

SCHEDULE "A1" TO THE AGENDA FOR THE
JOINT PLANNING COMMITTEE
15TH JUNE 2015

Applications subject to public speaking.

Background Papers

Background papers (as defined by Section 100D(5) of the Local Government Act 1972) relating to this report are listed under the "Representations" heading for each planning application presented, or may be individually identified under a heading "Background Papers".

A1	NMA/2015/0039 CrestNicholson Regeneration Ltd & Sainsburys Supermarkets Ltd 30/03/2015	<u>Non Material Amendment application for Amendment to Condition 16 of WA/2012/0911 in order to allow certain works identified to take place under planning permission WA/2012/0912 for the main site, prior to the construction of the temporary vehicular bridge and associated access works granted under planning permission WA/2012/0911 at land at East Street Farnham (as amended by letter dated 19/05/2015 and plans received 19/05/2015)</u>
Committee:		Joint Planning Committee
Meeting Date:		15/06/2015
Public Notice		Was Public Notice required and posted: N/A
Grid Reference:		E: 484270 N: 146934
Town :		Farnham
Ward :		Farnham Moor Park
Case Officer:		Tim Bryson
8 Week Expiry Date		26/04/2015
Time extension agreed to:		18/06/2015
Consultation Expiry Date:		22/04/2015
Amended Consultation Expiry Date:		03/06/2015

RECOMMENDATION

That the proposal be agreed as a Non Material Amendment

Introduction

The application has been brought before the Area Committee at the request of the Local Member.

Location Plan



Site Description

This application relates to part of a major development site in Farnham Town Centre, which was granted planning permission in August 2012 under reference WA/2012/0912.

The application site for this permission extends to some 3.95ha and is located between South Street, The Woolmead (East Street) and Dogflud Way. The River Wey and the A31 are beyond to the south. To the east of the site contains the Farnham Leisure Centre.

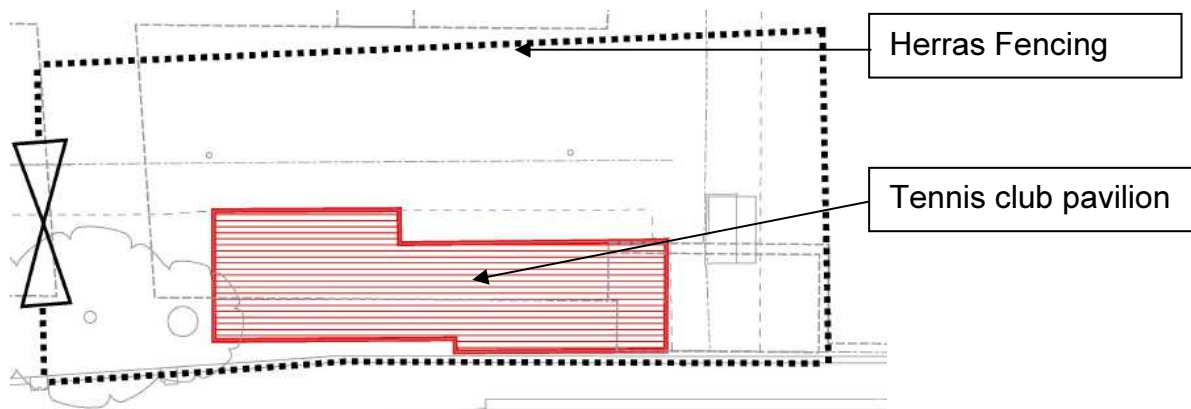
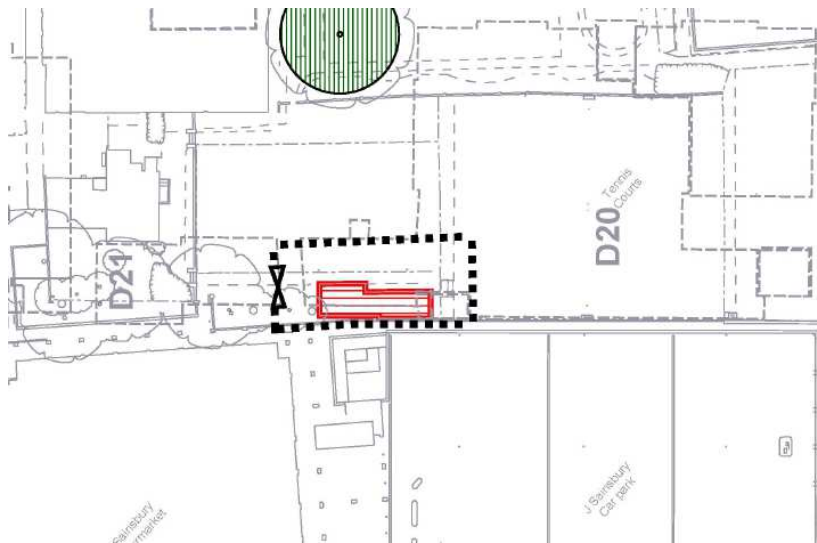
The wider development site contains a variety of buildings and land uses. Many of the buildings are vacant and boarded up and some have been demolished. There are also a significant amount of green space and car parking spaces.

