

# CHESHIRE EAST COUNCIL

## STRATEGIC PLANNING BOARD REPORT

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**Date:** 30 August 2017

**Report of:** David Malcolm Head of Planning (Regulation)

**Title:** Update following the resolution to approve application 15/5840C – Outline planning permission for up to 235 residential dwellings (including up to 30% affordable housing), introduction of structural planting and landscaping, informal public open space, and children’s play area, 0.22ha for a community facility (use class D1 or D2), surface water flood mitigation and attenuation, vehicular access point from Warmingham Lane and associated ancillary works. All matters to be reserved with the exception of the main site access.

LAND OFF WARMINGHAM LANE, MIDDLEWICH,  
CHESHIRE

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### **1.0 Purpose of Report**

1.1 Planning application 15/5840C was considered by Strategic Planning Board on 2 August 2017 where it was resolved to approve the application subject to A S106 Agreement and conditions and a further report to the next meeting to provide further information and clarification about phasing of contributions to the Middlewich Eastern Bypass and provision of education and affordable housing contributions, in the event that the by pass does not come forward. This report is that item.

1.2 The draft minutes from the meeting are as follows:

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

- Management Company to maintain all open space in perpetuity (including, inter alia, the NEAP, woodland, general amenity open space, village green, nature conservation area, drainage areas, ponds and any other areas of incidental open space not within private gardens or the adopted highway).
- 10% Affordable Housing

- Funding for the TROs necessary on Warmingham Lane/Travel Plan Co-ordinator (£5000)
- Contribution of £1,223,645 towards the provision of the Middlewich Eastern Relief Road with a phased contribution.
- Should the Middlewich Eastern Bypass not come forward within a reasonable time frame the money be spent on either affordable housing and/or education provision.

A report providing further information and clarification on this would be brought back to the next meeting.

And the following conditions:-

1. Standard Outline
2. Submission of Reserved Matters
3. Time limit for submission of reserved matters
4. Prior to the submission of any reserved matter application a detailed masterplan and design code shall be submitted to the LPA for approval in writing
5. The framework plan is not approved as the spatial parameters of the scheme other than establishing the overall coverage of the site with green infrastructure
6. No development shall commence until a mitigation scheme for protecting the proposed dwellings from traffic noise has been submitted to and approved by the Local Planning Authority; all works which form part of the scheme shall be completed before any of the dwellings are occupied.
7. The developer shall agree with the LPA an Environmental and Construction Management Plan (EMP) with respect to the construction phase of the development. The EMP shall identify all potential dust sources and outline suitable mitigation/ pile driving methods and hours of pile driving. The plan shall be implemented and enforced throughout the construction phase.
8. Prior to the commencement of development a Phase I Contaminated Land Risk Assessment shall be submitted to the LPA for approval in writing.
9. 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.
10. detailed design and associated management and maintenance plan of surface water drainage to accommodate (1 in 30 & 1 in 100 (+30% allowance for Climate Change)) & any temporary storage facilities included
11. Existing and proposed levels, inc FFL to be approved by Flood Risk
12. Electric vehicle charging

13. NEAP (Min 8 pieces of equipment in min 1000 m sq area) with 30m interface to adj property - details to be provided as part of 1st reserved matters
14. Reserved matters to have updated protected species assessment and detailed mitigation strategy.
15. Raft Foundations
16. Reserved matters application to be supported by an up to date tree survey, Arboricultural Impact Assessment and Arboricultural Method Statement prepared in accordance with BS 5837:2012 Guidelines.
17. Travel planning that includes provision of suitable bus shelters, provision of public transport vouchers to each household to the value of a 3 x 4-weekly Arriva travel cards on first occupation of each dwelling, and provision of one £200 cycle voucher per dwelling to be used as discount against cycle purchase.
18. Residential travel packs
19. The access to the site and associated traffic calming measures along Warmingham Lane shall be constructed in accordance with drawing no. 1279/25. implemented prior to first occupation and maintained for the life of the development.
20. Reserved matters application to provide for the retention and protection of hedgerows.
21. Reserved matters to include scheme to link site with adjoining developments
22. Phasing of development to form part of 1st reserved matters
23. Superfast broadband provision
24. Hedgehog Gaps
25. 10 Year habitat Management Plan
26. Fabric first approach to energy efficiency
27. Development /and or Each phase to incorporate a mix of units of:
  - 1 bed and/or 2 bed dwellings – between 10% and 30% of the number of dwellings
  - 3 bed dwellings – between 20% and 40% of the number of dwellings
  - 4 bed and/or 5 bed dwellings –between 20% and 40% of the number of dwellings
  - Or in accordance with mix agreed in writing by the LPA
28. Requirement to inform LPA if unexpected contamination found
29. Reserved matters to provide details of bin and bike stores

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 Head of Planning (Regulation) 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.

