

# CHESHIRE EAST COUNCIL

## STRATEGIC PLANNING BOARD

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**Date of meeting:** 17<sup>th</sup> September 2014  
**Report of:** David Malcolm –Principal Planning Manager  
**Title:** 13/4904N Land off Wrens Close, Nantwich

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### **1.0 Purpose of Report**

- 1.1 To consider the withdrawal of 1 reason for refusal relating to planning application 13/4904N for a proposed residential development of 11 dwellings including access and associated infrastructure.
- 1.2 This report has been brought to Strategic Planning Board due to the urgency of a decision that is required prior to the appeal hearing which is scheduled for 23 September 2014.

### **2.0 Decision Required**

- 2.1 To agree to withdraw the second reason for refusal in respect of insufficient information in relation to reptiles and to instruct the Principal Planning Manager not to contest the issues at the forthcoming hearing.
- 2.2 Resolve to enter into a Section 106 in respect of the forthcoming Appeal to secure the Heads of Terms set out below.

### **3.0 Background**

- 3.1 Southern Planning Committee on 9 April 2014 considered an application for a proposed residential development of 11 dwellings including access and associated infrastructure. (13/4904N refers)
- 3.2 The Application is the subject of an Appeal and the Southern Planning Committee resolved to contest the Appeal on the following grounds:
  1. *The proposed residential development is unsustainable because it is located within the Open Countryside, contrary to Policy NE.2 (Open Countryside) of the Borough of Crewe and Nantwich Replacement Local Plan Policy PG5 of the Cheshire East Local Plan Strategy – Submission Version and the principles of the National Planning Policy Framework and create harm to interests of acknowledged importance. The Local Planning Authority can demonstrate a 5 year supply of housing land supply in accordance with the National Planning Policy Framework. As such the application is also contrary to the emerging Development Strategy. Consequently, there are no*

*material circumstances to indicate that permission should be granted contrary to the development plan.*

2. *Insufficient information has been submitted with the application relating to ecology in order to assess adequately the impact of the proposed development having regard to reptiles. In the absence of this information it has not been possible to demonstrate that the proposal would comply with Policy NE.9 of the Crewe and Nantwich Replacement Local Plan 2011 and the NPPF.*
- 3.3 Following submission of the appeal a duplicate application (14/1975N refers) was submitted to the Council, with additional supporting information. This has been the subject of on-going negotiations with Officers which has led to the resolution of the Committee's previous concerns in respect of ecology.

### ***Ecology***

- 3.4 The Council's Principal Nature Conservation Officer examined the submitted Reptile Survey on the recent duplicate application (14/1979N) and concluded that this species group is unlikely to be present on the site or affected by the proposed development. As a result this duplicate application was not refused on ecological grounds.

### ***Section 106 Contributions***

- 3.5 The grassland habitats on site are of relatively low value and do not present a significant constraint upon development. The development proposals however may still result in an overall loss of biodiversity. The residual impacts of the development should be off-set by means of a commuted sum that would be utilised to fund off site habitat creation/enhancement within the Meres and Mosses Nature Improvement Area.
- 3.6 The suggested method of calculating an appropriate commuted sum is based on the DEFRA report 'Costing Potential Actions to Offset the Impact of Development on Biodiversity – Final Report 3<sup>rd</sup> March 2011.
- 3.7 The loss of habitat (semi-improved grassland) amounting to approximately 0.3ha. The cost of creation of Lowland Grassland 0.3ha x £11,291.00 (cost per ha) equals £3,387.90. (Source UK BAP habitat creation/restoration costing plus administration costs)
- 3.8 Having regard to contributions to education provision, the Education Department have stated that there is sufficient capacity in the local secondary schools but there is a shortfall in primary provision. This equates to 2 places at a cost of £21,693.
- 3.9 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 are necessary to make the development acceptable in

planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development.

- 3.10 The off-site contribution to habitat creation/enhancement and the contribution to primary education provision help to render the development sustainable and are in compliance with the requirements of the CIL Regulations.

#### **4.0 Conclusion**

- 4.1 On the basis of the above, it is considered that the Council should withdraw the reason for refusal in regard to lack of information relating to reptiles.

#### **5.0 Recommendation**

- 5.1 That the Committee resolve to withdraw the second reason for refusal in respect of reptiles and to instruct the Principal Planning Manager not to contest the issues at the forthcoming hearing.

- 5.1 Resolve to enter into a Section 106 in respect of the forthcoming Appeal to secure the Heads of Terms set out below.

- £3,387.00 for off-site habitat creation/restoration
- £21,693 for primary education

#### **6 Risk Assessment and Financial Implications**

- 6.1 There is a risk that if the Council continues to pursue the ecology reason for refusal at Appeal, when the outstanding information has now been received and the issues can be adequately dealt with via conditions and Section 106 obligations, 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 reasons for refusal.

- 6.3 There are no risks associated with not pursuing the reasons 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.

##### ***Principal Nature Conservation Officer***

7.2 The Council's Principal Nature Conservation Officer has been consulted and recommends the withdrawal of the reason for refusal.

## **8.0 Reasons for Recommendation**

8.1 To ensure that the Council deals with the forthcoming appeal in a reasonable manner.

### ***For further information:***

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### ***Background Documents:***

*Applications 13/4904N*