

# **Strategic Planning Board**

## **Agenda**

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<b>Date:</b>	<b>Wednesday 9th November 2011</b>
<b>Time:</b>	<b>2.00 pm</b>
<b>Venue:</b>	<b>Meeting Room, Macclesfield Library, Jordangate, Macclesfield, SK10 1EE</b>

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**Members of the public are requested to check the Council's website the week the Strategic Planning Board meeting is due to take place as Officers produce updates for some or all of the applications prior to the commencement of the meeting and after the agenda has been published.**

The agenda is divided into 2 parts. Part 1 is taken in the presence of the public and press. Part 2 items will be considered in the absence of the public and press for the reasons indicated on the agenda and at the foot of each report.

### **PART 1 – MATTERS TO BE CONSIDERED WITH THE PUBLIC AND PRESS PRESENT**

**1. Apologies for Absence**

**2. Declarations of Interest**

To provide an opportunity for Members and Officers to declare any personal and/or prejudicial interests and for Members to declare if they have a pre-determination in respect of any item on the agenda

**3. Minutes of the Previous Meeting (Pages 1 - 8)**

To approve the minutes of the meeting held on 19 October 2011 as a correct record

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For any apologies or requests for further information, or to arrange to speak at the meeting  
**Contact:** Gaynor Hawthornwaite  
**Tel:** 01270 686467  
**E-Mail:** [gaynor.hawthornwaite@cheshireeast.gov.uk](mailto:gaynor.hawthornwaite@cheshireeast.gov.uk)

4. **Public Speaking**

A total period of 5 minutes is allocated for each of the planning applications for Ward Councillors who are not members of the Planning Committee.

A period of 3 minutes is allocated for each of the planning applications for the following individual/groups:

- Members who are not members of the Planning Committee and are not the Ward Member
- The Relevant Town/Parish Council
- Local Representative Groups/Civic Society
- Objectors
- Supporters
- Applicants

5. **Mill Street/Lockitt Street, Crewe** (Pages 9 - 14)

To consider proposed amendments to the resolution passed by the Strategic Planning Board in respect of application P07/0639

6. **Racist and Offensive Representations** (Pages 15 - 20)

To consider the introduction of a policy on dealing with racist and offensive representations based on principles adopted by the Royal Town Planning Institute

7. **Notice of Motion: Planning Permission for Solar Panels** (Pages 21 - 24)

To consider the Notice of Motion and offer advice to Council

8. **Loachbrook Farm, Sandbach Road, Congleton** (Pages 25 - 26)

To consider the withdrawal of part of a reason for refusal relating to planning application 11/3736C

**THERE ARE NO PART 2 ITEMS**

**CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **Strategic Planning Board**  
held on Wednesday, 19th October, 2011 at Crewe Alexandra Football Club,  
Gresty Road, Crewe

**PRESENT**

Councillor H Davenport (Chairman)  
Councillor C G Thorley (Vice-Chairman)

Councillors J Hammond, Rachel Bailey, D Brown, D Hough, J Jackson,  
J Macrae, B Murphy, G M Walton, R West, S Wilkinson and J Wray.

**OFFICERS PRESENT**

Ms S Dillon (Senior Lawyer), Mr D Evans (Principal Planning Officer),  
Mr A Fisher (Head of Planning and Housing), Mr B Haywood (Principal  
Planning Officer), Mr N Jones (Principal Development Officer)

**58 APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillor Paul Edwards

**59 DECLARATIONS OF INTEREST/PRE DETERMINATION**

It was noted that Members had received correspondence from Linden Homes in respect of application 11/1879N - a Hybrid Planning Application Seeking Residential Development for up to 400 New Dwellings with Open Space; Comprising a Full Planning Application for Phase A of 131 Dwellings and Phase B which Seeks Outline Planning Permission for up to 269 Dwellings with Access and Associated Infrastructure. In respect of the Outline Element (Phase B), Only Access is Sought for Approval and All Other Matters are Reserved for Determination at a Later Date, Land North of Parkers Road, Leighton for Bloor Homes and Linden Homes.

**60 MINUTES OF THE PREVIOUS MEETING****RESOLVED**

That the minutes of the meeting held on 28<sup>th</sup> September 2011 be approved as a correct record and signed by the Chairman.

**61 PUBLIC SPEAKING****RESOLVED**

That the public speaking procedure be noted.

