

Scrutiny – 12<sup>th</sup> February 2009

## SHERFORD NEW COMMUNITY - UPDATE

### Report of Strategic Director (Community)

**Statutory Powers:** Town and Country Planning Act 1990, Local Government Act 2000 and the Planning and Compulsory Purchase Act 2004

**Financial Implications:** There are no immediate financial implications for the Council resulting from this report. However, progressing Sherford through the planning system does place a significant financial burden upon the Council. Officers are currently negotiating a Section106 package that seeks to deliver policy requirements.

The implications of the developers appealing the currently un-determined applications would be great and would involve significant legal costs (internal and external), external professional advice costs and officer time.

There are also long term financial implications to the Council resulting from the planned growth and associated increase in population creating a greater demand on the Council's services and functions. However, the increased population should also increase income to the Council through the development of substantial additional housing.

**Purpose:** This report seeks to update Members of progress with the delivery of the Sherford New Community development as requested at the November 2008 Scrutiny meeting. It must be acknowledged that the determination of the planning application is itself outside the remit of Scrutiny Committee under the Councils Constitution, and that the Development Control Committee has already approved the principle of granting consent, subject to resolution of outstanding matters.

**Links to Council Priorities:** The new community proposal at Sherford links to all Council priorities, commitments and cross cutting themes.

## RECOMMENDATION

**That Members CONSIDER the content of this update report.**

### Background

1. In August 2007 the Council adopted the Sherford New Community Area Action Plan (AAP). At the same time, Plymouth City Council (PCC) adopted the North Plymstock AAP. Together these AAPs set out the detailed planning policy framework for the delivery of a new community to meet strategic planning requirements. The vision, as enshrined within the AAPs, is for a high quality, sustainable, mixed-use community on the urban fringe of Plymouth. The AAPs were among the first in the country to be adopted under the 2004 Act and set high standards and demanding targets for the implementation of the development. Members will be aware that the AAPs anticipated development commencing in 2007 with a build rate that would meet the housing delivery requirements demanded by the Devon Structure Plan.

2. In response to the AAPs, Red Tree (2004) LLP submitted an outline planning application to the two Councils in November 2006. This was lodged ahead of the full AAP adoption, but followed extensive pre-application discussions and was broadly in line with the submitted AAP.
3. The Councils undertook extensive consultation following receipt of the application including a series of technical workshops attended by officers from SHDC, PCC, Devon County Council (DCC) and other stakeholders. Red Tree subsequently submitted additional information to support and clarify their proposals. In January 2008 Red Tree submitted a consolidated version of the application in readiness for a potential determination by Members of the Development Control Committees of both Authorities in the spring/early summer 2008.
4. On the 23<sup>rd</sup> April 2008 Members of this Council's Development Control Committee resolved to grant outline permission subject to, among other provisos, the resolution of 21 outstanding matters and the completion of a s.106 agreement covering the Heads of Terms as set out in the Case Officer's Report to that meeting (copy of the resolution is attached at Appendix 1). Members of the Plymouth City Council Development Control Committee had considered a similar report a week earlier and agreed a similar resolution.
5. Since that time Officers from SHDC, PCC and DCC as Highway and Education Authorities, as well as the PCT and other stakeholders have been in discussions with Red Tree with a view to resolving the outstanding issues and completing a s.106 agreement that delivers the outcomes anticipated by the two committee resolutions. However, this work is complex and challenging and has not yet been completed.

