

<b>Application Number:</b>	22/00418/FUL
<b>Proposal:</b>	To vary condition 2 (specifying approved plans), to allow for amendments to house designs, of planning permission ref. 17/01089/REM – scheme of 64 dwellings.
<b>Site:</b>	Newton Business Park, Cartwright Street, Hyde
<b>Applicant:</b>	Wain Homes North West Ltd
<b>Recommendation:</b>	Grant planning permission, subject to conditions.
<b>Reason for Report:</b>	A Speakers Panel decision is required in accordance with the Council's constitution because this is a major application as defined by the Town and Country Planning (Development Management Procedure) (England) Order 2015.
<b>Background Papers:</b>	The planning application documents are background papers to the report. They are open to inspection in accordance with Section 100D of the Local Government Act 1972.

## **1. APPLICATION DESCRIPTION**

- 1.1 Where there is an extant planning permission, section 73 (S73) of the Town and Country Planning Act 1990 allows for application to be made to vary or remove conditions associated with that planning permission. One of the uses of a S73 application is to seek what is often called a minor material amendment to an extant planning permission.
- 1.2 Initially, outline planning permission (ref. 16/00054/OUT) was granted in December 2016 for the demolition of all existing on site structures and the redevelopment of part of the then Newton Business Park for residential dwellings (Use Class C3) at Cartwright Street, from where all access was to be taken, in Hyde. Subsequently, application (ref. 17/01089/REM) for approval of the matters held in reserve, namely appearance, landscaping, layout and scale, was approved, with conditions, in November 2018.
- 1.3 The current application seeks to vary condition 2 of the latter permission, so that it specifies alternative drawings in accordance with which the development shall be carried out, and so allow for a minor material amendment to the planning permission.

## **2. SITE AND SURROUNDINGS**

- 2.1 Having originally comprised a large former ICI factory site dating from the 1920s, Newton Business Park occupies approximately 7 hectares of land close to the edge of the north-eastern corner of the built-up area of Hyde, some 2km to the north-east of the town centre, and includes a number of commercial buildings of various sizes. The application site comprises 2.2ha of land on the western side of the Business Park that fronts on to Cartwright Street.
- 2.2 The Business Park is bounded to the north, and, after the road turns to the south, to the east by Talbot Road and to the west by Cartwright Street, and wraps around behind houses in both roads. To the south the site abuts an area of open land before houses on the southern side of Victoria Street.

- 2.3 Levels change throughout the site and the land is graded to form a number plateaus and there is a general slope, with a fall of approximately 10m, from Talbot Road to the southern boundary.
- 2.4 All pre-existing structures and buildings have been cleared from the application site. The remainder of the Newton Business Park site measuring 4.2ha that sits outside of the application site is to be retained for commercial use.

### **3. PROPOSAL**

- 3.1 As approved, the design of some of the houses includes sections of the external walls being finished with render. The proposed amendments are:
- to omit the rendered sections, so that the houses are all entirely finished with facing brickwork, including brick, rather than stone, window sills; and
  - the applicant/developer has revised some of the house type names, to allow for more clarity, e.g. 'Haversham' standard unit and a 'Haversham SA' (side aspect) units were approved previously, however, to avoid any confusion the applicant/developer has changed the name of the 'SA' type to 'Hatherleigh'.
- 3.2 A concurrent application (ref. 22/00530/FUL), also on this agenda, seeks full planning permission for a modification to part of the layout of the site.

### **4. PLANNING HISTORY**

- 4.1 16/00054/OUT - Demolition of all existing on site structures and the redevelopment of the site for residential dwellings (Use Class C3), landscaping, boundary treatments and vehicular access from Cartwright Street – outline – Approved 16.12.2016.
- 4.2 17/01089/REM - Approval of reserved matters (appearance, landscaping, layout and scale) for a proposed scheme of 64 dwellings following the grant of outline planning permission. – Approved 16.11.2018.
- 4.3 18/00019/PLCOND - Approval of details reserved by condition 10 of planning permission ref. 16/00054/OUT. Approved/discharged 06.04.2021.
- 4.4 21/00010/PLCOND - Approval of details reserved by condition 14 (temp vehicle facilities) of planning permission ref. 16/00054/OUT. - Submitted scheme approved 11.02.2021. Discharge subject to implementation.
- 4.5 21/00009/PLCOND - Approval of details reserved by condition 11 (drainage) of planning permission ref. 16/00054/OUT. - Submitted scheme approved 08.04.2021. Discharge subject to implementation
- 4.6 21/00008/PLCOND - Approval of details reserved by conditions 8 and 9 (ground contamination and remediation) of planning permission ref. 16/00054/OUT – Pending decision.
- 4.7 21/00006/PLCOND - Approval of details reserved by condition 1 (external materials) of planning permission ref. 17/01089/REM – Pending a decision.
- 4.8 21/00588/CLUD - Certificate of lawful development to confirm that: Outline planning permission LPA reference: 16/00054/OUT and the subsequent reserved matters approval LPA Reference: 17/01089/REM have been lawfully commenced such that the development may lawfully be carried on and completed at any time in the future. – Approved 08.06.2021.

