

PLANNING COMMITTEE 11 October 2011
LIST OF LATE ITEMS RECEIVED AFTER PREPARATION OF MAIN AGENDA:

ITEM 01

11/00709/HYB

Mr David Ward

Consultations:-

No objection subject to conditions have been received from Head of Community Services (Land Drainage).

Recommendation:-

Conditions in respect of the Whole Scheme (WS)

Condition WS1 amended as follows:-

The development hereby permitted shall be carried out in complete accordance with the amended details: Existing Site Plan Drawing No D 0001 Rev. P1; Proposed Demolition Plan Drawing No D0010 Rev; P1; Proposed Building Block Plan Drawing No D0011 Rev. P1; Proposed Detailed Site Plan Drawing No D0012 Rev. P1; Proposed Ground Floor Plan Drawing No D0100 Rev.P1; Proposed Roof Plan Drawing No D0102 Rev. P1; Horizontal Deviation Plan Drawing No D0020 Rev. P1; Maximum Building Envelope Sections C_C & D_D Drawing No D0051 Rev. P1; Sections A_A & B_B Drawing No D0201 Rev. P1; North & East Elevations Drawing No D0152 Rev. P1; South & West Elevations Drawing No D0151 Rev. P1; Topographical Site Plan Drawing No D0013 Rev. P1 received by the Local Planning Authority on 12 September 2011 and additional details; Potential Extent of Retained Façade Drawing No D 0113 Rev. P1 received by the Local Planning Authority on 26 September 2011; Proposed Demolition of Bingo Club Drawing No D0014 Rev. P1 received by the Local Planning Authority on 27 September 2011.

Reason: For the avoidance of doubt and in the interests of proper planning.

Condition WS10 amended as follows:-

Notwithstanding the information provided, no development shall commence until a detailed drainage scheme including the disposal of surface water and foul sewage and an assessment of the hydrological and hydrogeological context of the development have first been submitted to and approved by the Local Planning Authority and these works shall be implemented in accordance with the approved scheme.

Reason: To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of water pollution to accord with Policy NE14 of the adopted Hinckley and Bosworth Local Plan and the aims and objective of PPS25 (Development and Flood Risk).

ITEM 02

11/00571/FUL

Mr Gary Goodwin

Introduction:-

During the course of the application a revised layout plan (Revision H) has been submitted showing a 1 metre easement between the top ditch and the private road in front of plots 1-7. An updated landscaping plan has also been submitted to reflect the changes to the layout.

A subsequent site location plan (Revision J) has been received showing the relocation of affordable housing units from plots 34-38 in the south east corner to plots 48-52 and an updated streetscene and phasing plan have also been submitted to reflect these changes to the siting of the affordable housing units.

The applicant has provided additional information to support the relocation of some of the affordable housing units and the enclosed streetscene. The applicant believes that the units are of a high quality design which has derived from the local historical architectural context ensuring that the units are tenure blind. The information concludes that in the opinion of the applicant the changes sufficiently address the concerns raised by members at the site visit, without compromising the design and access of the development.

The applicant has also provided additional information to support their request to remove condition No. 8 which relates to dwellings being constructed to a minimum of Code Level 3 and the associated assessments and certificates. This states that Planning Policy Statement 1 does not consider that conditions are necessary to control environmental performance aspects of a buildings construction, and that Policy 24 of the Core Strategy has been overtaken by changes in the Building Regulations and National Planning Policy. The information goes on to indicate the implications of imposing the condition which would result in approximately £5,000 per dwelling, equating to a total of £325,000 and that this cannot be readily accommodated onto their current commitment to this site. The applicant states that should this condition remain a requirement then there would have to be a financial compromise elsewhere. Furthermore the information provided states that Morris Homes have high credentials and standards within the industry, in terms of sustainability.

Consultations:-

One additional letter of representation has been received raising the following concerns:-

- l) blocking off access drive
- m) intruding onto boundary and impingement onto property.

The Council's Affordable Housing Officer accepts the proposed changes as it does not affect the property types and tenures.

