

PLANNING COMMITTEE

24th February 2022

Present: Councillor Mike Johnson in the Chair

Councillors Agar (Vice-Chair), Allcott, A. Amos, B. Amos, Barnes, Bisset, Cleary, Denham (for Councillor Hodges), Ditta and Roberts

Apologies: Councillor Hodges

124 Declarations of Interest

The following declarations of interest were made:

Application 21/01100/FUL – Land at London Road
(Minute No. 129)

Councillor Denham – Had provided technical guidance to residents. Councillor Denham had not predetermined the application and elected to speak and vote on the item.

Application 21/01127/REM – 55 Sidbury
(Minute No. 131)

Councillor Denham – Had provided technical guidance to residents. Councillor Denham had not predetermined the application and elected to speak and vote on the item.

Application 19/00693/REM – Land at Sherriff Street Industrial Estate
(Minute No. 132)

Councillors Agar and Denham – Acquainted with the agent for the applicant who was in attendance at the meeting. Councillors Agar and Denham elected to speak and vote on the item.

125 Minutes of Previous Planning Committee

RESOLVED: That the minutes of the meeting held on 27th January 2022 be approved as a correct record and signed by the Chair.

126 Minutes of Previous Conservation Advisory Panel

RESOLVED: That the minutes of the Conservation Advisory Panel be received.

127 Public Participation

None.

128 Public Representation

Those representations made are recorded at the minute to which they relate.

The Chair drew the Committee's attention to agenda item 7 which was due to have speakers, unfortunately the agent who was also due to speak was unable to attend for personal reasons and had requested that the item be deferred. The Chair stated that it is for the Committee to decide whether they wish this item to be deferred.

Members of the Committee were informed that the speakers had been made aware of the situation prior to the meeting. The Chair said that it was an unfortunate set of circumstances but did not feel it unreasonable to request the deferral.

The Committee agreed to defer the application.

129 Application 21/01100/FUL - Land at London Road

This item was withdrawn from the agenda as previously agreed.

130 Application 21/00937/VARCO - Rose Villa, Nunnery Lane**Introduction**

The Committee considered a retrospective application to vary condition 2 of planning application 20/00888/FUL at Rose Villa, Nunnery Lane.

Reason Why Being Considered by Planning Committee

The application had been referred to Planning Committee at the request of the Corporate Director – Planning and Governance.

Report/Background/Late Papers

The report set out the background to the proposal, the site and surrounding area, the proposal itself, relevant policies, planning history and representations and consultations where applicable.

The application was prepared for the Planning Committee meeting on 25th November 2021 but was deferred to allow officers further time to assess changes between the development as built and the submitted plans, and if necessary to allow the submission of amended plans. These had now been received.

The retrospective application sought to vary condition 2 of application 20/00088/FUL which was allowed at appeal. Some of the changes were previously sought under non-material amendment application 20/000567/NMA. This was refused at Planning Committee as it was considered that the retrospective changes sought by the application were cumulatively not considered to be non-material in nature.

The retrospective amendments that are sought by this application were highlighted in paragraph 3.2 of the Officers report.

There were no late papers circulated.

Officer Presentation

The information was presented as set out by the Corporate Director – Planning and Governance, in conjunction with a powerpoint presentation for the item.

Public Representations

The following people had registered to speak on the application:

Paul Chambers and Kevin Ruff (Objectors)

Key Points of Debate

- Both objectors referred to the previous applications and various plans that had been produced for this site, which they felt still included many inaccuracies. They objected to the application and asked that the committee refuse and request that the applicant be encouraged to submit a full application with all previous conditions including condition 2 and that it is reviewed by the inspector. When questioned by Members of the Committee they each explained what they believed to be the inaccuracies/concerns of the site.
- Some Members felt that given the history of the site there is a complete contempt of the Committee who have a duty to protect its interests and feel that it is not acceptable in the way it has been treated. The applicants have chosen not to carry out the original planning permission.
- It was acknowledged that the Committee were being asked to regularise further breaches of the planning permission and asked what reassurance there was that this would not come back to the Committee again. Some Members felt that it should be deferred as it was believed that not all accurate information was before the Committee, if not then refusal that the 9 changes are material.
- The Interim Head of Planning stated that a retrospective application is not a reason for refusal and the applicant takes a risk when doing so. The Committee needed to consider the changes and consider whether they are acceptable or not.
- It was asked what enforcement action had been carried out on the site. The Interim Head of Planning informed Members that the latest visit was yesterday and there had been regular visits prior to that, it was as a result of those visits that the applicant had been asked to submit this application to regularise the changes.
- Some Members agreed that the accumulation of changes is material and needs to be halted, in refusing the application it would do so and hope that the Inspector would agree also. Concerns were raised with regard to the mesh fencing around the site and preferred that this be removed to allow wildlife through. If approved, then condition 3 would need to be made clearer.

