

Application No: 14/4218C

Location: Former Albion Chemical Works, Booth Lane, Moston

Proposal: Variation of conditions 6, 7, 25 and removal of condition 14 on application 09/2083C

Applicant: Taylor Wimpey Manchester

Expiry Date: 09-Dec-2014

SUMMARY:

The principle of development has already been accepted as part of the outline approvals on this site.

The variation/removal of the suggested conditions is considered to be acceptable in this case and would not change the environmental, social or economic sustainability considerations as part of the original application.

RECOMMENDATION:

APPROVE subject to the completion of a Section 106 legal agreement/deed of variation to secure the same Heads of Terms as application 09/2083C

PROPOSAL:

This application seeks to vary conditions 6, 7 and 25 and remove condition 14 attached to application 09/2083C. The condition wording is as follows:

6. The first reserved matters application shall include a Statement of Landscape Design principles and a Landscape Framework for the whole site. The statement and framework shall make provision for, inter alia, retention of existing features of both landscape and ecological value, alignment with ecological mitigation proposals and advanced structural planting.

Reason: In the interests of visual amenity and to comply with Policy GR1 of the adopted Congleton Borough Local Plan First Review.

7. The first reserved matters application shall include a landscape and ecological management plan for the whole site, to include, inter alia, a maintenance regime for areas of structural planting. The site shall thereafter be maintained in accordance with the approved management plan unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of visual amenity and to comply with Policy GR1 of the adopted Congleton Borough Local Plan First Review.

14. Prior to the commencement of development, the Yew Tree Farmhouse and associated curtilage listed buildings shall be utilised as site offices and shall remain in that use until such time as construction works are completed or it is converted to a permanent alternative use in accordance with relevant planning and listed building consents whichever is soonest, unless a scheme of maintenance and security for the buildings has been submitted to and agreed in writing by the Local Planning Authority.

Reason: To protect the character and appearance of the building and to comply with Policies BH3 and BH4 of the adopted Congleton Borough Local Plan First Review.

25. The south west facing facades of dwellings hereby permitted shall be attenuated by close-boarded wooden fencing along the south west site boundary in order to provide a 5dB reduction unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect the amenities of proposed residential properties / office park and to comply with Policies GR1 and GR6 of the adopted Congleton Borough Local Plan First Review.

SITE DESCRIPTION:

The application relates to approximately 19ha of land and is situated 3.6km north west of Sandbach Town Centre, and is 4.5km south east of Middlewich. The site comprises two distinct areas, an intensively developed chemical manufacturing facility extending to approximately 11.2ha, and a former sports ground affiliated to the chemicals factory extending to approximately 7.8ha. The factory site has now been cleared.

The former sports ground was predominantly undeveloped but does include the Grade II listed, Yew Tree Farm House, which dates from the 16th century, with 19th century additions. The predominantly two storey farmhouse was recently used as a club for Directors of the chemical works but has stood vacant for approximately 15 years. Constructed from an oak frame with plaster panels, the farmhouse was extended and partially rebuilt in brick. The listing description for the building notes that there is currently a clay roof in situ but concludes that this was probably formerly thatched.

The listed building and its curtilage structures were formerly used a staff social club are currently unoccupied and have been party to various degrees of damage due to relatively recent fire damage, criminal acts of both vandalism and theft. The buildings are secured in order to prevent further incidents. However, the complex does not benefit from any natural surveillance due to its isolation from the chemical plant and therefore there is a high probability of further criminal damage occurring in the future whilst the buildings remain undeveloped and unoccupied.

The application site has a plethora of identified constraints including a pedestrian footpath, which provides links through the site to the wider countryside to the north, an electricity substation and a series of mature trees. The character of the surrounding area is determined by its location within the Cheshire Plain and predominantly open countryside. However, there are additional industrial uses situated off Booth Lane, notably an electricity substation directly to the north –west and the British Salt Works complex located off Booth Lane, which affect the site's setting. An area of semi-

national ancient woodland, Hollins Wood, comprises native tree species is located to the south east of the site beyond the railway line. In addition Sandbach Flashes Site of Special Scientific Interest (SSSI) is located to the west of the site beyond the Trent and Mersey Canal.

On the west, the site has a long frontage to the A533, and it is bounded by the Sandbach to Middlewich railway line to the south. The site also lies adjacent to the Trent and Mersey Canal which is a designated Conservation Area.

