

NOTTINGHAM CITY COUNCIL

PLANNING COMMITTEE

MINUTES of the meeting held at Loxley House on 18 June 2014 from 2.30pm to 4.43pm

Membership

Present

Councillor Chris Gibson (Chair)
Councillor Cat Arnold
Councillor Graham Chapman
Councillor Emma Dewinton (Vice Chair)
Councillor Michael Edwards
Councillor Rosemary Healy
Councillor Ginny Klein
Councillor Sally Longford
Councillor Eileen Morley
Councillor Wendy Smith
Councillor Malcolm Wood
Councillor Toby Neal

Absent

Councillor Liaqat Ali
Councillor Azad Choudhry
Councillor Alan Clark
Councillor Roger Steel

6 APOLOGIES FOR ABSENCE

Councillor Ali)	personal
Councillor Choudhry)	
Councillor Clark)	
Councillor Steel	-	other City Council business

7 DECLARATIONS OF INTERESTS

(i) Agenda item 4c: Planning application – Site of Blenheim Elderly Persons Home, Squires Avenue (minute 11)

Councillors Klein, Smith and Wood declared an interest as Trustees of the Hanley and Gellestrop Almshouse charity, which abuts the application site and, while they considered the interest to be neither personal or pecuniary, decided to leave the room prior to discussion of the item.

(ii) Agenda item 4a: Planning application – Former Blenheim Garden Allotments, Blenheim Lane (minute 13)

Councillor Chapman declared an interest due to his dealings with the applicant in connection with the proposal on behalf of the Council as landowner and, while he did not consider the interest to be personal or pecuniary, he decided to leave the room prior to discussion of the item.

8 MINUTES

The Committee confirmed the minutes of the meeting held on 21 May 2014 as a correct record and they were signed by the Chair.

9 SITE OF SOVEREIGN HOUSE, MIDLAND CAR PARK AND FORMER FACTORY

Rob Percival, Area Planning Manager, introduced a report of the Head of Development Management and Regeneration on application 14/00674/POUT submitted by NJL Consulting LLP on behalf of Peel Land and Property for demolition of existing buildings and erection of mixed use development comprising up to 27,000sq.m offices (Class B1a), up to 10,000sq.m hotel (Class C1), up to 2,000sq.m shops (Class A1), financial and professional services (Class A2), restaurants and cafes (Class A3), drinking establishments (Class A4), hot food takeaway (Class A5), up to 1,000sq.m non-residential institution (Class D1) and up to 3,500sq.m assembly and leisure (Class D2), with ancillary car parking and associated infrastructure.

Mr Percival stated that It has not proved possible to satisfy the Environment Agency concerning the outstanding concerns with the submitted Flood Risk Assessment before Committee and their objection therefore remains at this stage. However there is a reasonable expectation that it will be possible to resolve this matter and it is therefore proposed that the recommendation be revised as follows:

‘GRANT PLANNING PERMISSION subject to the following and authority to determine the final details of the conditions be delegated to the Head of Development Management and Regeneration:

- (i) the outstanding issues concerning the flood risk assessment being resolved such that the Environment Agency withdraw their objection to the application, and;
- (ii) the conditions substantially in the form listed in the draft decision notice at the end of this report and any additional conditions arising from 5 (i).’

The Committee supported the proposals as a replacement for the existing building but raised concerns about the potential height of the proposed buildings, whilst recognising that the application was for outline consent and the Environmental Statement had assessed the maximum parameters of the proposal.

The Committee requested that consideration be given to varying the height of the development and possibly ‘stepping down’ the height levels of the buildings at the station end of the site at detailed stage to soften its impact on this listed building.

It was also stated that the detailed proposals should ensure that the south part of the city is not cut off as a result of the height of the buildings in due course and that this must be an elegant, high-quality, iconic development as it will be the first thing visitors see when emerging from the train station and therefore needs to have a positive impact. It should also set a benchmark for future development in the City.

