

NOTTINGHAM CITY COUNCIL

PLANNING COMMITTEE

MINUTES of the meeting held at Ground Floor Committee Room - Loxley House, Station Street, Nottingham, NG2 3NG on 18 January 2017 from 14.30 - 16.45

Membership

Present

Councillor Chris Gibson (Chair)
Councillor Cat Arnold (Vice Chair)
Councillor Graham Chapman
Councillor Alan Clark
Councillor Michael Edwards
Councillor Rosemary Healy
Councillor Gul Nawaz Khan
Councillor Sally Longford
Councillor Brian Parbutt
Councillor Wendy Smith
Councillor Malcolm Wood
Councillor Linda Woodings
Councillor Andrew Rule
Councillor Josh Cook

Absent

Councillor Azad Choudhry
Councillor Steve Young

Colleagues, partners and others in attendance:

Richard Bines - Solicitor
Rob Percival) Area Planning Manager
Marin Poole)
Caroline Nash - Traffic Service and Delivery Service Manager
Lisa Guest - Principal Officer Highway Programmes Development Control
Catherine Ziane-Pryor - Governance Officer

55 APOLOGIES FOR ABSENCE

Councillor Steve Young – ill health

56 DECLARATIONS OF INTERESTS

None.

57 MINUTES

Subject to including the apologies for Councillor Gul Khan as leave, the minutes of the meeting held on 21 December 2016 were confirmed and signed by the Chair.

58 SITE OF FORMER HICKING PENTECOST AND COMPANY, LAND BETWEEN CROCUS STREET, SUMMER LEYS LANE, AND EUGENE STREET,

Rob Percival, Area Planning Manager, presented application 16/02688/PVAR3 by Jake Crompton on behalf of Cassidy Group Property Ltd for variation of conditions 2, 14 and 15 of 10/01814/PFUL3 (APP/Q3060/A/11/2143439) (design changes and flood risk).

The application is brought to Committee because the planning obligation proposed is substantially less than required by current adopted planning policies.

The Committee were informed that planning permission had previously been granted on appeal and therefore the scheme in its entirety was not eligible for the consideration of the Committee, only matters subject to the conditions proposed to be varied, as set out within the report and Update Sheet.

Rob Percival delivered a brief presentation which illustrated, with Computer Generated Images (CGIs) of street and elevated views, the appearance and lay out of both the formerly agreed application, and the revised application, with different brick colour options. Plans of each application were also presented.

By varying the conditions in question, the revised scheme proposed the following changes to the previously approved development:

- variations of brick colours (including an option for red or buff bricks for the main body of the building);
- textured and recessed brick work;
- the replacement of the ground floor live/work units with street entry apartments;
- a small building proposed for the northern end of the site is omitted;
- the revised mix of accommodation is proposed as 179 x 1 bed units, 87 x 2 bed 3 person units, and 84 x 2 bed 4 person units;
- changes to the parking arrangements, including removal of the basement car park;
- improved storage facilities cycle provision and landscaping.

Further information regarding amendments to the proposal following a revised flood risk assessment is included within the update sheet along with a revised recommendation.

A further recommendation was proposed to include a condition for 'management and maintenance arrangements for all the landscaped areas and features will be implemented at all times'.

It was noted that the proposed Section 106 contribution is in line with the previously agreed contribution on appeal but does not meet the current planning obligation requirements following changes in the law brought about by the Community Infrastructure Regulations as to the purposes for which Section 106 obligations can be required .

Members of the Committee commented as follows:

- (a) one of the residents of a neighbouring property had commented that the building would cast a shadow on their home. It should be emphasised for the benefit of

objectors that the Committee is unable to consider issues beyond the revisions to conditions as presented within this current application;

- (b) the change of style and finish should be welcomed as much improved on that of the 2005/2011 application;
- (c) materialist would be beneficial for the Committee to consider details of the proposed materials;
- (d) purely from the CGIs, the red brick option is more attractive and in keeping with the neighbouring buildings and surrounding area;
- (e) the addition of the 4 electric vehicle charging points is welcomed;
- (f) the differing size of space to the front of the ground floor apartments was queried although it is recognised that the building footprint does not sit within a regular site boundary;
- (g) care must be taken with the 'living wall' to ensure it succeeds on a north facing, shaded wall and that consideration is given to the surfaces behind the living wall in case it does not prove viable;
- (h) further development in this area is to be expected but community consideration should be given as how to ensure that residents of these new buildings can easily identify and engage with the Meadows communities and not be made to feel that they are an add on to the City Centre. Including local historical reference, possibly the locally famous crocus flowers, could be considered;
- (i) further clarity of detail is required with regard to brick colour and quality (as opposed to purely CGI indications), the view of the building from London Road, the changing character of Crocus Street and the lighting for ground floor apartment entrances;
- (j) the building appears plain and requires more detail, particularly at the corner of Crocus Street and Summer Leys Lane;
- (k) although an additional condition regarding landscaping maintenance is proposed, careful consideration should be given to the use of hedging which can act as a litter trap and become unsightly;
- (l) further detail is required on why the Section 106 contributions do not meet the current policy requirements and proper consideration needs to be given to whether this significant difference should be accepted. Previously the Committee has requested that viability appraisals be assessed by the District Valuer to determine the projected value and enable a realistic gauge of potential Section 106 contribution. This process should be considered for this application as property values have increased significantly since 2011 and the City Council will be losing significant resources.