## **2.0 Decision Required**

- 2.1 To note and approve the detailed wording of the s106 legal agreement for Outline planning permission for up to 235 residential dwellings (including up to 30% affordable housing), introduction of structural planting and landscaping, informal public open space, and children's play area, 0.22ha for a community facility (use class D1 or D2), surface water flood mitigation and attenuation, vehicular access for land off Warmingham Lane, Middlewich

## **3 Background**

- 3.1 At the last SPB, the Board resolved that they required a 10% affordable housing provision on this site, with the acceptance that viability issue on this site meant that the contribution to the Middlewich Eastern Bypass (MEB) was reduced to £1,223,645 and that there would be no education contribution. However, it was further agreed that if the money was not spent on the bypass that it should be re-directed to education or housing in the future.
- 3.2 This note therefore provides further clarification of the details of the s106 legal agreement
- 3.3 The MEB is a vital piece of infrastructure, central to the LPS's development strategy for the town, that will unlock this development site and the other allocated sites which are also contributing to the MEB as part of the LPS42 (Glebe Farm) allocation. The development, alongside other development sites, would help to secure funding for the MEB
- 3.4 Members will recall approving revised heads of terms for the Glebe Farm development (up to 450 units) earlier this year. If the Middlewich Bypass not delivered the sum will be spent on alternative highway improvement works provided 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.
- 3.5 The Strategic Highways Manager had not identified any such alternative works in the case of this site at Warmingham Lane.
- 3.6 Therefore, Members approval is being sought for the phasing of the highways contribution and a time frame for which, should the by-pass not come forward, the contribution paid in respect of the bypass (the £1,223,645 referred to above) should be directed toward education and affordable housing requirements locally at that time.
- 3.7 The Strategic Highways Manager advises that an appropriate phasing would one payment of £611,822 payable on 1<sup>st</sup> occupation of any dwelling and a further contribution of £611,822 upon occupation of the 75<sup>th</sup> dwelling

- 3.8 The proposed staged payment of the MEB contribution would still fully comply with Policy LPS42 (Glebe Farm) 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'*
- 3.9 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
- 3.10 The proposed redistribution of the S106 payment in the event that the MEB does not come forward within 5 years from the date of the implementation of the reserved matters associated with this permission is also considered to comply with the reasoned justification of Policy LPS42 which requires relevant contributions to education and contributions to affordable housing in accordance with Policy RES5. At this point if not triggered the monies should be redirected to housing or education (to be determined at that time).

#### **4 Conclusion**

- 4.1 On the basis of the above, it is recommended that the S106 Heads of Terms in relation to the application, including the updated MEB contribution as set out below are considered to be acceptable
- **Management Company to maintain all open space in perpetuity (including, inter alia, the NEAP, woodland, general amenity open space, village green, nature conservation area, drainage areas, ponds and any other areas of incidental open space not within private gardens or the adopted highway).**
  - **10% Affordable Housing**
  - **Funding for the TROs necessary on Warmingham Lane/Travel Plan Co-ordinator (£5000)**
  - **Contribution of £1,223,645 towards the provision of the Middlewich Eastern Relief Road £611,822 payable on 1<sup>st</sup> occupation of any dwelling and a further contribution of £611,822 upon occupation of the 75<sup>th</sup> dwelling.**
  - **Should the Middlewich Eastern Bypass not come forward within 5 years from the date of the implementation of the reserved matters of this outline scheme then the MEB contribution shall be re-allocated to either affordable housing and/or education provision, with a report going back to**

**Strategic Planning Board (or any other committee which takes the responsibilities of SPB) to consider the issues for affordable housing and education provision as a result the development relevant at that time.**

**And the same conditions as detailed.**

## **5 Recommendation**

To note and approve the detailed wording of the s106 legal agreement for Outline planning permission for up to 235 residential dwellings (including up to 30% affordable housing), introduction of structural planting and landscaping, informal public open space, and children's play area, 0.22ha for a community facility (use class D1 or D2), surface water flood mitigation and attenuation, vehicular access for land off Warmingham Lane, Middlewich

## **6 Financial Implications**

6.1 There are no financial implications.

## **7 Legal Implications**

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

## **8 Risk Assessment**

8.1 There are no risks associated with this decision.

## **9 Reasons for Recommendation**

9.1 To agree the Heads of Terms to enable the Borough Solicitor to draft the legal agreement to enable a decision to be issued.

### ***For further information:***

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### ***Background Documents:***

- *Application 15/5840C*