

TEWKESBURY BOROUGH COUNCIL – DEVELOPMENT CONTROL

Committee:	Planning
Date:	20 October 2020
Site Location:	Land Adjacent To The Swan Tewkesbury Road Coombe Hill
Application No:	18/00173/FUL – UPDATE REPORT
Ward:	Severn Vale North
Parish:	Leigh
Proposal:	Residential development comprising 25 no. dwellings, with new vehicular/pedestrian access onto A38, relocation of bus stop, sustainable drainage and Foul Treatment Works and associated landscaping, access and parking.
Report by:	Bob Ristic
Appendices:	Site layout plan
Recommendation:	Delegated Permit

1.0 INTRODUCTION

At the June 2019 Planning Committee, it was resolved to delegate permission to the Technical Planning Manager subject to the resolution of outstanding matters in respect of ecological mitigation measures, any additional/amended conditions arising and the completion of a Section 106 legal agreement to secure the following contributions:

- Affordable Housing - 40%
- Recycling & waste bins - £73 per dwelling}

2.0 COMMUNITY INFRASTRUCTURE LEVY/SECTION 106 OBLIGATIONS

2.1 The Community Infrastructure Levy (CIL) Regulations allow local authorities to raise funds from developers undertaking new building projects in their area. The regulations stipulate that, where planning applications are capable of being charged the levy, they must comply with the tests set out in the CIL regulations. These tests are as follows:

- a) necessary to make the development acceptable in planning terms
- b) directly related to the development; and
- c) fairly and reasonably related in scale and kind to the development.

2.2 As a result of these Regulations, local authorities and applicants need to ensure that planning obligations are genuinely 'necessary' and 'directly related to the development.' As such, the Regulations restrict local authorities' ability to use Section 106 Agreements to fund generic infrastructure projects, unless the above tests are met. Where planning obligations do not meet the above tests and restrictions, it is 'unlawful' for those obligations to be taken into account when determining an application.

- 2.3 In October 2018 the Council adopted CIL and implemented the levy on the 1st January 2019. For CIL purposes the application site falls within a 'Generic Site' and is subject to the levy for residential development currently at £200 per square metre on all the market elements of the proposed development

3.0 EDUCATION/SECTION 106 OBLIGATIONS

JCS Policy INF6 provides that where need for additional infrastructure and services and/or impacts on existing infrastructure and services is expected to arise, the local planning authority will seek to secure appropriate infrastructure which is necessary, directly related, and fairly and reasonably related to the scale and kind of the development proposal, including for education and cultural infrastructure. Planning permission will be granted only where sufficient provision has been made for infrastructure and services to meet the needs of new development and/or which are required to mitigate the impact of new development upon existing communities.

Policy INF7 sets out that financial contributions will be sought through the S106 and CIL mechanisms as appropriate, and allows for consideration of viability through robust assessments. Further, the policy sets out that where there is a concern about the viability of a scheme, an independent viability assessment will be carried out; the explanation to the policy states that this will allow an objective appraisal to inform negotiations.

The June 2019 Officer Report noted that the County Council's S.106 Officer had requested contributions towards provision of facilities at local schools, but it was considered that these would not meet the prescribed tests.

The drafting of the S106 agreement is well advanced however the County Council (GCC) has since provided further evidence to justify meeting the prescribed tests to provide the contributions towards education and libraries, as set out below.

In respect of education, it has been advised that the proposed development would give rise to the following contributions to mitigate the impact of the development:

- Pre-school: £95,073.30
- Primary: £129,933.51
- Secondary 11-16: £81,858.00
- Secondary 16-18 £53,157.72

GCC has advised that the early year's and primary provision would be for the Churchdown/Innsnorth Primary Planning Area and/or the Bishops Cleeve Primary Planning Area and/or the Tewkesbury/Ashchurch Primary Planning Area. The Secondary provision would be for the Cheltenham and/or Tewkesbury Secondary Planning Areas.

In terms of libraries, the County Council has advised that the scheme would generate a need for library resources and a contribution of £4,900 has been sought towards resources at Tewkesbury Library.

It is considered that the additional contributions sought are acceptable in the context of the CIL Regulations (Regulation 122). Officers are satisfied that the requested contributions are justified.

However, the applicant has advised that the requested contribution towards education and libraries would make the scheme unviable.

Paragraph 57 of the NPPF sets out that, *'Where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force. All viability assessments, including any undertaken at the plan-making stage, should reflect the recommended approach in national planning guidance, including standardised inputs, and should be made publicly available'*.

The District Valuer (DV) has assessed the development on behalf of the Local Planning Authority to ascertain whether the requested education and library contributions could be sought and the development remain viable and deliverable.

The DV has assessed the applicants financial appraisal and abnormal costs associated with bringing the development at this site forward and has concluded that, the development could only sustain the requested library contribution of £4,900 and a reduced education contribution of £70,000 in order for the scheme to remain viable and ultimately deliverable.

The Applicant has accepted these conclusions and agreed to the additional contributions in order to enable the scheme proceed. This would be secured through a Section 106 Agreement in addition to the contributions agreed previously.

4.0 OTHER MATTERS

Further details in respect of ecological mitigation have been received. A revised Appropriate Assessment has been submitted to Natural England and their observations are awaited.

5.0 CONCLUSION AND RECOMMENDATION

Further to the above, it is considered that there are no material changes in circumstances since the previous resolution to justify an alternative recommendation. The conditions, subject to the delegation below, are as set out in the June 2019 Officer Report.

Subsequent to the details referred to above it is therefore recommended that authority be **DELEGATED to the Development Manager to PERMIT the application, subject to the resolution of outstanding matters in respect of ecological mitigation measures, any additional/amended conditions arising and the completion of a Section 106 legal agreement to secure the following contributions:**

- Affordable Housing - 40%**
- Recycling & waste bins - £73 per dwelling**
- Education contribution - £70,000**
- Library Contribution - £4,900**