

Application No: 18/4156C

Location: LAND BOUNDED BY OLD MILL ROAD & M6 NORTHBOUND SLIP ROAD, SANDBACH

Proposal: Variation of condition 34 on application 12/3948C.

Applicant: Agent, Barratt Homes

Expiry Date: 15-Nov-2018

## **SUMMARY**

The principle of the development has already been approved.

The proposed variation seeks to increase the number of dwellings that can be occupied in advance of the roundabout approved under permission 16/5850C being completed, from 50 to 80. Increasing the number by 30 dwellings is still considered to provide an effective incentive for the developer to deliver the roundabout, as it will prevent them from constructing two-thirds of their approved dwellings until the roundabout is complete. The proposal will still meet the objectives of LPS 53, which allows for residential development on the site in order to help enable the access and infrastructure improvements required to deliver the whole site.

There are no highways reasons to object to the proposed variation. The proposal is also not considered to have any significantly greater impact upon affordable housing provision, the accessibility of the site and public rights of way, noise impacts, air quality impacts, contaminated land, landscape and trees, ecology, design and the character of the area, the living conditions of residents, flood risk, open space, education or archaeology compared to the existing permission.

The proposal is therefore considered to comply with the development policies listed above. The application is therefore recommended for approval, subject to conditions, and a deed of variation to the s106. The conditions will reflect those on the original consent amended to take account of those that have been discharged.

## **SUMMARY RECOMMENDATION**

Approve subject to conditions and deed of variation for s106 agreement

## **PROPOSAL**

The application seeks to vary condition 34 on outline permission 12/3948C. Condition 34 currently requires the completion of the roundabout approved under permission 16/5850C prior to the occupation of the 50<sup>th</sup> dwelling. It is proposed to vary the condition to require the roundabout to be completed prior to the occupation of the 80<sup>th</sup> dwelling.

## **SITE DESCRIPTION**

The application site comprises a former area of open farmland, part of which is currently being developed for housing. The commercial aspect of the approved development has not been commenced, although some works appear to have commenced on the spine road, which will serve the commercial development. The site is bound to the east by the M6 motorway, to the south by the Sandbach wildlife corridor and to the north east by Old Mill Road (A534). The application site forms part of site LPS 53 in the CELPS which is allocated for mixed commercial and residential uses.

## **RELEVANT HISTORY**

18/1414C - Non material amendment to application 17/4496C – Approved 15.05.2018

17/5300C - Non-material amendment to 12/3948C – Approved 07.12.2017

17/4838C - Outline application for development of commercial park including office use, industrial units, storage and distribution, a sports facility and a local centre. (Resubmission of 16/4631C) – Not determined to date

17/4496C - Partial re-plan of layout approved under planning permission reference number 15/3531C providing 101 dwellings (5 additional) including highways and landscaping works. Reserved Matters for Original Outline permission 12/3948C – Approved 13.02.2018

16/6026C - Reserved matters application on approved Outline application 12/3948C for the construction of a spine road and associated works – Approved 11.06.2018

16/5850C - Improvement of J17 Northbound slip road. Provision of new roundabout to provide access to development site, Old Mill Road and slip road – Approved 13.07.2017

16/4631C - Outline application for development of commercial park including office use, light industrial units, storage and distribution, residential care home, sports facilities a local centre and up to 245 residential dwellings – Withdrawn 10.03.2017

15/3531C - Reserved matters application for proposed erection of 232no. dwellings including roads, sewers, boundary treatments and garages and associated works – Approved 10.06.2016

14/0043C - Improvement of J17 Northbound slip road. Provision of new roundabout to provide access to development site, Old Mill Road and slip road – Approved 25.04.2014

12/3948C - Outline planning permission for a commercial development comprising a family pub / restaurant, 63 bedroom hotel, drive through café, eat in café, and office and light industrial units with an adjacent residential development of up to 250 dwellings, and associated infrastructure and access – Approved 09.03.2015

