

PLANNING DEVELOPMENT CONTROL COMMITTEE - SPECIAL MEETING

18 May 2007

Attendance:

Councillors:

Jeffer (Chairman) (P)

Baxter (P)
Busher (P)
Evans (P)
Huxstep (P)
Lipscomb (P)

Johnston
Pearce
Ruffell (P)
Saunders
Sutton (P)

Deputy Members

Councillor Beveridge (Standing Deputy for Councillor Johnston)

Others in attendance who did not address the meeting:

Councillors Barratt, Bell and Jackson

1. **APOLOGIES**

Apologies were received from Councillors Johnston, Pearce and Saunders.

2. **APPOINTMENT OF VICE-CHAIRMAN**

RESOLVED:

That Councillor Saunders be appointed Vice Chairman of the Committee for the remainder of the 2007/08 Municipal Year. However, because of Councillor Saunders' absence, Councillor Busher was appointed Vice Chairman for this meeting only.

3. **LONDON AND HENLEY (WINCHESTER) LTD - APPLICATION FOR "MIDDLE BROOK" WINCHESTER**

(Report PDC681 refers)

Councillor Beveridge declared a personal (but not prejudicial) interest as he was a member of the City of Winchester Trust which had commented on the application. Councillor Beveridge spoke and voted thereon.

The Head of Planning explained that the applicant, London and Henley (Winchester) Ltd, had proposed the re-development of part of the Silver Hill site in central Winchester. The area proposed for redevelopment was 0.81 hectares, out of a total area of 2 hectares for the entire Silver Hill site. The Council had not been able to determine this application within the statutory timeframe and the applicant had therefore exercised their right to appeal. As such, the application would now be determined by the Planning Inspector at a Public Inquiry.

The Council had to submit its Statement of Case to the Planning Inspectorate and, as part of the preparation of this document, Members were requested to consider how they would have determined the application had the applicant not appealed.

Members noted that the applicant had also submitted an application for Conservation Area consent, but since this was not the subject of an appeal, Members were able to determine the application in the normal way.

Officers introduced the applications to Members and drew to their attention the main issues from the Report, as summarised below:

The site was contained by Middle Brook Street, Friarsgate, Tanner Street and Silver Hill and was currently occupied by the Friarsgate multi-storey car park, Kings Walk retail precinct and offices, the Antique Market, Iceland, the Post Office and shops.

The application proposed a mixed-use development of the site based on the approved Planning Brief for the area and Policy W2 in the approved Local Plan. The application proposed retail frontages on all four sides of the site at ground floor level. This would provide a gross floor area of 5,054 square metres for retail use and it was proposed that the largest unit (Unit 13) would be occupied by a supermarket. The ground floor frontage of this unit onto Friarsgate would be entirely glazed and stepped back under a series of gabled residential units above. The Committee noted the officers' concerns regarding the proposed form of this glazing, as it was alien to Winchester, particularly in that it was not related to the building above. If occupied by a supermarket, it was likely to present to passers-by a 'dead' shopping frontage which could not be controlled by planning conditions. Generally, the ground floors of the development did not relate well to the buildings above and officers suggested that this clashed with the character of the High Street, which was predominately a series of vertical units.

Vehicular access to the site was from Tanner Street and car parking would be provided underground in a basement which required an excavation of 3-4 metres from the current ground level. The proposed parking would provide 162 spaces – 95 for the public and 67 for residents of the development. In explaining this, the Head of Planning highlighted an error in the Report, as the total number of car parking spaces was 162, not the 231 stated at paragraph 11.2 of the Report. In discussing this, the Committee noted that the Planning Brief required that any new development of the site should at least equal the current provision of 258 spaces. In proposing only 95 public parking spaces the proposed scheme was therefore providing only 36.8% of the current number of spaces.

The excavation of the underground car park raised significant archaeological concerns. The Sites and Monuments Officer explained that national archaeological policies recommended the preservation of important archaeological remains in situ. The excavation of the car park was likely to destroy remains of probable national importance and was therefore contrary to policy which had led to an objection from English Heritage. It was the applicant's view that the impact of previous developments on the site had largely destroyed archaeological remains of any worth. However this was disputed by both the Council and English Heritage, who had requested further information as evidence which had yet to be provided.

