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PLANNING AND RIGHTS OF WAY PANEL  
MINUTES OF THE MEETING HELD ON 11 DECEMBER 2018

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Present: Councillors Savage (Chair), Coombs (Vice-Chair), Claisse, L Harris, Mitchell, Murphy and Wilkinson

42. **MINUTES OF THE PREVIOUS MEETING (INCLUDING MATTERS ARISING)**

**RESOLVED:** that the minutes for the Panel meeting on 13 November 2018 be approved and signed as a correct record.

43. **OBJECTION TO THE MAKING OF THE SOUTHAMPTON (OCEAN VILLAGE - BARCLAYS HOUSE) TREE PRESERVATION ORDER 2018**

The Panel considered the report of the Head of Service seeking approval to confirm The Southampton (Ocean Village - Barclays House) Tree Preservation Order 2018.

Peter Warren (agent) was present and with the consent of the Chair, addressed the meeting.

Officers informed the Panel that the Order had now been amended to state the numbers of trees being protected. On being put to the vote the recommendation to confirm the Tree Preservation Order was carried unanimously.

**RESOLVED** that the Panel confirmed the Southampton (Ocean Village – Barclays House) Tree Preservation Order 2018, with modification.

44. **PLANNING APPLICATION - 18/00968/FUL (RETAIL) - FORMER EAST POINT CENTRE**

The Panel considered the report of the Service Lead, Planning, Infrastructure and Development recommending that the Panel refuse planning permission for the above address.

The erection of a food store (Class A1) and a coffee drive thru (Class A1/A3) with associated access, car parking and landscaping.

Graham Linecar (Southampton Common and Parks Protection Society, objecting) Simon Reynier (City of Southampton Society, objecting), Debbie King (Chief Executive Officer Plus You Ltd, objecting) Mike Allott (Plus You Ltd, objecting) Alan Williams and Rob Williams (agents), Lee McCandless (applicant) and Councillor Streets (Ward Councillor objecting) were present and with the consent of the Chair, addressed the meeting.

The presenting officer reported that an updated highways management design had been received but, that officers had not been able to model the design before the meeting to ascertain whether this was an appropriate solution to traffic concerns. It was explained that as a result the recommendation had been amended to delegate to officers the reasons for refusal. In addition Panel members were informed that an objection to the application from the Council's Open Space Manager had been received.

The Panel then considered the recommendation to delegate authority to refuse planning permission. Upon being put to the vote the recommendation was carried unanimously.

### **RESOLVED**

- (i) to delegate authority to the Service Lead Infrastructure, Planning and Development to refuse planning permission for the reasons set out below;
- (ii) to delegate authority to the Service Lead Infrastructure, Planning and Development to uphold, remove or amend Refusal Reason 01 (site access) following review of the applicant's late highway submission (revised signalised junction) by the Council's Highway Engineers; and
- (iii) to note that an extension of time agreement has been received from the developer until 9<sup>th</sup> January 2019 to provide additional time for the consideration of the late highway submission.

### **Reasons for Refusal**

#### **01 REFUSAL REASON - Site Access**

The proposal has failed to demonstrate adequate capacity for safe right turn movements out of the site without leading to severe obstruction to traffic flow on Bursledon Road, a main arterial route which has been identified by Highways England as requiring major improvements to improve traffic flow. Therefore the proposal would have an unacceptable impact on highway safety and the residual cumulative impacts on the road network would be severe. Furthermore the proposed layout fails to provide direct pedestrian access from the north, because the site is being developed in isolation, with access for cars given priority over pedestrians. The development proposal is thereby contrary to policies SDP1(i), SDP3, SDP4 and TI2 of the City of Southampton Local Plan Review (2015) and CS18 of the Local Development Framework Core Strategy (2015) and paragraph 109 of the National Planning Policy Framework (2018).

#### **02. REFUSAL REASON - Poor Layout**

This application and the adjoining residential proposal (Ref 18/01373/FUL) have not been developed comprehensively or master planned and as a consequence, the failure to provide access from the southern land parcel onto Burgoyne Road without agreement from third party land would prejudice the future development of this site in the event the northern parcel is developed. Furthermore, the proposed layout provides a poor relationship between commercial and residential uses, with the servicing area for the Aldi food store located on the boundary with a potential housing site thereby prejudicing its full delivery. The close proximity of the proposed service area to the boundary with another potential development site, and the sub-division of the wider site into 2 discreet parts by the proposed means of enclosure, and 3m height acoustic fence, would represent poor place making and would potentially provide an unacceptable residential environment for a residential scheme on the neighbouring site. The development proposal is thereby contrary to policies SDP1, SDP7, SDP9 of the City of Southampton Local Plan (2015) and CS4, CS6 and CS13 of the Local Development Framework Core Strategy (2015)

