

PLANNING COMMITTEE 24 July 2012
LIST OF LATE ITEMS RECEIVED AFTER PREPARATION OF MAIN AGENDA:

ITEM 10

12/00250/FUL

Bloor Homes Limited East Midlands

Consultations:-

Director of Children and Young Peoples Services (Education), as statutory consultee, have discussed options to accommodate the additional pupils generated by the development with the Head of Lady Jane Grey Primary School. After discussion with the school the preferred option, subject to a structural survey, would be to install a mezzanine floor in the hall to create an additional classroom. This would provide the additional 19 places required as a result of the development. If this is not possible the Education Authority confirm it would be possible to provide additional accommodation in the form of a single classroom Martinshaw Primary School.

The PCT have provided further comments to advise that, whilst the development of the Ratby practice is not in the PCT investment strategy, this doesn't preclude a GP-funded development of the premises. Nor does it mean, in the changing landscape of the NHS locally, that the newly-formed CCG won't wish to develop the premises in the future.

The Parish Council's objections are based on legal advice, by Marrons, they procured in order to assist in their objection to this application. At the request of Councillors Batty, Boothby and O'Shea this was distributed to Members by email earlier today.

Further comments have been submitted on behalf of the Parish Council by Marrons. They have commented on the applicant's Counsel's opinion as follows:-

- a) they indicate that the Green Wedge Review has not been out to consultation, whilst the previous review was not subject to consultation, the current review certainly has been
- b) Council's assertion that the Council cannot demonstrate a five year housing would appear from the Committee report to be incorrect. This alters the overall context in which Counsel's opinion should be viewed
- c) the Parish Council remain concerned about the impact on healthcare and education facilities. The contribution being sought from the PCT will not provide the extra facilities required and there appear to be no plans by the PCT to make up any difference. They further highlight paragraph 72 of the NPPF in support of their concerns and the weight given to the need to create, expand or alter schools and to work with schools promoters.

For the avoidance of doubt, the Parish Council remain concerned about the impact of the proposed development on both healthcare and education facilities and as such they do not consider the proposals to be sustainable in accordance with the requirements of the NPPF. The further comments from the Parish Council's legal representative advise that, whilst they note we are awaiting further representations from both the PCT and Education Authority, members will clearly need to be satisfied that the contributions that have been sought from the developer will deliver the necessary infrastructure and their letter of objection casts considerable doubt over whether this would be so. They further point to paragraph 72 of the NPPF which advises planning authorities to "give great weight to the need to create, expand or alter schools" and to "work with schools promoters to identify and resolve key planning issues before applications are submitted." They further note that the reference is schools promoters and not education authorities which they consider is hardly surprising given that where, as here, we are dealing with academy schools.

A letter of objection has been received from Councillors Batty, Boothby and O'Shea raising concern that the grounds for refusal have not been fully and exhaustively promoted in the report. They consider that conflict with CS Policy 9 is the only reason given to support the recommendation to refuse the application when "prematurity" and "sustainability" should be properly and strongly promoted as reasons for refusal along with other relevant plan policies. They would expect a much more comprehensive presentation to be made to the planning committee on the reasons for refusal. As elected members they are looking very closely at the "golden thread" that runs through and holds the NPPF together and the

opportunities to promote the wellbeing and best interests of residents by ensuring that sustainable development in suitable locations should be the objective of growth.

A letter of objection has been received from Councillor Jenny O'Shea raising the following concerns:-

- a) prematurity - the application should not be considered within 2 years of the Inspector's decision
- b) impact on the Green Wedge
- c) sustainability - there is insufficient capacity for schools and doctors and there is no dentist
- d) traffic problems and danger to school children with the access opposite Groby Community College that also serves Brookvale High School.

Following consultation on amended plans:-

A further 38 letters of objection have been received from local residents. These reiterate the comments previously reported and a few additional objections have been raised:-

- a) our sewage system must be near to being overloaded, if it is not already
- b) flooding often occurs around the Stamford Arms pub where surface run-off water gathers from nearby roads
- c) short term impact of the construction traffic
- d) the density of the development does not appear to be in keeping with other buildings adjacent to the land.

No objections have been received from:-

The Environment Agency
Western Power Distribution

No objections subject to conditions has been received from Severn Trent Water Ltd.

Appraisal:-

Prematurity and Sustainability

The Parish Council remain concerned about the impact of the proposals on education and healthcare facilities. They are further concerned that the reason for refusal only really covers Core Strategy Policy 9 and the impact on the Green Wedge and the issues of prematurity and sustainability should be promoted as reasons for refusal.

