

PLANNING COMMITTEE 13 December 2011
LIST OF LATE ITEMS RECEIVED AFTER PREPARATION OF MAIN AGENDA:

ITEM 01

11/00368/FUL

Taylor Wimpey UK Limited

Introduction:-

The following additional information has been received:-

- a) a plan showing the off site highway works to Nutts Lane and the widening of the footway over the canal bridge (Revision G)
- b) a designer's response to road safety audit.

Re-consultation has been undertaken with the Director of Environment and Transport (Highways).

An updated Walking Routes to School Assessment undertaken by Leicestershire County Council on 1 December 2011 has revealed that conditions along the canal towpath have deteriorated to the extent that there are significant slip hazards. In respect of the Nutts Lane bridge, the assessment states that proposed works to provide a 0.9 metres footway will clearly improve conditions for pedestrians crossing the bridge and that this option could make the route available, however there is a potential for conflict with passing vehicles and pedestrians. As such the assessment recommends a number of options to address these concerns by extending the intergreen in the traffic signal operation over the bridge, a segregated pedestrian crossing and if the footway extension option is pursued it is suggested that a trial arrangement using bollards or temporary barriers should be put in place.

Consultations:-

The Director of Environment and Transport (Highways) maintain that they have no objections subject to the imposition of planning conditions.

Four additional letters has been received raising the following concerns:-

One letter raises the following concerns:-

- a) in the whole Saxon Paddock area the only play space provided is 1.5 acre resulting in a deficit of 2.5 acres
- b) asks why the financial contributions obtained from the Crest Nicholson application was not used for the purchase and facilities for the Sheep field
- c) all decisions are contrary to the Council rule [Policy REC3] that children do not need to cross a busy road
- d) the decision to use funds from this application on Langdale Road Recreation Ground is deeply flawed as there is no safe pedestrian crossing
- e) Where can we use an open space contribution if we've allowed all the open space to be developed?
- f) request that the Council give constructive positive help by allowing the opportunity of use of these funds to rent the open space for primary short term minimum lease
- g) give us help on this issue to help our community and not give away the benefits whilst inflicting the disadvantages.

One letter raises the following objections:-

- a) the application should be refused if the Nutts Lane/canal overbridge is not suitable to handle additional traffic, especially during peak periods
- b) the land acts as a green pocket for wildlife, especially importantly being next to the canal
- c) the land helps with the run off of surface water
- d) increase risk of railway bridge strikes by construction and resident vehicles
- e) impacts on the canal from additional noise.

One letter discussing the request under the Freedom of Information Act to Leicestershire County Council Highway Authority to provide a copy of the Risk Assessment Guidelines and the Risk Assessment carried out in respect of Safe Walking Routes to and from School has been received and raises the following points:-

- a) the canal towpath in its current state could not be walked in reasonable safety due to the weakness of the water edge banking in some places; the fact that there is only a very narrow strip of soil based pathway; that this strip of soil based footway becomes very slippery in wet weather and in places puddles form; either side of this soil pathway are strips of grass which are long in some place; no lighting; no fencing at the water edge
- b) in respect of available routes, public footpaths, bridleways and byways the factors of safety must override its inclusion in the Risk Assessment
- c) the statements made in respect of footway in itself 'rules out' the towpath in its current state
- d) the absence of street lighting must be interpreted in its literal sense, therefore the absence of lighting on the tow path must and does become a real factor
- e) recommends the following conditions:-
 - an appropriate width footway over the canal bridge be put in place
 - safe crossing facilities for pedestrians must be put in place which can only realistically be achieved by having an all red phase to traffic and a green cross now light signal, pedestrian control works at Coventry Road
 - the provision of a recognised and appropriate width footway over the canal bridge will have an impact on the type of vehicle that can use the bridge and therefore LCC highways must and should concede that a width restriction should be put in force legally
 - a width restriction refusal by LCC Highways cannot be justified on the grounds of lorries needing to go under the rail bridge on Nutts Lane
 - the A5 rail bridge is the same height as the Nutts Lane rail bridge and the issue with the A5 rail bridge is an adverse camber, the resolve of this should be actively pursued by LCC, HBBC and Councillors.
- f) disagree with the planning application on the grounds of retaining green spaces, but accept the pressures on the Local Planning Authorities through Government Legislation

