

Checkley Parish Council (CPC) acknowledge that the Applicant is submitting a Section 73 Application Request for Variation of conditions 4 & 12 of SMD/2021/0829 which was Refused by Planning Committee due to the considerable impact of the proposed changes but subsequently approved on appeal by the Planning Inspector.

The Application history for this site is as follows:

Application SMD/2014/0576 Outline planning application with all matters reserved (save access) for creation of up to 168 residential dwellings (Use Class C3), up to 33,480 square metres of Use Class B1, B2 and B8 floorspace, ancillary uses to include community centre and a shop (Use Class A1), together with highway works, landscaping, public realm, car parking and other associated works. Planning Permission Approved by Planning Committee Decision on 24/05/2016.

DOC/2017/0087 & DOC/2017/0088 Discharge of conditions 7, 9, 10, 11, 12, 13, 14, 15, 16, 18, 19, 24, 25, 31, 32, 33, 35, 36, 37, 38, 39 in regard to planning permission ref. SMD/2014/0576. Discharge of Conditions was finally Approved by Planning Officer on 26/07/2019.

SMD/2017/0722 Application for Approval of Reserved matters following outline permission SMD/2014/0576 at Plot 1 for a warehouse assembly unit. Approved by Planning Committee Decision on 11/12/2018. First submission of details of Reserved Matters for phase 1b of the development .

SMD/2018/0789 Section 73 Application Request for Variation of conditions 10, 11, 12, 18 and 39 in relation to outline planning permission SMD/2014/0576. Approved by Planning Committee Decision on 27/07/2021.

SMD/2021/0829 Section 73 Application Request to Vary Condition 4 in relation to outline planning permission SMD/2014/0576. Refused by Planning Committee Decision on 12/04/2022 due to the considerable impact of the proposed changes. The Applicant subsequently Appealed the decision on 20/05/2022. The Planning Inspector allowed the Applicants Appeal on 13/01/2023.

SMD/2022/0267 Application for approval of Reserved Matters for phases 4 & 5. Still under consideration for decision by the Planning Committee.

SMD/2022/0268 - Application for Approval of Reserved Matters for phase 4. Still under consideration for decision by the Planning Committee.

SMD/2022/0275 - Application for Approval of Reserved Matters for scale, layout, appearance and landscaping for the erection of a manufacturing building for helicopters, together with outdoor storage areas, service yards, parking, landscaping, attenuation ponds and associated infrastructure. Referred back to applicant/agent for further information/amend and Still under consideration for decision by the Planning Committee.

DOC/2022/0035 - Application for Discharge of Conditions 1, 2, 7, 10, 11, 19, 22, 24, 31, 41, 46, 49. Still under consideration for decision by the Planning Committee.

SMD/2022/0577 - Application for Change of use of land and provision of hardstanding, helipads, balancing pond, visitor car park, security fencing, landscaping and additional tree planting in connection with adjacent helicopter manufacturing plant currently being determined under application ref. SMD/2022/0275 . Referred back to applicant/agent for further information/amend and Still under consideration for decision by the Planning Committee.

SMD/2023/0293 - Application for Environmental Impact Assessment Screening Opinion in relation to applications SMD/2022/0275 and SMD/2022/0577. Planning Officer determined an EIA is required on 30/08/2023.

1(a) - CPC's observations on the processing and consideration of the aforementioned Applications are as follows :

DOC/2017/0087 & DOC/2017/0088 Should not of been Approved. Application for Discharge of Conditions should be submitted after the submission of details of Reserved Matters and not before. Should also take account of the phasing of the development where suitable or possible and discharge is then applied for on each phase. It would appear that The Planning Officer approved each of the conditions referred to on differing dates. The Applicant should of applied for discharge of each condition as they were actually satisfied.

SMD/2018/0789 and SMD/2021/0829 are Section 73 Application Requests for Variation of conditions and not new Outline Planning Permission. Only the Conditions applied for are varied the remaining conditions should remain as per the original approved Outline Planning Permission SMD/2014/0576.

SMD/2021/0829 was a Request to amend Condition 4 and 12 of the original approved Outline Planning Permission SMD/2014/0576 .

