

## **WILTSHIRE COUNCIL**

### **SOUTHERN AREA PLANNING COMMITTEE 10 February 2011**

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#### **APPLICATION S/2010/0173 FOR REDEVELOPMENT FOR 65 NEW DWELLINGS INCLUSIVE OF NEW VEHICULAR ACCESS TO PEMBROKE ROAD AND EMERGENCY ACCESS TO PENRUDDOCK CLOSE AND ASSOCIATED GROUND MODELLING AND DRAINAGE WORKS**

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#### **1. Report Summary:**

- 1.1 To advise members of a proposed change to the resolution of the Southern Area Planning Committee regarding Application Number S/2010/0173 which came before Committee on 18 November 2010 in relation to the s.106 Legal Agreement.

#### **2. Considerations:**

- 2.1 The background to this report is the resolution of the Southern Area Planning Committee to grant planning permission for the redevelopment for 65 new dwellings inclusive of new vehicular access to Pembroke Road and emergency access to Penruddock Close and associated ground and drainage works. This was subject to a legal agreement/legally binding obligation, which would be under s106 of the Town and Country Planning Act 1990 to secure a number of planning requirements.

- 2.2 The requirements and the legal agreement related to:

- (1) the provision of 40 per cent affordable housing;
- (2) the minimum provision on site of 0.18 hectares of formal open space (excluding the wooded area on the Eastern boundary) and the provision of a commuted sum for the continued maintenance and upkeep of the open space and the wooded area. In addition a scheme for the opening of the wooded area to the public on a trial basis ;
- (3) A contribution towards off site open space (R2);
- (4) Waste and recycling scheme provision;
- (5) The achievement of an environmentally –friendly sustainable scheme, including at least a code three code for sustainable homes rating;
- (6) A financial contribution towards the provision of off-site traffic calming measures and/or other sustainable highway measures along Pembroke Road;

- 2.3 The Council as landowner were working with Bovis Homes who made the application for the above stated development to the Local Planning Authority. The Resolution of the Southern Area Planning Committee reflects the fact that Bovis were to enter into a legal agreement to secure the obligations as

set out above prior to planning permission being granted. However Bovis Homes no longer wish to proceed with this development. The result of Bovis not wishing to proceed is that planning permission cannot be issued because there is now no longer a developer to enter into a legal agreement in its current form.

2.4 The Council however, still intends to develop part of the site with 22 affordable housing units in conjunction with their contractor Pearce which will be funded by the Homes Community Agency 'HCA'. The Council then intend to market part of the site to secure 4 additional affordable units, open market housing and compliance with the remaining obligations. This will be achieved by requiring in the contract of sale the purchaser to enter into a s.106 Agreement to secure the relevant obligations.

2.4 To enable the Council as landowner to proceed with the development, the Council's proposed solution is to vary the wording of the Resolution granted on 18<sup>th</sup> November 2010 to remove reference to entering into a legal agreement/legally binding obligation. The Council also seek to remove Condition 19 and the Informative, this is because Condition 19 refers to securing affordable housing. The Informative will require wording which sets out the requirement of any future purchaser to enter into a contract for sale of part of the land which will require the completion of a s.106 Agreement to secure the following Obligations;

- (1) the provision of 4 affordable housing units;
- (2) the minimum provision on site of 0.18 hectares of formal open space (excluding the wooded area on the Eastern boundary) and the provision of a commuted sum for the continued maintenance and upkeep of the open space and the wooded area. In addition a scheme for the opening of the wooded area to the public on a trial basis ;
- (3) A contribution towards off site open space (R2);
- (4) Waste and recycling scheme provision;
- (5) The achievement of an environmentally –friendly sustainable scheme, including at least a code three code for sustainable homes rating;
- (6) A financial contribution towards the provision of off-site traffic calming measures and/or other sustainable highway measures along Pembroke Road;

2.5 This resolution would ensure that planning permission can be granted and the development can go ahead subject to conditions (which will also need to be amended). An Informative will also be added which will add a note that any future purchaser of part of the site will be required to enter into a s.106 Agreement. The Council will not be able to proceed with this development if the proposed change is not accepted as the Council will be unable to claim the grant from the HCA without the required Planning permission in place.

