

CHESHIRE EAST COUNCIL

STRATEGIC PLANNING BOARD

Date: 19th April 2017
Report of: David Malcolm – Head of Planning Regulation
Title: Update following the resolution to approve application 13/3449C – Outline application for residential development (approximately 450 dwellings)
Site: Glebe Farm, Booth Lane, Middlewich, CW10 0RP

1.0 Purpose of Report

- 1.1 Planning application 13/3449C was referred to Strategic Planning Board on 2nd April 2014. This report is to consider an update to the agreed Heads of Terms for the S106 Agreement.
- 1.2 The minutes from the meeting are as follows:

RESOLVED

That for the reasons set out in the report and in the written update to Board the application be approved subject to the completion of a Section 106 Agreement securing the following:-

1. *A contribution towards playing pitch improvements at Sutton Lane £220,000 (Sum to be paid prior to the commencement of development)*
2. *A contribution towards Middlewich Eastern Bypass of £4,780,000. If the MEB is not delivered the sum will be spent on the following highway/sustainability measures: Bus Service/Facility Improvements; Town Bridge – Signal Junction Improvements; Cycle Lanes -Towpath: Middlewich to Glebe Farm; Cycle Lanes - Carriageway Modification: Middlewich to Glebe Farm; and Cycle Lanes -Towpath: Glebe Farm to Elworth. The sum is to be submitted prior to the commencement of development.*
3. *A scheme for the provision of 10% affordable housing all to be affordable rent. The scheme shall include:*
 - The numbers, type and location on the site of the affordable housing provision*
 - The timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing*
 - The arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing if no Registered Social Landlord is involved*
 - The arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and*

- The occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

4. Provision of Public Open Space, a NEAP and LEAP to be maintained by a private management company

And subject to the following conditions:-

1. Standard Outline
2. Submission of Reserved Matters
3. Time limit for submission of reserved matters
4. Approved Plans
5. Hours of construction limited to 08:00 to 18:00 Monday to Friday, 09:00 – 14:00 Saturday and not at all on Sundays and Bank Holidays
6. Pile driving limited to 08:30 to 17:30 Monday to Friday, 09:00 – 13:00 Saturday and not at all on Sundays
7. Prior to the commencement of development a Phase I Contaminated Land Assessment shall be submitted to the LPA for approval in writing.
8. Details of external lighting to be submitted and approved
9. Dust control measures to be submitted and approved
10. Prior to the development commencing, an Environmental Management Plan shall be submitted and agreed by the planning authority.
11. A scheme for the acoustic enclosure of any fans, compressors or other equipment for the proposed retail store
12. A detailed scheme of glazing, ventilation mitigation measures and acoustic screening fences, should therefore be prepared and submitted at the Reserved Matters application stage
13. Travel Plan provision
14. Electric vehicle Infrastructure
15. The submission of a ground dissolution/brine extraction related risk assessment and proposals regarding suitable foundations designed to overcome the potential effects of brine pumping related subsidence.
16. A scheme to limit the surface water run-off from the site
17. A scheme to manage the risk of flooding from overland flow
18. The provision of a buffer to the water course
19. Provision of bird and bat boxes
20. Works should commence outside the bird breeding season
21. Access point to Booth Lane to be provided in accordance with the approved details prior to first occupation. No access for construction traffic from Warmingham Lane.
22. No development shall take place within the area until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority. The work shall be carried out strictly in accordance with the approved scheme.
23. Reserved matters application to include details of existing and proposed levels
24. Tree protection

25. *Tree retention*

26. *Arboricultural Method Statement to be submitted at the Reserved Matters stage*

27. *If the Reserved Matters application results in the loss of any ponds replacements should be provided.*

Informative:

1. *The applicant is advised that they have a duty to adhere to the regulations of Part IIA of the Environmental Protection Act 1990, the National Planning Policy Framework 2012 and the current Building Control Regulations with regards to contaminated land. If any unforeseen contamination is encountered during the development, the Local Planning Authority (LPA) should be informed immediately. Any investigation / remedial / protective works carried out in relation to this application shall be carried out to agreed timescales and approved by the LPA in writing. The responsibility to ensure the safe development of land affected by contamination rests primarily with the developer.*

In the event of any changes being needed to the wording of the Board's decision (such as to delete, vary or add conditions/informatives/planning obligations or reasons for approval/refusal) prior to the decision being issued, the Interim Planning and Place Shaping Manager has delegated authority to do so in consultation with the Chairman of the Strategic Planning Board, provided that the changes do not exceed the substantive nature of the Board's decision.

Should this application be the subject of an appeal, authority be delegated to the Interim Planning and Place Shaping Manager in consultation with the Chairman of the Strategic Planning Board 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.

- 1.3 Since the SPB resolution, above, the S106 negotiations have stalled because of the way in which the Middlewich Eastern Bypass (MEB) is intended to be delivered. As members may be aware, it has changed from being a developer-led infrastructure scheme to one which the Council is now leading on. Revised Heads of Terms are required in response to these delivery arrangements.

