Development Management

Planning and Sustainable Development Service



**OFFICER REPORT – DELEGATED**

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| **Application number: PA20/09631** | **Expiry date: 29 April 2022** |
| **Received on: 3 November 2020** | **Neighbour expiry date: 14 February 2021** |
| **UPRN: 010090523220** | **Consultation expiry date: 29 November 2021** |
| **Legal agreement: Y**  |  |
| **Departure: N** |  |
| **Complies with Development Plan? Y** |  |
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| **Applicant:** | **MR Phil Mason CORNWALL COUNCIL** |
| **Site Address:** | **Land North Of A390 Threemilestone****Threemilestone****Cornwall** |
| **Proposal:** | **Hybrid planning application for Langarth Garden Village comprising: A. A full planning application for construction of the Northern Access Road and associated access junction arrangements onto the A390, new junctions to the quiet lanes and associated infrastructure and earthworks and retaining and boundary features; B. An outline planning application with all matters reserved to create a mixed use, landscape-led community comprising a phased development of up to 3550 dwellings plus 200 extra care units and 50 units of student/health worker accommodation, including affordable housing; five local centres comprising local retail (E), offices (E), restaurants and cafes (E), drinking establishments (sui generis), hot food takeaway (sui generis), health and community facilities (F1 and E), a local care health centre (E), a blue light centre for emergency services (sui generis), up to two primary schools (F1), business and commercial floorspace (E), brewery / public house (sui generis) and associated areas of open space to include a suitable alternative natural greenspace as a strategic open space a community farm/allotments, public realm, renewable energy provision and energy centre, park and ride extension (of up to 600 spaces or 2.73 ha), cycle lanes, connections with the existing highway network including crossings of the A390, quiet lanes, drainage and associated infrastructure, including the demolition of buildings and structures, site clearance and associated earthworks and C. The Application is accompanied by an Environmental Statement.** |
| **Application Type:** | **Full application** |

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| **Consultee representations:** |

No further consultee representations to those within the Committee Report and Update Report at Strategic Planning Committee on 16th December 2021.

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| **Constraints and designations:** |

As detailed within the Committee Report and Update Report provided at Strategic Planning Committee on 16th December 2021.

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| **Relevant policies, SPGs and Government guidance:** |

As detailed within the Committee Report and Update Report provided at Strategic Planning Committee on 16th December 2021.

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| **Appraisal/key issues and conclusion:** |

Strategic Planning Committee at the meeting held 16th December 2021 resolved that;

“delegated authority be granted to the Head of Development Management to approve this application as set out in the Committee Update subject to an amendment to Condition 10 to require details of specialist advice on mining features within any Neighbourhood Design Code.

A) conditions as set out in the Committee report or as amended below or similar as may be agreed under delegated authority given to the Head of Development Management and;

B) completion of a Section 106 Obligation to deliver appropriate infrastructure and mitigation as may be agreed under delegated authority given to the Head of Development Management. Matters to reflect the Heads of Terms as agreed between the Applicant and LPA and to include no less than those measures specified in the Heads of Terms”.

Post the committee resolution the Section 106 Obligation and planning conditions have been discussed with the applicant and drafted or reviewed as appropriate. In addition, discussions with Devon and Cornwall Police regarding a Section 106 contribution have taken place post Strategic Planning Committee (“SPC”).

**Police Contribution**

In their representation to the Local Planning Authority, the office of the Police and Crime commissioner for Devon and Cornwall submitted a request for a contribution towards the additional cost of meeting the policing costs that would be generated by the Langarth development. This request had two elements.

1. A contribution towards the costs of personnel infrastructure (essentially, new police equipment).

2. A contribution towards the delivery of a new police station.

The LPA were not, prior to SPC, satisfied that the Police request was fully CIL Regulation 122 compliant i.e. that the contributions sought by the police were (a) necessary; (b) directly related to the Langarth development or (c) fairly and reasonably related in scale and kind to the Lnagarth development. The LPA’s preliminary reasoning is set out in the Update Report. However, the LPA and applicant indicated a willingness to continue discussions and test the evidence with the Police, post SPC.