RESOLVED

- (1) that the requirements of Part 2 of Schedule 4 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 are**

satisfied by reason of the Environmental Statement submitted in support of the application, including at least the following information:

- (a) a description of the development, comprising information on the site, design and size of the development, and of the measures envisaged in order to avoid, reduce and, if possible, remedy significant adverse effects;**
 - (b) the data required to identify and assess the main effects the scheme is likely to have on the environment;**
 - (c) an outline of the main alternatives studied by the applicant and an indication of the main reasons for rejecting these, taking into account the environmental effects;**
 - (d) a non-technical summary of the information provided under (a) to (d) above;**
- (2) that the implications of the development, addressed in the Environmental Statement, subject to the mitigation measures proposed, do not amount to major adverse effects or main effects or other adverse impacts that would justify the refusal of the application;**
 - (3) that in making the decision on this application, the environmental information, being the Environmental Statement and the representations received on it, have been taken into account and that the Environmental Statement meets the minimum requirements of Part 2 of Schedule 4 to the Environmental Impact Assessment Regulations 2011 and is sufficient, having regard to Part 1 of Schedule 4 to those Regulations;**
 - (4) that Regulation 24(1) of the Environment Impact Assessment Regulations 2011 be complied with as soon as reasonably practical and the Head of Development Management and Regeneration be delegated to undertake the necessary requirements, namely to:**
 - (i) notify the decision in writing to the Secretary of State;**
 - (ii) inform the public of the decision by newspaper advertisement;**
 - (iii) to place on deposit for public inspection a statement containing the content of the decision and the conditions attached to it, the main reasons and consideration on which the decision is based and a description, where necessary, of the main measures to avoid, reduce and, if possible, offset any major adverse effects of the development, and also to contain information on the ability to, and procedures for, challenge of the decision;**
 - (5) to grant planning permission subject to the following and authority to determine the final details of the conditions be delegated to the Head of Development Management and Regeneration:**

- (i) **the outstanding issues concerning the flood risk assessment being resolved such that the Environment Agency withdraw their objection to the application;**
- (ii) **the conditions substantially in the form of those listed in the draft decision notice and any additional conditions arising from 5(i) above.**

10 SITE OF BLENHEIM ELDERLY PERSONS HOME, SQUIRES AVENUE

Prior to consideration of the item, Councillors Klein, Smith and Wood left the meeting.

Martin Poole, Area Planning Manager, introduced a report of the Head of Development Management and Regeneration on application 14/00876/PFUL3, submitted by Pelham Architects on behalf of Nottingham Community Housing Association, for erection of 24 new dwellings and associated works.

Mr Poole stated that:

- (1) a signed Memorandum of Understanding in respect of Employment and Training had been received. Whilst a financial contribution for off-site open space and for education would normally be required through a S106 Agreement, the applicant had submitted a viability statement to demonstrate that the scheme would not be viable if these contributions were required. This statement had been assessed and accepted. It was also noted that the scheme incorporates significant areas of open space within the site, particularly around the protected trees;
- (2) updated drawings had been received to show the revised layout;
- (3) the Highways Section of the City Council raised no objection to the amended plans, subject to minor amendments to the wording of the conditions and an additional condition (as below) to ensure that adequate parking is available for the existing properties to comply with Policy T3 of the Nottingham Local Plan, and to require the parking for Blenheim Cottages to be provided prior to first occupation of any of the new dwellings:

‘The five parking spaces to the front of 1, 2 and 3 Blenheim Cottages shall be constructed, laid out and available for use prior to the first occupation of any dwelling hereby permitted.’

- (4) a further 4 letters of objection had been received, along with a petition of 40 signatures, commenting on amended drawings. The comments, raising the following issues had already been addressed in the report:
 - request public meeting;
 - remain concerned regarding loss of privacy and potential for noise/anti-social behaviour;
 - the development is not right for the area;
 - loss of trees;
 - impact on biodiversity;

- devaluation of property;
- anti-social behaviour;
- expects financial compensation for emotional distress and any damage caused (by future occupiers of new development) to property etc;
- general objection.

The Committee raised concerns about the windows for the top floor of the 3 storey buildings both in relation to the size and amount of light they allowed in and the view from them, and also regarding the boundary treatments throughout the development with a preference expressed for the installation of gates. In response Martin Poole confirmed that these matters of detail could be resolved through conditions.

