

GLOUCESTER CITY COUNCIL

COMMITTEE : **PLANNING**

DATE : **7TH APRIL 2015**

ADDRESS/LOCATION : **LAND OFF ABBEYMEAD AVENUE**

APPLICATION NO. & WARD : **15/00062/MOD
ABBAY WARD**

EXPIRY DATE : **10TH MARCH 2015**

APPLICANT : **POLICE AND CRIME COMMISSIONER
GLOUCESTERSHIRE**

PROPOSAL : **VARIATION OF SECTION 52 LEGAL
AGREEMENT UNDER PLANNING
PERMISSION 10727/01/OUT TO REMOVE
THE RESTRICTION THAT ALLOCATES THE
SITE FOR A POLICE STATION AND FUTURE
USE OF LAND FOR COMMUNITY
PURPOSES SPECIFICICALLY DEFINED AS
HEALTH CENTRES, SURGERIES,
SCHOOLS, COLLEGES, COMMUNITY
CENTRES, MEETING HALLS, LIBRARIES,
PLAYGROUPS, AREAS OF OPEN SPACE
AND YOUTH PROVISION.**

REPORT BY : **JOANN MENEAUD**

NO. OF APPENDICES/ : **1. SITE LOCATION PLAN**

1.0 SITE DESCRIPTION AND PROPOSAL

- 1.1 The site is located to the North of Abbeymead Avenue to the East of the Ridge and Furrow Public House and to the West of residential development in Staunton Close. It is located adjacent to the uncompleted road junction used informally as a lay-by off Abbeymead Avenue. The site comprises a natural "field" area, with a row of established trees to its boundary with Abbeymead Avenue and the River Twyver to its eastern boundary.
- 1.2 The site is subject to an existing Legal Agreement that was put in place when the development of this part of Abbeymead was granted in February 1986. The Agreement allocated this site for the provision of a police station and the land was put within the control of Gloucestershire County Council. In 1991 the ownership of the land was transferred to Gloucestershire Police Authority.

- 1.3 This application seeks to vary the legal agreement to remove the restriction that allocates the site for a police station and to then use the site for community purposes.

2.0 RELEVANT PLANNING HISTORY

2.1 12/00868/MOD

Variation of section 52 legal agreement dated February 1986 under planning permission 10727/01/OUT and supplemental deed of variation dated 15th March 2001 to remove the restriction that allocates the site for a library.
Granted March 2015

09/00662/MOD

Variation of section 52 legal agreement under planning permission 10727/01/OUT to remove the restriction that allocates the site for a police station
Application withdrawn

3.0 PLANNING POLICIES

- 3.1 The statutory development plan for Gloucester remains the 1983 City of Gloucester Local Plan. Regard is also had to the policies contained within the 2002 Revised Deposit Draft Local Plan which was subject to two comprehensive periods of public consultation and adopted by the Council for development control purposes. The National Planning Policy Framework has been published and is also a material consideration.

- 3.2 For the purposes of making decisions, the National Planning Policy Framework sets out that policies in a Local Plan should not be considered out of date where they were adopted prior to the publication of the National Planning Policy Framework. In these circumstances due weight should be given to relevant policies in existing plans according to their degree of consistency with the National Planning Policy Framework.

- 3.3 The policies within the 2002 Local Plan remain therefore a material consideration where they are consistent with the National Planning Policy Framework.

- 3.4 Relevant policies in the Second Deposit Local Plan 2002 are:

Policy CS1 – Protection of Community Facilities
Policy CS2 Provision of New Community Facilities
Policy CS.4 – New Police Station and library at Abbeymead
Policy FRP1a - Development and Flood Risk

- 3.5 In terms of the emerging local plan, the Council has prepared a Joint Core Strategy with Cheltenham and Tewkesbury Councils and published its Submission Document which was submitted to the Planning Inspectorate on

20th November 2014. Policies in the Joint Core Strategy submission document have been prepared in the context of the NPPF and are a material consideration. The weight to be attached to them is limited by the fact that the Plan has not yet been the subject of independent scrutiny and do not have development plan status. In addition to the Joint Core Strategy, the Council is preparing its local City Plan which is taking forward the policy framework contained within the City Council's Local Development Framework Documents which reached Preferred Options stage in 2006.

3.6 Upon adoption, the Joint Core Strategy and City Plan will provide a revised planning policy framework for the Council. In the interim period, weight can be attached to relevant policies in the emerging plans according to

- The stage of preparation of the emerging plan
- The extent to which there are unresolved objections to relevant policies; and
- The degree of consistency of the relevant policies in the emerging plan to the policies in the National Planning Policy Framework

3.7 All policies can be viewed at the relevant website address:- Gloucester Local Plan policies – www.gloucester.gov.uk/planning; Gloucestershire Structure Plan policies – www.gloucestershire.gov.uk/index.cfm?articleid=2112 and Department of Community and Local Government planning policies - www.communities.gov.uk/planningandbuilding/planning/.

4.0 PUBLICITY AND REPRESENTATIONS

4.1 The application has been advertised with a press notice and site notice and individual letters sent to 32 neighbouring properties. No letters of representation have been received.

4.2 The full content of all correspondence on this application can be inspected online via the Councils website at the link below, or at the reception, Herbert Warehouse, The Docks, Gloucester.