Following such discussions with the Police, the LPA and applicant, accept that developer contributions towards additional police infrastructure can be compatible with CIL Regulation 122. To ensure such contributions are evidence-based, deliver necessary mitigation and are as fair and reasonable, the LPA will work with the Police to develop a standardised approach for police contributions in the future.

Before this standardised approach is adopted, the LPA and applicant have agreed with the Police that the Langarth Garden Village will contribute £127,000 to Devon and Cornwall Police Estates’ personnel infrastructure requirements, on a proportionate ‘pro rata’ basis prior to the first residential occupation of each ‘Reserved Matters Area’.

This sum has been calculated on the basis that affordable housing units will not contribute towards police infrastructure. This approach is consistent to that adopted by the LPA in relation to health infrastructure and is justified, inter alia, on the basis that residents of ‘local needs’ affordable housing units tend to come from existing communities and tend not, therefore, put additional (or as much additional) pressure on existing services. The LPA and the applicant are satisfied that this contribution can, on this occasion, be justified by reference to the additional need for police services generated by a housing-led development of this scale and kind.

The second element of the Police request relates to the development of a new Police station to meet the needs of the catchment area. This element is not deemed to be compliant with Regulation 122 at this stage. There is no clear programme or plan for the delivery of the station no clear costings (or an explanation of how any funding gaps would be addressed), and the need and location for a new station will depend on a wider scale of development than Langarth Garden Village. The assessment and delivery of such a new strategic facility requires ongoing joint working between the Council and Police authority.

In this context, the LPA would note that the Council’s Cabinet on the 15th December 2021 resolved to prioritise the use of future CIL funds generated by the Langarth Garden Village to support the delivery of strategic infrastructure, including police infrastructure.

The LPA understands that the Council will, in its capacity as CIL Charging and Collecting Authroity, work with the Office of the Police Commissioner, to assess options and the opportunities which exist for bids to be made against CIL funding to support the delivery of an improved police station for Truro and the wider area.

Potential CIL receipts toward police infrastructure are also likely be supplemented in the future by section 106 contributions, pursuant to the standardised metric which is being developed by the LPA, as noted above.

**Conditions**

With respect to the conditions presented to SPC these have been updated as follows:

* To include key definitions to help interpret when conditions need to be complied with
* To include headings, to make the conditions easier to navigate
* For internal consistency in terms of language and numbering used
* To make sure that where information is submitted to the LPA, it is required to be approved by the LPA in writing
* To make sure that where details are approved, the condition is clear that those details must then be implemented or adhered to when the development is carried out and, where management details are required, also managed in accordance with those details
* To include additional informatives to guide the interpretation of the conditions
* To eliminate duplication (for example, in the drainage conditions where certain documents were required to be submitted under a number of different conditions – for example, the construction surface water management plan and construction quality control procedure were required to be submitted under Application A condition 7 as well as under conditions 8 and 9 respectively.
* To use language in the time limit conditions attached to the outline element of the permission (Application B) which more closely align with section 92 TCPA 1990
* To clarify that some information in the approved ES was updated before determination, and to ensure the conditions linked to the ES refer to the most up to date environmental information
* To clarify the neighbourhood design code conditions attached to Application B so it clear that condition 8 defines what a Neighbourhood is; condition 9 sets the time limit for approval of a design code for each Neighbourhood and condition 10 sets out the details which the LPA expects to see in such a design code.
* An informative has been added at the end of condition 10 to Application B to clarify that where a reserved matters application relates to infrastructure development only (for example, SANG) the LPA’s expectations around the NDC are moderated to proportionately reflect the proposed land use.
* To flag that the biodiversity net gain condition attached to Application B needs to be read alongside the S106 Obligation accompanying this permission
* To eliminate duplication between the landscaping conditions and others expressly governing tree protection, lighting etc.
* To clarify the objectives of the staging and phasing plans associated with the delivery of the NAR and delivery of the development under the outline permission, cognisant of the fact that build out rates and other delivery conditions may change over time.
* To clarify but not materially alter the requirements for the CTMPs, CEMPs and LEMPs supporting the delivery of the NAR on the one hand and the development under the outline element of the permission on the other.
* To clarify but not materially alter the car club condition so it is clear what needs to be submitted and when.