One letter raises the following objections:-

- a) previously raised issues about the Transport Assessment prepared in respect of the application and in particular the difficulties of proving a safe and convenient pedestrian route to the north
- b) the committee report confirms that the bridge is not considered to be a safe walking to school route
- c) the committee report suggests that pedestrian and cycle links cannot be achieved to Waterside Park due to the presence of third party land in Crest's ownership and the applicant has made no approach whatsoever to Crest to see whether such links might be secured
- d) in respect of pedestrian links to the towpath, Highways make no reference to these links requiring a commercial agreement with British Waterways
- e) there is no certainty of being able to achieve links either to the towpath or to Waterside Park and therefore no suitable walking to school route available
- f) the substandard nature of the 'hardened verge' (not a footway) over the canal bridge are clearly identified in the Safety Audit but the width of the bridge does not permit these problems to be properly addressed
- g) at the very least there should be a further condition attached to any planning permission requiring the pedestrian linkages to the canal towpath and or to Waterside Park to be provided and available for public use before any part of the development is occupied.

Appraisal:-

Highway Considerations: Off-site Works

The Director of Environment and Transport (Highways) has confirmed that following the submission of amended plans (Revision G) that there will be scope for the existing pedestrian margin at the canal bridge to be widened to provide an improved facility for pedestrians at that location. In addition, improvements to pedestrian facilities on Nutts Lane being a new footway, new crossing facilities between footways on the opposite sides of Nutts Lane and other footway improvements will be provided.

In respect of works to Nutts Lane, tactile paving, new 1.8 metre footway and new dropped kerb and tactile for an uncontrolled crossing are proposed. In terms of the changes over the canal bridge, the changes proposed include the widening of the existing footway to a minimum of 0.9 metres, resulting in a carriageway width of 3 metres, kerbs and white lines to be tied into the existing and the existing 'no footway' signs are to be retained.

The introduction of bollards, railings or other similar treatment has been considered within the course of the application however this is not a formal requirement. The Director of Environment and Transport (Highways) has stated that such a treatment may be agreed as part of the off site highway works during the technical approval process under a Section 278 Agreement between the developer and the highway authority. However, it should be noted that any such alterations and amendments would require the associated condition to be amended and therefore the condition varied accordingly.

The Director of Environment and Transport (Highways) has also re-confirmed that whilst they would normally have concerns in connection with an increase in pedestrians using a section of highway that does not benefit from a footway that complies with normal Leicestershire County Council standards in terms of its width, having regard to the speeds of vehicles on this section of highway (average speeds of 18.8 mph northbound and 27.7 mph southbound at the canal bridge) the existing level of pedestrians crossing the bridge and the absence of any personal injury accidents in the last 5 years plus the current year to date, and taking into consideration the above improvements, it is not considered that it would be possible to sustain a reason for refusal on the grounds of an increase in dangers to pedestrians.

Highway Considerations: Safe Walking Route to School

The Director of Environment and Transport (Highways) has stated that whilst the route from the site along to the canal towpath between the north-west corner of the site and Coventry Road, has previously been assessed by specialist colleagues under the Leicestershire County Council Home to School Transport Policy and was found to be available as a safe walking to school route, given observations during adverse weather conditions this advice has subsequently been amended and it is considered that in its current condition it cannot be considered as an available route. The Director of Environment and Transport (Highways) is therefore of the view that following the revised plans showing proposed improvements to the width of the pedestrian margin at the canal bridge, that this would be a possible route available as a Walking Route to School under this Leicestershire County Council policy.

For the avoidance of doubt in respect of street lighting being implemented along the canal towpath, the Chief Executive (Ecology) stated that no lighting should be shone directly at the canal or the hedgerow alongside the towpath and that the buffer zone of between 15 to 30 metres between the canal and residential units has purposely been employed so that the level of light upon the canal and hedgerows is minimal.

