

COMMITTEE UPDATE
Northampton UDA Planning Committee
25th November 2008

Agenda Item 4:

Application number: S/2006/1654/W

Applicant: Address: English Partnerships and Redrow Homes (South Midlands) Ltd

Description: Outline application for development of housing (up to 1,784 dwellings), community and education facilities including a new primary school (3.8ha), employment (22,000m² floorspace), park & ride facility (1,000 car-spaces) and part of a country park (7.7ha).

On the basis of officers further consideration of the series of representations reported below, it is proposed to add further conditions to the recommendation as set out which seek to ensure that measures to address land stability are fully recognised within the build out and subsequent phases of development.

Additional conditions:-

Land Stability

(1) Prior to commencement of development to submit to the Local Planning Authority for its written approval a programme setting out how land stability shall be managed during the construction process and to implement such programme as approved. Further if during the construction process it becomes apparent that additional mitigation measures are required to secure the stability of the development, no further development shall be carried out until the developer has submitted a report identifying the strategy for its treatment together with the necessary mitigation measures to the Local Planning Authority for its written approval. Thereafter the development shall take place in accordance with the approved strategy.

Reason: To ensure that any mitigation measures needed in respect of any identified land instability are properly considered in accordance with Planning Policy Guidance Note 14 and the associated technical appendices.

(2) Concurrently with the submission of the first details of any of the matters reserved by planning condition 1 for each phase of development a land stability report shall be submitted, setting out the results of any ground investigations into stability and identifying how the proposed design, layout and construction mitigation address potential land stability matters associated with the development of that phase of the site. Unless otherwise agreed in writing the development shall not proceed until the written approval of the Local Planning Authority has been secured to the proposed mitigation

measures identified in any scheme and thereafter such mitigation measure shall be carried out in accordance with the approved details.

Reason: To ensure that the appropriate mitigation of land stability matters reflecting the detailed design and layout of the development is properly secured to ensure the safe development of the parcels of land on the site and reflecting the conclusions of the ground stability assessments, in accordance with the objectives of PPG14.

Reserved Matters

The applicant has requested that Condition 2 as set out in the report, be amended to require the submission of the first reserved matters application within three years of the date of planning permission. This is as a result of the scale of the development which would be built over a period of at least 8 years and also because of the uncertainties of the current housing market. The condition as amended is set out below:

Proposed Conditions. No. 2, Page 62 should read:

“Application for approval of the first set of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission”

Officer comments - This is significant as it is clearly impossible for all reserved matters to be submitted within three years for a building programme at Upton Lodge lasting more than eight years from now and probably more given current market conditions. There is clearly a need to recognise the changing circumstances around development activity and building rates at the present time. Officer’s advice would be that the submission of reserved matters needs to be considered alongside other matters within the S106 and phasing of development. Accordingly, officers would seek the committee’s delegated authority to determine the most appropriate timescale for such reserved matters as part of the resolution of the other matters identified. Alternatively, it is proposed that the “standard” 3 year period be extended to 6 years.

Amendments

The applicant has made the following comments (in italics) in response to the committee report and has requested that consideration be given to amending the proposed terms of the recommendation as follows:

Section 4.8, 2nd sentence, Page 13 should read:

“..... the Upton Lodge farmhouse and have no immediate plans to demolish the out buildings and the bungalow to the south. The legal documents for the lease of the existing buildings are nearly complete.”

Officer comment- reflecting the concerns expressed around this matter, the planning obligation proposed provides for retention of the farmhouse. Further, recognising the desire to retain the outbuildings in the future but acknowledging the applicants position that the buildings are unsuitable for re-use, it is proposed to add a condition requiring a feasibility study to be prepared ahead of any proposed demolition of the outbuildings to investigate alternative uses and the suitability of the buildings for such uses.

Additional condition:

No demolition of the brick built farm buildings at Upton Lodge farm shall take place, without the prior written approval of the local planning authority, following the submission of a feasibility study that examines the scope for re-use of the buildings for new uses.