- 4.9 22/00040/PLCOND - Full discharge of condition 8 and condition 9 (ground conditions & remediation) of planning permission 16/00054/OUT. – Pending a decision.

## 5. PLANNING POLICY

### **National Planning Policy Framework (NPPF)**

- 5.1 Paragraph 9 of the National Planning Policy Framework (NPPF) states that planning decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account to reflect the character, needs and opportunities of each area.
- 5.2 Paragraph 11 states that planning decisions should apply a presumption in favour of sustainable development. This means approving development proposals that accord with an up-to-date development plan without delay (as per section 38(6) of the Planning and Compulsory Purchase Act 2004). However, where the development plan is absent, silent or out of date, planning permission should be granted unless the application of policies in the NPPF that protects areas or assets of particular importance, provides a clear reason for refusing the development proposed; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.
- 5.3 Paragraph 12 of the NPPF clarifies that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan, permission should not normally be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

### **Development Plan**

- 5.4 The adopted development plan is the Tameside Unitary Development Plan (2004) and the Greater Manchester Joint Waste Development Plan Document (2012).

#### Tameside Unitary Development Plan (2004)

- 5.5 Part 1 Policies
- 1.3 Creating a Cleaner Greener Environment
  - 1.5: Following the Principles of Sustainable Development.
  - 1.10: Protecting and Enhancing the Natural Environment.
  - 1.12: Ensuring an Accessible, Safe and Healthy Environment.
- 5.6 Part 2 Policies
- H2: Unallocated Sites.
  - H4: Type, Size and Affordability of Dwellings.
  - H10: Detailed Design of Housing Developments.
  - T1: Highway Improvement and Traffic Management.
  - T10: Parking.
  - C1: Townscape and Urban Form
  - N3: Nature Conservation Factors.
  - MW11: Contaminated Land

### **Other relevant policies**

- 5.7 Employment Land Supplementary Planning Document
- Residential Design Supplementary Planning Document.

- 5.8 It is not considered there are any local finance considerations that are material to the application.

### **Places for Everyone**

- 5.9 The Places for Everyone Joint Development Plan Document was published in August 2021. It was submitted to the Secretary of State in February 2022 and inspectors are appointed to carry out an independent examination. It is a joint plan covering nine of the ten Greater Manchester districts, including Tameside, and is intended to provide the overarching framework to strategically manage growth across the boroughs.
- 5.10 Paragraph 48 in the NPPF states that local planning authorities may give weight to relevant policies in emerging plans according to: the stage of preparation of the emerging plan (the more advanced its preparation, the greater weight may be given); the extent to which there are unresolved objections (the less significant, the greater the weight that may be given); and the degree of consistency of the relevant policies in the emerging plan to the NPPF (the closer the policies in the emerging plan to the policies in the NPPF, the greater the weight that may be given).
- 5.11 Whilst Places for Everyone has been published and submitted, a number of representations have been received objecting to policies, and so in accordance with paragraph 48 of the NPPF, only very limited weight can be given to those policies at this time.

### **Other Considerations**

- 5.12 The application has been considered having regard to Article 1 of the First Protocol of the Human Rights Act 1998, which sets out a persons rights to the peaceful enjoyment of property and Article 8 of the Convention of the same Act which sets out his/her rights in relation to respect for private and family life and for the home. Officers consider that the proposed development would not be contrary to the provisions of the above Articles in respect of the human rights of surrounding residents/occupiers.
- 5.13 The application has been considered in accordance with the Tameside One Equality Scheme (2018-22), which seeks to prevent unlawful discrimination, promote equality of opportunity and good relations between people in a diverse community. In this case the proposed development is not anticipated to have any potential impact from an equality perspective.

## **6. PUBLICITY CARRIED OUT**

- 6.1 In accordance with the requirements of the Town and Country Planning (Development Management Procedure) (England) Order 2015 and the Council's adopted Statement of Community Involvement the application has been advertised as a major development by neighbour notification letters, display of site notice; and advertisement in the local press.

## **7. SUMMARY OF THIRD PARTY RESPONSES**

- 7.1 None received.