The Director of Environment and Transport (Highways) has also confirmed that notwithstanding the conditions suggested in a letter of representation that the Highway Authority considers that it has recommended appropriate conditions that are necessary and can be justified on the basis of the traffic impact of the proposed development.

Highway Considerations: Integration with Surrounding Developments

As part of the development, there will be the widening and re-surfacing of the canal towpath to the north of the site along with a footpath to the south of the site linking to a footbridge to the south east corner of the site which links to an existing footpath on Nutts Lane.

The applicant has previously confirmed that connection to Waterside Park and the former Greyhound Stadium is not possible due to strips of land being retained by Crest Nicholson in order to provide a further commercial position over the development. The applicant also refers to the fact that the planning permissions for the adjacent developments did not include a requirement to provide such connections to the boundary and as such they cannot be delivered under this planning permission.

In addition, the Director of Environment and Transport (Highways) states that direct vehicular, pedestrian, or cycle links cannot be delivered from the site to the Waterside Park of Crest Nicholson development due to the presence of third party land.

Highway Considerations: Routing of Construction Traffic

The Director of Environment and Transport (Highways) has referred to the number of objections in respect of the use of the Nutts Lane canal bridge by HGV traffic and has suggested that there may be merit in including a routing agreement within the Section 106 Legal Agreement to ensure that all construction vehicles would travel to and from the site using Nutts Lane to the south of the development site, between the site and A5 Watling Street.

The Director of Environment and Transport (Highways) has confirmed that this is only a suggestion and the Local Planning Authority have considered that given the proximity of the site to the industrial estate it would be difficult to differentiate between the general traffic and the specific construction traffic, and therefore it would not be enforceable. This would not be in accordance with paragraph 71 of circular 11/95 and the same argument in respect of enforceability would apply for a Section 106 Agreement.

The Director of Environment and Transport (Highways) has also confirmed that if the routing agreement could not be included in the S106 Agreement or imposed as a condition by Hinckley and Bosworth Borough Council, then Highway Authority would not amend its recommendation to one of refusal.

Play and Open Space Contributions

In response to a letter of objection, Policy REC3 of the Local Plan states that children's play space provision should satisfy a number of criteria including one that states that play areas should be located so that they are safely accessible by children, with footpath links which do not require the crossing of busy roads or other major hazards.

Policy REC3 relates to the provision of new play areas, however within this application the Council are obtaining a financial contribution towards two existing play areas, in accordance with the requirements set out in the Council's SPD on Play and Open Space.

The Council would agree that a more suitably located site would be preferable, however in determining planning applications, the Local Planning Authority are only able to use the adopted policies which form part of the development plan in making both requests and decisions.

The SPD on Play and Open Space also sets out the distance from application sites to play areas; equipped areas of play need to be located within 400 metres of an application site and a formal recreation ground would need to be located within 1 kilometre of the application site. As a result of the application, off-site financial contributions to be secured are for Waterside Park and Langdale Road Recreation Area, respectively.

As there is no alternative site for play and open space within either 400 metres or 1 kilometre of the site, which would also be within the ownership of the Borough Council, it is not possible to gain a financial contribution for any alternative site.

It should be noted that the scheme has been considered by Leicestershire County Council as Highway Authority who are requesting off-site improvements to Nutts Lane, and have not requested crossings at Coventry Road.

Other Matters

The camber of the carriageway at the location of the A5 rail bridge is not for consideration within this application.

In response to the other concerns identified within the additional letters of representation, the issues have been identified within the main report.

Other Material Considerations: Appeal at the former Greyhound Stadium, Nutts Lane

The following summary of the appeal has been incorporated at the request of Mr DM Gould.

Appeal by Crest Nicholson Operations Ltd against the refusal of full planning permission (09/00660/FUL) for a proposed residential development of 84 dwellings, including provision of public open space, new access arrangement and associated works at the former Greyhound Stadium, Nutt's Lane, Hinckley.

Failure to ensure a 5 year housing land supply and the shortfall in affordable housing provision are material considerations that the Inspector gave significant weight to as outweighing objections to protect the countryside. The Inspector highlighted that there were three reasons for refusal, all relating to aspects of highway safety, and on this basis he considered the main issues to be the effect of the proposed development on highway safety.

