



## **PLANNING COMMITTEE**

- MEETING** : Tuesday, 12th April 2016
- PRESENT** : Cllrs. Taylor (Chair), Lewis (Vice-Chair), McLellan, Smith, Hobbs, Hanman, Williams, Brown, Dee, Chatterton and Etheridge

### **Officers in Attendance**

Jon Sutcliffe, Development Control Manager  
Michael Jones, Solicitor, One Legal  
Nick Jonathan, Solicitor, One Legal  
Adam Smith, Principal Planning Officer, Major Developments  
Joann Meneaud, Principal Planning Officer  
Tony Wisdom, Democratic Services Officer

- APOLOGIES** : Cllrs. Hilton and Toleman

### **96. DECLARATIONS OF INTEREST**

Councillor Lewis was only present for part of the meeting – see Minute 101

Councillor Smith declared a disclosable pecuniary interest in agenda item 5, land at Winnycroft Lane, Matson. As she lived near the site and could be affected by the impact of increased traffic. She withdrew to the public gallery during the consideration of this application.

### **97. MINUTES**

The minutes of the meeting held on 1 March 2016 were confirmed and signed by the Chair as a correct record.

### **98. LATE MATERIAL**

Members' attention was drawn to the late material in respect of agenda items 5 & 6 which had been published on the internet as a supplement to the agenda.

### **99. PHOENIX HOUSE, STANLEY COURT, EDISON CLOSE - 16/00148/COU**

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The Development Control Manager presented the report which detailed an application for change of use from use Class B1/B8 to 'sui generis' police use, erection of security fence, gates, external storage containers, external lighting and back-up generator at Phoenix House, Stanley Court, Edison Close.

He advised that the intended use would be mainly Class B8 to support operational policing and provide centralised storage functions including document archives, evidential and lost property, major and special events equipment, uniform storage and issue and print room.

The closest residential property was 55 metres distant and he advised that no objections had been received from consultees and no representations had been received. The site already enjoyed an unrestricted 24hour use and the applicant had indicated that 24 hour use would only be implemented occasionally.

He noted that the applicant had volunteered a condition to make any permission personal to the Police and Crime Commissioner and he suggested that Members may wish to impose a condition to ensure that the external containers were painted an appropriate colour.

A Member expressed concern at the proposed security fence, the Development Control Manager advised that the personal consent applied to the use and there would not generally be a requirement to remove elements, such as the fence, when the use ended. He advised that the proposed fencing was not considered to be inappropriate for the location.

Another Member requested that the external containers be painted to blend with the building or the fence.

**RESOLVED that consent be granted subject to the conditions in the report and a further condition to require that the external containers be painted an appropriate colour.**

**100. 126, TREDWORTH ROAD - 15/00797/COU**

The Development Control Manager presented the report which detailed an application for a proposed change of use from florist to takeaway and construction of an extraction flue at 126, Tredworth Road.

He advised that the application had been deferred at the previous meeting as the Committee had considered that there had been insufficient information on road safety particularly pedestrian safety.

He drew Members' attention to the report of the Highway Engineer and he confirmed that the Engineer had visited the site.

He advised Members that should this application be refused the site enjoyed an unrestricted Class A1 use therefore his recommendation remained one of consent subject to conditions.

**Dr Kirby addressed the Committee in opposition to the application.**

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Dr Kirby, who had spoken at the previous meeting, reiterated his opposition to the application due to the impacts on road usage and road safety.

He advised that there had been three accidents at the junction within the last month, police had attended all three and a cyclist had sustained serious injuries. He produced photographs and a signed witness statement.

He believed there would be more accidents if planning permission was to be granted.

Several Members expressed concerns relating to road safety and the reliability of the highway data.

The Development Control Manager noted that Dr Kirby had produced evidence of accidents that had not been available to the highway authority but he understood that accidents that did not involve injury were not recorded.

He advised the Committee that should the application be refused and become the subject of an appeal it would be necessary to prove that the impact would be greater than that of the open Class A1 use enjoyed by the site.