The original Condition 4 reads as follows:

"The development hereby permitted shall not be carried out except in accordance with the principle details shown on the following submitted plans

- 120314-04 Rev C – Suggested Roundabout Arrangement
- 120314-06 Rev A– Cresswell Road Footway and Localised Highway Widening
- 120314-08 Rev B – Suggested Roundabout Arrangement
- 120314-09 - Swept Path Analysis Fire Tender - Emergency Access
- A-L-0001 Rev A – Land Use Parameter Drawing
- A-L-0003 Rev A – Access and Movement Parameter Drawing".

Condition 12 reads as follows :

"The development hereby permitted shall not be commenced until details of the off site highway works at the junction of Cresswell Lane and Uttoxeter Road indicated on drawing no. IPD-21-555-150 and footway works indicated on drawing no. 120314-06 rev A have been submitted to and approved in writing by the Local Planning Authority which shall incorporate further two-dimensional and three dimensional revisions as recommended by subsequent Safety Audits. These off site highway works shall be constructed in accordance with the approved plans prior to first occupation of any part of development, with the exception of Phase 1b as identified on drawing plan reference A-082-P-01 Rev D 'The Greenhouse People Unit Site Plan'."

The Amended condition 4 to read as follows :

"The development hereby permitted shall not be carried out except in accordance with the principle details shown on the following submitted plans:-

- IPD-21-555-114
- IPD-21-555-150
- IPD-21-555-151

- A-004-APP-0001 RevA
- A-004-APP-0003 RevA

No more than 168 dwellings shall be developed on the site"

However with regards to the Applicants subsequent appeal with reference to SMD/2021/0829 the Planning Inspector actually referred to Condition 5 in his determination which reads as follows:

"The total gross floorspace of the non-residential elements of the development as defined by the Town and Country Planning (Use Classes) Order 2015 (as amended) hereby permitted shall be limited as follows:"

The Planning Inspectors decision was based on completely inaccurate assumptions and his decision to grant outline planning permission was incorrect. The Appeal referred to the Local Planning Authorities (LPA) refusal of a Section 73 Application Request to Vary Condition 4 of Outline Planning Permission SMD/2014/0576 and the Planning Inspector should have considered this matter only and no other.

SMD/2022/0267 , SMD/2022/0268 and SMD/2022/0275 are Applications for approval of Reserved Matters and refer to SMD/2018/0789 which is actually a Section 73 application for variation of conditions 10, 11, 12, 18 and 39 in relation to outline planning permission SMD/2014/0576. These Applications for Submission of details of Reserved Matters should have been refused as not applicable. Regardless of any consideration of proposal these Applications should not have been validated as they are incorrect.

SMD/2022/0275 can not be considered as a Reserved Matters submission, if it were it would be outside of the stipulated last date for submission namely 23/05/2022 as per SMD/2014/0576. Nor can it be considered as a Section 73 Application Request to Vary Conditions as it can not be considered as a Non-Material Amendment or a Minor Material Amendment. This Application is actually for a Major Material Amendment and therefore requires a Completely new Planning Application. The Applicant should be requested to submit a Completely new Planning Application if they still wish the Development to be considered.

DOC/2022/0035 refers to SMD/2018/0789 which is actually a Section 73 application for variation of conditions 10, 11, 12, 18 and 39 in relation to outline planning permission SMD/2014/0576. This Application for Discharge of Conditions should be refused as it does not refer to the original approved Outline Planning Permission SMD/2014/0576.

SMD/2022/0577 refers to SMD/2022/0275 which is actually a Submission of details of Reserved Matters Referring to SMD/2018/0789 which is actually a Section 73 application for variation of conditions 10, 11, 12, 18 and 39 in relation to outline planning permission SMD/2014/0576. This Application for Change of use should be refused as not applicable and the Applicant should be requested to submit a Completely new Planning Application if they still wish the Development to be considered. Regardless of any consideration of proposal this Application should not have been validated as it is incorrect.

SMD/2023/0293 EIA Application in relation to applications SMD/2022/0275 and SMD/2022/0577. An Application for Environmental Impact Assessment Screening Opinion should be made in connection with a Completely new Planning Application decision and SMDC should advise the Applicant to apply earlier in the process. Regardless the decision that an Environmental Impact Assessment is required would be correct for such a Development.

