

Application No: 12/3948C

Location: LAND BOUNDED BY OLD MILL ROAD & M6 NORTHBOUND SLIP ROAD, SANDBACH

Proposal: Outline application for commercial development comprising of family pub/restaurant, 63 bedroom hotel, Drive through cafe, Eat in cafe and office and light industrial commercial units with an adjacent residential development of up to 250 dwellings. The proposal also includes associated infrastructure and access.

Applicant: W and S (Sandbach) Ltd

Expiry Date: 09-Sep-2013

SUMMARY RECOMMENDATION

Approval is recommended subject to the prior completion of a s106 agreement and conditions

MAIN ISSUES

- Timing of provision of “enhanced” roundabout to J17

REASON FOR REPORT

At the Strategic Planning Board meeting on 25 June 2014, Members resolved to approve this application subject to a s106 agreement and conditions.

This update relates specifically to conditions 34 and 36 listed in the approved minutes, which state:

34. Prior to commencement of the development hereby approved, the roundabout which is subject of the planning permission 14/0043C, and which provides access into the site shall be completed in accordance with the details approved under that permission.

36. No more than 50% of the dwellings shall be occupied before all services / utilities / infrastructure are provided for 25% of the non-residential element of the site. No more than 75% of the dwellings shall be occupied before all services / utilities / infrastructure are provided for 50% of the non-residential element of the site. No more than 85% of the dwellings shall be occupied until an access road is provided from the new roundabout access on Old Mill Road to within 10m of the south western boundary of the site.

Condition 34

Members will be aware that the Highways Agency (HA) has secured pinch point funding for the improvement of J17 of the M6 motorway, and these works are scheduled to be completed by March 2015. These works would provide a roundabout to the northbound slip road of the M6, but they would not facilitate access into the application site. The works would also provide a traffic signal junction serving the southbound slip roads.

An “enhanced” roundabout was approved under planning application 14/0043C to provide this access into the site, which subsequently led to condition 34 above. All parties agree that the enhanced roundabout is a significantly better highways solution than the pinch point scheme.

The applicants are now seeking to vary condition 34 to state:

Prior to the occupation of the 50th dwelling hereby approved, the roundabout which is the subject of planning permission 14/0043C shall be completed in accordance with the details approved under that permission.

The change being that the enhanced roundabout is completed prior to the occupation of the 50th dwelling, rather than prior to commencement of the development.

Throughout the course of this application, the timetable set out by the Highways Agency for the provision of the pinch point improvements by 31 March 2015 was always thought to have been a date that had to be met otherwise the funding would be lost. The applicants were attempting to work within these timescales to provide the enhanced roundabout. However, it is now clear that the enhanced roundabout cannot be provided by 31 March 2015, and therefore the pinch point roundabout will be initially provided. The alterations to provide the enhanced roundabout will follow at a later date.

The possibility of commencing the pinch point scheme and then switching to the enhanced scheme during the construction period has also been investigated, but given the timescales involved it is likely that the pinch point scheme will be completed prior to the work on the enhanced roundabout being commenced. The result being that as the resolution currently stands the applicants are prevented from carrying out any works that are the subject of the current application until the enhanced roundabout is completed. The timing for which is now largely out of their control. This is considered to be an unreasonable restriction upon the development.

The National Planning Practice Guidance advises that care needs to be taken when considering using conditions that prevent **any** development authorised by the planning permission from beginning until the condition has been complied with.

Such conditions should only be used where the local planning authority is satisfied that the requirements of the condition (including the timing of compliance) are so fundamental to the development permitted that it would have been otherwise necessary to refuse the whole permission. In this case, the development will be served by two access points, and, even though the application is outline with all matters reserved, it is evident that the residential element of the proposal can be accessed without the roundabout being provided. The reasoning for the condition is to guarantee that the access to the commercial site is provided, in order to enable the delivery of the employment site (in line with the requirements for strategic site CS24 in the submission version of the local plan), and to ensure that it is not just the residential aspect that is delivered.

Clearly there needs to be some incentive built into the permission to ensure that the roundabout is provided, as the delivery of the roundabout is essential to the acceptability of the proposal. However, the provision of the roundabout is not fundamentally required prior to the commencement of any development. As such, the condition as it currently stands is considered to be unreasonable. The National Planning Practice Guidance clearly states that conditions which unreasonably impact upon the delivery of the development should not be imposed.

