

Item 7 (Pages 41-86) – CB/16/05127/OUT - Land at the former Fullers Earth Quarry, Ampthill Road, Clophill, Beds

Additional Consultation/Publicity Responses

- Parish Council Email and Planning Officer comments

Dear Lisa,

Further to the Parish Council's letter dated 28th May 2017 (setting out its position to CBC in response to the documentation provided by Paul Ellingham from Mott Macdonald, dated 17^h May 2017) and your subsequent conversation with Cllr Grant Walford on 6th June 2017, please find below a series of questions that relate specifically to the concerns/objections raised by the Parish Council regarding the proposed Enabling Argument and the Land Transfer.

The Parish Council considers these two elements pivotal to the application, and believe that while they remain unanswered they pose a significant risk to CBC and the residents of Clophill. Thus, the Parish Council's view is that absolute clarity is required with regard to what Gallagher's are putting forward and committing to, along with CBC's recommendation to the DMC on the 21st June 2017 to potentially agree and enforce a mutually beneficial outcome for all parties.

The Parish Council therefore kindly requests that CBC provide a response to the questions summarised below ahead of the DMC, and also includes these questions and answers in the DMC information pack for consideration by the Committee.

- a. Is it CBC's position to insist that all of the freehold land owned by Gallagher's will transfer to a suitably qualified Partner (to return it to Public or equal ownership) except one land parcel for the development of up to 50 dwellings, which is the position of the Parish Council?

The Parish Council is concerned that all of the land owned by Gallagher's is not included within the application boundary, and requires this to be corrected prior to DMC.

In addition, the Parish Council requires that if a land parcel is reserved for the future expansion of St Mary's school, the Parish Council become the owner of the land parcel and it forms part of the Management Plan scope. Ownership of the land parcel would transfer only if and when a business case has been agreed and approved for the expansion of the school, otherwise the land parcel will remain part of the Community Parkland with the Parish Council as its custodian.

Response: The Land Transfer plan shows all the land to be transferred to a nominated party. The Land Transfer agreement sits outside of the S106 process but the S106 agreement will require the Land Transfer Agreement to be undertaken and in place prior to the commencement of any development.

b. What process (and sequence of approvals) will CBC set-out to guarantee that the entire freehold land owned by Gallagher's (except the single land parcel for residential development) will transfer to the Partner, plus the Community Parkland is created with an appropriate management model and plan in place, before any development takes place?

*The proposed indicative project programme and process submitted by Mott Macdonald (on the 17th May 2017) does not permit this. Thus, the Parish Council request that CBC and the DMC consider the **strawman process in appendix 1** (pages 3-5) as the basis for all parties to agree a process that ensures Gallagher's transfer the land and deliver the enabling argument prior to any development taking place.*

Response: As stated above the land transfer agreement will sit outside of the S106 process but clauses requiring the land transfer to take place will be included within the S106.

c. Following the transfer of the Gallagher owned land to a Partner, and the creation of the Community Parkland (on the premise of an 'Enabling Argument'), to whom will the Partner be responsible and accountable to on a day to day and strategic basis?

Specifically, if the Partner fails to meet its obligations (as defined in any agreed conditions and planning approvals) for any reason regarding the management, maintenance, and investment into the Community Parkland; and the Community Parkland consequently ceases to remain a safe, fit for purpose, compliant, and cost-effective community asset, who will ultimately be held accountable and enforce the Partner to fulfil its obligations?

The Parish Council requires clarity regarding CBC's view of the legal structure once the application has been delivered, plus CBC's proposed legislative measures to mitigate potential future risk.

Response: The owner of the land will be responsible and therefore the board of trustees for whichever trust would be responsible.

d. What measures have CBC taken to validate the key elements of Gallagher's business base that underpins the viability of the Enabling Argument?

The Parish Council request CBC confirm the measures it has taken to assure itself how Gallagher's will deliver the Community Parkland, and would reasonably expect Gallagher's to have provided documentation and information to CBC that sets out the 'what, how, and when' associated with the creation of the Community Parkland. Typically;

i. Definition (design statement) regarding what the Community Parkland will comprise of

ii. Demonstrate that its design, management, and maintenance model meets all statutory requirements, plus the requirements set out by specialist organisations such

as Ecologists, Historic England, the concerns reflected in the 724 objections, and those of the Partner

- iii. Demonstrate a robust process to qualify and appoint the proposed Partner, including its proposed resources
- iv. Confirm which Partner will be appointed, when, and on what basis
- v. Validate the capital investment (Capex) required by the Partner to create and mobilise the Community Parkland
- vi. Validate the operating costs (Opex) required by the Partner to deliver the perpetual management and maintenance of the Community Parkland
- vii. Guarantee that the Capex and Opex required by the Partner is ring fenced by Gallagher's
- viii. A developed mobilisation plan and programme
- ix. Develop and agree a Service Agreement that sets out the service level agreements and key performance indicators (SLAs and KPIs) that the Partner will perform to with regard to its management and maintenance activities
- x. Develop and agree a Service Contract that sets out the obligations of the Partner with regard to governance and reporting, plus includes standard contract clauses such as liabilities, insurances, indemnities, change control, escalation, audit, and step-in rights.

Response: The land transfer agreement would cover many of these aspects – the application sets out the description and work to be undertaken in terms of the community parkland and any variation to that set out in the application would require a new application.

e. Once the Community Parkland has been created, is it CBC's intention to include it as part of its Open Space and Greenspace strategy? And if so, on what basis?

Response: This decision has not been made and would be for the Green Infrastructure Officer to consider. When the Strategy is revised/ updated it may be that the land is included and any reasons for doing this would be set out at that time.

