

PLANNING COMMITTEE REPORT

15 May 2018

CHAIRMAN: Cllr Dennis Smith



APPLICATION FOR CONSIDERATION:	CHUDLEIGH – 17/02330/MAJ - Land At Station Hill - Variation of condition 4 (amended plans for highway arrangements) on planning permission 13/01062/MAJ	
APPLICANT:	Linden Homes SW Ltd	
CASE OFFICER	Donna Crabtree	
WARD MEMBERS:	Councillor Keeling Councillor Evans	Chudleigh
VIEW PLANNING FILE:	https://www.teignbridge.gov.uk/planning/forms/planning-application-details/?Type=Application&Refval=17/02330/MAJ	





1. REASON FOR REPORT

This application does not require Planning Committee consideration on its own, though it is related to the previous item on this agenda, being the Reserved Matters application reference 17/01099/MAJ and the connected outline approval reference 13/01062/MAJ. Therefore for completeness it is brought to Committee for consideration by Members.

2. RECOMMENDATION

Subject to:

1. The Reserved Matters application reference 17/01099/MAJ being granted consent;
2. A Deed of Variation to the Section 106 principal and supplementary agreements completed as part of outline consent reference 13/01062/MAJ; and,
3. The completion of an Appropriate Assessment and agreement (in consultation with Natural England) on mitigating measures to off-set any identified adverse impact upon biodiversity to be reflected in appropriately-worded conditions,

DELEGATED AUTHORITY BE GRANTED FOR SECTION 73 PERMISSION TO BE GRANTED subject to all conditions attached to the outline consent (condition 4 and 5 amended as per this application) and all conditions attached to the Reserved Matters approval as relevant to the application.

3. DESCRIPTION

Site, background and proposal

- 3.1. The application site is approximately 12 hectares in area, located on the western edge of Chudleigh and comprises the site allocation CH1 (Land at Rocklands) as set out in the Teignbridge Local Plan 2013-2033.
- 3.2. As set out in the previous agenda item relating to the same site, outline planning permission for the proposed development of up to 230 dwellings, 2,500 square metres of employment land, open space, wildlife enhancements, new footpath links, new access from B3344, highway improvements and closure of Oldway to through vehicular traffic was approved on 10 October 2014.
- 3.3. Whilst the majority of matters were reserved for future approval, the outline permission included means of access to the site. The approved details consist of the following:
 - Widening of the B3344 (Station Road), creation of a splayed vehicular entrance and pedestrian footway across site frontage of Zone 1 onto the road and, the creation of a right hand turn lane for traffic travelling south westwards along the road;
 - Widening of Oldway between its junction with the B3344 and the "Entrance Area", to ensure width of 5.5 metres;
 - The creation of a "Entrance Area" through a "Give Way" across a section of restricted width lane (3.5 metres) at the southern extent of the site (approximately 120 metres north of the junction between Oldway and the B3344);

- Re-alignment of the severe bends along Oldway, to the east of 1 and 2 Rocklands View, widening of road to 6 metres at bends and formation of new grass verges to create safe pedestrian crossing point between Zones 1 and 2;
- The creation of splayed vehicular entrance into Zone 2;
- The widening of Oldway to 5.5 metres between the “Entrance Area” and the improved vehicular access into Zone 2; and,
- The erection of a bollard to prevent through traffic along Oldway (two options were allowed within the decision – the bollard could be placed either to the north or south of the new vehicular entrance into Zone 2).

