

**Application No:** W 14 / 0907

**Town/Parish Council:** Whitnash  
**Case Officer:** Robert Mason

**Registration Date:** 11/06/14  
**Expiry Date:** 10/09/14

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**Land to the South of Fieldgate Lane, Whitnash, Leamington Spa**

Application for variation of condition 7 of planning permission W13/0858 - The development hereby permitted shall not be first occupied until it has been constructed in strict accordance with the measures outlined in section 2 of the submitted Energy Report prepared by JSP Sustainability Limited dated January 2014, in order to achieve a reduction in energy consumption and CO2 emission rate, as specified in section 3 of the Energy Report. FOR Bovis Homes Limited

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This application is being presented to Committee due to the number of objections and an objection from the Parish/Town Council having been received.

**RECOMMENDATION**

Planning Committee are recommended to GRANT the variation of condition, subject to the conditions listed and the receipt of a satisfactory supplementary Section 106 Agreement linking the legal agreement undertaken in respect of the existing permission for this site to this application.

**DETAILS OF THE DEVELOPMENT**

The application is made to vary condition 7 of outline planning permission W13/0858 (for residential development with all matters reserved apart from access) which reads:

*The development hereby permitted shall not be commenced unless and until a scheme showing how 10% of the predicted energy requirement of this development will be produced on site, or in the locality, from renewable energy resources, has been submitted to and approved in writing by the District Planning Authority. The development shall not be first occupied until all the works within this scheme have been completed and thereafter the works shall be retained at all times and shall be maintained strictly in accordance with manufacturers specifications. **REASON:** To ensure that adequate provision is made for the generation of energy from renewable energy resources in accordance with the provisions of Policy DP13 in the Warwick District Local Plan 1996-2011.*

The applicant has provided a supporting energy statement to justify varying the above condition to adopt a fabric first approach to achieving energy savings and lower carbon emissions, rather than to implement renewable technologies.

## **THE SITE AND ITS LOCATION**

The application site comprises a square single arable field bounded by field hedges. The site area is some 9.77 acres (3.95 ha.). It is sited to the south of Whitnash, adjoining the residential development on the opposite side of Fieldgate Lane. The application site is included in the 2013 Revised Development Strategy as a Strategic Development Site (5.2 Whitnash and South of Sydenham).

## **PLANNING HISTORY**

Outline planning permission (W/13/0858) was granted in 2013 with all matters reserved apart from access, for residential development. Following consideration at your last meeting, the reserved matters application (W/14/0216) has now been granted.

## **RELEVANT POLICIES**

- The National Planning Policy Framework

### Current Local Plan

- Policy DP12 - Energy Efficiency
- Policy DP13 – Renewable Energy Developments

### Emerging Local Plan

- Policy CC2: Planning for Renewable Energy and Low Carbon Generation
- Policy CC3: Building Standards Requirements

## **SUMMARY OF REPRESENTATIONS**

Whitnash Town Council - supports the use of renewable technologies and therefore objects to this planning application.

Public response - 3 objections received raising the following issues:-

- The housing mix proposed under amended application is different from that outlined in the report attached to this application.
- This application has pre-empted the Inspection stage of the Local Plan.
- Constructing more energy efficient houses using a not very onerous building standard as the benchmark.
- Energy efficient appliances may still require maintenance.
- There would be no surplus power fed into grid to benefit the wider community.
- This application is for developer's profit

## **ASSESSMENT**

Condition 7 imposed on the grant of outline planning permission required the installation of renewable energy generation technologies to achieve a 10% saving in the predicted energy demand of the dwellings. In contrast, the

proposed use of a fabric first approach would result in a reduction in energy consumption of 13%, and of CO<sub>2</sub> emissions by 12%, that will result in a greater reduction in energy consumption.

Emerging national and local planning policies advocate the application of the 'energy hierarchy'. This requires enhanced energy efficiency and reduced carbon emissions to be achieved in the following order:

- In the first instance, through reducing energy demand, for example by enhancing the building fabric specification (providing more insulation and making the building more air-tight, etc) and specifying more efficient building services ( boilers, lighting, ventilation systems etc);
- Secondly - once demand for energy has been minimised as described above - through measures designed to supply energy efficiently, for example by connecting to a district heating system or installing combined heat and power plant; and,
- Finally – and only when reducing demand and supplying energy efficiently have been addressed – by installing renewable energy technologies.

