

# REPORT TO THE DEVELOPMENT CONTROL COMMITTEE

Report No.

Date of Meeting	30 <sup>th</sup> July 2008
Application Number	08/00294/FUL
Site Address	Great Middle Green Farm, Dauntsey
Proposal	Erection of 4 employment units, associated access road, construction of attenuation pond and use of land as open space (revision to reserved matters 05/00612/REM resulting in total of six employment units)
Applicant	Flower & Hayes Developments Ltd
Town/Parish Council	Dauntsey
Grid Ref	399752 182112
Type of applications	Full application

## Reason for the application being considered by Committee

This application has been submitted to the Committee for decision under the scheme of delegation in force after the 8<sup>th</sup> April 2002 because 5 letters of objection have been received

## Summary of Report

This report is prepared to enable the Development Control Committee to consider the latest in a long line of applications relating to the ongoing redevelopment of the site formally known as Great Middle Green Farm, Dauntsey. With reference to prevailing adopted Local Plan policy and relevant national planning advice, consideration should be given to the following issues:

- Background
- Principle of development
- Flood risk
- Ongoing maintenance of attenuation pond
- Effect of attenuation pond upon appearance and operation of public open space (POS)
- Impact of the additional commercial unit

## Officer Recommendations

Subject to all parties entering to a legal agreement under s106 of the Act;

then

Planning Permission be **GRANTED** subject to conditions (detailed below)

Contact Officer	Simon T. Smith	01249 706633	ssmith@northwilts.gov.uk
-----------------	----------------	--------------	--------------------------

## The proposal and site description

The application comprises two related parts: Firstly the creation of a brick/render detached office unit of 1200m<sup>2</sup> floorspace together with associated parking. The office accommodation is proposed to be on two floors and takes a T-shaped plan form with inter-linking mono-pitched roofs. Secondly, the application site also includes the area of intended public open space (POS), originally identified and consented to under 02/02654/OUT. Whilst maintaining the position and overall size of the POS, this application specifically seeks consent to carry out engineering operations within the POS, most particularly in order to create a flood water attenuation “pond” in its north-eastern corner.

A former County Farm, commercial and residential development on this site has been under way for some time and all previous buildings have been cleared. A significant part of the farm complex, towards the road frontage, is within flood zone 3 (high risk) to Dauntsey Brook.

Relevant Planning History		
03/02654/OUT	Residential development and new industrial premises	Approved 07/06/04
05/00962/REM	Residential development (siting, design and external appearance)	Approved 24/01/06
05/00612/REM	Employment development and associated access road	Approved 24/01/06
05/01873/COU	Change of use of land to commercial curtilage	Approved 07/09/06
05/01784/COU	Change of use of land to domestic curtilage	Approved 07/09/06
06/03091/FUL	Employment development of 6 office units, associated access road and open park land including attenuation pond (revision to details including addition of one unit under 05/00612/REM)	Refused 01/03/07
	Appeal dismissed 17/09/07	
07/02121/FUL	Construction of surface water sewer and underground storage tank	22/01/07

## Consultations

**Wiltshire County Council Highways** – No objections subject to conditions

**Environment Agency** – No objection subject to conditions

**Dauntsey Parish Council** – The attenuation pond and re-grading intrudes into the open space agreed by the Section 106 to a significant extent. It is therefore appropriate that additional land is provided from the unused area to the North West to compensate for the loss of public open space. In light of regular major flooding which has occurred since the technical information was prepared by the developer there will be inadequate volume in the attenuation pond.

The increased number of units is an overdevelopment of the site which will exacerbate both traffic and the lack of adequate parking spaces. It also removes the open aspect of the site by placing the units closer together. There will be increased surface water run-off from the additional unit.

## **Representations**

Eight (8) letters of objection received from local residents.

Summary of issues raised:

- Development of this scale not in-keeping with village – no local need or demand for this amount of commercial floorspace
- Lack of parking
- Increase in flood risk in an area already prone to flooding
- Developer has very obviously disregarded planning requirements and requests of local residents

## **Planning Considerations**

### Background and Principle of development

The application is the latest in a series of applications that seeks to develop what was a redundant farm complex on the edge of the village for mixed B1 office and residential use.

The original redevelopment site bisected the Settlement Framework Boundary of Dauntsey, with the 0.828ha residential element positioned inside of the policy boundary and the office development outside (reference 03/02654/OUT refers given planning permission by the Development Control Committee on 07/06/04).

Under the terms of the outline planning permission, a section 106 agreement was entered into, which, inter alia, required the laying out of an area of public open space (POS) in a location that was identified on the approved plans. The creation of the POS was integral to the success, and ultimate acceptability, of that outline proposal for redevelopment.

