

CHESHIRE EAST COUNCIL

STRATEGIC PLANNING BOARD

Date of meeting: 5th March 2013

Report of: David Malcolm – Interim Planning and Place Shaping Manager

Title: Audlem Road, Audlem

1.0 Purpose of Report

- 1.1 To consider the withdrawal of 4 reasons for refusal relating to planning application 13/2224N for a proposed residential development of up to 120 dwellings, highway works, public open space and associated works at Audlem Road, Audlem (13/2224N refers)

2.0 Decision Required

- 2.1 To agree to withdraw the fourth, fifth, sixth and seventh reasons for refusal in respect of impact on trees, design, amenity and medical infrastructure and to instruct the Interim Planning and Place Shaping Manager not to contest the issues at the forthcoming public inquiry.
- 2.2 Resolve to enter into a Section 106 in respect of the forthcoming Appeal to secure the Heads of Terms set out below.

3.0 Background

- 3.1 Members may recall that on the 9th October 2013, Strategic Planning Board considered an application for a proposed residential development of up to 120 dwellings, highway works, public open space and associated works at Audlem Road, Audlem (13/2224N refers)
- 3.2 The Application is the subject of an Appeal against non-determination and the Strategic Planning Board resolved to contest the Appeal on the following grounds:
 - 1. *The proposed residential development is unsustainable because it is located within the Open Countryside, where according to Policies NE.2 and RES.5 of the adopted Borough of Crewe and Nantwich Replacement Local Plan there is a presumption against new residential development. Such development would be harmful to its open character and appearance, which in the absence of a need for the development should be protected for its own sake. The Local Planning Authority can demonstrate a 5 year supply of housing land supply in accordance with the National Planning Policy Framework. As such the application is also premature to the emerging Development Strategy. Consequently, there are no material*

circumstances to indicate that permission should be granted contrary to the development plan.

- 2. In the absence detailed survey information the applicant has failed to demonstrate that the proposal will not result in loss of the best and most versatile agricultural land and given that the Authority can demonstrate a housing land supply in excess of 5 years, the applicant has also failed to demonstrate that there is a need for the development, which could not be accommodated elsewhere. The use of the best and most versatile agricultural land is unsustainable and contrary to Policy NE.12 of the Borough of Crewe and Nantwich Replacement Local Plan 2011 and the provisions of the National Planning Policy Framework.*
- 3. The proposal would involve the removal of an “important” hedgerow as defined in the Hedgerow Regulations 1997. Policy NE5 of the local plan states that the Local Planning authority will protect, conserve and enhance the natural conservation resource where, inter alia, natural features such as hedgerows are, wherever possible, integrated into landscaping schemes on development sites. In the absence of overriding reasons for allowing the development and the proposal is therefore contrary to Policy NR3 of the adopted Borough of Crewe and Nantwich Replacement Local Plan 2011.*
- 4. Insufficient information has been submitted to demonstrate that, at the proposed density, the scheme would provide for the retention and protection of existing trees of amenity value and therefore the applicant has failed to demonstrate that the proposal complies with Policy NE.5 (Nature Conservation and Habitats) of the Borough of Crewe and Nantwich Replacement Local Plan 2011 and the provisions of the National Planning Policy Framework.*
- 5. On the basis of the information submitted, the applicant has failed to demonstrate that the scheme provides for a sufficiently high quality of design for buildings and public spaces which will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development. In so doing, the proposal will also fail to take the opportunities available for improving the character and quality of an area and the way it functions and to establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live and visit contrary to the provisions of the National Planning Policy Framework and policies BE2 (Design) and BE3 (Access and Parking) of the Borough of Crewe and Nantwich Replacement Local Plan 2011*
- 6. Insufficient information has been submitted to demonstrate that, at the proposed density, the scheme would provide for an adequate standard of amenity for existing and future occupiers and therefore the applicant has failed to demonstrate that the proposal complies with Policy BE1 (Amenity) of the Borough of Crewe and Nantwich Replacement Local Plan 2011.*

7. *The proposal fails to make adequate provision for infrastructure requirements and community facilities, in the form of medical provision, the need for which arises directly as a consequence of the development, contrary to policy BE 5 of the adopted Borough of Crewe and Nantwich Replacement Local Plan. It is therefore socially unsustainable contrary to the provisions of the National Planning Policy Framework.*

- 3.4 Following submission of the Appeal Against non-determination a duplicate application (13/3746N refers), considered elsewhere on this agenda, was submitted to the Council, with additional supporting information. This has been the subject of on-going negotiations with Officers which have led to the resolution of a number of the Board's previous concerns. These are explained in more detail below.

