Report to:	Planning Urgent Referrals Committee	**Date of Meeting:**	25th August 2017
Subject:	Outline planning application (with details of access) for residential development comprising up to 95 dwellings and public open space, Land south of Andrews Lane, Formby (ref: DC/2016/01740)		
Report of:	**Head of Planning Services**	**Ward Affected:**	Harrington
Cabinet Portfolio:	Planning & Building Control		
Is this a Key Decision:	No	**Included in Forward Plan:**	No
Exempt / Confidential Report:	No		

Summary:

The outline proposal for residential development on the land to the south of Andrew's Lane in Formby, was refused under delegated powers on 22nd December 2016. Redrow Homes Ltd submitted an appeal to the Planning Inspectorate on 23rd January 2017 against the Council's decision. The Public Inquiry has been arranged for 26th September 2017.

Since lodging the appeal Redrow submitted a full planning application DC/2017/00606, which was deferred at the 2nd August Planning Committee. The report is now on the agenda for the 30th August 2017 Planning Committee with a recommendation for approval, subject to conditions and entering into a Section 106 Agreement. It is considered that this proposal overcomes all the reasons for refusal.

The deadline for the submission of documents for the appeal is before the next Planning Committee and Counsel's advice has been sought in relation to how the Council proceed with the appeal. The advice given is that the reasons for refusal on the outline planning application have been overcome by the information provided as part of the full application, including appropriate conditions and obligations set out in a S106 agreement, and as such the Council have no case to contest at the Public Inquiry.

This report is seeking the authority to proceed with the Public Inquiry on the basis that the Council will not resist the appeal and the proof of evidence will be based on this approach.

Recommendation:

To agree that the Council will not resist the appeal against the refusal of the outline application at Andrews Lane, Formby (ref DC/2016/01740).

Reason for the Recommendation:

It is essential to have Council authority for the stance to be taken at the imminent public inquiry.

Alternative Options Considered and Rejected: (including any Risk Implications)

No alternative – it is essential to have a formal Council view on this matter.

What will it cost and how will it be financed?

(A) Revenue Costs

No direct costs. By not resisting the appeal it is hoped to keep costs to a minimum and met from existing local plan budgets by not resisting the appeal it is hoped to keep costs to a minimum and met from existing local plan budgets

(B) Capital Costs

None.

Implications of the Proposals:

Resource Implications (Financial, IT, Staffing and Assets): No direct costs.
Legal Implications: Comments from the Head of Regulation and Compliance have been incorporated into the report.
Equality Implications: There are no equality implications. **(Please delete as appropriate and remove this text)**

Contribution to the Council's Core Purpose:

(Please give a brief description of how the proposals set out in the report contribute towards the following Council's Core Purpose.)

Protect the most vulnerable: Not applicable
Facilitate confident and resilient communities: Not applicable
Commission, broker and provide core services: Not applicable
Place – leadership and influencer: Not applicable
Drivers of change and reform: Not applicable
Facilitate sustainable economic prosperity: Not applicable
Greater income for social investment: Not applicable
Cleaner Greener Not applicable

What consultations have taken place on the proposals and when?

(A) Internal Consultations

The Head of Corporate Resources (FD4800/17) has been consulted and notes the report indicates no direct financial implications for the Council. By not resisting the appeal it is hoped to keep costs to a minimum and met from existing local plan budgets. The Head of Regulation and Compliance (LD4084/17) has been consulted and any comments have been incorporated into the report

(B) External Consultations

(Please give a brief description of the consultations undertaken with external partners and community groups etc on the proposals set out in the report. Not applicable.

Implementation Date for the Decision

With immediate effect.

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Appendices:

There are no appendices to this report

Background Papers:

The following background papers, which are not available elsewhere on the Internet can be accessed on the Council website:
the full planning application including all supporting documents, plans and reports can be viewed at http://pa.sefton.gov.uk/online-applications/

The Site

The site is land south of Andrew's Lane, Formby.

Proposal

Outline planning application (with details of access) for residential development comprising up to 95 dwellings and public open space.

