

PLANNING COMMITTEE
29th March 2017

REPORT OF THE HEAD OF PLANNING AND REGENERATION

14/00881/MOUT – OUTLINE FOR 700 DWELLINGS, 22,000 SQ METRES B1/B8 EMPLOYMENT LAND, CARE HOME, PRIMARY SCHOOL, NEIGHBOURHOOD CENTRE WITH LEFT IN, LEFT OUT JUNCTION ON TO A361 AND ACCESS / EGRESS ONTO BLUNDELL'S ROAD.

Cabinet Member Councillor Richard Chesterton, Cabinet Member for Planning and Economic Regeneration.

Responsible Officers Mrs Jenny Clifford, Head of Planning and Regeneration

Reason for the Report:

This planning application has a resolution to grant planning permission subject to a S106 agreement and a range of conditions. Subsequent negotiations with the applicant over the S106 provisions, conditions as drafted and in light of the most up to date position over the funding and delivery of the A361 junction have resulted in proposed changes to the S106 and conditions. These require Planning Committee consideration.

RECOMMENDATIONS:

1. **To amend the S106 agreement resolution to:**
 - i) **Secure the payback arrangements for the Mid Devon District Council loan (with interest) which will assist forward funding of the first phase of the A361 junction.**
 - ii) **Secure the delivery of the linking road between the new A361 junction and Blundell's Road within 12 months of the sale of sufficient land on the application site to fund the construction of the linking road;**
 - iii) **Allow for a financial contribution to be made towards the off-site provision of gypsy and traveller pitches including the cost of land acquisition. This is in lieu of on-site pitch provision.**
 - iv) **Grant delegated authority to the Head of Planning and Regeneration in consultation with the Chair and Vice Chair of Planning Committee to amend the timing of financial contributions secured through the S106 agreement if necessary in order to balance the need to secure payments in a timely manner with the cash flow / viability of the development to secure its delivery.**

2. That in the event S106 negotiations are unable to secure iii) above (an acceptable level of financial contribution towards the off-site provision of gypsy and traveller pitches), delegated authority be given to the Head of Planning and Regeneration to refuse planning permission.

3. To amend the list of conditions as follows:

i) Condition 1 to be amended to allow reserved matters applications to be submitted on a phase-by-phase basis. Amended wording as follows:

‘Before any part of a phase of the development hereby permitted is begun, detailed drawings to an appropriate scale of the layout, scale and appearance of the building(s), and the landscaping of the relevant phase (hereinafter called the Reserved Matters) shall be submitted to and be approved in writing by the Local Planning Authority’

Reason: To ensure the timely delivery of a complex site which will be sold to and developed by a multiple number of developers. The proposed wording allows reserved matters to be submitted on a phased basis.

ii) To amend draft Condition 3 to allow reserved matters application for the first phase of the development to be submitted within four years of outline planning consent. The amended wording as follows:

‘Application(s) for approval for the Reserved Matters relating to the first Phase shall be made to the Local Planning Authority before the expiration of four years from the date of this permission and they shall accord with the guiding principles as set out at section 3.3 of the adopted Masterplan’.

iii) To add an additional condition to allow all reserved matters applications to be submitted within ten years of outline planning consent. The following wording is proposed:

‘Application(s) for approval for all Reserved Matters shall be made to the Local Planning Authority before the expiration of ten years from the date of this permission and they shall accord with the guiding principles as set out at section 3.3 of the adopted Masterplan’.

iv) To amend draft Condition 4 to allow commencement of development on the first phase and subsequent phases either within five years of outline consent or within two years of the

approval of the last reserved matters relating to that phase. The following wording is proposed:

'The first and subsequent phases of the development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last of the Reserved Matters relating to that phase which have been approved, whichever is the latter'

- v) To amend Condition 10 as follows:

There be no occupation of development within the application site until the first phase of the A361 road junction (known as the 'left in, left out southern slips) and linking road between the new A361 road junction and Blundell's Road consented under planning permission 14/00667/MFUL have been constructed, are complete and made available for public use.

REASON: To ensure that the A361 left in, left out southern part of the junction together with road linking to Blundell's Road is available in advance of the occupation of development in order to accommodate traffic attracted to the site in the interests of the safety of users of the public highway and to protect the amenities of the nearby residents and the amenities and character of the area in accordance with the National Planning Policy Framework'.

- vi) To delete Condition 12 relating to the provision and timing of a road to the boundary of the site with Area B.
- vii) That delegated authority be given to the Head of Planning and Regeneration to amend other conditions as necessary to take account of development coming forward in phases.

4. That Members note that, due to the lack of available LEP funding , the strategic development is now being delivered in two phases to maximise the availability of time-limited infrastructure funding while securing growth delivery. The northern part of the junction will be delivered in association with the remainder of the EUE allocation, to be the subject of future infrastructure bidding rounds when this is in a position to be brought forward.

