

P25-1423_L001v1

8 July 2025

Ben Glover, Senior Planning Officer
North Hertfordshire Council
Council Offices
Gernon Road
Letchworth Garden City
SG6 3JF

Dear Ben,

Section 73 application to vary Conditions 3 and 20 of planning permission 18/01502/OP
Land Between Royston Road and Cambridge Road, Barkway

I write on behalf of my client, Redrow Homes South Midlands (a trading name of BDW Trading Ltd) to submit a formal request to vary conditions 3 and 20 of the outline planning permission referred to above, and insert a new condition. The application has been submitted via the Planning Portal and has the reference **PP-14152949**. The relevant fee of **£2,000.00** (plus Planning Portal service charge) has been paid directly by the applicant via the Portal.

This s.73 application is made following the extensive discussions between the applicant and the Council regarding this site, which took place pre- and post-submission of the 'first' s.73 application (24/01994/S73). This new application is made having taken into consideration the views of the Council.

Condition 3

It is agreed between the parties that the current wording of condition 3 is not sound in its requirement to comply "wholly" with approved plans that include "indicative" or "illustrative" elements. This is supported by legal advice recently taken by the applicant; the advice is enclosed and confirms that condition 3 is unlawful as a result of being unenforceable and imprecise through its requirement for details to be "wholly in accordance" with illustrative plans.

A variation is therefore necessary. The legal advice taken by the applicant relates to the 'first' s.73 application (24/01994/S73), and confirms that the amended condition 3 proposed by that application *"is a sensible way to ensure that the development comes forward in accordance with the details agreed at the OPP stage, but without unlawfully obliging the Developer to be bound by the illustrative plans which it submitted"*. However, the applicant accepts that the Council considers an alternative approach is required, and this new s.73 application has been prepared with the Council's preferred approach in mind in the interests of moving this site forward.

Victory House, Vision Park, Histon, Cambridge, CB24 9ZR

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This application proposes to correct the deficiencies in condition 3 through the amend suggested in email correspondence from yourself dated 3 July 2025 and replicated below:

3. The development hereby permitted shall be carried out wholly in accordance with the **Location Plan (Plan No. 1797/30/110), Proposed Access – Royston Road (Plan No. 163462-006 Rev A), Proposed Access – Cambridge Road (Plan No. 163462-007 Rev A),** and ~~details specified in the application and supporting, approved documents and plans, together with~~ the reserved matters approved by the Local Planning Authority, or with minor modifications of those details or reserved matters which previously have been agreed in writing by the Local Planning Authority as being not materially different from those initially approved.

Reason: To ensure the development is carried out in accordance with details which form the basis of this grant of permission or subsequent approval of reserved matters.

In addition, your email of 3 July 2025 suggests the inclusion of a new condition (assumed to be condition 26) that will be read alongside condition 3, to ensure that any changes from the indicative outline plans are set out and justified. The proposed wording is:

26. Concurrent with the submission of the first Reserved Matters application, and any subsequent Reserved Matter applications, a Masterplan Compliance Statement shall be submitted to and approved in writing by the Local Planning Authority. The Masterplan Compliance Statement shall provide detailed explanation of how the proposal accords with the Masterplan Summary Report approved under application reference No. 18/O1502/OP and dated March 2022, and plan numbers 1797/30/101 Rev E – Land Use Plan; 1797/30/103 Rev E – Access and Movement; 1797/30/104 Rev A – Urban Design Parameter Plan; and 1797/30/105 Rev A – Landscape Parameter Plan; 163462-002 Rev A – Alternative Royston Road Crossing Improvements (Option 2); 163462-004 Rev B – Cambridge Road Potential Gateway Feature and Foot/Cycleway Extension; 163462-008 – Indicative Pedestrian Improvements Plan; 1797/30/100 Rev G – Illustrative Masterplan. Where the proposal does not accord with a specific principle or parameter within the approved Masterplan, the Masterplan Compliance Statement must provide clear and robust justification for each departure.

Reason: To ensure that the development as envisaged by the outline application is satisfactorily implemented in accordance with Policy SP9 of the North Hertfordshire Local Plan.

Condition 20

It is also agreed between the parties that a variation to condition 20 is necessary. Additional technical investigations undertaken after the grant of outline planning permission have demonstrated that ground conditions preclude shallow infiltration. The indicative drainage strategy approved by condition 20 was based on shallow infiltration being feasible and is

therefore not robust, and a variation to the condition is necessary to allow for the submission and approval of a revised drainage strategy.

The suggested wording of condition 20 remains as proposed through the 'first' s.73 application. The Lead Local Flood Authority confirmed no objection to this proposed wording in its response to 24/O1994/S73 dated 2 July 2025.

~~20. The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment carried out by Ardent Consulting reference 163461-02a dated June 2018. The surface water drainage scheme should include;~~ **Notwithstanding the surface water drainage strategy set out within the approved Flood Risk Assessment (Ardent Consulting, reference 163461-02a dated June 2018), prior to commencement of development a detailed surface water drainage scheme shall be submitted to and approved in writing by the Local Planning Authority. The surface water drainage scheme shall include:**

- 1) Implementation of the appropriate drainage strategy based on infiltration into using appropriate above ground SuDS measures; and
- 2) Provision of storage to ensure no increase in surface water run-off volumes for all rainfall events up to and including the 1 in 100 year + 40% climate change event.

The surface water drainage scheme shall be fully implemented prior to full site occupation and in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority".

Reason: To reduce the risk of flooding to the proposed development and future occupants

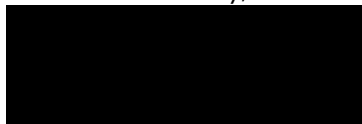
Conclusion

The applicant remains keen to work constructively with the Council, as should be evident by the submission of this new s.73 application which follows the Council's preferred format of amending condition 3 and inserting a new condition 26. This preference has been confirmed after extensive discussions. Given this is the case, it is considered there should be no issue for the Council to promptly process and determine this s.73 application, which will unlock the overdue delivery of a site that is allocated in the Council's adopted Local Plan. Paragraph 11c) of the National Planning Policy Framework is clear that applications which accord with an up-to-date development plan must be approved without delay.



I trust the above and enclosed assists in determining these proposals. We look forward to receiving confirmation that this application is valid and your expected timescales for determining the application. Please do not hesitate to contact me should you require any further information at this time. We welcome the opportunity to discuss this submission further with you

Yours sincerely,



Matthew O'Gorman
Senior Director



Enc. Legal Advice – Thea Osmund-Smith, 30 June 2025