144 New Walk
Leicester
LE1 7JA

Dated: 24th March 2026

Reference: A2124-03-02-01-AP (2)

SUPPORTING STATEMENT

Land at 17 Becksitch Lane, Belper, DE56 1UZ

Section 73 application to vary Condition 1 (submission of reserved matters and commencement), Condition 4 (approved information and drawings) and Condition 5 (access) attached to outline planning permission AVA/2023/0842

1. Introduction

1.1 This Supporting Statement has been prepared by Astill Planning Consultants on behalf of the applicant, Shreeji Investments Leicester Limited, in support of a Section 73 application to vary the following planning conditions attached to outline planning permission AVA/2023/0842:

- Condition 1 (submission of reserved matters and commencement)
- Condition 4 (approved information and drawings)
- Condition 5 (access)

1.2 This Section 73 application has been prepared following discussions with the local planning authority during the determination of the reserved matters application (AVA/2025/0670) for outline planning permission AVA/2023/0842.

1.3 In summary, the scheme submitted for reserved matters approval (AVA/2025/0670) makes several minor amendments to the design of the access that was approved by the outline planning permission (AVA/2023/0842). The local planning authority recently advised the applicant that the outline planning permission (AVA/2023/0842) will need to be varied to reflect these minor amendments to the access before the reserved matters application can be approved (AVA/2025/0670).

1.4 This Section 73 application therefore seeks to vary the outline planning permission (AVA/2023/0842) to ensure that the access design approved by the outline planning permission is consistent with the access design that is proposed by the reserved matters application (AVA/2025/0670).

1.5 The purpose of this statement is to:

- identify the conditions attached to outline planning permission AVA/2023/0842 that will need to be varied;
- explain the nature of the proposed amendments; and
- provide a justification for the proposed amendments.

1.6 This statement should be read in conjunction with the following drawings and documents:

- Drawing No.: A_S_003 Rev P4 (SITE PLAN AS PROPOSED)
- Drawing No.: A_S_004 Rev P4 (PROPOSED VISIBILITY SPLAYS)
- Drawing No.: A_S_005 Rev P2 (SITE LOCATION PLAN)
- Section 73 planning application form and ownership certificates

2. Statutory Provisions & Case Law

2.1 The statutory provisions set out under Section 73 of the Town and Country Planning Act 1990 (as amended) allow an application to be made to the relevant local planning authority to vary or remove planning conditions attached to a planning permission.

2.2 In the case of *Armstrong v Secretary of State for Levelling-Up, Housing and Communities [2023] EWHC 176 (Admin),* the High Court confirmed (amongst other things) that there is nothing in Section 73 of the Town and Country Planning Act 1990, or in the Town and Country Planning Act 1990, that limits the application of a Section 73 application to *"minor material amendments"*, or to amendments which do not involve a *"substantial"* or *"fundamental"* variation where there is no conflict with the operative part of the permission.

2.3 The Court of Appeal decision in *Test Valley Borough Council v Chala Fiske [2024] EWCA Civ 1541* further clarifies the scope of the variations that are permissible under a Section 73 application. The judgment re-confirms that there is no legal restriction that prevents a Section 73 application from making a substantial or fundamental alteration to a development authorised by an extant planning permission, provided both the operative part and the conditions of a Section 73 permission are consistent with the operative part of the earlier permission.

2.4 Paragraph 13 (Reference ID: 17a-013-20230726) of the '*Flexible options for planning permissions*' section of the National Planning Practice Guidance echoes this principle and explains that

> *"…an application made under section 73 of the Town and Country Planning Act 1990 can be used to make a material amendment by varying or removing conditions associated with a planning permission. There is no statutory limit on the degree of change permissible to conditions under s73, but the change must only relate to conditions and not to the operative part of the permission…"*

3. Planning History & Background

3.1 On 16th January 2024, Amber Valley Borough Council granted outline planning permission for residential development on the Land at 17 Becksitch Lane, Belper (AVA/2023/0842).

3.2 Outline planning permission AVA/2023/0842 was granted with all matters reserved except for access. Approved Drawing No.: PA/23-015 SK 81 01 B shows the approved access design. In summary, the approved access design involves:

- Removing the existing stone boundary wall along Becksitch Lane to provide access onto the driveways for the two new homes.
- Realigning the northern and southern parts of the existing stone boundary wall.

The implementation and design of the approved access is controlled by both Condition 4 (approved information and drawings) and Condition 5 (access) of outline planning permission AVA/2023/0842.

3.3 In September 2025, a reserved matters application was submitted to Amber Valley Borough Council (AVA/2025/0670). Reserved matters application AVA/2025/0670 sought approval for the appearance, landscaping, layout and scale of the residential development permitted by outline planning permission AVA/2023/0842.

3.4 The scheme proposed by the reserved matters application comprises two detached dwellings. Each house has a garden and a driveway to the front and a garden at the rear. The reserved matters application also proposes several minor amendments to the design of the access that was approved by the outline planning permission (AVA/2023/0842). These alterations include widening the access, retaining more of the existing stone boundary wall along Becksitch Lane, changing the alignment of the stone boundary walls, and repositioning the driveways.

3.5 On 18th March 2026, the local planning authority advised the applicant that the reserved matters application (AVA/2025/0670) had been recommended for approval. Notwithstanding this, the local planning authority also advised the applicant that outline planning permission AVA/2023/0842 would need to be varied to reflect the amended access design before the reserved matters application could be approved.

3.6 This Section 73 application has therefore been submitted to vary the access design that is approved by outline planning permission AVA/2023/0842 so that it is consistent with the access design that is proposed by the reserved matters application (AVA/2025/0670) for the residential development which is pending determination.

