

# **Planning Development Control Committee**

## **Update Sheet**

**7 March 2013**

**The information set out in this Update Sheet includes details relating to public speaking and any change in circumstances and/or additional information received after the agenda was published.**



**9:30 am start**

<b>Item No</b>	<b>Ref No</b>	<b>Address</b>	<b>Recommendation</b>
<b>WCC 01</b>	<b>12/01486/FUL</b>	<b>Winchester Snooker Centre, Radley House, 8 St Cross Road, Winchester, Hampshire SO23 9HX</b>	<b>Refuse</b>

**Agenda Page: 3**

**Officer Presenting: James Jenkison**

**Public Speaking**

**Objector:**

**Parish Council representative:**

**Ward Councillor:** Cllr Tait

**Supporter:** Mervin McFarland (Agent)

**Update**

The agent has submitted the attached letter of 5 March 2013 in support of the application.

Amended plans were submitted by the applicant on 1 October 2012 to overcome concerns raised by the Conservation Department. These plans were accepted and, as set out in the reports the Conservation Department subsequently withdrew its objection.

The applicant was forwarded the consultation response of the Head of Strategic Planning on 7 September 2012 and provided additional details from Goadsby on 17 October 2012 for assessment by the Head of Estates. The Estates Department responded to these details on 28 November 2012 and the response was forwarded to the applicant's agent on 3 December 2012. No further details have been received from the applicant prior to the letter dated 5 March 2013.

The applicant made a Planning Committee request on 11 December 2012. The request could not be actioned at the time as the application fell within delegated procedures. A Planning Committee request was subsequently received from Councillor Tait on 11 January 2013.

Aspirational policies for affordable housing provision and Code for Sustainable Homes levels were introduced and publicised in January 2011. The aspirational policies were subsequently included in the pre-submission Joint Core Strategy, as policies CP3 (affordable housing provision) and CP11 (code for sustainable homes) which was put out to public consultation in January 2012. At the close of the consultation process the Joint Core Strategy (with modifications) was submitted to the Planning Inspectorate on 18 June 2012, with the Examination in Public held between 30 October and 8 November 2012. The Inspector report was issued on 11/2/2013 and endorsed the requirements of policies CP3 and CP11.

The agent letter of 5 March 2012 has been reviewed, including by the Head of Strategic Planning and Head of Estates, and in this instance it is not considered to be sufficient to overcome the refusal recommendations.

Item No	Ref No	Address	Recommendation
WCC 02	12/01487/LIS	Winchester Snooker Centre, Radley House, 8 St Cross Road, Winchester, Hampshire SO23 9HX	Refuse

**Agenda Page:13**

**Officer Presenting: James Jenkison**

**Public Speaking**

**Objector:**

**Parish Council representative:**

**Ward Councillor: Cllr Tait**

**Supporter:**

**Update**

As 12/01486/FUL

Item No	Ref No	Address	Recommendation
WCC 03	12/02433/FUL	New Barn, Northside Lane, Bishops Sutton, Alresford, SO24 9SR	Refuse

**Agenda Page: 20**

**Officer Presenting: Andrea Swain**

**Public Speaking**

**Objector:**

**Parish Council representative:**

**Ward Councillor:** Cllr Cook

**Supporter:** Kerry Dames (Agent)

**Update**

Condition No. 3 has been revised to take account of the policies of Local Plan Part 1 and should read as follows:

3. The proposal is contrary to Policy DP.9 of the Winchester District Local Plan Review and policy CP10 and CP21 of the Local Plan Part 1 in that it fails to make adequate provision for improvements to transport and the highway network, in accordance with Hampshire County Council's Transport Contributions Policy 2007, such provision being required in order to mitigate for the additional transport needs and burden imposed on the existing network arising from this development.

Condition No. 4 has been revised to take account of the policies of Local Plan Part 1 and should read as follows:

4. The proposal is contrary to Policy RT4 of the Adopted Winchester District Local Plan Review 2006 and policy CP7 of Local Plan Part 1 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.

**2pm start**

<b>Item No</b>	<b>Ref No</b>	<b>Address</b>	<b>Recommendation</b>
<b>WCC 04</b>	<b>12/02137/FUL</b>	<b>Prince Of Wales Public House, High Street, Shirrell Heath, Southampton, SO32 2JN</b>	<b>Refuse</b>
<b>Agenda Page: 28</b>			
<b>Officer Presenting: Simon Avery</b>			
<b><u>Public Speaking</u></b>			
<b>Objector: Mr Lutman and Mrs J A Waller</b>			
<b>Parish Council representative:</b>			
<b>Ward Councillor:</b>			
<b>Supporter: Rebecah Jubb (Agent)</b>			
 <b><u>Update</u></b>			
<b>No Update</b>			

<b>Item No</b>	<b>Ref No</b>	<b>Address</b>	<b>Recommendation</b>
<b>WCC 05</b>	<b>12/02340/FUL</b>	<b>Land To The North Of Honeysuckle Cottage, Sutton Wood Lane, Bighton, Hampshire</b>	<b>Permit</b>
<b>Agenda Page: 40</b>			
<b>Officer Presenting: Andrew Rushmer</b>			
<b><u>Public Speaking</u></b>			
<b>Objector:</b>			
<b>Parish Council representative:</b>			
<b>Ward Councillor: Cllr Cook</b>			
<b>Supporter: Robert Tutton (Agent)</b>			
 <b><u>Update</u></b>			
<b>No Update</b>			

