

## General Development Applications

(6/h) Application No: PAP/2018/0755

Land to east of Former Tamworth Golf Course, North of Tamworth Road - B5000 and west of M42, Alvecote,

Outline application - Demolition of all existing buildings and construction of residential dwellings including extra care/care facility; a community hub comprising Use Classes E(a)-(f) & (g) (i) and (ii), F.2 (a) & (b), drinking establishment and hot food takeaway uses, a primary school, the provision of green infrastructure comprising playing fields and sports pavilion, formal and informal open space, children's play area, woodland planting and habitat creation, allotments, walking and cycling routes, sustainable drainage infrastructure, vehicular access and landscaping, for

## Land Management Ltd

### 1. Introduction

1.1 The Board has resolved to grant an outline residential planning permission at this site for no more than 1270 houses together with other facilities, access and infrastructure. This was subject to the Board reviewing the final Heads of Terms of an accompanying Section 106 Agreement, based on the matters contained in the Board reports.

1.2 The applicant has submitted a draft Schedule for those Heads of Terms for consideration by the Board – see Appendix A.

1.3 For the benefit of Members, Sections 10 and 11 of the main report to the September meeting and paragraphs 2.3 to 2.11 of the Supplementary Report are attached at Appendix B, as these comment on the matters to be included in the Agreement.

1.4 There has now been further discussion between the applicant, the Warwickshire County Council, and officers in regard of this Schedule.

### 2. The Schedule

#### a) Introduction

2.1 Members' attention is drawn to paragraph 10.30 in Appendix B. Here there is reference to the overall viability issue. It was reported that the District Valuer had concluded, at the time of his review with the value of the contributions at that time, that 40% on-site provision of affordable housing would render the development unviable, but that a 30% provision would not. Notwithstanding the reduction in the number of houses now being proposed and the increased value of the current set of contributions, the applicant has agreed to retain that 30% provision, but in order to do so, he has challenged the inclusion of some of the contributions now being requested. The consequence of this is, that if the contributions as requested are all

to remain, then he has advised that the % of affordable housing would inevitably reduce, potentially to around 20%.

2.2 For the benefit of Members, the Executive Summary of the District Valuer's report is at Appendix C.

### **b) Education**

2.3 The Board report at paragraphs 10.6 to 10.13 in Appendix B, sets out the case for these contributions. The requested total contribution is set out in two scenarios:

- i) £24,746,270 based on an extension to Polesworth Secondary School
- ii) £28,308,655 based on an assumption of a new Secondary School.

2.4 The County Council has also indicated that the primary school element in the above figures could either be a financial contribution towards a new school, or, for the developer to construct the School himself, in lieu of a contribution.

2.5 The Applicant agrees to the following:

- i) £18,955,692 made up of £12,285,036 as a Primary School contribution and £6,670,656 as a Secondary School contribution (to be directed to an extension at Polesworth School)

2.6 The figures in (i) above do not include the following elements:

- i) £2,462,942 in respect of Early Years provision
- ii) £1,863,633 in respect of Post 16 provision
- iii) £725,224 in respect of Primary SEN provision
- iv) £725,224 in respect of Secondary/Post 16 SEN provision
- v) £896,844 in respect of revenue costs to "set-up" additional provision.

2.6 The applicant points out the first four of these elements are for non-statutory education provision. He also argues that revenue costs have been found in case-law, not to meet the statutory tests for inclusion in a Section 106 Agreement. Furthermore, he points out that there is no scheme at present for a new Secondary School and that his proposal – in terms of pupil generation - does not require such a new School.

However, he does accept that the contribution as requested, can be for an extension to the existing School.