The Sites and Monuments Officer added that a possible effect of the proposed underground car parking may comprise changes to the hydrologic regime of the area, which would impact in the burial environment and may damage sensitive remains,

including organic and metallic objects. The possible cumulative effect of changes to the hydrology of the area would also need to be considered in relation to the adjoining Brooks Shopping Centre site. The applicant had failed to address these issues in their submissions.

Above the ground level, the application proposed the development of 133 residential units around a central, landscaped courtyard. As 54 of these would be affordable houses, this met with the Council's requirement. Some of these units would be linked by pedestrian bridges spanning elevated, landscaped "streets".

Members noted the landscaping proposed by the applicant and that the existing mature plane trees by the current Post Office and Sainsburys supermarket would be lost. The Landscape Officer explained that it was not practical to relocate the plane trees and that the compensatory planting of new trees in raised planters by Tanner Street was inadequate.

However, the Committee noted that reasons for refusal numbers 9 and 10 which related to the provision of affordable housing and landscaping could be resolved if the applicant entered into a satisfactory planning obligation.

Each of the four corners of the development was marked by landmark buildings which contained residential units. The top of the building at the corner of Silver Hill and Middle Brook Street would be used as a public café/gallery, with an outside seating area overlooking the Cathedral. The corners were separated from the rest of the facades of the east and west elevations by landscaped "streets" at first floor level, which ran between the residential blocks on the north and south sides. These landscaped areas within the development were for the private use of the residents. The corner units were of a contrasting design to the rest of the development, in that the applicant proposed the use of stone with horizontal copper cladding, rather than the brick, render and slate which was generally proposed for the remainder of the building.

Although the site reached a maximum height of five storeys, the applicant had proposed to reduce the levels to four storeys onto Silver Hill and at the southern ends of Middle Brook Street and Tanner Street, to reduce the impact of the building.

The Committee discussed the urban design issues regarding the application. In summary the Head of Planning advised that the application had been assessed in terms of its impact on longer distance views (such as from St Giles Hill and the Cathedral tower), from the surrounding streets and from inside and immediately adjacent to the development. It was explained that in assessing these, it was important to compare it with the current surrounding buildings and spaces, as the application only proposed the development of part, not all, of the overall Planning Brief site.

Members noted that, in summary, the scheme would appear as a large development from the longer views, which was significantly higher than its surrounding buildings and with little to break up the massing of its roofs. The views of the development from the surrounding streets would be dominated by the corner units, which did not respect the architectural style of central Winchester in its use of stone and copper, and its cube-like form was alien to the area and form of buildings within the Conservation Area. In terms of the character of the scheme from within the residential development, this was generally considered to be satisfactory and would provide a good level of amenity for residents. However, the Head of Planning explained that, when walking around the block, there would not be an adequate sense and quality of

enclosure. This was because the south side of Silver Hill still had the backs and sides of buildings facing the public realm, which were unattractive, and the east side of Tanner Street would remain largely undeveloped.

In summarising, the Head of Planning explained that, as the application sought only the re-development of part of the site, it failed to maximise the opportunities identified in the Planning Brief for the surrounding area.

With regard to the Conservation Area consent set out in Section 18 of the Report, Members noted that this included the demolition of the Antiques Market. Although the Planning Brief acknowledged that it may be necessary to demolish this building, it required the applicant to demonstrate why it could not be incorporated in the design of the site and how the existing uses that it accommodated would be re-located. The applicant had failed to demonstrate this and officers recommended that, without a satisfactory replacement scheme, consent for demolition should not be granted, as it may result in a large gap in development in the centre of Winchester.

The Committee noted that there had been no further responses from the statutory consultees, as set out in the report.

In the public participation part of the meeting, the following comments were made.

A representative of the Winchester Action Group, Mr Hunt, spoke in opposition to the applications. Although he had reservations regarding the design of the buildings, his primary concern related to the proposed demolition of the Antique Market Building. He explained that there was a petition of 5,000 signatures to preserve the building and that, if it could not be retained in its present location, it should be rebuilt elsewhere in the site and used as a focal point.

Mr Hartley-Raven, Mr Collado and Ms Hawes spoke as representatives of the applicant. They requested that the Committee should determine that, had the scheme come before Members without an appeal having been lodged, the application would have been deferred for further negotiations.

In summary, Mr Hartley-Raven agreed that the application required further work, but he suggested that all of these matters could be successfully resolved. He stated that it was the officers' delay in determining the application which had forced the appeal. He explained that the applicant had received a written request for further information from the Council regarding environmental information (under Regulation 19 of the relevant regulations) only six days before they had to decide whether to submit an appeal. Given that the applicant had received no written request from the Council to extend the timescale, the applicant had regrettably appealed against the non-determination of the application.