**End of Updates**

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5 March 2013

**Delivered by E-mail**

Planning Department  
Winchester City Council  
Colebrook Street  
Winchester

Our ref: VELW2000  
Your ref: 12/01486/FUL  
E: [mmcfarland@turleyassociates.co.uk](mailto:mmcfarland@turleyassociates.co.uk)

For the attention of: James Jenkison

Dear James,

**PROPOSED REDEVELOPMENT OF WINCHESTER SNOOKER CENTRE SITE, ST CROSS ROAD,  
WINCHESTER – PLANNING APPLICATION 12/01486/FUL  
REPORT TO PLANNING DEVELOPMENT CONTROL COMMITTEE**

I have now had an opportunity to review the reports being presented to this week's meeting of the Planning Committee in respect of my client's applications for planning permission and Listed Building consent.

You had previously advised of your intention to recommend refusal of the application for planning permission on the basis of the advice you received from the Council's Estates Department and from the Head of Strategic Planning to the effect that the loss of services and facilities from the site has not been justified. Clearly we do not agree that your recommendation in this regard is correct: we were however at least given prior notice of your intention and of the substance of proposed Reason for Refusal 1.

**Failure to Advise of Intended Reasons for Refusal**

The same cannot be said in respect of proposed Reasons for Refusal 2 -5 which relate to the provision of affordable housing, an open space contribution, a transport contribution and compliance with the Code for Sustainable Homes (CSH) respectively. With regard to affordable housing and CSH the only advice you provided on these aspects, in a brief telephone conversation on 18<sup>th</sup> February was that you would need to consider your recommendation in light of the receipt of the Core Strategy Inspector's Report dated 11<sup>th</sup> February. There has been no subsequent communication or correspondence to confirm what conclusion you reached on these matters. You will appreciate that my client regards this as wholly unsatisfactory and also contrary to the informative which you have attached to the Committee Report stating that the Council takes "a positive and proactive approach to development proposals, focussed on solutions and working with applicants / agents in a proactive manner" and "updating applicants / agents of any issues that may arise in the processing of their application and, where possible, suggesting solutions". My client's view is that we have seen no proactivity (you will be aware that this application was registered on 27 July 2012 (more than 7 months ago)) and no 'solution focussed' approach.

In respect of each of proposed Reasons for Refusal 2 -5 the words “the applicant has not demonstrated....” are used. However in relation to each of these reasons for refusal the applicant has not been asked to demonstrate the matter in question. Indeed, prior to the publication of the Committee Report the Applicant had not been advised of the Planning Department’s position on these matters nor of the level of financial contributions being sought.

### **Prejudice Caused by Delay in Determining Application**

I have set out the Applicant’s position in respect of proposed Reasons for Refusal 2 -5 later in this letter. I would highlight however that at the time of submission of the application for the redevelopment of the Snooker Centre the Council was not using the emerging Core Strategy policies as the sole basis for its development management decisions. Indeed as recently as the previous meeting of the Planning Development Control Committee on 7<sup>th</sup> February 2013 the emerging Core Strategy policies were not being applied as the sole basis for development management decisions. At the 7<sup>th</sup> February committee a resolution was made to grant permission for a development of 14 dwellings on the Southgate Peugeot Site, only 50 metres away from my client’s site. That application was validated some 10 weeks later than my client’s application but was reported to Committee before it and appears to have been considered with greater weight being given to the saved policies of the Winchester District Local Plan. This is particularly the case with regard to affordable housing policy where no requirement is identified in relation to the Southgate Peugeot site: in contrast your report in respect of my client’s site suggests that a financial contribution of £421,600 is required in relation to affordable housing based on the policies of the emerging Local Plan Part 1.

Whilst the Inspector’s Report on the emerging Core Strategy / Local Plan Part 1 has been received by the Council it is only one material consideration. The Core Strategy has not been adopted by the Council and the ‘saved’ policies of the Winchester District Local Plan remain material considerations. Members can determine the appropriate weight to be given to the respective policies in the specific circumstances of this case.

The Council should be mindful that the delay in bringing this application to Committee may well amount to maladministration causing significant injustice to the applicant.

### **Concerns re. Content of Committee Report**

The applicant considers that there are a number of material inaccuracies in the Committee Report.

- Under ‘General Comments’ it is stated that under planning permission 10/00514 permission was granted for a north extension to Radley House for use as a facility and service for “use classes specified by the Applicant”. In fact the permitted range of uses was modified by the Council such that the A3 use originally requested by the applicant was not allowed but permission was granted for A2 use (financial and professional services office) which had not been specifically requested by the applicant.



