

COMMITTEE EXTRACT

Committee Date: 21 August 2012

Reference:- 12/00555/CONDIT

Parish:- Hinckley

Applicant:- Westleigh Developments Limited
Tudorgate Grange Business Park
Enderby Road
Whetstone
Leicester

Location:- Flude House Rugby Road Hinckley Leicestershire LE10 0QQ

Proposal:- REMOVAL OF CONDITIONS 20 AND 21 (HIGHWAY CONDITIONS) FOR PLANNING PERMISSION 10/00847/FUL MIXED USE DEVELOPMENT INCLUDING RETENTION, REFURBISHMENT AND EXTENSION TO EXISTING BUILDINGS AND DEMOLITION OF FACTORY BUILDINGS TO CREATE 48 DWELLINGS AND 6 APARTMENTS WITH ASSOCIATED PARKING

Introduction:-

This application is to be considered at Planning Committee in accordance with the Scheme of Delegation, as it involves variation of a Section 106 legal agreement for developer contributions completed in association with a major development.

Application Proposal

This application seeks removal of (highway related) conditions 20 and 21 of planning permission 10/00847/FUL which approved a mixed use development including retention, refurbishment and extension to existing buildings and demolition of factory buildings to create 48 dwellings and 6 apartments with associated parking. Condition 20 requires that prior to first occupation of any part of the development site, the highway works to provide pedestrian crossing points on Rugby Road and Hawley Road shall be completed to the satisfaction of the Highway Authority. Condition 21 requires that prior to the first occupation of any part of the development site, the developer shall carry out a review of the existing Traffic Regulation Orders on both sides of Hawley Road between its junctions with Rugby Road and Station Road with the intention of introducing no waiting restrictions.

The financial contributions required by the Section 106 legal agreement have already been paid, however, a Deed of Variation to the agreement is required in order to secure and retain the affordable housing element of the contributions.

The Site and Surrounding Area

The application site is 2.14 hectares and lies on the south west of Hinckley Town Centre. The site occupies a prominent location on the gateway into the town centre. The residential element of the approved scheme is substantially completed and occupied. Works for the refurbishment and extension to the former factory building fronting onto Hawley Road and Rugby Road have begun. A variety of uses including residential, commercial, and retail bound the site.

Technical Documents submitted with the Application

Draft Heads of Terms

Relevant Planning History:-

11/00100/CONDIT	Variation of Condition 2 of Planning Permission 10/00847/FUL	Approved	17.05.11
10/00847/FUL	Mixed use development including retention, refurbishment and	Approved	25.01.11

extension to existing buildings and demolition of factory buildings to create 48 dwellings and 6 apartments with associated parking

09/00810/OUT

Mixed use development including retention, refurbishment and extension to existing buildings and demolition of factory buildings to create 50 dwellings with 6 apartments with associated parking.

Approved 06.04.10

Consultations:-

No objections have been received from Director of Environment and Transportation (Highways)

Neighbours notified, one letter received neither objecting nor supporting the proposals.

Development Plan Policies:-

National Planning Guidance

National Planning Policy Framework (NPPF) March 2012
Circular 11/95

Local Policy

The site is identified in the adopted Hinckley and Bosworth Local Plan as an employment site, in The Hinckley Town Centre Renaissance Masterplan and the Hinckley Town Centre Area Action Plan (AAP) as a potential mixed use development site.

Local Plan 2006-2026: Core Strategy (2009)

Policy 1: Development in Hinckley
Policy 5: Transport Infrastructure

Hinckley and Bosworth Local Plan (2001)

The site is within the settlement boundary of Hinckley as defined in the adopted Hinckley and Bosworth Local Plan.

Policy BE1: Design and Siting of Development
Policy EMP1: Existing Employment Sites
Policy T5: Highway Design and Vehicle Parking Standards
Policy IMP1: Contributions Towards the Provision of Infrastructure and Facilities

Supplementary Planning Guidance/Documents and Other Material Policy Guidance

The Hinckley Town Centre Renaissance
Hinckley Town Centre Area Action Plan
Supplementary Planning Document: Hinckley Town Centre Strategic Transport Development Contributions
The Employment Land and Premises Study 2010

Appraisal:-

The mixed use development of the site has been approved subject to a number of conditions with the determination of the previous planning application (10/00847/FUL). The main considerations with regards to this application are whether the development so approved would still be acceptable in planning terms if conditions 20 and 21 were removed.

Policy 1 of the adopted Core Strategy requires transport improvements in line with Policy 5. Policy 5 requires the provision of links to the urban area, including those for pedestrians. Spatial Objective 2 of the Hinckley Town Centre AAP seeks to increase and improve accessibility within, to and from the town centre for pedestrians. Policy IMP1 of the adopted Local Plan requires development to contribute towards the provision

of necessary on-site and off-site infrastructure and facilities to serve the development.

