

ITEM: 06

Application Number: 10/00594/FUL

Applicant: Scott Wilson

Description of Application: Provision of 14 allotments

Type of Application: Full Application

Site Address: LAND NORTH OF STUDENT CARPARK, PARADISE ROAD PLYMOUTH

Ward: Stoke

Valid Date of Application: 16/04/2010

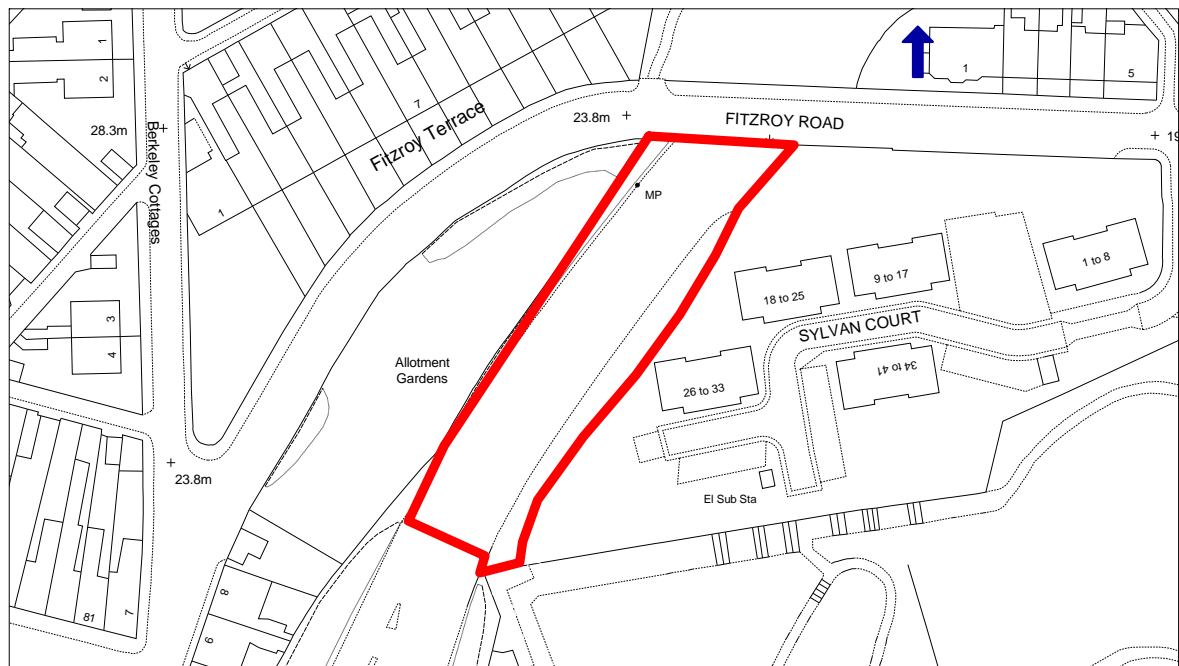
8/13 Week Date: **11/06/2010**

Decision Category: Member Referral

Case Officer : Jeremy Guise

Recommendation: Grant Conditionally

Click for Application Documents: www.plymouth.gov.uk



(c) Crown Copyright. All rights reserved. Plymouth City Council Licence No. 100018633 Published 2010 Scale 1:1250

This application is reported to committee following referral by Councillor, Joan Watkins Ward Member, whose concern is that local people have mixed views and that the application should be assessed by the planning committee.

OFFICERS REPORT

Site Description

The application site is a relatively level area, part of a dismantled railway line that has been left to naturally regenerate. It currently contains a mixture of trees and bushes. Mainly sycamore, goat willow and sallow, but also lesser parts cherry laurel, holly, elder, bay, elm and horse chestnut.

Immediately to the north is a railway bridge that forms part of Fitzroy Road. There is an area of steeply rising wooded land, the former railway embankment, between the site and Fitzroy Road, to the north and west. To the east is a belt of trees which form the boundary to residential gardens in Sylvan Court. To the south is the student car park that belongs to City College Plymouth.

