

MINUTES OF AN EXTRAORDINARY MEETING OF THE DEVELOPMENT CONTROL COMMITTEE HELD AT ABINGTON ACADEMY, WIGSTON, ON THURSDAY 10 APRIL 2014, COMMENCING AT 7.00 P.M.

IN ATTENDANCE:

Councillor L A Bentley – Chair
Councillor Mrs L M Broadley – Vice Chair

Councillors: F S Broadley, M H Charlesworth, Mrs S Dickinson (sub) R Eaton, D A Gamble (sub) Mrs J M Gore, Mrs R Kanabar, J Kaufman, Mrs L Kaufman, Mrs H E Loydall, R E R Morris, Mrs S B Morris, R Thakor (sub)

Officers in Attendance: K Garcha, C Forrett, A Court, A Thorpe, G Richardson and A Wright

Others: Marc Watterson (IBI Taylor Young, Planning Consultant)

Min Ref	Narrative	Officer Resp
67.	<p><u>APOLOGIES FOR ABSENCE</u></p> <p>Councillors G A Boulter, D M Carter, B Dave and Mrs S Z Haq</p>	
68.	<p><u>DECLARATIONS OF SUBSTITUTIONS FOR COMMITTEE MEMBERS</u></p> <p>Councillor R Thakor attended as a substitute on behalf of Councillor B Dave</p> <p>Councillor S Dickinson attended as a substitute on behalf of Councillor G A Boulter</p> <p>Councillor D A Gamble attended as a substitute on behalf of Councillor Mrs S Z Haq</p>	
69.	<p><u>DECLARATIONS OF INTEREST</u></p> <p>Councillors Mrs S B Morris and R E R Morris both respectively noted that they lived on the Harcourt Estate. They confirmed that they did not live in an area which was consulted on this application and that although they had been approached by residents concerning the application that was to be considered before the Committee at this meeting, they had answered questions on process only. They concluded that they therefore attended the meeting with an open mind.</p>	

	<p>Councillor J M Gore noted that she lived on Newton Lane, but that she had not expressed an opinion on the application and that she attended the meeting with an open mind.</p> <p>Councillor M H Charlesworth noted that he had previously indicated that he was opposed to this application, but that this had been before the applicant had provided any of the information that was presented before the Committee at the meeting. He therefore noted that he would approach the application with an open mind.</p> <p>Councillor R Kanabar noted that although she did know some of the members of the public present in the room, she approached the meeting with an open mind.</p>	
70.	<p><u>REPORT OF THE DEVELOPMENT CONTROL MANAGER</u></p> <p>1. 13/00403/OUT – Mixed use development for up to 450 dwellings & 2.5 hectares of employment land (B1/B2) along with new formal recreation space with changing facilities, allotments, landscaping & storm water balancing & associated infrastructure (Rev A-C) (Land South of Newton Land & East of Welford Road, Wigston, Leicestershire)</p> <p>Richard Edwards, a representative of David Wilson Homes, spoke on behalf of the applicant.</p> <p>He outlined the proposal for the development and reminded Members that they had two main considerations. The first of these was whether the proposed development complied with the Council's adopted development plan and Mr Edwards explained how the proposal accorded with the same. In addition, the National Planning Policy Framework states that where proposed development is in accordance with the Council's adopted development plan, it should be approved.</p> <p>The second consideration was whether there were any other material considerations which meant that the application should be refused. He explained that the applicant had worked with statutory bodies to resolve any outstanding issues and those bodies were now satisfied that the developer had sufficiently mitigated and issues. He accepted that there was one remaining objection from the Police, who had requested a capital contribution to purchase new equipment; however, he contended that this request did not satisfy the CIL requirements and was therefore not lawful.</p> <p>Mr Edwards addressed comments made by members of the public who objected to the proposal and felt that these comments could be placed into two categories; the principle of development</p>	

and technical issues. He noted that he had already addressed these issues in his earlier comments, in that the principle for development in this area had been established and that material concerns had been mitigated sufficiently in the opinion of the professional bodies.