Rob Percival responded:

- (m) although the space to the front of the ground floor apartments varies, even the smallest space can be considered as valuable 'defendable space' which provides distance between people walking on the street and property windows;
- (n) the living wall is proposed to cover the end brick surfaces of the three building faces of the north elevation and the proposed condition regarding management and maintenance of all landscape areas and features will ensure that the living wall is appropriately maintained;
- (o) further details, including the brick specifications, are yet to be agreed, but an indication from the Committee on the preferred brick colour is welcomed;
- (p) the site is not flat and as such, having regard to the flood risk assessment, some of the ground floor apartment entrances are raised from street level either by steps or a short ramp. Should flood water reach the building in the 1/1000 event of a flood on this site, resilience measures will be in place for the building. It is noted that the Environment Agency have retained their request for finished floor levels to be set higher level proposed to be addressed through a combination of raised floor levels and flood resilience measures. However, this would result in a difficult relationship between the building and pavement level. Given the package of flood mitigation measures proposed, the fact that the building is in flood zone 2 and that the threat of flood waters would be in a scenario were the recent constructed flood defences would be breached, the proposed approach to flood risk is considered to be acceptable;
- (q) Since the previous permission for this site, the legislation regarding Section 106 contributions has changed. Whilst the original application required a contribution of £520,000, if a fresh application for an entirely new scheme was submitted at this time, the contribution would be within the region of £2,700 000. However, this is not a new application for full planning permission. Furthermore when the current owner and developer acquired the site from the receiver, only the initial Section 106 contribution was accounted for, given that it related an existent permission. The developer can legitimately proceed with the formerly approved scheme without any of the beneficial amendments proposed and regardless of the outcome of a District Valuer assessment. This is not a new application and as the substantive design of the proposal has not changed, a revised Section 106 assessment of the amount of the obligations cannot be justified.

59 EXCLUSION OF THE PUBLIC

RESOLVED, under the Local Government Act 1972 s100A (4) and (5), s100I and Schedule 12A, the Committee determined to exclude the public during part of discussion of the item satisfied that because the nature of the discussion concerning the Section 106 of the Town and Country Planning Act 1990 obligation, if members of the public were present there would be disclosure of exempt information, namely information in respect of which legal professional privilege could be maintained in any legal proceedings and that there was a greater public interest in maintaining the exemption than in disclosing the information , as it would enable free, open and frank discussion and advice that might otherwise be impeded if the discussion were not confidential.

60 RE-ADMITTANCE OF THE PUBLIC

61 SITE OF FORMER HICKING PENTECOST AND COMPANY, LAND BETWEEN CROCUS STREET, SUMMER LEYS LANE, AND EUGENE STREET (CONTINUATION)

RESOLVED

- (1) to grant planning permission subject to:**
 - (a) prior completion of a Section 106 planning agreement, which shall include contributions of:**
 - (i) 389,792 towards affordable housing,**
 - (ii) £45,760 towards public open space and**
 - (iii) £84,448 towards education;**
 - (b) completion of a deed of discharge under S106A of the Town and Country Planning Act 1990 of the S106 obligation in relation to planning permission 10/010814/ PFUL3 (APP/Q3060/A/11/2143439), on completion/occupation of the development subject to planning permission 16/02688/PVAR3;**
 - (c) the indicative conditions substantially in the form of those listed in the draft decision notice at the end of the report and within the Update Sheet, to include:**
 - (i) management and maintenance arrangements for all the landscaped areas and features will be implemented at all times;**
 - (ii) the internal finished floor levels of dwellings shall be no lower than 25.40m AOD with flood resilience measures to 26.00m AOD in accordance with details to be submitted to and approved in writing by the Local Planning Authority;**
 - (d) the power to determine the final details of the conditions to be delegated to the Chief Planner, and with regard to the external details, shall be in consultation with the Chair, Vice-Chair and Opposition Spokesperson;**
- (2) that Councillors are satisfied that Regulation 122(2) Community Infrastructure Levy Regulations 2010 is complied with, in that the planning obligation sought is:**
 - (a) necessary to make the development acceptable in planning terms;**
 - (b) directly related to the development;**
 - (c) fairly and reasonably related in scale and kind to the development;**
- (3) that Councillors are satisfied that the section 106 obligation(s) sought that relate to infrastructure would not exceed the permissible number of obligations**

according to the Regulation 123 (3) Community Infrastructure Levy Regulations 2010;

