

Strategic Planning Board

Updates

Date: Wednesday, 5th March, 2014
Time: 10.30 am
Venue: The Capesthorne Room - Town Hall, Macclesfield SK10 1EA

The information on the following pages was received following publication of the committee agenda.

Updates (Pages 1 - 24)

Please contact Sarah Baxter on 01270 686462
E-Mail: sarah.baxter@cheshireeast.gov.uk with any apologies, requests for further information or to arrange to speak at the meeting

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Application No: 12/1166M

Location: TATTON PARK, KNUTSFORD DRIVE, KNUTSFORD,

**Proposal: Use of Land for Outdoor Adventure Attraction,
including Car Park and Associated Infrastructure**

ADDENDUM TO MAIN REPORT

Car Parking

The report refers to different numbers of parking spaces associated with the development. The treatment of the parking areas has been an area of discussion and amendment throughout the application process.

Reference is made within the Details of the Proposal section to 927 spaces (page 16) and then in both the Green Belt section (page 49) and the Landscape section (page 60) an overall figure of over 1400 spaces is mentioned.

The latest amendment still has an overall total capacity figure of over 1400 spaces. However, through discussions this is now divided into 5 zones with two more permanent areas of parking (Zone 1 and Zone 2) totalling 682 spaces. There are then three overspill grassed areas (Zones 3, 4 and 5) which if taken together would total in excess of 1400 spaces. There remains space for 8 coaches.

The Landscape section (page 60) should therefore be updated to read:

In terms of the parking layout the most recent scheme includes:

- Zone 1: All weather surfaced area; 339 spaces, including 27 disabled spaces, plus extensive coach parking. Roads and tracks to be soil stabilised and surfaced in spray and chip finish. Parking bays to be cellular blocks in-filled with gravel aggregate and central grass verges for pedestrian movement. Coach parking will be located at the western side of this car parking area, close to Cotton Relief Wood to provide screening effects.
- Zone 2: Secondary car park; 343 spaces, including 12 disabled spaces, arranged off gravel track to east of pedestrian walkway. Parking bays to be cellular blocks in-filled with turf, and with separating grass verges for pedestrian movement.
- Zones 3, 4 and 5: Overspill car parking; three zones of approximately 270, 240 and 310 spaces. Formed in restored grassland with informal rope dividers to define the bays, and used in sequence.

Ecology (page 67)

Under the Breeding Birds section

During the determination of this application the Council must have regard to paragraph 9A(3) of the Habitat Regulations 2012. This regulation requires local authorities to take such steps they consider appropriate to secure the preservation, maintenance and re-establishment of sufficient diversity and area of habitat for wild birds.

The proposed positive conservation management of the eastern Tatton woodlands (subject to section 106/conditions) has the potential to ensure there is no overall loss of diversity of breeding bird habitat in accordance with the requirements of paragraph 9A(3) the Habitat Regulations.

Conclusion/Planning Balance

The final paragraph should read:

As a result this a finally balanced case in that there are clear economic and social benefits associated with this application. There are however environmental impacts which are largely neutral or cause harm. In the case of the impact on the landscape of the Grade II* Historic Park and Garden there would be a severe adverse impact. The impact on the built heritage assets is more limited being less than substantial but increased traffic remains a concern.

Given the emphasis towards sustainable economic growth within the NPPF it is considered that the planning balance in this case would tip in favour of this development.

POLICIES

Paragraph 216 of the National Planning Policy Framework (NPPF) states that, unless other material considerations indicate otherwise, decision-takers may give weight to relevant policies in emerging plans according to:

- the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- the degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

In view of the level of consultation already afforded to the plan-making process, together with the degree of consistency with national planning guidance, it is appropriate to attach enhanced weight to the Cheshire East Local Plan Strategy - Submission Version in the decision-making process.

At its meeting on the 28th March 2014, the Council resolved to approve the *Cheshire East Local Plan Strategy – Submission Version* for publication and submission to the Secretary of State. It was also resolved that this document be given weight as a material consideration for Development Management purposes with immediate effect.

ADDITIONAL REPRESENTATIONS

One additional objection has been received which objects to the construction of Bewilderwood (a theme park – the destruction of a natural, rural wonder to create a manmade nature attraction for humans at huge cost to the taxpayer) in Tatton park (an unspoilt, natural, rural wonder for wildlife and humans). There are many, many environmental reasons for this objection.

RECOMMENDATION and CONDITIONS

There are a number of duplicate conditions within the main report and therefore the following recommendation and list of conditions replaces those listed on pages 73-78.

