

STRATEGIC PLANNING BOARD

Date of Report: 12 October 2015
Report of: David Malcolm – Head of Planning (Regulation)
Title: Harman Technology Site And Adjacent Land, Ilford Way, Town Lane, Mobberley

1.0 Purpose of Report

To consider the part withdrawal of the reasons for refusal relating to outline planning application 14/0114M for a hybrid planning application for mixed-use redevelopment seeking:

- A. Full planning permission for alterations to existing employment buildings, construction of new employment buildings and installation of new over ground services, piping and ducting.
- B. Full planning permission for demolition of remaining redundant employment buildings and removal of redundant over ground services, piping and ducting.
- C. Outline planning permission for construction of up to 375 dwellings, associated infrastructure, landscaping and other associated works (means of access).

2.0 Decision Required

- 2.1 To agree to the part withdrawal of the reasons for refusal in respect of lack of affordable housing and to instruct the Head of Planning (Regulation) not to contest the issues at the forthcoming Appeal.

3.0 Background

- 3.1 On the 12th November 2014, Strategic Planning Board considered an outline application for the development as stated in Section 1.0 of this report, which included the construction of up to 375 dwellings.
- 3.2 The Applicant lodged an appeal on 2nd April 2015 to contest the reasons for refusal. The reasons for refusal are as follows:
 - 1. *Although it is accepted that extensive noise mitigation measures can be provided to achieve a satisfactory indoor living acoustic environment, the site is not suitable for residential development, due to the inability to mitigate for noise from overhead aircraft, to a satisfactory level for outside living / amenity areas, which shall remain above 57dBA Leq, 16*

hour, the threshold for the onset of significant community annoyance. This is contrary to Paragraph 123 of the National Planning Policy Framework: Avoid noise from giving rise to a significant adverse impact on health and quality of life. It is considered that the new development is not appropriate for its location, due to the effects of pollution on health and general amenity. Therefore, the development is contrary to Paragraph 120 of the National Planning Policy Framework.

2. *The Council acknowledge that housing applications should be considered in the context of the presumption in favour of sustainable development, the lack of a five year land supply of deliverable housing sites in Cheshire East, plus the planning benefits new housing would bring. However, this major housing development would have a significant adverse impact upon the character of the village of Mobberley contrary to policies BE1, H12 and DC1 within the Macclesfield Borough Local Plan 2004, and guidance within the National Planning Policy Framework, which state that permission should be refused for development that fails to take the opportunities available for improving the character and quality of an area and the way it functions. These adverse impacts would significantly and demonstrably outweigh the benefits of the proposal and would therefore be contrary to the National Planning Policy Framework.*
3. *The Local Planning Authority does not consider that sufficient affordable housing has been provided as part of the scheme. As a result it is not considered that the proposal would create a sustainable, inclusive, mixed and balanced community and would be contrary to the Interim Planning Policy on Affordable Housing and Policy H8 (Provision of Affordable Housing) of the Macclesfield Borough Local Plan and paragraph 50 of the National Planning Policy Framework in respect of the provision of inclusive and mixed communities.*
- 3.3 The application is now the subject of an Appeal. However, since that time discussions have taken place with the Council's legal representation and Counsel has recommended that the reason for refusal issued on the grounds of insufficient affordable housing coming forward warrants reconsideration by Members.

4.0 Affordable Housing

- 4.1 Policy H8 of the Macclesfield Borough Local Plan (2004) requires the negotiation for the provision of 25% affordable housing. However, since then the Council has adopted the Interim Planning Statement on Affordable Housing which, on sites of 0.4ha or 15 or more dwellings in settlements of over 3,000 population, seeks to provide a minimum proportion of affordable housing of 30% in accordance with the recommendations of the 2010 Strategic Housing Market Assessment. This percentage relates to the provision of both social rented and/or intermediate housing, as appropriate. Normally, the Council would expect a ratio of 65/35 between social rented and intermediate housing.

In addition, this document also looks for developments of 10 or more dwellings to provide a minimum of 25% low cost housing.

- 4.2 The site falls within the Mobberley, Chelford and Alderley Edge sub area for the purposes of the Strategic Housing Market Assessment update 2013. This highlights a requirement for 87 affordable homes per annum for the period 2013/2014 to 2017/2018, broken down this is a requirement for 16 x 1bed, 17x 2bed, 11x 3bed and 13x 4plus bed general needs units and 9x 1bed and 22x 2+bed older persons accommodation. In addition, information taken from Cheshire Homechoice (the Council's choice based lettings system) shows there are currently 32 live applicants who have selected the Mobberley lettings area as their first choice. These applicants require 5x 1bed, 13x 2bed and 13x 3bed units.
- 4.3 A Viability report was submitted with the application proposals in order to establish how much affordable housing the applicant is able to provide through the planning application process. The applicant has stated that due to exceptional or abnormal costs to be taken into account, the original application included for 5% of dwellings in the development to be affordable. Following discussions and assessment by a financial consultant, the applicant has increased this affordable housing offer to 15%, with an affordable mix of 50% social housing and 50% intermediate housing. Whilst the housing mix was agreed, the Council's external advice was that a further viability review would be needed at the time of the Reserved Matters application and subject to market conditions, an affordable housing offer of up to 23% may be achievable.
- 4.4 Members were also guided that the offer from the applicant to provide the two storey office development comprising approximately 1,431m²/15,403ft² gross floorspace, should it be deliverable would have had an impact on the level of affordable housing provided.
- 4.5 The Strategic Planning Board has approved many applications with a reduced percentage of affordable dwellings. This has been solely on the basis that a viability case has been put forward to ensure that affordable housing is not being sacrificed at the benefit of the developer's profit. If it can be demonstrated that the developers profit margin is not unreasonable and the house build costs and sales costs, along with any abnormal costs are reasonable, then it is relatively commonplace for the amount of affordable housing to be reduced.
- 4.6 It is considered that a viability appraisal was submitted for this application and that following an independent assessment that between 15% and 23% affordable homes could be provided it is considered that it will be extremely difficult to defend the Council's affordable housing reason for refusal at appeal. Appeal Decisions affirm this view that an Inspector would not consider that insufficient affordable housing has been provided as part of the scheme, as long as the case for viability has been robustly assessed.

