

PLANNING COMMITTEE 1 April 2014
LIST OF LATE ITEMS RECEIVED AFTER PREPARATION OF MAIN AGENDA:

ITEM 02

13/01029/COU

Mr James Connors

Recommendation:-

It is recommended that a consideration of this item be deferred pending the judgement of the Administrative Court in the application for judicial review of the grant of planning permission for planning application number 13/00395/COU for Change of use to a ten pitch caravan site and part demolition of buildings at Dalebrook Farm, Leicester Road, Earl Shilton.

The hearing of the Earl Shilton Action Group's application to judicially review the above decision will be held on Monday 7 April. The Court is being requested to quash the grant of planning permission of 10 July 2013 in respect of the above application.

The judgement will have implications for the assessment of this application and it is considered prudent to defer the consideration of this item until judgement has been given.

ITEM 03

14/00007/OUT

Mr Mark Atrinson

Introduction:-

There is a typographical error on the first page of this report and this should read that the pitch was reduced from 45 degrees to 28 degrees.

The applicant has provided a statement in response to neighbours concerns:-

- 1 *Heights - The proposal has been reduced and sees a pitch in line with all of the concerns, as such we feel this element has been addressed.*
- 2 *Driveway - Concerns over the material and related treatment of the proposed communal driveway have been raised. We are happy for these elements to be reserved by condition requesting an appropriate landscaping plan which includes a suitable driveway that does not allow gravel or similar un-bound material.*
- 3 *Drainage- Surface water from the drive as well as the house & foul sewer disposal would be of a design acceptable to the council / building control & the sewer undertaker. Such a design will be the result of investigations by specialists and in line with their recommendations which would take into account neighbouring buildings and ground conditions as well as the availability of public drainage capacity or other approved sewerage disposal method.*
- 4 *Foliage - We are happy to adopt the recommendations of Julian Simpson's report dated 25 February 2014 and have submitted a landscaping sketch, Drawing number 13 79 12 reflecting this information. We are happy for a condition to be imposed for a landscaping plan needing to be approved as part of any approval which would supersede this sketch."*

Appraisal:-

Access

The Director of Environment and Transport (Highways) has confirmed that visibility splays of 2.4 x 43 metres should be imposed by way of condition.

Recommendation:-

Additional Condition

- 13 Before first occupation of the dwelling hereby approved, visibility splays of 2.4 metres by 43 metres shall be provided at the junction of the access with Leicester Road. These shall be in accordance with the standards contained in the Highways Transportation and Development design guide and shall be so maintained in thereafter. Nothing shall be allowed to grow above a height of 0.9 metres above ground level within the visibility splays.

Reason: To afford adequate visibility at the access/junction to cater for the expected volume of traffic joining the existing highway network and in the interests of general highway safety to accord with Policy T5 of the adopted Hinckley and Bosworth Local Plan 2001.

ITEM 06**14/00100/FUL****Mr Simon Warner****Introduction:-**

This item has been withdrawn.

ITEM 07**14/00121/FUL****Mr & Mrs Paul Bills****Consultations:-**

No objection subject to conditions has been received from Head of Community Services (Pollution).

Appraisal:-Pollution

Comments have been received from Head of Community Services (Pollution) stating that given the existing agricultural use of the site and the fact that a residential garden may be created by the proposal, land contamination needs to be further investigated. Conditions are suggested to this effect. The recommended conditions are considered necessary and will be imposed.

Recommendation:-

Additional Conditions

- 3 No development approved by this permission shall be commenced until a scheme for the investigation of any potential land contamination on the site has been submitted to and agreed in writing by the Local Planning Authority which shall include details of how any contamination shall be dealt with. The approved scheme shall be implemented in accordance with the agreed details and any remediation works so approved shall be carried out prior to the site first being occupied.

To ensure that risks from land contamination to future users of the site are minimised thus ensuring that the land is fit for purpose and to accord with the overarching intentions of the NPPF and Saved Policy NE2 of the adopted Hinckley and Bosworth Local Plan 2001.

