

CHESHIRE EAST COUNCIL

SOUTHERN PLANNING COMMITTEE

Date of meeting: 13TH November 2013
Report of: David Malcolm – Southern Area Manager
Title: Bath Vale Works, Congleton

1.0 Purpose of Report

- 1.1 To consider proposed amendments to the resolution passed by Southern Area Committee in respect of application 11/2530C.
- 1.2 The report has been presented to Southern Area Committee because the original application was approved by the committee on 24th August 2011.

2.0 Decision Required

- 2.1 To agree to the amendments to the previous resolutions as stated in this report.
- 2.2 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.

3.0 Background

- 3.1 The site is located approximately 1.5km to the north east of Congleton town centre in an area of open countryside. It is broadly rectangular and orientated in a north western – south eastern alignment. The existing buildings on the site were previously used for industrial purposes and covered most of the site. These have now been demolished and the site now undergoing redevelopment. The site itself, which slopes up gradually from the entrance, lies in a river valley, the sides of which are steeply sloping and heavily treed. The site area is approximately 10.07ha. It is accessed off Brookhouse Lane, which roughly follows the southern boundary of the site.
- 3.2 Outline planning permission was originally granted in June 2008 for residential redevelopment of the site for 130 dwellings, with 20% affordable housing. (07/0596/OUT refers). A subsequent outline application (08/1317/OUT) for 130 dwellings was refused on 7th November

2008, because the developer sought to reduce the extent of affordable housing provision to 5%. A subsequent appeal against that decision was allowed and outline planning permission granted, on 28th April 2010.

- 3.3 A reserved matters application seeking approval for details of access, appearance, landscaping, layout and scale was approved on 24th November 2010. The permission was subject to a number of conditions. Condition no.11 stated:

Within three months of the date of this permission a detailed specification for all the sustainable / energy saving features to be incorporated in the development hereby permitted, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall make provision for at least 10% of the energy requirements of the building to be obtained from decentralised and renewable or low-carbon sources. The approved features shall be installed and fully operational prior to the first occupation of the development and shall thereafter be retained unless the Local Planning Authority gives written consent to any variation.

Reason: To comply with Policy EM18 (Decentralised Energy Supply) of the North West of England Plan: Regional Spatial Strategy to 2021.

- 3.4 An application which sought to remove that condition was submitted in 2011 (application 11/2530C refers) and on 24th August 2011, Southern Planning Committee resolved to approve it, subject to a Deed of Variation to the existing Section 106 agreement to reference the new consent, and conditions.
- 3.5 Notwithstanding that resolution, the Deed of Variation has never been completed. Consequently, the revised permission has never been issued and work has progressed under the original consent.
- 3.6 Recently, the developer has raised concerns over the mix of affordable housing proposed and has submitted a formal request to the Council to vary the terms of the existing legal agreement. This forms the subject of this report and the implications of the proposed change are discussed in more detail below.
- 3.7 If Members are minded to agree to the proposed amendments to the affordable housing provision, it is considered that these could be incorporated within the outstanding Deed of Variation referred to above, which could then be progressed to completion allowing planning permission 11/2530C to be issued.

4 Developer's Supporting Information

- 4.1 The applicant has stated that the current agreement requires that 5% of the residential units are delivered as affordable housing. These are to be split, with 50% to be shared ownership and 50% to be discounted for sale. This equates to 3 units of each tenure. The 3 units for shared ownership have been sold to the Plus Dane Housing association and are now occupied. Unfortunately, the developer has been unable to secure buyers for the discounted for sale units, primarily due to mortgage availability and the size of deposits required by lenders for this type of product. Marketing commenced in October 2011, and the units are complete and available for occupation.
- 4.2 The developer proposes to change the tenure of these units to shared equity model, which it is understood has had some success on other sites in the Borough.

5 Officer Comment

- 5.1 Housing Officers have commented that this proposal is acceptable, although they have discussed with the applicant whether it would be possible to make this change to 'intermediate tenure' to be agreed with Housing as this would allow flexibility if selling the properties as shared ownership became an option. The Borough Solicitor has confirmed that the remaining 50% can be specified within the Section 106 Agreement to be shared equity only or intermediate housing generally as per the NPPF definition.
- 5.2 On this basis, taking into account the developers requirements, the preference of housing officers, and the legal advice received it is considered to be appropriate to change the terms of the Section 106 Agreement to require 50% of the provision to be "intermediate housing as per the NPPF definition, to be agreed with the Local Planning Authority."

Recommendation

That the Committee resolve to amend the previous resolution in respect of application 11/2530C to read:

That the application be APPROVED subject to the completion of a Deed of Variation to the Section 106 Agreement to reference the new permission and change the affordable housing provision from 50% to shared ownership and 50% discounted for sale to 50% to shared

ownership and 50% intermediate housing as per the NPPF definition, to be agreed with the Local Planning Authority

And the following conditions –

- 1 Plans**
- 2 Materials**
- 3 Boundary treatment**
- 4 Internal layout details**
- 5 Contaminated land**
- 6 Updated Tree Canopy Plan**
- 7 Updated Landscaping Plan**
- 8 Implementation of landscaping**
- 9 Removal of Permitted Development Rights**
- 10 Construction of access**

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

- 11.1 To allow negotiations in respect of the Section 106 to progress to signing, to enable the development works to commence in a timely fashion to assist in delivering the 5 year housing land supply for the Borough.

For further information:

Portfolio Holder: Councillor Don Stockton
Officer: David Malcolm – Southern Area Manager
Tel No: 01270 686761
Email: david.malcolm@cheshireeast.gov.uk

Background Documents:

- *Application 11/2530C*