Relationship to Corporate Plan: The Corporate Plan 2016-2020 establishes priorities around the delivery of economic growth including housing provision, business development and planning for and enhancing the built environment. The Tiverton Eastern Urban Extension is a strategic mixed use land allocation within the

adopted Local Plan, the delivery of which is vital to realising the Council's spatial strategy. The provision of the A361 junction will unlock the ability to provide housing and employment floorspace on this site.

Financial Implications: The S106 associated with this application secures financial contributions towards a range of infrastructure in order to mitigate the impacts of development. Importantly this application will secure significant contributions towards highway and community infrastructure.

Legal Implications: Legally binding S106 agreements provide the mechanism for securing financial contributions towards strategic infrastructure, including the A361 road junction, from development as part of the planning process.

Risk Assessment: The absence of agreement of the S106 and conditions on this application will result on the loss of funds towards the construction of the A361 road junction. This would introduce delay, the requirement to make further bids for junction funding (to counteract the loss of £3.5 million within the current funding package) and there is no certainty that revised bids will be successful. Meanwhile we can anticipate the receipt of further 'unfriendly' applications on unplanned sites or on the Tiverton eastern urban extension based on lack of 5 year land supply. Such applications would not be expected to offer such contributions towards infrastructure and if considered at appeal, Local Planning Authority control over decision making would be lost.

1.0 INTRODUCTION.

- 1.1 This update paper should be read in conjunction with the proceeding report that updates Members on the delivery of the A361 road junction to serve development at the Tiverton Eastern Urban Extension..
- 1.2 Application 14/00881/MOUT was submitted in outline and is for a mixed use development comprising up to 700 dwellings, 22,000 square metres of light industrial B1/ wholesale and distribution B8 employment land, care home, primary school and neighbourhood centre with associated access including a left in left out junction on the A361 and access and egress onto Blundells Road' on land within the Tiverton Eastern Urban Extension. At the meeting of 23rd April 2015, Planning Committee resolved to grant outline planning consent subject to the signing of a S106 to secure financial contributions and conditions. The full Committee resolution on Application 14/00881/MOUT is set out in **Appendix 1** of this report. Negotiations regarding the S106 have been taking place to resolve outstanding issues since this resolution was made. Changes to the funding package and proposed delivery of the A361 junction have also occurred that need to be addressed within the context of this application. This report presents proposed changes to the previous committee resolution in respect of the S106 agreement and planning

conditions. The application has not yet received planning permission as the S106 is unsigned. There is a need to expedite the granting of this permission due to time constraints associated with the A361 junction. This is referred to in the accompanying report.

- 1.3 It is noted that a separate S106 has been completed to secure financial contributions towards the Blundell's Road traffic calming scheme. Its engrossment in advance of the remainder of the S106 issues has ensured that funding has been committed to the scheme, thereby allowing the first phase to be constructed. Two separate S106 agreements will therefore relate to this application. It is the main and currently unsigned S106 to which this report relates.

2.0 THE NEED TO VARY THE TERMS OF THE S106 AND CONDITIONS.

2.1 HIGHWAY ISSUES.

- 2.1.1 At the time of previous consideration of this application by Planning Committee it was intended that the whole of the grade separated junction would be delivered in one go by Devon County Council. As detailed in the preceding report, it is now to come forward as two separate phases. Delivery of the first phase (left in, left out southern slips) of the A361 junction will be part by the County Council and part by the land owner / developer and require an amendment to the draft S106 and to the planning conditions previously presented to Committee.

- 2.1.2 The S106 as currently drafted sets out expectations over the instalments and timing of the highway financial contributions and assumes financial contributions will be made towards DCC delivery of the junction:

£3,684,211 junction contribution to be paid in 4 instalments summarised as:

- 25% on the occurrence of the later of either the disposal of land sufficient to generate net proceeds of over £921,052 or 20 working days from the receipt of notice that DCC has let contracts for the construction of the A361 junction and the A361 to Blundell's Road link;
- 25% on the commencement of development on residential land not part of the initial disposal area above or the commencement of construction of the 271st dwelling, whichever is sooner;
- 25% within 6 months of the commencement of construction above;
- 25% within 1 year of the commencement of construction above.

An amendment of this clause is now required to reflect the updated position on the delivery of the junction and to provide certainty over firstly, the payback

(including timescale) of monies including interest proposed to be committed by MDDC to help forward fund the junction and secondly, to reflect the direct delivery now required by the landowner / developer to complete the linking road (from the end of the DCC provided slips) to Blundell's Road.

