

ADDENDUM REPORT

Planning Committee



Item Number: 6.6

Site: Land off Aberdeen Avenue, Manadon Park, Plymouth.

Planning Application Number: 14/00152/OUT

Applicant: Beavertrail Ltd.

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Planning Obligations

The paragraph below should have been included in section 10a of the Officers report:

The purpose of planning obligations is to mitigate or compensate for adverse impacts of a development, or to prescribe or secure something that is needed to make the development acceptable in planning terms. Planning obligations can only lawfully constitute a reason for granting planning permission where the three statutory tests of Regulation 122 of the CIL Regulations 2010 are met.

Affordable Housing

As stated in the Officers report, negotiations with the applicant have continued with regards to the provision of Affordable Housing at the site. Officers have been unable to reach agreement with regards to the provision of further affordable housing at the site and the affordable housing offer remains at 18%.

Letters of representation

An additional 36 letters of representation have been received, since the additional junction was agreed and advertised, confirming previous objections raised on highway grounds.

Sport England

A very late additional letter has been received by Sport England objecting to the recommendation made by officers. As this was received at 1300 on Wednesday 14th May officers have not had the opportunity to summarise its contents and so is copied in full below.

As detailed in our letter dated 10th March 2014, this planning application should be **REFUSED** on the grounds that the development will lead to the loss of playing fields. It is in conflict with current Government Policy (National Planning Policy Framework ("NPPF") paragraph 74), Sport England's National Playing Field Policy and Plymouth City Council's adopted Core Strategy CS30 which states:

"There will be a presumption against any development that involves the loss of a sport, recreation or play facility except where it can be demonstrated that there is currently an excess of provision, or where alternate facilities of equal or better quality will be provided as part of the development".

I refer to the Planning Committee report that has been prepared for the meeting on Thursday 15th May 2014. Sport England and the National Governing Bodies for Sport (FA and ECB) are extremely concerned that this outline application is currently recommended for approval subject to S106. Whilst the Committee report notes that the Sport England's letter was robust, we have significant concerns regarding this application, including process and policy interpretation which we believe may leave the Council open to challenge at a later date. To summarise these are:

- Continued misinterpretation of Sport England's statutory role and National Planning Policy;
- The continued view that re-investment in existing provision is classed as "like for like" replacement provision of the facilities being lost - a clear breach of your own adopted strategy, specifically CS30 and Paragraph 74 of the NPPF. By its very nature, investment in existing provision **cannot** be considered replacement provision;
- The lack of information presented to Planning Committee on the history of the site and the existing planning obligations which require the site be maintained for open space sports, recreation or educational uses;
- The apparent acceptance of the applicant's view on abandonment despite a strong rebuttal being submitted by Sport England;
- The continued disregard for the Council's adopted Playing Pitch Strategy which shows a clear deficit of pitches;
- The inadequate mitigation package agreed between the applicant and the Council which has yet again been agreed without consultation with Sport England and the NGBs, and;
- That it appears that none of the CIL payment of circa £250,000 will be reinvested back into sport.

These points have been further elaborated upon within the appendix attached to this letter.

Conclusion

For the reasons set out in this letter and our letter dated 10th March 2014, Sport England does not consider the application to be policy compliant at national or local level. This planning application should be **REFUSED** on the grounds that the development will lead to the loss of playing fields.

We have copied this letter to the National Planning Casework Unit (NCPU) and the Plymouth Sports Board.

I trust that our comments in this letter and our letter dated 10th March 2014 will be fully reported to the Planning Committee on the 15th May 2014 and taken into consideration prior to the application being determined. Further details which underpin our reasons for refusal are Appended.

I would respectfully request that in summarising this letter the contents above be read in full to the Committee.

Appendix

1. Sport England's Planning Role

It is disappointing that Sport England is, again, being kept at a distance in our longstanding planning role in applications affecting playing fields and sports facilities including our formal engagement with the National Governing Bodies for sports through our Memorandum of Understanding with the FA, ECB, RFU, EH and LTA.

As stated in our original letter dated 10th March 2014 the reference in the GDPO to 5 years is only for the purposes of defining a statutory consultation and whether a referral to the Secretary of State should be made if applicable by virtue of The Town and Country Planning (Consultation) (England) Direction 2009.

It is not for defining whether a site is a current or former playing field in planning terms or for defining how Government or Sport England planning policy should apply as implied by the applicant.

It should be **stressed** that the actual definitions of 'playing field' and 'playing pitch' in the GDPO do not refer to use within the last five years. In addition, paragraph 74 of the NPPF does not distinguish between existing and former playing fields nor does it make reference to playing fields that have not been used for more than 5 years. The reference in the glossary of the NPPF to a 'playing field' relates to the definition of a playing field in the GDPO which as set out above **does not** refer to use within the last 5 years. This dismissal of Sport England's views, therefore, on the basis of it not being a statutory consultee in relation to the site is inconsistent with national and local planning policy.

Additionally Sport England can refer any application to the National Planning Casework Unit (NPCU). This is now the third planning application in which we have raised this issue of interpretation made by the Council in this area. Due to our concern over the Council's continued mis-interpretation of Sport England's position, we are copying this letter to the NPCU.

