

Application Number 19/00601/FUL

Proposal	Full planning permission for variation of conditions 3 (crime impact), 4 (soft landscaping implementation), 6 and 10 (both relating to car parking layout) of planning permission 11/00915/FUL.
Site	Land south of Micklehurst Road, Mossley
Applicant	House Crowd, Hale, Altrincham
Recommendation	Grant planning permission subject to conditions
Reason for report	A Speakers Panel decision is required because the application constitutes major development.

1. APPLICATION DESCRIPTION

- 1.1 The applicant seeks to vary 3 and delete 1 of the conditions imposed on the original planning permission (ref. 11/00915/FUL) to allow the developer the flexibility to progress the sale of the 3 plots in the northern part of the site, which front onto Micklehurst Road and are separated from the main part of the development, which is to be accessed from the western boundary of the land, via a connection to Earnshaw Clough. The variation would also allow a phased approach to the delivery of the remainder of the site.
- 1.2 The 4 conditions that are the subject of this application require works to be carried out prior to the occupation of any part of the development. The developer is therefore seeking to amend the trigger points for compliance with each of the conditions to a phase by phase basis. The different phases of the development are as follows (as illustrated on drawing no. 1711/p/004 submitted with this application):

Phase 1 - northern element of the site, fronting onto Micklehurst Road

Phase 2 – land to the south of phase 1, including the main vehicular access into the development that would connect to the eastern end of Earnshaw Clough

Phase 3 - the dwellings on the land in the south western corner of the development

Phase 4 - the dwellings on the land in the south eastern corner of the development

Phase 5 – southern section of the access road through the development, connecting the properties on the southern edge of the scheme to the main vehicular access into the development at the eastern end of Earnshaw Clough

2. SITE & SURROUNDINGS

- 2.1 The application site comprises 1.76 hectares of land which is situated along the valley of Micklehurst Brook, to the east of the former Springbank and Hollins Mills sites, which are now occupied by residential development. Micklehurst Road is located to the north of the site and Richmond Crescent is located to the south. Industrial buildings including Squire Mill are located to the east of the site and Earnshaw Clough, a modern residential development, is located to the west of the site. Micklehurst Brook crosses the northern part of the site.
- 2.2 The site is crossed by 4 public footpaths, which link Micklehurst Road with Richmond Crescent and Huddersfield Road.
- 2.3 The pre-commencement conditions of the original planning permission have been discharged and work has commenced. The development is therefore under construction during the consideration of this application. The conditions that are the subject of this

application require compliance prior to occupation and as such the application is not retrospective.

3. RELEVANT PLANNING HISTORY

- 3.1 19/00106/MATCH - repositioning of plots 18-29 (as labelled on submitted plan ref. 17162(PL) 100-B) - approved as a non-material amendment as the dwellings would not be moving closer to the boundaries of the site
- 3.2 11/00915/FUL - Re-submission of planning application 11/00098/FUL for 36 no houses - approved

4. RELEVANT PLANNING POLICIES

- 4.1 National Planning Policy Framework (NPPF)
- 4.2 Planning Practice Guidance (PPG)
- 4.3 **Tameside Unitary Development Plan (UDP) Allocation**
Unallocated, within the settlement of Mossley.
- 4.4 **Part 1 Policies**
 - 1.3: Creating a Cleaner and Greener Environment.
 - 1.4: Providing More Choice and Quality Homes.
 - 1.5: Following the Principles of Sustainable Development
 - 1.6: Securing Urban Regeneration
 - 1.10 Protecting and Enhancing the Natural Environment
 - 1.12: Ensuring an Accessible, Safe and Healthy Environment
- 4.5 **Part 2 Policies**
 - H2: Unallocated Sites.
 - H4: Type, size and affordability of dwellings
 - H5: Open Space Provision
 - H10: Detailed Design of Housing Developments
 - OL10: Landscape Quality and Character
 - T1: Highway Improvement and Traffic Management.
 - T10: Parking
 - C1: Townscape and Urban Form
 - N3: Nature Conservation Factors
 - N4: Trees and Woodland.
 - N5: Trees Within Development Sites.
 - N7: Protected Species
 - MW11: Contaminated Land
 - MW14 Air Quality
 - U3: Water Services for Developments
 - U4 Flood Prevention
 - U5 Energy Efficiency
- 4.6 **Other Policies**
Greater Manchester Spatial Framework - Publication Draft October 2018;

