

CHESHIRE EAST COUNCIL

SOUTHERN PLANNING COMMITTEE REPORT

Date:	23 rd November 2016
Report of:	David Malcolm - Head of Planning (Regulation)
Title:	Outline application for the demolition of 46 Chestnut Avenue, Shavington and erection of 44 dwellings (including access) and associated works.
Site:	Land to the rear of 46 Chestnut Avenue, Shavington CW2 5BJ

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 to the rear of 46 Chestnut Avenue.

3.0 Background

- 3.1 On 3rd August 2016 Southern Planning Committee resolved to refuse application 16/0015N against the recommendation for the following reason;

'The proposed development, together with adjoining housing developments, by virtue of the loss of open countryside and cumulative impact and erosion upon the Green Gap, is contrary to Local Plan Policies NE.2 (Open Countryside), NE.4 (Green Gap) and RES.5 (Housing in the Open Countryside) of the Crewe and Nantwich Replacement Local Plan 2011 and PG5 of the Cheshire East Local Plan Strategy (Consultation Draft) March 2016 and policies within the NPPF'

- 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. SEN Contribution of £45,500

- 3.3 The above Heads of Terms were not carried over onto the committee resolution/minutes to refuse the application and the S106 for this appeal needs to be completed by 7th December 2016.

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 SEN places in the area and there is very limited spare capacity. In order to increase capacity of the SEN schools which would support the proposed development, a contribution towards SEN 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 rear of 46 Chestnut Avenue, Shavington 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. SEN Contribution of £45,500

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 rear of 46 Chestnut Avenue, Shavington.

For further information:

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Background Documents:

- *Application 16/0015N*