

Joann Meneaud
Principal Planning Officer
Gloucester City Council
Shire Hall
Westgate Street
Gloucester
GL1 2TG

Our reference: BL.5274
Your reference: 18/00852/FUL
Date: 7th September 2021

Dear Joann,

**RE: PLANNING APPLICATION REF: 18/100852/FUL – SUPPORTED
LIVING ACCOMODATION AT KINGSWAY LOCAL CENTRE**

Further to Development Control's motion to defer this application for further consideration at the planning committee meeting of 3rd August 2021, I hereby provide you with the applicant's formal responses to the matters raised by members.

During the consideration of the application, there were 4 No. primary matters identified by members as a potential cause for concern. They comprise:

- A request for a revised acoustic assessment of the site;
- A request for an updated parking survey;
- A perceived loss of retail floorspace/land; &
- The design of the building's roof

I also provide further commentary in respect of the planning balance that must be undertaken in considering that the Local Planning Authority are unable to demonstrate a five-year housing land supply.

ACOUSTIC ASSESSMENT

The applicant agreed with the Local Planning Authority to provide an acoustic assessment at the time that the formal amendments to the application were submitted for consideration. In light of the COVID-19 restrictions, this was not a feasible option until those restrictions were lifted.

In the interim period, the applicant engaged in considerable dialogue with the Local Planning Authority and their consultee for technical services, WRS, prior to undertaking the acoustic assessment upon the relaxation of the COVID-19 restrictions. This included correspondence to confirm the scope and methodology of the assessment to be undertaken, a plan detailing the location upon which the monitoring equipment would be located and an agreed time period for

the assessment to be undertaken, namely a weekday and weekend day. The survey was carried out on a continuous basis from 07.50 on Friday 23rd April to 15.30 on Saturday 24th April in accordance with the scope of works agreed with the Local Planning Authority and WRS, including extended periods of attended measuring by the applicant's consultants, ION Acoustics.

The applicant is entitled to rely upon the advice of their professional, qualified consultants in respect of the conclusions and recommendations contained within their Acoustic Assessment. It is particularly noteworthy that these conclusions and recommendations were supported by WRS in their role as technical advisor to the Local Planning Authority.

In summary, there is no evidential basis for the Committee to consider that the assessment was not reflective of the local environment. The recommendations contained within the Acoustics Assessment submitted to the Local Planning Authority are therefore valid and no further acoustic survey is considered to be necessary.

HIGHWAYS

This letter is accompanied by an updated Transport Statement (September 2021) prepared by ADL Highways, the applicant's Highways consultants. The Statement contains an update of the proposal from a highways perspective when considered against the most recent TRICS data.

As there are no adopted parking standards, consideration of parking provision is based upon compliance with NPPF para 107 (105 at the time of the Highway Authority's consultation response) which is to include an assessment based upon local car ownership levels. On this basis, the local ownership levels detail that the appropriate provision would be 18 No. spaces. It is important to distinguish that this assessment, at the request of the Highway Authority, was undertaken on the basis of residential apartments, rather than supported living and is therefore a worst-case scenario.

The Transport Statement submitted with the application in 2018 noted that with minor reconfiguration of the layout, including the removal of the ambulance space, the site can accommodate 21 No. spaces. The parking layout has therefore been amended on this basis, to provide a total of 21 No. spaces which, when assessed on an evidential basis, will give rise to an over-provision 3 No. spaces when assessed against the 'worst case' local car ownership levels.

As the Transport Statement details, the scheme is to be restricted to occupation by individuals with mental health support needs. The practical reality of this is that the occupants are highly unlikely to have access to their own private vehicle, as corroborated by the end user, Gloucestershire County Council Integrated Disabilities Commissioning Hub at and included within Appendix 4 of to the Transport Statement.

Therefore, the level of parking spaces required is anticipated by the end user to be no more than 6 car park spaces for care staff, only further demonstrating that the development will not have an adverse traffic and/or parking impact on the local highway network.

