

**PLANNING
COMMITTEE**

14th November 2024

Planning Application 24/00740/S73

**Variation of condition 35 of planning permission 19/00977/HYB dated 01/11/2021:
FROM: No more than 128 dwellings hereby approved shall be brought into use until the highway improvements to the Dagnell End Road / A441 Birmingham Road junction as shown in the PJA Drawing Ref: 2809 P 12 Rev P4, or similar scheme acceptable to the Highway Authority, has been approved in writing and completed to the satisfaction of the Local Planning Authority (in consultation with the Local Highway Authority) and is open to traffic. The junction is to include Microprocessor Optimised Vehicle Actuation (MOVA) signal control.**

AMEND TO: No more than 200 dwellings hereby approved shall be brought into use until the highway improvements to the Dagnell End Road / A441 Birmingham Road junction as shown in the PJA Drawing Ref: 2809 P 12 Rev P4, or similar scheme acceptable to the Highway Authority, has been approved in writing and completed to the satisfaction of the Local Planning Authority (in consultation with the Local Highway Authority) and is open to traffic. The junction is to include Microprocessor Optimised Vehicle Actuation (MOVA) signal control.

(Cross boundary application with Bromsgrove DC 24/00753/S73)

Development Site At, Weights Lane, Redditch, Worcestershire

**Applicant: Persimmon Homes South Midlands Ltd
Ward: Batchley And Brockhill Ward**

(see additional papers for site plan)

The case officer of this application is Mr Paul Lester, Planning Officer (DM), who can be contacted on Tel: 01527 881323 Email: paul.lester@bromsgroveandredditch.gov.uk for more information.

Consideration and Determination of Cross Boundary Application

Two identical applications have been submitted, which include land within two LPA boundaries (Bromsgrove and Redditch).

The consideration of the impacts of a development proposal is not altered by political boundaries and cannot be considered in isolation. Members need to consider the application as a whole, (not just that part of the development within its own administrative boundary) and come to a decision based upon that consideration. However, Members will only be determining the application in so far as it relates to the administrative boundary of Redditch.

The Bromsgrove equivalent s73 application 24/00753/S73 was approved as per the officer recommendation at the 15th October meeting.

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Site Description

The application site forms part of the Brockhill allocation, which is a greenfield site extending to circa 56ha and is irregular in shape, comprising heavily grazed improved grassland and large arable field parcels typically subdivided by fencing. The allocation site's boundaries extend adjacent to Brockhill Lane to the west, Weights Lane to the north, the Redditch/Birmingham railway line to the east, Phase I (Pointer's Way) and Phase II (Meadow View) to its south, and Phase 3 and Phase 4 which are a continuation of Phase 2. These phases have been or are being built by Persimmon. To the north of the application site, off Weights Lane, is an area of employment development known as Weights Farm Business Park.

Proposal Description

This application is made under section 73 of the Town and Country Planning Act 1990 that relates to the determination of applications to develop land without compliance with conditions subject to which a previous planning permission was granted, subject to the revised/new conditions meeting the requirements of 'Use of Planning Conditions' of the PPG.

In deciding an application under Section 73, the Local Planning Authority must only consider the disputed condition that is the subject of the application – it is not a complete re-consideration of the application.

In this case the applicant is seeking a variation to the wording of a condition through the use of a Section 73 application.

On such an application the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted, and—

- (a) if they decide that planning permission should be granted subject to conditions differing from those subjects to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and
- (b) if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.

Under section 73 applications, conditions attached to the original consent are carried across to the new section 73 application where those conditions continue to have effect.

This application seeks the variation of Condition 35 and seeks to amend the 128-dwelling trigger point to a new 200-dwelling trigger point relating to highway improvements to the Dagnell End Road / A441 Birmingham Road.