The Greater Manchester Combined Authority (GMCA) has consulted on the draft Greater Manchester Spatial Framework Draft 2019 ("GMSF") which shows possible land use allocations and decision making policies across the region up to 2038. The document is a material consideration but the weight afforded to it is limited by the fact it is at an early stage in its preparation which is subject to unresolved objections

Residential Design Supplementary Planning Document; and,
Trees and Landscaping on Development Sites SPD adopted in March 2007.

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

Section 2: Achieving sustainable development

Section 5: Delivering a sufficient supply of homes

Section 8 Promoting healthy and safe communities

Section 11: Making efficient use of land

Section 12: Achieving well designed places

Section 15: Conserving and enhancing the Natural Environment

Planning Practice Guidance (PPG)

- 4.8 This is intended to complement the NPPF and to provide a single resource for planning guidance, whilst rationalising and streamlining the material. Almost all previous planning Circulars and advice notes have been cancelled. Specific reference will be made to the PPG or other national advice in the Analysis section of the report, where appropriate.

5. PUBLICITY CARRIED OUT

- 5.1 Neighbour notification letters were issued 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. This is in addition to a site notice and press notice.

6. RESPONSES FROM CONSULTEES

- 6.1 Borough Tree Officer – no objections to the revision to the wording of the landscaping implementation condition.
- 6.2 Greater Manchester Police (GMP) Designing Out Crime Officer - no objections to the revised wording of the condition relating to crime reduction measures.
- 6.3 Local Highway Authority - No objections to the proposals, subject to the re-imposition of the conditions attached to the original permission relating to highways matters.

7. SUMMARY OF THIRD PARTY RESPONSES RECEIVED

- 7.1 5 letters of objection have been received to the proposals, raising the following concerns:
- Proposals to amend the original planning permission should not be considered until the breaches of the extant permission have been fully investigated and resolved.
 - Concerns regarding the phased approach being taken to the development, this will result in breaches of the extant planning permission being more difficult to resolve.
 - Concerns regarding the visual impact of the retaining structure that has been erected as part of the highway infrastructure within the development, which is the subject of an enforcement complaint.
 - The plans do not include the area off Micklehurst Road that the contractors are currently using for storage of materials, which has been laid with stone and in places covered with a tarmac surface. This area needs to be restored, including the rebuilding of the stone walling.
 - It is not clear what the plans are to manage the Japanese Knotweed that is located within the vicinity of the compound and the watercourse running through the northern part of the site.

- The landscaping plan that has been submitted with the variation of condition application does not tally with the remodelling of the landscaped area adjacent to phase 1 of the development that has taken place on site.
- It is unclear how the proposed alterations would affect the Public Rights of Way running through the site.

8. ANALYSIS

- 8.1 National Planning Practice Guidance promotes flexible options for planning permissions. Section 73 of the Town and Country Planning Act 1990 allows for applicants to apply to the Local Planning Authority to amend or vary conditions placed on a planning consent. Where an application under section 73 is granted, the effect is the issue of a new planning permission, sitting alongside the original permission, which remains intact and unamended. The only restriction under section 73 is that planning permission cannot be granted to extend the time limit within which a development must be started.
- 8.2 NPPG advises that; 'In deciding an application under section 73, the local planning authority must only consider the disputed condition's that are the subject of the application – it is not a complete re-consideration of the application'. The original planning permission will continue to exist.
- 8.3 In relation to the wording of conditions, paragraph 55 of the NPPF states that conditions should only be imposed where they are necessary, relevant to planning and the development to be permitted, enforceable, precise and reasonable in all other respects.
- 8.4 The principle of development was established through the granting of planning permission for the erection of 36 dwellings on the land under application ref. 11/00915/FUL. The plans submitted with this variation of condition application do not propose to alter the number of dwellings, the position of the dwellings within the site or the means of access as approved under the original planning permission.
- 8.5 The current permission is subject to a Section 106 Agreement which secures financial contributions towards education, highways and off site green space enhancement schemes. The issue of contributions is therefore not to be revisited in this application. There will need to be a deed of variation to that Section 106 Agreement to ensure that the provisions apply to this variation of condition proposal, should Members resolve to grant planning permission.
- 8.6 The issues to be assessed in the determination of this planning application are whether the proposed re-wording of the 3 conditions and the amalgamation of conditions 6 and 10 allows them to still achieve the tests set out in paragraph 55 of the NPPF, quoted above.

