

Application No: 12/0804C

Location: SILVER BIRCHES, CROXTON LANE, MIDDLEWICH, CHESHIRE, CW10 9EZ

Proposal: Extension to Time Limit of Outline Application 08/1800/OUT for proposed demolition of an existing dwelling and former nursery buildings and the erection of up to 12 no. residential units with means of access

Applicant: Mr & Mrs Hough

Expiry Date: 28-May-2012

SUMMARY RECOMMENDATION:

APPROVE subject to conditions and completion of a Deed of Variation to a Section 106 Agreement

Main issues:

- The main issue is whether or not there have been any significant material changes in policy/circumstances since the application was previously approved.

REASON FOR REFERRAL

This application was originally referred to the Southern Planning Committee as it involved a residential development of more than 10 dwellings.

Members resolved to approve this application previously however no reference to the Deed of Variation to the Section 106 Agreement was made in the minutes of the meeting or in the final recommendation at the end of the report. This matter has therefore been brought back to Committee to confirm Member's acceptance of the Deed of Variation.

The original report is highlighted below with the recommendation altered to ensure reference is now made to the s106.

DESCRIPTION OF SITE AND CONTEXT

The site covers an area of approximately 0.37 hectares and comprises of a detached bungalow on the southwestern side of Croxton Lane within the Middlewich Settlement Zone Line. The site extends back across the rear of N.23 to No.33 Chestnut Close and comprises of lawned areas of domestic garden, ponds, rockeries and various structures including greenhouses, sheds and lean-to structures associated with the horticultural nursery.

DETAILS OF PROPOSAL

An application for an extension to time has been submitted in relation to the approved planning consent number 08/1800/OUT. This outline planning consent was for the erection of 12 residential units including means of access.

RELEVANT HISTORY

08/1800/OUT - Proposed demolition of an existing dwelling and former nursery buildings and the erection of up to 12 no. residential units with means of access – Approved 31st March 2009

25827/3 – Change of use to retail sales of plants, shrubs, conifers, seeds and general garden needs – Approved 25th January 1994

26106/3 – Glass house – horticulture – Approved 19th April 1994

11047/1 – Residential development – Refused 29th April 1980

5136/2 – Erection of horticultural workers single storey dwelling – Approved 31st May 1977

4408/3 – Temporary caravan – Approved 16th November 1976

2834/1 – Horticultural workers dwelling – Approved 17th August 1976

5136/2 – Erection of horticultural workers single storey dwelling – Approved 31st May 1977

POLICIES

National policy

National Planning Policy Framework (NPPF)

Local Plan policy

PS4 - Towns

GR1 - General Criteria from Development

GR2 - Design

GR6 & GR7 - Amenity & Health

GR9 - Accessibility and Parking Provision

H1 & H2 – Provision of New Housing Development

H4 – Residential Development in Towns

CONSULTATIONS (External to Planning)

Highways – No objections

Environmental Health – No objections, subject to an hours of construction and hours of piling condition and a Phase II land contamination condition.

VIEWS OF THE TOWN COUNCIL:

Middlewich Town Council – No comments received at time of report

OTHER REPRESENTATIONS:

26 Chestnut Close – Has concerns regarding increased traffic congestion

APPLICANT'S SUPPORTING INFORMATION:

Land Contamination Report (2008 original)
The Coal Authority and Brine Report (2008 original)
Ecological Assessment (2011)
Bat Survey Report (2008 original)
Amphibian Survey Report (2008 original)
Reptile Survey Report (2008 original)
Planning Statement (2008 original)
Outdoor and dust assessment (2008 original)
Noise assessment (2008 original)
Design and Access Statement (2008 original)
Copy of S106 Agreement (Dated 2009)
Copy of original application, decision notice and associated information

OFFICER APPRAISAL

Scope of this application

Extensions to the time limits for implementing existing planning permissions were brought into force on 1 October 2009. The new system was introduced in order to make it easier for developers to keep planning permissions alive for longer during the economic downturn. It includes provisions for a reduced fee and simplified consultation and other procedures.

The Government's advice is for Local Planning Authorities to take a positive and constructive approach towards applications that improve the prospects of sustainable development being brought forward quickly. It is the Government's advice for Local Planning Authorities to only look at issues that may have changed significantly since that planning permission was previously considered to be acceptable in principle.

