

TWC/2016/0667

Doseley Works, Doseley, Telford, Shropshire, TF4 3BX

Variation of condition 31 of TWC/2012/0650 to allow full completion of the development, including occupation of all dwellings without the need to provide a secondary access point onto Lightmoor Way \*\*\*ADDITIONAL SUPPORTING LETTER RECEIVED\*\*\*

**APPLICANT**

David Wilson Homes Mercia,

**RECEIVED**

21/07/2016

**PARISH**

Dawley Hamlets

**WARD**

Horsehay and Lightmoor

**OFFICER** Steven Drury

**1.0 PROPOSAL**

1.1 The application has been made pursuant to Section 73 of the Town and Country Planning Act 1990 to vary Condition 31 attached to Outline Planning Permission reference TWC/2012/0650 for the erection of up to 460 dwellings at the former F.P. McCann, Doseley Pipeworks site, Doseley, Telford.

1.2 Condition 31 reads as follows:

*“Only 75% of the proposed number of dwellings site can be built and served off St Luke’s Road, until a second site access (onto Lightmoor Way) has been secured and provided. The 75% of the site shall include the open space areas up to and including the Quarry Pool.*

*Reason: In the interests of amenities of the area and to encourage sustainable linkage with Lightmoor”.*

1.3 The applicant is seeking permission to vary the wording of the condition to allow all of the development to take place without providing the second access onto Lightmoor Way. They are, however, happy for the requirement to provide the open space areas up to and including the Quarry Pool before 75% completion to remain in the condition.

1.4 The proposed revised wording of the condition would therefore read as follows:

*“The open space areas up to and including the Quarry Pool shall be delivered upon occupation of 75% of the development hereby approved.*

*Reason: To ensure the provision of an appropriate amount of open space and recreation in the interests of amenity.*

1.5 The applicant has offered a financial contribution of £100k towards additional traffic calming measures on the surrounding road network, which would be provided in addition to highway improvement works to be carried out by the applicant along Frame Lane north of the site access onto St Lukes Road, as required by Condition 21 of the outline permission.

- 1.6 The application is supported by the following documents:
- Planning Statement
  - Technical Note
  - Supporting letter from David Wilson Homes (applicant)
- 1.7 The options available to Members in considering the application are:
- (i) Grant planning permission subject to different conditions
  - (ii) Grant planning permission without conditions at all
  - (iii) Refuse the application
- In the event of a refusal there is a right of appeal to the Secretary of State.

1.8 In considering any application to remove or vary a condition, the Council has to consider whether it should have been imposed in the first place. Officers are more limited in scope in considering a Section 73 application than when considering an application for full planning permission as they are not allowed to rewrite the permission altogether.

## **2.0 BACKGROUND**

2.1 Outline permission was granted in 2014 for the erection of up to 460 dwellings. Reserved matters approval was subsequently granted in two phases, comprising 192 dwellings under TWC/2014/0237 (granted 6/8/14) and 268 dwellings under TWC/2016/0293 (granted 30/6/17).

2.2 Access to the development was originally to be provided through one access point onto St Lukes Road, utilising the existing pipeworks eastern access. This was supported by a Transport Assessment which concluded that the development would not have a detrimental impact upon the surrounding highway network. However, in response to local opposition during the course of the application, it was agreed that the possibility of incorporating a second access utilising the existing western pipeworks access onto Lightmoor Way would be explored. This presented difficulties as the western access was not in the applicant's ownership, being owned at the time by the Homes and Communities Agency (HCA), and later transferred to Bourneville Village Trust (BVT) as part of the Lightmoor village development.

