



Strategic Planning Board Updates

Date: Wednesday, 27th July, 2022
Time: 10.00 am
Venue: Council Chamber, Municipal Buildings, Earle Street, Crewe
CW1 2BJ

The information on the following pages was received following publication of the Board agenda.

Planning Updates (Pages 3 - 14)

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APPLICATION NO: 21/2412C

LOCATION: Land South of Old Mill Road, Sandbach

Amended Plans

Following the completion of the Strategic Planning Board Report for this application the applicant has submitted a suite of amended plans. These plans are included within the key plans pack and the main changes are summarised in the covering letter as follows;

- Plot 1 has been moved 1m to the east to ensure a closer relationship with FP18.
- The levels on the site are a function of numerous factors including road gradients, drainage routes as well as the design. The site layout shows the location of the retaining walls and structures, and it is not proposed to amend this.
- The M house type has been amended so that the ridge height has been reduced by 1.2m. Plots 154-160 have been substituted with the revised M house type. In addition, plots 150 and 151 have been changed to a two-storey house type.
- The drainage solution proposed has had to respond to the levels on the site and this cannot be changed.
- Cross sections and levels information has been provided previously and no further information will be provided.
- Plots 130 -134 need to front onto the main street. Re-orientating them so that they front the open space is not a viable option. Due to the 30m offset from the NEAP it is not possible to locate a second block of properties which would overlook the NEAP.
- The width of the carriageway and footpath verge was considered at the appeal and is not proposed to be amended.
- No further crossing point to the north will be added. This has not been requested by the highways officer.
- The frontage parking has been amended so that there are no more than 4 spaces that aren't separated by landscaping.
- The landscaping scheme has been amended to remove trees from the service strips.
- The landscaping at the entrance of the site has been amended to tie in with the wildlife corridor.

The applicant has also submitted a legal opinion from Paul Tucker QC which is summarised as follows;

- The CEC approach to the Reserved Matters application is at serious risk of straying beyond the scope of the Reserved Matters and amounting to an unlawful collateral attack on the Outline Planning Permission.
- The principal concern from the previous Inspector in terms of the route of the footpath through the commercial development are now addressed. Consistency in decision making prevents these issues

being rehashed unless there is something different about the proposals. There is not.

- There will need to be a change in levels to deliver up to 200 units approved in the outline application. There have been significant changes to the development platform raised by the Inspector as part of the previous appeal decision. Much work has been done to reduce the impact on the landscape levels. Those amendments are within the context of the necessary level changes to build out the spine road, approved in full. The Council's generalised comments asking for further explanation behind the proposed level changes demonstrate an unwillingness to work constructively to bring forward the Site as they must once the principle of development is established.
- The Reserved Matters application is not an opportunity to reconsider the principle of development. The Reserved Matters application addresses the concerns of the Council and the Inspector.
- There is a strong case that it would be unreasonable should CEC fail to consider the response to the urban design comments submitted on 15 July and go on to refuse the RMA on the basis of matters addressed in that response.

The applicant has provided a letter which will be presented to Strategic Planning Board at the SPB meeting. Its contents will not be repeated within this update.

OFFICER COMMENT

This is a Reserved Matters application and the issues raised within the 4 reasons for refusal are subjective matters. The officer report considers the comments made by the Inspector as part of the previous appeal decision and finds that the proposal development does not comply with the Development Plan. On this basis the application is recommended for refusal.

The design amendments secured are relatively minor and do not require re-consultation. The case officer has sought advice from the Council's Urban Design Officer who has stated that a few things have been improved. However, in isolation these alterations do not amend the Building for a Healthy Life (BHL) performance from the last assessment.

RECOMMENDATION

There is no change to the recommendation.

APPLICATION NO: 21/0966M

LOCATION: Land At, GAW END LANE, LYME GREEN

PROPOSAL: Reserved matters application for 306 dwellings, for appearance, landscaping, layout and scale, pursuant to Condition 2 of the outline planning permission 18/3245M. The Outline consent (18/3245M) was not an environmental impact assessment application and therefore no environment statement was submitted to Cheshire East Council at that time.

