

Application No: 20/5699C

Location: GLEBE FARM, BOOTH LANE, MIDDLEWICH

Proposal: Variation of condition 21 on 13/3449C - Outline application for residential development (approximately 450 dwellings), retail unit (A1, A2, A3, A4 and/or A5) and supporting infrastructure.

Applicant: G Bancroft, Taylor Wimpey UK Ltd

Expiry Date: 23-Apr-2021

## **SUMMARY**

The principle of the development has already been accepted. The wording of condition 21 to exclude construction vehicles accessing the site from Warmingham Lane is not considered to be reasonable or necessary. The variation to allow construction vehicles access via Warmingham Lane to construct up to 75 dwellings would not result in an unacceptable impact on highway safety and the residual cumulative impacts on the road network would not be severe. The application complies with the relevant policies of the Development Plan and the NPPF.

## **RECOMMENDATION**

**APPROVE subject to S106 Agreement and the imposition of planning conditions**

## **REASON FOR REFERRAL**

This application is referred to Strategic Planning Board as it seeks to vary a condition which was specifically added by the Strategic Planning Board at the meeting on 2nd April 2014.

## **DETAILS OF PROPOSAL**

Outline application 13/3449C gave approval for up to 450 dwellings with an average density of 35 dwellings per hectare. Access was approved at this stage and there are two access points to serve the site; one via Warmingham Lane to the west and the second access via Booth Lane to the east.

This application seeks to vary condition 21 imposed as part of application 13/3449C which states that;

*The access point to Booth Lane shall be provided in accordance with the approved details prior to the first occupation of the development. There shall be no access for construction traffic at any time from Warmingham Lane.*

*Reason: In the interests of highway safety.*

The applicant proposes to amend this condition as follows;

The access point to Booth Lane shall be provided in accordance with the approved details prior to the first occupation of the development of the units on the eastern side of the site. Construction traffic will be permitted to access the site from Warmingham Lane to serve the construction of the western parcel of development only in accordance with plan reference DGL/2916/TWM-CAP-01. Construction traffic will not be permitted to access the site from Warmingham Lane at any time following completion of the final dwelling within the western parcel (as illustrated on plan reference DGL/2916/TWM-CAP-01).

The supporting Highways Technical Note refers to the an alteration to the design of the Booth Lane access point. The agent has since confirmed that this does not form part of the application and it seeks only to allow construction access via Warmingham Lane.

## **SITE DESCRIPTION**

The site of the proposed development extends to 15.3 ha and is located to the south of Middlewich. The site forms part of LPS42. To the north is residential development fronting Kingswood Crescent, Shilton Close, Northwood Avenue and Inglewood Avenue. To the south is agricultural land. A former sports ground is included within the site. To the east of the site is Booth Lane with the Trent and Mersey Canal beyond, to the west of the site is Warmingham Lane.

The majority of the site is currently in agricultural use and there are a number of trees and hedgerow to the boundaries of the site. The site also includes a number of ponds.

## **RELEVANT HISTORY**

21/0607C - Application for the approval of reserved matters for the appearance, landscaping, layout and scale following outline approval 13/3449C - Outline application for residential development (approximately 450 dwellings), retail unit (A1, A2, A3, A4 and/or A5) and supporting infrastructure - Application Undetermined

20/5702C - Non-material amendment to 13/3449C - Approved 17th February 2021

20/5700C - Reserved Matters application for appearance, landscaping, layout & scale following outline approval 13/3449C for 404 dwellings, retail unit, public open space, and associated works - Application Undetermined

13/3449C - Outline application for residential development (approximately 450 dwellings), retail unit (A1, A2, A3, A4 and/or A5) and supporting infrastructure - Approved 20th February 2018

## **PLANNING POLICY**

### **Development Plan**

*Cheshire East Local Plan Strategy (CELPS)*

LPS42 - Glebe Farm, Middlewich

SD1 - Sustainable Development in Cheshire East

SD2 - Sustainable Development Principles

CO1 - Sustainable Travel and Transport

CO2 - Enabling Business Growth through Transport Infrastructure

*Congleton Borough Local Plan First Review 2005*

PS8 – Open Countryside

GR6 - Amenity

GR9 - Accessibility, servicing and provision of parking

GR14 - Cycling Measures

GR15 - Pedestrian Measures

GR16 - Footpaths Bridleway and Cycleway Networks

GR17 - Car parking

GR18 - Traffic Generation

*Moston Neighbourhood Plan*

The Moston Neighbourhood Development Plan was made on 14th February 2019.

