

55(1) Application No. and Parish: 11/00092/FULMAJ Newbury Town

(Councillor Paul Hewer declared an interest in Agenda Item (4.1), by virtue of the fact that he was an employee of Sovereign Housing Association. As his interest was personal and prejudicial, he left the meeting for the duration of that item and did not take part in the debate or vote on the item.)

(Councillors Julian Swift-Hook, Gabrielle McGarvey, Jeff Beck and Tony Vickers declared an interest in Agenda Item (4.1), but reported that, as their interest was personal and not prejudicial, they determined to remain to take part in the debate and vote on the matter.)

Councillor Paul Hewer left the room and took no further part in the meeting.

In accordance with paragraph 7.3.1 of the Council's Constitution Councillor Hilary Cole was elected to preside over the meeting for the duration of this item.

Hilary Cole took the Chair.

The Committee considered a report (Agenda Item 4(1)) concerning Planning Application 11/00092/FULMAJ in respect of the erection of 54 dwellings including 23 live-work units with associated works on the former Travis Perkins site, Mill Lane, Newbury.

Michael Butler introduced the application and drew Members attention to the report and a number of photographs of the current site, as well as plans and photo montage of the proposed solution. He also drew the Members attention to the update sheet which contained information:

- Letters of support received had been received from Peter Atkinson, Thames Valley Chamber of Commerce and Jenny Groute, Sovereign Housing Association;
- An approved S106 contribution of £ 24,882 for public open space, under SPG4/04 was included in the proposal;
- The developer had informally submitted revised plans that improved car parking provision. These revised plans could not as yet be taken as a formal revision until re-consultation period had completed and any comments had been received;
- A circular letter has been sent to Members by the applicant's agent. A response to those issues the officers on those comments were listed on the update sheet;
- Guidance in the form of a list of the options open to Members on how the application may be resolved was also provided on the update sheet.

The application site was a cleared area, which used to comprise the former Travis Perkins builders business, which had since relocated eastwards along Mill Lane to another site. It was just under 1ha in extent and was very roughly rectangular in shape, on a north / south axis. The site was virtually

surrounded by existing housing although on the north-west and east axis points there were employment uses – offices and the Newbury Bus Garage. The site lies situated to the south of Mill Lane, and to the north of the Kings Road. It comprised virtually all concrete hard-standing.

It was proposed to erect 54 dwellings on the site, 15 being two bed-roomed and the remainder three bed-roomed in 13 distinct blocks. Nine of the blocks would be 3.5 storeys high, with the remainder being 3 storeys. The 3.5 storey units would be 12m in height whilst the 3 story houses would be 10.5m high. Twenty three of the units would be for live-work purposes i.e. the ground floor would be set out as distinct office space – (Use Class B1a). The remaining floors of the houses concerned would be normal residential use – (Class C3). These units were centrally located on site, aligned on an east west axis and will face on to a central area of public open space. There would also be a small play area provided to the west of this area. A new footpath link would connect through to Windsor Court to the west in addition. Thirty per cent of the houses would be for affordable housing and would be provided by a local Registered Social Landlord. This provision equated to 16 dwellings in total.

There would one principal access into the site for vehicles off Mill Lane, to the north, with adequate visibility splays across new open space areas. One spine road would be aligned on a north/south axis across the whole of the site. In terms of on site car parking, there would be a total of one allocated space per dwelling (either undercroft or adjacent hardstanding) plus 14 visitor spaces so giving an average ratio of 1.25 spaces per dwelling. The design of the dwellings was traditional with a degree of articulation and detailing of the elevations, which the street scene plans showed. Materials were to be predominantly red brick with light brown facings as feature components, roof tiles were to be red/brown with some slate, and brick arches and stone headings were also proposed.

In addition a landscape scheme had already been approved by the Council's Tree Officer and a boundary treatment plan indicates railings/ wood panel fencing and walling as appropriate. Every house would have its own individual garden albeit some would be rather small – for example the smallest (Plot 23) would be some 6m in length and just 5m wide so being circa 30m² in area only.

In considering the application Members needed to take the following into account:

- Employment designation;
- Amenity and built form;
- Highways and access.

Michael Butler specifically drew the committee's attention to his main policy concern regarding ECON1 as the site lies within an area of protected employment. This policy sought to retain identified key employment sites for business or industrial use.