- The 'principle (*sic*) issues' are identified as the loss of a service or facility use within Winchester City Centre, dwelling mix, affordable housing provision and sustainable construction. As noted above, prior to the publication of the Committee Report no specific concerns in respect of these latter three issues had been communicated to the applicant.
- The views of the Head of Strategic Planning and the Head of Estates are presented under the 'Consultations' section of the report. The Head of Strategic Planning acknowledges that emerging Local Plan Part 1 policy allows for the loss of facility and service sites where there is no "reasonable prospect of an alternative facility". Neither the Head of Strategic Planning nor the Head of Estates specifically addresses the viability evidence submitted by the applicant however, particularly the evidence relating to the availability of development finance. The applicants submitted viability appraisal states:

*"In order to secure funding for a development of this type, the following criteria would need to be met on a leasehold basis:-*

*a. A minimum 15 year lease.*

*b. Repairs - to be a full repairing lease.*

*c. Tenant to be of sufficient standing to be able to pay the rent for the period of the term.*

*d. Rent to be at a level that would make the scheme viable, taking into account current market conditions.*

*e. Timing – the ability of the tenant to enter into a forward commitment either to lease or purchase the building 12 months in advance of construction.*

*Of these, the most difficult to fulfil are the length of lease due to the short term nature that people are prepared to commit to at the moment (i.e. 3 – 5 years) and also the willingness of occupiers to enter into a contract to either purchase or lease a building which is at least 12 months away from completion.*

*On a freehold sale, the tenant would need to be a cash purchaser or have a substantial deposit of at least 30% of the purchase price. Effectively banks no longer lend on property, they are lending on the company's ability to repay the loan and therefore the substance of the purchaser is paramount. As with leasing, the issue is finding a purchaser who is prepared to purchase 'off-plan'.*

*We believe that the assumptions that have been made are realistic in the current climate and it is concluded that it would not be viable for a developer to build the property out on a speculative basis.*

....

*It is my view that under the existing planning consent, the scheme, including the residential element, will not be constructed.*

*A developer will not be able to obtain funding for the commercial unit for the reasons set out above and the negative land value demonstrated by the Appraisal.”*

The fact that the Committee Report does not present members with any details of the Applicant’s viability assessment is a significant omission. Neither the Head of Strategic Planning nor the Head of Estates address the issue of the inability to obtain development funding for a speculative commercial development. Similarly, this issue is not addressed in the Planning Considerations section of the report. In considering the principle of a wholly residential scheme officers’ state that “*it is not considered that there is sufficient justification for the loss of this services and facility site in its entirety to residential development*” however the inability to secure development funding for a speculative commercial building means that there is no realistic prospect of the consented mixed-use scheme being delivered and we consider that this constitutes ‘sufficient justification’..

- The Head of Strategic Planning asserts that “one of the reasons for allowing a much reduced element of commercial / facility development was to enable its cross-subsidy by the residential element” and this is echoed by the Head of Estates. This suggestion is without foundation however as there is no reference to cross-subsidy in the Committee Report relating to the previous planning permission or in the Head of Strategic Planning’s comments on that scheme. Those comments stated:

*“The proportion of the site proposed for replacement facility/service use is less than the existing snooker centre. However the viability and other studies do not suggest it is too small to be viable and there is no policy requirement to match the size of the existing use. Residential development at the rear of the site (fronting Edgar Road) would appear to be more appropriate than facility/service or commercial use given the character of the area, subject to design, etc. considerations.*

*The number of residential units proposed does not trigger the need for affordable housing and meets the housing mix requirements of Policy H.7.”*

## **Proposed Reasons for Refusal 2 -5**

Reasons for refusal 3 and 4 relate to the requirement for contributions to Public Open Space and Transportation respectively. The required Public Open Space contribution is calculated at £15,714 (compared with £12,816 for the previous scheme); the required transport contribution is calculated at £8506 (which is identical to the previous scheme).

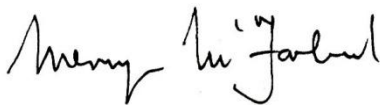
These figures were not communicated to the applicant prior to publication of the Committee Report however the applicant is willing to enter into a S.106 Agreement to secure payment of these contributions in the event of a resolution to grant planning permission.

Reason for Refusal 5 relates to the higher requirements for the Code for Sustainable Homes which are introduced in the emerging Local Plan. The project architect advises that it will be possible to achieve the required target levels, albeit that there will be an associated cost and accordingly a planning condition could be imposed to secure achievement of these targets.

Reason for Refusal 2 relates to the requirement for an affordable housing contribution of £421,600 which again was not communicated to the applicant prior to publication of the Committee Report. Although the application was submitted in July 2012 there had been no indication of a requirement to provide affordable housing prior to the 18<sup>th</sup> February 2013 when the Case Officer advised that the Council would need to consider the implications of the Core Strategy Inspector's Report. The applicant's view is that it is manifestly unreasonable to seek to impose a requirement for this contribution, particularly when there is an extant permission for six dwellings on the site with no affordable housing requirement. The 'saved' policies of the Winchester District Local Plan remain in force and do not require the provision for a scheme of the scale proposed.

Can you please ensure that this letter is brought to the attention of members of the Committee prior to the Committee meeting.

Yours sincerely



Mervyn McFarland

**Director**

CC: David Morris