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Relevant Policies

Borough of Redditch Local Plan No.4

Policy 1: Presumption in favour of Sustainable Development

Policy 2: Settlement Hierarchy

Policy 3 Development Strategy

Policy 4: Housing Provision

Policy 5: Effective and Efficient use of Land

Policy 6: Affordable Housing

Policy 16: Natural Environment

Policy 17: Flood Risk Management

Policy 19: Sustainable Travel and Accessibility

Policy 20: Transport Requirements for New Development

Policy 22: Road Hierarchy

Policy 31: Regeneration for Town Centre

Policy 36: Historic Environment

Policy 37: Historic Buildings and Structures

Policy 39: Built Environment

Policy 40: High Quality Design and Safer Communities

Policy 46: Brookhill East

Appendix 1 RCBD1 Redditch Cross Boundary Development

Others

NPPF National Planning Policy Framework (2023)

NPPG National Planning Practice Guidance

Borough of Redditch High Quality Design SPD (June 2019)

Bromsgrove District Plan

RCBD1: Redditch Cross Boundary Development

High Quality Design Supplementary Planning Document (June 2019)

Relevant Planning History

The application site forms part of a larger site that was the subject of a cross boundary hybrid planning applications for the following proposal.

Hybrid applications 19/00976/HYB and 19/00977/HYB for up to 960 dwellings consisting of a full application for 128 dwellings accessed off Weights Lane, new public open space, drainage system, engineering operations associated works and an outline application (with all matters reserved with the exception of access) for the construction of the remaining dwellings with access points off Cookridge Close, Hawling Street and Weights Lane and including a new District Centre, new play facilities, new highway network, public open space, new drainage system and surface water attenuation, engineering operations and all associated works including landscaping.

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This was approved at Redditch Planning Committee on 27th January 2021 subject to the signing of s106 agreement. Following the signing of the s106 agreement, the Redditch decision (19/00977/HYB) was issued on 1st November 2021.

The s106 agreement included the following contributions, highways (including bus service and infrastructure), education contribution on a per plot basis, off site open space contribution, Redditch town centre contribution, Bromsgrove and Redditch CCG Contribution and Worcestershire Acute Hospitals Trust.

Other Planning History

- Phase 1 (2011/177/OUT): Mixed use development of 171 dwellings, public open space (no matters reserved) and outline application for 4,738 square metres of Class B1 (Business) floorspace and access. Planning consent was granted on 3rd October 2011.
- Phase 2 (2014/256/OUT): Mixed use development of 296 dwellings, play area, Community House and public open space and outline application for up to 3,100 square metres of Class B1 (Business) floorspace and access. Planning consent was granted on 29th March 2017.
- New School: (16/000007/REG3) New two-form entry First School with associated external areas including access road, hard play, grass pitches, forest schools area, and parking. County application planning consent was granted on 13th October 2016.
- Land at Weights Lane (2012/120/OUT) Mixed use development of up to 200 dwellings, 5,000 sqm (gross) Class B1 office floorspace with associated open space and access arrangements. Planning permission was granted on 11th March 2014.
- Land at Weight Lane (reserved matters): (2015/265/RM) Layout, appearance, scale and landscaping for the erection of 200 no. dwellings with associated infrastructure and landscaping and the discharge of conditions 5, 9, 15 and 16 of the outline application reference 2012/120/OUT. Planning Permission was granted 16th December 2015.
- Phase 4 (22/00359/REM). Application for reserved matters approval (appearance, landscaping, layout and scale) for the construction of 72 dwellings and associated works and infrastructure, pursuant to the hybrid planning permissions 19/00976/HYB and 19/00977/HYB (Cross boundary application with Bromsgrove DC 22/00255/REM). Reserved Matters was granted 26th August 2022.
- Phase 6 (22/01553/REM) Application for reserved matters approval (appearance, landscaping, layout and scale) for the construction of 109 dwellings and associated works and infrastructure, pursuant to the outline planning permissions 19/00976/HYB and 19/00977/HYB. (Cross boundary application with Bromsgrove DC 22/01608/REM). Reserved Matters was granted 2nd August 2023.