As indicated if recommended for approval by Members the application will be referred to Secretary of State (via the Planning Casework Unit) due to the significance of the development within the Green Belt.

12. RECOMMENDATION

Approve subject to the following conditions;

- 1. Standard time 3 years**
- 2. Development to proceed in accordance with the approved plans**
- 3. The development permitted by this planning permission shall only be carried out in accordance with the approved Drainage Strategy & Flood Risk Assessment by Bidwells dated Feb 2012 and the following mitigation measures detailed within the FRA:**
 - Impermeable areas are to discharge surface water run-off to soakaways and/or swales as outlined in section 4.**
 - Identification and provision of safe route(s) into and out of the site to an appropriate safe haven together with the provision of a flood warning and evacuation plan as in section 5.5.**
 - Flood resilience measures detailed in sections 5.3, 5.4 & 5.8 are shown to be implemented in the proposed development.**
- 1. Before construction works start on the bridge crossings over Birkin Brook a detailed mitigation plan should be submitted for approval. The number of proposed crossing points over Birkin Brook does not quite conform with Water Framework Directive objectives for the waterbody and as such there needs to be clear mitigation works to directly enhance Birkin Brook to ensure it meets its ecological targets.**
- 2. Before any construction works commence on site, a control or eradication plan to prevent the spread of Himalayan balsam and**

Japanese knotweed should be submitted for approval. It is an offence under the Wildlife and Countryside Act 1981 (as amended) to recklessly spread these highly invasive species which can dominate riverbanks, reducing the ecological value of them.

3. Any in-channel works should be carried out between July and December to avoid disturbance to fish spawning and migration. Birkin Brook is known to have good numbers of brown trout, chub and dace which are all protected under the Salmon and Freshwater Fisheries Act 1975
4. The proposed recommendations and mitigation measures set out in the application documents are implemented, including a Wildlife Protection Plan for Construction (ES appendix 8.17 refers) and ecological mitigation and enhancement works within the red line application area and also in the wider area forming Tatton Park (ES appendix 8.18 refers).
5. No development shall take place within the area indicated 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.
6. Opening hours Feb – October 9.30 – 18.30 or dusk (whichever is sooner).
7. A wildlife construction management plan, including long term design objectives, management responsibilities and maintenance schedules for all areas, shall be submitted to and approved by the Local Planning Authority prior to commencement of any part of the development. The management plan shall be implemented as approved.
8. No development shall take place until a schedule of landscape maintenance for a minimum period of 10 years has been submitted to and approved in writing by the Local Planning Authority. The schedule shall include details of the arrangements for its implementation. The landscape maintenance shall be carried out in accordance with the approved schedule.
9. If within a period of 5 years from the date of the planting of any tree, that tree or any tree planted in replacement of it, is removed, uprooted or destroyed or dies, or becomes in the opinion of the Local Planning Authority seriously damaged or defective, another tree of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives written consent to any variation.
10. No trees, shrubs or hedges within the site which are shown as being retained on the approved plans shall be felled, uprooted, wilfully damaged or destroyed, cut back in any way or removed without the prior written consent of the Local Planning Authority. Any trees, shrubs or hedges removed without such consent, or which die or become severely damaged or seriously diseased within five years from the occupation of any building or the development hereby permitted being brought into use shall be replaced with trees, shrubs or hedge

plants of similar size and species until the Local Planning Authority gives written consent to any variation.

15. Prior to the commencement of development or other operations being undertaken on site in connection with the development hereby approved (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and / or widening, or any operations involving the use of motorised vehicles or construction machinery) a detailed Construction Specification / Method Statement for tree protection/retention shall be submitted to and approved in writing by the Local Planning Authority. This shall provide for the long term retention of the trees. No development or other operations shall take place except in complete accordance with the approved Construction Specification / Method Statement.
16. Prior to the commencement of development or other operations being undertaken on site in connection with the development hereby approved (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and / or widening, or any operations involving the use of motorised vehicles or construction machinery) a detailed tree felling / pruning specification shall be submitted to and approved in writing by the Local Planning Authority. All tree felling and pruning works shall be carried out in full accordance with the approved specification and the requirements of British Standard 3998 Recommendations for Tree Works.
17. Prior to the commencement of development or other operations being undertaken on site in connection with the development hereby approved (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and / or widening, or any operations involving the use of motorised vehicles or construction machinery) a detailed Arboricultural Method Statement shall be submitted to and approved in writing by the Local Planning Authority. No development or other operations shall take place except in complete accordance with the approved Method Statement. Such Method Statement shall include full details of the following:
 - a) Implementation, supervision and monitoring of the approved Tree Protection Scheme
 - b) Implementation, supervision and monitoring of the approved Tree Work Specification
 - c) Implementation, supervision and monitoring of all approved construction works within any area designated as being fenced off or otherwise protected in the approved Tree Protection Scheme
 - d) Timing and phasing of Arboricultural works in relation to the approved development.
21. The plans and particulars submitted in accordance with condition 20 above shall include:
 - a) a plan showing the location of, and allocating a reference number to, each existing tree on the site which has a stem with a diameter, measured over the bark at a point 1.5m above ground level, exceeding