The proposed development provides a new access from Thatcham Avenue which will provide a safe and satisfactory access to the car park, with visibility splays in excess of 2.4m x 25m provided in both directions, meeting the requirements set out in Manual for Streets for a junction

within a 20mph zone. This is corroborated by the Highways Authority in their statutory consultation response.

The development would result in limited trips to and from the site and would therefore have a negligible impact upon the local highway network. This is corroborated by the Highways Authority in their statutory consultation response.

The proposed car parking spaces are all compliant with the Highway Authority's required standards being 2.4m x 4.8m whilst the disabled spaces are 3.6m x 4.8m with a 6.0m drivable surface in front of them for ease of access. Again, this is corroborated by the Highways Authority in their statutory consultation response.

NPPF para 111 states the following:

Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

In considering that the Highway Authority conclude that the application is appropriate in highway term, the threshold set out via by NPPF para 111 cannot reasonably be engaged without any form of evidential basis to the contrary. The Highway Authority are a statutory consultee in the consideration of this planning applications and the weight to be afforded to the professional advice of statutory consultees has been assessed by the Courts, notably in *Shadwell Estates v Breckland DC [2013] EWHC 12 (Admin)*.

Para 72 of the judgement sets out that a decision-maker should give the views of statutory consultees "great" or "considerable" weight. A departure from those views requires "cogent and compelling reasons" as outlined in *R (Hart DC) v Secretary of State for Communities and Local Government [2008] EWHC 1204 (Admin)*.

The highway conclusions outlined in the applicant's letter of 15th July 2021 remain equally valid, notwithstanding the Committee's decision to defer the application on highway/parking related grounds. For the sake of clarity, these are repeated below:

- a) The site as currently exists does not provide any form of car parking to the Local Centre. Therefore, it cannot be reasonably concluded that there is any loss of parking as result of the application.
- b) There is no obligation or express requirement for any future development within the Local Centre area to provide parking to cater for the local centre and surrounding uses.
- c) The originally proposed car park and licensed restaurant/takeaway for the subject site was approved in 2009 and amended to be delivered on a phased basis as 'Phase 2' of the Local Centre in 2010. In the eleven subsequent years since this approval, no application to deliver 'Phase 2' to include the subject site has come forward owing to a lack of market interest.

- d) Instead, a revised approach to the delivery of 'Phase 2' of the Local Centre was proposed. This application explicitly excluded the subject site and referred to it only as an area for 'future possible development'. This revised approach was approved by the Local Planning Authority in 2013 and the site was built-out accordingly.
- e) It is evident that the level of parking proposed during the course of the construction of both 'Phase 1' and 'Phase 2' of the Local Centre was deemed acceptable by both the Local Planning Authority and Highways Authority to service the Local Centre and any planned surrounding developments at that time.
- f) Finally, in the event that Committee resolve to refuse planning consent for the proposed development on highway related grounds, the parking originally proposed within 'Phase 1' in 2009 will still not be delivered and any perceived issues with parking provision within the Local Centre issue will remain. This will be at the expense of a much-needed affordable housing development to service those within the community who are most in need.

The proposal does not give rise to the loss of any existing parking spaces within the Local Centre and is not reliant upon it to service its own requirements. On this basis, the proposal will have no discernible impact on the 136 No. spaces which currently exist to service the Local Centre.

The scheme delivers on-site parking levels in excess of the evidential requirement when assessed against local car ownership standards. On the basis of the evidence provided in support of the application, which has been endorsed by the Highway Authority, the application is clearly appropriate and acceptable.

LOSS OF RETAIL FLOORSPEACE/LAND

Concern was raised by Members in the consideration of the application as to the potential loss of retail units within the Local Centre. The application does not result in the loss of any retail space within the Local Centre, nor the loss of any land designated in policy terms for such a use.

Whilst the application site was originally intended to be retail in nature, twelve years have elapsed since these proposals were consented by the Local Planning Authority and this has not manifested in the delivery of any retail floorspace on the site. Meanwhile, the remainder of the Local Centre retail provision has been subsequently consented and completed along with the supporting parking provision. The application has provided marketing particulars which evidences the absence of interest for the originally intended retail use for the sake of clarity.