RELEVANT HISTORY:

09/2083C - The comprehensive redevelopment of the site for a mix of uses comprising of up to 375 residential units (Class C3); 12000sqm of office floorspace (Class B1); 3810sqm of general industrial (Class B2) and warehousing (Class B8) floorspace; 2600sqm of commercial uses incorporating pub (A4), hotel (C1), restaurant (A3), Health club (D2), retail (A1), car dealership (Sui-generis), fast food restaurant (A5) and offices (B1); retention and change of use of Yew Tree Farm complex for up to 920sqm of residential (Class C3) and non-residential (D1) uses; public open space together with access and associated infrastructure, with all matters reserved as set out in the application and described in drawings DMP6059/001 revision C and DMP6059/004 revision C – Approved subject to S106 Agreement 14th May 2014

NATIONAL & LOCAL POLICY

National Policy:

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

Of particular relevance are paragraphs 56, 57, 59, 109, 126, 128, 206.

Development Plan:

The Development Plan for this area is the Congleton Borough Council First Review 2005, which allocates part of the site within the settlement boundary and part of the site within the open countryside.

PS8 Open Countryside
GR21 Flood Prevention
NR4 Non-statutory sites
GR1 New Development
GR2 Design
GR3 Residential Development
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
NR5 Habitats
H6 Residential Development in the Open Countryside
H13 Affordable Housing and low cost housing
E10 Re-use and redevelopment of existing employment sites

Cheshire East Local Plan Strategy – Submission Version (CELP)

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

PG2 – Settlement Hierarchy
PG5 - Open Countryside
PG6 – Spatial Distribution of Development
SC4 – Residential Mix
SC5 – Affordable Homes
SD1 - Sustainable Development in Cheshire East
SD2 - Sustainable Development Principles
SE3 – Biodiversity and Geodiversity
SE5 – Trees, Hedgerows and Woodland
SE 1 - Design
SE 2 - Efficient Use of Land
SE 4 - The Landscape
SE 5 - Trees, Hedgerows and Woodland
SE 3 - Biodiversity and Geodiversity
SE 13 - Flood Risk and Water Management
SE 6 – Green Infrastructure
IN1 – Infrastructure
IN2 – Developer Contributions

Other Considerations:

The EC Habitats Directive 1992
Conservation of Habitats & Species Regulations 2010
Circular 6/2005 - Biodiversity and Geological Conservation - Statutory Obligations and Their Impact within the Planning System
Interim Planning Statement Affordable Housing
Interim Planning Statement Release of Housing Land

CONSULTATIONS:

Environmental Health: The south west facing facades of dwellings hereby permitted shall be attenuated to provide a 5dB reduction unless otherwise agreed in writing by the Local Planning Authority. It is also essential that the site ensures that all residential premises meet the requirements of BS8233:2014 and also those of the WHO guidelines for external areas.

VIEWS OF THE PARISH/TOWN COUNCIL:

Moston Parish Council: No comment to make.

REPRESENTATIONS:

A letter of objection has been received from 1 household raising the following points:

- There was a former sewage treatment plant on the site and it will be subject to contamination
- Contaminated land on this site
- Mercury on the site

An objection has been received on behalf of E.ON UK plc raising the following points:

- E.ON UK plc owns and operates a gas turbine power station to the north part of the Albion Chemicals site which operates within consented noise limits and this will continue for the foreseeable future
- The supporting noise assessment notes the location of the CHP. However it makes no reference to the facility and the existing noise levels produced. This is a significant omission in the assessment
- E.ON UK plc must have clarification that the proposed noise limits would not effect the operation of the gas turbine power station as this would be contrary to guidance contained within the NPPF
- The applicant must consider the need to provide suitable noise attenuation between the proposed development and the power station

A letter of support has been received from 1 household raising the following points:

- Support the application but is interested in the commercial aspects of this development
- What provision is being made in terms of vehicular access to the site. Off-site highway works will be required
- Lack of consultation

APPLICANT'S SUPPORTING INFORMATION:

To support this application the application includes the following documents;

- Noise Assessment (Produced by RSK)

These documents are available to view on the application file.

APPRAISAL:

Principle of Development

The principle of residential development has already been accepted following the approval of the outline application (09/2083C). This application is to consider the variation/removal of planning conditions attached to the outline consent.

It is necessary that planning conditions satisfy six tests as identified at paragraph 206 of the NPPF which states that conditions should only be imposed where they are:

1. Necessary;
2. Relevant to planning and;
3. To the development to be permitted;
4. Enforceable;
5. Precise and;

6. Reasonable in all other respects.

The Planning Practice Guidance also states that in determining this application the local planning authority must only consider the disputed conditions that are subject of the application – it is not a complete re-consideration of the application.

Condition 6 (Statement of Landscape Design principles and a Landscape Framework for the whole site)

The applicant wishes to vary this condition as follows:

The first reserved matters application for each zone of development as shown on the parameter/Zone plan (reference AJC6059/004 Rev c) shall include a Statement of Landscape Design principles and a Landscape Framework for ~~the whole site~~ that zone. The statement and framework shall make provision for, inter alia, retention of existing features of both landscape and ecological value, alignment with ecological mitigation proposals and advanced structural planting.

