Land at Sowbrook Lane, Stanton by Dale

Local Planning Authority Reference No: ERE/0722/0038

APPEAL REFERENCE: APP/N1025/W/23/3319160

**Draft Conditions**

1. Approval of the details of layout, scale, landscaping and appearance (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority before the commencement of any development.

Reason

To comply with the requirements of Section 92 of the Town and Country Planning Act 1990. The application is expressed to be in outline only in accordance with Part 3 of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

2. Application(s) for the approval of reserved matters must be made not later than three years from the date of the outline permission and the development to which this permission relates must be begun within two years from the date of final approval of reserved matters.

Reason

To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

3. The development hereby permitted shall be carried out in accordance with the following approved plans/details:

• Site location plan

• Dwg. No. 450-TA10 rev.B - Proposed Access off Sowbrook Lane

• Dwg. No. 450-TA13 rev.A - Proposed Access off Ilkeston Road

Reason

For the avoidance of doubt as to what is approved.

4. a) Development shall not commence until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to, and approved in writing by, the local planning authority. The scheme to be submitted shall demonstrate:

• The use of sustainable drainage techniques;

• The limitation of surface water run-off to equivalent greenfield rates;

• The ability to accommodate surface water run-off on-site up to the critical 1 in 100 year event plus an appropriate allowance for climate change, based upon the submission of drainage calculations; and

• A scheme for the responsibility of the future management/maintenance of the drainage features.

b) No building shall be occupied or use commence until the drainage scheme has been completed in accordance with the approved details and the drainage scheme shall be managed and maintained thereafter in accordance with the agreed management/ maintenance plan.

Reason

This pre-commencement condition is required to ensure that the principles of sustainable drainage are incorporated from the outset to prevent the increased risk of flooding; to improve and protect water quality; to improve habitat and amenity; and to ensure the future maintenance of the sustainable drainage system.

5. Prior to the commencement of development, a construction environmental management plan shall be submitted to, and approved in writing by, the local planning authority, that details how dust, noise and vibration resulting from the construction of

the development hereby approved will be controlled and mitigated. This shall include, but not be restricted to, suitable working hours, details of the proposed communication strategy, any monitoring required and a waste storage and removal strategy. The agreed plan will be implemented and maintained throughout the course of the construction of the development.

Reason

This pre-commencement condition is required to ensure that the amenity of neighbours is protected from unnecessary noise and dust nuisance from the outset of the development.

6. No development shall commence until

a) A scheme to identify and control any potential contaminated land risk on the site has been submitted to, and approved in writing by, the local planning authority. The scheme shall include a preliminary risk assessment (Phase I Investigation) which identifies: -

(i) All previous uses of the site.

(ii) Potential contaminants associated with such uses.

(iii) A conceptual model of the site indicating sources, pathways and receptors.

(iv) Potentially unacceptable risks associated with the contaminants on the site.

b) If indicated as necessary by the results of the Phase I investigation, the scope of an intrusive Phase II investigation must be submitted to, and approved in writing by, the local planning authority before its commencement.

c) If as indicated as necessary by the results of the Phase I and/or Phase II investigations - a written method statement detailing the remediation measures necessary to deal with any contaminated land risks found on the site shall be submitted to, and approved in writing by, the local planning authority. The method statement shall include details of all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures during the remedial works. The development shall then be undertaken in accordance with the approved method statement.

Reason

This pre-commencement condition is required to ensure that risks from land contamination have been minimised and dealt with at the appropriate time without unacceptable risks to workers, neighbours and other offsite receptors, together with those to controlled waters, property and ecological systems.

7. Prior to the occupation of any dwelling hereby permitted a verification report shall be submitted to the local planning

authority demonstrating that any works required by condition 6 above have been carried out. The development should not be brought into use until the verification report has been submitted to the local planning authority.

Reason

To ensure that risks from land contamination have been addressed.