75mm, showing which trees are to be retained and the crown spread of each retained tree.

b) details of the species, diameter (measured in accordance with paragraph (a) above) and the approximate height, and an assessment of the general state of health and stability of each retained tree and of each tree which is on land adjacent to the site and to which paragraphs (c) and (d) below apply.

c) details of any proposed topping or lopping of any retained tree or of any tree on land adjacent to the site.

d) details of any proposed alterations in existing ground levels, and the position of any proposed excavation, within the crown spread of any retained tree or of any tree on land adjacent to the site, or within a distance from any retained tree or any tree on land adjacent to the site equivalent to half the height of that tree.

e) details of the specification and proposed fencing and of any other measures to be taken for the protection of any retained tree from damage before or during the course of development.

In this condition 'retained tree' means an existing tree which is to be retained in accordance with the plan referred to in paragraph (a) above.

23. Restoration of the site once the development ceases to operate
24. No excavation material to be taken off site
25. Removal of all imported stone and surfaces and car park planting within 3 months of the attraction ceasing to operate
26. Implementation of Great Crested Newt mitigation strategy unless amended by subsequent Natural England license.
27. Detailed specification of fencing designed to restrict visitor access outside the recognised activity areas.
28. Undertake and submit an updated badger survey/method statement immediately prior to commencement of works.
29. Submission of habitat management plan for the identified onsite and offsite woodlands to specifically include detailed proposals for the enhancement of breeding bird habitats including dead wood provision. Management to be for the operational life of the development.
30. Method statement for installation of service trenches.
31. Safeguarding of breeding birds
32. Submission of details of bird nest box provision (reflecting what the RSPB asked for).
33. Pond restoration method statement.
34. Submission of detailed proposals for the provision of bat boxes.
35. Detailed proposals for the restoration of c.9ha of parkland habitat.
36. Management plan for the restored area of parkland for the duration of the operational life of the development.
37. Detailed proposals for the establishment of eastern boundary hedgerow.
38. Detailed method statement for translocation and re-establishment of any woodland ground flora to be adversely affected by the proposed development.
39. Submission of Construction Wildlife Management Plan

- 40. Traffic Management Plan to be submitted to the LPA prior to occupation**
- 41. All service trench work should be implemented in accordance with NJUG 10**

In the event of any changes being needed to the wording of the Committee's decision (such as to delete, vary or add conditions/informatives/planning obligations or reasons for approval/refusal) prior to the decision being issued, the Head of Development Management and Building Control has delegated authority to do so in consultation with the Chairman of the Strategic Planning Board, provided that the changes do not exceed the substantive nature of the Committee's decision

Application No: 13/5290W

Location: LAND AT LEE HILLS, CROKER LANE, SUTTON

**Proposal: Periodic Review of mineral permission 5/97/1502P
under the Environment Act 1995**

**An updated report is provided to take account of additional comments
provided on behalf of the applicant.**

POLICIES

National Planning Policy

Mineral Planning Policy Guidance 14: Review of Mineral Permissions
(MPG14)

National Planning Policy Framework (NPPF)

Local Plan Policy

Minerals Local Plan 1999 (MLP)

Policy 8 – Review
Policy 12 – Conditions
Policy 14 – ASCV
Policy 15 – Landscape
Policy 17 – Visual Amenity
Policy 19 – Archaeology
Policies 22 and 23 – Nature Conservation
Policy 24 – Built Heritage
Policy 25 – Water Resources
Policies 26 and 27 – Noise
Policy 28 – Dust
Policy 33 – Public Rights of Way
Policy 34 – Highways
Policy 37 – hours of operation
Policy 39 – Stability
Policy 41 – Restoration
Policy 42 – Aftercare

Macclesfield Borough Local Plan (MBLP)

Policy NE1 – ASCV
Policy NE11 – Nature conservation interests
Policy NE13 – SBI
Policy BE3 – Conservation areas
Policy BE24 – archaeology
Policy RT7 – Footpaths
Policy DC3 – Amenity

Policies DC13 and DC14 – Noise

Policies DC17, DC19 and DC20 – Water resources

Other Material Considerations

Cheshire East Local Plan Strategy – Submission Version

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UPDATE ON CONSULTATIONS

Sutton Parish Council: raises no objection

Environment Agency

The Environment Agency (EA) has responded to the views expressed by the applicant that the EA /Local Planning Authority has already historically been provided with the relevant information. Their comments are as follows:

If the applicant/agent feel we should already hold copies of Planning-related 'detailed reports' that qualify the hydrogeological impact of the proposed workings; and the current phasing and status of the workings etc, they should be made aware that we do not currently have copies of those reports; nor do we have a record of them, or having been asked to keep copies of them for long term future reference.