## **POLICIES**

## **Development Plan**

### Cheshire East Local Plan Strategy

MP1 Presumption in favour of sustainable development  
PG1 Overall Development Strategy  
PG2 Settlement hierarchy  
PG7 Spatial Distribution of Development  
SD1 Sustainable Development in Cheshire East  
SD2 Sustainable Development Principles  
IN1 Infrastructure  
EG1 Economic Prosperity  
EG3 Existing and allocated employment sites  
EG5 Promoting a town centre first approach to retail and commerce  
SE1 Design  
SE2 Efficient use of land  
SE3 Biodiversity and geodiversity  
SE4 The Landscape  
SE5 Trees, Hedgerows and Woodland  
SE6 Green Infrastructure  
SE9 Energy Efficient Development  
SE12 Pollution, Land contamination and land instability  
SE13 Flood risk and water management  
CO1 Sustainable Travel and Transport  
CO2 Enabling business growth through transport infrastructure  
CO4 Travel plans and transport assessments

Site LPS 53 – land adjacent to J17 of M6, south east of Congleton Road, Sandbach

### Congleton Borough Local Plan Policy saved policies

GR6 (Amenity and Health)  
GR7 (Amenity and Health)  
GR8 (Amenity and Health - pollution impact)  
GR9 (Accessibility, servicing and provision of parking)  
GR10 (Accessibility for proposals with significant travel needs)  
GR14 (Cycling Measures)  
GR15 (Pedestrian Measures)  
GR16 (Footpath, Bridleway and Cycleway networks)  
GR18 (Traffic Generation)  
GR20 (Utilities infrastructure provision)  
NR2 (Statutory Sites)  
NR3 (Habitats)  
NR4 (Non-statutory sites)  
NR5 (Creation of habitats)

## **Neighbourhood Plan**

### Sandbach Neighbourhood Plan (January 2016)

Policy PC3 - Policy Boundary for Sandbach  
Policy PC4 - Biodiversity and Geodiversity  
Policy PC5 - Footpaths and Cycleways  
Policy H2 – Design and Layout

Policy JLE1 – Future employment and retail provision  
Policy IFT1 – Sustainable Transport, Safety and Accessibility  
Policy CC1 – Adapting to Climate Change

**Other Material Considerations:**

National Planning Policy Framework (The Framework)  
National Planning Practice Guidance (NPPG)

**CONSULTATIONS**

**Cheshire Constabulary** – No comments received

**Cheshire Fire Brigade** – Make observations relating to access and provision of water for fire service

**Jodrell Bank** – No comments received

**Environment Agency** – No comments received

**Natural England** – No comment to make

**United Utilities** – No comments received

**Highways England** – No comments received

**Sustrans** - No comments received

**Public Right of Way** – No comments received

**Children's Services (Education)** – No comments received

**Environmental Health** – No objection

**ANSA** – No comments received

**Archaeological Planning Advisory Service (APAS)** – No comments received

**Strategic Housing Manager** – No comments to make

**Head of Strategic Infrastructure** – No objections

**Sandbach Town Council** – Object on the grounds that it appears to be a delaying tactic by Barratts to enable them to build more houses before constructing the roundabout. Strongly request that the roundabout is constructed without any further delay.

**Cllr Corcoran** – Provides the following reasons for calling the application in to Committee:

*"1) the original conditions were reasonable*

*2) those conditions have already been relaxed and the developer still hasn't built the roundabout*

3) the applicant is not making reasonable attempts to build the roundabout  
4) even if they worked hard from now will be unlikely to be able to build the roundabout in March

5) the traffic station on Old Mill Road is dangerous as cars leaving the new site are frequently having to turn right into standing/slow moving traffic - building more houses before the roundabout is built will make this situation worse

*I have asked to see the developer's detailed timetable for obtaining approvals and constructing the roundabout - apparently this hasn't been provided, so how do we know whether the change to condition is necessary (or indeed sufficient)?"*

## **REPRESENTATIONS**

Four letters of representation have been received from interested parties objecting to the proposal on the following grounds:

- Developer has had over 3 years to schedule these works
- HE offer to discuss access does not appear to have been pursued
- Condition and roundabout design already relaxed once to the detriment of Sandbach and local road users
- The developer should not be rewarded for poor project management
- Shows a lack of respect for planning rules
- Variation is of no benefit to the area
- Applicant has failed to justify the figure of an additional 30 dwellings
- The TA is a MODEL, which can be manipulated to provide various answers
- Any additional standing traffic will have an adverse impact on Air Quality. A subject NOT mentioned in the TA.
- Development should stop until the infrastructure can catch up

The publicity period expired on 4 October 2018.

