

CHESHIRE EAST COUNCIL

STRATEGIC PLANNING BOARD

Date of meeting: 14th April 2010
Report of: Adrian Fisher, Head of Planning and Policy
Title: Report in Relation to Amendments to Section 106 Agreement for Planning Application P06/1001 for Outline Application for Redevelopment and Relocation of Existing Garden Centre Facilities, A1 and A3 Retail Units, Construction of Class C3 Residential Development, B1 Office Development, Car Parking, Ancillary Facilities and Associated Infrastructure at Stapeley Water Gardens, London Road, Stapeley.

1.0 Purpose of Report

- 1.1 To seek the approval of the Board for alterations to the requirements for a Section 106 Agreement for the redevelopment of Stapeley Water Gardens and related land which was the subject of planning application P06/1001.

2.0 Decision Required

- 2.1 Members approve the variations to the Section 106 Agreement requirements in the manner set out in paragraph 7 of this report.
- 2.2 The principle of the development was established by the resolution of the former Crewe and Nantwich Borough Council to approve the development and this report does not provide an opportunity to revisit that issue. This report relates solely to amendments to details of the Section 106 Agreement.

3.0 Financial Implications for the Council

- 3.1 Costs for staff time to vary the Agreement will be paid for by the applicant.

4.0 Legal Implications for the Council

- 4.1 The Borough Solicitor has been consulted on the proposed amendments to the Section 106 Agreement.

5.0 Risk Assessment

- 5.1 There are no risks associated with this decision.

6.0 Background and Report

- 6.1 A report on planning application P06/1001 for redevelopment of 13 ha of land at Stapeley Water Gardens was considered by the Development Control Committee of the former Crewe and Nantwich Borough Council on 20th September 2007. The application was recommended for approval subject to the applicant completing and signing a Section 106 Agreement in relation to affordable housing, phasing of the development and the provision of a master plan for the mixed use development, commuted payments for off-site highway works, the provision of an equipped play space and shared recreational open space, and a maintenance scheme for the ecological mitigation areas.
- 6.2 More specifically the recommendation which was approved, as amended by the Additional Information Report, stated:-

The application is recommended for approval with conditions subject to the applicant entering a Section 106 Agreement to secure:-

- (1) the provision of 33% affordable housing on the site with:-**
 - (a) a minimum provision of 26% for the development of Stapeley Manor site (Phase 1) and minimum provision of 37% on all subsequent phase(s) on the basis that the level of provision for each phase will be identified in the first reserved matters application and that the overall provision will be 33%, and**
 - (b) one third 1-bed units, one third 2-bed units and one third 3-bed units across the whole site and 50% social rented and 50% shared ownership in all phases of residential development,**
- (2) phasing of development and submission of a master plan to ensure that the site is brought forward as a mixed use development together with the provision and continuity of the relocated Water Gardens,**
- (3) commuted payments for off site highways works (to include signage to direct traffic away from Nantwich town centre, contributions to the Willaston to Nantwich cycle link, contributions to works for the signalised junction at Wellington Road/ Park Road junction, contributions to traffic calming in London Road and Wellington Road, a sum for completion of a cycle link on South Crofts/ Monks Lane),**
- (4) the provision of an equipped play space to be provided in the early stages of phase 2, and shared recreational open space and play space in all phases of development. A maintenance scheme for all areas of open space/ play equipment to be submitted,**
- (5) a maintenance scheme for ecological mitigation areas,**

Should the Section 106 Agreement not be completed within a period of six months from the date of the Committee meeting a further updating report will be presented to the Committee to explain the position at that time and consider any outstanding issues which may be delaying completion of the Agreement.

- 6.3 A subsequent report was presented to the Development Control Committee on 29th April 2008 which recommended that the report be received. Members received the report which noted that the developer at that time had still to confirm ownership of all the land which was the subject of the S106. Following that confirmation drafting of the Agreement would commence. The report recommended that no further action be taken by the Committee.
- 6.4 Drafting commenced and a number of meetings have been held between the Council officers and representatives of the applicant. The drafting work has continued and the applicant now wishes to make changes to the S106 agreement which is contrary to the original committee resolution by the former Crewe and Nantwich Borough Council. It is therefore necessary to consider these matters further.
- 6.5 Since the outline application for the redevelopment of Stapeley Water Gardens has been considered by the Committee, Dobbies Garden Centre has been secured to relocate the Water Garden facility, David Wilson Homes (DWH) has been secured to deliver the open market and affordable housing and Dane Housing has been identified as the preferred housing provider to take forward the affordable housing units. In addition the down turn in the economy and the detailed design of the ecological mitigation measures have led to a need to reconsider how certain aspects of the S106 requirements will be delivered.
- 6.6 It should be noted that the applicant is not seeking to remove requirements of the section 106 agreement to but alter certain details.
- 6.7 The issues which the applicant now wishes to amend relate to:-
- the provision of affordable housing,
 - the submission of the master plan and phasing of the development to deliver a mixed use site
 - the provision of open space and play space
 - the requirements of the Ecological Mitigation Strategy which formed the basis of the application.