- It was considered that the 9 amendments outlined on the report make them cumulative but it was considered by some Members whether they were worthy of a refusal, it was how important they were and the impact they would make.
- It was commented that the Planning Committee had refused a 4 bed and a 6 bed proposal and refused a number of retrospective changes, it was asked how the new ones would now be considered acceptable.
- The Interim Head of Planning stated that assessing this application is subjective and that its retrospective, Members need to consider what was approved by the inspector and what is before the Committee now, and whether those changes are acceptable or not in terms of visual appearance. Is the difference so much that the Committee would consider a refusal.
- A refusal had been proposed and this was seconded on the grounds that the cumulative changes are not acceptable. The Interim Head of Planning stated that if refused then Committee would need to demonstrate that these reasons have a visual impact and cause harm.

A proposal to refuse the application had been made and this was seconded. There being no further points made the Chair asked the Legal Team Manager to request the voting of each Member of the Committee who were eligible to vote. Following the recording of the votes the proposal was refused for the reasons given as follows:

For – 7
Against - 4
Abstentions – 0

Contrary to Officer recommendation it was

RESOLVED: That the Committee

- 1. refuse planning permission on the grounds of cumulative visual impact of changes to the approved plan and the impact on the green network which is contrary to policy SWDP 38 with regard to the wildlife corridor; and**
- 2. delegate authority to the Corporate Director – Planning and Governance, subject to consultation with the Chair and Vice Chair of the Planning Committee, to confirm the final wording of the above grounds and issue the Decision Notice.**

131 Application 21/01127/REM - 55 Sidbury

Introduction

The Committee considered an application for the amendment of condition 2 of permission P14D0330 for the erection of a side extension to the restaurant at 55 Sidbury.

Reason Why Being Considered by Planning Committee

The application had been referred to Planning Committee at the request of Councillor Denham.

Report/Background/Late Papers

The report set out the background to the proposal, the site and surrounding area, the proposal itself, relevant policies, planning history and representations and consultations where applicable.

There were no late papers circulated.

The application is for an amendment to condition 2 of P14K0330 (the approved plans) to allow for revised proposals showing an extended roof terrace with a glazed balustrade, a small extension and relocated toilets. The amendments were highlighted in paragraph 3.1 of the report.

The applicants stated that they are only changing the approved plans to provide for the balustrading around the roof as there was no restriction placed on the original permission to prevent the roof being used as a terrace for customers; they also conclude that the toilet relocation is minor; and that a S73 application is the most appropriate submission. In the course of the application, they have supported the view that they do not need permission to use the roof as a terrace with a legal opinion which was disputed by officers (appendix 1 attached to the report refers).

Officer Presentation

The information was presented as set out by the Corporate Director – Planning and Governance, in conjunction with a powerpoint presentation for the item.

Public Representations

The following people had registered to speak on the application:

Frances Fosh and Sam Coomber (Objectors) and Phillip Rawle (Agent for the Applicant)

Key Points of Debate

- The first objector, whose property was adjacent to the proposal, raised concerns about the relocation of the toilet block which would be placed up tight to her garden wall. The property is Grade II listed and the base of the wall is medieval. It was preferred that the toilet block be moved back to where originally proposed which was less intrusive and would have less of an impact upon the amenities of those living nearby.
- The second objector, who had properties in Amber Wharf, directly overlooked the roof terrace and was concerned over the increase in noise levels. The roof terrace proposed is larger than originally allowed and would result in a loss of privacy.

- The objectors responded to questions from Members in relation to noise and noise prevention, location of the bottle bins and the location of the toilets adjacent to the Grade II listed building wall.
- The Senior Technical Officer from Worcestershire Regulatory Services (WRS) referred to the Noise Assessment carried out by the applicant, and raised no objection to the application in terms of noise. The proposal for a 2.4m high wall adjacent to the roof terrace was seen as a mitigating measure.
- The agent for the applicant in response stated that the toilet block would be built independently from the wall and confirmed that there would be toilets inside the building and if the Committee wished a condition can be applied to curfew the use of the outside toilets at 11.00pm. He referred to the Noise Assessment that had been carried out which had been supported by WRS, and to the screening to be provided to prevent overlooking issues.
- Reference was made to the last Planning Committee meeting whereby 2 conditions were imposed on the Feathers, Upper Tything which was to curfew the use of the roof terrace at 11.00pm and no live or ambient music, the agent stated that the applicant would be prepared to add these to this application. The agent also stated that the property had been empty for two and a half years and that the applicants were committed to the proposal.
- The Interim Head of Development Management suggested to Members that an archaeological condition could also be added in terms of the impact on the wall during digging. This was agreed.
- Members were pleased to hear of the additional conditions suggested by the applicant it was also requested that a management plan condition be added prior to the first use of the terrace.
- The agent responded to questions from Members in relation to air pollution, location of toilet block and refuse disposal as a result of the expansion.
- For clarification the Interim Head of Development Management confirmed that the existing conditions for the planning permission in 2014 still existed but there was no restriction on hours.

