

11/00885/FUL: DEVELOPMENT OF 18 DWELLINGS, ASSOCIATED ACCESS AND PARKING AT LAND TO THE NORTH OF THE VILLAGE HALL, GUNTONS ROAD, NEWBOROUGH, PETERBOROUGH

VALID: 21 JUNE 2011

APPLICANT: WEST REGISTER (REALISATIONS) LTD

AGENT: BIDWELLS

REFERRED BY: CLLR HARRINGTON

REASON: LACK OF S106 PROVISION

DEPARTURE: NO

CASE OFFICER: JANET MACLENNAN

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1 SUMMARY/OUTLINE OF THE MAIN ISSUES

The main considerations are:

- The principle of development
- Flood risk
- Highway safety and access
- Residential amenity – future occupants and neighbours
- Sustainability
- Impact on protected and other trees
- Section 106 contributions

The Head of Planning Transport and Engineering recommends that the application is **APPROVED**.

2 PLANNING POLICY

In order to comply with section 38(6) of the Planning and Compulsory Purchase Act 2004 decisions must be taken in accordance with the development plan policies set out below, unless material considerations indicate otherwise.

Core Strategy Policies

CS8: Meeting Housing Needs. This policy seeks to secure a variety of housing to meet local needs, including affordable housing.

CS10: Environmental Capital. Development must make a clear contribution to the Environment Capital aspirations.

CS11: Renewable Energy. Applications for renewable energy facilities will be supported. A proportion of the energy supply for new developments is expected to be gained from renewable or low-carbon sources.

CS12 and CS13: Infrastructure. These policies require that development makes a contribution towards related infrastructure requirements, in accordance with the Planning Obligations Implementation Scheme where appropriate.

CS14: Transport. Development should make transport provision for the needs it will create, in accordance with the Transport User Hierarchy.

CS16: Urban Design and the Public Realm. High quality and inclusive design is required, taking into account the disposition of buildings, the quality of the public realm, addressing vulnerability to crime, accessibility, safety, adaptability, and neighbour amenity.

CS21: Biodiversity and Geological Conservation. Inter alia, features beneficial to biodiversity should be incorporated into new development.

CS22: Flood Risk. Development should be informed by a Flood Risk Assessment, and Sustainable Urban Drainage systems should be used on all suitable sites.

Saved Local Plan Policies

Policy H10 designates Newborough as a Limited Rural Growth Settlement where the development of windfall sites comprising small estates, housing groups and infill, will be permitted.

H15: Residential Density. Development should be at the highest appropriate density for the site.

H16: Residential Design and Amenity. Requires suitable provision of privacy, amenity space, quiet and light.

T8: Connections to the Existing Highway Network. Planning permission will only be granted if the vehicular access is to a suitable highway.

T9: Cycle Parking Standards. Cycle parking should be provided in accordance with the adopted standards.

T10: Car and Motorcycle Parking Requirements. Should be provided in accordance with the adopted standards.

LT1: Open Space in New Residential Development. Open space should be provided on all developments of more than 9 dwellings.

LNE9: Landscaping Implications of Development Proposals. Development must make adequate provision for landscaping.

U1: Water Supply, Sewage Disposal and Surface Water Drainage. Development must make provision for suitable drainage.

Material Planning Considerations

Decisions can be influenced by material planning considerations. Relevant material considerations are set out below, with the key areas highlighted:

PPS1: 'Delivering Sustainable Development'

PPS3: 'Housing'

PPG13: 'Transport'

PPS25: 'Development and Flood Risk'

ODPM Circular 05/2005 “Planning Obligations” Amongst other factors, the Secretary of State’s policy requires planning obligations to be sought only where they meet the following tests:

- i) relevant to planning;
- ii) necessary to make the proposed development acceptable in planning terms;
- iii) directly related to the proposed development; (in the Tesco/Witney case the House of Lords held that the planning obligation must at least have minimal connection with the development);
- iv) fairly and reasonably related in scale and kind to the proposed development; and
- v) reasonable in all other respects.