**Section 106 Obligation**

With respect to the draft Section 106 Obligation accompanying this planning permission (to be secured or entered into pursuant to planning conditions 30 and 31), this has been drafted and negotiated to reflect the terms approved by SPC, materially in accordance with the draft heads of terms published alongside the Update Report to Committee.

The heads of terms have been extensively discussed with the applicant and relevant statutory consultees (including Affordable Housing, Highways and Public Transport) and the table below summarises the key changes to the published draft heads of terms, approved by the LPA:

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| **Personalised Travel Planning and MEP Evaluation Contribution**  | Clarifying that this contribution is to fund an officer at the LPA or in the Stewardship Vehicle for at least 20 years and that this officer is responsible for the implementation of approved personalised travel planning measures, as well as for analysing the results of the traffic surveys and monitoring carried out pursuant to the Monitoring and Evaluation Plan.  |
| **Bus Services Contribution**  | Reprofiling payment triggers in accordance with a revised bus subsidy and delivery structure agreed with the CC Public Transport Team. The Public Transport Team have, in liaising with the applicant’s transport consultant, identified an opportunity to make greater use of existing bus services at the beginning of the development, thus justifying a ‘camel back’ payment profile as follows:-Payments prior to:1. First Occupation – £150,000
2. Occupation of 100 Dwellings - £150,000
3. Occupation of 200 Dwellings - £150,000
4. Occupation of 300 Dwellings - £150,000
5. Occupation of 400 Dwellings - £300,000
6. Occupation of 500 Dwellings - £300,000
7. Occupation of 600 Dwellings –£300,000
8. Occupation of 700 Dwellings - £300,000
9. Occupation of 800 Dwellings - £300,000
10. Occupation of 1000 Dwellings - £200,000
11. Occupation of 1150 Dwellings - £200,000
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| **TRO Contribution** | Reprofiling payment triggers for this contribution, so they fall due at 14 x £7,500 increments commencing when the NAR is practically completed, at 250 Dwelling increments therafter, until Occupation of 3250 Dwellings.  |
| **P&R Extension Contribution**  | Clarifying that this contribution can be spent on P&R Extension design as well as construction costs. Also clarifying that the Highway Authority will confirm, by service of a notice before occupation of 500 Dwellings (roughly 2027/2028, depending on build out rates), whether or not the Extension is required to mitigate the traffic impacts of the development. If such notice is not served, the monies are still collected but can be expended instead towards the mitigation measures secured through the Transport Contribution. This spending flexibility is justified in planning terms because it should improve the ability of the development to meet its sustainable transport objectives and reduce reliance on the Sustainable Transport Bond.  |
| **SANG / SAC Contributions** | Clarifying that the SANG is the LPA’s preferred mitigation for recreational impacts arising from development in phases 1 and 2; but allowing for payment of SAC Contributions in lieu, in the event delivery is not possible or insufficient for any reason.  |
| **Neighbourhood Design Code Review and Implementation Contribution** | Clarifying that the payment trigger is within 20 working days of validation of a RM for an area including a Neighbourhood (unless already paid pursuant to condition 9 of the OPP e.g. where a RM is submitted before the LPA enters into a MOU to underwrite the s106 obligations pursuant to the conditions governing the Section 106 over the LPA’s land). Allowing for pro rata payments in respect of applications which do not cover an entire Neighbourhood. |
| **District Heating Network Connection** | Clarifying that the obligation to use reasonable endeavours to connect to a DHN crystallises if the DHN is in place before any RMA is validated (so RMs can be designed in a way to accommodate such connections). |
| **Police Contribution** | Incorporating a financial contribution in the total sum of £127,000 Index Linked payable towards police personnel infrastructure, prior to occupation of Open Market Dwellings, at a rate of £58 per Dwelling. |
| **Affordable Housing** | Incorporating CC’s standard terms for Local Connections in parished areas and terms governing the marketing and allocation of Social Rented Dwellings, Intermediate Homes for Sale and First Homes, alongside other tenures which may be approved by the LPA as part of the Affordable Housing Mix to be approved in connection with RMAs. |
| **Self Build, Extra Care and Student Accommodation**  | Incorporating an obligation to submit to and obtain the LPA’s approval of marketing schemes for each bespoke unit type prior to implementation of relevant units – to ensure these are marketed to the relevant demographics and serve the relevant housing need at the relevant time.  |
| **Viability Review Mechanism** | Deleting late stage review and clawback provisions which are complex and rarely utilised in practice; and clarifying that a landowner or developer can only rely on the VRM when RMs are submitted and that such mechanism is not available after RMs have been determined. |