The application had much to commend it since it was for housing at a reasonable density, on a brown field site in a very sustainable location. It would provide further affordable housing and 23 live-work units.

However, officers had a range of concerns with the scheme. The first related to the ECON1 policy objection. Secondly there was the concern over layout massing and scale of the development. The third concern related to insufficient on site parking. Finally the lack of the S106 obligation was noted should Members be minded to refuse the application and an appeal was then submitted.

There were strong reasons for rejecting the application. Officers were of the opinion that the development proposed was unacceptable for the reasons as set out above in the report and they were therefore recommending refusal of the application. Members were reminded that should they approve the application it would be required to be considered at District Planning Committee as it was contrary to policy.

In accordance with the Council's Constitution, Mr Bernard Eggleton Town Council representative, Mr Peter Atkinson supporter, and Mr Giuseppe Zanre and Mr Simon Kirk, applicant/agent, addressed the Committee on this application.

Mr Bernard Eggleton in addressing the Committee raised the following points:

- Newbury Town Council had considered the application and had voted unanimously to support it;
- The Town Council agreed with the planning officer's view in paragraph 7.1 that the application had much to commend it since it was for housing at a reasonable density, on a brownfield site in a very sustainable location;
- ECON1 policy requirement was met by the provision of 23 live-work units. The Town Council disagreed with paragraph 6.12 where the planning officer's view that the 23 live-work units did not go far enough to comply with ECON1 policy. 23 live-work units provided greater employment capacity than the whole site had provided under the previous Travis Perkins usage;
- The Town Council supported the proposal for a green open space and play area and much improved pedestrian and cycle access. It would provide 18 affordable housing units which were much needed. They also supported the provision of additional car parking places.
- The Town Council was satisfied the developer would resolve any overlooking / overshadowing of Windsor Court. They agreed with the use of S106 agreement and developer covenants that would ensure the continued use of the 23 live-work units in the event of change of ownership;
- Finally, Mr Bernard Eggleton asked Members to approve the application.

Several Councillors raised concerns and questioned the process the committee should follow.

Councillor Hilary Cole stated that Members had to consider the current application as submitted or defer the application and direct planning officers to re-consult on the informal revisions submitted by the developer. It was noted that Members could only consider the plans placed in front of them which did not include changes in the built form or car parking.

Councillor Julian Swift-Hook noted that as there were no objectors to speak against the application it be deferred for further consultation. Councillor Barbara Alexander seconded the proposal.

Officers advised that it was not appropriate to debate deferring the application.

Michael Butler provided guidance on the process options open to Members. The application needed to be determined by the 3rd May 2011 to avoid grounds of appeal for non-determination. The remaining options available to Members were:

- To refuse the application as per officer's recommendation;
- To refuse the application based on a selection of the reasons listed in the report;
- In accordance with paragraph 7.3.4 of the Council's Constitution, following a vote, the majority of Members present could refer the application up to District Planning Committee;
- To approve the application knowing it would be required to be considered at the District Planning Committee in accordance with paragraph 7.3.4 of the Council's Constitution as it could be deemed to have a possible conflict with the Council's policy (ECON1).

The committee thanked Bernard Eggleton for the work he had done on planning matters on behalf of Newbury Town Council and wished him a happy retirement.

Mr Peter Atkinson in addressing the Committee raised the following points:

- Thames Valley Chamber of Commerce (TVCOG) had been involved in a number of major housing and industrial planning applications;
- This application was important particularly as it provided 23 live-work units and provided a wider range of employment skills and new jobs;
- It would enhance the built environment and provided employment and much needed housing including 30% affordable accommodation units;
- It supported the viability of the town centre and social structure of the area;
- It would reduce travel demand as it provided good access for pedestrians, cyclists and public transport users;
- ECON1 was a significant policy question to consider but the balance of need had moved strongly towards working at home and home based businesses which had risen by 24% over the last 10 years. The

demand for employment land was falling and would continue to fall in the future making the loss of employment land less critical.

- TVCOC supported the application and requested that Members approved planning permission.

Councillor Anthony Stansfeld challenged the planning officer's view on ECON1 regarding the loss of employment land by stating that there was more than a net gain in employment on the site through home working and the provision of 23 live-work units.

