

COMMITTEE: DEVELOPMENT CONTROL

DATE: 05 NOVEMBER 2014

SUBJECT: FORMER VAUXHALL MOTORS SITE (NAPIER PARK AND STIRLING PLACE), KIMPTON ROAD – OUTLINE APPLICATION FOR A MIXED USE DEVELOPMENT – RESIDENTIAL (CLASS C3), RETAIL (CLASS A1-A5), OFFICE (CLASS B1), STORAGE AND DISTRIBUTION (CLASS B8), HOTEL (CLASS C1) AND CASINO (SUI GENERIS) USES, NEW LANDSCAPING, PARK AND PUBLIC REALM, CAR PARKING, MEANS OF ACCESS, NEW ACCESS TO KIMPTON ROAD AND OTHER ASSOCIATED WORKS. (WITH EIA).
(APPLICANT: AUGUR GROUP LTD)
(APPLICATION NO: 13/00280/OUT)

REPORT BY: DEVELOPMENT CONTROL MANAGER

CONTACT OFFICER: DAVID GAUNTLETT 546317

IMPLICATIONS:

LEGAL	COMMUNITY SAFETY
EQUALITIES	ENVIRONMENT
FINANCIAL	CONSULTATIONS
STAFFING	OTHER

WARDS AFFECTED: CRAWLEY

PURPOSE

1. To advise Members of the current position regarding this application as a result of the negotiations that have taken place pursuant to the terms of

approval agreed by resolution at the Committee meeting of 11th December last and to seek their decision.

RECOMMENDATION(S)

2. It is recommended that planning permission is granted subject to the Members resolution at their 11th December Meeting but with the following changes:

a. insofar as it relates to the changes to the Heads of Terms of the s106 agreement, set out at paragraph 2 (b) (i) of the resolution, bullet point 4 be amended as follows:-

– The provision of 10% affordable-rent housing on-site

b. Insofar as it relates to the change to the conditions set out at paragraph 2 (c) of the resolution, the wording of condition (10) be amended as follows:

(10) The Class A1 foodstore shall not commence trading or operational use unless and until the completion of at least the number of dwelling units specified in the table below and related to the net sales area of the supermarket:

- No more than 650 square metres net sales area - nil dwelling units**
- 2,555 square metres net sales area - 160 dwelling units**

The number of housing units to be delivered associated with a foodstore with a net sales area above 650 square metres but no more than 2,555 square metres shall be determined on the basis of 1 dwelling unit for every 12 square metres (net) provided. Should a foodstore with a net sales area below 1,858 sq. metres be proposed an updated illustrative Masterplan shall be submitted to demonstrate how the proposed design and layout of Plot 3 will relate to the wider master plan area

Reason: To ensure that the supermarket foodstore fulfils its purpose as a centre for the local needs arising from the development and in the interests of safeguarding the retail function and primacy of the town centre shopping centres in

accordance with policies LP1, S1 and KR1 of the Luton Local Plan

BACKGROUND

3. Members will recall that a planning application for the former Vauxhall Site, commonly referred to as Napier Park was reported to the Committee at the meeting of 11th December 2013. The application sought outline planning approval for a mixed use development comprising the following elements:
 - Up to 625 residential units (an area of 53,184 sq. metres);
 - Up to 4,645 sq. metres of Supermarket with a sales area of 2,555 sq. metres (27,500 sq.ft);
 - Up to 4,080 sq. metres of other A1-A5 retail floorspace;
 - Up to 30,150 sq. metres of B1 office floorspace;
 - Up to 16,500 sq. metres of B2 industrial and B8 storage and distribution floorspace;
 - Up to 15,200 sq. metres of Hotel floorspace providing up to 250 rooms;
 - Up to 2,500 sq. metres of Casino floorspace;
 - Up to 2,089 parking spaces
4. At that meeting, Members subsequently resolved that the application be approved subject to the satisfactory completion of a S106 agreement to secure, amongst other things, the provision of 10% affordable housing on the site (comprising 50% shared ownership units and 50% being social rented units). As a result of the subsequent s106 negotiations which have been ongoing since that time, two specific issues have arisen which are associated with the terms of the resolution agreed. These require the further consideration of the Committee before further progress towards the completion of the agreement can be made.
5. The first issue relates to the affordable housing provision as included in the Heads of Terms. As indicated above, the Committee resolved that affordable housing should be provided on a 10% basis, split equally between units of shared-ownership and social-rent. However, in the light of subsequent approach advocated by the Council's Housing service, the Committee's approval is now sought to amend the tenure mix so that the full 10% of units will be for affordable-rent only, thereby removing the specific references to both social-rent and shared-ownership units. The basis on which the request for this change to be made is set out below.
6. Where the rent of social-rented accommodation is set at a much lower rate, affordable-rent is calculated at up to 80% of the market-rent in an area. Affordable-rented tenures were introduced during the last grant

