

Planning Committee - 21 February 2024
Addendum report for application DC/23/68927
DC/23/68927 - Land Off Titford Road/ To the rear of Asda Wolverhampton Road Oldbury B69 4QD - 60 residential dwellings with new access from Titford Road and associated works.

1. Background

- 1.1 This addendum should be read in conjunction with the committee report and has been produced as further documentation and consultation responses have been received since the initial report was written.
- 1.2 A further objection has been received from a member of the public on grounds of loss of wildlife/habitat and the principle for development at the site. These issues are covered in both the initial report and this addendum.
- 1.3 The applicant has submitted further information:
- i) Air Quality Technical Note; and
 - ii) Ecology Technical Note.
- 1.4 It is noted in the Ecology Technical Note that the applicant has also offered £100k for the delivery of off-site ecological enhancements, including the treatment of invasive species and/or any other ecological enhancements desired by the Council. Whilst the offer demonstrates the applicant's commitment to developing the site and acknowledgement of the ecological concerns, I am of the opinion that the ecology issue and principle of development can be assessed on merit without such off-site mitigation and conditions can address on-site mitigation and invasive species. There is no policy basis for such mitigation by commuted sum in this instance.

- 1.5 Pollution Control (air) has responded to the Air Quality Technical Note and maintain their objection as the note demonstrates that the site is in an area where modelled future PM_{2.5} levels are still not on the trajectory to meet the Government's 2028 interim population exposure reduction target
- 1.6 The Birmingham and Black Country Wildlife Trust has reviewed the Ecology Technical Note and has concerns that the initial report and technical note do not quantify impacts on ecological receptors in-line with industry standard best practice. Impacts on important ecological features should be characterised (eg: extent, magnitude, duration, reversibility, timing and frequency), both before and after mitigation has been applied. The main concern is still that the initial ecology report identifies that Woodland W1 on site is considered to represent a Priority Habitat (Lowland Mixed Deciduous Woodland) and it is clear that the development proposes irreversible destruction of this habitat.
- 1.7 Since the publication of the initial committee report, Pollution Control has also commented regarding transportation issues; namely:
- i) Some dwellings in the development are over 400m from bus stops, which therefore does not meet Transport for West Midlands' access standard; and
 - ii) Asda car park cannot be relied on as a public thoroughfare to access public transport.
- 1.8 The Environment Agency has confirmed it has no objection to the development. The EA will be providing advisory comments in relation to the 8m easement, but the response of no objection is due to the proposal being primarily within flood zone 1, meaning flood risk is low.
- 1.9 Highways have requested a final amendment regarding parking space sizes and removal of some proposed street trees due to technical issues from a highway perspective. Further detail regarding trip rates is also discussed below.

2. Environmental concerns – air quality and pollution

2.1 In light of Pollution Control's objection regarding air quality, members should consider:

- i) That once operational the development would by itself not make these existing pollution concentrations significantly worse.
- ii) Under the Environment Act 2021, there is two legally-binding long-term targets to reduce concentrations of fine particulate matter (PM_{2.5}). The two targets are an annual mean concentration of 10 micrograms per metres cubed (µg/m³) or below and a reduction in average population exposure by 35% by 2040, compared to a 2018 baseline with an interim target of 12 µg/m³ by January 2028.
- iii) Pollution Control state that the site is unlikely to meet the 2028 target values for PM_{2.5}.
- iv) However, whilst the health issues associated with poor air quality should be acknowledged, the Air Quality Assessment demonstrates compliance with current annual PM_{2.5} standards.

On this basis, I find it reasonable to hold the development accountable to current standards, especially in the context of paragraph 194 of the NPPF which states that where there are separate pollution control regimes, planning decisions '*should assume that these regimes will operate effectively*'.

3. Ecology concerns – loss of wildlife and habitat

3.1 It is appreciated that whilst the issue of ecology may weigh heavily on the consciences of committee members, the adverse impacts of providing affordable housing, of which the borough is desperate need, would not significantly and demonstrably outweigh the benefits, to reference the National Planning Policy Framework (NPPF). Other than as a wildlife corridor (which would largely be

retained as the watercourse remains unaffected for the movement of wildlife) from a development plan point of view the site is not identified as having protected status and the Council has no plans to allocate the site for any protection in its development plan.