In addition Circular 05/2005 states the following principles:

The use of planning obligations must be governed by the fundamental principle that **planning permission may not be bought or sold**. It is therefore not legitimate for unacceptable development to be permitted because of benefits or inducements offered by a developer which are not necessary to make the development acceptable in planning terms.

Similarly, planning obligations should never be used purely as a means of securing for the local community a share in the profits of development.

Planning Obligations Implementation Scheme – The Peterborough Planning Obligations Implementation Scheme (POIS) Supplementary Planning Document (SPD) was adopted on 8th February 2010 (Cabinet Decision). Prior to adoption, the POIS was the subject of a 6 week public consultation period between March and April 2009. The POIS sets out the Council’s approach to the negotiation of planning obligations in association with the grant of planning permission. A planning obligation is a legal agreement made under Section 106 of the Town & Country Planning Act 1990 (as amended by Section 12(1) of the Planning and Compensation Act 1991).

Draft National Planning Policy Framework

3 DESCRIPTION OF PROPOSAL

The proposal is 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 will be varying 2 and 2-and-a-half storey, and a mix of detached, semi-detached and terraced. The access road will be directly off Gunton's Road and will run to the south of the existing development on Harris Close. The access into Harris Close will 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 has been made and a further period of neighbour consultation undertaken.

The proposal is a redesign of an original 13-unit scheme and it should be noted that as this scheme has commenced, the permission has been implemented and as such cannot expire. Plots 4-8 and Plot 11 are unchanged from the previously approved scheme. It should also be noted that the closure of Harris Close was an integral part of the previously approved development and also of the Harris Close development.

Report Update

The item was considered by Members of the Planning and Environmental Protection Committee on 8th November and the 6th December 2011. Members resolved to defer the item at the 8th November committee in order to consider the financial appraisal submitted to the Local Planning Authority by the Developer. It was also suggested by Members that discussion 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, may be a compromise that can be agreed if it is confirmed that no Section 106 can be reasonably secured. However, no such discussion was entered into. The matter was deferred again at the 6th 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 as such deferred the item to allow planning officers to discuss this further with the Developer directly.

A meeting has now been held between the Head of Planning, Transport and Engineering and the Developer's Agent. At the meeting the Agent agreed to make a contribution of £15,000 towards the provision of new or improved community facilities (to be defined in agreement with the Parish Council) within the village. It is proposed that the sum would be payable on first occupation of the 15th dwelling and that any money unspent after 36 months shall be returned. The contribution is being made by the applicant on the basis of a goodwill gesture to the community as the submitted financial appraisal makes it clear that the site is not profitable to develop.

4 DESCRIPTION OF SITE AND SURROUNDINGS

The site is on the east side of Gunton's Road, to the north and east of the village hall. To the immediate north is Harris Close, and to the east is open countryside.

5 PLANNING HISTORY

Application Number	Description	Date	Decision
02/01721/OUT	Residential development for 11 houses and 2 bungalows (renewal of 66/00001/OUT)	20/06/2003	Consent
06/00948/REM	Residential development comprising 13 dwellings (to include 2 bungalow, 5 terraced houses and 6 detached houses)	19/06/2006	Consent

6 CONSULTATIONS/REPRESENTATIONS

INTERNAL

Local Highway Authority – No objection. The development is acceptable subject to conditions and informatives.

Archaeologist – No objection. Development unlikely to affect any archaeological remains.

Pollution Team – Noise assessment should be undertaken to assess noise from village hall. Contamination condition and an informative regarding hours of construction work are recommended.

Landscape Officer – Provided that work is carried out in accordance with the Tree Survey, Arboricultural Impact Assessment and Method Statement, no objection, though it is commented that the trees will require ongoing pruning to manage the relationship between T1 and T2, which are sycamores, (not subject to or worthy of a TPO) and Plot 12.

