

Southern Planning Committee

Date of Meeting 27th April 2011
Report on 08/0492/OUT Fine Art, Victoria Mills, Holmes Chapel.

1.0 Purpose of the Report

- 1.1 For Members to consider officers request to allow the application to be refused because the applicants have failed to sign the S106 Agreement.

2.0 Decision Required

- 2.1 To delegate authority to the Head of Development Management to refuse planning permission if the S106 Agreement is not signed.

3.0 Background

- 3.1 On the 3rd February 2009 Members of Congleton Borough Council Planning Committee resolved to grant outline planning permission for a scheme which sought to redevelop the Victoria Mills/Fine Décor site in Holmes Chapel with residential development.
- 3.2 One of the main aspects which lent support to the scheme was the fact that the applicant's agreed to ensure that the Fine Art business would be relocate within the Cheshire East area thereby safeguarding 140-jobs within the Borough. In return, the Council accepted viability would be impacted and agreed to accept affordable housing amounting to only 15% and comprising entirely Intermediate Housing.
- 3.3 The resolution therefore approved the scheme but only on the basis that the S106 was signed in order to secure the relocation of Fine Art within Cheshire East, the 15% affordable housing and a range of requirements including a £25,000 financial contribution towards off-site highway works, submission of a Travel Plan, provision of a Locally Equipped Area of Play and secure a contribution towards Amenity Greenspace to cover a range of scenarios.
- 3.4 Whilst the S106 Agreement was finalised over 12-months ago the applicant's have subsequently failed to sign the agreement because they initially sought to include mechanisms within the agreement which fell outside the resolution and subsequently for matters largely unrelated to the planning process.
- 3.5 Whilst the applicant's have recently indicated they now wish to sign the S106 Agreement, officers seek a resolution from Members to refuse the application if it has not been signed by the 27th April when the matter will be considered by Members of Southern Planning Committee.

4.0 Reasons for Refusal

- 4.1 The first reason for refusal would relate to the fact the applicants have failed to secure the relocation of Fine Décor; a matter on which they heavily relied to support the proposed scheme and to justify a reduced level of affordable

housing provision. Without these arrangements in place the scheme is considered to be contrary to policy E10 of the Congleton Local Plan and

- 4.2 The second reason would relate to the fact that the scheme fails to deliver an appropriate level of affordable housing provision, firstly because the justification for accepting only 15% no longer exists and secondly because the scheme would be then required to deliver the full 30% affordable housing including an element of social rented housing. The scheme would therefore fail to meet the requirements of PPS3, policy H13 of the Congleton Local Plan and SPD6 'Affordable Housing and Mixed Communities'.
- 4.3 The third reason for refusal would relate to the fact that the scheme has failed to provide necessary contributions to off-set the negative impacts associated with the development in terms of public open space, Amenity Greenspace and accessibility and sustainable transport options.

5.0 Recommendation

- 5.1 That Members resolve to refuse the scheme for the following reasons:
1. The applicant's have failed to sign the S106 Agreement necessary to secure the retention and relocation of the Fine Décor Business within Cheshire East Borough which formed the justification for substantial planning benefits and the grounds for accepting a reduced level of affordable housing provision. The scheme is therefore contrary to the requirements of Policy E10 'Re-use or Redevelopment of Existing Employment Sites' of the adopted Congleton Borough Local Plan First Review 2005 because the substantial planning benefits required by E10 used to justify their case cannot be secured.
 2. The applicant's have failed to sign the S106 Agreement in order to secure the delivery of the affordable housing. Furthermore, in the absence of any agreement to relocate the Fine Décor Business there is no justification for accepting a reduced level of affordable housing provision. The application therefore fails to meet the requirements of PPS3 'Housing' in terms of providing an appropriate level of affordable housing, delivering a sustainable, mixed community and ensuring that strategic housing objectives are addressed. The scheme also conflicts with the requirements of policy H13 of the adopted Congleton Borough Local Plan and SPD6 'Affordable Housing and Mixed Communities'.
 3. The failure of the applicant's to sign to the S106 Agreement means that the negative impacts associated with the development cannot be offset in terms of the off-site highway works, submission of a Framework Travel Plan, the requirement to provide on-site children's play equipment and secure a financial contribution towards any shortfall in 'Amenity Greenspace'. The scheme would not therefore deliver the sustainable, mixed communities required by PPS3 'Housing' and would result in new development with unacceptable impacts which have not been mitigated thereby contravening the requirements of PPS1 'Delivering Sustainable Development' and policies GR1 'New Development', GR9 'New Development', GR18 'Traffic Generation', GR19 'Infrastructure', GR22 'Open Space Provision' and GR23 'Provision of Services and Facilities' and associated SPD's of the adopted Congleton Borough Local Plan First Review January 2005.