RESOLVED to

- (1) grant planning permission subject to the conditions substantially in the form of those listed in the draft decision notice subject to amendments to require submission of details of fenestration to the three storey elements of the development to address the Committee's concerns regarding light and views out;**
- (2) delegate authority to determine the final details of the conditions to the Head of Development Management and Regeneration.**

11 SITE OF FORMER GREY MARE PUBLIC HOUSE, FARNBOROUGH ROAD

Prior to consideration of the item, Councillors Klein, Smith and Wood re-joined the meeting.

Rob Percival, Area Planning Manager, introduced a report of the Head of Development Management and Regeneration on application 14/00828/PFUL3, submitted by RD Architects on behalf of Dimplex Developments Limited, for erection of a 75 bed residential care home, largely 3-storeys, with the building dropping to single storey in scale on the Farnborough Road elevation and vehicular access/egress off Widecombe Lane to a 19-space car park.

The Committee stated that it welcomed the proposed development as it was something the area needed in general and this site, in particular, has been derelict for many years.

RESOLVED to

- (1) grant planning permission subject to the conditions substantially in the form of those listed in the draft decision notice;**
- (2) delegate authority to determine the final details of the conditions to the Head of Development Management and Regeneration.**

12 FORMER BLENHEIM GARDEN ALLOTMENTS, BLENHEIM LANE

Prior to consideration of the item, Councillors Chapman and Neal left the meeting.

Martin Poole, Area Planning Manager, introduced a report of the Head of Development Management and Regeneration on application 13/03051/PMFUL3, submitted by Amberley Consulting Limited on behalf of Chinook Sciences Limited, for an Energy from Waste facility (160,000 tonnes of waste per annum capacity), manufacturing, research and development facility and associated offices

Mr Poole stated the following:

- (1) the Waste Management Plan for England was published by DEFRA in December 2013. This plan reinforces PPS10, alongside the NPPF, as the current government policy on waste planning;
- (2) a further letter had been received from Nottinghamshire Wildlife Trust in response to the re-consultation exercise. The Trust's principal concern related to the impact of Nitrogen Oxide, Ammonia and Nitrogen on sensitive habitats in proximity to the development site. It was concerned that the Environmental Statement had not properly considered the potential impacts of these emissions on sensitive habitats in Local Wildlife Sites in proximity to the proposed site, particularly Bulwell Hall Park and Meadows, but also calcareous grasslands such as the Hucknall Airfield Local Wildlife Site. The Trust therefore objected to the scheme on the basis of inadequate emissions information. Their concerns in summary were as follows:
 - (i) the modelling was based on broad-brush models produced by DEFRA and not based on actual emission measurements locally, either to the proposed site or the sensitive habitat receptors;
 - (ii) it considered that the Air Quality Assessment was unclear in how the emissions from the proposed stacks and from increased traffic movements that would be associated with the operation of such a facility had been calculated and was concerned that these can have additive effects for the emission of Nitrogen Oxide;
 - (iii) it was particularly concerned by the impacts of Nitrogen Oxide and Nitrogen on vulnerable and scarce calcareous grassland habitats on a number of Local Wildlife Sites in the vicinity and considered it essential that there would be no increased risk to the degradation of these habitats as a result of the development;
 - (iv) it stated that the Air Quality Assessment showed that the predicted increments to annual average concentrations of the oxides of Nitrogen (NOx) exceed the Environment Agency's test for insignificance of 1% at Bulwell Hall Park and Meadows. This effect appears to have been discounted later in the Air Quality Report. It noted an argument that any increase in NOx could be significant on habitats already stressed by long term, constant exposure to these emissions which gave it concern;
 - (v) it noted that there appeared to be no emissions of Ammonia to the air test, which is of surprise to it as this has been undertaken for similar developments. It stated that Ammonia is particularly damaging to plants and can affect sensitive habitats through acidification;