- 62 **11/1879N - A HYBRID PLANNING APPLICATION SEEKING RESIDENTIAL DEVELOPMENT FOR UP TO 400 NEW DWELLINGS WITH OPEN SPACE; COMPRISING A FULL PLANNING APPLICATION FOR PHASE A OF 131 DWELLINGS AND PHASE B WHICH SEEKS OUTLINE PLANNING PERMISSION FOR UP TO 269 DWELLINGS WITH ACCESS AND ASSOCIATED INFRASTRUCTURE. IN RESPECT OF THE OUTLINE ELEMENT (PHASE B), ONLY ACCESS IS SOUGHT FOR APPROVAL AND ALL OTHER MATTERS ARE RESERVED FOR DETERMINATION AT A LATER DATE, LAND NORTH OF PARKERS ROAD, LEIGHTON FOR BLOOR HOMES AND LINDEN HOMES**

*(Councillor J Macrae declared a personal interest in application 11/1879N on the grounds that he was a Board Member of the South Cheshire Chamber of Commerce).*

Consideration was given to the above application.

(Councillor D Bebbington, the Ward Councillor; Councillor D Forest, a Parish Councillor; Mr Beard, an objector; Ms Gordon-Preston, an objector and Ms Clarke the agent for the applicant attended the meeting and spoke in respect of the application)

## **RESOLVED**

That the application be approved subject to completion of Section 106 legal agreement securing

1. Provision of education contribution of £398,990
2. Provision of £300,000 towards highway improvements to the Remer Street corridor
3. Provision of public open space including amenity greenspace and an equipped children's play area conforming to NEAP Standard, to include:
  - a. A minimum of 8 pieces of equipment,
  - b. 1.4 metre high bowtop railing surround with two pedestrian access gates and a double leaf vehicular access gate.
  - c. Railings to be painted green and pedestrian gates to be yellow.
  - d. Equipment to be predominantly metal, inclusive, and conforming to BS EN 1176.
  - e. Equipment to have wetpour safer surfacing underneath it, conforming to BS EN 1177.
  - f. Surfacing between the wetpour to be tarmacadam with precast concrete edging surround.
  - g. Access paths to gates to be tarmacadam
4. Provision for future management of children's play areas and amenity greenspace to include transfer to and future maintenance by a private management company.
5. Provision of 35% of the 400 units proposed across the whole site as affordable housing in perpetuity. Provision within Phase A shall be 26 units comprising 11 x 2 beds, 14 x 3 beds and 1 x 4 bed, with the remainder to be provided in Phase B The tenure split within Phase A to

be on a 65% social rent, 35% intermediate tenure basis. The mix of house types and tenure for within Phase B (to include key worker housing) to be agreed as part of subsequent reserved matters applications.

6. Travel Plan Monitoring Fee £5000
7. Contribution of £25,000 for the provision of Green Infrastructure within Crewe and the environs of the site.

And subject to the following conditions:-

1. Standard 3 year time limit (Phase A)
2. Standard outline time limit (Phase B)
3. Submission of reserved matters (Phase B)
4. Plans
5. Materials
6. Boundary Treatment
7. Landscaping submission
8. Landscaping implementation
9. Breeding bird survey to be carried out prior to commencement of any works during nesting season
10. Features for use by birds and bats
11. Habitat creation and management plan
12. Design of proposed pond
13. Design and layout of the proposed newt mitigation area including proposals to ensure no public access.
14. Submission of details of bin storage.
15. Archaeology investigation / report
16. Compliance with flood Risk Assessment
17. Restrict surface water run-off
18. Surface water attenuation
19. Minimum Floor Levels
20. Surface Water Regulation Scheme
21. Site to be drained on a separate system
22. Phase II contaminated land investigation and remediation
23. Travel Plan
24. Updated Air Quality Impact Assessment
25. Limit hours of construction to 08:00 – 1800 Monday to Friday and 0900 – 1400 on Saturday with no working on Sunday or Bank Holiday
26. Details of external lighting to be submitted and approved
27. Submission of details of phasing / triggers for construction of access and highway improvements. Works to be carried out in accordance with the approved details.
28. Provision of Parking
29. Highway Construction details to be submitted
30. Replacement hedge and tree planting
31. Tree / hedge protection measures
32. Implementation of Tree / hedge Protection
33. Arboricultural Method Statement
34. Code for Sustainable Homes Level 4

35. Provision of 10% renewable energy on site unless it can be demonstrated by the applicant, having regard to the type of development involved and its design, that this is not feasible or viable.
36. Noise Impact Assessment
37. Details of proposed apprenticeship scheme
38. Provision of Bin Stores
39. Provision of Bungalows in Phase B
40. A Highway assessment of Moss Lane and if necessary submission of a scheme of measures for improvement and a timetable for their implementation

**63 11/2212N - DEMOLITION OF BUILDINGS. RESIDENTIAL DEVELOPMENT WITH ASSOCIATED ACCESS & LANDSCAPING, LAND AT GRESTDY GREEN, GRESTDY GREEN ROAD, SHAVINGTON CUM GRESTDY, CREWE FOR BELLWAY HOMES LIMITED**

*(Councillor R Bailey declared a personal interest with respect to this application on the grounds that she had business links with one of the objectors)*

Consideration was given to the above application.