<http://planningdocs.gloucester.gov.uk/default.aspx?custref=15/00062/MOD>

5.0 CONSULTATIONS

5.1 Highway Authority – No highway objection. Any future community development would need to demonstrate safe and suitable access as well as adequate parking and turning facilities.

5.2 City Archaeological Officer - The site has the potential to be of significant archaeological interest. Any future development of the site would need to be the subject of archaeological investigation that should be undertaken before any proposals for development are considered.

6.0 OFFICER OPINION

6.1 As part of the original permission for the development of the Abbeymead residential area, in 1986, this site and adjoining land, was allocated within the legal agreement for the provision of a library and police station. These facilities were then subsequently identified as commitments within the City of Gloucester Second Deposit Local Plan 2002. However neither of these facilities have been provided.

6.2 This application seeks to vary the legal agreement to remove the restriction that allocates the site for a police station and then to use the site for community purposes. Supporting information submitted with the application states the land has become surplus to the original purpose and there is no requirement for an operational police station in this location and specifically:

“due to changes in the policing landscape, the Constabulary has had to adopt a new model for the County. This is based around all officers brigading at central points. For the city this will be the existing police station at Barton Street. The land at Abbeymead Avenue is not of sufficient size to enable a police station to be built that is big enough to accommodate these officers.” In addition they state that the site’s development potential is heavily constrained by flooding, the presence of badgers and setts and tree preservation orders at the periphery of the site.

6.3 In considering the future use of the site, the Police state:

“if the requested modification is approved then the PCC Gloucestershire intends to gift the site at nil consideration to an appropriate local group for community use, to be selected through a competition. It is intended to use the bidding process in place for all projects funded by PCC Gloucestershire and the site be advertised using local media releases.”

6.4 The wider site is formally allocated within the local plan, under policy CS4, as “land reserved for a new library and police station”. Other policies within the local plan seek to protect community facilities. In particular policy CS1 states that as a general principle, permission will be refused for proposals that lead to the loss of community facilities, unless the facility is being replaced or alternative provision is being provided, or the facility is not in use or there is a surplus of such facilities in the local area. Whilst this policy is not directly applicable to this proposal, in that it relates to existing community facilities, it does set down the criteria to consider for proposals resulting in the loss of community facilities. The National Planning Policy Framework also recognises and promotes the provision of facilities to meet the needs of the community that it serves.

6.5 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that where regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be

made in accordance with the plan unless material considerations indicate otherwise.

- 6.6 Members will recall a recent application submitted by Gloucestershire County Council to vary the legal agreement in relation to the neighbouring land that was allocated for a library. The County Council stated that following their Cabinet decision in April 2012 relating to the provision of library services, there was no longer a requirement for a library in this location. The variation was granted subject to the future use of the land being for community purposes (specifically defined as health centres, surgeries, schools, colleges, community centres, meeting halls, libraries, playgroups and areas of open space) and any proceeds from the sale of the land being re-investing into the nearest libraries in Matson and Hucclecote.
- 6.7 I consider that this application in relation to the police station, should result in a similar response to grant the variation. The provision of the library and police station were required from a legal agreement, now almost thirty years old, neither facility has been provided, there is no prospect of them being provided and the land has remained unused. Supporting information from the police states the reasons why a police station would not now be built on the site and these are accepted as sufficient justification.
- 6.8 However it is also important to remember that this land was originally provided by the developers of Abbeymead for community facilities and if these facilities are not to be provided, it is still important that the land is retained for the benefit of the community. I note the proposal by the Police to gift the land to a local group following a selection process and consider that this would secure a future community use. The proposed definition of community use with this application follows the definition agreed with the County application but with the addition of "youth provision".
- 6.9 It should also be noted that the potential of this land to be built upon is severely restricted by a number of constraints particularly given that a significant proportion of the site lies within Flood Zones 2 and 3.
- 6.10 In conclusion I do not consider that there is any planning reason to object to the variation of the Legal Agreement to remove the restriction that allocates the site as a police station with appropriate safeguards to ensure that the land is "gifted" and it is secured in perpetuity for community purposes.

Human Rights

- 6.11 In compiling this recommendation we have given full consideration to all aspects of the Human Rights Act 1998 in relation to the applicant and/or the occupiers of any affected properties. In particular, regard has been had to Article 8 of the ECHR (Right to respect for private and family life, home and correspondence) and the requirement to ensure that any interference with the right in this Article is both in accordance with the law and proportionate. A balance needs to be drawn between the right to develop and use land and buildings in accordance with planning permission and the rights under Article

8 of adjacent occupiers. The issues raised by neighbours have been carefully considered and together with the measures required by and restricted by the conditions to be attached to the permission, the decision to grant permission is considered to be an acceptable balance between the presumption in favour of development and restricting the visual presence of the pole upon surrounding properties.

7.0 RECOMMENDATIONS OF THE DEVELOPMENT CONTROL MANAGER

7.1 To grant approval to the variation of the Legal Agreement with clauses to ensure that the land is “gifted” and it is secured in perpetuity for community purposes.

Decision:

Notes:

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Person to contact: Joann Meneaud
(Tel: 396787)

15/00062/MOD

**Site RS2 GCC Land
Abbeymead Avenue
Gloucester**

Planning Committee 07.04.2015