REC1 - Footpaths, bridleways, cycleways and the canal towpath

National Policy

The National Planning Policy Framework (NPPF) establishes a presumption in favour of sustainable development. Of particular relevance are paragraphs 108 and 109.

**CONSULTATIONS (External to Planning)**

Head of Strategic Infrastructure (HSI): It is not considered that the proposed construction of 75 units from Warmingham Lane would have an undue highway impact as the majority of the units will be constructed from Booths Lane. The variation of Condition 21 is therefore acceptable subject to restrictive conditions.

**Strategic Housing Manager:** No further comments to make.

**CEC Education:** No comments received.

**CEC POS:** No comments received.

**Environmental Health:** General informatives suggested relating to construction hours and dust management.

**Natural England:** No comments to make.

**Cheshire Brine Board:** As the proposed variation of condition doesn't involve foundations the board would not normally make any comments.

**Canal and River Trust:** The C&RT offer the following general advice.

Construction traffic would be re-routed to use Warmingham Lane and Mill Lane. This would require construction traffic to use Bridge 161 Crows Nest over the Trent & Mersey Canal. No indication has been given as to the size/weight of the HGVs. C&RT records indicate the bridge has been strengthened to take 40T mgw. The C&RT is concerned that larger construction plant and machinery or vehicles which exceed this weight limit could damage the bridge. Detail of any proposed abnormal or indivisible load movements should be sent to C&RT for review in advance.

It would be useful if this could be appended to the CEMP so that any abnormal loads using this route would not cause damage to the canal infrastructure.

**United Utilities:** No comments received.

**Sport England:** The proposed development does not fall within Sport England's statutory remit or non-statutory remit.

**Environment Agency:** No comments received.

**Archaeology:** Unable to offer further comments on this application.

**CEC PROW:** No comments received.

## **PARISH/TOWN COUNCIL**

**Middlewich Town Council:** Objection due to concerns over traffic and the traffic plan done in 2013 and improvement to infrastructure, doctors, and schools required.

**Moston Parish Council:** Moston Parish Council object to the application on the following grounds;

- Condition 21 was included in the outline planning decision in the interests of highways safety.
- To promote the extra use of HGV's on country lanes where traffic has already increased is completely contrary to the reason for the condition and a safety hazard to other road users.
- Warmingham Lane to the South, Forge Mill Lane, Dragons Lane and Mill Lane to the junction with Booth Lane the A533 have no footpaths or kerbs, already have damaged surface and verges, are a well-used rat run and part of National Cycle Route 5. The route includes a narrow canal bridge with a sharp bend where there have been over 20 accidents in the last 3 years
- There is no justification to change this important condition, be it on financial or any other reasons, highway safety is paramount on Warmingham Lane and associated rural lanes.

## **REPRESENTATIONS**

Letters of objection have been received from 9 local households raising the following points;

- Loss of privacy
- Impact upon property value
- Problems with subsidence
- Noise and disturbance caused by the building works
- Proximity of the dwellings to the rear boundaries of Shilton Close and Woodstock Drive
- A buffer should be provided to Sycamore Close and Woodstock Drive
- No bungalows are being provided
- Drainage infrastructure is at capacity
- Traffic congestion issues at Cledford
- Highway safety at the roundabout at Sycamore Drive/Warmingham Lane
- Increased vehicular movements
- Lack of infrastructure in Middlewich to cope with a development of this size
- Vehicle speeds along Warmingham Lane
- The condition is in the interests of highway safety
- Profit before safety
- Height of the houses at the northern end of the site - cause a loss of light
- The brook which runs along the rear boundary of Shilton Close is a wildlife haven and the application includes the thinning of trees and bushes - this will impact upon wildlife
- Parts of the site are subject to flooding (including the rear of 19/21 Kindwood Crescent)
- What will happen with the stream on the site
- Concern over privacy from windows on plots 280 and 281
- Plots 280 and 279 are very close to the boundaries of the site
- Further tree planting should take place on the site
- Clarification over the proposed boundary treatment is required
- What traffic calming measures are proposed along Booth Lane and Warmingham Road
- Increased noise and air pollution
- Concern over the proximity of the development to an Oak tree on the boundary of the site
- Loss of habitat - what wildlife protections are in place
- What flood protection measures are in place
- Impact upon infrastructure - schools, leisure facilities, doctors and dentists
- Impact upon pedestrian, cyclist, horse rider and litter picker safety
- The roundabout on Warmingham Lane is off-set and vehicles do not slow down at the roundabout
- Proximity of the access to the Morris Homes Development
- Proximity of buildings to the salt pipeline crossing the site. Concern that the access will be built over the salt pipeline.
- No additional housing is required
- Litter and fly tipping in the area
- Rural lanes are not appropriate for large construction vehicles
- There are many near-misses on local roads
- The presence of large vehicles makes rural roads uninviting and intimidating