(Councillor D Brickhill, the Ward Councillor; Councillor S Hogben, a Neighbouring Ward Councillor; Mrs McIntyre, a Neighbouring Ward Councillor; Mr Nevitt, an objector, representing Shavington and Gresty Residents Association (SAGRA); Mrs Bostock, an objector; Mr Borrowdale, an objector; Mr R Barton and Mr A Davies, representing the agent for the applicant attended the meeting and spoke in respect of the application)

**RESOLVED**

That the application be approved subject to completion of Section 106 legal agreement securing:

1. Provision of 18 affordable housing units – 12 to be provided as social rent with 6 as intermediate tenure
2. Provision of education contribution of £86,268
3. The provision of a LEAP and Public Open Space to be maintained by a private management company in perpetuity
4. A commuted payment of £51,000 towards highway improvements (to be put towards the construction of the Crewe Green Link Road or capacity improvements at the junction of Gresty Road and South Street with Nantwich Road)

And the following conditions:

1. Standard time – 3 years
2. Materials to be submitted to the LPA and approved in writing

3. Submission of a landscaping scheme to be approved in writing by the LPA (the landscaping scheme shall include native species only and the provision of replacement hedgerow planting)
4. Implementation of the approved landscaping scheme
5. The submission of a comprehensive arboricultural method statement covering tree/hedgerow protection, programme of tree/hedgerow works, and special construction techniques for proposed areas of hard surfacing in tree/hedgerow root protection areas to be submitted to the LPA and approved in writing
6. No trees/hedgerow to be removed without the prior written consent of the LPA
7. Boundary treatment details to be submitted to the LPA and approved in writing
8. Remove PD Rights for extensions and alterations to the approved dwellings plots 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 32, 33, 34, 35, 36, 37, 38, 39, 42, 43, 44, 48, 49, 50 & 51
9. Prior to any commencement of works between 1<sup>st</sup> March and 31<sup>st</sup> August in any year, a detailed survey is required to check for nesting birds.
10. Prior to the commencement of development the applicant to submit detailed proposals for the incorporation of features into the scheme suitable for use by breeding birds including swallows, house sparrow and swift. Such proposals to be agreed by the LPA. The proposals shall be permanently installed in accordance with approved details.
11. The development shall proceed in accordance with the approved Bat/Barn Owl mitigation measures which shall be submitted to the LPA for approval in writing
12. The development shall proceed in accordance with the approved plans
13. The development hereby permitted shall not be commenced until such times as a scheme for the provision and implementation of a surface water regulation system has been submitted to, and approved in writing by, the local planning authority.
14. The development hereby permitted shall not be commenced until such time as a scheme for the management of overland flow from surcharging of the on-site surface water drainage system has been submitted to, and approved in writing by, the Local Planning Authority.
15. Prior to the commencement of development a plan is required for the protection and/or mitigation of damage to populations of white-clawed crayfish and habitat during construction works and once the development is complete. Any change to operational, including management; responsibilities shall be submitted to and approved in writing by the local planning authority.
16. The submission and approval of a Contaminated Land Survey
17. The acoustic mitigation measures as outlined in Section 7.0 Noise Ingress of the Report Environmental Noise Study RO371-REPO1-DRG by Red Acoustics shall be implemented
18. Compliance with the recommendations contained with Energy and Climate Change Strategy Report
19. Details of external lighting to be approved in writing by the LPA
20. Prior to the commencement of development detailed drawings of the junction design of Crewe Road/Gresty Lane/Gresty Green Road to be

submitted to the LPA for approval – these details should include the provision of a pedestrianised island and a right turn lane.

21. Provision of additional bin storage.
22. Dust assessment and implementation of any necessary mitigation measures.

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 Planning and Housing is delegated authority to do so, provided that he does not exceed the substantive nature of the Committee's decision.

**64 11/1643N - OUTLINE APPLICATION FOR THE ERECTION OF 650 DWELLINGS, A PUBLIC HOUSE, A LOCAL SHOP AND ASSOCIATED INFRASTRUCTURE AND OPEN SPACE PROVISION TOGETHER WITH THE DEMOLITION OF THE FORMER CROSS KEYS PUBLIC HOUSE, LAND AT COPPENHALL EAST, REMER STREET, CREWE FOR TAYLOR WIMPEY UK LIMITED**

*(NB – During consideration of this application the meeting was adjourned for a short period due to a member of the public being unwell).*

Consideration was given to the above application.

(Councillor P Martin, the Ward Councillor; Councillor D Newton, the Ward Councillor; Councillor D Flude, a Neighbouring Ward Councillor; Mr Poste, an objector; Mr Schumm, an objector; Ms Gordon-Preston, an objector; Mr Smith, the agent for the applicant attended the meeting and spoke in respect of the application).