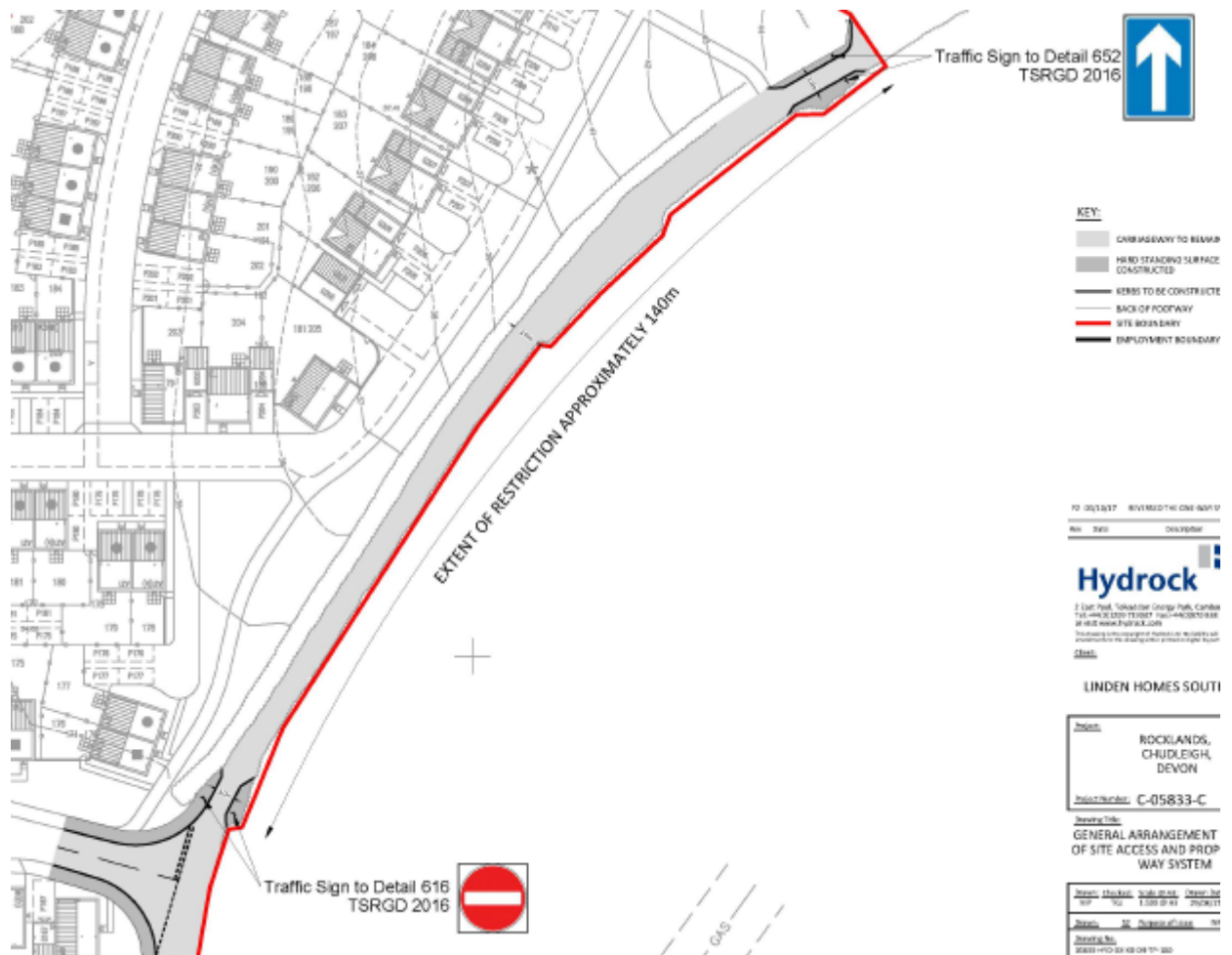
- 3.4. Subsequently an application relating to the Reserved Matters of appearance, landscaping, layout and scale, was submitted to the Local Planning Authority for approval (reference number 17/01099/MAJ). The details of the Reserved Matters application are set out under the previous Committee item. The Reserved Matters application accords with the already-approved highways access as set out above.
- 3.5. During the consideration of the Reserved Matters application, there has been significant local objection to the closure of Oldway to through traffic by way of a collapsible bollard which was approved at outline stage.
- 3.6. The Reserved Matters application does not allow the matters of access to be revisited. Therefore, an alternative to the access approved at outline stage has been submitted to the Council. This Section 73 application, which has been running concurrently with the Reserved Matters application, proposes to vary the already-approved access arrangement to Zone 2.
- 3.7. The covering letter submitted as part of this application sets out the reason for the application as follows:

A reserved matters application is currently being considered by the Council. During the course of this application, there has been a number of local objections raised to the closure of Oldway to traffic, which was proposed as part of the outline planning permission.