2. Policy Framework

As stated in our earlier letter dated 10th March 2014 (which coincidentally you chose not to feature in the committee report), Paragraph 74 of the NPPF has been tested recently at appeal (ref APP/U4610/A/12/2176169). For ease, a copy is attached. The Planning Inspector considered what constitutes a playing field and whether there would be a requirement to replace this playing field under the provisions of paragraph 74. In that case, it was held that:

"...there is no physical feature that makes the site inherently unsuitable for use for outdoor sport..."

"There is no distinction between privately and publicly available sports provision in the National Planning Policy Framework. In paragraph 74, it is specified that existing open space, sports and recreational buildings and land, including playing fields should not be built upon unless various criteria are complied with. This is sufficiently broad to cover the last use of the relevant part of the application site."

"There is no definition of the word 'existing' in the glossary. Although the site is not currently in active use, it is capable of being used for that purpose for the reasons given earlier in my decision. There has been no argument that the land has any other lawful use."

Based on the above, PINS held that, in accordance with Local Plan Policy and NPPF, compensatory replacement provision is necessary and should be provided as part of the scheme.

We and the NGBs therefore assert that compensatory replacement provision should be provided as part of the current planning application in order to meet the requirements of the NPPF.

3. The Inadequate Mitigation Package

The Mitigation Package submitted and considered by Sport England for the original response was for £100,000 to be spent off-site to an unknown project. In our letter we asked to be involved in negotiations with the Applicant and the Council.

Reading the Committee Report the 'new' Mitigation Package is not for replacement playing pitches to compensate those that are being lost, but for a new 4 team changing pavilion with club room. We are surprised and disappointed that Council officers accept that this is a good mitigation package without consultation with Sport England and the NGBs, despite again conveying this to your senior planning officers when we met them on 7th April in Exeter. As stated above the provision of the pavilion by itself, without the provision of additional replacement playing pitches cannot be seen as "like for like" replacement in terms of national policy.

Our cost guidance (which can be found on the Sport England website) indicates the capital cost for a 4 Team Change with Club Room to be of the order of £685,000. If the Council is minded to approve this development then we would expect the S106 to deliver a high quality specification circa £685,000.

We also note that the Mitigation Package proposed **does not include** playing pitch works to create a new wicket or undergo thorough remediation works to bring back into use the cricket square on the adjacent playing fields nor provide any funds for its on-going maintenance. We also note (paragraph 40 of the Committee report) that the Council intends to provide two junior pitches on the site in the cricket off season. This is misleading as the site is already in use for youth football and was being used for cricket in an aerial image dated 2005. Given a decision is imminent, we are surprised that there is no current agronomist report in place to identify what pitch works is needed and maintenance regimes are required to support cricket and football on this site.

Comments from the ECB indicate that the cricket pitch at the site would require significant capital investment to bring back to use. In addition, they raise concerns over the proposed design to make it "fit for purpose" to meet the needs of all users. The FA echo the ECB views on these issues of design and need for a high quality specification. They also raise concerns over the timing of the investment, stating the investment needs to be operational by September 2015. It is not clear when the proposed new 4 team changing pavilion with club room will be provided if planning permission is granted.

We note a CIL payment of circa £250,000 and again would like to know what if any of this will be spent on sport and recreation?

4. Planning History

It is disappointing that the report to Planning Committee does not include the planning history for the initial Manadon Park development in the 1990s.

The site was a part of the former Royal Naval Engineering College (Manadon). The whole of the application site was used for sport, two winter pitches and cricket. When outline planning permission for the whole Manadon site was granted in 1998, the S106 agreement stated the site shall not be used for anything other than open space sports, recreation or education purposes. I have requested a copy of that S106 from yourself but have yet to receive a copy.

The retention of this site for sport, recreation and education uses agreed originally by the then landowner has been picked up by a number of local residents. Your committee report fails to address this issue.

5. Abandonment

In our letter dated 10th March 2014 we rebut the Applicant's submissions as put forward in the Planning Statement that the use of the application site as playing fields has been abandoned. We are also disappointed and disagree with the Council's view on this issue as set out in your report, in particular the issues which we believe are robust in rebutting the applicants case are:

- There is no physical evidence that the site could not be brought back into formal use for sport with the owner not taking any positive actions to prevent use of the site
- The clear evidence in case law which shows that although sites may have been run down (in some cases over 30 years) their use have not been found to have been abandoned;
- Intervening uses do not suggest that there have been any material change in use of the site, with the site being continued to be used for informal sporting activities;
- That the owners attempts via the submission of a number of planning applications for housing do not provide evidence of abandonment, only a requirement of the planning system as demonstrated in case law;

6. Plymouth Playing Pitch Strategy

As recognised in your report in paragraph 14 "*there is a recognised shortage throughout the city of sports pitches*". The situation of playing pitch supply has deteriorated in recent years with the loss to development of Unity Park and the Civil Service Sports Grounds. Peverell Park is currently also out of the current supply due to an issue with a lease from the City Council.

The loss of more playing field land at the application site is only likely to exacerbate this deficiency.