

## **EXTRACT FROM MINUTES OF PLANNING COMMITTEE MEETING HELD ON 23 MARCH 2017**

Members were shown plans and photographs of the application site. The Planning Consultant advised that the application site was within a development granted planning permission in 2004. Under that permission the application site had been conditioned as a children's play area, but a recent application had seen it allocated as an area of open space. Concerns had been raised by residents about the loss of the play area and the fact that the highway and footpaths within the existing development had not been completed to an adoptable standard.

The principle of development was acceptable, as was the design of the dwelling which would be similar to properties nearby. The turning head would be maintained, and there were no concerns regarding overlooking or overshadowing. Concerns had been raised over the existence of tanks beneath the site which the applicant had indicated would be moved. The applicant had submitted a unilateral undertaking to complete the roads and footpaths to an adoptable standard within three months of the first occupation of the dwelling. However, the undertaking was not a material planning consideration as it was not necessary to make the development acceptable and, therefore, did not meet Regulation 122 of the Community Infrastructure Levy. The development would cause no demonstrable harm, was in a sustainable location and therefore, on balance, approval was recommended.

Councillor Gardner commented that the Council had let the residents of Friends Close down. Not only had they been promised a play area which had never materialised, but their highways and footpaths had never been completed either. He disliked the idea of building on land which had originally been designated as a play area and then open space. However, there would be a benefit in granting permission in that the applicant had provided an undertaking to complete the road and footpaths. Without this benefit he could certainly not support the application.

Councillor Bond referred to the history of the site which he regarded as relevant to the consideration of the current application. He queried why the Environment Agency (EA) had previously objected to development on the site, but now raised no objections. The applicant had advised that the underground attenuation tanks were to be relocated, but further information was needed on where they would go. He also queried who was responsible for surface water drainage in Friends Close given that the road had not been adopted by KCC. In such circumstances, the Local Planning Authority had no powers to enforce drainage. Finally, he questioned the value of the unilateral undertaking which could not be enforced should the applicant fail to uphold the agreement. He proposed that the application should be deferred for further information.

The Chairman agreed that further information was needed about on and off-site drainage, particularly how the tanks would be re-sited and maintained. He was also interested in knowing why the EA had changed its position on development at the site.

The Planning Consultant stressed that Members should assess the application as if the unilateral undertaking had not been offered. It was clarified that the undertaking

would require the applicant to undertake works to the road before the dwelling was occupied. This legal agreement would accompany the planning permission and, in Officers' opinion, should be enforceable. However, if the application were refused, the Council had no powers to address what was an unsatisfactory situation.

Members were advised that they should also consider whether the loss of open space would result in harm. At the present time there was no information available on where the tanks would go. It was clarified that if the road had been built to an adoptable standard, responsibility for surface water drainage would fall to KCC.

In response to Councillor G Rapley who stated that the Council had a duty in respect of play area provision, the Chairman advised Members that they would need to consider what, if any, alternative play areas were available in the vicinity. He recognised that the Committee should assess the application without the undertaking, but argued that this would influence its decision nevertheless.

The Chairman emphasised that the Committee must consider the application on its own merits. If Members were minded to refuse the application on the grounds of loss of open space, they were required to assess the evidence and consider why its retention was important. Officers' advice indicated that the unilateral undertaking was enforceable and therefore a significant benefit of the application.

**RESOLVED:** That, notwithstanding the Officer's recommendation, Application No DOV/16/00530 be DEFERRED for further information from the applicant on the following: i) Surface water and foul drainage and relocation of attenuation tanks; and ii) The availability of open space nearby, evidence of which will aid Committee members in considering whether the loss of designated open space is justified.

(Councillor D P Murphy withdrew from the Chamber during consideration of this application)