1(b) - CPC are therefore of the opinion that the aforementioned Developers Applications clearly represents a Cacophony of Errors in process and referencing that would conclude in a major doubt of the Developers capability for delivering such proposals.

2(a) - CPC are concerned that we have not been consulted on an Application that will have a material cumulative impact on one of the Main Road Access/ Egress points to/from our Villages.

The amendment of the existing Uttoxeter Road/Cresswell Lane T-junction to that of a Roundabout or Signal Controlled junction will have a significant impact on the A521 Uttoxeter Road Access/ Egress to/from our Villages leading on/off the A50 Tean Roundabout. Traffic patterns will change and congestion will increase in the immediate area as a result of the increase in the level of queuing and delay. This in turn will impact on the Villages of Totmonslow, Upper Tean, Lower Tean, Checkley and Fole and the A521 Uttoxeter Road leading on/off the already congested A50 Tean Roundabout. The A521 Uttoxeter Road has already been impacted by the Signal Controlled junction off the A521 Uttoxeter Road providing Access/Egress to the Blythe Fields Development. Further if there are roadworks on the A50 or a Road Traffic Accident or any other Incident Traffic is regularly diverted off the A50 in either direction or even both directions between the A521 Uttoxeter Road / A50 Tean Roundabout junction and the A522 / A50 junction. The increase in stationary traffic will also have a detrimental impact on Air quality, Noise pollution and Accessibility

2(b) - CPC are therefore of the opinion that any amendment of the existing Uttoxeter Road/Cresswell Lane T-junction will have a significant detrimental impact as aforementioned on one of the Main Road Access/Egress points to/from our Villages of Totmonslow, Upper Tean, Lower Tean, Checkley and Fole and the A521 Uttoxeter Road and other localities along Uttoxeter Road.

3(a) - CPC would also refer to the proposed reforms to the National Planning Policy Framework (NPPF) published for consultation on the 30 July 2024 proposed amendments to 'Chapter 9 Promoting Sustainable Transport'. The changes to paragraph 115 (changed to 113 as part of draft document) is proposed to state: "Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe, in all tested scenarios."

3(b) - CPC are therefore of the opinion that the Development should be prevented or refused on highways grounds as there would be an unacceptable impact on highway safety, and the residual cumulative impacts on the road network would be severe, in all tested scenarios.

4(a) - CPC are also concerned with the sustainability of the Development towards giving priority to pedestrian and cycle movements and facilitating access to high quality public transport.

Referring to Gov.uk Fact Sheet 3: Transport infrastructure and services. Which considers the potential impact of new homes on local transport infrastructure and services.

New homes may bring new people to an area who create additional demand for transport infrastructure and services. The type of impact will vary depending on the number, type and size of the new homes, as well as the capacity of existing public transport services and of the cycle, walking and road network. Local Authorities plan for new transport infrastructure and services.

Over recent years, national policy has increasingly focussed on promoting sustainable development and the National Planning Policy Framework (NPPF) states that new development proposals should give priority to pedestrian and cycle movements and facilitate access to high quality public transport.

4(b) - CPC are therefore of the opinion that the junction of Uttoxeter Road/Cresswell Lane and the significant traffic flow on uttoxeter Road do not easily facilitate pedestrian and cycle movements and access to high quality public transport.

5(a) - CPC are also concerned with the quality and scope of the Applicants Transport assessment ; Travel Plans ; and Traffic Management Plan

Gov UK Guidance on Travel Plans, Transport Assessments and Transport Statements Provides advice on when Transport Assessments and Transport Statements are required, and what they should contain. Paragraph 111 of the National Planning Policy Framework sets out that all developments that generate significant amounts of transport movement should be supported by a Transport Statement or Transport Assessment

In determining whether a Transport Assessment or Transport Statement will be needed for a proposed development LPA should take into account the following considerations:

- The Transport Assessment and Statement policies (if any) of the Local Plan;
- The scale of the proposed development and its potential for additional trip generation (smaller applications with limited impacts may not need a Transport Assessment or Statement);
- Existing intensity of transport use and the availability of public transport;
- Proximity to nearby environmental designations or sensitive areas;
- Impact on other priorities/strategies (such as promoting walking and cycling);
- The cumulative impacts of multiple developments within a particular area; and
- Whether there are particular types of impacts around which to focus the Transport Assessment or Statement (eg assessing traffic generated at peak times).

