

CHESHIRE EAST COUNCIL

Southern Planning Committee

Date of Meeting 2nd February 2011
Report on 08/1236/OUT Land at Mill Street / Brook Street,
Congleton

1.0 Purpose of the Report

- 1.1 Following the decision by Members to resolve to grant permission for the above scheme on the 21st April 2010, to consider amendments to the proposed conditions and S106 Heads of Terms.

2.0 Decision Required

- 2.1 To agree to the proposed amendments to both the conditions and S106 Heads of Terms.

3.0 Background

- 3.1 The application site relates to 3.6ha of land at Mill Street and Brook Street in Congleton which Members, on the 21st April 2010, resolved to grant planning permission for the redevelopment of subject to 29 conditions and the prior signing of a S106 Agreement with 9 heads of terms.

- 3.2 The conditions extended to include: -
Condition 19 'Scheme for Compensatory Flood Storage'; and
Condition 27 'Scheme for 10% Renewable Energy'

And

- 3.3 S106 Heads of Terms to extend to include: -
(3) Submission of an operation statement in relation to the proposed care home and close care/ retirement apartments;
(5) Public transport enhancements including footpath works
(6) On site provision of children's play equipment and a financial contribution towards maintenance of £53,834;
(8) Scheme for ecological enhancements; and
(9) Possible contribution towards drainage in relation to United Utilities
- 3.4 However, following detailed discussions between officers and the applicant's agent, it has become apparent that a number of amendments are required to the original resolution in relation to both the proposed conditions and Heads of Terms to be revised for reasons now discussed in more detail below.

4.0 Matters relating to conditions

4.1 *Remove Condition 19 - Flood Storage and Mitigation*

In dealing with flood risk, and on the advice of the Environment Agency, a number of conditions were imposed covering technical design issues and site levels to manage the risk associated with flooding from the River Dane.

Following further discussions on this issue however, condition 19 has been found to be unnecessary. Its purpose was to require a detailed scheme for flood storage within the site; something that was actually secured by condition 23 that required the implementation of a detailed cut and fill scheme which facilitates the creation of two large flood storage areas within the site sufficient to satisfy the requirements of PPS25 and GR21

4.2 *Amend Condition 27 - 10% Renewable Energy*

Condition 27 of the original resolution sought to impose a requirement for the scheme to generate 10% of its energy requirement from low carbon sources in accordance with policies EM17 and EM18 of the North West Regional Spatial Strategy.

Following discussions with the applicant's agent however, it has been agreed that a condition to secure the construction of the proposed dwelling to 'Code for Sustainable Homes' Level 3 would offer a more rounded sustainability criteria which would satisfy the requirements of PPS1 'Delivering Sustainable Development'. Officers consider this approach represents a more appropriate long term solution having regard to the fact that the North West Regional Spatial Strategy (RSS) is likely to have been abolished by the time construction works commence on this site thereby undermining the reasons behind the imposition of the condition.

4.3 *New Condition - Restriction of Retirement Apartments to the Over 55+*

Officers now consider that a further condition is required to impose occupation restrictions on the 36-no close care retirement block ensuring in order to ensure they remain solely for the over 55+'s. This is necessary because it had originally been intended to secure the restriction through the proposed operation statement which is now no longer considered necessary (and which is recommended for removal in the forthcoming section).

4.4 *New Condition - Development Phasing*

Due to the nature of the application site, in effect comprising two separate parcels of land, and the number of operations which need to be controlled (such as affordable housing, flood storage, bat mitigation and implementation of POS), it is considered that a phasing condition is essential in order to ensure that the Council can fully control the manner in which the site is developed in the future.

5.0 Heads of Terms

- 5.1 *(3) Remove requirement for the submission of an operation statement*
At the time that the application was presented to Members, and following advice from the Local Plans section, it was deemed that an operation statement would be required for the proposed care home and retirement apartments. Following further discussions between all parties however, it has been agreed that this restriction is simply not required.

This is due to the fact that the proposed care home element would operate as solely as a C2 use with the retirement apartments operating solely as C3. This avoids the situation of a 'care village' where the mix and types of uses tend to be more ambiguous, the nature of occupation more varied and additional uses more widely extended (shops, salons etc) which is not the case in relation to the proposed development of this site.

- 5.2 *(5) Remove the requirement for 'footpath enhancements'*
The Strategic Highways Manager had initially sought a financial contribution in relation to footpath improvements around the vicinity of the application site. However, following further discussions, and in light of the £24,000 contribution towards two bus-stop upgrades (to Quality Partnership Standard), the SHM agrees that a contribution towards no longer required. The requirements of GR1 and GR9 would still however be satisfied.

- 5.3 *(6) Children's Play Provision*
It had originally been agreed that children's play equipment would be provided on-site and a financial contribution of £53,834 sought towards the future maintenance thereof. However, following further consideration of a request by the applicants agent, the Greenspaces section have advised that they would prefer the equipment to be provided within Congleton Park itself (to which the site would have direct access via a proposed new bridge).

The advantages of this approach are that the financial contribution would secure provision of new play equipment for older children within Congleton Park to support the existing play equipment that is aimed primarily younger children.