programme (2011-2015) as the Government has significantly reduced the amount of funding that is being given out to organisations to develop new affordable housing. Accordingly the higher rents generated by affordable-rented accommodation enables Housing Associations to raise more money to reinvest in the building of additional new homes. The consequence of this is that the Homes and Communities Agency (HCA), who administer the grant programme on behalf of the Government, will not support schemes unless they are for affordable-rent.

7. In light of this situation the Council's Housing Policy team have made the recommendation that the initial tenure mix be changed to enable the full 10% of units to be affordable-rent. This has been discussed with the applicant, who in turn has been in discussion with a prospective house builder interested in build out at the site. Agreement has been reached on this matter subject to the Committee's approval. It is envisaged that the affordable-rented units will be made up predominantly of 2-bedroom flats (90%) with an element of 1-bedroom flats (10%) making up the difference.
8. From the Housing service's perspective, the change in tenure mix to affordable rent does provide a positive outcome insofar as the increased proportion of rented accommodation on the site will make useful contribution to meeting the affordable housing needs existing in the town in overall terms...
9. The second issue relates to the imposition of conditions agreed as part of the resolution and more specifically the wording of Condition 10, which reads as follows:

"The Class A1 foodstore supermarket shall not commence trading or operational use unless and until the completion of at least 160 of the dwelling units within the residential phases of the development hereby permitted"
10. With respect to the retail hierarchy, the site is in an "out-of-centre" location. Therefore concern was initially raised at the inclusion of a foodstore as part of the development as a matter of principle. However, it was considered that as the mix of uses to be included in the development of the site would mean that the foodstore would fulfil a role as a centre for arising local needs, as well as appealing to the wider area, an emerging identified need would be met. The objectives of the wording of Condition 10 sought to achieve the appropriate balance between, on the one hand, kick-starting the development with much-needed housing thereby providing the foundation for the local need that is anticipated to primarily use the foodstore and on the other hand, to safeguarding against the potential for the foodstore to come forward in isolation, with the remaining development being stalled. In the case of the latter this would undermine

the justification for its existence and the general thrust of adopted retail policy.

11. Notwithstanding the foregoing, the Committee report to the last December meeting did make it clear that the foodstore element would provide the principal catalyst by which the regeneration of this site can be started. Whilst the applicants have explored bringing the development forward and fulfilling the requirements of the condition, they are having difficulties in achieving this due to constraints associated with the site. The level differences present a challenging landscape for any form of development, and the infrastructure required to be installed before any development can take place will result in a significant financial commitment being made before any housing can be built. Therefore, for the development of the site to realistically progress, the applicants have advised that there needs to be some generation of funds at the start of the process. This is the reason the supermarket is identified as being the development catalyst; it will generate the up front value to facilitate the infrastructure necessary for the delivery of the remaining residential and commercial elements of the development.