He confirmed that a Section 106 agreement would be required and that this would include provisions for affordable housing and various other contributions.

Mr Edwards concluded that this was sustainable development in accordance with the Council's adopted development plan and that the Committee should therefore follow Officer recommendations and approve the proposal.

John Nelson spoke as an objector, representing the Meadowcourt Action Group. He felt that Councillors should represent the residents in refusing this matter and added that the residents felt that the Council had hidden information within complex and difficult to access documents.

He felt that the Council was giving the green light to this proposal with nothing more than a casual interest and questioned the need for so many dwellings. He stated that the location was unsuitable, with unsuitable access and added that insurers were now refusing to reinsure properties on standard terms owing to the increased risk of flooding that would be posed to existing dwellings by the proposed development.

He argued that the existing roads would be unable to cope with the increased demand as they already struggled to cope with current traffic flows. He expressed disappointment that the water companies had not objected to the proposal and that the proposal did not include provisions for a new bus route or community centre. He also felt that the schools would be unable to cope with the increased demand for places.

Mr Nelson urged Members to take more time to consider this application by deferring it to ensure that Wigston was a desirable place to live in the future.

Councillor M Chamberlain spoke as an objector on behalf of residents. She stated that the proposed development of 450 new homes would adversely affect residents on neighbouring estates. She felt that the development would generate too much additional traffic and that the existing infrastructure could not cope with it. She reminded Members that they had previously refused a request by a resident for access from his property onto Newton Lane owing to safety concerns, so it would not be appropriate for them to allow this development with the only

access being via Newton Lane.

She further noted that the development was anticipated to house well over 200 children, which would have an adverse affect on the learning environment afforded to all children attending the local primary schools.

She went on to discuss issues with flooding and drainage, noting that most of the homes which back onto the proposed development site regularly flood. She felt that the proposal would only serve to worsen this problem and did not agree with the comments made by the water authority. Councillor M Chamberlain urged Members to listen to residents and refuse the application.

Marc Watterson presented the Officers report. He set out that this was an outline application for permission with all matters reserved apart from the access and set out the proposal.

He drew Members attention to the fact that there were two key planning principles to consider; firstly whether the proposal accords with the Council's adopted plan and secondly whether there is any other material consideration for the Council not to permit the application.

When considering the first of these issues, Mr Watterson noted that the Council's core strategy was adopted in September 2010. It was reviewed in line with the National Planning Policy Framework (NPPF) and was found to be compliant save for a few minor points, which included a restriction on bringing forward the Direction for Growth no earlier than 2017. He confirmed that the Council's Development Plan was therefore considered to be fully up to date and that this application should be considered in accordance with the Council's policies unless there are overriding material considerations.

He added that a key principle of the Council's Core Strategy was the principle of a single release of Greenfield land and that this approach was more sustainable after town centre locations and other brownfield sites. He added that the development would also support Wigston's position as the main town centre in the Borough.

He concluded that the principle of the development of the application site was therefore well established in adopted and up to date policy, and the bringing forward of this site at this stage in the planning process complied with the NPPF, and should be approved unless there was some other material consideration.

Mr Watterson then addressed the second matter, whether there

were any material considerations, and noted that the speakers concerns centred mainly around three things; highways, ecology and flooding.

In relation to highways, he noted that the applicant had worked with the Highways Authority in order to overcome their initial objections and that this had been achieved as set out in the Agenda Update. The Highways Authority was now satisfied that the proposed measures would adequately mitigate any issues. Mr Watterson noted that there would be phased improvements to several main junctions linked with stages of the development and he proceeded to set out these improvements and explain by what stage in the development they would be carried out.

Moving on to consider ecological issues, Mr Watterson noted that an ecology report and a Great Crested Newt report had been carried out and submitted with the planning application. He confirmed that the Great Crested Newt report found that there were no Great Crested Newts at the development site and that the site was of below average suitability for the species. He added that there may be Great Crested Newts beyond the boundary of the development site but that there was a condition to ensure that up to date surveys were carried out throughout the reserved matters application stage.