Measures at the top of the hierarchy, such as adding more insulation and reducing air leakage, being incorporated into the building fabric, result in permanent reduction in energy use and carbon emissions, whereas renewable energy technologies have a 'shelf-life' (depends on the technology selected but is typically between 10 and 25 years).

In view of the above, it is considered that the variation of this condition will exceed the aims of existing Local Plan policies albeit through different methods and be of benefit in terms of reduced CO<sub>2</sub> emissions in line with emerging Local Plan policies.

## **SUMMARY/CONCLUSION**

The variation of condition is considered to be acceptable as it will meet the overall aims and objectives of Policy DP13 of the current Local Plan 1996-2011 and result in reduced CO<sub>2</sub> emissions in accordance with emerging Local Plan policies.

## **CONDITIONS**

- 1 This permission is granted under the provisions of Article 4(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2010 as amended, on an outline application and the further approval of the District Planning Authority shall be required to the undermentioned matters hereby reserved before any development is commenced:-
  - (a) layout
  - (b) scale

- (c) appearance
- (d) landscaping

**REASON :** To comply with Section 92 of the Town and Country Planning Act 1990 as amended.

- 2 Application for approval of the reserved matters shall be made to the local planning authority not later than three years of the date of outline planning permission ref: W/13/0858. **REASON:** To comply with Section 92 of the Town and Country Planning Act 1990 (as amended).
- 3 The development to which this permission relates shall begin within three years of the date of planning permission ref: W/13/0858 or within two years of the final approval of the reserved matters, whichever is the later. **REASON:** To comply with Section 92 of the Town and Country Planning Act 1990 (as amended).
- 4 The development hereby permitted shall be carried out strictly in accordance with the details shown on the site location plan and approved drawing(s) (B5418-PL-006A), and specification contained therein, submitted on 24 June 2013. **REASON :** For the avoidance of doubt and to secure a satisfactory form of development in accordance with Policies DP1 and DP2 of the Warwick District Local Plan 1996-2011.
- 5 An application for the approval of a construction phasing plan of the development shall be submitted before the expiry of three years from the date of this permission. The development shall hereafter be carried out in accordance with the phases established in the phasing plan as approved by the local planning authority. **REASON:** To ensure the proper phasing of the development.
- 6 No development shall take place under any relevant phase of development until a detailed lighting scheme for that phase has been submitted to and agreed in writing by the local planning authority. In discharging this condition the local planning authority expects lighting to be restricted around the boundary edges, particularly along hedgerows, and around known bat roosts and badgers setts, and to be kept to a minimum at night across the whole site in order to minimise impact on emerging and foraging bats and other nocturnal wildlife. This could be achieved in the following ways:
  - a. low pressure sodium lamps should be used in preference to high pressure sodium or mercury lamps
  - b. the brightness of lights should be as low as legally possible
  - c. lighting should be timed to provide some dark periods
  - d. connections to areas important for foraging should contain unlit stretchesSuch works, and use of that lighting and/or illumination, shall be carried

out and operated only in full accordance with those approved details.

**REASON:** To ensure that any lighting is designed so as not to detrimentally affect the amenities of the occupiers of nearby properties in accordance with Policies DP2 & DP9 of the Warwick District Local Plan 1996-2011. To ensure that appropriate measures are taken in relation to protected species in accordance with Policies DP3 and DAP3 of the Warwick District Local Plan 1996-2011.

