

PLANNING COMMITTEE

12 FEBRUARY 2019

Present:

Councillors Smith (Chairman), Clarence (Vice-Chairman), Bullivant, Colclough, Hayes, J Hook (was Brodie), Jones, Keeling, Mayne, Nutley, Parker, Pilkington, Prowse, Winsor and Haines (Reserve)

Members in Attendance:

Councillors Clemens, Dewhurst, Hocking, G Hook and Gribble.

Apologies:

Councillors Austen, Dennis, Fusco, Kerswell, Orme and Rollason

Officers in Attendance:

Rosalyn Eastman, Business Manager, Strategic Place
Trish Corns, Democratic Services Officer
Nick Hill, Solicitor
Karen Trickey, Solicitor to the Council and Monitoring Officer

7. CHAIRMAN'S ANNOUNCEMENTS

The Chairman welcomed all present to the meeting.

He reminded Members of the Committee that they should not vote on an application if they are not present at the meeting to hear the entire debate on the application.

8. DECLARATIONS OF INTEREST.

Councillor Bullivant declared an Appendix A interest in application 18/01276/MAJ, by virtue of a close family member having an interest in the application, and withdrew from the meeting.

9. NEWTON ABBOT 18/01276/MAJ WOLBOROUGH BARTON Coach Road - Mixed use (hybrid application) proposal involving:

(1) Outline Mixed use development comprising circa 1,210 dwellings (C3), a primary school (D1), up to 12,650 sq. m of employment floorspace (B1), care homes (C2) providing up to 5,500 sq. m of floorspace, up to 1,250 sq.m of community facilities (D1), a local centre (A1/A3/A4/A5) providing up to 1,250 sq. m of floorspace, open space (including play areas, allotments, MUGA), and associated infrastructure. (Means of Access to be determined only)

(2) Full

Change of use of existing agricultural buildings to hotel (C1), restaurant (A3) and bar/drinking establishment (A4) uses, involving erection of new build structures, construction of an access road and parking, plus other associated conversion and minor works.

The Committee considered the reports of the Business Manager – Strategic Place, together with comments of public speakers, additional information reported by the officers and information detailed in the late representations updates document previously circulated.

The Business Manager advised that since the publication of the updates sheet previously circulated, a further 16 representation had been received, but which raised no new issues. These included a representation from Abbotskerswell Parish Council and the NHS. In response to the comments from the NHS, the recommendation at agenda page 3 is updated to include a contribution to Torbay and South Devon NHS Foundation Trust, subject to negotiations, in the Section 106 Agreement.

Public speaker, objector – Represented Abbotskerswell Parish Council and Wolborough Residents Association. Objected on the grounds of: detrimental impact on the South Hams SAC and the Greater Horseshoe Bats population; no new evidence has come to light that it is certain beyond reasonable scientific doubt that there would be no adverse effect on the SHSAC; lack of survey work in relation to the Greater Horseshoe Bat and detrimental impact on biodiversity; case law provides evidence that a satisfactory Habitat Regulations Assessment is required before an application is approved; and detrimental effect on the SSSI Wolborough Fen.

Public speaker, objector – The application lacks detail; and a significant number of objections from residents and public bodies; no new evidence to resolve the objections; unreasonable to approve the application today when there are so many outstanding pertinent issues; it is premature pending a Master Plan; surveys are not complete to prove that beyond reasonable scientific doubt there would be no adverse effect on the SHSAC; infrastructure is a key policy requirement; the applicants have advised that the link road between the A380 and the A381 cannot be provided until 500 houses have been sold and that only a small spinal road would be provided. This has increased from 300 as requested by Devon County Council; the high court ruling regarding Habitat Regulations Assessments and insufficient detail, information and evidence to support an acceptable application and development, requires the refusal of the application.

The Business Manager referred to the allocation of the site in the adopted Local Plan, and therefore the application should not be held up by the DPD process. The application was advertised as a departure from the Local Plan because small sections go beyond the development boundary of the Master Plan. However, in its entirety, the proposal complies with the Local Plan. The previous application has been taken to appeal on the grounds of non-determination and is to be heard at Public Inquiry in a few weeks. Planning strategy targets

development at sustainable towns with transport links and other infrastructure. The Council's five year land supply requirement will soon be 777 dwellings per annum. There is a risk that houses that are not developed in sustainable towns will be permitted in less sustainable areas. The Council is working with Homes England for the early provision of the link road. Approval would provide funds for a community building, air quality and other mitigation measures. The completion of mitigation measures as required by Natural England and Historic England would be incorporated and should these not be satisfactory they would be brought back to Committee. In summary: the application complies with the Local Plan; 20% affordable housing and 60 custom build would be provided; the link road would be brought forward earlier; the Farmstead building would be protected; the Appropriate Assessments would be completed; and there are mitigating measures to off-set any adverse impact upon biodiversity, including Wolborough Fen.

