

Application No: 12/0253C

Location: SMALLWOOD STORAGE LTD, MOSS END FARM, MOSS END LANE,
SMALLWOOD, SANDBACH, CW11 2XQ

Proposal: Reserved Matters Application for 11/0627C - Demolition of Existing
Buildings and Erection of 15 Dwellings and Associated Infrastructure
Works

Applicant: Rowland Homes Limited

Expiry Date: 12-Apr-2012

SUMMARY RECOMMENDATION

Approve subject to conditions

MAIN ISSUES

- **Principle of Development**
- **Highway Safety**
- **Ecology**
- **Trees and Landscape**
- **Footpath**
- **Affordable Housing**
- **Contaminated Land**
- **Open Space**
- **Design and Layout**
- **Residential Amenity**
- **Flooding**

REFERRAL

The application has been referred to planning committee because it is for more than 10 dwellings and is therefore a major development.

1. SITE DESCRIPTION

The site measures approximately 1.79ha and is located off Moss End Lane, which is a narrow single track road, running between the A50 and A534 in Smallwood near Arclid. The site is currently used as a haulage yard with 40,000 sq.ft of modern warehousing for palletized goods and raw materials and a further 50,000sq. ft of external storage. It also

includes a 50 tonne weighbridge. The business runs a fleet of HGV's transporting plastics, food products, timber steel etc.

2. DETAILS OF PROPOSAL

Members may recall that outline planning permission with all matters reserved except for means of access, was granted in 2011 for demolition of the existing warehouse and erection of a residential development of 15 dwellings utilising the existing access.

This application seeks approval of the reserved matters which comprise appearance, landscaping, layout and scale.

3. RELEVANT PLANNING HISTORY

The planning history for the site includes a number of applications relating to the existing use as a haulage and storage business and the outline planning approval (11/0627C) referred to above.

4. PLANNING POLICIES

National Policy

PPS 1 Delivering Sustainable Development
PPS 3 Housing
PPS7 Sustainable Development in Rural Areas
PPG13 Transport
PPS23 Planning and Pollution Control

Regional Spatial Strategy

DP1 – Spatial Principles
DP4 – Make best use of resources and infrastructure
DP5 – Managing travel demand
DP7 – Promote environmental quality
DP9 – Reduce emissions and adapt to climate change
RDF1 – Spatial Priorities
L4 – Regional Housing Provision
EM1 - Integrated Enhancement and Protection of the Region's Environmental Assets
MCR4 – South Cheshire

Local Plan Policy

PS8 Open Countryside
NR4 Non-statutory sites
GR1 New Development
GR2 Design
GR3 Residential Development
GR5 Landscaping
GR9 Accessibility, servicing and provision of parking

GR14 Cycling Measures
GR15 Pedestrian Measures
GR17 Car parking
GR18 Traffic Generation
NR1 Trees and Woodland
NR3 habitats
NR5 Habitats
H2 Provision of New Housing Development
H6 Residential Development in the Open countryside
H13 affordable Housing and low cost housing
E10 Re-use and redevelopment of existing employment sites

Other Material Considerations

Cheshire East Interim Housing Policy
Cheshire East Interim Affordable Housing Policy

4. OBSERVATIONS OF CONSULTEES

Jodrell Bank

No objection subject to incorporation of electromagnetic screening measures.

United Utilities

- No objection to the proposal subject to provision of a separate metered supply to each unit.

Public Rights of Way Unit

- The property is adjacent to public footpath Smallwood No. 10 as recorded on the Definitive Map held at this office (working copy extract attached). This footpath was diverted under the Highways Act 1980 Section 119 in September 2007.
- The PROW Unit cannot authorise any additional gates on the footpath unless the structure is required to prevent the ingress and egress of animals onto agricultural land. If this is the case the landowner must apply in writing to the PROW Unit for authority to do so, under the Highways Act 1980 Section 147. It should also be noted that the footpath is 2 metres wide throughout except for where it is restricted by the steps and existing kissing gates.
- Although it appears unlikely that the proposal would affect the public right of way, the PROW Unit would expect the Development Management department to add an advice note to any planning consent to ensure that developers are aware of their obligations

Environmental Health

- The comments which were submitted with the initial application still apply.