2.3 The planning committee report for the outline application TWC/2012/0650 clearly set out the position regarding the ownership of the western access.  
*"...however, the western access onto the new Lightmoor Road is under the control of the Homes & Communities Agency (HCA) and currently the access can only be used for commercial traffic. Council officers have written to the HCA advising them of the benefits of a second access. In addition the developer has had independent discussions with the HCA - it is understood there is a general willingness to try and secure a second access for the site, but at the present time a definitive agreement with the HCA has not been reached".*

2.4 *"However, Council officers, in discussion with the developer, are prepared to grant planning permission based on the premise that 75% of the traffic from the proposed site uses the St Luke's Road access and 25% uses the second access off Lightmoor Way, if and when an agreement with the HCA is*

*reached. A condition could be imposed that would only allow 75% of the site to be built out and served by the St Luke's Rd access point, but the last 25% could only be built out if access via Lightmoor Way is secured. Hence, an amended plan has been submitted that shows this potential second access point. Officers consider that this solution addresses their concerns about the desirability for a second access (despite there being no technical need) and also addresses local residents' concerns about traffic going through Horsehay.*

- 2.5 In order to comply with the condition an agreement will needed to be reached with BVT as landowner before the western access could be provided, however, DWH do not wish to be held to ransom over an access they consider is not technically necessary. DWH have advised that initial discussions have taken place with both HCA as the original and BVT as current landowner to secure a right to use the second access but so far have not gone beyond initial discussions.
- 2.6 David Wilson Homes (DWH) have advised that they are contractually obliged to apply to remove the requirement to provide the second access by varying the wording of Condition 31 and therefore wish for this application to be determined before they continue to negotiate. They consider that the removal of this requirement would remove the 'ransom' element currently being imposed upon them to secure the second access. DWH do, however, remain committed to the provision of the second access and have confirmed this in writing, as dwellings are currently being sold on the site on the understanding that it will be delivered.

### **3.0 SITE AND SURROUNDINGS**

- 3.1 The application concerns the ongoing DWH redevelopment of the former Doseley Pipeworks site in Doseley. Outline permission was granted in 2014 for the erection of up to 460 dwellings. The site covers 17.8ha (44 acres) and is located approximately 3km (2.5miles) south east of Telford Town Centre. Dawley district centre is located 1km to the north east, Horsehay village to the north west and Lightmoor village to the south. A range of services including primary and secondary schools, a doctors surgery and shops are located within Dawley centre. A more limited range of services are available within Lightmoor centre including a primary school and convenience store. A small convenience store is also located in Little Dawley, approximately 1km to the east.
- 3.2 The development is now well underway, with approximately 110 units within Phase 1 now complete which equates to 23% of the overall development. Meanwhile, significant site clearance and level alteration works are currently taking place within Phase 2 to prepare it for development.
- 3.3 The original pipeworks site was accessed by two entrances located at the eastern and western sides of the site. Both are still operational with the eastern access onto St Lukes Road serving as the access for Phase 1 of the development. The western access utilises a private road known as 'The Bache' which is within the ownership of BVT. This route connects with

Lightmoor Way and out onto the A5223 ring road via the recently completed roundabout junction. An agreement previously existed between the operators of the pipeworks site (FP McCann) and BVT allowing the use of the road for commercial purposes, however, there is currently a difference of opinion between DWH and BVT over the extent to which those rights continue to exist.

- 3.4 The eastern access onto St Lukes Road, utilises a network of roads which are narrow in places and at times experience congestion and obstruction. The access predominantly utilises three main routes to and from the site comprising:
- (i) To the south, St Lukes Road connecting with Little Dawley via Holly Road and the A4169 via Lightmoor Road;
  - (ii) To the north east, Doseley Road towards Dawley centre;
  - (iii) To the north west, Frame Lane, Woodhouse Lane and Bridge road onto the A5223 ring road.