Appraisal:-

Following the concerns raised by members at the September planning committee in respect of the siting of affordable housing units throughout developments, it is considered that the applicant has sought to address these concerns by dispersing units and leading to a reduced concentration of affordable housing units in the south east corner of the site. As such it is considered that the siting of the affordable housing units has been improved. For the avoidance of doubt there have been no changes to the phasing of the development.

The concerns raised within the letter of representation have already been addressed within the main report. In respect of the request by the applicant to remove the Code Level 3 related condition, it is the opinion of the Local Planning Authority that the condition should be retained at this stage. The Council adopted its Core Strategy in December 2009, and within it Policy 24 which states that all development in Hinckley would need to meet the minimum of Code Level 3 to 2013, unless it would make the development unviable. Whilst the applicant has provided indicative figures of the cost implications of imposing such a condition (£5,000 per dwelling, equating to a cost of £325,000 for the whole scheme,) a detailed viability assessment has not yet been submitted which would allow these figures to be assessed in detail and as such it is not known at this time whether this would make the scheme unviable. As such it is considered that the applicant has the opportunity to vary or remove this condition at a later date, should the application be approved, thus ensuring that their points raised are given sufficient time to be considered.

RECOMMENDATION:-

- 1) The Deputy Chief Executive (Community Direction) notify the Secretary of State for Communities and Local Government of the application at the request of Sport England and that the Council does not propose to refuse it, and**
- 2) Should the Secretary of State notify the Council in accordance with Circular 02/2009 that he does not intend to issue a Direction under Section 77 of the Town and Country Planning Act**

1990 in respect of the application then subject to an Agreement under Section 106 of the Town and Country Planning Act 1990 to provide affordable housing units and financial contributions towards play and open space, education, highway improvements and package and subject to the conditions outlined below the Deputy Chief Executive (Community Direction) be authorised to issue the decision accordingly:

Condition 2 amended as follows:-

The development hereby permitted shall not be carried out otherwise than in complete accordance with the amended details: Location Plan Drawing No E876/P/LP01; Appleton House Type Drawing No's E876/P/HTAPP/01; E876/HTAPP/02; E876/P/HTAPP/03; LE876/HTAPP/04; Berrington House Type Drawing No's E876/P/HTBER/01; E876/P/HTBER/02; E876/P/HTBERSA/01; E876/P/HTBERSA/02; Bramhall House Type Drawing No's E876/P/HTBRA/01; E876/P/HTBRA/02; E876/P/HTBRA/03; E876/P/HTBRA/04; Budworth House Type Drawing No's E876/P/HTBU/01 Revision A; E876/P/HTBU/02 Revision A; E876/P/HTBU/03 Revision A; E876/P/HTBU/04 Revision A; Capesthorpe House Type Drawing No's E876/P/HTCAP/03 Revision A; E876/P/HTCAP/01 Revision A; E876/P/HTCAP/04; E876/P/HTCAP/02; E876/P/HTCHA/01; E876/P/HTCHA/02; E876/P/HTCHA/03; E876/P/HTCHA/04; Dalton House Type Drawing No's E876/P/HTDA/01; E876/P/HTDA/02; E876/P/HTDA/03; E876/P/HTDA/04; Didsbury House Type Drawing No's E876/P/HTDID/01; E876/P/HTDID/02; E876/P/HTDID/03; E876/P/HTDID/04; Dunham House Type Drawing No's E876/P/HTDUN/01; E876/P/HTDUN/02; E876/P/HTDUN/03; E876/P/HTDUN/04; Edgware Apartment Drawing No's E876/P/HTED/01; E876/P/HTED/02; Malham House Type Drawing No's E876/P/HTMAL/01; E876/P/HTMAL/02; E876/P/HTMAL/03; E876/P/HTMAL/04; Morton 2 House Type Drawing No's E876/P/HTMOR/01; E876/P/HTMOR/02; Staunton House Type Drawing No's E876/P/HTSTAU/01; E876/P/HTSTAU/02; E876/P/HTSTAU/03; E876/P/HTSTAU/04; Wharfdale House Type Drawing No's E876/P/HTWHA/01; E876/P/HTWHA/02; E876/P/HTWHA/03; E876/P/HTWHA/04; Winster House Type Drawing No's E876/P/HTWIN/01; E876/P/HTWIN/02; General Detached Garage Details Pyramid Garage Drawing No GR1 Revision; General Detached Garage Details Gable Roof Drawing No. GR2-1; General Standard Screen Fence Details 1 Drawing No. F1-1; General Standard Screen Wall Details 2 Drawing No. F2-3; General Wrought Iron Ball Top Details Drawing No. F3-1 received by the Local Planning Authority on 25 July 2011; General Standard Screen Fence Details 2 Drawing No. F1-3 received by the Local Planning Authority on 24 August 2011;

