

Application No: 14/4172M

Location: LAND OFF, (FORMER FIBRESTAR LTD) REDHOUSE LANE, DISLEY
CHESHIRE

Proposal: Residential development for the erection of 122 dwellings, access and associated works (amendment to previously approved application 12/0165M)

Applicant: Mr Niall Mellan, Persimmon Homes North West

Expiry Date: 04-Dec-2014

SUMMARY

It is acknowledged that the Council is unable to robustly demonstrate a five-year housing land supply and that, accordingly, in the light of the advice contained in the National Planning Policy Framework, it should favourably consider suitable planning applications for housing that can demonstrate that they meet the definition of sustainable development.

There is an environmental impact in the locality resulting from this proposal over that development of 121 dwellings previously approved for this site, due to the erection of a large retaining wall and loss of a canal side walk. However, it is considered that with suitable landscape mitigation in place, the proposal will not have a significant long-term impact on the landscape character of the area. Any attempts to remove the wall and reinstate the previous scheme are likely to result in a more harmful impact on the local area and Site of Biological Interest.

The proposal would satisfy the economic and social sustainability roles by providing for much needed housing adjoining an existing settlement where there is existing infrastructure and amenities. The proposal would provide policy compliant levels of affordable housing and contributions to education. In addition, it would also provide appropriate levels of public open space (or a payment in lieu) both for existing and future residents.

Local concerns of residents are noted, particularly in respect of visual impact of the wall, impact on the canal and highway related matters but the impacts are not considered to be severe under the NPPF test.

Subject to conditions, the proposal is considered to be acceptable in terms of its impact upon highway safety, amenity, landscape and ecology.

The scheme represents a sustainable form of development and the planning balance weighs in favour of supporting the development subject to a legal agreement and conditions.

SUMMARY RECOMMENDATION:

Approve subject to the completion of a Section 106 Agreement

PROPOSAL

This application seeks full permission for 122 dwellings, access and associated works (amendment to previously approved application 12/0165M). It is important to note that Persimmon Homes were granted Reserved Matters consent (to the outline application 12/0165M) for 121 dwellings on 11th September 2013 under application 12/4837M.

SITE DESCRIPTION

FibreStar was a former employment site, located off Redhouse Lane, Disley. The site comprises 5.21 hectares of brownfield land, within a predominantly residential area. There is a significant difference in levels on site, with the site sloping steeply down from the main entrance on Redhouse Lane down towards the Peak Forest Canal at the north of the site. The site is considered to be in a sustainable location, with good access to public transport and local amenities.

52 plots have been completed and are presumed to be occupied. 38 further plots are under construction. 9 of these are at foundation level, with the remainder mostly at roof level.

RELEVANT HISTORY:

- 13/2765M Residential development comprising 42 dwellings, access and associated works – Decision awaited. This application constitutes phase 2 of Persimmon Homes' recently approved wider development site, and lies to the northwestern corner of the old FibreStar site, which was considered under outline application 08/2718P.
- 13/3685D Discharge of conditions 4, 5, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 21, 22, 23, 28, 29, 30, 32, 33, 34, 35, 37, 42, 44, 46, 47 on Application 12/0165M to Vary Condition 30 (Pertaining to Highways) of Planning Approval 08/2718P.
- 12/4837M Reserved matters application for the erection of 121 residential dwellings, including details of appearance, scale, layout and landscaping in relation to outline permission 12/0165M (Original permission 08/2718P) – Approved 11th September 2013.
- 12/0165M Application to Vary Condition 30 (Pertaining to Highways) of Planning Approval 08/2718P - Approved with conditions and varied S106, 18 June 2012
- 08/2718P Outline Planning Application For The Demolition Of Existing Buildings And Erection Of C3 Residential; C2/C3 Senior/Assisted Living And B1/B8 Employment - Approved with conditions and a S106, 27 June 2011

NATIONAL & LOCAL POLICY

National Policy:

The National Planning Policy Framework establishes a presumption in favour of sustainable development.

Of particular relevance are paragraphs 14 and 47.

Development Plan:

The Development Plan for this area is the 2004 Macclesfield Local Plan, which allocates the whole site, under policy E4, for general industry (Class B2), warehousing (Class B8), high technology (Class B1b), and light industry (Class B1c) usage.

