



Report of the Chief Planning Officer

NORTH AND EAST PLANS PANEL

Date: 17 August 2017

Subject: Addendum report: Agenda Item 8: Application reference 17/02534/COND (Consent, agreement or approval required by conditions 6, 8, 20, 24 and 36 of Planning Application 13/03051/OT) at Spofforth Hill, Wetherby.

APPLICANT

Bellway Homes Limited

DATE VALID

24/04/17

TARGET DATE

16/06/17

Electoral Wards Affected:

Wetherby

Yes

Ward Members consulted
(Referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

AMENDED RECOMMENDATION: To note the legal position in relation to the location of the crossing and DEFER and DELEGATE APPROVAL of the technical details of the crossing to the Chief Planning Officer under condition 20(b) of planning permission reference 13/03051/OT, if having considered the matter agreement of the Consultative Liaison Forum cannot be reached.

1.0 INTRODUCTION

1.1 This addendum report and amended recommendation are submitted further to legal clarification received. It follows the publication of the substantive report and receipt of legal representation from the applicant in response, which has been reviewed by the Council's Legal Services Team. The legal advice received has clarified the position in relation to the pelican and what, as a matter of law, now falls to be considered by the panel under this application. The representation received from the applicant is appended to this report.

2.0 LEGAL CLARIFICATION:

2.1 It is submitted by the applicant that, as a matter of law, the crossing on Spofforth Hill is approved in the location shown under this discharge of condition application. As has been set out at paragraphs 10.3 and 10.9 of the substantive report a plan showing the location of the crossing was approved under the list of approved plans at outline

application stage under application reference 13/03051/OT. Also as set out at paragraph 10.3 a plan showing the location of the crossing was approved under the list of approved plans at reserved matters stage under application reference 15/07291/RM. As is set out at paragraph 10.4 of the substantive report the principle of the pelican crossing is therefore clearly approved, but moreover, and more importantly, the legal position is that the location is also thereby approved.

2.2 What therefore falls to be considered under the current submission, in accordance with Condition 20(b) of the outline permission and Condition 6 of the reserved matters approval, is the technical detail of the crossing. The following amendments to the report are therefore proposed:

- i) In the header of the report the word 'location' should be substituted for the words 'Technical details'.
- ii) At paragraph 1.1 final sentence substitute 'location of the pelican crossing' with 'technical details of the pelican crossing'.
- iii) At paragraph 1.4 final line substitute 'proposed' for 'approved'.
- iv) At paragraph 1.5 final line strike out the words 'in the absence of an agreed location'.
- v) The insertion of the line at paragraph 10.13: "As a matter of law the pelican crossing is approved in the location proposed and what falls to be considered is the technical detail of it."
- vi) At 11.1, first line, substitute 'approved in principle' with 'approved in terms of location'.
- vii) At 11.1, third line, substitute the final sentence with "On the basis of the technical evidence available the proposed location of the pelican (Location 1) best meets the highway safety needs of the development and is thereby policy compliant and acceptable in the location approved under application references 13/03051/OT and 15/07291/RM.
- viii) Additional paragraph 11.2 to be inserted: "What therefore falls to be considered is the technical detail of the pelican crossing. The forum has agreed a crossing is needed but has to date been unable to agree on the location, which was not within the remit as set out above, and because the forum has been unable to agree on location technical details of it have not been advanced or considered. Under condition 20(b) of the outline and condition 6 of the reserved matters approval the technical details of the crossing requires consideration by the forum, and in the event that the forum cannot agree the technical details it should then be referred back to the Panel under minute 10 of the meeting of 02nd June 2016. In the event that the forum is unable to agree on the technical detail of a crossing in the approved location, it considered expedient and in accordance with the constitution to seek a defer and delegated authority to determine the application in relation to the technical details."