

## DELEGATED DECISION REPORT

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**SMD/2024/0313**  
**Valid 12/07/2024**

**LAND SOUTH EAST OF**  
**A521 A50 BLYTHE BRIDGE**  
**BY PASS**  
**BLYTHE BRIDGE**

**VARIATION OF CONDITIONS**  
**2, 33 AND 39 RELATING TO**  
**SMD/2018/0790**

**(FULL PLANNING - LARGE**  
**SCALE MAJOR APPS)**

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### MAIN ISSUES

- Drainage
- Design implications

### DESCRIPTION OF SITE

The Application Site is 5.53ha in area which is part of a mixed-use allocation in the Staffordshire Moorlands Local Plan (DSR 1) which includes approximately 300 new homes.

The Site is located north of the A50/south east of the A521 at Blythe Bridge, from where access will be achieved. The Application Site is south east of Blythe Bridge, located between this settlement and Forsbrook. To the north and primarily to the east of the Site, the land within the wider St Modwen control, forms land used for grazing purposes. The eastern boundary of the Site is flanked by a row of 6 detached properties located on Woodlands Lane. The rear gardens of these properties form the eastern boundary of the Site.

The Application Site comprises 6 fields in agricultural (grazing) use, with 2 former buildings known as Stone House Farm that were once associated with the use of the land for these purposes. These buildings are derelict / vacant and will be demolished as part of these proposals. The fields comprise grass, with trees and hedgerows predominantly forming the boundaries as opposed to being isolated within the fields themselves. Established tree and hedgerow boundaries in particular form the southern and western edges of the Site.

The site falls gently overall from the north and west, towards the south and east. An existing pond is present in the north east corner of the Site.

### PROPOSAL

This application seeks to vary conditions 2 (approved plans), 33 (drainage) and 39 (drainage) of planning permission SMD/2018/0790. Planning permission SMD/2018/0790 granted full planning permission for 146 dwellings, access roads, open space and other works (see planning history below).

The application proposes to vary two of the plans referenced under condition 2 of SMD/2018/0790 (as amended), along with the Flood Risk Assessment referenced under conditions 33 and 39 of SMD/2018/0790 in order to seek a minor change to the approved drainage scheme.

The proposal relates to the introduction of an open basin in place of the approved subterranean drainage tank. The storage capacity of the proposed basin would be the same as the approved tank; and the rate at which surface water would be discharged from the basin into the culvert under the A50 would also remain unaffected.

## **RELEVANT LOCAL AND NATIONAL PLANNING POLICIES**

### **Adopted Staffordshire Moorlands Local Plan 2020**

- SS1 Development Principles
- SD1 Sustainable Use of Resources
- SD3 Carbon-saving Measures in Development
- SD4 Pollution and Water quality
- SD 5 Flood risk
- SS2 Settlement hierarchy
- SS3 Future provision and distribution of development
- SS4 Strategic housing and employment supply
- SS12 Planning obligations and community infrastructure levy
- H1 New housing development
- H2 Housing Allocations
- H3 Affordable housing
- DC1 Design Considerations
- NE1 Biodiversity and Geological Resources
- NE2 Trees, Woodland and hedgerows
- T1 Development and Sustainable Transport
- T2 Other Sustainable Transport Measures
- DSR 1 Blythe Vale

### **National Planning Policy Framework**

Section 2: Achieving Sustainable Development

Section 5: Delivering a sufficient supply of homes

Section 8: Promoting healthy and safe communities

Section 9: Promoting sustainable transport

Section 12: Achieving well-designed and beautiful places

Section 14: Meeting the challenge of climate change, flooding and coastal change

Section 15: Conserving and enhancing the natural environment

## **SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS**

NMA/2022/0014 Non-material amendment to SMD/2018/0790 comprising revised site plan and red line boundary, and reduction in number of dwellings from 146 to 123. - Approved 17.04.23

SMD/2021/0370 - Development of 11 no. residential dwellings (Use Class C3) and associated works comprising internal access roads, parking and hard and soft landscaping – Approved

SMD/2018/0790 - 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 – Approved 12.05.20 – This application was subject to a S106.

SMD/2018/0696 - Full planning application for a haul road to provide temporary construction access to Phase 1 (Ref. SMD/2017/0512) – Approved 04.02.19

SMD/2018/0443 - Reserved matters application for the phase 2 access road and associated infrastructure including drainage to serve the road, tree removal, levels, landscaping, safeguarding area, great crested newt mitigation pursuant to planning application 11/00405/REM – Approved 17.10.18

SMD/2017/0512 - Detailed Planning Application for the development of 118 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.’ – Approved 10.05.18

## **CONSULTATIONS**

### **Publicity**

Site Notice expiry date: 21.08.24

Neighbour consultation period ends: 21.08.24

Press Advert: 21.08.24

### **Public Comments**

One resident has commented:

I am unsure how the Council Planning Department can review an application for planning from a builder when they do not own the land that they are proposing to build on. The narrow stretch at the end of Woodlands Lane is not their property and they would need to build on the land that is jointly owned by all residents of Woodlands Lane. The builders have no other access to the latest proposed development. Unless there has been agreement between the builder and all residents I am not sure how the Council can approve any building application.