Proposal Description

As part of the Big lottery, 'Changing Species: local food' City College Plymouth wish to create allotment space for students, staff and local people in an attempt to increase the food awareness, increase social interaction and encourage outdoor activity.

Planning permission is therefore sought to convert the derelict scrub land into 14 allotments with full disabled access. Plans show the site cleared of existing vegetation and re-levelled. No soil is to be removed from the site, and existing soil is to be capped with imported topsoil used as a planting medium. Low level lighting and water provision is also proposed.

Divisions within the site will demark the separate plots and general access footpaths, these demarcations will be made by sleepers laid at a 100mm up stand. There will be no internal gates or fences. Four of the plots are designed with raised planting beds to allow disabled users or those with restricted movement. These raised beds will be formed by a 450mm high retaining wall made from timber sleepers.

A phase 1 – Geo- Environmental Desk Study and Environmental Risk Assessment has been submitted with the application along with a mitigation strategy.

In order to assess the impact of the proposal upon wildlife the applicants have been required, post submission, to provide an Extended Phase 1 Habitat survey and a Bat roost inspection and emergence survey. These were submitted in September and October 2010 and therefore provide an up to date picture of the species present.

The habitat survey found the dense woodland site to be: of negligible value to amphibians as there are no water bodies within the vicinity and the site is surrounded by roads and buildings which affords no connectivity to other sites; of negligible value to reptiles as site is heavily shaded has limited basking opportunities or refuge opportunities during hibernation. No signs where found of badger activity or dormice activity were found. It was considered to be of moderate value to common small woodland bird species such as blackbird, wren, long tailed tit nuthatch and chiffchaff. Owing to the disused railway arches present at the site it was considered likely that site would be of value to bats and a separate bat roost inspection and emergence survey was commissioned.

The bat roost inspection and emergence survey found a Lesser horseshoe bat roost in the disused rail bridge arch under Fitzroy Road with the limited amount of droppings suggesting that the roost is a satellite or possible day roost. A Common Pipistrelle bat was recorded foraging and feeding at the site, but generally it was concluded that the woodland habitat not used for feeding and foraging but commuting to other sites such as Stoke Damerel churchyard.

Subject to suitable mitigation measures:-

- Lighting -Avoidance of artificial lighting or if it is unavoidable, for security reasons to ensure that it is low Lux value and contains no ultraviolet to attract insects displacing them from potential bat feeding area.
- Limitations on the timing during the year of vegetation clearance,
- Buffer zone and secure fencing

both specialist surveys concluded that the proposal was acceptable.

A parallel conservation area consent application Ref. 10/00595/CAC has been submitted.

Relevant Planning History

- Ref. 90/01112/C1884 – Formation of a training area Regulation 10 consultation 31Jul.1990
- Ref. 99/01317/FUL - Erection of timber storage building (renewal of previous permission) 13 Dec.1999
- Ref. 02/01187/FUL - Installation of double temporary classroom (including removal of freestanding wall and fence on its proposed site) GRANTED 2nd Sept. 2002.
- Ref. 02/01188/FUL - Installation of double temporary classroom on part of car park and site of brick store south of Paradise Road - GRANTED 2nd Sept. 2002.
- Ref. 02/00770/FUL - Disabled persons access ramp – Conditional Permission GRANTED 8th July 2002.

Consultation Responses

Public Protection Service – Raise no objection to the application, but recommend conditions are attached to any permission. These should relate

to: - land quality; site characterisation; submission of remediation scheme; implementation of approved remediation scheme and reporting unexpected contamination.

The following technical comments are also made in relation to the Phase 1 Geo-environmental Desk study and Environmental Risk assessment. The above report is for the adjacent site and although it provides an indication of contamination issues at the site it does not currently provide sufficient information to be confident that the proposed remedial measures outlined in the Design and Access Statement will be suitable.