The Local Planning Authority should not attribute weight to any perceived policy conflict in relation to loss of retail floorspace when no such floorspace exists, or when the site is not specifically allocated within the Development Plan for such a purpose.

DESIGN

Concern was raised by members in relation to the design of the roof-space within the development. I enclose plan ref: 3192-PA104 by O'Leary Goss Architects which details the roof

design in comparison to the local context. It sets out that the proposed development is very much in keeping with the height, size, scale and materials of the nearby housing.

Concern was also raised regarding the future potential of the roof-spaces to be utilised for residential accommodation. Notwithstanding that planning permission would be expressly required from the Local Planning Authority for such works as no permitted development rights exist for such a purpose, it would not be a feasible option in any event due to the planned use of roof trusses in the roof structure.

The applicant was also asked to consider the use of brickwork as a finish to the car park boundary wall. The scheme proposes a fence which is set back from the site's boundary to allow for the provision of a high-quality landscaping scheme to mature along the site's boundary. A brick wall sited along the boundary would in contrast preclude the opportunity for planting and landscaping.

THE PLANNING BALANCE

The Committee Report's published in advance of both Planning Committee's has confirmed that Gloucester City Council is currently unable to demonstrate the requisite five-year supply of deliverable housing land as is required by the National Planning Policy Framework (NPPF).

The applicant's letter of 15th July 2021 provided a detailed assessment of the wider planning balance exercise that is required to be undertaken in such circumstances, noting that the tilted balance does apply as there are no policies within the NPPF that provide a clear reason for refusing the development. This conclusion was not carried over into the Committee Report, instead re-affirming the position set out in the initial July Committee Report that the tilted balance does not apply because of the location of Manor Farm to the west of the application site – a designated heritage asset.

The relationship between the application of the *tilted balance* and heritage matters has been detailed in numerous appeal decisions, most recently in APP/H1705/W/21/3269526¹. In this case, the Inspector determined that harm was caused to designated heritage assets - namely the Conservation Area. However, with reference to Footnote 7 of the NPPF, he applied the test set out in NPPF 202 as to whether the public benefits arising from the development outweighed the harm.

The Inspector determined that the public benefits did outweigh the heritage harm and therefore the tilted balance was engaged, notwithstanding that some harm was caused to heritage assets. In the wider planning balancing exercise, the Inspector attributed significant weight to the heritage harm, as he is legally required to do in accordance with Barnwell Manor, Mordue and Forge Fields but he concluded in the overall balancing exercise that any adverse impacts did not significantly and demonstrably outweigh the benefits.

Applying the process and conclusions of this appeal case to this application, it is clear that the tilted balance is engaged as the proposal does not give rise to any heritage harm. On this basis, there is no requirement to afford significant weight to any harm caused in accordance with NPPF

¹ Land to East of Station Road, Oakley RG23 7EH

200 as no harm to the setting of Manor Farm is caused. This is confirmed by the Local Planning Authority's Conservation Officer and is detailed within the Committee Report to the 3rd August meeting at para 6.31 as follows:

It is considered that the scale and materials of the building in this location are acceptable in terms of the setting of the Listed building and therefore the proposal complies with JCS policy SD8 and City Plan policy D1.

Therefore, the tilted balance does apply in the consideration of this proposal. Accordingly, planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

The applicant's letter of 15th July 2021 set out the significant benefits attributed to this application – namely the provision of a 100% affordable housing scheme, to be secured at or below the local housing allowance level via a Section 106 Agreement that would also ensure that the building is retained for its use as supported living accommodation for persons with mental health disabilities. There is a significant and unequivocal level of demand for such accommodation within the City of Gloucester, as is confirmed by the Care Commissioning Group who fully support this scheme.

In summary, applying the 'tilted balance' test imposed by 11d of the NPPF, there are no adverse impacts associated with granting planning permission that would 'significantly and demonstrably' outweigh the considerable benefits attributed to this affordable housing scheme.

Yours sincerely,



Senior Planner