

Application No: 14/5886C

Location: LAND AT THE GREEN, MIDDLEWICH, CHESHIRE

Proposal: Replan and substitution of housetypes of plots 15-22 of extant planning permission 13/1418C

Applicant: Mr Sean McBride, Persimmon Homes

Expiry Date: 06-Apr-2015

#### **CONCLUSION:**

The site already has full planning permission for residential development which has established the acceptability in principle of this proposal. The scheme is contained within the existing site boundaries and will not result in further encroachment into open countryside. The proposal will make better use of the site and ease pressure for housing development on other greenfield sites. The proposal is acceptable in terms of design, amenity, access and parking and additional Section 106 contributions will address additional demands on education, greenspace etc. The proposal is therefore economically, environmentally and socially sustainable.

**RECOMMENDATION: APPROVE subject to Section 106 and Conditions.**

#### **PROPOSAL:**

Full planning permission was granted in 2012 for 63 homes together with associated public open space, access and highway works. The scheme included a mix of affordable and open market housing within the site, with affordable units making up 30% of the total development. The site has one vehicular access taken from The Green. The proposed open space is located on either side of the access road with properties fronting onto this public open space in a crescent shape. Work has now commenced on implementing this consent.

In May 2014, the applicant received consent for the substitution of 22 dwellings for 35 dwellings to the northern part of the previously consented scheme.

This application originally sought full planning consent for a further replan and substitution of housetypes of the 8 currently consented dwellings on plots 15-22 for 14 smaller family houses. As a result of concerns regarding lack of parking an amended plan has been submitted reducing the number of dwellings proposed by 1 to 13.

#### **SITE DESCRIPTION:**

The application relates to 0.25ha of land, which forms part of a larger development site of 2.25ha in area, situated to the south-west side of The Green. The site lies within the Open Countryside adjacent to the Middlewich Settlement Boundary and is bordered by residential properties to its northern, southern and eastern boundaries, with open fields to the west.

The site is relatively flat although it is set at a higher level than The Green. Hedgerows and fencing form the boundaries to the site and there are a number of trees along the boundaries of the site. The surrounding residential development consists of bungalows fronting onto The Green with two-storey detached and semi-detached properties to the north, east and south.

## **RELEVANT HISTORY:**

10/4065C                      Outline Application for 68 Residential Dwellings over 2.25 Hectares. Access from The Green with some Matters Reserved – Refused 4<sup>th</sup> February 2011

11/2833C                      Outline planning permission is sought for up to 68 homes together with associated public open space, and highway works. – Approved 9<sup>th</sup> January 2012

11/4545C                      Residential Development Comprising 64 Dwellings (Including 30% Affordable Housing) and Associated Highways, Landscaping and Public Open Space – Approved 30<sup>th</sup> March 2012

13/1418C                      Substitution of house types, at increase from 22 dwellings to 35 dwellings on the north west part of the site - Approved

## **NATIONAL & LOCAL POLICY**

### **National Policy**

National Planning Policy Framework

### **Local Plan Policy**

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  
GR17 - Car parking  
GR18 - Traffic Generation  
GR 22 - Open Space Provision  
NR1 - Trees and Woodland  
NR3 - Habitats

NR5 - Habitats  
H2 - Provision of New Housing Development  
H6 - Residential Development in the Open countryside  
H13 - Affordable Housing and Low Cost Housing

### **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  
CO1 Sustainable Travel and Transport  
CO4 – Travel Plans and Transport Assessments  
SC5 – Affordable Homes  
SD1 - Sustainable Development in Cheshire East  
SD2 - Sustainable Development Principles  
SE 1 Design  
SE 2 Efficient Use of Land  
SE 3 Biodiversity and Geodiversity  
SE 4 The Landscape  
SE 5 Trees, Hedgerows and Woodland  
SE 6 – Green Infrastructure  
SE 8 – Renewable and Low Carbon Energy  
SE 9 – Energy Efficient Development  
SE 13 Flood Risk and Water Management  
IN1 – Infrastructure  
IN2 – Developer Contributions

### **CONSULTATIONS:**

**Environment Agency** - No comments to make on the proposed development

**Brine Board** - At original planning stage, the Board did not make any structural recommendations for this site and therefore they have no comments on the proposed substitution.

**Middlewich Town Council** - Objection regarding Highways concerns raised on previous application 13/1418C

**Education** – At the time when 11/4545C came in a contribution was not required as there was forecast to be some surplus in the future.