The specific area on the site, subject of the current application, contains tennis courts, associated fencing and a tennis club pavilion building.

Proposal

The application is for a Non Material Amendment to Condition 16 of planning permission WA/2012/0911 submitted on behalf of Crest Nicholson Regeneration Ltd and Sainsbury's Supermarkets Ltd. Planning permission WA/2012/0911 is for the provision of temporary construction access to the A31, comprising bridge across the River Wey, pedestrian underpass, other supporting infrastructure and re-instatement works including re-siting of the proposed footbridge across the River Wey from that approved under WA/2008/0279.

Proposed site plan



Condition 16 of planning permission WA/2012/0911 requires the provision of the temporary construction access bridge to be constructed prior to the implementation of WA/2012/0912 (the main East Street permission).

Condition 16 of WA/2012/0911 states the following:

'The proposed road and vehicular access to the A31 Farnham Bypass, including the temporary vehicular bridge over Borelli Walk and the River Wey, shall be designed and constructed prior to the implementation of WA/2012/0912, unless otherwise first agreed in writing by the Local Planning Authority. No development shall begin before that junction, the bridge, access road and site compound have been completed broadly in accordance with the application drawings and the requirements of the County Highway Authority. Once constructed the access and bridge shall be retained free of any obstruction to its use in accordance with a duration to be agreed in writing with the Local Planning Authority'.

'Reason

In order that the development should not prejudice highway safety, the free flow of traffic nor cause inconvenience to other highway users in accordance with Policies M2 and M3 of the Waverley Borough Local Plan 2002'.

The current proposal intends to allow a material operation to be carried out, to implement planning permission WA/2012/0912. The proposal therefore seeks an amendment to Condition 16 to allow the demolition works to be undertaken without the provision and use of the temporary construction access bridge. The proposed demolition works comprise the demolition of the tennis club pavilion building and provision and collection of associated welfare facilities (toilet and welfare facilities for construction staff).

Photographs of tennis club pavilion building





Relevant Planning History

Reference	Proposal	Decision
WA/2014/1926	Listed Building Consent for demolition of the attached Redgrave Theatre, conversion of Brightwell House to form 2 no. restaurant units. Works to include single/two storey extensions to the north and west (containing additional ground floor restaurant space, kitchen areas,	Consent Granted 28/01/2015 (Not implemented – extant)

	<p>stores, toilets, staircase and plant room and first floor kitchens, stores, staff WC and plant room). Works to existing house to include reinstatement of 3 no. original hipped roofs and roof light to the north elevation and hipped roofs over the existing bay windows and reinstatement of the glazed canopy in the southern elevation. Reinstatement of original chimneys, internal fireplaces and staircase. Partial unblocking of a first floor window on the west elevation. Removal of later partition walls and ground floor toilet; new openings through to first floor extension, installation of servery. Some blocking in of existing internal openings. Demolition of boundary walls, toilet block and cottage (as amplified by letter dated 22/12/2014)</p>	
WA/2012/0911	<p>Provision of temporary construction access to the A31, comprising bridge across the River Wey, pedestrian underpass, other supporting infrastructure and re-instatement works including re-siting of the proposed footbridge across the River Wey from that approved under WA/2008/0279.. This application is accompanied by an Environmental Statement (as amplified by email and letter dated 04/07/12).</p>	<p>Full permission 07/08/2012 (Not implemented – extant. Permission expires 06/08/2015)</p>
WA/2012/0912	<p>Application for a new planning permission to replace extant permission WA/2008/0279 (time extension). Mixed-use redevelopment comprising: 9,814 sq m of retail, restaurant and cafe-bar accommodation (Use Classes A1, A3 & A4, including the change of use of Brightwell House and Marlborough Head); 239 residential units (Class C3); a multi-screen cinema (Class D2); multi-storey, surface and basement car parks providing a total of 426 spaces; associated highway</p>	<p>Full permission – subject to Section 106 Agreement - 07/08/2012 (Not implemented – extant. Permission expires 06/08/2015)</p>

	and access works; provision of infrastructure and landscaping; replacement facility for the existing 'Gostrey Centre'; demolition and clearance of the site. This application is accompanied by a supplementary Environmental Statement (as amplified by letter dated 04/07/2012).	
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Planning Policy Constraints (wider East Street Site)