The relevant Saved Policies are: -

Built Environment

BE1– Design Guidance
BE2 – Historic Fabric

Development Control

DC1 – New Build
DC3 – Amenity
DC5 – Natural Surveillance
DC6 – Circulation and Access
DC8 – Landscaping
DC9 – Tree Protection
DC35 – Materials and Finishes
DC36 – Road Layouts and Circulation
DC37 – Landscaping
DC38 – Space Light and Privacy
DC40 – Children’s Play Provision and Amenity Space
DC41 – Infill Housing Development
DC63 – Contaminated Land

Employment

E1 – Retention of existing and proposed employment sites
E4 – General Industrial Development

Transport

T2 – Integrated Transport Policy

Environment

NE11 – Protection and enhancement of nature conservation interests
NE17 – Nature Conservation in Major Developments

Housing

H1 – Phasing policy
H2 – Environmental Quality in Housing Developments
H5 – Windfall Housing
H13 – Protecting Residential Areas

Recreation and Tourism

RT5 – Open Space

Implementation

IMP1 – Development Sites
IMP2 – Transport Measures

The saved Local Plan policies are consistent with the NPPF and should be given full weight.

Cheshire East Local Plan Strategy – Submission Version (CELP)

The following are considered relevant material considerations as indications of the emerging strategy:

- MP1: Presumption in favour of sustainable development;
- PG6: Spatial Distribution of Development;
- SE1: Design;
- SE2: Efficient Use of Land;
- SE3: Biodiversity and geodiversity;
- SE4: The Landscape;
- SE5: Trees, Hedgerows and Woodland;
- SE6: Green Infrastructure;
- SE9: Energy Efficient Development;
- SE12: Pollution, Land contamination and land instability;
- SE13: Flood risk and water management;
- EG3: Existing employment sites;
- IN1: Infrastructure
- IN2: Developer Contributions:
- SC4: Residential Mix
- SC5: Affordable Homes
- SD1: Sustainable Development in Cheshire East;
- SD2: Sustainable Development Principles; and
- CO1: Travel Plans and Transport Assessments.

Supplementary Planning Documents:

The following Supplementary Planning Documents (SPDs) have been adopted and are a material consideration in planning decisions (within the identified former Local Authority areas):-

- Interim Planning Statement: Affordable Housing (Feb 2011)
- Strategic Housing Market Assessment (SHMA)
- Relevant legislation also includes the EC Habitats Directive and the Conservation (Natural Habitats &c.) Regulations 1994
- North West Sustainability Checklist
- SPG on Section 106 Agreements (Macclesfield Borough Council)

CONSULTATIONS:

Highways

The Strategic Highways Manager raises no objections to the proposed development.

Greenspaces

No objections subject to further commuted sum payments, to make up for that lost due to the erection of the wall. The commuted sum payment is to make additions, enhancements and improvements to the play, access, recreation and amenity facilities at Arnold Rhodes open space.

Public Rights of Way:

The proposal is adjacent to public footpath Disley No. 48 as recorded on the Definitive Map. It appears unlikely that the proposal would affect the public right of way, although 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.

Environment agency (EA):

The Environment Agency raise no objections to the proposed development. The EA have previously provided comments on the development area and reviewed the Remediation Verification report for the site. The EA are satisfied with the work which has been undertaken on site to reduce the risks to controlled waters from the excavation and management of identified and unidentified hotspots (1-12) on site.

As such, the EA will not be requiring additional conditions to be placed on the amended permission for this site at this time. The EA feel that the work which has been undertaken and reported in this submission is sufficient for the EA to recommend the discharge of condition 10 of permission 12/0165M dated June 2012.

As construction commences, following validation and verification works, the EA would advise that a continued watching brief is adopted for this site on relevant surface water courses to ensure that the development does not have any deleterious effects on controlled waters.

Canals and Rivers Trust:

The Canals and Rivers Trust initially objected to the proposals due to the absence of detailed information in a number of areas. Since that letter was issued, Persimmon has provided clarification on various matters and it is the revised information that the following comments relate:

Protection of Peak Forest Canal SBI

It remains unclear whether the solid protective fencing has been erected and the Trust requests clarification from the applicant.

Structural Integrity of Canal Washwall

Based on the section drawing and additional information, the CRT is now satisfied that the crib wall will not cause any direct damage to the canal wall into the future.

Visual Impact of Crib Wall

The Trust remains concerned that the crib wall will not be effectively screened by the proposed climbing plants and tree planting scheme and would be grateful for the opportunity to discuss this further with the applicant and the local authority.