2.7 The Council's Director of Housing has agreed the proposed change to the Committee Resolution and is content that the proposed change will enable the development to proceed without any further delay and enable the

Council to secure the funding from the HCA to complete the development. By accepting this change, the obligations as set out in the current Resolution would still be met but in a different way.

- 2.9 It is considered that by allowing the change to the resolution it will achieve the same objectives as the current resolution to enable the development to go ahead to provide much needed affordable housing.

**3. Options for consideration:**

- 3.1.1 **Option 1** Members resolve to delegate to officers the changes proposed to the Resolution as set out in the above report.

- 3.2 **Option 2** Members decline the change to the Resolution and resolve to keep the wording the same which will mean the loss of funding from the HCA to build 22 affordable housing units.

**Recommendation:**

- 1. That members resolve to follow Option one, to resolve to delegate to officers the changes to the Resolution of the Southern Area Planning Committee on 18 November 2010 with wording in similar terms as follows 'That the application be approved as per the officer recommendation, with changes to the requirement under point (ii) a scheme for the opening of the wooded area on a trial basis and point (vi) contribution towards the off-site traffic calming measures along Pembroke Road. Condition 19 is to be removed from the list of conditions, therefore the additional condition no. 20 will now become condition 19. This additional condition was added in respect of the fence surrounding the former caretaker's bungalow (Pembroke Park Bungalow) and the fence and works surrounding no. 54 Pembroke Road. That the Informative be replaced with an Informative to inform prospective purchasers of the requirement to enter into a legal agreement to secure 4 affordable housing units and the remaining obligations as set out in the Resolution dated 18 November 2010.**

- 2. That planning permission be granted for the following reasons:**

It is considered that this application makes maximum use of the available land, providing a substantive proportion of affordable housing on an otherwise vacant site. The proposal therefore complies with policy H1 of the Salisbury District local plan. The area of open space in the centre of the proposed development is considered adequately compensates for the loss of the previous school playing fields.

The design and layout of the proposal is satisfactory and it is considered complies with policies G1 and G2 of the adopted local plan as well as design policies D1 and D7 as it makes maximum use of the site whilst considering the significant constraints imposed by levels and heights.

It is considered that residential amenity would not be significantly harmed by the proposal as houses facing Jubilee Close are at a lower level and set back 20 M and behind existing trees and shrubs as such it is considered that residential amenity to Jubilee Close will be preserved in line with policy G1 and G2 of the adopted local plan.

The proposal is considered to improve highway safety standards in the vicinity of the proposal by providing funding for off site highway improvements along Pembroke road and closing vehicular access to Penrodduck Close as such the proposal complies with policy TR1 of the saved policies of the adopted local plan.

The site will make provision for 40% affordable housing on site of which a substantial proportion is proposed as council built housing. This will help meet the need for affordable housing within the Southern part of Wiltshire and as such complies with policy H25 of the adopted local plan.

The proposal makes provision for traffic improvements in Pembroke road which will help calm traffic along this highway. In addition it makes provision for the retention and future management of the woodland area to the east of the site. It is considered that the proposal accords with policies G1, G2, H1, H22 and H25 of the saved policies of the adopted local plan.

**And Subject to the following CONDITION (S):**

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

REASON : To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 (1) of the Planning and Compulsory Purchase Act 2004.

2. Details and samples of all external facing and roofing materials to be used shall be submitted to, and approved in writing by, the Local Planning Authority prior to the commencement of the dwellings and where so required by the Local Planning Authority sample panels of the external finishes shall be constructed on the site and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.

REASON: To secure a harmonious form of development.

**POLICY G2**

3. Prior to first occupation of the development details/a plan indicating the positions, design, height, materials and type of boundary treatments to be erected shall be submitted to, and approved in writing by, the Local Planning Authority. The development shall be carried out

in accordance with the approved details and the boundary treatments shall be erected prior to the first occupation of the dwellings hereby approved and shall thereafter be maintained for a period of five years and thereafter retained.

REASON: In the interests of neighbouring residential amenity and the environment of the development.