Section 10.6, Park and Ride 1st paragraph, Page 41, last sentence (and also section 10.25) states that a Section 106 agreement would be required to ensure that the land is given to WNDC at an appropriate trigger point. However, the Park and Ride site is already secured by a section 106 agreement for Upton signed by English Partnerships in May 2000 and updated in Feb 2003.

Officer comment- Not supportive of this suggestion as WNDC need to control the land as part of this proposal to ensure the delivery of the outputs identified in the planning application..

Section 10.25, 3rd paragraph, 2nd sentence Page 59, should read:

“English Partnerships has indicated that it supports the principle of a tariff but that, reflecting market conditions the discounted charge remains unachievable.”

Officer comments – This is noted in the report and will be a matter for S106 discussions. No evidence on viability has yet been submitted on this matter.

Section 10.25, Community Facilities section, Page 60 should read:

“Provision of land for community facilities, including school and medical facilities and their subsequent transfer to the relevant authorities.”

Officer comments – again officers would to keep the wording in the report as is, to allow WNDC to have the flexibility for the s106 discussions around potential or request offsets to the S106 infrastructure process. .

Comments on Further Issues

There are a number of matters that have been raised in recent letters from DAG, which have been forward to members or copies made available before

Committee. The applicant has also responded to these matters and their most recent letter has been made available to the committee.

The key components of the exchange of correspondence deals with matters relating to ground stability and the investigations by the applicants consultant team into such matters. In particular, the correspondence from DAG questions the process and quality of the stability assessments undertaken and seeks to challenge the role of WNDC and its officers in the assessment and consideration of the conclusions of the studies undertaken. Further, DAG refers to the earlier reports by former agencies and their officers on the appropriate technique for assessing ground stability. This approach is disputed by the applicant's technical advisors.

Further to this exchange, at the request of DAG a site visit took place on 20th November between representatives of the applicant, The County Councillor, WNDC and the DAG. The responses circulated to the committee refer to the interpretation of the site visit conclusions and dispute the evidence examined at the site visit.

PPG14 is important guidance that needs to be taken into account, which the report does. The purpose of the guidance is to advise developers, landowners and LPA on the exercise of planning control over development which is unstable or potentially unstable. The aim is not to prevent the development of such land, though in some cases that may be appropriate response (par 2).

The applicants have submitted extensive reports and work to demonstrate that they have assessed the issue of land stability and have made clear that there are some risks in some areas and "those risks have a factor of safety significantly greater than the minimum required". DAG's reports and letters have been placed before the applicants advisors and responses sought. Officers have given careful consideration to all of the evidence submitted and the differing opinions on the stability that the parties have provided.

PPG14 does not require WNDC to undertake its own assessment of land stability matters. The officer's report seeks to provide advice to the committee on the way in which land stability has been considered, the conclusions of the applicant's technical studies, the response of the action group. Land stability is a material consideration and the report makes this clear.

DAG has recently indicated an intention to seek judicial review of the application based upon this matter. This is not a material planning consideration and officers remain satisfied that the matters associated with land stability, through the planning officer report and the recent copied correspondence, have provide an acceptable level of examination on this matter. WNDC have further proposed additional condition, outlined above, that seek to manage land stability issues, throughout the planning process for the site. Based upon all submissions, the principle of development on this site is not considered to be fundamentally compromised by matters of land stability. Therefore, it is more than reasonable to take a precautionary approach to those areas and impose conditions, as supported by PPG14.

WNDC are still satisfied that the land stability issues have been considered correctly and have taken all relevant material considerations into account. But it remains a matter for the committee to consider carefully what weight they give this matter against all other matters set out in the report. Further advice to the Committee will be provided by WNDC lawyer.

Phasing

The applicant has provided a more up to date timetable to phasing and is as follows.

The likely phasing programme is now:

| | | |
|---------|-------------------|-----------|
| Phase 1 | 170-220 Dwellings | 2011-2013 |
| Phase 2 | 550-720 Dwellings | 2012-2015 |
| Phase 3 | 520-670 Dwellings | 2013-2016 |
| Phase 4 | 400-500 Dwellings | 2014-2017 |
| Phase 5 | 360-460 Dwellings | 2015-2018 |

Press Advert

The recommendation below has been adjusted to take account of the public right of way. When advertised by SNC on behalf of WNDC, the press notice did not highlight the potential impact upon the public right of way of the development. This matter has been carefully considered in the design of and in officer's assessment of the planning application (and the development does not propose to divert the PROW). No specific response to date has been received on this matter but in the event that the press notice raises no new issues, not previously considered, it is considered that the determination of the application need not be re-considered by the committee, following the expiry of this press notice.

