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Joint Development Control Committee JDC/1

Monday, 30 October 2023

JOINT DEVELOPMENT CONTROL COMMITTEE

30 October 2023
10.05 am - 1.14 pm

Present: Councillors Bradnam (Chair), S. Smith (Vice-Chair), Baigent, Flaubert, Porrer, Smart, Thornburrow, Cahn, Hawkins and Garvie

Officers Present:

Strategic Sites Manager: Philippa Kelly

Principal Planner: Guy Wilson

Legal Adviser: Keith Barber

Committee Manager: Sarah Steed

Meeting Producer: Claire Tunncliffe

FOR THE INFORMATION OF THE COUNCIL

23/49/JDCC Apologies

Apologies were received from South Cambs Councillors Fane, R. Williams and Stobart. Councillor Garvie attended as alternate for Councillor Stobart.

23/50/JDCC Declarations of Interest

Item	Councillor	Interest
23/51/JDCC	Cahn	Part of the Application falls within his ward. His wife is a member of Community Land Trust in Impington. Discretion unfettered.
	Thornburrow	Was a member of the Cam Conservators. Was the City Council's Representative on Water Resources East.
	Baigent	A member of Cambridge Cycling Campaign.

	Bradnam	Was the Deputy Chair of the Cam Conservators. Had also attend the Forum Cllr Thornburrow convened.
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23/51/JDCC 22/02528/OUT - Darwin Green Phases Two and Three Development Site, Cambridge Road, Impington

The application sought approval for outline planning permission (all matters reserved except for means of access) for up to 1,000 residential dwellings, secondary school, primary school, community facilities, retail uses, open space and landscaped areas, associated engineering, demolition and infrastructure works.

The application had been appealed against non-determination within an agreed timeframe and could no longer be determined by it as the local planning authority. The application comes to this Committee to establish the local planning authority's position for the purposes of conducting the appeal.

The Principal Planner updated their report by referring to:

- i. An additional condition regarding the proposed demolition of existing buildings which detailed in the Amendment Sheet.
- ii. An update to the Officer's recommendation including an additional recommendation (c) that:

Members delegated authority to Officers in consultation with the Chair and Vice-Chair to settle:

- i. a scheme of measures (the Scheme) providing for and delivering enhanced water saving and other appropriate mitigation measures and
- ii. the appropriate conditions which support and secure delivery of the Scheme.

Alison Wright (Applicant's Agent) addressed the Committee in support of the application.

The Committee received a representation in objection to the application from the Environment Agency (EA) representatives.

The representation covered the following issues:

- i. Water was a precious resource which was under pressure all over the country and particularly in Cambridgeshire. Increased abstraction was a risk to chalk streams and wetland habitats.
- ii. The EA had a duty to protect the environment and ensure that there was enough water for people, businesses, and the environment. The EA regulated the extraction of water and worked with water companies, farmers, industry and businesses to ensure that water was available.
- iii. The EA had a legal duty to secure the proper and efficient use of water resources. The EA, where necessary, would take action to prevent deterioration/over abstraction. The EA had acted in this case as the planned development was not in terms of water supply sustainable and risked harm to the environment. Solutions and mitigations needed to be led by the local planning authority and Cambridge Water Company.
- iv. The EA objected to the application on the grounds that it would increase abstraction and have an associated increased risk in deterioration to water bodies within the Greater Cambridgeshire area.
- v. The grounds for the objection are that the water supply demands for this development both alone and in combination with other proposed development posed a significant risk of deterioration to Water Framework Directive designated water bodies.
- vi. The EA raised significant concerns regarding Cambridge Water Company's ability to meet the demand for water in its supply area without increasing the risk of deterioration to the status of water bodies, which was considered to be of direct relevance to this matter.
- vii. Cambridge Water Company were already abstracting at unsustainable levels, in some cases to capped levels on its licences. The EA had raised concerns regarding Cambridge Water Company's Water Resource Management Plan with the company through their letter of representation earlier in the year.
- viii. The EA's best available evidence was that the environment was under pressure from abstraction currently and any additional development and its associated increases in water abstraction would exceed the environmental limits until a time when new strategic solutions and those which were more sustainable could be delivered.

