

Application No: 14/5338C

Location: Land Between, Black Firs Lane, Chelford Lane, Holmes Chapel Road, Somerford, Congleton, Cheshire

Proposal: Variation of condition 4 and removal of conditions 35 and 36 to planning application 13/2746C - Erection of up to 180 dwellings, public open space, green infrastructure and associated works

Applicant: Richborough Estates Partnership LLP

Expiry Date: 12-Feb-2015

#### **SUMMARY:**

The principle of development has already been accepted as part of the outline approval 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.

An appropriate quality of design can be achieved at reserved matters stage, as can the amenity of neighbours and the locality be safeguarded.

#### **RECOMMENDATION:**

**APPROVE** subject to the completion of deed of variation to the S106 attached to 13/2746C to secure the same Heads of Terms as application 13/2746C

#### **PROPOSAL:**

This application seeks to vary condition 4 and remove conditions 35 and 36 attached to application 13/2746C. Collectively these conditions relate to the imposition of restrictions that the future housing development shall be no more than two storeys in height and that bungalows should be built adjacent to existing bungalows. These are considered in detail below.

#### **Condition 4**

*This permission shall refer to the general parameters on the following drawings (with the exception of changes required to be in compliance with other conditions):*

*A-01-L-110 – Proposed Parameters Plan with the exception that all development shall contain no more than 2 storeys.*

*Reason: This is an outline planning permission and compliance with the parameters is required to provide certainty and ensure the impact of the development on planning interests is acceptable and to comply with other conditions. This is in accordance with Policies GR1 and GR2 of the adopted Congleton Borough Local Plan First Review.*

This application seeks the following wording for condition 4:

*This permission shall refer to the general parameters A-01-L-110*

*Reason: This is an outline planning permission and compliance with the parameters is required to provide and ensure the impact of the development on planning interests is acceptable and to comply with the other conditions. This is in accordance with Policies GR1 and GR2 of the adopted Congleton Borough Local Plan First Review.*

In the light of this variation, the application seeks the removal of conditions 35 and 36 as they are unnecessary and therefore contrary to guidance within Planning Policy Guidance once condition 4 is varied.

#### **Condition 35**

*Notwithstanding any plans or reports submitted with this application, the dwellings hereby approved shall be a maximum of 2 storeys*

*Reason In the interests of achieving a high quality design and layout and to comply with Policies GR1 and GR2 of the adopted Congleton Borough Local Plan First Review*

#### **Condition 36**

*Notwithstanding any plan or supporting statement submitted, the reserved matters shall make provision for bungalows to back onto existing bungalows, where they adjoin the site, unless it has been demonstrated as part of the submission that it is not feasible or viable to do so.*

*Reason To safeguard amenity of adjoining residents in accordance with Policies GR1 of the adopted Congleton Borough Local Plan First Review.*

#### **SITE DESCRIPTION:**

The application site comprises approx 10.42 hectares in a roughly triangular shape is located within an area of ribbon development along Chelford Road, Black Firs Lane and Holmes Chapel Road. Opposite the site along Chelford Road there are a mix of detached houses and bungalows. Black Firs Lane marks the western edge of the Congleton Settlement. Adjoining the south-west part of the site is former farmstead of Green Tree Farm and to its south Goodwin's Pool, which is used by Congleton Anglers Society for fishing. The frontages of the site have wide grass verges, with many trees of differing levels of maturity, quality and height. The western side of Chelford Road is characterised by an existing ribbon of development, part of the southern boundary has ribbon development facing onto Holmes Chapel road and there is a section of ribbon development along southern part of the eastern, Black Firs Lane boundary. Ribbon development also extends further up the eastern side of Black Firs Lane.

The application is best and most versatile agricultural land and apart from the areas adjacent to existing dwellings, much of the boundary is characterised by hedgerows, wide grassed verges and mature trees to the Street frontages.

Black Firs nature reserve (SBI) sits along the southern part of the site and an area of woodland outside the site boundary on the junction of Holmes Chapel Road and Chelford Road.

