

DECISION-MAKER:	PLANNING AND RIGHTS OF WAY PANEL
SUBJECT:	AREA HOUSING OFFICE, PARKVILLE ROAD
DATE OF DECISION:	17 APRIL 2012
REPORT OF:	HEAD OF LEGAL, HR AND DEMOCRATIC SERVICES
STATEMENT OF CONFIDENTIALITY	
None.	

BRIEF SUMMARY

The Local Planning Authority is seeking to formally revoke a planning permission which has been granted as the Council has recently resolved to grant planning permission for an alternative scheme.

RECOMMENDATIONS:

- (i) That authority is delegated to the Head of Legal, democratic and HR to revoke planning permission 11/00204/FUL
- (ii) That the developer be given the option of entering into an additional covenant not to implement consent 11/00204/Ful in the section 106 agreement for 12/00033/FUL

REASONS FOR REPORT RECOMMENDATIONS

1. Planning Permission 11/00204/FUL remains capable of implementation and is not subject to the terms of a legal agreement. The council therefore needs to be assured that consent 11/00204/Ful will not be implemented in place of 12/00033/FUL which will be bound by the terms of a legal agreement.

DETAIL (Including consultation carried out)

2. Planning Permission 11/00204/FUL *for redevelopment of the site by demolition of the existing buildings and erection of a building ranging in height from 3-storeys to 15-storeys to provide student residential accommodation (53 cluster flats comprising a total of 348 rooms, 4 x 2-bedroom flats and 12 x 1-bedroom flats); a medical centre (Class D1 use), retail units (Class A1) and two units for community use or non-residential institution use (Class D1) or retail (A1) or food and drink use (A3) with associated landscaping, parking and site works, including the stopping up of existing highway* was issued prior to the completion of a section 106 agreement as the resolution provided for the section 106 agreement to be completed prior to completion of the land transfer.

It subsequently transpired that the developer was unable to enter into the required legal agreement, as the university, who will be the end user for the development, was unable to agree to a student car ownership restriction clause.

A new planning application 12/00033/FUL was therefore submitted and was approved by panel without a student car ownership restriction clause in the

section 106 agreement. The new legal agreement is currently in the course of preparation and it is hoped to complete it shortly which will allow the planning permission to be issued. The developer will then, after expiry of a challenge period for any judicial review, be able to complete the land purchase.

3. Legally consent 11/00204/FUL would remain capable of implementation and the developer would therefore be able to build out the scheme under this consent without complying with the terms of the section 106 agreement for 12/00033/FUL. The council therefore either needs to revoke the permission or to obtain a covenant from the developer not to implement the consent. It is proposed that the developer will be given the choice as to whether to give a covenant or whether they agree to the council revoking the consent. If the developer is able to give the covenant then it will not be necessary for the council to revoke the consent.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

4. The recommendation is in alternative form.

RESOURCE IMPLICATIONS

Capital/Revenue

5. None

Property/Other

6. None

LEGAL IMPLICATIONS

Statutory Power to undertake the proposals in the report:

7. Section 97 Town and Country Planning Act and section 106 in respect of planning obligations. Section 97 provides that if it appears to the LPA that it is expedient to revoke any permission to develop land then the LPA may, by order, revoke. The LPA is to have regard to the development plan and any other material considerations in exercising this power. Without a legal agreement attached to consent 11/00204/FUL then planning obligations needed to ensure that the development proceeds in a satisfactory manner would not be secured. It is therefore expedient to either revoke or obtained an appropriate covenant.

Other Legal Implications:

8. It is not considered that compensation will be payable under section 107 TCPA as the developer will sustain no loss or damage as a result of the revocation as planning permission will be granted for the same development upon completion of the current 106 agreement but without the student restriction clause under 12/00033/FUL

POLICY FRAMEWORK IMPLICATIONS

9. None

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SUPPORTING DOCUMENTATION

Non-confidential appendices are in the Members’ Rooms and can be accessed on-line

Appendices

1.	None.
2.	

Documents In Members’ Rooms

1.	None.
2.	

Integrated Impact Assessment

Do the implications/subject/recommendations in the report require an Integrated Impact Assessment to be carried out.	Yes/No
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Other Background Documents

Title of Background Paper(s)

Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)

1.		
2.		

Integrated Impact Assessment and Other Background documents available for inspection at:

WARDS/COMMUNITIES AFFECTED:	Swaythling
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Report Tracking

VERSION NUMBER:

DATE LAST AMENDED:

AMENDED BY:
