

Application No: 11/1438M

Location: PIGGOTTS HILL FARM, CONGLETON LANE, CHELFORD, SK11 9LD

Proposal: Change of Use from Agricultural Land (Sui Generis) to a Private Mixed Recreation Development (Ancillary to the Enjoyment of the Main House, Mallerstang, Class C3) Comprising a Cricket Pitch, a Siting Area for the Erection of a Temporary Marquee, Equestrian Manege, Warm Up/Warm Down, Turf Training and Cross Country Areas together with a Revised Vehicular Access and Temporary Car Parking Area

Applicant: The BS Sheppard 2003 Settlement Trust

Expiry Date: 20-Jul-2011

**Date Report Prepared: 8 July 2011**

## **SUMMARY RECOMMENDATION**

### **REFUSE**

#### **MAIN ISSUES**

- Impact on the Green Belt
- Impact on Nature Conservation and Protected Species
- Impact on Highway Safety and Public Rights of Way

## **REASON FOR REPORT**

The site area is 9.3ha over the 2ha threshold for major applications. Therefore in line with the Council's Constitution, it should be determined by Members of the Northern Planning Committee.

## **DESCRIPTION OF SITE AND CONTEXT**

The application site is roughly rectangular in shape and measures 9.3ha and comprises three fields currently planted with potatoes (agricultural land classification Grades 2 and 3) with mature hedgerow field boundaries and an area of designated ancient Woodland behind, which has Snape Brook running through it. The existing field has a point of access taken from Congleton Lane and a public footpath running along the northern site boundary. Brook House Farm (now a residential dwellinghouse) lies adjacent to the northern boundary, Snape Brook forms the eastern boundary, adjacent arable fields are sited to the south and Congleton Lane, which is a classified road, forms the western site boundary. The site is within the designated Green Belt approximately 0.88 miles south east of Chelford and also within a designated Area of Special County Value (ASCV) and the Jodrell Bank Outer Zone.

## **DETAILS OF PROPOSAL**

In summary the proposals relate to the change of use of land from agriculture to a private mixed recreation development which would be ancillary to the enjoyment of a dwellinghouse, namely Brook House farm which lies to the north of the site.

The site would be subdivided into two sections east to west, the northern section closest to Brook House Farm (site 1) and the area to the south of the existing access point (site 2). Site 1 would comprise a revised point of access (including closure of existing point of access, removal of existing hedgerow and resiting of access approximately 30m south and planting of replacement hedgerow) with access track constructed of compacted hardcore which would run adjacent to the western boundary of the site behind the existing hedge, this would lead to a car park for 40 vehicles. Adjacent to the access track would lie a 20m x 60m ménage and turf training area measuring 50m x 50m both would be bounded by post and rail fencing measuring 1.5m high. Behind these elements would lie a rectangular cricket pitch with a temporary marquee area and warm up/ cool down area in the north eastern corner of the site adjacent to the wooded area.

Site 2 comprises a cross country course which would include extensive earthworks including ditches, steps, jumps, forming new water bodies and undulating ground levels. The various sections of the site would be subdivided with new hedging with timber field gates providing access. Areas of new tree planting are also proposed.

## **RELEVANT HISTORY**

None relevant

## **POLICIES**

### **Regional Spatial Strategy**

DP 1 Spatial Principles  
DP 2 Promote Sustainable Communities  
DP 3 Promote Sustainable Economic Development  
DP 4 Make the Best Use of Existing Resources and Infrastructure  
DP 7 Promote Environmental Quality  
DP 8 Mainstreaming Rural Issues  
RDF 2 Rural Areas  
RDF 4 Green Belts  
EM 1 Integrated Enhancement and Protection of the Region's Environmental Assets

### **Local Plan Policy**

NE1 Areas of Special County Value  
NE2 Protection Local Landscapes  
NE3 Landscape Protection and Enhancement  
NE9 Protection River Corridors  
NE11 Nature Conservation

NE12 SSSI, SBI and Nature Reserves  
NE13 Sites of Biological Conservation  
NE14 Nature Conservation Sites  
BE1 Design Guidance  
GC14 Jodrell Bank  
DC1 New Build  
DC3 Amenity  
DC6 Circulation and Access  
DC8 Landscaping  
DC9 Tree Protection  
DC11 Hedgerow Policy  
DC32 Equestrian Facilities  
DC37 Landscaping

**Other Material Considerations**

PPS1: Delivering Sustainable Development  
PPS1: Delivering Sustainable Development: Climate Change Supplement  
PPG2: Green Belt  
PPS4: Planning for Town Centres  
PPS7: Sustainable Development in Rural Areas  
PPS9: Biodiversity and Geological Conservation  
PPG17: Planning for Outdoor Sport and Recreation

**CONSULTATIONS (External to Planning)**

**Public Rights of Way Unit:**

The property is adjacent to public footpath no. 21 Lower Withington. It appears unlikely, however, that the proposal would directly affect the public right of way, although there is new fencing proposed to the north of the site which would enclose one length of the footpath.

There is also some concern that a protected access to the ménage for horses follows the same line as the public footpath potentially causing an area of conflict between pedestrians and although not shown must cross the footpath at some point. Further consideration may be needed on this aspect depending on the available widths.

Recommends advice notes added to any planning consent to ensure that developers are aware of their obligations.

**Environment Agency:**

No objection however recommends attaching an informative in respect of waste.

**Strategic Highways Manager:** No response received at time of writing report

**VIEWS OF THE PARISH / TOWN COUNCIL**

No response received at time of writing report

## **OTHER REPRESENTATIONS**

Letters of objection received from Piggotts Hill Farm on the following grounds:

- loss of agricultural land
- inappropriate development within the Green Belt
- unwanted precedent
- loss of best and most versatile agricultural land
- impact on ASCV
- inaccuracies in supporting statement

## **APPLICANT'S SUPPORTING INFORMATION**

The applicant has submitted a Supporting Statement, Landscape Visual Impact Assessment, Ecological Report and Tree Report. The main points within the Supporting Statement indicate that the proposals are not commercial and comprise development ancillary to the enjoyment of a dwellinghouse and as such the impact upon amenity and highway safety would be negligible. The Supporting Statement then seeks to demonstrate compliance with PPG2 on the grounds that it supports proposals for outdoor sport and recreation and that the proposals represent a material change of use which preserves openness. It then seeks to demonstrate compliance with the purposes for including land within the Green Belt, compliance with policies within PPG17 and PPS4 and makes reference to case law to support its conclusions.

The contents of the Ecological Report, Tree Report and Landscape Visual Impact Assessment are discussed within the relevant sections of the report.

## **OFFICER APPRAISAL**

### **Principle of Development- Appropriateness within the Green Belt**

PPG2 indicates that there is a general presumption against inappropriate development within the Green Belt. Such development should not be approved, except in very special circumstances.

Engineering and other operations and the making of any material change in the use of land are inappropriate development unless they 'maintain openness and do not conflict with the purposes of including land in the Green Belt.'

At present, the site comprises three fields with native hedgerow field boundaries. The extent of the works involve permanent changes to the land including new post and rail fencing, new subdividing hedges, hardstanding, surfacing materials, re-grading the land and permanent jumps would affect the appearance, visual amenity and openness of the land. This coupled with the associated activity which would inevitably result from such uses including vehicle movements, the erection, and use and dismantling of the marquee and the persons and horses involved in using the cross country course, manege and cricket pitch area and associated training areas would be in contrast to the singular agricultural use that exists at present. It is considered that there would be an encroachment into the countryside. Contrary to one of the purposes of including land in the Green Belt.

The contents of the Supporting Statement and Landscape Assessment are duly noted however it is not considered that the proposed landscaping and presence of existing hedges would mitigate or make this loss of openness less apparent.

Whilst the purposes of including land in Green Belts are of paramount importance to their continued protection, and should take precedence over the land use objectives, it should be noted that the proposals would also not accord with the objectives of the use of land within the Green Belt:

- to provide opportunities for access to the open countryside for the urban population;
- to provide opportunities for outdoor sport and outdoor recreation near urban areas;
- to retain attractive landscapes, and enhance landscapes, near to where people live;
- to improve damaged and derelict land around towns;
- to secure nature conservation interest; and
- to retain land in agricultural, forestry and related uses.