Whilst some of the payment and other compliance triggers have been adjusted to reflect latest assumptions around likely build out rates and infrastructure delivery, the LPA is satisfied that the Section 106 Obligation accompanying this permission does not secure any less mitigation than that reported to SPC.

**Planning Policy and Guidance**

With respect to relevant planning policy applicable to this development this has not materially changed since the resolution to approve the application. The Truro and Kenwyn Neighbourhood Plan Revision has not been submitted to CC for the final consultation before examination. Hence it has the same limited material planning weight as set out in the Committee Report and Update.

The Cornwall Design Guide 2021 has now been approved by the Cabinet, post SPC. The separate streetscape design guide has been merged into the design guide to reduce the amount of guidance issued.

The Design Guide supports:

• the Cornwall Local Plan and

• the Climate Emergency Development Plan Document and

• the policy in Connecting Cornwall: 2030 Local Transport Plan.

Whilst the design guide was adopted for use in December 2021 it is very much intended as a tool for negotiation and is a ‘living document’ and will be updated from time to time as required. The Design Guide 2021 updates the previous guidance in the 2013 version and does not materially alter the assessment undertaken in relation to Langarth Garden Village as set out in the Committee Report and Update. The application is accompanied by a Design Code which sets out best practice and high design aspirations for the development. Further, the conditions require the submission of further Neighbourhood Design Codes to be agreed by the LPA. The Neighbourhood Design Codes will be required to reflect upon the guidance within the Langarth Garden Village Design Code and any local or National Design Guidance or Codes in place at the time.

With respect to the emerging Climate Emergency DPD, this remains in independent examination. A small amendment has been made to the weighting guidance to be applied by CC since the Committee resolution. The amendment clarifies that very limited weight should be applied to Policy SEC1 part 2a on new major non-residential development (i.e. seeking BREEAM Excellent) as well as applying very limited weight to part 2b on new residential development (i.e. the energy targets). This weighting guidance amendment has no material impact on the assessment of this application. Given the strategic importance of the site, the applicant has incorporated a range of measures to ensure that a net carbon zero buildings would be delivered, and these are controlled through recommended conditions, S106 Obligations and requirements in the Design Code. It remains the case that positive weight can be given to the proposal due to its conformity with the policies within the emerging Climate Emergency DPD.

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| **Recommendation:** |

There are no material changes that are so significant that they require the application to be reconsidered by Members. As set out above the conditions are materially unchanged from those reported to and agreed by SPC other than minor amendments for internal consistency and clarification. With respect to the draft Section 106 Obligation accompanying this planning permission, this has been drafted and negotiated to reflect the terms approved by Committee, materially in accordance with the draft heads of terms published alongside the Update Report to Committee, plus an additional contribution to the Police. These elements have been completed in accordance with the delegated authority provided by SPC and following acceptance of this report and counter signature by the Head of Development Management the planning permission can be issued.