In short, it is not intended for Local Planning Authorities to re-open debates about principles of any particular proposal except where material circumstances have changed, either in development plan policy terms or in terms of national policy or other material considerations such as Case Law.

Material changes in policy since previous application

The original application was determined under the Congleton Borough Local Plan First Review 2005 which is still the prevailing Development Plan for the area. Since the original application was determined the National Planning Policy Framework (NPPF) has been published (March 2012). Paragraph 17 states that one of its core principles is that planning should *"proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving*

local places that the country needs. Every effort should be made to objectively identify and then meet the housing, business and other development needs of an area, and respond positively to wider opportunities for growth.”

In addition, paragraph 47 states that local authorities should:

“identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land.”

It is considered that this proposal would meet this overarching objective for new housing within the framework.

Paragraph 53 of the NPPF advises that ‘*Local Planning authorities should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area.*’

In this instance, because the council does not have such policies in place, such a consideration cannot be made in this instance. Furthermore, the proposal's inappropriateness has already been discounted during the original assessment.

Material changes in circumstance since previous application

Since the approval of the original outline planning permission in 2009, a planning history search shows that no neighbouring developments have been applied for. As such, it is considered that the neighbouring circumstances with regards to the built form have not changed since the original permission.

The applicant has submitted an updated Ecological Survey with this application and the Council's Nature Conservation Officer is satisfied that the development would not have a detrimental impact upon ecology subject to conditions.

S106 Agreement

In March 2009 a S106 agreement was signed as part of this application for financial contributions towards off-site Childrens and Young Persons Provision and off-site Amenity Green Space Provision. As part of this application a variation to this agreement is required to amend it with regards to the new dates of the permission.

Other Matters

The applicant has specifically requested that should this permission be approved, it should last for a period of 5 years instead of the standard 3 years. The justification for this is that following the original permission the applicants ‘*sought to dispose of the land and even instructed agents to handle this process; however this has failed to generate*

any acceptable offers due to the downturn in the economy (sic. Property development market) having taken hold over the preceding period.' It is subsequently advised that a 5 year limit would allow time for values to recover and '*enable implementation of the permission.*'

The Local Planning Authority has the discretion to impose different time limits if there are good planning reasons for doing so. It is considered that in this instance, such a request should not be accepted. This is for 2 reasons. Firstly, in approximately 12 months time the Local Planning Authority will have a new Local Plan, a significant material change in planning policy. Secondly, it is the Council's interest that the houses are built sooner rather than later in order to satisfy the Council's shortfall in housing within the borough.

CONCLUSIONS

It is considered that there has not been any significant, material changes since application 08/1514/OUT was permitted that would result in a different determination to that of the original. Therefore, subject to the completion of a variation to the S106 Agreement, it is considered that the proposal adheres with Policies PS4 (Towns), GR1 (General Criteria from Development), GR2 (Design), GR6 & GR7 (Amenity & Health), GR9 (Accessibility and Parking Provision), H1 & H2 – (Provision of New Housing Development) and H4 (Residential Development in Towns) of the adopted Congleton Borough Local Plan First Review 2005.

RECOMMENDATIONS

APPROVE subject to conditions and completion of a Deed of Variation to a Section 106 Agreement

1. Standard outline (time)
2. Submission of reserved matters
3. Phase II Land contamination
4. Hours of construction
5. Hours of piling
6. No burning of materials on site
7. Tree and shrubbery retention
8. No excavations for services within fenced off area
9. Protected species
10. Nesting birds
11. Incorporation of features for breeding birds.
12. Incorporation of wildlife pond

Informative

1. S.278 Agreement with Cheshire County Council to mitigate Part 1 claims and secure junction design detail.
2. The applicant is advised that they have a duty to adhere to the regulations of Part IIA of the Environmental Protection Act 1990, the National Planning Policy Framework and the current Building Control Regulations with regards to

contaminated land. If any unforeseen contamination is encountered during the development, the Local Planning Authority (LPA) should be informed immediately. Any investigation / remedial / protective works carried out in relation to this application shall be carried out to agreed timescales and approved by the LPA in writing. The responsibility to ensure the safe development of land affected by contamination rests primarily with the developer.

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