Developed area of Farnham
 Conservation Area (nearby)
 Area of High Archaeological Potential (adjacent)
 Listed Building Grade II (Brightwell House)
 Listed Building curtilage buildings, walls and structure
 Building of Local Merit (Brightwell Cottage)
 Within 20 m of riverbank
 Flood Zones 2 and 3 (southern part of site)
 Town Centre Area (whole of site)
 Central Shopping Area (East Street frontage to a depth of approx 50m)
 Pedestrian Improvement Area in East Street
 Thames Basin Heathland Special Protection Area (SPA) within 2.5km
 Wealden Heaths I Special Protection Area (SPA) 5km
 Area of Strategic Visual Importance (River Wey and its south bank)
 Countryside beyond the Green Belt (River Wey and its south bank)
 Potentially contaminated land
 Gas pipeline (non-hazardous)

Development Plan Policies and Proposals

Saved Policies D1, D2, D3, D4, D5, D6, D7, D8, D9, D13, D14, C12, BE1, HE1, HE3, HE4, HE5, HE8, HE10, HE14, H4, H5, H10, CF1, CF2, S1, S6, S7, TC1, TC2, TC3, TC8, TC9, TC12, TC13, TC15, TC16, LT1, LT6, LT8, LT11, M1, M2, M4, M5, M9, M10, M14, M15 and M17 of the Waverley Borough Local Plan 2002

Saved Policy NRM6 of the South East Plan 2009.

The South East Plan 2009 was the Regional Spatial Strategy (RSS) for the South East region, the Plan was revoked on March 2013 except for Policy NRM6: Thames Basin Heaths Special Protection Area. This Policy remains in force.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires all applications for planning permission to be determined in accordance with the Development Plan, unless material considerations indicate otherwise. The adopted Local Plan (2002) and the South East Plan 2009 (solely in relation to

policy NRM6) therefore remain the starting point for the assessment of this proposal.

The National Planning Policy Framework (NPPF) is a material consideration in the determination of this case. Paragraph 215 states that where a local authority does not have a development plan adopted since 2004, due weight may only be given to relevant policies in existing plans according to their degree of consistency with the NPPF. In this instance, the relevant Local Plan policies possess a good degree of conformity with the requirements of the NPPF. As such, considerable weight may still be given to the requirements of the Local Plan.

The Council is in the process of replacing the 2002 Local Plan with a new two part document. Part 1 (Strategic Policies and Sites) will replace the Core Strategy that was withdrawn in October 2013. Part 2 (Development Management and Site Allocations) will follow the adoption of Part 1. The new Local Plan will build upon the foundations of the Core Strategy, particularly in those areas where the policy/ approach is not likely to change significantly. Public consultation on potential housing scenarios and other issues took place in September/October 2014. The timetable for the preparation of the Local Plan (Part 1) is currently under review.

Other guidance:

- National Planning Policy Framework (2012)
- National Planning Policy Guidance (2014)