#### **4.0 RELEVANT PLANNING HISTORY**

- 4.1 TWC/2012/0650 - Outline application to include access for the development of up to 460 dwellings with associated estate roads, infrastructure and open space, following demolition of existing buildings. Granted 10/3/14
- 4.2 TWC/2014/0237 - Reserved matters application for the erection of 192no. dwellings and garages with associated roads, sewers, open space and associated external works – Granted 6/8/2014
- 4.3 TWC/2016/0293 - Reserved matters application for the erection of 268 dwellings including appearance, landscaping, layout and scale (pursuant to outline application TWC/2012/0650) – Granted 5/4/16

#### **5.0 PLANNING POLICY CONTEXT**

##### **5.1 National Guidance:**

National Planning Policy Framework (NPPF)  
Planning Practice Guidance (PPG)

##### **5.2 Telford & Wrekin Local Plan:**

SP1: Telford

SP4: Presumption in favour of sustainable development

C3: Impact of development on highways

BE1: Design criteria

#### **6.0 SUMMARY OF CONSULTATION RESPONSES**

##### **6.1 Local Member & Town/Parish Council Responses:**

###### **6.1.1 Dawley Hamlets Parish Council: Object**

Strongly oppose this application. St Luke's Road is narrow at many points and suffers from an increasing amount of traffic both domestic and commercial. There is strong feeling amongst residents over the fact that in these proposals there will only be one access point on to St Lukes Road. The local roads, restricted points along those roads cannot be expected to cope with the expected amount of extra traffic.

## **6.2 Standard consultation responses**

### **6.2.1 Highways: No objection**

The Section 73 application can only be judged on the merits of its original reasons and these were not highway related. Therefore taking a retrospective opinion of the history there is considered to be no defensible reasons for a highways objection to this application. However, neither is this recommendation at this time in any way unreserved support for the proposal. From the discussions, it is believed that there is a genuine will from DWH to secure the second access. Bizarrely, if the Section 73 is varied then the likelihood of a deal being struck to secure the second access is more likely in the short to medium term. DWH have stated that they are minded to just deliver 75% of the site if the second access does not come off and this fall-back position is possibly less desirable than allowing 100% from St Lukes Road; which by doing so would break the ransom and give the second access a fighting chance. It is also the understanding that even if 100% of the traffic is consented onto St Lukes Road then DWH are still obliged to deliver their infrastructure for the second access, as this is shown on the approved planning drawings. Therefore an approval of the Section 73 does not necessarily remove the requirement for the second access infrastructure up to the boundary.

### **6.2.2 Education: Comment**

The site straddles the Lightmoor Primary and Captain Webb Primary attendance areas. Lightmoor Primary was funded by the BVT and the school largely fills with children from within the Lightmoor area. Surplus places within adjacent schools will be available for children moving into this development and the local authority are providing additional places at Ladygrove Primary to assist with the new housing in the area.

### **6.2.3 Conservation: Comment**

Refers to comments made in 2012 regarding the listed building over the Telford Steam Railway

### **6.2.4 Ecology: No comment**

### **6.2.5 Parks & Open Spaces: No comment**

### **6.2.6 Drainage: No comment**

### **6.2.7 Environmental Health: No comment**

### **6.2.8 Trees: No comment**

### **6.2.9 Urban Design: No comment**

### **6.2.10 Coal Authority: Comment**

Raises no specific observations

### **6.2.11 Shropshire Fire Service: No objection**

Have considered the proposal but are unable to comment specifically on access issues. Would only be concerned with matters such as compliance with building regulations and access to water.

6.2.12 **Additional comments**: The Planning Policy Team and Affordable Housing Officer have also been asked to comment on the potential implications should the applicant only build out 75% of the development:

6.2.13 **Planning Policy**: Comment

A reduction of 115 units (25%) resulting from non-implementation of the final 25% of the development would impact upon future housing land supply beyond 2022, but would not affect the current land supply position. By 2022, it is assumed that 292 dwellings would have been built. Consequently, assuming only 345 units are built out, whilst the overall reduction is not welcomed, the impact is likely to be medium term. More concerning would be the loss of 34 affordable dwellings.