## **Town / Parish Comments**

### **Checkley Parish Council**

The Applicant is also claiming for deemed discharge of Conditions 5, 11, 17, 23, 25, 26, 27, 31, 35, 36 and 37 on SMD/2018/0790 And also requesting a decision on Conditions 8, 12, 38 and 40 which are still outstanding on SMD/2018/0790.

Checkley Parish Council (CPC) are concerned that there are amendments to all of Conditions 5, 11, 17, 23, 25, 26, 27, 31, 35, 36 and 37 for which the Applicant is claiming deemed discharge and also outstanding Conditions 8, 12, 38 and 40, which relate to a material change to the wording of the Conditions to remove reference to timing of application to LPA for approval and to also include reference to amendments to the approved drawings/plans.

CPC are of the opinion that Conditions 2, 33 and 39 cannot be subject to Variation as requested as the Conditions are explicit in their reference to Assessments, Reports and Plans and Note 5 goes further to state specifically that Variation to the approved plans will require the submission of a New Planning Application.

CPC therefore consider that this Application for Variation should be refused entirely as it is contrary to the Conditions imposed on the approved Full Planning Application SMD/2018/0790 and the Applicant be requested to submit a New Full Planning Application as per Note 5 of the Notes attached to the original decision notice.

### **Environmental Health**

No comments

### **AES Waste**

The proposed development of 146 dwellings will be serviced by 32 tonne refuse collection vehicles. Access roads and turning circles need to be provided for vehicles of this size. Any use of permeable block paving in the road surfaces will need consideration for the access requirement of 32 tonne gross weight vehicles.

### **SCC Archaeology**

No comments

### **SCC PROW**

No comments

### **SCC Planning**

No comments

### **SCC Education**

No comments

### **SCC Highways**

No comments

### **SCC LLFA**

No Objection

### **Severn Trent**

Initial comments sought copies of the FRA appendices. No response received to the revised consultation.

### **Environment Agency**

No comments received.

### **Ramblers**

Forsbrook 6 could be affected and must be kept open for public use at all times.

## **OFFICER COMMENTS**

The previous planning permission SMD/2018/0790 has been implemented and the majority of phase 1 has been completed and dwellings occupied. This application seeks to only vary three conditions of SMD/2018/0790 relating to the approved plans and drainage.

Checkley Parish Council query the legitimacy of variation the conditions and suggest the application be refused as it is contrary to the original permission and that the applicant should be made to submit a new planning application.

The PPG advises on the purpose of the S73 application:

*An application made under section 73 of the Town and Country Planning Act 1990 can be used to make a material amendment by varying or removing conditions associated with a planning permission. There is no statutory limit on the degree of change permissible to conditions under s73, but the change must only relate to conditions and not to the operative part of the permission.*

*(Paragraph: 013 Reference ID: 17a-013-20230726)*

*Permission granted under section 73 takes effect as a new, independent permission to carry out the same development as previously permitted subject to new or amended conditions. The new permission sits alongside the original permission, which remains intact and unamended. It is open to the applicant to decide whether to implement the new permission or the one originally granted.*

*(Paragraph: 015 Reference ID: 17a-015-201403061)*

Therefore this planning permission would sit alongside the original planning permission SMD/2018/0790 which has also been subject to a non-material amendment NMA/2022/0014. It is not unusual for planning permission for large strategic residential sites to subject to design changes that necessitate variations of planning permissions either via NMA or material amendments using the S73 process.

## **Drainage**

The proposed amendments relates to the introduction of an attenuation basin in place of the approved subterranean drainage tank. The open basin provides sustainable drainage system to manage the development's surface water which are a preferable

form of controlling surface water run-off than underground tanking. The basin has banks graded at 1:3 and it would have a total depth of just under 2.3m. The basin will be required to accommodate surface water, especially during periods of extreme rainfall, it is not designed to hold any permanent standing water, therefore during dry periods it could be available for recreational use and it is proposed to be seeded with a wetland meadow mixture.

The storage capacity of the proposed open basin is similar to the approved tank and the rate at which surface water would be discharged from the basin into the culvert under the A50 would also remain unaffected.