- 7 The development hereby permitted shall not be first occupied until it has been constructed in strict accordance with the measures outlined in Section 2 of the submitted Energy Report prepared by JSP Sustainability Limited dated January 2014, in order to achieve a reduction in energy consumption and CO<sup>2</sup> emissions, as specified in Section 3 of the Energy Report. **REASON:** To ensure that the aims and objectives of reducing CO<sup>2</sup> emissions and achieving energy savings are met in accordance with Local Plan Policy DP13 and the National Planning Policy Framework 2012.
- 8 No development shall take place under any reserved matters consent until a scheme for that reserved matters consent has been submitted to and approved in writing by the local planning authority indicating how and when the 'Secured by Design' standards will be incorporated into the development. The scheme shall be implemented in accordance with the approved details and shall be retained thereafter. **REASON:** To ensure Secured by Design standards are met, in accordance with Policy DP14 of the Warwick District Local Plan.
- 9 No part of the development hereby permitted shall be commenced and nor shall any equipment, machinery or materials be brought onto the site until a scheme for the protection of all existing trees and hedges to be retained on site has been submitted to and approved in writing by the local planning authority and has been put in place. The scheme must include details of the erection of stout protective fencing and be in accordance with British Standard BS5837: 2005, a Guide for Trees in relation to construction. Nothing shall be stored or placed in those areas fenced in accordance with this condition and nor shall the grounds levels be altered or any excavation take place without the prior consent in writing of the local planning authority. The approved scheme shall be kept in place until all parts of the development have been completed and all equipment, machinery and surplus materials have been removed. **REASON:** In order to protect and preserve existing trees within the site which are of amenity value in accordance with Policy DP3 of the Warwick District Local Plan 1996-2011.
- 10 The development hereby permitted (including demolition) shall not commence until a Construction and Environmental Management Plan has been submitted to and approved in writing by the local planning authority. In discharging this condition the LPA expect to see details concerning pre-commencement checks for protected and notable

species with subsequent mitigation as deemed appropriate. In addition appropriate working practices and safeguards for other wildlife dependent of further survey work, that are to be employed whilst works are taking place on site. The agreed Construction and Environmental Management Plan shall thereafter be implemented in full. **REASON:** To ensure that protected species are not harmed by the development in accordance with National Planning Policy Framework (NPPF), ODPM Circular 06/2005 and Saved Policy DAP 3 of the Warwick District Local Plan.

- 11 No development shall take place within the application site, unless and until a programme of archaeological works and investigations has been secured and initiated in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority. **REASON:** In order to ensure any remains of archaeological importance, which help to increase our understanding of the Districts historical development are recorded, preserved and protected were applicable, before development commences in accordance with Policy DP4 of the Warwick District Local Plan 1996-2011.
- 12 The development hereby permitted shall not commence until a scheme detailing arrangements to protect residents of the development from excessive railway noise entering habitable rooms has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details and shall be retained thereafter. **REASON:** To protect residents of the development from the adverse effects of traffic noise from outside the development in accordance with Policies DP2 & DP9 of the Warwick District Local Plan 1996-2011.
- 13 The development hereby permitted shall not be commenced until a scheme for the provision of adequate water supplies and fire hydrants, necessary for fire fighting purposes at the site, has been submitted to and approved in writing by the Local Planning Authority. The development shall not then be occupied until the scheme has been implemented to the satisfaction of the Local Planning Authority. **REASON:** In the interests of fire safety.
- 14 The development hereby permitted shall not commence until: -
  - (a) A desk-top study has been carried out that shall include the identification of previous site uses, potential contaminants that might reasonably be expected given those uses and other relevant information, and, using this information, a diagrammatical representation (conceptual model) for the site of all potential contaminant sources, pathways and receptors has been produced.

- (b) If identified as being necessary having completed the desk-top survey study, a site investigation has been designed for the site using the information obtained from the desk-top study and any diagrammatical representations (conceptual model). This should be submitted to and approved in writing by the local planning authority prior to that investigation being carried out. The investigation must be comprehensive enough to enable:
- A risk assessment to be undertaken relating to human health
  - A risk assessment to be undertaken relating to groundwater and surface waters associated on and off site that may be affected
  - An appropriate gas risk assessment to be undertaken
  - Refinement of the conceptual model
  - The development of a method statement detailing the remediation requirements
- (c) The site investigation has been undertaken in accordance with details approved by the local planning authority and a risk assessment has been undertaken.
- (d) A method statement detailing the remediation requirements, including measures to minimise the impact on ground and surface waters using the information obtained from the site investigation, has been submitted to the local planning authority. The method statement shall include details of how the remediation works will be validated upon completion. This should be approved in writing by the local planning authority prior to the remediation being carried out on the site.
- (e) All development of the site shall accord with the approved method statement.
- (f) If during development, contamination not previously identified, is found to be present at the site then no further development shall take place (unless otherwise agreed in writing with the local planning authority for an addendum to the method statement). This addendum to the method statement must detail how this unsuspected contamination shall be dealt with.
- (g) Upon completion of the remediation detailed in the method statement a report shall be submitted to the local planning authority that provides verification that the required works regarding contamination have been carried out in accordance with the approved method statement. Post remediation sampling and monitoring results shall be included in the report to demonstrate that the required remediation has been fully met. Future monitoring proposals and reporting shall also be detailed in the report.