## **RELEVANT HISTORY:**

13/2746C Erection of up to 180 dwellings, public open space, green infrastructure and associated works – Outline planning permission granted 19 August 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, 60, 61, 63, 64, 65 and 66

### **Development Plan:**

The Development Plan for this area is the Congleton Borough Council First Review 2005. 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  
Strategic Site SL6- Radnor Park/Back Lane

**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:** No Objections

**Head of Strategic Infrastructure :** No objection or comment to make

**Strategic Housing Manager :** No comment

**VIEWS OF THE PARISH/TOWN COUNCIL:**

Somerford Parish Council: Object to the clause that states the development to be 2 storey

**REPRESENTATIONS:**

Five letters of objection has been received raising the following points:

- lack of privacy to my property and the country side
- Site is outside SL6 and the original approval was undemocratically engineered. The Strategic Planning Board seemed quite uncomfortable in approving the original application, They appeared keen to moderate the impact of such a large development in the open countryside by stipulating the conditions now being challenged. As such, there is no justification for a change to the planning permission and the conditions should either stand or the original approval be withdrawn.

- The proposed development of houses is uniform in design and layout with pavements. Houses in the locality are 2 storey or bungalows therefore removal or variation of the conditions would be contrary to local distinctiveness and would spoil the tranquillity of the area. Does not reinforce local distinctiveness contrary to the NPPF, there is a great need for bungalows in an aging population.

Councillor Wray has advised that residents and the clerk of the Parish Council have contacted him and he and the residents have concerns about this application and considers that the conditions should stay as they were originally to protect the amenity and views of residents

#### **APPLICANT'S SUPPORTING INFORMATION:**

To support this application the application includes the following documents;

1. Illustrative Masterplan (A-01-L-100)
2. Proposed Parameters Plan (A-01-L-110)
3. Design and Access Statement (June 2013)
4. Removal/Variation of Condition Justification Statement (Nov 2014)

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 13/2746C. 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 an opportunity for the complete re-consideration of the original application. PPG advises that conditions must serve all 6 clauses and that 'It is important to ensure that conditions are tailored to tackle specific problems, rather than standardised or used to impose broad unnecessary controls'

##### **Variation of Condition 4 and Removal of Condition 35**

The applicant seeks this to allow for 2½ storey development. They consider that the design ethos developed in the design and access statement and accepted in the grant of the original permission was a carefully evolved strategy based on individual character areas within the site, the

preservation of local distinctiveness, landscape with the creation of a high quality of urban design and improving linkages.

This will require a variety of housetypes and the Applicant considers that Policy GR3 of the Local Plan requires a variety of housetypes to be provided. The design evolution recognised the Black Firs and Chelford Road frontages as being sensitive and significant set backs were designed into these frontages, with the existing bungalows on the other side of Chelford Road being circa 40m away from the indicative area of development to that frontage. There are no bungalows immediately adjoining this site

The Masterplan provides for 6 character areas;

1) Black Firs Lane

To this frontage, the indicative proposals show dwellings (which could be 2 and 1/5 storeys) circa 25m back from the street frontage with the dwellings on the other side of the street being between 30 and potentially 40m away from the proposed area of development.

2) Chelford Road

To this frontage, the indicative proposals show dwellings (which could be 2 and 1/5 storeys) circa 25m back from the street frontage with the dwellings on the other side of the street being between 30 and potentially 40m away from the proposed area of development. Retention of the existing tree line and strengthened with further planting behind the site hedgerow to replicate the green screen of planting that fronts the existing properties opposite and soften the view

3) Black Firs Wood

4) Black Firs Park

5) Black Firs Green

This area forms the central portion of the site and is the area where smaller units types are proposed. Not visible from the existing public realm and therefore can be more unique in nature as it need not relate directly to the character of the wider context of Somerford

6) Goodwin's Green

This area is located to the southern portion of the site. In the main the area is concealed by existing ribbon development. It is proposed for a range of family housing. The Indicative proposals show a arrangement of properties with large rear gardens backing onto the site boundary to ensure existing properties are not overlooked.

Areas 1, 2, 5 and 6 contain the majority of the housing. Key design principles were derived for the character areas within the Design and Access Statement, these are

- Retention of the distinctive site features, the tree lined hedges and verges, that provide the setting for the site.
- Creation of a structured landscape layout and green space and lanes, complimentary to the existing area
- Develop distinct character areas to add diversity and interest to the proposals.
- Design in a flexible way that allows the proposals to make positive response to the immediate context.
- Sets out key parameters for the development which will safeguard important features, such as the location of Black Firs Park and the frontages to the existing lanes.

