

# CHESHIRE EAST COUNCIL

## SOUTHERN PLANNING COMMITTEE

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**Date of meeting:** 16 March 2011  
**Report of:** Adrian Fisher, Head of Planning and Policy  
**Title:** Elworth Hall Farm, Dean Close, Elworth

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### **1.0 Purpose of Report**

- 1.1 To consider the withdrawal of a reason for refusal relating to planning application 10/2006C for the Demolition of the existing buildings (including agricultural buildings and existing dwelling) and the redevelopment of the site with 26 dwellings and associated works.

### **2.0 Decision Required**

- 2.1 To agree to withdraw the second reason for refusal in respect of contaminated land and to instruct the Head of Planning and Housing not to contest the issue at the forthcoming public inquiry.

### **3.0 Background**

- 3.1 Members may recall that on the 24<sup>th</sup> November 2010, Southern Planning Committee considered 2 applications for alternative schemes for the redevelopment of Elworth Hall Farm at Sandbach. (Applications 10/2006C and 10/1765C refer)
- 3.2 Committee resolved to refuse planning permission for 10/2006C for the demolition of the existing buildings (including agricultural buildings and existing dwelling) and the redevelopment of the site with 26 dwellings and associated works, for two reasons. Firstly, the proposal involved new residential development in the open countryside, contrary to established local plan policy and the Council's Interim Policy on Release of Housing Land. Secondly, the Contaminated Land Report submitted with the application was commissioned in November 2007 and did not represent current site conditions. In addition the report identified high levels of hazardous gases present on site that had the potential to render the area unsuitable for residential development unless the source can be accurately identified and mitigated.
- 3.3 The alternative scheme (10/1765C) for the partial demolition of the existing site (including modern agricultural buildings and existing dwelling) conversion of the remaining existing buildings to form 7 dwelling and the erection 11 additional dwellings within the curtilage of the existing residential property, generated the same concerns in respect of contaminated land. However, rather than refuse the

application on these grounds alone committee resolved to grant delegated powers to the Head of Planning and Housing to approve the application subject to the satisfactory conclusion of on-going negotiations in respect of the contaminated land issue, and the Council's Environmental Health officers withdrawing their objection to the scheme.

- 3.4 This has now taken place, and planning permission has now been granted to application 10/1765C, subject to appropriate conditions, including those relating to mitigation of the contaminated land impact. In so doing, this has also resolve the contaminated land issues in respect of the refused application 10/2006C.
- 3.5 However, during the intervening period, the applicant has lodged an Appeal against the refusal of application 10/2006C and has opted to have the Appeal heard at a Public Inquiry. In the light of the recent decision on application 10/1765C it is considered that the contaminated land reason for refusal on application 10/2006C would no longer be sustainable at the Appeal.
- 3.6 In the event that the appeal was successful, and the Inspector was of the view that development in the Open Countryside was acceptable, conditions could be imposed to address the contaminated land issue.

#### **4.0 Conclusion**

- 4.1 On the basis of the above, it is considered that the Council should withdraw the contaminated land reason for refusal and agree with the Appellant not to contest the issue at Appeal.

#### **5.0 Recommendation**

- 5.1 That the Committee resolve to withdraw the second reason for refusal in respect of contaminated land and to instruct the Head of Planning and Housing not to contest the issue at the forthcoming public inquiry.

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

- 6.1 There is a risk that if the Council continues to pursue the contaminated land reason for refusal at Appeal, when the issue can be adequately dealt with via conditions, 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.
- 6.3 There are no risks associated with not pursuing the reason for refusal at Appeal.

## **7.0 Consultations**

### ***Borough Solicitor***

- 7.1 The Borough Solicitor has been consulted and recommends the withdrawal of the reason for refusal.

### ***Environmental Health***

- 7.2 The Environmental Health Section have confirmed that in the light of the information now received, the contaminated land issues can be adequately dealt with by means of condition.

## **8.0 Reasons for Recommendation**

- 8.1 To ensure that an approved scheme for essential affordable housing within the rural area is delivered.

### **For further information:**

Officer: Ben Haywood – Principal Planning Officer  
Tel No: 01270 537089  
Email: [ben.haywood@cheshireeast.gov.uk](mailto:ben.haywood@cheshireeast.gov.uk)

### **Background Documents:**

Applications 10/2006C and 10/1765C