Maintenance of Canal Edge

CRT are pleased to note that this area will be transferred to a management company for maintenance, and request confirmation that this will be secured through the Section 106 Agreement. CRT would be grateful to receive full details of the maintenance regime, including litter removal and vegetation management, in due course.

Impact on Canal Towpath

The Trust maintains the request for a financial contribution towards the improvement of the canal towpath opposite the site, and remains satisfied that this request meets the tests for planning obligations. The CRT's representative has asked CRT's engineer to provide a cost estimate for the necessary works to the surface of the towpath and will provide this as soon as possible.

Surface Water Drainage

CRT has confirmed that the existing surface water pipes continue to discharge to the canal from the development site. As stated previously, such uncontrolled discharges are causing pollution of the waterway as a result of sediments and contaminants, particularly during the on-going earthworks and construction works. CRT therefore re-iterate their request for full details of physical measures to stop-up the existing surface water discharge pipes, along with a programme for these works to be completed as a matter of urgency.

Historic Infrastructure

CRT remains concerned that the existing concrete platform on the canal edge is not suitable for public use and is detrimental to the visual amenity of the canal corridor. CRT would therefore request the provision of full details of works to remove the platform, along with a programme for these works to be completed.

As stated previously, CRT are mindful that as the development for which permission is sought has already commenced in the form of the construction of the crib wall, it will be necessary for any further information to be provided prior to determination of the application rather than being required using pre-commencement conditions. CRT therefore request that determination of the application is delayed until the above issues have been addressed.

Disley Parish Council:

Disley Parish Council express its deep disappointment and serious concern that such a large and important housing development in the village has not been progressed in accordance with the original proposals presented and the non-compliance with a significant number of Cheshire East Council's planning approval conditions.

The major issues of non-compliance which most concern the Parish Council are:

1. The significant increase in the elevation of the site and internal access road layout with the consequential erection of a retaining wall closely adjacent to the canal.
2. The resultant loss of open space and amenity of the continuous footpath as was originally proposed between the development and the canal.

With regard to the increased elevation of the site, the 5 metre high retaining wall now closely adjoining the Peak Forest Canal not only has an extremely detrimental impact on the visual amenity of the area but also threatens the structural integrity of the canal wall as highlighted in the well-considered and detailed submission from the Canal & River Trust. Given the number of trees that have already been removed or damaged, the Parish Council considers the proposals for landscaping and particularly screening of the retaining wall to be inadequate.

Disley Parish Council also understands that Cheshire East Highways have elected not to adopt the internal road layout of the development because of its concerns about the

construction of the retaining wall as it was not involved in checking the construction in order to be satisfied that the road structure was safe. The Parish Council has serious concerns about the developer's commitment to future road maintenance.

The resultant loss of the canal side open space and continuous walkway along the full length of the development is also of concern to Disley Parish Council. This loss of open space is not only a detriment to the visual impact of the development in the locality but is also likely to significantly increase use of the current towpath on the opposite side of the canal which is already heavily used and in need of improvement.

Councillors are also given to understand that Cheshire East Council may be mindful to consider proposals for the full development of this site by considering a further application for an additional forty dwellings, if agreement is reached on 14/4172M.

The potential impacts of SEMMMS/A6 MARR were not factored into the highway studies in the original application and the Parish Council considers it appropriate that the developers now be required to update information, surveys etc. as part of this new application. If the Planning Committee is being asked to consider the additional development for 40 dwellings alongside this amended application, the Parish Council deems it essential that a new Highways Impact Assessment is carried out and the Highways agreement modified accordingly to factor in any new information.

The majority of the comments and concerns raised in the Parish Council's response to 13/2765M remain relevant and valid and it is requested that these are taken into account if this application is to be considered.

If Cheshire East planning authority is mindful to grant this amended application then Disley Parish Council requests that it seeks additional developer contributions towards the provision of open space and community facilities for Disley and Newtown.

REPRESENTATIONS:

Neighbour notification letters were sent to all adjoining occupants and a site notice erected.

36 letters have been received from residents objecting on the following grounds:

- The very unsightly wall, which has been built, totally negates any benefit which the site might have had in respect of access to the canal. Given that it is understood that no houses are to be built along the canal side, would it not be possible for this wall to be demolished?
- At the very least, the residents wants Persimmon to make good the land along the off side of the canal, which has been neglected for many years. Further funds could be used in conjunction with CRT to repair the towpath and washwalls of the canal which in places are in a very poor state of repair.
- The towpath is one of the most heavily used footpaths in Disley and any improvements to it would be of major benefit to the community by providing a safe and accessible route for a wide range of users.
- This is not a wall. It is a high fence, with pieces of large aggregate wedged behind it, sandwiched between the fence and the bank.