- 2.1.3 This has further implications relating to the timing of development to raise the funds required to deliver the linking road. The landowner / developer will be required to fund £2.8 million worth of highway works to complete the first phase of the junction and link it to Blundell's Road. It is vital to ensure that there is a mechanism within the S106 over the timing of the completion of this link to Blundell's Road that will allow the southern part of the junction to open for public use as this is a prerequisite for the delivery of the urban extension.
- 2.1.4 Establishing a set date by which the road link will be delivered will not be possible as money for the construction will depend upon the timing of land sales. It has been negotiated that the delivery of the linking road between the new A361 junction and Blundell's Road will be required via the S106 to be within 12 months of the sale of sufficient land on the application site to fund its construction. Furthermore in order to provide a safeguard, it is proposed to amend condition 10 so there is no occupation of development within the application site until the first phase of the A361 road junction (known as the 'left in, left out southern slips) and linking road between the new A361 road junction and Blundell's Road consented under planning permission 14/00667/MFUL have been constructed, are complete and made available for public use. In this way there is certainty over the provision of these highway works in relation to the occupation of development.
- 2.1.5 Condition 10 currently does not allow any development on the application site until the left in, left out junction has been constructed and made available for use. As drafted, this is preventing the delivery of the junction by discouraging land sales upon which the funding of the junction is dependent. Developers will not buy land where there is no prospect of being able to develop as currently they have no clarity over the timing of the delivery of this part of the junction. Unless amended, this will frustrate delivery. The S106 clause and revised condition 10 overcome this and will allow for the unlocking of the site. Members will also have the confidence that Condition 11 as retained ensures no development south of Blundell's Road is permitted until the roundabout junction with Blundell's Road and the linking road have been constructed and are available for use.
- 2.1.6 The A361 junction will now be delivered in two separate phases. The funding package that has been put together will secure the first phase of the junction to the south. It was originally intended that Local Enterprise Partnership funding would be available up to £7.5 million, sufficient to deliver the whole junction in one go. This is no longer the case. With less public infrastructure

funding efforts have concentrated upon getting the first phase of the junction in place in order to unlock the urban extension site. The first phase of the junction is considered suitable to serve Area A development: up to 1,030 dwellings together with 22,000 sq m employment floorspace, the primary school and community facilities. The second, northern phase of the junction will be delivered at a future date by a combination of funding from Area B development together with further public infrastructure monies for which bids will be made. Members are asked to confirm acceptance that development granted under this planning permission may come forward and be occupied in advance of the delivery of the full grade separated junction (the second phase providing the overbridge and northern A361 slips).

2.2 RESTRICTION ON COMMENCEMENT OF DEVELOPMENT.

2.2.1 The Adopted Masterplan SPD outlines the need for the first phase of the junction and linking road to be completed prior to the occupation of any development. As the development progresses, the occupation of no more than 200 dwellings (or 4,000sqm of employment) is permitted until completion of Phase 1 traffic calming and improvements to the roundabouts at Heathcoat Way and Lowman Way are completed. Prior to the occupation of no more than 600 dwellings or 10,000 sqm of employment land the completion of the full grade separated junction and Phase 2 of the traffic calming works are required. These masterplan requirements are now found to be undeliverable and unless amended, no development at Tiverton Eastern Urban Extension will be able to take place with the exception of up to 330 dwellings towards the north east of the site (Waddeton Park land).

2.2.2 As now proposed, occupation rather than commencement of development on this application site will not be available until the first phase of the junction and linking road are open and available for public use. DCC delivery of the first part of the slip roads on the southern side of the junction will allow them to be used as a haul route for development on this site without need to utilise Blundell's Road. The restriction on any occupation of development on this site will also ensure that the first part of the junction and its critical link to Blundell's Road is delivered early in relation to that development, again reducing use of Blundell's Road for construction purposes. The A361 junction update report sets out DCC's intended timescale for completing construction of the first part of the junction as July 2018. It is proposed that the S106 is amended to ensure the link road will be available for public use within 12 months of the sale of sufficient land to fund it.

2.2.3 Funding for the linking road is likely to come from land sales south of Blundell's Road. The restrictions on the commencement of development do not make the land attractive to market based developers and as such stifles funding streams for its construction.

3.0 CONDITIONS – APPROVAL OF RESERVED MATTERS AND COMMENCEMENT OF DEVELOPMENT ACCORDING TO DEVELOPMENT PHASE.

3.1 This application covers the largest part of the Tiverton Eastern Urban Extension and due to its scale, reserved matters applications and the subsequent timing of development will occur in a series of phases. It is not expected that a single reserved matters application will be submitted by one single developer. Instead, the land will come forward as a series of land parcels in which several different developers are likely to be involved. Multiple reserved matters applications will be submitted according to phase. Negotiation has taken place over the timing of the submission of these reserved matters applications and the timing of commencement of development within each phase.

3.2 Conditions 1, 3, 4 and 5 seek to achieve the timely delivery of development. Each relates to the submission of reserved matters applications and commencement of development. Condition 1 (submission of detailed drawings) as drafted requires all reserved matters applications be submitted for all of the site prior to any development. The wording is as follows:

EXISTING 'Before any part of the development hereby permitted is begun, detailed drawings to an appropriate scale of the layout, scale and appearance of the building(s), and the landscaping of the site (hereinafter called the Reserved Matters) shall be submitted to and be approved in writing by the Local Planning Authority'.