**REASON:** To safeguard health, safety and the environment in accordance with Policies DP3 & DP9 of the Warwick District Local Plan 1996-2011.

- 15 The development hereby permitted shall not commence until a detailed Landscape and Ecological Management Plan has been submitted to and approved in writing by the local planning authority. The plan should include details of planting and maintenance of all new planting. Any new vegetation must be planted at least 2 metres away from the edge of the public bridleway to help ensure that mature growth will not encroach onto the bridleway. Details of species used and sourcing of plants should be included. The plan should also include details of habitat enhancement/creation measures and management, such as water bodies, native species planting, wildflower grasslands; provision of habitat for protected species. Such approved measures shall thereafter be implemented in full. **REASON:** To ensure a net biodiversity gain in accordance with NPPF.
- 16 The development (including any works of demolition) shall proceed only in strict accordance with a construction method statement which has been submitted to and approved in writing by the local planning authority. The approved statement shall be strictly adhered to throughout the construction period and shall provide for: the parking of vehicles of site operatives and visitors; the loading and unloading of plant and materials; the storage of plant and materials used in constructing the development; the erection and maintenance of a security hoarding including decorative displays and facilities for public viewing where appropriate; wheel washing facilities and other measures to ensure that any vehicle, plant or equipment leaving the application site does not carry mud or deposit other materials onto the public highway; measures to control the emission of dust and dirt during construction; and a scheme for recycling / disposing of waste resulting from demolition and construction works, unless otherwise agreed in writing by the local planning authority. **REASON:** In the interests of highway safety and the amenities of the occupiers of nearby properties, the free flow of traffic and the visual amenities of the locality in accordance with Policies DP2, DP6, DP8 & DP9 of the Warwick District Local Plan 1996-2011.
- 17 No part of the development hereby permitted shall be commenced and nor shall any equipment, machinery or materials be brought onto the site until adequate measures have been submitted to and approved in writing by the local planning authority and has been put in place to protect existing trees, scrub and ground flora of the adjacent potential Local Wildlife Site, the Railway Cutting, during development. A barrier, such as a wire fence, should be erected before works start. This fenced area should include a buffer zone of between the development and the boundary of the pLWS. Nothing shall be stored or placed in those areas fenced in accordance with this condition and nor shall the grounds levels be altered or any excavation take place without the prior consent



in writing of the local planning authority. The approved scheme shall be kept in place until all parts of the development have been completed and all equipment, machinery and surplus materials have been removed. **REASON:** In order to protect and preserve important habitats during development in accordance with Policy DP3 of the Warwick District Local Plan 1996-2011.

18 No part of the development hereby permitted shall be commenced until the following details have been submitted to and approved in writing by the local planning authority. The approved details shall be implemented in accordance with the approved details.

- Plans showing the existing and proposed drainage systems for the site, showing the location of yard and road gullies, manhole's, soak ways, septic tanks, cess pits and pipes including size, shape, material, fall and level in relation to ground and building levels to ordinate survey datum. This should include a manhole schedule in table format.
- Plans defining the water catchment areas for the site including off site catchment areas that contribute to the drainage areas. This plan should show areas of impermeable and permeable surfaces of the proposed site including calculations of these areas in a clear labelled table.
- Calculations/models of open channel and pipe flows, discharge rates from the site and flood storage design water levels. This should include calculations for 1 in 30 and 1 in 100 year + 30% climate change allowance.
- Long and cross sections through the site and a plan showing the overland flow paths with arrows for storm events that exceed the capacity of the drainage system.
- Show the location of the existing and proposed development in relation to the watercourse, where works are located within 8m of the watercourse the applicant must consult the local land drainage authority to obtain land drainage consent for any proposed structures. The applicant is provide Engineering drawings showing the existing watercourse and the proposed construction detail of the structures
- Plans showing the existing and proposed internal property drainage systems for the site including rain water down pipes, showers, sinks, toilets, WC's, wet rooms, wash basins, wash machines, dish washers and pipes showing how they link up with the external drainage systems.
- The applicant is to obtain discharge consent from Severn Trent Water to prove that there is suitable capacity to within the sewer

and pump station to accommodate additional flows.