ADDITIONAL REPRESENTATIONS

Since preparation of the report, a further representation has been received from Save Danes Moss Action Group (SDM). SDM has objected to the proposal on the grounds summarised below:

- Proposal is contrary to principles of LPS 17 as there are no detailed ecological appraisals which covers invertebrates, birds, amphibians or reptiles
- There is no documentation detailing ecological mitigation
- No documentation detailing that there is no significant harm to the adjacent SSSI
- No mitigation for wildlife occurring on the SSSI
- No detailed study covering taxon
- There is an area of wet woodland detailed for removal with no documentation stating absence of willow tit
- No detailed study of impacts of water table and water quality to ensure no drying of Danes Moss, which would increase CO2 release contrary to the councils aim of achieving carbon neutrality by 2025
- Scheme is not acceptable on climate change grounds and biodiversity loss
- Likely impact on protected species
- There are 4600 records of well over 300 species recorded across the whole of Danes Moss which will be impacted by the proposals
- Such species include the Dingy Skipper Butterfly, which is listed as vulnerable to extinction, Barn Owls and bats

OFFICER COMMENT

Ecology

The need for a full Ecological appraisal as required by the site specific polices for LPS17 – Responding to the concerns raised by the objector, the current application is a reserved matters application. Detailed ecological surveys and assessments were submitted to inform the outline application (the 'parent' consent) considered and determined under planning ref; 18/3245M. As

required by condition no. 24 of the outline consent, updated surveys for badger, bats and barn owls were submitted as part of this reserved matters application. These have been reviewed by the Council's Nature Conservation Officer (NCO) and deemed to be acceptable as reported on pages 89-91 of agenda reports pack.

No document detailing ecological mitigation - Condition no. 19 of the outline consent secured the implementation of mitigation and recommendations made by the submitted Ecological assessments. Condition no. 20 secured the submission of a Biodiversity Enhancement Strategy and Condition no. 21 the submission of a Habitat Management Plan. Finally, condition no. 23 secured the submission of details for the provision of a wetland scrape for the use of Snipe. These details will be considered under an application to discharge these conditions. Compensatory ponds and other habitat creation measures are provided as part of this reserved matters application to address those lost and are considered acceptable.

The need to ensure that the proposed development would not result in an adverse impact upon Danes Moss SSSI - Natural England were consulted on both the outline application and this reserved matters application and have advised that there should be no significant impacts on the Danes Moss SSSI as a result of the proposals. Having regard to the lack of objection from Natural England and the Council's Nature Conservation Officer, the impact on the Danes Moss SSSI is acceptable.

Moth Species and the need to reduce light pollution - The effects of lighting in wildlife could be reduced through the design of the lighting on site. This is controlled through Condition 28 of the outline consent.

Loss of wet woodland - The wet woodland habitat on site is to be retained. This is secured by means of condition no. 9 on the outline consent and the amended layout has secured its retention.

Drainage

The drainage conditions attached to the outline consent will secure an appropriate drainage strategy and this would assist in reducing any impacts on the Danes Moss SSSI in terms of surface water drainage

Taking the above into account, the issues raised by Save Danes Moss Action Group would not sustain a refusal of reserved matters approval.

RECOMMENDATION

Approve as per the recommendation on page 93 of the Agenda Reports Pack.

APPLICATION NO: 21/1249M

LOCATION: Land West Of London Road And South Of, GAW END LANE, LYME GREEN

PROPOSAL: Full planning permission for the erection of 42 dwellings including access and associated works

ADDITIONAL REPRESENTATIONS

Since preparation of the report, a further representation has been received objecting to the proposal on the grounds summarised below:

- Regrettable that the Council has removed the site from the Green Belt
- The proposal is contrary to LPS 17 and the figure of around 300 homes should be adhered to
- This section of London Road already present dangers in terms of road safety with the speed limit being ignored
- Proposal does not provide green buffers with London Road or Rayswood Nature Reserve
- No mitigation for trespass or illegal entry into Rayswood Nature Reserve
- If approved, it will constitute wilful maladministration by overriding LPS 17

