

CHESHIRE EAST COUNCIL

SOUTHERN PLANNING COMMITTEE

Date of meeting: 7th December 2011
Report of: Caroline Simpson, Head of Development
Title: Smallwood Storage

1.0 Purpose of Report

- 1.1 To consider the comments of the Greenspaces Officer in respect of planning application 11/0627C for demolition of Existing Buildings and Erection of 15 Dwellings and Associated Infrastructure Works at Smallwood Storage Ltd, Moss End Farm, Moss End Lane, Smallwood.

2.0 Decision Required

- 2.1 To agree to the proposed amendments to the previous resolution and to instruct the Borough Solicitor to complete the Section 106 Agreement.

3.0 Background

- 3.1 Members may recall that at its meeting on 13th July, 2011 Southern Planning Committee resolved to grant delegated powers to the Head of Planning and Housing to approve outline planning permission for the demolition of the existing warehouse and erection of a residential development of 15 dwellings at Smallwood Storage subject to no objection being received from the Greenspaces Officer.
- 3.2 The Greenspace Officer's comments have since been received which request a substantial financial contribution towards public open space. The developer has argued that a requirement to make such a contribution would render the scheme unviable. However, failure to agree to the contribution by implication invokes an objection from the Greenspaces Section and consequently, the matter must be referred back to committee for further consideration.

4.0 Officer Observations

- 4.1 The Greenspaces Officer has commented (see below) that an area of on-site open space, which is deficient in terms of area, based on the number of dwellings proposed, will be provided alongside the access road. As well as commenting on the inadequacy of the area, she has raised concerns about its location alongside the access road and close to the pond. However, this land is shown outside the application site

boundary, as shown edged red on the location plan. The developer has confirmed that this area is not proposed as open space. Consequently, no public open space is proposed as part of this development.

- 4.2 The preference of the Greenspaces officer is for on-site provision. However, if this is not possible she has recommended a financial contribution of £109,139 in lieu of off-site provision.
- 4.3 This requirement has been put to the developer who has responded by stating that the requirement to make a public open space contribution would render the scheme unviable.
- 4.4 The viability of individual schemes is a material consideration in deciding planning applications, and as stated above, both the interim statement and local plan policy allow economics of provision arguments to be advanced. Since 2008 there has been significant downturn in the housing market and particularly on brownfield sites where costs of redevelopment are proportionally higher than greenfield sites. Developers have sought and continue to seek to negotiate a lower provision for Section 106 contributions such as affordable housing and public open space on the basis that the Council's normal requirements would render redevelopment unviable. Furthermore, this stance has been upheld by Inspectors on a number of occasions at Appeal, who have determined that the regenerative benefits of bringing brownfield sites back into beneficial use, and the contribution to housing land supply, outweigh the need to provide the full policy requirements in terms of contributions.
- 4.5 There would be significant planning benefits that would arise from the redevelopment of the site for residential use. Firstly, the proposal would assist the Council to meet its housing land requirements and would ease pressure of Greenfield sites elsewhere within the Borough. Secondly, the proposed residential development would have significantly less impact on the character and appearance of the surrounding area, traffic generation and the amenity of neighbouring occupiers than the existing haulage and storage use.
- 4.6 Thirdly the Written Ministerial Statement: Planning for Growth (23 March 2011) by The Minister of State for Decentralisation (Mr. Greg Clark) states that *"The Government's top priority in reforming the planning system is to promote sustainable economic growth and jobs. Government's clear expectation is that the answer to development and growth should wherever possible be 'yes', except where this would compromise the key sustainable development principles set out in national planning policy."* It goes on to say that *"when deciding whether to grant planning permission, local planning authorities should support enterprise and facilitate housing, economic and other forms of sustainable development. Where relevant - and consistent with their statutory obligations - they should therefore, inter alia,*

- *consider fully the importance of national planning policies aimed at fostering economic growth and employment, given the need to ensure a return to robust growth after the recent recession;*
- *take into account the need to maintain a flexible and responsive supply of land for key sectors, including housing;*
- *consider the range of likely economic, environmental and social benefits of proposals; including long term or indirect benefits such as increased consumer choice, more viable communities and more robust local economies (which may, where relevant, include matters such as job creation and business productivity);*
- *ensure that they do not impose unnecessary burdens on development”*

