

Name of Applicant	Proposal	Plan Ref.
Mr Mark Gay	Variation of condition No. 27 of 15/1057 To enable a further 15 dwelling occupations (increase from 30 to 45 dwelling occupations) to be accessed from the planning approved and implemented junction with Fiery Hill Road prior to the completion of the realignment of Fiery Hill Road.	16/0787
	Land At Fiery Hill Road, Barnt Green, Worcestershire,	

RECOMMENDATION:

- (a) Minded to APPROVE the variation of Condition application
- (b) That DELEGATED POWERS be granted to the Head of Planning and Regeneration Services to determine the planning application following the expiry of the site notice consultation period on 10 October 2016
- (c) That in the event that a representation is received as a result of the site notice consultation period, that DELEGATED POWERS be granted to the Head of Planning and Regeneration Services, in consultation with the Chairman of the Planning Committee, to assess whether new material considerations have been raised relevant to the application, and to issue a decision accordingly.
- (d) That DELEGATED POWERS be granted to the Head of Planning and Regeneration Services to determine the planning application following the receipt of a suitable and satisfactory Supplemental Agreement.

Consultations

Highways Department- Worcestershire County Council Consulted 05.09.2016

We have no highway objections to the variation of condition No. 27 of 15/1057. However, it should be noted WCC are concerned about the overall erosion of the condition; therefore given the cumulative impact of development movements no further relaxation beyond this application would be agreed. Please note that technical approval has been issued and the drawings are with Legal Services so progress is being made on this front.

Strategic Housing Consulted 05.09.2016

No adverse comments to make on this application.

Barnt Green Parish Council Consulted 05.09.2016

No objection to the application, however would point out that the actual road alterations required as the result of the development involve work to both Kendal End Road and Bittell Road as well as to Fiery Hill Road, the condition should be reworded accordingly to include all roads proposed to be improved.

The Parish Council would ask for consideration to be given to local businesses over the Christmas period, so that any works carried out during December allow for continued daytime access to the village (Hewell Road) from Kendal End Road / Bittell Road. Village businesses were particularly disadvantaged by the various number of local road closures last year and a second year of road closures would not be welcomed.

Public Consultation

1 letter of objection

Strongly object to any variation in this condition. It was presumably put in originally for a purpose. There are enough traffic problems in Fiery Hill Road, including cars / lorries parked outside of this development, without any variation to what was agreed.

Relevant Policies

Bromsgrove District Local Plan 2004 (BDLP):

S7	New Dwellings Outside the Green Belt
S35A	Development in Conservation Areas
S43	Traffic Calming Schemes
TR1	The Road Hierarchy
TR11	Access and Off-Street Parking

Emerging Bromsgrove District Plan

BDP2	Settlement Hierarchy
BDP3	Future Housing and Employment Development
BDP12	Sustainable Communities
BDP16	Sustainable Transport
BDP20	Managing the Historic Environment

Others:

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

Relevant Planning History

11/0741	Residential development of up to 88 dwellings, open space, realignment of Fiery Hill Road, with appearance, landscaping, layout and scale reserved Approved 24.7.15
13/0121	Variation of condition 4 to 11/0741 to allow the minor material amendment consisting of details of site boundary and car parking layout Approved 24.6.13
13/0522	Submission of Reserved Matters to 13/0121 (internal access, appearance, layout, scale and landscaping) for the erection of 88 units, open space, realignment of Fiery Hill Road and 24 space car-park. Approved 17.12.2013
15/0192	Erection of single dwelling. (Replacement of Plot 60 on approved application 13/0522) Approved 27.5.2015

- 15/0652 Realignment of Fiery Hill Road
Approved 12.1.2016
- 15/1057 Variation of condition 40 of planning application reference Number: 13/0121
to enable 30 dwelling occupations, to be accessed from the current
planning approved junction with Fiery Hill Road, prior to the completion of
the realignment of Fiery Hill Road.
Approved 22.03.2016

Assessment of Proposal

Members will be aware that residential development is currently underway on the corner of Fiery Hill Road and Kendal End Road. Members will also be aware that an amendment to the realignment of Fiery Hill Road (15/0652) was granted permission on 12 January 2016.