The EA representatives said the following in response to Members' questions and those matters for which clarification was sought:

- i. The EA would support and provide advice to the local planning authority and water companies regarding water supply challenges, but it was not the EA's to provide solutions or mitigation measures.
- ii. In response to a question regarding the application being in a sand and gravel protection area advised that any localised water supplies in the sand and gravel were minor and unlikely to be sustainable sources.
- iii. In terms of evidence for the existing environmental impact, the EA had undertaken investigations which identified water bodies not meeting good ecological status.
- iv. There was wider evidence on the effects of abstraction on headwaters and springs.
- v. Many of Cambridge Water Company's abstractions were predominantly affecting chalk streams.
- vi. Noted that Cambridge Water only provided fresh water supplies. The EA is a consultee on Cambridge Water's revised draft Water Management Plan and would provide a response to DEFRA in the next few weeks.
- vii. Due to the way Cambridge Water's supply zone operated, it was difficult to identify one abstraction source to a particular zone. The EA was concerned about this development in combination with other development and associated risk. The EA had been involved in another planning inquiry and the ecological evidence provided at that inquiry would support both matters.
- viii. Noted there was another development within Greater Cambridge (Eddington) which featured a facility for grey water usage. Grey water recycling in residential development was being considered by the Cambridge Water Scarcity Working Group but was reliant on a change in legislation. Grey water usage was regulated by the Drinking Water Inspectorate.
- ix. Noted in previous versions of the Water Resources Management Plan there was reliance on strategic water infrastructure. One option was a pipe from Grafham Water which would not be available until 2032. This would bring additional water into the Cambridge supply zone. Until strategic resources were available, Cambridge Water would have to rely on demand management options. A Fen Reservoir was also being considered which may be available from late 2030's.
- x. Confirmed that Cambridge Water Company were working within the confines of their licence abstraction level. Noted abstraction licences

were issued many years ago. The environmental position has since changed.

- xi. The EA were working with the Cambridge Water Scarcity Working Group to try and identify whether mitigation measures could be put in place which could reduce current levels of consumption within Cambridge Water Company's supply area which could then relinquish an element of water which could be utilised to support development. It would need to be proven how much water had been saved and that the environment was benefitting / or there was no further deterioration before the EA would support new development.
- xii. The EA had networks monitoring water levels in rivers and the aquifers. This data would naturally fluctuate and would be affected by abstraction. Noted that demand management was reliant on behavioural changes of customers which came with a certain level of risk, but this did not mean it should not be tried.
- xiii. If the application did not proceed there would still be a deterioration in water supply. The proposal regarding Grafham Water would allow Cambridge Water Company to make the licence changes to bring levels back to the baseline against which the environment was last assessed (River Basin Management Place). The Fen Reservoir is likely to be required to bring the water quality back to 'good' status.
- xiv. Information could be provided to Members after the meeting to advise what level of abstraction reduction was needed to work towards 'good' water quality status.

The Strategic Sites Manager, Principal Planner and Legal Officer said the following in response to Members' questions:

- i. The local planning authority also made representations on Cambridge Water Company's Water Management Plan which would be considered by DEFRA in due course.
- ii. Wanted to draw Members attention to the Appellant representative's presentation where she outlined the willingness of the Applicant to consider further mitigation measures which may be necessary to address the concerns being raised by the EA. Members were pointed to the additional Officer recommendation regarding an enhanced mitigation package which could include extra site-wide efficiency measures beyond the 110 litres per person per day or delaying the development until the delivery of the major strategic infrastructure identified in the draft Water Resources Management Plan.