2.7 These matters have been referred back to the relevant officers at the County Council as Education Authority.

2.8 The County Council acknowledges that attendance at Early Years is not compulsory and so it does not constitute statutory provision. However, it points out that there is an entitlement for early years provision – in general terms, 15 hours entitlement for eligible working parents of children from 9 months to 2 years old; 15 hours of entitlement for

disadvantaged 2-year olds and the universal entitlement for all 3 and 4 year olds. From September 2025, eligible single working parents of children aged 9 months and above, will be able to success 30 hours from the term following their child turning nine months until the start school.

2.9 The County Council say that without it being able to deliver the additional places generated by this development, there will be a shortage of provision locally.

2.10 In respect of the post-16 contribution, the County points out that young people are required to stay in education until they are aged 18. Traditionally, it is said that the majority of pupils at Polesworth have chosen to remain in the sixth form. The County says that if there is a requirement to expand places for 7 to 11 year olds, then there will be a consequential need to provide places post-16.

2.11 There is increased pressure on SEN provision. The County is looking to build Specialist Resources Provision across the County. The loss of this contribution would see more pressure to send pupils to specialist provision outside the County.

2.12 Overall therefore a judgement has to be taken as to whether these elements are included or not. It can be seen that whilst they may well be compliant with the “tests” for contributions, they are not for statutory education requirements. The consequence of their inclusion is that the % of affordable housing to be provided on site would materially reduce from around 380 to 255. Members will be aware that the delivery of affordable housing in the Borough as a whole, as at the last published monitoring period (March 2023) was 24% of gross completions. This is generally due to provision being delivered on small sites and not on the strategic residential allocations such as this site, which have the potential to deliver larger numbers. In looking at this assessment, it is considered that from the Borough Council’s perspective, greater weight should be given to the need to retain the 30% provision, because of the present under-delivery.

2.13 Members will be aware that the Secondary School contribution is for “increasing capacity at Polesworth School”. However, the Board was informed that the County Council also termed its request as an “either/or” – the alternative being that the contribution goes towards a new Secondary School. This is written into the Schedule. Also, the draft includes a clause that the Secondary contribution is only to be used for one of these purposes.

## **b) Highway Matters**

2.14 Members will have seen from the Supplementary Report at Appendix B, that the County Council as Highway Authority has requested a number of contributions.

2.15 The applicant agrees to the following:

- i) The Public Transport (bus) contribution of £1,515,000
- ii) The B5000/Market Street/Bridge Street contribution of £751,800
- iii) The Framework Travel Plan
- iv) The bus shelter/maintenance contribution in principle, but the number of shelters is unknown. An option is to consider this provision through the Section 38 Highway Works Agreement

- v) The Robeys Lane Monitoring contribution, but subject to whether it is needed over a ten-year period.
- vi) The contribution for the re-calibration of the lights at Robeys Lane/Alvecote bridge if required.
- vii) Agreement to payment for the Traffic Regulation Orders (£6,000 per TRO).

2.16 The applicant does not accept the following two requests as being statutorily compliant.

- i) The contribution for the link to Birch Coppice, and
- ii) The safer route to Polesworth Schools.

2.17 These matters have all been referred back to the County Council as Highway Authority.

2.18 In respect of the link to Birch Coppice, the County Council point out that the Birch Coppice/Trinity Road employment areas are significantly sized, but they are over 3 kilometres from the application site with no direct route as an alternative to use of the car. The alternatives for cycling are via Stoneydelph in Tamworth or through Dordon. The County points out that the modelling for the proposed development showed up to around 100 two-way trips could travel between the site and the employment areas each day. The improvement of a public bridleway from Birchmoor to the A5 would enable a safe and shorter cycling route thus providing an alternative to the car and as such this would meet an objective of the County's Local Cycling and Walking Infrastructure Plan.

2.19 The Supplementary Report – para 2.9 of Appendix B – outlined officer's views on this matter. This position has not altered. It is not considered that this request is one directly related to mitigating an identified adverse impact caused by the proposed development. For a number of reasons, it is still considered to be a desirable rather than an essential request - the County points out the development "could" generate trips to the employment centres south of the A5 but there will be a wide range of employment locations sought from future occupiers. Additionally, the contribution requested is for only a small portion of that particular route – the last section. For this to be a fully functioning "safe" and dedicated cycle route, there would also need to be substantial improvements made to Hermitage Lane - a County road - which are not understood to be in any County programme.