In commenting on the matters in the Report, he objected to the assertion that the applicant had not consulted the local community and that, in fact, as a consequence of their pre-application discussions with the local community, there had been a radical change in the scheme's height and the proposal for underground parking.

With regard to the archaeological issues resulting from the underground car parking, Mr Hartley-Raven explained that negotiations were on-going with English Heritage and that the negative tone taken by the Report was misleading.

With regard to the loss of the Antique Market, Mr Hartley-Raven acknowledged the strong local support for the preservation of the building. However, it was currently

invisible from anywhere in the Conservation Area (other than from within the existing building) and its demolition had already been agreed by the Council in determining the Thornfield application (PDC673 refers). Mr Hartley-Raven continued that the proposed Reason for Refusal 8a was also wrong in law, as case law had established that the test for conservation proposals was whether they *maintained* the character of the conservation area; it was not necessary that they had to enhance the character of a Conservation Area. He also stated that the delivery of development over a wider area, as a prerequisite to the demolition of the antique market, was irrelevant.

In discussing the highways reasons for refusal proposed in the Report, Mr Hartley-Raven highlighted the County Highways Officer's comment that these could be overcome through negotiation. He added that the policy of the Planning Brief was at odds with national policies, as applicants should not be forced to provide more car parking spaces than they wished to.

Mr Collado spoke to the Committee on the design and townscape aspects of the application. In summary, he stated that the applicant's work on computer based models and pre-application meetings with the local community, had led to a design that would enhance the town and one that could fit in well with the wider development. He added that the development of the wider Silver Hill area would benefit from the different approaches that a variety of architects could bring and that the proposed building was lower and more articulate than Block A, which the Council had approved in the Thornfield application.

Ms Hawes stated that the development of this part of the site would not prevent others from developing the remainder of the Silver Hill area. She added that the architectural competition for the site, which was held by the Council, had not tested the market's willingness to develop the site in a piece-meal fashion.

Ms Hawes explained that the delivery of certain elements of the non commercial infrastructure could be addressed via a financial contribution, controlled by a Section 106 Agreement. She also commented on London and Henley's on-going £40m investment in Winchester and that, as owners of the site, their application might not involve a potentially costly compulsory purchase order process. She added that, as long term investors, London and Henley had an interest in developing a high quality scheme.

In responding to the comments raised on behalf of the applicant, the Head of Planning explained that, although a formal letter setting out a Regulation 19 request was sent to the applicant in February 2007, this had followed an earlier email sent in September 2006 which had generated no response.

In dealing with the public consultation references in the Report, the Head of Planning explained that these had been taken from the Statement of Community Involvement as submitted by the applicant.

The Head of Planning stated that, in comparison with Block A of the Thornfield application, the proposed building was lower in height, but the height of the Thornfield proposal either reduced in height as it met other existing development, or the eaves line and roof line was more broken up, which helped it fit in better with the town from longer distances.

In response to the comments made about the legality of Reason for Refusal 8 on the application for Conservation Area Consent, the Head of Planning recommended that the reason be amended to read "...preserve or enhance." It was reiterated that

although the proposed building was architecturally superior to the existing buildings, without the development of the surrounding area its effect on long distance views would be detrimental to the Conservation Area.

In conclusion the Head of Planning explained that, although the applicant had argued that the remainder of the site could still be developed, there was nothing in this application (and therefore nothing in planning terms) that would ensure that the wider development would take place.

Having considered the officers' presentation of the application, the comments made during the public participation and the officers' response to these as summarised above, the Committee considered each of the planning matters set out in the Report (pages 20-50 refer). A summary of their discussion is set out below.

Archaeology and Conservation

Members raised concerns regarding the proposed excavation of the underground car park and questioned the scope for this to be satisfactorily negotiated between the applicant, the Council and English Heritage as consultees.

A Member questioned whether the proposed windows were particularly different to typical shop frontages in the town centre. The Head of Planning explained that the height of the proposed windows was higher than normal for the High Street. Also the proposed strong horizontal lines above the windows were at odds with the generally vertical character evident in the rest of Winchester.

Highways and Parking

A Member commented on the concern raised by the applicant regarding parking policies. The Head of Planning explained that whilst Government policies generally tended towards reducing parking provision in new developments, the Planning Brief had required the maintenance of the current public parking provision, to ensure the retail viability of the town centre.