6.2.14 **Affordable Housing**: Comment

The loss of 115 homes would represent around 10% of annual new housing delivery in Telford & Wrekin and approximately 11% of the annual supply of new affordable homes. The most recent Strategic Housing Market Assessment (SHMA) highlights a shortfall in the provision of affordable homes in the borough. The loss of 34 affordable homes would be of particular concern, particularly if these were intended to be good sized family homes or bungalows.

### **6.3 Neighbour consultation responses**

6.3.1 In response to the original neighbour consultation, 52 objections were received. Following the receipt of further supporting information from the applicant, a re-consultation was carried out which received a further 47 objections. A summary of the key points raised is as follows:

- St Lukes Road does not have the capability to deal with all traffic from such a large estate
- Footpaths are inadequate along St Lukes Road – concerns for safety of children
- St Lukes Road is not wide enough to allow two cars to pass
- Problems exacerbated by speed of cars using St Lukes Road
- Road network is already congested and not fit for purpose
- Suggestion that an independent mediator is employed to resolve the dispute
- DWH have advised residents that a second access will be provided
- Proposal would lead to greater congestion on the DWH estate
- Will impact upon the amenity of those residents living along the spine road within the new estate.
- Offer of £100k from DWH is farcical and constitutes blackmail
- What improvements could even be made? Road is too narrow
- DWH threat to only build 75% of the development is the best outcome
- Developers are trying to make more money by the providing 2<sup>nd</sup> access

- DWH should put the welfare of existing residents and the environment before profits.
- Eastern site entrance does not comply with Manual for Streets visibility splay requirements
- The potential for accidents on surrounding roads is already significant and will only get worse
- Removal of the condition will leave hundreds of dog walkers, children and parents with serious safety concerns

6.3.2 One comment in support has also been received, citing the following reasons:

- Agree that 100% of traffic exiting onto St Lukes Road is unsafe and unacceptable
- Can also see that BVT are holding DWH to ransom over this strip of land.
- If only 75% of the development gets built then no second access will be forthcoming. However, if 100% of the houses are allowed to be built with the one access then BVT have no hold over DWH and should release the land for the second access at a reasonable price.
- Also if this is not supported and only 75% of house are built then there will be no £100K contribution for highway improvements so it's a lose-lose situation.

6.3.3 Shropshire Peregrine Group: Comment

Concerns regarding impact of existing works on nesting Peregrine Falcons

6.3.4 Local Access Forum: Object

It is not clear from the proposed plans how the developer plans to deal with a Public Right of Way (footpath) that runs through the south of the site

## **7.0 PLANNING CONSIDERATIONS**

7.1 There is clearly a significant level of opposition to the proposal both from local residents and ward members, however, members are faced with a difficult decision taking into account a number of factors:

- Reasons for Imposing Condition
- Highways Issues
- Amenity and Sustainable Linkages
- Other Matters

### **7.2 Reasons for Imposing Condition**

7.2.1 The first point to consider is should the condition have been imposed in the first place. It is clear from the original committee report that there was no technical reason for refusing the application on highways grounds alone. The Highways Officer accepted the conclusion of the supporting Transport Assessment and raised no objection to the application being served off a single access point subject to conditions and a financial contribution towards improvements at two roundabouts (A5223/Bridge Road and Jiggers Bank Roundabout).