2.20 In respect of the safer route to Polesworth Schools, the County Council is not requesting a contribution under the Agreement, but considers that a planning condition is warranted. This would say that, prior to occupation of any house, a Safe Routes to School Strategy should be submitted and approved by the Local Planning Authority and that any approved Strategy should be delivered under Highways Act Agreements. This recommended condition was not included in the Supplementary Report at Appendix B, as compliance with it will depend on other legislation and because it is dependent upon the outcome of a different determining Authority – namely the County Council. Moreover, it lacks precision and definition and therefore the cost of its implementation is wholly unknown, leaving the applicant in an unreasonable position.

2.21 In respect these two matters, Members can see that it is therefore not a matter of whether their inclusion might affect the viability of the overall proposal, but rather whether they accord with the appropriate tests for inclusion in an Agreement, or the tests for inclusion as a planning condition. It is considered that they do not.

2.22 The County Council has agreed that the monitoring under 2.11(v) above for the Alvecote bridge traffic lights can be linked to the trajectory of the build out, rather than as a definitive ten-year period.

2.23 In respect of bus shelters, then the Schedule at paragraph 10.2 (Appendix A) includes bus infrastructure. What is not included is an amount for bus shelter maintenance. As the number of these is not known and as this can be picked up through Highway Agreements, it is not considered reasonable to include a contribution, simply because its value is unknown at this time.

2.24 As consequence of all of these considerations, officers would recommend acceptance of the highway clauses in the draft Schedule.

### **c) Affordable Housing**

2.25 There are two matters arising in respect of affordable housing – the % delivered on site and then how that % is to be delivered.

2.26 Looking at the first of these, then this Section started by outlining the judgement that has to be made by the Board – the impact of the Schedule on the viability of the development. Paragraph 2.1 sets out that inclusion of the requests under paragraph 2.6 will materially impact on the overall delivery of affordable housing on this development. Because of the present under-delivery of affordable housing in the Borough, it is recommended that the 30% figure is retained. Members will be aware from the main report, that a fully policy compliant development here would provide 40% - being a green field site. As such the 30% is already a non-compliant with the Council's planning policy. However, it has been agreed following receipt of the District Valuer's report. Reducing this further is not recommended. However, that final judgement rests with the Board.

2.27 Turning to how a final % might be delivered on site, then paragraph 1.1 of the Schedule at Appendix A, sets out the general approach. This recognises the current position as Members are aware from other sites – the lack of interest in sites by Registered Providers and thus the introduction of alternatives. Here that shows a 50/50 divide between market and rented tenures, rather than the policy guidance of 15/85; the prospect of up to 20 gifted units within the first phase and the extra care scheme. The delivery would also be reviewed through the phasing of the site, thus giving the maximum flexibility over potentially a 15 year period – paragraph 1.2 of the Schedule. Member's attention is also drawn to clause 1.4, whereby the affordable housing for each phase would be delivered before the occupation of 90% of the open market houses in that phase, thus ensuring that it is available during the implementation of that phase and not at the end.

2.28 Housing Officers have been involved in discussions with the drafting of the clauses in the Schedule and they are satisfied with its provisions.

2.29 Overall the affordable housing clauses are recommended to the Board.

### **3. Conclusion**

3.1 This report supplements the previous reports and particularly addresses the outstanding matters in respect of the 106 Agreement identified therein. It recommends that the submitted draft Schedule is agreed, but it does set out the implications should the Board resolve to include the full set of contributions as requested by the County Council.

### **Recommendation**

That the Board agrees the Heads of Terms as set out in Appendix A.