If these reports were supplied through the Town and Country Planning process, then perhaps as regulator Cheshire East can supply copies from their archive, or, if such reports were submitted in respect of Environment Agency permits for the site, then it would be helpful if the applicant would

provide details of the relevant EA permits involved, so that we can interrogate the appropriate EA permit archives.

Otherwise, we would like the applicant to re-submit copies of these documents in support of the current application, along with updated monitoring data and phasing plans etc where appropriate.

Clarification on legislation

The recent Growth and Infrastructure Act 2013 has amended the Environment Act 1995 in respect of the review of mineral permissions. The new legislation removes the automatic duty on mineral planning authorities (MPA) to review their mineral permissions every 15 years; and instead provides authorities with the power to do such reviews where this is deemed necessary. This means that MPA's now have discretion to require reviews at longer intervals than the 15 year period originally stipulated in the Environment Act 1995 where the existing conditions are deemed acceptable. In respect of this application, whilst it is acknowledged that there is no longer a 'duty' to carry out this 15 year periodic review; for the reasons given in the report and set out below; it is not considered acceptable to permit a postponement of the review of the conditions in this instance.

OFFICER APPRAISAL

MPG14 provides an illustrative guide on the conditions which should be provided for and states that the following should be attached to a mineral permission:

- time limits;
- access and traffic;
- working programme;
- soil remover and storage;
- hours of operation;
- environmental protection – dust, noise, blasting and vibration;
- ground water and surface water protection;
- landscaping; and
- restoration, aftercare and after-use.

The conditions attached to the extant planning permission cover each of the matters identified by MPG14; albeit some in more depth than others. It is considered that overall the conditions broadly follow the approach of the NPPF (and the accompanying technical guidance document), the Minerals Local Plan (MLP) and the good practice guide for mineral planning conditions produced by Planning Officers Society for Wales; and provide some controls over the general quarry working and site restoration.

Whilst there is no statutory requirement to undertake consultation and publicise requests for postponement of the review date, the Authority has provided key consultees and neighbouring properties with the opportunity to comment on proposed postponement of the periodic review. No

representations have been received from local residents and there are no recent records of any complaints being received in connection with this quarry; indicating that the existing planning conditions are operating effectively to ensure no detrimental impact on residential amenity arises from the quarrying activities. In addition the statutory monitoring reports undertaken by the Monitoring and Enforcement Officer identify that the site has been operated in compliance with the planning conditions.

In respect of the requirements of the legislation with regards to information to be submitted with any postponement of mineral review request; the applicant has provided:

- a copy of the existing conditions;
- the reasons why the mineral operator considers the conditions to be satisfactory; and
- the date which they propose for the new review.

The applicant has therefore complied with this statutory requirement.

However the MPA should have regard due regard to all the information about the likely effects of a development on the environment in the decision making process and concerns remain over the scope of the conditions in the absence of up to date and comprehensive information concerning the environmental conditions of the site.

The concerns relate to the following matters:

Nature Conservation Impacts

The NPPF and MLP Policy 9 requires there to be an evaluation of the likely effects of any development on nature conservation assets; and where adverse effects are identified, provisions for appropriate mitigation to be secured.

The original planning permission for mineral extraction granted in 1951 (Ref: 5/5/842) contained no provisions for protecting nature conservation assets. Equally the extant consent does not include planning conditions to address the impacts of continued quarrying activities until 2042 on protected species and their habitats; and does not provide any mechanism to secure mitigation where adverse effects may arise.

The quarry has significant mineral reserves remaining and large parts of the site remain unworked. The current planning conditions require that only those parcels of land which are about to be worked are stripped, with the remainder of land in future phases left undisturbed. Equally there are long periods of time where there is no activity on site due to the low demand for this mineral. In view of this, and given the location of the site in a rural landscape surrounded by open land and vegetation which could be of some ecological value, there is potential for a number of protected and priority species to be present on the site or to become re-established on site in periods of inactivity which could be adversely affected by the continued quarrying activities.