Firstly, the Inspector considered the impact of development on Coventry Road. It was noted a revised Travel Plan was submitted that satisfied the request made by the Highways Agency. Subsequent survey work was also undertaken by the Highways Authority indicating that a problem would not arise regarding an unacceptable increase in traffic on Coventry Road. After considering the comments made by these statutory consultees at the appeal stage, the Inspector considered that the proposed development would not have an unacceptable impact on Coventry Road.

The Inspector then considered the highway issues related to Nutts Lane. With regards to a new crossing of the canal, the Inspector agreed with the appellant that this was neither deliverable nor affordable as the increase in use of Nutts Lane arising from this development would be limited compared to existing use.

The Inspector also pointed out the concern shown by the Highways Authority that the scheme failed to demonstrate adequate improvement works for the benefits of pedestrians and cyclists. The Inspector notes that a plan had been prepared to provide a new footway along the western side of Nutts Lane and it was accepted a 'Grampian' style condition could be secured to enable safe crossing of Nutts Lane.

In the Inspectors view, the existing problems in Nutts Lane, including congestion, would not be compounded by the addition of the footpath-cycleway connection and that the addition of the short new footway would enable safe crossing of Nutts Lane to be achieved.

The third reason for refusal was then addressed that related to the layout and design of the proposal. The Inspector noted that whilst the Highway Authority indicated details of non-compliance with their standards, the basis behind the proposed layout would achieve the objective of restricting traffic to a design speed of 20 mph so that people have priority over traffic.

The Inspector then considered other matters relating to both the internal road layout and the new access points as well as problems with the wider road network.

Overall the Inspector concluded that there is no objection to the principle of using this site for housing. In relation to the reasons for refusal, the Inspector concluded that the proposed development would not have an unacceptable impact on the highway safety of Coventry Road or Nutts Lane and that the proposed highway layout is satisfactory. For these reasons, and taking all other matters into account, the Inspector concluded that the appeal should be allowed.

Inspector's Decision: Appeal allowed (committee decision).

Recommendation:-

Amend Condition 2 as follows:-

Nutts Lane Canal Bridge Footway Widening Drawing No. GA-003 Revision G received by the Local Planning Authority on 5 December 2011.

Amend Condition 22 as follows:-

Prior to the first occupation of any dwelling hereby permitted, the off-site highway works on Nutts Lane being a new footway, new crossing facilities between footways on the opposite sides of Nutts Lane, widening of the existing footway across the canal bridge and other footway improvements shall be implemented in accordance with drawing No. GA-003 Rev G received by the Local Planning Authority on 5 December 2011.

ITEM 03

11/00818/FUL

Mr Brian Sutton

Introduction:-

Amend paragraph one, third sentence to: The scheme comprises the construction of a live/work unit attached to Unit 1 by an enclosed link containing a shared pedestrian access.

Consultations:-

No objections has been received from Shackerstone Parish Council.

ITEM 06

11/00757/FUL

Ms Fran Muddimer

Consultations:-

A further consultation has been undertaken with Severn Trent Water Limited who have recommended approval subject to conditions.

Appraisal:-

Drainage

Following further discussion with Severn Trent Water, it has been recommended that no development shall commence until drainage plans have been submitted to and approved by the Local Planning Authority. This is 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 pollution.

Recommendation:-

Additional Condition

- 4 The development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

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 pollution. To accord with policy NE14 of the adopted Hinckley and Bosworth Local Plan and PPS 25: Development and Flood Risk.

ITEM 07

11/00755/FUL

Mrs Margaret Ashby

Introduction:-

Whilst this matter is not a planning consideration, for information, details of a legal agreement between the applicant, Severn Trent Water and the tenant of the adjacent land has been submitted. This

illustrates that the applicant is willing to allow access over her land to the adjacent fields.

The applicant has submitted a range of photos in support of the proposal.

Consultations:-

For clarification, The National Forest have confirmed that the tree planting on site, known as Charlotte's Wood, does comprise National Forest Planting.

No objection subject to a note to applicant has been received from Directorate of Chief Executive (Archaeology).