OFFICER COMMENT

Affordable Housing

Since publication of the report, officers have negotiated an amendment to the tenure split to secure an additional 2 bed affordable rent unit in lieu of a 2 bed intermediate unit. The mix is therefore now:

- 4 x 1 bed (4 affordable / social rent)
- 4 x 2 bed (3 intermediate & 1 social rent)
- 5 x 3 bed (3 social rent & 2 intermediate)

This is an improvement over the original scheme and addresses a comment made by the Council's Strategic Housing Officer that there is a need for 2 bed affordable rented units.

Ecology

Since preparation of the report, the applicant has submitted a Biodiversity Net Gain Metric Calculation and further Bat Survey Report in response to comments made by the Council's Nature Conservation Officer (NCO).

Statutory Designated Sites – The site falls into Natural England's SSSI impact risk zones for developments that result in an increase in residential units. Natural England has been consulted and has offered no objection to the

proposal. The potential impacts of the proposed development upon statutory designated sites is therefore acceptable.

Hedges - Replacement hedgerow planting is shown on the submitted landscape plan and the biodiversity metric shows that the scheme would deliver a net gain in hedgerow biodiversity.

Great Crested Newt – There are a number of ponds located within 250 metres of the proposed development. The submitted Great Crested Newt assessment concludes that the proposed development is likely to result in an adverse impact on this protected species.

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

The applicant's ecological consultant has indicated an intention to enter the proposed scheme into Natural England's district licencing scheme and has provided confirmation that the development has been accepted onto the scheme in principle. The NCO has advised that in the event that planning consent is granted, entry into the district licencing scheme would be sufficient to maintain the favourable conservation status of the species. This would be secured by condition.

Common Toad - No evidence of this priority species was recorded during the surveys to date. However, there is a possibility this species may occur on site on at least a transitory basis. The NCO has advised that the proposed development would have a localised adverse impact on this species, if present, as a result of the loss of relatively low value terrestrial habitat. The submitted Great Crested Newt report includes measures to reduce the risk of this species being killed or injured during the site clearance and construction process. Subject to this being secured by condition, the impact on Common Toad would be acceptable if present.

Roosting Bats (Bats) - Two trees proposed for removal have been identified as having potential to support roosting bats. Adequate surveys of these trees have now been undertaken and no evidence of roosting bats was recorded.

Biodiversity Net Gain - In accordance with Local Plan policy SE3(5) all development proposals must seek to lead to an overall enhancement for biodiversity. In order to assess the overall losses/gains of biodiversity the applicant has submitted an assessment undertaken in accordance with the Defra Biodiversity 'Metric' version 3.1.

The metric calculation shows that the development result in a net loss of biodiversity amounting to 4.77 units.

The applicant is proposing working with a third party for the delivery of habitat creation at an offsite location, but no details of the location or means of delivery of the proposed habitat creation are given. The Council's NCO has advised that in order to deliver a net gain, a greater number of biodiversity units would need to be delivered at an offsite location in relation to that lost. If Members are minded to grant planning consent for this development, despite the location of and details of offsite habitat provision being unknown at this stage, a legal agreement would be required to secure the submission and implementation of the following:

- Location of the proposed offsite habitat creation.
- Habitat creation method statement
- 30 year habitat management plan and ecological monitoring strategy.
- Biodiversity metric calculation to demonstrate the proposals deliver the required number of biodiversity units.

The delivery of biodiversity net gain from this development is in part dependent upon on-site delivery of habitat creation and management. In order to secure the delivery of onsite works, a condition requiring the submission of a habitat creation method statement and a *30 year habitat management plan for the retained and newly created habitats on site is required.*

This planning application provides an opportunity to incorporate features to increase the biodiversity value of the final development. The NCO has recommended that the applicant submits an ecological enhancement strategy which would be secured by condition.