Topographical Survey Drawing No. 14782 OGL Revision 1; Proposed Treatment to Existing Track Drawing No. E876_P_P02 Revision A received by the Local Planning Authority on 16 September 2011;

Landscaping Detail Plan Drawing no. 03702 Revision C received by the Local Planning Authority on 4 October 2011;

Planning Layout Drawing no. E876/P/PL01 Revision J; Street Scene Drawing No.E786/P/SS03; Phasing Plan Drawing No. E876/P/PHASE 01 Revision B received by the Local Planning Authority on 11 October 2011.

Reason: For the avoidance of doubt and in the interests of proper planning.

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| ITEM 03 | 11/00464/OUT | Mr James Smith |
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Introduction:-

This item has been withdrawn.

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| ITEM 04 | 11/00435/EXT | Ms Lisa Jude |
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Consultations:-

The Head of Corporate and Scrutiny Services (Green Spaces) has confirmed that the occupants of the proposed apartments will use the facilities at Clarendon Park as no private amenity is proposed within

the development site, thereby resulting in additional pressure on existing facilities at this Neighbourhood Park.

Five further letters of objections were received raising similar issues to those listed in the main agenda report, together with following issue:-

dd) loss of the dwelling which contributes to the street scene and is worthy of retention.

Appraisal:-

Other issues

Loss of Dwelling

The existing dwelling is a large property with accommodation over 3 floors which, together with its large detached garage occupies the majority of the site frontage. The Planning Inspector's report took into account the scale and height of the existing dwelling and stated that it had an imposing presence on the street scene. However the same report stated that the height of the apartment block would be no greater than the existing house, the development would not appear over dominant, the scheme would follow the established division between individually designed buildings on the western side of the road and the terraced properties opposite and the scale of the frontage to eaves level would reflect that of other houses in the area. The Planning Inspectorate, in their decision took account of the contribution that the existing house makes to the street scene and then assessed how the proposed apartment block would assimilate into the same street scene. In making their decision the inspector took into account the loss of the dwelling and considered the proposed development of 14 apartments to be acceptable and not harmful to the character and appearance of the area. Therefore it is considered that the loss of the existing dwelling has been accounted for and is considered acceptable in this case.

Developer Contributions - Insert after paragraph 2

The impact of the development upon existing facilities at Clarendon Park and the requirement for the improvement of these facilities at this Neighbourhood Park which would be partially secured through a Section 106 contribution is reinforced in the consultation response received from The Head of Corporate and Scrutiny Services (Green Spaces). They have confirmed that financial contributions secured through a Section 106 agreement would be targeted towards the provision of new equipment for the children's play area, the provision of allotments and natural green space at Clarendon Park.

ITEM 05

11/00597/FUL

Mr And Mrs Rennocks

Consultations:-

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

The Head of Corporate and Scrutiny Services (Green Spaces) has the following comments on the application:-

- a) site plan provided does not give enough detail to determine if the boundary goes onto the Council owned car park on Dovecote way. The applicant therefore needs to be aware that the Council will not accept any encroachment onto Dovecote Way car park;
- b) the Boundary between the proposed dwelling and Dovecote way car park needs to be the responsibility of the applicant;
- c) the car park is provided primarily for use by people using the nearby park and as such, the car parking spaces which are indicated on the site plan need to be provided and used by the applicant. They cannot use Dovecote way car park for parking or storing their vehicles on a regular basis.

No objection from Barwell Parish Council providing that the following provisions are made for:-

- a) bin storage area
- b) amicable solution to the alleged boundary dispute is sought
- c) an open space contribution towards the new pavilion on the common recreation ground, Dovecote Way.

