

Wiltshire Council

Western Area Planning Committee

30 November 2011

LATE LIST – ITEM 1 W/11/02357/FUL

6 letters of support received. These generally accord with points and themes already brought to members attention in the officer report via the other letters of support.

Officer comments: No comments to add.

1 letter of objection received. This generally accords with points and themes already brought to members attention in the officer report via the other letters of objection.

Officer comments: No comments to add.

Two already registered objectors have written again:

One who is also an immediate neighbour has submitted a plan showing the extant north elevation and proposed north elevation from their property.

Officer comments: It does not provide any new detail that was not earlier assessed by your officers, rather it is an alternative means of representing the same information. No comments to add.

Another who is also an immediate neighbour has instructed planning agents GL Hearn to represent them. Their initial comments had already been included within the committee report in the public objector section. Since the drafting of the officer report they have also submitted a electronic 3D model (which it is understood has been circulated separately to committee members by CD) and a counsel opinion which focuses on two issues; the process followed by the applicant and the Council and evaluation of the impact of the scheme on the setting of Berryfield House. It makes criticism of the process followed by the applicants in public consultation and that officer assessment of this matter in the committee report is incorrect. On the issue of the listed building's setting it concludes that the matter has been inadequately assessed by officers in the committee report.

Officer comments: The 3D modelling and fly through is a useful means of considering the impact of the proposals on the local environment generally including Berryfield house and the impact that the extant scheme would have too. However it does not have any additional information over what was available to officers with the usual and statutorily required submission of accurate scaled plans and elevations; it does not provide any design details that the elevations do show. It does not provide any new detail that was not earlier assessed by your officers, rather it is an alternative means of representing the same information. No comments to add.

Turning to the counsel opinion your officers have given this very careful consideration and remain of the view that the scheme should be recommended for permission subject to conditions. At paragraph 3 there are factual inaccuracies, the extant scheme was a mix of 3, 2 and single storey development and was in places closer to the boundary with Berryfield House. At paragraph 4 they simplify consideration of development impacts by referring only to distance and heights, design and elevation treatment is material too. At paragraph 5 they state that the built form will be closer to Berryfield House, in places it will be further away too. Focus is had on comparing the extant scheme and the proposed scheme, and whilst the fall

back position and planning history is material ultimately the maxim that each case must be assessed on its merits holds. Paragraph 7 details personal circumstances that are not material to the consideration of the application and for the sake of clarity have not been considered by officers at any stage.

Turning to the two detailed issues, firstly 'process'. To reiterate, the Council has followed all statutory requirements in the consultation process, including public consultation; The developers did carry out pre-application consultation and whilst the extent of their consultation may be criticised, it has not, in your officer's view, been unlawful, nor does it constitute a reason for refusal of the application. Local residents have not been prevented from having an opportunity to comment on the application and to have those views taken into account by the Council. Negotiations have continued through the application process (in part due to the public and other consultation responses) and resulted in modest improvements to the scheme, addressing some (not all) of the points of objection.

In relation to the matter of the assessment of the impact on the setting of the listed building, your officers have covered this within the planning committee report, in-house expert conservation advice has been quoted verbatim within the committee report, reference has been made to relevant policy considerations. Statutory obligations (section 66) in regard to the setting of listed buildings being a material planning consideration will be known to members through their training and as such is not repeated in each report where it is relevant. Guidance and advice on material planning considerations is substantial and as such is not necessarily referenced completely in each report, however your professional officers are aware of it and have regard to it in making their recommendations. The accompanying guide to PPS5 and the new English Heritage guidance (October 2011) has been given consideration by your officers and English Heritage were consulted on the application. English Heritage guidance details under practical and proportionate decision-making that protection of setting of heritage assets need not prevent change..