Revised Recommendation –

Agenda Item 4: Recommendation:

- 1.1 For the reasons set out below, **APPROVAL** with authority being delegated to the Director of Planning and Development to grant planning permission subject to:
 - (i) the referral of the application to Government Office as a departure from the Development Plan in respect of Policy E6 for the Secretary of State to consider if she wishes to call the matter in or not.
 - (ii) the prior resolution of the outstanding highway issues with the Highway Agency and the County Council and to resolve the outstanding issues raised by the Environment Agency.

- (iii) To secure the prior completion of a Section 106 obligation in accordance with the terms identified in this report or such amendment or additional obligations as the Director of Planning and Development may consider appropriate in the circumstances and;
- (iv) The conditions set out in this report including any additional conditions or amendments to the draft conditions as the Director of Planning and Development may consider appropriate to secure an acceptable form of development and to resolve matters that are identified as outstanding in this report.
- (v) For the avoidance of doubt and to clarify the advertisements undertaken to date. A further advert has been undertaken to clarify the position with the environmental ES regulations and in respect to the development effect a public footpath. The advert expires on the 17th Dec.
- (vi) To add the conditions as set out in the update sheet.

Agenda Item 5

Application No: 07/0176/FULWNN

Applicant: Barry Howard Homes and Bovis Homes

Address: Land off Lancaster Way, Towcester Road, Northampton

Description: Residential development comprising 211no. dwellings

Highway Authority Direction

The Highway Authority have issued a Direction that planning permission is not granted for an indefinite period of time as they believe the proposal will have an adverse impact on the trunk road network and are undertaking an assessment.

Comment

In these circumstances the application cannot be finally determined until the outcome of the Direction is known therefore a revised recommendation is set out at the end of this update reflecting this position.

Northampton Borough Council

Following their Committee meeting on the 19th November 2008 NBC have submitted further comments by letter dated the 20th November 2008 as follows:

No objection to the principle of the development but attention is drawn to the following concerns:

- A minimum of 35% of affordable homes be provided. 10% of the total number of units should be constructed to mobility standards and conditions be imposed to require eco-home standards.
- Whilst the overall number of affordable homes is acceptable the proposed tenure split is considered unacceptable giving rise to an oversupply of shared ownership and undersupply of rented units therefore there is a need for an exchange of tenure especially in the form of houses.
- The level of community safety associated with the shared courtyard parking provision. It is recommended these areas are provided with adequate lighting and that the advice is sought of the Northamptonshire Police Architectural Liaison officer to establish if suitable infrastructure can be put in place.
- The lack of connectivity between the application site and surrounding residential areas and local infrastructure, WNDC should seek to include within the scheme the provision of safe and convenient pedestrian and cycle links to facilitate access, local schools, shops and community facilities.
- Significant concern raised regarding the proposed single vehicular access to the site although it was acknowledged that the creation of a through route or 'rat run' would not be appropriate. There are existing congestion problems during peak periods at the existing roundabout on Towcester Road and that the addition of further housing increasing the number of units to over 500 served by a single access point has not been given sufficient consideration and has failed to meet the objectives of Policies GS6 and T3 of the Northamptonshire County Structure Plan.
- Impose planning conditions relating to: assessment and control of noise and vibration from the adjacent railway; assessment of air quality and transport noise; a land remediation scheme is fully implemented; a sustainable drainage scheme is implemented; the protection of all trees to be retained during the site preparation and construction periods.
- On site facilities should be provided for young children and the necessary contribution be made to address the additional pressures on existing educational facilities within the vicinity of the site.
- Secure by means of a financial contribution (£60k) in order to offset the loss of existing open space and facilitate off site provision. The funding should include for a maintenance period of 30 years.

