

**Southern Planning Committee**

---

**Date of Meeting** 27<sup>th</sup> April 2011  
**Report on** 10/0741C 19-23 Lawton Road, Alsager  
(Co-op and Fairview Car Park Site, Alsager Town Centre)

---

**1.0 Purpose of the Report**

- 1.1 For Members to consider amendments to the proposed conditions and S106 Heads of Terms to an existing resolution to approve.

**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 This update relates to a scheme previously approved by Members on the 19<sup>th</sup> May 2010 for proposals to redevelop the Fairview Car Park site with a new Co-operative food store, retail units, restaurant, reconfigured and refurbished car park and replacement public open space.
- 3.2 The resolution sought to approve the scheme subject to a number of conditions and the prior signing of a S106 Agreement to secure the provision of financial contributions, a travel plan, control development phasing and deliver the replacement play equipment and market stall provision.
- 3.3 Following this resolution, officers have been working closely with the applicants and solicitors in order to complete the S106 Agreement and finalise the precise wording of the various conditions. Whilst substantial progress has been made, officers wish to gain approval for a number of minor changes to the resolution in respect of the proposed conditions and S106 Heads of Terms which will allow the legal agreement to be finalised and the decision issued in order that scheme can be implemented.
- 3.4 The reasons for requesting the changes are now discussed in detail below.

**4.0 S106 Heads of Terms**

**Highway Related Matters**

- 4.1 Whilst officers originally sought to secure financial contributions, Travel Plan and the various highway works and improvements through the S106 Agreement we now seek to make a number of amendments.
- 4.2 Whilst it is proposed to retain the requirement to secure financial contributions and travel plan via the S106 Agreement, we now consider it more appropriate to secure the on and off-site highway works by way of a number of planning conditions.

- 4.3 The proposed conditions would therefore cover the following matters that were previously addressed within the proposed S106:
- Secure implementation of the approved new junction to Lawton Road;
  - Secure Implementation of the approved site access road;
  - Secure details of how the proposed signal junction will be linked in to the existing Lawton Road signal junction and the how the existing pedestrian crossing will be upgraded to PUFFIN standard;
  - Secure a TRANSYT design for the linked operation of the existing and proposed signal junctions;
  - Secure a scheme for bus-stop enhancements; and
  - Secure a scheme for footpath enhancements along Lawton Road between the site and the existing Civic Centre bus stop.
- 4.4 In terms of the scheme for the proposed bus stop enhancement, it was originally agreed that a scheme would upgrade the existing facility outside Alsager Civic Centre. However, because this was recently upgraded, it is now proposed to secure enhancements to the Alsager Health Centre stop which would serve a large residential catchment and provide enhanced public transport provision into Alsager Town Centre to serve the application site.

#### **Public Art & Christmas Lights**

- 4.5 The S106 originally sought to secure the ability to display an unspecified form of public art within the proposed town square, as well as the ability to erect Christmas lights once the development had been completed. Following extensive discussions however, this has been found to be unworkable in the absence of detailed scheme for public art and because of legal difficulties associated with erecting public lights in terms of private licensing arrangements and technical matters associated with public liability.
- 4.6 Officers therefore consider that a more appropriate solution would be to secure public art by way of a new condition that would require the applicant to agree a scheme of public art with officer's and install it within the square within a specified period following completion of the development. Similarly with Christmas lights, officers consider that a suitable alternative would be for a condition to secure the necessary physical infrastructure during the construction stage that would then allow lights to be displayed at a later stage (albeit subject to private licensing arrangements outside planning legislation).

#### **Market**

- 4.7 At the time of dealing with the application, it was envisaged that the developers would provide 25-new pop up stalls and the associated anchor points and pop-up sockets.
- 4.8 Since the resolution in 2010 however, Members will be aware that the Localism agenda has brought about potential for a radical alteration in the way such services are delivered and as a result it is considered that a more flexible approach is required in terms of the approach taken to the S106.

- 4.9 We therefore consider that the most appropriate solution would be to secure a financial contribution of £17,500 through the S106 specifically for purpose of providing new market stalls for Alsager Market if should it be deemed appropriate once the method of service delivery has been finalised. This would then ensure that the opportunity for securing improvements to Alsager market is maintained but which would allow the money to be returned to the developer were it not spent within a period of two years.