#### POLICY G2

4. Prior to the commencement of development an ecological management plan shall be submitted to and approved in writing by the local planning authority such a plan shall include an evaluation of ecological site features; a summary of ecological objectives proposals to protect ecological features, management and maintenance prescriptions, implementation and funding and a 5 year schedule of works including the monitoring and review of the plan. The approved details of the plan shall be implemented in accordance with the timescale set out in the approved plan.

REASON : In the interests of protecting wildlife on the site

#### POLICY G2

5. Prior to commencement of development a badger protection method statement shall be submitted to and approved in writing by the local planning authority. Such a protection method statement shall demonstrate the measures that will be taken to ensure badgers are not affected by the construction works. The development shall be carried out in accordance with the details approved.

REASON: In the interests of protecting wildlife on the site.

#### POLICY G2

6. Prior to the commencement of development a reptile protection method statement shall be submitted to and approved in writing by the local planning authority. Such a protection method statement shall demonstrate the measures that will be taken to ensure reptiles are not affected by the construction works. The development shall be carried out in accordance with the details approved.

REASON: In the interests of protecting wildlife on the site.

#### POLICY G2

7. Prior to the first felling of any trees on site a report shall be submitted identifying those trees that are to be felled and any mitigation measures that are required to protect bats within those trees. Such a report shall be submitted and approved in writing prior to commencement of development any development shall then be carried out in accordance with the details in the report.

REASON: In the interests of protecting wildlife on the site.

#### POLICY G2

8. The proposals for the landscaping of the site, as shown on the approved plans (including provision for landscape planting, the retention and protection of existing trees and other site features, walls, fencing and other means of enclosure and any changes in levels) shall be carried out as follows:

- a) the approved scheme shall be fully implemented with new planting carried out in the planting season October to March inclusive following occupation of the building(s) or the completion of the development whichever is the sooner, or in accordance with a timetable to be agreed in writing with the Local Planning Authority;
- b) all planting shall be carried out in accordance with British Standards, including regard for plant storage and ground conditions at the time of planting;
- c) the scheme shall be properly maintained for a period of 5 years and any plants (including those retained as part of the scheme) which die, are removed or become damaged or diseased within this period shall be replaced in the next planting season with others of a similar size and the same species, unless the Local Planning Authority gives written consent to any variation; and
- d) the whole scheme shall be subsequently retained.

REASON: In the interests of visual amenity and the environment of the development and to ensure that the approved landscaping scheme is carried out at the proper times.

#### POLICY G2

9. Prior to commencement details for the hard landscaping of the site, including full details of the surfacing materials and colours of all hard surfaces and kerbing, have been submitted to, and approved in writing by, the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details, unless otherwise first agreed in writing by the Local Planning Authority.

REASON: In the interests of the amenities of the site and to secure a well planned development.

#### POLICY G2

10. Prior to the commencement of development, full details of the road layout and construction shall be submitted to, and approved in writing by, the Local Planning Authority. These details shall include longitudinal sections, typical cross sections including surface materials, street lighting and road drainage. The development shall thereafter be carried out in accordance with the approved details and no dwelling shall be occupied until that part of the access

road which serves it has been constructed up to and including bindercourse (basecourse) surfacing in accordance with the approved details.

REASON: In the interests of highway safety and to ensure that an adequate means of access is available when the dwellings are occupied.

#### POLICY G2

11. Prior to the first occupation of any of the dwellings, hereby approved, the garaging/parking, cycle parking and turning space indicated on the approved plan shall be constructed, laid out and made available for use and shall thereafter be retained and kept available for those purposes at all times.

REASON: In the interests of highway safety and to ensure an adequate level of parking provision to serve the development.

#### POLICY G2

12. No development shall commence until a scheme of water efficiency measures to reduce the water consumption of the dwellings, hereby approved, shall be submitted to, and approved in writing by, the Local Planning Authority. The approved measures shall subsequently be implemented and brought into operation prior to the first occupation of the dwellings and shall thereafter be retained, unless otherwise first agreed in writing by the Local Planning Authority.

REASON: In the interests of the conservation of water resources and to protect the Hampshire Avon River and its habitats.