Key issues to consider at the start of preparing a Transport Assessment or Transport Statement may include:

- The planning context of the development proposal;
- Appropriate study parameters (ie area, scope and duration of study);
- Assessment of public transport capacity, walking/cycling capacity and road network capacity;
- Road trip generation and trip distribution methodologies and/ or assumptions about the development proposal;
- Measures to promote sustainable travel;
- Safety implications of development; and
- Mitigation measures (where applicable) – including scope and implementation strategy.

It is important to give appropriate consideration to the cumulative impacts arising from other committed development (ie development that is consented or allocated where there is a reasonable degree of certainty will proceed within the next 3 years). At the decision-taking stage this may require the developer

to carry out an assessment of the impact of those adopted Local Plan allocations which have the potential to impact on the same sections of transport network as well as other relevant local sites benefitting from as yet unimplemented planning approval.

The scope and level of detail in a Transport Assessment or Transport Statement will vary from site to site but the following should be considered when settling the scope of the proposed assessment:

- Information about the proposed development, site layout, (particularly proposed transport access and layout across all modes of transport)
- Information about neighbouring uses, amenity and character, existing functional classification of the nearby road network;
- Data about existing public transport provision, including provision/ frequency of services and proposed public transport changes;
- A qualitative and quantitative description of the travel characteristics of the proposed development, including movements across all modes of transport that would result from the development and in the vicinity of the site;
- An assessment of trips from all directly relevant committed development in the area (ie development that there is a reasonable degree of certainty will proceed within the next 3 years);
- Data about current traffic flows on links and at junctions (including by different modes of transport and the volume and type of vehicles) within the study area and identification of critical links and junctions on the highways network;
- An analysis of the injury accident records on the public highway in the vicinity of the site access for the most recent 3-year period, or 5-year period if the proposed site has been identified as within a high accident area;
- An assessment of the likely associated environmental impacts of transport related to the development, particularly in relation to proximity to environmentally sensitive areas (such as air quality management areas or noise sensitive areas);
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- Measures to improve the accessibility of the location (such as provision/enhancement of nearby footpath and cycle path linkages) where these are necessary to make the development acceptable in planning terms;
- A description of parking facilities in the area and the parking strategy of the development;
- Ways of encouraging environmental sustainability by reducing the need to travel; and
- Measures to mitigate the residual impacts of development (such as improvements to the public transport network, introducing walking and cycling facilities, physical improvements to existing roads.

In general, assessments should be based on normal traffic flow and usage conditions (eg non-school holiday periods, typical weather conditions) but it may be necessary to consider the implications for any regular peak traffic and usage periods (such as rush hours). Projections should use local traffic forecasts such as TEMPRO drawing where necessary on National Road Traffic Forecasts for traffic data.

The timeframe that the assessment covers should be agreed with the local planning authority in consultation with the relevant transport network operators and service providers. However, in circumstances where there will be an impact on a national transport network, this period will be set out in the relevant government policy.

Following the withdrawal in October 2014 of The Department for Transport Document (March 2007) 'Guidance on Transport Assessment' guidance on the preparation of supporting documentation in highway assessment terms can be found in the Planning Practice Guidance (PPG) suite of documents and in particular in 'Travel Plans, Transport Assessments and Statements in decision taking'. This guidance provides advice on when Transport Assessments and Transport Statements are required and what they should contain. It suggests that the scale, scope and level of detail required need to be established early in the 'development management process' as it may influence the overall nature of the detailed design.

A **Transport Statement** is a 'lighter touch' version of a Transport Assessment and is used in some cases where transport issues arising out of development proposals do not require a full Transport Assessment. Although there are no current guidelines on when to produce a Transport Statement, liaison with the Local Authority at an early stage can identify if one is required and to what scale, scope and level of detail

is necessary. Transport Statements cover the smaller scale developments where the traffic impact is limited in both volume and area impact.