#### **Public Open Space**

- 4.10 No fundamental changes are proposed in respect of the inclusion of POS related matters within the S106. The changes sought however relate to the fact that a detailed design for replacement play equipment has now been agreed (following public consultation) and the exact amount to cover the shortfall in 'Amenity Greenspace' now confirmed at £11,195.34. As such the S106 Agreement would be adjusted to reflect these changes.

#### **Phasing**

- 4.11 Whilst it was originally envisaged that phasing of the development would be secured within the S106 Agreement, due the nature and content of the proposed S106, we now consider phasing can be suitably controlled by way of condition. In this respect, an indicative phasing plan has been submitted by the applicants which serves to demonstrate the delivery of off-site highway works, replacement public open space and new public square within an acceptable timescale. It is therefore intended to deal with phasing by condition which will also refer specifically to an 'approved phasing plan'.

#### **Restaurant Restriction**

- 4.12 It is now also proposed to offer greater flexibility for the applicants in terms of reducing the length of time the restaurant must remain within its use class from five down to two years. This is due to the fact that the applicant was concerned the restriction was onerous and could result in a potentially empty unit which would detract from the scheme if not let; a view with which officers agree and have therefore sought to amend.

#### **Community Infrastructure Levy Considerations**

- 4.12 In terms of the elements within the proposed S106 that would fall to be classified as 'Infrastructure', notably financial contributions to cover off-site highway works, 'Amenity Greenspace' and market stall provision and the requirement to deliver replacement play equipment and new adult fitness equipment, officers consider that the requirements of the Community Infrastructure Regulations are met.
- 4.13 Firstly, the requirements of the S106 are 'Necessary to make the development acceptable' because of vehicular movements associated with the development, the requirement for the Local Highway Authority to implement works to the highway and because the scheme results in loss of public open space and associated play equipment; Secondly, they are 'Directly related to the development' because the requirements only arise due to the impacts of the scheme; and thirdly they are 'Fairly and reasonably related in scale and kind' because the contributions cover the loss of 'Amenity Greenspace' resulting from the development, the cost of providing new stalls which fit within the replacement market area and reflect reasonable costs associated with the monitoring of the travel plan for a 5-year period.

## **5.0 Changes to the Proposed Conditions**

- 5.1 Whilst officers consider that the previous section identifies the majority of changes needed as a result of alterations to the proposed S106 Agreement, a number of other minor alterations to conditions are also sought which are described in detail below.
- 5.2 The proposed hours' of operation conditions include minor changes to extend the times that the food store, retail units and restaurant can operate. Officers consider these are entirely appropriate for the town centre environment and will enable the development to operate effectively whilst preserving residential amenity and thereby satisfying the requirement of policy GR1 and GR6.
- 5.3 In place of the 10% renewable energy condition, the applicants propose to construct the scheme to BREEAM 'Very Good' standard. Officers have agreed to support such an approach because it is a recognised national standard and offers a more comprehensive approach to delivering sustainable development rather than focusing purely on the requirements of RSS policies EM17 and EM18 in terms of delivering 10% renewable energy.
- 5.4 In terms of other minor changes, it is proposed that:
- The floorspace restriction on the food store excludes the lobby area,
  - The scheme secures the provision of two electric car charge points
  - The scheme makes provision for retention and relocation of the existing CCTV system rather than being required to install a new system
  - The wording of the drainage condition is adjusted to allow flexibility as to whether the proposed swale (a surface water storage area within the POS) is included within the final drainage scheme.

## **6.0 Conclusion and Recommendation**

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

### **S106 Agreement Heads of Terms**

#### **A) Highway Requirements**

- Submission of a travel plan with triggers and arrangements for monitoring and implementation;
- Prior to first occupation of the food store, the developers to pay £5000 to cover monitoring of the Travel Plan by the Council; and
- Prior to the commencement of development, the developer to pay a financial contribution of £7500 to cover local traffic management at the junction of Lawton Road with an additional financial contribution of £10,000 to cover future maintenance of road markings associated with the new junction onto Lawton Road.

#### **B) Greenspace Requirements**

- Prior to commencement of development, that the developers pay a financial contribution of £11,195.34 to cover the shortfall in amenity

Greenspace. The money shall be spent on amenity Greenspace or play provision within 800m of the site.