Councillor Julian Swift-Hook commented that retaining the land for employment was unrealistic, the site was unsuitable for office use and there was no demand for more office space in Newbury. The site was also unsuitable for manufacturing use and the proposed application did offer higher employment opportunities than the previous occupiers. Councillor Gabrielle supported the view of higher demand for both home working and new home based businesses.

Mr Giuseppe Zanre and Mr Simon Kirk in addressing the Committee raised the following points:

- Mr Zanre thanked officers for their help in developing the application plan;
- He addressed the live-work provision: Self employment and working from home had increased by 24% over the last decade. The coalition government was promoting a campaign supporting new start up businesses. The application supported 23 new live-work units and those in turn would support other local business and the council's Core Strategy on employment use;
- The application provided a good balance of both housing and business for the community. It would provide more jobs than the old Travis Perkins site had provided;
- It was a desirable and sustainable development.
- Mr Kirk stated that the original application for 87 dwellings submitted in 2009 was withdrawn following concerns raised on housing density, car parking and development on a flood plain;
- The current application was for 54 dwellings including 18 affordable units and 23 live-work units. Housing units each had their own private garden area;
- The scale of the development had been lowered;
- The Environment Agency had raised no objection to the revised plan;
- The built form had been improved incorporating green space and an amenity play area;
- Improved access link for pedestrians and cyclists was provided onto Mill Lane;
- Following additional consultation further improvements in the built form and car parking were being finalised.

Councillor Jeff Beck stated that the original application had been withdrawn when concerns were raised and asked why the applicant had not withdrawn

the application now. The agent responded that they preferred to submit changes in order to get a determination on the application.

Councillor Roger Hunneman stated his main concern was the overshadowing and overlooking of Windsor Court. He thought that plans for plots 35, 36 and 37 be modified but Members could not consider changes outlined in the agent's letter that had been circulated to Members. Councillor Hilary Cole confirmed that the applicant was advised not to submit the circular letter to Members.

Councillor Tony Vickers questioned the deliverability of the site. The Agent responded that as the site was a freehold site. Once planning permission had been granted the development would be completed in about 1 year.

Members queried if the delivery of 23 live-work units be assured. The Agent responded that the units would be part of the Section 106 agreement and the developer would use covenants to ensure continued business use. Councillor George Chandler commented that he thought that the 23 live-work units could provide employment for up to 30-40 people. Councillor Gabrielle McGarvey questioned the ability to retain the 23 live-work units as employment space in the longer term. Councillor Roger Hunneman asked if certain types of business use were prohibited. The Agent confirmed that B1 Business use would be included in their covenants. Councillor Julian Swift-Hook asked whose responsibility it was to enforce the covenants. The Agent responded that the responsibility would lie with David Wilson Homes.

Members commented that following the model demonstration of the shadowing at different times of the year overshadowing, particularly of Windsor Court, remained an issue.

Councillor Jeff Beck asked about the layout plan of the road from Mill Lane – did it have a turning-head? Paul Goddard (Highways Officer) confirmed that 2 turning-heads had been included in the tracking plan which had been assessed and approved.

Councillor Roger Hunneman stated that off-street parking in the immediate area was a problem and asked what impact would the 23 live-work units have on parking. The Agent confirmed that there was visitor parking around the live-work area. Councillor Julian Swift-Hook asked officers what was the average parking density in Newbury Town Centre. Officers confirm that it was approximately 1.0 per dwelling. Councillor Swift-Hook thought the application at 1.25 per dwelling was therefore sustainable.

Councillor Roger Hunneman and Councillor Gabrielle McGarvey (Ward Members) in addressing the Committee raised the following points:

- Councillor Hunneman welcomed the application which was much better than the first application;
- He would like to see more done to address the overshadowing/overbearing of Windsor Court;
- Welcomed the proposal for a higher parking ratio of 2 spaces per dwelling

- The site should be used for housing and used quickly;
- It was an excellent scheme and urged Members to consider policy changes to the ECON1 and proposed that the application should be referred up to the District Planning Committee.
- Councillor McGarvey stated that the 23 live-work units were important and it was a good site and supported the planned business use;
- The provision of 54 family homes, including 18 affordable units all with small private gardens was a sustainable plan;
- The use on covenants in support of retaining the business use live-work units was important;
- It was important to make an exception to ECON1 in this case.

