

CHESHIRE EAST COUNCIL

STRATEGIC PLANNING BOARD

Date: 28 June 2017
Report of: David Malcolm: Head of Planning (Regulation)
Title: 15/4888N – White Moss Quarry, Butterson Lane, Barthomley, CW1 5UJ

1.0 Purpose of Report

- 1.1 To consider this item as a matter of urgency to allow the part withdrawal of a reason for refusal relating to outline planning application 15/4888N at the site of White Moss Quarry.
- 1.2 This has been brought to Strategic Planning Board as an 'Urgent Item' due to the impending appeal timescales and the need for a speedy decision to minimise the risk of costs to the Council. Proofs of evidence required to defend the reasons upon which the Council resolved to refuse the application are being prepared and need to be completed by 11 July 2017.

2.0 Decision Required

- 2.1 To agree to the withdrawal of the reasons for refusal in respect of the impact of the development on nearby ecological sites and the ecological benefits of the proposal and to instruct the Head of Planning (Regulation) not to contest that issue at the forthcoming Appeal.

3.0 Background

- 3.1 On the 14 December 2016, Strategic Planning Board considered an outline application for up to 400 dwellings with all matters reserved for future consideration and the application is subject to an Environmental Impact Assessment.
- 3.2 The Applicant lodged an appeal against the refusal of the application following the decision of the Strategic Planning Board. The application was refused for the following reasons:
 1. *The proposed residential development is unacceptable because it is located within the Open Countryside, contrary to Policies NE.2 (Open Countryside) and RES.5 (Housing in Open Countryside) of the Borough of Crewe and Nantwich Replacement Local Plan, Policy PG 5 of the Cheshire East Local Plan Strategy – Consultation Draft March 2016 and the principles of the National Planning Policy Framework and create harm to interests of acknowledged importance. Consequently, there are no material*

circumstances to indicate that permission should be granted contrary to the development plan.

2. *The proposal constitutes a premature development which would compromise the Spatial Vision for the future development of the rural areas within the Borough, contrary to Policies PG2 and PG6 of the Cheshire East Local Plan Strategy – Consultation Draft March 2016 and guidance within the NPPF.*
 3. *It has not been suitably demonstrated that the ecological benefits of this proposal will be at a level to surpass the expected ecological value of the site upon completion of the agreed restoration scheme. Therefore the application is contrary to Policies NE.5, NE.6, NE.7, NE.8 and NE.9 of the Crewe and Nantwich Local Plan, Policy SE3 of the emerging Cheshire Easy Local Plan Strategy and guidance within the NPPF.*
 4. *Insufficient information has been submitted with the application that demonstrates the proposals will not have a detrimental impact on the Oakhanger Moss SSSI and Midland Meres and Mosses Phase 2 Ramsar and local Sites of Biological Importance. Therefore the application is contrary to Policies NE.6, NE.7 and NE.8 of the Crewe and Nantwich Local Plan, Policy SE3 of the emerging Cheshire Easy Local Plan Strategy and guidance within the NPPF.*
 5. *Insufficient information has been submitted with the application that demonstrates the proposals will not have a detrimental impact on the operation of the local highway network. Therefore the application is contrary to Policy BE.1 of the Crewe and Nantwich Local Plan, Policy SE3 of the emerging Cheshire Easy Local Plan Strategy and guidance within the NPPF.*
- 3.3 Members will recall it was agreed at the previous meeting of the Strategic Planning Board not to contest reason for refusal 5 as additional information had been submitted and subject to condition, should the appeal be allowed, the highway issue had been resolved.
- 3.4 Reason for refusal 3 relates to the loss of biodiversity benefits associated with the consented quarry restoration scheme secured under the extant mineral permission for the quarry.
- 3.5 The appeal site has an extant permission for the extraction of peat and sand with an agreed restoration scheme that would deliver a large waterbody surrounded by woodland planting. This restoration scheme is in the process of being amended to take account of the adjacent consented housing scheme. It is anticipated that this amended restoration scheme would deliver a lake and surrounding complimentary habitat that has the potential to be of County level nature conservation value. The opportunity to deliver the quarry

restoration scheme would be lost if the current housing application subject to the appeal was granted consent.