An objection has been received from British Salt Limited (BSL) which raises the following points;

- BSL own and operate several brine and associated pipes connected to the brinefield and salt factory. The pipework is located below ground and it is essential that access to the pipework is retained.

- A Deed of Grant of Easement was signed between BSL, the applicants, landowner and prospective developers. The Deed provides for the construction of roads and footpaths upon or over the pipework but only following written approval of BSL.
- The masterplan approved as part of the outline application left details for approval at Reserved Matters stage and BSL did not make representations.
- As part of the outline application access was illustrated as being from two potential points, one to the east from Warmingham Lane, and one to the west from Booth Lane. The access point from Warmingham Lane is of particular interest to BSL given that the site is restricted at this end of the site to a thin 20m strip meaning that development would consequently hinder access to the underground pipe network contrary to the existing easement.
- The reason for condition 21 is in the interest of highway safety and the condition was considered to be necessary to make the development acceptable.
- The justification for the application is to speed up delivery rates and avoid upfront costs associated with the construction of the spine road.
- The Technical Highways note is missing from the application.
- The condition was imposed as Warmingham Lane was judged to be at capacity and any increase in traffic is unacceptable. For that reason BSL objects to the variation of condition 21.
- The detailed design submitted as part of the RM application does not allow access for the pipeline easement.
- BSL specifically made representations about the Glebe Farm site as part of the CEC Local Plan
- BSL object to this application.

## **APPRAISAL**

### **Principle of development**

This principle of the development has been accepted and this application is to consider the variation of condition 21 only. Specifically, this is to allow construction traffic to enter the site via Warmingham Lane to construct the western portion of the site as identified on the plan extract below.



Two vehicular access points to serve the development were approved as part of outline application 13/3449C (one taken via Warmingham Lane and one via Booth Lane). This would effectively split the traffic generation from the housing development giving options for traffic distribution.

It is also worth noting that the decision notice also includes condition 5 which restricts the hours of construction to Monday-Friday 08:00 to 18:00 and Saturday 09:00 to 14:00. This condition would be retained as part of this application.

Paragraph 55 of the NPPF makes clear that planning conditions should be kept to a minimum, and only used where they satisfy the following tests:

1. necessary;
2. relevant to planning;
3. relevant to the development to be permitted;
4. enforceable;
5. precise; and
6. reasonable in all other respects

These are referred to as the 6 tests, and each of them need to be satisfied for each condition which an authority intends to apply. It is necessary to consider whether condition 21 meets these tests.

The approved access from the A533 Booth Lane is a signalised junction and the secondary access from Warmingham Lane is a priority junction.

The applicant states that the varying condition 21 will allow Taylor Wimpey to construct, complete and occupy the dwellings at a quicker rate and enable the S106 funds including the Middlewich Bypass contributions to be paid at a much quicker rate.

The applicant plans to develop the site from both Booth Lane and Warmingham Lane. It has been stated within the Transport Technical Note supporting the application that the Warmingham Lane access would be used for the construction of up to 75 units.

The principle of construction vehicles using Warmingham Lane has previously been accepted on a number of sites including the Bellway Development and the Morris Homes Development which are now largely complete.

The construction routing to and from the site has been described in the technical note and is to use the rural element of Warmingham Lane and not the urban residential part of Warmingham Lane. Whilst the routing of HGV's can be agreed in the Construction Management Plan this cannot be restricted by a planning condition as Warmingham Lane is a public highway open to all traffic.

It is estimated that construction traffic usage of Warmingham Lane will be low and that an average of 2 HGV's per hour would be generated during construction.

Highways Officers raise not objection to the removal of the condition. It is not considered that the proposed construction of 75 units from Warmingham Lane would have an undue highway impact as the majority of the 404 units will be constructed from Booth Lane. The predicted level of daily construction traffic is low and although construction routing cannot be enforced the HGV routing to the site can be set out in the Construction Management Plan. The variation of Condition 21 is considered acceptable as the condition as currently worded is not necessary or reasonable.

