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UNITED KINGDOM

9th November 2023

Project/File: 333100421/A5/HW/DM

Clare Appleyard
Principal Planner
Development Management
Knowsley Council

VIA PLANNING PORTAL ONLY

Dear Clare,

Reference: Variation to planning permission reference 20/00399/OUT - Land south of Lickers Lane and Site of Former Saunder's Nursery, Windy Arbor Road, Halsnead Garden Village, Whiston

On behalf of our Client, Nuvu Development Limited ('the Applicant'), we hereby submit a planning application under Section 73 of the Town and Country Planning Act 1990 seeking to vary conditions 3, 13, 15, 17, 19, 24, 25 and 27 of outline planning permission reference 20/00399/OUT at Land south of Lickers Lane and Site of Former Saunder's Nursery, Windy Arbor Road, Halsnead Garden Village, Whiston ('the Site').

This application is accompanied by the following:

- Servicing Plans – Access Routes to Adjacent Site (MR-M-DWG-18).
- Shoosmith Letter (dated 13th October 2023).

We also ask that you consider the contents of this letter when determining the planning application. It provides a brief overview of the outline planning permission, summarises the relevant development plan policies and material considerations, details the justification for the proposed amendments and provides our concluding remarks.

Background Context

Outline planning permission was granted for the development of up to 277 dwellings and an apartment development of up to 100 units for the over 55's together with a new vehicular access from Lickers Lane and Windy Arbor Road, landscaping, and associated works (including the demolition of buildings) on the Site on 1st August 2023 (reference 20/00399/OUT).

The Site contains two parcels of land – land to the south of Lickers Lane and the Site of the Former Saunder's Nursery on Windy Arbor Road.

When the Applicant originally negotiated the conditions with the local planning authority it was envisaged that the two parcels of land within the Site would come forward as part of a single reserved matters application. However, the Applicant's strategy has changed post-determination and the two parcels are now proposed come forward under two separate reserved matters applications. This is to ensure Homes England Strategic Partner Delivery commitments whilst maintaining commercial viability.

A reserved matters application seeking approval for the development of 254 dwellings together with associated open space, landscaping, and infrastructure on the land to the south of Lickers Lane was

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submitted to Knowsley Council in August 2023 (reference 23/02378/REM). The second reserved matters application for the Former Saunder's Nursery site on Windy Arbor Road will be submitted later.

Conditions 15, 17 and 19 attached to the outline planning permission require the Wildlife Information Pack, Travel Plan and EV charging point detail to be agreed and implemented for the whole development prior to the occupation of any dwelling on the Site. As the two parcels of land within the Site are now proposed to come forward separately, the Applicant is seeking to amend each of these conditions so they can be partially discharged relevant to each reserved matters or phase of development.

Conditions 24, 25 and 27 attached to the outline planning permission relate to the implementation of onsite highway connections to neighbouring land parcels. The implementation triggers in each condition are no longer achievable now the two development parcels are coming forward separately. As such, the Applicant is seeking to amend each condition, so the highway connections are implemented when development on the relevant land parcel comes forward.

Conditions 24 and 25 are also proposed to be amended to include reference to the enclosed drawing (Servicing Plans – Access Routes to Adjacent Site (MR-M-DWG-18)). This drawing has been produced to clearly identify the routes referred to in conditions 24 and 25 and to make the condition more precise. The wording of condition 3 is consequently proposed to be amended to refer to this as an approved drawing.

Condition 13 requires details of the utility buildings and compounds to be submitted to and agreed with the local planning authority prior to the commencement of development approved as part of any subsequent reserved matters or phase of development. The Applicant is unable to confirm the detail and specification of the utility buildings and compounds prior to the commencement of development. It is too early in the process. The Applicant is therefore, proposing to amend the trigger for submitting the details '*prior to the construction of the utility building*'.

The proposed amendments and justification for the variation to conditions 3, 13, 15, 17, 19, 24, 25 and 27 is set out at Appendix A. However, first, we provide an overview of the relevant planning policy context.

Planning Policy Context

Planning Legislation

Section 73 of the Town and Country Planning Act 1990 enables an applicant to apply to develop land without compliance with conditions attached to an extant previous planning permission. Under this section a local planning authority may amend or remove conditions but may not amend any other part of the permission.

For decision-taking, Section 38(6) of the Planning and Compulsory Purchase Act (2004) (as amended) requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.