## **BACKGROUND**

In June 2014, the original outline application (12/3948C) was resolved to be approved by the SPB. As part of that resolution, condition 34 required a new "enhanced" roundabout (approved under permission 14/0043C) to be delivered prior to the commencement of development. At that time it was hoped that the approved enhanced roundabout would be constructed instead of the Highways England pinch point scheme. However, when it became apparent that the pinch point scheme would have to be provided first, the condition was amended at the October 2015 SPB meeting to require the provision of the roundabout prior to the occupation of the 50<sup>th</sup> dwelling.

It was noted at that time that the development will be served by two access points, and, even though the application was in outline with all matters reserved, it was evident that the residential element of the proposal could be accessed without the roundabout being provided. The reasoning for the condition was to guarantee that the access to the commercial site is provided from the new roundabout, in order to enable the delivery of the employment site and to ensure that it is not just the residential aspect that is delivered. The 50 dwelling limit was put forward by the applicant at that time.

In 2014 it was accepted that a restriction upon the numbers of dwellings to be occupied before the roundabout was provided would serve the purpose of the condition just as well as a pre-commencement condition. This would allow the development to commence and still facilitate the delivery of the roundabout at the appropriate time. Permission 12/3948C was issued on this basis.

The developer is now close to completing construction of 50 houses, with occupation of the 50<sup>th</sup> unit expected to follow very soon. In this event, works would have to cease on site until the roundabout approved under permission 16/5850C is completed for reasons that are outside of the applicant's control. Whilst the restriction on occupation does not necessarily prevent Barratts from constructing the houses, Members will be aware that the nature of housebuilding is for units to be constructed, with occupation following very soon after completion. Houses are not speculatively constructed in large numbers, with delayed occupation.

The reason for the delay in the construction of the roundabout is that Highways England is currently undertaking the M6 junction 16 to junction 19 Smart Motorway Scheme, which is scheduled for completion in March 2019. Due to these works, Highways England will not permit access onto the network to carry out the required roundabout works until the Smart Motorway Scheme is complete (in March 2019).

## **APPRAISAL**

### **Reason for the condition**

The principle of the mixed use development on the site has already been accepted as a result of the earlier permissions.

The supporting text to Site LPS 53 in the CELPS states that the allocation presents *“the opportunity to deliver a mixed used development site with the primary use of the site being for employment purposes, whilst acknowledging that supporting residential development will be needed to help enable the access and infrastructure improvements required to deliver the whole site”*

In this regard the policy allows for the delivery of up to 450 new homes to support the delivery of the 20 hectares of employment land. The reason for the condition was to ensure that there was some incentive built into the permission to guarantee that the roundabout is provided, as the delivery of the roundabout is essential to the acceptability of the approved mixed use proposal as a whole.

Reserved matters approval exists on this site for the construction of 237 dwellings. The existing permission allows for 50 dwellings to be constructed and occupied ahead of the completion of the roundabout, which equates to 21.1% of the approved dwellings. The proposed variation to 80 dwellings will increase this proportion to 33.7%, approximately one-third of the approved dwellings. Therefore, the applicant would still be prevented from occupying two-thirds of the approved dwellings until the roundabout is complete, which is still a considerable incentive for them to construct the roundabout.

## **Highways**

The applicant has submitted supporting information to indicate that the increase in units can be accommodated on the road network. The Head of Strategic Infrastructure agrees with the submitted details that the additional 30 units would make little difference in terms of traffic impact, ahead of the provision of the roundabout. It is important to note that the condition was not attached for traffic capacity reasons; it was to ensure that the roundabout was delivered to allow the employment allocation to come forward.

Whilst the delivery of the new roundabout is important not only for the delivery of the employment area but also for the operation of the local highway network, there are no highway reasons to object to the proposed variation.

### **Other matters**

Due to the very limited nature of the proposed change to the trigger for the delivery of the roundabout, the proposal is not considered to have any significantly greater impact upon affordable housing provision, the accessibility of the site and public rights of way, noise impacts, contaminated land, landscape and trees, ecology, design and the character of the area, the living conditions of residents, flood risk, open space, education or archaeology compared to the existing permission.

This position is also evident from the lack of comments from consultees regarding the proposed change.

The comments received in representation relating to air quality are acknowledged, however air quality officers from Environmental Protection have not raised any concerns regarding the proposed variation. If there was any additional impact to local air quality arising from the proposal, this would be to a negligible degree and for a very short period of time. The conditions relating to a travel plan and electric vehicle charging infrastructure attached to the original outline permission will address these impacts as well as the contribution of £10,000 towards implementation of the Air Quality Action Plan in Sandbach, which was secured as part of the s106 agreement on the outline consent.

