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PLANNING COMMITTEE ADDENDUM REPORTS

DATE: THURSDAY 26 AUGUST 2010
TIME: 1.00 PM
PLACE: COUNCIL HOUSE, ARMADA WAY, PLYMOUTH

Members –

Councillor Lock, Chair.
Councillor Roberts, Vice-Chair.
Councillors Mrs. Bowyer, Browne, Delbridge, Mrs. Foster, Mrs. Stephens,
Stevens, Thompson, Tuohy, Vincent and Wheeler.

**PLEASE FIND ATTACHED ADDENDUM REPORTS FOR CONSIDERATION
UNDER AGENDA ITEM NOS. 6.9, 6.10, 6.12, 6.14, 6.15, 6.16, 6.17 AND 6.18.**

**BARRY KEEL
CHIEF EXECUTIVE**

PLANNING COMMITTEE

- 6.9** 25 COLTNESS ROAD, PLYMOUTH 10/00776/REM **(Pages 1 - 2)**
- Applicant: Mr. A. Nutbean
Ward: Plymstock Dunstone
Recommendation: Grant Conditionally
- 6.10** LAND AT BELL CLOSE (EAST OF PARKSTONE LANE),
NEWNHAM INDUSTRIAL ESTATE, PLYMPTON,
PLYMOUTH 10/00174/FUL **(Pages 3 - 4)**
- Applicant: Mr. & Mrs. S. Rowland
Ward: Plympton St. Mary
Recommendation: Grant Conditionally
- 6.12** FORMER TOTHILL SIDINGS, LAND SOUTH OF
KNIGHTON ROAD, PLYMOUTH 10/00851/OUT **(Pages 5 - 6)**
- Applicant: Mr. H. Shibl
Ward: Sutton & Mount Gould
Recommendation: Grant Conditionally subject to S106 Obligation,
delegated authority to refuse if not signed by 31 August,
2010
- 6.14** FORMER SITE OF BARNE BARTON PRIMARY SCHOOL,
POOLE PARK ROAD, PLYMOUTH 10/00681/FUL **(Pages 7 - 8)**
- Applicant: BDW Trading Ltd.
Ward: St. Budeaux
Recommendation: Grant Conditionally subject to S106 Obligation,
delegated authority to refuse if not signed by 27 August,
2010
- 6.15** THE FELLOWSHIP INN, TREVITHICK ROAD, PLYMOUTH **(Pages 9 - 10)**
10/00853/FUL
- Applicant: Colourcolt Ltd.
Ward: St. Budeaux
Recommendation: Grant Conditionally subject to S106 Obligation,
delegated authority to refuse if not signed by 10
September, 2010
- 6.16** 23 MARLBOROUGH STREET, PLYMOUTH 10/01022/FUL **(Pages 11 - 12)**
- Applicant: Mr. M. Obrien
Ward: Devonport
Recommendation: Grant Conditionally

6.17 FORMER MOD SITE, MOUNT WISE, PLYMOUTH
10/00670/OUT

(Pages 13 - 16)

Applicant: Mount Wise (Guernsey) Ltd.
Ward: Devonport
Recommendation: Grant Conditionally subject to S106 Obligation,
delegated authority to refuse if not signed by 15 October,
2010

6.18 FORMER MOD SITE, MOUNT WISE, DEVONPORT,
PLYMOUTH 10/01271/OUT

(Pages 17 - 20)

Applicant: Mount Wise (Guernsey) Ltd.
Ward: Devonport
Recommendation: Grant Conditionally subject to S106 Obligation,
delegated authority to refuse if not signed by 15 October,
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ADDENDUM REPORT PLANNING COMMITTEE 26th AUGUST 2010**Item: 9****Site: 25 Coltness Road, Plymstock, Plymouth PL9 8HA****Ref: 10/00776/REM****Applicant: Mr A Nutbean****Pages: 41**

With regards to the reference to a current dwelling in the 'site description' section of the main report, this dwelling has now been demolished.

Since writing the report, a further internal consultation response has been received relating to trees. This results in the addition of the following conditions and informative (these conditions are to follow after conditions 1 and 2, so are numbered accordingly):

(3) EXISTING TREES AND HEDGEROWS TO BE RETAINED

In this condition, 'retained tree or hedgerow' means an existing tree or hedgerow which is to be retained in accordance with the approved plans and particulars; and paragraphs (a) and (b) below shall have effect until the expiration of 5 years from the date of completion of the last dwelling forming part of the development.

