

**STAFFORDSHIRE MOORLANDS DISTRICT COUNCIL
PLANNING APPLICATIONS COMMITTEE**

13 February 2020

Application No:	SMD/2018/0790	
Location	Land South East Of A521, A50 BLYTHE BRIDGE BYPASS BLYTHE BRIDGE, STAFFORDSHIRE	
Proposal	Development of 146 dwellings (Use Class C3), access and internal roads for vehicles, pedestrian and cycle linkages; car and cycle parking; associated play and open space, landscaping, ecological habitats; sustainable drainage measures, earthworks and all ancillary enabling works including the demolition of building and structures.	
Applicant	St. Modwen Homes	
Agent	Mr Peter Heyward, Turley Associates	
Parish/ward	Forsbrook	Date registered 08/01/2019
If you have a question about this report please contact: Ben Haywood tel: 01538 395400 ex 4924 ben.haywood@staffsmoorlands.gov.uk		

REFERRAL

The Application was originally referred to committee because it is a major development and a departure from the Development Plan.

It was considered by the Planning Applications Committee at its meeting on 4th April 2019 at which the committee resolved to approve the application subject to completion of a Section 106 Agreement.

The Committee resolved to Delegate Authority to the Head of Development Services in consultation with the Chairman to approve the application subject to conditions and Section 106 as set out in the main report subject to no objection from Ecology and Highways England, whose comments were outstanding at the time of the meeting.

Since that time discussion have been on-going with the Developer over the S106 agreement and the outstanding comments have been received. The developer is now seeking to make material amendments to the Heads of Terms for the s106 agreement, specifically, to reduce the percentage of affordable housing. Given the significance of the change, the application has been referred back to the Committee.

1. SUMMARY OF RECOMMENDATION

APPROVE subject to Section 106 Agreement and Conditions
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2. BACKGROUND

2.1 Full planning permission was granted for the erection of 118 dwellings on the site in 2018. At the time the applicants entered into a Section 106 Agreement with the Council to secure the following matters:-

1. 33% affordable contribution, (39 units) with 70% (27 units) rented and 30% (12units) in accordance with the Schedule and Phasing as set out in the Housing Officer Consultation response above.
2. Housing to be transferred to and managed by a Registered Provider as set out in the defined in the Housing & Regeneration Act 2008
3. Provision of LEAP in accordance with specification shown on the submitted revised drawings
4. Private Residents Management Company to maintain all open space on site including amenity greenspace, play space, incidental open space, footpaths and cycleway.
5. Off site public open space contribution based on Number of bedrooms x £608.95.
6. Education Contribution: £386,085 for primary education, £199,464 for secondary and £36,054 for sixth form
7. Contribution towards cycle stands and benches at Blythe Bridge Station £2000.
8. Travel Plan monitoring fee of £6430

2.2 This report relates to a revised application for the same site area but which seeks to increase the numbers of units on the site to 146 as well as seeking approval for various associated changes of housetype. The application was considered by the Planning Applications Committee at it's meeting on 4th April 2019 at which the committee resolved to approve the application subject to completion of a Section 106 Agreement to secure:

1. Off site public open space contribution based on Number of bedrooms x £608.95.
2. £419,178 for primary education, £265,952 for secondary and £54,081 for sixth form. This gives a total request of £621,603
3. Contribution towards cycle stands and benches at Blythe Bridge Station £2474.
4. Travel Plan monitoring fee of £6430

2.3 In addition, the scheme proposed 33% affordable housing based on 146 dwellings would equate to 48 affordable dwellings, with 70% (34) rented and 30% (14) shared ownership. The affordable dwelling mix is proposed as follows:

- 12 no. 1 bed apartments
- 6 no. 2 bed apartments
- 22 no. 2 bed houses (House type AF2B830)
- 8 no. 3 bed houses (House type AF3B970)

2.4 However, at the time the developer requested that the affordable housing is secured by condition rather than the more usual legal agreement. The developer advised that securing the affordable housing by condition would enable Homes

England grant funding to be secured for the delivery of affordable housing which will improve the viability of the scheme, secure delivery and help to avoid any future requests to reduce affordable housing provision on viability grounds.

2.5 The Committee resolved to Delegate Authority to the Head of Development Services in consultation with the Chairman to approve the application subject to conditions and Section 106 as set out in the main report subject to no objection from Ecology and Highways England, whose comments were outstanding at the time of the meeting.

2.6 A copy of the original report to committee has been appended to this report.

2.7 Since that time, negotiations have been ongoing with regard to the Section 106 Agreement, including further discussion with Homes England over the grant funding. In addition, a holding objection has been received from Highways England, due to concerns about surface water from the site discharging through a culvert under the A50. Consequently, the application remains undetermined.

