country Planning Act 1990.

The local planning authority must have regard to the effect of the change, together with any previous changes made under section 96A. They must also take into account any representations made by anyone notified.

The floor levels, buffer and other measures set out in condition 17 were based on the recommendations of the Flood Risk Assessment (FRA) submitted to support and establish the principle of residential development on the site as part of the outline planning application. As that application was submitted in outline the FRA looked only at the principle of development on the site on the basis of an indicative layout and therefore the measures outlined in condition 17 were generic requirements to protect the new dwellings from flooding.

However, the submission of the reserved matters allows the detail of the scheme and in particular the detailed boundaries of the buffer zone and the floor levels and relationship of individual house plots and other parts of the site infrastructure such as roads and parking areas to the brook to be more carefully considered in detail.

Now that the detailed layout and design of the proposed scheme is known this has identified areas where these buffer zone and floor level requirements would be difficult to achieve and moreover has identified where there is scope for them to be safely reduced.

The 8m buffer zone was also a requirement of condition 25 on the basis of ecological advice due to the biodiversity value of the Brook Corridor.

The proposals have been justified through the submission of various supporting documents with the reserved matters applications including

- Geotechnical engineering constraint plan – ref P9119
- Layout illustrating the key features of the ecological enhancement package – ref 8957-L-08 Rev Q
- Channel section drawing – ref 18155-106 Rev R
- WFD assessment – ref DEC-JBAU-XX-XX-RP-EN-0001-A1-C02
- A statement on flood risk - DEC-JBAU-XX-XX-RP-EN-0001-A1-C01

These have been carefully considered by the Environment Agency who have commented as follows:

> *We have reviewed the WFD Assessment / revised brook enhancements package and have the following comments to make:*
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> *<u>WFD Assessment</u>*
> *We are happy to address the points raised in relation to the detailed design through the Environmental Permitting process. Overall, we are happy with the proposals within the WFD Assessment and have included comments in an attachment which should be addressed for any future submission. In addition:*
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> · *The report should confirm that part of the proposals are to use biodegradable matting for erosion not coir rolls. The site has Himalayan balsam so in this instance seeding to get well established native flora*

cover is probably a better option (as above, details can be addressed at the Environmental Permitting stage).

- *In section 7.3 Conclusion, we would disagree with the statement, "works would not result in any significant impacts upon the WFD quality elements of the Mobberley Bk water body" and would suggest that it states "works would not result in any significant* ***detrimental*** *impact (or* ***significant adverse*** *impact) upon the WFD quality elements of the Mobberley Bk water body".*
- *We require the design drawings, including cross sections, of the brook to be included within the report (possibly as Appendices).*

We would find the WFD Assessment acceptable if the above and attached comments are addressed for the Reserved Matters re-submission.

<u>Brook Enhancements Package</u>
We are happy with the proposals and acknowledge our previous comments have been addressed. There is a distance missing for cross section E-E and require this measurement to be included in any future submission (see attached).

We are satisfied the existing hard engineering along the Cecilly Brook is shown to be removed to at least 100mm below bed which we will be recommending as a planning condition. Therefore, once the additional measurement is included, we would happy to receive this information as part of the Reserved Matters re-submission.

<u>Flood Risk Objection</u>
We also have an outstanding flood risk objection on the Reserved Matters. Whilst we agree to the revised buffer zone which will be addressed through the NMA submitted to the LPA, to ensure this objection is addressed we request a short commentary on the impact the revised plans have on flood risk as part of the Reserved Matters resubmission. The plans as submitted seem to show the proposals are low risk from a flood risk perspective, however, we request clarification in relation to details on the changes of ground levels in the floodplain within this statement. Please note, we can confirm that we require no flood risk modelling as part of this submission.

<u>Conclusion</u>
Once the above points are addressed we would be happy to provide formal comments as part of the Reserved Matters re-consultation. We are of the opinion that the above can be addressed without further need for advice from ourselves and therefore, would support the LPA in approving the NMA at this stage. Please note, if the above points are not addressed as part of the Reserved Matters submission, we may object to the proposals.

The Environment Agency have subsequently confirmed that they have no objections and are happy with the proposed revision to the wording of the conditions.
In summary therefore, whilst there remain some points which need to be addressed prior to approval of any reserved matters, the Environment Agency have clearly

stated that they "***would support the LPA in approving the NMA at this stage".*** They have also confirmed that they are happy with the proposed revised wording.

From an ecological perspective, it should be noted at this juncture that at the time of the outline application, the Council's Ecologist recommended only a 5m buffer the report to Planning Applications Committee stating that "*Strachan et al (2011) in the water vole conservation Handbook recommends a minimum 5m buffer*". However, in drafting the conditions, this was increased by the Planning Officer to achieve consistency with the Environment Agency requirements for an 8m buffer. Para 7.67 of the report clearly states "*The Ecologist recommends a minimum 5m buffer. The Environment Agency have made similar comments and recommended a minimum of 8m buffer strip".*

Staffordshire Wildlife Trust have also been consulted on the proposals to modify the conditions. They have confirmed that they are happy with the condition wording and submitted plan (rev.F). They suggest that for clarity the line showing the bank top be included in the key, and ideally the buffer area is shaded in some way to make it more obvious. This has been incorporated in the most recent revision of the plan (Rev. J) received on 20th July 2020. Therefore the reference on the approval should now read Rev J.

CONCLUSION / PLANNING BALANCE

In the absence of any objection from either the Environment Agency or Staffordshire Wildlife Trust it is concluded that the proposals to modify the conditions would not have any material impact in terms of increase in flood risk or harm to, or failure to enhance, ecological interests of acknowledged importance. Accordingly, the change from an arbitrary 8m buffer zone and floor levels as set out in conditions 17 and 25 to compliance with an approved plan which has been considered by and endorsed by the relevant consultees is considered to be a non-material minor amendment. The application is therefore recommended for approval.

OFFICER RECOMMENDATION : Approve as an NMA

Case Officer: Ben Haywood
Recommendation Date: 21st July 2020

X

Signed by: Jane.Curley

On behalf of Staffordshire Moorlands District Council