### **Viability / current economic conditions**

6. The purpose of the s.106 is to ensure that satisfactory mitigation is delivered to offset the impacts generated by the development and therefore ensures that development is delivered in line with policy requirements. This should render the development acceptable in planning terms, as well as including arrangements and mechanisms to ensure long term sustainability is achieved. In an ideal world, development would pay for itself and contributions made by developers through s.106 agreements would fully fund all the features necessary to achieve all objectives. However, in practice the financial burdens generated by those requirements and contributions can become so significant that they render the scheme unviable and therefore undeliverable. The aim should be for necessary, justifiable and reasonable s.106 requirements to be complemented by an appropriate prioritisation to support the resolution of the s.106.
7. The LPAs commissioned independent viability advice, on which the Heads of Terms package was formulated and placed before the Development Control Committee in April. The advice suggested that the targets for Affordable Housing outlined within the AAP would not be viable if all of the other aspirations envisaged by the AAP were to be met. Accordingly, Officers recommended that an on-site provision of 36.5% affordable housing (the baseline offer from Red Tree without grant funding) could be achieved without compromising other social, environmental and economic objectives. Officers also advised that this level of provision could increase to levels similar to those demanded by the AAP should public subsidy be secured.

8. The viability assessment tested a best-case scenario, and since the Development Control Committee considered the application, officers have been working in a collaborative manner to ensure that the objectives of all the partners will be delivered. In order to achieve this there has been careful scrutiny over the s.106 requirements with partners to ensure that the best can be achieved from the agreement. To assist in this process, officers, advisors and Red Tree, have aimed to produce an agreed 'proxy model' which can be used as a test bed to explore how changes to variables affect the viability of the scheme. This work is nearing completion and will help to inform the final s.106 agreement.
9. It is also necessary to bear in mind the recent collapse of financial and housing markets. Nationally, large scale housing developments have been 'moth-balled' until the return of more favourable market conditions. However, Red Tree remain focused on delivering the new community proposal and have been fully engaged in meetings and discussions with officers. The impact of the current economic situation has not been evaluated specifically for Sherford and this may yet be required to judge whether the s.106 requirements need review. Any significant departure from the proposal previously considered would have to be taken back to the appropriate Committees for determination.

### **Section 106 Drafting / Planning Conditions**

10. Given the nature and scale of the development, and the number of measures needed to mitigate the impact of the proposal, the s.106 agreement will inevitably be complex. It is likely that the final agreement will run to several hundred pages. This is deemed necessary to ensure that the full range of obligations will be met and delivered to the required expectations over a likely 15 year build period.
11. External solicitors representing the three Councils (South Hams District Council, Plymouth City Council and Devon County Council) have been employed to draft the s.106 agreement. Draft schedules have been prepared that broadly accord with the obligations anticipated by the April resolutions, and these will continue to be worked through with the aim of securing an agreement that reflects the spirit of the Planning Committee resolutions.
12. Work is also proceeding in relation to the planning conditions recommended to Members in April. Red Tree have expressed concern that some conditions, because of their precautionary nature, could further affect viability. Officers are exploring scope for any changes which could help to enable the development whilst safeguarding broader objectives.
13. Work is also taking place to ensure that, in line with government guidance, conditions and s.106 obligations do not duplicate one another.

### **Eastern Corridor / Major Scheme Bid / HQPT**

14. The Major Scheme Bid (MSB) is a scheme of transport related infrastructure measures necessary to cater for the growth of development in the eastern corridor area of the Plymouth Sub-Region. It is being led by Plymouth City Council and has already reached the scheme entry stage into the Regional Funding Allocation mechanism for the provision of transport infrastructure funding in the region.
15. Work to advance the MSB continues with support from New Growth Points funding. The MSB aims to deliver infrastructure between 2012 and 2016.

Slippage in delivery of Sherford means that MSB infrastructure should be provided well in advance of demand.

16. The High Quality Public Transport system (HQPT) required will largely be funded from the developments along the eastern corridor although some funding will come from the MSB. The level of funding contribution is still being resolved.

### **Public Funding**

17. In response to the slump in house building, the Government is seeking means to encourage and assist in the delivery of strategic projects. It is expected that strategic sites such as Sherford will be a particular focus of such initiatives.
18. The Homes and Communities Agency (HCA) is now the national homes and regeneration agency. It is involved in discussions about funding affordable housing to help resolve any viability shortfall.
19. Red Tree now seems to accept that public funding support should be sought where needed. Officers consider that public funding is likely to be essential to enable delivery of strategic infrastructure and an appropriate package of requirements including affordable housing.