- (a) No retained tree or hedgerow shall be cut down, uprooted or destroyed, nor shall any tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the Local Planning Authority. Any topping or lopping approved shall be carried out in accordance with British Standard 3998:1989 (Recommendations for Tree Work).
- (b) If any retained tree or hedgerow is removed, uprooted or destroyed or dies, or is lopped or topped in breach of (a) above in a manner which, in the opinion of the Local Planning Authority leaves it in such a poor condition that it is unlikely to recover and/or attain its previous amenity value, another tree or hedgerow shall be planted at the same place and that tree or hedgerow shall be of such size and species, and shall be planted at such time, as may be specified in writing by the Local Planning Authority.
- (c) The erection of fencing for the protection of any retained tree or hedgerow shall be undertaken in accordance with the approved plans and particulars (or in accordance with Section 8 of BS5837:2005 (Guide for Trees in relation to construction)) before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground within those areas shall not be altered, nor shall any excavation be made, without the written consent of the Local Planning Authority.

Reason:

To ensure that trees or hedgerows retained in accordance with policy CS18 of the Plymouth Local Development Framework Core Strategy are protected during construction work and thereafter are properly maintained, if necessary by replacement.

(4) DETAILS OF REPLACEMENT TREES

Prior to the commencement of the development hereby permitted, details of the size, species and location of 3 replacement trees shall be submitted to and approved in writing by the Local Planning Authority, and the agreed replacement trees shall be planted within 3 months from the

date occupation of the last of the three dwellings or, if this period does not fall within a planting season, by 31st January next.

Reason: In the interests of visual amenity and to conserve the contribution of trees to the character of the area, in accordance with policy CS18 of the Plymouth Local Development Framework Core Strategy.

INFORMATIVE – REPLACEMENT TREES

(1) With regards to condition 4 above, 3 replacement trees are required in order to replace the trees that have been removed from the site.

ADDENDUM REPORT PLANNING COMMITTEE 26th AUGUST 2010**Item: 10****Site: Bell Close, Newnham Industrial Estate, Plympton, Plymouth.****Ref: 10/00174/FUL****Applicant: Mr and Mrs S Rowland.****Page: 47**

A further 4 letters of representation have been received, objecting to the application and raising the following points:

1. Conflict between the proposed use that has a significant residential element and the Co-ops distribution depot in Bell Close.
2. Departure from the established planning use of the site as part of an existing industrial estate.
3. No demonstration of need has been made for the proposed use.
4. Residential occupation of the site would be contrary to Strategic Objective 15 without an early assessment.
5. No information on size and number of related family groups which could result in a large number of people living at the site.
6. Noise – the site is within an established industrial estate and it's possible that any new residents might raise noise complaints against the existing industrial businesses on the estate.
7. The proposed use is not compatible with the activities taking place on an industrial estate.
8. Loss of a prime industrial site.
9. Approval of the application will blight the neighbouring site.
10. Potential occupiers of the site will be vulnerable to unacceptable risk of pollution in terms of noise and light.
11. There is an approved site at Lee Mill which is advertising space for rent and this is more suitable for the proposed use than the site at Bell Close.
12. The application would mean it's necessary to level the site and remove trees.
13. The current proposed levels and layouts on the application site will destroy the tree root systems of the existing western and southern boundary protection mature tree screen.
14. The proposed levels to provide the suggested large level residential area towards the back of the site take no account of the existing site topography, where the site rises to the rear from the previously levelled 20 metre deep area off Bell Close by some 4.5 metres, and will also be some 4 metres higher than our client's site.
15. The applicant's only proposed HGV and domestic vehicular and pedestrian access on a very dangerous and heavily trafficked bend, only some 15 metres from our clients existing HGV access, used constantly by the CO-OP and others, and with another very busy HGV access virtually opposite (Bradfords Builders Merchants).

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ADDENDUM REPORT PLANNING COMMITTEE 26th AUGUST 2010**Item: 12****Site: Former Tothill Sidings Land South Of Knighton Road Plymouth.****Ref: 10/00851/OUT****Applicant: Mr H Shibl.****Page: 77****1. Biodiversity**

It is proposed to add the following condition:

(21) Unless otherwise previously agreed in writing with the Local Planning Authority, the development shall be carried out in accordance with the Enhancement and Mitigation Plan (updated August 2010) for the site. Prior to development commencing, a suitable reptile receptor site must be identified.

Reason: In the interests of the retention, protection and enhancement of wildlife and features of biological interest, in accordance with Core Strategy policies CS01, CS19, CS34 and Government advice contained in PPS9.

2. Environment Agency

Comments from the Environment Agency have now been received, stating no objection subject to the following condition, which is proposed to be added as condition 22 to the report:

(22) No development approved by this permission shall be commenced until details of a scheme for the provision of surface water management has been submitted to and approved in writing by the Local Planning Authority. The details shall include:-

- details of the drainage during the construction phase;
- details of the final drainage scheme;
- provision for exceedance pathways and overland flow routes;
- a timetable of construction;
- a construction quality control procedure; and
- a plan for the future maintenance and management of the system and overland flow routes.