- 3.6 The application subject to this appeal does however propose the restoration of the remaining peat on site to Lowland Raised Bog. Lowland Raised Bog is an irreplaceable habitat and could potentially be of importance at the European level. At the time the application was determined the area of remaining peat, whilst being shown for restoration was not shown to be retained appropriately (there was an access road through it, there was inappropriate tree planting shown on the illustrative layout plan etc.). Since the refusal of the application the Council has received amended plans which show the retention of the restorable area peat being handled more appropriately.
- 3.7 Natural England has previously advised that they see no reason why the area of remaining peat at White Moss Quarry could not be restored. It is advised that both the restoration scheme associated with the existing minerals consent and the raised bog restoration proposed as part of the current appeal proposals would deliver substantial benefits for nature conservation. The restoration of the remaining peat on site as part of the proposals subject to the appeal, would however deliver a slightly greater nature conservation gain.
- 3.8 The benefits of the bog restoration would however only be realised if the applicant committed to both a detailed restoration scheme and the long term management of the site as bog restoration would take a considerable time and potentially require on-going after care to ensure that the designed habitats developed.
- 3.9 Agreement has yet to be reached with the applicant with regards the on-going maintenance issues and members will be updated verbally on this matter. If agreement is not reached on the future maintenance the reason for refusal will continue to be defended.
- 3.10 Reason refusal 4 relates to the lack of information relating to the lack of information on the potential impacts of the proposed development upon adjacent an SSSI/Ramsar site and also a number of nearby local wildlife sites.
- 3.11 There are on going negotiations between the Council, the applicant and Natural England in respect of the lack of information referred to under reason for refusal 4. The applicant has now submitted detailed assessments of both the potential impacts of the proposed development upon the surrounding wildlife sites and a water management strategy to ensure that the proposed development would not have an adverse effect on the adjacent SSSI/Ramsar.
- 3.12 Natural England have confirmed that that are satisfied with the additional information submitted by the applicant and subject to

conditions the proposed development would be unlikely to have an adverse effect on the adjacent Ramsar Site.

- 3.13 It is advised that the information submitted in support in respect of the surrounding Local Wildlife Sites is acceptable and advise that these sites are unlikely to be affected by the proposed development.
- 3.14 In the event that planning permission is granted at the appeal a number of detailed conditions/legal obligations are required to ensure that the proposals are acceptable in ecological terms.
- 3.15 On this basis, it is recommended that these reasons for refusal can be withdrawn.

4.0 Recommendation

- 4.1 To agree to the withdrawal of the reason for refusal number 4 in respect of ecology and to instruct the Head of Planning (Regulation) not to contest that issue at the forthcoming Appeal.
- 4.2 The appeal will still be defended on the following grounds;
 - 1. *The proposed residential development is unacceptable because it is located within the Open Countryside, contrary to Policies NE.2 (Open Countryside) and RES.5 (Housing in Open Countryside) of the Borough of Crewe and Nantwich Replacement Local Plan, Policy PG 5 of the Cheshire East Local Plan Strategy – Consultation Draft March 2016 and the principles of the National Planning Policy Framework and create harm to interests of acknowledged importance. Consequently, there are no material circumstances to indicate that permission should be granted contrary to the development plan.*
 - 2. *The proposal constitutes a premature development which would compromise the Spatial Vision for the future development of the rural areas within the Borough, contrary to Policies PG2 and PG6 of the Cheshire East Local Plan Strategy – Consultation Draft March 2016 and guidance within the NPPF.*
 - 3. *It has not been suitably demonstrated that the ecological benefits of this proposal will be at a level to surpass the expected ecological value of the site upon completion of the agreed restoration scheme. Therefore the application is contrary to Policies NE.5, NE.6, NE.7, NE.8 and NE.9 of the Crewe and Nantwich Local Plan, Policy SE3 of the emerging Cheshire Easy Local Plan Strategy and guidance within the NPPF.*
- 4.3 Reason for refusal 3 may also be overcome if the applicant agrees the future management of the lowland raised bog and this issue will be subject to a verbal update.

4.4 Should the Inspector allow the appeal the following Heads of Terms should be secured as part of any S106 Agreement:

1. A scheme for the provision of 30% affordable housing – 65% to be provided as social rent/affordable rent with 35% intermediate tenure. The scheme shall include:
 - The numbers, type, tenure and location on the site of the affordable housing provision
 - The timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing
 - The arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing if no Registered Social Landlord is involved
 - The arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
 - The occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.
2. Secondary school education contribution of £964,218.71
3. SEN education contribution of £227,500
4. Primary school education contribution £802,625.46
5. Travel Plan Monitoring sum of £5,000.
6. PROW Contribution of £15,000 towards 12, 37 and 49 in the parish of Haslington.
7. POS, NEAP and LAPS provision and a scheme of management to be maintained in perpetuity
8. A scheme for the restoration and a scheme of management to be maintained in perpetuity for the area of lowland raised bog.

5.0 Risk Assessment and Financial Implications

- 5.1 There is a risk that if the Council continues to pursue the Appeal on lack of information grounds in terms of the highway reason for refusal, a successful claim for appeal costs could be made against the Council on the grounds of unreasonable behaviour.
- 5.2 There would also be an implication in terms of the Council's own costs in defending the reasons for refusal.

6.0 Consultations

None

7.0 Reasons for Recommendation

- 7.1 To avoid the costs incurred in pursuing an unsustainable reason for refusal at Appeal

For further information:

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Background Documents:
Application 15/4888N