9. CRIME REDUCTION MEASURES CONDITON

- 9.1 Condition 3 of the current planning permission states:
- 'The development hereby approved shall incorporate measures to minimise the risk of crime and to meet the specific security needs of the application site and the development. Any security measures to be implemented in compliance with this condition shall seek to secure the 'Secure by design' accreditation awarded by the Greater Manchester Police. Written confirmation of those measures is to be provided to the Local Planning Authority prior to the occupation of any building.'
- 9.2 To ensure that the dwellings can be occupied upon the completion of each planned phase of the development (as outline previously in this report), condition 3 is proposed to be varied to be worded as follows:

'Prior to the first occupation of any part of the development hereby approved, details of the measures to be incorporated within the development to minimise the risk of crime to a level that would achieve Secured by Design accreditation shall be submitted to and approved in writing by the Local Planning Authority. The security measures shall be installed within each dwelling, in accordance with the approved details prior to the occupation of that dwelling and confirmation that Secured by Design accreditation has been achieved shall be submitted to and approved in writing by the Local Planning Authority within 3 months of the occupation of the final dwelling. The development shall be retained as such thereafter.'

- 9.3 The proposed amendment to the wording of the originally imposed condition is considered to meet the tests referred to in paragraph 8.3 of the report. The condition remains necessary and relevant to the development. The proposed revised condition would be arguably more precise and enforceable than the originally imposed condition in that the trigger points for the implementation of the security measures to apply to each plot and the requirement that the development will meet Secured by Design status are more clearly defined. The Designing Out Crime Officer at GMP has raised no objection to the proposed rewording of the condition originally imposed. On that basis, it is considered that the reworded condition would achieve the required planning purpose of ensuring that the development would be designed to reduce the risk of crime.

10. LANDSCAPING IMPLEMENTATION CONDITION

- 10.1 Condition 4 of the current planning permission states:

'All hard and soft landscaping works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with a programme agreed previously in writing with the Local Planning Authority. Any newly planted trees or plants forming part of the approved landscaping 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.'

- 10.2 To ensure that the dwellings can be occupied upon the completion of each planned phase of the development, condition 4 is proposed to be varied to be worded as follows:

'All hard and soft landscaping works shall be carried out in accordance with the approved details. The landscaping associated with each phase (as identified on drawing no. 1711/p/004) shall be carried out prior to the occupation of any of the dwellings in that phase of the development. Any newly planted trees or plants forming part of the approved landscaping 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.'

- 10.3 The proposed amendment to the wording of the originally imposed condition is considered to meet the tests referred to in paragraph 8.3 of the report. The condition remains necessary and relevant to the development. The proposed revised condition would be precise and enforceable to the extent that it is clear from the phasing plan which parts of the site have to be landscaped before certain properties are occupied.

- 10.4 It is considered that the revised wording would be more precise than the previously approved condition, in that the revised version would not allow an informal revision to the phasing programme. A formal application to vary the condition would be required to authorise any alteration. An additional condition defining the phasing plan as an approved plan can be added to this variation of condition to ensure that the phasing programme in relation to the landscaping is enforceable.

- 10.5 The Borough Tree Officer has raised no objection to the proposed rewording of the condition originally proposed. On that basis, it is considered that the re-worded condition would achieve the required planning purpose of ensuring that the landscaping scheme to be installed as part of the development would be implemented and adequately maintained.