Consultations and Town Council Comments

County Highway Authority	<p><u>Original proposal</u> The proposed works to be provided prior to the construction of the bridge access were detailed in the submitted schedule 16032-SC-006 and comprised the erection of hoarding which from a transport perspective raised questions in terms of car parking availability and footpath works to satisfy the terms of the FP169 Stopping Up Order.</p> <p><u>Amended proposal</u> The revised details now submitted limit the works contained in a revised schedule 16032-SC-006-B to: (i) Provision and collection of welfare facilities, and (ii) Demolition of tennis club pavilion. A further schedule, 16032-SC-007 has been produced which identifies</p>
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	<p>the level of vehicular activity that items (i) and (ii) would generate and which would access the site via Dogflud Way and exit via Brightwells Road. This activity is insignificant and raises no concerns in highway or transport terms.</p> <p>In conclusion, the Highway Authority has no objections to raise to this non Material Amendment.</p>
Environment Agency	No objection.
Council's Environmental Health – Air Quality	<p>The requested works that require vehicles to access the site through the town centre prior to the bridge being established should be kept to a minimum in order to protect the air quality within this locality. It is therefore considered that only works that are essential requirements prior to the construction of the access bridge should be granted permission.</p> <p>The applicant has addressed the concerns raised by this service and the new schedule of works has been accepted as a suitable amendment. I do not have any objections to the schedule as proposed, 16032-SC-006_B and 16032-SC-007.</p> <p>However, the applicant should have consideration for the following;</p> <ul style="list-style-type: none"> • Any activities that are likely to create any dust or emissions, including noise, should be controlled at the source. Controls may include dampening down of the site during demolition or other dusty activities and consideration for the type of equipment to be used. • The applicant should also take steps to avoid vehicular traffic using the town centre during peak times in order to further protect the air quality at this location, therefore limiting access to the site between

	10:00 – 16:00 Monday to Friday, 09:00 – 13:00 Saturday and no activities on Sundays and Bank or Public Holidays.
Council's Environmental Health Officer - Contamination	No further action required regarding contaminated land
Farnham Town Council	Original scheme: Farnham Town Council strongly objects to the above application for a Non-Material Amendment to vary condition 16 of planning permission WA/2008/0279. (Full response is attached at Annexe 1) Amended scheme: Not yet received – to be reported orally.

Representations

148 letters have been received raising objection on the following grounds:

- Not non-material.
- Proposal requires further planning application submission.
- Contract for the site is still provisional and work should not commence before it has been finalised.
- Traffic problems.
- Demolishing the theatre would conflict with Condition 3 of WA/2014/1926.
- Proposal should be heard at Planning Committee.
- Betrayal to Farnham.
- Brightwells scheme is un-popular and out of date.
- Need for full Environmental Impact Assessment.
- The bridge should be in place before any works commence.
- Traffic chaos.
- No works should take place until all conditions have been met and commercial backing is secured for the scheme.
- Increase in air pollution.
- Risk of the bridge never being constructed.
- Lack of funding in place for the scheme.
- Alternative Brightwells scheme should be considered.
- Cannot be non-material as it affects a Grade II Listed Building.
- Fencing would be an eyesore and would be vandalised.
- Inappropriate use of the provisions of Section 96A.
- No EIA assessment that assesses the HGV movements associated with the application.

- Existing planning consent should be allowed to expire in August.

Submissions in support

In support of the application, the applicant has made the following points:

- The Non-Material Amendment application proposes to allow a material operation to be undertaken by 7th August 2015 in order to implement planning permission reference WA/2012/0912 prior to the construction access being in place.
- The applicants are aware that discharge of pre-commencement conditions is required prior to undertaking of a material operation and they are seeking to meet this requirement.
- The application has been amended to take into account the objections raised.
- Propose wording of Condition 16 of WA/2012/0911 be amended.
- Traffic movements associated with the proposed works have been included in the submission and it is considered that these would not conflict with the purpose of Condition 16.
- The proposed amendment to the wording of Condition 16 would not alter the nature or description of the development.
- Overall, it is considered that the proposed wording amendments would allow a small scope of works to take place prior to construction of the bridge and prior to the main works taking place, in order to allow regeneration of the main site.

Determining Issues

- a) Background to NMA applications
- b) Approved applications WA/2012/0911 and WA/2012/0912
- c) Assessment
- d) Consultations
- e) Representations
- f) EIA Regulations 2011

Planning Considerations

- a) Background to NMA applications

In respect of non-material amendments, Section 96A of the Town and Country Planning Act 1990 was brought into force on 1 October 2009, via the commencement of Section 190 of the Planning Act 2008. Section 96A allows a non-material amendment to be made to an existing planning permission via a simple application procedure with a quick decision time.

Section 96A(1) – (4) states that:

‘ A local planning authority in England may make a change to any planning permission relating to land in their area if they are satisfied that the change is not material.

In deciding whether a change is material, a local planning authority must have regard to the effect of the change, together with any previous changes made under this section, on the planning permission as originally granted.

The power conferred by subsection (1) includes power –

- (a) To impose new conditions;
- (b) To remove or alter conditions

The power conferred by subsection (1) may be exercised only on an application made by or on behalf of a person with an interest in the land to which the planning permission relates.’

