

FIRST SUPPLEMENTARY REPORT
TO THE PLANNING COMMITTEE
29th January 2019

Agenda item 4

Application Ref. 18/00507/OUT

Croft Farm, Stone Road, Hill Chorlton

Since the publication of the agenda report, one further letter of **representation** has been received. It suggests that statements made regarding the Chapel and Hill Chorlton, Maer and Aston and Whitmore Neighbourhood Development Plan (NDP), within two reports on the agenda (this application and item 10) are inconsistent with each other with particular reference to the weight to be given to the NDP. It goes on to state that the NDP has completed two rounds of Regulation 14 consultation. The three parish councils involved have resolved to submit the Plan to the Local Planning Authority before the date of the Planning Committee.

The report of the **District Valuer** has been received. The report concludes that a fully policy compliant scheme is not viable and that the scheme can in financial terms deliver either no affordable units at all and a financial contribution of £55,306 or, if the priority is affordable housing only one affordable unit and a financial contribution of £12,000.

The further comments of the **Highway Authority** have been received. They recommend refusal of the application on the grounds that the application fails to demonstrate that adequate visibility splays can be provided for the proposed development to the detriment of highway users. In order to ensure a robust access design, the Highway Authority has carried out an additional speed survey at this location to ascertain 85th percentile wet weather speeds as a basis for establishing appropriate visibility splays. Based on a recorded 43.5mph wet weather speed, 2.4 x 90m visibility splays are required in each direction.

The **applicant** has requested that determination of the application is delayed until the February meeting of the Planning Committee. It is stated that they were informed on the 22nd January that a solution regarding highways was required by 5pm on the 23rd January but it is considered that such a timescale is not practical or sensible. They argue that they have not had sight of reports (the speed survey) and that given that they were still in discussions with the Highway Authority, reasonable additional time should be given to redesign the access after receiving the results of the survey. The applicant goes on to state that a lot of time, effort and money have been invested in the application and they do not wish to rush the last and potentially most important bit. It is considered that a large part of the refusal comes from the fact that the Council is demonstrating a 5 year supply of deliverable housing sites and the applicant would like to challenge the 5 year supply as there are several errors within the document. Finally, the applicant states that they don't feel that they have sufficient time to represent their application in the best way possible.

Members of the Planning Committee have received a letter direct from the applicant requesting that they consider deferring this application until the 26th February meeting.

Officer's comments

Planning applications are decided in accordance with the development plan, unless material considerations indicate otherwise. It is for the decision maker in each case to determine what is a material consideration and what weight to give to it.

An emerging neighbourhood plan may be a material consideration. Paragraph 48 of the National Planning Policy Framework sets out the weight that may be given to relevant policies in emerging plans in decision taking. It states as follows:

Local planning authorities may give weight to relevant policies in emerging plans according to:

- a) The stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);*
- b) The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given);*
and
- c) The degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).*

In this case, whilst the Chapel and Hill Chorlton, Maer and Aston, and Whitmore Neighbourhood Development Plan (NDP) has now been submitted, given that Regulation 16 stage has not yet been reached, which is the publicising of the Plan by the Council and the invitation to object to it, it is not possible yet to be certain whether or not any policy within the emerging Neighbourhood Plan is free of objection. So applying 48(b) it remains the view of your Officer that at this stage, limited weight can be given to the NDP.

In the middle of page 13 of the agenda report reference is made to the statement in the NPPF that due weight is to be given to policies in plans that were adopted or made prior to the publication of the Framework according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). No further comment is then made.

The decision with respect to the Gravel Bank appeal has now been received very recently. Whilst the appeal has been dismissed it is directly relevant to the current application to note that the Inspector in that appeal notes that the village envelopes referred to in both NLP Policy H1 and CSS Policy ASP6 were defined in the context of a local plan that was not intended to meet housing needs beyond 2011, and furthermore the limit of 900 dwellings in policy ASP6 is not based on any up to date assessment of housing needs and is at odds with the Framework that reflects the Government's objective of significantly boosting the supply of homes. He notes that a similar conclusion was reached in the appeal decision for Tadgedale Quarry. For these reasons he not only gives the undisputed conflict with policy H1 and ASP6 limited weight but he also considers, as accepted by the Council, paragraph 11(d) of the Framework to be engaged.

Appeal decisions can be a significant material consideration and a failure to take them into account can be a basis for a claim of unreasonable behaviour

Applying this to the case in hand here planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the Framework policies taken as a whole – the application of policies in the Framework that protect areas or assets of particular importance (and listed in a footnote) not providing a clear reason for refusal.

