

SUPPLEMENTARY REPORT
TO THE PLANNING COMMITTEE
6th December 2016

Agenda item 6

Application ref. 16/00902/DEEM4

Land off Deans Lane and Moss Grove, Red Street

Since the preparation of the main agenda report one further letter of representation has been received raising objections on the grounds that Article 8 of the Human Rights Act (HRA) states that a person has the substantive right to respect for their private and family life. The objection indicates that the proposed development would result in a loss of privacy to neighbouring private amenity space and standards of living. Objections are also raised with regards to increased traffic on the roads and associated air and noise pollution, impact on ground stability and land drainage of adjoining land including that of the objector, previous coal mining activities; and the increased demand on schools. The objection indicates that the development would be contrary to PPS1 and PPS3. They believe that there would be limited savings made by the Council in disposing of this land. Finally they advise that if permission is granted then conditions to control construction activities should be imposed in the interests of protecting residential amenity levels of neighbouring occupiers.

Your officers have also now obtained advice from legal advisers that whilst the Borough Council cannot enter into a contract with itself (as a matter of law) a planning obligation can be entered into prior to a decision notice being issued which secures in a transparent and appropriate manner the affordable housing, public open space and education contributions, as set out in the main agenda report. It is anticipated that the County Planning Authority would act as the Local Planning Authority for the planning obligations at least until the site has been disposed of.

The advice of the Environmental Health Division has been sought as to what the specific wording of condition 11 would be. This relates to design measures and the reduction of noise to future occupiers of the dwellings. No comments have been received to date but the expectation is that they will be received prior to the meeting.

Your Officer's comments

In response to the further letter of representation members are advised that the HRA is a consideration when determining planning applications. As part of this consideration the Council has planning policy guidance which sets out residential amenity standards. The NPPF also seeks to protect living standards and quality of life.

Whilst the report indicates that the impact on the residential amenity levels is a main consideration the application is only in outline form with only illustrative details submitted. The rear gardens of the nearest neighbouring properties are over 40 metres from the application site and rear windows facing any rear windows of future dwellings would be far in excess of this distance once a final design is submitted for approval. Therefore very minimal harm is likely to be caused to existing residential amenity levels and a development can be proposed that would comply with the standards set out in the Councils SPG - Space About Dwellings and the guidance and requirements of the NPPF. Matters such as layout, scale and appearance are reserved for subsequent approval and the matters can be considered again when reserved matters applications are submitted for approval. With respect to the point made that the protection of the countryside falls within the ambit of Article 8, this may be so, but the site is not, for development control purposes, within the open countryside, but is within the urban area as set out in the approved development plan which the public authority has adopted for the area after due consultation and examination.

In all other respects the matters raised in the representation have been addressed within the report and the matters are considered to be ones that can be addressed by conditions. The reference within the representation to PPS1 and PSS3 (Planning Policy Statement 1 & 3)

relates to superseded national planning policy guidance. The NPPF superseded this guidance and the development is considered to accord with this policy guidance and the local planning policies listed in the report.

The RECOMMENDATION is revised in the following manner:-

A. Subject to (a) the landowner in question first entering by 24th January 2017 into a section 106 obligation which would secure the provision and maintenance of acceptable visibility splays on third party land and (b) a further obligation being completed, again by 24th January 2017, securing 25% Affordable Housing onsite, a financial contribution of £147,150 (index linked) towards the improvement of the equipment on Red Street Open Space and/or Barbridge Road Play Area and £99,732 (index linked) towards secondary education places at Chesterton Community Sports College, or such amounts as reflect the eventual development,

PERMIT the application subject to the conditions as previously listed in the agenda report

B. Should the matters referred to in A(a) and (b) above not be secured by the 24th January 2017, then the Head of Planning be given delegated authority if (a) is not secured to refuse the application on the grounds that the development would not have satisfactory visibility splays at the Moss Grove/Deans Lane junction and accordingly would be contrary to the interests of highway safety, and (if the matters referred to in A(b) have not been secured by that same date) on the grounds that the development would also fail to secure an acceptable provision of adequately maintained public open space, appropriate provision for required education facilities and an appropriate level of affordable housing or, if he considers it appropriate, to extend the time period within which the obligations referred to above can be secured.