

PLANNING COMMITTEE – 6 March 2012

REPORT OF THE DEPUTY CHIEF EXECUTIVE (COMMUNITY DIRECTION) RE: APPEALS LODGED AND DETERMINED

1. PURPOSE OF REPORT

To inform Members of appeals lodged and determined since the last report.

2. RECOMMENDATION

That the report be noted.

3. BACKGROUND TO THE REPORT

Appeals Lodged

Appeal by Mr Tony Morris against the refusal of full planning permission and conservation area consent for the demolition of existing dwelling and the erection of 6 dwellings with associated access (11/00602/FUL and 11/00603/CON) at 4 Pipe Lane, Orton on the Hill.

Appeals Determined

Appeal by Sycamore Development against a refusal to grant planning permission on an application for the extension to the time limit for implementing a planning permission (11/00435/EXT) at 3 Cleveland Road, Hinckley.

Planning permission was originally granted at appeal for the demolition of existing dwelling and the erection of 14 apartments with ancillary works (revised application). The proposal was to extend the time limit for the development without an accompanying S106 obligation. The Inspector considered the main issue was whether the proposal made acceptable provision either on-site or off-site for play and open space and for other matters contained within the original S106 Unilateral Undertaking.

Firstly the Inspector pointed out that the appeal decision allowing the development accepted the S106 UU as part of the overall means of providing an acceptable development. It was noted the Council, whilst reducing the amount required as an open space contribution, considered that it cannot be removed altogether but accepted the removal of contributions to services relating to education, libraries and civic amenity facilities, which is not supported by the County Council and health care.

In addition the Primary Care Trust indicated a requirement for a contribution based on extending and remodelling of the practice at Tilton Road, Burbage. It had been noted that the practice building was considered to be in great need of development and had a deficit of space compared to practice size and use.

The Inspector considered that the requirements of both Councils and of the Primary Care Trust would satisfy the requirement of the Community Infrastructure Levy Regulations 2010 and the tests in Circular 05/2005 , in that they are necessary to make the proposed development acceptable in planning terms, are directly related to the proposed development and fairly and reasonably related in scale and kind.

Nevertheless, the economic viability statement submitted with the proposal indicates that including land acquisition at the agreed price, the development including the cost of meeting the S106 commitments would not be viable but would give rise to a loss.

To ensure that development can go ahead, the Inspector refers to *Planning for Growth* which encourages sustainable development in which Councils are required to reconsider existing section 106 agreements that currently render schemes unviable and where possible modify those obligations. It was noted by the Inspector that the site is close to the town centre and represents a sustainable development within a sustainable location.

In the opinion of the Inspector the lack of viability of the scheme indicates that a requirement for financial contributions cannot be justified in the present economic circumstances and the appeal is therefore allowed. The Inspector then refers to suggested conditions.

Inspector's Decision

Appeal allowed (Committee decision)

4. FINANCIAL IMPLICATIONS [CB]

None. Any costs associated against future appeals can be met from existing budgets.

5. LEGAL IMPLICATIONS

6. CORPORATE PLAN IMPLICATIONS

This document contributes to Strategic Aim 3 of the Corporate Plan

- Safer and Healthier Borough.

7. CONSULTATION

None

8. RISK IMPLICATIONS

None

9. KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS

None

10. CORPORATE IMPLICATIONS

By submitting this report, the report author has taken the following into account:

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|---------------------------------|------------------------------|
| - Community Safety implications | None relating to this report |
| - Environmental implications | None relating to this report |
| - ICT implications | None relating to this report |
| - Asset Management implications | None relating to this report |
| - Human Resources implications | None relating to this report |
| - Voluntary Sector | None relating to this report |

Background papers: Appeal Decisions

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