3. RELEVANT POLICY

Core Strategy Development Plan Document.

Policy H2 (Affordable housing) – states that residential developments of 15 dwellings (0.5 hectares) or more shall provide a target of 33% affordable housing on site from all sources. It says that, ‘.. *the actual level of provision will be determined through negotiation taking into account development viability and other contributions*’.

National Planning Policy Framework

Para 57 says that it is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage.

4. CONSULTATION RESPONSES

Highways England

HIGHWAYS ENGLAND (“we”) has been appointed by the Secretary of State for Transport as strategic highway company under the provisions of the Infrastructure Act 2015 and is the highway authority, traffic authority and street authority for the Strategic Road Network (SRN). The SRN is a critical national asset and as such we work to ensure that it operates and is managed in the public interest, both in respect of current activities and needs as well as in providing effective stewardship of its long-term operation and integrity.

This response represents our formal recommendations with regard to application SMD/2018/0790 and has been prepared by Patrick Thomas, Asset Manager for Highways England.

Highways England has not been consulted at the pre application stage. However, we previously responded to an earlier application at the site, though for a different development quantum and layout.

The current application seeks full planning consent for the development of 146 dwellings (use Class C3), new access and internal roads for vehicles, pedestrian and cycle linkages; car and cycle parking; associated play and open space, landscaping, ecological habitats; sustainable drainage measures, earthworks and all ancillary enabling works including the demolition of building and structures.

The current application proposes a net increase of 28 additional dwellings compared to the original application. Highways England has conducted a review of the trip generation implications of the new development quantum and is content that the new figures are unlikely to result in adverse implications for the SRN.

Our previous holding recommendation dated 10 July 2019 set out the following:

“...The drainage proposals associated with the proposed development are as shown on drawing no. 12629-301 Rev A and described in the flood risk assessment. The existing watercourse network is shown on drawing no. 02523-A-0112. A foul water connection is to be made within the local road (A521) to a point of outfall reference FHM 47. This is not considered to affect SRN interests. With regard to the surface water system, water is to be directed away from the development to a retaining pond to the south-east. The point of outfall is a watercourse, passing beneath the A50 via a 900mm diameter culvert before joining the River Blythe to the west.

It has been established that the culvert is a Highways England asset and forms part of the highway drainage system. The proposed surface water drainage strategy would therefore be contrary to DfT Circular 02/2013 paragraph 50 on the basis of connecting development drainage to the highway (private) drainage system...”

It is noted that a meeting was held between the applicant and Highways England on 23 October 2019. Following this meeting, several proposed drainage options were considered and discounted based on their viability in terms of cost and deliverability. The applicant has recently submitted their indicative costs for installation of a new culvert under the A50. This is currently under review and it is expected that following a meeting with the applicant on 16th January 2020 this will be progressed.

In light of the above Highways England recommend that **planning permission not be granted for a further period of up to 3 months**. This is to allow sufficient time for the applicant to continue liaising with Highways England in order to seek a resolution to the matter of drainage.

Ecologist

I understand that the proposed change from 118 to 146 houses will result in a 38% loss of the area of pond loss of the area of pond 1. As outlined in the Supplementary Ecology note dated November 2018 submitted with the application. The pond

detailed in the supplementary ecological note is considered to be of relatively poor ecological quality due to the presence of fish. However, ponds are a priority habitat in the Staffordshire Biodiversity Action Plan where the aim is:

- To maintain the nature conservation value of existing ponds, lakes and their catchment areas through favourable management.
- Increase the number of open water bodies with nature conservation potential within the county.

Opening up the pond on the southern aspect may be beneficial to aquatic biodiversity. The intention to sculpture the sides of the ponds to create gently sloping gradients and to encourage natural colonisation would be appropriate. I can confirm that the mitigation detailed in the planning application with respect to pond 1 is acceptable. The species mix planting detailed in drawing 1965 0G 3 accompanying surrounding the pond is acceptable apart from *Lingustrum vulgare* and *Viburnum lantana*. A mix of only native species would be preferable within the vicinity of the pond. Close to the pond native hedges would add biodiversity value rather than single species *Fagus sylvatica* hedges. A typical locally occurring hedgerow mix could consist of be 10% Hazel -*Corylus avellana*, 70% Hawthorn-*Crataegus monogyna*, 5% Holly -*Ilex aquifolium*, 10% -Blackthorn *Prunus spinosa*, 5% Dog Rose -*Rosa canina*. Hedge plants should be 40-60cm transplants of locally common native species and of British provenance (preferably local) and should comply to British Standard 3936. Details of wildflower meadow establishment and after care detailed on landscape plans are acceptable. A long-term ecological management encompassing biodiversity enhancement within the development would be appropriate.

