

Application No: 13/2186C

Location: MILLPOOL WAY/NEWALL AVENUE, SANDBACH, CHESHIRE CW11 4BU

Proposal: Residential development of 39No, 2 & 2.5 storey, 1, 2 & 3 Bedroom detached & mews style properties and associated works.

Applicant: Mr Stephen Miller, Morris Homes Limited

Expiry Date: 23-Aug-2013

SUMMARY RECOMMENDATION

Approve with Conditions and completion of a Section 106 Agreement

MAIN ISSUES

Principal of the Development

Planning Policy and Housing Land Supply

Landscape and Trees

Impact on Protected Open Space

Highway Implications

Amenity

Design

Ecology

Open Space

REASON FOR REFERRAL

This application is referred to the Southern Planning Committee as it is for a development in excess of 10 dwellings.

DESCRIPTION OF SITE AND CONTEXT

The application site comprises an approximately 1.2 hectare parcel of land located within the Settlement Zone of Sandbach. The majority of the site was formerly in use as a football pitch with the former Council depot in the south east corner.

The site is bounded by residential development, playing fields and to the west of plots 5, 6, 7, 8, and 39, is a small caravan site which is occupied by a traveller family.

DETAILS OF PROPOSAL

The application is for full planning permission for the erection of 39 dwellings. They would comprise two and two and a half storey, 1, 2 and 3 bedroom detached and mews style properties. This would represent a density of 32.5 dwellings per hectare.

Access would be taken from Millpool Way and Newall Avenue. The Newall Avenue vehicular access would serve the plots leading to Flat Lane and 'The Caravan', with the other plots being accessed from Millpool Way. There would be an emergency access and combined kissing gate at the end of the road adjacent to plot 28. This will be collapsible to allow access for emergency vehicles.

RELEVANT HISTORY

09/3400C Application for 107 extra care apartments (not determined)

09/3535C Application for 43 dwellings on neighbouring site. Approved at appeal.

POLICIES

National Policy

National Planning Policy Framework

Local Plan policy

PS3 – Settlement Hierarchy

PS4 - Towns

GR1- New Development

GR2 – Design

GR3 - Residential Development

GR4 – Landscaping

GR5 – Landscaping

GR9 - Accessibility, servicing and provision of parking

GR14 - Cycling Measures

GR15 - Pedestrian Measures

GR16 - Footpaths Bridleway and Cycleway Networks

GR17 - Car parking

GR18 - Traffic Generation

NR1 - Trees and Woodland

NR3 – Habitats

NR4 - Non-statutory sites

NR5 – Habitats

H1 – Housing Development

H2 - Provision of New Housing Development

H4 - Housing

CONSULTATIONS (External to Planning)

Education:

A development of 38 2+ bed dwellings will generate 7 primary and 5 secondary pupils.

Both the primary and secondary schools close to the development are cumulatively forecast to be oversubscribed therefore a contribution will be required for both school groups.

Primary = £75,924 (This contribution will be required on occupation of the site)

Secondary = £81,713

Environment Agency:

No objection subject to compliance with measures laid down in the Flood Risk Assessment.

Strategic Highways Manager:

This site has been the subject of a number of discussions with regard to layout and traffic generation. However it is noted that the number of units now proposed to be served from the A533 has been increased though the number of units is low and the material impact will be negligible.

The area of concern found by the Strategic Highways Manager is that of parking provision for the affordable units which is barely above 100% provision and which should now be provided at 200% provision.

This requirement comes from the emerging draft parking standards for CEC based on the requirements of the Localism Bill and the S.H.M. will require this site to comply with the 200% provisional rate for residential off-street parking.

It is noted that the available space around plots: 30 – 39 & 5 – 8 is limited and that any manoeuvring to revise parking provision will compromise the turning head o/s plot 9.

It is therefore recommended that the developer remove plot 9 plus one affordable unit to allow the appropriate level of parking to be provided.

Without this change to layout and provision the Strategic Highways Manager will not be able to support this proposed layout.

Providing this layout is resolved the Strategic Highways Manager will be seeking funding from this development for the local improvement of the Flat Lane link through to the town centre in aid of sustainability and accessibility.

Environmental Health:

Recommend that conditions are imposed relating to the hours of construction and piling. They also recommend refusal of the application on the grounds of lack of information relating to contaminated land.