### 03. REFUSAL REASON – Loss of safeguarded open space

This application results in the net loss of safeguarded open space and fails to mitigate against this loss because replacement open space has not been secured on this site or elsewhere, and S106 contributions have not been secured towards off-site open space improvements to meet the needs of the community and to prevent habitat disturbance. The development is thereby contrary to policies SDP1(i) (ii), CLT3 of the Local Plan Review (2015) and CS21 of the Local Development Framework Core Strategy (2015) which seeks to ensure no net loss of public open space.

### 04. REFUSAL REASON – Insufficient Landscaping

Insufficient tree replacements and landscaping is provided to mitigate against the loss of existing landscaping, trees and biodiversity habitat and to improve the pedestrian environment. Additional landscaping and trees could be provided had the parking layout not exceeded the Council's maximum car parking standards. The proposed site coverage with buildings and hard surfacing and lack of soft landscaping is symptomatic of a site overdevelopment and out of keeping with the character and appearance of the area. Furthermore the development fails to provide net biodiversity gains. Amended landscaping plan 1294-01 Rev C is not considered to adequately address these issues. The development proposal is thereby contrary to saved policies SDP1 (i) (ii), SDP7(i), SDP12 of the City of Southampton Local Plan Review (2015) and policies CS13 and CS22 of the Local Development Framework Core Strategy (2015)

### 05. REFUSAL REASON - Failure to enter into S106 agreement

In the absence of a completed Section 106 Legal Agreement the proposals fail to mitigate against their direct impacts and do not, therefore, satisfy the provisions of Policy CS25 of the adopted Local Development Framework Core Strategy (2015) as supported by the Council's Developer Contributions Supplementary Planning Document (2013) in the following ways:-

- (i) Site specific transport works for highway improvements in the vicinity of the site which are directly necessary to make the scheme acceptable in highway terms have not been secured in accordance with Policies CS18, CS19, and CS25 of the Southampton Core Strategy (2015) and the adopted Developer Contributions SPD (2013);
- (ii) In the absence of a mechanism for securing a (pre and post construction) highway condition survey it is unlikely that the development will make appropriate repairs to the highway, caused during the construction phase, to the detriment of the visual appearance and usability of the local highway network;
- (iii) In the absence of a mechanism to secure off-site open space improvements the proposal fails to mitigate against the net loss of open space contrary to CLT3 of the Local Plan Review (2015) and CS21 of the Local Development Framework Core Strategy (2015);

- (iv) Submission of a tree replacement plan to secure 2:1 tree replacement and to secure a tree Replacement Off Site Contribution should any off-site replacements be required;
- (v) Servicing Management Plan;
- (vi) Submission, approval and implementation of a Carbon Management Plan setting out how the carbon neutrality will be achieved and/or how remaining carbon emissions from the development will be mitigated in accordance with policy CS20 of the Core Strategy and the Planning Obligations SPD (September 2013); and
- (vii) (vii) Employment and Skills Plan.

45. **PLANNING APPLICATION - 18/01373/FUL (RESIDENTIAL) - FORMER EAST POINT CENTRE**

The Panel considered the report of the Service Lead, Planning, Infrastructure and Development recommending that the Panel refuse planning permission in respect of an application for a proposed development at the above address

Redevelopment of the site to create 128 residential dwellings comprising a mixture of 21 houses (20 x 3 and 1 x 4 bed) and 107 flats (29 x 1 and 78 x 2 bed) with associated car parking, bin, cycle storage and landscaping.

Simon Reynier (City of Southampton Society), Cheten Chauhan (agent), Ricky Shagma (applicant), and Andy Meader (supporter) were present and with the consent of the Chair, addressed the meeting.

The presenting officer reported that an updated highways management design had been received for the site on the south- west land parcel but, that officers had not been able to model the design to ascertain whether this was an appropriate solution to traffic concerns before the Panel meeting. It was explained that should the modelling show that the suggested measures were not suitable then granting planning permission for this site would make the site on the south-west parcel difficult to develop. It was explained that the recommendation had therefore amended to delegate to the Service Lead Infrastructure, Planning and Development authority to refuse planning permission for the reasons set out below. In addition Panel members were informed that an objection to the application from the Council's Open Space Manager had been received.