Members also commented on whether the applicant would be able to make a financial contribution towards the relocation of the bus station. In response, the Head of Planning explained that the applicant had failed to provide a masterplan for the whole site. Without this, the Council had been unable to assess the probable cost of the bus station (or the other elements of public benefit such as the health provision and improved public realm that were also required) which would be required to consider the terms of any proposed Section 106 Agreement.

The Committee discussed the possible effect of the development on traffic in the town and noted that this had been included as a reason for refusal. Following debate, the County Highways Officer re-confirmed that this might be withdrawn on the submission of further information from the applicant. The Committee therefore agreed to delegate to the Head of Planning (in consultation with the Chairman) authority to amend the Reasons for Refusal as necessary. The Committee also noted that it was not possible to use the traffic study submitted from another application, as each study was unique to each development.

The Committee noted the officers' concerns regarding the methodology used by the applicant regarding highways issues and that officers had requested further information from the applicant which, to date, had not yet been provided.

Retail

In response to a Member's question, the Director confirmed that there remained a demand for quality retail space in central Winchester.

Public Realm and Public Art

The Committee noted that, the application included an improvement of street paving around the site (some sculpture, water features and public benches). However, because it was limited to only part of the total Silver Hill site, it did not fulfil the objectives of the Planning Brief. The applicant had proposed that provision for improvement to the elements of the wider site be provided through contributions under the provisions of a Section 106 Agreement.

Sustainability

Members noted the lack of information that had been submitted by the applicant regarding the incorporation of sustainability provisions within the proposed development.

Other

There were no further issues raised by the Committee in regard to the other chapter headings set out in the Report. However, during the course of discussion, a Member regretted that the application had not been put before Committee earlier.

Conclusion

At the conclusion of debate, Members agreed that although the application was not without some merit, it was a piecemeal response to the Planning Brief and that the applicant had failed to provide adequate information, particularly with regard to sustainability, archaeology and highways issues.

The Committee therefore agreed the Reasons for Refusal as set out in the Report, with an amendment to Condition 8 (to include "to preserve or enhance") and an additional resolution that the Head of Planning be granted delegated authority (in consultation with the Chairman) to amend the Reasons for Refusal where appropriate.

RESOLVED:

1. That in the case of Planning Application 06/01606/FUL(W20036), for redevelopment of the site, that had an appeal not been lodged, planning permission would have been REFUSED for the following reasons:-

REASONS FOR REFUSAL

1 Development of the application site in isolation from the remainder of the Broadway Friarsgate Planning Brief area would be contrary to the provisions of Policy W2 of the Winchester District Local Plan Review, in that it would not achieve, or enable the achievement of, the provisions of that policy or the requirements of the Planning Brief, which seek a comprehensive approach to the development of the site in the interests of providing the mix of uses, townscape improvements and public facilities, including substantial retail provision to meet identified needs, a new bus

station, highway improvements, re-provision of health facilities and public realm improvements therein identified.

2 Development as proposed would be seriously prejudicial to the expedient delivery of development over the remainder of the Local Plan mixed-use allocation area and injurious to the implementation of the Local Plan policy as a whole.

3 The proposed development is contrary to policy E14 of the Hampshire County Structure Plan and policy HE.1 of the Winchester District Local Plan Review, in that it fails to make adequate provision for the preservation in *situ* or management of an important archaeological site.

4 The proposed development is contrary to policy E14 of the Hampshire County Structure Plan and policy HE.2 of the Winchester District Local Plan Review, in that it fails to provide adequate information on the impact of the scheme on archaeological deposits on a site that is considered to be of archaeological interest.

5 The proposed development would result in additional vehicles using the North Walls, Union Street, Eastgate Street, Friarsgate, St. George's Street and Jewry Street one way system thereby interfering with the safety and free flow of traffic on this busy Class 2 network.

6 The Local Highway Authority considers that the proposal involves development that cannot be reconciled with national planning guidance in PPG13 in that it fails to make the best possible opportunities to reduce reliance on the private car. The failure to utilise alternative means of transport to the private car would result in an unacceptable increase in the number and length of car journeys to the detriment of the environment and locality. The proposed development therefore conflicts with Policies T1-5 of the Hampshire County Structure Plan (Review) and Policies T1, T5 and T8, of the Adopted Winchester District Local Plan Review.