**RESOLVED**

That the application be approved subject to completion of Section 106 legal agreement securing:

1. Provision of 35% of the total units as affordable housing in perpetuity, with the mix on Phase 1 being 10% 1 beds, 60% 2 beds and 30% 3 beds, with 40% of these being flats and 60% being houses.  
The tenure split of the units on all phases to be 65% social rent and 35% intermediate tenure. The mix of house types for phase 2 and subsequent phases to be agreed as part of subsequent reserved matters applications. Social Rented and Shared Ownership dwellings to be transferred to a Registered Provider.
2. Provision of education contribution of £161,752.
3. Provision of highways contribution of £1,183,426 towards Remer Street/ Middlewich Street, Sydney Road Bridge Widening, Crewe Green Roundabout and public transport improvements.
4. Travel Plan contribution of £5000



5. Provision for public open space to serve the whole of the development to be agreed with the Council when details of layout are submitted for approval. This must secure the provision and future management of children's play areas and amenity greenspace.

Submitted details must include the location, grading, drainage, layout, landscape, fencing, seeding and planting of the proposed public open space, transfer to and future maintenance by a private management company.

And the following conditions

1. Standard Outline
2. Submission of reserved matters
3. Plans
4. Air Quality assessment updates to be submitted with each reserved matters
5. Submission, approval and implementation of Construction Environmental Management Plan (CEMP)
6. Submission, approval and implementation of Travel Plan
7. Submission, approval and implementation of contaminated land preliminary risk assessment (PRA)
8. Submission, approval and implementation of contaminated land site investigation (SI)
9. Code for Sustainable Homes Level 4 assessment with reserved matters
10. Provision of 10% renewable energy on site unless it can be demonstrated by the applicant, having regard to the type of development involved and its design, that this is not feasible or viable.
11. Provision of detailed scheme of drainage
12. Reserved matters to make provision for allotment site (30 plots) within the development.
13. Breeding bird survey to be carried out prior to commencement of any works during nesting season
14. Provision of replacement hedgerows
15. Provision of detailed design and layout of the GCN mitigation area
16. Retention of visually important trees
17. A scheme for the provision and implementation of a surface water regulation system
18. Management of overland flow
19. Provision and management of habitat creation
20. No discharge to Fowle Brook unless further information is provided to prove that the SSSI will not be adversely affected
21. Retention of important hedges
22. Notwithstanding detail shown – no approval of indicative residential masterplan.
23. Landscape design principles to be incorporated into final layout
24. Submission of landscape and ecological management plan
25. Submission of Arboricultural Impact Assessment
26. Submission of Arboricultural Method Statement
27. Submission of Comprehensive tree protection measures
28. A scheme for the provision and management of compensatory habitat creation

29. Each reserved matters application for commercial activities to be accompanied by a noise impact assessment
30. Submission of Noise Mitigation Measures with each reserved matters application.
31. Submission of details of detailed lighting plan with each reserved matters application.
32. Submission of details of bin storage with each reserved matters application.
33. Submission of details of phasing / triggers for construction of access and highway improvements. Works to be carried out in accordance with the approved details.

The meeting commenced at 10.00 am and concluded at 5.15 pm

Councillor H Davenport (Chairman)

## CHESHIRE EAST COUNCIL

### STRATEGIC PLANNING BOARD

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**Date of meeting:** 9 November 2011  
**Report of:** Development Management & Building Control Manager  
**Title:** Mill Street/Lockitt Street, Crewe

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#### **1.0 Purpose of Report**

- 1.1 To consider proposed amendments to the resolution passed by Strategic Planning Board in respect of application P07/0639.
- 1.2 The report has been presented to Strategic Planning Board because the original application for a mixed use development comprising residential, retail (food and non food), pedestrian/cycle link and associated car parking, landscaping, servicing and access was approved by the Board on 24<sup>th</sup> March 2010.
- 1.3 A further determination was made by Strategic Planning Board on 25<sup>th</sup> August 2010 to alter Heads of Terms with respect to the delivery of the pedestrian/cycle link.

#### **2.0 Decision Required**

- 2.1 To agree to the amendments to the previous resolutions as stated in this report.
- 2.2 The principle of the mixed use development has already been established by the previous resolution and this report does not provide an opportunity to revisit that issue. This item relates solely to the proposed amendment to the requirements of the Section 106 Agreement.

#### **3.0 Background**

- 3.1 The application relates to a 3.95ha site which comprises a mixture of vacant and occupied single storey general industrial and warehouse buildings.
- 3.2 The site is bounded to the north and east by railway lines, residential properties to the south and Mill Street to the west. The site wraps around the existing Wickes DIY store which is excluded from the application site.
- 3.3 The site is allocated under Policy S.12.2 of the Borough of Crewe and Nantwich Local Plan as a mixed use regeneration area, and also forms

part of the Mill Street/Pedley Street sub area of the Crewe Rail Gateway Adopted Development Brief.