- iii. Noted that the local planning authority could indirectly influence Water Companies by providing responses to consultations on Water Management Plans.
- iv. Reminded Members that as the Applicant had submitted an appeal against non-determination to the Planning Inspectorate the Committee were no longer the determining authority ie: the decision maker for the application. The Committee were being asked to provide a 'minded to' resolution to enable Officers to respond to the appeal.
- v. Officers would take away the request for a briefing on the cumulative impact of decisions regarding the insufficiency of water supply.
- vi. The detailed points made by the Quality Panel would be picked up at reserved matters application stages and as part of the Design Code should the Inspector allow the appeal, however key parameters needed to be agreed at the outline application stage.
- vii. Officers were satisfied that there was good connectivity to the site. Noted there were some potential obstacles regarding connectivity for example where land did not fall within the ownership of the Applicant.
- viii. Skatepark provision would be considered at reserved matters stage.
- ix. Early years provision would be provided through the primary school; no nursery provision was planned on-site.
- x. Clarified that Members were able to discuss any additional issues during debate including amendments to the Officer's recommendation, reason(s) for refusal and / or changes to proposed conditions detailed in Appendix 7 of the Officer's report.
- xi. The land within the planning application area was not identified as a retail area within the Local Plan but Local Plan Policy E/22 acknowledged there would be some retail provision in large developments. Officers considered the proposed area of retail provision was sufficient. The retail building would be separate to the community building, but it was anticipated to be in the same area.
- xii. Girton Parish Council had an intention to provide additional burial space and this site would make a contribution to be secured through the Section 106 Agreement – see the Heads of Terms in the Officer report to Committee.
- xiii. A contribution to swimming pool provision was included within the Section 106 Agreement Heads of Terms for off-site provision.
- xiv. The detail regarding the adoption of roads would be considered at the Design Code stage and through subsequent reserved matters application.
- xv. The Heads of Terms for the Section 106 Agreement provided that it was expected that the long-term management of the country park could be

managed by the City Council, or the Wildlife Trust or the Land Trust (a national organisation) a private management company. Noted concerns raised by Members regarding future management of the country park and a request to consult with residents about it.

- xvi. Suggested the amendment of condition 42 requiring the methodology be submitted and signed off by the Environmental Health Team to ensure any future noise impacts from the A14 were considered.

The Strategic Sites Manager, in order to assist the Committee with the number of alterations sought to the wider instruction to Officers in respect of the planning appeal, offered the following summary of further amendments to the Officer's recommendation reflecting Members' debate during the meeting, relative to the draft planning conditions and the proposed s106 Agreement as follows:

- i. To update the Officer's recommendation to include the following text:
 1. To delegate to Officers in consultation with the Chair and Vice Chair to settle:
 - a. a scheme of measures providing for and delivering enhanced water saving and other appropriate mitigation measures; and
 - b. the appropriate conditions which support and secure delivery of the measures.
 2. to explore the ability of the inclusion of the relevant section from the Levelling Up and Regeneration Act 2023 relating to the protection of chalk streams within the reason for refusal.
2. To amend the draft planning conditions set out in Appendix 7 of the Officer's report:
 - condition 9 (Site Wide Design Code) to require discharge of the condition prior to the submission of the first reserved matters application rather than concurrently with the first application of reserved matters.
 - condition 26 (Tree Protection) to add in a requirement for replacement planting within 5 years.
 - Condition 41 (BREAAAM Pre-Assessment) to ensure the school is constructed to the highest aspiration.
 - Condition 42 (Noise attenuation (road traffic)) to widen the scope of the condition so the methodology for the assessment was agreed with the local planning authority enabling the Environmental Health Officer to consider potential noise attenuation in respect of the proposed country park.
 - Conditions 10 (Youth and Play Strategy) and 45 (Youth and Play Space Details) to include reference to inclusive play.