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- Phase 5 (24/00083/REM) Reserved matters approval (appearance, landscaping, layout and scale) for the construction of 241 dwellings and associated works and infrastructure, pursuant to the outline planning permissions 19/00976/HYB and 19/00977/HYB (Cross boundary application with Bromsgrove DC 24/00077/REM). Reserved Matters granted 19th July 2024.

Consultations

Worcestershire Highways

No objection to the variation of condition

Tutnall And Copley Parish Council

Tutnall and Copley Parish Council cannot support this application. We feel that the developers should stick to the original approval and carry out the road improvements. The application appears to be a blatant attempt to postpone the commitment of the developers to do the accepted works at the junction. This will cause more people to be inconvenienced by the works.

Public Consultation Response

264 letters sent 29 July 2024 (expired 22 August 2024)
Site notices displayed 24 July 2024 (expired 17 August 2024)
Press notices published 02 August 2024 (expired 19 August 2024)

12 objections have been received in total, summarised as follows:

- Highway concerns
- The alteration to Condition 35 has the potential to increase the number of occupied dwellings to 200, which will result in a detrimental impact on the A441/Dagnell End Road traffic signal junction, thus causing additional traffic queues and vehicle delays to an already congested junction.
- The criteria for reviewing traffic flow arising from the scheme should be reassessed

A number of issues have been raised which are not material planning considerations and therefore have not been reported to Members.

Assessment of Proposal

Highways Matters

Background

A detailed Transport Assessment (TA) was prepared by PJA in support of the hybrid planning application.

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In the consideration of the Dagnell End Road / A441 Birmingham Road Junction the Committee Report made the following comments in paragraph 8.4-8.7. This are outlined below:

8.4 The junction currently experiences congestion during weekday peak hours and is located on a primary route connecting Redditch to the wider areas to the north, including Birmingham and access to the M42. A mitigation scheme has been identified for the junction, providing a 'nil-detriment' situation in terms of capacity, with wider benefits to the local community by providing a signal-controlled pedestrian crossing, operated by push button.

8.5 The junction scheme utilises land purchased by the applicant from the Local Planning Authority for the sole purpose of delivering a junction improvement in this location, in what is a constraint location in terms of land ownership. The improvement scheme is shown in the PJA Drawing Ref: 2809 P 12 Rev P4.

8.6 In terms of the phasing this work, the full element of the Hybrid can be started prior to the Dagnell End Road improvement scheme being required. This is justified to ensure sufficient time for the applicant team to obtain full technical approval for the junction scheme, without halting the delivery of construction on site. There is also a need to build in space between the Weights Lane improvements finishing and the Dagnell End Road works starting.

8.7 The Highway Authority accepts this position in retaining people in jobs and housing continuing to be built (also affecting the wider supply chain) at a time of recession relating to Covid-19. It is acknowledged that this will place some minor additional traffic impacts on an already congested junction for a short time, but on the premise that an improvement scheme is to be delivered in the medium term. As few network safety issues are identified at the junction, and the scale of impact being relatively small and typical of daily variation movements, the Highway Authority believes this balanced view and way forward to be acceptable.

The hybrid permission conditioned two highway improvement schemes. Under condition 34 regarding works along the Weights Lane Corridor and condition 35 regarding the Dagnell End Road / A441 Birmingham Road. The Weights Lane improvements are now complete. There was a requirement to separate the Weights Lane and Dagnell End Road schemes by the Highway Authority's Road Space Management Team. They required a sufficient period of time between one set of roadworks finishing and another starting, especially when in close proximity to each other. At the time of granting consent, there was an expectation that no dwellings beyond the 128 approved in the hybrid would be occupied until the Dagnell End Road improvement scheme was completed. Subject to planning condition, this would be acceptable in terms of the highway network.

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Current application

As part of this application, a Technical Note (TN) by the applicant's Highway Consultant (PJA) has been provided to justify this proposal.