- 3.4 In March 2010, Strategic Planning Board resolved to grant outline planning permission for the redevelopment of the site for a mixed use development to include 1,329sqm retail food development, 2,787sqm comparison goods, 1,858sqm bulky goods, 53 dwellings (of which 35% affordable), a restaurant, the provision of a pedestrian/cycle link through the site connecting the train station to the town centre, landscaping, car parking, servicing and access.
- 3.5 The food retail store has indicatively been shown to be sited fronting onto Mill Street with the comparison/bulky goods retail unit backing onto Waverley Court. The scheme shows the residential properties to be predominantly located between the railway lines and the Wickes DIY store. The route of the proposed pedestrian/cycle link will pass the proposed retailing unit at the south eastern corner of the site, pass the front of the proposed restaurant over an “urban square” (which will be a shared surface) and will continue through the proposed residential development connecting to Mill Street at the north western corner of the site
- 3.6 The resolution to approve on 25<sup>th</sup> August 2010 is subject to completion of Section 106 Agreement making a number of provisions, including, inter alia:

The provision of on site open space and equipped children’s playspace in accordance with Policy RT.3 of the Local Plan with any shortfall in provision to be made up by way of a developer contribution in lieu of public open space calculated at £1000 per house (index linked),

Also

Affordable housing provision, which shall include a requirement that:

- 35% affordable housing
- 23% shall be social rented housing
- 12% shall be shared ownership

Also

Details of phasing of development to include, inter alia, provision of the pedestrian/cycle link in three sections to correspond with the first three phases of development

Also

A scheme of public art to be agreed for the site

## 4.0 Proposals

### Affordable Housing

- 4.1 Since those resolutions were passed discussions have been held between the developer and a Registered Provider (in this case Wulvern Housing), and the developer proposes to sell the affordable units on to Wulvern Housing.
- 4.2 Wulvern Housing are keen to progress the development of affordable housing on the site. However, the current mix required by the existing resolution to approve raises some concern over the viability of the development. As such it is proposed that there should be no mix in affordable housing tenure and that the scheme should include solely affordable rented properties.
- 4.3 The Strategic Housing and Development Manager has confirmed that, in the light of concerns over viability, a scheme comprising only affordable rented units is acceptable in this instance.
- 4.4 It is suggested that the heads of terms for the legal agreement in the resolution to approve should be amended from:

*“Affordable housing provision, which shall include a requirement that:*

- 35% affordable housing*
- 23% shall be social rented housing*
- 12% shall be shared ownership*

To:

*“Affordable housing provision, which shall include a requirement that:*

- 35% affordable housing be provided, of which 100% shall be affordable rented*

### Phasing

- 4.5 An amended phasing plan has also been submitted which has implications on the wording of phasing element of the heads of terms. The approved resolution requires the pedestrian walkway to be provided in three sections to correspond with the first three phases of development.
- 4.6 The amended phasing plan shows four phases of development:

**Phase 1:** The provision of the Food Retail Store, 19 affordable housing units and the provision of the pedestrian/cycle link from Waverley Court to the public square, and from the public square to Mill Street;

**Phase 2:** The provision of the comparison and bulky goods retailing;

**Phase 3:** The provision of the market dwellings; and,

**Phase 4:** The provision of the restaurant and public square (which would complete the pedestrian/cycle link.

- 4.7 As the link would not be fully completed until the construction of the public square as part of phase 4, the phasing would not be in compliance with the approved heads of terms. However the amended phasing scheme is preferable in that it would deliver the majority of the link under the first phase of development.

- 4.8 It is suggested that the heads of terms for the legal agreement in the resolution to approve should be amended from:

*“Details of phasing of development to include the provision of the pedestrian / cycle link in three sections to correspond with the first three phases of development”*

To:

*“Details of phasing of development to include, inter alia, the provision of the pedestrian / cycle link”*

## **5.0 Conclusion**

- 5.1 On the basis of the above, the proposed amendment to the wording of the resolution is considered to be acceptable.

## **6.0 Recommendation**

- 6.1 That the Board resolve to amend the previous resolution in respect of application P07/0639 to read:

*The provision of on site open space and equipped children’s playspace in accordance with Policy RT.3 of the Local Plan with any shortfall in provision to be made up by way of a developer contribution in lieu of public open space calculated at £1000 per house (index linked),*

*Also*

*Affordable housing provision, which shall include a requirement that:*

- *35% affordable housing be provided, of which 100% shall be affordable rented*

*Also*

*Details of phasing of development to include, inter alia, the provision of the pedestrian / cycle link*

*Also*

*A scheme of public art to be agreed for the site*

## **7.0 Financial Implications**

- 7.1 There are no financial implications.