A bat survey by Fcpf dated 2017 found buildings scheduled for demolition had no potential for roosting bays. Recommendations included appropriate lighting and compensation / enhancement through the creation of artificial bats roosts.

A great crested newt survey by Fcpr dated 2017 found that a number of ponds supported a variable number of great crested newts. Loss of terrestrial habitat 50-250m is considered to have a medium impact on great crested newt. Consequently a European Protected Species Licence would be appropriate as advised in the report.

I would suggest the additional following conditions:

Great crested newts

No development must commence until the local planning authority has been provided with:

- a) a licence issued by Natural England authorising the development may proceed;
- or
- b) a statement in writing from natural England to the effect that it does not consider that the development will require a licence.

Construction Environmental Management Plan (CEMP)

No development shall take place until a construction environment management plan (CEMP) has been submitted and approved in writing by the local planning authority. The CEMP shall include:

- Risk assessments for potentially damaging construction activities.
- Biodiversity protection zones.
- Practical measures to avoid impacts as a set of method statements i.e. covering exposed pipes and trenches.
- Location and timing of works to avoid impacts to avoid harm to biodiversity.
- Time during construction work when a specialist needs to be on site
- Lines of communication. The role of an ecological clerk of works.
- Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period unless agreed otherwise in writing with the local planning authority.

Breeding birds

Works should not be carried out between 1st March to 31st August unless a check for breeding birds has been carried out by an ecologist. In the event that breeding birds are present no work should be carried out until the birds have finished breeding, and all dependent young have left the site.

Reason: All breeding birds, nests eggs and young are protected from harm under the Wildlife and Countryside Act 1981 as amended.

Bats / breeding birds - lighting

A lighting design plan should be submitted in writing to the local planning authority for approval. The use of artificial lighting must follow the protocols outlined in Guidance Note 08/18 Bats and artificial lighting in the UK, Bats and the Built Environment series. (Bat Conservation Trust & Institute of Lighting Professionals 2018).

A lighting design plan must shall be implemented in accordance with the approved details.

Reason: To avoid impacts on bats and breeding birds

Ecological Management Plan

Before commencement of development an Ecological Management Plan management plan should be prepared for the development. This shall include:

Creation, enhancement and management of semi-natural habitats – in particular existing and new pond/ wetland creation and associated habitat. Depth, gradients and aspects of created ponds to maximise value for biodiversity.

Provision of bat roosting and bird nesting opportunities in new buildings and attached to trees. This should include provision for house sparrow and house martin. Designs to ensure hedgehogs can move through the development. The planting of hedgerows as curtilage boundaries. Planting of native locally occurring species appropriate to shade, moisture, aspect, and drainage to encourage pollinating insects, plus provide a food sources for foraging birds or bats. Details should be provided on suitable scale plans and accompanying specifications. The timing of work and persons responsible must be detailed.

Details of aftercare, long-term maintenance for a minimum of 20 years post creation. Monitoring and remedial measures shall also be provided.

The Ecological Management Plan shall be implemented in accordance with the approved details and features shall be retained in that manner there

Reason: Biodiversity enhancement providing a net gain for biodiversity appropriate to the size and scale of development as advocated by National Planning Policy Framework 2018. Policy NE1 in Staffordshire Moorlands Local Plan: Ensuring development promotes the appropriate maintenance, enhancement, restoration and/or re-creation of biodiversity through its proposed nature, scale, location and design.

5. PROPOSAL

5.1 Following discussions with Homes England over the grant funding position, the applicant is now seeking to reduce the percentage of affordable housing and to secure what remains through the Section 106 Agreement rather than by condition. As noted above initially the application sought to remove the affordable housing provision entirely from the Section 106 Agreement and place this in a condition. The full 33% provision was still being offered. The request was said to be necessary in order to secure grant funding from Homes England; the premise being that HE would not grant fund if there was a Section 106 affordable housing requirement in place. Viability appraisals accompanied the request to show that with 100% grant funding from Homes England, 33% affordable housing could be achieved on the site.

5.2 Subsequent discussions with Homes England and the Council revealed however that this approach would not secure funding. Homes England will only fund where there is a short fall in policy complaint provision. This means that, in circumstances where the Council accepts that a site cannot support the policy complaint position of 33% affordable housing, HE are very likely to offer grant funding to make up the provision to policy complaint level. The applicant advises that their intention is to do exactly this in this case. However the Council, apart from offering support to such an approach to Homes England has no control as to firstly whether in fact the applicant does apply for such funding and secondly whether an application would be successful. It should not therefore weigh in the consideration of this application.

5.3 As a result of this changed approach a detailed development appraisal has been submitted. The applicant no longer seeks to remove the affordable housing from the 106 and place this in a condition. Instead they are seeking a reduction in the level of affordable housing provision. The application states that this request is to ensure that the development remains viable and to deliver affordable homes on the site.

