

CHESHIRE EAST COUNCIL

STRATEGIC PLANNING BOARD

Date of meeting: 18th May 2016

Report of: David Malcolm – Head of Planning (Regulation)

Title: Proposal Alterations to the Section 106 Agreement in respect of the education financial contribution and the management company for public open space at Basford West, Crewe. (13/0336N)

1.0 Purpose of Report

- 1.1 To consider proposed amendments to the resolution passed by Strategic Planning Board in respect of planning approval 13/0336N. This relates to development of land at Basford West for up to 370 residential units, Offices (B1), a local centre, public house, hotel, car showroom and associated works including construction of new spine road with accesses from Crewe Road and A500.
- 1.2 The report has been presented to Strategic Planning Board because the original application was approved by the Board in August 2013.

2.0 Decision Required

- 2.1 That the Board resolve to amend the Section 106 Agreement;
- Removing and replacing Schedule 1 clause 1.8 with an updated clause for the Education contribution of £722,363 being required to be made in three equal, staged payments following first occupation of the development.
 - Removing Schedule 1 part 4 and replacing with updated clauses about how the Management Company would be set up and maintained.

3.0 Background

- 3.1 The principle of the development has already been established by the previous resolution. Consequently, this report does not provide an opportunity to revisit that issue. This item relates solely to the proposed amendment to the requirements of the Section 106 Agreement.

- 3.2 The application site extends to approximately 32.5 hectares of former agricultural land known as Basford West, located to the south and east of Crewe Road, and on the edge of the Crewe urban area.
- 3.3 The A500 is located along the southern boundary of the site and beyond the settlements of Shavington, Basford and Weston. The eastern site boundary extends up to the new spine road (Jack Mills Way) which has recently been constructed to serve Basford West from the A500. Land beyond the Jack Mills Way, and extending up to the West Coast Main Line, has planning approval (ref: 14/0378N) for employment development.
- 3.4 The site is bounded to the west by open countryside which will accommodate recreational open space. Further to the west of the site is an ecological mitigation area (associated with the development of the wider Basford West site) and residential development which fronts onto Crewe Road beyond.
- 3.5 The main part of the site has been cleared of hedgerows and trees. Road and drainage infrastructure serving the residential element of the scheme has been constructed by Goodman's, the developer of the wider site subject to 13/0336N.
- 3.6 Members may recall that in September 2015 Strategic Planning Board resolved to approve Reserved Matters (application No: (15/2943N) pursuant to outline planning permission 13/0336N for the residential element of the development.
- 3.7 The outline planning permission (13/0336N) was subject to completion of Section 106 Agreement making a number of provisions. These included a financial contribution of £722,363 to meet the need for increased school places arising from a development of 370 dwellings and for the establishment of a management company to maintain the public open space on site.
- 3.8 As a result of the need to resolve legal and landownership issues within the wider site which is subject to outline approval 13/0339N, the developer has requested that the S106 agreement be amended to allow the education contribution of £722,363 to be made in staged payments during the course of the residential development. The Council's Education Officer has advised that to accord with Council's programme in meeting future demand for school places for both primary and secondary pupils, the following amended payment schedule is necessary;
- Within 1 Year of first occupation - £240,787
 - By Year 4 following first occupation - £240,787
 - By Year 7 following first occupation - £240,787

- 3.9 The developer has confirmed its agreement to this payment schedule and for the Section 106 Agreement to be varied on this basis.
- 3.10 The Section 106, Schedule 1, part 4 requires buyers of dwellings to become members of the management company. This is not ideal, as developers usual approach is that they establish an embedded management company i.e.: the managing agent is responsible rather than residents as the Section 106 requires.
- 3.11 An embedded management company (managing agent) reduces risks in relation to the open space, in such that there is a company established to look after the open space, rather than the developer having to hand over to residents. Importantly it also reduces the risk of the site running into disrepair as the residents could lose interest, which in turn could impact on the liquidity of the management company in the long term.
- 3.12 In effect via an embedded Management Company the residents are obliged to pay the Management Charge, but the responsibility lies with the Managing Agent.
- 3.13 The developer is therefore seeking to amend the Section 106 Agreement in this regard, removing Schedule 1 Part 4, and replacing with an updated section about how the Management Company would be set up and maintained. This approach is similar to that recently agreed on other residential sites.

4 Conclusion

- 4.1 The Council's Education Officer has considered the request for staging the Education contribution and has raised no objection subject to the payment schedule being secured by S106 Agreement as set out.
- 4.2 The provision of an embedded management company is considered to be an entirely satisfactory means of securing the long term management and maintenance of on-site, open space.
- 4.3 On the basis of the above, the proposed amendments to the wording of the resolution are considered to be acceptable.

5 Recommendation

- 5.1 That the Board resolve to amend the Section 106 Agreement by;
- Removing and replacing Schedule 1 clause 1.8 with an updated clause requiring the education contribution (£722,363) to be made in three equal, staged payments following first occupation of the development
 - Removing Schedule 1, Part 4 and replacing with updated

clauses about how the Management Company would be set up and maintained.

6 Financial Implications

6.1 There are no financial implications.

7 Legal Implications

7.1 The Borough Solicitor has been consulted on the proposals and raised no objections.

8 Risk Assessment

8.1 There are no risks associated with this decision.

9 Reasons for Recommendation

9.1 To ensure that a financial contribution to meet demand for school places arising from the development is satisfactory and reasonably secured with regard to the future delivery of dwellings within the site.

9.2 To ensure that the open space on site is adequately provided and maintained in perpetuity and to enable the development works to be completed in a timely fashion to assist in delivering the 5 year housing land supply for the Borough.

For further information:

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Background Documents:

- Applications 13/0339N & 15/2943N