The report highlights contaminants that are of concern for the current use of the site. All information should be reviewed in light of this proposed end use. This must include an updated initial conceptual site model and desk study for an allotment land use. Based on current information and the proposed remediation this site could not be eliminated from Plymouth City Council's list of sites of potential concern.

Highway Authority – No transport comment required.

Police Architectural liaison Officer - The Devon & Cornwall Constabulary are not opposed to the granting of planning permission for this application, however they offer the following observations:-

Thefts from allotments always a problem: gardening equipment is always a desirable item for a thief who can readily sell on these items. Allotments that are insecure or have inadequate locking systems on their sheds are an easy target. Vandalism can also be a problem with damage caused to glasshouses and sheds. Theft of vegetables is also an issue.

For this particular site it is necessary to ensure that there is secure access by erecting a section of weld mesh fencing with a secure gate. There is concern that failure to do this will lead to problems. Some defensive planting to the sides of the proposed site to deter access onto the allotments via the open boundaries would also be helpful.

Representations

Neighbours surrounding the site have been notified of the application and a site notice posted. This has resulted in receipt of 13 letters of representation (LOR's). These LOR's reflect a wide range of opinions from wholehearted support, qualified support, comments on and vehement opposition.

Cllr. Joan Watkins:- There is clearly a mixed view among local population and on that ground alone I believe it should go to full planning.

Stoke Damerel Conservation Society – would support this development. But must have ease of access by car (plus ability to park) especially for the disabled . Access to be available at weekends hopefully?. Must ask locals to report any vandalism etc. but to whom?

Support

- In principle welcome use of the land for allotments as it is vulnerable to fly tipping, but seek assurance that trees along the top of the cutting, alongside Fitzroy Terrace will not be removed. The woodland provides an attractive leafy setting and outlook for period properties. Careful consideration should be given to parking arrangements to ensure the entrance via Fitzroy Terrace does not become a bottleneck.

Comments on

- The trees forming the boundary with Fitzroy Terrace are an important feature of the road and every effort must be made to ensure that these trees are not damaged or removed. Further, at the moment these trees need professional attention. Dead wood should be removed to encourage new growth. It would be advisable for the City tree Conservation officer to carry out a detailed examination of those trees and their importance to the environment recognised.
- A site visit by the planners would not only show the biodiversity, and natural beauty of this land, but also show that it is a deep, steep sided valley. Surely allotments need some sunshine? This land is almost always in shadow.
- If these allotments fail due to the lack of light will the area be restored, or will the car park be extended onto a bold but failed project?

Reasons to oppose

- The site is not scrubland:- It is incorrect to describe it as scrubland. It is now woodland. Previously City College have applied to build on this land. It is not a 'Brownfield' site. 'Brownfields' sites are ex-industrial sites occupied by industrial buildings. It is home to wildlife displaced from Persimmon development (Endeavour Court). It is an important 'green lung' for the city.
- Destruction of natural habitat:-The wood supports a wide variety of wildlife: - Horseshoe bats, nesting jays; owls, doves, wood pigeons and magpies as well as a wide variety of smaller birds: wrens, tits, long tailed tits, goldfinch, blackbirds, thrushes and starlings. There are wildflowers, butterflies, hedgehogs, foxes and possibly badgers, toads, frogs lizards and snakes. It is imperative that a full wildlife survey is undertaken. The site has SSSI (site of Special scientific Interest) protection. Any development will lose biodiversity and nature habitat
- Surveys & documentation:- The woodland adjacent to the student car park is one of the few wild types of woodland in the city. I can see no evidence, from the planning documentation available on line, that any surveys have been conducted with regards to flora and fauna. Surely this is a legal requirement, or has the disingenuous description of this land being 'Brown Field', post industrial scrub, been accepted at face value.
- The application does not make clear who will use the allotments
- The application was poorly advertised.

- No pedestrian access is indicated on this application and this should be clearly spelt out and consideration given to car parking, which is currently in high demand in this area.

Analysis

Human Rights Act - The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.