A **Transport Assessment** covers major developments where the traffic or person trip impact is significant in both volume and area of impact and affords more in depth assessment which includes an audit and appraisal of the following:

Existing Conditions:-

- Existing site information – to understand if there is a baseline transport affect or if there are any restrictions in place e.g. Air Quality Management Areas (AQMA) etc.
- Existing site use and means of access – to determine if there are any existing constraints or where new access is required;
- Baseline transport data – to determine the existing traffic conditions for all modes of transport;
- Public transport assessment – to identify existing provision, capacity and infrastructure;
- Walking / cycling assessment – to identify existing provision and or existing nominated routes and help determine if and what enhancements are required;
- Road network assessment – looking at existing conditions, capacity, destinations, speed limits, parking restriction etc.
- Traffic data and traffic forecast - to determine if there is current spare capacity in normal traffic flow conditions on the network;
- Safety considerations and accident analysis – obtaining and analysing the Personal Injury Accident Data for the most recent 3 year period (or 5 years if considered appropriate); and
- Committed developments nearby and their likely traffic generation – to determine if there are any foreseeable capacity issues.

Proposed Development, A detailed description of the proposed development usage including:-

- Site plan – showing site location, layout and use;
- Description of proposed land uses – residential, industrial, leisure, retail or multi-functional etc.
- Scale of development – Numbers, gross floor area (square meterage), expected visitor numbers;
- Site area;
- Hours of operation – a weekly profile of normal working hours, extended openings times etc.
- Proposed access location and design – arrangements, location and method of linkage to existing infrastructure for all modes of transport;
- Servicing arrangements – routes & facilities for service vehicles (bin wagons, deliveries etc.);
- Traffic impact of site construction works – abnormal loads & decommissioning etc.
- Proposed parking strategy – for all developments;
- Development phasing (where applicable); and
- Changes to Traffic Regulation Orders.

Compliance with Policy which normally comprises of the following:-

- An overview of the proposals compliance with relevant national (NPPF plus other national policies) and local policies on planning (usually the Local Development Framework) and transportation (typically the Local Transport Plan); and An overview of any relevant planning decision which may impact on the proposal in a policy sense.

The potential impacts of the development proposal should be assessed against the principles of the National Planning Policy Framework (NPPF) which seeks to promote the use of sustainable transport in the development process. It ensures that consideration has been given to: -

- Appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
- Safe and suitable access to the site can be achieved for all users; and
- Any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

Assessment Years:-

- The planning application year;
- The opening year of the development;
- A minimum 5 year design horizon for the local transport network; and
- A minimum 10 year design horizon for the strategic road network where it has an impact on the SRN.
- The appropriate horizon assessment should be agreed with the relevant authorities during pre-application consultations.

Assessment Period:-

- The traffic assessment is typically carried out during peak periods, i.e. during rush hours or at peak periods at the weekend.
- Weekday AM from 7:30 to 9:00 and PM from 3:00 to 7:00 dependant on the location and surrounding facilities (if there is a school facility etc.);
- ‘With development’ and ‘without development’; and
- Weekend peak periods if retail or leisure uses are proposed typically 11 – 4pm.

Development Trip Generation:-

- Quantifying the impact of the development on the Transport network by all modes based on an estimate of person trips. The TRICS database contains local and national trip rate measures for typical land use sites. Local surveys may also be required in specific cases;
- Calculating vehicle trip generation depending on the type of development e.g. retail can have a significant effect on vehicular traffic patterns;
- Adjustment of development vehicular trips to take account of access by non-car modes; and
- Trip distribution and assignment using existing traffic flow patterns or a gravity model. A gravity model is an assessment technique that uses population within geographical zones as a proportion of the total population within a catchment area to give a likely proportion of trips to/from the development site by highway route. With some developments the planning assessment of other competing uses can be used in the gravity model.