- (vi) it stated that the Air Quality Assessment showed that annual average concentrations of Sulphur Dioxide (SO₂) are also more than the Environment Agency's test for insignificance of 1% for Bulwell Hall Park. SO₂ can also damage habitats through exacerbating acidification effects;
- (vii) the Air Quality Report showed that deposition of Nitrogen would increase at some of the sensitive sites locally and, given the Trust's concerns about the accuracy of the modelling, it would hope to see further examination of this potential impact;

In response Mr Poole confirmed that the Council's ecologist had been guided by Natural England on the impact of the development on local nature conservation interests. They considered the details of the Environmental Statement in respect to air emissions and their impact on SSSI sites in close proximity to the development and were satisfied that, subject to being carried out in strict accordance with the details of the application, the development would not damage or destroy the interest features for which the SSSI sites has been notified;

- (3) two further letters of objection had been received, from residents of Hucknall and of Woodlink, raising the following concerns:

- do not think that enough consideration has been given to the environmental and health impact of the proposals on the residents of Bulwell and Hucknall;
- the impact on air quality as a human right;
- the development is now bigger and with a higher chimney;
- the visual impact of the chimney, which will be seen from miles around;
- Bulwell being treated as a dumping ground and its residents as second class citizens;

In response Mr Poole confirmed that the planning issues raised are addressed in the main report;

- (4) a letter had been received from Ashfield District Council stating that they have no objections to the planning application. Mr Poole confirmed that its comments had been noted;
- (5) A further email had been received from Nottingham Friends of the Earth (NFoE) raising the following:
 - (i) requesting that the R1 status condition should be extended to cover the plant when operational. They highlighted the Environment Agency advice that 'The [R1] determination is a multi-stage process, the first stage being to determine whether or not the design is likely achieve R1. Subsequent stages of testing and verification would be completed once the plant was operational.' Therefore, if the facility fails to maintain R1 status in operation it will be a disposal plant;

- (ii) highlighting that as stated in the NFoE objection letter, DEFRA advises in its Energy from Waste Guide (p68) that gasification's 'advanced use with a mixed waste feedstock has not been proven on a commercial scale'. It should not therefore be assumed that actual performance will match design performance;
- (iii) stating that while a demonstration unit of 30,000tpa, as approved in 2013, might not be too embarrassing if it failed to achieve R1 status in operation, a 160,000tpa facility which failed to export significant amounts of electricity and heat would raise questions about the City's Energy Policy;

In response Mr Poole confirmed that condition 19 of the draft decision notice is intended to ensure that the details submitted to the Environment Agency are consistent with the details submitted for planning permission. It is considered that it would be unreasonably restrictive to extend this to an ongoing planning requirement in view of the control exercised through the Environment Agency's Permitting regime;

- (6) following further discussions with the applicant and having regard to the reason for condition 31 of the draft decision notice, and the relationship between the storage of hazardous substances and the manufacturing/office elements, it is recommended that the wording of conditions 30 and 31 be changed to read as follows:

Condition 30

'The approved buildings shall not be used other than for their intended purpose and proposed floorspace for the manufacturing, research and development, offices and the Energy from Waste facility element of the development, as shown on approved drawing SE_12_A01 Rev G.';

Reason: To maintain the employment and regeneration benefits of the site to comply with Policy E2 and E3 of the Nottingham Local Plan (2005);

Condition 31

'The Energy from Waste facility shall not be brought into operation and no waste for processing shall be brought onto the site until such time as either:

- (i) A hazardous substances consent for the storage of gas in the accumulators has been issued, and it has been demonstrated to the written satisfaction of the Local Planning Authority that any consultation zones defined by the Health and Safety Executive (HSE) around the gas accumulators would not result in the HSE advising against development substantially of the form envisaged by the planning application, whether or not erected pursuant to this planning permission, within the area of the proposed manufacturing, research and development and office buildings; or
- (ii) The manufacturing, research and development and office buildings have been constructed and made available for use;

Reason: In order to facilitate the regeneration of the site and to ensure that the operation of the Energy from Waste plant does not prejudice the availability of other land within the site for employment purposes in accordance with Policy E2 and E3 of the Nottingham Local Plan (2005).