The key issues in this case are:-

- The principle of using this area for allotments (Policies CS01 and CS20 of the adopted Core Strategy)
- Impact on wildlife & biodiversity (Policies CS18 & CS19 of the adopted Core Strategy)
- The impact upon the character and setting of the Stoke conservation area (Policy CS03 of the adopted Core Strategy)
- Parking and access issues (Policies CS28 and CS34 of the adopted Core Strategy)

The principle of using this area for allotments

The policy framework, set out in the LDF Core Strategy, is positively supportive of developments, such as allotment gardens, which encourage the re-use of unproductive land.

The Core Strategy has as its' overarching objective the development of sustainable linked communities (Policy CS01). This Policy includes point 3, which states:-

3. Safeguard and capitalise on the local environment, including the need to deliver effective and sustainable resource use.

Sustainable resource use is followed through in Policy CS20, which states that the council will actively promote development which '*utilises natural resources in as efficient and sustainable a way as possible.*' The preamble, supporting text, recognises the threat posed by climate change and the need to use resources in a sustainable way (para. 11.21 of the Core Strategy) pointing out that 'the City's eco- footprint is not sustainable and it needs to shift towards a more resource efficient future.'

Although the proposal involves the importation of topsoil, it is located along the course of an old railway, close to a former station. There is possibility that it contains some contamination. The Phase 1 Geo-environmental Desk Study and Environmental Risk Assessment, that accompany the application, do not contain sufficient information to be confident that the proposed remedial measures set out in the Design and Access statement will be suitable. The

conditional regime recommended by the Public Protection Service is therefore appended.

Impact on wildlife & biodiversity

This area of green space has come to make a positive contribution towards bio-diversity and wildlife habitats. Since its' railway use ceased (circa late 1960's) it has, to a large extent, been reclaimed by nature. Self seeded sycamores and other trees grow among the rubble from broken walls and culverts and provide a canopy for an area of dense vegetation growth that is almost impenetrable.

Policy CS19 (Wildlife) of the adopted Core Strategy requires the Council to 'promote effective stewardship of the city's wildlife'. Clauses 2 and 5 are particularly relevant. They state that affective stewardship is to be promoted through:-

2. Appropriate consideration being given to European and nationally protected and important species.

5. Ensuring development seeks to produce a net gain in biodiversity by designing in wildlife, and ensuring any unavoidable impacts are appropriately mitigated for.

This policy supplements the guidance produced in the Planning Policy Guidance Note 9 (PPS9 - Biodiversity and geological conservation) and the statutory protection afforded to species, such as bats, in the Wildlife and Countryside Act.

The recommendation of the habitat and bat survey reports (lighting restrictions, limitations on the timing of vegetation clearance, buffer zone and secure fencing) are accepted by the Council's Nature conservation officer.

Providing the applicant commits to the recommendations in the two reports a and agrees a Mitigation and Enhancement strategy that details measures both during and after creation of the allotments. The proposal is considered to be acceptable. A condition relating to biodiversity is sought.

The impact upon the character and setting of the Stoke conservation area

The impact upon the setting and character of the Stoke conservation area is limited as the proposed allotments use high quality materials and are located in a deep 'man made' cutting.

Boundary treatment will need to be carefully considered balancing the legitimate security concerns of the allotment holders (and police) with the aspiration to retain, and repair, traditional railing treatment, particularly in the north where the site abuts Fitzroy Terrace.

Parking and access issues

The site is accessed from the existing student car park belonging to City College Plymouth to the south where ample parking is available. No formal access is proposed from Fitzroy Terrace, to the north. The steep former railway embankments discourage formation of an informal access.

Equalities & Diversities issues

The allotments are to be accessible to wheelchair users.

Section 106 Obligations

None.