- 7.2.2 Paragraph 206 of the NPPF states that planning conditions should only be imposed where they are necessary, relevant, enforceable, precise and reasonable. To be lawful, a condition needs to meet each of these criteria. Therefore, given that there were no highways objections to the use of one access point, the condition could not have been imposed purely on highway safety grounds as it would have failed the test of being 'necessary'.
- 7.2.3 The officer's committee report makes it clear that *'officers have always maintained a desire to see the site having a second access in order to improve connectivity with the Lightmoor Village and surrounding area and give new residents easier access to facilities in Lightmoor as well as creating a more sustainable development'*.
- 7.2.4 Furthermore, *'Officers consider that this solution addresses their concerns about the desirability for a second access (despite there being no technical need) and also addresses local residents' concerns about traffic going through Horsehay'*.
- 7.2.5 Finally, the reason added to Condition 31 was *... 'in the interests of amenity and to encourage sustainable linkage through to Lightmoor'*.
- 7.2.6 From the above information, it is clear to see that the condition was not imposed on highway safety grounds but in the interests of sustainability and connectivity, promoting linkages through to Lightmoor village, giving residents easier access to facilities within Lightmoor and the surrounding area and in the interests of general amenity. In essence, this is simply good planning and helps to provide a better quality of development, enhancing it as an attractive place to live through the provision of good connectivity with the surrounding area. These requirements would also have been required to comply with relevant planning policy at the time.
- 7.2.7 Having established that there was justification for imposing the condition, it is necessary to consider whether it meets the tests in terms of being a lawful condition. David Wilson Homes suggest that they accepted Condition 31 based on goodwill alone rather than any technical need to provide the second access, however, they fail to acknowledge that the specified reason for imposing the condition was *'in the interests of amenity and to encourage sustainable linkage through to Lightmoor'*. Such reasons were valid planning considerations required to meet planning policy at the time of the decision and therefore meet the tests of being relevant and necessary.
- 7.2.8 The second point to consider is whether the condition could be considered reasonable or enforceable given that the second access was not within the applicant's ownership or included within the red line boundary. Both the applicant and Council have sought legal advice on this matter which suggest that the condition does meet the necessary tests. On the grounds of reasonableness, whilst the access was not within the applicant's ownership, the committee report suggests there was a general willingness to reach an agreement, and given that the landowner was the HCA, a government body, there would have been confidence that a deal would be done. Nevertheless,

the imposition of the 75% trigger gave sufficient time for negotiation and would allow the applicant to build out 75% of the development (345 units), so would not prevent commencement. Whilst circumstances have now changed with the transfer of the second access road ownership to the BVT, a private organisation, the developer remains in control of how many dwellings they build the condition is therefore considered reasonable and enforceable.

7.2.9 The final test requires the condition to be 'precise'. Officers consider that this test is also met as it gives a clear amount of development that can be provided before the second access must be provided.

7.2.10 Officers are therefore satisfied that at the time of the decision, there was sufficient justification to impose the condition and it met all the necessary tests imposed by the NPPF. Furthermore, there has been no material change in circumstance which would mean that the condition no longer meets the relevant tests and accordingly, the condition continues to remain lawful.

### **7.3 Highways Issues**

7.3.1 Whilst it is noted that the majority of objections to the application refer to highway and pedestrian safety issues, the Council are in a difficult position given that the condition was not imposed for highways reasons and Highways Officers do not consider that the highways position has altered since the original decision.

7.3.2 As already stated, no objection was raised by Highways Officers to the original scheme based upon the conclusions of the applicant's supporting Transport Assessment (TA). A Technical Note has been submitted in support of this Section 73 application which updates the findings of the original TA and again concludes that 100% of traffic could be accommodated through a single access point onto St Lukes Road without causing significant impact upon the highway network.

7.3.3 Officers note the concerns raised in respect of the condition of the road network to the east of the site which includes roads which are winding, narrow in places, do not contain footpaths in some places, contain parked cars and a bus route. Planning and Highways Officers attended a public meeting in 2016 where residents' concerns were explained. Whilst the situation is far from ideal, the reality is that up to 75% of the development (345 dwellings) can already be provided using only the St Lukes Road access and this needs to be considered as the fall-back position. Whilst there is no suggestion at this stage that the second access will not be delivered (DWH are simply seeking to vary the condition and therefore remove the ransom element), the Technical Note prepared by MODE Transport Planning confirms that the resulting impact of all traffic using the St Lukes access would equate to an increase of one trip per minute using Frame Lane/Woodhouse Lane, above approved trip rates. This would not equate to a significant increase in traffic flows and could not be used as a reason to now substantiate a Highways objection to the proposal.