### **Heads of Terms**

If the application is approved a deed of variation to the Section 106 Agreement will be required to refer to this new permission. The s106 secured the following heads of terms:

- Financial contribution towards primary education of £292,850
- Financial contribution towards secondary education of £539,309
- Contribution of £10,000 (air quality mitigation) towards implementation of Air Quality Action Plan in Sandbach
- The provision of a NEAP facility (comprising a minimum of 8 items of equipment) and a minimum of 4000sqm of open space to be provided on site. One area shall be a minimum of 2000 sqm.
- Management details for the maintenance of all amenity greenspace / public open space, public footpaths and greenways within the site, play areas, and other areas of incidental open space not forming private gardens or part of the adopted highway in perpetuity.
- Provision of 15% affordable housing with 50% to be provided as social rent and 50% provided as intermediate tenure
- Phasing of affordable housing
- Area of land across wildlife corridor transferred to Highway Authority

- Financial contribution of £500,000 towards bridge to cross wildlife corridor
- Clawback mechanism (in the event additional monies become available)

### **Community Infrastructure Levy (CIL) Regulations**

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 provision of affordable housing, provision of public open space and associated management and air quality mitigation are necessary, fair and reasonable to provide a sustainable form of development, to contribute towards sustainable, inclusive and mixed communities and to comply with local and national planning policy.

The development would result in increased demand for school places at the primary and secondary schools within the catchment area which have at best only limited spare capacity. In order to increase capacity of the schools which would support the proposed development, a contribution towards primary and secondary school education is required based upon the maximum units applied for. This is considered to be necessary and fair and reasonable in relation to the development.

All elements are necessary, directly relate to the development and are fair and reasonable in relation to the scale and kind of the development

### **CONCLUSION**

The principle of the development has already been approved.

The proposed variation seeks to increase the number of dwellings that can be occupied in advance of the roundabout approved under permission 16/5850C being completed, from 50 to 80. Increasing the number by 30 dwellings is still considered to provide an effective incentive for the developer to deliver the roundabout, as it will prevent them from constructing two-thirds of their approved dwellings until the roundabout is complete. The proposal will still meet the objectives of LPS 53, which allows for residential development on the site in order to help enable the access and infrastructure improvements required to deliver the whole site.

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The proposal is therefore considered to comply with the development policies listed above. The application is therefore recommended for approval, subject to conditions, and a deed of variation to the s106. The conditions will reflect those on the original consent amended to take account of those that have been discharged.



*In the event of any changes being needed to the wording of the Committee's decision (such as to delete, vary or add conditions / informatives / planning obligations or reasons for approval/refusal) prior to the decision being issued, the Head of Planning (Regulation) has delegated authority to do so in consultation with the Chairman of the Strategic Planning Board, provided that the changes do not exceed the substantive nature of the Committee's decision.*

#### Application for Variation of Condition

RECOMMENDATION: Approve subject to a Section 106 Agreement and the following conditions

1. Development in accord with approved plans
2. Protection from noise during construction (hours of construction)
3. Approval of construction method statement
4. Approval of ground levels submitted with reserved matters application
5. Approval of refuse storage facilities
6. Approval of Environmental Management Plan
7. Approval of external lighting
8. Updated contaminated land Phase II report
9. Noise mitigation measures
10. Approval of travel plans
11. Energy from decentralised and renewable or low-carbon energy sources / energy reduction
12. Scheme to limit the surface water runoff
13. Scheme to manage the risk of flooding from overland flow of surface water
14. Scheme to dispose of foul and surface water
15. Wildlife corridor buffer zone to be provided
16. Approval of arboricultural details
17. Site to be drained on a separate system
18. Provision of electric car charging points
19. Incorporation of public right of way routes in layout
20. Provision for pedestrians and cyclists
21. Written scheme of archaeological investigation
22. Hedgerow retention and enhancement

23. Phasing of whole development and associated roundabout
24. Public access to wildlife corridor to be provided
25. Prior to the occupation of the 80th dwelling hereby approved, the roundabout which is the subject of planning permission 16/5850C shall be completed in accordance with the details approved under that permission.
26. No more than 50% of the dwellings shall be occupied before all services / utilities / infrastructure are provided for 25% of the non residential element of the site. No more than 75% of the dwellings shall be occupied before all services / utilities / infr

