

CHESHIRE EAST COUNCIL

SOUTHERN PLANNING COMMITTEE REPORT

Date:	1 st February 2017
Report of:	David Malcolm - Head of Planning (Regulation)
Title:	Outline application for the erection of 29 dwellings with associated works (Re-submission of 15/2844N)
Site:	Land south of Hassall Road, 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 south of Hassall Road, Winterley

3.0 Background

- 3.1 On 28th September 2016 Southern Planning Committee resolved to refuse application 16/3387N against the recommendation for the following reasons;

1 The proposed development is located within open countryside and would have a sever adverse impact upon Hassall Road, Pool Lane and Coppice Road due to the sub-standard nature of these highways routes. As a result, the development would not achieve a safe and suitable access to the site for all people and this would significantly and demonstrably outweigh the benefits of the scheme notwithstanding a shortfall in housing land supply. The development is therefore contrary to Policies BE.3, TRAN.1 and TRAN.3 of the Borough of Crewe and Nantwich Replacement Local Plan 2011 and the National Planning Policy Framework (paragraph 32).

2 This application, when taken cumulatively with other approved developments within Winterley since the Inspector's appeal decision regarding application 14/3962N would exceed the spatial distribution for Winterley and further housing in Winterley is no longer considered to be sustainable. As a result, the proposed development would be

contrary to Policies PG2 and PG6 of the Cheshire East Local Plan Strategy – Submission Version.

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 and a LEAP (5 pieces of equipment) to be maintained by a private management company

3. Secondary School Education Contribution of £65,370.76

4. A contribution of £33,750 towards traffic calming measures

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 an appeal and the S106 Agreement needs to be submitted by 6th February 2017.

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 and children's play space 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 and children's play space. This contribution 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 There are concerns over the proposed pedestrian accessibility of the site and in order to mitigate this impact a contribution of £33,750 is required to secure traffic calming measures. It is necessary to secure these works to mitigate the impact of the development. This contribution is directly related to the development and is fair and reasonable.
- 5.5 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 and a LEAP (5 pieces of equipment) to be maintained by a private management company

3. Secondary School Education Contribution of £65,370.76

4. A contribution of £33,750 towards traffic calming measures

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 south of Hassall Road, Winterley.

For further information:

Portfolio Holder: Councillor Ainsley Arnold
Officer: Daniel Evans (Principal Planning Officer)
Tel No: 01270 686751
Email: Daniel.evans@cheshireeast.gov.uk

Background Documents:

- *Application 16/3387N*