### **Canal Implications**

The Canals and Rivers Trust (C&RT) have made comments about the potential impact of large construction vehicles using a bridge over the Trent & Mersey Canal. The bridge in question (No 161 - Crows Nest) is unlisted but within the Conservation Area and carries Mill Lane over the canal.

The C&RT have confirmed that vehicles up to 40T mgw (maximum gross weight) are permitted to cross the bridge without a requirement to notify the C&RT. Any vehicles between 40-80T mgw require advanced notification of the C&RT and are subject to a two clear working days minimum notice period.

### **Other Matters**

The comments raised in the representations are noted. The majority of the points relate to the principle of the development or matters relating to the Reserved Matters applications. These issues cannot be considered as part of this application and the only issue to consider is the variation of condition 21 and whether it is acceptable to allow some construction traffic to enter the site via Warmingham Lane.

## **Conclusion**

The principle of the development has already been accepted. The wording of condition 21 to exclude construction vehicles accessing the site from Warmingham Lane is not considered to be reasonable or necessary. The variation to allow construction vehicles access via Warmingham Lane to construct up to 75 dwellings would not result in an unacceptable impact on highway safety and the residual cumulative impacts on the road network would not be severe. The application complies with the relevant policies of the Development Plan and the NPPF.

## **RECOMMENDATION**

**APPROVE** subject to the completion of a S106 Deed of Variation to ensure that the obligations contained within the original S106 apply to this decision.

**And subject to the following conditions;**

- 1. Standard Outline**
- 2. Submission of Reserved Matters**
- 3. Time limit for submission of reserved matters**
- 4. Approved Plans (as amended as part of application 20/5702C)**
- 5. Hours of construction limited to 08:00 to 18:00 Monday to Friday, 09:00 – 14:00 Saturday and not at all on Sundays and Bank Holidays**
- 6. Pile driving limited to 08:30 to 17:30 Monday to Friday, 09:00 – 13:00 Saturday and not at all on Sundays**
- 7. Prior to the commencement of development a Phase I Contaminated Land Assessment shall be submitted to the LPA for approval in writing.**
- 8. Details of external lighting to be submitted and approved**
- 9. Dust control measures to be submitted and approved**
- 10. Prior to the development commencing, a Construction Environment Management Plan shall be submitted and agreed by the planning authority. This shall include reference to the C&RT comments in relation to the Canal Bridge**
- 11. A scheme for the acoustic enclosure of any fans, compressors or other equipment for the proposed retail store**
- 12. A detailed scheme of glazing, ventilation mitigation measures and acoustic screening fences, should therefore be prepared and submitted at the Reserved Matters application stage**
- 13. Travel Plan provision**
- 14. Electric vehicle Infrastructure**
- 15. The submission of a ground dissolution/brine extraction related risk assessment and proposals regarding suitable foundations designed to overcome the potential effects of brine pumping related subsidence.**
- 16. A scheme to limit the surface water run-off from the site**
- 17. A scheme to manage the risk of flooding from overland flow**
- 18. The provision of a buffer to the water course**
- 19. Provision of bird and bat boxes**
- 20. Works should commence outside the bird breeding season**
- 21. The access point to Booth Lane shall be provided in accordance with the approved details prior to the first occupation of the development of the units on the eastern side**

of the site. Construction traffic will be permitted to access the site from Warmingham Lane to serve the construction of the western parcel of development only in accordance with plan reference DGL/2916/TWM-CAP-01. Construction traffic will not be permitted to access the site from Warmingham Lane at any time following completion of the final dwelling within the western parcel (as illustrated on plan reference DGL/2916/TWM-CAP-01).

22. No development shall take place within the area until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority. The work shall be carried out strictly in accordance with the approved scheme.

23. Reserved matters application to include details of existing and proposed levels

24. Tree protection

25. Tree retention

26. Arboricultural Method Statement to be submitted at the Reserved Matters stage

27. If the Reserved Matters application results in the loss of any ponds replacements should be provided.

In order to give proper effect to the Board's/Committee's intentions and without changing the substance of the decision, authority is delegated to the Head of Planning, in consultation with the Chair (or in his absence the Vice Chair) of Strategic Planning Board, to correct any technical slip or omission in the wording of the resolution, between approval of the minutes and issue of the decision notice