A proposal to approve the application had been made and this was seconded. There being no further points made the Chair asked the Legal Team Manager to request the voting of each Member of the Committee who were eligible to vote. Following the recording of the votes the proposal was agreed as follows, subject to the additional conditions related to no access to all external areas, including access to external toilets after 11.00pm, no music on the external roof terrace, provision of a management plan and an appropriate archaeological condition:

For - 10

Against - 1

Abstentions - 0

RESOLVED: That the Committee

1. **grant planning permission, subject to the conditions set out at section 9 of the report and to the additional conditions related to the additional conditions related to no access to all external areas, including access to external toilets after 11.00pm, no music on the external roof terrace, provision of a management plan and an appropriate archaeological condition; and**
2. **delegate authority to the Corporate Director – Planning and Governance, subject to consultation with the Chair and Vice Chair of the Planning Committee, to confirm the final wording of the conditions and issue the Decision Notice.**

132 Application 19/00693/REM - Land at Sherriff Street Industrial Estate

Introduction

The Committee considered an application for a Deed of Variation under S106A (1)(a) of the Town and Country Planning Act 1990 (as amended) at Land at Sherriff Street Industrial Estate.

Reason Why Being Considered by Planning Committee

The application had been referred to Planning Committee at the request of the Corporate Director - Planning and Governance in accordance with the Scheme of Delegation.

Report/Background/Late Papers

The report set out the background to the proposal, the site and surrounding area, the proposal itself, relevant policies, planning history and representations and consultations where applicable.

There were no late papers circulated.

Officer Presentation

The information was presented as set out by the Corporate Director – Planning and Governance, in conjunction with a powerpoint presentation for the item.

The Interim Head of Development Management informed Members of the Committee that the applicant has submitted a request to further vary the terms of the Section 106 Agreement to allow Phase 1 of the development to be completed without any affordable housing provision and for the whole provision to be delivered in Phase 2 instead.

Since the granting of the planning application the National Planning Policy Framework has been updated in July 2021, which has updated the definition of affordable housing which was set out in paragraph 7.3 of the Officers report.

In order to safeguard the Council's position several options and clauses were suggested by Officers, as set out in paragraph 7.7 a)-d), in particular a bond to secure the payment to the City Council as set out in 7.7 d).

Officers recommended that subject to suitable safeguards that the amended Section 106 Agreement can be progressed.

Public Representations

There had been no one registered to speak on the application.

Key Points of Debate

- The Chair asked if the applicant was agreeable to the options and clauses as set out in a)-d). The Interim Head of Development Management confirmed they were and the Legal Team Manager stated that they were quite close to signing an agreement.
- Members asked about the timeframe for Phases 1 and 2. It was stated that Phase 1 would be as soon as possible as they have discharged conditions and commencement on site is imminent. It could take 3/4 years, but Phase 2 can start in the meantime, they are close to finding a registered provider. It was confirmed that there were no specific dates as yet.
- Clarification was requested on the affordable housing element of the application and the negotiations that have taken place over time on the numbers to be provided, which had been reduced, together with the definition of affordable housing which had changed the provision. The Interim Head of Development Management confirmed that the developer did want to provide affordable housing and it is part of the development but there had been a viability issue, that's why the variation of the Section 106 Agreement had been accepted. The definition of affordable housing and what is known as now is government guidance and would need to make an assessment if this changed.
- Members agreed that the bond being requested was assurance that the affordable housing would be provided. Officers also agreed that the bond was a very robust approach for which the developers have agreed to.
- Although not for this application, reference was made to paragraph 3.6 of the report and the diversion of the footpath at the existing Ron Smith building. It was asked that care be taken that this would not affect the scheduled monument and that it is protected when the footpath was diverted. It was also requested that whilst this is a private footpath, it is widely used and it was asked that it be moved in a minimal and safe way.
- The reduction of transportation contributions as set out in paragraph 1.4 of the Officers report was questioned. The Interim Head of Development Management stated the Planning Committee at its meeting on 29th July 2021 agreed the deed of variation, this together with the current one will become one document and once negotiations agreed will not come back to the Committee again.

