Appendix D – Planning

Planning conditions are typically used to enable development to proceed where it would otherwise have been necessary to refuse planning permission by mitigating a development's adverse effects. Planning officers and Highways Development Management recommended the conditions in question be imposed in the interest of highway safety and effectiveness, to comply with the requirements of Policy LP21 (Highways and access) within the Kirklees Local Plan. The conditions in question are as follows:

> *5. Prior to development commencing, details of a scheme to introduce a 20mph zone along St Helen's Gate, between the Fenay Lane and Arkenley Lane junctions, with timescales for implementation, shall be submitted to and approved in writing by the Local Planning Authority. Unless otherwise agreed in writing the approved scheme shall be implemented and retained in accordance with the approved timescales.*
> **Reason**: *In order that the development should not prejudice highway safety or efficiency, in accordance with Policy LP21 of the Kirklees Local Plan.*

> *6. Prior to development commencing, details of a scheme to introduce pedestrian crossing facilities adjacent to the junction between Fenay Lane and St Helen's Gate, with timescales for implementation, shall be submitted to, and approved in writing by, the Local Planning Authority. Unless otherwise agreed in writing the pedestrian crossing facilities shall be implemented and retained in accordance with the approved timescales.*
> **Reason**: *In order that the development should not prejudice highway safety or efficiency, in accordance with Policy LP21 of the Kirklees Local Plan*.

Initially officers recommended a single condition for the provision of a crossing on Fenay Lane to St Helen's Gate to the Strategic Planning Committee. The submitted Transport Assessment demonstrated that, due the change in King James' Priority Admission Area (PAA) following the closure of Almondbury Community School, a higher number of students would be walking to the site from Almondury centre, via the Fenay Lane / St Helen's Gate junctions. Highways Development Management, representations, and ward members raised concerns over increased pedestrian movement at this junction and along St Helen's Gate. The following assessment was made at that time, within the Committee Report:

> *Currently there is no crossing assistance on Fenay Lane, with limited pedestrian sightlines. This crossing, which leads to stairs onto St Helen's Gate, is anticipated to be the primary walking route to King James's School for new students. The applicant has agreed to contribute towards crossing enhancements, to be delivered by K.C. Highways. This is to take the form of a puffin crossing (or similar). Depending on the feasibility and detailed design work, due to constraints on the road, consideration would be given to whether crossing enhancements may be provided on St Helen's Gate. These works, which are to be secured via condition, would support the attractiveness of walking, and support sustainable travel.*

At the Strategic Planning Committee held on the 17th of November 2020 members resolved the defer the application to allow further assessment and negotiations on highway issues to take place, following concerns being raised. This included seeking further information on the highway improvements proposed.

The application was returned to the planning committee on the 16th of December 2020. To address members' concerns, amongst other information, an additional condition had been agreed between the applicant and Local Planning Authority to further mitigate concerns over the impact upon the local highway network. This was the changing of St Helen's Gate to a 20mph road (between Fenay lane to Arkenley Lane). The following assessment was included within the second committee report:

> *Currently there is no crossing assistance on Fenay Lane to St Helen's Gate, with there being limited pedestrian sightlines at the identified main crossing point. This crossing, which leads to stairs onto St Helen's Gate, is anticipated to be the primary walking route to King James's School for new students. An increased use of this crossing was a concern raised by local ward members. The applicant is to contribute towards crossing enhancements, to be delivered by K.C. Highways. This is to take the form of a puffin crossing on Fenay Lane, leading to existing stairs onto St Helen's Gate. Currently the stairs lead onto St Helen's Gate carriageway. A footway is to be constructed at the foot of the stairs, to allow a safe place at the foot of the stairs. Furthermore, a crossing plateau will be formed between the new footway and to St Helen's Gate's existing footway. Post the committee held on the 17th of November, further discussions between the applicant, planners and K.C. Highways have taken place. The applicant has reviewed traffic speed data and is now proposing to convert St Helen's Gate, between the Fenay Lane junction and Arkenley Lane crossing, to a 20mph zone. This would help to keep vehicle speeds along St Helen's Gate low and improve the safety of the environment for pupils who walk. The provision of the crossing and 20mph zone are to be secured via condition.*

The above assessment was concluded by:

> *However, it should be noted that each will be subject to separate Traffic Regulation Order applications, which are subject to public consultation and assessment.*

Members of the committee resolved to support the application subject to the recommended conditions being imposed. Notwithstanding the issues raised during the Traffic Regulation Order applications, planning officers maintain that the conditions are reasonable and necessary to ensure the safe and efficient operation of the highway.

The conditions each consisted of two parts; the submission of the respective improvement works for consideration by the Local Planning Authority, and a time limit for the implementation of the works. The applicant applied to discharge the conditions in February 2021. The Discharge of Condition decision notice may be found in appendix D1. The schemes were considered by the Local Planning Authority and, as they would achieve purpose of the conditions, found to be acceptable for planning purposes. The approved schemes may be found in appendix D2. Each improvement work was given an approximate delivery time of between November – December 2021, which was likewise deemed to be acceptable. However, planning officers acknowledged at the time that proposed improvements remained subject to Traffic Regulation Order (TRO) assessment process, with the following being stated in the Discharge of Condition letter:

> *It is noted that both schemes are still subject to Traffic Regulation Order (TRO) assessment and are subject to change. Should material changes take place to either of the hereby approved*

plans, or the timescales for implementation be affected, a subsequent discharge of condition may be required. Please contact Nicholas Hirst (nick.hirst@kirklees.gov.uk) to discuss.

In the event that the conditioned works cannot take place, a s73 Planning Application would need to be submitted. A s73 application allows a developer to either remove or vary the conditions imposed on an earlier planning application. Planning officers would be limited to assessing the impact of the sought variation / removal. Given the historic context of the proposal and these conditions, officers would seek a strategic planning committee determination on the application.

In accordance with the Town and Country Planning (Consultation) (England) Direction 2009: circular 02/2009, the original application required consultation with the Secretary of State following committee's ultimate decision to support the application. This is because the Local Planning Authority sought to approve a building of over 1,000sqm floor space in the Green Belt, in which case the Secretary of State may decide to 'call in' the application for determination. The Secretary of State confirmed they did not wish do so. Nonetheless, any subsequent S73 application would have a similar requirement, following committee's resolution.