- 4 If during development, contamination not previously identified is found to be present at the site, no further development shall take place until an addendum to the scheme for the investigation of all potential land contamination is submitted to and approved in writing by the Local Planning Authority which shall include details of how the unsuspected contamination shall be dealt with. Any remediation works so approved shall be carried out prior to the site first being occupied.

To ensure that risks from land contamination to future users of the site are minimised thus ensuring that the land is fit for purpose and to accord with the overarching intentions of the NPPF and Saved Policy NE2 of the adopted Hinckley and Bosworth Local Plan 2001.

ITEM 08

14/00124/OUT

Mr G Hibbitt

Introduction:-

The applicant has provided the following additional statement:-

"Although outside the current settlement boundary, the principle of residential development of the land was established via an appeal related to the adjacent residential approval of St Mary's Mews under PINS reference 2167650 issued 22nd June 2012. On Monday 31st March 2014 an appeal decision issued by the same Inspector concluded in relation to land adjacent to Stanton Under Bardon Primary School, Main Street, Stanton Under Bardon the Council does not have a 5 year housing land supply, therefore development plan policies governing housing land supply should not be considered up to date.

Given the planning history of the adjacent land associated with St Mary's Mews and the latest appeal decision in respect of the 5 year housing supply, the adverse impacts of the proposal are minor and do not significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole. On this basis the application should be approved without delay subject to the conditions contained in the report to committee."

Consultations:-

Councillor Gould has raised the following concerns on behalf of residents:-

- a) a further application which will cause a further incursion into the Green Wedge. Residents are concerned particularly at the cumulative impact developments and wonder whether an area of separation will continue to exist in perpetuity at the current rate of construction in this area. Could I therefore ask that steps be taken to ensure that this does not prove to be the case?
- b) why is any further development required, when Barwell has more than exceeded (or will exceed) it's Core Strategy target 2,500 homes in the Sustainable Urban Extension (SUE) of 45 residual dwellings within the village? Residents are at a loss as to why, given that Hinckley & Bosworth Borough Council has a 5-year housing land supply, further applications are granted permission? Residents struggle to understand on what grounds the Planning Inspectorate seeks fit to force excess dwellings to be constructed in a non-strategically planned context.
- c) the site has been left to nature, there has been a significant intensification of wildlife in this area, and I ask whether conditions can be applied to take particular attention given the current state of the site? I am aware that it is usual to undertake bat and newt surveys, but I wonder whether conditions can be applied to seek for any other checks should be made?
- d) an extant covenant exists on the land, which will need to be addressed by the applicant (and is registered with the Land Registry). Could I request a note to the applicant to this effect?

Appraisal:-

In response to the comments raised by Cllr Gould:-

- a) the issues of Green Wedge have been covered within the main body of the report and should any other future application be submitted within the Green Wedge this will be considered on its own merits.
- b) whilst the Authority has currently met its 5 year supply of housing, the NPPF specifically states that decision takers should consider housing applications in the context of the presumption in favour of sustainable development. Based on the above discussions, the proposed scheme is considered to

comply with the core principles of the NPPF, and thus in principle, the development is considered acceptable.

- c) in respect of wildlife, a Phase 1 Habitat Survey has been carried out and submitted as part of the application. Consultation has been undertaken with the Principal Ecologist at Leicestershire County Council who raises no objection subject to a condition ensuring the method statement outlined in the survey is carried out and that a qualified ecologist is present on site during clearance of the scrub to ensure any possible badger habitats are identified and mitigated against if found to be present during works. No further conditions can be justified.
- d) a note to applicant can be added to the decision notice, at the Councillor's request but it should be made explicit that a covenant is not a material planning consideration and cannot be enforced by the Authority. Furthermore the covenant will need to be addressed by the applicant in any case, irrespective of the note.

Additional Note to Applicant:-

- 5 The applicant is reminded that an extant covenant exists on the land, which will need to be addressed.