EXTERNAL

Police Architectural Liaison Officer – The rear service footpath to garages behind Plots 4-7, if left ungated is likely to facilitate crime, anti-social behaviour and potentially litter/fly-tipping. A simple solution would be to gate this alleyway with a metal railing type of gate which would enable surveillance down the passage. The gate should be the same height as surrounding fencing, fitted with a self closing mechanism and lock or access control, enabling access, only those residents who require it. The gate should be positioned as close as possible to the front building line of Plot 9.

North Level Internal Drainage Board – No objection. The Board's requirements have been met.

Environment Agency – No objection. The proposed development site is within flood zone 3. The proposed development should only be permitted in this zone if the Sequential Test and if necessary the Exception Test are passed. The Environment Agency has no objection to the proposed development subject to [PCC] applying these tests and being satisfied that the development is acceptable from a flood risk perspective.

Parish Council – Concern that properties are too close to village hall with possible noise pollution. Also trees on the development should be properly protected (they have TPO's) and Newborough Parish Council would like to know what arrangements there are for ensuring responsibility of the trees. Following a further consultation regarding the non contribution to S106 provision and affordable housing, the Parish Council propose that the City Council should try to agree to a contingent payment based upon the actual results of the development once implemented as the economy could improve by the time the dwellings are sold. A S106 payment linked to a profit share should therefore be sought. The Parish Council therefore objects until a suitable agreement is reached to benefit the village either in monetary or other ways.

Newborough and Borough Fen Community Association – We feel that 18 properties are too many to close to the [village] hall which is used each weekday in term time by the playgroup. We have regular evening bookings at the hall and although there is very good soundproofing at the hall there is traffic noise to be considered. The 13 dwellings which were on previous plans were quite sufficient and we had no objection to them.

NEIGHBOURS

Letters of objection have been received from 3 local residents raising the following issues:

- The existing plans are not viable for the area
- Newborough attracts families, the existing plan should remain in place to encourage families.
- The latest plan does not cater for this and is replaced by 2 to 2.5 bedrooms.
- This encourages people to stay short term and thus will see a greater turnover of short term residence.
- Also encourages tenancies as has happened in the 2 bed houses in Harris Close.
- The number of dwellings and therefore traffic will increase and cause parking problems.
- The three bed terraces will be overlooking the rear gardens and windows of Harris Close, provision has not been made for any screening.
- Newborough does not need another estate where cars clog up the street.
- Boundary is not shown correctly.
- Concern regarding the stub at the access road to Harris Close, no reference is made to the proposed key clamped hand rail to be installed around the retaining wall. What finishing is

proposed for this part of the road? Will there be bollards as we are concerned that this could create a lay by.

- Is the access road to Harris Close still to be adopted?

COUNCILLORS

Cllr Harrington raised concerns with regards to no S106 obligation provisions to mitigate the impact of the development.

7 REASONING

a) Introduction

This application is for development on a site which commenced under a previous consent. Part of the access road is in place and some works have been done on foundations and slabs. The applicant has explained that the previous developer has ceased business, and they wish to pick up the scheme, although with some changes to provide more but smaller dwellings.

b) Policy issues and the Principle of Development

The site is within the village envelope and is not allocated for any other use. The site is included in the emerging Site Allocations DPD as a committed/suitable housing site. The allocation of dwellings in this document is 13, so the additional 5 units proposed under this application will aid in the provision of housing to support the City Council's Growth Agenda. In principle the proposal is acceptable.

c) Flood Risk

The site is within Flood Zone 3, where development would not normally be permitted. In accordance with the requirements of PPS25, a sequential test has been applied to the proposal. Discussions involving the Environment Agency have concluded that the test should only be applied to the uplift of 5 dwellings, as the site benefits from an implemented consent for 13 dwellings.

