

THURSDAY, 28 JULY 2016

**REPORT OF THE PORTFOLIO HOLDER FOR REGENERATION****ARKALL FARM PLANNING CONSULTATION RESPONSE****EXEMPT INFORMATION**

None

**PURPOSE**

To brief Cabinet on the latest consultation from Lichfield District Council in respect of new information provided to support a planning application on a location identified within the Lichfield District Local Plan Strategy as a Broad Development Location centred on land to the north of Tamworth Borough.

**RECOMMENDATIONS**

The portfolio holder in consultation with Head of Managed Growth, Regeneration and Development is given authority to respond to Lichfield District Council in relation to planning application number 14/00516/OUTMEI for the construction of up to 1,000 homes, primary school, local centre, public open space, landscaping and associated infrastructure and that he requests:

- a) Lichfield District Council refuse the application based on the issues outlined in this report;
- b) If minded to approve, that appropriate provision be made within the planning consent for developer obligations in respect of primary and secondary school provision; highway infrastructure; affordable housing; indoor and outdoor sports facilities and that Tamworth Borough Council is actively involved in discussions to secure these contributions;
- c) That the level of affordable housing provision should conform to the requirements set out in Tamworth's Local Plan identifying the mix of housing types and tenures. Nomination rights for these dwellings should be prioritised for Tamworth Borough residents; and
- d) That if a 'monitor and manage' approach is accepted by Lichfield District council to control the size of the development based on highway capacity, then this should be achieved through a Section 106 agreement rather than conditions to ensure it is robust and enforceable.

**EXECUTIVE SUMMARY**

Lichfield District Council has consulted Tamworth Borough Council as a statutory consultee on planning application 14/0056/OUTMEI which seeks outline approval for 1,000 homes, a primary school, local centre, public open space, landscaping and associated infrastructure. The Planning Application was initially submitted in May 2014 and officers submitted comments to that application in July 2014. Since the original submission both Lichfield and Tamworth Councils have concluded the Examinations in Public of their local plans and adopted them.

The site of the application lies to the north of Ashby Road and the Anker Valley development proposal that is located within the Tamworth administrative area. Anker Valley has approval for the development of 535 new dwellings with associated infrastructure. Both sites form part of a proposal to bring forward development to serve housing demand in line with the National Planning Policy Framework which is reflected in the Tamworth Local Plan (adopted February 2016) and the Lichfield District Local Plan Strategy 2015.

Lichfield District Council, the County Council and the applicant have been working on the proposal since initial submission, primarily focused on mitigating the impact on the local highway network. The culmination of this work is the recent submission of addendums to the Design and Access Statements and Transport Assessments to Lichfield District Council and it is this that has led to the latest public consultation. The deadline for responses to the application is the 28th July 2016.

The Transport Assessment Addendum provided by Peter Brett Associates states that the applicant has been in detailed discussions with Staffordshire County Council as the Highway Authority to seek agreement on the traffic issues presented by the proposed development at Arkall Farm. Staffordshire County Council had submitted an objection to the scheme in their Form X consultation. This is referenced at a meeting on 11th July 2014 between Staffordshire County Council, Barwood Strategic Land and Peter Brett Associates LLP. The Transport Assessment Addendum states that following collection of traffic count data in May 2015 and October 2015, Staffordshire County Council with advice from JCT, have agreed that:

- There is capacity on the Gungate corridor to allow some development to come forward on land to the north of Ashby Road. From traffic counts following improvements to Gungate (pinch point scheme) there is capacity along Gungate that will allow 200 dwellings to come forward prior to any further highway improvements;
- Improvements to Fountains Junction will increase the number of dwellings that can be accommodated in the Gungate corridor by a further 100 units (300 total);
- A monitor and manage approach implemented at the outset to determine actual impacts of development on the wider area and how further development will come forward.

It is understood from officers at Lichfield District Council that they will seek to structure a planning consent which will be conditioned to reflect the recommendations of the Highway Authority as highlighted above. This was confirmed at a meeting between officers on 19th July 2016.

The applicant has highlighted further areas where they feel there is capacity to increase the scale of development. In the main, they have challenged the traffic data that the County Council have collated as well as the assumptions on traffic flow impacts at all stages of development.

The Education Authority is also engaged with the application and it is anticipated that an agreement is close on developer contributions, however, it is not clear how this will be structured to ensure that the impact of the development will be effectively mitigated when total size of the development is unknown from the outset.