ITEM 09

14/00190/FUL

Mr Paul Batson

Introduction:-

In comparison to the initial scheme (13/01015/FUL), this application also proposes to revise the internal parking layout and provide an amended turning head.

Consultations:-

No objection has been received from Head of Community Services (Pollution).

No objection subject to conditions has been received from:-

Head of Community Services (Land Drainage)

Head of Business Development and Street Scene Services (Waste and Recycling).

Site notice posted and neighbours notified, four letters of representation received raising the following issues/concerns:-

- a) happy that the development proposes to re-site the electric gates
- b) concerns over siting of bin collection points and that they will result in visual clutter and highway safety issues. Concerns that collection point is too far from proposed dwellings.
- c) scheme is contrary to policies BE1, RES5, NE12, REC3 and T5 of the Local Plan, Policies 3 and 19 of the Core Strategy and Section 7 paragraph 17 of the NPPF.
- d) proposal does not comply with approved document B (Fire Safety) of Building Regulations and thus the development could not be accessed by the fire service.
- e) proposal does not comply with the 6C's Design Guidance for Highway Transportation and Development
- f) proposal does not comply with BS50906:2005 regarding the collection of Domestic Waste or "Information for Developers and Planning Officers: Recycling and Refuse Collection (domestic dwellings including apartments) nor within approved document H schedule 1: Building Regulations.
- g) proposal does not comply with Department of Transport Manual For Streets
- h) proposal does not comply with SPG New Residential Development
- i) proposal does not comply with Code for Sustainable Homes
- j) proposal does not comply with Associate Directors for Environment, Planning and Transport Guidance - making Space for Waste, Designing waste management in New Development.
- k) adverse impact on Character and Appearance by virtue of layout and design, specifically the development of garden land

- l) contrary to Spatial Objective 9 of the Core Strategy
- m) the developer does not develop in accordance with approved plans as illustrated by the existing development
- n) overdevelopment of the site - design should be amended and number of dwellings reduced
- o) overlooking and privacy issues, plot 1 will directly overlook habitable rooms of number 40a - there will be a separation distance of only 12 metres between them
- p) results in highway safety issues - inadequate turning and parking space, inadequate space for fire service access
- q) development poorly designed, contrary to local and national planning guidance
- r) development will result in the removal of existing shrubs/vegetation on site with no mention of replacement, concerns over landscaping scheme proposed
- s) no mention as to provision of playspace and site is not within 400m of a playspace
- t) access inadequate width
- u) no more than five dwellings should be served off private drive
- v) drainage and surface water runoff concerns
- w) existing security and privacy offered by secure gated entrance would be lost
- x) concerns over the operation of the security gates and the additional cost of electricity
- y) concerns over the revised parking layout and the associated impacts on the new residents
- z) concern that the parking for plot 1 is partially sited within the proposed turning head
- aa) queries as to why this application is going to Planning Committee prior to the expiration of the 21 day consultation period.

Appraisal:-

Other Issues

The conditions recommended by The Head of Business Development and Street Scene Services (Waste Minimisation) and Head of Community Services (Land Drainage) will be imposed.

Issues raised within the letters of representation, not addressed elsewhere within the report will be appraised below:-

It has been stated that the scheme is contrary to Section 7 paragraph 17 of the NPPF. Section 7 requires good design and paragraph 17 refers to 12 core planning principles. It is considered that the Core Principles referred to have been taken into consideration in the determination of this scheme and design issues have been discussed within the main body of the report.

Concern has been raised that existing shrubs/vegetation will be removed on site, with no mention of their replacement. Planning permission is not required for their removal. Further it has been stated that the proposed landscaping is not acceptable. Notwithstanding the information received, as the development proposes 5 dwellings it is considered reasonable to request that an appropriate landscaping scheme is submitted for the development.

It has been suggested that existing security and privacy offered by secure gated entrance would be lost and that that the cost of operating the gates will be increased as a result of the development. These are private matters and not subject to consideration under this application.