Trees

- 3.5 The Council's Landscape Officer examined the proposals and commented that site is agricultural land located to the north of Audlem and extends to 5.53HA. It is bounded and crossed by hedgerows which include mature hedgerow trees. There are two trees on a length of the site boundary to the north where there is no hedgerow present.
- 3.6 The submission was supported by an Arboricultural Statement dated May 2013. The Statement includes a Tree Survey undertaken in accordance with *British Standard 5837:2012 trees In Relation to design, Demolition and Construction – Recommendations* and an Arboricultural Impact Assessment.
- 3.7 A total of 11 individual trees were surveyed as part of the arboricultural assessment. The majority of the trees are mature with Oak the predominant species. The trees were described as prominent features in the local landscape by virtue of their size and character.
- 3.8 The Arboricultural Impact Assessment indicated that the development would not require the removal of any trees to facilitate the proposals in the Development Framework Plan which was originally submitted with the application and recommendations were made for new tree planting to form an integral part of any new development. A recommendation was made that a schedule of tree works be prepared once a layout has been finalised.
- 3.9 However, the Landscape Officer afforded limited weight to the Development Framework plan in respect of the capacity of the site to accommodate the number of dwellings proposed.
- 3.10 *BS5837:2012 Trees in relation to design, demolition and Construction – Recommendations* identifies at para 5.2 *Constraints posed by Trees* that all relevant constraints including Root Protection Areas (RPAs) should be plotted around all trees for retention and shown on the

relevant drawings, including proposed site layout plans. Above ground constraints should also be taken into account as part of the layout design

- 3.11 Whilst the Arboricultural Impact Assessment (para 4.2) had considered the Development Framework Plan, and showed constraints thereon, it would appear that the Illustrative Site Layout had not been evaluated. The illustrative layout plan provided only indicative tree symbols of trees for retention and was not cross referenced with their Root Protection Areas and respective tree protection details. As a consequence it was not possible to determine the direct or indirect impact of the proposed Illustrative layout on retained trees.
- 3.12 In order to give a high level of confidence that the number of dwellings proposed could be accommodated and development could be implemented without harm to significant trees, it was considered that a scaled Illustrative layout plan should be provided with tree constraints which demonstrates that the proposed dwelling numbers can be achieved whilst adhering with the requirements of BS5837:2012 Trees in Relation to Design, Demolition, and Construction – Recommendations.
- 3.13 Therefore the Landscape Officer was not satisfied that the submission demonstrated adequately that the site can accommodate the number of dwellings proposed without impact on trees, which provided the basis for one of the grounds of refusal.
- 3.14 In response the developer has submitted a testing layout plan, which has now been examined by the Landscape Officer. She has commented that the plans in the testing layout draft text document and the two plans showing tree constraints and amenity constraints do not show exactly the same layout. Nevertheless, in principle, it gives greater confidence that a layout could be secured which retained high value trees, although, the full implications for trees would only be ascertained with a reserved matters application.
- 3.15 However, a comprehensive tree protection plan, detailed Arboricultural Impact Assessment and Arboricultural Method Statement will be required with any future reserved matters submission once a definitive site layout is known. This could be secured by condition. As this matter can be dealt with at the reserved matters stage, there is no reason to withhold outline planning permission on these grounds.

Design

- 3.16 Although this is an outline application, it is important to ensure that the design parameters and principles are in tune with the character of the settlement. Whilst there are no heritage assets in the vicinity and the conservation area is focused on the historic heart of the village, Audlem Road is an important gateway into the village, helping in forming impressions of the settlement, some distance from its historic heart.