Prematurity is addressed within the officer's report to Committee and in the reason for refusal. The NPPF has a presumption in favour of sustainable development and a number of objections have been received about the impact of the proposals on existing facilities and in particular on education and health care. The Parish Council are concerned that, as there is no capacity for the existing schools and health facilities to expand to accommodate the additional residents generated by the development then it is not sustainable in accordance with the principles of the NPPF.

In respect of health care provision, concern has been raised that the developer contributions would still leave a deficit to provide an additional consultation room and that the Ratby practice does not form part of the PCT's investment strategy. The PCT have advised that this would not preclude a GP-funded development of the premises or any future proposals.

Sustainability centres around the provision of infrastructure to meet the needs of the development and in this case, the capacity of education and health care. The site lies within the catchment area of Lady Jane Grey Primary School which is approximately 456 metres from the application site. The Director of Children and Young Peoples Services (Education), as statutory consultee, has advised that they have considered options with the Head of the school and the preferred option is to add a mezzanine to the hall to provide an additional classroom to accommodate the additional 19 places required as a result of the development. The site is also within a two mile walking distance of Martinshaw Primary School, Ratby

Primary School and Elizabeth Woodville Primary School. There is also an option to provide an additional classroom at Martinshaw Primary School which is approximately 845 metres from the development.

At a recent Hearing the Inspector considered the matter of primary school capacity and sustainability. Charnwood Borough Council considered that if the catchment school were not to be enlarged and capacity found elsewhere then this would result in families having to make unsustainable car journeys of more than two miles to access primary school education. The Inspector did not consider that this was supported by the evidence and is inconsistent with the way school admissions are currently determined. The Inspector noted that many of the pupils live outside of the catchment area and if permission were to be granted for the development and the school were not enlarged, the effect would not be that children living on the site would have to go elsewhere to school but that those apply to attend from outside the catchment area would over time have progressively fewer places available to them. The Inspector did not accept that the consequences outlined by the Council in its decision are inevitable or supported by the evidence. The Inspector also did not accept that the development was unsustainable in that location and therefore inappropriate and whilst there is pressure on spaces across local primary schools this could be mitigated to the extent necessary by way of an education contribution which meets the CIL tests. The appeal was allowed and the Council ordered to pay costs to the applicant in respect of pursuing the education matter without evidence.

The Council, in deciding whether a contribution request is CIL-compliant, has to ensure that the three tests in Regulation 122 of the 2010 CIL Regulations are met.

These are, as members are aware:-

- a) that it is necessary to make the development acceptable in planning terms
- b) that it is directly related to the development
- c) that it is fairly and reasonably related in scale and kind to the development.

All three tests have to be met to justify a planning obligation requiring the payment of contributions.

Your officers are of the considered view that the contribution request from the PCT is not CIL compliant in that it does not meet all three tests. The request identified existing accommodation and capacity constraints and funding issues to deal with those issues. These cannot be said to be directly related to this development. Whilst there are undoubtedly issues with the provision of health care, there are existing issues which cannot be properly addressed by seeking a contribution from this development. NPPF at para 204 reiterates the three tests

In summary, it is considered that the PCT request is not CIL compliant whereas the education request meets the CIL tests. Whilst there may be concerns as to how the monies will be spent to provide capacity for pupils consultation with the education authority has provided two options for providing the capacity either a mezzanine within Lady Jane Grey Primary School or a further classroom at Martinshaw Primary School, both of which in planning terms would be acceptable to address the infrastructure provision commensurate to the development proposed. For these reasons it is not considered that there are grounds to refuse the application on sustainability either by way of an additional reason or amending the recommended reason for refusal within the main report.

Other Issues

Further letters received since writing the main report have raised issues of impact upon green wedge and highway and pedestrian safety, these matters were discussed and addressed in the main agenda report.

Concerns regarding the impact of construction traffic have now been raised, such a matter is relevant to all new developments and it is accepted that a certain level of disruption will be inevitable when a new development is being constructed. However, as the construction period is temporary the impact would not justify a reason for refusal.

Recent objections have raised concern about drainage and flooding. The Environment Agency and Severn Trent Water limited have been consulted on the revised layout and they raise no objection.

Comments have been received in respect of the amended layout due to the density not being in keeping with adjacent buildings and land. The objector would prefer to see larger houses in larger plots. The proposed layout for 91 dwellings has a net density of 26 dwellings per hectare which is below the Core Strategy net density target of 30 dwellings per hectare. It is considered that proposals provide a satisfactory layout with an acceptable housing mix.

ITEM 02

12/00127/FUL

**Persimmon Homes North Midlands &
Omnivale Ltd**

Introduction:-

Amended plans have been received correcting inaccuracies noted in the previous submissions of plans received. These are all minor changes and do not alter or address objections received. Accordingly no further consultation was undertaken.

