

NORTH HERTFORDSHIRE DISTRICT COUNCIL

PLANNING CONTROL COMMITTEE

**MEETING HELD IN THE SPIRELLA BALLROOM, ICKNIELD WAY, LETCHWORTH
GARDEN CITY ON THURSDAY, 17 AUGUST, 2017 AT 7.30 PM**

MINUTES

Present: *Councillors Councillor David Barnard (Chairman), Councillor Fiona Hill (Vice-Chairman), John Bishop, John Booth, Paul Clark, Bill Davidson, Faye Frost (In place of Cathryn Henry), Jean Green, Tony Hunter, Ian Mantle, Michael Muir, Val Shanley (In place of Mike Rice), Adrian Smith, Harry Spencer-Smith and Martin Stears-Handscorb*

In Attendance:

Simon Ellis (Development and Conservation Manager), Tom Allington (Senior Planning Officer), Jeanette Thompson (Senior Lawyer) and Hilary Dineen (Committee and Member Services Officer)

Also Present:

At the commencement of the meeting approximately six members of the public, including three registered speakers and one Member Advocate (Councillor Steve Hemingway)..

40 APOLOGIES FOR ABSENCE

Apologies for absence had been received from Councillors Cathryn Henry and Mike Rice.

Councillor Faye Frost was substituting for Councillor Henry and Councilor Shanley was substituting for Councillor Rice.

41 MINUTES - 20 JULY 2017

RESOLVED: That the Minutes of the meeting of the Planning Control Committee held on 20 July 2017 be approved as a true record of the proceedings and signed by the Chairman.

42 NOTIFICATION OF OTHER BUSINESS

There was no other business.

43 CHAIRMAN'S ANNOUNCEMENTS

- (1) The Chairman welcomed the Committee, officers, general public and speakers to this Planning Control Committee Meeting;
- (2) The Chairman announced that Members of the public and the press may use their devices to film/photograph, or make a sound recording of the meeting, but he asked them to not use flash and to disable any beeps or other sound notifications that emitted from their devices;
- (3) The Chairman reminded Members and speakers that in line with Council policy, this meeting would be audio recorded;
- (4) The Chairman advised that Members would be using hand held microphones and asked they wait until they had been handed a microphone before starting to speak;

- (5) The Chairman requested that all Members, officers and speakers announce their names before speaking;
- (6) The Chairman clarified that each group of speakers would have a maximum of 5 minutes. The bell would sound after 4 1/2 minutes as a warning, and then again at 5 minutes to signal that the presentation must cease; and
- (7) Members were reminded that any declarations of interest in respect of any business set out in the agenda should be declared as either a Disclosable Pecuniary Interest or Declarable Interest and were required to notify the Chairman of the nature of any interest declared at the commencement of the relevant item on the agenda. Members declaring a Disclosable Pecuniary Interest must withdraw from the meeting for the duration of the item. Members declaring a Declarable Interest which required they leave the room under Paragraph 7.4 of the Code of Conduct, could speak on the item, but must leave the room before the debate and vote.

44 PUBLIC PARTICIPATION

The Chairman confirmed that the three registered speakers and one Member Advocate were present.

45 17/01125/1 - LAND AT WEATHERHEAD MARK LTD, GARDEN WALK, ROYSTON, SG8 7HT

Approval of details relating to appearance, landscaping, layout and scale for the erection of 19 dwellings comprising 3 x 5 bedroom dwellings, 12 x 4 bedroom dwellings and 4 x 3 bedroom dwellings (pursuant to outline planning permission ref no. 16/01477/1 granted on 24 October 2016). Separate new access to plots 18 19 onto Garden Walk (As amended by plan TROY161123-SW SS.01C).

The Development and Conservation Manager advised the Committee of the following corrections to the report:

- The first line of Paragraph 6.1 should read: "That approval of reserved matters be granted subject to the following conditions:";
- Condition 1 was not necessary and should be deleted as the time limit was imposed that the granting of the outline permission.

The Development and Conservation Manager introduced the report supported by a visual presentation consisting of plans, drawings and photographs of the site.

Mr Matthew Wood, Applicant's Agent, thanked the Chairman for the opportunity to address the Committee and advised that the principle for the redevelopment of the application site to provide up to 19 new dwellings together with its associated access had been established through the Council's previous approval of the related outline planning application and the associated Section 106 agreement, including the relevant community contributions, had already been duly signed and agreed with the Council.

This reserved matters planning application sought only to agree matters of appearance, landscaping, layout, and scale.

The outline planning permission included a design informative encouraging the applicant to ensure that the detailed proposals were reflective of Royston's farming heritage with particular reference to the properties intended to front onto Garden Walk itself.

