

WESTERN AREA PLANNING COMMITTEE

MINUTES OF THE WESTERN AREA PLANNING COMMITTEE MEETING HELD ON 9 MAY 2012 IN THE COUNCIL CHAMBER - COUNCIL OFFICES, BRADLEY ROAD, TROWBRIDGE, BA14 0RD.

Present:

Cllr Trevor Carbin, Cllr Ernie Clark, Cllr Rod Eaton, Cllr Peter Fuller (Chairman), Cllr Mark Griffiths, Cllr John Knight, Cllr Christopher Newbury, Cllr Stephen Petty, Cllr Pip Ridout, Cllr Jonathon Seed and Cllr Roy While (Vice Chairman)

Also Present:

Cllr Francis Morland and Cllr Graham Payne

35 **Apologies for Absence**

There were no apologies for absence.

36 **Minutes of the Previous Meeting**

The minutes of the meeting held on 28 March 2012 were presented.

Resolved:

To approve as a correct record and sign the minutes of the meeting held on 28 March 2012.

37 **Chairman's Announcements**

There were no Chairman's Announcements.

The Chairman gave details of the exits to be used in the event of an emergency and welcomed everyone to the meeting.

The Chairman also informed everyone that he had agreed for a photographer from the Wiltshire Times to be present throughout the meeting and that people were welcome to indicate whether or not they wished to be photographed.

38 **Declarations of Interest**

W/11/02689/FUL - Former Bowyers Site, Stallard Street, Trowbridge, Wiltshire - Demolition and alteration of existing buildings and structures for a comprehensive redevelopment of the site

Councillor Peter Fuller declared a personal interest as a member of Trowbridge Town Council and its Development Control Committee but gave his assurance that he would consider the application with an open mind.

Councillor John Knight declared a personal interest as a member of Trowbridge Town Council and its Development Control Committee but gave his assurance that he would consider the application with an open mind. Councillor Knight added that he had not taken part in the meeting of the Development Control Committee where this application had been discussed and therefore had not endorsed the comments of the Town Council included in the agenda.

39 **Public Participation and Councillors' Questions**

No questions had been received from councillors or members of the public.

The Chairman explained the rules of public participation and the procedure to be followed at the meeting.

40 **Planning Applications**

The late list referred to in these minutes is attached for information.

The Committee considered the following applications:

40.a W/11/02689/FUL - Former Bowyers Site, Stallard Street, Trowbridge, Wiltshire - Demolition and alteration of existing buildings and structures for a comprehensive redevelopment of the site

Public Participation:

- Mr David Feather spoke in objection to the application.
- Mr Ross Bowen, RPS planning consultant, spoke in objection to the application.
- Mr Mike Baxter spoke in support of the application.
- Mr Crispin Lilly, Vice-president for Business Affairs for Cineworld, spoke in support of the application.
- Mr Angus Horner, Managing Director for Prosus, spoke in support of the application.

Councillor John Knight, Unitary Councillor for Trowbridge Central, spoke in support of the application.

Councillor Graham Payne, Unitary Councillor for Trowbridge Drynham, spoke in support of the application.

The Area Development Manager introduced the report which recommended refusal for the application and in doing so highlighted the planning policies to be taken into account and the main issues with the proposed development which included highways considerations.

The Chairman then drew the committee's attention to the late list.

The Chairman invited Alistair Cunningham, Service Director - Economy & Enterprise, to comment on the proposed development from a regeneration and policy perspective. From a policy and regeneration perspective the proposed development was considered as potentially detrimental to the regeneration of Trowbridge town centre.

In responding to technical questions asked the Area Development Manager confirmed that each application before the committee had to be considered on its own merit and the sequential test should be applied to this application.

The Senior Planning Solicitor explained to members of the committee that this application would be vulnerable to Judicial Review by an aggrieved party if the following were not provided and considered by the committee before the application was considered for and approved:

- possible reasons for approval;
- a full set of suggested conditions; and
- appropriate heads of term for any legal agreements.

During the ensuing lengthy debate it was agreed that a redevelopment of the site was desirable, however it was also recognised that a development of this type and scale would have to be subject to numerous conditions and various legal agreements, the drafting of which could not be practically achieved at the meeting, should it be considered for approval. Members of the committee were particularly keen to see issues such as highways and access concerns addressed either in the conditions or as part of a Section 106 Agreement.

Recognising the importance of the proposed development for the immediate neighbourhood as well as the town of Trowbridge, some members of the committee were minded to approve the application however they could not be satisfied that they had sufficient information available to them at that time.

It was therefore

Resolved:

That the committee were minded to grant approval for this application, subject to planning conditions and heads of terms for any legal agreement, that would be required to secure the completion of the

development and to secure improvements to highway access to the railway station, being met and approved by committee on 20th June 2012.