Considerable time was taken to determine the realignment application (15/0652). Subsequently, the applicant applied to vary condition 40 of 13/0121 (ref 15/1057) to revise the point at which completion of the realignment of Fiery Hill Road is required to the 30th occupation of the overall development. This would have also enabled the applicant to apply for subsequent technical highway agreements to be approved and the realignment works to be carried out, whilst not unduly delaying the provision of market and affordable housing.

Condition No. 27 currently reads as follows:-

- 27) *Engineering details required for the realignment of Fiery Hill Road shall be submitted and approved in writing by the Local Planning Authority. The realignment of Fiery Hill Road shall be constructed in accordance with the approved details before the occupation of the 30th residential unit of the approved scheme.*

Reason:- To ensure the safe and free flow of traffic onto the Highway.

Unexpected legal delays associated with the technical highway agreements (S278) have arisen, meaning that the applicant is likely to complete and have occupied the 30th unit prior to the S278 being agreed. Therefore, permission is now sought to vary condition 27 of 15/1057 to revise the point at which completion of the realignment of Fiery Hill Road is required to the 45th occupation. This will allow for subsequent technical agreements to be approved and the realignment works to be carried out, whilst not unduly delaying the provision of market and affordable housing.

As of 1 September 2016 the applicant had taken 10 private occupations and 14 affordable occupations. Within the 'up to 45th dwelling' capacity it is anticipated that a further 16 private occupations and 5 affordable occupations would be taken. Overall this will equate to a 58% private provision and a 42% affordable provision (within the 45 units).

Officers consider the revision to the condition to the 45th occupation to be acceptable on this occasion. The County Highways Department and Strategic Housing have no objection to this revision to the condition on this occasion, but may not look favourably at any further adjustments to this particular condition in respect to an increase in the number of occupations.

The Parish Council raise no objection but suggest the condition include other roads proposed to be altered as a result of the realignment works. Please note that condition 27 has been altered accordingly. The Parish Council also request that a condition be imposed to ensure that the roads be kept open during December to reduce disturbance to local businesses. The Parish Council has been advised that the closure of roads is generally due to health and safety issues and therefore, it would not be appropriate to impose such a condition. However, the applicant has been advised of the comment raised by the Parish Council, and it is hoped that the applicant will appropriately manage the proposed highway works so that any disruption during December is minimised.

Due to the nature of the development a S106 Agreement was imposed on the original permission. Therefore, a Supplemental Agreement will be required for this S73 application. The purpose of a Supplemental Agreement is to ensure that relevant obligations contained in the original Agreement are still applicable upon implementation of this S.73 application.

RECOMMENDATION:

- (a) Minded to APPROVE the variation of Condition application
- (b) That DELEGATED POWERS be granted to the Head of Planning and Regeneration Services to determine the planning application following the expiry of the site notice consultation period on 10 October 2016
- (c) That in the event that a representation is received as a result of the site notice consultation period, that DELEGATED POWERS be granted to the Head of Planning and Regeneration Services, in consultation with the Chairman of the Planning Committee, to assess whether new material considerations have been raised relevant to the application, and to issue a decision accordingly.
- (d) That DELEGATED POWERS be granted to the Head of Planning and Regeneration Services to determine the planning application following the receipt of a suitable and satisfactory Supplemental Agreement.

Conditions:/Reasons for Refusal

- 1) Details of the appearance, landscaping, layout and scale, (hereinafter called "the Reserved Matters") shall be in accordance with the details approved under planning application reference 13/0522.

Reason:- Required to be imposed pursuant to Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2) The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans:-

Location plan Dwg. No. 60079/PL.01

- 3) The development shall be carried out in accordance with the Building for Life document approved under planning reference 13/0121 discharge of condition 7 dated 6 Nov 2014.

Reason: In order to secure the satisfactory appearance of the development in accordance with Policy DS13 of the Bromsgrove District Local Plan.

- 4) Materials to be used in the construction of the external surfaces of the development hereby permitted (to include those materials to be used externally on the walls and roofs, doors and windows, door frames and window frames as well as rainwater goods) shall be in accordance with details approved under planning reference 13/0121 discharge of condition 9 dated 10 Sept 2014 and 11 May 2015.

Reason: To ensure the satisfactory appearance of the development in the interests of safeguarding and enhancing the character and appearance of the area in accordance with Policy DS13 of the Bromsgrove District Local Plan.