WNDC should seek to address the above concerns to achieve a 'Building for Life Standard' of development in a sustainable environment.

Comment

The tenure mix has been changed to the satisfaction of NBC Housing Strategy officers and is to be secured through the S106 agreement.

It is recommended that condition 16 on page 22 of the report be amended to read:

Amended condition

Full details of all external lighting including specific lighting schemes for shared courtyard parking shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of construction of each such parking area and implemented concurrently with the provision of each parking area and retained thereafter.

Reason: In the interests of providing secure parking to serve the development.

Additional condition

It is proposed to add a further condition as follows:

Prior to the commencement of construction of each shared courtyard parking area details of a secure gated access to the said area shall be submitted to and approved in writing by the Local Planning Authority and thereafter implemented prior to the first use of the parking area.

Reason : In the interests of providing secure parking to serve the development and in compliance with Policy GS5 of the Northamptonshire County Structure Plan.

Both these measures should seek to ensure the shared courtyard parking areas are more secure.

Access arrangements - The degree of connectivity is limited to the proposed vehicle and pedestrian access off Lancaster Way and the linking of the footpath that runs east/west through the site to Rothersthorpe Lane at the north western corner of the site. The private pedestrian/vehicle access onto Towcester Road is also to be retained but not made available to the general public. There is to be no direct access of any kind to and through the Leah Bank development to the north although there are locations on this boundary where this appears physically possible. The Police's Crime Prevention Design Adviser has recommended against any link through to Leah Bank as it would likely open the new development to crime from neighbouring areas. Further, the County Council as highway authority have confirmed that there is no requirement for such access.

Officers have further considered whether there is a case for greater access based upon the need to access local services and community facilities. Given the location and arrangement of services in the area, access through Leah

Bank/Lauderdale Avenue is considered unlikely to afford any greater access to such facilities than provided for through the existing design and layout.

In response to the significant concern raised by the Committee in relation to the single vehicle access point off Lancaster Way this matter has been fully commented on in the report. Fundamentally it is considered acceptable as it is supported by Northampton County Council Sustainable Transport and further is not recommended by the Police's Crime Prevention Design Adviser for the same reasons as providing a pedestrian link.

Conditions have been imposed to address the majority of those set in NBC's response as they have already been recommended by their officers. However an additional condition is recommended to secure the submission and approval of play facilities for children on the public open space area as follows:

Prior to the commencement of development details of the play facilities on the central area of public open space shall be submitted to and approved in writing by the Local Planning Authority and shall include details of the future management thereof. The scheme shall be implemented in full prior the occupation of the 50th dwelling hereby approved unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the development is served by facilities to meet the play needs of children occupying it.

The request for the financial contribution of £60k in order to offset the loss of existing open space can form part of the Community Development contribution which is in excess of £500k.

The Committee of the Buckingham Fields Action Group

Further comments have been submitted by the Action Group making the following statements.

Statement

By written communication dated the 21st November some owners of the land want to invite members of the Committee to visit the site and include in that visit a walk along Rothersthorpe Lane.

Comment

This invitation was forwarded to members of the Committee.

The communication also drew attention to 'a few inaccuracies' in the report.

Statement

Para 7.7. This is not an accurate reflection of this part of the layout in that the central area of open space is not taking advantage of the differing levels and the levels are in fact to be decided later.

Comment

It is not considered the wording stated is inaccurate.

Statement

Paras 7.9 and 7.10. It is stated the deficit in the green space (meaning they have not reached the minimum requirement) is the required green space for 35 people and they have still not included the replacement green space that Buckingham Fields is losing. It is about more than just this development when existing green space is being lost.

Comment

The revised scheme has been considered acceptable by NBC the policy making authority for the provision of public open space and green space. They are agreeable to the loss of green space to be offset by securing a sum of £60k through S106 to facilitate off site provision which is to be accommodated.

Statement

Para 7.18. It is stated that the wording in this paragraph is 'absolutely not accurate' in respect of the loss of green space and completely ignores the change in levels particularly around 4 Tunnel Cottages and the siting of parking courts particularly around 6 Hexham Court.