The Panel then considered the recommendation to delegate authority to refuse planning permission. Upon being put to the vote the recommendation was carried unanimously.

**RESOLVED**

- (i) to delegate authority to the Service Lead Infrastructure, Planning and Development to refuse planning permission for the reasons set out below;
- (ii) to delegate authority to the Service Lead Infrastructure, Planning and Development to uphold, remove or amend Refusal Reason 01 (layout and access management) following review of the applicant's late highway

- submission (revised signalised junction) by the Council's Highway Engineers; and
- (iii) to note that an extension of time agreement has been received from the developer until 9<sup>th</sup> January 2019 to provide additional time for the consideration of the late highway submission.

### Reasons for Refusal

#### 01. REFUSAL REASON - Layout and access arrangement would prejudice the future development of adjoining land

The proposed layout and access arrangement would prejudice the development of adjoining land to the south. The planning application by ALDI Stores Ltd (Ref 18/00968/FUL) failed to demonstrate adequate capacity for safe right turn movements out of the site without leading to severe obstruction to traffic flow on Bursledon Road, a main arterial route which has been identified by Highways England as requiring major improvements to improve traffic flow. As a consequence, the land to the south requires access onto Burgoyne Road. Therefore, unless access can be secured over third party land (Highpoint Centre), the proposed residential layout would prejudice the remainder of the wider site from being developed because there is no opportunity for vehicular access connection onto Burgoyne Road.

Furthermore, because the site as approved under planning permission ref 16/01888/OUT has been split into two land parcels and not master planned or considered comprehensively, the proximity of Block B containing noise sensitive residential accommodation with habitable room windows and balconies with a south facing aspect would also prejudice the development of adjoining land to the south.

The development is thereby contrary to policies SDP1 (i) (iii), SDP16 of the City of Southampton Local Plan Review (2015), CS4, CS6 and CS13 of the Local Development Framework Core Strategy (2015) and Section 11 of the National Planning Policy Framework (2018).

#### 02. REFUSAL REASON - Loss of trees

The proposed removal of existing healthy trees along the northern boundary and position of a prominent close boarded fence would be harmful to the character and appearance of the area and the Burgoyne Road street scene. The proposed replacement planting would not sufficiently mitigate against the loss of these existing trees. The development proposal is thereby contrary to policies SDP1 (i), SDP7 (i) (ii) and SDP12 of the City of Southampton Local Plan Review (2015) and CS13 of the Local Development Framework Core Strategy (2015) and Section 4.7 of the Residential Design Guide SPD (2006).

#### 03. REFUSAL REASON - Affordable Housing

The proposed 'rent to buy' affordable housing offer fails to meet identified affordable housing need in Southampton.

Furthermore the application has not been supported by an approved viability model to indicate that units for social rent would make the scheme unviable. The

proposal is thereby contrary to policy CS15 of the City of Southampton Local Plan Review (2015) and Section 5 of the National Planning Policy Framework (2018).

04. REFUSAL REASON - Failure to enter into S106 agreement

In the absence of a completed Section 106 Legal Agreement, the proposals fail to mitigate against their direct impacts and do not, therefore, satisfy the provisions of Policy CS25 of the adopted Local Development Framework Core Strategy (2015) as supported by the Council's Developer Contributions Supplementary Planning Document (2013) in the following ways:-

- (i) Site specific transport works for highway improvements in the vicinity of the site which are directly necessary to make the scheme acceptable in highway terms have not been secured in accordance with Policies CS18, CS19, and CS25 of the Southampton Core Strategy (2015) and the adopted Developer Contributions SPD (2013);
- (ii) In the absence of a mechanism for securing a (pre and post construction) highway condition survey it is unlikely that the development will make appropriate repairs to the highway, caused during the construction phase, to the detriment of the visual appearance and usability of the local highway network;
- (iii) In the absence of either a scheme of works or a contribution to support the development, the application fails to mitigate against its wider direct impact with regards to the additional pressure that further residential development will place upon the Special Protection Areas of the Solent Coastline. Failure to secure mitigation towards the 'Solent Disturbance Mitigation Project' in order to mitigate the adverse impact of new residential development (within 5.6km of the Solent coastline) on internationally protected birds and habitat is contrary to Policy CS22 of the Council's adopted LDF Core Strategy as supported by the Habitats Regulations.
- (iv) Submission of a tree replacement plan to secure 2:1 tree replacement and to secure a tree Replacement Off Site Contribution should any off-site replacements be required.
- (v) The provision of affordable housing in accordance with Policy CS15 of the Core Strategy;
- (vi) Submission, approval and implementation of a Carbon Management Plan setting out how the carbon neutrality will be achieved and/or how remaining carbon emissions from the development will be mitigated in accordance with policy CS20 of the Core Strategy and the Planning Obligations SPD (September 2013); and
- (vii) Employment and Skills Plan

46. **PLANNING APPLICATION - 18/01266/OUT - REAR OF 90 PORTSMOUTH ROAD**

The Panel considered the report of the Service Lead, Planning, Infrastructure and Development recommending delegated authority be granted in respect of an application for a proposed development at the above address.