**REASON:** To prevent increased flood risk both on and off the site in accordance with the National Planning Policy Framework and Local Plan Policy DP11.

- 19 The existing tree(s) and shrub(s) indicated on the approved plans to be retained shall not be cut down, grubbed out, topped, lopped or uprooted without the written consent of the local planning authority. Any tree(s) or shrub(s) removed without such consent or dying, or being severely damaged or diseased or becomes, in the opinion of the local planning authority, seriously damaged or defective, within five years from the substantial completion of development shall be replaced, as soon as practicable with tree(s) and shrub(s) of such size and species details of which must be submitted to and approved by the local planning authority. All tree(s) and shrub(s) shall be planted in accordance with British Standard BS4043 – Transplanting Root-balled Trees and BS4428 – Code of Practice for General Landscape Operations (excluding hard surfaces). **REASON:** To protect those landscape features which are of significant amenity value and which ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area in accordance with Policies DP1 and DP3 of the Warwick District Local Plan 1996-2011.
- 20 The mix of type and size of market dwellings submitted as part of any reserved matters application must accord with the recommendations contained within the most up to date version of the "Development Management Policy Guidance : Achieving Mix of Market Housing on new Development Sites". **REASON:** To ensure that the housing meets the needs of the District as required by Local Plan Policy SC1 and the NPPF.
- 21 Any landscaping (other than the planting of trees and shrubs) approved including boundary treatment, paving and footpaths referred to in condition one shall be completed in all respects for that phase of development, with the exception of tree(s) and shrub(s) planting, within the first planting season following the first use of the dwellings within that phase and the tree(s) and shrub(s) shall be planted within six months of that first use. Any tree(s) or shrub(s) removed, dying, or becoming in the opinion of the local planning authority seriously damaged, defective or diseased within five years from the substantial completion of the scheme shall be replaced within the next planting season by tree(s) or shrub(s) of similar size and species to those originally required to be planted. All hedging, tree(s) and shrub(s) shall be planted in accordance with British Standard BS4043 – Transplanting Root-balled Trees and BS4428 – Code of Practice for General Landscape Operations. **REASON:** To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area in accordance with Policies DP1, DP2 and DP3 of the Warwick District Local Plan 1996-2011.

- 22 The building heights shall not exceed those indicated on the indicative plan on page 34 of the Design and Access Statement submitted on 25 June 2013. **REASON** : For the avoidance of doubt and to secure a satisfactory form of development in accordance with Policies DP1 and DP2 of the Warwick District Local Plan 1996-2011.
- 23 Visibility splays to be provided at the vehicular accesses to the site shall have an 'x' distance of 2.4 metres and 'y' distances of 43 metres measured to the near edge of the public highway carriageway. No structure, tree or shrub shall be erected, planted or retained within the splays exceeding, or likely to exceed at maturity, a height of 0.6metres above the level of the public highway carriageway. **REASON:** In the interests of highway safety in accordance with Policy DP6 of the Warwick District Local Plan 1996-2011.
- 24 Prior to occupation of the development, the applicant is required to carry out the works as shown on drawing FIGURE 6.1RevC contained in the supporting Designer's Response to the safety audit submitted on 19 July 2013. **REASON:** In the interests of highway safety in accordance with Policy DP6 of the Warwick District Local Plan 1996-2011.
- 25 Accesses to the site shall be located and laid out in general accordance with drawing FIGURE 3.1 of the Transport Assessment submitted on 24 June 2013. This shall also include footways and crossing points. **REASON:** In the interests of highway safety in accordance with Policy DP6 of the Warwick District Local Plan 1996-2011.
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**Proposed residential development at land off Fieldgate Lane Whitnash.**  
For Richborough Estates Ltd.

