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SG6 3JF

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Date: 21/08/2025

Dear Sir/Madam,

Application Site: Land At Turnpike Lane And Adjacent To 4 Manor Close, Turnpike Lane, Ickleford, Hertfordshire, SG5 3UZ
Description: Section 73 application seeking to vary Condition 2 attached to extant planning permission ref: 24/02563/S73

Introduction

Phase 2 Planning has been instructed on behalf of the Applicant, Troy Homes Ltd, to submit this Section 73 application for the variation of Condition no. 2 attached to extant planning permission ref: 24/02563/S73, which granted full planning permission for the construction of 8 dwellings alongside associated development.

This application submission comprises the following:

- Completed application form;
- Drawings listed in this letter; and
- This letter as description and justification of the proposals.

We set out the substance of this application below.

Site Description

The application site is land on the south side of Turnpike Lane to the west of Lodge Court and Manor Close. The land, formerly, was part of the grounds of Ickleford Manor house which lies to the east of Lodge Court. The neighbouring buildings, Waltham Cottage and numbers 3 – 6 Lodge Court are all listed buildings and Waltham Cottage is within the Ickleford Conservation Area. The vehicle access for Lodge Court cuts through the northern part of this site, although this is set back from the road with a belt of mature trees between the access lane and Turnpike Lane itself which are covered by a blanket TPO, which also extends along Turnpike Lane to the west. The land is fenced but is open paddock land in character. Under the provisions of the Local Plan 2011 – 2031 this land is now land within the settlement boundary for Ickleford.

Contextual Background

North Herts Council granted full planning permission for the construction of eight dwellings alongside associated development under ref: 23/02650/FP on 16th February 2024. The description of development reads as follows:



"Erection of eight dwellings comprising of 3 pairs of semi-detached dwellings (6 x 3-bed) and two detached 4-bed dwellings including integral garages (plots 1 and 8) with a new access spur from the Lodge Court, on-site parking, landscaping"

Subsequently, a Section 73 application was submitted under ref: 24/01031/S73 to vary the parent permission (ref: 23/02650/FP) by changing the footprint size, height and external design of the dwellings. Planning permission was granted with the Decision Notice being issued on 9th September 2024.

Afterwards, a Section 73 application was submitted under ref: 24/02563/S73 sought to retain the scheme approved under application 24/01031/S73, albeit with the proposed addition of a car port structure between the front boundary of plot 7 and the side boundary of plot 8 backing on to the southern boundary of the site. Planning permission was granted with the Decision Notice being issued on 10th January 2025.

Condition 20, which is attached to the latest Section 73 application (ref: 24/02563/S73), reads as follows:

"Prior to the first occupation of the first dwelling a scheme of sustainability measures for all the dwellings is to be submitted to, and approved in writing by, the Local Planning Authority and be implemented on site.

Reason: To address the climate emergency in accordance with Local Plan Policy D1."

A formal application has been submitted to discharge Condition 20 under application ref: 25/01787/DOC. The submitted Sustainability Statement detailed that air source heat pumps are to be incorporated within the scheme, but their location was not shown on the Proposed Site Plan (drawing no. TH152_A_S_XX_001_P7) approved by Section 73 application ref: 24/02563/S73. As such, following discussions with the case officer, it was agreed that a Section 73 application would be submitted to show this operational development.

Proposal Description

Planning permission ref: 24/02563/S73 consents the following development description: *"Variation of condition 2 (revised plans) of planning permission 24/01031/S73 granted for erection of eight dwellings comprising of 3 pairs of semi-detached dwellings (6 x 3-bed) and two detached 4-bed dwellings including integral garages (plots 1 and 8) with a new access spur from the Lodge Court, on-site parking, landscaping."*

Condition 2 attached to planning permission ref: 24/02563/S73 requires the approved development to comply with the approved plans as detailed on the associated Decision Notice. This proposal seeks to vary Condition 2 by installing one air source heat pump for each residential dwelling positioned within their rear private amenity space (with minor changes to the spatial extent of private paving associated with Plots 01, 02 and 06 – with the shed associated with Plot 02 moved to the rear of its garden).

It should be observed that the total quantum of residential development will remain unchanged. This means the development description is unaltered and thus falls within the scope of a Section 73 application.

This submission is accompanied by the submitted Application Form and this Covering Letter. It also comprises a single architectural drawing as follows: 'Proposed Site Plan' (ref: TH152_A_S_XX_001 Rev C).

Planning Policy

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that, if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts, the determination must be made in accordance with the plan, unless material considerations indicate otherwise, such a Government Policy or emerging Local Policy.

The statutory development plan for this area comprises the North Hertfordshire Local Plan 2011 to 2031, which was adopted in November 2022. It will, hereafter, be referred to as the Adopted Local Plan. The most relevant policies of the Adopted Local Plan that are relevant to the determination of this Section 73 application are considered in the 'Main Planning Considerations' section of this Covering Letter.