- 4.7 The proposal at the Smallwood Storage site will enable an existing local business to relocate to new premises and to expand, generating jobs and economic benefits. Furthermore, the proposal will help to maintain a flexible and responsive supply of land for housing, which is specifically identified above as a “key sector”. The proposal will also create jobs and economic growth in the construction industry and all the associated supply networks. The Secretary of State for Communities and Local Government has made it clear that he will take the principles in this statement into account when determining applications that come before him for decision. In particular he will attach significant weight to the need to secure economic growth and employment.
- 4.8 If it is not financially viable for the developer to build the scheme the site will not come forward and the planning benefits of the proposal, as outlined above will not be realised. This adds significant weight to the financial viability of the scheme as a material consideration.
- 4.9 Members will recall from the previous report relating to this site that a viability appraisal was submitted with the application. This indicated that when all site acquisition and construction costs as well as developers profit were subtracted from the sales values of the completed properties, the residual would be sufficient to provide an affordable housing contribution of £239,400.
- 4.10 The viability report was scrutinised by officers and its conclusions were accepted and Committee subsequently resolved to agree this level of affordable housing contribution. In so doing, the Council has accepted that viability is an issue on this site, and the developer’s residual valuation. Therefore, the only way in which a further contribution for public open space provision could be obtained is if the affordable housing contribution were to be reduced accordingly.
- 4.11 The developer has stated that they would have no objection to the monies being divided between public open space and affordable housing. However, it is considered that given the pressing need for affordable housing, particularly in rural areas, and the fact that opportunities have been identified to use the funds in question, that it

would be undesirable to reduce the affordable housing contribution that has been secured.

- 4.12 Furthermore, both the developer and the Greenspaces officer have highlighted the difficulties in identifying opportunities to spend the money on public open space improvements within the immediate vicinity. Although contributions in lieu of amenity greenspace could be used for improvements to surfacing of the Public Footpath adjacent to the site to increase its capacity there is particular difficulty in spending the contribution in respect of formal children's playspace. Both Sandbach and Congleton main parks exceed the 800m threshold distance from the development by a long way. The Greenspaces Officer has commented that the small play facility within Smallwood called 'Foxes Covert' (approx 1000m away) was required as part of that development would benefit from improvement, but the site is very small and not really suitable. It is for this reason that her preference is for on-site open space provision.
- 4.13 Given that the application is made in outline, a condition could be imposed requiring on-site provision of public open space as part of the reserved matters application. However, the developer has argued that this would be impractical for a number of reasons. Firstly, provision of open space within the development site, would reduce the developable area, which would impact on the viability of the scheme.
- 4.14 Secondly, as Members may recall from the previous report on this application, it was initially proposed to redevelop the site for a 30 unit scheme comprising a mix of house types, typical of many suburban housing estates in a cul-de-sac layout. The proposal would have included, inter alia, 3 storey townhouses and mews properties. At the pre-application stage officers expressed the opinion that this would be inappropriate as it would represent an excessive bulk of built development in the open countryside both in terms of height and massing, and would be out of keeping with the low density character of surrounding development. The scheme was therefore redesigned to include a smaller number of much more exclusive large detached houses. The presence of on-site public open space would reduce the exclusivity of the development, and with it the potential property values and accordingly, the already marginal viability would be adversely affected.
- 4.15 The only way in which the viability could be improved would be to increase the number of units on site, which would in turn further increase the public open space requirement. This would necessitate further units to further improve viability until the two came into balance. This increase in units would be undesirable from a design perspective and would increase the bulk of built development on the site to the detriment of the open character and appearance of the surrounding countryside.

- 4.16 Thirdly, the developer has argued that given that they are providing large family houses, with large gardens and therefore families would have less need to utilise public open space. This argument is not accepted as gardens are considered to be 'private open space' for which there is a separate policy requirement in addition to "public open space. Therefore the two forms of open space cannot be substituted.
- 4.17 Notwithstanding this point, the developers viability concerns, and the design considerations as set out above are legitimate and important material considerations, which, in this case, are considered to be sufficient to outweigh the provisions of the development plan policy and the supplementary planning guidance in respect of public open space provision.

