

W2007/1254
Plot E, Pool Hill/Doseley Road, Dawley, Telford, Shrops
Residential development (Outline planning application)

APPLICANT
English Partnerships

RECEIVED
03/09/2007

PARISH
Great Dawley

WARD
Dawley & Aqueduct

OFFICER Kath Whitfield

MEMEBERS OF PLANNING COMMITTEE ARE REQUESTED TO CONSIDER A VARIATION TO THE S106 LEGAL AGREEMENT

1.1 The Planning Committee resolved in December 2008 to grant permission to the Homes and Communities Agency for the above development subject to a section 106 agreement to mitigate the impact of the development and accommodate the new residents, comprising:

- 22.5% affordable housing provision (12.5% rented social housing units, 10% shared ownership)
- £600 per dwelling (excluding one bedroom units) for improvements, enhancements, upgrading and maintaining recreation and leisure facilities at Dawley Park or within 1,000 metres of the development
- £1,250 per dwelling (excluding affordable housing and any one bedroom units) to primary school facilities in the vicinity
- £12,000 highways contribution towards street improvements to facilitate pedestrian movements to the Captain Webb School and Phoenix Secondary School.

The S106 was finally signed on the 13th September 2011 and the application was duly approved on 20th September 2011.

The Local Planning Authority then determined to grant permission for the subsequent Reserved Matters proposal for 50No. dwellings, approved 30th August 2015.

1.2 The Local Planning Authority has now received a request to vary the S106 obligations relating to W2007/1254. The applicant has advised of a change of circumstance for the delivery of the site, whereby the intention was that securing detailed planning permission would lead to its purchase by the Wrekin Housing Trust to deliver 100% affordable housing across the site. However, following an unexpected national budget announcement in July reducing the level of rents chargeable to tenants by Registered Providers

(RPs), the Trust has decided that they could no longer progress with the scheme at Pool Hill. Given the very high development costs associated with the site (shallow mine workings, mine shafts, additional foundation costs, the sloped topography of the site, the cut and fill required, retaining wall detail, relocation of services) the applicant has defined that an open market scheme would not be viable with the current requirements set out in the section 106 agreement. This request has been submitted with the standard Homes and Communities Agency appraisal for the site, and asked if consideration would be given to removal of all the section 106 financial and affordable housing requirements to allow this site to come forward in 2016.

- 1.3 Section 106A of the Town and Country Planning Act sets out the procedure for dealing with the modification and discharge of planning obligations where a formal application is made and formal consultation takes place, and there is a right of appeal in respect of a refusal. However the formal procedure only applies where a section 106 agreement has been in place for 5 years so that is not the case here. However, section 106A (1) (a) does allow for a planning obligation to be modified or discharged by agreement between the parties to the section 106 and this request falls into this category.. The Council can duly refuse the request; or where it no longer serves a useful planning purpose agree to discharge the S106 in its entirety; or where the obligation serves a useful purpose that would be would be served equally well by modifications, then to vary subject to those proposed modifications.
- 1.4 The LPA has duly sought expert guidance from the Council's Development Delivery Group Specialist as to the detail of the viability evidence submitted, and whether scope existed to retain various elements (or a proportion of) the obligations sought; of paramount importance in this instance is considered to be the highways obligation relating to the highway safety of residents.
- 1.5 The information has been scrutinised and amendments requested including the developers return being in line with the outcome of recent appeal decisions. The specialist officer has exhausted respective avenues on the viability aspect and established the scheme is marginally unviable without any planning obligations except for the highways contribution of £12,000. They have confirmed that the viability case has been evidenced sufficiently to support the removal of all obligations except for the highways contribution. Further that a favourable outcome to the request would enable the commencement on site of 50 units to aid the Council's 5 year housing land supply of which this site is included.