The landform and vegetation on this route into the village create a very open and quite panoramic aspect, rather than there being strong channelled views down the road into the village. This means that the development has the potential to significantly alter impressions of Audlem as a place, especially as the edge of the settlement is quite informal and the existing grain of the area is of lower density, plots with substantial frontages, setting buildings away from the street edge.

- 3.17 In respect of the original submission, the Council's Urban Design Officer expressed concerns that grafting a housing estate onto the edge of the village could result in development that contrasted very markedly and negatively if the density uncomfortably exceeds this lower density character. This, in conjunction with the relatively weak landscape defining the edges of the site, with relatively low hedges and few trees would mean that such development could appear somewhat alien to this distinctive rural settlement.
- 3.18 The presence of green space in the established street scene on Cheshire Street further reinforces the lower density character and grain of this part of the village, which contrasts with the higher density of the village centre. This creates a hierarchy in the established townscape that it is important to reinforce in considering the character of new development on the periphery of the village.
- 3.19 Linked to the above, the relationship with the countryside edge is also important in ensuring a development that fits into the villagescape and its rural setting.
- 3.20 Therefore some key issues arose from the initial submission:
- Concern as to whether the proposed number of 120 units is appropriate to this fringe location of the village - this could lead to a development out of context to its setting and the adjacent built character of the village
 - There needs to be strong green edges to the scheme on the north and eastern boundaries to help integrate the development into the setting of the village and to help create filtered views. The eastern edge does not offer sufficient space to achieve this at present
 - The illustrative information indicates the housing on the western edge of the site turning its back on the interface with countryside. This is a missed opportunity and long term could prejudice the hedgerows
 - Scale of buildings – the Design and Access Statement states majority of the buildings would not exceed 2.5 storey. 2.5 storey should be very limited in use and 2 storey should be the prevailing character. The height parameters should be provided.
 - Whilst the need to vary the density to add urban design interest and avoid an estate like character is understood, care is needed not to create an overly dense and urban character. As stated above, there is an established density hierarchy, with higher density at the

village centre. Getting this wrong would make the scheme very prominent and also unsatisfactory

- There is not enough information to establish strong design principles for the new development. This means that this type of work will have to be done at the reserved matters, probably working with in-house design teams rather than urban designers/landscape architects which has proved troublesome in negotiations on other sites, weakening scheme quality
- In terms of access through the site, it is unclear whether the meandering loop in the west is the best position for the primary street. Street design should be as informal as possible and these principles should be embedded as part of the design principles. The illustrative layout makes it difficult to gauge the impact of vehicle parking, some areas could become dominated by frontage parking.
- It is positive that the central open space is central. However, it is important that housing is sufficiently set away from the play facility whilst still creating overlooking. Also a lower density scheme could also offer opportunity for provision of modest allotment or other growing space
- Although a Building for Life 12 assessment has not been undertaken, it is unlikely that 12 “green lights” would be achieved at this stage, based on the information submitted.

3.21 A significant amount of additional information has been submitted with the revised application which largely responds to the concerns raised in respect of the previous application. However, based on the indicative layout, there are a number of issues raised, which will need to be addressed at reserved matters stage. These are:

1. The development should be seeking to create a focal grouping to the rear of the area of open space at the heart of the site. The illustrated arrangement looks somewhat awkward. A well designed, linear terrace would work more effectively here.
2. The development in the north eastern corner encroaches a little too close to the Audlem Road frontage and it is considered that this edge should be more generous to enable more landscaping and set housing frontages further from the street
3. The principle of street trees should be extended to the remainder of the principal street, to reinforce the movement hierarchy and create further green structure in the heart of the scheme
4. There is support for the general principles in terms of character areas, but, for such a modest scheme there may be scope to further de-formalise the street design (variations in street width, informal on-street parking, single footway on sections of street, shared surfaces. The width of the shared surface seems generous at 9.5 metres, unless this is also accommodating parking.
5. Care needs to be taken to positively integrate frontage parking. Frontage landscaping will be important to break up and screen parking in street scenes

6. In respect of front boundaries there should be more use of hedging and less of Cheshire railings. There is also potential for other boundaries such as cottage style fencing
- 3.22 Given the above, there is an argument for a slight reduction in the number of units (circa 5) to accommodate the suggested layout changes. This could be secured by condition. However, subject to this it is considered that the previous reason for refusal has been overcome.