11. HIGHWAYS CONDITIONS

- 11.1 Condition 6 of the current planning permission states:

‘Prior to occupation of the development the car parking indicated on the approved plan shall be provided to the full satisfaction of the Local Planning Authority and thereafter kept unobstructed and available for its intended purpose. The areas shall be maintained and kept available for the parking of vehicles at all times.’

- 11.2 Condition 10 of the current planning permission states:

‘Prior to occupation, the car parking indicated on the approved plan shall be provided to the full satisfaction of the LPA and thereafter kept unobstructed and available for their intended purposes. Parking areas or driveways must be at least 3.1 metres wide and 6 metres long where in front of house doors or 5.5 metres long where in front of a garage. The areas shall be maintained and kept available for the parking of vehicles at all times.’

- 11.3 Given the large amount of duplication between the requirements of these 2 conditions, it is proposed to substitute these conditions with the following single condition:

‘Prior to the occupation of each plot within the development hereby approved, the car parking areas and / or driveways indicated on the approved plan (ref. 1762(PL)001) to serve that plot shall be provided in accordance with the approved details prior to the first occupation of that plot and shall thereafter be maintained free from obstruction and available for their intended purposes. Parking areas or driveways must be at least 3.1 metres wide and 6 metres long where in front of house doors or 5.5 metres long where in front of a garage. The parking areas and driveways shall be maintained and kept available for the parking of vehicles at all times.’

- 11.4 The proposed amendment to the wording of the originally imposed condition is considered to meet the tests referred to in paragraph 8.3 of the report. The condition remains necessary and relevant to the development. The proposed revised condition would be more precise than the previously imposed condition in that it would reference the approved plan that shows the parking spaces to serve each of the units. The trigger point would also be more precise in that the revised condition would require the provision of the car parking spaces to serve each property before that dwelling is occupied.

- 11.5 The Local Highway Authority has raised no objection to the proposed rewording of the condition originally proposed. On that basis, it is considered that the re-worded condition would achieve the required planning purpose of ensuring that adequate car parking provision is made prior to the occupation of each property.

12. OTHER MATTERS

- 12.1 It is acknowledged that there is an ongoing enforcement investigation into potential breaches of planning control on the site, specifically relating to whether the development has been built in accordance with the approved plans. Those investigations relate to matters including the position and design of the retaining structure which supports the highway running through the site, drainage issues, the condition of the culvert in the northern part of the site and the management of the construction process. None of these matters are affected by the proposed variations to the conditions that are the subject of this

planning application. Therefore, the outcome of those investigations would not be prejudiced by the determination of this application.

- 12.2 In relation to the comment made from the local resident regarding the management of Himalayan Balsam, condition 16 of the original planning permission required details of a strategy in this regard to be submitted and approved. This condition has been discharged (under application ref. 17/00129/PLCOND) and the Greater Manchester Ecology Unit was satisfied with the information submitted with that application. The implementation of the approved strategy would not be affected by this variation of condition application.
- 12.3 The variation of condition 4 of the planning permission would not revise the content of the originally approved landscaping scheme in any way as the variation relates purely to the trigger points for implementation of the original permission.

13. CONCLUSION

- 13.1 Following the assessment in the main body of this report, it is considered that the proposed amendments to the wording of conditions 3 and 4 of and the amalgamation of conditions 6 and 10 of the original permission would still allow the conditions to comply with the tests set out in paragraph 8.3 of this report.
- 13.2 The proposed revision to the wording of the respective conditions would allow the development to be occupied in a phased approach. It is considered that this flexibility can be built into the wording of each of the conditions whilst allowing them to remain precise and enforceable (more so in some instances).
- 13.3 There are no objections to the proposed re-wording of any of the conditions from the statutory consultees and the proposals are therefore considered to be acceptable.
- 13.4 The proposals are therefore considered to comply with the national and local planning policies quoted earlier in this report.