Highways

- This is a reserve matters application for 15 dwellings. There have been no previous highways objection to this proposal and the layout provided, is suitable in part for adoption by CEC.
- The highways authority has no objection to this proposal.
- The developer will need to enter into a section 38 agreement as part of any approval.

Environment Agency

- The Environment Agency has no objection in principle to the proposed development but requests that any approval includes the following planning condition.
 - Submission and approval of a scheme to limit the surface water run-off generated by the proposed development,
- The submitted Drainage Strategy explains that the discharge of surface water from the proposed development is to discharge to an existing pond, which does not discharge to a watercourse. This is acceptable in principle. During times of severe rainfall overland flow of surface water could cause a flooding problem. The site layout is to be designed to ensure that existing and new buildings are not affected and therefore the following condition is recommended
 - Submission and approval of a scheme to manage the risk of flooding from overland flow of surface water,
- The sewage generated by the proposed development should ideally be connected to the foul sewer. Should this be considered impractical, the applicant would need to apply for formal permission to discharge treated effluent into the environment, whilst at the same time, demonstrating that sewer connection is not possible. The proposal by the applicant to discharge effluent to the landlocked pond would not be acceptable.
- Should connection to the foul sewer prove impossible then the preferred option would be for a discharge to a properly engineered soakaway system, possibly incorporating a raised mound. The least favoured option would be for a discharge direct to the River Croco. There should be no discharge to any of the local ponds.

5. VIEWS OF THE PARISH / TOWN COUNCIL

- No comments received at the time of report preparation

6. OTHER REPRESENTATIONS

A letter of objection has been received from Little Moss End Farm making the following points:

- In respect of the outline application concerns were expressed on a number of issues, but particularly with respect to the proximity of the one of the proposed houses to both their own house and the associated barn conversion which they also own.

- Also raised the issue that the development encroaches onto their land to the rear of the barn conversion. Notwithstanding our concerns (which were never addressed) the application was approved.
- The current application remains for 15 houses, but shows a different arrangement of larger houses. Plot 15 in particular is now a large 2 storey detached house, sited within 2m of the rear of the barn conversion. The original layout with the outline application showed a much smaller dwelling with a single storey detached garage adjacent to the rear of our converted barn. Given the juxtaposition of the buildings in this part of the site, surely the previous arrangement in the outline application had less of an impact on their amenity.
- Strongly object to the change in property type and layout for plot 15 in this application.
- In addition to the main objection detailed also have concerns that building such a property so close to the barn could undermine the foundations of this historic building and would affect occupiers 'right to light' to specifically the bathroom window
- The application boundary still encroaches onto their land. Although they are having separate discussions with the developer on this matter, they would like to put on record a continued objection to this application until such a time that this is resolved.

7. APPLICANT'S SUPPORTING INFORMATION:

- Supporting Statement
- Drainage Statement

8. OFFICER APPRAISAL

Principle of Development

The site lies within the Open Countryside as defined in the Congleton Borough Local Plan First Review, where, according to Policy PS8 and H6 new residential development will not be permitted, unless it is for one of a number of purposes including, inter alia, the re-use or redevelopment of existing employment sites in accordance with policy E10.

This states that proposals for the change of use or redevelopment of an existing employment site or premises to non-employment uses will not be permitted unless it can be shown that the site is no longer suitable for employment uses or there would be substantial planning benefit in permitting alternative uses that would outweigh the loss of the site for employment purposes.

Members may recall that at its meetings on 13th July 2011, Southern Planning Committee approved an outline application for demolition of the exiting warehouse and erection of a residential development of 15 dwellings utilising the existing access. The granting of the previous planning permission established the acceptability in principle of residential development on this site and the loss of the existing employment site. Given that this is an application for approval of reserved matters and that any consent is only operative by virtue

of the outline planning permission this application does not present an opportunity to re-examine the acceptability in principle of residential redevelopment if this site.

The main issues in the consideration of this application are the acceptability of the revised scheme in terms of highway safety, ecology, trees and landscape, footpath, affordable housing, contaminated land, open space, design and layout, residential amenity and flooding

Highway Safety.

Through the granting of the outline permission, the principle of developing 15 dwellings on this site has already been established as being acceptable in terms of traffic generation. The access arrangements to the site were also approved at the outline stage. Therefore, the only highways issues which can be examined as part of this reserved matters submission are those relating to parking provision and internal layout of roads within the site.

