

CHESHIRE EAST COUNCIL

SOUTHERN PLANNING COMMITTEE REPORT

Date:	10 th November 2015
Report of:	Sue Orrell – Principal Planning Officer
Title:	Update following the resolution to approve application 15/2101C subject to a S106 Agreement
Site:	Land at Cardway Cartons Linley Lane Alsager

1.0 Purpose of Report

- 1.1 To consider an alteration to the committee resolution for application 15/2101C. This application has a resolution for approval subject to the completion of a S106 Agreement.
- 1.2 The report has been presented to Southern Planning Committee because the original application was considered by the Committee at the meeting on 28th October 2015.

2.0 Decision Required

- 2.1 To agree the alteration to the committee resolution.
- 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 to two matters only. Firstly, the report relates to the proposed amendment to the requirements of the legal agreement which should be via a Section 111 Agreement and not a Section 106 Agreement. Secondly, to update the Heads of terms relating to the affordable housing provision.

3.0 Background

- 3.1 The application site relates to land at Cardway Cartons and open space to the rear of the Cardway complex. The open space is Council owned.

4 Proposed Development

- 4.1 Application 15/2101C seeks outline planning permission for up to 110 dwellings and 3 access points, with the means of access being applied for at this stage. The 3 access points are intended to serve 3 phases of development.

5 Previous Resolution

- 5.1 Members may recall that on 28 October 2015, the Southern Planning Committee resolved to grant outline planning permission for the housing scheme and the 3 points of access.
- 5.2 The resolution to approve was subject to completion of Section 106 Agreement making provision for financial contributions for a variety of matters, provision and future maintenance of an on site NEAP, creation of residents management scheme for on site incidental open space and ecological area, 30% affordable housing and a number of conditions as follows:

RESOLVED – APPROVED subject to 106 Legal Agreement to Secure:

- **Affordable housing:**
 - **30% of all dwellings to be affordable (65% social or affordable rented and 35% intermediate tenure)**
 - **A mix of 2 , 3 bedroom and other sized properties to be determined at reserved matters**
 - **units to be tenure blind and pepper potted within the development, the external design, comprising elevation, detail and materials should be compatible with the open market homes on the development thus achieving full visual integration.**
 - **constructed in accordance with the Homes and Communities Agency Design and Quality Standards (2007) and should achieve at least Level 3 of the Code for Sustainable Homes (2007).**
 - **no more than 50% of the open market dwellings are to be occupied unless all the affordable housing has been provided, with the exception that the percentage of open market dwellings that can be occupied can be increased to 80% if the affordable housing has a high degree of pepper-potting and the development is phased.**
 - **developer undertakes to provide the social or affordable rented units through a Registered Provider who are registered with the Homes and Communities Agency to provide social housing.**
- **Contribution of £ 227,772.09 (21 x 11919 x 0.91) towards primary education. This contribution is based on 110 units and will phased on pro rata basis and be required to be paid on first occupation of each phase (pro rata) of the development of the site**
- **Contribution of £277,826 (17 x 17959 x 0.91) towards secondary education. This contribution is based on 110 units and will phased on pro rata basis and be required to be paid on first occupation of each phase (pro rata) of the development of the site**
- **Commutated Sum for off-site enhancement works of £ 19,762.75 in lieu of the loss of protected open space – to be spent at Merelake Way footpath/ Green Corridor**

- **Provision of on site NEAP (8 pieces of equipment) and a 25 years commuted maintenance sum of £75,799**
- **Contributions of £29,799 as maintenance payment for on site POS (not incidental areas of open space/ ecological area/buffer zones)**
- **Bus Shelter Contribution of £25,000 to upgrade two local bus stops to quality partnership specification located within the vicinity of the development site**
- **Off – site highway contribution of £100,000**
- **Travel Plan monitoring payment of £5000 (£1000 per annum for 5 years)**
- **Private residents management company to maintain all on-site incidental open space/buffer zones/ ecological area (not the 3 areas of formal open space/childrens play space)**

And the following Conditions;