At the time of writing the County Council have not responded to the latest consultation in terms of either Highways or Education.

Officers have identified a number of issues and concerns including the impact of development on the local highway network, the impact of development on sports and leisure facilities, the way that a monitor and manage strategy will be controlled, the impact of the development on education infrastructure and how this will be mitigated, how the development will connect into the rest of Tamworth and the delivery of affordable housing to meet Tamworth's housing needs.

## **OPTIONS CONSIDERED**

The Council could decide not to respond however this will mean that our views are not formally recorded or considered in the determination of this application.

## **RESOURCE IMPLICATIONS**

There are no resource implications specifically as a result of this report. However, the proposal in its entirety would impact upon the infrastructure within Tamworth Borough particularly highways and education provision that will require mitigation through the development. Officers recommend that a request is made to also mitigate the impact on sport and leisure and affordable housing. As the scheme is contained within Lichfield District Tamworth Borough Council will receive no additional Council Tax or New Homes Bonus.

## **LEGAL/RISK IMPLICATIONS BACKGROUND**

The applicant proposes a scheme of improvements to part of the surrounding highway network with a view to releasing capacity for a greater number of dwellings. Tamworth has previously expressed concerns at the scale of development proposed and despite the new information provided, these concerns have not been entirely addressed.

A recent Secretary of State decision to determine an appeal endorsed the Inspector's recommendation to refuse permission based on the severe traffic impact as well as other issues

relating to a proposal for residential development in Maidstone is relevant in this case. The inspector had noted that traffic congestion was already at high levels and severe traffic impact could not be effectively mitigated. Furthermore, there was a complete lack of any suitable alternative access road into or out of the area.

## **SUSTAINABILITY IMPLICATIONS**

The Broad Development Location has been identified to deliver sustainable development to serve the needs of Tamworth and Lichfield.

## **BACKGROUND INFORMATION**

The Tamworth Local Plan identifies Anker Valley as a sustainable urban extension to provide at least 535 new dwellings and associated infrastructure (Policy HG2). Particular emphasis is placed on respecting the Conservation Area and listed buildings; protecting views to and beyond this area; development to be of a design and scale which enhances the local distinctiveness and respects local vernacular; cycle links and pedestrian access to the urban area to the west of the site; green links for wildlife to the Warwickshire Moor Local Nature Reserve and the wider green infrastructure; consider potential for archaeology.

Lichfield District Local Plan Strategy defines land north of Tamworth as a Broad Development Location. The associated Policy states:

*Policy: North of Tamworth*

*Within the Broad Development Location identified to the north of Tamworth, a sustainable, safe, well designed mixed use development of approximately 1,000 dwellings will be delivered by 2029 including:*

- 1. A range of housing in accordance with Development Management Policies H1 and H2 and having regards to needs arising within Tamworth Borough;*
- 2. Provision for open space, sport and recreation facilities in line with Development Management Policies HSC1 and HSC2 and incorporating playing pitches, amenity green space, equipped play, allotments;*
- 3. Landscaping and Green Infrastructure provision including the retention of quality hedgerows and significant trees, and their incorporation into the landscape, and the allowance for significant tree canopy cover in line with Development Management Policies NR4 and NR6;*
- 4. A clear strategy for delivering links to Tamworth, and showing how these will be incorporated into an integrated open space and green infrastructure network;*
- 5. Protection of local areas and habitats of biological interest;*
- 6. The provision of public transport to serve the site: all development should be within 350m of a bus stop;*
- 7. The provision of pedestrian and cycling routes throughout the site, linking to the green infrastructure network and to settlements, services and facilities beyond the site boundaries including safe crossing points;*
- 8. Vehicular access that is integrated with the Anker Valley and Amington links proposed within Tamworth Borough;*
- 9. The provision and maintenance of sustainable drainage systems and flood mitigation measures;*
- 10. Adherence to all other policies in the Local Plan.*

*The development shall cause no coalescence with Wigginton village and shall not commence prior to essential infrastructure being delivered at an appropriate stage.*