1.6 The Council's Parks & Open Spaces, Education and Affordable Housing (and Highways) have been advised of the position ensuing, and respectively commented as follows:

- *Parks & Open Spaces* - contrary to policy; accept the current viability may be difficult this may not be so in the future as prices pick up and development is delayed, development will generate an increased need for children's play from the new residents, suggest a compromise on the amount to assist the developer whilst also partially meeting the need arising from the development ; a suitable sum for this would be £300 per property
- *Education* - having considered the scope and scale of the proposed development on Pool Hill Road and the developments within the Dawley/Doseley that are already under construction and those with planning with potential to start within the area will accept the amendments to the S106.
- *Affordable Housing* - very disappointing to lose a significant affordable housing scheme like this. While there have been changes in the operating environment for Registered Providers development is still seen as a key part of the business plan for many - a pity that WHT, or another RP with unallocated HCA grant (such as Walsall Housing Group) could still not have taken this on, questioned whether they have been approached. Not seen the viability review, so don't understand why the site conditions described make such a considerable difference. The revised scheme would mean that the Council loses an important opportunity to provide affordable homes for local people, as well as the New Homes Bonus premium for affordable homes.

Queried whether provision for a review of the viability appraisal could be included if the development is not completed within, say, two years of the decision notice. In addition, could a requirement for a post completion review be added of the assumptions made in the appraisal (such as costs and sales prices), with any surplus returned to the Council in the form of a commuted sum(s).

1.7 Whilst the disappointment of consultees is appreciated, with a desire to account for a changing picture down the line, the request to add in clauses for a review is not in line with the approach adopted by the Authority. Such a review would only be undertaken for sites of 100+ units, and a post completion review being contrary to the Royal Institution of Chartered Surveyors Financial Viability Appraisal in Planning Decision: Theory and Practice document (2012). It is understood that an approach has been made

to a number of Registered Providers, with no takers found. With reference to the alternative lesser sum suggested by Parks & Open Spaces, the starting point for considering the request was an interrogation of the data submitted to ascertain if a proportion of each obligation / or each in turn be secured. As confirmed above, this exercise reflected that the Highways obligation is the only provision that can be secured and deliver a viable scheme. The LPA are of the opinion that whilst it is indeed a disappointing scenario to be faced with the loss of three of the four obligations, this modification would secure the development of a site that is committed for housing development on the adopted Proposals Map, and benefits from a section 7(i) planning permission which remains an extant consent with no contributions or obligations. The Homes & Communities Agency had opted to seek planning permission through the outline scheme to provide contributions that would meet local need; and with a longstanding desire for use as a residential site contributing to maintaining a five year housing land supply in a sustainable location according with the provisions of the National Planning Policy Framework, whilst dealing with its legacy as a former mining area, remediating a contaminated site and addressing issues arising from its varied topography.

Conclusion and recommendation

- 1.8 In conclusion it is therefore considered that on balance taking account of the current planning policy, the obligations of the signed planning agreement do not enable the development to be brought forward in a viable form.
- 1.9 It is recommended that the Committee **AGREE TO MODIFY THE S106 AGREEMENT** signed by the Council on 13th September 2011 through a deed of variation to:
- i. remove the Recreation Contribution of £600 per dwelling (excluding one bedroom units) for improvements, enhancements, upgrading and maintaining recreation and leisure facilities at Dawley Park or within 1,000 metres of the development
 - ii. remove the Education Contribution of £1250 per dwelling (excluding affordable housing and any one bedroom units) to primary school facilities in the vicinity
 - iii. remove Affordable Housing Units requirement of 22.5%
 - iv. whilst retaining the Highways Contribution of £12,000 (with indexation) towards street improvements to facilitate pedestrian movements to the Captain Webb School and Phoenix Secondary School.

This application was deferred by members at Plans Board on the 19th November 2008 to enable members to undertake a site inspection.

OBJECTIONS RECEIVED: Yes.

MAIN ISSUES: Policy, highway access, design and site levels, past mining and ground conditions.

PROPOSAL: This is an outline application for residential development on a plot of land to the east of Doseley Road and north of Pool Hill Road, Dawley. This site forms one of 4 sites being put forward by English Partnerships. The application suggests that up to 45 dwellings could be provided on this site with a mix of dwellings and apartments between 2 and 3 storeys in height and including split level dwellings to make best use of the levels of the site. The concept diagram submitted with the application suggests three development platforms be provided. Two would be served by accesses off Doseley Road and Southern area (three dwellings) by private access off Pool Hill. A landmark building (three storeys high) is suggested at the northern end of the site fronting Upper Pool Hill. Two storey development is suggested for the southern half of the site. All matters are reserved for subsequent approval.