Comments made by Councillors included: information and details important for the decision making process were lacking, including that relating to green infrastructure, biodiversity impacts, comments from Natural England and Historic England evidencing that the concerns they raise would be satisfactorily mitigated; the current application is a near duplicate to the previous, the subject of an appeal; it appears agreement over the Wolborough Fen is near but there is no written evidence; issues are outstanding from July 2018; a 12 months bat survey has not been provided and it is now advised that this monitoring would continue while development is progressing; reactive mitigation would be applied retrospectively; the Council has a legal duty under the Countryside Act to protect the SSSI; the enforcement powers provided to Local Planning Authorities are ineffective in ceasing development once permission has been granted; the application is premature; objections from NHS and the potential insufficient funds for the NHS if this is to be negotiated following the granting of planning permission.

It was proposed by Councillor J Hook that the application be refused on the grounds of insufficient information to base a decision on, particularly in relation to Section 106 obligations, the appropriate assessment, and mitigating measures for the SHSAC, bats and biodiversity. These should all be addressed before a decision can be made.

The proposal was seconded by Councillor Keeling.

Additional comments made by Councillors included: is it appropriate that the applicant advises that the link road cannot be developed until 500 houses sold when Devon County Council requested the road after 300 houses; the number of houses for Teignbridge has been overestimated by the Government; detrimental effect on the Fen and wildlife; land ownership issues for the link road; is there agreement between all the landowners for the provision of the link road; viability issues in relation to minimum houses for the link road; water run-off and drainage issues; the DPD should be produced before the consideration of this application; at the time the Local plan was approved the number of houses was decreased from 14,800 to 12,400; the setting of the listed church, currently open countryside, would be detrimentally affected; Priory Road and Church Road would be used until the link road is developed, and are unsuitable for the

additional traffic; there should be a highway access both ends of the development; the infrastructure should be provided before the houses are built; air quality concerns and issues; the Local Plan advises that there should be clear green space breaks between settlements; threat to the biodiversity of the area; media publicity is advising that 40% of the insect population would be destroyed in the next 30 to 40 years, impacting on wildlife and the environment; detrimental implications for the surrounding settlements of Ogwell and Abbotskerswell; would the Appropriate Assessment be undertaken in a timely manner and be satisfactory; detrimental impact on Wolborough Fen; 350 objections; no evidence that Natural England is happy with the conditions; and all issues should be satisfactorily addressed before the application is approved.

The Business Manager advised that should the Committee be mindful to refuse the application against her advice, she would recommend the following reasons for refusal:

1. There is insufficient information available at present to conclude beyond reasonable scientific doubt that the proposals will not have an adverse effect on the integrity of the South Hams Special Area of Conservation.
2. The proposals, as submitted, do not provide for the delivery of a road that connects the site from east to west at a point in time that allows for a sustainable community to be established.
3. No adequate mechanism for securing necessary Section 106 obligations has been made.

In response to questions the Business Manager advised: that the decision on the current application would have implications for the forthcoming appeal of the former application; there are recommended mitigating conditions in relation to Wolborough Fen and therefore it would be unreasonable to include this as a reason for refusal; and if reasons for refusal can be addressed through conditions there is a higher risk of appeal costs being awarded against the Council.

The proposer and seconder of the motion for refusal, Councillors J Hook and Keeling, requested that a fourth reason for refusal in relation to Wolborough Fen be included in the reasons for refusal, in addition to the three reasons outlined above.

The Solicitor reiterated the advice given by the Business Manager of the risk of having costs awarded against the Council and the risk to public funds, which could be into six figures, if the reasons for refusal could be overcome with conditions and agreements.

The Solicitor also advised that the Council had enforcement powers to stop development should evidence from appropriate surveys not be satisfactory.

The Business Manager added that the current application provided the best package for the community given the likelihood that the forthcoming appeal, to be heard by Public Inquiry, could be successful.

The proposal for refusal was voted on and carried.

Resolved

Planning Committee (12.2.2019)

Permission be refused for the following reasons:

1. There is insufficient information available at present to conclude beyond reasonable scientific doubt that the proposals will not have an adverse effect on the integrity of the South Hams Special Area of Conservation as required under the 2017 Conservation of Habitats and Species Regulations. The proposals are therefore contrary to policy NA3, EN9 and EN10 of the Teignbridge Local Plan 2013- 2033, the NPPF and the NPPG.
2. The proposals, as submitted, do not provide for the delivery of a road that connects the site from east to west at a point in time that allows for a sustainable community to be established. The provision of this link at an early stage in the development of the allocation is considered to be vital for mitigating the impact of traffic across the wider local area, managing air quality, place-making and access to public transport, community facilities and services. The proposals are therefore contrary to policy NA3, and S5 of the Teignbridge Local Plan 2013- 2033, the NPPF and the NPPG.
3. No adequate mechanism for securing necessary S106 Obligations has been made, contrary to Policy NA3 and S5 of the Teignbridge Local Plan 2013- 2033 the NPPF and the NPPG.
4. Insufficient detail relating to the monitoring of impacts on the Wolborough Fen SSSI has been provided to ensure that unacceptable harm would not occur the proposals are therefore contrary to policy NA3 and EN9 of the Teignbridge Local Plan 2013- 2033, the NPPF and the NPPG.

(14 votes for and 0 against)

CLLR DENNIS SMITH
Chairman