Each proposed property benefits from a minimum of 2 off road parking, which is considered to be adequate. With regard to the design of the internal roads, the Highways Engineer has examined the layout plans, and raised no objection and therefore it is not considered that a refusal on highway grounds could be sustained.

Ecology

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 implemented the Directive by introducing The Conservation (Natural Habitats etc) 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.

Local Plan Policy [insert policy number and summary of content as appropriate]

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.

In this case, the Council's Ecologist has examined the outline application and was satisfied that the proposal would not adversely impact on designated wildlife sites. However, he did conclude that without appropriate mitigation the development could adversely impact on legally protected species, namely bats and great crested newt. Satisfactory outline mitigation proposals were submitted in support of that application to protect and enhance protected species. Conditions were therefore imposed on the outline consent to cover implementation of detailed mitigation proposals. These required the submission of detailed proposals for the incorporation of features into the scheme suitable for use by roosting bats and a detailed method statement covering mitigation for great crested newts as outlined in the supporting Phase 1 Habitats Survey Report. A condition was also imposed to prevent any commencement of works between 1st March and 31st August unless a detailed survey is required to check for nesting birds. These conditions will also apply to the Reserved Matters approval, and therefore the proposal remains acceptable in ecological terms.

Trees and Landscape.

Most of the site area is covered by existing buildings and hard standing. There is a line of well established trees running along the north and part of the western boundary. There are also some younger trees planted on the bund which extends along the north western boundary. The submission includes a tree survey and a plan indicating recommended tree root protection areas.

The existing large storage buildings, caravans and vehicles are all visible from viewpoints on the local road network and from the public footpath but existing vegetation provides a degree of screening from roadside views.

The Senior Landscape Officer has examined the proposals and commented that overall the proposed layout appears to be sympathetic to the site. The retention of the mature trees around the site periphery is welcomed. The landscape proposals are generally acceptable. However, she suggests the addition of a native species hedgerow to supplement the post and rail fence to the west and south west boundary to the western and southern boundaries.

The Landscape Officer has also expressed concern regarding the existing bunding located to the north/ north west / south west of the site. The main section is planted with young trees and the public footpath runs along the top. The submitted plans indicate the majority of the bunding retained, albeit reduced in height and a further bund formed. No details of proposed levels are provided. Whilst bunding may have been necessary/ appropriate in connection with the existing site use, and would provide a degree of screening of the new development from the open countryside, it is not essential and could in itself be considered a somewhat incongruous feature. The existing mature trees should provide a degree of screening and the plans indicate additional hedge planting. She therefore suggests that all the bunding (and the immature trees thereon) should be removed. A post and rail boundary fence with a hedge or mixed native species planting to the footpath side could then form the boundary between the plots and the footpath and supplementary planting could be provided on the opposite side of the footpath providing screening from the open countryside. The footpath could then be at the general lower ground level, removing the need for the existing steps and the proposed 1.2m closed boarded fencing which is proposed on top of the bund to protect the gardens of the plots at the western end of the site from overlooking by users of the footpath.

The suggestion of removing the bund has been made to the developer and a response was awaited at the time of report preparation. A further update on this matter will be provided prior to committee. If the bund is to be retained, it is considered that additional planting would be required in order to soften its impact on the character and appearance of the surrounding countryside. Also, given its prominent location on top of the bund, the closed boarded fencing, which is out of keeping with the rural character of the site's location should be removed and replaced with a more appropriate post and rail fencing with native hedge planting. These can be secured by condition.

With the exception of the fence referred to above, the proposed boundary treatments which comprise post and rail fencing to external site boundaries, close boarded fencing between rear gardens and 1.8m brick screen walls between gardens and communal areas / access roads are considered to be acceptable and in keeping with the rural area.

Footpath

Condition 20 of the outline consent requires that the Reserved Matters Application make provision for the accommodation of the public footpath which crosses the site unless a formal diversion application has first been approved. The existing footpath runs along the northern site boundary before climbing a number of steps and running along the top of the bund to the western boundary. No change to this arrangement is proposed as part of this application. Therefore, whilst a consultation response from the Public Rights of Way

Officer was awaited at the time of report preparation, it is not considered that the treatment of the public footpath through the site gives any cause for concern.