Comment

This paragraph recognises that the proposed development will have an impact on the existing residential development but not an adverse one in planning terms which has included an assessment of the specific matters raised.

Statement

Para.7.22 To suggest Rothersthorpe Lane in its current state is suitable for people, especially children to use is ludicrous. It is an unsafe dirt track behind the back of houses. To suggest this is irresponsible. Whilst this provided access to the west all amenities are to the north-west or south-east footpaths. Reference is then made to an off site footpath which should have been provided as part of the adjacent Barry Howard Home development but has not. This is not relevant to this scheme and should be pursued separately as an enforcement matter.

Comment

The wording of the report is factually correct, access to and along Rothersthorpe Lane would remain. It is acknowledged that its surface is poor, has no lighting and is not overlooked so is not particularly secure but it is relatively easy to walk up and down. The matter of the offsite footpath was

raised by NCC Highways as a possibility but having given this further consideration it is concluded that it should not be pursued any further as part of this application.

Statement

Para. 7.48. You state that '338 neighbours and other surrounding residents have been informed of the application...'. This is not correct as you admit elsewhere. Only 74 households were contact about the latest plans and neither was Sharon Henley from the police. Assuming individuals wouldn't be interested is both arrogant and ridiculous. The continual late arrival of plans online halfway through the consultation periods without informing anyone – in particular during the last rushed consultation - does not ally with your statement.

Comment

The table on page 8 of the report sets out the numbers of consultation letters sent out upon receipt of the first submission and subsequent revised plans. On the last occasion the consultation was reduced to 74. It is open to the Corporation to consult who they think are legitimately affected by the revised plans, such reconsultation cannot be based who may be interested. Sharon Henley has commented on the latest revised plan and this is set out in the report. It is acknowledged that during the course of the application there have been a number of issues with getting all the relevant plans on the web site at the right time but it a full set of plans has always been available at the Corporation offices for inspection.

NCC Highways

Additional condition requested by NCC Highways –

Full details of all roads and drainage including cross-sections, longitudinal sections, highway boundaries and proposed ground and floor levels shall be submitted to and be approved by the Highway Authority prior to the commencement of construction work on site.

Reason: In the interests of highway safety

Further comment has been received from NCC Adoptions in respect of detailed highway matters and a number of the issues have now been resolved. However, there are still detail technical matters outstanding with the Adoptions Team which will require further revision as part of the adoption process. It is still considered that these matters could be dealt without any material impact as part of the adoption process.

Environment Agency

A revised Flood Risk Assessment (FRA) has been received. However, the Environment Agency (EA) has responded to uphold their objection highlighting a number of deficiencies. A further revision to the FRA has been received and further comment is awaited from the EA. It is still considered that

this matter could be dealt with post – resolution as set out in the recommendation.

An error has been identified within the report with regards to open space figures. Paragraphs 5.4 and 7.9 should read 0.05ha.

Additional Resident Response

One additional consultation response received from a resident from Denton. No objection is raised to the proposal but a number of comments are made in respect of additional access to the site from Leah Bank and loss of open space.

Crime Prevention Design Adviser(Police)

To fully address the issue of boundary treatment and security raised by the Crime Prevention Design Adviser it is proposed that condition no.16 should be revised as set out above along with the addition of the extra condition relating to gated entrances to the parking courts reported above.

Revised Recommendation

Having regard to the direction received from the Highways Agency the recommendation needs amending as follows:

It is recommended that planning permission be delegated to the Director of Planning and Development or appointed Officer subject to:

1. The resolution of the Direction by the Highways Agency,
2. Resolution of the objection from the Environment Agency,
3. The resolution of detailed highway design matters related to adoption, and
4. The completion of the S106 agreement as referred to in the report and the conditions set out therein as amended by the updates for the following reason:

Reason: The proposed development would constitute an acceptable form of residential development within a primarily residential area in terms of its layout, design and its impact on existing residential properties in accordance with Policies H6 and E20 of the Northampton Local Plan and Policies GS5, GS6 and T3 of the County Structure Plan

Agenda Item 6:

Application No: 08/0190/FULWNN

Applicant: St. Clair Investments

Address: Phase 2, Waterside Way, Northampton

Description: Erection of 11 Office units (Class B1) within 6 blocks, 2, 3 and 4 storey with ancillary parking, infrastructure and landscaping.