## **8.0 Legal Implications**

- 8.1 Revisions to the pedestrian/cycle link phasing previously approved should be confirmed in a new resolution so that the Borough Solicitor has authority to execute a s106 Agreement in those revised terms.

## **9.0 Risk Assessment**

- 9.1 There are no risks associated with this decision.

## **10.0 Reasons for Recommendation**

- 10.1 To allow negotiations in respect of the Section 106 to progress to signing, to enable the development works to commence in a timely fashion whilst ensuring that the quality of this key section of a quality cross centre route from Train Station to Town Centre is not compromised.

### ***For further information:***

*Portfolio Holder:* Councillor Rachel Bailey  
*Officer:* Declan Cleary – Senior Planning Officer  
*Tel No:* 01270 537497  
*Email:* [declan.cleary@cheshireeast.gov.uk](mailto:declan.cleary@cheshireeast.gov.uk)

### ***Background Documents:***

- *Application P07/0639*

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## **CHESHIRE EAST COUNCIL**

### **Strategic Planning Board**

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**Date of Meeting:** 9 November 2011  
**Report of:** Strategic Planning & Housing Manager  
**Subject/Title:** Racist and Offensive Representations  
**Portfolio Holder:** Cllr Rachel Bailey

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#### **1.0 Report Summary**

- 1.1 This report introduces a policy on dealing with racist and offensive representations, based on principles adopted by the Royal Town Planning Institute

#### **2.0 Recommendation(s)**

- 2.1 That the Strategic Planning Board approves the approach set out in Appendix 1 of the report

#### **3.0 Reasons for Recommendation**

- 3.1 To enable the Council to properly deal with offensive representations received as part of the planning process.

#### **4.0 Wards Affected**

- 4.1 All

#### **5.0 Local Ward Members**

- 5.1 All

#### **6.0 Policy Implications**

- 6.1 The report clarifies the Council's policy approach to this subject

#### **7.0 Financial Implications**

- 7.1 None.

#### **8.0 Legal Implications**

- 8.1 It is a legal requirement to treat racist representations seriously; as a Local Authority the Council has a statutory equality duty

- 8.2 The public sector equality duty consists of a general equality duty, which is set out in section 149 of the Equality Act 2010 itself, and the specific duties which came into law on the 10 September 2011 in England are imposed by secondary legislation. The general equality duty came into force on 5 April 2011.
- 8.3 In summary, those subject to the equality duty must, in the exercise of their functions, have due regard to the need to:
- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
  - Advance equality of opportunity between people who share a protected characteristic and those who do not.
  - Foster good relations between people who share a protected characteristic and those who do not.
- 8.4 These are sometimes referred to as the three aims or arms of the general equality duty. The Act helpfully explains that having due regard for advancing equality involves:
- Removing or minimising disadvantages suffered by people due to their protected characteristics.
  - Taking steps to meet the needs of people from protected groups where these are different from the needs of other people.
  - Encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.
- 8.5 The Act states that meeting different needs involves taking steps to take account of disabled people's disabilities. It describes fostering good relations as tackling prejudice and promoting understanding between people from different groups. It states that compliance with the duty may involve treating some people more favourably than others.
- 8.6 The new duty covers the following eight protected characteristics: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation
- 8.7 In addition the Local Government (Access to Information) Act 1985 requires any material that is defamatory or likely to incite racial hatred or contempt, and information the disclosure of which is prohibited by law, to be marked 'confidential' and not disclosed to the public.
- 8.8 Thus anyone who, either in writing or verbally, objects on racist grounds to a planning application or proposal is potentially contravening one of these Acts, by applying pressure to discriminate.

## **9.0 Risk Management Implications**

- 9.1 The Council risks failing in its statutory duties and committing an offence if it fails to properly address issues of racism arising in the exercise of its functions.

## **10.0 Background and Options**

- 10.1 The Equality Duty was introduced in the UK in 2010 and builds on previous specific duties, including racial equality. It applies to all public authorities requiring them to eliminate unlawful discrimination, promote equality of opportunity between persons of different racial groups and promote good relations between persons of different racial groups.
- 10.2 The Council occasionally receives racist representations and looks to take positive measures to handle these types of comments.
- 10.3 In general terms, a racist representation is one that includes words, phrases or comments that are likely to:
- be offensive to a particular racial or ethnic group
  - be racially abusive, insulting or threatening
  - apply pressure to discriminate on racial grounds
  - stir up racial hatred or contempt
- 10.4 The context in which such words, phrases or comments are used must be considered carefully, in order to ascertain their true meaning and effect. A similar approach may be taken to offensive representations. These include communications which:
- Use Foul or Offensive Language
  - Maliciously target Individuals or groups as objects of hate
  - Discriminate on grounds of religion or conscience
  - Are intended to create community discord.
- Given that planning applications frequently provoke strong emotions, care needs to be taken that heartfelt views are not silenced or dismissed. Accordingly it is suggested that only the most severe of representations be deemed to be 'offensive' in the terms of this policy.
- 10.4 The Royal Town Planning Institute has guidance on handling representations of this nature. They recommend that a designated officer be identified who ultimately will determine whether correspondence is racist or offensive. A procedure should then be followed which allows valid planning concerns to be more appropriately addressed. It is recommended that the Council adopts guidance based on this advice.
- 10.5 Appendix 1 attached to this report sets out the procedures that will be followed if representations on a planning application are received that contain racist or offensive material.