In this regard, the proposals would have no adverse impact upon the public right of way which runs along the site and any impact upon nature conservation/ protected species can be mitigated. That said, the proposals would materially alter the character of the land within a designated ASCV where the retention of the existing agricultural landscape, which makes a positive contribution to the Green Belt, is desirable. Moreover, the land is part of an agricultural holding, in active agricultural use and therefore the proposals would facilitate the loss the best and most versatile agricultural land. The current tenant has indicated that the loss of such a substantial piece of land (9.3ha) could undermine their ability to operate successfully as an agricultural enterprise.

The proposal would contribute for opportunities for outdoor sport and recreation. However, this would be limited for the benefit of Brook House Farm, there would be no public benefit in terms of outdoor sport and recreation. Limited weight is given to this benefit in light of the significant and wide- ranging adverse impact in terms of the impact upon the landscape, loss of agricultural land and subsequent impact upon the openness of the Green Belt.

In summary the proposal is for a change of use of land that would harm openness and encroach into the countryside. It is therefore by definition inappropriate development in the Green Belt. It is also considered that there would be harm to the character and visual amenity of the Green Belt. Inappropriate development should not be allowed unless very special circumstances exist. No special circumstances have been advanced by the applicant to justify approval of the proposals contrary to established Green Belt policy.

Whilst the current emphasis of PPG17, PPS7, PPS4 and various ministerial statements support sustainable economic development and outdoor sport and recreation this is provided that facilities are essential and would not harm the character of the countryside. It has been demonstrated above that the facilities are not essential and would harm the character of the area. There would be no very special circumstances which would outweigh the harm caused by the development.

### **Loss of Best and Most Versatile Land from Agricultural Production**

The site includes land defined as Grades 2 and 3a of the Agricultural Land Classification. This constitutes the best and most versatile agricultural land, and para 28 of PPS7 states that Local Planning Authorities may wish to protect such land from speculative development. The classification of agricultural land should be taken into account alongside other sustainability considerations including biodiversity, the quality and character of the landscape, its amenity values, accessibility to infrastructure and the protection of natural resources.

The site forms part of a larger agricultural holding currently tenanted and actively farmed. The land is used on a rotational basis for arable and grass/forage crops and contributes to the home production of food for local markets.

The proposals would result in a permanent change in the use of the land which would prevent its future use for agricultural purposes.

The agent has indicated that only 5% of the site represents Grade 2 land, which is adjacent to the public highway and therefore its farming value is limited. The remainder of the site was classified as Grade 3 prior to the distinction between 3a and 3b. Whether the remainder of the site comprises 3a or 3b or a mix of the two cannot be established.

In any event, Green Belt policy seeks to protect against the loss of agricultural land in general and as the land is actively farmed for crops this indicates that it is clearly of value in this regard.

The loss of this land from production would be contrary to national planning guidance contained in PPG2 and PPS7. There are no benefits or very special circumstances which would justify the loss of this agricultural land which comprises designated 'best and most versatile' agricultural land.

### **Area of Special County Value, Visual Impact and Landscape Character**

The site lies within an Area of Special County Value. The site is however divided between two character area boundaries within the Cheshire Landscape Character Assessment 2008 the approximate split follows the proposed splits to the site- site 1 falls within the Sandy Woodland character area and site 2 falls within the Estate Woodland and Meres character area.

The topography of land surrounding the site is of gently rolling arable land to the west and gently undulating parkland to the east becoming steeper further north.

The rolling nature of the surrounding landscape is relatively flat, undulations to the east create a number of low lying hills approximately 2.5km from the site. There is a unified rural landscape, with strong field patterns.

Policy NE1 seeks to conserve and enhance the quality of the landscape and to protect it from development which is likely to have an adverse effect on its character and appearance.

In this instance, the application site due to its size and its character displays many of the features listed within the various character assessments. It therefore contributes to the ASCV. The proposals would significantly alter the character of the land by the arbitrary subdivision of

the fields, the additional hardstanding, the post and rail fencing and the various alterations to the topography of the land to facilitate the cross country course. The proposals would fail to conserve and enhance the quality of the landscape, permanently changing the character of the land which due to the scale of the development and the size of the land involved would significantly detract from its existing rural character.