2.0 Decision Required

- 2.1 To amend the second schedule of the Heads of Terms of the S106 so that the proposed level of developer contribution (£4.78m) towards the Middlewich Eastern Bypass (or alternative transport measures should the MEB not be delivered) shall be paid to the Council in 4 equal

instalments - on the first occupation of 20%, 40%, 60% and 80% of the dwellings approved on the site at the Reserved Matters stage.

3.0 Background

- 3.1 The site of the proposed development extends to 15.3 ha and is located to the south of Middlewich. Although the site is within open countryside as defined in the Congleton Borough Local Plan First Review, however it is allocated for residential development in the Local Plan Strategy, forming the majority of Strategic Site CS20 Glebe Farm, Middlewich. To the north is residential development fronting Kingswood Crescent, Shilton Close, Northwood Avenue and Inglewood Avenue. To the north is agricultural land. A former sports ground is included within the site. To the east of the site is Booth Lane with the Trent and Mersey Canal beyond, to the west of the site is Warmingham Lane.
- 3.2 The majority of the site is currently in agricultural use and there are a number of trees and hedgerow to the boundaries of the site. The site also includes a number of ponds.

4 Proposed Development

- 4.1 The outline planning permission that the Council resolved to approve in 2014 is for up to 450 dwellings with an average density of 35 dwellings per hectare. All detailed matters are reserved except for access.
- 4.2 There would be two access points to serve the site; one via Warmingham Lane and the second access via Booth Lane.
- 4.3 The indicative plan shows that the site would include the provision of a linear area of public open space and a Neighbourhood Equipped Area for Play (NEAP).
- 4.4 The development would consist of a mix of house types with the maximum height being three stories in height and mainly ranging from 2-4 bedroom units.
- 4.5 The indicative plan shows that the development will include a small retail unit.

5 Officer Comment

- 5.1 Although 3 years have passed since the application was first determined at Strategic Planning Board, the principle of development is still considered to be acceptable. The site is allocated as a Strategic Site within the Cheshire East Local Plan Strategy (LPS) under Policy CS 20. The LPS is now at an advanced stage of preparation. The Council has recently consulted on draft Main Modifications. Given that the Local Plan Inspector is content with the allocation of the site, this can now be given significant planning weight. There have been some

changes to the wording of Policy CS20 since 2014 with the main change being an increase in the number of dwellings from 450 to 525 (all other changes are relatively minor). As a result the principle of this development is still considered to be acceptable, in fact arguably more acceptable.

- 5.2 The MEB is a vital piece of infrastructure, central to the LPS's development strategy for the town, that will unlock the Glebe Farm site and other allocated sites. The Glebe Farm development, alongside other development sites, would help to secure funding for the MEB.
- 5.3 At the moment it is not possible to complete the S106 as it stands and secure the required contributions for the MEB. The MEB is a major highway scheme which is listed within the Council's Infrastructure Delivery Plan.
- 5.4 The proposed staged payment of the MEB contribution would still fully comply with Policy CS20 which states that the development will secure *'financial contributions to the delivery of the Middlewich Eastern Bypass'* whilst the justification for the policy states that *'Glebe Farm presents an opportunity to deliver a high quality, sustainable residential development whilst supporting the key infrastructure through financial contributions to the Middlewich eastern Link Road'*.
- 5.5 The proposal to stagger the payment of the MEB contribution has been considered by Head of Strategic Infrastructure (Development Management Highways) and the Infrastructure Delivery Manager who both support this arrangement.

6 Conclusion

- 6.1 On the basis of the above, the changes to the S106 Heads of Terms in relation to the MEB contribution as set out below are considered to be acceptable;

A contribution towards Middlewich Eastern Bypass of £4,780,000. If the MEB is not delivered the sum will be spent on the following highway/sustainability measures: Bus Service/Facility Improvements; Town Bridge – Signal Junction Improvements; Cycle Lanes -Towpath: Middlewich to Glebe Farm; Cycle Lanes -Carriageway Modification: Middlewich to Glebe Farm; and Cycle Lanes -Towpath: Glebe Farm to Elworth. The sum is to be paid in 4 equal stages on the first occupation of 20%, 40%, 60% and 80% of the dwellings approved on the site at the Reserved Matters stage.

- 6.2 All other Heads of Terms and conditions would remain unchanged.

7 Recommendation

- 7.1 To amend the second schedule of the Heads of Terms of the S106 so that the proposed level of developer contribution (£4.78m) towards the Middlewich Eastern Bypass (or alternative transport measures should the MEB not be delivered) shall be paid to the Council in 4 equal instalments - on the first occupation of 20%, 40%, 60% and 80% of the dwellings approved on the site at the Reserved Matters stage.

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 agree to the S106 Agreement and issue a decision notice.

For further information:

Portfolio Holder: Councillor Ainsley Arnold
Officer: Daniel Evans – Principal Planning Officer
Tel No: 01270 686751
Email: daniel.evans@cheshireeast.gov.uk

Background Documents:

- *Application 13/3449C*