An alternative arrangement is now proposed which would allow Oldway to remain open, albeit promoting a new one-way system for a section of the road.

This application is made to vary conditions 4 and 5 of the outline permission, to delete reference to, and plans showing access restrictions along Oldway.

- 3.8. A (revised) Technical Addendum Note dated 5 October 2017 and prepared by Hydrock Consultants, has been submitted in support of this application.
- 3.9. The proposal involves creating a 140 metres section of one-way restriction to the north-east of the entrance to the site (Zone 2) off Oldway.
- 3.10. Paragraph 3.1.1 of the (revised) Technical Addendum Note states that *the proposed one-way system comprises of two narrowing points, where the total carriageway width is reduced to 3 metres. These narrowing points are located approximately 12 metres and 143 metres north of the proposed site access as set out on the drawing below (Appendix A to the Technical Addendum Note supporting document).*



- 3.11. Highway 'No-Entry' signage and a one way arrow are proposed to direct road users.
- 3.12. This amendment to the previously-approved access arrangements for the site would enable traffic to travel southwards along Oldway towards the A38 junction at Chudleigh Bridge, but would prevent traffic travelling north-eastwards along Oldway between the entrance to Zone 2 and the existing development.
- 3.13. To the south of the access to Zone 2, where Oldway would be open to two-way traffic, the existing road would be improved and widened in accordance with details already approved under the outline planning permission reference 13/01062/MAJ, as set out above.

Process

- 3.14. When planning permission is granted, development must take place in accordance with the permission and conditions attached to it. New issues may arise after planning permission has been granted which require modification of the approved proposals. Where less than substantial changes to an existing planning permission are proposed an application can be made under Section 73 of the Town and Country Planning Act 1990 to vary conditions associated with an existing planning permission.

3.15. Condition number 4 of outline planning permission reference number 13/01062/MAJ requires that the development shall be permitted in accordance with the application form and the approved plans. The approved plans as set out under condition number 4 currently includes an approved scheme closing off a section of Oldway to through vehicular traffic.

3.16. Condition number 5 of outline planning permission reference number 13/01062/MAJ states;

Development shall not commence on site until a plan detailing the phasing of the development has been submitted to and approved in writing by the Local Planning Authority. Works shall be carried out in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority. The phasing plan shall include the timing of all highway works, including road widening; works to restrict through vehicular traffic along Oldway; and provision of a right turn lane to the B3344.

3.17. This Section 73 application seeks to vary condition number 4 and 5 of the outline consent, to allow amended plans (in relation to highways arrangements) to be approved and form part of the planning permission.

3.18. Where an application under Section 73 is granted, the effect is the issue of a new planning permission, sitting alongside the original permission (in this case the outline and Reserved Matters Permissions) which remains intact and unamended.

3.19. In this case, where the application under Section 73 seeks to amend the outline consent, and where the Reserved Matters has also been approved, the Section 73 would issue a new permission which would incorporate the conditions attached to both the outline and the Reserved Matters consent, and would be bound by the legal obligations of the Section 106 completed as part of the outline application (subject to a Deed of Variation).

3.20. Therefore, this Section 73 application must be determined after the potential approval of Reserved Matters details. Otherwise the effect of approving this Section 73 application first would mean that the Reserved Matters application would relate to the wrong outline permission.

Analysis

3.21. With regards to the proposed development, the principle of the development and means of access is established within the parameters of the outline planning permission. In consideration of the outline and Reserved Matters applications, the relevant material planning considerations including quantum of development, access, landscape impacts, design, trees, green infrastructure and connectivity, impacts on listed buildings and conservation areas, affordable and custom build housing, archaeology and neighbouring amenity, have been taken into account in the determination of those applications.