Public Open Space:

16th July 2013

With reference to the plans for the erection of 39 dwellings and associated works, if the development were to be granted planning permission (in accordance with the submitted landscape structure, Drawing No M2205.01_A, dated 9 March'13) 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.

Amenity Greenspace

Following the assessment of the existing provision of Amenity Greenspace accessible to the proposed development, having a quantity deficiency, it is acknowledged that some Amenity Greenspace (POS) is being provided on site adjacent to the existing POS although the actual area is not known. The area required POS on site arising from the development would be 1,150 sq, clarification of measurement is required.

Although the D & A states public space areas will be transferred to and managed by a private management company, Streetscape would prefer in this instance to take ownership. This is to appear as one seamless area of POS and to maximise its value. The Council are already maintaining the existing POS would seek to maintain the additional with commuted sums for maintenance. This would help to avoid confusion of where the boundary should be, plus maintenance will be uniform thus avoiding any comments from the public. Planting should be kept to a minimum to help with natural surveillance and to reduce maintenance costs.

Any additional planting should be considered in some depth in light of future maintenance implications, planting distances in relation to buildings, and species types of trees. It is suggested that these additional areas of POS be transferred to a management company. In consultation with Cheshire Constabulary requests were made that the garden fences should be of a closed board nature and 2 m in height with additional planting at the rear such as Holly, Berberis, and Pyracantha.

Based on the required provision, given that an opportunity has been identified for new open space to serve the development based on the Council's adopted Interim Guidance Note on Public Open Space Requirements for New Residential Development the financial contributions sought from the developer would be:

Maintenance:	<u>£13,599 (25 years)</u>
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Should the area differ from 1,150 sq m, then new calculations would be required.

Children and Young Persons Provision

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 over one and a half play areas, 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. As there is an existing facility at Newall Avenue and the POS is to be constructed adjacent, Streetscape request additional equipment is added to the site. Consultation should be carried out and possible engagement with the

local school would be required. Three play companies should be approached for designs and submitted to the Council prior to carrying out any works.

Given that an opportunity has been identified for enhancing the quality of Children and Young Persons Provision, based on the Council's guidance in its Draft Interim Policy Note on Public Open Space Requirements for New Residential Development the financial contributions sought from the developer would be;

Enhanced Provision:	<u>£Should reflect LEAP provision</u>
Maintenance:	<u>£34,626.00</u>

28th November 2013

Amenity Green Space – The amount of this type of provision required is 1,150 sq m so if only 998 sq m are being provided then there is a shortfall of 152sq m /10 = 15.2 persons x £52.83 (enhancement figure) = £803,016. This small figure is required for the shortfall along with the maintenance originally given which is the calculation for the maintenance for the whole amount i.e. 1,150 sq m.

Children & Young Persons Provision – In this case would ask for enhancement to the existing play provision by providing a LEAP (5 items/activities of play) standard facility. This should complement what is already on the adjacent site. According to the calculations this development creates a quantity deficit of 1.69 play areas.

Public Rights of Way:

- The Transport Assessment recognises Public Footpath No. 21 along the western side of the development as a convenient link to the town centre.
- The Design and Access evaluation plan and text refer to this route as a 'footpath/cycleway link': it should be noted that this route carries public pedestrian rights only at present: a cycle track order would be required to upgrade the status of the route into a cycle track. A suggestion has been logged under the Council's statutory Rights of Way Improvement Plan for part of this route to be upgraded in status and condition to a cycle track to increase the permeability of the town centre to cyclists. The developer would be asked to assess this aspiration and consider its potential in accommodating the increased demand arising as a result of the proposed development.
- The development proposes one pedestrian access onto public footpath No. 21: the legal status and maintenance of this connection would need to be agreed with the Council as the highway authority.
- The proposed development includes a new access and turning head to serve the development and existing 'caravan' site, in the south western corner of the development. This proposed access overlies the existing public footpath and therefore the developer will be required to provide further information on the proposed legal status of this access and the proposals to accommodate the safety of pedestrians using the route.

Sustrans:

If this land use is approved by the Council's Planning Committee, comments are as follows:

- Pleased to see various pedestrian/cycle linkages to Union Street, Millpool Way, Newall Drive included in the layout.
- The design of any smaller properties should include storage areas for residents' buggies/bicycles.
- Would like to see travel planning with targets and monitoring for the site.