The National Planning Policy Framework (NPPF) forms a material planning consideration in the determination of this planning application.

Main Planning Considerations

Principle of Development

This application is made under Section 73 (2) of the Town and Country Planning Act 1990 (As Amended) which states: *"On such an application the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted"*. In other words, the local planning authority of concern – North Herts Council – should only consider the amendments sought by the Section 73 application.

In this instance, planning permission ref: 24/02563/S73 establishes the principle of development for the construction of 24 dwellings on the subject site. Only the changes sought by this Section 73 application, such as the proposed installation of air source heat pumps, are within the scope of consideration by the local planning authority.

Design and Impact on the Character and Appearance of the Area

Policy SP9 states that the Council will support new development where it is well designed and located and responds positively to its local context. Meanwhile, Policy D1 states that proposals will be supported where they respond positively to the site's local context.

The proposed air source heat pumps will be positioned in secluded locations to either the side or rear of the residential dwellings, meaning that they will have an imperceptible impact upon the public realm.

As aforementioned, the Section 73 scheme also incorporates minor changes to the spatial extent of private paving associated with Plots 01, 02 and 06 – with the shed associated with Plot 02 moved to the rear of its garden. These changes are not considered to be objectionable.

Environmental Credentials

Policy D1 states that the local planning authority will support proposals that reduce energy consumption and waste.

The proposed inclusion of air source pumps within the scheme directly supports this policy aspiration.

Impact on Neighbouring Occupiers

Policy D3 states that planning permission will be granted for development proposals which do not cause unacceptable harm to living conditions.

There are no residential properties immediately to the south or west of the application site that would be impacted by the submitted proposals. Due to the intervening separation distance between the proposed development and the nearest residential properties to its north, the residential amenity of existing occupiers to its north would be preserved. Furthermore, whilst it is noted that there would be an air source heat pump associated with Plot 08 positioned close to a nearby residential property to its east (No. 4, Manor Close), a degree of physical separation would be retained and separated by an intervening boundary treatment, thus preserving their residential amenity.

Other Matters

Paragraph 015: Reference ID: 17a-015-20140306 within the Planning Policy Guidance 'Flexible Options for Planning Permissions' makes clear that: *"Permission granted under section 73 takes effect as a new, independent permission to carry out the same development as previously permitted subject to new or amended conditions. The new permission sits alongside the original permission, which remains intact and unamended. It is open to the applicant to decide whether to implement the new permission or the one originally granted."*

A decision notice describing the new permission should clearly express that it is made under section 73. It should set out all of the conditions imposed on the new permission, and, for the purpose of clarity restate the conditions imposed on earlier permissions that continue to have effect".

In this instance, the Applicant has already discharged a set of conditions in relation to the approved permission (ref: 24/02563/S73). This includes:

- Condition 12 (Construction Traffic Management Plan) – approved under 24/02312/DOC and 25/00145/NMA.
- Condition 15 (Bin Stores) approved under 25/00147/DOC.

It is requested that the wording of these conditions is amended so that it simply requires compliance with the approved details.

Further to the above, the Applicant has also applied to discharge outstanding conditions in relation to the approved permission (ref: 24/02563/S73). This includes:

- Condition 17 (Surface Water Drainage Works) – under active consideration under 25/00592/DOC, which is seeking to address comments raised by the Lead Local Flood Authority.
- Condition 20 (Sustainability Measures) – under active consideration under 25/01787/DOC, as previously discussed in this Covering Letter.

If Conditions 17 or 20 are formally discharged before the determination of this Section 73 application, it is requested that the details previously discharged pursuant to the referenced conditions no longer require submission of further details in this Section 73 application, but instead be imposed as conditions seeking compliance with these approved details. As such, there would be no formal expectation for the Applicant to re-apply for their formal discharge.

Otherwise, the remaining conditions imposed under planning application ref: 24/02563/S73 will be directly transferable to this Section 73 application.

Conclusion

This Section 73 application clearly demonstrates that the proposed variation of Condition no. 2 under extant planning permission ref: 24/02563/S73 will not result in any adverse planning harms, having demonstrated its acceptability in respect to design, environmental credentials, and the impact on neighbouring occupiers.

Having regard to the above, this Section 73 planning application is considered acceptable in planning terms and thus there is a compelling case for the grant of planning permission to vary Condition no. 2 as detailed. We trust that the above and enclosed detail is sufficient for the Council's prompt and full assessment of these application proposals, and we look forward to confirmation of the validation of the planning application shortly. In the interim please do not hesitate to contact me directly should you wish to discuss this matter further.

Yours sincerely

Phase 2 Planning

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Senior Planner