Appraisal:-

Information has been received from Bagworth Parish Council regarding what they would put the requested contribution towards play and open space towards. They have stated that they are looking for a suitable site to provide a multi use games area (MUGA) within the village and the open space proposed as part of this development would be a suitable location. They therefore would spend any monies on maintenance of the proposed open space and Jackson Road recreational ground and provision towards provision of additional equipment and facilities on these sites.

Recommendation:-

Condition 3 amended to take account of the amended plans.

ITEM 03

12/00100/FUL

Lighthouse Property Ltd

Consultations:-

Councillor Bray has objected on the following grounds:-

Objects to the size and scale of the proposed building.

Lack of off street parking on the site.

If planning permission is granted, please ask the developer to bring Gladstone Terrace and Davenport Terrace up to an adoptable standard.

Five letters have been received objecting to the proposal on the following grounds;

- a) it is not clear if the developers proposed to have the road adopted on completion of construction
- b) the works to the access should comply with the guidance within the '6C's design guidance' however it does not comply with a number of issues
- c) surface water runoff should be contained within the boundaries of the development so not to impact on the rest of Gladstone Terrace
- d) the application site contains part of another property, however no notice has been served
- e) there was no date on the site notice
- f) there is no cycle provision within the site
- g) there is inadequate parking
- h) no provision is made for external lighting
- i) there is a primary school opposite and lack of parking could result in highway danger
- j) light pollution should be taken into account
- k) will the Council guarantee that no building work will be carried out at the weekends, on bank holidays or after 6pm weekdays.

Development Plan Policies:-

Appraisal:-

In response to the additional representations received

Parking, drainage and scale, massing and design of the proposal are discussed within the main body of the report. The amended plans submitted show a cycle storage area.

The developer does not have the right to do works to any part of Gladstone Terrace other than shown within the red edge of the application site. The length of Gladstone Terrace included within the application site has been reduced from previous applications due to consent to undertake the works bring restricted further down Gladstone Terrace. It would be unreasonable to request the developer to do works on areas of Gladstone Terrace that will not be affected by the development.

The site notice was erected with the date posted displayed and therefore the Council has fulfilled its duty in posting the notice.

The application has signed certificate C on the application form which is applicable when the owner of a site cannot be identified. This states that searches for ownership have been undertaken with the land registry and discussions have taken place with neighbours. Consequentially Certificate C has been completed which states that an advert was placed in the Hinckley Times on 23 February 2012 (copy provided to the LPA), advertising that an application is going to be submitted. The applicants have therefore complied with the requirements of the Town and Country Planning (Development Management Order) 2010.

With regards to light pollution, the site is within an urban area and adjacent to a main route into Hinckley that is lit. It is not considered that the proposal would result in any significant increase in light pollution to sustain a refusal of planning permission.

The applicant has provided justification to why the flats element of the proposal can not comply with the Code for Sustainable Homes due to the shared nature of facilities.

Play and open space

The Head of Corporate and Scrutiny Services (Green Spaces) has clarified that they have the following improvements planned for Queen's Park:-

- a) improve the safety surfacing beneath the play equipment
- b) provide outdoor gym equipment

This supports the justification for a contribution towards this facility.

Since the Green Spaces Strategy was completed, the Queens park facilities have been improved; however an updated assessment has not yet been undertaken. The Head of Corporate and Scrutiny Services still have plans to improve the facilities and the proposal would increase wear and tear on the existing facilities. The contribution is still considered to be justified.

Recommendation:-

Additional notes to applicant;

Leicestershire County Council as Highway Authority wish to make you aware that on the basis of their available records, the boundary of the application site appears to enclose highway land. Any development that encroaches onto the public highway will require the consent of the Highway Authority.

Any street furniture or lightning that requires relocation or alteration shall be carried out entirely ay the expense of the applicant, who shall first obtain separate consent of the highway authority.

Consultations:-

Councillor Bray supports the recommendation to refuse the application on the basis that the site is located in the middle of a residential area and the levels of disturbance to neighbouring properties is of some concern. Councillor Bray states that since the appeal there have been many more new homes built and the impact of this will be felt by an even greater number of people. In addition, to the above, the applicants may be currently trading beyond their hours, as whilst they close the shop they are cooking and delivering beyond 6pm.

The Head of Community Services (Pollution) has no objection.

Director of Environment and Transport (Highways) has no objection.

One additional neighbour letter of objection confirming that the site is not operated accordance with the conditions of the earlier permission.

Officers are aware that the agent has written to all Members of Planning Committee today. The agent seeks to clarify three points:

- That the approach taken in the earlier appeals is in fact incorrect as Rugby Road is in fact busier in the evening, thus leading to high levels of background against which the proposal should be considered against.
- Not all neighbours object..
- Temporary Planning Permission would be a compromise position to see what happens.