- (4) to ensure clarity and consistency, that a report is submitted to Executive Board to determine the Council's approach to Section 106 negotiations and setting out the circumstances where external advice is to be taken, including from the District Valuer.**

62 2 PRIVATE ROAD

Martin Poole, Area Planning Manager, presented application 16/02151/PFUL3 by Mr Andrew Pike for planning permission to erect a single storey side extension and increase the number of child places at the day nursery from 47 to 62.

The application is brought to Committee because it has generated significant public interest that is contrary to officer recommendation.

Martin Poole, Area Planning Manager, delivered a brief presentation which included a plan of the site as it is and with the proposed extension, including parking facilities, and street views of the site from Mansfield Road and different approaches to the property entrance on Private Road.

Further information, including correspondence from objectors and a proposed revision of a condition, is included within the Update Sheet.

Objections to the application are summarised in the report and added to within the Update Sheet and primarily focus on the unwelcome additional use of the road if the application were to succeed, including increased safety and access concerns at the junction of Private Road and Mansfield Road, and the potential impact on the conservation area and fabric of the road.

Private Road is not an adopted route and therefore the City Council does not have the same powers or obligations which are applied to adopted roads. However, there are mechanisms by which residents/owners of properties on Private Road could arrange for independent restrictions, including parking and waiting.

Resident objections, including points raised in a letter from the Chairman of the Private Road Members Association, are acknowledged, however, following a thorough assessment by Planning, Highway and Road Safety Officers, the conclusion is that if successful, the application:

- (i) will not fundamentally change the character of the conservation area, even if a portion of the boundary wall were to be removed to improve access to the site;
- (ii) provides an appropriate amount of parking spaces in excess of those required by the Emerging Local Plan;
- (iii) would not have any significant impact on road safety and no adverse concerns were identified following the same assessment that is undertaken on adopted roads;

- (iv) would not result in any significant impact on the condition of the road as a result of increased traffic;

Further points included:

- (v) the City Council does not have authority to implement traffic regulation or parking orders on non-adopted roads;
- (vi) although not adopted, public access rights are likely to have already been established, furthermore reasonable access rights of owners are likely to provide a defence to any proceedings under Section 34 of the Road Traffic Act 1988;
- (vii) the owners/residents of properties on Private Road have a right of access, as do their visitors;
- (viii) the condition regarding car-park layout is proposed to be amended, as set out in the Update Sheet;
- (ix) there is enough space in the car park for refuse bins to be sited to the rear of the property so they could be collected within the property;
- (x) Highways and Road Safety Officers seek the opinion of the Fire and Rescue Services regarding any potential emergency access issues, but as this is a non-adopted road, it is suggested that residents may wish to make this approach independently. However, if necessary emergency vehicles will force a path and damage vehicles blocking their route if attending an emergency;
- (xi) the 'blind' junction arrangement where drivers cannot see traffic approaching on the other road, is now commonly used in modern developments as a preferred safety measure as it ensures that drivers slow on approaching the junction.

Members of the Committee commented:

- (a) the safety and access concerns of residents are noted, particularly with regard to people parking on Private Road pavements, but Highways and Road Safety have not identified any specific safety issues;
- (b) there is an indication that many parents who are dropping off children park across the road and walk children to the nursery, but no evidence, such as photographs, has been provided but would be helpful for the Committee's consideration;
- (c) residents' concerns are acknowledged as it is recognised that this is a narrow road with very limited passing points and few opportunities for vehicles to turn;
- (d) if the resident's group could provide key times of the busiest nursery traffic, it would be beneficial for Committee members to independently observe traffic activity around the nursery before further considering the application;
- (e) if consideration is to be deferred pending informal site visits, it would be helpful if the applicant and members of the residents' group liaised to seek a solution. A

compromise on the number of child places has already been made by the applicant so it would be helpful if both parties communicated;

- (f) it would be sensible to defer the decision until members of the Committee are able to witness traffic activity at times that objectors to the application feel are most congested.

It is noted that whilst the application property and residencies of objectors are sited within Councillor Brian Parbutt's ward of Sherwood, to avoid any conflict of interest, fellow Ward Councillor, Councillor Alex Ball, has dealt with all correspondence in this matter and Councillor Parbutt has not been involved in any correspondence with any party regarding this application.

RESOLVED to defer further consideration on the application until the February meeting of the Committee, to enable members of the Committee to independently consider the busiest traffic activity periods around the nursery.