On our spreadsheet 13/1418C is recorded as being 39 dwellings generating 7 primary and 5 secondary aged pupils and a contribution of £81k. However as education had not claimed originally and they could only claim for a number of the extra houses which equated to £32,685. On this basis an extra 6 dwellings would equate to another pupil taking the contribution up to £49,028. Its one of those scenarios where numbers have changed over a period and the school

has since become oversubscribed and so other applications in Middlewich we seek full contributions for secondary. So the new figure is £49,028

**Highways – No objection**

## **OTHER REPRESENTATIONS**

2 representations have been received making the following points:

- This development was originally approved for 64 dwellings. After construction commenced the plans were changed to 71 dwellings. This further change results in 83 dwellings
- The developer did not judge the market correctly
- How many houses can you legally build per acre.
- This site is already densely packed.
- A 30% increase from the original approval will increase light , noise and general pollution by the same amount.
- a 30% increase from the original approval is unacceptable .
- It would not have been approved for this many dwellings originally so it should not be now.
- Suggest more public open space instead of houses they can't sell.
- This is due to the builder not being able to sell the larger detached houses in the current market.
- This is something that all the objectors to the original approval cited at the time !
- The market has not changed and now there is another 600 + houses being built less than a quarter of a mile away that Persimmon has boxed themselves into a corner and should not be allowed to ride over the original approval for capital gain.
- There are still unsold houses on this site that were built nearly two years ago.
- Each property has one car parking space with an average of two cars per household. This means the pavements become obsolete and therefore more dangerous for pedestrian movement which will also increase.
- The Green was strongly objected to by local people and some councillors alike
- It was initially refused then, the house builders, continued to amend the quantity of houses up and down, continuing to submit new proposals in a bid to obtain permission, which eventually they received.
- No consideration what-so-ever was given to the residents who purchased their properties specifically because they backed on to 'Green Belt' land
- Existing residents have had houses built, directly behind their own property where people are staring into their kitchen window. It is a worst nightmare, come true.
- Increasing the number of activity in the gardens to double making life in my existing gardens even more unbearable.
- The developers wish to amend these houses because there are over 200 new builds a few hundred yards away, which are of a far higher standard of house. Warmingham Lane has been targeted with 230 houses on the right and 400+ on Glebe Farm land, on the left, leaving Middlewich.
- It has to remain the problem of Charles Church builders if they cannot sell the planned, approved dwellings. Why should the residents be once again 'kicked in the teeth' and overruled, to merely line the pockets of Charles Church builders. They should have done their homework first.
- The properties Charles Church Builders they have designed and built are the most boring, characterless, penny pinching, cost cutting version of a property ever seen.

- Existing residents must put up with it or move.

## **OFFICER APPRAISAL**

### **Main Issues**

The site lies in the Open Countryside as designated in the Congleton Borough Local Plan First Review, where policies H.6 and PS.8 state that only development which is essential for the purposes of, agriculture, forestry, outdoor recreation, essential works undertaken by public service authorities or statutory undertakers, or for other uses appropriate to a rural area will be permitted.

However, the granting of the previous planning permission established the acceptability in principle of residential development on this site and given that the previous permission is being, and can continue to be, implemented, this application does not present an opportunity to re-examine those issues.

The proposal is therefore acceptable in principle and the main issues in the consideration of this application are sustainability of the proposal in terms of economic, social and environmental factors.

## **SOCIAL SUSTAINABILITY**

### **Open Countryside and Housing Land Supply**

This proposal, is a full planning application for 14 dwellings on the north-west part of the site, which will increase the total number of properties on the site to 86. Although a greater number of dwellings is now proposed, the site boundaries remain the same. Therefore, it will not result in any greater loss of open countryside, than that which has already been accepted and by increasing the density, it will make better use of the land which will increase the contribution that the site makes to housing land supply, and will ease the pressure to develop other greenfield sites elsewhere in the Borough

### **Affordable Housing**

The proposed re-plan includes an overall increase in the number of dwellings on site resulting in an increase in the affordable housing requirement and the requirement to provide a further 2 affordable units. The applicant is proposing 2 x 2 bed units provided as one rented and one intermediate unit. This is acceptable and in line with the Council's Interim Planning Statement. The proposed re-plan places the two affordable units in the middle of a terraced row, adjoining market units on either side.