40.b W/11/03225/FUL - Holt Joinery, The Midlands, Holt, Wiltshire, BA14 6RG - Demolition of existing building and erection of new dwelling

Public Participation

- Mr Peter Hulbert spoke in objection to the application
- Mr Dean Jefferies spoke in objection to the application
- Mr Simon Chambers, agent, spoke in support of the application
- Mr Steve Siddall, Holt Parish Council, spoke in objection to the application

The Area Development Manager introduced the report which recommended approval for the application.

During the ensuing debate members of the committee could not alleviate their concerns regarding the proximity of the site to the adjacent vehicle repair workshop and the impact the proposed dwelling would have, especially due to its size compared to the size of the plot it was proposed to be built on and its impact on the conservation area and the setting of the nearby listed building.

It was therefore

Resolved:

That planning permission be REFUSED

For the following reasons:

1) The proposed development would result in the introduction of a residential use adjacent to an active vehicle repair workshop served from the access that runs alongside the proposed new dwelling. The close juxtaposition of this residential use with the active vehicle repair workshop would be likely to have an adverse impact on the operation of the vehicle repair workshop, as there could be pressure on the business to change its working practices (such as operating with the access doors open to demonstrate to customers that the business is open) in order to protect the amenity of the occupiers of the proposed new dwelling. This would conflict with policy E5 (ii) of the West Wiltshire District Plan 1st alteration and with Government guidance in the National Planning Policy Framework (NPPF) paragraph 123.

2) The proposed development, by reason of its bulk and design, with a tall dwelling standing in isolation and occupying almost the full width of the plot, and with open parking to the frontage, would have an adverse impact on the appearance of this part of the conservation area and would be intrusive on the setting of the nearby

listed building. This would conflict with policy C18 (a) and (b) of the West Wiltshire District Plan 1st Alteration

40.c W/11/03226/CAC - Holt Joinery, The Midlands, Holt, Wiltshire, BA14 6RG - Demolition of existing building

There was no Public Participation.

The Area Development Manager introduced the report which recommended that conservation area consent be granted.

Following a debate it was

Resolved:

That conservation area consent be GRANTED

For the following reason(s):

The proposed development conforms to the Development Plan and there are no objections to it on planning grounds.

- 1 The works for which conservation area consent is hereby granted shall be begun within three years from the date of this consent.

REASON: To comply with the provisions of Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 2 No demolition shall be undertaken on site until such time as a detailed schedule of the demolition works has first been submitted to and approved in writing by the Local planning Authority; such details to include:

- (a) timing of demolition works;
- (b) the parking of vehicles of site operatives and visitors;
- (c) loading and unloading of plant and materials;
- (d) wheel washing facilities;
- (e) measures to control the emission of dust and dirt during demolition;

and such works shall be implemented fully in accordance with such approved details unless otherwise agreed in writing by the Local Planning Authority.

REASON: In the interests of visual amenity and the character and appearance of the Conservation Area.

POLICY: PPS5 - Planning for the Historic Environment and West Wiltshire District Plan 1st Alteration 2004 - Policies C17 and C22.

- 3 The building shall not be demolished before a contract for the carrying out of the works of redevelopment of the site has been entered into, and planning permission has been granted for the redevelopment for which the contract provides.

REASON: To ensure that the character and appearance of the conservation area is conserved.

POLICY: West Wiltshire District Plan - 1st Alteration 2004 - Policies C17 & C18

- 4 The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans:

LOCATION PLAN received on 08.12.2011

SITE LAYOUT PLAN – Drawing No. LPC/2975/2A received on 27.01.2012

GROUND, FIRST AND SECOND FLOOR PLANS & SECTION – Drawing No. LPC/2975/3B received 23.02.2012

ELEVATIONS – Drawing No. LPC/2975/4A received on 27.01.2012

REASON: To ensure that the development is carried out in accordance with the approved plans that have been judged to be acceptable by the local planning authority.

41 **Urgent Items**

There were no Urgent Items.

(Duration of meeting: 6.00 - 8.50 pm)

The Officer who has produced these minutes is Marie Gondlach (Democratic Services Officer), of Democratic Services, direct line 01225 713597, e-mail marie.gondlach@wiltshire.gov.uk