- The fence is very unattractive in appearance, and appears to be a temporary measure. The safety aspect of having this in place is questioned. It is at the top of a high bank overlooking the canal with a road at the opposite side of the canal, which also serves as a footpath. Strong suggestion is to remove this fence and replace it with a substantial stone built wall. This would incorporate the original design, in keeping with the original planning permission, of a pathway along the edge of the site leading to the recreational area.
- Concerns are raised in relation to the structure of the wall: impact of soil erosion, strong winds, frost would impact on the stability of the barrier. If the "wall" were to be dislodged the fence would fall into the canal bringing down the aggregate with it, falling into the canal and potentially injuring boat owners and certainly wild life.
- At the time of the original outline planning application, Disley Primary school was undersubscribed. It is now oversubscribed with class sizes over the legal maximum of 30. It only seems right that the developers provide funding for the extra children that will be using the school so the school can provide teachers and fund building work.
- There are already major concerns about the safety of the A6 in Disley for all road users! The A6 through Disley is not suitable for the size, weight and volume of traffic that passes through Disley village today! Any major alterations to the A6 in Disley need to be included and done in conjunction with the consultation for the enhanced mitigation measures that are planned for the A6 in Disley.
- The increased traffic has increased pollution from the car exhaust fumes. The development traffic, deliveries and such have made a mess of the road, there is now a lot of mud and dirt on the road, the road sweeper which goes up and down the road has little effect on cleaning the substantial amount of mud on the road.
- Noise created by the development has been terrible and at times totally inconsiderate, not to mention their delay in cleaning the roads, which the council had to be involved for.
- There are too many buildings cramped together, with insufficient parking for residents and visitors

A local volunteer group that works with the Canals and Rivers Trust to improve the towpath surface through Disley comments as follows: -

- As Persimmon has installed a wall on the canal side of the development, which means they are no longer going to provide a footpath on the houses side of the canal. If this means a reduction in accessible open space, then the builders must contribute more financially to improve open space in the immediate vicinity.
- The deteriorating state of the canal towpath on the opposite side of the canal needs addressing. With no towpath on the housing side of the canal, even more use will be made of the existing towpath for leisure purposes. The builders should be required to liaise closely with the Canal & River Trust and to contribute substantially to improvement of the surface of the path and of the adjacent wash walls. Over time, the wash walls and banking have in places slipped into the canal and made the path itself much narrower and hazardous. The canal is an important part of the local historic environment and the towpath offers excellent opportunities for outdoor exercise; it should therefore be given a high priority by those who are developing the site opposite.

APPRAISAL:

The planning permission for this site was secured under outline consent 12/0165M in June 2012 and the Reserved Matters application for the site was approved for residential redevelopment for 121 dwellings under application 12/4837M in September 2013.

The key issues are:

- Whether the erection of the wall adjacent to the canal as part of the overall development for 122 houses, which is one additional dwelling to that previously approved, is sufficiently harmful to justify refusal of planning consent.

Following approval, Persimmon commenced construction works which fell beyond the scope of the approved scheme. These works consisted of a crib wall which measures approximately 150 metres in length, and ranges from 1 to 5 metres in height. It is understood that the retaining wall was incorporated to achieve road levels that would give correct cover to strategic foul and surface water drainage routes, to agreed United Utilities outfall connection points, resulting in the most sustainable gravity drainage solution to the development.

In addition, during the build phase, the sewer positions were found to be in different locations to those recorded on sewer records. This resulted in a redesign and the repositioning of houses with the addition of 1 extra plot in the south eastern corner of the site. This has resulted in an increase in public open space of 421 sq. m in that area of the site. It should be noted that as a whole there is still a substantial reduction in the amount of POS offered on site, due to the area lost adjacent to the canal.

Officers were first made aware of the erection of the wall at the start of 2014 and at that stage advised the developers that they were in breach of planning control as they were not building out the development in accordance with the approved plans. In addition, it was brought to the developers attention that there has been a failure to submit certain information to discharge some planning conditions and some of the information which has been submitted was considered not to be acceptable.