As such, in order to ensure that the full ecological impacts of the quarry activities have been appropriately assessed and mitigated, the Nature Conservation Officer considers that the following information is required:

- Desk based study including a search of biological records held by the Local Biological Record Centre;
- Extended Phase 1 Habitat Survey to evaluate all habitats within 50m of the site and the access routes, for the presence of, or suitability for any Biodiversity Action Plan species/habitats, and any rare or protected plant or animal species; and should these be found, specific surveys should be carried out;
- Great Crested Newt survey/assessment of any ponds within 250m;
- An assessment of the potential impacts of the proposed development in accordance with the IEEEM guidelines (2006);
- Mitigation/compensation proposals for any adverse impacts identified during the above assessment.

Whilst the applicant has stated that environmental information was provided at the time of the original review to address the impacts of quarrying on nature conservation assets, this information is not available in the consideration of this application. Furthermore, such environmental information would now be in excess of 15 years old and therefore would not present an acceptable baseline to assess the ecological value of the site and the implications of continued quarrying for a 15 year period on nature conservation assets.

It is considered that the conditions as drafted on the extant consent do not provide adequate provision for the protection of features of nature conservation interest on the site, or provide for mitigation of any adverse effects arising from the quarrying through each phase of the development. This does not accord with the provisions of national planning policy and the approach of the MLP.

Impact on water resources

The extant conditions require the submission of schemes detailing the methods of working; drainage arrangements for the site and final depth of extraction. The applicant has stated that this information has historically been provided to the Environment Agency although this was not supplied to the Authority to support the request for a postponement of the periodic review of the consent.

The Environment Agency have raised concerns over the lack of information regarding the extent of the proposed mineral extraction including final proposed depths, volume of material to be extracted and spoil remaining on site. They identify evidence from aerial photographs of standing water in lagoons in at least two places within the excavations which suggests that the development has already encountered groundwater. Concern is also raised over the lack of evidence to demonstrate that a hydrogeological Impact Assessment has been undertaken; or that hydrogeological mitigation

measures have been established, especially if there is an unconstrained depth of working that could impact upon local water dependencies. They also note the lack of clarity regarding operational water management on site and how the effluent/drainage is disposed of.

Whilst the applicant maintains that this information has historically been supplied to the Environment Agency, no supporting information was supplied with this submission and the Environment Agency remain concerned that these issues have not been adequately addressed.

Equally, given the timescales when this information was supplied (provided to discharge planning conditions imposed 15 years ago) it is assumed that the age of this data would not fully reflect the current site and hydrological conditions given that mineral extraction has continued in the intervening period which would have modified the site's topography and associated hydrogeology. In view of the lack of environmental information on the current condition of the site and impacts of the quarrying in forthcoming years, it is not considered that the conditions on the extant consent are sufficient to ensure the quarrying activities over the next 15 years would not present unacceptable impact on ground and surface water quality, supply and flow and do not ensure that sufficient mitigation can be secured against any adverse impact generated in each phase of development as required by NPPF and MLP Policy 25.

Landscape impacts and restoration of the site

The conditions on the extant consent require the submission of a scheme outlining the method of working and final restoration contours, final depth of extraction, and phasing of restoration. This was necessary as insufficient detail was provided in the original submission on the romp review to ensure that the restoration of the site to agriculture could be achieved and that an appropriate landform would be created relative to the surrounding landscape given the resultant landform that would be created by quarrying activities on the site.

None of this information has been provided with this submission although the applicant states that this has historically been provided. The Landscape Officer considers that without such information, it is not apparent how the site could be restored to the final contours; and whether a satisfactory restoration scheme can be achieved at the end of the extraction period.

MPG14 makes it clear that the provision of a postponement of the periodic review is permitted where the existing conditions are judged to be satisfactory. In this case whilst the conditions seek details of the final restoration, it is not apparent from the information available whether the conditions have secured all of the necessary detail to ensure the site can be restored to an acceptable level; and it is unclear whether additional conditions are required to address any gaps in provision of information, or matters yet to be resolved.

As such the Authority is unable to ascertain, based on the information available, whether the conditions are acceptable to ensure a satisfactory site restoration is achieved taking into account the availability of material and result landform created at the end of quarrying activities.

Clarification on Environmental Impact Assessment Regulations

The Environmental Impact Assessment Regulations 2011 require that planning authorities, before deciding whether to grant planning permission for new development which is likely to have significant effects on the environment, does so in the full knowledge of the likely significant effects and takes this into account in the decision making process.

