

PLANNING DEVELOPMENT CONTROL COMMITTEE

27 July 2005

PROGRESS REPORT ON APPEAL AGAINST THE NON-DETERMINATION OF THE
OUTLINE APPLICATION FOR DEVELOPMENT OF THE RESERVE MDA (NORTH
WINCHESTER)

REPORT OF DIRECTOR OF DEVELOPMENT

Contact Officer: Mr John Hearn Tel No: 01962 848354

RECENT REFERENCES:

PDC 422 – Progress Report on Outline Application for Development of Reserve MDA (North Winchester) - Planning Development Control Committee 26 May 2004

PDC 464 - Report On Outline Application For Development Of Reserve MDA (North Winchester) - Planning Development Control Committee 22 September 2004

EXECUTIVE SUMMARY:

This report provides Members with an update on the progress made on the preparation for the forthcoming Section 78 Inquiry into the non-determination of the outline planning application submitted by Cala Homes (South) Limited and the 14 putative reasons for refusal. Dialogue between the appellant and the City Council is ongoing concerning the reasons for refusal in order to secure appropriate contributions and/or conditions on the proposed development. Whilst no reason for refusal has been withdrawn to date, significant progress has been made on some of these and on establishing the financial and physical requirements which the appellant should provide if the appeal were to be upheld by the Inspector. Where an agreement cannot be reached, evidence will have to be submitted to the Inquiry by 13th September 2005.

RECOMMENDATIONS:

- 1 That Members note the current situation.

PLANNING DEVELOPMENT CONTROL COMMITTEE

27 July 2005

PROGRESS REPORT ON APPEAL AGAINST THE NON-DETERMINATION OF THE OUTLINE APPLICATION FOR DEVELOPMENT OF THE RESERVE MDA (NORTH WINCHESTER)

REPORT OF DIRECTOR OF DEVELOPMENT

DETAIL:

1 Introduction

- 1.1 An outline planning application was received by the City Council in March 2004 for the development of the reserve Winchester City (North) Major Development Area (MDA). Submitted by Cala Homes (South) Ltd, the application proposed the erection of a maximum of 2,000 dwellings, a 13,000 m² local centre, a primary school, formal and informal recreation and open space, soft and hard landscaping, provision of new access from Andover Road and Well House Lane and new internal road, pedestrian and cycle network. Aside from the means of access, all matters are reserved for future consideration.
- 1.2 Following the expiry of the extension for determination of the application on 16th August 2004, Cala Homes (South) Ltd lodged an appeal against non-determination of the application. At the meeting of the Committee on 22nd September 2004, Members resolved that delegated authority be given to the Director of Development Services, in conjunction with the Chairman of the Planning Development Control Committee, to enter into any Section 106 agreement or unilateral undertaking to secure appropriate social and physical infrastructure on site.

2. Inquiry

- 2.1 The Planning Inspectorate has appointed Mr D J Mumford as the Inspector who will conduct the Inquiry which will commence on Tuesday 11th October 2005. A Pre Inquiry Meeting was held on 9th May 2005 to discuss and clarify issues concerning dates, venue and the nature and format of the evidence to be presented. The Inquiry is to be held in St John's House, Broadway, Winchester and will sit on 11-14 and 25-28 October and 1-4 November, commencing at 10:00am on the first day and closing by 17:00pm (except 15:30pm on Fridays).
- 2.2 At the Pre Inquiry Meeting, both the appellant and the City Council agreed that where an agreement could be reached that would overcome a reason for refusal, then dialogue should continue so that the issue could be dealt with within a Section 106 agreement and included in the Statement of Common Ground. This would allow the reason for refusal to be withdrawn prior to the Inquiry, thus avoiding the need to prepare evidence and saving inquiry time. A copy of the meeting notes from the Pre Inquiry meeting is attached as Appendix 1 of this Report.