3.3 Officers acknowledge that this is a complex site which will be sold and developed by multiple developers. As such, the site will be developed and delivered in phases. Officers are satisfied that Condition 1 can be suitably amended to allow reserved matters to be submitted on a phase-by-phase basis. This will continue to ensure the delivery of the scheme in a timely manner. The following amended wording is proposed:

PROPOSED 'Before any part of a phase of the development hereby permitted is begun, detailed drawings to an appropriate scale of the layout, scale and appearance of the building(s), and the landscaping of the relevant phase (hereinafter called the Reserved Matters) shall be submitted to and be approved in writing by the Local Planning Authority'.

3.4 Condition 3 of the Committee resolution seeks the approval of all reserved matters within three years of the date of planning consent. The wording is as follows:

EXISTING 'Application(s) for approval for all the Reserved Matters shall be made to the Local Planning Authority before the expiration of three years from

the date of this permission, and they shall accord with the guiding principles as set out at section 3.3 of the adopted Masterplan’.

- 3.5 However, following the amended condition 1 it is recommended that condition 3 be amended to relate to the timing of the submission of reserved matters for the first phase of the development only and that a new condition relating to the timing of submission of all reserved matters be added. As such, the amendments to condition 3 seek to ensure that the reserved matters for the first phase of the development are submitted within four years of the date of the outline planning permission. The following amended wording is proposed:

PROPOSED ‘Application(s) for approval for the Reserved Matters relating to the first Phase shall be made to the Local Planning Authority before the expiration of four years from the date of this permission, and they shall accord with the guiding principles as set out at section 3.3 of the adopted Masterplan’.

PROPOSED NEW CONDITION ‘Application(s) for approval for all Reserved Matters shall be made to the Local Planning Authority before the expiration of ten years from the date of this permission and they shall accord with the guiding principles as set out at section 3.3 of the adopted Masterplan’.

- 3.6 These timescales represent the latest times for the submission of reserved matters which may come forward sooner. In order to give some certainty over delivery of the development as a whole it is important to set timescales. Officers have rejected that applicant’s initial position of not wanting to set a date by which all reserved matters had to be submitted. The provision of a long-stop date is supported through the recently published Housing White Paper. Following detailed negotiations agreement has been reached whereby the submission of all remaining reserved matters will be within 10 years of the date of planning consent.

- 3.7 Condition 4 relates to the commencement of development. As drafted it requires development to commence either within five years of the date of planning consent or within two years of the approval of the last reserved matters. The wording is as follows:

EXISTING ‘The development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last of the Reserved Matters which have been approved, whichever is the latter’.

The revised condition 4 seeks commencement of the first phase of development and subsequent phases within five years of the date of planning consent or within two years of the last reserved matters approved for that phase. This provides sufficient time to secure land sales to fund the linking road and to allow construction of the linking road. Importantly, Condition 4

provides a long stop date for the submission of all reserved matters therefore ensuring a timely delivery of development. The following wording is proposed:

PROPOSED 'The first and subsequent phases of the development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last of the Reserved Matters relating to that phase which have been approved, whichever is the latter'

4.0 PROVISION OF AN ACCESS ROAD TO THE BOUNDARY OF THE SITE WITH AREA B.

- 4.1 To ensure the comprehensive delivery of the urban extension as a whole and to give greater certainty over the provision and timing of financial contributions from Area B towards common infrastructure, it was initially proposed via condition 12 to require the construction of the access road to the south of Blundell's Road from this development up to boundary of Area B. This would allow a road connection to be made and overcome ransom between landowners. Condition 12 as resolved is as follows:

EXISTING 'The on-site highway works for the provision of a distributor road on land to the south from the roundabout junction with Blundell's Road to the boundary of the site adjoining Phase B of the Masterplan Area shall be constructed and made available for use in accordance with a delivery programme that will be submitted to and agreed in writing by the Local Planning Authority and prior to commencement of any development. The highway works shall be provided in accordance with the agreed delivery programme'.

- 4.2 Provision was made in the draft S106 to ensure cost of the infrastructure / utilities required at the expense of Chettiscombe Trust that Area B development would also benefit from could be extracted from the Area B land owners. In this manner the cost could be equalised. Such equalisation is often undertaken direct between landowners without intervention by the planning system. Whilst the Local Planning Authority considers it has be ability to intervene in this instance, the applicant indicates that they should be free to negotiate with the owner of Area B in order to obtain a fair contribution to the cost of funding significant infrastructure required to unlock Area B for development. There remains an in principle difference of opinion on this subject between the applicant and the Local Planning Authority. It is clear that unless agreement is reached quickly, the timescales required in order to retain the funding package for the first phases of the A361 junction will not be met resulting in the loss of £3.5 million of junction funding and significant delay.