The Development Plan

The adopted development plan for the purposes of determining this planning application comprises the:

- Knowsley Local Plan Core Strategy (KLPCS) (2016).
- The 'saved' policies of the Knowsley Replacement Unitary Development Plan (RUDP) (2006).
- The Joint Merseyside and Halton Waste Local Plan (2013).

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The policies cited on the Decision Notice as being relevant to conditions 3, 13, 15, 17, 19, 24, 25 and 27 are as follows:

- KLPCS Policy CS2 (Development Principles).
- KLPCS Policy CS7 (Transport Networks).
- KLPCS Policy CS8 (Green Infrastructure).
- KLPCS Policy CS19 (Design Quality and Accessibility in New Development).
- KLPCS Policy SUE2 (SUE Development Principles).
- KLPCS Policy SUE2c (South of Whiston and Land south of the M62 SUE).
- Saved RUDP Policy T6 (Ensuring Choice of Travel to Serve New Developments).
- Saved RUDP Policy T9 (Travel Plans).

There are no policies in the Joint Merseyside and Halton Waste Local Plan that are relevant to the determination of this application.

Material Considerations

There are several other documents that are 'material considerations' in the context of Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) that should be used to determine the application. The documents cited on the Decision Notice as being relevant to conditions 3, 13, 15, 17, 19, 24, 25 and 27 are as follows:

- National Planning Policy Framework (NPPF).
- Halsnead Design and Local Distinctiveness Guide (2020).
- Halsnead Garden Village Masterplan Supplementary Planning Document (SPD) (2017).

Proposed Amendments

As referred to above, the Applicant is seeking to vary the following conditions attached to outline planning permission reference 20/00399/OUT:

- 3 (Approved Drawings).
- 13 (Utility Buildings and Compounds).
- 15 (Wildlife Information Pack).
- 17 (Travel Plan).
- 19 (EV Charging Points).
- 24 (East to west vehicular route – Lickers Lane parcel).
- 25 (Eastern highways connection – Lickers Lane parcel).
- 27 (Highways connection – Windy Arbor Road parcel).

The proposed amendments and the justification and assessment of the proposed changes against the development plan and relevant material considerations is set out in the Proposed Amendments Schedule in Table 1 at Appendix A.

In summary, it can be concluded that the proposed amendments to conditions 3, 13, 15, 17, 19, 24, 25 and 27 comply with the relevant development plan policies and material considerations outlined above and meet the tests for the imposition of conditions set out in paragraph 56 of the NPPF.

The proposed amendments have also been reviewed by the Applicant's solicitor Shoosmiths. The letter prepared by Shoosmiths and submitted with this application concludes that *"there is no requirement to vary the S106 Agreement as the obligations in the S106 Agreement do not need to be amended by*

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Deed of Variation. The S106 Agreement will bind the s73 permission in accordance with clause 12.3 of the S106 Agreement." We, therefore, do not consider it necessary to vary the S106 Agreement.

Summary

In summary, the proposed amendments are deemed to comply with the relevant development plan policies and material considerations outlined above and meet the tests for the imposition of conditions set out in paragraph 56 of the NPPF.

We trust the information provided is sufficient to be able to validate the planning application. However, please do not hesitate to get in touch should you require anything further.

Yours sincerely,

STANTEC UK LIMITED



Hannah Walker

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Attachment: Appendix A: Proposed Amendments Schedule

APPENDIX A

Table 1: Proposed Amendments Schedule

No.	Planning Condition	Proposed Variation of Condition	Assessment/Justification
3.	The development hereby permitted shall be carried out in accordance with the approved plans and documents listed in Schedule 1. Schedule 1 06.05.2022 3028-F01 H WINDY ARBOR ROAD SITE ACCESS 16.07.2020 3028-F02 A LICKERS LANE SITE ACCESS 18.08.2020 DWG02 A LOCATION PLAN	The development hereby permitted shall be carried out in accordance with the approved plans and documents listed in Schedule 1. Schedule 1 06.05.2022 3028-F01 H WINDY ARBOR ROAD SITE ACCESS 16.07.2020 3028-F02 A LICKERS LANE SITE ACCESS 18.08.2020 DWG02 A LOCATION PLAN [ENTER DATE RECEIVED] MR-M-DWG-18 SERVICING PLANS – ACCESS ROUTES TO ADJACENT SITE	The proposed amendment ensures that condition 3 includes reference to the drawing submitted as part of the proposed amendment to conditions 24 and 25.
13.	Prior to the commencement of any part of the development approved as part of any subsequent reserved matters, or phase of development as previously agreed in writing with the Local Planning Authority (including site clearance), until details of all utility buildings and compounds within the site have been submitted to and approved in	Prior to their construction, details of each utility building or compound shall be submitted to and approved in writing by the Local Planning Authority. The utility building or compound shall be constructed in full accordance with the approved details and maintained at all times thereafter. For the avoidance of doubt all above ground utility	The proposed amendments to condition 13 still allows the local planning authority to assess whether the appearance of any utility building or compound is acceptable in accordance with KLPCS Policy CS19 and the Halsnead Design & Local Distinctiveness Guide prior to the utility building/compound being constructed on site.