He noted that there was no presence of badgers at the site although it was accepted that badgers were present in the wider area, so a condition was included so as to ensure that the site was re-surveyed for badgers prior to the commencement of development.

He added that there was also no evidence of nesting birds at time of the survey, although trees, scrub and hedgerows provided potential habitat. A condition was included to protect potential habitats from being removed without specific approval and the Design Guide also required tree and hedgerow retention information which would inform the reserved matters application.

Mr Watterson further added that there was no evidence of bats at the site although much of the habitat could be considered as suitable. Any loss of such features would be mitigated through additional planting which would be specified through the reserved matters stage. The requirement for a biodiversity management plan under condition would also address these matters.

Finally moving to consider flooding, Mr Watterson noted that the site was within the lowest risk category. In any event, the principle for managing surface water run-off was to ensure adequate drainage which directed all water to specific areas designed for attenuation, before being discharged into local

watercourses at Greenfield run-off rates. Further information on this would be required at the design stage and the Environment Agency considered this to be acceptable in principle.

Severn Trent Water provided a capacity report which confirmed that the development would have a low impact on existing infrastructure and that there was sufficient capacity within the system to accommodate the proposed development. Further conditions required detailed information to be provided at the detailed application stage.

On this basis, Mr Watterson concluded that highways, ecology and flooding / drainage issues were not material considerations which would indicate that the application should be refused.

He noted that although the report addressed some of the other material considerations, many of the points raised would be more appropriately dealt with at the detailed application stage. In particular, he noted that the report recommended a condition that requires a Design Guide which would form the basis of the detailed design for the whole site. He also clarified that there would be no vehicular access from Foston Gate or Cooks Lane.

He therefore did not consider that there were any material considerations to indicate that the application should be determined contrary to the adopted and up to date Development Plan. He was satisfied that the conditions and the proposed Section 106 agreement would successfully mitigate any impacts.

He explained the purpose of the Section 106 agreement and outlined what this was proposed to deal with, including affordable housing provisions, public transport and travel packs, community and youth facility, library services, the provision of open space, and education contributions of £1million for local schools to accommodate demand.

He noted that there had also been a request from the Police for two streams of money. The first was a usual request for financial support for policing needs generated by the development. He asked the Committee to consider that, but that his recommendation was to refuse this request on the basis that it was not sufficiently justified or based on actual policing needs generated by the development. This had been the Council's approach in other applications and he felt that this consistency should be maintained, unless the Police could respond with robust and defensible information to convince Officers. He suggested that if negotiations produced an agreed Section 106 contribution, the recommendation was that the agreed final financial value is delegated to Officers in agreement with the Chair.

He went on to discuss the second request, which was substantial and related to an uplift in signal strength. He added that Officers were still seeking financial justification for this and recommended that this part of the request was delegated to Officers in agreement with the Chair, to continue to negotiate and finalise.

Mr Watterson therefore recommended that Members approved the application subject to the completion of a suitable Section 106 agreement.

The Chair clarified that this was an outline application with all matters reserved except for the access to the site. He reminded Members that they could discuss the reserved matters but not base a decision on them.

Members asked about the proposed Section 106 agreement and asked whether there was any indication as to how the requested education contribution would be distributed and whether there had been any request for a contribution by the local health bodies. Mr Watterson responded that the education contribution would be directed to existing schools, on the basis of necessity. He further responded that the local health bodies had been consulted and given ample opportunity to respond, but had not done so.

Some Members were disappointed that the Highways Authority had rescinded their objections to the proposed development on the basis of what they believed to be cosmetic changes to the proposal. They felt that congestion was already an issue and that a number of key junctions, particularly the junction of Newton Lane, Bull Head Street and Moat Street, would be unable to cope with the increased use generated by the proposed development.

Members referred to an application for the proposed development of 150 new homes at a site in Oadby, which had been considered at a previous Committee meeting, that had been refused on the grounds that it did not accord with the Council's adopted development plan. This decision was currently being appealed and a Member asked whether the outcome of that appeal would have a bearing on the present application and the Council's adopted Development Plan. Mr Watterson confirmed that it would not.