Initially Housing officers were concerned over the deliverability of the affordable units if provided in this way and they suggested that the applicant provides the two affordable units required as a pair of semi-detached units not adjoining market units. If arrangements cannot be made for the existing provider on the remainder of the site to take the units, housing would have concerns over appetite of Registered Providers (RPs) to take two units in isolation. Therefore they requested to see evidence provided that discussions with RPs to take the two additional affordable units have taken place.

In response additional information has been provided by the developer and Housing Officers have confirmed that they are happy for the additional two affordable units to be provided both as Intermediate tenure. This is due to the impracticalities of having one rented unit in isolation. The units could be delivered as Shared Ownership delivered with an RP partner or Shared Equity delivered direct by Persimmon. They are satisfied that the email correspondence from Dane Housing alleviates concerns around the deliverability of the units within a terrace of market units. Therefore they have withdrawn their objection. However, the Section 106 agreement should ensure the two affordable units to be provided as Intermediate tenure, not just Shared Ownership. This is to ensure we have options that are deliverable.

## **Amenity**

The site is bounded to the west by open countryside. Existing residential development bounds the site on all other sides with residential properties fronting Eardswick Road to the north, Broxton Avenue to the east and Beeston Close and Bunbury Close to the south. The Council's Supplementary Planning Guidance (SPG) recommends that minimum distances of 21.3m be maintained between principal elevations and 13.7m between a principal elevation and a flank elevation. With regard to the relationship between the proposed dwellings and the existing properties in those roads listed above, the recommended minimum distances will be achieved.

To turn to the levels of residential amenity to be provided within the development, the recommended minimum distances of 21.3m and 13.7m will be achieved in all cases.

The Council's SPG advocates the provision of 65sq.m of private amenity space for all new family dwellings. A number of plots fail to achieve this standard and the minimum garden areas are now approximately 45sq.m.

Whilst the proposal fails to meet all the requirements of the Council's SPG and Policy GR6 of the adopted Local Plan,, the provision of an adequate standard of amenity for future residents must be balanced against the need to make the best use of land and the proposed increase in the number of properties to be built on this site will contribute to the Council's housing land supply and will ease pressure to develop other Greenfield and open countryside sites within the Borough.

With regard to noise pollution, air pollution and light pollution caused by the development, the Environmental Health Department, have raised no objection to the development subject to conditions. Similar conditions were imposed on the previous consent and therefore these could be carried over to any further approval. As a result, it is not considered that these issues would warrant the refusal of this application.

## **Open space**

The size, shape and location of the proposed on-site open space provision are identical to that shown on the previously approved scheme. This was originally, considered to be adequate to serve a development of 68 homes. However, it was not considered to be sufficient to provide for the larger development.

With regard to Children and Young Persons Provision, following an assessment of the existing provision accessible to the proposed development, carried out as part of the previous application, there was considered to be a deficiency in the quantity of provision, having regard to the local standards set out in the Council's Open Space Study for Children and Young Persons Provision.

To meet the needs of the development, an opportunity was identified for the upgrading of an existing facility at Moss Drive, to increase its capacity. The existing facility is a Local Equipped Area for Play (LEAP), located off Chadwick Road/ Moss Drive. This facility is within 800m of the entrance of the proposed development accessed via a footpath off Chadwick Road, close to the existing road called The Green.

The existing facilities at the identified site were substandard in quality and consequently the applicant agreed to pay a commuted sum towards improvements. For the whole site, including both the replanned and previously approved parts of the application site, these equate to:

- £25,853.52 for children's playspace (£335.76 per dwelling)
- £5,742.93 for amenity greenspace (£74.57 per dwelling)

The further increase in the number of dwellings now proposed would clearly increase the demand for play facilities and the pressure on the Chadwick Road / Moss Drive site. It is therefore recommended that the contribution should be increased accordingly on a pro-rata basis by the following amounts:

- £2350.32 for children's playspace
- £522.08 for amenity greenspace.

The applicant has also confirmed that it is their intention to set up a management company to maintain the onsite open space and in this context they would not be required to make a contribution to the Council for the on-going maintenance of the on-site amenity green space.

Therefore, subject to the applicant entering into a Section 106 Agreement to secure the financial contribution and the establishment of the management company, it is considered that the revised proposal is acceptable in Open Space terms.