7 The proposal does not satisfy the provisions of policies E4 and E5 of the Hampshire County Structure Plan (Review) or policies DP1, DP6 and DP15 of the Winchester District Local Plan Review or respond positively to the objectives of Planning Policy Statement 1 'Delivering Sustainable Development' and its draft supplement 'Planning for Climate Change' and does not address the objectives of the adopted Planning Brief for the site in that it fails to provide any proposals for the incorporation of appropriate sustainability measures in the development.

8 The proposal is contrary to the provisions of policies UB2, UB3, E16, E17 and E19, of the Hampshire County Structure Plan 1996–2011 (Review) and DP.1, DP.3, DP.4, HE.4, HE.5, HE8, T4, W.1 and W.2 of the Winchester District Local Plan Review 2006 in that:-

(a) The design, by reason of its form and materials, is not considered to preserve or enhance the character of the conservation area or to contribute positively to the existing townscape of the area.

(b) The development would not achieve the broad enhancement of the public realm and provision of public art considered essential for the successful redevelopment of the area identified in the Broadway Friarsgate Planning Brief

(c) The waste management provisions contained within the application, particularly to serve the residential properties, is not considered adequate and would therefore be likely to adversely impact on the amenity of occupiers of the development.

(d) The secure cycle storage provision for the residential and retail staff requirements of the scheme are, on the evidence available, likely to be insufficient.

(e) The loss of existing important trees which contribute significantly to the amenity of the conservation area, without satisfactory replacement proposals, would conflict with the provisions of policies DP4 and HE8 of the local plan in that it would not maintain or enhance features that contribute to townscape quality.

9 The proposal is contrary to policies H8 of the Hampshire County Structure Plan 1996-2011 (Review) and H.5 of the Winchester District Local Plan Review in that it fails to secure the provision of affordable housing to an appropriate proportion, mix and tenure to meet the identified housing need as required by the provisions of such policies.

10 The proposal is contrary to policies R2 of the Hampshire County Structure Plan 1996-2011 (Review) and RT4 of the Winchester District Local Plan Review in that it fails to make adequate provision for public recreational open space to the required standard, and would therefore be detrimental to the amenities of the area.

INFORMATIVES

The Local Planning Authority has taken account of the following development plan policies and proposals:-

Hampshire County Structure Plan Review UB.1/2/3; S.1/2; T.2/4/5; H.1/2/5/7/8; R.2; E.2/3/4/14/16/17/19

Winchester District Local Plan Review 2006: DP1/3/4/5/6/8/13/14/15, HE1/2/4/5/6/7/8; H1/5/7; E3; SF.1/3; RT.4; T.1/2/3; W.1/2/5/7/9

2. That the Head of Planning be given delegated authority (in consultation with the Chairman) to amend the Reasons for Refusal where appropriate.

3. That in the case of Conservation Area Consent Application 06/01611/LBC (W20036/01LBCA) for the demolition of all existing buildings on the site, that consent be REFUSED for the following reasons:-

Reasons for Refusal

1 Demolition and clearance of the existing buildings on the application site in advance of the granting of planning permission for the redevelopment of the site, and the securing of a programme / contract for implementation of the approved development, would be premature and prejudicial to the integrity of the visual, commercial and heritage amenity of the city centre and conservation area in that it would be likely to lead to the blighting of the site for a protracted period. In the interests of securing appropriate proposals to enhance the character and amenity of the area, and to minimise any adverse impact on surrounding properties and uses, it is important that potential re-development sites are not left as unsightly voids in the built form of the city and that demolition is closely phased to re-development.

2 Inadequate justification has been advanced to support the demolition of the Antique Market building on the application site, a former Victorian Warehouse building in good condition and actively used, which is considered to be of local architectural and historic interest and a feature that contributes to the character of the conservation area. The proposed demolition therefore conflicts with the provisions of policies HE.6, H7 and HE 8 of the Winchester District Local Plan Review and the Broadway Friarsgate Planning Brief in that it fails to demonstrate that the loss of the building is

necessary to enable the site to be re-developed and it fails to make provision for the relocation of the existing uses accommodated in the building as required by the Brief.

INFORMATIVES

1. The Local Planning Authority has taken account of the following development plan policies and proposals:-

Hampshire County Structure Plan Review	E.16/17/19
Winchester District Local Plan Review 2006:	HE/4/5/6/7/8

The meeting commenced at 9.30am and concluded at 12.40pm.

Chairman