- 1. Standard Outline**
- 2. Submission of Reserved Matters**
- 3. Time limit for submission of reserved matters**
- 4. Approved Plans – (parking layout/driveways and courts size/position/ use not approved on indicative masterplan**
- 5. Electric vehicle infrastructure shall be provided on car parking spaces/ each dwelling**
- 6. 6870 square metres of useable formal open space and childrens play space shall be provided within the site (not including noise buffer zones or incidental spaces/verges)**
- 7. Pile driving limited to 08:30 to 17:30 Monday to Friday, 09:00 – 13:00 Saturday and not at all on Sundays**
- 8. The developer shall agree with the LPA an Environmental Management Plan (EMP) with respect to the construction phase of the development. The EMP shall identify all potential dust sources and outline suitable mitigation. The plan shall be implemented and enforced throughout the construction phase.**
- 9. Prior to the commencement of development an additional Phase II Contaminated Land Assessment shall be submitted to the LPA for approval in writing.**
- 10. The development hereby permitted shall not be commenced until such time as; a scheme to limit the surface water run-off generated by the proposed development, has been submitted to and approved in writing by the local planning authority.**
- 11. The development hereby permitted shall not be commenced until such time as; a scheme to manage the risk of flooding from overland flow of surface water has been submitted to and approved in writing by the local planning authority.**
- 12. Noise mitigation to be submitted and implemented to achieve a good standard and the proposed mitigation for the gardens closest to potential noise sources will require the recommended design criteria of <55dB LAeq to be achieved.**

13. No development shall take place until a scheme has been submitted to and approved in writing by the local planning authority showing how at least 10% of the predicted energy requirements of the development will be secured from decentralised and renewable or low-carbon sources. The scheme shall be implemented as approved and retained thereafter.
14. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority.
15. 105 units maximum
16. Any reserved matters application for housing to include detailed proposals for the incorporation of features into the scheme suitable for use by roosting bats and breeding birds including swifts and house sparrows. Such proposals to be agreed by the LPA. The proposals shall be permanently installed in accordance with approved details.
17. Works should commence outside the bird breeding season
18. No trees shall be removed without the prior approval of the LPA.
19. Landscaping Scheme including details of boundary treatments to be submitted
20. Submission of Statement Design (site wide) of part of 1st reserved matters principles to take into account, the Master Plan and the Parameters Plan and to include the principles for:
 - determining the design, form, heights and general arrangement of external architectural features of buildings including the roofs, chimneys, porches and fenestration;
 - determining the hierarchy for roads and public spaces;
 - determining the colour, texture and quality of external materials and facings for the walls and roofing of buildings and structures;
 - the design of the public realm to include the colour, texture and quality of surfacing of footpaths, cycleways, streets, parking areas, courtyards and other shared surfaces;
 - the design and layout of street furniture and level of external illumination;
 - the laying out of the green infrastructure including the access, location and general arrangements of the children's play areas, open space within the site
 - sustainable design including the incorporation of decentralised and renewable or low carbon energy resources as an integral part of the development
 - ensuring that there is appropriate access to buildings and public spaces for the disabled and physically impaired.

- scale parameters for 2.5 storey buildings (maximum) on key parts of the site
 - SUDS details to be submitted
 - All subsequent phases and reserved matters to comply with overall strategy unless otherwise agreed
21. Reserved Matters to include Arboricultural Implication Study (AIS) in accordance with para 5.4 of BS5837:2012 Trees in Relation to Design, Demolition and Construction - Recommendations , Constraints and Tree Protection Plan and Arboricultural Method Statement
 22. Landscaping implementation
 23. Umbrella Travel Plan to be submitted with 1st reserved matters and each Phase of development to include travel plan
 24. scheme to manage the risk of flooding from overland flow
 25. Existing and proposed levels to be submitted as part of each phase/ each reserved matters application whichever is sooner.
 26. Each phase to include an area of useable public open space as detailed on plan 14-028-P-001 Rev B with access strategy from wider area
 27. first reserved matters application to provide a detailed design/management regime for the Ecological Area

5.3 As the application site includes land which is still owned by the Council it becomes a legal impossibility for the Council to enter into a S106 Agreement with itself as landowner and Local Planning Authority. Therefore the Section 111 route is the most appropriate mechanism.

5.4 The Heads of Terms resolved to be imposed by Committee, paying specific regard to the affordable housing provision on site referred to the Code for Sustainable Homes Level 3 requirement, which is a matter that is now delivered via the Building Regulations. It is therefore proposed to omit this from the resolution.

6 Officer Comment

6.1 The S111 route envisages the completion of a S111 Agreement with a draft S106 attached. Once permission is issued and the sale is completed (within 6 weeks of the sale), then the S106 will be completed.