Thursday, 17th August, 2017

Following collaborative working with officers, including early pre-application engagement, the current proposals had been accepted as providing a suitable reference to Royston's heritage which was reflected in the building facades which displayed clear Victorian influences as can be seen in their window arrangements, entrance porches, inclusion of chimneys and the use of traditional materials such as buff brickwork, slate roofs and a panel of knapped flint work to the garage situated on the Garden Walk frontage. Whilst buff brickwork was the predominant material across the site, a number of plots were finished with render, and black timber boarding was used sparingly where appropriate.

A high quality soft landscaping scheme for the site had been prepared and submitted in support of this planning application which included a good level of soft vegetation across the site including to its frontage and bounding the site's proposed open space and was supported by officers with reference to their supporting Committee report.

The detailed layout proposed provided a high quality proposal set around a central access road and included a well-integrated central area of public open space as well as good levels of private garden and off-street car parking fully compliant with the Council's Adopted Standards in these regards.

The proposal therefore provided a significant overall enhancement of its setting as well as demonstrating full compatibility and harmony with existing residential properties neighbouring the site as again confirmed by officers.

The scale of redevelopment proposed was strictly in line with the scope of the permitted outline planning permission in providing 19 new dwellings on the site, with this planning application clearly demonstrating the appropriateness of such a design approach.

It included a majority of two storey properties, with associated outbuildings, and, importantly, officers concluded that, given the level of spacing to surrounding properties and such improvements over previous buildings on the site, such scale was fully acceptable in planning terms.

The applicant's commitment to a high quality design solution for the site had also received the support of the Council's Environmental Health Officer, the Lead Local Flood Authority and the Highway Authority, who had raised no objection to such proposals, subject to a number of conditions which the applicant was agreeable to.

It was noted that Royston Town Council had commented about the width of the site access road and sought construction delivery restrictions around school times. The applicant would wish to re-iterate that the Highway Authority was fully supportive of the proposal and the applicant had accepted the imposition of a planning condition requiring a construction management plan as recommended by officers in order to suitably control such construction vehicle movements.

The applicant had also positively engaged with local residents through the application process, including resolving a tree related issue as detailed within the officer's report.

Mr Wood concluded by stating that the proposal represented a sustainable form of redevelopment, as supported by both the Local Development Plan and the National Planning Policy Framework. In line with the recommendation, this proposal provided a high quality and highly sustainable form of residential redevelopment that provided an overall enhancement of its setting and there were no adverse impacts associated with such details that would result in any material harm being caused.

Mr Wood urged Members to support this detailed proposal and grant Reserved Matters planning permission accordingly.

The Chairman thanked Mr Wood for his presentation.

A Member referred to the meeting at which the outline planning permission had been granted, when she had queried whether Section 106 funding could be used to improve road safety in the area, particularly for children, by providing enhancements to the existing 20 MPH speed limit and proposed speed indicator device, and advised that she felt this issue had not been addressed satisfactorily.

The Development and Conservation Manager advised that, at the time that the outline planning permission had been granted, contributions towards pedestrian safety was not mandatory as the Highways Authority had not required that particular contribution. It was his understanding that the applicant had been asked if they would wish to make a contribution towards this but they chose not to do so. The Section 106 agreement had been signed at the outline permission stage and the application being considered at this meeting was for reserved matters approval and the Section 106 agreement could not be revisited.

Members referred to Condition 13 of the report and acknowledged the proposed restrictions to construction traffic during school hours, but expressed concern that there was nothing to stop construction traffic from stacking up along Garden Walk rather than entering the site and queried whether this could be conditioned.

They were concerned that turn round time of delivery and leaving the site should be factored in to the Traffic Management Plan and that there was a plan in place for the period of the school holidays.

They were also concerned that the road be kept clean during construction and this should include not only wheel washing, but street sweeping as well.

The Development and Conservation Manager agreed that construction traffic should not stack up along the road, particularly when near a school and suggested that this scenario could be addressed by amending Condition 14 b to read:

“Construction and storage compounds (including areas designated for car parking and delivery vehicle holding pen away from the site)”.

In respect of avoidance of school hours, the Traffic Management Plan must be submitted, which would include plans for school hours and school holidays. Timetables should be submitted in advance so that officers could review them taking into account the comments regarding turn round times. The details of the Traffic Management Plan would also be available to the public to view on line

Concerns regarding cleaning of the roads could be addressed by amending the wording of Condition 14 c to read:

“Siting and details of wheel washing facilities and street sweeping”.

Members asked for clarification that officers were satisfied with the provisions for bin storage and for access by waste vehicles.