Two letters of objection have been received raising the following concerns:-

- a) part of the proposed dwelling is on land not within the applicant's ownership; boundary position is incorrectly shown; the plan does not reflect the measurement taken from both the OS title deeds or the measurements taken from the site; the boundary between land ownership titles is undefined and the planning department cannot confirm compliance on boundary grounds, as stated within SPG guidance; planning permission on land in my ownership; none of the land outside of the applicant's ownership should be used in any calculations to determine if the application is acceptable
- b) the size and shape of the proposed dwelling is not in line with the street profile and not consistent with the staggered terrace of Croft Close
- c) the SPG on House Extensions states that two storey buildings should be located at least 1 metre from the boundary
- d) the proposed house occupies more than 50% of the site; there is no garden, less than half of the 12.5 metres standard and there is less than 60 square metres of amenity space
- e) the dwelling will extend more than 2 metres from the rear of the neighbouring property which is outside planning guidelines
- f) lack of general living space; loss of privacy, loss of light; overshadowing, overlooking by proposed windows
- g) dangerous access and high level of traffic in area; two car spaces would need to be reduced to one because of the visibility splays
- h) restrictions to 2 Croft Close from Leicestershire Highway Authority which restricts dropping a kerb should also apply to this site
- i) insufficient drainage system; the sewage connection to Croft Close is not designed to take additional waste and no agreement is in place to connect the proposed house to this sewer and the plans show the sewage connection in the wrong place for direct connection to the mains sewer
- j) loss of amenity to Barwell Football Club
- k) does not significantly alter from the dwelling previously refused and previous reasons for rejection of 11/00597/FUL should be reviewed for applicability to this application
- l) request that the condition on party wall act should be attached to any permission
- m) compromise the active enforcement order as the base could remain and be used by the dwelling in the application; the council should ensure that the enforcement action is seen through to conclusion.

Appraisal:-

In response to the letters of representation received:-

The Council is aware of the ongoing boundary dispute; however landownership is not a material planning consideration. It is considered that the Party Wall Act may apply in this case and as such has been included as an advice note to highlight this issue to the applicant.

The density, siting, scale and design and private amenity areas of the dwelling and the impact upon the character of the surrounding area has been appraised within the main report. The Council's SPG on House Extensions relates to extensions to existing dwellings and therefore the measurements do not strictly apply in this case, but have been used within the main report for comparative purposes only.

It is considered that as a result of the increased separation distance and reduction in the overall footprint of the dwelling and reduction in the projection from the rear wall of the neighbouring dwelling, the proposal is considered to have minimal impacts upon the amenity of neighbouring residents and as previously outlined the 1 no. window proposed in the side elevation is set to be fitted with obscure glass, secured through the imposition of a planning condition.

In respect of the concerns raised regarding highway safety, the scheme has been considered by the Director of Environment and Transport (Highways) whom has no objection to the proposal subject to the imposition of planning conditions. The ongoing issue of the dropped kerb is between Leicestershire County Council Highway Authority and the owner/occupier of No. 2 Croft Close.

In terms of sewage and drainage matters the scheme has been considered by the Head of Community Services (Land Drainage) whom raises no objection from a planning perspective. Connection to the sewer system and drainage will be dealt with under a separate Building Regulations application.

It is not considered that Barwell Football Club would be significantly impacted upon as a result of the proposal in any way.

As outlined with the main report, the application you see here before you now differs from that refused on 30 March 2011 and the previous reasons for refusal have been assessed and reviewed for applicability to this application.

For the avoidance of doubt the Enforcement Notice requires the entire base to be removed and should part of the base be required for the construction of this application, then a view would need to be taken at that time and only with support by the Council's Building Regulation Officers.

Recommendation:-

Additional Note to Applicant:-

- 5 This permission does not convey any authority to enter onto land or into any building not within the control of the applicant except for the circumstances provided for in The Party Wall etc Act 1996.

ITEM 06

11/00581/EXT

Lighthouse Properties Ltd

Introduction:-

Additional Highway observations were requested on the grounds that limited information was provided within their initial response.