- To make provision to ensure that approval of reserved matters applications are future proofed in as much that they are referenced to and meet the requirements for regulations in place at the time of the relevant reserved matters application.
 - To consider an additional condition relating to the Sustainable Urban Drainage System (SUDS) to provide a mechanism for ensuring so far as possible the developer has a default responsibility for resolving unexpected problems.
 - To delete condition 60 set out in Appendix 7 of the officer's report.
3. To explore an appropriate planning mechanism for exempting homeowners from a developer imposed restrictive covenant which restricts any residential unit being used as a venue providing nursery and early years childcare facilities.
4. To include provisions in the section 106 agreement which:
- i. require earlier trigger points for the delivery of infrastructure as guided by the County Council;
 - ii. require early trigger points for bus route phasing (prior to residential occupation); and
 - iii. ensure the long-term management and maintenance of the country park is settled after engagement with relevant stakeholders.

The Committee:

Resolved (unanimously) that:

- a) had the appeal against non-determination not been made, the Council would have refused planning application 22/02528/OUT for the following reason:

The application has failed to demonstrate that the water to the development site can be supplied sustainably and would not cause harm to the environment by reason of impact on ground water bodies including chalk aquifers. In the absence of adequate mitigation measures and site wide water efficiency measures, the development is considered to be unacceptable. The proposals are therefore contrary to Policy CC/7 Water Quality of the South Cambridgeshire Local Plan 2018 which requires all development proposals to demonstrate that the quality of ground, surface or water bodies will not be harmed. It also conflicts with Paragraphs 174, 175, 179, and 180 of the NPPF which seeks to ensure

- new development proposals help or improve local environmental conditions including in relation to water and should protect biodiversity and ecological networks and to also include (if appropriate) to the relevant section of the Levelling-up and Regeneration Act 2023 relating to protection of the chalk streams.
- b) members delegated authority to Officers to negotiate, settle and complete a s106 agreement and to agree the wording of any planning conditions which would be applied in the event the appeal is allowed, in general accordance with the draft Heads of Terms and list of draft conditions included at Appendix 6 and Appendix 7 (as amended in Committee).
 - c) members delegated authority to Officers in consultation with the Chair and Vice-Chair to settle:
 - a. a scheme of measures (the Scheme) providing for and delivering enhanced water saving and other appropriate mitigation measures and
 - b. the appropriate conditions which support and secure delivery of the Scheme.
 - d) to add additional conditions to the list set out in Appendix 7 regarding:
 - a. the proposed demolition of existing buildings as detailed in the Amendment Sheet.
 - b. to consider an additional condition relating to the Sustainable Urban Drainage System (SUDS) to provide a mechanism for ensuring so far as possible the developer has a default responsibility for resolving unexpected problems.
 - e) to amend the following conditions set out in Appendix 7 of the Officer's report:
 - a. condition 9 (Site Wide Design Code) to require the discharge of the condition prior to the submission of the first reserved matters application rather than concurrently with the first application of reserved matters.
 - b. condition 26 (Tree Protection) to add in requirement for replacement planting within 5 years.
 - c. condition 41 (BREAAM Pre-Assessment) to ensure the school is constructed to the highest aspiration.
 - d. condition 42 (Noise attenuation (road traffic)) to widen the scope of the condition so the methodology was agreed with the local planning authority and Environmental Health, enabling the Environmental Health Officer to consider noise attenuation in respect of the proposed country park.

- e. conditions 10 and 45 (Youth & Play Strategy and Youth and Play Space Details) to include reference to inclusive play.
- f. to make provision within conditions to ensure that approval of reserved matters applications are future proofed in as much that they are referenced to and meet the requirements for regulations in place at the time of the relevant reserved matters application.
- f) to delete condition 60 set out in Appendix 7 of the officer's report.
- g) to explore an appropriate planning mechanism for exempting homeowners from a developer imposed restrictive covenant which restricts any residential unit being used as a venue providing nursery and early years childcare facilities.
- h) to amend the section 106 agreement to
 - a. require earlier trigger points for the delivery of infrastructure as guided by the County Council
 - b. require early trigger points for bus route phasing (prior to residential occupation); and.
 - c. ensure the long-term management and maintenance of the country park is settled after engagement with relevant stakeholders.

The meeting ended at 1.14 pm

CHAIR