Highways Agency

Officers have been liaising with the HA to ensure that the planning condition directed by their TR110 response is fully compliant with Government guidance

on the use of planning conditions (Circular 11/95). Based on these discussions a slightly revised wording has been agreed. This is:

Revised condition

“Prior to occupation of any part of the development hereby approved, an updated travel plan shall be submitted to the Local Planning Authority and agreed in consultation with the Local Highway Authority and the Highways Agency. The plan shall be implemented at all times that the development is occupied unless otherwise agreed in writing by the Local Planning Authority, in consultation with the Local Highway Authority and the Highways Agency.

Reason: To reduce the reliance on the private car for journeys to work in order to minimise the disruption on the trunk road resulting from traffic entering and emerging from the site.

NCC Highways have also commented that the existing turning head that serves Phase 1 of the development is no longer required to be adopted, and therefore it can be replaced with a simple vehicle crossover. NCC Highways has requested that this be carried out as part of any planning consent granted. This area falls outside of the red line of the application site. As Members will be aware for a local planning authority to impose a planning condition that requires works to take place outside of the application site these works must be necessary to make the development acceptable in the first place. In this instance it is not considered that the replacement of the turning head with a simple vehicle crossover is required to make the development acceptable as it in no way affects the access of cars into the new site (as it only relates to cars accessing the existing site). As such this is not agreed with.

NCC Highways have also stated that an adoptable turning head should be provided at the need of the proposed access road. This road is within the application site. It is considered reasonable to require the submission of a revised layout drawing indicating the provision of an adopted turning head in the required position. The following condition (18) is recommended:

Additional condition

“Prior to the commencement of development a revised site plan indicating the provision of an adoptable turning head at the end of the proposed access road shall be submitted to and approved in writing by the Local Planning Authority. Development shall be in complete accordance with the approved details.

Reason: In the interest of highway safety.”

Environment Agency

Further to the sections in the report that relate to the Environment Agency's outstanding objection to the application they have not indicated that they are satisfied with the development in terms of its sequential preference and have withdrawn their objection on this matter. As such the recommendation to

Members has been altered to remove the reference to the EA withdrawing their objection.

Other matters

Officers have however now received feedback from our legal advisors regarding the requirement to refer this application to the Secretary of State under the departure regulations. This is because, as indicated in the report, part of the site is allocated under policy E6 as Greenspace. The departure regulations state that where the development exceeds 5,000 sqm (the proposed development totals 8,400 sqm) and conflicts with a policy in the Development Plan then it should be referred to the Secretary of State for determination. Officers had noted that only a very small element of the proposed total floorspace falls into the section of the site allocated under policy E6, significantly less than the 5,000sqm referred to in the regulations. However, as the regulations do not make this distinction, based on legal advice sought, it is Officers view that the recommendation is now altered such that should members be minded to approve the application it is referred to GOEM as a departure application. The revised recommendation is as follows:

Revised recommendation:

“It is recommended that the application be **APPROVED** but that the issuing of the planning permission be delegated to the Director of Planning and Development or appointed Officer subject the application being referred to the Secretary of State and not being called in and the resolution of the Section 106 Agreement and the conditions set out below for the following reason:

This is an allocated site in the Northampton Local Plan for mixed employment uses, with only a small section not allocated for this use. The proposed application would not adversely impact upon the area or its non-business allocation, nor have any significant visual, flood risk or other impact that would warrant the refusal of planning permission. As such the application is considered consistent with policies E1, E2, E20, B1 and B14 of the Northampton Local Plan and the objectives of PPS1, PPG4, PPS23 and PPS25.”

Agenda Item 7:

Application No. 08/0247/COUWNN

Applicant: Mr Wayne Bewley

Address: Sol Central, Marefair, Northampton

Description: Change of part of second floor from health and Fitness to Tatto Parlour.

NBC Environmental Health

Have advised that NBC Environmental Health Commercial Team will deal with the issue of waste storage and disposal under any licence and that a planning condition is not required.