5.0 Conclusion

- 5.1 The proposal does not make any provision for on-site public open space. The developer has previously provided, and the Council has accepted, a financial appraisal which demonstrates that the viability of this site is marginal. Any proposal to provide either on-site open space or a contribution towards off-site provision would render the scheme unviable. This would prevent the redevelopment of a brownfield site and the relocation and expansion of an existing business, which is currently poorly located.
- 5.2 Previous appeal decisions have established that viability is a significant and material consideration in the determination of planning applications.
- 5.3 The only way in which viability could be improved would be to increase the number of dwellings on site which would be undesirable in design terms and would detract from the open character and appearance of the countryside. This is also an important material consideration, given the unusual and sensitive location of this site.
- 5.4 The developer has stated that they would have no objection to the £239,400 affordable housing contribution which has already been secured, and accounted for in the viability appraisal, being divided between public open space and affordable housing. However, it is considered that it would be undesirable to reduce the affordable housing contribution that has been secured.
- 5.5 Therefore, for the reasons set out above, it is considered that the exceptional circumstances surrounding these in this case, are significant material considerations that warrant the setting aside of established local plan policy and supplementary planning guidance in respect of public open space provision. Accordingly, it is recommended that Members resolve to approve the application subject to conditions as set out below, and the signing of a Section 106 agreement to secure £239,400 towards affordable housing provision but without any requirement to make any provision for public open space.

6.0 Recommendation

APPROVE planning application 11/0627C subject to:

Section 106 agreement to secure:

- **£239,400 towards affordable housing provision elsewhere in the area**

and the following conditions:

- 1. Standard**
- 2. Plans**
- 3. Materials**
- 4. Landscaping**
- 5. Implementation of Landscaping**
- 6. Boundary Treatment**
- 7. Tree Protection Measures & Arboricultural Method Statement.**
- 8. Implementation of Tree Protection**
- 9. Removal of Permitted Development Rights**
- 10. Contaminated Land Condition**
- 11. Construction of Access.**
- 12. Provision of parking**
- 13. Development shall be restricted to 08:00 to 18:00 hours on Monday to Friday, 08:00 to 13:00 hours on Saturday, with no work at any other time including Sundays and Public Holidays.**
- 14. Details of piling to be submitted**
- 15. Timing of works to avoid bird nesting season**
- 16. Provision of bat roost**
- 17. method statement covering mitigation for great crested newt as outlined in the supporting Phase 1 Habitats Survey Report**
- 18. Accommodation of the public footpath.**
- 19. Submission of scheme to limit the surface water run-off generated by the proposed development,**
- 20. The discharge of surface water from the proposed development to mimic that which discharges from the existing site. Attenuation will be required for discharges up to the 1% annual probability event, including allowances for climate change.**
- 21. Provision of SUDS**
- 22. Submission of a scheme to manage the risk of flooding from overland flow of surface water,**
- 23. site layout is to be designed to contain any such flooding within the site,**
- 24. Submission of a scheme to treat and remove suspended solids from surface water run-off during construction works**
- 25. Submission of a scheme to dispose of foul drainage**

7.0 Financial Implications

- 7.1 There are no financial implications.

8.0 Consultations

Borough Solicitor

- 8.1 The Borough Solicitor has been consulted on the proposals and raised no objections