The developer submitted a retrospective application in September 2014, to effectively retain the works carried out and seek to gain a lawful consent. The canal side and public open space as approved was to provide a woodland trail cut into a grassland bank leading down from the road to the canal. The tarmaced path was to measure 3.3m in width and was to achieve a gradient of around 1 in 12 where possible. The path was to have formal seating areas incorporated, with views across the canal with interpretation posts and paving features. To provide this, some of the trees would be thinned, however, most of the existing vegetation would have been retained. The bank was to be gradually regarded and no large retaining walls/structures were previously approved.

It is important to note that this scheme is all but identical to that approved previously under the Outline and Reserved Matters applications with the exception of the retaining wall adjacent to the canal, and the minor re-plan in the south east corner of the site, which results in one additional dwelling. Therefore, this report focuses on those issues only and does not revisit the principle of development, which has been well established and the principle of development is not an issue which can be re-opened at this stage.

Clearly, the wall has a more prominent visual impact on the canal corridor than the scheme previously granted consent. However, now that it has been erected, it is necessary to consider the proposals put forward under this application and consider whether the planting mitigation and the payment of a commuted sum in lieu of public open space, balances out any harm caused. Accompanied by the impact of further work and relatively significant engineering operation required, should it be decided that the wall should be removed. These matters are considered in more detail below.

SOCIAL SUSTAINABILITY

The previously approved applications considered that the proposed redevelopment of the site was acceptable and that the proposals were considered to satisfy the sustainability credentials of the NPPF. The proposals resulted in the effective re-use of previously developed land.

The report prepared for application 12/4837M is attached as a background document, which explains the policy background. It is noted that the SEMMMS scheme has been granted planning consent since both the Outline and Reserved Matters applications were approved, however, it is not considered that this has a resultant impact on the way this application is considered, baring in mind that approval has already been granted for a substantial scheme.

Affordable Housing

30 affordable dwellings would be provided, which is in accordance with that approved under the outline consent. The Strategic Housing Manager raises no objections to the proposals. However, it should be noted, of the 38 dwellings currently under construction, 23 are affordable housing plots, which have not been legally completed as the Council's Strategic Housing Manager will not approve any further affordable housing applications until this application is resolved.

Recreation / Open Space

Due to the location of the crib wall adjacent to the canal, there is insufficient space to accommodate the footpath and landscape detailing as previously approved under the Reserved Matters application. The area associated with the footpath was also considered to contribute towards the Public Open Space.

The Greenspaces Officer considers that the new proposals put forward for the open space area are acceptable.

Play Area

The detailed scheme for the play area follows the guidance on theme and equipment range previously given and the Greenspaces Officer is very pleased to see such an imaginative scheme (based on a pirate ship) come forward. It has the potential to become a much loved and appreciated facility.

There are however a few minor revisions which should be incorporated into the scheme: -

- A maintenance gate to the play area is required as well as the two pedestrian gates;

- There is a piece of equipment missing, barrels or similar, to further enhance the theme. It is appreciated space may be tight but this needs exploring.
- The play area and surfacing will need to be included in detail within the landscape and habitat management plan.

Crib wall and loss of POS

As has already been discussed above, the addition of a crib wall along a section of the proposed walk way / open space has resulted in: -

- The loss of a large section of walkway along the canal bank and a wonderful opportunity to provide a circular walk for all abilities along this section of the canal and its attractive habitats;
- This has also had a knock on effect in other areas of POS and further amendments to the layout with a further loss of amenity;
- The remaining walkway will in affect be inaccessible from the development, or a dead end for anyone with mobility issues or pushchairs etc accessing from phase 2 (if subsequently approved) due to the step access now being proposed from within phase 1. This is in direct contradiction to the original requirement for the walkway, to provide an amenity for all;
- This loss of the proposed walkway and amenity has resulted in a substantial reduction in the provision of onsite open space required as a result of the development and in line with current policy;
- Furthermore the addition of the crib wall has impacted on the amenity of the area in general and particularly that of the canal. It is a hard and dominant feature; and,
- The crib wall and its construction have also resulted in the loss of the habitat and existing vegetation along the canal bank.

It has been agreed that a commuted sum for offsite provision will now be required to offset the reduction in on-site provision, the reduced success of the retained section of walkway and the watering down of the original aims.

The area of Public Open Space lost as a result of the retaining structure equates to 1 599 sq m, therefore the commuted sum required in the absence of sufficient on site Public Open Space is £119 925 for offsite provision, and will be required on, or prior to the issuing of consent.