PLANNING HISTORY: The site has the benefit of 7(i) approval number 236 - Land at Horsehay/Doseley in 1991. The site is one of a number of plots along Pool Hill Road for which permission was granted by this approval. It was estimated that the site would be suitable for 4 dwellings. Large areas to the north and east of Pool Hill Road, to the north-west of the site would be retained as open space/paddocks.

SITE AND LOCATION: The site is located approximately one kilometre to south west of Dawley Centre and 1.5km from the Town Centre. It is irregular in shape and bounded to the north by Upper Pool Hill, to the west by Doseley Road and to the south and west by existing dwellings fronting Pool Hill. There is existing residential development to the south and east of this site with a small area of woodland south of Pool Hill between the site and the development off Duckett Drive. There are extensive areas of open space to the west of Doseley Road.

The site covers an area of 1.21 ha and slopes steeply from the higher ground to the north and east towards the south. There is a drop of 14 metres from north to south. There is existing hedgerows and vegetation around the boundaries of the site that screen it. At present access into the site is from Pool Hill Road and the land is used for rough grazing. There are four mineshafts within the site and a further 2 shafts within 20m of the site.

POLICIES: In the Core Strategy DPD the following policies are relevant: CS1 - Homes CS3 - Telford CS5 - District and Local Centres CS11 - Open Space CS15 - Urban Design

In the Wrekin Local Plan the following saved policies are relevant: H22 - Community Facilities UD2 - Urban Design Criteria T22 - Planning Obligations OL6 - Open Land LR4 - Outdoor Recreational Open Space LR6 - Developers contributions to outdoor recreational open space provision within new residential developments EH14 -

Land Stability EH7 - Land contamination EH8 - Remedial action on contaminated land

The site is shown for housing on the proposals map for the Wrekin Local Plan. National Planning Guidance is given in: PPS 1 -Delivering Sustainable Development (including planning and climate change) PPS 3 - Housing PPS 9 - Biodiversity and Geological Conservation PPG 14 - Development on unstable land PPS23 - Planning and Pollution Control

CONSULTATION RESPONSES: The Council's Leisure & Recreation Officer has requested a contribution of £600 per dwelling to be used to improve/upgrade nearby play provision at Dawley Park in accordance the requirements of policies LR4 & LR6 of the Wrekin Local Plan. In addition the site is located adjacent to a site that has a long term use as a fairground site with around 4 events per annum. Existing residents are used to this facility and he is concerned that new residents may object to the noise this use generates. Any new development should be designed with appropriate measures to minimise noise. He would like the area to be signed and for new residents to be made aware of the use of this open land to the north of the site.

Environment Agency have looked at the flood risk assessment and accept the principles proposed to reduce flood risk including the proposals for water attenuation. This will, however, need to be reviewed when further information is available at the detailed design stage. Conditions requiring detailed surface water drainage works and surface water run-off limitation are suggested. In addition the Desk Study report for contamination concludes that further investigation will be required and this should be subject of a condition. There is also need to protect controlled waters from contamination and a need to demonstrate that the impact of surface water drainage will not impact on the stability of the site.

Shropshire Wildlife Trust recommended a bat survey as they have records of bats in the vicinity. The bat survey showed that there were no bats on the site.

Environmental Health and Engineering Services have no objections but in view of the past mining consider that the site may be contaminated. They have recommended conditions requiring a contaminated land study. In addition there are both treated and untreated shafts on the site which will need to be addressed and appropriate stand-off incorporated into any layout. There may be problems of disposal of surface water as there are no surface water sewers available and soakaways may not be appropriate because of ground conditions. Surface run-off should not exceed existing green field run-off.

The Council's Education Department have requested a contribution towards the provision of primary school facilities generated by the development and suggested £53,503 based on their formula.

The Council's Housing Department have suggested provision be made for affordable housing on the site and requested 30% affordable split as 20% social rented and 10% shared ownership. Discussions on dwelling sizes and types need to take place.