Prior to occupation of the site it shall be demonstrated to the satisfaction of the Local Planning Authority that relevant parts of the scheme have been completed in accordance with the details and timetable agreed. The scheme shall thereafter be managed and maintained in accordance with the approved details unless otherwise approved in writing by the Local Planning Authority.

Reason: To prevent the increased risk of flooding and minimise the risk of pollution of surface water by ensuring the provision of a satisfactory means of surface water control and disposal during and after development.

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ADDENDUM REPORT PLANNING COMMITTEE 26th August 2010

Item: 14

Site: Former Site of Barne Barton Primary School, Poole Park Road, Barne Barton, Plymouth

Ref: 10/00681/FUL

Applicant: BDW Trading Ltd

Page: 111

One letter of representation has been received since the officer's report was completed; this letter states that they would want the new housing estate to be enclosed (with no pedestrian through route) as this will help to reduce vandalism. The new estate will be enclosed following advice from the Police Architectural Liaison Officer and therefore this concern has been dealt with.

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ADDENDUM REPORT PLANNING COMMITTEE 26th August 2010**Item: 15****Site:** The Fellowship Inn, Trevithick Road, Plymouth, PL5 2AF**Ref:** 10/00853/FUL**Applicant:** Colourcolt Ltd**Page:** 133

One letter of representation has been received since the officer's report was completed; it raises objections on the basis that the public house is the only social meeting place that they can access as they are disabled and is a meeting place for all ages. They also state that the site has historical value due to the surrounding wall, cellar and trees. The only new concerns raised in this letter are the loss of the boundary wall and cellar, however the building is not listed and is not considered to hold historical merit, this does not therefore affect the officer's recommendation.

Members should also note that the tariff money of £27,000 as detailed in the 'Section 106 Obligations' section of the report was agreed prior to the adoption of the Local Development Framework: Adoption of Planning Obligations & Affordable Housing Supplementary Planning Document: First Review. At this time affordable housing developments were required to pay a strategic transport contribution and therefore the money was to be allocated in this way. Under the new Supplementary Planning Document, affordable housing is now exempt from the tariff. Therefore it is proposed that the reference to a tariff contribution is deleted and the only S106 obligation will relate to affordable housing.

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**ADDENDUM REPORT PLANNING COMMITTEE 26th August
2010**

Item: 16

Site: 23 Marlborough Street, Plymouth

Ref: 10/01022/FUL

Applicant: Mr M O'Brian

Page: 145

Condition 2, opening hours. The applicant has been contacted and has accepted the proposed opening hours.

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ADDENDUM REPORT PLANNING COMMITTEE 26th August 2010

Items: 17 & 18

Site: Former MoD Mount Wise

Ref: 10/00670/OUT & 10/01271 /OUT

Applicant: Mount Wise (Guernsey) Ltd

Page: 153 & 181

Consultations

Ref 10/01271/OUT Highway Authority

The conditions attached to and specified upon the Notice of Planning Permission No.

06/01646/OUT relating to this development are reiterated and are still in force insofar as the same have not already been discharged to the satisfaction of the Local Planning Authority.

Reason: Not all the conditions attached to the said planning permission have yet been discharged and this condition is imposed on this present permission in order that it shall be clear to the applicant that the said undischarged conditions are still in force and have to be complied with.

Additional letters of representation (LOR's)

Five additional letters of representation have been received

1) There is a lack of details regarding additional flats / houses accessed off Richmond Walk. Points out that have no objection to the development of the upper part of Mount Wise but do object to the addition of extra flats and houses accessed off Richmond Walk. Objected to the original application on grounds of capacity.

2) Reiterates concerns about overlooking from Mount Wise hose extension; seeks assurance that the service lane to the rear of George Street will not be used as a access; concerned about drainage capacity at the site; and possible use of George Street to provide access to the office element 9 despite plans showing that it is not proposed).

3) Further letter of representation written after publication of Planning Committee report

Challenges the advice given to members that a developer 'right' to expect renewal arising from case law.

Questions whether the claim that eh Highway Authority were aware of the potential development at Ocean Court is correct

Complains that the report does not state what conditions are recommended to embrace provisions set out in my representation to ensure completion without interruption or delay once development has started.

4) Welcome the scheme, but have reservations about the increase in traffic on Richmond Walk both during construction and after the project is complete. Had received an assurance from the developers that 'Not a brick would be laid until Richmond Walk is sorted out.' It is not clear what has been decided in relation to vehicle access along Richmond Walk.