- 4.3 The Local Planning Authority is committed to the timely delivery of the eastern urban extension, but recognises that this depends upon the provision

of the first phase of the junction. As such, Officers are prepared to accept the deletion of condition 12 in order to give the applicant opportunity to negotiate terms / value with the landowners of Area B. However, this is not open ended. Should such negotiations not be completed within a reasonable time period or the ability to deliver Area B be significantly delayed as a result, the Local Planning Authority intends to directly intervene in accordance with the approach advocated within the Housing White Paper 2017. Such intervention will be to ensure the delivery of the access road through Area A to its boundary with Area B in order to unlock this part of the development and could involve compulsory purchase. The recommendation to delete this condition is therefore not the end of the matter, but rather to be regarded as providing an opportunity for resolution between landowners as a private law matter. Should not such resolution be achieved in a timely manner, the Local Planning Authority will wish to step in.

5.0 S106 – TIMING OF FINANCIAL CONTRIBUTIONS.

- 5.1 The 22nd April 2015 committee resolution was very specific over the triggers to be incorporated within the s106 for the payment of financial contributions that are required as part of the planning permission. The change in approach to the delivery of the junction requires a reassessment of the timing of some of these contributions in order to ensure money is available at an early stage to fund the completion of the first phase of the junction including road linking to Blundell's Road.
- 5.2 The timing of contributions has been the subject of negotiation with the applicant and has also involved the County Council acting within its capacity as both Highway and Education Authority. The County Council has agreed amendments to the timing of payment triggers. Delegated authority is sought to the Head of Planning and Regeneration in consultation with the Chair and Vice Chair of Planning Committee to amend the timing of payments within the s106 agreement if necessary in order to balance the need to secure payments in a timely manner with the cash flow / viability of the development to secure its delivery. This will give greater flexibility than currently allowed by the existing resolution of Committee.

6.0 GYPSY AND TRAVELLER PITCH PROVISION.

- 6.1 Policy AL/TIV/1 requires the provision of at least five gypsy and traveller pitches as part of the development requirements on this site. The masterplan SPD indicates a potential site towards the north-eastern corner on the site with three pitches being secured in that area as part of the Waddeton Park outline planning permission (13/01616/MOUT). It was also resolved that the s106 on this application also secure the on-site provision of three gypsy and traveller pitches prior to the occupation of 460 dwellings.

- 6.2 The applicant is now taking the position that the provision of these pitches is not required to make the development acceptable in planning terms and objecting to this s106 clause. Gypsy and traveller pitch provision forms part of the affordable housing requirements of the site and in the view of officer is both justified and necessary in policy terms for planning permission to be granted. There is a separately assessed 5 year gypsy and traveller accommodation need that must be met in part through pitches being delivered on strategic sites such as this. The approach taken by the Council on pitch provision has been found sound by Local Plan Inspectors.
- 6.3 It has come to the attention of officers that mortgage companies are expressing concern at lending on housing sites where gypsy and traveller pitches are required and that this may cause problems in the delivery of housing. This is an emerging situation which officers are working through, but is not considered to absolve developers of the policy requirement to make such provision. This application delivers land for the A361 junction together with a total of £3.8 million towards its construction. The funding package for the junction is time limited resulting in a need to grant this planning permission which is key to the ability to unlock development on the urban extension. Given this exceptional circumstance, officers are prepared to recommend that a more flexible approach to gypsy and traveller pitches be adopted.
- 6.4 Whilst the starting point of officers remains the delivery of gypsy and traveller accommodation in accordance with the policy, they are prepared to consider whether a suitable and acceptable location for new pitches can be found off site. To this end officers would wish to secure the land for this together with the cost of providing pitches. However in recognition of the current circumstances which risk setting back the delivery of the wider urban extension will be prepared to accept a financial contribution to be taken towards the cost of land and off-site pitch provision. Officers therefore recommend that the S106 is amended accordingly, but wish to also be given delegated authority to refuse this planning application should the applicant not be prepared to agree to this approach. An update on this issue will be given to Members at the meeting.

7.0 CONCLUSION.

- 7.1 There is a pressing need to resolve the outstanding issues on this application, in particular as it directly affects the ability to deliver the first phase of the A361 junction as it will deliver both the land upon which it is due to be built as well as a significant financial contribution towards its construction. The success of the funding package depends upon adherence to a tight timescale. Should this not be met, comprehensive development on the urban extension will not take place and will be subject to significant uncertainty and delay.

- 7.2 The s106 agreement and conditions associated with this application have been the subject of extensive discussions and negotiations with the applicant. Officers have sought to challenge the position of the applicant in many respects and believe that the contents of this report represents the best that can be achieved whilst also meeting the timescale driven by junction delivery requirements. This has required difficult decisions to be considered in several areas. The need for speedy resolution is further heightened in light of the Council not currently being able to demonstrate a 5 year housing land supply.
- 7.3 Extensive work with the County Council to find an appropriate delivery mechanism for the required infrastructure to support this growth has resulted in substantial negotiation and the package now before Members. Allowing development to come forward on the Chettiscombe Trust land in a considered and controlled manner, provides clear benefits towards accelerating the delivery of planned housing at the Tiverton EUE whilst securing the programmed delivery of funding. Failure to resolve the issues on this application quickly risks the loss of £3.5 million in junction funding. Local planning authorities are increasingly having to intervene in a broken housing market to see delivery of housing brought forward. By pulling together this multi-agency package for infrastructure financing we are seeking to de-risk the development to ensure market delivery of a strategic local plan allocation. As well as securing delivery of the council's own policy objectives, it is considered that this approach gives credibility to our request of the Secretary of State to explore, within Mid Devon, the planning freedoms as outlined by DCLG which would give the council a greater ability to resist speculative development.