Affordable Housing Requirements

- 6.8 In relation to the affordable housing provision, the original recommendation was for the affordable units to be split to provide one third 1-bed units, one third 2-bed units, one third 3-bed units with a total provision of 33% which equates to 50 dwellings.
- 6.9 David Wilson Homes and Dane Housing have indicated in discussion that they wish to have a choice between house types for

affordable dwellings to allow the original split of dwellings or as an alternative twelve 1-bed units, nineteen 2-bed units and nineteen 3-bed units. This will allow for a higher percentage of 2 and 3 bed units and would still achieve a 33% provision on site. In discussion with the Council's Housing department it has been accepted that the proposed mix of 1, 2 and 3 bed units will allow for greater flexibility when finding occupiers. There are therefore no objections to this mix. Policy requires the Local Authority to have regard to, inter alia whether the existing affordable housing stock meets the identified need, targets derived from the Housing Needs Survey and economics of provision.

- 6.10 The original recommendation for application P06/1001 required that 50% of the affordable dwellings to be provided should be for shared ownership and 50% for social rented housing.
- 6.11 A number of reports have been submitted to the Planning Committees recently where the affordable housing provision has been varied to allow the inclusion of Rent to Homebuy Units. These are units made available for persons who are unable to obtain a mortgage at present but expect to be in a financial position to do so in the next 5 years. The Rent to Homebuy scheme allows a person to take a property for rent with a view to buying part of it on a shared ownership basis in due course and as such is intermediate housing. The Rent to Homebuy Scheme has been introduced by the Homes & Communities Agency as a response to the situation whereby persons who might have afforded a shared ownership unit a few years ago are unable to do so now, as a result of the economic situation.
- 6.12 There are therefore no objections to alterations to the S106 agreement to allow the provision of 50% of the units for shared ownership/ Rent to Homebuy and 50% for social rented housing.
- 6.13 The recommendation in relation to outline application required the provision of 33% affordable housing over the whole site of which 26% would be in the first phase (the residential development of Stapeley manor site) and 37% in all subsequent phases. At that time it was undecided whether there would be two or three phases of housing development. The applicant has now sought to remove the requirement for 37% on all subsequent phases. The lower provision in phase 1 is required to reduce the cost to the developer because of the need to meet infrastructure requirements, ecological works etc at the outset. At that time it was undecided whether there would be one or more housing developers at the site. However since that time DWH have been appointed to provide all the housing development. The proposed revision to the S106 Agreement will remove any specified percentage for phase 2 of the housing. However this is not considered material as the overall provision of 33% is retained for the whole site.

- 6.14 The officer report on application P06/1001 explained that the financial information submitted demonstrated that the units would be affordable. Negotiations are still continuing regarding the wording of the agreement to ensure that the price paid for the affordable dwellings by the RSL to the developer will be affordable by people in need of housing in the area. Further information on this will be provided in the Updates Report.
- 6.15 The former Crewe and Nantwich Borough Council has previously sought to restrict staircasing of the shared ownership units to 80%. Staircasing is the ability of a person occupying a shared ownership unit to acquire an increasingly larger proportion of the dwelling. Normally CNBC sought to restrict staircasing to a maximum of 80% to ensure that the dwelling remained available as affordable housing for future persons in need in the area. Where staircasing is permitted to 100% the unit may be acquired by a specific owner and taken out of the affordable housing supply. However where the HCA fund affordable housing developments then it is a requirement that residents should be able to staircase to 100%. RSLs frequently use funding from the HCA to deliver affordable dwellings built by a housing developer. Whilst the Council would have sought to limit staircasing to 80% for Rent to Homebuy this is not allowed by the HCA in funding such units. Further where HCA funding is used for the provision of shared ownership dwellings the restriction to 80% cannot be applied.
- 6.16 Whilst the agents are seeking these alterations to the terms of the Section 106 Agreement it should be noted that they still intend to deliver the full 33% affordable housing as agreed at the time that the outline application was determined by the former Crewe and Nantwich Borough Council. The revisions discussed here are minor alterations which will ensure that the affordable housing provision is delivered. It is therefore recommended that these alterations be approved.

Phasing and Masterplan Requirements.

- 6.17 The report on the outline application required the submission of a scheme for phasing of the development and a Masterplan under the Section 106 Agreement to ensure the delivery of a mixed use development site together with the continuity of the existing Water Gardens and the relocated facility. This is taken into account in the detailed requirements of the S106 Agreement.
- 6.18 When the report on the outline application was prepared it was stated that the residential development on the site of Stapeley Manor would be the first phase of development for the whole site. It is now confirmed that the first phase of development will include both the residential development on Stapeley Manor and the

relocation of the Water Gardens facility. There are no objections to the delivery of these two elements at much the same time. This alteration does not change the recommendation but members' attention is drawn to the fact that the first phase of development has been expanded since the original report was considered.