- 5) The finished ground floor levels of all the approved buildings and the finished ground levels for all other areas of the site shall be in accordance with details approved under planning reference 13/0121 discharge of condition 10 dated 10 Sept 2014.

Reason:- To ensure that the development is carried out at suitable levels and in relation to adjoining land and buildings and in the interests of amenity and highway requirements.

- 6) Details of external lighting approved under planning reference 13/0121 discharge of condition 11 dated 22 January 2016 shall be carried out in accordance with the approved details and shall be maintained as approved.

Reason:- To ensure the satisfactory appearance of the development in the interests of safeguarding and enhancing the character and appearance of the area in accordance with policy DS13 of the Bromsgrove District Local Plan.

- 7) Full details of retained and new soft landscape works approved under planning reference 13/0121 discharge of condition 13 dated 4 April 2014 shall be completed prior to the first occupation of the dwellings.

All such planting shall be maintained to encourage its establishment for a minimum of five years following contractual practical completion of the development. Any trees or significant areas of planting which are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective within this period, shall be replaced as soon as is reasonably practicable with others of

species, size and number as originally approved, unless the Local Planning Authority gives its written consent to any variation.

Reason: In order to secure a well-planned development in accordance with Policy DS13 of the Bromsgrove District Local Plan 2004.

- 8) Full details of all proposed hard surface areas approved under planning reference 13/0121 discharge of condition 14 dated 10 Sept 2014 shall be implemented within two years from the date when any of the dwellings hereby permitted are first occupied.

Reason: In order to secure a well-planned development in accordance with Policy DS13 of the Bromsgrove District Local Plan 2004.

- 9) Boundary details approved under planning reference 13/0121 discharge of condition 15 dated 10 sept 2014 shall be completed in accordance with the approved details and prior to the occupation of the each dwelling to which the boundary relates.

Reason: In order to secure a well-planned development in accordance with Policy DS13 of the Bromsgrove District Local Plan 2004.

- 10) The landscape management plan approved under planning reference 13/0121 discharge of condition 16 dated 22 January 2016 shall be carried out as approved and retained in a wholly sound and effective condition thereafter.

Reason: In order to secure a well-planned development in accordance with Policy DS13 of the Bromsgrove District Local Plan 2004.

- 11) Full details of the treatment and finishes to all areas of communal public open space approved under planning reference 13/0121 discharge of condition 17 dated 10 Sept 2014 shall be carried out in accordance with the approved details and shall thereafter be so maintained. Those areas identified as communal public open space shall be retained as such in perpetuity and shall not be used for any other purpose unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to secure a well-planned development in accordance with Policy DS13 of the Bromsgrove District Local Plan 2004.

- 12) Measures detailed in the Tree and Landscape Protection Plan approved under planning reference 13/0121 discharge of condition 18 dated 4 April 2014 shall be installed as detailed and maintained as such until all development has been completed.

Reason: In order to protect the trees, hedges and landscape features which form an important part of the amenity of the site and adjacent properties in accordance with policies C17 and DS13 of the Bromsgrove District Local Plan January 2004.

- 13) Where any works are proposed or required within the protected areas of any retained trees or biodiversity features on or adjacent to the application site, these shall only be carried out in accordance with an Arboricultural Method Statement or similar detailed schedule of works which has been submitted to and approved by the Local Planning Authority.

Reason: In order to protect the trees, hedges and landscape features which form an important part of the amenity of the site and adjacent properties in accordance with policies C17 and DS13 of the Bromsgrove District Local Plan January 2004.

- 14) The schedule of tree maintenance works (approved under planning reference 13/0121 discharge of condition 20 dated 22 January 2016) required to ensure the trees, hedges and other landscaping areas are maintained in a sound ecological and environmental condition shall be carried out for the life of the development and not ceased or varied unless otherwise approved in writing by the Local Planning Authority.

Reason: In order to protect the trees, hedges and landscape features which form an important part of the amenity of the site and adjacent properties in accordance with policies C17 and DS13 of the Bromsgrove District Local Plan January 2004.

- 15) Prior to the occupation of the development hereby permitted, the Construction and Ecological Management Plan approved under planning reference 13/0121 discharge of condition 21 dated 22 January 2016 shall be undertaken and implemented without deviation, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure sufficient mitigation measures to address the potential presence of protected species on site in accordance with Policy C10a of the Bromsgrove District Local Plan.