The supporting text states that this supports the spatial strategy for Tamworth Borough which recognises that not all locally derived housing needs can be met within its Borough boundary. It is important that delivery of homes within Lichfield District does not undermine the ability for Tamworth Borough Council to deliver homes within its boundary, particularly within the identified Sustainable Urban Neighbourhood at Anker Valley. It is recognised that any provision to the north of Tamworth, within Lichfield District will be reliant on a range of infrastructure delivered within Tamworth, particularly the linkages proposed within Tamworth Borough Council's spatial strategy

The proposed development relates to a 1,000 unit scheme, primary school, local centre, public open space, landscaping and associated infrastructure (outline). Lichfield District Council and the applicant

have been working on the proposal since this time, primarily focused on mitigating the impact on the local highway network with the County Council. This work has resulted in addendums to the Design and Access Statements and Transport Assessments which have been submitted and this has led to the latest public consultation.

The submitted Amended Transport Assessment Addendum provided by Peter Brett Associates provided further detail of the discussions with Staffordshire County Council to seek agreement on the traffic issues presented by the proposed development at Arkall Farm. The Transport Assessment Addendum states that following collection of traffic count data in May 2015 and October 2015 Staffordshire County Council with advice from JCT have agreed that:

- There is capacity on Gungate corridor to allow some development to come forward on land to the north of Ashby Road. From traffic counts following improvements to Gungate (pinch point scheme) there is capacity along Gungate that will allow 200 dwellings to come forward prior to any highway improvement;
- Improvements to Fountains Junction will increase the number of dwellings that can be accommodated in Gungate corridor by a further 100 units (300 total);
- A monitor and manage approach implemented at the outset to determine actual impacts of development on the wider area and how further development will come forward.

It is understood that Lichfield will seek to structure a planning consent which will be conditioned to reflect the recommendations of the Highway Authority as highlighted above. This was confirmed at a meeting between officers on 19th July 2016.

The monitor and manage arrangement will be agreed and the methodology defined at the outset with trigger points for off-site infrastructure agreed with Staffordshire County Council. It is understood that it is Lichfield District Councils intention to condition the outline consent to provide a “monitor and manage strategy” in order to:

- Monitor traffic flows from development particularly Gungate corridor during morning and evening peak hours
- Identify network conditions and capacity on Gungate corridor
- Monitor background traffic flows and record changes
- Monitor use of public transport, walking and cycling
- Identify built and occupied development quantum, including residential use
- Set out measures to support sustainable travel behaviours and reduce volume of car trips utilising Gungate in peak hours
- Set trigger points for implementation of any measures proposed

Officers have identified a number of issues with this application that the Council needs to consider. When Lichfield Council submitted its plan which contained the broad location of growth, Tamworth Council was preparing its plan which contained a allocation for Anker Valley of a minimum of 1150 homes. However, following concerns raised by the Planning Inspector about the deliverability of development in this area we withdrew our Plan and together with Lichfield and Staffordshire Councils commissioned consultants to provide advice on the delivery of development and how the impact on the highway network could be mitigated. The conclusion of that report was that no more than 500 homes could be constructed without further impacting on the local highway network. Tamworth Borough Council therefore reduced the scale of development at Anker Valley to 500 (changed to 535 by the Governments Planning Inspector) in its latest version of the plan which has since been through a public examination and has been adopted. The Borough Council appeared at Lichfield’s examination in public and argued that the broad location should be removed. The Inspector however concluded that:

*While I have no doubt about the seriousness of the problems of congestion and highway safety that could result from the overdevelopment of this Broad Development Location, I consider that it is too soon to conclude that local roads can accommodate no more development. I consider that, in principle, the ‘monitor and manage’ approach offers a way forward. With such an approach the actual impact of various increments of development is monitored annually as it is brought forward with trigger points being built in to any planning permission granted to govern the amount of development.*

Furthermore, the Inspector states that:

*If it transpires that the Broad Development Location as a whole is not capable of delivering something in the order of 1,000 dwellings then MM1 provides the mechanism through which*

*additional land could be identified either through a review of the Plan or through the preparation of the Lichfield District Local Plan: Allocations document.*

Officers have concerns about this proposal, particularly regarding the impact of development on the local Highway network. Firstly the Lichfield plan identifies this area as a broad location for 1000 homes and have already granted permission for 165 homes north of Browns Lane, therefore the application is exceeding the total identified for this area.

There does not seem to be any prospect that up to 1000 homes can be delivered in this area without severe impact on the Highway network, which is contrary to the NPPF para 32. Officers have drawn to the attention of Lichfield officers a recent Secretary of State decision in Maidstone. In para 241 of the Inspector's report he stated.....