Mike Butler (Planning Officer) made the following comments with regard to the live-work units:

- He was concerned that the employment provided by the live-work units may not be as positive as presented;
- If business units failed and some were sold on it could result in continued business use being difficult to enforce;
- The business covenants would be difficult for David Wilson Homes to enforce. There was no guarantee that the company would exist over longer term;
- The section 106 agreement would be in place for a 5 year period but unit owners would have an immediate right of appeal.

Councillor Jeff Beck endorsed Councillor Hunneman's views on the application, he supported the need for a higher car parking ratio. The 23 live-work units offered greater employment potential. It was common sense that the site should be used for housing and ECON1 policy needed to be reviewed. However, to ignore ECON1 policy would invalidate the Local Development Framework. Councillor Beck proposed that the application should be refused. Councillor Anthony Stansfeld seconded the proposal.

Councillor Tony Vickers proposed an amendment that the application be refused on the basis of reasons 1, 3 and 4 in the report, reason 2 (ECON1) should be deleted. Councillor Roger Hunneman seconded the proposed amendment.

Sharon Armour (Solicitor) advised Members that she felt the amendment went beyond an amendment to being a new proposal and asked for it to be recorded in the minutes.

Members noted that Travis Perkins employed 18 people on the site. The 23 live-work units should provide at least the same level of employment and it would have the additional benefit of housing. Councillor Tony Vickers commented Mill Lane site would not be built on for employment development as demanded by ECON1. The application would be delivered immediately and this was just what was needed. Reason 2 for refusal might therefore be indefensible. Enforcing ECON1 could restrict the site to office development but this was subject to an over supply situation in Newbury. The car parking

ratio of 1.25 was adequate, a planning inspector would not accept that as a sufficient reason for refusal.

Councillor Anthony Stansfeld did not support the amendment as it contravened the Local Development Framework. The site was, in Councillor Stansfeld's opinion, not suitable for office development, however it was perfect for light, high tech industry. There was an important need for the country to increase manufacturing. He supported ECON1 policy and the Officer's recommendation. The application design was unattractive and not suited to family homes. Parking was an issue and no Section 106 agreement had been reached and so he supported refusal.

Members voted in favour of accepting the amendment to delete reason 2 (ECON1) as a reason for refusal.

The motion to refuse the application, subject to the above amendment, was CARRIED.

RESOLVED that the Head of Planning and Countryside be authorised to **REFUSE** planning permission for the following reasons.

1. The applicant has failed to enter into a s106 planning obligation which would mitigate the impact the new occupants of the housing would have upon the District's services, facilities and infrastructure, and provide planning gain in the form of affordable housing. Accordingly the application does not comply with policies OVS3 and HSG9 in the West Berkshire District Local Plan 1991 to 2006 Saved Policies 2007, policy CC7 in the South East Plan May 2009, the advice in Circular 5/2005 and the 2010 CIL regulations and the Council's SPG4/04 as amended. Accordingly the application is unacceptable.
3. The application scheme comprises the erection of 54 dwellings. A number of the proposed units are to be constructed at a such a height , massing and overall scale that there will be not only a demonstrable and harmful impact upon adjoining residential amenity by virtue of both overshadowing and overlooking, but given the small plot sizes and layout of the application scheme, the amenity of future occupants will be harmed by overlooking and overshadowing in addition, leading to overall loss of privacy and a poor living environment , contrary to policy OVS2 in the West Berkshire District Local Plan 1991 to 2006 Saved Policies 2007. Furthermore, it is considered that the elevations and design of the proposed housing is poor giving rise to unattractive street scenes leading to a lack of coherent character and sense of place, contrary to the advice in PPS3 and the Council's own design guidance. The scheme is thus considered to be an unacceptable overdevelopment of the site, contrary to well established policy as noted above.
4. The application provides only an average of 1.25 parking spaces per dwelling. Given the nature and scale of the housing proposed, and the nature of undercroft parking in 31 of the dwellings, it is considered that

this lack of parking will lead to severe pressures for on street parking, not only within the site but also on the local highway network causing harm to local highway safety and local amenity. The application is thus contrary to the advice in PPG13 and policy OVS2 in the West Berkshire District Local Plan 1991 to 2006 Saved Policies 2007.

Councillor Julian Swift-Hook proposed that the application should be referred up to the District Planning Committee because the ECON1 reason had been deleted.

Councillor Roger Hunneman seconded the proposal.

In considering the above proposal Members voted to refer the application up to the District Planning Committee.