- 16) Prior to occupation of the development hereby permitted, details and locations of bat and bird boxes to be placed in new and retained tree cover, (approved under planning reference 13/0121 discharge of condition 22 dated 22 January 2016) shall be implemented without deviation, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure sufficient wildlife enhancement measures in accordance with Policy C10a of the Bromsgrove District Local Plan.

- 17) A scheme for protecting dwellings and gardens from noise from the railway line (approved under planning reference 13/0121 discharge of condition 23 dated 4 April 2014) shall be implemented prior to the occupation of the dwelling and shall be completed in full in accordance with all detailed components of the approved scheme.

Reason: To safeguard the amenities of future occupiers.

- 18) A construction management plan approved under planning reference 13/0121 discharge of condition 24 dated 10 Sept 2014 shall be carried out as approved.

Reason: To ensure the development does not prejudice highway safety nor cause inconvenience to other highway users or result in any other significant harm to the amenity of adjacent occupiers

- 19) The programme of archaeological work in accordance with a written scheme of investigation approved under planning reference 13/0121 discharge of condition 25 dated 10 Sept 2014 shall be carried out in accordance with that approved scheme.

Reason: To safeguard the potential archaeological interest of the site.

- 20) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the written scheme of investigation approved under planning reference 13/0121 condition 25 dated 10 Sept 2014 and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: To safeguard the potential archaeological interest of the site.

- 21) A preliminary risk assessment that includes a desk top study, site investigation and risk assessment and any remediation scheme approved under 13/0121 discharge of conditions 27 - 31 dated 4 April 2014 must be carried out in accordance with its terms. Where necessary, following the completion of the measures identified in the approved remediation scheme a validation report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval of the Local Planning Authority prior to the occupation of any buildings.

Reason:- To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy ES7 of the Bromsgrove District Local Plan.

- 22) In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where necessary a remediation scheme must be prepared, these will be subject to the approval of the Local Planning Authority. Following the completion of any measures identified in the approved remediation scheme a validation report must be prepared, which is subject to the approval in writing of the Local Planning Authority prior to the occupation of any buildings.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled

waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy ES7 of the Bromsgrove District Local Plan.

- 23) Details of the proposed means of foul and surface water drainage disposal approved under planning reference 13/0121 discharge of condition 35 dated 4 April 2014 shall be carried out in accordance with the approved measures and shall thereafter be so maintained.

Reason: To prevent the increased risk of flooding, to improve and protect water quality, improve habitat and amenity and ensure future maintenance of SuDS systems.

- 24) Details of the proposed means of foul drainage disposal approved under 13/0121 discharge of condition 36 dated 4 April 2104 shall be carried out in accordance with the approved measures and shall thereafter be so maintained.

Reason: To ensure the protection of controlled waters.

- 25) The definitive specification and full construction details of the balancing pond approved under 13/0121 discharge of condition 37 dated 11 Nov 2014 shall be carried out in accordance with the approved details

Reason: To ensure that there will be no increased risk of flooding to land or properties due to impedance of flood flows and/or reduction of flood storage capacity.

- 26) Details showing the proposed internal roads and footpaths including gradients, surfacing materials and the method of surface water disposal approved under planning reference 13/0121 discharge of condition 38 dated 11 Nov 2014 shall be implemented and no building shall be occupied until the section of road and footpath which provides access to it has been constructed in accordance with the approved details.

Reason: In the interest of highway safety and to prevent pollution of the water environment.

- 27) The engineering details required for the realignment of Fiery Hill Road and Kendal End Road junction and the work to the junction with Bittell Road / Hewell Road. approved under planning reference 15/0652 condition 4, and planning reference 15/1057 condition 27 shall be constructed on site in accordance with the approved details before the occupation of the 45th residential unit of the approved scheme.

Reason:- To ensure the safe and free flow of traffic onto the Highway.

Plan reference

- 28) Details of a management plan for the ongoing maintenance of the new car park on Fiery Hill Road approved under planning reference 13/0121 discharge of condition 41 dated 10 Sept 2014 shall be implemented and maintained in perpetuity.

Reason: To ensure the safe and free flow of traffic onto the highway.

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