Some Members noted their disappointment that the application before them had all matters reserved for approval at a later date, as it meant that they did not have all of the information as to what was being proposed by the developer.

A Member went on to discuss several other concerns with the

application. It was noted that there was no information as to where the trial trenching would take place or when this would happen, suggesting that the site might be of some heritage value. Mr Watterson confirmed that conditions would govern this process and ensure that it was agreed with the County Council archaeologist. He was confident that the developer was equipped to deal with any archaeological finds at the site.

The Member went on to raise questions as to the request for education contribution. It was felt that the proposed development would generate a significant need for school places and felt that this point should be considered in detail rather than being dealt with at a later stage. Mr Watterson reiterated that the County Council had made a significant request for a financial contribution and that this had been calculated using a standard, well established and accepted formula.

Mr Watterson also reminded Members that the application was in outline form and that many of the matters covered in the report would be considered in more detail at a later stage prior to the commencement of the development.

The Member continued with the objections to the application, disagreeing with the expert report which had deemed the land to be of little biodiversity value and argued that some of the ecological information needed to be more up to date. It was noted that part of the site did host local wildlife and that although there was a condition which dealt with the retention of this it did not deal with the expert management of that part of the site. Mr Watterson explained that all necessary information was up to date and that such reports had been conducted in the usual manner and at the appropriate time for a proposed development of this type.

The Member went on to question the Police's request for such a significant financial contribution and asked why the Police had not considered approaching mobile network providers to assist with airwave coverage. She also raised concerns in terms of forestry and suggested an urgent need for Tree Protection Orders to protect trees at the site.

In terms of the Police's request for a financial contribution to improve network coverage, Mr Watterson reminded Members of his earlier comments in that Officers were still negotiating with them to achieve an agreed outcome. Moving to address the forestry concerns, he explained that there was a scheme for retention and protection of existing trees as appropriate.

The Chair again noted that this was an outline application and that many of the matters being stated in objection to it would

have to be addressed by way of further application.

The Member continued that it was felt that the report by Severn Trent Water, which stated that the existing drainage system could support the proposed development, was incorrect as they were certain that it could not. The Chair again reiterated that this would need to be considered as part of a later application.

The Member went on to discuss affordable housing and suggested that some of the affordable housing should be comprised of bungalows. Mr Watterson noted that this matter would be the subject of future negotiations and that this suggestion would be taken into account.

She moved on to discuss the proposed speed calming measures and suggested that residents objected to the same. Further concerns were raised as to highways issues and the need for better improvements despite what the Highways Authority report had stated. Mr Watterson noted that the proposed measures were well established tools for managing traffic and safety and for reducing speed.

The Chair once again reiterated that these matters would be dealt with at a later stage and that the application was before Members was for outline permission only.

The Member requested that the developer transferred to the ownership of the Council an ancient flower meadow which fell within the application site. She concluded by moving to refuse the application on the basis of insufficient information to allow Members to make an informed decision, as well as safety concerns as to traffic and highways considerations.

Mr Watterson reminded Members that the statutory bodies had accepted the principle of the development and acknowledged that the developer had sufficiently mitigated any outstanding concerns, therefore he felt that refusal on one of these grounds would not be robust enough to be defensible at appeal. He added that if there had been insufficient information to make a decision on this application then Officers would not have presented it before Members.

Several other Members were concerned with flooding and the comments made by an objector suggesting that insurers were refusing to renew insurance on the basis of an increased risk of flooding. Mr Watterson reminded Members that the site was not located within a floodplain and had the lowest risk of flooding.

Several Members also reiterated concerns in relation to highways and felt that the proposed improvements to existing

roads were insufficient and that the main junction with Newton Lane, Bull Head Street and Moat Street would be unable to cope with the increased traffic generated by the proposed development, despite those proposed improvements. They also expressed their confusion that the Highways Authority had not objected to this large scale development despite it only have one means of access and egress from the entire site, which would be directly onto Newton Lane, a road that was already considered to be unsafe, particularly owing to the speed at which vehicles travel along it.