14. RECOMMENDATION

Grant planning permission, subject to the prior completion of a variation to the original Section 106 Agreement and the following conditions:

1. The development shall be carried out in accordance with the following approved plans:

Phasing of development plan (drawing no. 1711/p/004)

2. The materials to be used in the construction of the dwellings hereby approved shall be as follows:

House types 1, 2 and 4 (as defined on the approved plans):

Walls - Anstone Standard - Range Black Old Weathered - Pitched Finish
Cills/heads - Wet cast Bath
Roof tile - Edgemere Smooth Grey

House type 3 (as defined on the approved plans):

Walls - Anstone Standard - Range Black Old Weathered - Pitched Finish
Cills/heads - Wet cast Bath
Roof tile – Brazilian Slate

All house types:

Windows – white upvc

Gutters/RWP/Fascias – upvc white for fascias, soffits and verges

The development shall be retained as such thereafter.

3. Prior to the first occupation of any part of the development hereby approved, details of the measures to be incorporated within the development to minimise the risk of crime to a level that would achieve Secured by Design accreditation shall be submitted to and approved in writing by the Local Planning Authority. The security measures shall be installed within each dwelling, in accordance with the approved details prior to the occupation of that dwelling and confirmation that Secured by Design accreditation has been achieved shall be submitted to and approved in writing by the Local Planning Authority within 3 months of the occupation of the final dwelling. The development shall be retained as such thereafter.
4. All hard and soft landscaping works shall be carried out in accordance with the approved details. The landscaping associated with each phase (as identified on drawing no. 1711/p/004) shall be carried out prior to the occupation of any of the dwellings in that phase of the development. Any newly planted trees or plants forming part of the approved landscaping 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.
5. The development shall be carried out in accordance with the ground remediation measures contained within the following documents (approved under discharge of condition application ref. 17/00113/PLCOND):
 - CPUK Ltd Remediation Strategy and Implementation Plan report dated 1 Feb 2018
 - CPUK Ltd Construction Environmental Management Plan Materials Management Plan

The development shall be retained as such thereafter.

6. Prior to the first occupation of the dwellings hereby approved, a verification report confirming that the contaminated land mitigation measures detailed in condition 17 of this planning permission shall be submitted to and approved in writing by the Local Planning Authority. The development shall be retained in accordance with the approved details thereafter.
7. The access arrangements serving the development shall be carried out in accordance with the following details (approved under discharge of condition application ref. 17/00113/PLCOND):
 - Proposed Access – General Arrangement plan (ref. 17-1386/A1/100 Rev. P1)
 - Proposed Access – Typical Highway Details (ref. 17-1386/A1/101 Rev. P1)
 - Proposed Highways – General Arrangement plan (ref. 17-1386/A1/102 Rev. P4)
 - Proposed Highways – Sections AA and BB (ref. 17-1386/A1/103 Rev. P3)
 - Proposed Highways – Section DD (ref. 17-1386/A1/105 Rev. P2)
 - Proposed Highways – Sections CC and EE (ref. 17-1386/A1/104 Rev. P2)
 - Proposed Highways – Section FF (ref. 17-1386/A1/106 Rev. P2)
 - Construction Phase Plan (produced by CPUK) and appendices
 - Buckton View, Mossley - Material Management Plan produced by CL:AIRE

- Materials Management Flow Chart (produced by CPUK)
- Construction Environment Monitoring Plan (produced by CPUK) dated 11 May 2018
- Design Risk Assessment – Retaining Walls Adjacent To Highway (produced by CPUK) dated 02 July 2018
- Proposed highway kerb specification (TRIEF GST2A)
- Plan ref. 17-1386/A1/102 Rev. C1 (Main site - Proposed Main Site Highways – General Arrangement)
- Plan ref. 17-1386/A1/620 Rev. P1 (Main site - Proposed Retaining Wall type 02-1 Capping Beam General Arrangement)
- Plan ref. 17-1386/A1/640 Rev. P2 (Main site - Proposed Retaining Wall type 04-2 Sections and Details)
- Plan ref. 17-1386/A1/641 Rev. P2 (Main site - Proposed Retaining Wall type 04-3 Sections and Details)
- Plan ref. 17-1386/A1/642 Rev. P2 (Main site - Proposed Retaining Wall type 04-4 Sections and Details)
- Plan ref. 17-1386/A1/643 Rev. P2 (Main site - Proposed Retaining Wall type 04-5 Sections and Details)
- Plan ref. 17-1386/A3/SK-50 Rev. C (Proposed Unadopted Highway Typical Build Up Details)
- Plan ref. 17-1386/A1/645 Rev. P1 (Main site – plots 4/5 Proposed Berm Sections and Details)
- Structure Design Certificate
- Geotechnical Design Report: Sheet Pile Retaining Wall (ref. 17251-01-SP-01 Rev. A)