Public Open Space and Recreation

The Council's open spaces officer and Leisure Services have not commented on the application. In the absence of comments, it is recommended that authority be delegated to the Head of Planning, in consultation with the Chairman and / or Vice-Chairman of the Strategic Planning Board to secure any further financial contributions towards public open space and recreation provision (should they be requested by ANSA).

Other Matters

The additional comments made by representation has already been dealt with in the main body of the report.

RECOMMENDATION

Delegate to the Head of Planning, in consultation with the Chairman and Vice-Chairman of the Strategic Planning Board to secure any further financial contributions towards public open space and recreation provision (should they be requested by ANSA) and healthcare provision (should they be requested by

the NHS) and APPROVE the application subject to a s106 legal agreement and the conditions on pages 115-116 of the Agenda Reports Pack (as amended by this update to include additional conditions) as follows:

APPROVE subject to a S106 Agreement making provision for:

- **Affordable Housing comprising 30% (65% of which will be for social / affordable rent and 35% for shared ownership / intermediate tenure)**
- **Education contributions of £98,056.14 towards secondary provision**
- **Public Open Space off site contributions tbc**
- **Indoor Sport tbc**

and the following additional conditions:

30. Entry of scheme onto Natural England's district licencing scheme

31. The proposed development to proceed in strict accordance with the Amphibian Reasonable Avoidance Measures detailed in the submitted Great Crested Newt Impact Assessment

32. Habitat Creation Method Statement and a 30-year habitat management plan for the retained and newly created habitats on site to be submitted, approved and implemented.

33. *30-year Habitat Management Plan* to be submitted, approved and implemented *and shall detail how the newly created, enhanced and retained habitats will be managed achieve the target condition specified in the Biodiversity Metric Calculations*

34. Ecological Enhancement Strategy to be submitted, approved and implemented.

APPLICATION NO: 21/5724C

LOCATION: Land Off, RADWAY GREEN ROAD, RADWAY GREEN

Network Rail

Network Rail have confirmed on receipt of further information that they no longer object to the application.

Forestry Comments

The Outline application has been supported by an Arboricultural Impact Assessment by Brooks Ecological (AR-5066-02.01 AIA) dated 13th May 2022 and revised 13th May 2022. The tree survey has confirmed the presence of 76 individual trees, 2 groups and 9 hedgerows on the site comprising of: 22 individual high quality A Category trees, 44 individual moderate quality B Category trees and 22 individual and 2 groups of low-quality C Category trees. Two trees are described as 'transition veteran trees' not yet considered to be at 'veteran status' or subject to the same protection accorded trees of a confirmed veteran status as stated at paragraph 18 of the National Planning Policy Framework (NPPF 2018).

Of the trees surveyed a total of 15 individual high quality A Category trees, 20 moderate quality individual B Category trees and 7 individual and 2 groups of low-quality C Category trees are identified for removal based on the revised illustrative parameters plan and the Tree Protection Plan which accompanies the AIA. Twelve individual trees stand to be impacted by the indicative layout in terms of encroachment of hard standing and construction within RPAs.

The application has also been supported by a Hedgerow Regulations Survey by Brooks Ecological (ER-5066-03.1) dated 3/11/2021. The assessment has found that 3 of the 10 hedgerows surveyed within the site survey meet the criteria for 'important' under the Hedgerow Regs 1997 and that these are all to be retained. Other hedgerows not found to qualify as important internal to the site are shown to be lost to the development.

Having reviewed the Tree Protection Plan and the extent of tree removals the Councils forestry officer considers that tree losses of high and moderate quality trees are excessive and that there are options to retain more better-quality trees to all of the site boundaries, in particular the southwestern boundary of the site to provide greater separation between existing field boundary trees and development. This would allow for increased buffers in which new planting and enhancements to boundary screening could be accommodated and better accord with the site-specific principals of the strategic site, and Policy SE3/ SE5 of the Local Plan while providing increased separation between retained trees and the indicative layout which as suggested on the Tree Protection Plan appears poor. It's considered that more effort should be made to retain mature, high-quality trees internal to the development area as part of the future employment site to provide green

spaces and amenity areas, as at present the proposal seems to suggest total clearance of all established landscape features internal to the site boundary.

