

NORTHERN PLANNING COMMITTEE – 11TH JULY 2018

UPDATE TO AGENDA

APPLICATION NO.

18/1213M

LOCATION

Land at Eaton Cottage, Macclesfield Road

UPDATE PREPARED

9th July 2018

Education Requirements

The Applicant has provided indicative plans that comprise 54 units, although they have not sought to alter their description of development.

The indicative reduction in 5 units results in a reduced impact upon education, the requirement now being :

9 x £11,919 x 0.91 = £97,617 (primary)

8 x £17,959 x 0.91 = £130,742 (secondary)

1 x £50,000 x 0.91 = £45,500 (SEN)

Total education contribution: £273,859

In order to comply with the Community Infrastructure Levy (CIL) Regulations 2010 it is now necessary for planning applications with legal agreements to consider the issue of whether the requirements within the S106 satisfy the following:

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

In this case, the contribution to affordable housing is necessary, directly related to the development and fairly and reasonably related in scale and kind to the development.

Ecology

It should be noted that since a European Protected Species has been recorded on site and is likely to be adversely affected the proposed

development the planning authority must have regard to whether Natural England would be likely to subsequently grant the applicant a European Protected species license under the Habitat Regulations. A license under the Habitats Regulations can only be granted when:

- the development is of overriding public interest,
- there are no suitable alternatives and
- the favourable conservation status of the species will be maintained.

It is not considered that Natural England would grant a licence in this case. There are numerous other sites that already have planning permission and are being developed for housing purposes as part of the allocated sites associated with the Link Road. There are therefore numerous suitable alternative sites for residential development and the benefits of the proposal to affordable housing are over-stated given the delivery and future planning release associated with the allocated sites.

On this basis the proposal is also not of overriding public interest and this proposal fails the tests in the Habitat Regulations.

The Applicant has submitted protected species information to the Councils Ecologist on 6 July 2018

As a result of the additional information, the ecologist advises -

Badger

No evidence of badger activity was recorded as part of the initial survey undertaken of the site and again no evidence was recorded during the recent targeted survey. In accordance with best practice a badger survey should undertaken to include all land within 30m of the application site boundary. I advise that this species does not present a constraint on the proposed development.

Trees with bat roosting potential

A number of trees are present within the interior of the site which have the potential to support roosting bats. Detailed surveys of these trees have now been undertaken to confirm the presence/absence of roosting bats.

Evidence of bat activity in the form of a minor roost of a relatively common bat species has been recorded within tree T1 which is proposed for removal. The usage of the tree by bats is likely to be limited to single-small numbers of animals using the tree for short periods of time during the year and there is no evidence to suggest a significant maternity roost is present. The loss of the roosts associated with the tree on this site, in the absence of mitigation, is likely to have a low impact upon on bats at the local level and a low impact upon the conservation status of the species as a whole.

The submitted report recommends the installation of bat boxes on nearby trees and also features for bats to be incorporated into the proposed buildings as a means of compensating for the loss of the roost.

The ecologist advises that if possible this tree should be retained as part of the detailed design developed for this site. The tree is however shown as being lost under the submitted illustrative layout plan.

Statutory Designated Sites

This application falls within Natural England's SSSI impact risk zone for residential developments of greater than 50 units. Natural England have been consulted on this application and have raised no objections in respect of statutory designated sites. This would have no bearing on whether or not a Licence would be granted.

Non-statutory Sites

The application site is located adjacent to Cranberry Moss Local Wildlife Site (LWS). The submitted Preliminary Ecological Appraisal states that, in the absence of suitable ecological design and mitigation, the proposed development of this site may have adverse operational and construction phase impacts on the LWS. Potential identified impacts include: damage to boundary vegetation, pollution effects, nutrient enrichment, introduction of non-native species and hydrological effects.

The ecologist advises that the undeveloped buffer shown on the submitted indicative layout plan may go part way to reducing some of these effects, but hydrological changes which are of particular significance in respect of Cranberry Moss, require further analysis. Both the quantity and quality of water entering the Local Wildlife Site are a concern and so should be considered in the required further assessment.

To minimise potential impacts on the Local Wildlife Site the ecologist advises that there should be no development within the catchment of the Moss and that the existing surface water drainage into the Moss be maintained, whilst at the same time avoiding any contamination of the Local Wildlife Site. Whilst the Applicant may be working on this, no such evidence has been received at the time of writing.

Insufficient information to be satisfied that the proposed development would not result in a significant adverse impact upon the Cranberry Moss Local Wildlife Site. The proposal would also fail the tests in the Habitat Regulations. The suggested reason for refusal is amended in the light of this.

RECOMMENDATION

REFUSE for the following reasons:

- 1. The proposed residential development is unacceptable because it is located within the Open Countryside, contrary to Policy PG 6 of the**

Cheshire East Local Plan Strategy and the National Planning Policy Framework. Any benefit in the form of affordable housing provided does not outweigh the harm caused to interests of acknowledged importance. There are no material considerations to indicate that permission should be granted contrary to the development plan.

2. The Local Planning Authority considers that there is insufficient information included within this application to determine the impact of the proposed development upon the Cranberry Moss Local Wildlife Site adjacent or to assess the impact of the proposed development upon trees/hedgerows on the site. The proposal also fails the tests of the Habitat Regulations because, by virtue of the developments already allocated by the Cheshire East Local Plan Strategy, there are numerous suitable alternative sites and this proposal is not of overriding public interest. The proposal would therefore have a detrimental impact upon the protected species known to occur either on or within the vicinity of the site, contrary to Saved Policies NE11, NE12, NE14 and DC9 of the Macclesfield Borough Local Plan, Policy SE3 and SE4 of the Cheshire East Local Plan Strategy and guidance contained within the NPPF.

Should the application be subject to an appeal, the following Heads of Terms should be secured as part of any S106 Agreement:

1. A scheme for the provision of 60% affordable housing – 65% to be provided as social rent/affordable rent with 35% intermediate tenure. The scheme shall include:

- The numbers, type, tenure and location on the site of the affordable housing provision**
- The timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing**
- The arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing if no Registered Social Landlord is involved**
- The arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and**
- The occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.**

2. Provision of Public Open Space and a LAP to be maintained by a private management company

3. Primary school education contribution of £ £97,617 (pro rata)

4. Secondary school education contribution of £130,742 (pro rata)

5. SEN education contribution of £45500

6. Contribution towards improvements at Eaton Bank Academy outdoor sports facilities of £1000 per dwelling

Should this application be the subject of an appeal, authority be delegated to the Head of Planning (Regulation) in consultation with the Chairman of the Northern Planning Committee to enter into a planning agreement in accordance with the S106 Town and Country Planning Act to secure the Heads of Terms for a S106 Agreement.