The 2011 EIA Regulations identifies those projects where an Environmental Impact Assessment (EIA) is mandatory (defined as '*Schedule 1 development*'). This includes all quarries where the surface area of the site exceeds 25 hectares. In this case, the site covers an area of 32 hectares; and at the time of the original ROMP review, the active area for extraction was identified as 26 hectares. However, this is not a new application for planning permission but a review of the existing planning conditions.

When the initial ROMP review for this site was undertaken in 1999, the legislative guidance at the time was that, because the reviews did not grant permission for mineral extraction but merely introduced up to date operating conditions, there was no need to apply the provisions of the EIA Directive because the consent which allows a quarry to operate is the mineral permission to which it is subject, the imposition of new operating conditions was not considered to be a '*development consent*' within the meaning of the Directive. As such, despite falling within the definition of Schedule 1 of the EIA Regulations, the ROMP review was not screened for the need for an EIA and the provisions of the EIA Directive were not applied.

However, a High Court Judgement made shortly after this time determined that the imposition of new conditions by the mineral planning authority was a '*development consent*' under the EIA Directive, and thus it was established that the need for an EIA also applied to the ROMP review process (and revised EIA Regulations were issued in 2000 as a result). The resultant guidance from DCLG (*Environmental Impact Assessment and Reviews of Mineral Planning Permissions*) makes it clear that new conditions may not be determined for the remaining permitted mineral development without the MPA having considered all the information about the likely effects of the development on the environment. It also identifies that in the case of periodic reviews, the need for an EIA should similarly be considered.

Due to the timescales of the original review of conditions on this site in relation to this change in legislation, the need for an EIA was not considered in the course of the original romp review. Should this application to postpone the periodic review be refused; the subsequent review of mineral conditions that would be undertaken would fall to be considered under the EIA Regulations.

CONCLUSION

MPG14 acknowledges that the operation of a site can significantly change its impact over its lifetime and standards of society can also change; and there is a need for regular review so as to ensure modern standards are met. Equally it states that it is for land/mineral owners to demonstrate a commitment to raising environmental standards and ensure that any adverse effects of extraction are minimised with the land restored to a beneficial afteruse.

Planning policy is clear that authorities should have due regard to all the information about the likely effects of a development on the environment in the decision making process. It is the applicant's view that sufficient information has historically been provided through the initial romp review and in discharging conditions on the consent thereafter. However this information is not available to the Authority at the current time, and such information is unlikely to present an acceptable basis upon which to establish current site conditions given that the data was prepared to support an application 15 years ago; and the site has continued quarrying in the intervening period which has altered the environmental conditions of the site during this time.

It is the view of the MPA that a postponement of the periodic review of mineral permissions should not be determined without the MPA having considered all the information about the likely effects of the development on the environment and take this into account in the decision making process. For the reasons outlined above it is considered that insufficient information is available to demonstrate that the conditions which were imposed 15 years ago remain acceptable. As such it is considered that the full periodic review is required.

On this basis it is considered that the request for the postponement of the periodic review of conditions for a further 15 year period should be refused; and that the full review of conditions should be progressed.

Recommendation

That the Interim Planning & Place Shaping Manager be authorised to issue a letter of refusal for the postponement request detailed above and seek a full periodic review.

Application No: 13/5297C

Location: LAND OFF WARMINGHAM LANE, MIDDLEWICH

Proposal: Reserved matters application for proposed residential development for 194 dwellings and associated public open space with details submitted for appearance, landscaping, layout and scale.

It is noted that the first two pages of the report (Pages 115 and 116) are missing from the agenda due to a printing error. These pages are attached below:

Application No: 13/5297C

Location: Land off Warmingham Lane, Middlewich, Cheshire

Proposal: Reserved matters application for proposed residential development for 194 dwellings and associated public open space with details submitted for appearance, landscaping, layout and scale.

Applicant: Stephen Miller, Morris Homes Limited

Expiry Date: 03-Apr-2014

SUMMARY RECOMMENDATION

APPROVE subject to conditions

MAIN ISSUES

Principle of the Development

Location of the Site

Landscape

Affordable Housing

Highway Implications

Amenity

Trees and Hedgerows

Design

Ecology

Open Space

Education

Flood Risk and Drainage

Archaeology

Other

REASON FOR REFERRAL

This application is referred to the Strategic Planning Board as it relates to a Reserved Matters application to a Strategic Site. The Outline application was dealt with by the Strategic Planning Board.