Appraisal:-

The characteristics of Rugby Road as claimed by the applicants agent have not been verified with evidence and as such it is more than reasonable to suggest that the area as a whole is quieter in the evening.

The officer report confirms that no neighbour representations have been received. The officer report does not suggest that not all neighbours object.

In light of the earlier appeal decision and the location of the site it is not considered that the use is acceptable and therefore a temporary permission would not overcome the issues.

Consultations:-

Councillor Mullaney has raised the following objection:-

The application is too close to the Richmond Primary School and Hinckley Club for Young People. Height would be an eyesore in an already cluttered streetscene.

An additional four representations have been received raising the following additional objections:-

- a) location is inappropriate
- b) close to an old peoples home and other dwellings
- c) increases the risk of lightning damage to nearby property
- d) health risks to young children.

Appraisal:-

Further objections have been received. The impact on the street scene has been considered within the main report. The increased risk of lightning damage is not a material consideration.

Whilst health risks can be a material planning consideration, the Government has stated that where the telecommunications operator has submitted a declaration that the proposal complies with the ICNIRP guidance then it should not be necessary for consider further health aspects and concerns about them. The application has been submitted with a certificate stating that the installation will comply with the ICNIRP guidelines and therefore health considerations can not be considered further.

ITEM 08

12/00526/FUL

Ms Danielle Sullivan

Introduction:-

Amended plans have been received. These illustrate design changes and have repositioned the bedroom windows on the rear elevation of plot 1. A 14 day neighbour re-consultation has been undertaken and remains open until 1 August 2012.

Consultations:-

Head of Community Services (Pollution):- no objection subject to conditions.

Two further letters of neighbour representation have been received, these raise the following issues:-

- a) flood related concerns, stating that the site flooded on the 7 July 2012.
- b) concerns raised in respect of the loss of the shop which is a needed community facility that the local population can sustain.

Development Plan Policies:-

Hinckley and Bosworth Local Plan (2001)

Policy NE17: Protection of the Water Environment from the Development of Contaminated Land

Appraisal:-

Amended plans have been received and references in the report to "amended plans requested" should be substituted accordingly.

Drainage and Flood Risk

In response to the concerns raised within the letter of neighbour representation, verbal clarification has been requested from the Environment Agency in respect of flood risk. The Environment Agency has confirmed that the site does fall within flood Zone 1, which is the classification for most properties. They have stated that the site may be susceptible to surface water flooding, but no more so than any other property. In respect of the recent flooding of the site, this has been attributed to the recent extreme rainfall, which constitutes an extreme weather event. It has also been confirmed that the surface water drainage system is in good working order in the locality, and aside from such 'extreme' events, copes well.

Other Issues

Concerns have been raised in respect of the loss of the shop. This issue was considered during the previous scheme and was not a reason for refusal. Accordingly the loss of this facility is not a material planning consideration in respect of the determination of this scheme.

Further investigation has been undertaken in respect of the allegations that part of the site was a former petrol station, with underground storage tanks. The Head of Community Services (Pollution) has stated

that part of the development site had a historical use as a petrol filling station sometime between 1943 and 1967. A search undertaken by Envirosearch has highlighted details of petrol filling station operations sometime between 1943 and 1996. Sheepy Parish Council has confirmed that for over 30 years this site has not operated as a petrol filling station. A discussion with a resident of 17 Main Road, Sheepy Magna, confirmed according to local knowledge that the site has not operated as a petrol filling station since 1967.

Anecdotal evidence from local residents suggests that the tanks were removed and the soil from the petrol station was replaced with that taken from the excavations following the construction of the M42 motorway. This has not been confirmed.

As the information outlined above does not clearly determine if the land may be affected by land contamination, a therefore a risk remains and as such conditions requiring the submission of a contamination investigation are justified.

RECOMMENDATION: - That subject to receipt of an acceptable Unilateral Undertaking under S106 of the Town and Country Planning Act 1990 to provide financial contributions towards play and open space at Brookside Place Recreational Facility, and subject to no significant material objections being received prior to the expiry of the consultation period on 1st August 2012 the Head of Planning shall be granted delegated powers to grant planning permission subject to the conditions below. Failure to complete the said agreement by 15 August 2012 may result in the application being refused:

Condition 2

Amended to take account of the amended plans.

Additional conditions in respect of ground contamination.

ITEM 09

12/00277/LBC

Rebecca Wilbur

Appraisal:-

The matter of the fixings of the proposed banners has been subject to further discussion between officers and it has been agreed that a condition to secure the submission of the proposed fixings details is necessary to ensure that no unnecessary damage occurs to the important and attractive brick facade of the building.

Recommendation:-

Additional condition to secure a scheme for fixings.