7.3.4 Therefore to summarise, no technical objection was raised by Highways Officers to the outline approval and it is not considered that there has been any significant change in circumstance that would now warrant a technical highways objection to be raised. Given that the condition was not imposed for highways reasons, the Council's Highways Officer cannot comment further on the application.

7.3.5 Members are advised that a scheme of traffic calming improvements adjacent the St Lukes Road entrance was secured under the outline and is to be provided by the applicant. Such improvements include the provision of pedestrian footways and two bus stops and were due to be provided prior to first occupation of the development. This has, however, been delayed whilst officers consider whether alternative, more substantial improvements along Frame Lane and Woodhouse Lane could be provided in connection with this application.

#### **7.4 Amenity and Sustainable Linkage**

7.4.1 As highlighted in paragraph 7.2.6, the reason for the imposing of Condition 31 was given as "*In the interests of amenities of the area and to encourage sustainable linkage with Lightmoor*". Therefore, whilst acknowledging that there was no technical need for the provision of the second access on highways grounds alone, officers explained the desire to improve connectivity to Lightmoor and surrounding area in the interests of sustainability and amenity. Whilst the officer's report does not elaborate on these points in any great detail, it is clear that a development which includes good links, both pedestrian and vehicular, to the surrounding area is good practice, both in terms of creating a desirable place to live and improving accessibility to nearby shops, schools and services.

7.4.2 DWH in their submission appear to have chosen not to focus on this aspect of the condition, instead concentrating on the lack of technical highways need (a point which is not disputed by officers). Little information has been provided to demonstrate how the development would continue to provide sustainable linkages to the surrounding area if the second access is not provided. The MODE Technical Note highlights a pedestrian link which will be provided from the south of the development to the north eastern edge of Lightmoor Village, suggesting that this would be sufficient to provide safe access for pedestrians between the two developments and consequently the amenities provided within. Officers, however, do not consider that one footpath link, in the southern corner of the site would be a sufficient means of connecting two significant housing developments. Furthermore, this footpath is unlikely to be a realistic option for residents in the northern and western parts of the development who would more than likely end up driving to those facilities, placing further pressure on the road network to the east of the site.

7.4.3 The policy context has been reinforced since the approval of the outline application in 2014 as the Telford & Wrekin Local Plan (TWLP) is now the local development plan. Policy SP4 confirms that the Council will support development considered to be sustainable. Policy BE1 confirms that development will be supported which (amongst other things), responds

positively to context and enhances the quality of the local, built and natural environment; promotes good links through the site and to the surrounding area for all users; and produces an environment which facilitates and encourages healthy living. Supporting text to BE1 advises of the importance of good design which includes how places function socially, economically and environmentally.

7.4.4 In addition, the requirements of the NPPF continue to apply, of which the principle points include Paragraph 17 which sets out the 12 core planning principles, including the requirement to seek high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

7.4.5 Officers continue to consider it necessary to require the provision of the second access at the relevant stage of the development which will still provide a number of functions;

- (i) It will provide a vehicular and pedestrian link to Lightmoor Village which contains a number of community facilities including a primary school and village store, childrens play areas, public parks, sports pitches and a skate park. Good connectivity to surrounding areas is fundamental requirement of a successful residential development and whilst Lightmoor Primary school is not identified as serving the DWH development, there are nevertheless facilities within Lightmoor village which will be used by the local community, not just Lightmoor residents.
- (ii) The provision of the second access will also significantly enhance the quality of life of residents both within the pipeworks development through the choice of two access/egress points depending on their destination, potentially involving a shorter, simpler route onto the A5223 ring road from the second access, avoiding the winding, narrow roads to the east.
- (iii) For those residents wishing to travel west to the A5223, the western access would represent the shortest, quickest and most straightforward route, avoiding the road network to the east. Sending residents on a longer journey through the eastern access when a potential solution is available is not a sustainable or environmentally friendly approach.
- (iv) The provision of a second access would also help to reduce congestion at the entrance to the site and surrounding road networks at peak times. Whilst not a highways reason per se, this will certainly enhance the amenities of residents within the development and along surrounding approach roads.
- (v) The lack of a second or emergency access would mean that any blockage of the access road at the entrance to the site would prevent any vehicular access to the site, including from emergency vehicles, being obtained.

