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Minutes of a Meeting of the Planning and Environmental Protection Committee
held at the Town Hall, Peterborough on 10 January 2012

Members Present:

Councillors – North (Chairman), Serluca (Vice Chairman), Casey, Hiller, Simons, Stokes, Todd, Harrington and Ash

Officers Present:

Nick Harding, Group Manager, Development Management
Julie Smith, Highway Control Manager
Carrie Denness, Principal Solicitor
Gemma George, Senior Governance Officer

1. Apologies for Absence

Apologies for absence were received from Councillors Lane and Martin.

Councillor Ash was in attendance as a substitute.

2. Declarations of Interest

5.1 Councillor Harrington declared that he had a personal prejudicial interest in the item.

3. Members' Declaration of intention to make representation as Ward Councillor

Councillor Harrington declared that he would be making representation as Ward Councillor on item 5.1, Land to the North of the Village Hall, Guntons Road, Newborough, Peterborough.

4. Minutes of the Meetings held on:

4.1 22 November 2011

4.2 6 December 2011

The minutes of the meetings were approved as true and accurate records subject to the following amendment:

The minutes from 6 December 2011, page 20 should read:

RESOLVED: (6 for, 3 against) to refuse the application, as per officer recommendation.

5. Development Control and Enforcement Matters

Councillor Harrington left the meeting.

5.1 11/00885/FUL – Development of 18 dwellings, associated access and parking at land to the north of the Village Hall, Guntons Road, Newborough, Peterborough

The proposal was to construct 18 dwellings, made up of 6 x 4-bed houses, 2 x 3-bed houses, 9 x 2-bed houses and 1 x 2-bed bungalow. The houses would be varying two and two and a half storey, and a mix of detached, semi-detached and terraced. The access road would be directly off Gunton's Road and would run to the south of the existing development on Harris Close. The access into Harris Close would be closed and a connection put in from the new access road. Because of the need to secure this closure of the access, a change to the 'red line' of the application had been made and a further period of neighbour consultation undertaken.

The proposal was a redesign of an original 13 unit scheme and it was noted that the scheme had commenced, the permission had been implemented and as such could not expire. Plots 4-8 and Plot 11 were unchanged from the previously approved scheme. It was also noted that the closure of Harris Close was an integral part of the previously approved development and also of the Harris Close development.

The item had been considered by Members of the Planning and Environmental Protection Committee on 8 November and 6 December 2011. Members had resolved to defer the item at the 8 November Committee in order to consider the financial appraisal submitted to the Local Planning Authority by the Developer. It had also been suggested by Members that discussions should take place between the Parish Council and the Developer regarding giving up some of the garden from Plots 9-11 for use by the Parish Hall. This, it was considered, could be a compromise that could be agreed if it was confirmed that no Section 106 could be reasonably secured. However, no such discussion had been entered into. The matter had been deferred again at the 6 December 2011 meeting. This was as a result of Members careful consideration of the financial appraisal. Members considered that the Developer was in a financial position to make a contribution towards the application site and therefore once again deferred the item to allow Planning Officers the opportunity to discuss this further with the Developer directly.

A meeting had been held between the Head of Planning, Transport and Engineering and the Developer's Agent. At the meeting the Agent had agreed to make a contribution of £15k towards the provision of new or improved community facilities (to be defined in agreement with the Parish Council) within the village. It was proposed that the sum would be payable on first occupation of the 15th dwelling and that any money unspent after 36 months should be returned. The contribution was to be made by the Applicant on the basis of a goodwill gesture to the community, as the submitted financial appraisal had made it clear that the site was not profitable to develop.

The Planning Officer addressed the Committee and gave an overview of the proposal. The recommendation was one of approval.

Councillor David Harrington, Ward Councillor, addressed the Committee and responded to questions from Members. In summary the concerns highlighted to the Committee included:

- Fundamentally, nothing had changed since the application had originally come before the Committee;
- The proposals did not address the Policies set out in the Core Strategy, nor did it address those guidelines set out in National Planning Policy;
- The Applicant's financial statement, that had been previously presented, had not left the Committee convinced of the proposals viability;
- As Ward Councillor, Councillor Harrington was not completely satisfied with the current offer of £15k;
- The decisions previously made with regards to the S106 contributions were questionable and not in line with Policy. Going forward, decisions of this nature would not be good for the city as a whole;

- It was unfortunate that the Applicant had not contacted the Parish Council to discuss issues further;
- Going forward, if S106 contributions were not be provided then development, especially rural development, would become unsustainable;
- If the potential £90k had been received, it would have gone a long way towards much needed infrastructure and the sustainability of local schools;
- The £15k contribution would go to the Parish Council.