He noted that the proposed takeaway would not be open during the morning traffic peak.

The Solicitor noted the difficulties facing the Committee in the absence of solid evidence and that the highway authority had indicated that a refusal on highway grounds would not be supported. He noted the risk of incurring costs at any subsequent appeal and advised Members that should they be minded to refuse the applications they should consider deferring the application for an independent investigation of highway safety.

**RESOLVED that the application be deferred to await an independent investigation of highway safety.**

**101. LAND AT WINNYCROFT LANE, MATSON - 14/01063/OUT**

Councillor Smith had declared a disclosable pecuniary interest in agenda item 5, land at Winnycroft Lane, Matson. As she lived near the site and could be affected by the impact of increased traffic. She withdrew to the public gallery during the consideration of this application.

The Principal Planning Officer presented her report which detailed an outline application for the erection of up to 420 dwellings and community space/building, as well as associated landscaping, public open space, access, drainage, infrastructure, earthworks and other ancillary enabling works on land at Winnycroft Lane, Matson.

The application had previously been considered by the committee in December 2015 and it had been resolved to grant outline planning permission subject to the completion of a S 106 agreement to secure the required contributions including 20

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per cent affordable housing. The applicant had offered ten per cent affordable housing and was unwilling to complete the agreement requiring twenty per cent.

She referred Members to the late material which contained the independent review of financial viability for the application which had been undertaken by Mark Felgate of Parkwood.

She advised that Mr Felgate was available to answer Members' questions.

She noted that previous reports had not taken account of the sum of £915,860 required for future maintenance of open space and play areas. This increased the total contributions to £4,258,646 which could reduce by £41,632 dependent on the potential development and timing of the adjoining site. She outlined the other contributions required.

She referred to the amended recommendation in the late material which called for 10 per cent affordable housing together with a review mechanism after 140 dwellings and three years thereafter.

A Member was advised that the community building was for changing rooms for the sports pitches and the size and design of the building had been determined following guidance from Sport England.

Another Member noted that the open space maintenance contribution included the cost of provision of play areas and was advised that the figures had been provided by the applicant and deemed reasonable by the Council's open space officers. He was further advised that these costs were determined by a complex formula which included SUDS, play areas, sports pitches and community orchard and would be dependent upon the detail and design of the various areas. If the expected costs were substantially different to actual costs this would be picked up in the review mechanism.

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The Chair asked if Members could be sure that the land was not overvalued. Mr Felgate stated that the government guidance was clear stating that land had to be valued at a level that a landowner would be prepared to sell and the data available, in comparison with other land within the JCS area suggested that the valuation was reasonable.

He noted that 50 per cent of the site area was developable land with a high proportion of open space areas compared to the usual expectation of about 65 per cent. This impacts on profitability and therefore viability.

A Member questioned the low density and was advised that, at the preapplication stage officers had advised the applicant that a sensitive development was required for the site which was adjacent to the Cotswolds AONB and marked the transition from urban to rural landscape.

Mr Felgate did not provide an answer to a Member who asked about the impact on profit levels of an additional ten per cent affordable housing. He stated that the development would not in any event be viable at a figure of twenty per cent contribution for affordable housing. The question relating to the profit level was hypothetical and not relevant.

The Development Control Manager advised that as the development was identified as being marginally viable at ten per cent affordable housing it would not be viable at greater numbers. The question of the level of profit was not relevant.

A Member asked if the financial contributions could be reduced to allow more money going towards affordable housing. He was advised that contributions were set by formulae with the greatest amount going towards education. Other elements such as the highways works were required for the development to be considered acceptable and in those circumstances it would not be reasonable to divert contributions to affordable housing. The Member noted that Community Infrastructure levy was to be set requiring twenty per cent affordable housing and he was advised that whilst the CIL payment was fixed, proposals were also subject to viability testing in relation to affordable housing.

Another Member calculated that applying an average house price of £190,000 and twenty per cent affordable housing a profit of 17.6 per cent should be achievable.