## **Infrastructure**

The Councils Education Department were consulted as part of the original application and stated that the existing schools in the area should be able to accommodate the additional pupils from this development and therefore no Section 106 Developer contributions were required in respect of that proposal.

The previous increase in numbers of dwellings on this site generated a requirement for school places and a contribution was secured which equated to £32,685.

On this basis the extra 7 dwellings now propose would equate to another pupil taking the contribution up to £49,028.

Therefore, an additional Section 106 contribution of £9343 is required.

## **ENVIRONMENTAL SUSTAINABILITY**

### **Ecology**

Article 12 (1) of the EC Habitats Directive requires Member states to take requisite measures to establish a system of strict protection of certain animal species prohibiting the deterioration or destruction of breeding sites and resting places. Art. 16 of the Directive provides that if there is no

satisfactory alternative and the derogation is not detrimental to the maintenance of the populations of the species at a favourable conservation status in their natural range, then Member States may derogate *"in the interests of public health and public safety or for other imperative reasons of overriding public interest, including those of a social and economic nature and beneficial consequences of primary importance for the environment"* among other reasons.

The Directive is then implemented in England and Wales : The Conservation of Habitats and Species Regulations 2010. ("The Regulations"). The Regulations set up a licensing regime dealing with the requirements for derogation under Art. 16 and this function is carried out by Natural England.

The Regulations provide that the Local Planning Authority must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of their functions.

It should be noted that, since a European Protected Species has been recorded on site and is likely to be adversely affected by the proposed development, the planning authority must have regard to the requirements for derogation referred to in Article 16 and the fact that Natural England will have a role in ensuring that the requirements for derogation set out in the Directive are met.

If it appears to the planning authority that circumstances exist which make it very likely that the requirements for derogation will not be met, then the planning authority will need to consider whether, taking the development plan and all other material considerations into account, planning permission should be refused. Conversely, if it seems from the information that the requirements are likely to be met, then there would be no impediment to planning permission in this regard. If it is unclear whether the requirements will be met or not, a balanced view taking into account the particular circumstances of the application should be taken and the guidance in the NPPF. In line with guidance in the NPPF, appropriate mitigation and enhancement should be secured if planning permission is granted.

In this case, ecological issues were given full consideration at the time of previous approval, and it was concluded that subject to the imposition of certain conditions, the proposal would not have a detrimental impact on protected species within or adjoining the site. Given that the site area remains unchanged, provided that the same conditions are imposed, the proposed re-plan and increase in the numbers of dwellings will not have a materially different or greater impact than the approved scheme.

## **Landscape**

In respect of the previous application, the Council's Landscape Officer expressed the view that the proposals would not have a significant landscape or visual impact and therefore offers no objections to this application. Given that no change is proposed to the extent of the development area, or the site boundaries, it is not considered that any additional landscape impact would occur as a result of this proposal.

## **Trees**

The Council's Landscape Officer has examined the application, and commented that she does not envisage any significant new forestry impacts.



## **Drainage and Flooding**

United Utilities and the Environment Agency have raised no objection to the proposed modifications and a condition can be imposed requiring the site to be drained in complete accordance with the previously submitted and approved strategy which ultimately states that all surface water flows generated by the new development will discharge to soak-away or watercourse only.

## **Design**

With regard to the layout of the site, the re-planned part of the site would be arranged around a cul-de-sac with a turning head at the end, which is the same as the approved scheme. The properties are orientated in such a way that active frontage is provided to the roads and a sense of enclosure and overlooking is maintained at the end of the turning heads. This is similar in character to much of the surrounding development, particularly the more modern housing estate to the south. Whilst greater than that of the approved scheme, the density, of the development, and the spacing between the dwellings, will not appear out of character with that of the remaining part of the site and the adjoining development.

However, the increase in the density has resulted in the majority of plots now having frontage parking on both sides of the road. To address this amended plans have been submitted showing the removal of 2 no Penrose housetypes and replacement with 1 no. Rufford housetypes, which has an integral garage. This revision will reduce the number of plots within the application site from 14 to 13 and also lessens frontage car parking within the site.

This also allows sufficient landscaping is proposed between spaces to break up the hardstanding and avoid creating the impression of a car dominated frontage which will detract from the character and appearance of the proposed street scene contrary to Policies GR1 and GR2 of the adopted Congleton Borough Local Plan First Review and the provisions of the National Planning Policy Framework which seeks to improve the character and quality of areas and the way in which they function. This is considered to be sufficient to deal with these concerns and also satisfies those concerns raised in the objection set out by the resident of 36 Jubilee Pastures.