- 3.2 The main concern is the loss of the woodland habitat identified as 'Priority Habitat'. Whilst it is apparent that the development could not proceed without the loss of this area, the primary issue of balance is one of the need to deliver housing against the loss of habitat. However, whilst this area may be lost to the development, the applicant proposes several mitigation measures, which policy ENV1 does not discourage. Demonstrating some flexibility in the policy approach the wording states: *'Where, exceptionally, the strategic benefits of a development clearly outweigh the importance of a local nature conservation site, species, habitat or geological feature, damage must be minimised. Any remaining impacts, including any reduction in area, must be fully mitigated.'* However, it should be noted that the results of the survey work undertaken on behalf of the applicant at the site are similar to the findings of the Council's own assessment in that it is unlikely that the habitat could obtain any further protection within the context of the development plan. I am of the opinion that mitigation would be sufficient in this instance.
- 3.3 Furthermore, the proposal must be viewed, not only in the context of the land already being identified for development in the Council's development plan, but also the fact that the site has no specific protection and could be cleared irrespective of the application being refused; albeit with adherence to the Wildlife Act.
- 3.4 In regards to the ecology issue, members should take the following into account:
- i) Two assessments of the site have not found it requiring any special consideration.
 - ii) The flexibility of policy wording to implement mitigation where losses are proposed.

- iii) Mitigation may partially offset the loss and can be ensured by condition, via the landscaping plan and during construction under a construction environmental plan (CEMP).
- iv) The development allocation in the development plan.
- v) The need for housing and the Council's inability to meet housing targets.
- vi) The requirement of the applicant to comply with the Wildlife Act if planning permission is granted.

4. Transportation

- 4.1 Whilst the nearest dwelling would be situated over 400m from bus stops, the development is adjacent to established housing within a conurbation which is within proximity of an A road and Langley local centre. Given this context, I find the site to be sufficiently sustainable as to not warrant refusal or require mitigation on this point. I note the comment regarding the uncertainty of access across Asda car park in the long term; however, this is not sufficient reason to seek resolution of this issue, as it would not constitute refusal and is beyond the remit of this application.

5. Flood risk

- 5.1 As the EA has no objection to the proposal, and the matters raised by Staffordshire as LLFA can be imposed as a condition, the issue of flood risk is not considered to be significant.

5.2 Highway considerations

Further information has been provided by Highways due to the concerns raised about the trip rates linked to the proposed. A Transport Assessment is not required for fewer than 100 properties, therefore, Highways have calculated the trip rates based on the proposed 100% affordable housing provision. The residential analysis demonstrates that the proposed trip rates, based on TRICS data using 'mixed private affordable housing' trip

data, is: between 8am and 9pm = 19 trips; and between 5pm and 6pm = 26 trips.

5.3 Whilst there are concerns regarding the introduction any new trips on to the immediate road network, it is considered that the development would not have a severe impact on the surrounding road network due to limited numbers of trips calculated to emanate from the development.

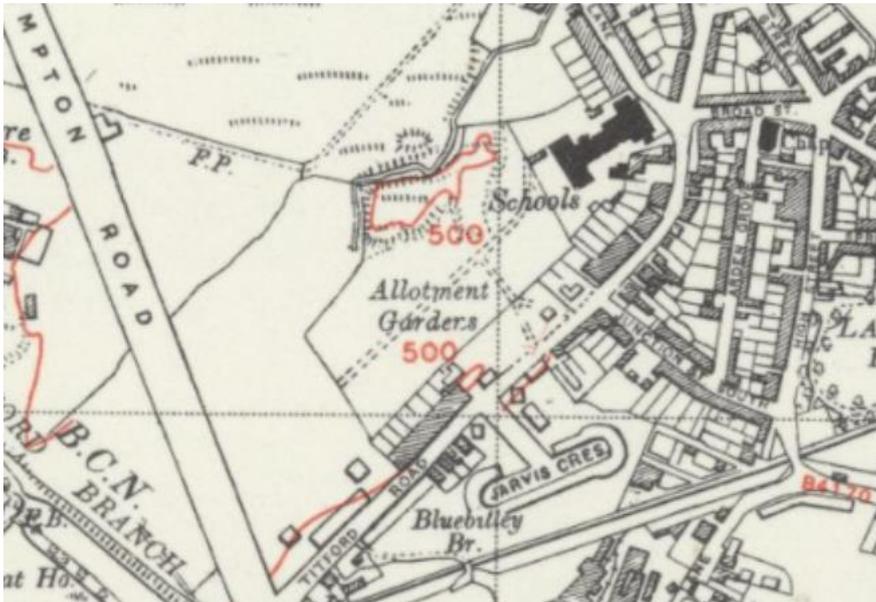
6. Other matters

6.1 The committee report refers to the site as brownfield land. This is due to the site being noted as 'historic land fill'. The site is situated in an area formally used for clay pits and it is considered unlikely that the application site did not form part of this historic land use (refer to Fig 1). However, the site was later used for allotments (refer to Fig 2).

Fig 1 - 1881 map of Worcestershire showing the proximity of clay pits



Fig 2 - 1938 Staffordshire



- 6.2 Paragraph 12.6 of the committee report states that the development would be CIL liable. To clarify, the developer would claim exemption from CIL as the site would deliver 100% affordable housing.