### **Matters to be resolved**

20. The report to the Development Control Committee indicated that there were 21 outstanding issues to be resolved prior to formal determination and issuing a planning permission. A number of these are making fair or good progress towards being resolved. However, there remain some more fundamental areas of difference between the authorities and Red Tree where resolution rests heavily on viability conclusions.

### **Plymouth Resolution**

21. On the 11<sup>th</sup> December 2008 Members of Plymouth City Council's Development Control Committee received an update report that sought an amendment to their previous resolution from April which stated that the Council's Head of Development Management must report back within 8 months if there was a need for their decision to be reviewed. Plymouth's Members had originally insisted on the 8 month completion date as they considered that this was a reasonable time for the decision to be issued and they wished to ensure that negotiations on the s.106 to deliver their resolution did not become protracted. However, in December members accepted that progress was being made with the applicants in resolving the areas of difference and agreed that a further report was needed within a further 6 month period if there was a need for their decision to be reviewed (by June 2009).

### **Duplicate Application**

22. In addition to the original application submitted in November 2006, Red Tree submitted a duplicate application to the two authorities in March 2008, seeking permission for the same development. In a letter from Red Tree explaining the reason for the second application it is stated;

*"Red Tree has submitted duplicate planning applications as a safeguard to provide a route to delivering Sherford in circumstances where there are*

*unexpected delays in PCC and SHDC issuing planning permission. In the unlikely event that there is a delay and it becomes clear to Red Tree that the planning permissions will not be issued within a reasonable timescale, then the duplicate planning applications will provide Red Tree with the ability to submit appeals for non-determination to the Planning Inspectorate whilst at the same time maintaining an active and ongoing dialogue with SHDC and PCC in relation to the positive determination of the applications locally”.*

23. This application remains undetermined.

### **Key Issues**

24. Over the next few months Officers and the Council’s partners will be working towards issuing a positive decision on the application that enables a development to commence consistent with the objectives of the AAP. Officers currently consider the issues and opportunities that must be worked through to ensure that this process is successfully concluded are;

- Maintaining the outcomes anticipated by the Committee Resolutions;
- Understanding any implications for the proposal resulting from the economic downturn;
- Considering changes to the existing proposal which may improve delivery, without undermining the objectives of the AAPs; and
- In the context of the national economic problem, considering what opportunities exist to support the development through external funding.

### **Risk Assessment**

Opportunity	Issues / Obstacles	Benefits
A proposal for a new community at Sherford in line with the AAP provides the opportunity to create an exemplar sustainable new community.	Failure to negotiate a satisfactory s.106 in a timescale which enables strategic housing targets to be achieved may lead to pressure for less sustainable housing proposals elsewhere in the Plymouth Urban Fringe.  Delays in negotiation and completion of the s.106 and the issuing of a planning permission increases risk of developer appealing to the SoS against non-determination.	It is in the interests of both the applicants and the Council to secure an appropriate s.106 in a timely manner.
To ensure delivery of a sustainable and comprehensive development may require public agency funding support.	There is uncertainty to the extent of funding support, as well as the timescales in which it is secured.	A reasonable balance of private and public sector funding will provide the opportunity to create an exemplar development.

### **Conclusion**

25. The planning applications for Sherford raise complex and demanding delivery issues. Officers consider that it remains possible to satisfactorily progress matters locally, but it must be recognised that the nature, scale and complexity of

this cross-boundary sub-regional development means that some delivery issues are taking longer to resolve than originally envisaged.

**Ian Sosnowski**  
Major Developments Implementation Planner

Scrutiny  
12 February 2009

**Paul Tyler**  
Major Developments and Projects Officer

**Alan Robinson**  
Strategic Director (Community)

**Background Documents:**  
None