3.22. This Section 73 application seeks only to amend the outline permission in respect of the proposed access, and proposes the creation a section of one-way restriction to the north-east of the entrance to the site (Zone 2) off Oldway, as described above.

- 3.23. This would enable traffic to travel southwards along Oldway, but would prevent traffic travelling north-eastwards. This application was submitted in response to concerns in representations over the closure of Oldway approved under the outline planning permission.
- 3.24. Therefore the main planning consideration in this instance is whether the proposed amendments are acceptable in terms of highway safety.
- 3.25. The rationale for the closure of Oldway as approved under outline consent reference 13/01062/MAJ is set out as paragraphs 3.34 and 3.36 of the Committee Report for that application as follows;

Initially the Highway Authority had some concerns about the links from the development (beyond Zone 2) to the town centre. Where the applicant's ownership ends, it was not possible to have dedicated provision for pedestrians towards the town in the form of a footway due to the highway not being wide enough to allow the provision of a footpath and there is no land on either side within the applicant's control. The existing footway that runs alongside the B3344 is acceptable for persons walking in single file but it is too narrow in places to allow for a parent with child or a pushchair/wheelchair to use without moving onto the road. It is this lack of an alternative that led to the need to provide a safer route to town.

The solution to this issue was to suggest the closure of Oldway to through traffic through the introduction of a collapsible bollard, effectively all traffic up to the David Wilson site would turn right and head up to the B3344 rather than using the narrow Oldway lane which some currently use. This would allow pedestrians and cyclists to use this section of carriage and join the existing footway at the entrance to the David Wilson site.

- 3.26. The Technical Addendum note submitted in support of this application provides evidence to demonstrate that providing a one-way system along a section of Oldway, could be implemented without resulting in a severe impact on the capacity or congestion of the local highway network and would provide safe and suitable access for existing and future highway users.
- 3.27. Devon County Council Highways Authority has been in discussion with the Town Council and the Local Planning Authority and agree that the proposed amendment to allow a short section of one-way traffic along Oldway would be an acceptable proposal in terms of highway safety and access, and have no objections to the proposed development.
- 3.28. It is considered that the provision of a short stretch of one-way traffic would still allow a pedestrian and cycle route to the town centre which is acceptable in terms of safety, and therefore, having regards for the rationale which led to the approval of a road closure at Oldway, it is considered that Oldway, subject to the proposals set out in this Committee Report, would still provide a suitable alternative route into town.

Summary and Conclusion

- 3.29. The proposed one-way system is considered to provide a safe access for pedestrians and cyclists from the development to the town, whilst providing for movement of vehicular traffic travelling southwards from existing development on

Oldway, and therefore the proposed alternative access arrangements are considered to be acceptable.

- 3.30. As set out above, where an application under Section 73 is granted, the effect is the issue of a new planning permission, sitting alongside the original permission which remains intact and unamended. Therefore should this Section 73 application be approved, it would need to include all the conditions attached to the outline consent (including condition 4 and 5 as may be amended as per this application) and all conditions attached to the Reserved Matters approval as relevant to the application. It would also require a Deed of Variation to the principal and supplementary Section 106 agreements completed as part of the outline consent to ensure that the new permission is bound by the same legal requirements.
- 3.31. As approval of this Section 73 application would result in the issue of a new planning permission, and as the site lies in close proximity to European sites (The Chudleigh Rocks Special Area of Conservation and the Chudleigh Caves and Woods Site of Special Scientific Interest (SSSI) lie 150 metres to the south east), an assessment of the impacts of the proposed development on protected species and European Designated sites under the Habitat Regulations must be carried out. If an Appropriate Assessment for the South Hams SAC cannot arrive at a conclusion of No Likely Significant Effects, under the Habitat Regulations it will be unlawful to grant consent to the proposals.