The commuted sum will be used to make additions, enhancements and improvements to the play, access, recreation and amenity facilities at Arnold Rhodes open space.

Maintenance and management of on-site open space

It is noted from the resubmitted management plan that the applicant states the council is to consider transfer of the open space under the terms of the S106 and it is stated that the applicant considers CEC is committed to the adoption.

CEC was only committed to considering the transfer under the terms of the previous S106, however, in light of the changes to the proposal, the council can confirm it will not take transfer of the Public Open Space, or any part thereof. The developer will need to put alternative management arrangements in place, for the ongoing maintenance and

management of all the open space and habitat areas on site in perpetuity. Through the S106 Agreement, the Council will ensure that the level of maintenance and management of the area of open space is acceptable and there will always be funding available for those levels of maintenance and management.

Recreation Outdoor Space

As with the previous scheme and completed S106 agreement, a commuted sum for ROS is required for offsite use in lieu of onsite provision at Arnold Rhodes and Newtown Playing Field. Given where the development is up to on site, it makes sense to require that the payment of the commuted sum is paid now at this stage, prior to consent being granted.

Landscape and habitat management plan

It is noted that a Landscape and Habitat Management plan has been submitted, however, this has not been updated to reflect the current application. In any event the LHMP is no longer accurate and amendments are required.

- This incorrectly states the council is committed to the transfer of the POS. The council will not take transfer of the POS. The LHMP needs updating to reflect this.
- The play area design has now been submitted and subject to the comments previously made being addressed, is acceptable. The LHMP still refers to a play area opportunity and contains none of the detail or required maintenance associated with the scheme submitted.
- The LHMP contains no reference to the 150m retaining structure. Clearly this should be part of any management plan for the site, being a substantial piece of engineering. It is noted that this is also requested by the Canals and River Trust.

ENVIRONMENTAL SUSTAINABILITY

The background report for the Reserved Matters application 12/4837M (attached) addresses the environmental issues (such as sustainability, design, residential amenity, landscape, ecology, land contamination, air quality) associated with development of the site for residential development. It is necessary to reconsider those issues which have been impacted on by the building of the crib wall landscape proposals in general.

Highways

The previously submitted Transport Statement was considered to be acceptable. The Strategic Highways Manager has assessed this application and raises no objections. As there is no significant change in the numbers involved in the application (the addition of one dwelling) the conclusions reached in the previous application must be the same as in this application, unless there are any material highways differences between them. The previous application was acceptable subject to various contributions agreed via a S106 Agreement.

The main highway change in relation to the previous application is the construction of a high retaining wall alongside the canal that is retrospective. This is considered a major structure and given that the Council was not involved in checking the construction of this wall the Highway Authority would not adopt the internal road layout, as it needs to be satisfied that

the road structure is safe. A structure of this nature would have also required a commuted sum for maintenance should it have been considered for adoption.

All other matters, regarding the application remain the same, with the S106 contributions agreed payable at the trigger points already agreed. It is noted that the parking survey which should have been carried out prior to the commencement of the development has not been carried out. This would have provided a baseline for other traffic studies, which would have enabled the Strategic Highways Engineer to assess the impact of the development in terms of what further highways works are required. It is considered that the commuted sums should be paid immediately to allow the highways assessments and necessary works to be undertaken.

Landscape

The landscape proposals have been considered by the Landscape Officer and following much negotiation during the summer with the developers landscape consultants are considered generally acceptable. However, the following amendments and further information is requested:

- More climbing plants at the bottom of the crib wall are necessary and full details for planting pit preparation given that there is a wide stone foundation at the toe of the wall.
- Changes should be made to the planting proposals in front of the crib wall. Additional native trees and shrubs should be planted comprising a mix of feathered and clear stem trees, interspersed with shrubs in order to maximise the screening effect.
- There is scope for further groundcover/climber planting in the vicinity of the proposed steps to enhance the area and to screen the crib wall. There is also scope for additional planting around the formal seating area.
- An access gate should be provided near to the bottom of the steps and also near to the formal POS area to allow access to the canal bank area for maintenance.
- Drawing D3585.001 Surfacing Details at the entrance to the POS area is incorrect and should be amended.
- The Landscape Habitat Management Plan (V8 July 2014) should be updated to reflect the changes to the canal bank area resulting from the introduction of the crib wall, the importance of establishing and maintaining screen planting, ongoing maintenance of steps, safety railings etc..

