

TWC/2010/0828

Land at Ironstone, Lawley, Telford, Shropshire

Variation of condition 16 of outline planning permission W2004/0980 to exclude the areas comprised within reserved matters application ref TWC/2010/0627 and within plots G4 and G5 as defined within the phasing plan drawing number 006 rev L from the effect of condition 16 (amended description)

APPLICANT

,Henry Davidson Developments Ltd

RECEIVED

23/12/2010

PARISH

Dawley Hamlets, Great Dawley, Lawley and Overdale

WARD

Ketley & Overdale, Horsehay & Lightmoor, Malinslee & Dawley Bank, Wrockwardine

OFFICER Kate Stephens

LAWLEY PHASE 8 - S106 VARIATION REPORT

1.0 PURPOSE OF THIS REPORT:

- 1.1 The purpose of this report is to seek members' agreement to a Deed of Variation of the existing S106 agreement for Lawley Sustainable Urban Extension (SUE) in relation to the next housing phase (Phase 8) and its associated Reserved Matters application, as well as general viability for the whole Lawley SUE. This report needs to be read in conjunction with committee report TWC/2015/0233 for the Reserved Matters for Phase 8 also on this agenda.
- 1.2 The changes seek to reduce affordable housing provision to 12% across Phase 8 (instead of 25%) and to remove the obligation to pay the £100,000 "Sustainable Development Contribution" intended for unspecified recycling, waste-minimisation and energy initiatives, which are to be agreed.

2.0 BACKGROUND:

- 2.1 Outline planning permission W2004/0981 was granted on 21st October 2005 for Lawley Sustainable Urban Extension (SUE) comprising 3,300 dwellings, employment and commercial and leisure facilities, a new school and associated recreational space and landscaping. This application was accompanied by a s106 agreement which required various monies for a variety of facilities and services, details of which are set out in Table 1 at the end of this report.
- 2.2 In December 2011 the outline planning permission was varied to alter condition 16 with regard to works to the motorway junction. This resulted in a re-issued outline planning consent under reference TWC/2010/0828.
- 2.3 The original s106 agreement has been subject to a Supplemental Agreement and a series of Deeds of Variation over time, as a result of various viability and phasing issues. Table 1 below also sets out the variations already previously agreed by members.

- 2.4 Under the current S106 there is a requirement for 25% affordable housing with a mix of shared ownership and social rented houses. Members have already agreed to several variations to the affordable housing provision on different phases of the Lawley SUE based of viability appraisals, namely:-
- i. Local Centre - accepted £180,000 for Extra Care provision instead of 25% (in a Variation agreed in December 2011).
 - ii. Phases 3 & 4 - affordable housing provision reduced to 15% of which 5% social rented and 10% shared ownership (in a variation agreed in Sept 2012).
 - iii. Phase 6 - affordable housing provision reduced to 15% (in a variation agreed in July 2013).
 - iv. Buildings 1 & 2 in Lawley Square - affordable housing provision reduced to 0% (in a variation agreed in July 2013).

3.0 PROPOSAL

- 3.1 This report seeks agreement for a Deed of Variation to reduce the affordable housing provision on Phase 8 to 12% (instead of 25%) and remove the overall obligation of a £100,000 contribution for Sustainable Development, payable on the occupation of the 1000th dwelling.
- 3.2 A Reserved Matters application TWC/2015/0233 has been submitted for 561 dwellings on Phase 8. Phase 8 is located north of phases 3 and 4 and runs parallel to Lawley Road up to the M54 motorway and Junction 6.
- 3.3 However, the area of land included in Phase 8 has been extended from that initially indicated in the Lawley Development Framework back in 2004 to now include an additional area (referred to as phase 8a) of Green Network further to the east and up to the Ironbridge Way. This extension is to allow more house building in order to assist in addressing the viability issues that are affecting the long-term viability and deliverability of the overall Lawley SUE. The issues regarding the loss of Green Network to allow more housing on viability grounds is discussed in more detail in the Reserved Matters application.

4.0 SITE AND SURROUNDINGS

- 4.1 Lawley Sustainable Urban Extension lies to the west of Telford Town Centre, south of the M54 and east of 'old' Lawley Village. The Lawley SUE is being built in phases over some 20 years, but not in numerical phase order. Phases 1a, 1b, 2 (Lawley Square), 3, 4 and 6 and the new Primary School have been commenced (due to open January 2016) and some phases are nearing completion.

5.0 RELEVANT PLANNING HISTORY

- 5.1 W2004/0981 – Outline planning permission to include access for Lawley Sustainable Urban extension comprising of 3300 dwellings, employment,

commercial and leisure facilities, a new school and associated recreational space and landscaping.
Approved 21/10/05.