A restriction upon the numbers of dwellings to be occupied before the roundabout is provided would serve the purpose of the condition equally well. This would allow the development to commence and still facilitate the delivery of the roundabout at the appropriate time. The enhanced roundabout works would now be carried out by the developer under a s278 agreement with the Highways Authority. This would be secured separately by a planning condition.

The proposed variation to condition 34 is therefore considered to be acceptable.

Condition 36

The applicants are also seeking to amend condition 36 as listed in the minutes. The proposed variations to this condition include:

- Inclusion of the term *“unless otherwise agreed in writing by the local planning authority”* as all matters are reserved the applicant does not know where the non residential elements will be;
- Change of 85% trigger to 100%;
- Change from providing road to within 10 metres of the south western boundary to 20 metres due to topography of the site.

There is no objection in principle to changing the triggers as outlined above. However, the inclusion of the term *“unless otherwise agreed in writing by the local planning authority”* is not considered to be necessary as any alterations to the timing of the triggers should be the subject of an application to vary the condition at that time.

CONCLUSIONS AND REASON(S) FOR THE DECISION

The original recommendation of APPROVAL remains, subject to the completion of a Section 106 Agreement securing the following:

- Financial contribution towards primary education of £292,850

- Financial contribution towards secondary education of £539,309
- Contribution of £10,000 (air quality mitigation) towards the implementation of Air Quality Action Plan in Sandbach
- The provision of a NEAP facility (comprising a minimum of 8 items of equipment) and a minimum of 4000sqm of open space to be provided on site. One area shall be a minimum of 2000 sqm.
- Management details for the maintenance of all amenity greenspace / public open space, public footpaths and greenways within the site, play areas, and other areas of incidental open space not forming private gardens or part of the adopted highway in perpetuity.
- Provision of 15% affordable housing with 50% to be provided as social rent and 50% provided as intermediate tenure
- Phasing of affordable housing
- Area of land across wildlife corridor transferred to Highway Authority
- Financial contribution of £500,000 towards bridge to cross wildlife corridor
- Clawback mechanism (in the event additional monies become available)

And subject to the following conditions:

Application for Outline Planning

RECOMMENDATION: Approve subject to a Section 106 Agreement and the following conditions

1. A01OP - Submission of reserved matters
A02OP - Implementation of reserved matters
A03OP - Time limit for submission of reserved matters
A06OP - Commencement of development
A01AP - Development in accord with approved plans
A22GR - Protection from noise during construction (hours of construction)
A32HA - Submission of construction method statement
A08OP - Ground levels to be submitted with reserved matters application
A19MC - Refuse storage facilities to be approved
2. Environmental Management Plan to be submitted
Details of external lighting to be submitted
Updated contaminated land Phase II report to be submitted
Noise mitigation
Submission of residential and business travel plans

Energy from decentralised and renewable or low-carbon energy sources
Scheme to limit the surface water runoff to be submitted
Scheme to manage the risk of flooding from overland flow of surface water
Scheme to dispose of foul and surface water to be submitted
Wildlife corridor buffer zone
Site to be drained on a separate system
Provision of electric car charging points
Reserved matters application to incorporate public right of way routes

Provision for pedestrians and cyclists
Submission of arboricultural details
Written scheme of archaeological investigation to be submitted
Hedgerow retention and enhancement
Details of phasing of whole development and associated roundabout to be submitted
Provision of pedestrian crossing to Old Mill Road
Provision of footway/cycleway to south side of Old Mill Road
Existing footway to north side of Old Mill Road to be upgraded to footway / cycleway
Provision of pedestrian refuge to aid crossing of Old Mill Road near to Congleton Road junction
Details of public access to wildlife corridor to be submitted
Provision of cycleway / footway from site to High St along Old Mill Road
Prior to the occupation of the 50th dwelling hereby approved, the roundabout which is the subject of planning permission 14/0043C shall be completed in accordance with the details approved under that permission.
Proposals for public right of way to be submitted and approved
No more than 50% of the dwellings shall be occupied before all services / utilities / infrastructure are provided for 25% of the non residential element of the site. No more than 75% of the dwellings shall be occupied before all services / utilities / infr