Transport Impacts and Mitigation Measures:-

- If the Transport Assessment confirms that a development will have an impact on the highway network, the level of impact at all critical locations should be established through assessments and modelling. There are various computer modelling packages used, some in isolation and others as part of larger modelling requirements, such as;
 - PICADY – predicts capacities, queues, delays and accidents at isolated priority junctions;
 - ARCADY– predicts capacities, queues, delays and accidents at roundabouts;

- JUNCTIONS - modelling and analysis for roundabouts, priority junctions and signalised junctions;
 - LINSIG – a design and assessment tool for traffic signal junctions and urban networks; and
 - LINSIG and TRANSYT – for linked signalised junctions.
 - PICADY and ARCADY form part of the JUNCTIONS software suite which is utilised for junction capacity modelling assessment.
- Where mitigation measures are proposed the Local Planning or Highway Authority will require that appropriate conditions are attached to any planning permission granted and/or Section 106 / 278 agreements entered into to deliver the improvements.
- In all cases the measures proposed should focus on maximising access by sustainable transport to the development.
- If the mitigation measures require physical improvements to the highway network, the development should ensure that appropriate design guides and parameters are used, for example: -
- Design Manual for Roads and Bridges – a suite of documents containing advice and requirements for works on motorways and all-purpose trunk roads;
 - Manual for Streets – Designing and modifying residential streets;
 - Manual for Streets 2 – Designing and modifying non-trunk roads and busy streets;
 - Any appropriate Local Highway Authority standards; and
 - A Road Safety Audit which may also be required to eliminate or reduce safety concerns.
 - In respect of the Strategic Road Network any proposed mitigation measures should provide comparable capacity to the general capacity of that part of the existing network and not, for example, seek to produce a junction with significantly more capacity than the surrounding road network

The Applicant should also provide a **Travel Plan** which should set explicit outcomes rather than just identify processes to be followed. They should address all journeys resulting from a proposed development by anyone who may need to visit or stay and they should seek to fit in with wider strategies for transport in the area.

The Travel Plan should evaluate and consider:

- Benchmark travel data including trip generation databases;
- Information concerning the nature of the proposed development and the forecast level of trips by all modes of transport likely to be associated with the development;
- Relevant information about existing travel habits in the surrounding area;
- Proposals to reduce the need for travel to and from the site via all modes of transport; and
- Provision of improved public transport services.
- The scale of the proposed development and its potential for additional trip generation (smaller applications with limited impacts may not need a Transport Assessment or Statement);
- Existing intensity of transport use and the availability of public transport;
- Proximity to nearby environmental designations or sensitive areas;
- Impact on other priorities/strategies (such as promoting walking and cycling);
- The cumulative impacts of multiple developments within a particular area;

The Applicant should also provide a **Traffic Management Plan** according to Safety, Health, and Welfare at Work (Construction) Regulation 2013, to carry out any construction/maintenance work on any public roads, a contractor shall develop a traffic management plan to ensure the safety and health of the road workers and road users.

A traffic management plan needs to cover the design, implementation, maintenance, and removal of the temporary traffic management (often shortened to “TTM”) measures to minimize the risk of accidents

while the roadworks activity is carried out. At a minimum, the traffic management plan shall address the following:

- Hours of Work
- Duration of Works
- Project Details
- Traffic Management System
- Traffic Management Layout/Drawing
- Phasing of Works
- Traffic Management Signage
- Speed Limits
- Road Level
- Design Parameters
- Site Access & Egress
- Communication and Emergency Procedure
- The traffic management plan shall be prepared according to the latest legislation and shall be included in the Safety and Health Plan of the project.

5(b) - CPC are therefore of the opinion that the Developers Transpot assessment ; Travel Plans ; and Traffic Management Plan are not of sufficient quality and scope to take Account of Cumulative impacts of multiple developments within a particular area; Existing intensity of transport use and the availability of public transport; Impact on other priorities/strategies (such as promoting walking and cycling); Unacceptable impact on highway safety; and The residual cumulative impacts on the road network and subsequent connected villages/localities beyond the site location. A revised ,more detailed and broader scope of Transpot assessment ; Travel Plans ; and Traffic Management Plan are required.

6(a) - CPC are also concerned that the Developers commitment to undertake any preferred alterations/improvements to the existing public highway as part of a new proposed development will be reserved in nature being confined by financial viability of the Development to the Applicant/Developer

Referring to "Developer Guidelines - Highway Legal Agreements Adopted in 2024"

In order to secure either adoption of new highway infrastructure or to undertake alterations/improvements to the existing public highway as part of a new proposed development, it will be necessary for a developer to enter into a Legal Agreement with the Highway Authority. In respect of the adoption of new infrastructure this would be by way of a Section 38 Agreement of the Highways Act 1980 whilst changes to the existing highway are secured and delivered through a Section 278 Agreement. A Section 38 agreement is a section of the Highways Act 1980 that can be used when a developer proposes to construct a new estate road for residential, industrial or general purpose traffic that may be offered for adoption as a public highway.