Mr Felgate advised that the calculation of costs and profits was not that simple and when pressed for further figures he reiterated that viability was marginal at ten per cent. He also advised that accepting ten per cent affordable housing in this case would not set a precedent for other proposals as each scheme needed to be considered on the basis of its own particular circumstances.

The Development Control Manager stated that his professional advice together with that of the Solicitor was that there was no evidence to support the viability of twenty per cent affordable housing.

There was a short adjournment in order that Members could reflect upon the advice

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supplied by Mr Felgate.

The Principal Planning Officer noted that the applicant had been patient but could not tolerate further delay. She stated that the independent review had been undertaken to thoroughly examine the figures and there was no technical evidence to support twenty per cent and there would be a risk of incurring an adverse costs order if the applicant went to appeal and applied for a costs order against the Council on the grounds of unreasonable behaviour. A decision to require a twenty per cent contribution of affordable housing without any supporting evidence would constitute unreasonable behaviour.

The Solicitor advised that an appeal would be lodged after the meeting if Members failed to accept the Officers' recommendation for ten per cent affordable housing and the Inspector could accept the applicant's original assertion that the development was only viable with no affordable housing.

The Council's technical expert was asked by a number of Councillors why the profit margin of 19.3% was only marginally viable. Councillors also asked what level of profit provided a threshold to viability. The technical expert did not have the information to answer the specific questions and some Members expressed their dissatisfaction with the response.

A Member pointed out that developer profit at 19.3% was high and that the Government District Valuer Service said last year that; "most development schemes when analysed following completion average out below 15%" It was also noted that the Joint Core Strategy referred to profitability within a range of between 15% and 20%. On this basis the assumed profitability at 19.3% was again towards the higher end of that scale.

The Council's technical expert stated that the development was marginally viable with ten per cent affordable housing and any higher figure would make it unviable. A profit figure of 19.3 per cent was only marginally viable and any reduction in that figure may prevent funders from financing the scheme.

The Chair pointed out that the original viability study suggested a much higher percentage of affordable housing would be obtainable and that, depending on the assumptions, the level of affordable housing could change.

The Solicitor advised that the Council could, in his view, be exposed to a risk of a high costs award for unreasonable conduct given that there is no evidence to support the view of the Committee. The Chair disputed this, pointing to the original viability report.

The Solicitor noted that a series of experts had now supplied broadly similar evidence and, in his view, none of it supported the views now advanced by the Committee and accordingly the Council would run the risk of losing an appeal if the Committee required a twenty per cent contribution for affordable housing.

Members asked whether using different assumptions from those used by the developer would lead to the viability of different levels of affordable housing. The

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technical expert responded that by using the assumptions in the report ten per cent of affordable housing was marginally viable.

Members pressed the expert as to why the Councils policy and the JCS policy of 40% and 20% respectively weren't being adhered to. Members made the point that the value of the land under the NPPF should be worked out in relation to the policy requirement of affordable housing and asked the technical expert why this was being ignored.

A Member moved the recommendation on Page 2 of the late material to grant outline permission with ten per cent affordable housing and failed to find a seconder.

A Councillor indicated that no new information had been presented which was sufficient to prompt the Committee to reconsider its original decision.

The Development Control Manager reiterated the advice previously given at the December meeting.

A Member moved that the Committee endorse the decision made on 15 December 2015, requiring a twenty per cent contribution and this was seconded.

As the Committee had considered the information and no further relevant information had been provided, the Committee proceeded to take the vote.

**RESOLVED that the decision in respect of application 14/01063/FUL on 15 December 2015 be endorsed.**

Councillor Lewis joined the meeting.

**102. AREA 4B3 ON FRAMEWORK PLAN 4, KINGSWAY, FORMER RAF QUEDGELEY - 15/01591/FUL**

The Principal Planning Officer presented her report which detailed a revised scheme for 130 dwellings including access roads and landscaping (amended scheme and variation to conditions 1 and 2 of planning approval 10/00469/REM) for Area 4B3 on Framework Plan 4, Kingsway.