To turn to elevational detail, the surrounding development comprises a mixture of ages and architectural styles, ranging from single-storey properties to two-storey properties. Notwithstanding this, there is consistency in terms of materials with most walls being finished in simple red brick; some properties incorporate render and cladding. The predominant roof forms are gables although some are hipped and most are finished in grey concrete tiles.

Of the 4 housetypes proposed in the re-planned area, three are incorporated within the existing approved scheme and are therefore deemed to be appropriate. The fourth housetype "Penrose" are 2 stories in height which reflects the more recent developments in the surrounding area.

The properties are traditional gabled and pitched roofed dwellings which incorporate features such as lean-to porches and window head details that add visual interest to the elevations and are similar to other properties in the vicinity. The proposals are in keeping with those on the previously approved scheme, and the remaining part of the site. Similar designs have been employed on the neighbouring developments at and it is considered that the proposed dwellings would be appropriate for the site and in keeping with the character of the surroundings.

## **Ground Conditions**

A consultation response was received from the Cheshire Brine Board in respect of the previous application which raised no objection to the proposed development. Given that there is no change to the site area, no additional concerns are raised in this respect.

Matters of contaminated land were also addressed as part of the previous permission, and the conditions attached thereto, and consequently, Environmental Health have raised no objection subject to a condition being added requiring all work to cease in the event that previously unsuspected contamination is encountered.

## **ECONOMIC SUSTAINABILITY**

### **Loss of Agricultural Land**

The proposal will not result in any greater loss of agricultural land than the previously approved scheme.

### **Highway Safety and Traffic Generation**

The Strategic Highways Manager commented that as originally submitted, plot numbers 80 – 83 and 86 – 89 had insufficient off-street parking provision to comply with CEC minimum park standards. For 2/3 bedroom properties two off street parking spaces per dwelling are required. As stated above a revised layout has now been submitted and the Strategic Highways manager has withdrawn his previous objection.

## **CONCLUSIONS AND PLANNING BALANCE**

The site already has full planning permission for residential development which has established the acceptability in principle of this proposal. The scheme is contained within the existing site boundaries and will not result in further encroachment into open countryside. The proposal will make better use of the site and ease pressure for housing development on other greenfield sites. The proposal is acceptable in terms of design, amenity, access and parking and additional Section 106 contributions will address additional demands on education, greenspace etc. The proposal is therefore economically, environmentally and socially sustainable.

## **RECOMMENDATION**

**APPROVE** subject to Deed of Variation to the existing Section 106 Agreement to bind the whole site and secure:

- **Affordable housing comprising 2 additional intermediate tenure dwellings**
- **Additional payment for children's playspace (£2350.32)**
- **Additional payment for amenity greenspace (£522.08)**
- **POS contributions to be spent in accordance with the Council's interim policy within 800m of the development site'**

- Provision for a local residents management company to maintain the on-site amenity space
- Additional Education Contribution (£9343)

And the following conditions:

1. Time Limit
2. Approved Plans
3. Remove permitted development rights
4. Submission / Approval of Contaminated Land Investigation / Mitigation
5. Submission / Approval of Details of External Lighting
6. Hours of construction to be restricted to 08:00 to 18:00 hours on Monday to Friday, 09:00 to 14:00 hours on Saturday, with no work at any other time including Sundays and Public Holidays
7. Submission / Approval of details of any piling
8. Submission / Approval of bin storage
9. Submission / Approval of scheme to manage overland flow
10. Submission / Approval of scheme to limit surface water runoff
11. Surface water discharge to mimic that of the existing site
12. Submission / Approval of detail of Sustainable Urban Drainage
13. Only foul water to be connected to sewer
14. Details of bat and bird nest boxes
15. Submission / Approval of Landscaping
16. Implementation of Landscaping
17. Submission / Approval of Tree protection
18. Implementation of Tree Protection
19. No works to take place during nesting season without submission / approval of bird survey
20. Enhancement of existing hedgerows
21. Development to take place in accordance with Great Crested new mitigation measures
22. Submission / Approval of materials
23. Submission / Approval of road construction details
24. Provision of car parking
25. Submission / Approval of details of boundary treatment
26. Submission / Approval of construction management plan

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