The existing condition wording requires the landscape design principles and landscape framework for the whole of the site including the commercial element to be included within the first reserved matters application. The applicant does not consider that this requirement is relevant, necessary, precise or reasonable.

In this case it is considered that the suggested condition with the amended wording is precise and reasonable as it would still require the landscape design principles and landscape framework as part of the first reserved matters application for each phase. This would also enable the housing element of the approved development to come forward at an early opportunity and assist in the Councils 5 year Housing Land Supply position.

Condition 7 (Landscape and ecological management plan for the whole site)

The applicant wishes to vary this condition as follows:

The first reserved matters application for each zone of development as shown on the parameter/Zone plan (reference AJC6059/004 Rev c) shall include a landscape and ecological management plan for ~~the whole site~~ that zone, to include, inter alia, a maintenance regime for areas of structural planting. The site zone shall thereafter be maintained in accordance with the approved management plan unless the Local Planning Authority gives written consent to any variation.

The existing condition wording requires landscaping and ecological mitigation for the whole of the site including the commercial element to be included within the first reserved matters application. The applicant does not consider that this requirement is relevant, necessary, precise or reasonable.

In this case it is considered that the suggested condition with the amended wording is precise and reasonable as it would still require the landscape and ecological management plan as part of the first reserved matters application for each phase. This would also enable the housing element of the approved development to come forward at an early opportunity and assist in the Councils 5 year Housing Land Supply position.

Condition 14 (Yew Tree Farmhouse and associated curtilage listed buildings shall be utilised as site offices)

The applicant has requested that this condition is deleted in its entirety. The reason for this is that it does not meet the 6 tests. The applicant has also stated that they intend to submit a separate application for Listed Building Consent for the Yew Tree Farm buildings shortly. They have also stated that they do not consider the use of these buildings is relevant to the approved outline application nor is it reasonable due to the works required to make the buildings suitable for occupation as a site office taking into account the specific requirements of Taylor Wimpey during the construction phase.

This is accepted as it is considered that the suggested condition is not necessary, relevant to planning (the PPG states a condition must not be used to control matters that are subject to specific control elsewhere in planning legislation e.g. Listed Building Consents), relevant to the permitted development (the PPG states that a condition cannot be imposed in order to remedy a pre-existing problem or issue not created by the proposed development) or reasonable in all other respects (the PPG states that conditions which place unjustifiable and disproportionate burdens on an applicant will fail the test of reasonableness).

As such the removal of this condition is considered to be acceptable.

Condition 25 (The south west facing facades of dwellings hereby permitted shall be attenuated by close-boarded wooden fencing along the south west site boundary in order to provide a 5dB reduction)

The applicant wishes to vary this condition as follows:

The south west facing facades of dwellings hereby permitted shall be attenuated ~~by close-boarded wooden fencing along the south west site boundary in order~~ to provide a 5dB reduction unless otherwise agreed in writing by the Local Planning Authority.

The applicant states that this prescriptive requirement of the condition is no longer necessary or reasonable following the preparation of a Noise Survey. On this basis the applicants propose to amend the wording of this condition to remove the requirement for a close board fence but retain the requirement for a 5dB reduction in noise levels which will be undertaken in accordance with the recommendation set out in the noise survey.

The comments made in the representations are noted. However the suggested variation to this condition is considered to be reasonable as it would still require a 5dB reduction in noise levels from mitigation measures other than a close boarded fence. This view is supported by the comments from the Councils Environmental Health Officer.

S106 CONTRIBUTIONS:

In order to comply with the Community Infrastructure Levy (CIL) Regulations 2010, it is now necessary for planning applications with legal agreements 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 approved outline application was considered to comply with the CIL Regulations and a S106/Deed of Variation will be required to secure the same Heads of Terms with these amendments to the conditions

PLANNING BALANCE:

The principle of development has already been accepted as part of the outline approvals on this site.

The variation/removal of the suggested conditions is considered to be acceptable in this case and would not change the environmental, social or economic sustainability considerations as part of the original application.

RECOMMENDATION:

APPROVE subject to the completion of a Section 106 legal agreement/deed of variation to secure the same Heads of Terms as application 09/2083C

1. a) Affordable housing provision of 16% - to be provided on site. The housing is to be provided based on 33% social rented and 67% intermediate/shared ownership, and to be provided in a variety of unit sizes to meet local requirements, in accordance with the scheme to be agreed at the Reserved Matters stage. The affordable housing to be 'tenure blind' and pepper potted throughout the site, subject to RSL operational requirements.