It is recommended that appropriate landscape conditions are attached (should permission be granted) so that the amendments and additional details can be approved within a specified timescale.

Trees

The trees associated with the canal banking are more important in terms of landscape value and screening, rather than amenity. As part of the original consultation, as with any application, all trees associated with the site and those off site, were considered for formal protection, but in this case a Tree Preservation Order was considered inappropriate.

Ecology

From a nature conservation perspective, the works which have been undertaken to construct the crib wall are not ideal. However, if further works were to be undertaken to effectively remove the wall and re-implement the previously approved Reserved Matters consent, then it is considered that those works would be likely to have an even greater impact on the SBI and wildlife habitat.

The increase in numbers by one dwelling

As said previously, the Developer has ascertained that the sewer positions in the south east corner of the site are in a different position to that showing on the records. Therefore, the houses in this area have been redesigned and one extra plot can now be bought forward. It is considered that the further plot would comply with the Development Control policies within the Macclesfield Borough Local Plan with regards to design, space standards and privacy and therefore, this new dwelling is considered to be acceptable.

Other impacts

It is not considered that there are any further resulting impacts from the proposed scheme with regards to matters such as, impact on residential amenity, noise, air quality, accessibility, or highways.

ECONOMIC SUSTAINABILITY

With regard to the economic role of sustainable development, the proposed development will help to maintain a flexible and responsive supply of land for housing as well as bringing direct and indirect economic benefits to Disley district centre including additional trade for local shops and business, jobs in construction and economic benefits to the construction industry supply chain.

RESPONSE TO OBJECTIONS

As stated above, the position which the Council find themselves in is far from ideal. The wall is a relatively significant structure, which requires a substantial landscape scheme to soften its impact. It would be possible to demolish the wall, however, it is considered that the impact of this on the SBI and residents would be greater than leaving the wall in situ. The Landscape Officer, Arboricultural Officer and Nature Conservation Officer have all considered the impact of the wall on the local environment and conclude that with a sensitive landscape solution, a successful scheme can be achieved.

The request put forward by the Canals and River Trust for the Developer to make repairs to the towpath have been suggested to the Developer, and once a figure is provided for the costs of these works, the Developer may consider this request further.

The Developer has provided engineering information as to how the crib wall has been constructed. This has been assessed by the Canals and Rivers Trust's engineer and the wall is considered not to have an impact on the stability of the canal wall.

It has been suggested that it may be more appropriate to build a wall on top of the crib wall, and replace the fence. This has been considered by officers, however, it is considered that this would only make the wall appear even higher and this would not be welcomed.

Given that 121 dwellings has been previously approved in September 2013, it is considered that it would be unreasonable to request further payments towards education.

Residents have raised concerns with the planning department throughout the build and complained about the mud on the road caused by construction traffic. Officers from the Enforcement team have reminded the developer to adhere to the conditions which required road sweeping and it is understood that following these reminders the relevant works have been undertaken.

S106 HEADS OF TERMS

The applicant has submitted a deed of variation for this application. However, due to the nature of the works carried out on site a new S106 Agreement will be required. This would largely be based on what was agreed under the previous application, however, due to the passage of time, some of the criteria and trigger points will need to be reworded. The S106 will be required to secure the following Heads of Terms: -

For clarity the heads of terms are:

- To provide £300 000 (Indexed) for Highways Works before 50% of the development is provided.
- Payment to be made for undertaking traffic calming and traffic management measures.
- 25% Affordable Housing.
- A commuted sum would be required for offsite provision for use towards play, access, recreation and amenity facilities at Arnold Rhodes open space. The commuted sum total is £119 925.
- A commuted sum would be required for offsite provision for recreation and outdoor sports provision at Arnold Rhodes and Newtown Sports fields. The commuted sum total is £145 000.
- Arrangements for the open space to be maintained in perpetuity will need to be made by the developer, subject to a detailed management maintenance schedule to be agreed with the council.

CIL Regulations

In order to comply with the Community Infrastructure Regulations 2010, it is necessary for planning applications with planning obligations 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 25% affordable housing is necessary, fair and reasonable to provide sufficient affordable housing in the area, and to comply with National Planning Policy.

The commuted sum in lieu for off site provision of recreation / outdoor sport is necessary, fair and reasonable, as the proposed development will provide 122 dwellings, the occupiers of which will use local facilities, and there is a necessity to upgrade/enhance existing facilities.

