Local Member's Interest

| Mr R.A. Fraser | Dove |

PLANNING COMMITTEE – 02 March 2017

COUNTY DEVELOPMENT

East Staffordshire: Application No. ES.16/01

Date Received: 04 January 2016

A change to one of the material considerations taken into account by the Planning Committee on 12 May 2016 when it accepted the recommendation to permit the application to construct a new 2 storey primary school and nursery on land off Henhurst Ridge, Branston, Burton upon Trent

Introduction

1. The report on the application for planning permission to construct the new 2 storey primary school and nursery on land off Henhurst Ridge, Branston, Burton upon Trent was considered by the Planning Committee at its meeting on 12 May 2016. The Planning Committee resolved at that meeting to permit the application subject to obligations being secured by a Memorandum of Understanding (MoU), and subject to planning conditions detailed in the report (for more details refer to the committee report, the minutes and the webcast of the meeting (Appendix 1)).

2. It is not appropriate to issue the decision notice before completion of the MoU. The MoU, which required the approval of off-site traffic mitigation measures, the approval and implementation of a Travel Plan, and for payment of a Travel Plan monitoring fee (£6,300), was completed on 15 February 2017.

3. However, since the Planning Committee’s resolution to permit the application, there has been a change to one of the material considerations reported to the Planning Committee and having regard to relevant legal cases¹, your officers have concluded that it is appropriate to bring this application back before the Committee to ensure that the effect of this change can be properly taken into account before the decision notice is issued.

What was the material consideration?

4. In the earlier committee report at paragraph 20(f), reference was made to a planning application to develop 150 houses (‘Red House Farm’ - Phase 2), which had been refused by the East Staffordshire Borough Council on 23 July 2015 and was the subject of an appeal (appeal ref. APP/B3410W16/3142808). In the presentation given to the Planning Committee on 12 May 2016, in an update to the report, it was

¹ R v West Oxfordshire District Council ex parte Pearce Homes Ltd [1985]; R v Aylesbury Vale D.C. & Another, ex parte Chaplin & Others [1996]; R v Yeovil Corporation ex parte Trustees of Elim Pentecostal Church, Yeovil [1971]; R v West Oxfordshire DC ex parte Pearce (C.H.) Homes [1986]; R (Kides) v South Cambridgeshire DC [2002]; R (on the application of Dry) v West Oxfordshire District Council and another [2010]
explained to Members that the appeal had been allowed on 29 April 2016 thereby giving permission for the housing development to proceed. It was also explained that this housing development would add to the need for additional primary school places and would generate a financial contribution through a Section 106 planning obligation of £600,000, which could be used either as a contribution towards primary education or towards the provision of a 1 hectare piece of land for a 1 Form Entry primary school within the Red House Farm development site. Members were informed that the County Council’s preference at the time was to take the financial contribution towards the new primary school at Henhurst Ridge.

What was the change to the material consideration?

5. East Staffordshire Borough Council challenged the appeal Inspector’s decision in the High Court and following a hearing on 28 October 2016 the High Court ruled that the appeal Inspector had erred in law, and the appeal Inspector’s decision was quashed. The main reasons given for the judgement were that the appeal Inspector had misdirected himself in approving the development on the basis of a broader presumption in favour of sustainable development set out within the National Policy Framework (paragraph 14), even though he had accepted that the development did not accord with policies in the East Staffordshire Local Plan (Policies 2, 4 and 8).

Note: At the time of preparing this report it is known that a further appeal to the Court of Appeal has been made to challenge the High Court judgement and that this is likely to be heard in Spring 2017.

What effect does the change have on the original decision?

6. The applicant was asked to comment on the High Court judgement and has responded as follows:

Chapter 4 of the Planning Statement dated February 2016 summarises the need for a new primary school in this part of Burton. The basis of this information has not changed and the impact of the decision at Red House Farm Phase 2 has a negligible impact. In particular paragraph 4 explains that:

“Housing development has now been agreed on two sites locally that will generate primary age pupils for Shobnall Primary school, the nearest primary to the Henhurst proposal. Approved development at both South of Forest View and Red House Farm (Ph1) will create 550 new homes and the pupil generation will be focussed on Shobnall. The effect of this admission pressure on Shobnall will be to restrict the availability of school places at Shobnall for pupils to the west of Burton including Branston. The siting of a new school at Henhurst within Branston will offer choice to parents seeking high quality primary places for their children from Anslow, Rangemore, Tatenhill and other catchment settlements to the West of the Town. The school will also offer more practical and economical local school places for the 560 homes that are within 1km of the new school site.

The site at Henhurst Ridge is a valuable asset for the county council to use to provide a 2FE primary school (420 places). The proposed school will meet the needs for both the existing population and a proportion of the planned housing developments in the area. The school is required to ensure that there are sufficient pupil places for the projected number of primary aged pupils in the area and that all pupils have a good local school place available.”

The Red House Farm Phase 2 was not included in the 550 dwellings referred to above. Red House Farm Phase 2 was planned to provide 150 dwellings. This size of development would be expected to generate fewer than 5 pupils per school year group. The new school at Henhurst Ridge is planned to provide 60 places per school year group, demonstrating that the need for places is much greater than the demand that this one housing development create. The two housing developments referred to in the Planning Statement have now commenced, and the new school at Henhurst Ridge is needed urgently to ensure that the additional children generated by these housing developments can be accommodated.

7. The need for a new primary school to the west of Burton upon Trent, the role that the school would have within the wider education strategy and the general suitability of this location to meet the need was explained in paragraphs 47 to 60 of the committee report before the news that the Red House Farm Phase 2 appeal had been successful. The applicant has now explained why the quashing of the appeal decision has had a negligible impact on their assessment of need and that the generation of 5 fewer pupils per school year group is not significant. Furthermore, if the challenge to the High Court decision in the Court of Appeal is eventually successful, the additional pupils that may be generated by the Red House Farm Phase 2 housing development could be accommodated.

Overall Conclusion

8. Overall it is reasonable to conclude that whilst the appeal decision to allow the Red House Farm Phase 2 housing development was one of a number of material considerations that were taken into account by the Committee when it accepted the recommendation to permit the application for the new school, the High Court ruling to quash the housing planning permission makes no material difference to the overall conclusion reached and recommendation in the earlier report.

Recommendation

9. To PERMIT the new school, subject to the matters contained in a Memorandum of Understanding (now completed) and planning conditions and informatives as set out in the earlier report.

Case Officer: Graham Allen - Tel: (01785) 277299
email: graham.allen@staffordshire.gov.uk

A list of background papers for this report is available on request and for public inspection at the offices of Staffordshire County Council, No. 1 Staffordshire Place, Stafford during normal office hours Monday to Thursday (8.30 am – 5.00 pm); Friday (8.30 am – 4.30 pm).
Appendix 1

Report to the Planning Committee, the minutes and the webcast of the meeting held on 12 May 2016 – agenda item 3b