Amenity

- 3.23 The site is surrounded by open countryside and school playing fields to the north, west and east. The only adjoining dwellings are those to the south of the site, comprising eight semi-detached houses at Daisy Bank Crescent, which back towards the site at varying orientations, and a row of four recently constructed terraced properties at Little Heath Barns.
- 3.24 It is generally regarded that a distance of 21m between principal windows and 13m between a principal window and a flank elevation are required to maintain an adequate standard of privacy and amenity between residential properties. It is also considered that a minimum private amenity space of 50sq.m for new family housing should be provided.
- 3.25 The layout and design of the site are reserved matters. As initially submitted the framework development proposals gave no indication of whether the proposed number of dwellings could be accommodated on the site whilst maintaining these minimum standards. Therefore, in the absence of an indicative layout or any testing layouts it was considered that the applicant had failed to demonstrate that the proposal complies with Policy BE1 (Amenity) of the adopted Local Plan.
- 3.26 However, a full indicative layout has now been submitted with the revised application which shows that 120 dwellings can be accommodated on site whilst maintaining the required separation distances both to existing dwellings surrounding the site, and between proposed dwellings within the site. The proposed reduction to 115 units gives further comfort on this issue. On the basis of this additional information it is now considered that the proposal complies with Policy BE1 of the Local Plan and that the previous reason for refusal has been overcome.

Health Provision

- 3.27 The Audlem Medical Practice has objected to the proposals on the grounds of lack of capacity to accept new patients arising from the development. As part of its previous consideration of this application, Strategic Planning Board resolved to contest the Appeal, on the grounds of the lack of a contribution towards medical infrastructure.

- 3.28 In order to address this issue, a note has been submitted with the revised application which states that:

It is noted that this was not a reason proposed by Officers and evidence regarding need was not set out in the Officers Report.

It must also be noted that the provision of GP services is now the responsibility of CCGs (Clinical Commissioning Groups) who decide how to provide and fund these services across a range of Medical Practices. It is noted that the NHS South Cheshire CCG themselves have not objected to the scheme or written to support the objection of the Audlem Practice. Further, we are aware of applications for 1,383 dwellings in and around Crewe² which have recently been reported to Committee (and which all fall within the South Cheshire CCG) and for which no contributions for medical facilities has been requested. This clearly indicates there is capacity on a CCG-wide basis; the CCG might decide to use some of this to change the way GP Services are managed in Audlem.

Further, as we discussed, new demand on health services is met by national funding within a few years.

However, what is clear is that those providing GP services in Audlem consider there is a capacity issue, although they have not volunteered a way in which this could be resolved.

Accordingly, at this stage, we consider that a pragmatic and proportional approach to mitigate the capacity issues which the Medical Practice brought to the attention of Members is through the payment of a s106 contribution.

We have discussed possible methodological approaches which could be adopted.

However, most require additional detailed information which the appellant does not currently have access to.

To benchmark what level of contribution maybe appropriate, we have considered examples from our experience of similar developments elsewhere in England. In the case of Essex NHS we agreed a commuted sum of £89,868 for 165 dwellings. On a per dwelling basis, this would equate to a contribution of £545 per dwelling. Further, we are discussing contributions for a scheme within Leicestershire where the CCG have requested a contribution of £62,869 to provide additional capacity of 441 new patients, equating to £292 per dwelling.

Applying these two ratios would indicated contributions for 120 dwellings of £65,400 and £31,440 respectively.

However, mindful of the strength of concern expressed by the frontline practitioners in Audlem, we propose a contribution of £100,000 be paid to the Council for the enhancement of medical provision within Audlem. This should be sufficient for a solution to be found to fund the gap between additional patients moving into the village and new NHS funding being provided.