The sequential and exception tests are passed as principally:

- There are no sites at less flood risk elsewhere in the village
- The site is allocated for residential development in the emerging site allocations development plan document
- The floor level of the dwellings is set such that it is above the predicted flood level.

d) Highways

The access to the site is off Gunton's Road. The proposed new access is within a few metres of the existing access to Harris Close, which is indicated as (the already completed) Phase 1 of the overall development.

The Local Highway Authority (LHA) has confirmed that the closure of Harris Close will need to be secured before any of the new dwellings can be occupied. This is necessary to avoid having two side streets onto the main road within a few metres of each other, which would not meet with highway policy. Since the initial submission of the application an amended outline plan has been submitted which now includes the access road to Phase I. This would enable a condition to be appended to the consent to ensure that the access to Phase I would be legally 'stopped up' prior to the access to the application site being brought into use.

A further 21 day neighbour consultation has taken place. It has been brought to the attention of the Local Planning Authority that a 'stub' of land at the access to Phase I has been conveyed to the owner of no. 1 Harris Close. Notice has therefore been served on the owner of 1 Harris Close and certificate B of the application form completed. A response has been received from the owner who has questioned whether it is still the intention for Harris Close to be adopted and how the stopping up of the access road to Harris Close would be implemented. It should be noted that the owner of No 1 Harris Close should have been made aware of the proposed closure of the access on purchase of the property as this was an integral part of the planning permission and associated Section 106 agreement for the development.

The LHA has confirmed it is still the intention of the City Council to honour the Section 38 Agreement and adopt the roads of Phase 1 subject to them being completed to a satisfactory standard and will require the 'stub' to be stopped up (both in a legal and physical sense) if phase 2, the application now under consideration, comes forward. It should be noted that the stopping up order is required in order for the LHA to support the current planning application ref: 11/00885/FUL. On completion of the stopping up, the responsibility of the maintenance for the 'stub' of land would remain with the owner.

The proposed 18 dwellings would each be provided with car parking in accordance with the adopted standard. Cycle parking can be accommodated in rear gardens; all dwellings would have a rear access path for movement of cycles and refuse bins.

The LHA has recommended several conditions including some relating to details which can better be agreed at Technical Vetting Stage, and which are therefore not recommended at planning stage.

e) Residential amenity

The proposed dwellings are suitably designed in terms of layout, orientation, and separation. Each dwelling would be provided with a rear garden of adequate size. Most gardens are at least 10m long. The bungalow garden is only 4.5m deep, and is directly to the north of the village hall. This is likely to result in overshadowing to the garden however, the relationship was approved previously, and that approved scheme, having commenced, could be implemented.

The impact on neighbours will be similar to the impact accepted when the previous scheme was approved. In most cases there would not be unacceptable overlooking or overshadowing. A comment has been received about the relationship of the terraced dwellings with the existing housing on Harris Close, stating that there could be overlooking. The front windows of the new houses would be about 22m from the main back wall of the Harris Close houses; again, the relationship is similar to that previously approved.

As the development is very close to the village hall, where there can be evening events generating noise, a condition is recommended requiring a noise assessment to be carried out, and any necessary mitigating measures to be incorporated into the development by way of, for example, trickle or mechanical ventilation.

f) Sustainability

The applicant has not submitted any information to show how the development would contribute towards the Environment Capital agenda, as required by Policy CS10. A condition is therefore recommended, requiring the development to achieve a 10% betterment on the target emissions rate set by the Building Regulations.

g) Impact on trees

There is a small group of trees subject to a TPO on the neighbouring site. These trees are adjacent to the access point of the development site, between it and the entrance to Harris Close. No works are proposed to these trees.

There are two trees to be retained in the south-east corner of the site, and no-dig construction will be required for the driveway within the root protection area.

