

Disputed Conditions

APPEAL REF: APP/B1605/W/21/3273053 Rev. 06/12/21

LPA REF: 20/01069/OUT

OAKLEY FARM, PRIOR ROAD, CHELTENHAM

LPA SUGGESTED CONDITION	APPELLANT SUGGESTION	APPELLANT COMMENT	LPA/GCC COMMENT
<p>Condition 4</p> <p>The details to be submitted as part of the Reserved Matters application(s) for access, layout and landscaping pursuant to Condition 2 shall be in general accordance with the design and layout principles of the Illustrative Masterplan ref. 333.P.3.9 rev E /Alternative Masterplan ref. 18017.202 Rev.B in respect of the following:</p> <p>i) the proposed and retained structural landscaping (tree, shrub and hedgerows) and public open space within the Green Infrastructure areas shown on drawing No P18-0847-02 Rev F Sheet No 02 and;</p> <p>(ii) the design and alignment of the main vehicular access road and vehicular junction with Harp Hill within the Highway Corridor Flexibility Zone shown in drawing No P18-0847-02 Rev F Sheet No 03 (and excluding all other internal estate roads).</p> <p>For the avoidance of doubt, all applications for approval of reserved matters shall be in substantial accordance with the submitted Land Use Parameter Plan (drawing No P18-0847_02 Sheet No. 2 rev D), Access and Movement Parameter Plan (drawing No P18-0847_02 Sheet No.3 rev F), Building Heights Parameter Plan (drawing No P18-0847_02 Sheet No.4 rev C) and Green Infrastructure Parameter Plan (drawing No P18-0847_02 Sheet No.5 rev D).</p>	<p>We need to agree which masterplan is to be referred to in any permission.</p> <p>The Building Heights Parameter Plan should be retained an approved plan</p>	<p>The reference to the Masterplan will need to be discussed with the Inspector in light of recent email exchanges ie. which MP would be referred to?</p> <p>Re. Buildings heights:-</p> <p>This was previously an agreed condition</p> <p>This was not debated at the conditions session or indeed in XX.</p> <p>It is what has been tested in the ES and other work. It simply sets an upper limit and RMs will consider scale in detail for individual plots etc.</p>	<p>Agreed</p> <p>LPA is not comfortable about including Building Height PP.</p> <p>Proposed heights in places are a concern and should be considered at RM stage</p>
<p>Condition 11</p> <p>Notwithstanding the illustrative proposed access arrangements onto Harp Hill, as shown on Access and Movement Parameter Plan ref: P18-0847_02 Sheet No.3 rev F and the Illustrative Masterplan ref. 333.P.3.9 rev E/ Alternative Masterplan ref. 18017.202 Rev.B, full details of the proposed access junction onto Harp Hill shall be submitted to and approved in writing by the Local Planning Authority as part of the first reserved matters submission. The access shall be installed in accordance with the approved details and made available for use prior to the first occupation of any dwelling. The reserved matters submissions relating to access are required to be</p>	<p>Notwithstanding the illustrative proposed access arrangements onto Harp Hill, as shown on Access and Movement Parameter Plan ref: P18-0847_02 Sheet No.3 rev F and the Illustrative Masterplan ref. 333.P.3.9 rev E/ Alternative Masterplan ref. 18017.202 Rev.B, full details of the proposed access junction onto Harp Hill shall be submitted to and approved in writing by the Local Planning Authority as part of the first reserved matters submission. The access shall be installed in accordance with the approved details and made available for use prior to the first occupation of any dwelling. The reserved</p>	<p>The reference to the Masterplan will need to be discussed with the Inspector in light of recent email exchanges ie. which MP would be referred to?</p> <p>The Appellant's primary position is that the GCC preferred gradients should not be imposed for the</p>	