- 5.2 TWC/2010/0828 – Variation of conditions on outline application W2004/0981 with regards to timing of works to motorway junction improvements (effectively replacement outline permission).
Approved 12/12/11.
- 5.3 TWC/2015/0233 - Reserved Matters for 561 dwellings including details of landscaping, layout, appearance, siting and access at Lawley Phase 8.
To be determined on this agenda.

6.0 PLANNING POLICY CONTEXT

- 6.1 National Planning Policy Framework (the NPPF) is not the development plan for Telford & Wrekin but it is a material consideration in this case because all the borough's development policies have to be viewed in the light of this more recent national guidance.
- 6.2 Saved Wrekin Local Plan policies
 - H23 Affordable Housing
 - OL3 Green Network
 - OL4 Development in the Green Network
- 6.3 LDF Core Strategy policies
 - CS1 Homes

7.0 PLANNING CONSIDERATIONS

- 7.1 As members are aware, the current economic climate is still affecting residents, businesses and Local Authorities. Against this background the Council is seeking to stimulate the economy and support growth within the Borough. The Lawley SUE is a long-term strategic housing commitment for the Borough that was planned and approved over a decade ago, and both the Wrekin Local Plan and Core Strategy recognise Lawley SUE as a significant extension and growth point for Telford. To date almost a third of the housing has been built over phases 1a, 1b, 2, 3 and 4 and Lawley Square is almost complete with most of the retail units occupied. The Extra Care elderly residential building is occupied and the new primary school is under construction, with opening on site anticipated in January 2016.
- 7.2 Officers consider that the continued building of housing to complete the 3,300 houses planned for Lawley SUE is vital for the Borough and to ensure that Lawley develops as the sustainable urban extension it was planned to be and delivers one of the Borough's planned strategic housing locations. To this end, officers have been working with the applicant and the developer consortium (comprising Taylor Wimpey, Barratt and Persimmon) to find ways of making sure the Lawley SUE is viable and can continue to completion.
- 7.3 The applicant has submitted a viability appraisal with the Reserved Matters application for Phase 8 to justify the reduction in affordable housing within this phase. This has been assessed by officers and the Council's Development Delivery Group Specialist. To aid the viability of Phase 8 and the overall

Lawley SUE, the area of Phase 8 site has been increased from that initially identified in the Development Framework to include more land and allow additional houses to be built. The Reserved Matters application TWC/2015/0233 sets out the arguments for allowing the inclusion of this extra land, which is currently designated as Green Network in the Wrekin Local Plan.

- 7.4 The viability submission follows the previous reserved matters applications for phases 3, 4 and 6. The applicant's figures show that even by offering 12% affordable housing it is only operating at a profit return of 10.43%, which is below the accepted sector profit return of 16%. Under the NPPF guidance on viability, the developer could legitimately request 0% affordable. The affordable housing is valued at 62% of the private housing which reflects the prevailing market rate for affordable rent. Abnormal costs have been included at over £5 million which reflect the substantial earthworks, ground stabilisation and foundation solutions required. Sales income is based on the current selling prices at Lawley.
- 7.5 Both officers and the applicant consider it important that Phase 8 includes affordable housing to continue the provision of a mixed community, which is an important element of creating sustainable communities advocated in the NPPF. Therefore 0% affordable would not be considered acceptable on a development phase of this scale (i.e.561 dwellings), but 12% is considered reasonable in the current economic circumstances and justified by the viability assessment.
- 7.6 The applicant is still committed to the other s106 payments for bus services, play areas, a new Lawley Primary School set out in Table 1 below. However, to further assist the viability of Lawley SUE officers have reviewed other s106 contributions. The provision of bus services, the school, play areas are all considered vital and cannot be reduced further. However, one s106 payment is for £100,000 for "Sustainable development" payable on the occupation of the 1000th dwelling, which would be due at this stage. In the s106 agreement this sum is defined as being intended for unspecified recycling, waste-minimisation and energy initiatives to be agreed. Officers consider that this sum is no longer necessary or particularly relevant in view of the successful implementation of the Council's kerbside recycling and waste management services. Last year the Council entered into a new 20-25 year municipal waste contract with Veolia, who are providing kerb-side household collections (waste and recyclables) as well as the construction of a new Integrated Waste Management facility at Hortonwood. Therefore officers are willing to forgo this contribution in order to assist the continued implementation of this strategic housing development.