Greenspaces Section

- 8.2 *With reference to the plans for the erection of 15 dwellings consisting of 4 and 5 bedrooms, if the development were to be granted planning permission (in accordance with the submitted Proposed Site Layout Plan, Drawing No 490 SL 01 D, dated 10th May'10) there would be a deficiency in the quantity of provision, having regard to the adopted local standards set out in the Council's Open Space Study for both Amenity Green Space and Children and Young Persons provision.*
- 8.3 *It should also be noted that the Planning Statement 4.18 states 'Policy GR22 deals with the provision of open space. It refers to the Council's Supplementary Planning Guidance. In this case the number of dwellings is below the threshold for the provision of public open space in the Supplementary Planning Guidance and there is therefore **no** requirement for onsite provision'. This is incorrect and contrary to policy as provision is required for residential developments over 7 dwellings in accordance with the Supplementary Planning Guidance paragraph 3.6.*
- 8.4 *Following the assessment of the existing provision of Amenity Greenspace accessible to the proposed development, having a quantity deficiency, it is acknowledged an area of Amenity Greenspace is being provided on site. As this is an outline application with all matters reserved, no measurement or landscape details are provided. Based on 15 dwellings comprising of 4 bedrooms each, the area required on site is 600m². This figure will vary if bedroom numbers alter. This is the area required for Amenity Green Space alone and Children and Young Persons provision should be in addition.*
- 8.5 *To the NE side of the site an existing pond is retained and whilst it is appreciated this is to conserve the natural landscape, environment and contributes to regulatory requirements to comply with SUD's it has never been the Council's policy to take transfer of areas of POS that have water bodies located in, around or running through them due to the additional liabilities and maintenance implications associated with such areas. Therefore I suggest that consideration is made for this the pond and wetland areas to be transferred to a management company.*
- 8.6 *The area of water would not be classed as useable open space and would therefore be deducted from the total area of amenity greenspace that is being offered up on site.*

- 8.7 *The location of the POS that has been proposed, is not ideal being adjacent to the main inlet road to the development. The Council's Supplementary Planning Guidance Note for provision of Public Open Space in New Residential Developments 5.2 states new provision should be 'preferably centrally located' and 'the open space should not adjoin a main road or estate distributor road, which is expected to carry a significant amount of traffic' It is appreciated there are boundary treatments which may provide a buffer but this is difficult to assess as there are no details. Consequently, given the information provided Greenspaces request the location of the POS is re considered. If this is not feasible then the main inlet road is re located further towards the pond to maximise the useable POS providing a kick about area.*
- 8.8 *The existing trees to the front and other boundaries of the site are being retained with new supplementary planting to be included within the proposed landscaping scheme. These areas including the additional buffer planting which should be considered in some depth in light of future maintenance implications, planting distances in relation to buildings, and species types of trees. Clarification would be required as to the intended end ownership of these areas due to any maintenance implications that may arise as a result of it. It is with this in mind therefore, that I suggest that consideration is made for these areas of POS to be transferred to a management company.*
- 8.9 *Based on the aforementioned calculations, if the formal area of 600m² POS was to be transferred to The Council serving the development based on the Council's Interim Policy Note on Public Open Space Requirements for New Residential Development the financial contributions sought from the developer would be £7,095 for maintenance.*
- 8.10 *Following an assessment of the existing provision of Children and Young Persons Provision accessible to the proposed development, if the development were to be granted planning permission there would be a deficiency in the quantity of provision, having regard to the local standards set out in the Council's Open Space Study for Children and Young Persons Provision. Consequently there is a requirement for new Children and Young Persons provision to meet the future needs arising from the development.*
- 8.11 *Whilst The Council recognises that smaller developments will not always practically be able to provide open space and/or play provision on site where less than 20 dwellings are proposed, and financial contributions would be sort towards enhancement of pos/play provision within an 800m radius. In this instance, there is no provision nearby, hence the request for play provision on site.*
- 8.12 *If a small Equipped Area for Play (LEAP) centrally located on the POS within the development providing at least 3 items of equipment (including a multi-unit) for the 6 and under age range, the estimated*

cost would be £51,000 with maintenance estimated at a further £51,044 (25 years)

- 8.13 *This would take into account play area infrastructure, equipment including elements of DDA equipment, safer surfacing and safety inspection. We would request that the final layout and choice of play equipment be agreed with CEC, and obtained from a supplier approved by the Council, the construction should be to the council's specification. Full plans must be submitted prior to the play area being installed and these must be approved, in writing prior to the commencement of any works.*

9.0 Risk Assessment

- 9.1 There are no risks associated with this decision.

10.0 Reasons for Recommendation

- 10.1 To ensure that an approved scheme for additional housing supply on a brownfield site, including an affordable housing contribution, within the rural area is delivered.

For further information:

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Background Documents:

Planning application 11/0627C