Two reserved matters applications, respectively for the residential and commercial elements of the overall development, were subsequently submitted by the then new owners Flower & Hayes Developments. The residential proposal comprised a total of 19 dwellings including 4 affordable units, with the employment element consisting of five detached B1 units and car parking totalling 1089.8m<sup>2</sup> of floorspace.

Two further applications for the change of use of relatively small pieces of land to the north of the site were also approved in 2006. The land was previously excluded from the outline and previous matters permissions because it was simply agricultural field and not part of the hard-surfacing of the original farm complex.

During the course of negotiation as to the layout and future maintenance of the POS (as required by the section 106), it became clear that the POS was to be used by the developer as part of their strategy for the management and disposal of surface water from the development site – a fact further complicated by the 1 in 100 year flood plain which includes part of the site. As a result, the first application for the creation of a flood water “attenuation pond” was submitted (06/03091/FUL refers), which also included the creation of one additional commercial unit and is largely similar to the application now before the DC Committee. This 2006 application was refused primarily on the basis that the “pond” simply constituted infrastructure works in order to deal with surface water from the development site. The pond was considered to have no intrinsic value as an amenity pond, rather adversely impacting upon the appearance and use of the POS by the wider village.

The 2006 refusal was the subject of an appeal, which was dismissed. However, in dismissing the appeal the Inspector did provide comment upon the issues germane to the proposal. Indeed,

given the similarities between the 2006 and the current proposal, the appeal decision does represent the starting point for detailed consideration.

### Flood risk

At the time of the 2006 application, the Environment Agency raised concerns that the bunding to the attenuation pond would project into the flood plain of Dauntsey Brook and that positioning of the culvert to the roadside ditch, both of which could impede flood flows and storage capacity. In his decision letter the appeal inspector concludes (primarily paras. 7 and 8), that the imposition of planning conditions would not be sufficiently precise and enforceable to overcome the <then> outstanding objections of the Environment Agency.

Since that time, and based upon the additional hydrological information and revisions submitted as part of this new application, the Environment Agency have fully withdrawn their objections to the principle of development. They are now of the opinion that sufficient information is available upon which conditions could be reasonably based and applied. In essence the new application now includes compensatory excavation of land within the POS for the projection of the attenuation pond into the flood zone

### Ongoing maintenance of attenuation pond

In paragraph 07 of the Inspector's decision letter, he does raise specific concerns about the lack of reference within the proposal to any "*...responsibility for, or programme of, operation and maintenance of the facility.*" (Note: that I have assumed the term "facility" is used in respect of the attenuation pond proposed). Unfortunately the current application continues not to address this issue, although in light of the removal of the outright objection of the Environment Agency, it would be possible to deal with such a matter either via planning conditions or legal agreement.

It should be noted that the requirements of the original s106 agreement in respect of the laying out and future maintenance of the POS have yet to be addressed. Therefore, in light of (1) the outstanding requirements of the existing legal agreement; (2) the fact that the original legal agreement is specific in its applicability to the 2003 outline planning permission – which in respect of the POS, would be effectively superseded by a grant of this planning permission, and; (3) the reality that the future security, maintenance and operation of the POS cannot be realistically divorced from that of the drainage infrastructure thereon, it is recommended that this matter be secured through an agreement under s106 of the Act.

### Effect of attenuation pond upon appearance and operation of public open space (POS)

In defending the previous appeal, the Local Planning Authority were of the opinion that the attenuation pond would be visually deleterious to the POS, and potentially have a practical effect upon the Parish Council's expressed desire to use the land as their "village green".

However, in considering the Inspector's decision letter, it does appear that the general tone is supportive of the attenuation pond. Indeed, in para.13, the Inspector unequivocally concludes that the proposed development would "*...not be harmful to the necessary provision of public open space.*". Discussion with the Senior Regeneration Officer (and through examination of the Council's open space study), confirms that the new residential development on the adjoining site would not be of a sufficient number or scale to justify further resistance to the loss of this part of the POS for use as open space (ie. the general point being that POS created under the original outline permission can only legitimately relate to the new residential development then being proposed – and the required open space to meet the expected demand of those new occupiers - and not to solve any perceived existing shortfall in open space in Dauntsey as a whole). Circular 05/05 on Planning Obligations outlines this necessary test of direct relevance of the obligation to the proposal being considered.

Even if the Inspector's comments were interpreted to entirely relate to the operation of the land as POS, and not to the visual effect of the attenuation pond (an issue which is not specifically made

reference to), Officers are of the opinion that visual impact alone is not sufficient reason to refuse planning permission.

Similarly, in light of the comments of the Inspector and the withdrawal of the EAs objections, the hope that an underground storage tank would be used in preference to the pond (as per the earlier planning permission (under reference 07/02121/FUL), primarily as a way of minimising visual/operational impact, would also not be a reason to refuse planning permission.