Contact for any more information

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Background Papers

Planning Committee 23rd April 2015, 9th March 2016, 3rd August 2016, 1st February 2017.

File Reference

14/00881/MOUT

Circulation of the Report

Members of the Planning Committee

Appendix 1

Reference No: 14/00881/MOUT

Proposal: Outline for a mixed use development comprising up to 700 dwellings, 22,000 square metres of B1/B8 employment land, care home, primary school and neighbourhood centre with associated access including a left in left out junction on the westbound A361 and access and egress onto Blundells Road Land East of Tiverton, South of A361, and Both North and South of Blundells Road Uplowman Road Tiverton Devon.

Location:

Planning Committee on 22nd April 2015 resolved as follows:

Grant planning permission subject to the signing of a Section 106 Agreement and the conditions as set out in this report.

S106 to provide:

- (i) 22.5% affordable housing on site to be provided for occupation on an affordable rent basis.**
- (ii) A financial contribution of £921,053 towards the cost of designing and implementing a scheme of traffic calming measures to Blundells Road and Tidcombe Lane - Trigger date: Payment prior to commencement of development.**
- (iii) A financial contribution of £253,289 towards the cost of designing and implementing improvements to roundabouts at Heathcoat Way and Lowman Way - Trigger date: Payment prior to the first occupation of the 200th dwelling on site**
- (iv) A contribution towards the provision of a full grade separated junction to and from the A361, the contribution includes an element of funding towards the southern section of the junction (LILO) and link from this to Blundell's Road that is suitable for use by general traffic generated by the application scheme, including development traffic. The total contribution towards this from this development has been fairly calculated as £3,684,211 – Trigger date to be agreed as part of the Section 106 agreement.**
- (vi) A financial contribution of £851,974 towards delivering enhancements to the public transport and cycle infrastructure - Trigger date: 50% to be paid prior to first occupation of the 200th dwelling and 50% to be paid prior to the first occupation of the 300th dwelling on site.**
- (vii) A financial contribution to a maximum of £3,678,991 (minus the proportionate cost of the new primary school site- see clause viii below attributable to the application scheme) towards improving facilities at existing primary school sites where necessary until the need for new primary has been triggered by development across the Masterplan area for the funding of the new primary school, and towards improving facilities at existing secondary school site in Tiverton - Trigger date: Prior to first occupation of the 200th dwelling.**

(viii) Agreement to provide a site of 1.93 hectares for a new primary school and to transfer to Devon County Council prior to the commencement of development for an agreed value based on the following calculation (700/1550) of the value of the site (based on a residential valuation factoring in 22.5 % affordable housing).

(x) A financial contribution of £1,381,579 towards the provision of the following community based facilities within the Masterplan area and outside of the Masterplan area to include, a community centre and associated hard court play and sports pitch, an all-weather pitch, changing room facilities and 5 x sports pitches - Trigger date: One third of the total sum to be paid before the completion of the 230th, 460th and 690th dwellings.

(xi) The provision of 3 Gypsy and Traveller pitches to be provided prior to the occupation of 460 dwellings - specification to include concrete base and connections to mains drainage, electricity and water supplies.

(xiii) Renewable Energy centre/District Heating clause to provide district heating network infrastructure to serve the development in the event that an energy centre or district heating centre is provided for within the urban extension.

(xiv) Contribution of £500 payable to Devon County Council to cover costs of legal fees in relation to Section 106 Agreement - Trigger to be confirmed.

(xv) Agreement to the provision of travel vouchers of equivalent £300 per dwelling to be used for cycle provision for up to 10 years or bus travel payable upon occupation of each dwelling.

(xvi) Agree to fund in full the time of a travel planning professional to cover the site in order to promote sustainable travel and provide information to residents of the site.

(xvii) Agreement to transfer the land (blue land on application site plan plus an area for works compound) on the north side of the A361 to Devon County Council – Trigger date: to be agreed.

(xviii) The Local Planning Authority will secure a proportionate contribution towards the investment required towards providing water, gas and electricity across Area B of the masterplan by imposing a levy of approximately £2,500.00 per dwelling towards such services only.

Note: this is not a requirement of this application but binds the LPA to secure the provisions when development of the Area B land identified in the Masterplan is brought forward for development.