Mr Sam Metson, the Agent, addressed the Committee and responded to questions from Members. In summary the issues highlighted to the Committee included:

- It was hoped that the Committee would be happy with the S106 proposals put forward;
- Following discussions, it had been agreed that a contribution of up to £15k would be provided to fund a specific infrastructure (or infrastructures) requirement in the village. This was to be identified by the City Council and agreed with the Applicant;
- The provision of the contribution would send the scheme further into the red, however the Applicant was committed to developing the site;
- The viability assessment that had been submitted was robust;
- It was disappointing that the Ward Councillor had still raised concerns at the proposals;
- It was not the responsibility of the Applicant to make up any existing infrastructure deficit in the village of Newborough;
- Permission had been given previously for 13 dwellings on the site and development had commenced, but had since remained stagnant;
- If permission was granted, it would be in the Applicant's best interest to commence development as soon as possible in order to obtain a return on their investment;
- Throughout the process, there had not been a specific infrastructure deficit identified which may prevent the development coming forward.

The Planning Officer addressed the Committee in response to issues raised by the speakers. It was advised that discussions undertaken between Officers and the Applicant had been open and transparent and the financial appraisal that had been submitted by the Applicant had been thoroughly examined by the Council's S106 Officer leading to the conclusion that the development was not economically viable. It had also been identified that the cost of an appeal process, and the delay of a planning decision, would equate to £15k, hence the proposed contribution amount.

It was further advised that, in the Planning Officer's own view, if the Committee were minded not to accept the contribution of £15k, then the offer could be withdrawn completely.

Members discussed the application and concerns were expressed that the development may take up to three years to complete. In this instance, Members questioned whether it would be possible to impose interest on the £15k. The Planning Officer advised that the imposition of interest would be possible but any additional proposals to those outlined in the application would have to be acceptable with the Applicant.

Members expressed further concern at the lack of S106 monies being proposed for the development and in response the Planning Officer advised that the Applicant had submitted the evidence that had confirmed that the development would not make a positive return and therefore no S106 contribution had been proposed in the first

instance. It was for the Committee to consider whether the amount of £15k, which had subsequently been agreed, was acceptable.

After further debate, it was commented that the contribution level was low, however, the overall benefits to the village of the development would outweigh those incurred if the proposal was not accepted. It was further commented that going forward, S106 contributions needed to be more robust. A motion was put forward and seconded to approve the application. The motion was carried by 7 votes, with 1 voting against.

RESOLVED: (7 for, 1 against) to approve the application, as per Officer recommendation, subject to:

1. The conditions numbered C1 to C8 as detailed in the committee report

Reasons for decision:

Subject to the imposition of the conditions, the proposal was acceptable having been assessed in the light of all material considerations, including weighting against relevant policies of the development plan and specifically:

- The site lay within the village of Newborough which was designated as a 'Limited Rural Growth Settlement';
- The scale, density and design of the development were in keeping with the surrounding built form and village setting;
- The site was served with an acceptable access and appropriate parking provision was made within the site
- The proposal would not result in any adverse impact on the amenity of the occupiers of neighbouring dwellings; and
- The proposal made a satisfactory and justified financial contribution towards the provision of new or improved community facilities.

Hence the proposal was in accordance with policies H10, H15, H16, LNE9 and T10 of the Adopted Peterborough Local Plan (First Replacement) 2005, policies CS1, CS2, CS8, CS10, CS14 and CS16 of the Adopted Peterborough Core Strategy DPD 2011 and planning policy statements PPS1, PPS3 and PPS25.

Councillor Harrington re-joined the meeting.

5.2 11/01808/FUL – Change of use from residential to mixed use as a residential and teaching establishment for Arabic and religious instruction on weekdays only (retrospective) at 9 Exeter Road, Millfield, Peterborough

The application sought permission to use part of the dwelling house as a teaching establishment for Arabic and religious instruction on weekdays only. This was a retrospective application as the use commenced in May 2010. The use operated Monday (including Bank Holidays) to Friday providing two sessions between 4.00 pm and 5.00 pm and 5.30 pm to 6.30 pm. The maximum number of children attending each session would be ten.

The application site contained a two storey detached dwelling which had been extended with a two storey side extension and single storey rear extension. To the rear was an enclosed garden which abutted the rear gardens to properties in Cecil Road and Dogsthorpe Road. The site was close to the entrance of the street on the north side of Exeter Road and the immediate vicinity was comprised of an established residential character comprising predominantly two storey detached and semi detached properties with in curtilage parking provision. There was space to the front of the property for two vehicles to park clear of the public highway.

The Planning Officer addressed the Committee and gave an overview of the proposal. Members were advised that the main issues for consideration were the impact on the character of the area and the residential amenity of the neighbouring properties and the highway implications. The recommendation was one of refusal as it was considered that the nature and scale of the proposal would have a detrimental impact on the predominantly residential character of the area. The proposal would also result in a number of people waiting to pick up and drop off their children, this in turn would cause a highway hazard.

Members were advised that the application followed on from the refusal of a similar scheme where the proposal had been for 15 children to be in attendance at the property at any one time.