#### POLICY G3

13. Development shall not begin until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall also include details of how the scheme is to be maintained and managed after completion.

REASON: To prevent the increased risk of flooding to improve and protect water quality and to ensure the future maintenance of the surface water drainage system.

#### POLICY G5

14. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 and the Town and Country Planning Act 1990 or any subsequent re-enactment thereof, no further development permitted by Classes A, B, D and E of Part 1 of

Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995, shall be carried out without express planning permission first being obtained from the Local Planning Authority.

REASON: To enable the Local Planning Authority to retain control over the development in the interests of the visual amenity.

#### POLICY G1

15. The development hereby approved shall be undertaken in full accordance with the following approved plans:

Planning Layout dwg no 0064-2-201\_Rev D

Location Plan dwg no 0064 -0\_101

Topographical survey plan 011-D1 –A

Topographical survey plan 011-D2 – A

Topographical survey plan 011-D3 – A

Affordable housing plan 0064 -2-203

Slab levels and drainage plan 0064-2-206

Street lighting plan 0064 – 5-531

Site sections 0064-2-208-A

Materials Plan 0064-2-300

Street scene elevations 0064-2-301-B

House type A – rev A

House Type B – rev A

House Type C – rev A

House Type D – rev A

House Type E – rev B

House Type F – rev B

House Type F1 – rev A

House Type G

House Type H –rev A

House Type H1 – rev A

House Type H2

House Type J – rev B

House Type J1

House Type K – rev A

Landscape Proposals dwg no 0064-3001 –rev A

REASON: For the avoidance of doubt

16. Construction works shall not take place except between the hours of 07.30hrs to 1800hrs on Mondays to Friday and 08:00 to 13:00hrs on Saturday. No work on Sundays and Public Holidays.

This condition does not apply to the internal fitting out of the buildings

REASON: In order to limit the noise and disruption to adjacent neighbours during antisocial hours

17. Before development commences, further details of the emergency link to Penruddock Close shall be submitted and approved in writing by the Local Planning Authority. Such details shall show a 3m width of maintainable public



highway for use for pedestrians and cyclists, with suitable measures to prevent access by vehicular traffic other than emergency vehicles: and the emergency link shall be provided before the 50th occupation of the dwellings the subject of this permission.

REASON: In order to limit the use of the northern access by non emergency vehicles in order to reduce the level of traffic using the access to an acceptable level in the interests of amenity.

## POLICY G2

18. Prior to the commencement of development, full engineering details of the road layout and construction including longitudinal sections, typical cross sections, road drainage and street lighting shall be submitted for the written approval of the Local Planning Authority; and the road constructed in accordance with these details between each dwelling and the main access junction with Pembroke Road prior to occupation of each dwelling.

REASON: In the interests of highway safety

## POLICY G2

19 Details and a scheme for the implementation, in respect of the fence surrounding the former caretaker's bungalow (Pembroke Park Bungalow) and the fence and works surrounding no. 54 Pembroke Road shall be agreed in writing with the local planning authority prior to the commencement of development. The fencing and works shall then be implemented in accordance with the details and the submitted scheme and the fencing retained in perpetuity.

REASON: In order to protect the amenities of the occupiers of Pembroke Park Bungalow, and no. 54 Pembroke Road.

1. The applicant's attention is drawn to the comments of Wessex Water, a copy of which is attached to this decision notice. In this respect, Wessex Water has advised that there is a public foul sewer crossing the site. Wessex Water normally requires a minimum 3.0 metre easement width on either side of its apparatus for the purposes of maintenance and repair and therefore diversion or protection works may need to be agreed.

2. In conjunction with Condition No's 13 and 14 above, the applicant's attention is drawn to the comments of the Environment Agency, a copy of which is attached to this decision notice. For any further advice regarding any of the issues covered by these conditions the applicant is advised to contact the Environment Agency, Rivers House, Sunrise Business Park, Higher Shaftesbury Road, Blandford Forum, Dorset, DT11 8ST. Tel: 01258 483390 / Fax: 01258 455998.'

**4. Appendices:**

- A. The original report to Southern Area Planning Committee on 18 November 2010 and the minutes of that meeting.