4. POLICY DOCUMENTS

Teignbridge Local Plan

S1A (Presumption in Favour of Sustainable Development)

S1 (Sustainable Development Criteria)

S2 (Quality Development)

S5 (Infrastructure)

S7 (Carbon Emission Targets)

S9 (Sustainable Transport)

S10 (Transport Networks)

S21 (Villages)

S21A (Settlement Limits)

WE4 (Inclusive Design and Layout)

WE7 (Custom Build Dwellings)

WE11 (Green Infrastructure)

EN2A (Landscape protection and Enhancement)

EN3 (Carbon Reduction Plans)

EN4 (Flood Risk)

EN5 (Heritage Assets)

EN8 (Biodiversity Protection and Enhancement)

EN9 (Important Habitats and Features)

EN10 (European Wildlife Sites)

EN11 (Legally Protected and Priority Species)

EN12 (Woodlands, Trees and Hedgerows)

CH1 (Rocklands, Chudleigh)

CH9 (Green Infrastructure (Chudleigh))

Custom and Self Build Housing Supplementary Planning Document

National Planning Policy Framework

National Planning Practice Guidance

5. CONSULTEES

Devon County Council Highways Authority – 10 October 2017 - The Highway Authority has been in discussion with the Town Council and the Planning Authority and it was agreed this would be an acceptable proposal for Oldway. Therefore the County Highways Authority would have no objections to this proposal

Natural England - 20 October 2017 - No comments.

6. REPRESENTATIONS

One representation has been received in respect of this Section 73 application in objection to this application and the basis for the objection is summarised below (however a number of objections have been made in respect of the closure/part closure of Oldway and these have been against the Reserved Matters application reference 17/01099/MAJ):

- Residents living off Oldway (e.g. Lower Trindle Close, Twindlebeer, Beechwood Road, etc.) would have to travel up Station Hill, the Parade and then into Oldway to return home thus adding unnecessary extra mileage to their journeys and causing more pollution;
- Existing issues with people parking at the Parade and creating narrowings in the road with road users having to reverse long distances;
- Additional traffic would be detrimental to pedestrian and cycle safety;
- Oldway must remain open to two-way traffic so that diversions can be in place when Station Hill is closed due to accidents.

7. TOWN COUNCIL'S COMMENTS

Chudleigh Town Council (20 October 2017)

Councillors have asked me to advise you that they have no objections to the application and would like to thank Linden Homes for their co-operation in maintaining Oldway Lane for through traffic.

On a related matter, you will be aware that the Town Council has considerable concerns about the adequacy of the pavement on Station Hill. One of the significant pinch-points, where the pavement is at its most narrow, is by Gordon Lodge. We are aware that the owner is prepared to surrender a strip of land to enable the pavement width to be increased but this would require the movement and rebuilding of the stone wall that forms the boundary to Gordon Lodge. Is this an option that can be considered?

Can we also ask that should the Linden Homes application for the development of Rocklands receive consent that particular attention be paid to the robustness of the construction management plan. In particular, we are concerned that no construction traffic should enter the site from Oldway.

Chudleigh Town Council (23 October 2018)

When we submitted comments on the recent application to submit a variation that allowed Oldway Lane to remain open to through traffic we also commented on the need to ensure that construction traffic did not access the site via Oldway.

I felt that I should clarify the concerns of councillors. They are anxious to ensure that construction traffic should not use the junction of Oldway and Parade. You will be aware that the junction lies in the middle of a chicane and really is not suitable for large vehicles.

8. COMMUNITY INFRASTRUCTURE LEVY

The outline planning permission to which this Section 73 application relates was granted prior to the Council's adoption of the Community Infrastructure Levy. The development is subject to a range of financial contributions by way of a Section 106 legal agreement.

9. ENVIRONMENTAL IMPACT ASSESSMENT

This application has been screened under the Environmental Impact Assessment Regulations 2011 and the Council's Screening Opinion is considered to be negative as set out in the Screening Opinion proforma.

Business Manager – Strategic Place