No.	Planning Condition	Proposed Variation of Condition	Assessment/Justification
	writing by the Local Planning Authority. The agreed details shall be implemented in full accordance with an agreed timetable and maintained at all times thereafter. For the avoidance of doubt all above ground utility structures shall be built in brick to match the approved dwellings.	structure shall be built in brick to match the approved dwellings.	The proposed amendment should, therefore, be considered acceptable.
15.	Prior to first occupation of any dwelling, a Wildlife Information Pack informing new residents of the availability of suitable alternative natural greenspace, presence and importance of the European Sites (for habitat and species), and how residents can help protect them including an outline 'responsible user code' shall be submitted to and approved in writing by the Local Planning Authority. The approved Pack shall be issued to new residents on first occupation as part of any sales or rental agreement.	Prior to the first occupation of any dwelling approved as part of any subsequent reserved matters, or phase of development as previously agreed in writing with the Local Planning Authority, a Wildlife Information Pack informing new residents of the availability of suitable alternative natural greenspace, presence and importance of the European Sites (for habitat and species), and how residents can help protect them including an outline 'responsible user code' shall be submitted to and approved in writing by the Local Planning Authority. The approved Pack shall be issued to new residents on first occupation as part of any sales or rental agreement. (Additional wording highlighted in bold)	The proposed amendment ensures that a Wildlife Information Pack will be prepared, approved, and issued to residents prior to the first occupation of any dwelling within each phase of development. Any development that comes forward on the Site will, therefore, mitigate against the increased recreation pressures on European sites in accordance with the NPPF, KLPCS Policies CS2, CS8, SUE2 and SUE2c and the Halsnead Garden Village Masterplan SPD.
17.	Prior to first occupation of the development details of a Travel Plan shall have been submitted to and approved in writing by the Local Planning Authority. The Plan shall include details of how measures to promote	Prior to first occupation of any part of the development approved as part of any subsequent reserved matters, or phase of development as previously agreed in writing with the Local Planning Authority,	The proposed amendment ensures that a Travel Plan will be prepared and approved by the local planning authority prior to the first occupation of any dwelling within each phase of development. The implementation of the

No.	Planning Condition	Proposed Variation of Condition	Assessment/Justification
	and encourage alternative modes of transport to the single-occupancy car would be communicated to new residents. For the avoidance of doubt, the Travel Plan shall include, but not be limited to, the following: a. Production and distribution of an information pack for residents detailing travel options and information on all modes of transport. b. Information on existing transport policies, services and facilities, travel behaviour and attitudes. c. Access for all modes of transport. d. Advice on appropriate measures and actions to reduce car dependency and encourage sustainable travel. The requirements of the approved Travel Plan shall be implemented on initial occupation of each dwelling.	details of a Travel Plan shall have been submitted to and approved in writing by the Local Planning Authority. The Plan shall include details of how measures to promote and encourage alternative modes of transport to the single-occupancy car would be communicated to new residents. For the avoidance of doubt, the Travel Plan shall include, but not be limited to, the following: a. Production and distribution of an information pack for residents detailing travel options and information on all modes of transport. b. Information on existing transport policies, services and facilities, travel behaviour and attitudes. c. Access for all modes of transport. d. Advice on appropriate measures and actions to reduce car dependency and encourage sustainable travel. The requirements of the approved Travel Plan shall be implemented on initial occupation of each dwelling. (Additional wording highlighted in bold)	Travel Plan for each phase will ensure opportunities for travel by modes other than the private car are maximised within each phase of development in accordance with saved RUDP Policies T6 and T9.
19.	No dwelling shall be occupied until it has been provided with an outdoor, weatherproof electric vehicle charging point readily accessible from a dedicated parking space in accordance with details to be	No dwelling approved as part of any subsequent reserved matters, or phase of development as previously agreed in writing with the Local Planning Authority, shall be occupied until it has been provided	The proposed amendment ensures that EV charging points will be approved and installed prior to the first occupation of any dwelling within each phase of development in the interest of air quality and promoting