The development shall be retained as such thereafter.

8. The gradient of driveways shall not be steeper than 1 in 15 (6%)
9. The measures relating to wheel cleaning facilities, temporary access, vehicle parking and turning facilities detailed in the document entitled Methodology of Works Statement produced by CPUK (approved under discharge of condition application ref. 17/00113/PLCOND) shall be retained in accordance with the approved details place for the duration of the construction phase of the development.
10. Prior to the occupation of each plot within the development hereby approved, the car parking indicated on the approved plan (ref. 17162(PL)001) to serve that plot shall be provided in accordance with the approved details prior to the first occupation of that plot and shall thereafter be maintained free from obstruction and available for their intended purposes. Parking areas or driveways must be at least 3.1 metres wide and 6 metres long where in front of house doors or 5.5 metres long where in front of a garage. The areas shall be maintained and kept available for the parking of vehicles at all times.
11. A clear view shall be provided on each side of driveways/ accesses where meeting the footway. Its area shall measure 2.4 metres along the edge of the site access and 2.4 metres along the footway. It must be kept clear of anything higher than 600mm above the access.
12. The development permitted by this planning permission shall only be carried out in accordance with the approved Addendum PPS25: Flood Risk Assessment (FRA) from Enzygo dated March 2011 (ref SHF.135.001.R.002.A) and the following mitigation measure detailed within the FRA: -Limiting the surface water run-off to 15.6 l/s using infiltration techniques as per sections 5.5, 5.6, 5.6.1 and 5.7.
13. The proposed marsh land and wet woodland shall be constructed in accordance with the following details (approved under discharge of condition ref. 17/00129/PLCOND):

- Management Plan dated 17/11/2017 produced by Stephen Martlew Landscape Architecture
- Drawing 1711/p/001 (dated May 2015).

The development shall be retained as such thereafter.

14. The development shall be carried out in accordance with the Himalayan Balsam Method Statement produced by Stephen Martlew Landscape Architecture approved under discharge of condition application ref. 17/00129/PLCOND.
15. Throughout the period of site preparation and construction, until the occupation of the (final) building, no trees, shown to be retained on the approved plan within the site, shall be felled, uprooted, lopped, topped or otherwise destroyed or damaged, including disturbance to roots, without the previous written consent of the Local Planning Authority. Where any tree is damaged or destroyed without consent, another tree shall be planted of such size, species, and in such a position as may be specified in writing by the Local Planning Authority.
16. The developer shall erect sturdy fencing at appropriate siting (as specified in the Trees & Landscaping on Development Sites SPD) for the protection of trees prior to any equipment, machinery or materials being brought on to the site, and it shall be maintained undisturbed until all equipment, machinery and surplus materials are removed and construction completed. No ground level changes or excavations within the protected area, or movement of the fence, shall be carried out without the written consent of the Local Planning Authority.
17. The bin storage arrangements for each plot shall be installed in accordance with the details indicated on drawing no. 17162 (PL0) 001 (approved under discharge of condition ref. 17/00113/PLCOND prior to the occupation of that dwelling and shall be retained as such thereafter.
18. During demolition and construction no work (including deliveries and operation of plant and equipment) shall take place on Sundays and Bank Holidays or outside the hours of 07:30 to 18:00 Mondays to Fridays and 08:30 to 13:00 Saturdays.