Sport England:

No objection.

VIEWS OF THE TOWN COUNCIL

No objection. Members welcome the development but ask that the developer considers contributing towards access for green areas in the locality.

OTHER REPRESENTATIONS

At the time of report writing, approximately 19 representations have been received raising the following concerns:

- Increase in traffic congestion
- Creation of a 'rat run'
- Danger of traffic adjacent to the play area
- Newall Avenue is already dangerous
- Parking is already a problem on Millpool Way
- Increased traffic past the school
- Over looking and loss of privacy
- Overshadowing and loss of sunlight
- Impact on local services such as schools and doctors
- Impact on wildlife
- Loss of natural light to Union Street
- Obstruction of views
- Possibility of anti social behaviour
- The proposal would cause overlooking to a gypsy site

These representations are available to view on the application file.

OFFICER APPRAISAL

Main Issues

This is a full planning application and the main issues in the consideration of this application are the suitability of the site for residential development, having regard to matters of principle of development in respect of policy and housing land supply, sustainability, affordable housing, residential amenity, drainage and flooding, design issues, open space, landscape impact, trees and forestry, ecology, education, highway safety and traffic generation.

Principle of Development

The site lies within the settlement zone line, as designated in the adopted Congleton Borough Local Plan First Review 2005, where there is a presumption in favour of development.

Members should note that on 23rd March 2011 the Minister for Decentralisation Greg Clark published a statement entitled 'Planning for Growth'. On 15th June 2011 this was supplemented by a statement highlighting a 'presumption in favour of sustainable development' which has now been published in the National Planning Policy Framework (NPPF) in March 2012.

Collectively these statements and the National Planning Policy Framework mark a shift in emphasis of the planning system towards a more positive approach to development. As the minister says:

"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".

Housing Land Supply

The National Planning Policy Framework (NPPF) states at paragraph 47 that there is a requirement to maintain a 5 year rolling supply of housing and states that Local Planning Authorities should:

"identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land".

The NPPF states that, Local Planning Authorities should have a clear understanding of housing needs in their area. This should take account of various factors including:

- housing need and demand,
- latest published household projections,
- evidence of the availability of suitable housing land,
- the Government's overall ambitions for affordability.

The figures contained within the Regional Spatial Strategy proposed a dwelling requirement of 20,700 dwellings for Cheshire East as a whole, for the period 2003 to 2021, which equates to an average annual housing figure of 1,150 dwellings per annum. In February 2011, a full meeting of the Council resolved to maintain this housing requirement until such time that the new Local Plan was approved. In December 2012 the Cabinet agreed the Cheshire East Local Plan Development Strategy for consultation and gave approval for it to be used as a material consideration for Development Management purposes with immediate effect. This proposes a dwelling requirement of 27,000 dwellings for Cheshire East, for the period 2010 to 2030, following a phased approach, increasing from 1,150 dwellings each year to 1,500 dwellings.

However the most up to date position on the Councils 5-year housing land supply figure is following the recent appeal decisions. As part of the consideration of the Congleton Road and Sandbach Road North decisions, the Inspector found that the housing land supply over 5 years is 5750 dwellings. It is necessary to add to this figure the existing backlog 1750 dwellings and a 20% buffer for a record of persistent under delivery which gives a total requirement of 9000 dwellings over 5 years or 1800 per annum.

In terms of the existing supply the Inspector found that there is currently:

‘a demonstrable supply, taking the generous approach to Council estimates, which is likely to be in the region of 7000 to 7500 dwellings at most’ (Sandbach Road North Appeal)

This demonstrable supply therefore equates to a figure of 4.0 to 4.2 years.

The NPPF clearly states at paragraph 49 that:

“housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.”

This must be read in conjunction with the presumption in favour of sustainable development as set out in paragraph 14 of the NPPF which for decision taking means:

“where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or*
- specific policies in the Framework indicate development should be restricted.”*

As it has been found that Cheshire East cannot demonstrate a five year supply of housing land, the provisions of paragraphs 49 and 14 apply in this case. It is therefore necessary to carry out a balancing exercise in this case to assess whether any harm ‘significantly and demonstrably’ outweighs its benefits.

