

ADVANCE SUPPLEMENTARY REPORT
TO THE PLANNING COMMITTEE
15th July 2014

Agenda item 6

Application ref: 13/00970/OUT

Land North of Pepper Street, Keele

Since the preparation of the agenda the following has been received:-

1. Two further letters from **Keele Parish Council** the contents of which are summarised as follows:
 - They are surprised that the recommendation of the Environmental Health Division has changed given that only two of its nine original requirements have been met by the applicant's consultant.
 - If the recommendation is accepted by Committee the recommended conditions should be fulfilled before any building is permitted and this should be monitored by an independent consultant paid for by the developer as the Borough Council does not have the resources or expertise in-house.
 - The bond should also cover the remediation of the tip and possible migration of contaminants from other parts of the site so that it addresses unforeseen and as yet not fully explored dangers on the site. If the Planning Committee is minded to grant permission for the development they are urged to establish the size, nature and limitation of a bond before permission is considered.
 - The applicant appears to have accepted that the old marl hole is a potential hazard and recommends that the area be fenced off and as such this removes the provision of public open space from consideration as a very special circumstance.
 - The Parish Council have demonstrated that the tip fire is slowly burning out. They are concerned that there have been deliberate acts of arson on the site which obscure the underlying improvement in the site.
 - They fail to understand why the fire has become such a significant issue in the consideration of the officers, when during the last 8 years there have been no complaints or action taken. In particular they assert that there has been no serious investigation of the fire site, and recent arson acts have simply misled observers into thinking the fire is worse than it is.
 - The Planning Committee is being asked to make a decision without all the necessary information being available, as the final report of the District Valuer has not been received.
 - Objections have come from residents of Keele, Park Site and Silverdale and the overwhelming response has been to object to the proposed development.
 - The boundary of the site should be adjusted to exclude the proposed public open space which even the applicant accepts can no longer be included in the development.
 - No justification has been given for building on the greenfield portion of the site and as such this would be a very serious breach of national and local Green Belt policy (paragraphs 79, 80, 81, 109 and 116 of the National Planning Policy Framework).
 - There is no public interest served by this proposal.
2. A further **12 letters of objection**. The additional points raised are summarised as follows:
 - The fire has subsided over recent years and the area is regenerating itself. This should not be seen as a very special circumstance to justify the development in the Green Belt.
 - Many fires have been deliberately started on the burning mound deceiving people into believing that it is not burning out.

- Whilst the NPPF supports remediation of contaminated and unstable land, where appropriate, it is not appropriate in this case as the strategy of the Council, of giving time to heal the damaged land, appears to be successful.
- The revised position of the Environmental Health Division is incorrect and their comments should be treated with extreme caution given that their original concerns have largely been unaddressed and that the site investigations remain inadequate.
- It is essential that conditions are enforced and that conditions should include the requirement that any site investigations are evaluated by independent competent persons nominated by the Council, the choice being subject to public consultation.
- The development is not required to get a bus service reinstated as there is already a service.

Your officer's comments

It is considered that the report and the recommended conditions largely address the matters raised in the further comments received and reported above. Conditions can only be imposed when granting planning permission and as such it would not be possible to require, as suggested by Keele Parish Council, that all the recommended conditions are fulfilled before permission is granted for the building of the houses. The recommended conditions relating to the extinguishing of the fire and mitigation of contamination indicate that these must be satisfied before construction of the dwellings commence. Any condition that specifies that certain matters should be approved following public consultation would not meet the tests on the use of conditions, although the LPA could, if it wished, choose to publicise the receipt of details whose approval was required by a condition. The application here being considered is an application for outline planning permission, and any permission granted would require the submission of reserved matters, which would be publicised in the same way as the current application has been.

When the report was prepared it was anticipated that the final comments of the District Valuer would be received and could be reported at/or before the meeting on the 15th. It is now known that it is likely the final report of the District Valuer will not be received and as such your officer is not able to provide a recommendation as to what, if any, affordable housing or financial contributions could be secured from the development that would not adversely affect its viability. As it is possible that the advice of the District Valuer as set out in his final report may be significantly different to that set out in the draft it would not be appropriate to seek delegated authority to agree what should be within a S106 obligation particularly as the Council's Developer Contributions SPD makes it clear that decisions (to accept less than required to achieve policy compliance) are for the Planning Committee to make in the public arena. To ensure that any decision that is reached in a transparent manner it is therefore recommended that a decision on the application is deferred until a time when the final report of the District Valuer has been received.

The RECOMMENDATION therefore now is that a decision on this application is DEFERRED by the Committee to enable views of the District Valuer to be received, reviewed and a recommendation made as to the level of affordable housing and/or financial contributions that the development could sustain. If contrary to the above expectation (as to the timing of receipt of the District Valuer's final report) it is received before the Committee and in sufficient time before the meeting for it to be considered by officers, then a further amendment to the recommendation may be made at the meeting itself.