Although it is acknowledged that the general scale of development in the wider area is 2 storey, this in itself can lead to problems of uniformity and a lack of legibility in a modern estate layout.

It should be noted that the wider area is generally a sylvan environment with generally large detached dwellings set in sizeable grounds with a small number of bungalows on the other side of Chelford Road. The large dwellings locally were not developed as part of a masterplanned estate and are tall structures which in modern terms could easily be regarded as being of a comparable height to modern 2½ storey dwellings, as would be the case here.

The Council's Principal Urban Design Officer advises that 2½ storey units at defined, targeted locations and limited in number would help to define corners, articulate roofscapes, better enclose feature spaces and create a scheme that generally has more townscape interest and would contribute to local character. This will aid in the creation of local distinctiveness rather than fail in that regard.

Paragraph 60 of the NPPF advises that decisions should not attempt to impose architectural styles or particular tastes and should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is proper to seek to promote/reinforce local distinctiveness.

Likewise, in terms of the amenity and privacy of residents, either the limited number of dwellings that share a boundary with the site or those on the opposite side of Chelford Road and Black Firs Road, the indicative interfaces are more than the 21.5m necessary to comply with adopted policy to maintain privacy and amenity. In addition, this matter is part of the reserved matters assessment of any future layout which will be undertaken at that stage.

The comments made in the representations are noted. However the suggested variation of condition 4 is considered to be reasonable within the context of this extensive development site. It then follows that condition 35 is not needed and does not serve a planning purpose.

The exact detail of the design can appropriately be dealt with at the reserved matters stage. This view is supported by the comments from the Council's Principal Urban Designer.

### **Removal of Condition 36**

This seeks the removal of the condition requiring bungalows to back on to bungalows to the southern part of the site. This is within the 'Goodwins Pool' character area. The design of the indicative Masterplan shows properties with large rear gardens backing onto the site boundary to ensure existing properties are not overlooked. The properties indicated within the Masterplan showed the proposed properties to have long gardens, specifically designed into the indicative outline scheme to protect the amenity of the limited number of adjoining properties.

The applicant's design ethos is that this area of the site will respect the wider site context, and like that context, the design has evolved to contain a balanced range of family housing.

The prescription of an imposed architectural style of only bungalows in this area would be contrary to the advice within the NPPF and the PPG which specifically considers the imposition of architectural styles to be unreasonable.

In addition, given the protection of the amenity and privacy of adjoining residents would be fully considered as part of the reserved matters application, when the siting and design of properties will be known will be fully considered as part of that application. In any event the indicative

masterplan shows the properties in this location to have long rear gardens where they adjoin the existing properties, this helps to protect the privacy and amenity of future residents as well.

#### **S106 AGREEMENT:**

The original permission comprises a S106 Agreement. As part of 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 as previously approved.

#### **PLANNING BALANCE:**

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

To maintain the conditions as originally stated would not satisfy the reasonableness test with National Policy Guidance. The variation/removal of the suggested conditions is therefore 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 the outline permission (detailed below)

- **30% of the dwellings to be affordable.**
- **Provision of a LEAP with 5 pieces of equipment specification to be submitted and agreed and in accordance with that set out in the Greenspaces Officer consultation response.**
- **Management plan for all open space in perpetuity (including, inter alia, the LEAP, allotments if provided, woodland, general amenity openspace, village green, nature conservation area, drainage areas, ponds and any other areas of incidental open space not within private gardens or the adopted highway).**
- **Commuted sum of £55, 610 to be used to deliver off-site habitat creation/enhancement**
- **Commuted sum of £165,405 in lieu of primary education**



- **Commuted Sum of £145,000 towards Quality Bus Stop Infrastructure and improvements to service frequency and the provision of additional bus service and frequency to serve this development and the local area.**
- **Commuted Sum of £755,000 -**  
     **for the widening of the West Road/A34 roundabout western arm for design fees associated with the widening of the West Rd roundabout western arm.**  
     **for the upgrade and necessary alterations to the existing signalised pedestrian crossing on the western arm approach to the West Rd roundabout.**  
     **Contribution to the provision of a MOVA system upgrade at the signalised junction at Rood Hill/A34.**