Members' attention was drawn to additional information contained within the update report. An additional letter of representation had been received from Councillor Nadeem in support of the application and amended reasons for refusal R1 and R2 were detailed.

The Planning Officer further advised that an additional letter of representation had been received immediately prior to the commencement of the meeting from the occupiers at number 45 Exeter Road. The letter was in support of the application and stated that their daughter attended the school and they travelled to and from on foot, not by car.

Councillor John Shearman, Ward Councillor, addressed the Committee on behalf of the Applicant and responded to questions from Members. In summary the concerns highlighted to the Committee included:

- There had been a great deal of confusion on the part of the Applicant and his wife following the refusal of the first application;
- The application was supported by Councillor Nadeem, Ward Councillor;
- The previous application had failed on a number of grounds, including numbers attending and traffic volumes created;
- At the Applicant's request, and on his behalf, Councillor Shearman had contacted the Planning Department;
- It had been advised by the Planning Department that the application would be more likely to succeed if the numbers attending did not exceed ten at any one time, that there were no additional teachers paid or working on the premises other than the Applicant's wife, that there was a substantial gap in time between the two classes and that the Applicant could establish that the majority of pupils would arrive on foot;
- The application from Mr Ali met all of the requested criteria and a further agreement had been prepared between the parents and the Applicant stating a number of conditions, one of which being that the children would walk to and from the class;
- Parents had tended to drive to and from the class previously, however, since the submission of the new application the parents had agreed to walk to and from the class everyday;
- Councillor Shearman had undertaken two surveys between 3.45pm and 6.30pm on Thursday December 15 and Friday January 6. On both days there were numerous traffic movements logged however on both occasions no cars stopped at 9 Exeter Road to drop off or pick up children;
- It was clear that the Applicant and the parents were honouring the conditions laid down by the Planning Officer;

- Assurances had been given from the Applicant that they would do their utmost to ensure that the conditions laid down in the agreement continued to be adhered to;
- The local residents who had made representation against the application had done so mainly on the grounds of additional traffic levels.

Councillor Pam Kreling, Ward Councillor, addressed the Committee and responded to questions from Members. In summary the concerns highlighted to the Committee included:

- Exeter Road was a residential street and should remain so;
- No commercialism should be introduced to the area;
- There was no call for the teaching establishment as the area was already served by a Madrasa, which was located along the same road;
- The Madrasa was open six days a week, including Saturdays, so there were plenty of opportunities for the local children to attend;
- The Madrasa at number 41 already caused multiple problems, including parking and noise issues;
- The proposed teaching establishment would most likely attract people from further afield and therefore they would need to use their cars;
- The Officer who had monitored the location had stated in the report that the majority of children arrived by car;
- The increase in car movements would be unacceptable in the area;
- With the existing Madrasa, the proposal would create a significant adverse impact on the amenity of the occupants of neighbouring properties;
- The proposed use would increase the number of vehicles waiting on the adjacent public highway, this would create a highway safety hazard;
- How could the Applicant be sure that parents would not start driving again if the proposal was approved?

Mr Makhtar Ali, the Applicant, addressed the Committee and responded to questions from Members. In summary the concerns highlighted to the Committee included:

- The proposal was not for a business, it was for a voluntary family run organisation with no fees involved;
- With regards to the traffic, a contract could be drawn up between the Applicant and the Planning Department to ensure that people only travelled on foot ;
- The vast majority of the children would be coming from Exeter Road and a few children from Cecil Road.

The Highways Officer addressed the Committee in response to issues raised by speakers. It was advised that a traffic survey had previously been undertaken and twenty six children had been observed going into the premises, a high number of those had arrived and departed by vehicle.

Members commented that although the education facility was not a commercial facility, it was being run like one and keeping the numbers of children down to ten in perpetuity could prove to be an issue. It was further commented that although parents may start out with good intentions and walk their children to school, this would not be the case once the bad weather set in. It was acknowledged that a vast amount of work had been undertaken by the Applicant and Councillor Shearman to conform to the requirements needed for the approval, however, it was considered that the proposal would ultimately have a significant impact on the amenity of local residents and would see an increase in parking issues, leading to highway hazards. A motion was put forward and seconded to refuse the application. The motion was carried unanimously.

RESOLVED: (Unanimously) to refuse the application, as per officer recommendation and:

1. The reasons R1 and R2 as detailed in the update report.

Reasons for decision:

The proposal was considered unacceptable having been assessed in the light of all material considerations, including weighting against relevant policies of the development plan and specifically:

- The proposed use of the dwelling for teaching/religious instruction would materially change the residential character of the immediate area, particularly when taken with the existing Madrasa in Exeter Road, and would have a significant adverse impact on the amenity of the occupiers of neighbouring properties; and
- The proposed use would result in an increased number of vehicles waiting on the adjacent public highway which would impede the free flow of vehicular traffic to the detriment of users of the public highway and create a highway safety hazard.

13.30 – 15.07
Chairman

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