- 3.29 The applicant has subsequently, reviewed the second calculation example given and commented that, in that case, some capacity existed, meaning that it is not appropriate to apportion the sum across all the dwellings and apply this to the case in Audlem where it is claimed that there is no capacity at all.
- 3.30 They have therefore amended this to be calculated on a per person basis, rather than per dwelling which results in a slightly higher indicative figure. The PCT had requested a contribution of £62,869 to provide additional capacity for 441 new patients, based on an average household size of 2.42. This equates to a contribution of £142 per new patient.
- 3.31 Applying these two ratios indication contributions in the Audlem case:
- 120 dwellings x £545 = £65,400
 - 120 dwellings x 2.42 occupation rate x £142.56 = £41,400.
- 3.32 Taking all of the above into account, at present the developer considers that a contribution of £100,000 for the enhancement of medical provision within Audlem to be an appropriate sum to mitigate the impact of the proposal.
- 3.33 Cheshire East does not, at present, have a formula for calculating suitable contributions towards healthcare provision. However, the approach taken by the developer has clearly been found to be acceptable by other authorities and, in the absence of a Cheshire East policy, is considered to be a reasonable approach.
- 3.34 However, given that the developer proposed £100,000 for 120 dwellings and the need is generated on a per person basis, it is logical to reduce it on a pro rata basis. This would equate to:
- 120 dwellings x 2.4 average people per dwelling = 288 'new' residents
 - £100,000 / 288 = £347.22 per person.
 - 115 x 2.4 = 276 'new' residents
 - 276 x £347.22 = £95,833
- 3.35 On this basis, a medical contribution of £95,833 is proposed for a scheme of 115 dwellings. It is therefore concluded that this proposed

contribution is justifiable under the CIL Regulations and overcomes the Members previous reason for refusal.

4.0 Conclusion

- 4.1** On the basis of the above, it is considered that the Council should withdraw the on trees, design, amenity and medical infrastructure and agree with the Appellant not to contest the issue at Appeal, subject to the imposition of appropriate conditions and the Appellant agreeing to the necessary Section 106 contributions.

5.0 Recommendation

- 5.1** That the Committee resolve to withdraw the fourth, fifth, sixth and seventh reasons for refusal in respect of trees, design, amenity and medical infrastructure and to instruct the Interim Planning and Place Shaping Manager not to contest the issues at the forthcoming public inquiry.

- 5.2** Resolve to enter into a Section 106 in respect of the forthcoming Appeal to secure the Heads of Terms set out below.

- £12,000 for speed limit changes
- £261,483 for secondary education
- £95,833 for medical provision
- Provision of minimum of 1725sqm and of shared recreational open space and 2300sqm of shared children's play space to include a skatepark
- Private residents management company to maintain all on-site open space, including footpaths
- Provision of off-site footpath link
- 30% of the total dwellings as affordable with the tenure split of the affordable dwellings being 65% affordable rented and 35% intermediate.
- Detailed scheme of size, number, tenures and types of affordable dwellings to be submitted with each phase of reserved matters
- Affordable housing to be pepper-potted,
- Affordable housing to be provided no later than occupation of 50% of the open market dwellings (or 80% if the development is phased and has high levels of pepper-potting),
- Affordable housing to be built to meet the Design & Quality Standards required by the Homes & Communities Agency and meets Code for Sustainable Homes Level 3.
- Affordable housing to be transferred to and managed by a Registered Provider as set out in the Housing Act 1996.

6.0 Risk Assessment and Financial Implications

- 6.1** There is a risk that if the Council continues to pursue the trees, design, amenity and medical infrastructure reasons for refusal at Appeal, when the outstanding information has now been received and the issues can be adequately dealt with via conditions and Section 106 obligations, a successful claim for appeal costs could be made against the Council on the grounds of unreasonable behaviour.
- 6.2** There would also be an implication in terms of the Council's own costs in defending the reasons for refusal.
- 6.3** There are no risks associated with not pursuing the reasons for refusal at Appeal.

7.0 Consultations

Borough Solicitor

- 7.1** The Borough Solicitor has been consulted and recommends the withdrawal of the reason for refusal.

Landscape Officer and Urban Design Officer

- 7.2** The Council's Landscape Officer and Urban Design Officer have been consulted and recommend the withdrawal of the reason for refusal.

8.0 Reasons for Recommendation

- 8.1** To ensure that an approved scheme for essential affordable housing within the rural area is delivered.

For further information:

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Background Documents:

Applications 13/2224N