Clarification in respect of any historic land ownership issues on the parcel of land to the front of the site was requested by the Case Officer to the Highway Searches Officer. The search returned no relevant information.

Consultations:-

Director of Environment and Transport (Highways) have confirmed that the situation remains unchanged from the initial application 08/00442/FUL as such the previous response and recommended conditions still apply.

Cllr Bray has submitted concerns in respect of the Covenant identified on the Land Registry Plan and in respect of the scale of the proposal, impact on neighbours and inadequate parking.

One additional letter of representation has been received, this raises the following issues:-

- d) that the development is overbearing and uncharacteristic of the local area
- e) the proposal will result in overlooking of surrounding residential properties
- f) concerns that access to the development crosses a section of Gladstone Terrace which forms the curtilage of a property which fronts Gladstone Terrace
- g) the proposal will block light from the existing street lights to the properties on Gladstone Terrace
- h) the proposed access is narrower than the County Council's Design Guidance, which states that an access serving more than 25 dwellings should have a minimum effective width of 5.5m
- i) the proposal will increase traffic in the area and during construction access to Gladstone Terrace may be blocked

- j) it has been stated that an Article 6 Notice has been wrongly served, as this document has been revoked by the Town and County Planning (Development Management Procedure) (England) Order 2010
- k) a land registry plan has been submitted for the site which includes a restrictive covenant, which prevents development coming further forward than the front boundary of the original building.

Appraisal:-

The issues raised within the additional letter of representation, which have not been covered elsewhere within the report will now be considered:-

Concerns have been raised that the development will result in overlooking of surrounding properties. To ensure that overlooking does not occur the Council's Supplementary Planning Guidance - New Residential Development requires a distance of 25 metres between facing windows and 14 metres between facing windows and gable walls. The proposed layout achieves these distances and the staggered design and variation in roof heights seeks to reduce the impact of the building on the amenities of residents in Gladstone Terrace. Accordingly, based on this the proposal is not considered to result in a material level of overlooking.

It has been stated that the development will block light from the street lights along London Road, to properties on Gladstone Terrace. In response to this, the purpose of street lights is to illuminate the street and not private developments. Accordingly, if this occurs, it is not a material planning consideration which can be controlled or rectified by the planning system.

Concerns have been raised that the proposed access is inadequate. To ensure that an access is provided in accordance with County Highway standards, a condition has been imposed requiring details of this to be submitted and approved by the Local Planning Authority.

It is suggested that the proposal will increase traffic in the area, and that during construction access to Gladstone Terrace may be blocked. The development will result in additional traffic, however this will not be to a level which will exceed the capacity of the local highway network and would subsequently warrant refusal of the application. In respect of construction traffic blocking access to Gladstone Terrace, this is not a material planning consideration.

It has been stated that an Article 6 Notice has been wrongly served, as this document has been revoked by the Town and County Planning (Development Management Procedure) (England) Order 2010. The purpose of an Article 6 notice is to inform landowners of application sites, where a third party is applying for planning permission on that land, that they are doing so. In this case the notice has been correctly served and the article has not been revoked by the Town and County Planning (Development Management Procedure) (England) Order 2010.

In respect of the Land Registry Plan, including the restrictive covenant which has been provided, the Council's Legal and Democratic Services department have stated that the restrictive covenant does not constitute a material planning consideration and given that the Council has previously granted planning permission on the site, it would prove difficult and of little benefit to enforce the covenant. If the Council were to take action to enforce the covenant the owner would be entitled to apply for the covenant to be discharged on the grounds that the council does not derive "any practical benefit of substantial value or advantage".

The relevant case law is the Court of Appeal decision in the case of *Graham v Easington Borough Council*. Where it was decided that a grant of planning permission was "the best evidence that the practical benefits secured by the restriction are not of substantial advantage". In short the fact we have granted planning permission will be held against us in any action to enforce the covenant. The likely result of any action to enforce the restrictive covenant by the Borough Council would be that we are not able to prevent the building being built to the building line, we may however be awarded a nominal amount of financial compensation for the loss of the covenant. Accordingly, the covenant does not have any implications for the determination of this application.