Greenspaces therefore advise that the agreement should be amended to secure a financial contribution of £55,000 for the provision of new off-site play equipment and an additional sum for the future maintenance of the new equipment (the value of which will be confirmed by way of an update). Provision in this manner would still meet the requirements of the S106 regulations because the provision of play equipment is (a) Necessary to make the development acceptable having regard to the Interim Policy Note on Public Open Space; (b) directly related to the development because the contribution

is calculated against the size of the development and the impact on need; and (c) Fairly and reasonably related in scale and kind to the development because the commuted sum is based on what it cost the developer to buy and implement the equipment and reflect the maintenance costs to the Council over the next 25-years.

5.7 (8) Scheme for ecological enhancements

This aspect of the S106 is no longer required. Conditions 13 (landscaping), 14 (protection of breeding birds), 15 (Bat mitigation) and 22 (8m bank top zone) ensure adequate protection for wildlife within the site as well as opportunities to enhance bio-diversity in accordance with the requirements of PPS9 'Bio-diversity and Geological Conservation' and policies NR3 and NR5.

5.9 (9) *Remove the requirement for a potential contribution towards drainage*

When the application was first presented to Members, it was unclear whether a financial contribution would be required towards the adoption of any on-site Sustainable Drainage Systems (SuDS) features. The applicants agent has subsequently confirmed however that the proposed SuDS system on this site will comprise oversize pipes; a common solution that allows excess storm water to be stored and released in a controlled manner over time, rather than by means of features such as balancing ponds that may require adoption by the Council rather than United Utilities.

On that basis, whilst the precise details would still need to be formally discharged under condition 20 (surface water regulation) a financial contribution is no longer considered necessary.

6.0 Recommendation

6.1 That Members resolve to agree to following revised conditions and S106 Agreement Heads of Terms: -

6.1 Proposed Amended S106 Heads of Terms

a) Provision of 30% affordable housing, extending to include the proposed retirement apartments, split equally between social rented and intermediate housing (including either shared ownership, Rent to Home Buy or Discount For Sale – but of a split to be agreed by Cheshire East Housing Section)

b) Submission of a Travel Plan with associated management arrangements including annual reports for a five year period and financial contribution of £5000 towards monitoring (returned if not spent).

c) Financial contribution of £24,000 towards the provision of two quality partnership standard bus stops

d) Provision of a financial of £55,000 towards off-site play provision and an associated maintenance contribution (precise figure to be confirmed)

e) Applicants to purchase and install a bridge between the application site and Congleton Park with the precise design, specification and timescale for implementation to be first agreed by Cheshire East Council. (The maintenance and upkeep of which shall be the applicant's responsibility).

f) Private management plan for the on-site Amenity Greenspace and proposed bridges (to Congleton Park and within the application site itself) to be submitted and approved by the Local Planning Authority.

6.2 Proposed Conditions

1. Outline application time limit
2. Reserved Matters – Layout, Scale, Appearance and Landscaping
3. Development parameters in accordance with indicative plans (Care home and retirement apartments to north and accessed from Mill Street) (Residential on Southern Parcel and accessed from Brook Street)
4. Restriction to no more than 74 dwellings, 72 bed care home and 36-retirement apartments
5. Restriction to occupation of retirement apartments to the over 55+
6. Contaminated land condition (including further intrusive investigation and remediation)
7. Detailed scheme for noise mitigation to be agreed and implemented prior to first occupation
8. Detailed scheme for dust mitigation during demolition and construction
9. Restrictions on hours of construction
10. Restriction on hours of piling activity
11. Restriction on hours of construction vehicle deliveries
12. Precise details for care home filtration and extraction systems
13. External lighting strategy to be submitted agreed

14. Detailed Tree Protection Scheme to submitted, agreed and fully implemented
15. Protection of Breeding Birds
16. Detailed mitigation strategy for bats based on the TEP Option One retention strategy including wheelhouse structural works.
17. Scheme for watercourse protection during construction
18. Proposed building floor levels 600mm above freeboard allowance
19. Roads, parking and footways 300mm above freeboard allowance
20. Detailed scheme for compensatory flood storage to be agreed before commencement of development and fully implemented thereafter
21. Surface water regulation to be submitted and agreed
22. Scheme for management of overland flows from surcharging of surface water drains to be submitted and agreed prior to commencement of development
23. Site levels to be strict accordance with Peter Mason Cut and Fill Drawings unless otherwise agreed in writing
24. 8m buffer strip and wildlife corridor to be retained adjacent to the watercourse
25. New vehicular access to Brook Street to be constructed to base course before other construction works commence and fully implemented before first occupation of any dwellings
26. Site waste management plan
27. Scheme for Archaeological investigation
27. Houses to be constructed to Code for Sustainable Homes Level 3
28. Precise details of all boundary treatments within the site to be agreed to include public open space and riverside areas or footpaths
29. Precise details of internal footbridge connecting the two areas of POS to be submitted, agreed and fully implemented within an agreed timescale
30. Development Phasing – Parameters and Restrictions

Location Plan

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