It has been stated that the development does not comply with a range of guidance intended for the development industry (listed below). Whilst these documents provide useful guidance, which should be adhered to, they do not constitute adopted planning policy and thus the weight they are to attributed is not significant. Furthermore, whilst the building regulations documents listed do comprise legislation, the feasibility of complying with their criteria does not constitute a material planning consideration and will be fully considered during the building regulations procedure.

Referenced documents:-

- approved document B (Fire Safety) of Building Regulations and thus the development could not be accessed by the fire service.
- the 6C's Design Guidance for Highway Transportation and Development.

- BS50906:2005 regarding the collection of Domestic Waste or "Information for Developers and Planning Officers: Recycling and Refuse Collection (domestic dwellings including apartments)
- document H schedule 1: Building Regulations
- department of Transport Manual For Streets
- associate Directors for Environment, Planning and Transport Guidance - Making Space for Waste, Designing waste management in New Development.

The development is contrary to Spatial Objective 9 of the Core Strategy. This spatial objective is not a policy, but a vision of the Core Strategy. It relates to 'Identity, Distinctiveness and Quality of Design'. These issues have all been addressed within the main body of the report.

It has been suggested that the developer does not develop in accordance with approved plans as illustrated by the existing development. This does not constitute a material planning consideration in the determination of this application.

It has been stated that the development will result in overlooking and privacy issues, specifically that plot 1 will directly overlook habitable rooms of number 40a and that there will only be a separation distance of 12 metres between them. Whilst residential amenity has been assessed within the main body of the report, a detailed explanation will be provided in respect of this concern. Plot 1 and number 40a are not directly aligned. Number 40a is sited approximately 2 metres further forward than plot 1. Due to this, the bedroom window within the gable will not have direct views into the living room of number 40a. The same is applicable to the window serving bedroom 3 of Plot 1, this will not have direct views into the kitchen/diner of number 40a. By virtue of the alignment of the two properties and the fact that they are separated by an internal access road, despite the separation distances being under those suggested within the SPG, the proposal is not considered to result in any adverse impact on residential amenity in this respect.

It has been stated that the site is not within 400 metres of a playspace. It has been confirmed that the site is 360 metres (direct route) from Masefield Place recreation ground.

Concerns over the revised parking layout and the associated impacts on the new residents. It has been suggested that as one of the parking spaces for plot 5 has been sited to the front of plot 4 this will have adverse impacts on the residents of this dwelling due to management issues associated with the use of this space. Although the layout of parking spaces is a planning consideration, in this case the Local Planning Authority could not raise objections to the scheme on the basis of the siting of the referenced space, for it would not cause adverse impacts in terms of residential amenity (noise and disturbance) by virtue of its siting. The use and management of this space would be a private matter and does not constitute a material planning consideration.

Concern that the parking for plot 1 is partially sited within the proposed turning head. The Director of Environment and Transport (Highways) has considered the revised proposal and has not raised any concerns on these grounds.

Queries as to why this application is going to Planning Committee prior to the expiration of the 21 day consultation period. The recommendation contained within the report proposes a delegation to the Chief Planning and Development Officer to consider additional consultation responses.

Recommendation

The Chief Planning and Development Officer be granted delegated powers to determine the application following the consideration of any further consultation responses and if approval is given it shall be subject to and agreement under S.106 of the Town and Country Planning Act 1990 and S.111 of the Local Government Act 1972 or receipt of an acceptable unilateral undertaking under S.106 of the Town and Country Planning Act 1990 to provide financial contributions toward play and open space and conditions which he considers are necessary.

PLANNING COMMITTEE
1 APRIL 2014
SPEAKERS

Item	Application	Speaker(s)	Applicant/ objector
01	12/00482/OUT	Mrs Jenkins Ms Bareford	Objector Applicant
08	14/00124/OUT	Mr Headley	Objector
09	14/00190/FUL	Mr Heywood	Objector