## **8. RESPONSES FROM CONSULTEES**

- 8.1 None received.

## **9. ANALYSIS**

- 9.1 The principle of the development in this location is established by the extant planning permission. Other than in the treatment to the external finishes to the houses the development would remain as approved. The issue to consider in determining the application is the impact that the proposed alternative treatment to the external finishes would have on the appearance of the development and visual amenity.
- 9.2 Within the layout as approved, houses facing down the roads, which would terminate the longer views within the development, would be distinguished by the external walls being finished with render. The use of render, and reconstituted stone sills, does however bring with it maintenance issues. Both can suffer from cracks and chips, and render from stains. Given current market conditions, not only are such materials difficult to source initially but there are delays in obtaining replacements.
- 9.3 The use of brickwork solely for the external finishes of the houses would produce a cohesive development that acknowledges the character of the locality within which it is set, whilst remaining identifiably a discrete development.
- 9.4 Without diminishing, but, subjectively, improving the quality of the development as it was approved originally in terms of appearance and visual amenity, it is considered that the proposed amendments achieve the quality of design that is required by policies 1.3 and H10(a) of the UDP and Sections 2 and 12 of the NPPF.

## **10. OTHER MATTERS**

- 10.1 Following the grant of the original permission, in accordance with the Community Infrastructure Levy Regulations 2015, which are intended to provide infrastructure to support development, rather than to make individual planning applications acceptable in planning terms, the applicant entered in to a binding agreement, so as to compensate for the impact of the development on the demand for school places, to provide a financial contribution of

- £886 per 2 bed dwelling
- £1,234 per 3 bed dwelling
- £1,343 per 4 bed dwelling

towards increasing the number of places available at Hyde Community College to accommodate increases in secondary school pupils in the area.

## **11. CONCLUSION**

- 11.1 The proposed amendments being considered acceptable and, in context, as being of a minor nature, according to Planning Practice Guidance the grant of planning permission under section 73 should repeat the relevant conditions from the original planning permission, unless they have already been discharged. Where an application under section 73 is granted, the effect is the issue of a new planning permission and that may be subject to conditions differing from those to which the original permission was subject.

## **RECOMMENDATION**

Grant planning permission for the development subject to the following:

- (i) The completion of a suitable legal agreement under S106 of the Town and Country Planning Act 1990 (as amended) for a £6,400 contribution towards open space to support the development;

- (ii) The discretion to refuse the application appropriately in the circumstances where a S106 agreement has not been completed within six months of the resolution to grant planning permission; and
- (iii) That upon satisfactory completion of the above legal agreement that planning permission be GRANTED subject to the following conditions:

1) The development hereby permitted shall be carried out in accordance with the following approved plans:

- ref. 13812 -110 rev. B, in so far as it relates to access to the site only; and,
- ref. NBP-002 by AECOM and forming Appendix E to the submitted Transport Statement.

both approved under cover of planning permission ref. 16/00054/OUT.

- Location Plan WH/NBP/LP/01;
- Site Layout WH/NBP/DSL/01 F;
- Colour Site Layout WH/NBP/CSL/01 C;
- Landscape Proposals 1 of 2 5627.03 E;
- Landscape Proposals 2 of 2 5627.04 E;
- Landscape Proposals Whole Site 5627.05 D;
- Tree Protection Plan 5627.02 A
- Arboricultural Impact Assessment & Method Statement MG/5627/AIA&AMS/REVB/AUG18
- Boundary Treatment Plan WH/NBP/BTP/01 B;
- Waste Management Strategy WH/NBP/WMP/01 B

each approved under cover of planning permission ref. 17/01089/REM.

- Street Scenes & Site Sections WH/NBP/SS/01 D;
- House Type C - TYPE C ELEVATIONS & TYPE C PLANS;
- House Type Oxford – OX-P1;
- House Type Stephenson 4.203/P/BU/L10/300 B
- House Type Baird - BRD-P1;
- House Type Brancaster – BCR-P2;
- House Type Brunswick – BRU-P2;
- House Type Dalton - DAL-P1 & DAL-P2;
- House Type Haversham - HAV-P2;
- House Type Hatherleigh – HAT–B–P2;
- House Type Jenner – JEN-P1 & JEN-P2;
- House Type Newton- NT-P1;
- House Type Shakespeare – SHA-P1;
- House Type Trevithick – TRE-P2;
- House Type Wordsworth Brick – WOR-P3;
- House Type Wordsworth SA Brick – WIN-P3;
- House Type Wren – WRE-P1
- Enzygo Review of Noise Mitigation SHF. 1353.003.NO.R.001.