The Parish Council has worked collaboratively with Gallagher's for over 18 months, and has been completely open, transparent, and consistent with regard to the conditions that would need to be met in order for the Parish Council to support the application on the premise of an Enabling Argument. Furthermore, the residents of Clophill demand that there is no ambiguity in any agreement which will see Gallagher's provide 'Community Parkland' in return for up to 50 dwellings.

It remains the Parish Council's desire to agree a robust process with clear and appropriate conditions that will deliver the proposed Community Parkland in return for a residential development of up to 50 dwellings. This must of course be delivered in a risk-free manner to both CBC and the residents of Clophill, which the Parish Council believe will be resolved once CBC and

Gallagher's are able to demonstrate a clear and positive response to the above questions.

The Parish Council believe that if CBC and the DMC are unable to provide clear answers to the above questions, then the risk to CBC and the community of Clophill would far outweigh any benefit. Should this be the case (at the DMC hearing on the 21st June) the Parish Council would respectfully request that the decision-making process is deferred until Gallagher's is able to provide the necessary documentation and assurances.

Response: The recommendation to the DMC is to resolve to approve the application subject to a satisfactory S106 agreement the draft heads of terms has been set out in the report and the legal ties would be negotiated and covered in that process.

- Greensand Trust

We fully support the application made by Gallaghers, as being the long sought-after opportunity to finally resolve the issue of the Lakes. We or other suitable organisation would need to continue to work with Gallaghers post planning decision to further improve what may be an acceptable plan, into a sustainable one that takes in to consideration future growth. Actions that should be achievable through section 106 and additional applications by said organisation.

- Public Representation – Clova Cottage, 8 Mill Lane, Clophill

Planning Application No CB/16/01527/OUT Land at the former Fullers Earth Quarry site

I am writing this letter in response to the proposed planning application by Gallagher Estates to build 50 houses adjacent to the former Fullers Earth pits at Clophill, and to turn the site into a public Country Park, and object strongly to this proposal.

On Saturday 10th June 2017, a female otter and 2 cubs were sighted on the lakes, which demonstrates that this site is prime otter habitat, and that they will require further protection and as little disturbance as possible in the future. This site has very important ecological and biodiversity significance, and both otters and badgers need seclusion for their holts and setts for foraging, feeding and breeding.

The badgers and otters and other important wildlife present on and around this site should not be allowed to suffer from any human disturbance of any kind, and require full protection under the Wildlife and Countryside Act of 1981.

In view of this fact, further ecological surveys should be carried out over the next 2 years to record and ascertain what other significant species are actually present on this site, and in the future the site should be managed by the Greensand Trust for the benefit of wildlife and biodiversity.

The badger setts also located near to the proposed housing development will be seriously affected by any human disturbance and must have a buffer zone of at least 30 metres from the existing fence line and hedge.

Response: The Council's Ecologist is aware of the representation. Condition 3 will be amended to include a requirement for updated species surveys as necessary to inform the Landscape and Ecological Management Plan.

- Public Representation – 95 High Street Clophill

Dear Councillor,

I wrote to Andrew Davie on 19 November 2016 in regard to the above about my concerns, particularly the letter I received from DCLG stating:

"The authority (local authority) is entitled to say no to development that would run counter to the Local Plan or not be in the interest or not be compatible with the sound planning of the area."

My reasons are justified and I call upon all members of the committee to reject this planning application on the grounds stated and ignore the summary recommendations copied in my other attachment. Most of your colleagues are in rural parts of Central Beds and you must please listen to the despair of your village residents who are finding great difficulty driving to work or driving socially along the only two roads that can be travelled along to their destination, namely the A507 and A6.

As I mentioned to Mr Davie, you will be encouraging an unprecedented amount of traffic on these two roads on top of what exists now, all accumulating at the "Flying Horse" roundabout, stretching back miles in all directions at all material times. The planning programme of housing development abutting nearly all our villages is now beyond a joke and you must listen to your conscience and reject this planning application.

Additional Comments

Land Transfer Agreement and S106 Heads of Terms

To clarify the Land Transfer Agreement will be entered into prior to any development commencing on site, however, the final transfer of land will not take place until after the capital works have taken place and a period of 12 months to ensure that the capital works have taken place satisfactorily.

Biodiversity

The report and condition 19 currently refer to a badger mitigation corridor. Following further discussions and concerns over anti-social behaviour and potential for unwelcomed interest in the badgers, it is considered that this may no longer be the best approach. Therefore, a variation to condition 19 is proposed to allow for the submission of a badger mitigation scheme this will

allow a broader scope in terms of badger mitigation and will still ensure proper consideration of the badger sett during construction and within the reserved matters submission.

Additional/Amended Conditions

Condition 3

No development shall commence until a Landscape and Ecological Management Plan to be informed by updated species surveys as required, has been submitted to and approved by the Local Planning Authority. The development shall then be managed and maintained in accordance with the approved details.

Reason: Details are required prior to commencement to ensure an acceptable management of the landscape and to enable proper consideration of the impact of the development on the contribution of nature conservation and ecology in accordance with Policy DM14 of the Core Strategy for the North and Section 7 & 11 of the NPPF.

Condition 19

No development shall commence until a badger mitigation scheme, including a method statement in relation to construction, has been submitted to and approved in writing by the Local Planning Authority. The details of the scheme shall be taken into account in the submission of any reserved matters application and the scheme shall be carried out in accordance with the approved details.

Reason: Details are required prior to commencement to ensure an acceptable management of the landscape and to enable proper consideration of the impact of the development on the contribution of nature conservation and ecology in accordance with Policy DM14 of the Core Strategy for the North and Section 7 & 11 of the NPPF.