The TN states WCC has recently stipulated that the applicant will not be allowed to commence the required Dagnell End Road/A441 Birmingham Road junction improvement works until March 2025, for several reasons including:

- To allow a break in roadworks in the area to benefit local residents;
- To undertake works during a period of improved ground conditions; and
- To allow necessary agreements, including with utility providers, to be implemented.

The Highway Authority S278 Team has subsequently advised the Applicant that approval for starting works to improve the Dagnell End Road / A441 Birmingham Road junction will not be granted prior to March 2025. There is a requirement for several of the Statutory Undertakers to undertake works in the vicinity of the junction prior to the applicant improving the junction. It is desirable that these utility works are undertaken separately from the junction improvement works. If all necessary utility works are complete by the end of March 2025 and the surrounding local highway network clear of any other significant roadworks, then approval to commence the works to improve the Dagnell End Road / A441 Birmingham Road junction could be granted with the earliest start date being from April 2025. The start date will depend on the Applicant completing the necessary S278 Agreement with the Highway Authority, including proposed temporary traffic management measures.

The Highway Authority is planning to submit Section 50 of the New Roads and Street Works Act 1991 (NRSWA), which would require all utility providers to undertake any necessary works within a 3- month period, prior to March 2025. Please note that Section 52 is incorrectly referenced in the supporting Transport Note.

As a result, the Applicant cannot currently undertake the required improvement works at the Dagnell End Road junction and, as a result, would be in breach of this condition if dwellings beyond the 128 cap were occupied. The Applicant expects to be at the 200th occupation by the time the roadworks are completed. Therefore, it has submitted a Section 73 planning application to amend Condition 35, increasing the trigger for highway improvement works to the 200th occupation in line with development progress in order to continue occupying both market and affordable dwellings.

The TN advises that the applicant expects to be at the 200th occupation by the time the roadworks are completed. Hence, the purpose of submitting this Section 73 planning application to amend Condition 35, increasing the trigger for highway improvement works to the 200th occupation in line with development progress.

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The issue is if it would be reasonable to require the applicant to suspend house building until March 2025 or to accept some short-term impact on the local highway network, including the Dagnell End Road / A441 Birmingham Road junction.

An understanding of the level of impact is required and as part of WCC Highways Assessment, the following comments have been provided:

Trip Generation

The TN calculates that there would be an extra 51 two-way AM trips and an additional 54 two-way PM trips for the 200 figure after taking into account the difference in trip generation for 128 and 200 dwellings.

Before any improvements were made, this would result in about 20 two-way AM trips and 22 two-way trips at the intersection of Dagnell End Road and A441 Birmingham Road, according to the agreed-upon trip distribution.

As new housing is finished and occupied, these extra trips would accumulate.

Baseline Flows

According to the TN, a baseline traffic survey was conducted in June 2019 in order to bolster the initial planning request. This determined the baseline flows to be 2,291 peak two-way trips in the AM and 2,482 peak two-way trips in the PM.

The TN notes a Redditch planning application (ref: 21/01830/FUL) for a David Wilson Homes development at Hither Green Lane, Redditch. This application included a TA Addendum that was submitted in 2023 and contained turning count survey data that was collected on Tuesday 15 November 2022 at the intersection of Birmingham Road and Dagnell End Road. As baseline flows, 1,671 AM peak two-way trips and 1,741 PM peak two-way trips were recorded.

Comments submitted as part of the publicity process have suggested on-going roadworks in the area might have affected the November 2022 results. The Highway Authority would contest the notion that November is a neutral month with a higher probability of lower traffic volumes. An independent traffic count at the junction was conducted on 12 March 2024, during the morning peak hour of 0800-0900. 2,253 two-way trips were recorded, which is 38 fewer than in the June 2019 survey.

This was acknowledged in the Highway Authority's official response to the David Wilson Homes application:

“Compared to the background traffic flows surveyed and used in the LinSig model for the Brockhill Phase 3, traffic flows have since slightly reduced post-covid and this has been confirmed by the Highway Authority’s own permanent traffic counter, which is positioned

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on the A441 to the north of the Dagnell End Road junction (the northern arm of the junction). Several months' worth of data was obtained to verify this."