Reason: In the interests of the visual amenities of the locality and in accordance with policies of the adopted TMBC UDP.

2) Other than demolition, no development shall commence until the following information has been submitted in writing and written permission at each stage has been granted by the Local Planning Authority. i) A preliminary risk assessment to determine the potential

for the site to be contaminated shall be undertaken and approved by the Local Planning Authority. Prior to any physical site investigation, a methodology shall be approved by the Local Planning Authority. This shall include an assessment to determine the nature and extent of any contamination affecting the site and the potential for off-site migration. ii) Where necessary a scheme of remediation to remove any unacceptable risk to human health, buildings and the environment shall be approved by the Local Planning Authority prior to implementation. iii) Any additional or unforeseen contamination encountered during development shall be notified to the Local Planning Authority as soon as practicably possible and a remedial scheme to deal with this approved by the Local Planning Authority. iv) Upon completion of any approved remediation schemes, and prior to occupation, a completion report demonstrating that the scheme has been appropriately implemented and the site is suitable for its intended end use shall be approved in writing by the Local Planning Authority.

Reason: To ensure any unacceptable risks posed by contamination are appropriately addressed and the site is suitable for its proposed use in accordance with policy MW11 of the Tameside Unitary Development Plan and paragraph 184 of the National Planning Policy Framework.

- 3) Other than demolition, no development shall commence until: details of a scheme of intrusive site investigations, including gas monitoring, in order to establish the exact situation regarding coal mining legacy issues on the site shall be submitted to, and approved by, the local planning authority; any approved scheme shall then be undertaken and a report of findings arising from the investigation, including a scheme of any necessary remedial works, shall be submitted to, and approved by, the local planning authority. The development shall then be implemented in accordance with the approved remedial works.

Reason: To mitigate the potential risks to the development posed by coal mine workings in accordance with Section 15 of the National Planning Policy Framework.

- 4) Prior to the first occupation of the development hereby approved an electric vehicle charging design shall be approved in writing by the Local Planning Authority which complies to the requirements listed below and maintained as such thereafter:- The specification of the charging points installed shall: i) be designed and installed in accordance with the appropriate parts of BS EN 61851 (or any subsequent replacement standard in effect at the date of the installation); ii) have a minimum rated output of 7 kW, measured or calculated at a nominal supply voltage of 230VAC; iii) be fitted with a universal socket (known as an untethered electric vehicle charge point); iv) be fitted with a charging equipment status indicator using lights, LEDs or display; v) a minimum of Mode 3 or equivalent.

Reason: To ensure that the impact of the development in relation to air quality is adequately mitigated and in the interest of promoting sustainable forms of transport, in accordance with UDP Policy T1 and the NPPF

- 5) Notwithstanding any description of materials in the application, no above ground construction works shall take place until samples and/or full specification of materials to be used: externally on the buildings; in the construction of all boundary walls, fences and railings; in the finishes to all external hard-surfaces; and, in the construction of the acoustic fence have been submitted to, and approved in writing by, the local planning authority. Such details shall include the type, colour and texture of the materials. Development shall be carried out in accordance with the approved details.

Reason: In the interests of the visual amenities of the locality, in accordance with polices H10 and C1 of the adopted Tameside Unitary Development Plan and Section 12 of the National Planning Policy Framework.

- 6) The development hereby approved shall not be occupied until the noise mitigation measures as recommended in the submitted Enzygo Review of Noise Mitigation SHF. 1353.003.NO.R.001 have been implemented in full.

Reason: In order to protect the amenities of future occupants in accordance with policy 1.12 of the Tameside Unitary Development Plan and Sections 2 and 12 of the National Planning Policy Framework.

- 7) The development hereby approved shall not be occupied until the 4m Acoustic Bund detailed in the submitted Boundary Treatment Plan, Drawing No. WH-NBP-BTP-01 has been implemented in full.

Reason: In order to protect the amenities of future occupants in accordance with policy 1.12 of the Tameside Unitary Development Plan and Sections 2 and 12 of the National Planning Policy Framework.

- 8) No part of the development hereby approved shall not be occupied until a scheme detailing the street lighting to be provided to the access road and shared parking areas shall be submitted to, and approved in writing by, the local planning authority. This scheme will include details of how the lighting will be funded for, how it will be maintained in the future, and a phasing plan which will specify when the approved details will be completed. Development shall be carried out in accordance with the approved details.

Reason: To secure the provision of satisfactory access to the site and in the interests of road safety and security in accordance with Policy T1 of the adopted Tameside Unitary Development Plan and Section 9 of the National Planning Policy Framework

- 9) The boundary treatments for each house, as indicated on the plan, ref. WH/NBP/BTP/01 B, which was approved under cover of planning permission ref. 17/01089/REM, shall be provided prior to the first occupation of that house.