Mr Watterson advised that several reports had monitored the traffic levels and traffic flows on the surrounding roads and, using this data, numerous options for improving the roadways had been considered; however, the Highways Authority were now satisfied that the improvements and measures proposed by the developer sufficiently mitigated any outstanding issues. He pointed out that the speed limit on Newton Lane would be reduced from 60mph to 40mph and that the traffic control and speed calming measures and the infrastructure improvements would help to allay safety concerns.

Mr Watterson further advised that there were a series of proposed conditions set out in the report which were intended to control the information that the developer would be required to submit to the Council through the detailed application stage. Members would therefore have the opportunity to address several of the concerns that they still had with the proposal during a later application.

Several Members contended earlier comments and felt that although this was an emotive subject, it had to be considered in terms of planning merit. They noted the position in Oadby, whereby a single release for development had not been agreed and instead developments had been carried out in a piecemeal fashion. They felt that this proposal was the best and most sustainable way forward for Wigston to satisfy the Council's obligation to build new homes as stipulated by central Government. It was felt that although residents accepted the need for new housing in principle, they simply objected to it being carried out at locations adjacent to their properties.

Those Members felt that this application was in line with the Council's adopted development strategy, which had been out to a number of consultations giving all residents the opportunity to provide feedback. The principle of development in this area had been established by the adopted development plan which had been implemented and had survived several challenges. They felt that to go against this now would place the Council in a difficult position.

Several Members acknowledged the complaints of the residents in relation to the material considerations, particularly highways in which they felt the proposed improvements and mitigating measures would not be ideal; but in any event the professional bodies had accepted these as sufficient and left the Council with no grounds for refusing the application before them. A motion to Permit was moved and seconded on this basis.

The Chair outlined the appeal process and explained that if the application was refused by Members, the applicant would no doubt appeal that decision. At appeal, the Inspectorate would have the authority to overrule the refusal, as well as removing or watering down any conditions as they saw fit. His concern was therefore that the control of the development would be lost if Members did not permit the application at this meeting. Mr Watterson also reiterated that if Members refused the application on the basis of a material consideration, for example highways, of which no objection had been raised by the statutory body, then the applicant would have an absolute right of appeal and it was his professional opinion that they would win any such appeal.

A question was asked about installing pedestrian crossings on Newton Lane and Mr Watterson responded that this could be considered at the reserved matters stage if Members were minded to permit the application.

Mr Watterson confirmed that the phased improvements to the junctions in the area surrounding the development had been staggered according to necessity and would therefore be carried out at fixed stages of the development but including prior to the occupation of the first dwelling.

A question was asked as to whether an increased risk of flooding would be a sufficient reason for refusing the application, as it was understood that an increased risk of flooding was a potential reason for refusing the application.

Mr Watterson reminded Members that the statutory bodies were satisfied by the supporting evidence which showed that the site was at the lowest risk category for flooding. He therefore felt that, although flooding was a material consideration, it was not a suitable or robust enough reason to refuse the present application. The Chair also reminded Members that this was an outline application only and that a detailed flood risk assessment would be considered at the reserved matters stage.

Some Members were concerned that other Members were attempting to formulate a reason for refusal that was not sufficiently justified. Mr Watterson advised that Members should

	<p>not, in his professional opinion, refuse the application unless they were confident that they had a sufficiently robust reason for doing so which would be defensible at appeal.</p> <p>The motion for refusal as moved by Councillor J M Gore and seconded by Councillor R F Eaton was voted on by Members and was defeated by majority.</p> <p>Members then voted on the motion to Permit as moved by Councillor D A Gamble and seconded by Councillor J Kaufman.</p> <p>RESOLVED: That, for the reasons set out in the report and the agenda update, to Permit the application subject to the conditions contained within the report and the agenda update.</p>	
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The Meeting Closed at 9.25 p.m.