Affordable Housing

A financial contribution of £239,400 towards off-site affordable housing provision was secured under a Section 106 Agreement attached to the outline consent.

Contaminated Land

The supporting documentation submitted with the outline application suggested that there was not a significant risk of ground contamination on the site. However, it was recommended that prior to redevelopment of the site the developer undertakes an intrusive investigation to target the risks to the proposed development as identified in the conceptual site model. The Council's Contaminated Land Officer examined the contents of the report and the proposals and raised no objection subject to an appropriate condition to secure a full ground investigation and any necessary mitigation measures. These conditions will also apply to the Reserved Matters approval, and therefore the proposal remains acceptable in contaminated land terms.

Open Space

The proposal does not make any provision for on-site public open space. The developer has previously provided, and the Council has accepted, a financial appraisal which demonstrates that the viability of this site is marginal. Any proposal to provide either on-site open space or a contribution towards off-site provision would render the scheme unviable. This would prevent the redevelopment of a brownfield site and the relocation and expansion of an existing business, which is currently poorly located.

Previous appeal decisions have established that viability is a significant and material consideration in the determination of planning applications.

The only way in which viability could be improved would be to increase the number of dwellings on site which would be undesirable in design terms and would detract from the open character and appearance of the countryside. This is also an important material consideration, given the unusual and sensitive location of this site.

The developer has stated that they would have no objection to the £239,400 affordable housing contribution which has already been secured, and accounted for in the viability appraisal, being divided between public open space and affordable housing. However, it is considered that it would be undesirable to reduce the affordable housing contribution that has been secured.

Therefore, for the reasons set out above, Members may recall that at its meeting on 7th December 2011, Southern Planning Committee considered a report relating to this matter and agreed with Officer's assessment that the exceptional circumstances surrounding these in this case, are significant material considerations that warrant the setting aside of established local plan policy and supplementary planning guidance in respect of public open space provision. Accordingly, Members resolved to approve the application subject

to conditions as set out below, and the signing of a Section 106 agreement to secure £239,400 towards affordable housing provision but without any requirement to make any provision for public open space.

Given that this is an application for approval of reserved matters and that any consent is only operative by virtue of the outline planning permission this application does not present an opportunity to re-examine these issues.

Design and Layout

As stated above, considerable pre-application discussions have taken place between officers and the developer in order to secure a layout which is in keeping with the character of the surrounding development. The layout, for which approval is sought comprises 3 very large detached dwellings, each with a detached garage building, which will create the appearance of a series of large farmhouses, with associated stables / outbuildings. To the rear of each of the large properties is a series of other smaller detached and linked-detached properties arranged around 2 communal courtyards, which will create the appearance of ranges of traditional agricultural buildings or barns that would have been associated with the large farmhouses. This is reminiscent of the traditional farmsteads within the area, such as the one that stands on the opposite side of Moss End Lane close to the site access. The layout is therefore considered to be appropriate in design terms and in keeping with the character and appearance of the open countryside.

To turn to the elevational detail of the scheme, the “farmhouses” are large double fronted properties incorporating features such as half timber detailing to the gables, arched window heads and small open porches which are typical of some of the grander farmhouses to be found in this part of Cheshire. The “barn style” dwellings incorporate features much as “pitching eyes”, large “cart entrances” and “threshing barn door” features as well as brick vent details typical of traditional Cheshire brick barns. Many of these features can be found on the farmhouse and converted barns opposite the site entrance.

Efforts have been made to vary the design in terms of materials and architectural detailing between plots which accommodate the same house type in order to create an impression of an organic and incremental development which is characteristic of rural areas and to help the development to appear less suburban.

It is therefore, considered on the basis of the information that has been submitted that a design for the proposed dwellings has been achieved which would be appropriate for the site and in keeping with the character of the surroundings.

Residential Amenity

The surrounding development comprises Moss End House, a bungalow located to the east of the site, Little Moss End House, a substantial detached property located to the south of the site and an outbuilding within the grounds of Little Moss End House which has been converted to a separate dwelling.

The Council's Supplementary Planning Guidance (SPG) recommends that minimum distances of 21.3m be maintained between principal elevations and 13.7m between a principal elevation and a flank elevation.