Reason: In the interests of the visual amenities of the locality, in accordance with polices H10 and C1 of the adopted Tameside Unitary Development Plan and Section 12 of the National Planning Policy Framework.

- 10) The car parking facilities for each house, as indicated on the approved plan, ref. WH/NBP/DSL/01 F, which was approved under cover of planning permission ref. 17/01089/REM, shall be provided prior to the first occupation of that house, and thereafter kept unobstructed and available for the intended purpose.

Reason: To ensure adequate parking provision in accordance with Policy T1 of the adopted Tameside Unitary Development Plan and Section 9 of the National Planning Policy Framework

- 11) No part of the development hereby approved shall be occupied until details of a maintenance management plan for the street trees, landscaped buffer and biodiversity enhancement measures, as indicated on the plans, ref. 5627.03 E, 5627.04 E, 5627.05 D and WH/NBP/BTP/01 B, which were approved under cover of planning permission ref. 17/01089/REM, has been submitted to, and approved in writing by, the local planning authority. Following the occupation of the first house, the management plan shall be implemented in accordance with the approved details.

Reason: In the interests of the visual amenities of the locality, in accordance with polices H10 and C1 of the adopted Tameside Unitary Development Plan and Section 12 of the National Planning Policy Framework.



- 12) The development hereby approved shall be carried out in accordance with the details and provisions included in the Construction Method Statement (for Newton Business Park, Cartwright Street, Hyde, Tameside, SK14 4FA), dated January 2021, which were approved, ref. 21/00010/PLCOND, on 11.02.2021.

Reason: In the interests of highway safety in accordance with Policy T1 of the adopted Tameside Unitary Development Plan and Section 9 of the National Planning Policy Framework.

- 13) During demolition and construction no work (including vehicle and plant movements, deliveries, loading and unloading) shall take place outside the hours of 07:30 and 18:00 Mondays to Fridays and 08:00 to 13:00 Saturdays. No work shall take place on Sundays and Bank Holidays.

Reason: To protect the amenities of the occupants of nearby properties/dwelling houses in accordance with policy 1.12 of the adopted Tameside Unitary Development Plan and Sections 2 and 5 of the National Planning Policy Framework.

- 14) The planting scheme, including the biodiversity enhancement measures, shall be carried out in accordance with the details indicated on the plans refs. 5627.03 E, 5627.04 E and 5627.05 D, approved under cover of planning permission ref. 17/01089/REM. The planting scheme, including the attendant biodiversity measures, shall be commenced in the first planting season (Nov-Mar) following the occupation of the first house and completed, including the attendant biodiversity measures, in the first planting season (Nov - Mar) following occupation of the final house. Any newly planted trees and plants forming part of the approved scheme which, within a period of 5 years from the completion of the planting, are removed, damaged, destroyed or die shall be replaced in the next appropriate planting season with others of similar size and species by the developer unless the local planning authority gives written consent to any variation.

Reason: To enhance the ecological value of the site in accordance with policies 1.10 and N3 of the Tameside UDP and Section 15 of the National Planning Policy Framework.

- 15) Surface water shall be drained in accordance with the scheme illustrated on drawing no. 18036/01/1 rev. F, Road and Main Drainage Layout, and as discussed in Level 2 Scoping Study Flood Risk & Drainage Impact Assessment 2015-074-RevA, which were approved, ref. 21/00009/PLCOND, on 08.04.2021.

Reason: To ensure proper drainage of the area, in accordance with Policy U3 of the adopted Tameside Unitary Development Plan and the paragraph 169 of the National Planning Policy Framework.

- 16) A clear view shall be provided at the junction of site access road with Cartwright Street. Its area shall measure 2.5 metres along the centre of the access and 43 metres in each direction along the edge of the roadway in Cartwright Street. It must be kept clear of anything higher than 0.6 metre/s above the edge of the adjoining roadway or access.

Reason: In the interests of highway safety in accordance with Policy T1 of the adopted Tameside Unitary Development Plan and Section 9 of the National Planning Policy Framework.

- 17) A clear view shall be provided on both sides of the any driveway or vehicular access where it meets the footway. It shall measure 2.4metres along the edge of the site access and 2.4 metres along the footway. It must be clear of anything higher than 600mm above the access, except for vertical iron railings to a design that includes rails of not greater than 15mm diameter spaced at not less than 100mm intervals.

Reason: In the interests of highway safety in accordance with Policy T1 of the adopted Tameside Unitary Development Plan and Section 9 of the National Planning Policy Framework.