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PLANNING COMMITTEE

9 May 2012

Observations and recommendations made since preparation of agenda

Item	Comments
Planning Applications	
6.a	<p>W/11/02689/FUL</p> <p>Since preparation of the Committee report, the following items of correspondence have been received:</p> <p>(A) 10 no individual letters in support of the application making the following observations:</p> <ul style="list-style-type: none"> - disappointment that the application is not being recommended for permission - the scheme is superior to that at St Stephens Place which offers little to local residents - the scheme represents what Trowbridge wants with more than 2500 people completing various polls and votes in favour of the scheme - the scheme will be served by excellent public transport facilities - the development will deliver a much needed petrol filling station - is the site being earmarked for the Trowbridge campus? - the development will create many new jobs and encourage trade - provision of enhanced riverside walks and open spaces - new supermarket to rival monopoly of Tesco - provision of flagship cinema - it is essential that the site does not remain derelict for an indefinite period - this application should have been determined some months ago and before the application at St Stephens Place - disheartening lack of officer support and discrepancies and mis-representation in the planning report - clear bias towards political rather than planning decision - highway difficulties overstated in view of site previously employing more than 1000 - no objections previously raised to the mixed development on this site - current development plan out of date but other schemes permitted which would have been contrary to this plan eg Shires Gateway - approval of Gateway scheme which 'is actually the fault of the planning committee itself' has contributed to current traffic problems - shallow and ill-thought reason for refusal (3) due to ongoing dialogue with Network Rail - development should be accompanied by conditions which require 50/50 funding with Wiltshire Council to improve whole local highway network, close off Station Approach, install CCTV, sign posting of other town assets and integrate public art throughout site. <p>(B) One letter raising concerns over the current 'sub standard scheme', which would appear to be premature with regard to the traffic situation, of poor design and of potential harmful impact on the development at St Stephens Place; if approved, referral to the Secretary of State would result in delay.</p> <p>(C) A letter on behalf of L&G Property confirming the final exchange of contracts with both Odeon and Premier Inn on the St Stephens Place site and advising of a ground breaking ceremony on 30 April.</p>

(D) A letter on behalf of ASDA Stores Ltd objecting to the application and summarised as follows:

- The current ASDA store has a net sales area of only 2300 sq ms with limited retail floorspace, range of stock, compromised access and service arrangements and with shared Pay and Display carpark
- Since opening of ASDA in 1994, permission has been granted for increase in floorspace at Tesco and new Sainsbury superstore, now 300% and 50% larger respectively; Morrisons will be approx 63% larger
- Viability of ASDA store eroded, and options and plans to expand and modernise (approx 450 sq ms) unlikely to go ahead if application permitted

Planning Policy

- NPPF requires LPAs to recognise town centres as the heart of their communities and that impact assessments should evaluate impact on existing committed and planned public and private investment in a centre and overall town centre vitality and viability

Sequential Test

- Entrance to Morrisons more than 300m walking distance from primary shopping frontage and site should be considered out-of-centre
- Recent permission and development at St Stephens Place confirms that site is 'available, suitable and viable' for purpose of sequential test; test also predicated on proposed size of superstore which is not justified and pays no regard to potential for new smaller stores to be developed
- Morrisons unlikely to generate same number of linked town centre trips as ASDA

Need

- WCS confirms no need for new food store and fact that Morrison's are not in the town does not demonstrate a qualitative deficiency.

Impact

- RTP estimate of ASDA turnover (£34M) excludes comparison goods and assumes store is overtrading by approx £9M; also assumes will only lose 20% of turnover to Morrisons compared with 50% to Tesco. These are incorrect figures and unrealistic assumptions in view of location of ASDA and have been used to give impression that greater impact will be on out-of-centre store.
- Even assuming RTP assumptions correct, development would have 33% impact on ASDA turnover and reduce store to 66% of company average level, plus impact on comparison goods (unestimated). This presents risk to long term viability of store which anchors town centre retail offer.
- Estimates a one third reduction in linked trips to town centre
- Concludes that regeneration benefits and job creation from scheme do not outweigh 'substantial harm to town centre'.

(E) A letter of objection from the Victorian Society

Objection on the grounds of the 'poor quality of the proposed extension and the excessive demolition of other mill buildings'.

(F) A letter dated 4 May on behalf of the applicant commenting on the committee report and its recommendation. In view of the detailed points raised, it is appropriate to report the letter in full:

"In respect of the above application, we write following the recently published committee report in advance of the Western Area committee date on 9th May 2012. Our client is disappointed by the recommendation for refusal and the failure to properly recognise the very significant benefits from the scheme – including in excess of 400 jobs and representing a significant regeneration opportunity for Trowbridge town centre. Therefore our client has written to Members separately.

From a planning perspective, the committee report presents a confusing case; put simply, your

Members will need to decide:

- Do they wish to see the Bowyers site redeveloped in a reasonable timescale?
- Do they wish to see in excess of 400 jobs being created within the next 18 months?
- Would the development result in adverse impacts that would '*significantly and demonstrably*' outweigh the benefits (i.e. the NPPF presumption in favour of sustainable development, which applies in the circumstances of the Innox Riverside application).

We remain of the view that there is a very strong case for planning permission and we are disappointed that your officers disagree.

Our client has taken Leading Counsel advice on your officers' report. Based on this advice, we believe the recommendation is based on a number of serious technical inconsistencies, inaccuracies and factual errors – including within the actual recommended reasons for refusal.

