

**MINUTES OF THE MEETING OF THE DEVELOPMENT CONTROL COMMITTEE  
HELD AT FOLLATON HOUSE, TOTNES, ON FRIDAY, 31 JULY 2009**

**MEMBERS**

\* Cllr G J Fielden - Chairman

\* Cllr D W May - Vice-Chairman

∅ Cllr H D Bastone

\* Cllr B F Cane

\* Cllr R J Carter

\* Cllr S E Cooper

\* Cllr P Coulson

∅ Cllr J D Hawkins

\* Cllr M J Hicks

∅ Cllr P W Hitchins

\* Cllr I Longrigg

\* Cllr D M O'Callaghan

\* Cllr J T Pennington

∅ Cllr R Rowe

\* Cllr J W Squire

\* Cllr R C Steer

\* Cllr R J Vint

\* Cllr A Ward

\* Cllr J A Westacott MBE

\* Denotes attendance

∅ Denotes apologies for absence

Also in attendance but not participating:

Cllrs K J Baldry, J H Baverstock, B E Carson, P H Cook, M J Howarth, M J Saltern  
and R J Tucker;

Officers in attendance:

All Agenda Items: Strategic Director (Communities), Head of Planning and Building  
Control, Major Developments and Projects Officer, Affordable Housing Manager,  
Major Developments and Implementation Planner, Solicitor, Enabling and  
Development Officer, Communications Manager and Senior Member Support  
Officer;

Plymouth City Council representatives – Paul Barnard, Alan Hartridge and Phil  
Heseltine;

Devon County Representative – Mike Jones; and,  
ATLAS – Ian White.

**DC.18/09      DECLARATIONS OF INTEREST**

Members and officers were invited to declare any interests in the items  
of business to be considered during the course of the meeting. These  
were recorded as follows:-

Cllr B F Cane declared a personal and prejudicial interest in item 5:  
“Application 7/49/2426/06 – Sherford New Community, Land  
South/South West of A38 Deep Lane and East of Hays Road Elburton  
Plymouth” (minute DC.20/09 below refers) by virtue of him being a land  
owner on neighbouring land to the application site and subsequently left  
the meeting during the debate and vote on the application.

Cllr R C Steer declared a personal interest in item 5: “Application 7/49/2426/06 – Sherford New Community, Land South/South West of A38 Deep Lane and East of Haye Road Elburton Plymouth” (minute DC.20/09 below refers) by virtue of his acquaintance with a number of the land owners for the application site and remained in the meeting and took part in the debate and vote thereon.

Cllrs D M O’Callaghan, R J Vint and A Ward also declared a personal interest in item 5: “Application 7/49/2426/06 – Sherford New Community, Land South/South West of A38 Deep Lane and East of Haye Road Elburton Plymouth” (minute DC.20/09 below refers) by virtue of the objector to the application (who was utilising the Public Participation Scheme) being a fellow Member of the Liberal Democrat Party and remained in the meeting and took part in the debate and vote thereon.

#### DC.19/09 **PUBLIC PARTICIPATION**

The Chairman announced that the following members of the public had registered their wish to speak at the meeting:-

- 7/49/2426/06 – Objector; Mr Brazil – Supporter; Mr Jones “Sherford New Community” Land South/South West of A38 Deep Lane and East of Haye Road Elburton Plymouth.

#### DC.20/09 **APPLICATION 7/49/2426/06 – SHERFORD NEW COMMUNITY, LAND SOUTH/SOUTH WEST OF A38 DEEP LANE AND EAST OF HAYE ROAD ELBURTON PLYMOUTH**

Members considered an outline application for the provision of a development for up to 5,500 new dwellings; up to 67,740 square metres of business and commercial space; up to 16,700 square metres of mixed retail accommodation, community and open space facilities; three primary schools and one secondary school; health care centre; community park; two community wind turbines; park and ride interchange at Deep Lane, together with details of the Main Street link between Deep Lane junction and Stanborough Cross. The report recommended granting outline permission subject to the imposition of conditions and agreement of a Section 106 Agreement (as laid out in the presented report and its addendum).

Members were reminded that the two planning applications for the parts of the Sherford development, which fell within Plymouth City Council and South Hams District Council boundaries, were reported to the two respective Development Control Committees in April 2008. The recommendations were in a ‘minded to approve’ form, with a series of areas to be resolved (minute DC.68/07 refers). However, since the resolutions, the economy had suffered a major recession, and the negotiations had taken place in the context of a completely collapsing property market. Subsequently, the impact had been a total erosion of the viability of the scheme if the same Section 106 Agreement obligations were still placed upon the developers.

The application was being recommended for conditional approval, subject to essential provisos being met, including the completion of a satisfactory S106 Agreement (to reflect the presented Heads of Terms) prior to the issuing of any permission.

With the aide of a Power Point presentation, the Head of Planning and Building Control, in correlation with the Major Developments and Projects Officer, detailed the outline application and highlighted the specific issues which had changed since the original outline application was approved in April 2008.