Turning to visual impact, the Landscape Assessment indicates that the presence of hedgerows and trees coupled with the proposed landscaping would mitigate the visual impact of the proposals. It is acknowledged that the site benefits from tree cover and the presence of hedgerows and the ancient woodland to the rear which prevent long distance views. It is also acknowledged that there are other landscape features such as quarries nearby and that the proposals would not involve permanent buildings. That said, the permanent nature of the works to the site coupled with the levels of likely activity which could be generated by a development of this scale (and which could not be effectively restricted via conditions) and the size of the land affected ensures that the proposals would have a material adverse impact upon the landscape.

## **Nature Conservation**

Given the size of the site, the scale of the proposals and the existing nature features on and around the site, a protected species survey has been submitted by a suitably qualified and experienced ecologist which relates to a number of protected species.

There are also three Grade C Sites of Biological Importance within 1km of the site.

The EC Habitats Directive 1992 requires the UK to maintain a system of strict protection for protected species and their habitats. The Directive only allows disturbance, or deterioration or destruction of breeding sites or resting places,

- in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment

and provided that there is

- no satisfactory alternative and
- no detriment to the maintenance of the species population at favourable conservation status in their natural range

The UK implements the Directive in the Conservation of Habitats & Species Regulations 2010 which contain two layers of protection

- a requirement on Local Planning Authorities (“LPAs”) to have regard to the Directive’s requirements above, and
- a licensing system administered by Natural England.

Circular 6/2005 advises LPAs to give due weight to the presence of protected species on a

development site to reflect EC requirements. “This may potentially justify a refusal of planning permission.”

PPS9 (2005) advises LPAs to ensure that appropriate weight is attached to protected species “Where granting planning permission would result in significant harm .... [LPAs] will need to be satisfied that the development cannot reasonably be located on any alternative site that would result in less or no harm. In the absence of such alternatives [LPAs] should ensure that, before planning permission is granted, adequate mitigation measures are put in place. Where ... significant harm ... cannot be prevented or adequately mitigated against, appropriate compensation measures should be sought. If that significant harm cannot be prevented, adequately mitigated against, or compensated for, then planning permission should be refused.”

PPS9 encourages the use of planning conditions or obligations where appropriate and again advises [LPAs] to “refuse permission where harm to the species or their habitats would result unless the need for, and benefits of, the development clearly outweigh that harm.”

The converse of this advice is that if issues of detriment to the species, satisfactory alternatives and public interest seem likely to be satisfied, no impediment to planning permission arises under the Directive and Regulations.

The protected species survey indicates that the SBIs would be unaffected by the proposals provided that the ancient woodland to the east is protected throughout the course of the development. This could be conditioned in the event of an approval.

Whilst the arable land within the survey area has limited conservation value, the ancient woodland and hedgerows have high conservation value and are likely to be important wildlife corridors. The protected species recommends further survey work of the site in the summer months and mitigation and reasonable avoidance measures in respect of some species. A further survey was submitted with the application which indicated that European protected species would be unaffected by the proposals and recommended various mitigation measures for other protected species. The Council’s ecologist has advised that these recommendations be conditions of the permission and that a further condition be attached to any permission in respect of further surveys if works to trees are required.

Whilst there are concerns that due to the scale and size of the proposals, the development would have an adverse impact upon nature conservation, in light of the comments received from the Council’s ecologist and given that the fields are regularly ploughed, any habitat is restricted to the site boundaries such as the hedgerows, trees and woodland. These features would be retained or reinstated where removed. As any impact is unlikely to be significant it is considered that mitigation measures attached to the permission would ensure the development would not result in significant harm to protected species.

## **Highways**

The existing field access is considered appropriate for agricultural use. The proposals include alterations to the point of access and the provision of a surfaced track leading to a car park for 40 vehicles.

Whilst the use of the site coupled with the amount of car parking provided would suggest vehicle movements synonymous with a commercial use, the applicant has made it clear that the development would be associated with private use only and as such the car parking is unlikely to be saturated and could be used on an infrequent basis. On that basis, the impact on highway safety is likely to be marginal.