Conditions to provide:

1. Before any part of the development hereby permitted is begun, detailed drawings to an appropriate scale of the layout, scale and appearance of the building(s), and the landscaping of the site (hereinafter called the Reserved Matters) shall be submitted to and be approved in writing by the Local Planning Authority.
2. Prior to the submission of a reserved matters application the following supporting information shall be submitted to and approved in writing by the Local Planning Authority:
 - i) Illustrated urban design and architectural principles, including block types and principles, parking, boundaries, public realm codes for character areas and architectural guidelines,
 - ii) A strategy for the management and maintenance of all green infrastructure across the application site and the other relevant land owned by the applicant that falls with the boundaries of the adopted Masterplan Area. The Strategy document shall set out the management, maintenance, access and use arrangements for each land parcel and a delivery plan identifying a trigger date for the completion of each of the relevant land parcels.
 - iii) A low emissions strategy.

Reserved matters applications for the site shall incorporate the approved details.

3. Application(s) for approval for all the Reserved Matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission, and they shall accord with the guiding principles as set out at section 3.3 of the adopted Masterplan.
4. The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the Reserved Matters which have been approved, whichever is the latter.
5. The detailed drawings required to be submitted by condition 3 shall include the following additional information:
 - i) Boundary treatments, existing site levels, finished floor levels, long and cross sections through the site indicating relationship of proposed development with existing adjacent development with Properties in Poole Anthony Drive and Mayfair where appropriate
 - ii) Provision of a landscaped buffer where the application site shares a party boundary with existing properties on Mayfair and Poole Anthony Drive in accordance with the adopted masterplan.
 - iii) Protective measures for all Grade A trees on the site.
 - iv) Measures to demonstrate compliance with the carbon footprint targets as set in the policy AL/IN/6 and AL/TIV/5.

v) Single image photomontage of the proposed development from Knightshayes and Knightshayes Estate;

vi) Heritage asset setting protection statement. The submission shall include an assessment of the impact of the proposed development on Knightshayes and Knightshayes Estate; and details of hedgerow provision and retention or other measures to reduce any visual impact of the proposed development.

vi) A habitat enhancement and mitigation plan

6. No development shall take place until a surface water drainage scheme has been submitted to and approved in writing by the Local Planning Authority. Unless it is demonstrated that it is unfeasible to do so, the scheme shall use appropriate Sustainable Urban Drainage Systems. The drainage scheme shall be designed so that there is no increase in the rate of surface water runoff from the site resulting from the development and so that storm water flows are attenuated. The development shall be carried out in accordance with the approved scheme.

7. The proposed estate road, cycleways, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, road maintenance/vehicle overhang margins, embankments, visibility splays, accesses, car parking and street furniture shall be constructed and laid out in accordance with details to be approved by the Local Planning Authority in writing before their construction begins. For this purpose, plans and sections indicating, as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.

8. The development hereby approved shall not be carried out otherwise than in accordance with a phasing programme which shall previously have been submitted to and approved by the Local Planning Authority in writing.

9. The occupation of any dwelling in an agreed phase of the development shall not take place until the following works have been carried out:
 - A) The spine road and cul-de-sac carriageway including the vehicle turning head within that phase shall have been laid out, kerbed, drained and constructed up to and including base course level, the ironwork set to base course level and the sewers, manholes and service crossings completed;
 - B) The spine road and cul-de-sac footways and footpaths which provide that dwelling with direct pedestrian routes to an existing highway maintainable at public expense have been constructed up to and including base course level;
 - C) The cul-de-sac visibility splays have been laid out to their final level;
 - D) The street lighting for the spine road and cul-de-sac and footpaths has been erected and is operational;
 - E) The car parking and any other vehicular access facility required for the dwelling by this permission has/have been completed;
 - F) The verge and service margin and vehicle crossing on the road frontage of the dwelling have been completed with the highway boundary properly defined;
 - G) The street nameplates for the spine road and cul-de-sac have been provided and erected.

10. No development shall take place on site until the Left in Left out junction onto the A361 previously consented under LPA ref: 1400667/MFUL has been constructed and made available for use.
11. No development hereby approved shall take place on land to the south of Blundells road and/or the employment land until the roundabout at the junction of Blundells road and the link road hereby approved has been constructed and made available for use.
12. The on-site highway works for the provision of a distributor road on land to the south from the roundabout junction with Blundells Road to the boundary of the site adjoining Phase B of the Masterplan Area shall be constructed and made available for use in accordance with a delivery programme that will be submitted to and agreed in writing by the Local Planning Authority and prior to commencement of any development. The highway works shall be provided in accordance with the agreed delivery programme.
13. No development shall take place on site until the off-site highway works for the provision of passing places, highway mitigation measures, transport strategies on West Manley Lane have been submitted to and agreed in writing with Local Planning Authority. The approved proposals shall be implemented and made available for use according to an approved program of works.
14. Prior to commencement of development of any part of the site a Construction Management Plan (CMP) shall have been submitted to and approved in writing by the Local Planning Authority. The Construction Management Plan shall include the following:
 - (a) The timetable of the works;
 - (b) Daily hours of construction;
 - (c) Any road closure;
 - (d) Hours during which delivery and construction traffic will travel to and from the site;
 - (e) The number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
 - (f) The compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
 - (g) Areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;
 - (h) The means of enclosure of the site during construction works;
 - (i) Details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site
 - (j) Details of wheel washing facilities, road sweeping and strategies to mitigate against any dust, noise, fumes, odour and waste that arise from the development hereby approved;
 - (k) The proposed route of all construction traffic exceeding 7.5 tonnes;
 - (l) Details of the amount and location of construction worker parking;
 - (m) Photographic evidence of the condition of adjacent public highway prior to commencement of any work.

