

MEETING OF THE PLANNING COMMITTEE

27TH JULY 2017

REPORT OF THE HEAD OF REGULATORY SERVICES

APPLICATION 16/00100/OUT- RESIDENTIAL DEVELOPMENT FOR UP TO 55 DWELLINGS: LAND NORTH OF OLD DALBY LANE (WEST OF MARQUIS ROAD) QUEENSWAY, OLD DALBY.

1. PURPOSE OF THE REPORT

- 1.1 To consider the Council's case in response to an appeal against the non-determination of a planning application.

2. RECOMMENDATION

- 2.1 That the Committee agree that the grounds of appeal in paragraph 5.2 of this report form the basis of the Council's case in this appeal .**

3. INTRODUCTION AND BACKGROUND

- 3.1 Planning application 16/00374/OUT was submitted on 27th May 2016.
- 3.2 Following discussions and negotiation an impasse was reached earlier this year and an appeal against the non-determination of the application was made in February 2016.
- 3.3 The details of the appeal and the start date were confirmed on 4th July 2017. It has been agreed that the appeal will be determined by the written representations procedure. The Council's statement must be submitted by 8th August 2017.
- 3.3 The purpose of this report is to consider what decision the Council would have made if it had determined the application. The Committee then needs to decide what reasons would have been applied, if permission had been refused. It is then necessary to agree whether these should form the basis of the Council's case.

4. APPRAISAL

Planning Application 16/00374/OUT

- 4.1 The application seeks outline permission for up to 55 dwellings off Old Dalby Lane and Marquis Road , Queensway ,Old Dalby (see attached plan) . No matters were submitted for consideration at this stage. The site is situated to the rear of and abutting the land subject to planning application 15/00017/OUT, for up to 39 dwellings. That application was refused permission in July 2015 and allowed by an

appeal decision in February 2016. It is an outline permission and to date no reserved matters have been submitted.

- 4.2 In response to consultations there were no technical objections to the application, apart from LCC Ecology. It was proposed that all other matters could be satisfactorily addressed by either conditions or Section 106 contributions .

The section 106 contributions which were requested were for civic amenity site (£4,546), library (£1,660), primary school (£24,198), bus stop improvements (2x £3,852), travel packs and bus passes. The appellant has agreed to pay all of these contributions and provide 40% (22 no.) affordable housing

Objections were received from the Parish Council and 35 local residents. The main issues which were raised in representations were concerns about the number of new dwellings in the Parish; limited infrastructure and local facilities; unsustainable location for housing; impact upon highway safety; loss of open space; adverse impact upon bio-diversity and fact that this scheme would develop the area proposed to be retained and managed for wildlife conservation when permission was granted on appeal for 39 dwellings on the adjacent site.

Material Planning Considerations

Ecology

- 4.3 LCC Ecology objected to the application because it would result in the loss of an area proposed for wildlife management to mitigate the impact of the 39 dwellings , as outlined in paragraph 4.2 above. This was one of the benefits which was given weight when the appeal was allowed. The provision and long term management of the area was specifically ensured by condition 9 of the appeal decision. The current application proposes the development of all of that area with 55 dwellings. LCC Ecology were concerned that not only would this valuable area be lost, but that evidence has not been submitted that an area of similar ecological value could be provided elsewhere on land owned by the appellant.

Sustainable Development

- 4.4 The Inspector who decided the appeal on the adjacent site gave considerable weight to this Council's village audit (updated 2011) which identified Queensway Old Dalby as a sustainable village, while accepting that a scheme in this location would conflict to some extent with the NPPF's core principles to actively manage growth by making the fullest possible use of public transport, cycling and walking and focussing significant development in sustainable locations.
- 4.5 Since that date the pre-submission Local Plan has advanced and while the plan can only be given limited weight, the evidence which underpins the policies is relevant and up to date. That includes the roles and relationships of settlements which identifies Queensway as a 'rural settlement '. This is the lowest tier of settlement, where there are no allocations for new development .

Five Year Housing Land Supply

4.6 The Council has a 5 year housing land supply ,which is not dependent upon the delivery of sites in unsustainable locations except where they already have permission and an allowance as part of the ‘windfall’ component of supply. At the time that the above mentioned appeal was allowed there was only a 2 years housing land supply.

5.0 Grounds of Appeal

5.1 The Appellant’s Case

In summary, the appellant considers that their proposal is acceptable for the following reasons:

- The development plan is out of date and the Council does not have a 5 year housing land supply;
- The adjacent site was found to be suitable for 39 dwellings and a similar development of this site would be beneficial to the local community and wider Borough, with no demonstrable harm;
- Would deliver economic and social benefits of housing ,including affordable housing and support for local facilities;
- The scheme would deliver ecological mitigation and enhancement of the surrounding land.

5.2 The Council’s Case

It is accepted that the scheme would deliver some benefits, including housing and in particular up to 22 affordable dwellings.

Applying the ‘test’ required by the NPPF that permission should be granted unless the impacts would “significantly and demonstrably” outweigh the benefits; it is considered that permission can not be granted.

The harm of this proposal, which it is suggested should form the basis of the Council’s case is:

1. In the opinion of the Local Planning Authority the proposal would, if approved, result in the erection of residential dwellings in an unsustainable location. The development in an unsustainable location where there are limited local amenities, facilities and bus services and where future residents are likely to depend on the use of the car, contrary to the advice contained in NPPF in promoting sustainable development. It is considered that there is insufficient benefits arising from the proposal to outweigh the guidance given in the NPPF on sustainable

development in this location and would therefore be contrary to the "core planning principles" contained within Para 17 of the NPPF.

2. The development would result in the loss of a 4ha area proposed for the management of ecology in accordance with condition 9 of planning permission ref.15/00017/OUT. In the absence of the provision of an area of equal scale and ecological value it is considered that the proposed development would have a detrimental impact upon the natural environment. It would be contrary to the "core planning principles" and para 109 of the NPPF which seeks to minimise the impact of development on bio-diversity.

6. CONCLUSION

- 6.1 The 2016 appeal decision seemed to take a relaxed approach to the interpretation of sustainable development, which continues to be questioned.
- 6.2 Whilst it is considered that the Council has a stronger case than in 2016 the Government and in turn the Inspectorate, continues to give considerable weight to the delivery of housing, almost above all other considerations. This is reflected in funding to initiatives to remove blockages, such as problems providing essential infrastructure, as well as some appeal decisions.
- 6.3 Members are asked to support the grounds outlined in paragraph 5.2 as the basis of the Council's case in this appeal.

Date: 21st July 2017

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Background documents: 16/00374/OUT Planning application file & associated appeal