Provided that development is carried out in accordance with the submitted Method Statement, there will be no unacceptable impact on trees. A condition is recommended to this end.

h) S106 Provisions

Although there is a Policy presumption that development will provide a contribution towards infrastructure provision (which in this case would equate to the sum of £90,000 plus monitoring fee and on-site affordable housing), the Planning Obligations Implementation Scheme (POIS) allows for part or all of the contributions to be waived, in circumstances where this can be justified (inter alia) on the grounds of on-site costs. This requires that the applicant submit financial details for audit by the Council.

In this case the applicant has submitted financial information which has been assessed by the Council's S106 Officers. The submission identified a deficit at the completion of development. The Build Cost Plan, Finance Assumptions, Land sale price and other assumptions in relation to marketing costs, professional fees etc were all assessed and considered acceptable. The Gross Development Value (GDV) of the scheme was identified and the assumed revenue from sales would need to increase in excess of 19% of the GDV in order for the scheme to deliver a surplus at completion. The S106 Officers are therefore satisfied that the proposal is unable to support the provision of Affordable Housing or any other S106 contribution. However as stated above the Developer has now offered a S106 contribution of £15,000.00 towards the mitigation of the proposed development.

i) Other matters raised by Consultees/Neighbours

Security – the provision of a security gate to the alley at the side of plot 9 is recommended to be secured by condition.

Tree Maintenance – the future owner of plot 12 will have responsibility for maintaining those parts of the tree that overhang plot 12.

Parking – there are 30 off street spaces for 18 dwellings. This is considered satisfactory.

No of 2-bed properties – there is no evidence to suggest that an increase in the number of 2-bed properties will have any harmful impact.

8 CONCLUSIONS

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

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

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

Hence the proposal accords 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.

9 RECOMMENDATION

The Head of Planning Services recommends that this application is APPROVED subject to the following conditions:

C 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: In accordance with Section 91 of the Town and Country Planning Act 1990 (as amended).

C 2 No development shall take place until details of the materials to be used in the external elevations of the dwellings hereby approved have been submitted to and approved in writing by the Local Planning Authority. The details submitted for approval shall include

the name of the manufacturer, the product type, colour (using BS4800) and reference number. The development shall not be carried out except in accordance with the approved details.

Reason: For the Local Authority to ensure a satisfactory external appearance, in accordance with Policy CS16 of the adopted Peterborough Core Strategy DPD.

- C 3 The dwellings shall not be occupied until the garages and parking spaces shown on the approved plans have been constructed. The garages and parking spaces shall thereafter be available at all times for the purpose of the parking of vehicles, in connection with the use of the dwellings.**

Reason: In order to protect and safeguard the amenity of the local residents or occupiers, in accordance with Policy CS14 of the adopted Peterborough Core Strategy DPD and Policies T9 and T10 of the Adopted Peterborough Local Plan (First Replacement).

- C4 Prior to the commencement of the development a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. This shall include amongst other matters:**

- **a scheme of chassis and wheel cleaning for construction vehicles including contingency measures should these facilities become in-operative and a scheme for the cleaning of affected public highways;**
- **a scheme of working hours for construction and other site works;**
- **a scheme for construction access including measures to ensure that all construction vehicles can enter the site immediately upon arrival and adequate space within the site to enable vehicles to turn, park and load and unload clear of the public highway**
- **a scheme for parking of contractors vehicles;**
- **a scheme for access and deliveries including hours.**

The development shall thereafter be carried out in accordance with the approved plan.

Reason: In the interests of highway safety and residential amenity in accordance with Policies CS14 and CS16 of the adopted Peterborough Core Strategy DPD.

- C5 The visibility splays to the roads serving any dwelling shown on plan no. 683/PL/01 K shall be provided prior to the occupation of that dwelling and shall be maintained thereafter free from any obstruction over a height of 600mm.**

Reason: In the interests of Highway safety, in accordance with Policy CS14 of the adopted Peterborough Core Strategy DPD.

- C6 The development shall achieve, as a minimum, an energy efficiency of 10% above the Building Regulations standard at the time of Building Regulations being approved for the development, unless this requires a zero carbon development.**

Reason: In order to deliver energy efficiencies in accordance with Policies CS10 and CS11 of the adopted Peterborough Core Strategy DPD.