The Council's Highways Officer has no objections in principle to the development subject to the provision of two suitable access points off Doseley Road. Private drives to serve a maximum of 3 dwellings off Pool Hill Road will be acceptable. A two metre wide footpath should be provided along the length of the site linking to Dawley Centre to the north from Pool Hill Road. In addition a contribution of £12,000 towards upgrading and lighting adjoining footpaths to the nearby schools is requested.

Great Dawley Parish Council has major concerns over the number of new dwellings. They comment that the site is on a dangerous road on a steep hill with no traffic calming measure. This road is not designed for additional dwellings. There may also be issues of flooding of existing properties.

There have been 8 letters from households close to the site and a petition with eleven names objecting to the development. Cllr Helen Williams has requested that this application be considered by Plans Board so she can put forward local views. The main points of concern relate to the following matters: * Loss of green space and natural habitat and subsequent affect on wildlife * change to the semi-rural character of the area * Potential loss of privacy to existing dwellings adjacent to the boundary of the site * Potential noise affecting existing dwellings * Additional traffic on Doseley Road which is already congested during busy period and is exacerbated by the lack of footpaths and poor street lighting * Traffic along Doseley Road travels at high speed potentially resulting in dangerous junctions and potential accidents. Upper Pool Hill Road junction is dangerous and additional traffic will make it worse * Additional traffic on Pool Hill which is already substandard * Need for footpath/cycleway along Doseley Road * Local bus provision inadequate so people would need to use cars * Treatment of mineshafts could affect stability of the area * Drainage will need to be upgraded and there may be issues of flooding due to the slope of the land * Loss of view and loss of value to existing property * Are additional houses needed in view of the Lawley development * House types and apartments do not reflect development in the area

PLANNING CONSIDERATIONS: This site has the benefit of a S7(i) approval under the New Towns Act which includes several areas for residential development, one of which is the current application site. The site does, therefore, have the benefit of an existing extant planning permission though English Partnerships have now agreed to submit new planning applications for all their undeveloped sites to take account of recent changes in legislation and government guidance.

Policy CS1 of the Core Strategy seeks to provide 1330 homes per annum up to 2011. The majority to these will be provided within Telford (policy CS3). Policy CS5 requires new housing development within the District Centres or on sites highly accessible to these centres.

The site lies within an area allocated for residential development within the Wrekin Local Plan and is adjacent to areas of Green Network (policy OL3 of the Wrekin Local Plan) to the north and east of the site.

The site lies about 1 km south-west of Dawley Centre. There is the regular amberline bus service within 400m along Manor Road to the east of the site. The site can,

therefore be considered to be accessible to a District Centre as required by policies CS 5 of the Core Strategy.

The site covers an area of approximately 1.21ha. It is a steeply sloping site with the highest parts to the north and east. It will require substantial earthworks to provide suitable development platforms. There may, as a result, be issues of slope stability that will need to be addressed. Any development will need to take account of the sloping nature of the site and the applicants suggest that split level dwellings will be appropriate on parts of the site.

A desk top study has been carried out in accordance with policies E7, E8 and E14 of the Wrekin Local Plan which has looked at the potential issues of land contamination, shallow mining, existing mineshafts on the site and land stability. There are four mineshafts within the site and two close to the site which will restrict the area available for development. These shafts have been plugged but not capped and it will be necessary to provide an appropriate stand-off. As this is an area of shallow mineworkings and there was a former gasworks on the site there may well be some associated land contamination and further investigation including gas monitoring will be necessary. There is also radon gas on the site and protective measures will be necessary. This will be a difficult site to develop in terms of ground conditions and land stability but it is considered that, subject to appropriate remediation, including treatment of the mineshafts, and earthworks to create development platforms most of the site can be developed.

At the last meeting of Plans Board, members expressed reservations about the capacity of the local highway infrastructure to accommodate this development. However, the Highways Officer considers that the existing road network can accommodate the development. He has accepted that access to the site can be provided off Doseley Road with two new junctions. A maximum of three dwellings can be served by private drives off Pool Hill Road to the south. This will result in the loss of part of the existing hedgerow along Doseley Road and along the southern boundary of the site. In addition the developer will need to provide a 2 metre wide footpath along Doseley Road as part of any development to link the development to the existing footpath network to Dawley centre and has agreed a contribution of £12,000 for improvements to the footpaths to the nearby primary and secondary schools.