- 4.7 The Housing Strategy and Needs Manager agrees with the approach offered by the applicant to justify the amount of affordable homes to be offered and this reason for refusal can be withdrawn.

5.0 Planning Balance and Conclusion.

- 5.1 The proposal is contrary to development plan policy H8 and Interim Planning Statement on Affordable Housing, insofar that the 15% to 23% provision of affordable housing is below the 30% target set by policy. Therefore, the presumption is against the proposal unless material considerations indicate otherwise.
- 5.2 The most important material consideration in this case is the NPPF which states at paragraph 49 that housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
- 5.3 In this case, the development would provide market and some affordable housing to meet an acknowledged shortfall.
- 5.4 Taking account of the viability assessment it is considered that the proposal would create a sustainable, inclusive, mixed and balanced community in this respect. The proposal would also have some economic benefits in terms of jobs in construction, spending within the construction industry supply chain and spending by future residents in local shops. Members will be aware of similar arguments, around viability, which have been accepted elsewhere, where housing developments have been considered to be sustainable.
- 5.5 Reasons 1 (on the inability to mitigate for overhead aircraft noise) and 2 (the adverse impact on the character of the village of Mobberley), shall remain as being defensible at appeal and would be sufficient to outweigh the benefits in terms of housing land supply in the overall planning balance.
- 5.6 On the basis of the above, it is considered that the Council should withdraw part of the reason for refusal which relates to affordable housing and contest the Appeal on noise from overhead aircraft and character grounds only.

6.0 Recommendation

- 6.1 To agree to the part withdrawal of the reasons for refusal in respect of affordable housing and to instruct the Head of Planning (Regulation) not to contest this issue at the forthcoming Appeal. The appeal will still be contested on noise from aircraft and character grounds. The appeal will be defended on the following grounds:

1. *Although it is accepted that extensive noise mitigation measures can be provided to achieve a satisfactory indoor living acoustic environment, the site is not suitable for residential development, due to the inability to mitigate for noise from overhead aircraft, to a satisfactory level for outside living / amenity areas, which shall remain above 57dBA Leq, 16 hour, the threshold for the onset of significant community annoyance. This is contrary to Paragraph 123 of the National Planning Policy Framework: Avoid noise from giving rise to a significant adverse impact on health and quality of life. It is considered that the new development is not appropriate for its location, due to the effects of pollution on health and general amenity. Therefore, the development is contrary to Paragraph 120 of the National Planning Policy Framework.*
2. *The Council acknowledge that housing applications should be considered in the context of the presumption in favour of sustainable development, the lack of a five year land supply of deliverable housing sites in Cheshire East, plus the planning benefits new housing would bring. However, this major housing development would have a significant adverse impact upon the character of the village of Mobberley contrary to policies BE1, H12 and DC1 within the Macclesfield Borough Local Plan 2004, and guidance within the National Planning Policy Framework, which state that permission should be refused for development that fails to take the opportunities available for improving the character and quality of an area and the way it functions. These adverse impacts would significantly and demonstrably outweigh the benefits of the proposal and would therefore be contrary to the National Planning Policy Framework.*

Also resolve to enter into a planning agreement in accordance with the S106 Town and Country Planning Act to secure the Heads of Terms for a S106 Agreement.

Heads of Terms for a Legal Agreement:

- 15% to 23% Affordable Housing (50% social or affordable rent, and 50% intermediate tenure);
- A contribution of £737,548.00 is required towards primary education;
- A contribution of £247,483.00 towards highway improvements to be made to junctions at A537 Brook Street and at Adams Hill;
- Undertaken to provide a detailed Travel Plan for both the residential and commercial parts of the development to reduce traffic on the local highway network;
- Speculative new build office space (15,403 sq ft) of speculative across 2 floors with 34 car parking spaces, to be developed if demand can be established through a 36 month agreed marketing process and period;
- Provision of 8.4ha (20.6 acres) of open space (estimated cost £925,000) comprising; 18 allotments on approx 0.7 acres. Including a Football pitch, Public open space around football pitch item, car parking for POS/football pitch, changing rooms to Sport England standards (Circa £925,00.00);

- A 15 year sum for maintenance of the open space will be required IF the Council agrees to the transfer of the open space to CEC on completion. (Circa £250,00.00);
- Provision of a LEAP, two LAP's and a linear park and other incidental open space/landscaping within the residential area;
- Alternatively, arrangements for the residential open space to be maintained in perpetuity will need to be made by the developer, subject to a detailed maintenance schedule to be agreed with the council, prior to commencement; and
- Further viability testing throughout the development.

7.0 Risk Assessment and Financial Implications

- 7.1 There is a risk that if the Council continues to pursue the Appeal on affordable housing viability grounds, that a successful claim for appeal costs could be made against the Council on the grounds of unreasonable behaviour.
- 7.2 There would also be an implication in terms of the Council's own costs in defending the reasons for refusal. The Council would struggle to make a case that the viability appraisal undertaken is not robust and would not be able to defend why a different approach has been taken to this application with regards to affordable housing provision than elsewhere.

8.0 Consultations

- 8.1 None.

9.0 Reasons for Recommendation

- 9.1 To avoid the costs incurred in pursuing an unsustainable reasons for refusal at Appeal.

For further information:

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Background Documents:

Application 14/0114M