## **11.0 Access to Information**

The background papers relating to this report can be inspected by contacting the report writer:

Name: Adrian Fisher

Designation: Strategic Planning & Housing Manager

Tel No: 01270 686641

Email: [adrian.fisher@cheshireeast.gov.uk](mailto:adrian.fisher@cheshireeast.gov.uk)

Background Documentation:

‘Dealing with Racist Representations’ - RTPI Practice Guidance Note for officers of planning authorities

**GUIDANCE ON RACIST AND OFFENSIVE PLANNING REPRESENTATIONS**

That a designated officer be appointed to determine whether correspondence is racist or offensive. This officer will be Development Management and Building Control Manager

Responsibility for identifying potentially racist or offensive material lies with the appropriate case officer. Any letter that seems to contain racist material should always be referred to the designated officer for action.

The designated officer should confirm whether or not the letter is racist or offensive. If the letter is racist, and contains no material planning consideration, the officer should return the letter to the writer explaining that it is unlawful and cannot be considered. Offensive correspondence of the same nature should similarly be returned on the basis that the Council will not accept such representations. Receipt of such representations should not be identified in any planning application committee report as they are not material.

If the letter is racist, but also contains material planning considerations, the officer should return the letter to the writer because of its unlawful racist content, explaining that if the writer wishes the valid material planning considerations to be put before committee, they must write again, dealing only with these valid planning matters. If the writer fails to do this, and if the original letter raises a material planning consideration that is not already covered in the officer's report, the officer should raise it at the meeting and have it minuted to make sure that the objector cannot challenge the committee's decision. A similar procedure should be adopted for offensive letters.

Any letter which is deemed to contain, in whole or in part, racist or offence material should be kept confidential and not posted on the Council's website or kept on a public file.

If certain people persist in making representations that the authority regards as racist, the matter should be referred to the Equality & Human Rights Commission or the police. However, the Commission has a role only in instances where there is a pressure to discriminate, or where actual discrimination on racial grounds has taken place or is likely to take place. Representations that are deemed to be offensive, abusive, insulting, threatening or inciting racial hatred are matters for the police.

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## CHESHIRE EAST COUNCIL

### STRATEGIC PLANNING BOARD

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**Date of meeting:** 9 November 2011  
**Report of:** Strategic Planning and Housing Manager  
**Title:** Notice of Motion: Planning Permission for Solar Panels  
**Portfolio Holder** Cllr Rachel Bailey

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#### 1.0 Report Summary

- 1.1 At the Council meeting on 13 October 2011 the following Notice of Motion submitted by Councillor D Brickhill was referred to the Strategic Planning Board for advice and report back to Council for decision in December:

*“That since the government is running the Photovoltaic roof panel scheme for householders to generate green electricity and have exempted this from all planning permission requirements, that this Council notify any enquirers that planning permission is not required and cease to require details, drawings or charges except for listed buildings or conservation areas for which permission is still required”*

#### 2.0 Decision Required

- 2.1 To note the report and recommends that the Council continues to adopt the approach as advocated within the Town and Country Planning (General Permitted Development) Order.

#### 3.0 Reasons for Recommendation

- 3.1 To ensure fairness and consistency of practice in accordance with existing practice.

#### 4.0 Financial Implications

- 4.1 There are no financial implications.

#### 5.0 Legal Implications

- 5.1 There are no legal implications with the recommendation which would in accordance with existing legislative practice.

#### 6.0 Risk Assessment

- 6.1 There are no risks associated with this decision.

## **7.1 The Council's Approach to Solar Panels & Planning**

7.2 Part 40 of the Town & Country Planning (General Development Permitted Development) Order 1995 (as amended) grants extensive permitted development rights to householders wishing to establish solar panels on their property. In most cases planning permission is therefore not required.

7.3 However planning consent may be required if the solar panels exceed a certain size or occupy a certain position either on or within the grounds of a property. These parameters are clearly detailed within the specific legislation but are also simplified on the Council's website where residents can access links to an interactive 'virtual' house.