Once a section 38 agreement is made, the developer will have to operate within a set of conditions, terms and timescales. It is supported by a bond or cash deposit calculated based on the works proposed. This bond or cash deposit can be called upon if the developer goes into liquidation or otherwise defaults on their responsibilities.

In relation to those schemes subject to a Section 278 Agreement where changes are proposed to the existing highway network, Applicants ideally should engage with the local community and, where relevant, with statutory and non-statutory consultees, before submitting their applications, particularly if it was the view of the LPA that it would be in the interests of the wider public to undertake further consultation on those proposals. Such confirmation is to be provided in writing by the LPA no less than 4 weeks after the first initial submission of plans.

Details of the format of the consultation process including timing of such, venue (if held in person) and associated communications need to be agreed in writing with the LPA.

Depending on which Highway Authority is responsible for the roads that are affected a Section 278 Agreement will be required with either the 'Secretary of State for Transport' for works on the strategic road network which lies under the control of National Highways or the 'Local Highway Authority (LHA)' for Works on the local Highways .

A Section 278 Agreement is a legally binding document between the LHA and the developer to ensure that the work to be carried out on the highway is completed to the standards and satisfaction of the LHA.

The agreement details what the requirements of both the LHA and developer are to ensure that the proposed works are carried out in accordance with the approved drawings. It also details how the LHA may act should the developer fail to complete the works.

Key elements to be included in a typical Section 278 Agreement include the following:

- The relevant planning permission and authorisation under which the works are to be carried out
- A schedule detailing the works to be done and shown on appropriate plans
- The extent of the improvements and any land to be conveyed to the LHA(dedicated land)
- Details of a bond or surety
- An agreement of who will design and/or project manage the new works. This can either be the LHA or a consultant Highway Engineer working on behalf of the developer
- Details of the full costs of the works to be paid by the developer and also the LHA's administrative, legal, design checks and inspection costs
- Details of commuted sums for the future maintenance of the improvement works

The LHA may insist that they carry out all aspects of the works and recharge the developer or allow the consultant Highway Engineer to carry out some or all of the works as the LHA's appointed agent. It is

therefore always recommended that the Highway Engineer discusses with the LHA, as early as possible in the planning process of the development, if a Section 278 Agreement may be required and how the LHA would require the developer to proceed if this is the case.

The LHA may provide all the necessary design and construction drawings and produce the relevant documentation required to prepare the Section 278 Agreement. These plans and specifications will be submitted to the LPA as the first stage in discharging the planning condition requiring the works as part of the development. The developer will be required to pay the LHA for all fees and other associated payments for preparing the design and preparation of the Section 278 Agreement.

Alternatively the developer's Highway Engineer prepares the detailed design in accordance with the relevant design standards and submits them to the LHA for technical approval, after which they are submitted to the LPA in the first stage of discharging the planning condition.

The level of detail required for technical approval will depend on the scope and complexity of the scheme but detailed design drawings at 1:500/1:200 scale will generally be required and will include the following:

- General Arrangement showing the extent of site works
- Site Clearance detailing items to be removed
- Fencing
- Drainage layout showing existing and proposed, pipe runs, manhole and gully positions, pipe size, pipe gradients, pipe diameter, outfall details, backfill details, unique numbering of pipes/gullies and chambers and a full drainage schedule. Pipes intended to be adopted should be annotated
- Earthworks showing details of embankment/cutting construction, verge treatments etc
- Carriageway and footway construction details indicating areas of different types of construction, areas of planing/inlay/overlay and reconstruction. Evidence of adequacy of construction (cores of existing construction / pavement calculations), construction detail at interface of existing and new works, trench reinstatements etc
- Kerbing, edging and channel details; different types to be shown, including areas of over-break and reinstatement of surrounding carriageway and footway construction etc
- Traffic signs positions and road markings; including schedules of new traffic signs and road markings
- Landscaping proposals
- Road lighting, illuminated signs and illuminated street furniture positions
- Electrical works; ducts, service chambers, underground cables, position of feeder pillars and schematic cable diagrams etc
- Structures position and orientation
- Services/statutory undertakers details showing existing and any proposed alterations/protection measures/diversions etc with estimated costs
- Appropriate cross sections and longitudinal sections showing existing and proposed levels
- Setting out drawing showing critical dimensions of the design that require technical approval
- Standard construction details
- Plans showing swept turning paths/vehicular movements of various sizes of vehicle around the vehicular routes of the proposed highway scheme
- Accommodation works; details of alterations to fencing, accesses, driveways etc including details of consultations and agreement with landowner
- Coloured plan showing full limits of Section 278 Agreement Works, inclusive of suitable working space and land to be dedicated for highway purposes
- Layouts showing any easements or way-leaves required for future maintenance purposes
- Temporary traffic management measures, road closures and diversion routes
- Land transfer drawings and schedules

To enable the above to be provided a topographical survey of the area of the works will be required. The survey should be provided in 2D and 3D format with all relevant features surveyed. A good quality topographical survey of the development site is vital if the Highway Engineer is to produce an accurate design

In addition to the above Road Safety Audits will be required at each appropriate stage of the design and post implementation.

6(b) - CPC are therefore of the opinion that should the Development proceed a Section 278 Agreement must be entered into With the Developer to ensure that the LHA preferred alterations/improvements to the existing public highway are carried out without alteration, variation or amendment by the Developer.

7(a) - CPC are also concerned with statements made within the Transport Assessment Addendum dated 18/11/2021 in support of SMD/2021/0829 prepared by Infrastructure Planning & Design Ltd (IPaD) who were commissioned by M.J. Barrett Group acting on behalf of the Applicant/Developer to provide additional evidence to support a Section 73 application for Blythe Business Park, which proposes to amend the original outline consent relating to planning application ref: SMD/2014/0576. These statements are clearly contentious and imply there are issues with the financial viability of the Development.

The relevant statements are as follows:

- *" the proposed access arrangements have been reviewed **to establish if a better solution can be achieved which would be a less 'engineered' solution** but still maintain the required capacity benefits..... "*
- *Current Position item 1.9 - "The conditioned works as per the existing planning consent described above have been **reconsidered primarily as a result of escalating costs associated with technical approvals and tendering**, which have increased the estimated total cost of works from an initial estimate of circa £1 million to around £3.5 million."*
- *Current Position item 1.11 - "IPaD has undertaken **a re-evaluation exercise to determine whether alternative improvement schemes can be delivered on site that will be less costly to implement** whilst still satisfying the key requirements "*
- *Conclusion Item 5.9 - "**Provide cost deliverable alternatives to schemes that have since being consented in 2016 have evolved to become dramatically higher-cost schemes than originally envisaged, and that offer less value for money and shrinking benefit-cost ratios**"*

A Financial Viability Assessment should be carried out to inform a decision on whether the project should proceed. A project is only viable if the value (revenue) generated exceeds the development costs with an allowance for profit. The

Whilst it is possible to seek exemption from planning obligations for reasons of viability or to obtain exceptional relief from Community Infrastructure Levy requirements on viability grounds. LPAs are expressly permitted to refuse permission where the planning obligation which the developer seeks to reduce is necessary to ensure the acceptability of the development. The NPPF is clear that where safeguards are necessary to make a particular development acceptable in planning terms, and these safeguards cannot be secured, planning permission should not be granted for unacceptable development.

7(b) - CPC are therefore of the opinion that the Applicant/Developer is placing more emphasis on his profit margin than on the LHA preferred alterations/improvements to the existing public highway which the LPA require to render the development acceptable in planning terms. It would imply that the Developer places finance and profitability above the sustainability of the local community and cumulative impact on neighbouring communities.

Conclusion

In conclusion taking into account all the aforementioned CPC consider that this Section 73 Application Request for Variation of conditions 4 & 12 of SMD/2021/0829 should be refused entirely. Furthermore CPC consider that the entire Development proposal should be reconsidered taking into account the implied lack of financial viability and subsequent commitment to ensuring sustainability of the Local community.