Whilst the level of car parking would appear to be excessive, ministerial guidance indicates that maximum car parking standards should not be enforced. Whilst this is not a sustainable location and the car parking would be excessive, in light of the latest ministerial guidance, it is not considered that a reason for refusal on these grounds could be sustained.

### **Amenity**

Given the separation distances between the site and neighbouring properties and the expected level of use given that the land would be for private use only, it is not considered that the proposals would generate significant levels of noise and disturbance to the detriment of neighbouring amenity.

### **Trees**

The site is rich and diverse in terms of the tree species and coverage. There is an area of woodland surrounding Snape Brook to the eastern site boundary and there is a native species hedgerow adjacent to Congleton Lane. There are also a number of mature trees within the hedge and a small copse of trees within the North West corner of the site.

The Tree Report submitted with the application indicates that the trees are in a reasonable condition but that some works are required. The extent of the proposals would enable the existing trees to be retained and protected throughout the course of the development and suitable species could be provided within the areas of new planting. It is therefore considered that any impact upon trees could be mitigated via appropriate conditions.

It is duly acknowledged within the Tree Report that the hedgerow along the front of the site could be classified as important under the Hedgerow Regulations 1997. Whilst there are no saved policies within the Local Plan which specifically relate to the loss of important hedgerows, as the hedgerow would be reinstated the impact in nature conservation terms would be marginal.

### **Public Right of Way**

A public footpath runs along the northern boundary of the site however this would be unaffected by the proposals. There is a statutory obligation on the developer to ensure the Public Right of Way remains unobstructed and therefore there would be no requirement to condition this in the event the application is approved.

The PROW unit has expressed concern regarding conflict between users of the footpath by pedestrians and horse riders. This impact could be mitigated via the imposition of an appropriate condition. In any event such conflict is unlikely to occur on a frequent basis given the likely level of use of the site and the footpath.

## **Flood Risk and Water Resources**

The proposed development is not considered to be a sensitive end use and therefore is not considered inappropriate within an area of flood risk. The brook would be unaffected by the proposals and the additional hardstanding would not have a material impact upon surface water run-off. In this regard, the Environment Agency has not objected to the application.

Whilst drainage details have not been submitted it is not considered necessary to condition drainage measures given that most of the land would remain permeable.

Any impact in terms of removal of material or importation of material onto the site could be addressed via appropriate conditions.

## **EIA Regulations**

As the proposals do not comprise development listed in either Schedule 1 or Schedule 2 of The Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 the development is outside of the scope of the regulations. An Environmental Statement is therefore not required in support of the application.

## **Other Matters**

Whilst there are a number of discrepancies within the submission these have not prejudiced the recommendation of the application.

## **CONCLUSIONS AND REASON(S) FOR THE DECISION**

The development represents inappropriate development within the Green Belt. It would also have an adverse impact upon the character and appearance of the site which would conflict against Green Belt policy, policies protecting the open countryside more generally. In addition the proposals would facilitate the loss of agricultural land including land classified as the best and most versatile agricultural land.

## **RECOMMENDATION**

**REFUSE for the following reasons:**

- 1. The proposals would represent a material change of use of the land which due to the size of the land affected the scale of the proposals and the associated activity would represent encroachment and harm the openness of the Green Belt. As such the proposals represent inappropriate development in the Green Belt contrary to national guidance PPG2: Green Belts. No very special circumstances are considered to exist that could justify the development.**

- 1. The scale of the proposals and the size of the land affected would have an adverse impact upon the character of the site and the landscape. The proposals would therefore be contrary to policies NE1 Areas of Special County Value, NE2 Protection Local Landscapes, NE3 Landscape Protection and Enhancement in the Macclesfield Borough Local Plan 2004.**
- 2. The proposals would facilitate the loss of a large parcel of agricultural land in active agricultural use, some of which comprises Grade 2 land which should be safeguarded from development. To allow the development would be contrary to guidance within PPG2: Green Belt and PPS7 Sustainable Development in Rural Areas.**