The NPPG was published in 2014 and provides guidance on non-material amendments.

The NPPG confirms, pursuant to Section 96A(4), that a person with an interest in the land can apply for a non-material amendment. Having regard to this, the Borough Solicitor has confirmed that the applicants (Crest Nicholson Regeneration Ltd and Sainsbury’s Supermarkets Ltd) have a valid interest in the land that allow them to make an application under Section 96A.

The NPPG 2014 paragraph 002 states:

“There is no statutory definition of ‘non-material’. This is because it will be dependent on the context of the overall scheme – an amendment that is non-material in one context may be material in another. The local planning authority must be satisfied that the amendment sought is non-material in order to grant an application under section 96A of the Town and Country Planning Act 1990”.

The NPPG makes it clear that this is not an application for planning permission. Therefore, the planning merits of the proposed amendments are not before the Council and the focus is whether the proposed amendments are non-material or not.

b) Approved applications WA/2012/0911 and WA/2012/0912

The application WA/2012/0911 approved in August 2012 was for the provision of temporary construction access to the A31, comprising bridge across the River Wey, pedestrian underpass and other supporting infrastructure. The scheme was specifically linked to permission WA/2012/0912, known as the Brightwells mixed-use scheme, which included 9,814 sqm of retail, restaurant and café-bar accommodation, 239 residential units, a multi-screen cinema, multi-storey, surface and basement car parks providing a total of 426 spaces together with associated highway and access works.

As outlined above, Condition 16 of WA/2012/0911 requires the provision of the temporary construction access bridge prior to the implementation of the Brightwells mixed-use scheme under WA/2012/0912. This Condition effectively therefore requires all construction traffic associated with the implementation of WA/2012/0912 to access and exit the site via the temporary

bridge from the A31, and thereby avoid construction traffic going through the town centre.

Both planning permissions WA/2012/0911 and 0912 expire on the 6th August 2015. The current NMA application would allow for the works specified in this application to be carried out without the use of the temporary construction access bridge under WA/2012/0911.

The only consideration in the assessment of the current case is whether the proposed demolition of the tennis club pavilion, associated provision and removal of welfare facilities, without use of the temporary construction bridge under WA/2012/0911 would be deemed non-material.

c) Assessment

In its original form, the current application proposed that different works than those specified be carried out before the construction of the bridge access as the amendment to Condition 16. These included:

- Erection of hoarding;
- Site investigation via utility diversions and sewer diversions.
- Minor site clearance – tennis court fences, etc.
- A small scope to galvanise the planning consent (two sets of foundations for Building D20).
- Demolition of Redgrave Theatre.
- Sewage diversions.
- Utility diversions.
- Construction access bridge.
- Site set up.

The application has since been amended and now exclusively includes those stated, i.e:

- Demolition of tennis club pavilion.
- Provision and collection of welfare facilities.

Specifically, the Redgrave Theatre is not included in this amendment.

In the consideration of the application, the Council must have regard to the effect of the change or changes, together with any previous changes made under Section 96A. They must also take into account any representations made by anyone notified, provided they are received within 14 days of notification.

The area is subject to various planning constraints which apply to the site and the immediate surrounding area.

In support of the application, the applicant has set out a traffic movement schedule for the proposal. This provides an overview of the vehicle movements associated with the proposed works. The 'provision and collection of welfare facilities', which include provision of a temporary toilet facility and erection of Herras fencing to ensure the site is safe, would result in a total of 4

vehicle movements (2 at the start of demolition works and 2 at the end of demolition works).

The proposed demolition of the tennis club pavilion building would result in a total of 12 vehicle movements over a 2 week period. The vehicle that would be used would be a light goods vehicle with a length of 7.5 m.

The total time for the demolition and clearance works to take place would be 2 weeks and the route to the site would be from the east (A31 Shepherd and Flock Roundabout, Guildford Road, East Street, South Street and Brightwells Road) and exit south (Brightwells Road, South Street and A31). The proposed length of time for the proposed works (2 weeks) would be small in scale when compared with the anticipated construction period for the whole Brightwells mixed-use scheme under WA/2012/0912.

The existing pavilion building to be demolished is a predominantly wooden structure with felt roof covering. The existing structure is not known to contain any specific hazardous materials. The pavilion building does not adjoin any residential properties. The nearest neighbouring commercial occupier to the pavilion building is Sainsbury's Supermarket to the north-west.