#### Impact of the additional commercial unit

The application includes a revised layout of commercial development (including an additional commercial unit and an increase in floorspace of four no. of those units). No restriction on the exact business use class was imposed under previous permissions, although it has clearly been the case that end users are anticipated to fall within the B1 use class.

On this issue, the comments of the previous appeal Inspector are clear. In para.14 he states that the additional unit would “...*mirror the scale, form and density of development on the rest of the site...and would be far enough removed from the new dwellings and from public viewpoints not to be harmful to appearances.*”. Although not in accordance with the originally approved plans for the five existing office units, and despite the concerns of local residents, it is clear that in light of the comment of the appeal Inspector does, further debate on this matter would be fruitless.

#### **Recommendation:**

The applicant be invited to enter into a legal agreement under s106 of the Act in respect of the following :

- Layout and future maintenance of the public open space
- Programme of operation and maintenance of the drainage infrastructure thereon

Following completion of which the Development Control Manager be authorised to GRANT permission, subject to the following conditions:

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

Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

2. The development hereby permitted shall be carried out strictly in accordance with the approved plans subject to such minor amendments to the development as may be approved in writing under this condition by the local planning authority.

Reason: To ensure that the development is implemented in accordance with this decision in the interests of public amenity, but also to allow for the approval of minor variations which do not materially affect the permission.

3. No development shall commence until details of materials to be used externally have been submitted to, and approved in writing by, the local planning authority. The development shall be built in the materials approved.

Reason: In the interests of visual amenity.

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification) no gates, fences, walls or other means of enclosure (other than those shown on the approved plans) shall be placed or erected anywhere on the site edged in red on the approved plans.

Reason: In the interests of the amenity of the area.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification) there shall be no extension to any building forming part of the development hereby permitted and no plant or machinery shall be installed outside any such building on the site edged in red on the approved plans.

Reason: In the interests of the amenity of the area.

6. No raw materials, finished or unfinished products or parts, crates, materials, waste, refuse or any other item shall be stacked or stored outside any building on the site without the prior approval in writing of the local planning authority.

Reason: In the interests of the amenity of the area.

7. The development hereby permitted shall not be commenced until details of the landscaping of the site, including wherever appropriate the retention of existing trees, have been submitted to, and approved in writing by, the local planning authority.

The approved landscaping scheme shall be implemented within one year of either the first occupation or use of the development, whether in whole or in part, or its substantial completion, whichever is the sooner, and shall be maintained thereafter for a period of not less than five years. The maintenance shall include the replacement of any tree or shrub which is removed, destroyed or dies by a tree or shrub of the same size and species as that which it replaces, unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of amenity.

8. The area allocated for parking on the approved plan shall be kept clear of obstruction and shall not be used other than for the parking of vehicles in connection with the development hereby permitted.

Reason: In the interests of amenity and road safety.

9. As the surrounding area is known to flood from time to time, the internal ground floor level (s) of the commercial building (s) shall be constructed no lower than 60.23 metres above Ordnance Datum.

Reason: In the interests of flood prevention

10. No development approved by this permission shall be commenced until a scheme for the provision of surface water drainage works has been submitted to and approved in writing by the Local Planning Authority. The drainage works shall be completed in accordance with the details and timetable agreed.

Reason: To prevent the increased risk of flooding by ensuring the provision of a satisfactory means of surface water disposal.

11. Development shall not commence until details of a safe pedestrian exit route, not adversely affecting the flood regime, to land outside the 1 in 100 year flood plain, are submitted to and agreed in writing by the Local Planning Authority. This route must be in place before any occupancy of the building (s).

Reason: To provide safe access and egress during flood events and reduce reliance on emergency services.

12. There shall be no built development whatsoever or storage of any materials, including soil, within that part of the site liable to flood AND that shown as public open space on LPC drawing No. 05, without the prior approval of the Local Planning Authority.

Reason: To ensure that there will be no increased risk of flooding to other land/properties due to impedance of flood flows and/or the reduction of flood storage capacity.

13. The commercial floorspace hereby permitted shall be used for office and light industrial purposes only (class B1 of the Town and Country Planning Use Class Order (as amended) 1997) and for no other purpose unless otherwise agreed in respect of a specific planning permission in that regard.

Reason: In the interest of neighbour amenity.

**PLANS :**

- Site plan 1202 rev.G
- Office buildings – plans and elevations S4296/04A
- Existing site plan S4296/01
- Flood risk assessment (dated December 2002)
- Additional SUDS hydrology report (dated October 2007)

All received 07/02/08

**Reason for Decision**

The proposal is considered to comply with the provisions of policies C3, NE21 and BD5 of the adopted North Wiltshire Local Plan 2011.

<b>Appendices:</b>	NONE.
<b>Background Documents Used in the Preparation of this Report:</b>	1.19; 1.20; 2.01; 2.02; 2.07; 2.32; 4.02; 4.04; 4.06