In response to questions from members of the Committee, Mr Poole provided clarification as to the interrelationship between the various elements of the proposal in the context of its allocation as an employment site in the Local Plan, the role of the planning regime in the delivery of jobs and the interrelationship between the planning regime and the Environment Agency's Permitting regime. In relation to the latter Richard Taylor, Environmental Health Officer, also provided information as to the extent to which the Council had responsibility for pollution control, being in relation to human health rather than flora and fauna which was the remit of the Environment Agency. Laura Cleal, Highways Officer, also confirmed that neither the Council nor the County Council, who were responsible for roads in the vicinity of the site, including Nuthall Island, had any objection to the development as the traffic predicted to be generated by the development could be accommodated on the existing network. It was noted that the impact of rush hour traffic would be a matter of logistics for the developer.

In response to questions from the Committee regarding the accuracy of the conclusions of the Air Quality Assessment, Mr Poole confirmed that the information provided in support of the application by the applicant had been carefully analysed and assessed against policy and also that it had been provided to statutory consultees for their review and comment as appropriate. As a consequence of this exercise, and taking account of the mitigation proposals set out in the submitted Environmental Statement, including the requirement for the development to secure a permit from the Environment Agency to operate, which would include assessment of the impacts of the proposal on flora and fauna, the officers were comfortable recommending approval of the application.

Despite these assurances, the Committee remained concerned that the Air Quality Assessment identified two sites, where an adverse impact was predicted despite its overall conclusion, and wished to ensure that the impact of the development on these specific sites would be tested before development took place. Mr Poole confirmed that this could be achieved by condition.

RESOLVED

- (1) that the requirements of Part 2 of Schedule 4 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 are satisfied by reason of the Environmental Statement submitted in support of the application, including at least the following information:**
 - (a) a description of the development, comprising information on the site, design and size of the development, and of the measures envisaged in order to avoid, reduce and, if possible, remedy significant adverse effects;**

- (b) the data required to identify and assess the main effects the scheme is likely to have on the environment;**
 - (c) an outline of the main alternatives studied by the applicant and an indication of the main reasons for rejecting these, taking into account the environmental effects;**
 - (d) a non-technical summary of the information provided under (a) to (d) above;**
- (2) that the implications of the development, addressed in the Environmental Statement, subject to the mitigation measures proposed, do not amount to major adverse effects or main effects or other adverse impacts that would justify the refusal of the application;**
- (3) that in making the decision on this application, the environmental information, being the Environmental Statement and the representations received on it, have been taken into account and that the Environmental Statement meets the minimum requirements of Part 2 of Schedule 4 to the Environmental Impact Assessment Regulations 2011 and is sufficient, having regard to Part 1 of Schedule 4 to those Regulations;**
- (4) that Regulation 24(1) of the Environment Impact Assessment Regulations 2011 be complied with as soon as reasonably practical and the Head of Development Management and Regeneration be delegated to undertake the necessary requirements, namely to:**
 - (i) notify the decision in writing to the Secretary of State;**
 - (ii) inform the public of the decision by newspaper advertisement;**
 - (iii) to place on deposit for public inspection a statement containing the content of the decision and the conditions attached to it, the main reasons and consideration on which the decision is based and a description, where necessary, of the main measures to avoid, reduce and, if possible, offset any major adverse effects of the development, and also to contain information on the ability to, and procedures for, challenge of the decision;**
- (5) subject to the imposition of an additional condition to secure the testing of the impact of the proposed development on the two sites identified in the current Air Quality Assessment as likely to suffer an adverse impact and to ensure that any such impact will be adequately mitigated before development takes place , to grant planning permission and authority to determine the final details of the conditions be delegated to the Head of Development Management and Regeneration.**

13 VICE-CHAIR

At the conclusion of the Committee's formal business, Councillor Dewinton, with the agreement of the Chair of the Committee, made a short statement in respect of her

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having resigned the Majority Group whip and her future intention to continue to assist residents with their concerns about planning issues , albeit that this may not be as a member of the Committee. She also thanked the Chair and other committee members and officers for their support and attention to her as a member of the Committee.