Trees T3 & T4 moderate quality Ash are described as 'Transition Veterans' suggesting that they have some wildlife habitat value with the potential to develop further veteran features. Given that these trees are located to the southwest boundary of the development area adjacent to the Green Belt it is unclear what the justification is for not seeking to accommodate them given that the site-specific principals of LPS24 suggest that they are exactly the kind of landscape feature that should be retained. Further information should be provided regards the biodiversity and habitat value of these trees to demonstrate why they do not meet the veteran status of NPPF para 118 given that T3 is proposed for removal and construction is proposed within the RPA of T4.

There are no objections to the principle of the proposal or the access location. Whilst it is accepted that the extent of losses proposed internal to the site broadly aligns with the site-specific principals of LPS24 it is considered that there are opportunities to retain further trees which would provide enhancements to the employment site in the longer term. Given the high number of tree losses presently proposed internal to the site, any future reserved matters must seek to retain all high and moderate quality boundary trees around the perimeter of the site and demonstrate a commitment to increasing the landscape buffer width to these boundaries to accord with Site-Specific Principles and Local Plan Policies SE3 and SE5.

The forestry officer advises that any future reserved matters scheme must be supported by an updated Arb Impact Assessment which considers the relationship of trees with the proposed layout and drainage layout/strategy that informs a Tree Protection Scheme and Arboricultural Method Statement to be adhered to for the duration of any construction period.

Appraisal

Comments of the Councils Forestry Officer raise concerns with the initial tree loss and suggests that there is potential to provide an alternative layout to allow retention of further trees.

These comments are noted, however the application has been submitted in outline form with only access being sought, therefore the final layout of building on site is not set and would not be addressed until reserved matters stage.

It is however agreed that the size of the site would allow further tree retention/further replacement planting to be accommodated on site whilst still achieving the required commercial floor area.

As such it is considered that impact on trees can be suitably dealt with at reserved matters stage subject to the additional condition as suggested by the

Councils forestry officer regarding an updated arboricultural impact assessment.

Flood Risk

The Councils Flood Risk Team have been consulted who have raised no objection to the principle of the development however request further information regarding managing the existing ordinary watercourse throughout the development footprint.

Appraisal

No further comments from either the applicant or the Councils flood risk team regarding the updated information.

However given the in principle support from the flood risk team it is considered that the required conditions can be delegated back to officers alongside the biodiversity matter.

S106 and CIL Regulations

In order to comply with the Community Infrastructure Levy (CIL) Regulations 2010 it is 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.

The provision of commuted sums for highway infrastructure to mitigate the impact of development is something which is capable of being necessary, directly related to the development, and fair and reasonable. The final figure for such amounts clearly need to be justified accordingly.

Contributions for Biodiversity Net Gain for off-site provision and / or a strategy to secure this can satisfy the CIL regulations as being necessary, fair and reasonable and directly relating to the development.

Biodiversity Net Gain - Clarification

In this instance there remains some doubt as to how the net gain will be secured, hence why the recommendation is delegated back to the Head of Planning. While the potential amount of net gain from the biodiversity metric could be £600,000 such a large amount is not something the Council would wish to secure itself. The net gain should be secured either on site or on an alternative site agreed with a third party which is acceptable to the Local Planning Authority. The appropriate strategy should be secured through a legal agreement but this remains to be determined.

RECOMMENDATION

Delegated to Head of Planning in Consultation with the Chair of Strategic Planning Board to Approve subject to a S106 agreement to Secure Ecological Mitigation Strategy & Highway Improvements and conditions relating to flood risk.

Additional condition

The reserved matters application and subsequent phasing shall be supported by an Arboricultural Impact Assessment in accordance with para 5.4 of BS5837:2012 Trees in Relation to Design, Demolition and Construction – Recommendations which shall include a Tree Protection (TPP) and Arboricultural Method Statement (AMS).