

PLANNING COMMITTEE

18th FEBRUARY 2016

REPORT OF THE HEAD OF REGULATORY SERVICES

**PLANNING APPEAL - APPLICATION 15/00082/OUT : Development for up to 520 dwellings and associated convenience shop, public open space and landscaping, with all matters reserved, except for access.
Field OS 002 Leicester Road, Melton Mowbray.**

1. PURPOSE OF THE REPORT

- 1.1 To update Members on the appeal against the non-determination of planning application 15/00082/OUT. In particular the decision not to include landscape impact as part of the Authority's case at the Public Inquiry.

2. RECOMMENDATION

- 2.1 **That Members endorse the decision not to include landscape impact as part of the Authority's case at the forthcoming Public Inquiry.**
- 2.2 **That Members note the progress of this case and associated new application.**

3. INTRODUCTION AND BACKGROUND

- 3.1 At the 8th October 2015 meeting of this committee Members were advised that an appeal had been lodged against the non-determination of planning application 14/00082/OUT. This was an outline application to establish the principle of residential development of up to 520 dwellings, with associated infrastructure, including a convenience shop, on land between Leicester Road and Kirby Lane.
- 3.2 Members resolved that the Authority's case should be based upon highways/transportation impact and landscape impact. The Authority's statement of case was submitted on that basis and the appeal is due to be heard at a three day Public Inquiry in June 2016.
- 3.3 In November 2015 Gladman Developments Ltd submitted an identical application (ref 15/00910/OUT) as a means of trying to overcome the objections to the proposal. It is quite common for developers to submit duplicate applications in these cases.

4. THE PLANNING AUTHORITY'S CASE AT APPEAL

- 4.1 The landscape advice on the new application has been provided by Influence Environmental Ltd, the same consultants who provided advice on the appeal in October 2015.

- 4.2 In October 2015 they advised that landscape impact could form the basis of a reason for refusing planning permission. While this was included in our statement of case it was considered to be a negotiating stance to improve the layout and design and not necessarily a reason which would stand up to detailed scrutiny at a Public Inquiry. This is because it is only an outline application for *up to* 520 dwellings, with all matters relating to layout and design reserved for consideration at a later stage. The consultant's comments on the duplicate application are that while they have some concerns and that a more considered design approach is necessary, much of their detailed comment could be resolved at the reserved matters stage.
- 4.3 This is not totally unexpected and when this information was shared with the appellants they contacted the Planning Inspectorate (PINs) and stated that if landscape continued to be a part of this Authority's case they would need the Public Inquiry extending by two days with the associated cost of producing and presenting the necessary expert evidence. In response PINs gave this authority 7 days to respond to these comments.
- 4.4 Due to the very short time scale it was not possible to report the matter to this committee. Officers raised the issues with the Chairman of this Committee under the 'urgent business' provisions of part 4 of the Constitution, explaining the background, the cause of the urgency and advising that landscape impact should not continue to be part of the Authority's case at the Public Inquiry. The Chairman accepted that advice and on Monday 8th February 2016 PINs was advised that landscape impact would no longer part of our case.
- 4.5 The decision to not pursue landscape impact is because most of the landscape matters can be resolved at the detailed stage, should planning permission be granted. This includes layout density, planting and landscaping to mitigate impact; the details of the frontage to Kirby Lane; interaction between the proposal and the existing public open space and the avenue style tree planting which is proposed. It should also be noted that since the appeal was submitted this site is now part of a proposed sustainable urban extension in our emerging local plan.

It is disappointing to have to withdraw part of the case, but it is better to continue with the stronger highways reasons. To continue to pursue the landscape case would have incurred considerable additional time and cost for the appellants. There is a strong likelihood that a claim from the appellants for this authority to meet those costs, whatever the outcome of the appeal, would be successful.

4.6 **Other Matters**

The report to Committee in October 2015 referred to the fact that the appellants had challenged whether the developer contributions for libraries and waste, which had been requested by the County Council, satisfied the necessary legal tests. The County Council, who have considerable skill and expertise in this field, have decided to represent themselves at the Public Inquiry and are defending this element of the appeal separately from our case. This is known as a 'Rule 6' Party, which allows them to be independent from, but complementary to our case. The Police are also using this rule to support their claim for contributions.

- 4.7 The duplicate planning application (ref 15/00910/OUT) continues to be the subject of continuing discussion, particularly the highways matters. Depending upon how they progress either the application or another update report may be presented to Committee over the next two months.

5. CONCLUSION

It is considered that in this case the risks in terms of financial costs and the Council's reputation of continuing to contest landscape impact were too high. Members are requested to endorse the decision to withdraw landscape impact from the authority's case at the forthcoming Public Inquiry as set out in paras 4.1 to 4.5 above.

Members are also asked to note the update on the appeal and the current duplicate application (para 4.6).

Date: 9th February 2016

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Background documents: Planning application file : 14/00082/OUT & associated appeal
Report to Planning Committee meeting 8th October 2015
Planning application file : 15/00910/OUT