The Counsel opinion is silent on Policy HE10 of PPS5 which also deals with development affecting the setting of a heritage asset. Your officers consider that the balancing exercise advocated is the relevant test that should be applied in this application. Policy HE10.1 states:

"When considering applications for development that affect the setting of a heritage asset, local planning authorities should treat favourably applications that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset. When considering applications that do not do this, local planning authorities should weigh any such harm against wider benefits of the application. The greater the negative impact on the significance of the heritage asset, the greater the benefits that will be needed to justify approval."

The application has been assessed in light of all of this information and your officers have concluded that the development would not cause substantial harm to the setting of the listed building. This is a subjective judgement. The counsel opinion has been given careful consideration but it does not change your officers' views.

A copy of a letter published by the Wiltshire Times to their editor from Trustee of the Bradford on Avon Preservation Trust. In summary, this letter details that the Trust support a care home but that the design detail needs further work. They suggest that the care home and assisted living units are swapped over. The letter states they have made no comment on height because they accept that extra beds are necessary to make the scheme viable and that Berryfield is slightly more elevation position with lofty ceilings.

Officer comments: This letter to the editor of the Wiltshire Times does not influence your officers' recommendations. The idea of swapping over the care home and assisted living units has been presented to the developers and discounted by them. Your officers have negotiated with the developer prior to submission and during the application and it is not considered that any further improvements can be offered by the developer or indeed reasonably sought by the Council. The scheme must now be assessed on its merits.

A copy of a letter sent to the developers with plans illustrating an alternative concept site layout swapping the assisted living and care home development over. Suggests that if the current application is refused this idea could be worked up to ensure a care home is built in Bradford-on-Avon.

Officer comments: The alternative concept idea has been discussed in principle with the developer during application negotiations and discounted by them. At this stage it is necessary to consider the application as it stands and based on its planning merits

A revised Flood Risk Assessment (FRA) has been submitted by the developers on 22 November 2011 and published on the Council's website. This has been submitted to address the Environment Agency's response and has principally altered in section 5 on mitigation measures and section 6 conclusions. It states that thresholds on the southern part of the site will be set at a minimum of 150mm about ground level rather than 300mm as originally suggested. To facilitate this change a surface water soakaway system will be designed with a storm design return period of 1 in 30 years to provide sufficient storage volume to avoid surface water flooding.

Officer comments: The views of the Environment Agency have been sought on this revised FRA to allow further consideration.

A letter from the Environment Agency (EA) has been received on 30 November 2011 in response to the revised FRA. This states that the threshold levels and other flood resilient measures that are appropriate for the buildings cannot be determined until detailed surface water drainage for the site has been submitted. This will allow a better understanding of the risk and necessary mitigation.

Officer comments: Based on the revised FRA, the EA response and the relevant planning history your officers would recommend a proportionate approach be taken broadly in line with the EA recommendations. Condition 12 shall remain to be consistent with the 2008 approval. Condition 10 on surface water drainage remains and condition 11 should be replaced by the following condition now suggested by the EA:

New condition 11:

No development shall commence until a scheme for flood proofing has been submitted to and agreed in writing by the local planning authority. The scheme shall be informed by the surface water drainage proposals and include details to address any potential surface water flooding.

REASON: To reduce flood risk to the proposed development.

POLICY: Planning Policy Statement 25: Development and Flood Risk.

An additional plan has been submitted by the developer reference SK(13)004 on 28 November 2011. This details a comparison of the south and east elevations of the extant approved care home and the now proposed care home.

Officer comments: This additional submission by the applicant clearly shows that the new scheme is of a greater scale than the extant approval from 2008. Whilst the direct

comparison is useful to have on plan, it does not provide any detail that was not earlier assessed by your officers. No comments to add.

The applicant has engaged a 'conservation advisor' (Cotswold Archaeology) who has provided a view of the proposals as an additional assessment of the impact of the scheme on the setting of the Grade II listed Berryfield House. In summary this concludes that the approved scheme has already and rightly been assessed as not conflicting with national or local policy; there are no perceivable (with regard to the specific heritage significances of Berryfield House) differences between the extant and current scheme and therefore the proposed scheme too is acceptable.

Officer comments: No comments to add as this does not change the opinion of your officers.