This was not the approach taken in the agenda report and it is important that the Committee determines the application taking into account the above position.

As stated in the agenda report, the NPPF refers to three objectives of sustainable development – economic, social and environmental. In terms of social benefits, the development would provide 11 dwellings, although there is at present no shortfall of housing supply in the Borough and therefore the weight to be attributed to such a benefit is considered limited. Given the conclusions of the District Valuer referred to below, the development would provide at the most, just one affordable unit. With regard to financial benefits, limited weight can be attributed to the benefits arising from construction jobs and household expenditure in the area and on the environmental side, the applicant's intention to construct environmentally friendly dwellings is acknowledged but is not considered to attract anything more than limited weight.

The development is not in an accessible location owing to its distance from services and the necessity for future residents to travel to and from the site by car. It is not considered that the limited benefits outweigh this harm.

Your Officer is satisfied that the conclusion of the District Valuer is a sound and robust one.

The revised NPPF marks a significant change in the approach to be adopted to viability in planning decisions. It indicates that where up-to-date policies have set out the contributions expected from the development, planning applications that comply with them should be assumed to be viable, and it is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. Policies about contributions and the level of affordable housing need however to be realistic and not undermine the deliverability of the Plan. In the Borough it is not presently the case that up-to-date development plan policies, which have been subject of a viability appraisal at plan-making stage, have set out the contributions expected from development, so the presumption against viability appraisals at application stage does not apply. That will not be the case until the Joint Local Plan is finalised.

Even if affordable housing is made the priority, the contribution of the development towards affordable housing is limited and the education contribution would then fall significantly short of that which is required and the impact of the development on educational capacity would not be adequately. The benefits of the delivering the development limited as they are, are not such as to justify accepting a non-policy compliant scheme in a location which is considered to be an unsustainable one.

The applicant requests that consideration of the application is deferred until the February meeting of the Planning Committee to provide them with additional time to address the concerns of the Highway Authority and to challenge the Council's assertion that it has a 5 year supply of deliverable housing sites.

It is not considered that the application should be deferred to enable the applicant to challenge the Council's housing supply figure. They have had adequate opportunity

to do so over the time the application has been with the authority. The LPA's adopted position with respect to its supply position was agreed and published in late September.

However, although they have recommended refusal on the grounds that the application currently fails to demonstrate that adequate visibility splays can be provided, the Highway Authority have advised that there is a possibility that the provision of appropriate visibility splays can yet be demonstrated. Due to delays on the part of Staffordshire County Council in producing a Speed Survey, the comments of the Highway Authority were only received on the 21st January giving the applicant very little time to address the matter. They have sought to arrange a site meeting with the Highway Authority and on this basis your Officer's advice is that it is reasonable to defer consideration of the application to the February meeting of the Planning Committee.

Should Members not accept the recommendation given below of deferral of a decision on the application, your Officers recommendation would be that the first and second reasons for refusal in the original recommendation be replaced with the following reason - to reflect the above revised approach to this application:

The adverse impacts of the development, namely the reliance on the use of private motor vehicles, would significantly and demonstrably outweigh any benefits of the development when assessed against the policies of the National Planning Policy Framework (2018) taken as a whole and the proposal therefore represents an unsustainable development

Reasons 3 and 4 as per the original recommendation are considered still appropriate.

If the application is refused and proceeds to appeal authority is sought, should it be held on appeal that a non-policy compliant scheme is acceptable, for officers to submit that in the absence of a secured planning obligation to secure a review mechanism of the scheme's ability to provide policy compliant affordable housing and a policy compliant education contribution, no provision has been made to take into account a change in financial circumstances in the event of the development not proceeding promptly.

Regarding the letter sent by the applicant to Members of the Planning Committee, your Officer wishes to comment on one statement made. The applicant states that the planning department has requested that the applicant defer the decision at least 3 times and that they have always agreed to do so. What has actually happened is that Officers have allowed the applicant extra time to respond to objections or requests for further information from technical consultees and have also allowed them to submit a viability case during the course of the application which has caused further delays. On each occasion the applicant has been asked to agree to an extension to the statutory period for determination of the application which they have done.

Amended Recommendation

That a decision on the application be deferred but only until the 26th February, to enable the applicant to attempt to demonstrate the provision of acceptable visibility splays that overcome the objection of the Highway Authority.