Emerging Policy

Clarification has been given on the weight which can be attributed to the emerging Local Plan as part of recent appeal decisions for Abbeyfields, Sandbach and Congleton Road, Sandbach and Sandbach Road North, Alsager. As part of the decision for the Abbeyfields site the SoS stated that:

'As the emerging LP is still at an early stage the Secretary of State accords it limited weight in his decision making'

As part of the appeal decision for Congleton Road, Sandbach and Sandbach Road North, Alsager the Inspector found that:

'There is a draft Local Plan, variously described as the Core Strategy and Development Strategy, which is moving towards a position in which it can be submitted for examination. The Council is seeking to achieve this in late 2013. The current state of the plan is pre submission. It is not disputed that there are many outstanding objections to the plan, and to specific proposals in the plan. Hence it cannot be certain that the submission version of the plan will be published in the timescale anticipated. The plan has already slipped from the intended timetable. In addition there can be no certainty that the plan will be found sound though I do not doubt the Council's intentions to ensure that it is in a form which would be sound, and I acknowledge the work which has gone into the plan over a number of years.

Nonetheless I cannot agree that the draft Local Plan should attract considerable weight as suggested by the Council. There are many Secretary of State and Inspector appeal decisions which regard draft plans at a similar stage as carrying less weight. The Council's own plan has been afforded little weight in the earlier months of 2013, and although the plan has moved on to an extent, it has not moved on substantially. For these various reasons I consider that the draft Local Plan can still attract no more than limited weight in this case'

Given the above the emerging Local Plan can only be given limited weight in the determination of this planning application.

Conclusion

- The site is within the settlement zone line where there is a presumption in favour of development
- The NPPF states that where authorities cannot demonstrate a 5 year supply of housing land, relevant local plan policies are out of date and there is a presumption in favour of development unless:
 - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or
 - specific policies in the Framework indicate development should be restricted.

- Cheshire East has a housing land supply figure of in the region of 4.0 to 4.2 years
- Only limited weight can be applied to the emerging Local Plan.
- As the Council cannot demonstrate a 5 year housing land supply the NPPF carries a presumption in favour of sustainable development. It is therefore necessary to consider whether the proposal is sustainable in all other respects as part of the planning balance.

Landscape and Trees

There are a small number of trees present although it is noted that none are of particular significance. There is residential development to the north and east, an area of public open space (POS) to the south, and Flat Lane, a public footpath, to the west. The submission includes a landscape structure plan.

The layout appears to provide good pedestrian and cycle permeability through the site and a reasonable interface with Flat Lane and the existing POS to the south.

The landscape proposals submitted with the applications are largely acceptable but it is considered that more detailed plans for landscaping and boundary treatments should be secured by condition.

Highways Implications

The development would be accessed from Millpool Way and Newall Avenue, both by pedestrians and vehicles. The Newall Avenue vehicular access would however be limited to a small amount of plots along Flat Lane, with the end of the access to plots 19-28 being blocked to vehicular traffic except in the case of emergency vehicles. The method of blocking access has been the subject of negotiation with the Strategic Highways Manager (SHM), who is now satisfied with this arrangement.

Some of the objectors expressed concerns about the possibility of people using the site as a 'rat run'. This would not be possible though as only emergency vehicles would be able to access Newall Avenue from Millpool Way.

The SHM also had concerns that the original layout did not propose 200% off street parking provision and the revised layout (Rev E) has addressed this issue to his satisfaction.

The SHM has stated that contributions to the improvement of the Flat Lane link to the town centre would be required. Highways are currently formulating what improvements would be required and the contribution that would be needed. It is likely that this would be for improved lighting, and this requirement will be provided in an update report to committee.

The proposal is therefore considered to be in compliance with Policy GR9 of the adopted local plan.

Amenity

There are dwellings adjacent to the site and all the required separation distances would be met within the development. The proposed development would not have any significant adverse impact on neighbouring dwellings in terms of overlooking and overshadowing. The outlook of the existing dwellings would change. However it is not considered that this change of outlook would represent an unacceptable visual intrusion in the street scene in the context of this site.

There is a residential caravan site on Flat Lane opposite what would be plots 5, 6, 7 and 8. The occupiers of this site had concerns about overlooking from these plots on to their site when the application was originally submitted. The original layout showed these plots within 5m of the boundary of the site, with no screening included. Subsequently amendments were sought and now windows facing the Caravan would be approximately 9m away with screen planting to the front.