Conclusions

This application generates a tension between two desirable natural environment policy objectives: the preservation of biodiversity and wildlife habitat (Policy CS19) and sustainable resource use (Policy CS20). In its present state the site provides a diverse regenerated wildlife habitat. However, it enjoys no special nature protection designation, is largely inaccessible and is not a pristine natural environment, but one 'reclaimed' over the last 40 years. Developed as allotment gardens, it would be accessible (to allotment holders), bringing people closer to nature; educational, teaching people about the relationship between food production and consumption; and make a small material contribution towards narrowing the gap in relation to resource use - what the city produces and consumes. Its value in contributing towards biodiversity would be altered, but with carefully thought out enhancement and mitigation measures would not be reduced.

On balance it is considered that the policy objectives of the LDF Core Strategy, including the overarching one of Policy CS01 (development of Sustainable linked communities) are best fulfilled by granting conditional permission for the development.

Recommendation

In respect of the application dated **16/04/2010** and the submitted drawings, **D130266-001; D130266-002; D130266-LD-201; D130266-LD-202; D130266-LD-203; D130266-LD-204; D130266-LD-205; D130266-LD-206; D130266-LD-207; D130266-LD-208; D130266-LD-209 & D130266-LD-210** , it is recommended to: **Grant Conditionally**

Conditions

DEVELOPMENT TO COMMENCE WITHIN 3 YEARS

(1)The development hereby permitted shall be begun before the expiration of three years beginning from the date of this permission.

Reason:

To comply with Section 51 of the Planning & Compulsory Purchase Act 2004.

LAND QUALITY

(2) Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until conditions 3 to 6 have been complied with. If unexpected contamination is found after development has begun,

development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition 4 has been complied with in relation to that contamination.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely.

SITE CHARACTERISATION

(3) An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

(i) a desk study characterising the site and identifying potential risks from contamination

(ii) a survey of the extent, scale and nature of contamination;

(iii) an assessment of the potential risks to:

- human health,
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- adjoining land,
- groundwaters and surface waters,
- ecological systems,
- archeological sites and ancient monuments;

(iv) an appraisal of remedial options, and proposal of the preferred option(s). This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely.

SUBMISSION OF REMEDIATION SCHEME

(4) A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely.

IMPLEMENTATION OF APPROVED REMEDIATION SCHEME

(5) The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely.

REPORTING UNEXPECTED CONTAMINATION

(6) In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 3, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 4, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 6.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

BIODIVERSITY

(7) Unless otherwise previously agreed in writing with the Local Planning Authority, the development shall be carried out in accordance with the Biodiversity Mitigation and Enhancement Strategy (November 2010) for the site.

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.

IN ACCORDANCE WITH APPROVED PLANS

(8) The development hereby permitted shall be carried out in accordance with the following approved plans: D130266-001; D130266-002; D130266-LD-201; D130266-LD-202; D130266-LD-203; D130266-LD-204; D130266-LD-205; D130266-LD-206; D130266-LD-207; D130266-LD-208; D130266-LD-209 & D130266-LD-210.

Reason: For the avoidance of doubt and in the interests of good planning, in accordance with policy CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

Statement of Reasons for Approval and Relevant Policies

Having regard to the main planning considerations, which in this case are considered to be:

- The principle of using this area for allotments
- Impact on wildlife & biodiversity
- The impact upon the character and setting of the Stoke conservation area
- Parking and access issues

, the proposal is not considered to be demonstrably harmful. In the absence of any other overriding considerations, and with the imposition of the specified conditions, the proposed development is acceptable and complies with (a) policies of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007 and supporting Development Plan Documents and Supplementary Planning Documents (the status of these documents is set out within the City of Plymouth Local Development Scheme) and the Regional Spatial Strategy (until this is statutorily removed from the legislation) and (b) relevant Government Policy Statements and Government Circulars, as follows:

PPS9 - Biodiversity and geological conservation
PPS1 - Delivering Sustainable Development
PPS23 - Planning & Pollution Control
CS28 - Local Transport Consideration
CS32 - Designing out Crime
CS34 - Planning Application Consideration
CS18 - Plymouth's Green Space
CS19 - Wildlife
CS22 - Pollution
CS03 - Historic Environment
CS01 - Sustainable Linked Communities