6.2 The same Heads of Terms, with the exception of Code for Sustainable Homes, which is now dealt with under the Building Regulations, will be secured just via an appropriate mechanism given the Council's ownership of the site.

7. Conclusion

- 7.1 On the basis of the above, the committee resolution should be amended.

8. Recommendation

- 8.1 The Southern Planning Committee resolve to alter the committee resolution as follows:

RESOLVED – That, for the reasons set out in the report, the application be APPROVED, subject to the satisfactory completion of a Section 111 Agreement with a Draft S106 attached Legal Agreement to Secure:

- **Affordable housing:**
 - **30% of all dwellings to be affordable (65% social or affordable rented and 35% intermediate tenure)**
 - **A mix of 2 , 3 bedroom and other sized properties to be determined at reserved matters**
 - **units to be tenure blind and pepper potted within the development, the external design, comprising elevation, detail and materials should be compatible with the open market homes on the development thus achieving full visual integration.**
 - **no more than 50% of the open market dwellings are to be occupied unless all the affordable housing has been provided, with the exception that the percentage of open market dwellings that can be occupied can be increased to 80% if the affordable housing has a high degree of pepper-potting and the development is phased.**
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- **Commuted Sum for off-site enhancement works of £ 19,762.75 in lieu of the loss of protected open space – to be spent at Merelake Way footpath/ Green Corridor**
- **Provision of on site NEAP (8 pieces of equipment) and a 25 years commuted maintenance sum of £75,799**
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- **Bus Shelter Contribution of £25,000 to upgrade two local bus stops to quality partnership specification located within the vicinity of the development site**

- Off – site highway contribution of £100,000
- Travel Plan monitoring payment of £5000 (£1000 per annum for 5 years)
- Private residents management company to maintain all on-site incidental open space/buffer zones/ ecological area (not the 3 areas of formal open space/childrens play space)

And the following Conditions;

- 1 Standard Outline**
- 2 Submission of Reserved Matters**
 - 3 Time limit for submission of reserved matters**
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 - 5 Electric vehicle infrastructure shall be provided on car parking spaces/ each dwelling**
 - 6 6870 square metres of useable formal open space and childrens play space shall be provided within the site (not including noise buffer zones or incidental spaces/verges)**
 - 7 Pile driving limited to 08:30 to 17:30 Monday to Friday, 09:00 – 13:00 Saturday and not at all on Sundays**
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 - 12 Noise mitigation to be submitted and implemented to achieve a good standard and the proposed mitigation for the gardens closest to potential noise sources will require the recommended design criteria of <55dB LAeq to be achieved.**
 - 13 No development shall take place until a scheme has been submitted to and approved in writing by the local planning authority showing how at least 10% of the predicted energy requirements of the development will be secured from decentralised and renewable or low-carbon sources. The scheme shall be implemented as approved and retained thereafter.**
 - 14 No development shall take place, including any works of demolition, until a Construction Method Statement has been**

submitted to, and approved in writing by, the local planning authority.

15 105 units maximum

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- sustainable design including the incorporation of decentralised and renewable or low carbon energy resources as an integral part of the development
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- SUDS details to be submitted
- All subsequent phases and reserved matters to comply with overall strategy unless otherwise agreed

21 Reserved Matters to include Arboricultural Implication Study (AIS) in accordance with para 5.4 of BS5837:2012 Trees in Relation to Design, Demolition and Construction -

**Recommendations , Constraints and Tree Protection Plan
and Arboricultural Method Statement**

22 Landscaping implementation

**23 Umbrella Travel Plan to be submitted with 1st reserved
matters and each Phase of development to include travel
plan**

24 scheme to manage the risk of flooding from overland flow

**25 Existing and proposed levels to be submitted as part of each
phase/ each reserved matters application whichever is
sooner.**

**26 Each phase to include an area of useable public open space
as detailed on plan 14-028-P-001 Rev B with access strategy
from wider area**

**27 first reserved matters application to provide a detailed
design/management regime for the Ecological Area**

9. Financial Implications

9.1 There are financial implications.

10. Legal Implications

10.1 The Borough Solicitor has been consulted on the proposals and raised no objections.

11. Risk Assessment

11.1 There are no risks associated with this decision.

12. Reasons for Recommendation

12.1 For the purpose of negotiating and completing a S111/S106 Agreement for application 15/2101C and to issue the planning permission.

For further information:

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Background Documents:

- *Application 15/2101C*