Environmental Protection have recommended conditions relating to construction and piling and these are considered to be reasonable and should be imposed should the application be approved. They have also recommended that the application is refused as a contaminated land assessment has not been undertaken. However this can be controlled by condition.

Subject to the recommended conditions, the proposal is therefore considered to be in compliance with Policy GR6 of the adopted local plan.

Design and Layout

The development would comprise a mix of housing, both 2 and 2.5 storeys in height. There would be a mixture of house types that would reflect the design of the neighbouring development (Millpool Way) and the development would be seen as a being an extension to that site.

The proposed dwellings would be finished in traditional materials including red brick and smooth grey roof tiles and there would be detailing such as stone heads and cills, low level bays, panelled front doors and arched brick heads. The affordable units would be of the same design standards and materials as the market units.

The layout would provide a continuous active frontage throughout the development with some properties being dual aspect. It also provides for passive surveillance of public areas, which is to be welcomed.

Overall the design and layout are considered to be acceptable and in compliance with the requirements of Policy GR2 of the adopted local plan.

Affordable Housing

The Strategic Housing Market Assessment 2010 identified that for the Sandbach sub-area there is a need for 75 new affordable units per year between 2009/10 – 2013/14. This equates to a requirement for 375 new affordable homes for the period and is made up of an annual requirement for 21 x 1 bed, 33 x 2 bed, 7 x 3 bed, 4 x 4/5 beds and 10 x 1/2 bed older persons accommodation.

There are also currently 386 applicants on the housing register on Cheshire Homechoice who have selected one of the Sandbach letting areas as their first choice. These applicants require 123 x 1 beds, 154 x 2 beds, 62 x 3 beds & 11 x 4 beds (36 applicants have not specified how many bedrooms they require).

The Interim Planning Statement: Affordable Housing (IPS) states that in areas with a population of more than 3,000 the Council will negotiate for the provision of an appropriate element of the total dwelling provision to be for affordable housing on all unidentified 'windfall' sites of 15 dwellings or more or than 0.4 hectare in size.

The IPS also states the exact level of provision will be determined by local need, site characteristics, general location, site suitability, economics of provision, proximity to local services and facilities, and other planning objectives. However, the general minimum proportion of affordable housing for any site will normally be 30%, in accordance with the recommendation of the 2010 Strategic Housing Market Assessment. The preferred tenure split for affordable housing identified in the SHMA 2010 was 65% social rented and 35% intermediate tenure.

This site is proposing 39 units and as such there is a requirement for 30% affordable housing. The applicant is offering 12 dwellings as affordable housing, which meets the requirements of the IPS. As per the tenure split highlighted above 8 social or affordable rent and 4 intermediate dwellings will be required.

The IPS requires that the affordable units should be tenure blind and pepper potted within the development, the external design, comprising elevation, detail and materials should be compatible with the open market homes on the development thus achieving full visual integration.

All the affordable units put forward on this site are in the south western corner of the site. Whilst the Council would normally require 'pepper potting' of these units, the site should be viewed as a whole along with the first phase which has been constructed (Millpool Way). When viewed in this context it can be seen that the affordable units are spread within the site as a whole and are not all clustered in one area. As such it is considered that the layout is acceptable in these terms.

Ecology

The EC Habitats Directive 1992 requires the UK to maintain a system of strict protection for protected species and their habitats. The Directive only allows disturbance, or deterioration or destruction of breeding sites or resting places

(a) in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment, and provided that there is

(b) No satisfactory alternative and

(c) No detriment to the maintenance of the species population at favourable conservation status in their natural range

The UK has implemented the Directive in the Conservation (Natural Habitats etc) Regulations 2010 (as amended) which contain two layers of protection (i) a requirement on Local Planning Authorities ("LPAs") to have regard to the Directive's requirements above, and (ii) a licensing system administered by Natural England and supported by criminal sanctions.

Local Plan Policy NE9 (Protected Species) states that development will not be permitted which would have an adverse impact on protected species or their habitats, unless mitigation / habitat creation is secured.

Circular 6/2005 advises LPAs to give due weight to the presence of protected species on a development site to reflect EC requirements. "This may potentially justify a refusal of planning permission."