Our primary concerns (but by no means all) are as follows:

- The first recommended reason for refusal is generic and vague, referring to the '*holistic planning of Central Trowbridge*' but does not raise any specific concerns, consequently, it does not follow:

- Article 31(1)(b) of the Town and Country Planning (Development Management Procedure) (England) Order 2010 that requires local authorities to state '*clearly and precisely their full reasons for the refusal*'
- PINS Circular PINS 01/2009, paragraph 1.4.2 (third bullet point), that requires local planning authorities to ensure that their reasons for refusal are '*clear, precise and comprehensible*'
- DETR Circular 05/2000, paragraph 19, that requires the decision notice to be '*complete, clear and precise, to inform discussions between the parties*'

Consequently, if the application was determined via an appeal there would be risk of costs awarded against the Council because of the wording in CLG Circular 03/2009 (Costs Awards in Appeals and other planning proceedings), paragraph B2, that states that '*All appeals are open to costs awards for failure to comply with the relevant statutory requirements, as set out in Regulations*' and there is a clear failure to follow statutory requirements as set out in the above procedures and guidance.

- Our concerns in the bullet points above also relate to the third recommended reason for refusal, where the concerns over the scheme's failure to '*take advantage of the key relationship with the adjoining railway station*' are plainly unclear, with no clear concerns expressed.

- In its policy analysis, the officers' report appears to award significant weight to the 2004 West Wiltshire District Plan; this is a mistake because the Plan is out of date given the wording of the NPPF because it was not prepared under the Planning & Compulsory Purchase Act 2004 and the Plan does not currently meet needs in full for retail and leisure floorspace (paragraph 23 of the NPPF) and consequently this triggers the presumption in favour of sustainable development in paragraph 14 of the NPPF

- The report also appears to award significant weight throughout to the emerging submission draft Wiltshire Core Strategy – referring to its policies in places being given '*policy status*'; this is a mistake because the Plan has not yet been submitted to the Secretary of State, has not yet been subjected to an independent examination in public and there remains an outstanding objection to the land uses identified for the Bowyers site in the 'Trowbridge Master Plan' (connected with draft Policy 28)

- The report's suggestion in paragraph 4.2 of the amended Spatial Planning Officer's comments that *'Without clear evidence to the contrary, it must be considered that the proposal would have an unacceptable impact on the Shires and the Town Centre'* is directly contrary to the advice provided by the Council's own consultants – GVA; this independent advice concludes in respect of Asda (The Shires) *'we do not consider the levels of cumulative impact predicted are likely to seriously undermine its vitality and viability'* and in respect of the town centre GVA state *'we consider the potential for some additional linked trips and other wider attractions to the town centre of securing a cinema and leisure uses etc... could have a positive effect on the centre'*.

- The report makes much of the potential for the permitted development on St Stephens Place to be implemented, the *'threat to viability'* presented by Innox Riverside and the lack of cumulative leisure impact assessment from the applicant. Firstly, this is contrary to previous comments from the Council that the two schemes are not alternatives and, in any event, the fact that Odeon and Premier Inn have committed to St Stephens Place indicates there is no threat to investment. There is no explicit requirement in the NPPF for a cumulative leisure impact assessment and, in any event, GVA firmly concluded that there is no sound basis to differentiate between the two locations for leisure development.

- In respect of the second recommended reason for refusal and the impact on the local highway network, to suggest in the recommended reason for refusal *'that no measures have been put forward by way of mitigation'* is surprising. Our client's professional team has put forward a number of mitigation measures including committing to prepare a Letter of Undertaking and Memorandum of Understanding to deliver railway station improvements as well as numerous sustainable transport initiatives; these measures must be considered mitigation and would ensure that full advantage of the relationship with the adjoining railway station is taken.

- Additionally, in respect of the second highways reason for refusal, we note that the Head of Service: Sustainable Transport, in his consultation response dated 12th April 2012 recommends refusal on the grounds that *'The proposal would result in a severe adverse impact on the local highway network...'*. The word 'severe' is important, since it relates to paragraph 32 (third bullet point) of the NPPF. But this response is inconsistent with all previous correspondence with the applicant and term 'severe' has not previously been used by officers at the Council in connection with highways impact, and neither is it found in paragraph 5.6 of the PFA conclusions on highways impact. Therefore, it can only be assumed that change in language was simply in response to the publication of the NPPF and in reality the impact is not severe at all.

In combination, we believe that the approach taken by your officers as outlined above has led to an unbalanced committee report and the wrong recommendation. Should Members endorse these recommendations and refuse the application, the advice that we have received is that there are good prospects of success at appeal."

(G) A summary of the above letter dated 4 May and an 'Information Pack' detailing the scheme which it is understood has been circulated directly to all members of the Planning Committee.