12. The dilemma that this presents is that in the absence of any housing coming forward to begin with, the foodstore being created will not have a direct catchment to serve. However if the delivery of the foodstore is stalled then the applicants have advised that the prospects for the development to come forward at all are extremely unlikely. The applicant has therefore requested that the condition be either removed or amended to provide some flexibility on this issue. In consequence and in the interests of ensuring that this important major regeneration site is in a position to be brought forward but without affecting the integrity of the development, a variation to the wording of the condition has been negotiated that can be accepted without material compromise to the Council's original position. The suggested variation to the condition is set out below:-

"The Class A1 foodstore shall not commence trading or operational use unless and until the completion of at least the number of dwelling units specified in the table below and related to the net sales area of the supermarket:

- No more than 650 square metres net sales area - nil dwelling units
- 2,555 square metres net sales area - 160 dwelling units

The number of housing units to be delivered associated with a foodstore with a net sales area above 650 square metres but no more than 2,555 square metres shall be determined on the basis of 1 dwelling unit for every

12 square metres (net) provided. Should a foodstore with a net sales area below 1,858 sq. metres be proposed an updated illustrative Masterplan shall be submitted to demonstrate how the proposed design and layout of Plot 3 will relate to the wider master plan area"

13. The amended wording of the condition would be flexible in that it would allow up to 650sq. metres of net floorspace to be provided without the need to provide a level of housing on the site (which is the equivalent of a Tesco Metro/Local Nisa/Morrisons Local store). Anything above 650sq. metres would then need to provide housing on an incremental basis of 1 dwelling for every additional 12sq. metres above that threshold (e.g. a minimum of 29 residential units would have to be completed before a store measuring 1,000sq. metres could be provided). In the event that the full store size of 2,555sq. metres net retail is proposed, then 160 residential units will need to be completed first, a figure that has been maintained from the originally proposed condition. The amended wording of the condition offers a good level of flexibility, and will assist in bringing the development forward, whilst at the same time securing a level of housing delivery that is proportionate to the retail floorspace that is created.
14. Members will note that the condition concludes by requiring an updated Masterplan if the foodstore is below a certain floorspace trigger (1,850 sq.metres). The original Masterplan of the site anticipates the creation of a foodstore of up to 2,555sq.metres in net floorspace and has a service area and car park proportionate to a store of that size. However if (for example) a foodstore is proposed, which only hits 650sq. metres, the allocated area set aside for the foodstore would swamp such a small development and this would ultimately have an adverse knock-on effect on the Masterplan. Bearing in mind that the location of the foodstore forms part of the central focus point of the site (also including a public square and other retail uses), it seems prudent that if the eventual foodstore does fall below the recommended trigger point, then the Masterplan should be updated to compliment this scenario.

CONCLUSIONS

15. Negotiations on the S106 Agreement are in progress but completion of the agreement is dependent on the issues identified in the above report being satisfactorily resolved.
16. The changes to the resolution regarding the mix of affordable housing does remove the opportunity for an element of social-rented accommodation to form part of the development but the changes to allow affordable-rent advocated by the Council's Housing service, will increase the overall rented-accommodation available and thereby make a positive contribution to the affordable housing needs of the Borough in overall

terms. By virtue of the endorsement of the Council's Housing service, this approach is therefore considered to be an appropriate change in this instance.

17. With regards to the wording of Condition 10, the regeneration of the site is seen to be of strategic importance and in this instance it is considered that a level of flexibility to the Committee's initial position is appropriate to secure the successful regeneration of this key site. However, it is also important that the Council safeguards the overall vision for the site. The negotiations that have taken place with the applicant have resulted in a variation to the relevant condition that satisfies the Council's policy and layout concerns over the delivery of a foodstore. Equally, given the applicants stated commitment to the delivery of the application proposals, the suggested changes will enable early prospects for the delivery of this site to be brought forward.
18. As a result of the foregoing, Members are therefore recommended to accept the suggested changes.

LIST OF BACKGROUND PAPERS

LOCAL GOVERNMENT ACT 1972, SECTION 100D

19. Luton Local Plan 2001–2011
20. National Planning Policy Framework