The NPPF advises LPAs to conserve and enhance biodiversity: if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts) or adequately mitigated, or as a last resort, compensated for, planning permission should be refused.

Natural England's standing advice is that, if a (conditioned) development appears to fail the three tests in the Habitats Directive, then LPAs should consider whether Natural England is likely to grant a licence: if unlikely, then the LPA should refuse permission: if likely, then the LPA can conclude that no impediment to planning permission arises under the Directive and Regulations.

In this case the Council's Ecologist has assessed the application and relevant supporting ecological documentation and raises no objection to the proposed development. In terms of bats and barn owls, no evidence of these species was recorded during the site survey. A colony of breeding house sparrow was recorded and the Council's Ecologist is satisfied that the proposed mitigation would be acceptable.

Having regard to the above it is concluded that the proposal would have an acceptable impact on nature conservation interests and would comply with Local Plan policy NE9 (Protected Species) and the Framework.

Bats

Initially there was insufficient information to assess the application in relation to bats. The further bat survey has recorded no evidence of bats roosting within the buildings on site and so it is considered that bats do not present a constraint on the proposed development.

Breeding Birds

A colony of breeding house sparrow has been recorded on site. This species is a Biodiversity Action Plan priority and hence a material consideration. The building supporting this colony will be removed as part of the proposed development. The submitted habitat assessment recommends the incorporation of features for breeding birds and roosting bats as part of the development. This should be secured by condition.

Subject to the proposed conditions the development would not have any significant adverse impact on nature conservation and is therefore considered to be acceptable.

Public Open Space

Streetscape has identified a small deficiency in Amenity Greenspace provision relating to this development. The Design and Access Statement states that the public open space (POS) would be taken over and managed by a private management company. However the Council

would prefer to take ownership of the public open space in this instance. This is due to the proximity to an existing area of POS and the desire that it appears as one seamless area.

In the light of this the Council would require contributions of £14,402 towards enhancement and maintenance of amenity greenspace.

Having regard to children and young persons provision there would be a deficiency and as such the Council would require the provision of 5 items/activities of play to complement the existing play area and a contribution of £34,626 towards maintenance.

Education

It has been identified that the development would generate 7 primary and 5 secondary pupils requiring spaces in local schools and both primary and secondary school in close proximity to the site are forecast to be over subscribed in the near future.

It is therefore required that a commuted sum of £157,637.00 be secured by Section 106 Agreement.

LEVY (CIL) REGULATIONS

In order to comply with the Community Infrastructure Levy (CIL) Regulations 2010, it is now necessary for planning applications with legal agreements to consider the issue of whether the requirements within the S106 satisfy the following:

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

The requirement for open space provision is considered to be in compliance with the CIL Regulations 2010.

The request for contributions towards primary and secondary education is considered to be in compliance with the CIL Regulations 2010.

The request for contributions towards the improvement of Flat Lane is directly related to the development and necessary to make the development acceptable in planning terms. When a figure has been submitted by the SHM it will be assessed as to whether it is fairly and reasonably related in scale and kind to the development. This assessment will be provided in the update to committee.

CONCLUSIONS

RECOMMENDATION

Approve subject to the completion of a Section 106 Agreement securing £49,028.00 for enhancement and maintenance of amenity greenspace and young persons provision, £157,637.00 for education and improvements to the Flat Lane link to the town centre (amount TBC) and the following conditions:

1. Commencement
2. Plans
3. Submission of landscaping scheme
4. Implementation of landscaping scheme
5. Submission of a construction management plan to include hours of construction and piling
6. Submission of a Phase II Contaminated Land Assessment
7. Submission of details of external materials
8. Development in accordance with the Flood Risk Assessment
9. Details of foul water drainage
10. No development during the breeding bird season
11. Incorporation of features to accommodate breeding birds and roosting bats
12. Submission of details of existing and proposed levels

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 Southern Area Manager has delegated authority to do so in consultation with the Chairman of the Southern Planning Committee, provided that the changes do not exceed the substantive nature of the Committee's decision.

Should this application be the subject of an appeal, authority be delegated to the Southern Area Manager in consultation with the Chairman of the Southern Planning Committee to enter into a planning agreement in accordance with the S106 Town and Country Planning Act to secure the Heads of Terms for a S106 Agreement.

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