

CHESHIRE EAST COUNCIL

SOUTHERN PLANNING COMMITTEE – URGENT ITEM

Date of report: 17th April 2015
Report of: David Malcolm – Head of Planning (Regulation)
Title: Land Spinney Drive, Weston.

1.0 Purpose of Report

- 1.1 To consider the withdrawal of the first reason for being minded to refuse relating to planning application 14/0841N for the residential development of 4 detached houses.
- 1.2 This has been brought to Southern Committee as an 'Urgent Item' due to the impending appeal timescales and the need for a speedy decision to minimise the risk of costs to the Council.

2.0 Decision Required

- 2.1 To agree to the withdrawal of reason 1 for being minded to refuse in respect of the provision of affordable housing and to instruct the Head of Planning (Regulation) not to contest this issue at the forthcoming Appeal.

3.0 Background

- 3.1 On the 25th March 2015, Southern Planning Committee considered an application for a residential development of 4 detached houses.
- 3.2 Members resolved that they were minded to refuse the application for the following reasons:
 - 1. ***The proposed development would not deliver a contribution to affordable housing contrary to the requirements of Policy RES.7 of the Borough of Crewe and Nantwich Replacement Local Plan and the Interim Planning Statement: Affordable Housing (February 2011). The lack of this affordable housing therefore means that the development would not deliver sustainable development contrary to the requirements of the National Planning Policy Framework.***
 - 2. ***The proposed development would have an overbearing impact that would over dominate the dwellings fronting 6 and 7 Westmere Close having a detrimental impact upon residential amenity, contrary to Policies BE.1 (Amenity) and***

***BE.2 (Design) of the Borough of Crewe and Nantwich
Replacement Local Plan.***

- 3.3 The application is now the subject of an appeal against non-determination.

Context

- 3.3 On 28th November 2014 National Planning Policy was changed with regard to Section 106 planning obligations. The main change that has implications for this decision is as follows:
- 3.4 For sites of 10 units or less, and which have a maximum combined gross floorspace of 1,000 square meters, affordable housing and tariff site contributions should not be sought.
- 3.5 The purpose of these changes is to lower the construction cost and increase housing supply. Government believes that it will encourage development on smaller brownfield sites and boost small and medium sized developers.
- 3.6 The Local Plan Inspector has now published his interim views based on the first three weeks of Examination. He has concluded that the council's calculation of objectively assessed housing need is too low. He has also concluded that following six years of not meeting housing targets a 20% buffer should also be applied.
- 3.7 Planning law requires that planning applications must be determined in accordance with the development plan, unless material considerations indicate otherwise (section 38(6) of the Planning and Compulsory Purchase Act 2004).
- 3.8 For Cheshire East, the development plan currently consists of the saved policies within the adopted Local Plans for the former authorities. However since Cheshire East was formed, the Council has approved for development control policies an Interim Planning Statement on Affordable Housing. In addition the Cheshire East Local Plan Strategy (March 2014) has been submitted to the Inspectorate however the examination has been formally suspended.
- 3.9 The Interim Planning Statement on Affordable Housing was produced because the three adopted Local Plans contained differing policies for affordable housing, did not reflect the most up to date Strategic Housing Market Assessment and was superseded by National Planning Guidance. It was adopted by the Council in February 2011 for the determination of planning applications pending the adoption of the forthcoming Local Plan Strategy. Therefore while it is not part of the development plan, it is a material consideration.
- 3.10 This Interim Planning Statement sets the threshold for negotiation to 15 units or more or greater than 0.4 hectare in settlements of 3,000 or

more and in settlements of less than 3,000 then 0.2 hectare or 3 dwellings.

- 3.11 The Local Plan Strategy (Submission Version – March 2014) sets the threshold for negotiation at 15 or more dwellings (or 0.4 hectare) in the Principal Towns and Key Service Centres and 3 or more dwellings (or 0.2 hectare) in Local Service Centres and all other locations.

Consequences

- 3.12 The Interim Planning Statement on Affordable Housing is a material planning consideration, along with Local Plan Strategy (Submission Version –March 2014) and national planning guidance. The National Planning Policy Framework (NPPF) and National Planning Policy Guidance (NPPG) provide the national policy framework and guidance for consideration of applications. These all must be considered as a material consideration in the assessment of a planning application.
- 3.13 In the case of this application, which is currently the subject of an appeal, it is considered that the advice within the NPPG should be accepted and that the threshold for affordable provision would be for developments over 10 units. It is likely that the Planning Inspector would also give greater weight to the NPPG and to continue with the first reason for refusal would be likely to attract an award of costs against the Council.

4.0 Planning Balance and Conclusion.

- 4.1 The reason for refusal on affordable housing grounds is contrary to the NPPG and there are no other material considerations to balance against that guidance. As such it is recommended that the first reason for refusal is withdrawn and the appeal is allowed to progress having regard to the second reason for refusal.

5.0 Recommendation

- 5.1 To agree to the withdrawal of reason 1 for being minded to refuse in respect of the provision of affordable housing and to instruct the Head of Planning (Regulation) not to contest this issue at the forthcoming Appeal.

6.0 Risk Assessment and Financial Implications

- 6.1 There is a significant risk that if the Council continues to pursue the Appeal on affordable housing provision grounds, in the light of the Government stance in the NPPG, a successful claim for appeal costs could be awarded 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.

7.0 Consultations

7.1 None.

8.0 Reasons for Recommendation

8.1 To avoid the costs incurred in pursuing an unsustainable reason for refusal at Appeal

For further information:

Portfolio Holder: Councillor Don Stockton
Officer: Philippa. Radia – Senior Planning Officer
Tel No: 01270 686757
Email: philippa.radia@cheshireeast.gov.uk@cheshireeast.gov.uk

Background Documents:

Application: 14/0841N