3 Rule 6 Parties

3.1 Under the Town and Country Planning (Inquiries Procedure) (England) Rules 2000, any party wishing to appear at an Inquiry to present a case may apply to the Planning Inspectorate for Rule 6 (6) Status. In respect of the Barton Farm Inquiry, such status has been granted to:

- Winchester City Council;
- Cala Homes (South) Ltd;
- Save Barton Farm Group;
- Mr James Cleary, Pro Vision; and,
- Broadway Malyan (written representations only)

3.2 Copies of each party's statement of case has been submitted to the Inspectorate and distributed to the other Rule 6 (6) parties. Copies of all Statements are available to view at the Development Services reception at Avalon House, Chesil Street, Winchester.

4. Reasons for Refusal: Update

4.1 As detailed in the Committee Report PDC 464, the City Council would have cited 14 reasons for refusal had the planning application been determined in time. These putative reasons for refusal still stand; however, work has been progressing to remove, where appropriate, a reason for refusal where common ground can be agreed between the appellant and the City Council.

4.2 This section of the report provides an update on the progress made in respect of each of the reasons for refusal. To date, no reason for refusal been withdrawn by the City Council, and in respect of a number of the reasons for refusal, an agreement will not be possible. However, where the City Council is satisfied that the actions of the appellant satisfactorily overcome a reason for refusing the application, then this reason should be withdrawn prior to the Inquiry and included within the statement of common ground / legal agreement.

4.3 With the exception of reason ii, which concerns the application pre-empting the outcome of the Winchester District Local Plan Inspectors Report, it is not considered that reasons i-iv can be withdrawn prior to the inquiry commencing. Concerning the status of the site as a 'reserve' MDA as part of Policy H4 (Hampshire County Structure Plan Review 1996 – 2011), and designated as countryside in the emerging WDLPR (until such time as the site is triggered by the strategic authorities), these fundamental principles for refusing the application will not change and evidence will be presented at the Inquiry to justify this position.

4.4 In respect of the other 10 reasons, officers from the City Council in conjunction with appointed consultees and Counsel have assessed the further information submitted by the appellant and are identifying the requirements, financial contributions and/or conditions that would need to be met prior to removing any of the reasons after they have been dealt with by suitable conditions or provisions in a legal agreement. Internal monthly conferences have taken place that have addressed the latest negotiations and the preparation of evidence to be presented to the inquiry in support of specific reasons. Whilst no reason has been withdrawn to date, progress has been made in establishing the specific requirements the appellant would need to provide.

- 4.5 In respect of reason xiv (implementation), the City Council is formulating a list of financial and physical requirements that would need to be provided by the appellant as part of the Section 106 legal agreement, drawing on the responses received from the relevant internal and external consultees during the planning application stage (Section 4 of report PDC 464 lists those consulted). A meeting between the City Council and the appellant was held on 21st July 2005 to discuss the heads of terms of this legal agreement and the statement of common ground. An oral report on this meeting will be given to Members.

5 Forward Programme

- 5.1 Negotiations and meetings between the City Council, appointed consultees and the appellant will continue prior to the start of the inquiry. In parallel to these negotiations, the City Council will prepare evidence to present at the inquiry.
- 5.2 The deadline for submission of written evidence for the Inquiry for all parties is 13th September 2005.

OTHER CONSIDERATIONS:

6 CORPORATE STRATEGY (RELEVANCE TO):

Success on appeal is a measure of quality. It demonstrates that the policies of the development plan and the decisions made can be successfully defended.

7 RESOURCE IMPLICATIONS:

Additional expenditure over and above that which has been authorised will be necessary and authority to incur this expenditure is about to be sought from the Portfolio Holder for Finance and Resources. The reasons for additional expenditure are: more conferences with Counsel, assessment, negotiation and consultation on supplementary information formally submitted by Cala under the Environmental Assessment Regulations, more meetings than anticipated with the Council's consultants, consultees and Cala Homes and their agents.

BACKGROUND DOCUMENTS:

None

APPENDICES:

Appendix 1: Pre Inquiry Meeting notes. (9th May 2005)