5.4 The Viability appraisal has been assessed by Keppie Massey on behalf of the Council. They have reviewed the assumptions made in the submissions and have also undertaken their own appraisals of the scheme. Their FVA review has been prepared in accordance with the RICS Professional Statement *Financial Viability in Planning: Conduct and Reporting (1st edition)* dated May 2019. The document sets out mandatory requirements on conduct and reporting in relation to FVAs for planning in England to demonstrate how a reasonable, objective and impartial outcome, without interference should be arrived at and so support the statutory planning decision process.

5.5 The appraisals show that based on a policy compliant scheme, then the application proposals are not sufficiently financially viable to support a policy complaint scheme inclusive of 33% affordable housing. They have also considered the level of affordable housing provision that could be supported by the application proposals. The appraisal concludes that the development can support 8 affordable units or 5.47%. The appraisal on this basis generates a residual land value of £1,891,347 which is slightly below than the BLV of £1.9m but again is not sufficient to support a further affordable dwelling. This appraisal demonstrates that the development could support 8 affordable units on this basis and remain viable

OFFICER COMMENT AND PLANNING BALANCE

Affordable Housing

6.1 Policy H2 allows for the negotiation of affordable housing and other contributions taking into consideration viability.

6.2 In this particular case the applicant has provided viability information which has been assessed on behalf of the Council and found to be based on sound assumptions. This includes the construction costs, abnormal site costs, land purchase price, developer profit and anticipated sales values. The conclusion of the Council's consultants is that the viability information is fair.

6.3 The Council continues to have a very poor housing land supply situation; it is still below 2 years whereas the NPPF requires LPA's to have at all times a 5 year deliverable supply. It is clear, based on the submitted evidence that unless the affordable housing provision is varied in accordance with the detail set out above that this site is unlikely to be completed. That puts the Council housing land supply situation at further risk and it would mean that the social benefits of providing more housing in Blythe Bridge including 8 affordable units would not be realised nor would the economic benefits arising from the development; construction and extra spending power in the local economy for example. These considerations are significant and weighty in this case. It is also of note that since 2017 when the original permission was granted the Council's housing land supply situation has failed to improve.

6.4 Although Development Appraisal does lead to a reduced provision of affordable housing from 46 to 8 units; 33% to 5.47% of the total number of units, it would still

achieve all of the other contributions to mitigate the impact of the development on existing education, public open space and public transport infrastructure.

Highways

6.5 As noted in the consultation response above, Highways England, who are responsible for the A50 trunk road, are concerned that the proposed surface water drainage system is proposed to connect to their culvert. As such they have issued a holding objection. However, the applicant has been engaged in constructive discussions with Highways England. The applicant, who, in light of the viability position described above, have agreed that there are no other economically viable alternative drainage solutions and have now informally accepted in principle the proposed connection. Telephone conversations between the case officer and the Highways England officer have confirmed that this is the case, subject to the imposition of appropriate conditions. However, at the time of report preparation a formal response from Highways England removing the holding objection and including recommended conditions was still awaited.

6.6 A further update on this matter will be provided to Members prior to the meeting. However, in the event that a Highways England formal response is not forthcoming prior to the meeting, it is considered that this matter could be delegated to the Head of Development Services and the Chairman of the Committee as per the previous committee resolution.

Ecology

6.7 As noted above, at the time that the Committee previously considered the application, the Council's ecologists comments were outstanding. These have since been received and are set out above. Members will note that he raises no objections to the proposals subject to appropriate conditions. Accordingly, on this basis, and for the other reasons set out in the original committee report it is concluded that the proposals comply with Local Plan policy NE1 and the requirements of the Habitat Regulations.

6. RECOMMENDATION

A. That the Application be APPROVED subject to Highways England removing their holding objection AND a Section 106 to secure:

- **5.47% affordable contribution, (8 units) with 70% (4 units) rented and 30% (2 units) intermediate tenure in accordance with the Schedule and Phasing as set out in the previous report to committee.**
- **Off site public open space contribution based on Number of bedrooms x £608.95.**
- **£419,178 for primary education, £265,952 for secondary and £54,081 for sixth form. This gives a total request of £621,603**
- **Contribution towards cycle stands and benches at Blythe Bridge Station £2474.**
- **Travel Plan monitoring fee of £6430**

And conditions as set out in the previous committee resolution minus the affordable housing condition previously recommended plus the additional conditions recommended by the Council's Ecologist as set out in the report above and any additional conditions recommended by Highways England.

- B. 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 Development Services has delegated authority to do so in consultation with the Chairman of the Planning Applications Committee, provided that the changes do not exceed the substantive nature of the Committee's Decision.**