

**APPLICATION NO: 15/4285M**

**LOCATION: The Kings School, Westminster Road, Macclesfield**

**PROPOSAL: Demolition of existing buildings and structures, residential development up to 150 units, landscaping, supporting infrastructure and access**

## **APPLICANTS SUBMISSION**

A letter (dated: 13/05/2016) in respect of applications **15/4285M, 15/4286M and 15/4287M** received prepared by DAC Beechcroft LLP raises the following issues:

- The school has requested that the applications are deferred to a future meeting
- The reports have failed to take into account material considerations in particular 'enabling development' the letter references case law *Northumberland CC v Secretary of State for the Environment 1989* and *Wansdyke DC v Secretary of State for the Environment 1992* where an enabling development argument was successful which was unrelated to heritage assets.
- No reference in the reports of para 140 of the Framework or balancing the benefits of the school relocation against the policy discounts that are proposed.
- Green Belt test – the reports do not explain the Green Belt test to committee or analyse the Green Belt correctly and amounts to misdirection of the committee. Reports should recite paragraph 88 of the NPPF.
- Not all material considerations have been taken into account.
- The applicant has offered to provide more information in regard to the 'do nothing' approach, should the school remain as is.

## **CONSULTATION**

### **Ecologist comments**

#### **Bats**

The submitted Preliminary Ecological Appraisal identifies three buildings that would be lost as a result of the proposed development that have potential to support roosting bats. The submitted report recommends that these buildings be subject to an internal inspection and bat activity survey to determine the presence/absence of roosting bats. The design and access report states that this survey will be available in August 2015 however a copy does not appear to have been submitted with this application.

In order to make a fully informed assessment of the potential impacts of the proposed development upon protected species I advise that a report of the results of the required bat surveys must be submitted to the Council prior to the determination of the application.

#### **Hedgehog**

Hedgehogs are a biodiversity action plan priority species and hence a material consideration. There are records of hedgehogs in the broad locality of the proposed development so the species may occur on the site of the proposed development. If planning consent is granted I recommend that the following condition be attached. *Any future reserved matters application to be supported by proposals for the incorporation of gaps for hedgehogs to be incorporate into any garden or boundary fencing proposed. The gaps to be 10cm by 15cm and located at least every 5m. Reason to safeguard priority species in accordance with the NPPF.*

#### Woodland

A woodland is located towards the north of the application line boundary. Habitats of this type are a material consideration. It must be ensured that no development takes place within the woodland. To avoid any indirect impacts on the woodland (such as tipping of garden waste, inputs of garden chemicals etc.) it must also be ensured that an undeveloped buffer be provided between the residential properties and the edge of the woodland. I recommend that this be annotated on the submitted illustrative masterplan. To further mitigate any impacts on the woodland it must also be ensured that no residential properties back onto the woodland.

#### Badgers

The latest report has identified an active sett to the north of the redline of the application. Based on the results of the previous survey it is possible that setts in this area are used by badgers only periodically. The submitted report advises that as the sett falls within 30m of the proposed development a Natural England license may be required to allow the development to proceed lawfully.

I advise that the precise impacts on the sett would depend upon whether the sett was active during the construction phase and also on exactly what proposals came forward at the reserved matters stage. The illustrative master plan shows an area of open space to the north of the development. This this could be implemented without the need for any levels chances the impacts on badgers may be low.

**I therefore recommend that if outline consent is granted a condition should be attached requiring any future reserved matters application to be supported by an updated badger survey.** The submitted survey to include an impact assessment and also mitigation and compensation proposals to address any adverse impacts identified.

#### Japanese Knotweed

The applicant should be aware that Japanese Knotweed (*Fallopia japonica*) is present on the proposed development site. Under the terms of the Wildlife and Countryside act 1981 it is an offence to cause Japanese Knotweed to grow in the wild. Japanese knotweed may be spread simply by means of disturbance of its rhizome system, which extends for several meters around the visible parts of the plant and new growth can arise from even the smallest fragment of rhizome left in the soil as well as from cutting taken from the plant.

Disturbance of soil on the site may result in increased growth of Japanese Knotweed on the site. If the applicant intends to move any soil or waste off site, under the terms of the Environmental Protection Act 1990 any part of the plant or any material

contaminated with Japanese Knotweed must be disposed of at a landfill site licensed to accept it and the operator should be made aware of the nature of the waste.

### **OFFICER COMMENT**

In response to the applicant's letter, it is considered that the proposals for enabling development and the viability of the scheme have been considered. The balancing exercise has been carried out and is demonstrated in the reports. The requirement for very special circumstances in paragraph 88 has been made clear in the Green Belt reports.

With regard to the 'do nothing' approach, and the impact this would have on the school, the Council has not been provided with the full information to assess this aspect of the proposals to date, the applicant has stated that the timescale to provide this information would be around 2 months. Should the committee consider that this issue is fundamental in the determination of the applications and that decisions could not be reached without it, then the committee may wish to defer the applications for a considerable time until additional information has been received.

As a result of the updated comments from the Council's ecologist the **reason for refusal 3 has been resolved subject to appropriate conditions.**