Members' attention was drawn to the addendum to the report (published after the initial agenda report) where Officers had clarified, and updated Members, on a number of points. In noting these additional papers, Members were advised that the suggested amendment to appendix 2 (to the circulated report) whereby the word "adjustment" was to be deleted was being withdrawn. The Council's Solicitor present advised that this would ensure clarity that the terms could be subject to adjustment.

(Post Meeting Note – the Media and Communication Strategy, referred to in paragraph 9.4.37 of the presented agenda report, was inadvertently omitted from appendix 2 'Heads of Terms'. However, it is important to record that this would form part of those Terms).

In presenting the various aspects of the outline application, reference was made to:-

- i. the strategic requirements for development. Members were reminded of the core documents including the Government Agenda for Housing Delivery and Sustainability, the Regional Spatial Strategy, along with the Council's Core Strategy and the Sherford Area Action Plan (AAP);
- ii. the Council's AAP proposals. Officers noted the AAP proposals which incorporated up to 50% affordable housing, walkable neighbourhoods, design codes, mixed land usage, community facilities and strategic transport links;
- iii. Red Tree's proposals. In outlining the aspects of the application which had remained unchanged, those present were informed that it was now anticipated that there would be 200 hectares of Community Park. In relation to those aspects of the proposal which had changed, the following was highlighted from within the report;

- Application Revisions (including those within the circulated addendum), which included a revised phasing of the scheme and revised Carbon Reduction Targets to improve deliverability of the scheme and allow for an increase in Affordable Housing Level. In highlighting the revised Carbon Reduction Targets, Officers noted that this would no longer classify this aspect of the application as 'exemplar' development. However, Officers were satisfied that the package would nonetheless deliver a higher level of carbon reduction than standard development proposals;
  - Public Funding Involvement (reference v. below refers);
  - Section 106 Review and Revisions (reference vi. below refers);
  - Revised Affordable Housing Proposal (reference vii, below refers);
- iv. sustainability. The intention to reduce the impact of Sherford on conditions causing Climate Change by substantially reducing its carbon footprint was highlighted. Furthermore, it was noted that the sustainability proposals of the applicant broadly aligned with the adopted AAP Policies;
- v. viability. Members were informed that the Council had received a detailed review of viability, with additional financial details from the developers. It was noted that they had prepared a project plan, which would allow development to start early in 2010, and the New Community would then benefit from substantial public funding opportunities;
- vi. revisions to Section 106 Head of Terms as outlined in the presented papers;
- vii. affordable housing. In a planning policy context, it was noted that the level of affordable housing was dependant on viability. Subsequently, the applicants had stated that the affordable housing delivery would have to be reduced from that envisaged at the April 2008 Development Control Committee. Officers advised that a reasonable level of affordable housing in the current market was zero. However, the applicants had now stated that they could fund provision for 11.37% of affordable housing without grant, or eighty affordable homes in Phase 1. The Homes and Communities Agency (HCA) funding, with a joint local authority contribution, could lift Phase 1 to a level of 25% affordable housing.

Beyond Phase 1 a clawback mechanism would operate to fund the delivery of affordable housing. The clawback contribution from the applicants would be calculated using the regional indices of build costs and sales values, as opposed to actual construction costs and property sale outcomes from the site. An increase apportionment from the clawback pool was also noted to be 40%:60% in favour of the applicants.

At this point, an objector and supporter utilised their opportunity to address the committee in accordance with the Council's Public Participation Scheme.

Prior to discussion on the application, Members' expressed their appreciation of the detailed work which had been carried out by the Officers of both South Hams District and Plymouth City Councils.

A local Ward Member then proceeded to address the Committee expressing his concerns regarding the application. He reminded those present that during its April 2008 deliberations, the Committee had approved a master plan which would have been a first class, exemplar development. At the April 2008 meeting, Members were informed that the establishment of the Main Street in the first stage of the development was critical to the infrastructure. However, now Members were being told otherwise. The Member proceeded to state that the viability issues facing the applicants in the current climate should not be the concern of the Council, and if the applicants could not deliver the already approved outline application then in this current climate, they should wait until the economy improved.

Furthermore, the Ward Member queried why, when there were still a number of outstanding issues to be agreed, consideration of this application had not been delayed until such a time that these issues had been resolved.

Moreover, the Member also highlighted the letter of objection received from Brixton Parish Council stating its deep concerns with the development, especially in relation to the decrease in the number of affordable homes built in the first phase.

In conclusion, the Ward Member stated that the application currently before Members should be deferred in light of the current economic climate until such a time when the already approved outline application could be appropriately implemented. Subsequently, the Member **PROPOSED** refusal of the application.

In support of this view, a number of Members also expressed disappointment that this application was being considered when outline planning permission had previously been granted. Concern was reiterated in relation to the decrease in the affordable housing element. In particular, a Member felt that this compromised the exemplar vision of the development, which had been further exacerbated by the reduction in carbon targets for sustainable homes. Some Members were not satisfied with the outline application due to these reductions and subsequently reiterated the views of the local Ward Member by stating that the previously approved outline application should be held in abeyance until it was viable.