**Or other measures including design fees eg link road that will provide similar or better congestion relief benefits to the A34 corridor through Congleton**

**And the following conditions**

1. Standard Outline
2. Submission of reserved matters – all except access
3. Plans
4. Development to be in accordance with Parameters Plan A-01-L-110
5. Submission of design and construction plans for the internal road infrastructure of the development. The plans will inform the Section 38 agreement for formal adoption
- 6 Submission of design and construction plans for off site highway works.
7. The hours of construction of the development (and associated deliveries to the site) shall be restricted to: Monday – Friday 08:00 to 18:00 hrs Saturday 09:00 to 14:00 hrs Sundays and Public Holidays Nil
8. Submission of construction details for access / roads
9. All Piling operations shall be undertaken using best practicable means to reduce the impact of noise and vibration on neighbouring sensitive properties. All piling operations shall be restricted to: Monday – Friday 09:00 – 17:30 hrs; Saturday 09:00 – 13:00 hrs; Sunday and Public Holidays Nil
- 10 Submission of a Contaminated Land Phase II investigation.
- 11 Submission of Construction and Environmental Management Plan
- 12 Reserved Matters to include details of bin storage.
- 13 Reserved matters to include 10% renewable provision
- 14 Updated badger survey and revised ecological mitigation strategy to be submitted with reserved matters application.
- 15 Detailed design of ponds to be submitted with reserved matter application
- 16 Archaeological programme of works
- 17 Details of all street lighting
- 18 Car charging point for each residential unit
- 19 Each Phase of development to include travel plan
- 20 Reserved Matters to include Arboricultural Implication Study (AIS) in accordance with para 5.4 of BS5837:2012 Trees in Relation to Design, Demolition and Construction -Recommendations, Constraints and Tree Protection Plan and Arboricultural Method Statement
21. Submission / approval and implementation of boundary treatment
22. Submission / approval of landscaping

23. Implementation of landscaping
24. Important hedgerows and trees, including those outside red edge on Black Firs Lane, to be retained and to be incorporated within reserved matters layout
25. Submission/ implementation of tree/hedgerow protection measures
26. Breeding Bird Survey for works in nesting season
27. Provision of 10 bird/bat boxes throughout site
28. Scheme to limit surface water runoff and overland flow
29. Sewer easement as detailed in United Utilities response
- 30 Buffer zone of 20m between houses and play space
- 31 All the affordable dwellings should be provided no later than occupation of 80% of the open market dwellings
- 32 Development to be in accordance with principles set out in Design and Access Statement. First reserved matters for each phase shall provide a statement of Design principles to take into account, the Master Plan and the Parameters Plan and to include the principles for:
  - determining the design, form, heights and general arrangement of external architectural features of buildings including the roofs, chimneys, porches and fenestration;
  - determining the hierarchy for roads and public spaces;
  - determining the colour, texture and quality of external materials and facings for the walls and roofing of buildings and structures;
  - the design of the public realm to include the colour, texture and quality of surfacing of footpaths, cycleways, streets, parking areas, courtyards and other shared surfaces;
  - the design and layout of street furniture and level of external illumination;
  - the laying out of the green infrastructure including the access, location and general arrangements of the children's play areas, open space within the site
  - sustainable design including the incorporation of decentralised and renewable or low carbon energy resources as an integral part of the development
  - ensuring that there is appropriate access to buildings and public spaces for the disabled and physically impaired.
  - scale parameters for 2.5 storey buildings on key parts of the site
  - SUDS details to be submitted
  - provision of locally relevant boundaries in hedging and stone
33. Maximum no of units to be 170
34. Each reserved matters shall provide full details of phasing of the development

**In the event of any changes being needed to the wording of the committee's decision (such as to delete, vary or addition conditions / informatives / planning obligations or reasons for approval / refusal) prior to the decision being issued, the Principal Planning Manager, in consultation with the Chair of the Strategic Planning Board is delegated the authority to do so, provided that he does not exceed the substantive nature of the Committee's decision.**

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