A proposal to approve the application had been made and this was seconded. There being no further points made the Chair asked the Legal Team Manager to request the voting of each Member of the Committee who were eligible to vote. Following the recording of the votes the proposal was agreed as follows:

For - 8
Against - 0
Abstentions - 3

RESOLVED: That the Committee is minded to approve the further variation of the Section 106 Agreement dated 13th December 2018 as previously amended by a Deed of Variation dated 6th July 2020, subject to:-

- i) **the applicant and all persons having an interest in the land entering into a Deed of Variation of the S106 Agreement to the satisfaction of the Corporate Director – Planning and Governance in accordance with the details set out in the report; and**
- ii) **the applicant depositing a Bond from a reputable financial institution to the satisfaction of the Corporate Director - Planning and Governance for the payment of a sum of monies to Worcester City Council equivalent to the amount of the off-site affordable housing contribution as detailed in section 7.7 of the report.**

133 Application 21/00745/REM - Formerly Tolladine Golf Course, Tolladine Road

Introduction

The Committee considered an application for a variation to drawings listed as approved under condition 2 of full planning approval reference 20/00352/FUL, minor changes to the road alignment and car parking locations at former Tolladine Golf Course, Tolladine Road.

Reason Why Being Considered by Planning Committee

The application had been referred to Planning Committee in accordance with the adopted Scheme of Delegation.

The application had also been referred to Planning Committee at the request of Councillor Mrs Lucy Hodgson as the application has attracted local opposition.

Report/Background/Late Papers

The report set out the background to the proposal, the site and surrounding area, the proposal itself, relevant policies, planning history and representations and consultations where applicable.

Officer Presentation

The information was presented as set out by the Corporate Director – Planning and Governance, in conjunction with a powerpoint presentation.

The Interim Head of Development Management informed Committee Members that the previous planning permission was subject to a number of planning conditions, with a number being discharged, and he confirmed that these would be carried forward. The updates to the conditions were highlighted in paragraph 7.16.

The County Council Highways representative also confirmed no objection to the minor changes.

Public Representations

There had been no one registered to speak on the application.

A proposal to approve the application had been made and this was seconded. There being no further points made the Chair asked the Legal Team Manager to request the voting of each Member of the Committee who were eligible to vote. Following the recording of the votes the proposal was agreed as follows:

For - 10
Against - 0
Abstentions - 1

RESOLVED: That the Committee grant planning permission, subject to the conditions as set out in section 9 of the report.

134 Application 21/01139/FUL - Christopher Whitehead Language College and Sixth Form, Bromwich Road

Introduction

The Committee considered an application for a proposed new single storey classroom building to provide teaching space for autistic children at Christopher Whitehead Language College and Sixth Form, Bromwich Road.

Reason Why Being Considered by Planning Committee

The application had been referred to Planning Committee in accordance with the Scheme of Delegation as it is a major application.

Report/Background/Late Papers

The report set out the background to the proposal, the site and surrounding area, the proposal itself, relevant policies, planning history and representations and consultations where applicable.

There were no late papers circulated.

Officer Presentation

The information was presented as set out by the Corporate Director – Planning and Governance, in conjunction with a powerpoint presentation for the item.

Public Representations

There had been no one registered to speak on application.

Key Points of Debate

- Members referred to the consultee comments of Worcestershire County Council Highways Authority, in paragraph 6.1 of the report, who had requested a deferral until clarification of the staff and student numbers were provided and asked for clarification.
- The Interim Head of Development Management in response referred Members to paragraph 7.13 of the report which stated that the application form set out that there would be no increase in staff or student numbers. The County Council Highways representative stated that they were happy with the proposal which was to enhance the teaching facilities on site.
- It was asked if the design of the building was appropriate for this specific need. It was confirmed that the Design and Access Statement set this out and consideration of the end user had been given.
- Members welcomed the proposal.

A proposal to approve the application had been made and this was seconded. There being no further points made the Chair asked the Legal Team Manager to request the voting of each Member of the Committee who were eligible to vote. Following the recording of the votes the proposal was agreed as follows:

For - 11
Against - 0
Abstentions - 0

RESOLVED: That the Committee grant planning permission, subject to the conditions set out at section 9 of the report.

135 Any Other Business

Planning Committee Site Visits

The Chair asked Committee Members if they wished to return to site visits, which had been useful in determining some applications. It would be on an as and when needed basis and not for every meeting or application. This was agreed by Committee Members.

Interim Head of Planning

The Chair informed the Committee that this was the last meeting the Interim Head of Planning, Sim Manley would be attending.

On behalf of the Committee the Chair thanked him for the immense benefit he had brought to the service and wished him well for the future. This was echoed by Committee Members who recognised the transformation that had been made during his time at the Council.

Duration of the meeting: 1.30p.m. to 5.05p.m.

Chair at the meeting on
24th March 2022