In contrast, a Member felt that in approving this outline application, the development would encourage employment and create a contribution to the development of affordable housing. However, it was considered important to ensure that the correct conditions were in place to ensure the developer was able to deliver this element. In support, a further Member highlighted the 'clawback' mechanism, but wished to amend this to ensure that the review was based on actual market sales (as opposed to indices as proposed by the applicants), and this 'clawback' would then be used to increase the level of affordable housing in subsequent phases. In addition, a Member stated that the 'clawback' could also be used to improve carbon reduction and energy efficiency measures in relation to sustainable homes.

Subsequently, the following motion was **PROPOSED** and **SECONDED**:-

'That the outline application 7/49/2426/06 be conditionally approved, as per the circulated report and associated addendum, with the provision that the improved apportionment of 60%:40% in favour of the Applicants (as set out in the Addendum Report) in the clawback pool, coupled with reviews based on actual market sales values rather than on indices, to achieve a closer alignment with the AAP targets. Such clawback pool shall be expendable firstly on the provision of affordable housing in the next development phase and, subject to the achievement of affordable housing delivery targets and caps, secondly on improved carbon reduction and energy efficiency measures in relation to sustainable homes.'

During the ensuing debate, a Member raised concern that such an important decision was being made by only a minority of elected Members, and felt that this decision could possibly merit being a decision for full Council to determine. This motion was subsequently **PROPOSED** and **SECONDED**.

In disagreement with this view, a Member noted that, if Members were minded to defer a decision, it might be beneficial to do so in order that the Members of the Development Control Committee could meet with their colleagues at Plymouth City Council to discuss concerns with them and Officers. Furthermore, the Council's Solicitor informed that, as this was a quasi-judicial decision, if it were to be referred to full Council for a decision, there would be issues around ensuring that all Members who had not been involved in the process were in receipt of all the relevant facts in order to make an informed decision. Subsequently, Members were advised that such a course of action would result in a very lengthy process.

The Strategic Director (Community) then proceeded to address the Committee and highlighted that Officers were also disappointed in the proposed decrease in numbers of affordable homes. However, the adopted policy strategy did state that the Council had to take viability issues into account. Members were asked to focus upon the impact that a deferral of the application would potentially have on the availability of public subsidy, as the timescale for accessing the agreed funding was tight. If Members were minded either to defer or to refuse the application, it was emphasised that they would need to be clear on the justification for reaching this decision.

The local Ward Member present then advised that he would be satisfied to withdraw his proposal for refusal in the event that the decision be deferred to allow for Members to meet with Plymouth City Council. However, he did state that he also felt that the application should subsequently be referred to full Council. The motion for refusal was then officially withdrawn.

However, as the substantive motion on the table was for conditional approval (as noted above), this vote was undertaken first. On taking the vote for conditional approval (as per the circulated report, associated addendum, and claw back mechanism as noted above) the vote was declared **CARRIED**.

It was then:-

### **RESOLVED**

A. That outline planning permission be granted subject to the following:-

1. Plymouth City Council being supportive of the application within its boundary;
2. The Highways Agency lifting its Direction and the consideration of any revised views and any suggested conditions from the Agency;
3. The satisfactory completion of a joint authority S.106 with the Applicants, based on the scale and nature of the Heads of Terms set out in Appendix 2 to the presented report and amended by paragraph C below, including the requirement to commence development in 2010;
4. The improved apportionment of 60% : 40% in favour of the Applicants (as set out in the circulated Addendum to the report) in the clawback pool, coupled with reviews based on actual market sales values rather than on indices, to achieve a closer alignment with the AAP targets. Such clawback pool shall be expendable firstly on the provision of affordable housing in the next development phase and, subject to the achievement of affordable housing delivery targets and caps, secondly on improved carbon reduction and energy efficiency measures in relation to sustainable homes;

5. The planning conditions (as outlined in Appendix 3 to the circulated report);
- B. That authority be delegated to the Head of Planning and Building Control to issue the permission in consultation with the Chairman and Vice Chairman of the Development Control Committee. Such delegated authority shall provide for any appropriate modification of the Heads of Terms and planning conditions which maintains the principles outlined in this report;
- C. That the following amendments be made to the Heads of Terms as set out in Appendix 2 to the presented report:

H.1. The final paragraph be replaced with;  
For the remaining phases of development, a Clawback Agreement shall be entered into between the Appropriate Authority and the Owner. The Clawback Agreement shall provide a variable rate of Affordable Housing that is linked to a financial mechanism.  
The clawback would be based on a set of assumptions, typically housing values and construction costs. Any changes in these values and costs will be reviewed on a cyclical basis and the difference will be used to produce a Net Margin. A proportion of the Net Margin is the clawback and provides the funding to deliver affordable housing in the next phase of development, within caps that relate to the target levels of provision indicated in the Area Action Plan.

SR.6.(d) "x sqm" be amended to read "200sqm".

**(Please note that Cllr Cooper had left the meeting prior to taking the vote on the application)**

(Meeting commenced at 2.00 pm and concluded at 4.30 pm).

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Chairman