

CHESHIRE EAST COUNCIL

SOUTHERN PLANNING COMMITTEE REPORT

Date:	23 rd November 2016
Report of:	David Malcolm - Head of Planning (Regulation)
Title:	Outline application for residential development of up to 33 units with all others matters reserved, except for access and landscaping.
Site:	Land north of Pool Lane, Winterley

1.0 Purpose of Report

- 1.1 To agree Heads of Terms for the legal agreement at the forthcoming appeal.

2.0 Decision Required

- 1.2 To agree Heads of Terms for the legal agreement at the forthcoming appeal at Land north of Pool Lane, Winterley

3.0 Background

- 3.1 On 31st August 2016 Southern Planning Committee resolved to refuse application 16/1728N against the recommendation for the following reason;

'The cumulative impact of this proposal, with other recent approved housing developments in Winterley since the Inspector's appeal decision, will have a detrimental impact upon the spatial distribution of development contrary to PG2 and PG6 of the Emerging Local Plan Strategy Consultation draft March 2016'

- 3.2 **As part of that report, reference was made to the proposed heads of terms for the legal agreement which stated:**

Should the application be subject to an appeal, the following Heads of Terms should be secured as part of any S106 Agreement:

1. A scheme for the provision of 30% affordable housing – 65% to be provided as social rent/affordable rent with 35% intermediate tenure. The scheme shall include:
- The numbers, type, tenure and location on the site of the affordable housing provision

- *The timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing*
 - *The arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing if no Registered Social Landlord is involved*
 - *The arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and*
 - *The occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.*
2. *Provision of Public Open Space to be maintained by a private management company*
3. *Secondary School Education Contribution of £81,713.45*

3.3 The above Heads of Terms were not carried over onto the committee resolution/minutes to refuse the application. In this case the Council has received the appeal forms but is still awaiting the appeal start letter. The start letter will include the date for the completion of the S106 Agreement.

5 Officer Comment

- 5.1 In order to comply with the Community Infrastructure Regulations 2010 it is necessary for planning applications with planning obligations to consider the issue of whether the requirements within the S106 satisfy the following:
- (a) necessary to make the development acceptable in planning terms;
 - (b) directly related to the development; and
 - (c) fairly and reasonably related in scale and kind to the development.
- 5.2 As explained within the main report, POS is a requirement of the Local Plan Policy RT.3. It is necessary to secure these works and a scheme of management for the open space. This is directly related to the development and is fair and reasonable.
- 5.3 The development would result in increased demand for secondary school places in the area and there is very limited spare capacity. In order to increase capacity of the secondary schools which would support the proposed development, a contribution towards secondary school education is required. This is considered to be necessary and fair and reasonable in relation to the development.
- 5.4 On this basis the S106 recommendation is compliant with the CIL Regulations 2010.

6 Conclusion

- 6.1 On the basis of the above, it is considered that the Southern Planning Committee should accept the Head of Terms on the basis that they are comply with the CIL Regulations.

7 Recommendation

- 7.1 To agree to the Heads of Terms for the legal agreement at the forthcoming appeal at Land to the north of Pool Lane as follows;

RESOLVE to enter into a Section 106 to secure the following:

1. A scheme for the provision of 30% affordable housing – 65% to be provided as social rent/affordable rent with 35% intermediate tenure. The scheme shall include:

- The numbers, type, tenure and location on the site of the affordable housing provision*
- The timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing*
- The arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing if no Registered Social Landlord is involved*
- The arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and*
- The occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.*

2. Provision of Public Open Space to be maintained by a private management company

3. Secondary School Education Contribution of £81,713.45

8 Financial Implications

- 8.1 There are no financial implications.

9 Legal Implications

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

10 Risk Assessment

- 10.1 There are no risks associated with this decision.

11 Reasons for Recommendation

- 1.3 To agree Heads of Terms for the legal agreement at the forthcoming appeal at Land to the north of Pool Lane, Winterley.

For further information:

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Background Documents:

- *Application 16/1728N*