12 off road parking spaces have been provided for the 10 two bed apartments. This number is considered acceptable when considering the town centre location of the proposal and its close proximity to a range of alternative transport choices.

The previous application sought a contribution of £9000 towards provision and maintenance of car parking in the vicinity of the development. Such a contribution is not considered to be CIL compliant and therefore the requirement cannot be carried forward into the revised agreement. This would not in officer opinion alter the recommendation as the site is located within the town centre and is therefore considered a sustainable location. Furthermore, the Local Highway Authority has raised no objections to the scheme on the basis of insufficient parking.

ITEM 07

11/00635/FUL

Mr D Price

Consultations:-

No objection subject to notes to applicant has been received from Head of Community Services (Land Drainage).

The application is to be considered at Planning Committee at the request of Councillors O'Shea and Boothby for the following planning reasons:-

- a) highway issues
- b) justification
- c) use of land
- d) space requirements for animals.

Appraisal:-

Highway Safety

As previously reported, due to the potential unrestricted agricultural use of the land the proposed development is not considered to result in any significant adverse impact on highway safety.

Following the site visit by Planning Committee members on 10 October 2011 some concern was raised by members in relation to the visibility splays onto Heath Road, which has a National Speed Limit of 60 mph. The Director of Transport and the Environment (Highways) has recommended a condition in respect of the setting out of visibility splays at the junction with Heath Road. Taking into account the speed limit on Heath Road and the existence of substantial screening (trees and hedges) along either side of the access it is considered reasonable in this case for the imposition of the condition relating to the setting out of visibility splays.

Supporting Information - Insert after paragraph 3

The supporting information states that the applicant and their relatives have a total of 60 cob horses and that the mares are kept in groups of between 8 and 15 horses, depending on the size of the land on which they are located. The information also states that these horses will be sited on the land for stock improvement purposes and that the proposed agricultural building will be used for the wintering of the foals. In respect of the strict space requirements for horses this depends on a number of factors including types of grass, ground conditions, seasonality and whether there is supplementary feed available. The number of horses that can be accommodated at the site will also be dictated by the size of the field which is 12.5 acres in this case. Therefore it is the legal responsibility of the applicant to ensure that both the land and proposed agricultural building are not being overcrowded with horses, in the interests of animal welfare standards. It should also be noted that the applicant has other land available which is either owned or rented and that the remainder of the horses can be accommodated.

In terms of space requirements the Council's agricultural consultant states that the proposed agricultural building will provide some 165 square metres of useable space, with the remainder being used as a feed and bedding store. The agricultural consultant then states that the housing of cattle would require

between 5 and 8 square metres per animal, thereby meaning that the quoted figure in the design and access statement of 25 beasts will have a space requirement of between 125 and 200 square metres. Therefore the scale of the building is not excessive to the extent that it would over provide for the space requirements for the animals and that it would meet the functional and operational requirements of its purpose.

The Council's agricultural consultant states that the advantage of the proposed building for equine purposes is primarily one of animal welfare. The consultant also confirms that the provision of an appropriate building, which is considered appropriate in this case is consistent with the advice set out in the Defra Welfare Code for Cattle, the Equine Industry Welfare Guidelines and the criteria in PPS7 for agricultural development.

Recommendation:-

No change to recommendation.

Additional Condition

- 6 Prior to commencement of development, a scheme for the improvement of the access with Heath Road, including access width, surfacing and hedgerow maintenance, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out in accordance with the approved details prior to first use of the agricultural building hereby approved and shall thereafter be retained.

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, in accordance with policy T5 of the adopted Hinckley and Bosworth Local Plan.

Additional Note to Applicant:-

- 5 No contaminated water shall pass to a watercourse, ditch or soakaway and only clean roof water shall be discharged to soakaways (subject to suitable ground conditions), ditches or watercourses.

PLANNING COMMITTEE
11 October 2011
SPEAKERS

| Item | Application | Speaker(s) | Applicant/objector |
|-------------|--------------------|-------------------|---------------------------|
| 01 | 11/00709/HYB | Mr David Ward | Agent |