8.0 CONCLUSION

- 8.1 Officers consider the reduction of affordable provision on Phase 8 to 12% instead of 25% and the use of some Green Network land for phase 8a to facilitate this is acceptable on viability grounds and to secure the long-term future of Lawley SUE. In addition the removal of the obligation to pay £100,000 (identified for unspecified waste management) is considered acceptable as a means to ensure that Phase 8 of the Lawley SUE can be completed. The varied s106 should include a review mechanism in the event

of any market appreciation, although the allowable profit return requires a considerable rise in values before reaching this benchmark.

9.0 RECOMMENDATION

9.1 Based on the conclusion above, the recommendation to the Planning Committee is that DELEGATED AUTHORITY be granted to the Development Management Service Delivery Manager to make a Deed of Variation to the section 106 Agreement to:-

- i) reduce the affordable housing provision on Phase 8 to 12%,
- ii) remove the obligation to pay the £100,000 sustainable development contribution, and
- iii) include a review mechanism in the event of any market appreciation, as well as any other legal wording changes necessary to make the s106 agreement legally binding.

TABLE 1 showing Section 106 requirements for Lawley SUE & the agreed Deeds of Variation to date

Contribution	Original S106 requirements	Agreed s106 Deed of Variations
Facilities Building (i.e. primary school & community facilities)	<p>Facilities Construction date (i.e. completion date) is Aug 2012</p> <p>Land transfer date 30 Aug 2009</p> <p>£3 million payable in 3 equal instalments starting 12 months from Aug 2009 when land first transferred to Council.</p> <p>The "Facilities Land" site area is 1.722 ha</p>	<ul style="list-style-type: none"> • Completion date varied to Aug 2015. (VAR Sept 2012). • Completion date varied to 31 Jan 2016 (VAR 2014) • Date varied to 1 April 2013 (VAR Sept 2012) • Date varied to 31 Dec 2014 (VAR 2014) <p>Dates when £3 million payable changed to 3 equal instalments starting from: 1st instalment by Dec 2014, 2nd instalment by Dec 2015 3rd instalment by 31 Dec 2016. (VAR 2014)</p> <p>Area amended to 2.53ha. (VAR 2014)</p>
Lightmoor Education (i.e. for Lightmoor primary school)	£300,000	

School Expansion sum	£600,000 payable when new school practically completed	Dates when pay £600,000 changed to:- 1 st instalment of £400,000 on completion of school (Jan 2016), 2 nd instalment of £200,000 within 24 months of completion (i.e. by Jan 2018) (VAR 2014)
Affordable housing	25% (of which 12% social rented and 13% shared ownership)	<ul style="list-style-type: none"> Local Centre accepted £180,000 for Extra Care instead of 25%. (VAR Dec 2011). Phases 3 & 4 affordable reduced to 15% of which 5% social rented and 10% shared ownership (VAR Sept 2012). Phase 6 affordable reduced to 15% (VAR July 2013). Buildings 1 & 2 in Lawley Square reduced to 0% (VAR July 2013).
Bus subsidy	£880,000 payable in 4 instalments with 1 st instalment on 250 th occupied dwelling and thereafter at 12 monthly intervals i.e. 3 @ £285,000 1 @ £25,000	Instalment amounts and triggers amended, but total stays same: 4 instalment with 1 st instalment on 400 th occupied dwelling and thereafter at 12 monthly intervals i.e. 3 instalments @ £285,000 1 instalment @ £25,000 (VAR 28 Sept 2011)
Traffic Management Sum (for UTMS)	£175,000 payable on 260 th dwelling.	Sum reduced to £87,500 to be paid in 2 instalments of £43,750: 1 st instalment on 400 th dwelling occup. 2 nd instalment when sports pitches due (i.e. 800 th occupied dwelling) (VAR 28 Sept 2011)
Sports Pitches sum	£600,000 payable 2 years from commencement.	Payment trigger amended to be paid on occupation of 800 th dwelling (VAR Sept 2012).
Rock Road NEAP	£65,000 capital £65,000 commuted sum	
Ironbridge Way LEAP (Phase 7)	£45,000 capital £30,000 commuted sum payable on 1 st occupation on this phase.	
Lawley Village	£45,000 capital	

LEAP (Phases 1a/1b)	£30,000 commuted sum payable on 1 st occupation on this phase.	
Newdale NEAP (Phases 3 &4)	£92,000 capital £90,000 commuted sum payable on 1 st occupation on this phase.	
Upper Newdale LEAP (Phase 8)	£45,000 capital £30,000 commuted sum payable on 1 st occupation on this phase.	
Princes End NEAP	£87,000 capital £85,000 commuted sum.	
Sustainable Development to be used for recycling, waste minimisation & energy initiatives (unspecified & to be agreed).	£100,000 payable on 1,000 th occupied dwelling	Request for this to be omitted.
Compliance Officer	£153,000	