

Agenda Item

CAMBRIDGE CITY COUNCIL

REPORT OF: Head of Planning Services

TO: Planning Committee

29/04/2015

WARDS: All

ADJOURNED DECISION PROTOCOL

DECISION ON PLANNING APPLICATION 14/1154/FUL AT WEST'S GARAGE SITE, 217 NEWMARKET ROAD

1 INTRODUCTION

- 1.1 This report is prepared and brought before Committee in accordance with the Adjourned Decision Protocol, following the Committee resolution on April 1st 2015 that it was minded to determine a major planning application contrary to the officer recommendation.
- 1.2 Officers have taken further advice on the committee's intended reasons for refusal. Minor changes are suggested to make them as specific as possible but they are considered to be based on arguable planning grounds.

2. RECOMMENDATIONS

- 2.1 That if Planning Committee resolves to confirm its provisional decision of 1st April 2015 that the planning application (14/1154/FUL) for new student housing (202 study bedrooms) and associated communal facilities, cycle parking, and external landscaping at West's Garage site, 217 Newmarket Road, should be refused contrary to the case officer's recommendation, it cite the following reasons for that decision.

1. Because of its height and massing, the Newmarket Road range of the building would be poorly integrated into the locality, reading discordantly against the prevailing character on the north side of this road, creating an uncomfortable discontinuity of scale against the Corner House public house at its eastern end, and the rear of this range causing an unacceptable sense of visual domination for occupiers of houses on the east side of Godesdone Road. It would hence have a harmful impact on the surrounding context, and would be contrary to the Eastern Gate SPD 2011, policies 3/4 and 3/12 of the Cambridge Local Plan 2006, and government guidance on good design in Section 7 of the National Planning Policy Framework 2012.
2. Despite the realignment of the River lane frontage introduced in the most recent amendments to the proposal, the eastern range of the building would overwhelm the houses on the opposite side of River Lane, visually dominating them to an undue extent and creating an unacceptable sense of enclosure, contrary to policies 3/4 and 3/12 of the Cambridge Local Plan 2006 and government guidance on good design in Section 7 of the National Planning Policy Framework 2012.
3. Notwithstanding the amended roof configuration, the height and massing of the northern Rowlinson Way range and the western 'pavilion' building would create a sense of overbearing bulk which would not respect the established character of surrounding buildings in Godesdone Road, River Lane and Beche Road, would be poorly integrated with the locality, and would detract from the character of the Riverside section of City of Cambridge Conservation Area No.1 (Central), contrary to policies 3/1, 3/4, 3/12 and 4/11 of the Cambridge Local Plan 2006, and government guidance on good design and conserving the historic environment in Sections 7 and 12 of the National Planning Policy Framework 2012.

4. Despite the introduction of a dual-height communal space within the building adjacent to it, the proposed sunken courtyard, made more narrow as amended than in the original submission, would be very limited in size, and would be highly enclosed and appear cramped and overwhelmed by the height of buildings surrounding it. It would not be usable or enjoyable, and future occupiers of the development would consequently not be provided with an attractive, high-quality or stimulating living environment, contrary to policies 3/7 and 3/11 of the Cambridge Local Plan 2006 and government guidance on good design in Section 7 of the National Planning Policy Framework 2012.
5. Occupancy of the speculative purpose-built student accommodation proposed is not limited to full-time students of the University of Cambridge or Anglia Ruskin University, nor do management arrangements exist to ensure occupiers do not keep cars in the city, nor could it be guaranteed that this location is suitably close to the educational institution involved. These failings render the proposal contrary to policy 7/10 of the Cambridge Local Plan 2006.
6. The proposed development does not make appropriate provision for open space and sports facilities, waste facilities or public art, in accordance with Cambridge Local Plan 2006 policies 3/7, 3/8, 3/12 and 10/1, and as detailed in the Planning Obligation Strategy 2010, Public Art SPD 2010 and the Open Space Standards Guidance for Interpretation and Implementation 2010.