The contribution is in accordance with the Council's Supplementary Planning Guidance. A commuted sum would be required for offsite provision for use towards play (formal and informal) at Arnold Rhodes Playing fields is necessary, fair and reasonable to provide sufficient affordable housing in the area, and to comply with National Planning Policy.

The implementation and monitoring of the highways works is necessary in the interests of highway safety and sustainable development.

On the basis the requirements of the s106 agreement are necessary, directly relate to the development and are fair and reasonable in relation to the scale and kind of development.

Conditions

It is evident that a number of the conditions which were attached to the outline consent and reserved matters application were not submitted, or deemed not to be acceptable prior to the commencement of works. The details to satisfy the conditions have been submitted to accompany this application and the necessary consultees have considered the information which is broadly considered to be acceptable. It will be necessary to reattach the conditions to this application from the Outline and Reserved Matters applications (should permission be granted) to ensure continued compliance as the development progresses. Additional conditions will be required in relation to removal of the platform on the canal bank, details of the play area, landscape details for the crib wall and revisions to the Landscape Habitat Management Plan.

Planning Balance

The application is affectively an amendment to a previously approved scheme, which would include a large wall adjacent to the canal and one additional dwelling. The proposal involves the redevelopment of a brownfield site within a predominantly residential area for residential use. The principle of development has been established at both the outline stage and the reserved matters application considered matters of detail. Remediation of the site has taken place and much needed affordable homes within a sustainable location.

The design and layout is considered to be acceptable. With the correct mitigation, it is considered that the development would assimilate into the landscape.

The proposal includes the provision of on-site public open space and a commuted sum payment would be made to make up for the loss of the previously approved canal side walk. The scheme also includes the provision of a children's play area which is deemed to be acceptable.

The proposals comply with the relevant development plan policies and the NPPF and therefore, is recommended for approval subject to conditions and a S106 Agreement.

Application for Full Planning

RECOMMENDATION:

1. A01AP - Development in accord with plans
2. A02LS - Notwithstanding the submitted details -Submission of landscaping scheme
3. A02RM - To comply with outline permission
4. A04LS - Landscaping (implementation)
5. A10LS - Additional landscaping details including street furniture, public art and interpretation; vehicular/pedestrian barriers; surfacing material; and secure railway boundary fencing
6. A13HA - Construction of junction/highways
7. A22GR - Protection from noise during construction (hours of construction)
8. A23GR - Pile driving details to be submitted and approved by LPA
9. A01GR - Removal of permitted development rights
10. A15HA - Construction of highways - submission of details
11. A21HA - Submission of details of turning facility
12. A32HA - Submission of construction method statement
13. Further details required for play area scheme shall be submitted to and approved by LPA
14. Notwithstanding the submitted details - within 3 months an updated Landscape and Habitat Management Plan to include management of canal side vegetation to be submitted and approved by LPA
15. Development carried out in accordance with method statement for the protection of the SBI
16. Wheel washing facilities to be carried out in accordance with submitted details
17. Construction Management plan to be carried out in accordance with submitted details.
18. Scheme to minimise dust emissions to be carried out in accordance with submitted details
19. Compliance with individual travel plan
20. Development to be carried out in accordance with Arboricultural Impact Assessment
21. Development in accordance with Invasive Species Management Plan

22. Materials in accordance with submitted schedule
23. Compliance with details of phasing and timing of provision of POS and play area
24. trespass proof fencing
25. Surface water and foul drainage to be directed away from railway line
26. Earthworks and excavations to be carried out in accordance with submitted details
27. Detailed remediation strategy
28. Validation Report
29. Compliance with Noise Impact Assessment details
30. bin storage
31. Traffic Calming scheme to be submitted and approved
32. All parking to be provided prior to occupation of any part of the development
33. Compliance with access road with the Public Highway details
34. At least 10% of the energy supply of the development shall be secured from decentralised and renewable or low-carbon energy sources
35. Lighting
36. Phase II land contamination investigation to be submitted & any remediation work carried out as necessary
37. Prevention of contaminants from entering the watercourse
38. boundary treatment
39. Provision of Public Art shall be submitted
40. Compliance with water vole and bat survey mitigation as required
41. Provision of bat and bird boxes
42. 10 year management plan for the nature conservation area and canal side habitats
43. Sound proofing measures for facades facing the Manchester - Buxton railway line
44. In compliance with Air Quality Impact Assessment report

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