She referred Members to the further information and revised recommendation contained within the late material. She advised that the highway authority had issued revised standards since the previous approval and would require further time to consider the revised plans.

The applicant had requested that the application be determined at this meeting or would continue to build to the previous consent.

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Therefore her revised recommendation was that, subject to the satisfactory resolution of outstanding matters in relation to affordable housing, the area of shared surface and appropriate parking provision, the Development Control Manager be authorised to determine the application.

**Mr Ian Drew, Design & Planning Manager of Taylor Woodrow addressed the Committee in support of the application.**

Mr Drew stated that although this phase of the development was already under construction, many aspects of the original scheme were no longer in favour and his company sought to improve those aspects that were under the company's control and to improve the final product.

He advised that an additional 40 parking spaces were proposed with parking on the relevant property curtilage where possible. Ninety metres of additional footway were proposed.

He advised that if consent were not to be granted this evening, the applicants would have no choice other than to continue building to the existing plans.

Members expressed concerns relating to:-

- Whether the garages under the coach house dwellings met the latest standards,
- Where parking spaces were proposed one in front of another, were the spaces adjusted for the larger size of vehicles now in favour,
- Unauthorised parking on shared services obstructing access for refuse collection vehicles,
- The sharp right angled bend in the access road and called for traffic calming in both directions.

The Principal Planning Officer believed it unlikely that many garages would be used for cars due to the size but reminded Members that the previously granted scheme could still be implemented. She undertook to seek advice from the highway authority regarding the provision of traffic calming measures.

**RESOLVED that, subject to the satisfactory resolution of outstanding matters in relation to affordable housing, the area of shared surface and appropriate parking provision, the Development Control Manager be authorised to determine the application.**

**103. GLOUCESTER QUAYS - LAND AT BAKER'S QUAY, LLANTHONY AND MONK'S MEADOW - 14/01386/FUL**

The Principal Planning Officer presented his report which detailed an application to vary conditions 5, 6 and 7 of the Gloucester quays outline planning permission ref. 14/00709/FUL to alter the masterplan and schedule of development. Original development is mixed use regeneration comprising re-use of buildings and new build to accommodate residential, employment, retail and leisure uses and an education centre for Gloscat including enhancement works to listed buildings and Llanthony Priory together with public transport facilities, improvements to the road



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network including a new bridge over the canal and associated landscaping, car parking and servicing on land at Bakers Quay, Llanthony and Monk Meadow.

He noted that the Masterplan was now 15 years old and contained elements that could no longer be implemented.

He advised that the Council's constitution required that the application be presented to the Committee as it involved an Environmental impact Assessment.

A Member expressed concerns regarding the current state of the site and the Principal Planning Officer undertook to raise the points identified with the applicant.

**RESOLVED that subject to the completion of deeds of variation and/or additional legal agreements or undertakings to secure the terms set out at Paragraphs 6.50 and 6.51 of the report, the consent be granted subject to the conditions in the report.**

**104. KEYWAY 4 BARNWOOD POINT - 15/01605/FUL**

The Development Control Manager presented the report which detailed an application for the erection of a vehicle sales centre, vehicle sales car park and new vehicle wash bay including workshop with MOT facility at Keyway 4, Barnwood Point.

He advised that no objections had been received from consultees, Network Rail had made no objection and no representations had been received. He corrected a minor error in paragraph 6.5 in that the housing came up to the railway embankment.

A Member noted that the view from passing trains was grim. Other Members expressed concern on highways matters and were advised that the proposal included a staff parking area and access was from the service road parallel to Corinium Avenue.

**RESOLVED that consent be granted subject to the conditions in the report.**

**105. DELEGATED DECISIONS**

Consideration was given to a schedule of applications determined under delegated powers during the month of February 2016.

**RESOLVED that the schedule be noted.**

**106. DATE OF NEXT MEETING**

Tuesday, 31 May 2016 at 6.00pm.

**Time of commencement: 6.00 pm**

**Time of conclusion: 9.10 pm**

**Chair**

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