15. No development should take place until a long-term water quality management and maintenance programme in respect of the proposed sustainable urban drainage scheme (SUDs), both during and post construction, including arrangements for a timetable of monitoring and reporting, is submitted to and approved in writing by the Local Planning Authority. Such water quality management and maintenance programme shall be designed to ensure that surface water quality leaving the application site will not have a detrimental impact upon Tidcombe Fen SSSI. The submission shall identify where remediation / mitigation is necessary as a result of inadequate operations of the SUDs resulting in an inadequate quality of water leaving the SUDs system and entering the Tidcombe Lane Fen SSSI. Any necessary remediation / mitigation measures shall be carried out in accordance with the details in the approved submissions. On completion of the monitoring specified in the approved programme a final report demonstrating that all long-term remediation / mitigation works have been carried out shall be submitted to and approved in writing by the Local Planning Authority.

16. No development shall take place until the applicant 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 by the Planning Authority.
The development shall be carried out at all times in strict accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the District Planning Authority.

17. No development shall begin until a detailed methodology for the formation and construction of both the retention ponds and swale as shown on drawing PFA consulting drawing C/698/24, including the timing of delivery and an inspection schedule, has been submitted to, and been approved in writing by the Local Planning Authority. The approved methodology, timing of delivery and inspection schedule shall be strictly adhered to for the completion of the development.

18. Noise from operations conducted at any of the employment premises on the application site shall not at any time exceed a decibel level of LAeq (1hour) 55 dB as measured on any boundary of the site with adjoining residential properties, between the hours of 0700 and 1900 on Mondays to Fridays and 0700 and 1300 on Saturdays, and LAeq (15min) 45 dB(A) during any other time including Bank Holidays.

19. No more than 320 of the dwellings on the application site shall be occupied, until the completion of works to ensure sufficient capacity within the public foul sewerage network to accommodate the foul sewage discharge from the development proposed, or it is confirmed in writing by the sewerage undertaker that sufficient capacity exists to accommodate the development.

REASONS FOR CONDITIONS:

1. The application was submitted as an outline application in accordance with the provisions of Articles 4 & 5 of The Town and Country Planning (Development Management Procedure) Order 2010.
2. To ensure the site is developed in accordance with the adopted Masterplan for the Tiverton Eastern Urban Extension and Policies AL/TIV/1-AL/TIV/7 of the Mid Devon Allocations and Infrastructure Development Plan Document (Local Plan Part 2).
3. In accordance with the provisions of Section 92(2) of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
4. In accordance with the provisions of Section 92(2) of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
5. To enable the Local Planning Authority to consider whether adequate provision is being made for the matters referred to in the condition.
6. To protect water quality and minimise flood risk and in accordance with Policy DM2 of the Local Plan Part 3 (Development Management Policies).
7. To ensure that adequate information is available for the proper consideration of the detailed proposals and in accordance with policy DM2.
8. To ensure the proper development of the site and to safeguard with Policy DM2 of the Local Plan Part 3 (Development Management Policies).
9. To ensure that adequate access and associated facilities are available for the traffic attracted to the site with Policy DM2 of the Local Plan Part 3 (Development Management Policies).
10. To ensure that adequate on site facilities are available for all traffic attracted to the site during the construction period, in the interest of the safety of all users of the adjoining public highway and to protect the amenities of the adjoining residents, and in accordance with policy in National Planning Policy Framework.
11. To minimise the impact of the development on the highway network in accordance with policy in National Planning Policy Framework.
12. To ensure that adequate facilities are available for construction traffic and the delivery of the Allocated site in its entirety to satisfy the requirement of the adopted Masterplan.

13. To minimise the impact of the development on the West Manley Lane and in accordance with the National Planning Policy Framework.
14. To minimise the impact of the development on the highway network during the construction phases, and in accordance with policy in National Planning Policy Framework.
15. In order to ensure that the development, as submitted, will not impact upon the features of special interest for which Tidcombe Lane Fen, and in particular to address the uncertainties associated with nutrient enrichment and removal efficiencies of SUDs features, in accordance with Policy DM30 of the Local Plan Part 3 (Development Management Policies).
16. To ensure that an appropriate record is made of archaeological evidence that may be affected by the development in accordance with Policy DM27 of the Local Plan Part 3 (Development Management Policies).
17. To ensure that this part of the scheme drains effectively in order to maintain the general amenities of the area in accordance with Policy DM2 of the Local Plan Part 3 (Development Management Policies).
18. To ensure that the proposed development does not prejudice the amenity of residents in the locality by reason of noise.
19. To ensure there are adequate water company (public) sewerage facilities to receive foul water flows from the development in order to safeguard the environment.