

ADVANCE SUPPLEMENTARY REPORT
TO THE PLANNING COMMITTEE
26th August 2014

Agenda item 4

Application ref 14/00533/FUL

Land rear of 24 to 36 Heathcote Road, Miles Green

Since the preparation of the report **four further objections** have been received.

In addition to referring to issues such as highway safety which have already been raised some 'new' issues are raised :-

- that private drains linking 24 to 36 with the public sewer cross the development site, are not indicated in the submission, would definitely be built over by one part of the development, and possibly at other points.
- that fencing proposed as part of the development may inhibit current hedge and fence maintenance.
- that the land has a history of running sand, is unstable and unsuitable for the proposed development, and that no risk assessment of the potential damage to adjacent properties that could be caused by construction activity has been provided and assessed

In addition questions are asked about whether the refuse and recyclable day of collection pick up point can be screened.

Your Officer's advice with respect to the above points is as follows.

Whilst the detailed alignment of existing private drainage across the site is not indicated in the submission it is likely that some parts of the proposed built development would be over such drainage. This is a matter which should be addressed at building regulations stage with either diversion of such drainage or a building over agreement being required. Essentially it is a private matter between the parties and not a material planning consideration of any bearing to the determination of the application.

Similarly issues of prevention of maintenance access by new fencing to existing hedging and fencing is as private civil matter for resolution between the parties.

With respect to the issue of ground stability, other than the assertion made by two third parties, no other evidence has been submitted to the LPA on this point. Whilst land stability can, as indicated in National Planning Practice Guidance (NPPG) be a material consideration in the consideration of planning applications, this is more where there is concern about land heave, slippage and slope stability. No obvious indications of any of these features have been noted on site (although that observation should be qualified by the fact that most of the site is covered with tall vegetation). The concern raised in the representation appears to be more about the potential impact of construction activity on adjacent properties. Where a property owner has such concerns it is normal practice for parties to agree between themselves to an independent before and after construction structural survey – an approach that is mutually beneficial. Essentially this is a private civil matter rather than one of public concern. It is not considered necessary or appropriate to require the submission to and approval by the Local Planning Authority of a special construction plan addressing this issue and accordingly an additional condition is not proposed.

With respect to the request that the bin collection point be screened (from view from side windows of No.34, this is not achievable given its position immediately adjacent to the proposed access to the houses, the low boundary wall of No.34, the drive of No.34 and the elevated position of No.34 itself. Bearing in mind that bins should only be in this location on

collection day, the absence of screening from No.34 is not grounds for refusal of the scheme. Such a point was expressly accepted by the Planning Authority in its decision on the previous application and with a reduced number of dwellings now proposed it would be impossible to justify a different decision now.

The **applicant** advises that he will be submitting as soon as he can a planning appeal with respect to the refusal of application 14/00247/FUL (the most recently considered scheme for 6 bungalows) , and furthermore that should the current application be approved that planning appeal would then be withdrawn.

Whilst members may wish to note this information your Officer would advise members to consider the application before them on its own merits. For members' information no decision on an application can or should be made subject to the prior withdrawal of an appeal against another decision. Applicants are anyway always entitled to make further applications, and to appeal against decisions of the Council, and were the Council to seek to prevent this and an appeal be eventually made, such an approach would be viewed by the Planning Inspectorate as unreasonable behaviour (and costs almost certainly awarded against the Council).

A consideration that was not expressly addressed in the agenda report is whether "best use" is being made of the site in a proposal for 4 dwellings (which is under the 5 dwelling threshold at which affordable housing is required in the Rural area). The Affordable housing SPD indicates that where schemes are submitted under the threshold account needs to be taken of whether best use is being made of the site and it is indicated that where land is used inefficiently to avoid having to provide affordable housing, this will lead to the refusal of planning permission. Insofar as the applicant themselves advanced proposals for 6 dwellings they clearly considered the site could accommodate this number. The proposals were refused by the Council but not on the grounds that the scheme was too dense – but initially on grounds relating to the design of the development, the affordable dwelling being visually distinguishable from the other development on the site and concerns about whether appropriate provision had been made for the storage and collection of waste and recyclable materials. The second decision was a refusal solely on the grounds that the affordable dwelling was visually distinguishable from the other development on the site.

At the time when the SPD was developed central government was pressing upon local planning authorities an agenda that gave great weight to the concept of making the most effective and efficient use of land. Since then national minimal density requirements have been deleted and the focus in guidance is more on whether the density proposed is appropriate for the location rather than slavish adherence to the concept of making 'best use'. Whilst the density achieved in a 6 house scheme here was acceptable to the Local Planning Authority it would be difficult to argue that the four house scheme would appear 'out of place' bearing in mind its backland location and indeed there is an argument that by its inclusion of an unusual four bedroomed bungalow it helps widen the range of new housing available (another objective of the NPPF). For the above reasons your officers have not pursued this line of argument.

Nothing in the additional material received since the report alters the view of your officer that planning permission can be granted subject to various conditions.

The recommendation accordingly remains unaltered from the agenda report – to approve the application subject to the attachment of the conditions indicated.