3. BACKGROUND

- 3.1 At its meeting on 1st April 2015, Planning Committee resolved that it was minded to refuse permission for the application 14/1154/FUL. This resolution was contrary to the officer recommendation and therefore the provisions of the Adjourned Decision Protocol, as adopted by Full Council on 24th July 2014 were triggered. Officers are charged with preparing reasons for refusal of the application in line with the view expressed by Committee at the April 1st 2015 meeting and providing advice on any likely consequences of a decision to confirm refusal of the application.

4 CONSULTATIONS

- 4.1 Urban Design and Conservation Manager
Head of Legal Services.

5 OPTIONS

- 5.1 Option 1 To confirm the resolution of April 1st and refuse planning permission for the reasons given in this report. This option is recommended.

Option 2 To confirm the resolution of April 1st and refuse planning permission, but to amend the reasons for refusal recommended.

Option 3 To further defer a decision on the application, and seek further information from officers, having provided a reason for so doing.

Option 4 To reverse the earlier decision and grant planning permission.

6 CONCLUSIONS

- 6.1 If the application is refused, the applicants may appeal to the Planning Inspectorate. Officers are of the view that that a reasonable case for refusal can be made, and that the Council might succeed in defending that decision at appeal. It would be necessary for the Council to engage external consultants to make this case.
- 6.2 The applicants might also make a claim for costs. However, costs could only be awarded against the Council if it was judged to have acted unreasonably. It is a well-established principle that it can be reasonable for elected members of a local planning authority to reject the case officer's recommendation on a planning application if they provide appropriate planning reasons for doing so.
- 6.3 In this instance, the reasons for refusal recommended are all matters of judgement (apart from reasons 5 and 6, which are issues which could be, and in officers' view are likely to be, resolved by the completion of a legal agreement before the appeal is determined). The draft reasons recommended avoid reliance on technical matters such as daylight and sunlight levels, or highway

safety, about which it would be difficult to defend a decision which was contrary to the advice provided by the relevant technically qualified professional advisers such as the County Council's highway engineers or the independent daylight and sunlight consultants engaged by the City Council.

- 6.4 Provided the recommended text of reasons for refusal is used, or textual amendments are minor, and do not contradict or override the technical advice provided by external professionally qualified sources, the risk that the Council would be judged to have acted unreasonably in refusing the application is considered to be low.

IMPLICATIONS

(a) Financial Implications

The main possible implication of this decision is that the applicants might elect to lodge an appeal and seek costs on the basis that the Council had acted unreasonably.

All appeals have costs for the local planning authority in preparing the council's case and appointing legal and other representation as applicable. An appeal that proceeds to public inquiry on a number of grounds could take several days to be considered and may involve both sides in technical argument and cross-examination of witnesses. The council could be liable for an award of costs against it if it cannot provide sound planning reasons for the refusal of planning permission. This would be deemed to be 'unreasonable behaviour'.

Given the wording of the reasons recommended, and provided that an appeal statement is prepared and lodged, in accordance with the appeal timetable, which justifies the reasons why Committee took a different view from that presented by the case officer on these issues, there is no reason why the Council should be judged to have acted unreasonably. Officers are of the view that such a statement could be prepared by external consultants. However, at any hearing or enquiry, it might be necessary for a member of the planning committee to support the case put by those consultants by explaining the reasons for the committee decision on behalf of the committee. The decision on costs, if a claim is made, would be for the Inspector to make, but in officers' view, there is a low risk of the Council being judged to have acted unreasonably.

Potential costs of appointing Counsel and a Planning Consultant/Expert Witnesses to defend an appeal in view of the fact that officers recommended approval of the application and are therefore professionally compromised.

- (b) **Staffing Implications** – Officer time in appointing and supporting a Planning Consultant/Expert Witnesses to defend an appeal.
- (c) **Equalities and Poverty Implications** - None
- (d) **Environmental Implications** – None
- (e) **Community Safety** - None

BACKGROUND PAPERS: The following are the background papers that were used in the preparation of this report:

- Proposed new convention for planning committee relating to decisions contrary to officer advice - report to Full Council July 2014
- Case officer's report to Planning Committee 1st April 2015 on planning application 14/1154/FUL
- Case officer's report to Planning Committee 3rd December 2014 on planning application 14/1154/FUL

To inspect these documents contact Tony Collins on extension 7157

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Report file:

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