7.4.6 Officers therefore consider that it remains necessary for the second access to be provided to the site, whereby a failure to provide the access would result in a development which is contrary to Policy BE1 and would not constitute a sustainable form of development contrary to SP4. It would also fail to comply with the requirements of NPPF Paragraph 17 in terms of securing high quality design and a good standard of amenity. The applicant has failed to demonstrate that any change in circumstance has occurred which would now warrant the removal of this requirement.

## **7.5 Other Matters**

7.5.1 The applicant has explained that they remain committed to the provision of the second access, however, are presently being held to ransom by the landowner and are therefore seeking to remove the planning condition which requires its provision, so that the ransom element will be broken and reasonable negotiations with the landowner can begin. Members may therefore wish to take the view that varying the condition concerned will actually assist DWH in the provision of the second access and could actually speed up its provision. It should therefore be seen that varying the condition would not necessarily mean that the second access will not be provided, contrary to what appears to be the public perception within the local community. The difficulty is that if members are minded to support the variation of condition, there would no longer be anything formally requiring the second access to be provided in the new permission. Although DWH have confirmed in writing their commitment to the provision of the second access and are selling houses on the development on the understanding that it will be delivered.

7.5.2 DWH have, however, offered a financial contribution of £100k towards additional highways improvements along Frame Lane and Woodhouse Lane if the condition is successfully varied but agreement cannot be reached with BVT to provide the second access. Therefore, should 100% of the development be completed without the second access being provided, a contribution would be payable which would go towards mitigating some of the issues along Frame lane and Woodhouse Lane identified through the public consultation, public meeting and highways investigations, including the provision of traffic management and street lighting improvements. In the event of an appeal against a decision to refuse to vary the condition, it would be a matter for the Planning Inspector to consider whether or not such a sum met the tests required in the Community Infrastructure Levy (CIL) Regulations 2010.

7.5.3 Finally, members may also wish to consider the fall-back position if the condition cannot be varied and a satisfactory agreement with BVT cannot be reached. DWH have suggested that they will consider only developing up to 75% of the site thus avoiding the trigger to provide the second access. As with any development, the Council cannot insist upon completion of a whole development, however, the implications that the full development is not built would include: -

- (i) The loss of 115 units from the Council's housing supply

- (ii) The loss of 34 affordable units, equating to 30% of the total affordable delivery;
- (iii) It becomes unlikely that the second access to Lightmoor would ever be delivered;
- (iv) A quarter of the site would be left undeveloped which could be visually detrimental if left to become overgrown.

The above represent real possibilities which have varying levels of detrimental impact and which need to be taken into account in the planning balance.

## **8.0 CONCLUSION**

8.1 Whilst it is accepted that the applicant has again demonstrated that there is no technical highways justification for the provision of the second access, officers maintain that the reason for imposing the condition in relation to 'amenity' and 'sustainable linkage' continue to apply and no material change in circumstance has occurred which would now warrant removal of this requirement. As such, whilst it is noted that the applicant may be being held to ransom by the landowner over the provision of the second access, this in itself is not a material planning consideration and should not be taken into account in the consideration of this application. On this basis, officers consider that the condition should remain in place and are recommending that the application is refused.

## **9.0 RECOMMENDATION**

9.1 It is recommended that the application is refused and the wording of the relevant condition (Condition 31) remains as originally imposed in Planning Permission reference TWC/2012/0650.