According to the TN, the decrease in traffic flows that WCC refer to is consistent with the declines seen in the surveys that have been finished since 2019. Therefore, in the years after the Land at Brockhill East application, it has been widely acknowledged that there has been a slight decrease in general traffic past the junction.

Junction Impact

The TN states that traffic flows in 2024 have been demonstrated to be lower than when the Land East of Brockhill application was submitted. The reductions in local traffic flows are greater than the additional 20 AM and 22 PM trips predicted to be generated by a 200-dwelling trigger point, therefore the total traffic flows will be lower than those assessed as part of the original application.

It is considered that there will not be any negative effects on the junction before any highway improvement projects are finished if Condition 35 is changed as part of the Section 73 application. When base traffic flows are reduced, the effect of a small increase in development trips is deemed insignificant.

The Highway Authority concurs that neither the local highway network nor the junction would suffer appreciably from the minor increase in development trips. The recommended increases in development trips fall comfortably within the range of daily variations in baseline flows at the junction that are considered acceptable. Therefore, the Highway Authority has no justification for objecting to the proposed increase in the trigger point threshold from 128 to 200 dwellings.

Conclusion on Highway Matters

The key issue is the likely impact of development traffic associated with the difference between 128 and 200 dwellings. For the Dagnell End Road / A441 Birmingham Road junction, the trip distribution assessment suggests this is likely to result in approximately 20 two-way AM trips and 22 two-way trips. The Highway Authority is content these flows are a reasonable estimate. These trips would gradually build up as dwellings are constructed out and become occupied. The Highway Authority is of the opinion the build-up of the 20 two-way AM trips and 22 two-way trips is considered to be within the daily fluctuation of baseline flows, such that the gradual increase would have no noticeable significant detrimental impact on the existing junction that would justify a refusal of the application.

On that basis the Highway Authority offers no objection to the variation of condition 35. There are no justifiable grounds on which an objection could be maintained on highway grounds. As a consequence, it is considered that the proposed development would deliver sustainable development in accordance with the requirements of Policy 20, 22 and 46 of the BRLP.

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Legal Agreement

A section 106 agreement (s106) was completed for the hybrid application. However, the legal agreement did not include wording that if a s73 consent was granted then the obligations in the s106 legal agreement (such as affordable housing, education, off site open space, etc) should relate to the new s73 consent.

Therefore, if approved a supplemental deed to the legal agreement is required in this case to ensure that the obligations still apply.

Other Matters

Technical matters regarding the number of affordable housing units, flood risk, drainage, ecology and biodiversity, air quality, noise, and contaminated land were assessed in detail on the previous applications and were considered acceptable (subject to relevant conditions). Officers consider the proposed condition change under this application do not result in any material change to these matters, subject to relevant conditions under 19/00977/HYB being imposed.

Conclusion

In conclusion, whilst Officers note that the variation will add to existing traffic on the local road network, the detailed transport note accompanying the application has been reviewed by the Highway Authority and it has been concluded that the impacts of the development arising from the variation of Condition 35 cannot reasonably be described as severe. In accordance with paragraph 115 of the NPPF and BRLP policies, the development should not be refused on highways grounds. The proposal is therefore recommended for approval.

RECOMMENDATION:

- a) Minded to **GRANT** Hybrid Planning Permission
- b) That **DELEGATED POWERS** be granted to the Assistant Director for Planning and Leisure Services to determine the planning application following the receipt of a suitable and satisfactory legal mechanism.
- c) And that **DELEGATED POWERS** be granted to the Assistant Director for Planning and Leisure Services to update conditions relating to 19/00977/HYB and to agree the final scope, detailed wording and numbering of conditions.

Procedural matters

This application is being reported to the Planning Committee because the application requires a S106 Agreement. As such the application falls outside the scheme of delegation to Officers.