*“the transport situation in Maidstone clearly cries out for a coordinated approach to housing and infrastructure. In this case, piecemeal development on the appeal site, exacerbating existing problems rather than contributing to a workable solution, could adversely affect the delivery of a successful plan-led development and infrastructure strategy.”*

The Sec of State agreed with the inspector in this regard, saying (at para 16) ... *“piecemeal development on the appeal site, exacerbating existing problems rather than contributing to a workable solution, could adversely affect the delivery of a successful plan-led development and infrastructure strategy.”* The Sec of State went on to conclude that the proposed scheme would have a *“severe adverse impact on the highway network, in terms of congestion and inconvenience to local residents and other road users, and on the strategic transport planning of the area generally”*.

There is an overarching issue here about the need to take a strategic approach to transportation infrastructure.

Officers have strong reservations about applying a Grampian condition to require a 'monitor and manage' strategy to be in put place and limiting the amount of development to 200 or 300 homes until it has been proven that more can be accommodated . In order to properly control development a suitably worded condition is likely to be lengthy and complicated and will need to address a range of scenarios that might occur in the process of the applicant trying to demonstrate that the traffic impacts of further development would be acceptable i.e. there would need to be a process for the LPA/highways authority to consider such further assessments and possibly commission their own assessments (at their own cost or the applicant's cost?) until a clear and robust position is arrived at (with potentially the need for arbitration/dispute resolution if there is disagreement?). In view of this, officers consider a better approach would be to include relevant obligations in a section 106 agreement. This would enable a comprehensive approach to be taken, which could adequately address in detail all of the potential issues that might arise out of the 'monitor and manage' approach that is being proposed. There is also an additional benefit to having a s.106 agreement in terms of enforcement in the event of non-compliance, as the remedies for non-performance of a planning obligation available through the Court are likely to be more punitive than the penalties for non-compliance with a planning condition if using conventional planning enforcement tools (although it has to be acknowledged that in either scenario Tamworth Borough Council would not have the appropriate standing and so would have to rely on Lichfield District Council to enforce whichever the mechanism).

The Arkall Farm scheme proposes a shop unit which may compete with the unit proposed at Anker Valley. This proposal if implemented could pose viability issues for one or both units and should be investigated in more detail.

Mitigation measures for achieving 300 units should be provided and discussed with Tamworth Borough Council in view of the development at Anker Valley and potential for a legal challenge. Details relating to pedestrian and cycling facilities and improvements should also be submitted.

Staffordshire County Council should provide a clear framework on the provision of primary and secondary school places and reflect the potential increased number of dwellings if the full scheme is eventually built out. It is understood that the County Council now believe that there is capacity in existing schools for up to 300 homes (despite requiring the Anker Valley site of 535 units to provide a new Primary school). They have also suggested that if development went past 500 homes then a new primary school would be required. It is unlikely that a new school would be viable if a contribution has already been paid to mitigate the impact of up to 300 homes. It is also not clear what happens for ay scheme between 301 and 499 units.

This should also determine whether two separate primary schools are required depending upon the number of units delivered. Should it be decided that Anker Valley School should meet the majority of the demand generated from this scheme, contributions should be set aside for Tamworth and appropriate facilities such as safe crossing points should be built into the scheme.

The development should conform to Tamworth's housing needs and the level of affordable housing. The mix of housing types should also be in-line with meeting the requirements set out in Tamworth's adopted Local Plan. Nominations rights for these dwellings should be given to Tamworth Borough residents.

Given that the development would be part of the urban area of Tamworth, new residents will use Tamworth infrastructure. Tamworth Borough Council's Joint Indoor and Outdoor Sports Strategy identify the need for the provision of sports facilities in response to housing growth and we would propose that financial contributions are made to Tamworth Borough Council to contribute to these facilities from this development.

The Anker Valley scheme is providing a footbridge across the Nottingham / Birmingham line to improve connectivity. Officers suggest a contribution from this development if approved is ought to further enhance connectivity into Tamworth.

## **REPORT AUTHOR**

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## **LIST OF BACKGROUND PAPERS**

Tamworth Borough Council Local Plan Adopted February 2016

Lichfield District Local Plan Strategy 2015

Planning Application 14/00516/OUTMEI

## **APPENDICES**

None