- C7 Prior to the commencement of development a scheme for the landscaping of the site shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out as approved no later than the first planting season following the occupation of any building or the completion of development, whichever is the earlier.**

The scheme shall include the following details:

- **Proposed finished ground and building slab levels**
- **Boundary treatments including a gate to the path behind units 4-9**
- **Planting plans for replacement trees, species, numbers, size and density of planting**

Reason: In the interests of the visual appearance of the development and the enhancement of biodiversity in accordance with Policies LNE9 and LNE10 of the Peterborough Local Plan (First Replacement) and Policy CS21 of the adopted Peterborough Core Strategy DPD.

- C8 Development shall proceed fully in accordance with the approved Flood Risk Assessment and the applicant shall confirm completion of the approved scheme in writing within one month thereafter.**

Reason: To reduce the risk of flooding and in accordance with Planning Policy Statement 25 'Development and Flood Risk'.

- C9 Construction work shall not begin until a scheme for protecting the proposed development from noise from the Village Hall has been submitted to and approved by the local planning authority; all works which form part of the scheme shall be completed before any part of the noise sensitive development is occupied. The scheme should demonstrate that proposed residential properties will be provided with a degree of noise insulation consistent with that protection afforded to the existing dwellings in the locality**

Reason: In order to protect and safeguard the amenity of the area, in accordance with Planning Policy Guidance (PPG24 Planning and Noise), and Policy CS16 of the adopted Peterborough Core Strategy DPD.

- C10 If during development contamination not previously identified is found to be present at the site then no further development shall be carried out until the developer has submitted, and obtained written approval of from the LPA, a Method Statement. This Method Statement must detail how this unsuspected contamination shall be dealt with. Development shall thereafter be carried out in accordance with the approved Method Statement.**

Reason: To ensure that the development complies with approved details in the interests of the protection of human health and the environment in accordance with Planning Policy Statement 23: Pollution.

- C11 Development shall be carried out in accordance with the approved Tree Survey, Arboricultural Implications Assessment and Method Statement.**

Reason: In order to protect and safeguard the amenities of the area, in accordance with Policies LNE9 and LNE10 of the Peterborough Local Plan (First Replacement).

- C12 Notwithstanding the details hereby approved; plots 3, 4, 8 and 11 shall be built to Lifetime Homes standards.**

Reason: In order to meet the lifetime homes needs and in accordance with Policy CS8 of the adopted Peterborough Core Strategy DPD.

- C13 No dwelling shall be occupied until the roads and footways connecting that dwelling to the existing public highway have been completed to base course level.**

Reason: In the interests of Highway safety, in accordance with Policy CS14 of the adopted Peterborough Core Strategy DPD.

- C14 No dwelling shall be occupied until the connecting junction to Harris Close has been provided to an adoptable standard.**

Reason: In the interests of enabling a Highway connection and consequent Highway safety in accordance with Policy CS14 of the adopted Peterborough Core Strategy DPD.

- C15 On the first occupation of each dwelling, a 'Householder Travel Pack' shall be prepared, supplied and issued to each dwelling. The Pack shall include a covering letter explaining the reasoning behind the packs and a tear-off slip offering either the option of a 3 month public transport ticket or a £50 cycle voucher from a local cycle shop.**

Reason: In order to encourage travel by sustainable modes and in accordance with policy CS14 of the Adopted Peterborough Core Strategy DPD.

- C16 Prior to occupation of any of the dwellings hereby approved the vehicular access serving the development to the north of the site (i.e. Harris Close) must have been legally 'stopped up' under the relevant legislation in accordance with the scheme to be submitted and approved in writing by the LPA.**

Reason: In the interests of highway safety and in accordance with Policy CS14 of the Peterborough Core Strategy DPD.

Copy to Councillor D Harrington

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