8. No development shall commence until:

a. A scheme of intrusive site investigations has been carried out on site to establish the risks posed to the development by past coal mining activity, and

b. The findings of those investigations, together with a Strategy identifying any remedial works and/or mitigation measures required to address land instability arising from coal mining legacy, as may be necessary, has been submitted to and approved in writing by the local planning authority.

The development shall then be undertaken in full accordance with the approved strategy and remedial works, where required.

Reason

To ensure the safety and stability of the development in accordance with the requirements of the NPPF.

9. Prior to the occupation of any dwelling hereby permitted a verification statement signed by a suitably competent person confirming that the approved remedial works identified have been undertaken in full shall be submitted to the local planning authority.

Reason

To ensure the safety and stability of the development in accordance with the requirements of the NPPF.

10. Prior to the occupation of the first dwelling a Travel Plan shall be submitted and approved by the Local Planning Authority.

Reason

To secure sustainable travel modes

11. Prior to commencement of the development, a construction management plan shall be submitted to and approved in writing by the Local Planning Authority. The approved plan shall be adhered to throughout the demolition/construction period.

Reason

In the interests of safe operation of the adopted highway.

12. No development shall commence until the new vehicular and pedestrian accesses to Sowbrook Lane and Ilkeston Road have been constructed in accordance with the approved plans. The junctions shall be constructed to base level, drained, lit, provided with white lining, signage and visibility sightlines as shown on the approved plans. The area within the sightlines shall thereafter be kept clear of any object greater than 1m in height (0.6m in the case of vegetation) above the nearside carriageway channel level.

Reason

To ensure that the proposed development does not prejudice the free flow of traffic or the conditions of general safety along the neighbouring highway.

13. No development shall take place (including demolition, ground works, vegetation clearance and movement of plant, machinery and materials) until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following.

a) Risk assessment of potentially damaging construction activities.

b) Identification of “biodiversity protection zones”.

c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts on protected species and habitats during construction (reptiles, breeding birds, amphibians, hedgehog, bats).

d) The location and timing of sensitive works to avoid harm to biodiversity features.

e) The times during construction when specialist ecologists need to be present on site to oversee works.

f) Responsible persons and lines of communication.

g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.

h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

14. Biodiversity Enhancement and Management Plan (LBEMP) shall be submitted to, and be approved in writing by, the LPA prior to the commencement of the development. The aim of the BEMP is to provide details for the creation, enhancement and management of habitats and species on the site post development in accordance with the proposals set out in the Biodiversity Net Gain Assessment (Harris Lamb Property Consultancy 24th February 2023) and the Revised DEFRA Biodiversity Metric 3.1 (Harris Lamb Property Consultancy, 6th July 2023). The BEMP should combine both the ecology and landscape disciplines and shall be suitable to provide to the management body responsible for the site. It shall include the following: -

a) Description and location of features to be retained, created, enhanced and managed, as per the approved biodiversity metric.

b) Details of location of 196 integrated swift bricks in line with British Standard BS 42021:2022.

c) Details of 8 Schwegler 2F bat boxes (or similar) and 12 external bird nesting boxes and reptile hibernacula.

d) Details of offset gullies and drop kerbs in the road network to safeguard amphibians.

e) Detailed specifications for open water habitats to provide biodiversity benefits.

f) Measures to maintain connectivity for hedgehogs shall be clearly shown on a plan (gaps 140 mm x 140 mm and/or railings and/or hedgerows) and submitted to the LPA for approval.

g) Aims and objectives of management, in line with desired habitat conditions detailed in the metric.

h) Appropriate management methods and practices to achieve aims and objectives.

i) Prescriptions for management actions.

j) Preparation of a work schedule (including a 30-year work plan capable of being rolled forward in perpetuity).

k) Details of the body or organization responsible for implementation of the plan.

l) A monitoring schedule to assess the success of the habitat creation and enhancement measures at intervals of 1, 2, 3, 4, 5, 7, 10, 15, 20, 25 and 30 years.

m) A set of remedial measures to be applied if conservation aims and objectives of the plan are not being met.

n) Requirement for a statement of compliance upon completion of planting and enhancement works.

The LBEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The approved plan will be implemented in accordance with the approved details.

15. A Skylark and Habitat Management Plan shall be submitted to, and be approved in writing by, the LPA prior to the commencement of the development. The aim of the SHMP is to provide details for the long-term management of the off-site habitat in accordance with the proposals set out in the submitted Skylark Mitigation Scheme for Land Adjacent to Ilkeston Road (Harris Lamb Property Consultancy, January 2023) and the Revised DEFRA Biodiversity Metric 3.1 (Harris Lamb Property Consultancy, 6th July 2023). The SHMP shall be suitable to provide to the management body responsible for the site. It shall include the following: -

a) Description and location of features to be enhanced and managed.

b) Aims and objectives of management.

c) Appropriate management methods and practices to achieve aims and objectives.

d) Prescriptions for management actions.

e) Preparation of a work schedule (including a 30-year work plan capable of being rolled forward in perpetuity).

f) Details of the body or organization responsible for implementation of the plan.

g) A monitoring schedule to assess the success of the habitat creation and enhancement measures at intervals of 1, 2, 3, 4, 5, 7, 10, 15, 20, 25 and 30 years.

h) A set of remedial measures to be applied if conservation aims and objectives of the plan are not being met.

i) Requirement for a statement of compliance upon completion of planting and enhancement works.

The Skylark and Habitat Management Plan shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The approved plan will be implemented in accordance with the approved details.

16. Prior to the installation of lighting fixtures, a detailed lighting strategy shall be submitted to and approved in writing by the LPA to safeguard bats and other nocturnal wildlife. This should provide details of the chosen luminaires, their locations and any mitigating features such as dimmers, PIR sensors and timers. Dependent on the scale of proposed lighting, a lux contour plan may be required to demonstrate acceptable levels of lightspill to any sensitive ecological zones/features. Guidelines can be found in Guidance Note GN08/23 - Bats and Artificial Lighting at Night (BCT and ILP, 2023)1. Such approved measures will be implemented in full.

17. Details of the provision of the shared cycle and pedestrian path through the site to form part of the proposed Local Cycle Network shall be submitted to and approved with the Reserved Matters application.

Reason

In the interest of promoting sustainable transport modes

**Conditions in dispute**

x. An electric vehicle infrastructure strategy and implementation plan shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of any dwelling hereby permitted. The plan shall contain details of the number and location of all electric vehicle charging points and shall comply with BS EN 62196 Mode 3 or 4 charging and BS EN 61851, and Derbyshire Highway Design Guide. Dwellings and parking spaces that are to be provided with charging points shall not be brought into use until associated charging points are installed in strict accordance with approved details and are operational. The charging point installed shall be retained thereafter unless replaced or upgraded to an equal or higher specification.

Reason

To promote sustainable travel and healthy communities.

x. The plans and particulars submitted in accordance with the reserved matters application shall include details of existing and finished ground levels and the proposed ground floor levels of the buildings.

Reason

To enable the local planning authority to fully assess the development having regard to the ground levels on the site and the surrounding land.

x. The details submitted as part of the reserved matters application(s) shall include details of the noise mitigation measures in accordance with the Noise Assessment April 2022 and Noise Technical Note 16 February 2023.

Reason

In the interests of the amenity of future occupiers.

Or

x. The details submitted as part of the reserved matters application(s) shall include a noise assessment which has taken into account the surroundings and includes measures proposed to address the findings. The identified measures shall be demonstrated in the submitted layout and window construction details, and any other related submissions as identified as necessary in the noise assessment.

Reason

In the interests of the amenity of future occupiers.

x. The details submitted as part of the reserved matters application(s) shall include details of the housing mix.

Reason

To secure the mix required to meet the needs of the Borough.