The Development and Conservation Manager advised that the proposed layout of the development was low density with lots of space outside each property for bin storage. The Highways Authority had considered the width of the access and the roads within the development and were satisfied that there was sufficient space to undertake normal waste collection services.

It was proposed, seconded and

RESOLVED: That application 17/01125/1 be **GRANTED** reserved matters permission subject to the conditions and reasons as set out in the report of the Development and Conservation Manager and the following:

Condition 1

That Condition 1 be deleted.

Condition 14 in the report (now Condition 13)

That Condition 14 in the report of the Development and Conservation Manager (now Condition 13) be amended to read:

“Prior to the commencement of development a Construction Method Statement shall be submitted to and approved in writing by the local planning authority in consultation with the highway authority. Thereafter the construction of the development shall only be carried out in accordance with the approved Statement.

The Construction Method Statement shall address the following matters:

- a. Off site highway works in order to provide sufficient access throughout the construction period, work shall be completed prior to the commencement of development, and reinstated as required.
- b. Construction and storage compounds (including areas designated for car parking and delivery vehicle holding pen away from the site)
- c. Siting and details of wheel washing facilities and street sweeping
- d. Cable trenches
- e. Foundation works
- f. Substation/control building.”

46 17/01183/1 - LAND ADJACENT RIDGE FARM, RABLEY HEATH ROAD, CODICOTE, WELWYN, AL6 9UA

Erection of 3 x 3 bedroom dwellings with detached garages, associated car parking spaces and new vehicular access onto Rabley Heath road and ancillary works following demolition of all existing buildings (as amended by drawings received 13/07/2017).

The Strategic Sites Planning Officer advised that, since writing the report, he had received a further representation from the Waste Services Team which reiterated that they had no objections to the application.

The Strategic Sites Planning Officer introduced the report supported by a visual presentation consisting of plans, drawings and photographs of the site.

Parish Councillor Mark Ireland, Codicote Parish Council, objecting to the application, thanked the Chairman for the opportunity to address the Committee and advised that he wished to draw attention to three issues regarding this application.

The site was in the green belt. The green belt was being eroded and, although the plans indicated a decrease in the space used for the development, it must be recognised that there was a permanence associated with housing as opposed to the current storage. He suggested that this was a significant visual impact.

The report stated this was a previously developed site, however there was some ambiguity regarding this definition. As a layman and business man he believed that any ambiguity should be clarified before any decision was taken regarding this site.

The last issue was that, as acknowledged by the applicant, the land was contaminated and housing should not be built on contaminated land.

Thursday, 17th August, 2017

Members asked for clarification regarding the comments made relating to ambiguity regarding the designation of previously developed land.

Parish Councillor Ireland advised that he had completed some research and there was some ambiguity regarding classification of the site as previously developed, which could be further developed and land that has been used as agricultural land, which was exempt from the presumption towards development. Paragraph 4.3.6 of the report acknowledged that the site had in the past been used for agricultural purposes.

The Senior Lawyer advised that there had been a Judicial Review case (Lee Valley Regional Park Authority against Broxbourne Borough Council 2015) that clarified that, if land was mixed use, or was no longer in agricultural use, it could be deemed as previously developed land.

The Chairman thanked Parish Councillor Ireland for his presentation.

Councillor Steve Hemingway, Member Advocate speaking in objection to the application, thanked the Chairman for the opportunity to address the Committee.

Councillor Hemingway advised that he wished specifically address the issue of whether this site could be considered as a brownfield site.

The legal case referred to by the Senior Lawyer was not mentioned in the Officer's report and therefore he had not had the opportunity to consider it.

He informed Members that Councillor Jane Gray was not persuaded that the brownfield exemption could be applied to this site in the green belt and all the key arguments were set out on page 17 of the report.

Previously developed land did not mean land that had been built upon or occupied by buildings. There was a specific exception to the definition of previously developed land being when the land has been occupied by agricultural buildings.

The National Planning Policy Framework stated that "previously developed land is land which is or was occupied by a permanent structure within its curtilage and had fixed surface infrastructure", but then stated that "this excludes land that is or has been occupied by agricultural buildings."

The buildings on this site were agricultural buildings. They were chicken sheds. They may have been used for other purposes, but they had been used for agricultural purposes.

There had been an email exchange between Councillor Gray and the officer in which the officer made reference to the Town and Planning Act 1990, which stated that if land was in continued use for 10 years or more then that use became lawful in planning terms.

It did not matter that the land was currently used for industrial purposes did not mean that it did not previously have an agricultural use, which meant that it qualified for the exemption to the previously developed land classification.

Councillor Hemingway stated that to rely on a legal case that had not been referred to in the report was bad practice and that the application should be refused so that the Planning Inspector could make a determination as whether this really was acceptable.