1. DESCRIPTION OF SITE AND CONTEXT

The application site is located to the west of Warmingham Lane within the open countryside as defined by the Congleton Borough Local Plan. The site is relatively flat and L-shaped. The site is undeveloped agricultural land which is bound by native hedgerows and trees. To the north and east of the site are residential properties of varying sizes and styles which front onto Warmingham Lane, Byron Close, Davenham Way and Ashton Close. To the south of the site is an access track which serves Pettywood Farm.

The square parcel of land to the north-east of the site has a full planning permission for 149 dwellings under application 12/2584C

2. DETAILS OF PROPOSAL

This is a reserved matters application for 194 dwellings (35 dwellings per hectare). The issues which are to be determined at this stage relate to the appearance, landscaping, layout and scale of the development.

The access would be via a single point of access off Warmingham Lane. This was approved as part of the appeal and the duplicate application approved by Cheshire East.

The site would include the provision of 30% affordable housing, a LEAP, the creation of balancing ponds, public open space which will encompass habitat creation, informal open space and new footpaths. The majority of the POS would be located centrally within the site.

The development would consist of 1 to 5 bedroom units which would have a maximum height of up to 2.5 storeys.

RELEVANT HISTORY

12/2685C - Outline application with some matters reserved for proposed residential development of up to 194 dwellings, site access, highway works, landscaping, open space and associated works – Approved 19th November 2012

12/0883C - Outline Planning Application for Proposed Residential Development of Up to 194 Dwellings, Site Access, Highway, Landscaping, Open Space and Associated Works – Appeal Lodged. Appeal Allowed 9th January 2013

3. POLICIES

National Policy

National Planning Policy Framework

Local Plan policy

PS3 – Settlement Hierarchy

PS8 - Open Countryside

GR21- Flood Prevention

GR1- New Development

GR2 – Design

GR3 - Residential Development

GR4 – Landscaping

GR5 – Landscaping

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

NR1 - Trees and Woodland

NR3 – Habitats

NR4 - Non-statutory sites

NR5 – Habitats

H2 - Provision of New Housing Development

H6 - Residential Development in the Open countryside

H13 - Affordable Housing and low cost housing

UPDATE

POLICIES

Paragraph 216 of the National Planning Policy Framework (NPPF) states that, unless other material considerations indicate otherwise, decision-takers may give weight to relevant policies in emerging plans according to:

- the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- the degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

In view of the level of consultation already afforded to the plan-making process, together with the degree of consistency with national planning

guidance, it is appropriate to attach enhanced weight to the Cheshire East Local Plan Strategy - Submission Version in the decision-making process.

At its meeting on the 28th March 2014, the Council resolved to approve the *Cheshire East Local Plan Strategy – Submission Version* for publication and submission to the Secretary of State. It was also resolved that this document be given weight as a material consideration for Development Management purposes with immediate effect.

APPLICATION NO: 13/2935M

PROPOSAL: Residential Development

LOCATION: LAND NORTH OF PARKGATE INDUSTRIAL
ESTATE, PARKGATE LANE, KNUTSFORD,
CHESHIRE

POLICIES

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REPRESENTATION

A letter has been received from The Crown Estate, which was submitted both as a representation to the Local Plan and objection to this planning application, on the grounds that there are more appropriate locations for new housing in Knutsford.

The Crown Estate has reviewed the consultation responses to the planning application, and particularly note the comments by Cheshire East Council's Environmental Health Officers (EHOs). The matter of noise, and the impact on the proposed development from aircraft noise and adjacent industrial noise is considered so severe, that the EHO recommends refusal of the planning application. The Crown Estate concur with that view.

Aircraft Noise

Aircraft noise is a notable constraint, given that it affects the whole site, and all facades of the prospective dwellings within that site. Amenity space is also severely compromised. Manchester Airport is the UK's third busiest airport, based on the EHO advice, and the location of the proposed development is underneath the International Airport's flight path. The proposals introduce a noise sensitive development into an area already adversely affected by noise.

The EHO suggests that the indoor environment of the proposed dwellings can only be made acceptable to the impacts of the noise arising from aircrafts, if the dwellings are:

- fitted with non-opening windows;
- acoustically insulated to a high standards - achieving a minimum BS8223 Standard; fitted with whole room mechanical ventilation and heat recovery (to compensate for non-opening windows);
- covered by a noise mitigation plan for their amenity areas.

It is The Crown Estate's experience, that this level of mitigation will not make the proposed dwellings an attractive or suitable living environment for future residents. Furthermore, the cost of fitting these devices to each property will increase build costs, running costs and adversely impact on their energy efficiency rating. It is notable that the applicant is not a house builder, and with this level of restriction on construction, The Crown Estate remain concerned that the development if permitted, may not be deliverable, or sustainable, contrary to the principles of the NPPF.