<p>generally designed so that maximum and minimum gradients allowable will be 1/20 and 1/100 respectively, save that gradients up to 1/12 are permissible provided where they are proposed these shall be limited to maximum lengths of 30 metres.</p>	<p>matters submissions relating to access are required to be generally designed so that maximum and minimum gradients allowable will be 1/20 and 1/100 respectively, save that gradients up to 1/12 are permissible provided where they are proposed these shall be limited to maximum lengths of 30 metres.</p>	<p>reasons dealt with in evidence and XX.</p> <p>If the Inspector does not agree with the Appellant then the work undertaken on the alternative MP shows that the GCC gradients can be achieved in any event.</p> <p>The deleted wording has been agreed by the Appellant, if and only if the Inspector considers it necessary to depart from national guidance to make the development acceptable.</p>	
<p>Condition 12</p> <p>Prior to first occupation of the development hereby approved a scheme for an active travel routes and bus transport infrastructure on Priors Road shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall thereafter be implemented in accordance with the approved details and in accordance with a timetable for implementation which shall be agreed in writing by the Local Planning Authority.</p> <p>Reason: To ensure the provision and enhancement of all modes of transport, in the interests of sustainable development.</p>	<p>Prior to first occupation of the development hereby approved a scheme for an active travel routes and bus transport infrastructure on Priors Road shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall thereafter be implemented in accordance with the approved details and in accordance with a timetable for implementation which shall be agreed in writing by the Local Planning Authority. Reason: To ensure the provision and enhancement of all modes of transport, in the interests of sustainable development.</p>	<p>Delete the condition</p> <p>To be addressed in the UU.</p>	<p>This cannot be a condition as it requires a Order that is subject to consultation, accordingly this has to be in a legal agreement and at present it is not. The UU only provides for the payment towards an order but not a scheme to be delivered. A lack of a delivery mechanism is objectionable to the LHA.</p> <p>This condition would be ultra vires.</p>
<p>Condition 20</p> <p>The approved Residential Travel Plan shall be implemented, monitored and reviewed in accordance with the approved Travel Plan recommendations, timetable and targets therein and to the satisfaction of the local planning authority.</p>	<p>The approved Residential Travel Plan shall be implemented, monitored and reviewed in accordance with the approved Travel Plan recommendations, timetable and targets therein and to the satisfaction of the local planning authority.</p>	<p>Delete the condition</p> <p>To be addressed in the UU.</p>	<p>UU not agreed with GCC yet</p>
<p>Condition 30</p> <p>The details to be submitted as part of the Reserved Matters application(s) for appearance, scale and layout pursuant to Condition 2 shall include an Energy and Sustainability Statement. The statement shall include, but shall not be limited to, the following information:</p> <p>(i) details of the methods used to calculate predicted annual energy demand and associated carbon emissions</p> <p>(ii) measures to reduce impact on climate change (including consideration of heat proofing, construction techniques, building fabric, solar gain, natural lighting, shading, orientation, water retention, flood mitigation and landscaping).</p>	<p>The details to be submitted as part of the Reserved Matters application(s) for appearance, scale and layout pursuant to Condition 2 shall include an Energy and Sustainability Statement. The statement shall include, but shall not be limited to, the following information:</p> <p>(i) details of the methods used to calculate predicted annual energy demand and associated carbon emissions</p> <p>(ii) measures to reduce impact on climate change (including consideration of heat proofing, construction techniques, building fabric, solar gain, natural lighting, shading, orientation</p>	<p>Delete</p> <p>The condition refers to a number of considerations but it is not clear what exactly is required to meet the terms of the condition. It is imprecise.</p> <p>For example once we tell the LPA what energy demand/CO2 levels are – what then? The condition does not say they need to be reduced to a</p>	<p>The submitted Energy Statement is incomplete pending submission of RM details and is required within parameters of ES.</p> <p>Alternatively the condition could simply state that the required Energy Statement should accord with the principles/headings and recommendations outlined in the ES (preliminary) Energy Statement?</p>

		<p>particular level. Will the LPA just keep rejecting Discon apps until they are satisfied?</p> <p>In the absence of a tested policy with any defined targets (tested meaning through EIP including viability testing) this should be left to normal RM considerations (eg orientation or PV panels for example in terms of layout/appearance etc and for building regulations in terms of sustainable construction</p>	
<p>Condition 31</p> <p>A scheme for the provision of public art shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme for public art shall be fully installed/implemented within six months following the completion of the development.</p>	<p>A scheme for the provision of public art shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme for public art shall be fully installed/implemented within six months following the completion of the development.</p>	<p>Delete</p> <p>Public art is not "necessary" to make the development acceptable. The LPA has not explained why it is necessary. It was not a PRFR.</p> <p>As discussed in the conditions session the JCS and CLP policies do not require public art.</p> <p>The JCS Table SD4b is not policy – and simply lists ways to enrich space with well-designed details. Other methods include paving, lighting, signs, seats, railings, cycle parking, bus shelters and other street furniture;</p> <p>Policy C1 simply provides a long list of matters that may be the subject of s.106. No s.106 has been requested for public art.</p> <p>At least with a s.106 it is known what the cost might be – the condition is just open ended and imprecise and the Appellant has no indication of what is expected of them in terms of cost.</p>	<p>Table SD4b 'Principles of Urban Design' JCS SD4 refers</p> <p>Policy CI of CP seeks community infrastructure (including public art) in relation to development proposals where additional capacity is capable of being provided as part of the development without unacceptable impacts on people and the environment.</p> <p>Similarly, Cheltenham Borough Council's Public Art Strategy objective is to secure enhancements to the public realm. There is no reason why the proposed development could not accommodate an element public art within the area designated as public open space. The Councils Public Art SPD is somewhat dated, therefore the wording of the condition should not be prescriptive in terms of type or cost of implementing a scheme. Any scheme would be reviewed by the Council's Public Art Panel and a reasonable approach would be taken as to the acceptability of the scheme.</p>