No.	Planning Condition	Proposed Variation of Condition	Assessment/Justification
	submitted and approved by the Local Planning Authority. All charge points shall be: a. A minimum of 7KW, b. at Least Mode 3 or equivalent, c. untethered, All EV charging points shall be clearly marked as such and their purpose explained to new occupants within their new home welcome park/travel planning advice.	with an outdoor, weatherproof electric vehicle charging point readily accessible from a dedicated parking space in accordance with details to be submitted and approved by the Local Planning Authority. All charge points shall be: a. A minimum of 7KW, b. at Least Mode 3 or equivalent, c. untethered, All EV charging points shall be clearly marked as such and their purpose explained to new occupants within their new home welcome park/travel planning advice. (Additional wording highlighted in bold)	sustainable travel opportunities in accordance with KLPCS Policies CS2, CS7 and CS19.
24.	Before 100 approved properties are occupied as part of the approved development, the east / west vehicular route as indicated in the Halsnead Garden Village Masterplan Supplementary Planning Document shall be implemented in full to a standard that has been agreed in writing with the local planning authority. For the avoidance of doubt the east/west vehicular route shall allow vehicular and utility connections to be made to adjoining development sites.	Before 163 approved properties accessing the site from Lickers Lane are occupied, the east/west highway connection, denoted as Route 2 on the Servicing Plans – Access Routes to Adjacent Site drawing (ref MR-M-DWG-18), shall be implemented in full to a standard that has been agreed in writing with the local planning authority. For the avoidance of doubt the highway connection shall allow vehicular and utility connections to be made to adjoining development sites.	The proposed amendments ensure that the east/west vehicular route connecting to the development sites adjoining the Lickers Lane parcel is implemented prior to the occupation of the first phase of development on the Site (i.e., the occupation of the 163rd unit within reserved matters application 23/02378/REM). The condition has also been amended to add reference to a new plan to make it more precise. Collectively, the amendments ensure the proposals facilitate the comprehensive

No.	Planning Condition	Proposed Variation of Condition	Assessment/Justification
			development of the wider Garden Village in accordance with KLPCS Policy SUE2 and the Halsnead Garden Village Masterplan SPD.
25.	Before 13 approved properties accessing the site from the Lickers Lane access are occupied, a highway connection to the land to the east of the application site, as indicated in the Halsnead Garden Village Masterplan Supplementary Planning Document, shall be implemented in full to a standard that has been agreed in writing with the local planning authority. For the avoidance of doubt the east/west vehicular route shall to allow vehicular and utility connections to be made to adjoining development sites.	Before 13 approved properties accessing the site from the Lickers Lane access are occupied, the highway connection to the land to the east of the application site, denoted as Route 1 on the Servicing Plans – Access Routes to Adjacent Site drawing (ref MR-M-DWG-18), shall be implemented in full to a standard that has been agreed in writing with the local planning authority. For the avoidance of doubt the highway connection shall allow vehicular and utility connections to be made to adjoining development sites.	The proposed amendments ensure that the highway connection with the adjoining development site to the east is provided prior to the occupation of the 13th dwelling within the Lickers Lane development parcel. The condition has also been amended to add reference to a new plan to make it more precise. Collectively, the amendments ensure the proposals facilitate the comprehensive development of the wider Garden Village in accordance with KLPCS Policy SUE2 and the Halsnead Garden Village Masterplan SPD.
27.	Before the occupation of 12 dwellings or the first occupation of the dwellings identified as accommodation for persons over the age of 55 or over, whichever occurs first, the highway link between Windy Arbor Road and Main Drive shall be implemented to the full written satisfaction of the Local Planning Authority.	Prior to the first occupation of the dwellings accessing the site from Windy Arbor Road, the highway connection that is located within the site boundary between Windy Arbor Road and Main Drive shall be implemented to the full written satisfaction of the Local Planning Authority.	The proposed amendments ensure that the highways connection within the Windy Arbor Road development parcel is provided prior to the first occupation of the dwellings within the Windy Arbor Road development parcel. This amendment ensures the proposals facilitate the comprehensive development of the wider Garden Village in accordance with KLPCS Policy SUE2 and the Halsnead Garden Village Masterplan SPD.

Design with community in mind