7. Recommendation

- 7.1 On balance, taking into account the further information submitted and the responses received, I am of the opinion that the development broadly accords with national and local policy initial recommendation is amended to read:

That planning permission is granted subject to i) the signing of a section 106 agreement to ensure affordable housing, ii) approval at Council and iii) conditions relating to... [as per the committee report].

- 7.2 It is also recommended that condition viii be omitted (*Further evaluation/mitigation of impact on areas of Potential Site of Importance (PSI)*), as the mitigation proposed as part of condition ix is sufficient.

- 7.3 Furthermore, condition xi) (*Additional air quality modelling and requisite mitigation if required*) should be removed as site does not breach current air quality exceedances.
- 7.4 Addition to condition iii (landscaping) to include location/design of street trees to be agreed prior to commencement.

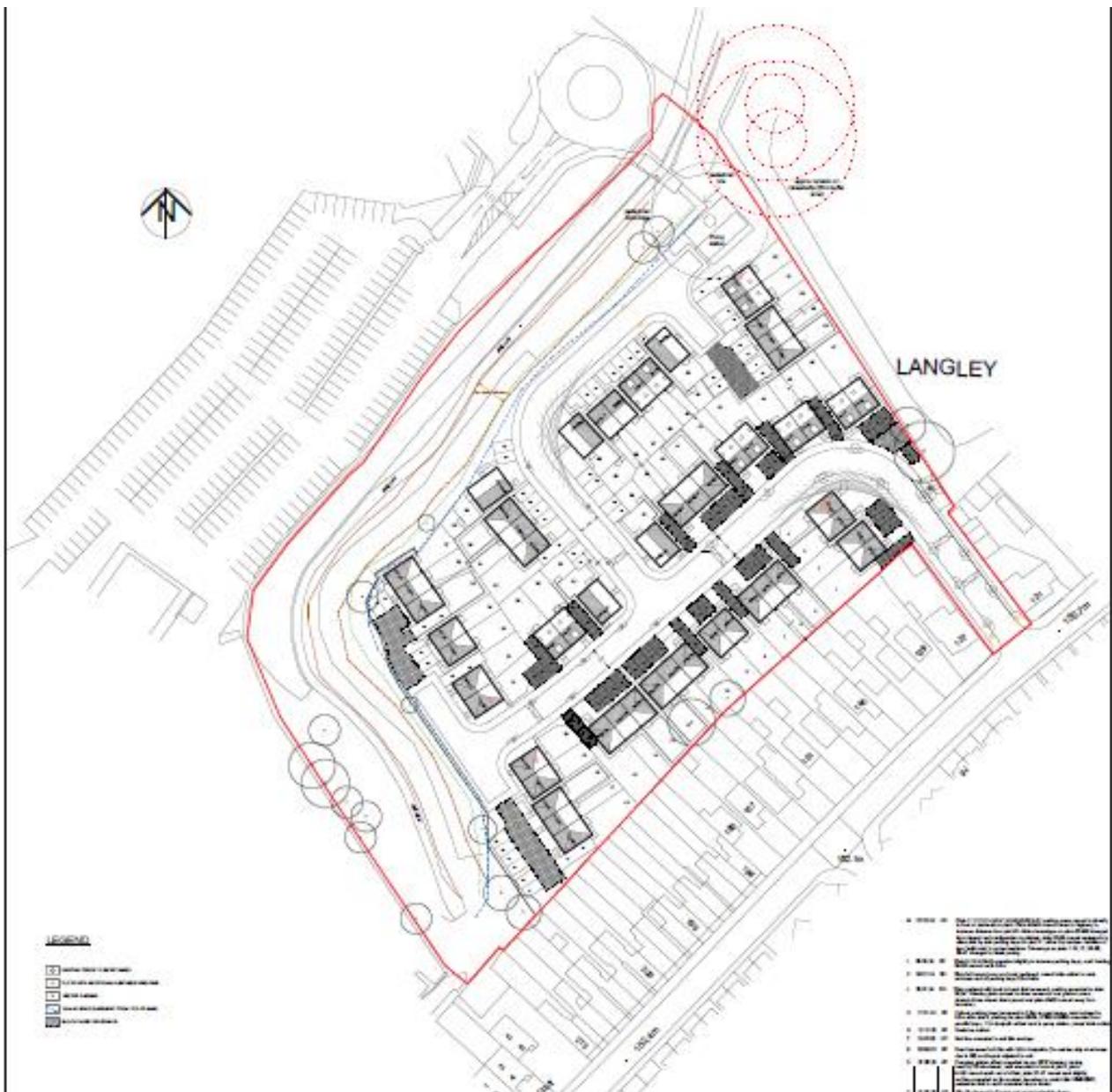
8. Amended plans

PL-02 REV M – Site layout
SKM241-SS-01 REV C – Streetscene
8240/ASP4/LSP REV D - Landscaping

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20 February 2024

9. Appendix

9.1 Amended layout



9.2 Amended streetscene



9.3 Amended landscaping