Comments

Unlike areas 'B' and 'C' an application seeking reserved matters approval for area 'A', the Admiral's Orchard has yet to be received.

'Right' to expect renewal - It is accepted that this point could have been more clearly explained, and 'right' may be too strong a term. Circular 11/95 and its emphasis (para 60) *that there must be a material change in circumstances since the original permission if a refusal is to be contemplated* has been replaced with Circular 08/2005 and its advise Para 31 that *Local Planning Authorities should judge such (lapsed) applications against current planning considerations.*

However, where an application is made on a site where there is lapsed permission or a similar development, the precedent of that permission may still carry substantial weight, even though it cannot be implemented. Clearly, the weight to be given to a lapsed permission is less than that relating to an extant permission, but if there are no significant changed circumstances this weight may be considerable. It is also true that here is a long history of planning appeal cases where the principle of renewal of a lapsed permission, unless there has been a material change in circumstances, has been established.

Local Planning Authorities are not bound to follow previous planning decisions on matters of planning judgement, but if they intend to reverse such a decision or conclusion, in the absence of a change in circumstances, they must explain and justify that course of action.

Awareness of the potential development at Ocean Court - This refers to an historic, part implemented, planning permission from the 1970s (ref outline 2363170/40079/2 and reserved matters 3773173/1(b) 400799/8) which was the subject of a Lawful Development Certificate (ref.07/01175/PRDE). Although the Cert of lawfulness is dated after the original outline approval at Mount Wise, it is reasonable to assume that the Highway Authority was aware of this development potential at Ocean Court because it had been acknowledged in a more recent planning permission for residential development at Ocean Court, granted under ref 04/01353, just three years before.

Phasing and ensuring completion -The objections and concerns raised in the representations introduce one issue that was not considered in any great detail in relation to the original outline planning permission ref 06/01646/OUT: that of

phasing of the development and provisions to prevent the developer of a large site either abandoning it part way through implementation or 'cherry picking' the most commercially most attractive elements. The author of the LOR is effectively seeking use of a Completion Notice, or similar, and conditions to ensure phasing.

Both methods are planning 'tools' that have been used in the past. Completion notices are used by LPAs where the completion of a development which had been interrupted while affording the means, and should the development not after all be carried through, of disposing of the uncertainty created by an incompletely exercised permission. Conditions relating to phasing, usually inserted into Section 106 legal clauses to give them additional weight and enforceable authority, are sometimes attached to large developments, to both manage the development process and prevent 'cherry picking'. Where completion is crucial, they are sometimes used to try and prevent abandonment.

There are, of course, costs to the developer associated with completion notices. Generally unless the proposal relates to a very high value key site, or involves significant landscape degradation (e.g. strip mining), where a failure to secure completion or adequate remediation has significant consequence, their use is not appropriate as it adds unnecessarily to the overall development costs and, in its own way, becomes a small obstacle to delivery. Important as Mount Wise barracks site is to the future of Devonport, it does not fall into the category of a very high value key site, or involve significant landscape degradation. A distinction needs to be made between what are desirable development control objectives and what is necessary and reasonable.

The issue of phasing is slightly different. It is undoubtedly good practice to try and control the development of large sites and prevent 'cherry picking' of the most commercially attractive elements (although it is worth noting in passing that these vary over time – 2 bed flats a few years ago small 'starter' houses at present).

In this case the original outline permission was split into 4 areas (A-D) with a view to bringing forward development in phases. The applicant disliked the concept and submitted an ambitious reserved matters application (ref. 08/00442/REM) covering the whole site, but subsequently discovered that this was more than could be delivered. The second reserved matters application, a year later - ref 09/00525/REM, covered areas B and C, the small terraced house, minus the extra care home in B.

There is an argument that the LPA could have been more robust about phasing in relation to this site and sought to control it more directly and specifically. There were provisions relating to widening of Richmond Walk and phasing (and it is proposed that they are replicated). However, unlike the 'Vision' site, which was split into 14 areas and subject to a series of consecutive clauses, the phasing regime to prevent 'cherry picking', was fairly light touch.

The problem is that in a weak market conditions the LPA often faces a difficult choice of either: insisting upon adherence to tight phasing clauses/ conditions and risking stymieing the development altogether, or agreeing significant revision and 'watering down' of the clauses to allow flexibility and keep development 'going'.

In this case a very tight phasing regime was not imposed on the original outline permission (it would now require imposition of S106 clauses) and the applicant is believed to be ready to start building the most marketable element, the neo - Georgian style terraced houses, in areas B and C this autumn. They are considered sufficiently discrete from the other elements to be built and occupied independently, even in the unlikely event that the remainder of the site is undelivered or plans area changed.

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