Assessment of the Proposal

The outline planning application was refused on 22nd December 2016, with seven reasons for refusal. It is considered that the reasons for refusal on the outline planning application have been overcome by the information provided as part of the full application, including appropriate conditions and obligations set out in a S106 agreement, and as such the Council have no case to resist the appeal at the Public Inquiry.

This report will detail each reason for refusal and provide information on how this has been addressed by the new proposal.

Reason for Refusal No.1

The proposed development constitutes inappropriate development within the Green Belt. The advanced stage of the emerging Local Plan does not constitute very special circumstances which would justify approval as they are not outweighed by other considerations. The proposal is therefore contrary to paragraphs 87 and 88 of the National Planning Policy Framework.

At the time the outline planning application was determined the Sefton Local Plan was at a draft stage. However, since the appeal was lodged the Local Plan was formally adopted (20th April 2017).

The site is allocated for housing as part of Policy MN2 'Housing, Employment and Mixed Use Allocations' and this site is referred to as allocation MN2.20 'Land at Andrew's Close, Formby' in Appendix 1.

The proposed use of the site for residential development is therefore acceptable in principle subject to compliance with other development plan policies. The development plan comprises the National Planning Policy Framework (NPPF) and the Local Plan. This overcomes the reason for refusal of outline application DC/2016/01740 on Green Belt grounds, as the site is no longer designated as Green Belt.

Reason for Refusal No.2

The proposed development conflicts with paragraph 118 of the National Planning Policy Framework and the Conservation of Habitats and Species Regulations 2010 (as amended) and Policy NH2 'Protection and Enhancement of Nature Sites, Priority Habitats and Species' of the emerging Local Plan due to insufficient information being provided.

The applicant was aware of what detailed information was required to enable the Council to carry out a Habitats Regulations Assessment. This included over wintering bird surveys, drainage assessment & plan to demonstrate that local nature wouldn't be affected in the dune area and information to show that there will not be any pollution which could affect the quality of water and reed beds. Quantifiable data/information provided in relation to the level of disturbance to wildlife on this site was also requested. This was required in relation to the recreational pressures of people using rights of way and the site in general and also construction methodology and potential disturbance during construction activities. This included information in relation to the location of site huts, piling, pollution control measures and types of vehicles/machinery to be used.

Further information was provided as part of the full planning application and Merseyside Environmental Advisory Service (MEAS) carried out a Habitats Regulations Assessment (HRA) and concluded that an 'appropriate assessment' was not required. This overcomes reason for refusal no.2 on the outline planning application.

Reason for Refusal No.3

It has not been demonstrated how the existing flood risk on the adjoining residents can be mitigated due to the lack of capacity in the existing Andrew's Lane watercourse, which is contrary to paragraph 103 of the National Planning Policy Framework and Policy EQ8 'Managing Flood Risk and Surface Water' in the emerging Local Plan.

An updated 'Flood Risk Assessment and Sustainable Drainage Strategy' report was submitted with the full planning application. The report has sections that have considered the existing site, the fluvial and tidal flood risk, surface water flood risk, groundwater flood risk, surface water run-off, sustainable drainage systems (SuDS), methods of surface water management (including discharge to watercourse, public sewer network and taking into account climate change, and foul water management). The report made some recommendations and mitigation measures have been included. The Council's Flooding and Drainage Team are satisfied with the updated Flood Risk Assessment.

Conditions have been recommended which include the submission of details of the location, designs and materials to be used. Redrow will also need to incorporate a land drainage system in the open space area to manage excess surface water runoff and mitigate ground water emergence, which can also be included in a condition. This overcomes reason for refusal no.3 in relation to the lack of information provided at the outline stage.

Reason for Refusal No.4

The proposed access will provide a detrimental impact on the amenity and living conditions of the occupiers of no.1 Barton Heys Road and no.16 Andrew's Close, which is contrary to recommended guidelines in the Council's New Housing Supplementary Planning Document (pages 14 & 15) and contrary to Policy EQ2 (part 2a) 'Design' of the emerging Local Plan.

The issue of proximity of the proposed access to the properties on either side was raised by those residents. The outline application did not provide any information to address their concerns.