He had no strong objections to the application itself and he was aware that the neighbours were in favour of the development.

The Chairman thanked Councillor Hemingway for his presentation.

Thursday, 17th August, 2017

The Senior Lawyer advised that there was a document from DLA, on the Planning Portal section of the website, that set out the Lee Valley case and gave details of the 10 year usage. This was and had been available for Members to look at.

Mr Mark Williams, Applicant's Agent, thanked the Chairman for the opportunity to address the Committee.

Mr Williams advised that he would not reiterate the contents of the officer's report, but would like to address the comments made by the Parish Council and the District Councillor.

In respect of the application being within the green belt, the applicant had undertaken formal pre-application discussions with officers regarding development of this site and he had been advised that the response provided to a Planning Contravention Notice was sufficient to demonstrate that the site was previously developed land.

The Planning Contravention Notice response was legally binding and therefore could be taken as proof that the had been used for non-agricultural purposes for a period over years. Furthermore planning permission had been granted to use one of the buildings for industrial purposes.

Even if this were not the case, the proposal would result in reductions in footprint and volume of approximately 37 and 47 Percent respectively, which would represent a significant improvement to the openness.

In respect of contamination, the NHDC officer had suggested that any contamination on the land could be dealt with satisfactorily by condition and Members were asked to note that the officer's suggested Condition 12 would ensure that any contamination was identified and mitigated prior to occupation.

Mr Williams concluded by urging Members to support the officer recommendation to approve the application.

Member asked whether the mature planting at the front of the site would be retained or landscaped and whether the existing access would be retained in addition to the new access.

Mr Williams advised that, apart from the gap to put in the new access, the intention was to keep as much as possible of the mature planting.

In respect of access the existing access to the rear would be retained as well as the new access.

The Chairman thanked Mr Williams for his presentation.

In respect of the previously developed land classification, the Senior Sites Planning Officer advised that the definition did include the phrase "this excludes land that has been occupied by agricultural buildings."

This could be interpreted in different ways. This had been taken to mean land that had been used for agricultural buildings, but the site had become redundant and there had been no intervening use.

At the time of writing the report, he had undertaken a dialogue with Councillor Gray and based on his knowledge of the case law already referred to, he advised that after 10 years development became lawful, which was the case for this site.

Since writing the report two legal cases had been brought to his attention as follows:

- Lee Valley Park Authority vs Broxbourne Borough Council 2015 where the Inspector applied a lesser test than he had applied in that he found that land had to be solely agricultural use in order to apply the exemption, rather than mixed use, as in this case.
- The London Borough of Bromley vs Rookery Estates Company 2016 referred to the Lee Valley case and also found that land of mixed use could be considered previously developed land.

He advised that, based on the evidence and bearing in mind that the site had been used for storage and light industrial purposes since the 1990s. This site could be considered as previously developed land.

In respect of the visual impact on the green belt, the exception in the National Planning Policy Framework whereby limited infill development could be considered on previously developed land was dependent on there being no greater impact on the openness of the green belt.

In this case and as demonstrated in the earlier visual presentation, there was quite a significant reduction in both the footprint and volume of the proposed development when compared to the buildings currently on the site. There was also planting and vegetation that provided screening of the site, which was bounded on both sides by existing residential developments. He considered that the proposed development would provide positive benefits in terms of the impact on the green belt.

In respect of contamination, the Strategic Sites Planning Officer had discussed the site with the Council's Environmental Health Officer who had confirmed that, although there was likely to be contamination of the site due to the industrial uses, this could be addressed by condition.

Members asked for clarification regarding the condition that would address any contamination issues and queried whether there was a condition regarding the possible need to remove asbestos from the former chicken sheds.

The Strategic Sites Planning Officer advised that Condition 12 required contamination to be identified and to identify how that contamination would be removed and this condition would cover removal of asbestos.

Members asked whether site fell within the Codicote Village boundary, queried the special circumstances identified to enable a previous development at Codicote Heights that was in the green belt and asked for clarification regarding who undertook and paid for the bat surveys.

The Strategic Sites Planning Officer advised that the site was beyond the village boundary, Codicote Heights had been developed a number of years ago and he was not familiar with the application terms of that development and the bat survey was carried out and paid for by the applicant and this had been submitted with the application.

It was proposed, seconded and

RESOLVED: That application 17/01183/1 be **GRANTED** planning permission subject to the conditions and reasons as set out in the report of the Development and Conservation Manager.

47 PLANNING APPEALS

The Development and Conservation Manager presented the report entitled Planning Appeals

RESOLVED: That the report entitled Planning Appeals be noted.

Thursday, 17th August, 2017

The meeting closed at 8.35 pm

Chairman