In terms of drainage the site is likely to be unsuitable for use of soakaways. Other methods to reduce surface water flows will be required before it enters the sewers in Duckett Drive. In addition the flood risk assessment suggests that some form of intervention may be required to limit surface water from outside the site particularly to the north. Surface water drainage issues will need to be carefully considered at reserved matters stage. There are four sewers in Duckett Drive.

The applicants have submitted an urban design concept plan as required by policy UD2 of the Local Plan. The applicants have suggested that up to 45 dwellings could be provided on three development platforms including some three storey apartments. This will give a density of 37 dwellings per ha. The presence of mineshafts is a constraint to development particularly at the northern end of the site which will be retained as open space. The apartments will be located towards the

northern end of the site to take advantage of views to the south. On the middle platform there could be some split level dwellings to respond to the changes in levels of the site. At the southern end of the site development will be two storey to reduce the impact on existing properties along Pool Hill Road. There is a mix of house types in the area and development up to three storeys in height is felt to be acceptable. The development areas will be linked by a footpath running north to south. It is considered that the suggested layout will provide an appropriate and acceptable response to the constraints of the site and opportunities provided.

In order to meet the requirements of policies LR4 and LR6 of the Wrekin Local Plan requiring all developments to make provision for recreational facilities the applicants have agreed to pay a contribution of £600 per dwelling towards off-site play facilities.

Contributions to the provision of affordable housing and education have been agreed. As a result the difficult ground conditions and cost of remediation 22.5% affordable housing has been agreed. In addition £53,503 has been accepted as the appropriate contribution to offset the impact of the development on primary school education.

On balance it is considered that the site is suitable for residential development. This will not be an easy site to develop and care will be needed to ensure that appropriate account is taken of the levels, mineshafts, potential contamination, highway requirements and drainage. These issues can be covered by appropriate planning conditions.

RECOMMENDATION: Subject to the applicant/owner entering into a Section 106 agreement to provide a financial contribution to off-site outdoor recreational provision, education facilities, improvements to the footpath and 22.5% affordable dwellings then delegated authority be granted to the Head of Planning to GRANT OUTLINE PLANNING PERMISSION subject to the following conditions: 1. a1 Standard Outline 2. a2 Submission of reserved matters 3. b10 Submission of reserved matters 4. b11. General details required 5. b12 Environmental Survey 6. b23 Landscape Design 7. b30 Road Design - amended - to include provision of a 2 metre footpath along Doseley Road, road drainage to a suitable outfall 8. b50 Foul and Surface water drainage including surface water run-off limitation 9. b46 Slope stability 10. b44 Contaminated land (amended) 11. b43 shafts treated 12. b42 shafts untreated 13. b33 on site construction to include site environmental management plan. 14. Non Standard Environment Agency condition re piling and foundation design 15. Non Standard Environment Agency condition re no infiltration of surface water drainage into the ground. 16. b41 Shallow mineworking 17. b42 Shafts untreated 18. Non Standard - The reserved matters application shall be broadly in accordance with the layout in the Urban Design Concept Plan received on 24 September 2008. 19. Non Standard - no more than three dwellings to be served off Pool Hill Road 20. Design of dwellings at northern end of the site to provide noise mitigation from the adjoining land used as a fairground site.

REASONS FOR APPROVAL: This site benefits from an existing planning permission under the New Towns Act for residential development and is an allocated site for residential development in the Wrekin Local Plan. The Local Planning Authority considers that the development of this site is in keeping with the

requirements for new housing development as set out in the Core Strategy Development Plan and the saved policies of the Wrekin Local Plan. This is a difficult site that will require substantial works to enable it to be developed. The submitted concept plan respects the character of the surrounding area and will result in an appropriate development that will respect the character and appearance of the area. Contributions have been agreed towards off-site recreation facilities, primary school provision, affordable housing and footpath improvements.