Redrow appointed noise consultants, who provided an assessment of the proposal in relation to the adjacent properties and made the points that:

-No.16 Andrew's Close has a blank elevation nearest to the access road and there are no windows.
-No.1 Barton Heys Road has a gable end brick wall facing the access with no windows at ground floor level and two small windows at first floor level.
-It has been demonstrated by calculation that increasing the required 'plan distance' between the property and the dwelling from 2m to 3m or 4m would not result in a noticeable decrease in the road traffic noise level.
-In situations where there are no ground floor windows in the side elevation it is considered that the actual 'slant distance' is more relevant for windows on upper floors than the 'plan distance.' On this basis the proposed development would comply with the guidance distances of the SPD.

The Council's Environmental Health Manager has reviewed the findings and concluded that a suitable acoustic fence/barrier should be erected along the boundaries of no.16 Andrew's Close, no.1 Barton Heys Road and no.s 1,3,5 and 7 Sutton Road, Formby. This can be dealt with by condition.

The Inspector's Report on the Examination into the Sefton Local Plan made specific comment on the new road into the housing allocation and states (paragraph 249):

'The new road would be close to the flank elevations of both houses, but this is not an uncommon arrangement and should not cause an unacceptable loss of residential amenity.'

Therefore, taking account of all of the above, this overcomes reason for refusal no.4.

Reason for Refusal No.5

The Transport Assessment submitted with this application is deficient in details to enable an adequate assessment to be carried out on the surrounding junctions and is therefore contrary to Policy EQ3 'Accessibility' of the Local Plan.

The highways impacts for both the proposed off-site works as well as the proposed housing layout needed to be considered. The Transport Assessment as part of the outline application did not provide enough information to enable adequate assessments to be carried out.

An updated Transport Assessment was submitted with the full planning application. There were a number of neighbour objections in relation to the highways works and questions raised. Following discussion with the Council's Highways Team amended plans were also submitted to show that the junction arrangements were adequate. The additional detailed requirements can be dealt with by conditions.

There was also a Minimum Accessibility Standard Assessment (MASA) submitted as part of the full planning application. It was recommended that improvements to the footpath NCN route 810 to the Network Rail pedestrian gate (including surface reconstruction, edging and signage) is included in a S106 agreement. In addition the construction of a footbridge to connect the Altcar Footpath to the southern path within the public open space should be included in a S106 agreement.

Taking account all of the above, reason for refusal no. 5 can be overcome.

Reason for Refusal No.6

The proposal is deficient in the provision of affordable housing and is therefore contrary to Policy HC1 'Affordable and Special Needs Housing' of the emerging Local Plan.

There was no information submitted with the outline planning application in relation to providing affordable housing on the site.

The full planning application provided details on affordable housing. However, this was deficient and did not comply with the Local Plan Policy. Following discussions the proposal was amended and the full application now complies with both HC1 'Affordable and Special Needs Housing' and HC2 'Housing Type, Mix and Choice' of the Local Plan. This overcomes reason for refusal no.6.

Reason for Refusal No.7

The proposal is located in a minerals safeguarding area and it has not been demonstrated that the mineral concerned is of no value or there is overriding need for the development, therefore the proposal is contrary to emerging Local Plan Policy NH8 'Minerals'

There was no Minerals Assessment submitted with the outline planning application. However, a Minerals Resource Assessment (MRA) was provided with the full planning application, which concluded that there is no conflict with Policy NH8 'Minerals' of the Local Plan. MEAS concur with this MRA insofar as the background geological data does not appear to demonstrate a significant sand deposit and is unlikely to be of significant commercial value.

This overcomes reason for refusal no. 7 on the outline planning application.

Conclusion

The outline proposal for residential development on the land to the south of Andrew's Lane in Formby, was refused in December 2016 and a public inquiry is due to commence on 26th September 2017.

Each of the reasons for refusal has now been overcome, mainly by the applicants providing further information in support of the current full application. The Council is required to submit statements urgently in advance of the inquiry. Planning Urgent Referrals Committee is asked to agree that the seven reasons for refusal have now been addressed and that Planning Services proceed with the Public Inquiry on the basis that that the Council does not resist this appeal.