- Prior to the first occupation of the hereby-approved food store, the developers shall purchase and install (at their expense) the agreed replacement play equipment, adult fitness equipment and layout the amenity Greenspace (including fencing and drainage) in accordance with the approved plans.
- That the agreement contains appropriate mechanisms for inspection, remedial measures and sign off of play equipment and Amenity Greenspace prior to occupation of the food store.

#### C) Market & Public Realm

- Prior to the commencement of development, the developer provides a financial contribution of £17,500 towards the provision of new market stalls for Alsager Market to be spent by Cheshire East BC within a two-year period or subsequently returned to the developer.
- Mechanism to allow up to 10-public events to take place within a defined area within the new public square fronting Lawton Road. (Events restricted to those approved by Cheshire East BC).

#### D) Development Restrictions

- Mechanism to ensure that only the development approved by this application is fully implemented and not either of the two alternative planning permissions 37808/3 and 05/0639/OUT are instead constructed.
- Mechanism to ensure that the proposed restaurant unit remains in its use class for a minimum period of two years following completion of the hereby-approved food store.

#### **Proposed Conditions**

1. 3 Year Time Limit
2. Development in accordance with the approved plans
3. All materials to be submitted and agreed prior to construction
4. Restriction to Net Retail Floorspace of 1318m<sup>2</sup> excluding lobby area
5. Standard contaminated land condition

#### **Control over Hours**

6. Restriction of hours of demolition, construction and associated deliveries to 07.30 to 17.30 hours on Monday to Friday, 0730 to 1300 hours on Saturday, with no work at any other time including Sundays and Public Holidays

7. Food store hours of opening 07.00 to 22.00 hours on Monday to Saturday and 10.00 to 17.00 on Sundays or Public Holidays.
8. Retail units' hours of opening 07.00 to 22.00 hours on Monday to Saturday and 10.00 to 17.00 on Sundays or Public Holidays.
9. Restaurant hours of opening 07.00 – 12.00 midnight.
10. No deliveries to the food store outside the hours of 07.45 and 20.00-hours Monday to Saturday and 09.00 and 17.00 hours on Sundays, Bank or Public Holidays.

### **Noise Mitigation**

11. Scheme for noise mitigation to food store service yard to be submitted and agreed.
12. Precise details of air conditioning plant and equipment with noise mitigation to be submitted and agreed.
13. Precise details of extraction equipment with noise mitigation to be submitted and agreed.

### **Highways**

14. Precise details and implementation of new junction to Lawton Road.
15. Precise details and implementation of new access road into the site from Lawton Road
16. Notwithstanding the approved plans, and unless otherwise agreed, the car park shall be laid out in strict accordance with drawing number 113/349/P11 Rev C.
17. Scheme to link existing signal junction at Lawton Road / Sandbach Road North to the proposed signal junction and upgrade existing pedestrian crossing to PUFFIN Standard.
18. Submission and implementation of a detailed TRANSYT design re linked signal operation.
19. Precise details and implementation of a scheme to upgrade existing bus stop at Sandbach Road South / Alsager Medical Centre to be submitted.
20. Precise details and implementation for a scheme of footpath enhancements to Lawton Road connecting the site to the Civic Centre bus stop.
21. Provision of infrastructure for two electric car charge points to be submitted and implemented.
22. Relocation of existing CCTV system.
23. Detailed public realm strategy and timetable for implementation.  
(extending to include amongst other things materials, lighting, signage,

public lighting anchor brackets and power supply, boundary treatments, planting and street trees and other street furniture).

### **Surface Water Drainage and Attenuation**

- 24. Scheme for surface water regulation.
- 25. Restriction on surface water discharge to 85-litres/second.
- 26. Site drained on a separate system (foul to foul and surface water to SUDS and surface water sewer).

### **Landscaping and Ecology**

- 27. Landscaping scheme.
- 28. Landscaping implementation.
- 29. Tree protection.
- 30. Protection of breeding birds.
- 31. Bird and bat boxes to be erected.

### **Other Matters**

- 32. Precise design and implementation of roller shutters.
- 33. Precise details and implementation of a site waste management plan.
- 34. Scheme to be constructed to BREEAM Very Good standard.
- 35. Development phasing.
- 36. Precise details and implementation external service yard and lighting facing Wesley Avenue.
- 37. Precise details and implementation of a scheme for public art within the hereby approved public square.