Blackley Mere

Application under Section 73 of the Town and Country Planning Act 1990

to vary Conditions 5, 27 and 29 of Outline Planning Permission 114850/JO/2016

Covering Statement

March 2018

Residential development at Bowker Bank Industrial Park, Bowker Bank Avenue, Manchester, M8 4LD – Application under Section 73 of the Town and Country Planning Act 1990 for Variation of Conditions following a grant of Planning Permission

1. Introduction

This statement supports and explains an application under Section 73 of the Town and Country Planning Act 1990 for the variation of Conditions 5, 27 and 29 of the Outline Planning Permission with reference number 114850/JO/2016.

An Outline Planning Permission (ref: 104435/OO/2013/N1) was originally granted in July 2014 for:

Outline application for the principle of residential development for up to 28 dwellings with means of access to be considered from Bowker Bank Avenue, following infill of existing drained reservoir. All other matters to be reserved.

On 10 April 2017 an earlier Section 73 Application was approved which varied Conditions 7 and 30 of the original permission resulting in the current planning reference number 114850/JO/2016.

2. Application Context

Condition 5

The outline planning permission includes Condition 5 that states:

"Notwithstanding drawing GC.107785.601 stamped as received by the City Council, as Local Planning Authority, on the 21 January 2014, no development shall commence until a hard and soft landscaping scheme has been submitted to and approved in writing by the City Council as local planning authority, including tree mitigation plan. The approved scheme shall be implemented not later than 12 months from the date the buildings are first occupied. If within a period of 5 years from the date of planting of any tree or shrub, that tree or shrub or any tree or shrub planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree or shrub of the same species as that originally planted shall be planted at the same place."

Hard and soft landscaping proposals for the area within the curtilage of the development have been agreed under Reserved Matters Planning Application number 111219/MO/2016/N1 which was approved on 1 July 2016. It is therefore only details of hard and soft landscaping for the areas of the site that lie outside the curtilage of the development that require agreement and approval. As these areas are not affected or prejudiced by construction of the dwellings and associated infrastructure, this application is to vary the condition such that agreement and approval of the hard and soft landscaping outside the curtilage of the development takes place prior to first occupation. The proposed variation to the condition is therefore shown in red text below.

"Notwithstanding drawing GC.107785.601 stamped as received by the City Council, as Local Planning Authority, on the 21 January 2014, no residential unit shall be occupied until a hard and soft

landscaping scheme for the areas of the site outside the curtilage of the development has been submitted to and approved in writing by the City Council as Local Planning Authority, including off-site tree mitigation plan. The approved scheme shall be implemented not later than 12 months from the date the buildings are first occupied. If within a period of 5 years from the date of planting of any tree or shrub, that tree or shrub or any tree or shrub planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree or shrub of the same species as that originally planted shall be planted at the same place."

Condition 27

Condition 27 of the outline planning application states:

"Prior to the commencement of development a scheme for the provision and management of an 8 metre minimum wide buffer zone along the River Irk shall be submitted for approval in writing by the City Council, as Local Planning Authority. The scheme shall include:

- *Plans showing the extent and layout of the buffer zone;*
- *Details of retained riparian trees;*
- *Details of any new soft landscaping, including landscaping schedule, which is largely based on native species;*
- *Details demonstrating how the buffer zone will be protected during development;*
- *Details of any new sustainable urban drainage features, wildlife pond or new bank revetment in riparian corridor;*
- *Details of any new proposed footpaths, fencing, lighting etc.*

The approved scheme shall then be implemented and thereafter retained and maintained."

The development of 28 dwellings to which this outline planning permission refers has no impact on the buffer zone and there are no proposals in the vicinity of the 28 unit scheme for any planting or construction work within the buffer zone. The former proposal for an 8m wide spillway connecting the retained reservoir to the River Irk (as covered by Condition 26) has been replaced by a more environmentally sensitive alternative design which will have no impact on the buffer zone. This alternative proposal is currently under consideration as part of planning application CDN 18/0138. There are also no new proposed footpaths, fencing or lighting within the length of the buffer zone associated with the 28 unit scheme.

The scheme for 48 dwellings on an adjacent area of the site with outline planning approval ref: 114849/JO/2016 does materially impact an area of the buffer zone but this is outside the area of influence of the 28 unit scheme, and there is a similar condition of that planning consent (Condition 20) to have approved a scheme for the provision and management of a buffer zone prior to commencement of development.

The buffer zone is not affected or prejudiced by construction of the dwellings and associated infrastructure which are the subject of this outline planning application and, as outlined above, its provision is also a condition of the 'sister' outline planning application for 48 dwellings. Therefore, this application is to vary the condition such that agreement and approval of a scheme for the provision and management of the buffer zone takes place prior to first occupation. The proposed variation to the condition is therefore shown in red text below.

"No residential unit shall be occupied until a scheme for the provision and management of an 8 metre minimum wide buffer zone along the River Irk shall be submitted for approval in writing by the City Council, as Local Planning Authority. The scheme shall include:

- *Plans showing the extent and layout of the buffer zone;*
- *Details of retained riparian trees;*
- *Details of any new soft landscaping, including landscaping schedule, which is largely based on native species;*
- *Details demonstrating how the buffer zone will be protected during development;*
- *Details of any new sustainable urban drainage features, wildlife pond or new bank revetment in riparian corridor;*
- *Details of any new proposed footpaths, fencing, lighting etc.*

The approved scheme shall then be implemented and thereafter retained and maintained."

Condition 29

Condition 29 of the outline planning application states:

"Notwithstanding drawing GC.107785.601 stamped as received by the City Council, as Local Planning Authority, on the 21 January 2014, prior to the commencement of the development an off site tree mitigation plan shall be submitted for approval in writing by the City Council, as Local Planning Authority. The approved scheme shall be implemented not later than 12 months from the date the buildings are first occupied. If within a period of 5 years from the date of planting of any tree or shrub, that tree or shrub or any tree or shrub planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree or shrub of the same species as that originally planted shall be planted at the same place."

Condition 29 is superfluous as it simply repeats part of the requirement of Condition 5, in either form, for a tree mitigation plan. Additionally, the reasons given within the decision notice for both conditions are the same. It is therefore proposed that Condition 29 is deleted.

3. Summary

This proposal is seeking to vary conditions attached to the planning permission already granted. Therefore, the planning issues for consideration should only be those relevant to the changes, and not any reconsideration of the principle of the scheme or matters of detail that have not altered since the previous permissions were granted.

This application seeks to vary Conditions 5, 27 and 29 of the Outline Planning Permission 114850/JO/2016 by altering the wording to Conditions 5 and 27 and deleting Condition 29.