1. b) An overage clause which provides for the current viability calculations to be reviewed at appropriate intervals before completion of the development and for the figure of 16% to be increased if the economics of provision improve either by increased on site provision or by financial contribution in lieu.

2. The following contributions:-

A533/A54 Leadsmithy St, Middlewich:- £170,000

A533/A534 The Hill/High St/Old Mill Rd/Brookhouse Rd roundabout, Sandbach £197,000
£190,000 to be spent either on Junction 17 of the M6 or the Middlewich bypass whichever comes forward first (the decision regarding allocation of this contribution to be delegated to the Head of Planning and Housing, in consultation with the Chairman)

Quality partnership bus shelters £25,000

Real Time Information facility, Sandbach Rail Station £20,000

Travel Plan facilities and targets £38,000

Education contribution - £100,000

3. Provision for public open space to serve the whole of the development to be agreed with the Council when details of layout are submitted for approval. This must secure the provision and future management of children's play areas and amenity greenspace in

accordance with quantitative and qualitative standards contained in the Council's policy documents including the Congleton Borough Local Plan First Review SPG1 and its Interim Policy Note for the Provision of Public Open Space 2008. Submitted details must include the location, grading, drainage, layout, landscape, fencing, seeding and planting of the proposed public open space, transfer to and future maintenance by a private management company.

and the following conditions:

1. Standard outline
2. Submission of reserved matters
3. Approved Plans – location and zoning
4. Notwithstanding detail shown – no approval of indicative residential masterplan.
5. Submission of Landscape Design principles
6. Submission of Landscape framework as amended by this report
7. Submission of Landscape and ecological management plan as amended by this report
8. Retention of trees and hedgerows
9. Submission of Arboricultural Impact Assessment
10. Submission of Arboricultural Method Statement
11. Submission of Comprehensive tree protection measures
12. Submission of assessments under the Hedgerow Regulations with each reserved matters application, for any hedgerows to be removed as part of that phase of development.
13. Submission of topographical survey as part of reserved matters.
14. geophysical survey in order to establish the need, if any, for further archaeological mitigation and submission / implementation of mitigation.
15. Submission of travel plan with each reserved matters application
16. Contaminated land assessment
17. A scheme for the provision and implementation of a surface water regulation system
18. A scheme for the management of overland flow
19. A scheme to be agreed to compensate for the impact of the proposed development on the two drainage ditches within the development boundary.
20. A scheme for the provision and management of compensatory habitat creation
21. Wetland creation, for example ponds and swales.
22. A scheme to dispose of foul and surface water
23. Submission of contaminated land investigation / mitigation
24. Submission of revised air quality impact assessment / mitigation
25. South west facing facades of dwellings to be attenuated to provide a 5 dB reduction.
26. The north western boundary shall be attenuated by a landscaped buffer zone which shall be 2m high and a minimum surface density of 15/20 kg/m³. Along the top of the bund shall be a 2m acoustic fence in order to provide further attenuation.
27. Submission of scheme for protecting the proposed dwellings from railway noise and vibration

28. Submission of a scheme for protecting housing from noise from all the commercial and industrial activities
29. Each reserved matters application for commercial activities to be accompanied by submission and approval of proposed hours of operation
30. Each reserved matters application for commercial activities to be accompanied by a noise impact assessment has been submitted to and approved by the Local Planning Authority. The noise impact assessment shall address;
- All hours of operation;
 - noise from moving and stationary vehicles;
 - impact noise from working activities;
 - noise from vehicles moving to and from the site in terms of volume increase;
- and
- current background levels of noise.
- Any recommendations within the report shall be implemented prior to the development being brought into first use.
31. Prior to commencement of development of any commercial building scheme for the acoustic enclosure of any fans, compressors or other equipment with the potential to create noise, to be submitted
32. Prior to commencement of development of any commercial building details of any external lighting shall be submitted to and approved
33. Prior to commencement of development of any commercial building details of security for the car parks to prevent congregations of vehicles late at night to be submitted
34. Prior to commencement of development of any commercial building details of the specification and design of equipment to extract and disperse cooking odours, fumes or vapours
35. The hours of construction (and associated deliveries to the site) of the development shall be restricted to 08:00 to 18:00 hours on Monday to Friday, 08:00 to 13:00 hours on Saturday, with no work at any other time including Sundays and Public Holidays
36. Details of the method, timing and duration of any pile driving operations to be approved
37. Details of the method, timing and duration of any floor floating operations connected with the construction of the development hereby approved to be approved
38. A phasing scheme to be submitted and agreed with the Local Planning Authority.

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 Strategic & Economic 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.