Industrial Noise

The proximity of the Parkgate Industrial Estate is a further source of noise pollution. The application site is an allocated employment site within the adopted Local Plan, and it is of concern that this is proposed to be lost to housing development without justification. The recent decision by the Council to also remove the draft allocation of 5ha of employment land from the emerging Local Plan, at North West Knutsford, when considered alongside this potential further loss of an allocated employment site at Parkgate, appears to send the wrong message to the community about the apparent 'jobs based strategy' that underpins the Cheshire East LDF.

As an allocated employment site, the application site would present an ideal opportunity to expand an existing industrial area, and without objection by EHOs. However, as a residential proposal, the application site conflicts with the existing employment area of Parkgate Industrial Estate and future allocated employment land to the east. Introducing noise sensitive development adjacent to this existing estate will also create an unsatisfactory living environment. The EHO notes in their response that noise levels from Pulse Jet units used on the existing Estate emit noise at a volume of 63-64.4 dB every 25 seconds. This is almost akin to a constant source of noise, and is notably above the 57dB referenced earlier, as being the point of 'community annoyance' in the Air Transport White Paper. The noise is aerial and therefore cannot be mitigated by an acoustic fence or noise bund. Therefore, the

garden and amenity areas of all properties within the application site will be adversely affected by the existing operations of the industrial estate. The existing estate has no controls on noise, throughout the day or across days of the week. Paragraph 123 of the NPPF notes that 'existing business wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established.' Permitting the proposed development would be contrary to this aim.

The need for the site/need for housing land

The Crown Estate acknowledge that the Parkgate application site is allocated in the emerging Local Plan as a future housing site. It is identified for some 200 dwellings with a phased delivery between 2015-2025. The emerging Local Plan Policy CS19 refers to the potential flood risk on the eastern boundary of the site which falls within flood zones 2 and 3 – a further constraint and one that compromises the deliverability of the application site and its attractiveness to house builders. The northern boundary borders a SSSI (Tatton Mere) and significant access improvements underneath or over the railway line are recommended by the policy's supporting text. The flood risk; access, acoustic fence and need to respect the adjacent SSSI through appropriate ecological and landscape proposals, are all costs attributed to this development site, without the benefit of a house builder being on board. This is also without accounting the construction costs associated with designing dwellings that are attractive to the market, yet based on the proposed conditions from the EHO, fail to have opening windows, and rely on mechanical ventilation.

In short there are clearly more suitable, achievable and deliverable housing sites in Knutsford. Such sites that do not have constraints placed by an adjacent SSSI; access via crossing a railway line; or are at risk from flooding or are within areas severely affected by aircraft and industrial noise.

Land controlled by the Crown Estate at North West Knutsford offers the Council an opportunity to bring forward housing land in addition to the current allocation north of Northwich Road, for housing development. The previous version of the Plan identified the Crown Estate land as suitable for Safeguarding – clearly an acknowledgement of its longer term suitability for development when the need might arise. In our view, and given the constraints posed by the Parkgate application site, that need is now. North West Knutsford is suitable in terms of a direction for growth – acknowledged by the Council's emerging Local Plan in their allocation of 300 dwellings already. The Crown Estate land can accommodate the 200 dwellings currently identified in the Local Plan for Parkgate, and ensure that the site delivers these homes, without restrictions placed on housing design or amenity space, or site layout as a result of there being no SSSIs, floodplain or railway lines affecting how dwellings may be arranged. We consider that within this context, the Council can confidently look to refuse the current planning application for land north of Parkgate, and in advance of it Strategic Plans Board Meeting on 26th February 2014, advise Members that the Parkgate

Allocation should be replaced by additional allocations made on land controlled by the Crown Estate between Tabley Road and Northwich Road.

OFFICER APPRAISAL

It is considered that the issues raised in The Crown Estate's letter, which relate to aircraft noise, industrial noise and need for housing, have been considered in the main Agenda report.

The following information is provided for clarification purposes: -

Page 134 of the report – The site lies to the North East of Knutsford and not the North West.

Page 134 - There are no existing structures on this site within the site edge red.

Page 175 – There are no TPOs within the site.

Page 162 – Improvements to Parkgate Lane include the widening of the road.

Page 149 – The highways contribution is stated incorrectly. It should read £386,073 and not £390,466 to be consistent with the reference on pages 163 and 183.

Page 184 – The final contributions towards education will need to be re-calculated for the final number of dwellings that is brought forwards at the Reserved Matters stage.

The recommendation of approval remains, subject to a Section 106 Agreement.

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