4. The Proposal

4.1 This Section 73 application seeks to vary outline planning permission AVA/2023/0842 so that the design of the access that is approved by the outline planning permission is consistent with the access design that is proposed by reserved matters application (AVA/2025/0670).

4.2 Several minor alterations were made to the approved access during the detailed design stage after the outline planning permission (AVA/2023/0842) was granted. The changes include:

- **Widening the access**: the width of the accesses has been widened.
- **Retaining more of the existing stone boundary wall:** the updated access design enables more of the existing stone boundary wall along Becksitch Lane to be retained.
- **Changing the alignment of the stone boundary walls:** the alignment of the stone boundary walls along Becksitch Lane has been amended.
- **Repositioning the driveways**: the driveways have been repositioned to accommodate the proposed site layout and to enable more of the stone boundary walls to be retained along Becksitch Lane.

4.3 There are two planning conditions attached to outline planning permission AVA/2023/0842 that control the design of the approved access:

- Condition 4 which states

  "The development hereby permitted shall be carried out only in accordance with the details and specifications shown on the information and drawings listed below:

  Application Form received on 15th November 2023

Location Plan and Block Plan included on drawing number PA/23/015 SK 81 01 B) received on 7th December 2023

Design and Access Statement received on 7th December 2023"

- Condition 5 which states

"The Development hereby approved shall not be occupied until the access have been provided as shown on drawing PA/23-015 SK 81 01 B"

4.4 It is therefore proposed that Condition 4 and Condition 5 are varied so these conditions refer to the latest drawings for the scheme which show the amended access design.

4.5 With respect to Condition 4, it is proposed that the condition is varied to read as follows:

The development hereby permitted shall be carried out only in accordance with the details and specifications shown on the information and drawings listed below:

- *Drawing No.: A_S_005 Rev P2 (SITE LOCATION PLAN)*
- *The access shown on:*
  - *Drawing No.: A_S_003 Rev P4 (SITE PLAN AS PROPOSED)*
  - *Drawing No.: A_S_004 Rev P4 (PROPOSED VISIBILITY SPLAYS)*

4.6 In terms of Condition 5, it is proposed that the wording of the condition is varied to read as follows:

The Development hereby approved shall not be occupied until the access has been provided as shown on Drawing No.: A_S_003 Rev P4 (SITE PLAN AS PROPOSED) and Drawing No.: A_S_004 Rev P4 (PROPOSED VISIBILITY SPLAYS).

4.7 In the interests of clarity, it is also proposed that the wording of Condition 1, which sets out the timeframes for the submission of the reserved matters application(s) and the commencement of development, is amended to read as follows:

Application for approval of reserved matters shall be made to the Local Planning Authority before the expiration of three years from 16 January 2024 and the development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

The proposed variation to Condition 1 is only an administrative change to ensure that the expiry date for the varied outline planning permission is the same as the expiry date for the original outline planning permission (AVA/2023/0842). As such, this amendment will not extend the time limit within which the approved development must be started, nor will it extend the time limit within which the application for approval of reserved matters must be made.

5. Justification

5.1 An amended access design for the development was initially submitted to the local planning authority in September 2025 as part of reserved matters application AVA/2025/0670.

5.2 On 9th October 2025, the local highway authority confirmed it had no objection to the proposal and commented that

"…the proposed car parking spaces satisfy the highway authority's geometric requirements, and a visibility splay plan has been submitted which shows that the splays on the previously approved drawing can be achieved by the new site layout scheme. The new site layout scheme

can therefore satisfy the requirements of planning condition 6. The proposed driveway gradients satisfy the requirements of the highway authority's Planning, Streets, and Places (PSP) guidance. No adverse highway safety implications would therefore arise from the submitted site layout.

The highway authority therefore has no objection to the access and visibility splay details submitted with this application being considered as discharging the layout element of the reserved matters application…."

5.3 Furthermore, in December 2025, the local highway authority reviewed several additional drawings for the reserved matters application (AVA/2025/0670) and confirmed that it continued to have no objection to the proposal. The local highway authority's comments dated 30th December 2025 also confirmed that

"…The highway authority's initial observations on this application were issued on 9/10/25.

The applicant has submitted further details, posted on the Local Planning Authority's planning application web page on 19/12/25, including drawing number A_S_004 Rev P2 showing visibility splays.

The highway authority's 9/10/25 observations remain appropriate and the highway authority has no further observations on the latest submitted details…."

5.4 The design of the access that is proposed by this Section 73 application is the same as the access that the local highway confirmed it had no objection to on 30th December 2025. As such, it is considered reasonable to conclude that the design of the proposed access should remain acceptable to the local highway authority.

5.5 Furthermore, the principle of the proposed development remains acceptable when assessed against the policies in the recently adopted Amber Valley Borough Local Plan 2022-2040 given that the site is located within Belper's built framework. The amended access design is also considered to be acceptable in respect of heritage, residential amenity, design and appearance.

6. Summary & Conclusion

6.1 This Supporting Statement has been prepared by Astill Planning Consultants on behalf of the applicant, Shreeji Investments Leicester Limited, in support of a Section 73 application to vary Condition 1 (submission of reserved matters and commencement), Condition 4 (approved information and drawings) and Condition 5 (access) of outline planning permission AVA/2023/0842.

6.2 The purpose of this Section 73 application is to obtain consent for several minor amendments to the design of the access that was approved by outline planning permission AVA/2023/0842.

6.3 The amended access design is the same as the access that has been proposed by reserved matters application AVA/2025/0670. The local highway authority has already confirmed that it has no objection to this access. As such, it is reasonable to conclude that the design of the amended access should remain acceptable to the local highway authority.

6.4 It is therefore respectfully requested that the proposed variations to Conditions 1, 4 and 5 of outline planning permission AVA/2023/0842 are approved in a timely manner, so that the scheme can move forward without any unnecessary delays.