A petition containing 25 signatures has been received in support of the application. These signatures are from visitors to the reservoir, Charlotte's Smiles client, neighbours whose homes overlook the field and manure collectors.

An additional letter of neighbour representation has been received in support of the application.

A more detailed letter of objection has been received from Bagworth and Thornton Parish Council. This raises the following concerns:-

- a) there is no clarification as to which parts of the land is identified for agricultural use
- b) need to clarify how the hay will grow in the proposed hay field which is partially planted with trees?
- c) clarification is required in respect of the caravan which was on the previous application
- d) there is evidence that there has been and continues to be a toilet on site continuously from the outset.
- e) the "footprint" area intended to be covered by new buildings is greater than the temporary structures comprising two buildings, approximately twice the size described as a stable & "straw / tool stable" and intended to be a permanent structure on a concrete slab
- f) there are no current plans to bring poultry and goats onto the land
- g) uncertainties in respect of the "Charlotte's Smiles Charity"
- h) uncertainties in respect of the access to the adjacent farmland
- i) the proposed development intrudes into conservation area "green corridor THO 8"
- j) it is requested that all hard-standing is removed from the site, aside from the land near the access gate
- k) suggestion is made in the design statement that bio-diversity might be enhanced. No substantive evidence has been presented on this point
- l) in addition to the above, the Parish Council states that during the consultation "have your say on green issues" Parish Council members and other residents recorded their wish to protect the area from any development and keep the area exclusively for conservation and agriculture. Further within the recently published document "Areas of Special Character Review" the site is illustrated on the front page, picture bottom right – this application will compromise this land.

Appraisal:-

Archaeology:- Directorate of Chief Executive (Archaeology) originally recommended approval subject to conditions, however as the groundwork on site has already been undertaken, comments have since been revised and a note to applicant will be imposed informing the applicant that any future groundwork should be monitored due to the sites proximity to two potentially significant archaeological sites.

In response to the mixed land use applied for. The entire site will is subject to a mixed use. The site will not be sub-divided into either agricultural/ equestrian use.

The query in respect of how hay will grow in a paddock planted with trees is not a material planning consideration.

In respect of the footprint area to be covered by buildings, this has been considered as acceptable within the Siting and Design section of the report.

Concerns that there are no immediate intentions to bring goats or poultry onto the land, is not a material planning consideration.

The queries raised in respect of the Charlotte Smiles charity are not material planning considerations.

Access to the adjacent farmland is a legal, third party matter of concern and does not constitute a material planning consideration.

The acceptability of the hard-standing has been considered within the main body of the report.

Within the letter from the Parish Council it is stated that within the Design and Assess statement suggestion is made that the proposal will increase biodiversity. Whilst PPS9 seeks to enhance biodiversity; the acceptability of this scheme is not reliant upon this. Accordingly whether or not this is the case is not fundamental to this scheme.

Regardless of the consultation "have your say on green issues" and the fact that the Parish Council members and other residents recorded their wish to protect the area from any development and keep the area exclusively for conservation and agriculture, the submitted application has to be considered on its merits, in accordance with the development plan and other material considerations. This is a County Council consultation document and currently holds no policy position.

All of the other matters raised within the letters of representation have been addressed within the main body of the report.

Recommendation:-

Additional Condition

- 5 The woodland screening illustrated on plan 60 received by the Local Planning Authority on the 16 September 2011 shall be retained. Any trees or shrubs which die or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted at which time shall be specified in writing by the Local Planning Authority.

Reason: In the interests of visual amenity to accord with policy NE5 of the adopted Local Plan.

Additional Note to Applicant:-

- 6 Any future groundwork on the site should be monitored for archaeological remains due to the sites proximity to two potentially significant archaeological sites. If any remains are discovered Leicestershire County Archaeology department should be contacted on:- 0116 3056217.

PLANNING COMMITTEE
13 DECEMBER 2011
SPEAKERS

Item	Application	Speaker(s)	Applicant/objector
01	11/00368/FUL	Mr Parsons Mark Sitch	Objector Agent
07	11/00755/FUL	Barry White Mrs Ashby	Objector Applicant
08	11/00892/COU	Mark Kelly	Agent