The Brightwells mixed-use scheme comprises a variety of buildings which would require construction to take place over a long period of time. In the context of the overall Brightwells mixed-use permission, officers consider that the proposed works would be very minor in scale. The schedule of works states that a total of 2 weeks would be required for the demolition works to take place.

It is recognised that the proposal would cause some demolition/construction activity associated with WA/2012/0912 without use of the temporary bridge under WA/2012/0911. However, when taking into consideration the application, in the context of the wider mixed-use scheme and the likely vehicle movements required to and from the site, officers consider that this would not result in a material change to the permission.

The tennis club pavilion falls outside of Flood Zones 2 and 3, and the Environment Agency has raised no objection to the current NMA proposal.

d) Consultations

Environment Agency

The Environment Agency has raised no objection to the proposal. The tennis pavilion building lies outside of Flood Zones 2 and 3. Having regard to the comments from the Environment Agency, officers are satisfied there are no flooding issues with regard to the proposal.

County Highway Authority

The County Highway Authority has assessed the proposal, including the proposed transport vehicle movements and route to be taken of these vehicles, and raises no objection.

Council's Environmental Health Officer (Air Quality)

The Council's Air Quality Officer has raised no objection to the proposed amendments including in relation to the proposed construction traffic route through the town. The Air Quality Officer further advises that vehicles that access the site through the town should be kept to a minimum in order to protect air quality.

The Air Quality Officer has recommended some measures to help reduce the impact on air quality from the proposed works, which include limiting hours and days of construction/demolition. These matters could be suitably addressed in the Method of Construction Statements to be submitted pursuant to Condition 7 of WA/2012/0912 and Condition 10 of WA/2012/0911.

Having regard to the proposed amendments, officers are satisfied that all relevant consultees have been consulted.

e) Representations

Officers have given careful consideration to the letters of objection which have been made in response to the application. It is considered that many of the issues raised have been addressed in the above assessment or are not relevant to the assessment of the NMA.

A number of the objections raised include concerns over impact of construction traffic on the town and loss of the theatre. In direct response to a number of the objections raised, the applicants amended the proposal to reduce the extent of works proposed. The applicants have further clarified the type and intended vehicle movements to and from the site that would occur for the proposed works. The County Highway Authority has raised no objection to the proposal.

f) EIA Regulations 2011

Application WA/2012/0911 and 0912 were accompanied with an Environmental Statement. More specifically, the proposed demolition of the tennis club pavilion formed part of the wider assessment of the impact of the wider mixed-use Brightwells scheme.

Having regard to the small scale nature of the proposed amendments, as seen in the context of the approved scheme, and the conclusions formed above, the proposal would not be likely to have any additional environmental significant effect over the approved scheme. This is not additional development work. The work has already been consented to and covered by

the E.I.A. Rather, the NMA application is in connection with the timing of the work.

Conclusion/ planning judgement

Officers consider that when viewed in the context of the 2012 approved schemes WA/2012/0911 and 0912, the proposed amendments are non-material and can be accepted under Section 96A of the 1990 Act. Should this amendment be agreed, the applicants would need to discharge all pre-commencement conditions under WA/2012/0912 prior to the commencement of the works under the approved NMA application.

The outcome of this application, if approved, is that Condition 16 is amended, but would remain an integral part of the Planning Permission WA/2012/0911. The exempted development specified in the amended Condition would still be subject to all other Conditions and Obligations on the main permission.

Recommendation

That the amendment to Condition 16 of WA/2012/0911 be APPROVED as follows:

16. Condition

The proposed road and vehicular access to the A31 Farnham Bypass, including the temporary vehicular bridge over Borelli Walk and the River Wey, shall be designed and constructed prior to the implementation of WA/2012/0912, with the exception of the works identified in schedule 16032-SC-006_B, unless otherwise first agreed in writing by the Local Planning Authority. No development shall begin, with the exception of the works identified in schedule 16032-SC-006_B, before that junction, the bridge, access road and site compound have been completed broadly in accordance with the application drawings and the requirements of the County Highway Authority. Once constructed the access and bridge shall be retained free of any obstruction to its use in accordance with a duration to be agreed in writing with the Local Planning Authority'.

Reason

In order that the development should not prejudice highway safety, the free flow of traffic nor cause inconvenience to other highway users in accordance with Policies M2 and M3 of the Waverley Borough Local Plan 2002.