Open Space, Play Space and Shared Recreational Space Requirements.

- 6.19 The original report on the outline application required the delivery of an equipped play space to be provided in the early stage of phase 2 and shared recreation open space and play space in all phases of the development. In addition a maintenance scheme for all areas of open space and play equipment is required to be submitted.
- 6.20 The intention is now to provide the play space with play equipment and the shared recreational open space in phase 1 of the development. The original Section 106 Agreement required shared recreational open space and play space (equipped or unequipped) to be provided in all phases of development.
- 6.21 The areas of land to be provided will be based on the calculations of Policy RT.3 of the Borough of Crewe and Nantwich Replacement Local Plan. This requires 15 sq m of shared recreational open space per dwelling for development of more than 20 dwellings and in addition 20 sq m of shared play space for family dwellings (i.e. those with two or more bedrooms). The policy refers to the need to calculate the areas based on the whole development and also for the provision to be made in a structured manner and play space should be accessible on foot from all the dwellings. There is no policy requirement for each phase of residential development to be provided with either form of open space.
- 6.22 It is proposed that the equipped play area and shared recreational open space will be based on the tree lined frontage to London Road and other areas where trees are to be retained. The play area will however not be so close to trees as to adversely impact on their retention but set back using the trees to frame the open space. There are no objections to the alteration to deliver the equipped play space at an earlier date. Whilst the provision of all shared recreational open space/ play space requirements in the earliest phase of residential development will mean that residents in the phase 2 developments will have further to walk to such areas, that journey can be made without the need to use London Road (the main road on the eastern site frontage). The furthest dwellings are likely to be about 300m away from the main area of play space/ open space. It is also noted that in the proposed location existing residents of Stapeley will be able to gain easy access to the play equipment without the need to pass through the new residential areas. There are therefore no objections to the provision of all the

open space requirements within the first phase of the residential development.

Ecological Requirements

- 6.23 The changes to the ecological requirements are detailed in the report on planning application 09/4017N on this agenda. That submission is a full application for the ecological works and it is considered that the minor changes to wording of the Section 106 agreement as proposed are more appropriately considered with that application.

7.0 Conclusion

The proposed variation to the Section 106 agreement will ensure the delivery of the mixed use development site at Stapeley Water Gardens allocated under policy S.12.5 of the Borough of Crewe and Nantwich Replacement Local Plan 2011 which is also subject to the Stapeley Water Gardens adopted Development Brief.

Further it will still retain the requirement to provide 33% affordable housing provision within the residential development of the mixed use development at Stapeley and that the provision meets identified needs in the locality.

The variation to provide all play space, including the equipped play space, and shared recreational open space in the first phase of residential development will deliver this element at an earlier time than envisaged previously and still retain the provision as required by policy RT.3 (Provision of Recreational Open Space and Children's Playspace in New Housing Developments) of the Borough of Crewe and Nantwich Replacement Local Plan 2011.

8.0 Recommendation

To issue permission in respect of outline planning application P06/1001 for the redevelopment of Stapeley Water Gardens subject to conditions as detailed in the decision by the Development Control Committee of the former Crewe and Nantwich Borough Council on 20th September 2007 and subject to the applicant completing and signing a Section 106 Agreement to secure:-

(1) the provision of 33% affordable housing on the site with:-

(a) a minimum provision of 26% for the development of Stapeley Manor site (Phase 1) on the basis that the level of provision for each phase will be identified in the first reserved matters application and that the overall provision will be 33% and

(b) one third 1-bed units, one third 2-bed units and one third 3-bed units across the whole site or the option for the provision of twelve 1-bed units, nineteen 2-bed units and nineteen 3-bed units and 50% social rented dwellings and 50% shared

ownership/ Rent to Homebuy dwellings in all phases of residential development,
(2) phasing of the development and submission of a master plan to ensure that the site is brought forward as a mixed use development together with the provision and continuity of the relocated Water Gardens,
(3) commuted payments for off site highways works as per report P06/1001 (to include signage to direct traffic away from Nantwich town centre, contributions to the Willaston to Nantwich cycle link, contributions to works for the signalised junction at Wellington Road/ Park Road junction, contributions to traffic calming in London Road and Wellington Road, a sum for completion of a cycle link on South Crofts/ Monks Lane),
(4) the provision of an equipped play space to be provided in phase 1 of the residential development, and shared recreational open space and play space in all phases of development. A maintenance scheme for all areas of open space/ play equipment to be submitted,
(5) a maintenance scheme for ecological mitigation areas.

For further information:

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Background Documents:

Planning File and correspondence reference P06/1001

Documents are available on the website and for inspection at: Municipal Buildings, Earle Street, Crewe CW1 2BJ