Erection of 2x 3-bed detached houses, with associated parking and cycle/refuse storage (Outline application seeking approval for Access and Layout) (Amended description following amended plans)

Jerry White, Christopher Mansbridge and Julie Doncom (local residents objecting), Robin Reay (agent), and Councillor Payne (Ward Councillor objecting) were present and with the consent of the Chair, addressed the meeting.

The presenting officer detailed the numbers of responses to the application. It was also explained that the report had not shown that the site had a previous planning history. It was explained that in 1985 planning permission for the land had been refused as the applicant had not included details in regard to access for the site or given details of indicative design and scale of dwelling so impact on character and neighbouring amenities. The Panel expressed concerns relating the upkeep of the access way and the protection of bollards at the end of the access way leading to St Anne's Gardens and requested that conditions be amended as set out below.

Upon being put to the vote the Panel confirmed the Habitats Regulation Assessment. The Panel then considered the recommendation to delegate authority to the Service Lead: Planning, Infrastructure and Development to grant planning permission. Upon being put to the vote the recommendation was carried unanimously.

**RESOLVED** that the Panel:

- (i) confirmed the Habitats Regulation Assessment set out in Appendix 1 of the report.
- (ii) Delegate to the Service Lead – Infrastructure, Planning and Development to grant planning permission subject to the planning conditions recommended in the report, and the amended or additional conditions set out below, and either a scheme of measures or a financial contribution to mitigate against the pressure on European designated nature conservation sites in accordance with Policy CS22 of the Core Strategy and the Conservation of Habitats and Species Regulations 2010.
- (iii) That the Service Lead – Infrastructure, Planning and Development be given delegated powers to add, vary conditions as necessary
- (iv) In the event that the contribution/agreement in regard to point 2. above is not completed within a reasonable period following the Panel meeting, the Service Lead-Infrastructure, Planning & Development be authorised to refuse permission on the ground of failure to comply with the provisions of policy CS22 of the Core Strategy and the Conservation of Habitats and Species Regulations 2010.

**Additional and Amended conditions**  
**Amended Condition**

**16. Access route improvements [Pre-Occupation]**

Before the development is occupied, details of proposed improvements to the access route into the site, to include the following listed details shall be submitted to and approved in writing by the Local Planning Authority. Once approved the agreed details shall be implemented prior to first occupation and maintained as agreed thereafter in perpetuity.

- Access: The main vehicular access of the un-adopted road with Portsmouth Road shall be widened to 4.8m for a minimum of 6m (measuring from the adopted highway to the south) in order to provide a passing point for vehicles.
- Sightlines: Notwithstanding the submitted plan DMMason Engineering Consultants drawing M.097/2 revB works to secure sightlines including demolition of existing garden walls and erection of new garden walls and piers to be provided in order to secure sightlines of 2.4m x 90m.
- Resurfacing: A plan to show a resurfaced path along the un-adopted road to be submitted and agreed upon. This path should be practical and usable for wheelchair and pushchair users; and for refuse collection purposes.
- Lighting: The safety and security of the users of the access path shall be improved by addition lighting, details of which shall need to be submitted and approved.

REASON: To ensure the development improves the access route to the site in the interests of safety, security and convenience of access.

Note the landscaping plans should include the following:

- Driveways shall be constructed of non-migratory materials;
- Identify that no surface water from the site shall run onto the public highway; and
- A paved route of adequate width shall be provided to the bin and cycle stores from the front of the houses to the stores in the back gardens.

### **Additional Condition**

#### **28. Bollards [Performance Condition]**

The existing bollards (or similar replacement) at the southern end of St. Anne's Gardens/Portsmouth Road footpath, shall be maintained and retained for the lifetime of the development.

REASON: To prevent vehicular access from Saint Anne's Gardens along the unadopted and unclassified St Anne's Gardens/Portsmouth Road footpath and thus prevent the intensification of use of the access onto Portsmouth Road.

Chair



8 January 2019