7.4 Residents can freely exercise their rights under the Permitted Development legislation accordingly. The Council however will seek details of plans and charges in two specific circumstances:

- In the case of planning permission being necessary (i.e. that it is not permitted development) – then plans and a fee is required in the normal way.
- In the case that the householder wants a written confirmation that the works are permitted development. This is a discretionary service normally provided for residents who want some comfort for when they come to sell their house. There is a small charge for this service and basic plans will also be required. Without such plans it is impossible to confirm whether works are indeed permitted development.

7.5 These circumstances aside, the Council does not require any documentation in relation to the planning aspects of domestic solar panels. (As a separate issue Building Regulations may be required – as the roof of a property may need to be strengthened to accommodate the panels and usually a new electrical connection is required)

## **8.0 Conclusion**

8.1 It is considered that the existing permitted development legislation provides the correct balance for allowing local residents to erect solar panels without the need for any fees or to submit plans unless they want written confirmation. It also safeguards those situations whereby such development may be considered to be of such greater impact that they require further consideration via the submission of a planning application.

### ***For further information:***

*Officer:* David Malcolm – Southern Area Manager  
*Tel No:* 01270 537411  
*Email:* david.malcolm@cheshireeast.gov.uk



***Background Documents:***

- *Part 40 of the Town & Country Planning (General Permitted Development) Order 2005 (as amended)*

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## CHESHIRE EAST COUNCIL

### Strategic Planning Board

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**Date of Meeting:** 9 November 2011  
**Report of:** Development Management & Building Control Manager  
**Subject/Title:** Loachbrook Farm, Sandbach Road, Congleton.

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#### 1.0 Purpose of Report

- 1.1 To consider the withdrawal of part of a reason for refusal relating to planning application 11/0736C Redevelopment of Land for up to 200 Dwellings, Community Facilities & Associated Infrastructure at Loachbrook Farm, Sandbach Road, Congleton

#### 2.0 Decision Required

- 2.1 To withdraw the foul drainage reason for refusal in accordance with the report and recommendation set out below.

#### 3.0 Background and Report

- 3.1 At the meeting of the 27<sup>th</sup> July 2011, the Strategic Planning Board considered an outline application for up to 200 dwellings, community facilities & associated infrastructure.
- 3.2 The Strategic Planning Board resolved to refuse the application for two reasons.

*I. The proposed residential development, which is located within the Open Countryside, is considered to be an unsuitable location for development by virtue of the adverse impact that the proposals would have on the local landscape character. In addition, the proposed development is poorly related to existing built form. The proposed development would therefore be contrary to Policies GR5, GR3 and PS8 of the Congleton Borough Adopted Local Plan First Review 2005 and guidance contained within PPS1, PPS3 and PPS7.*

*II. It is considered that the proposed development would result in an unsustainable form of development. The site is at the westernmost periphery of Congleton at a distance of 2km from the town centre and there are more suitable deliverable sites which offer a more sustainable location. The proposed development would also result in the loss of the best and most versatile agricultural land. **There is also insufficient foul drainage infrastructure to accommodate the proposed development.** The proposed development is therefore not suitable for housing development. **The proposed scheme would be contrary to Policy GR20 (Public Utilities) and GR23 (Provision of Services and Utilities) of the Congleton Borough***

***Adopted Local Plan First Review 2005 and guidance contained within PPS1, PPS3 and PPS7.***

- 3.3 United Utilities raised an objection to the application on the grounds that “the public foul sewer system is currently at capacity and cannot accept additional flows; increased flows could result in a severe environmental impact on receiving watercourse and/or flooding in the sewerage network.” This resulted in reference to insufficient foul drainage infrastructure within the second reason for refusal, with the associated Local Plan Policies (as indicated in bold above).
- 3.3 In preparation for the forthcoming Public Inquiry in December 2011 United Utilities have been pushed to provide detailed information as to the why this would prevent the development taking place. This also follows legal advice to the Council on current case law which advises that the utility provider (United Utilities in this case) is required to provide a connection to the foul drainage system, and that it is they that would have to do whatever is require to facilitate this. United Utilities have now confirmed that they raise no objection to the proposal subject to the imposition of a ‘Grampian’ condition of any approval of planning permission.
- 3.4 In light of these conclusions, and having taken advice from Counsel, it is considered that the Council should no longer contend this part of the second reason for refusal.

#### **4.0 Conclusions**

- 4.1 On the basis of the above, it is considered that the Council should withdraw the foul drainage part of the second reason for refusal.

#### **5.0 Recommendation**

- 5.1 That the Strategic Planning Board resolve to withdraw the foul drainage part of the second reason for refusal as indicated in bold in paragraph 3.2.

#### **6.0 Risk Assessment and Financial Implications**

- 6.1 In light of the legal advice received, and updated information from United Utilities if pursued, a successful claim for appeal costs could be made against the Council on the grounds of unreasonable behaviour.
- 6.2 There would also be an implication in terms of the Council’s own costs in defending the reason for refusal.