The application is accompanied by a revised Flood Risk Assessment and Drainage report, seeks to vary condition 33 and 39. Condition 33 of SMD/2018/0790 required the permission to be carried out in accordance with an earlier version of the Flood Risk Assessment and Drainage report.

The applicant submitted a detailed Flood Risk Assessment (FRA) with the application which explains how the surface water drainage would be managed by the pond attenuate the storm water before it is discharge to the existing watercourse. The resultant flow from the proposed development will be restricted to green field rates at 1in 1, 30 and 100 year plus climate change storm events.

The LLFA engaged in discussions with the applicant during the course of the determination to agree the surface water drainage arrangements. They have confirmed that they are content with the revised proposals. National Highways comments to the corresponding planning application SMD/2024/0314 are noted that they are also satisfied with the revised proposals.

Accordingly, the proposed development satisfies the requirements set out the NPPF and Local Plan policy SD5 with regards to flooding and surface water drainage.

### **Design and Residential Amenity**

Policy DC1 requires all development to be well designed and reinforce local distinctiveness by positively contributing to and complementing the special character and heritage of the area.

Whilst the redesign of the scheme has largely been drainage led, it is considered an appropriate alternative to the approved scheme. More detailed drawings including landscaping plans have been included in the corresponding application SMD/2024/0314 for phase 2 which indicates how the area would be laid out. This application (SMD/2024/0313) has been assessed concurrently with this application (SMD/2024/0314) for phase 2.

The proposed revisions are considered an acceptable design and would not result in any detrimental impacts on residential amenity and therefore satisfy the considerations of local plan policy DC1.

## **Highway Safety**

The only changes relating to highways will be changes that will occur during the construction of the drainage system which forms part of phase 2 of the development scheme. The Highway Authority raises no concerns and the proposal is considered acceptable with regards to the policy considerations of T1.

## **Other matters**

### Planning Obligations

Planning Permission SMD/2018/0790 was subject to section 106 agreement which secured planning obligations including affordable housing, open space, sports and education contributions. Section 6.1 of the legal agreement allows for future Section 73 applications to vary SMD/2018/0790 without the need for a deed of variation. Therefore the original S106 signed on 11.05.20 still applies to this S73 application.

### Planning conditions

Applications to discharge conditions relating to SMD/2018/0790 have previously been submitted to the LPA (DOC/2020/0049, DOC/2020/0103 and DOC/2021/0004. These applications were never formally discharged. However, deemed discharge notice was submitted on 6 November 2023 relating to conditions 5, 8, 11, 12, 17, 23, 25, 26, 27, 31, 35, 36, 37, 38 and 40. The applicant has sought to amend the conditions on the decision notice to reflect the deemed discharge notice.

The deemed discharge procedure can not be applied to conditions relating to flood risk, contaminated land, highway safety. Officers have reviewed the information and are content that the wording of these conditions can be amended to reflect the information that was submitted for the Council's consideration under DOC/2020/0049, DOC/2020/0103 and DOC/2021/0004 which has now been accepted as deemed discharge.

### Ownership

One respondent has queried land ownership and it relates to an unregistered section of Woodlands which crosses the development spine road in between Phases 1 and 2. The question has been put to the applicant to respond. They stated that they caution against the first registration of the freehold title was filed with the Land Registry by the previous owner of the Phase 2A land to ensure a continued right of access to their land.

The applicant also point out that with the original phase 2 application they completed certificate D on the basis that the application included proposed works within the area of unregistered land.

In any event, matters of ownership do not influence planning decision making and it is a private legal issue for the applicant to resolve if necessary.

## **CONCLUSION / PLANNING BALANCE**

This application proposes to vary the approved scheme SMD/2018/0790 which relates to changes to the surface water drainage proposals to an open basin. To facilitate these design changes it is necessary to vary 3 conditions of the original planning permission (conditions 2, 33 and 39 of SMD/2018/0790) which approved specific plans and a FRA. The application seeks approval for revised versions of some of the previously approved documents, including a revised flood risk and drainage statement, which have been prepared to reflect a proposed amendment to the approved drainage scheme. The amendment relates to the introduction of an open basin, instead of the approved subterranean drainage tank, along with the associated repositioning of the play area, footpath, and orchard planting within the open space surrounding the basin.

Having consulted with the relevant consultees and reviewed the planning merits of the proposals in the context of the national and local planning policies, the proposed amendments to the scheme are considered acceptable and appropriate and are therefore recommended for approval.

**OFFICER RECOMMENDATION :     Approve**

**Case Officer: Rosie Dinnen**

**Recommendation Date: 29.01.25**

X *B.J. Haywood*

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Signed by: Ben Haywood

**On behalf of Staffordshire Moorlands District Council**