As originally submitted, the site plan showed the flank elevation of Plot 15 located only 2m away from the rear elevation of the converted barn at Little Moss End House. Although this was below the recommended 13.7m, it would not have obscured any principal windows. The only window affected would have been a first floor bathroom window, which is considered to be a secondary window. The principal windows in the rear elevation of the barn are located at the southern end of the elevation, and would not have faced the gable of plot 15.

However, the site boundary appeared to include an area of domestic curtilage belonging to Little Moss End House. Whilst land ownership is not a consideration in the determination of applications, had the developer failed to secure ownership of this area of land from the neighbouring property, plot 15, a substantial dwelling would have been deprived of a rear garden. Consequently it would not comply with the requirement for a minimum of 65sq.m. of private amenity space as set out the Councils SPG. If the developer was able to successfully negotiate the purchase of this land, the barn conversion would have been left without any private amenity space and any boundary treatment erected between the two properties would have obscured the principal windows in the rear elevation of the barn, referred to above.

Therefore an amended plan has been submitted showing plot 15 re-sited to fall in line with plots 12 to 14. In order to accommodate this change, the house type on plot 12 has been changed from a "Type 3" to a "Type 5" and plot 14 has been changed from a "Type 5" to a "Type 6". Consequently, all of these plots now directly face the rear elevation of the barn conversion. However, the recommended minimum distance of 21.3m will be achieved between the principal elevations, and therefore, the proposal as now submitted will not have any adverse impact on the privacy and amenity of the existing or proposed dwellings. Distances in excess of 21.3m will be maintained between the proposed dwellings, the existing bungalow at Moss End House, and the main dwelling at Little Moss End House.

Excluding the properties referred to above, the nearest neighbouring dwellings are the farmhouse and barn conversions on the opposite side of Little Moss End Lane to the south east. These are located over 150m from the site and therefore do not raise any concerns in terms of residential amenity.

To turn to amenity standards within the site, the proposed layout provides for the minimum separation distances set out the Councils SPG and each dwelling would benefit from a minimum of 65sq.m. of private amenity space which also accords with the provisions of the Councils guidance.

On this basis it is considered that in amenity terms the proposal complies with Policies GR1, GR2 and GR6 of the local plan and the advice contained within the adopted SPG.

Flooding

As part of the Reserved Matters submission, the developer has submitted a drainage statement which recommends:

- Foul drainage to be to a private foul drainage layout and ultimately to a Package Treatment Plan located away from the development in the adjacent field. The outfall from which will either be to ground via a land drainage field or to the pond.
- Formal consent to the discharge arrangement will be required from the Environment Agency
- Surface water drainage to be discharged to the exiting pond at similar rates to the equivalent existing impermeable areas. As the pond is not connected to the water course, there is no impact on the watercourse and downstream catchment due to the slight rise in impermeable area.
- SUDS techniques will be used where possible to improve water quality and may consist of water butts and filter trenches. Infiltration techniques are not considered to be viable due to a high water table
- The minimum finished floor level of the development may be set a 789.8m which will ensure the development has sufficient freeboard to the adjacent pond water level of 75.8m

The Environment Agency has examined the report and raised no objection subject to the imposition of a number of conditions. However, all of the conditions in question have already been applied to the outline consent, which remains the controlling permission, and therefore no further conditions are considered to be necessary at the Reserved Matters stage.

9. CONCLUSION

In summary, the principle of residential redevelopment of this site has been established by the previous outline approval. In this case, for viability reasons, and given the constraints of the site it at the outline stage it was considered to be appropriate to accept a commuted sum in lieu of on-site provision of affordable housing and to waive the requirement to provide on-site public open space provision of a financial contribution towards off-site provision. This has been reflected in the reserved matters submission, which does not provide an opportunity to reexamine any of these issues.

The proposal is considered to be acceptable in terms of highway safety, ecology, trees and landscape, drainage, contaminated land, design and layout, and residential amenity. Consequently, it complies with the relevant local plan policies and accordingly, it is recommended for approval.

10. RECOMMENDATION

APPROVE subject to the following conditions:

- 1. Plans**
- 2. Revised scheme of landscaping / boundary treatment to the western boundary**
- 3. Electromagnetic Screening**