Condition 20

The approved development included the provision of improved pedestrian crossings, one on Hawley Road and one on Rugby Road as shown on Mayer Brown Limited drawing no. MRPFLUDE.1/01 rev D and condition 20 sought to ensure that the crossings were provided prior to any part of the development being occupied. Notwithstanding that the residential element of the development is substantially completed and occupied, the need for the pedestrian crossing works has been superseded by works at the junction associated with the approved development at the nearby 'Sketchley Brook' site (planning permission ref. 10/0518/OUT) which also includes the provision of pedestrian crossings secured by condition. As a result, the Director of Environment and Transportation (Highways) has no objection to the removal of condition 20 on planning permission 10/00847/FUL as pedestrian crossings will still be provided, albeit by another development, to satisfy the policy requirements of Policies 1 and 5 of the adopted Core Strategy, Policy IMP1 and T5 of the adopted Local Plan and Spatial Objective 2 of the adopted Hinckley Town Centre AAP. As a result, it is considered that condition 20 is no longer necessary and can be removed.

Condition 21

Condition 21 requires that prior to the first occupation of any part of the development site, the developer shall carry out a review of the existing Traffic Regulation Orders (TROs) on both sides of Hawley Road between its junctions with Rugby Road and Station Road with the intention of introducing no waiting restrictions. Notwithstanding that the residential element of the development is substantially completed and occupied, the Director of Environment and Transportation (Highways) considers that the review of the TROs is less critical to the residential element of the scheme than the commercial element and the requirement for the review of TROs can be carried out as part of the s278 process associated with the commercial development. As a result, the Director of Environment and Transportation (Highways) has no objection to the removal of condition 21 on planning permission 10/00847/FUL. Notwithstanding this, the condition is not considered to meet the tests of Circular 11/95 as other statutory provisions deal with the matter and enable the Leicestershire County Council (as Highway Authority) powers to act regardless.

Developer Contributions/s106 Issues

The original planning permission (reference 10/00847/FUL) secured various developer contributions via a completed section 106 legal agreement. As approval of this application will result in a new permission being issued, notwithstanding that the financial contributions have already been paid, a further Deed of Variation is necessary to link the new permission to the original permission in order to secure and retain the affordable housing element of the contributions. An appropriate Deed of Variation is currently being negotiated with the applicants.

Conclusion

Conditions 20 and 21 of planning permission 10/00847/FUL were imposed in the interests of highway safety. The Director of Environment and Transportation (Highways) considers that the need for condition 20 has been superseded by works associated with another development and the requirements of condition 21 can be met by an alternative legal process. As a result the conditions are no longer necessary to make the development acceptable in planning terms. The proposals are considered to be in accordance with Policies BE1 (criterion c and g), EMP1, T5 and IMP1 of the adopted Hinckley and Bosworth Local Plan, Policies 1 and 5 of the adopted Core Strategy, the Hinckley Town centre Area Action Plan and the overarching principles of the National Planning Policy Framework. It is therefore recommended that the application to remove the conditions should be approved subject to completion of an appropriate legal agreement to secure developer contributions.

RECOMMENDATION:- That subject to an Agreement under Section 106 and Section 106A of the Town and Country Planning Act 1990 and Section 111 of the Local Government Act 1972 to link the new permission to the original permission and section 106 legal agreement, the Deputy Chief Executive (Community Direction) shall be granted delegated powers to grant planning permission subject to the conditions below. Failure to complete the said agreement by 1 October 2012 may result in the application being refused:

Summary of Reasons for Recommendation and Relevant Development Plan Policies :

Having regard to the pattern of existing development in the area, representations received and relevant provisions of the development plan, as summarised below, it is considered that subject to compliance with the conditions attached to this permission the proposed development would be in accordance with the development plan and would not be detrimental to the occupiers of neighbouring properties or highway safety. The site represents one of the key regeneration areas in the Town Centre, and its redevelopment, as part of a comprehensive scheme, would contribute significantly to the Council's vision and primary spatial objectives, bringing wide ranging benefits to Hinckley Town Centre and to the Borough as a whole. The site is in a sustainable location within the Hinckley Town Centre; would meet an identified need for affordable housing and employment development in Hinckley; and would enhance the character and appearance of the area.

Hinckley & Bosworth Borough Council Local Plan 2006-2026: Core Strategy (2009):- Policies 1 & 5

Hinckley & Bosworth Borough Council Local Plan (2001):- Policies EMP1, T5 & IMP1

- 1 This permission relates to the removal of Conditions 20 and 21 of planning permission reference 10/00847/FUL [the previous application] dated 25.01.2011, a copy of which is appended hereto and the conditions imposed by the decision notice in relation to the previous application shall be deemed to apply to the grant of permission in respect of application 12/00555/CONDIT [the current application] save in so far as they are amended by virtue of the decision notice in relation to the current application or where variations subsequent to the previous application have been approved in writing by the Local Planning Authority.

Reasons :-

To define the permission and to ensure that all other conditions attached to the original consent still apply.

Contact Officer:- Richard Wright Ext 5894