

**Report to Regulatory Committee –
Development Control**

7 October 2015

Subject:	Amendment to Resolution for Planning Application 14/02200/OUT for development at Burnham Copse, Tadley
Report Ref:	
Ward(s):	Baughurst and Tadley North
Key Decision:	ALL
Report of:	Planning & Development Manager
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Papers relied on to produce this report	

SUMMARY

1 This Report

- 1.1 The purpose of the report is to seek an amendment to the resolution to approve outline planning permission for the redevelopment of former Burnham Copse Infant School site for up to 36 residential units (use class C3), open space and associated car parking with all matters reserved (14/02200/OUT refers) following the introduction of the Community Infrastructure Levy Regulations (CIL Regs) on 6 April 2015.
- 1.2 The report also provides an update on the response from the Office of Nuclear Regulation (ONR) confirming that no call-in request to the Secretary of State is to be made following the initial resolution to grant planning permission. In addition the report sets out a subsequent recommended amendment to the reason for approval.

2 Recommendation

- 2.1 It is recommended that:
- i. Members of the Development Control Committee approve the amended resolution in relation to the requirements of the associated Section 106 Agreement as set out in paragraph 3.5 below;
 - ii. Members consider the comments from the ONR and West Berkshire Council;
 - iii. Members approve the amended reason for approval at paragraph 3.5 and confirm that planning permission should be granted.

PRIORITIES, IMPACTS AND RISKS

Contribution to Council Priorities

This report accords with the council's Budget and Policy Framework and directly supports the Council Plan priority/priorities of planning policies that safeguard local distinctiveness, protecting our environment.

3 MAIN CONSIDERATIONS

Background

- 3.1 Planning application 14/02200/OUT was first considered by the Development Control Committee on 25 February 2015. The application was recommended for refusal by officers so there was no recommendation listing the heads of terms of the associated Section 106 Agreement. However as part of the application process heads of term were agreed and these were discussed in the written report to Members. The Committee resolved to grant planning permission for the following reason;

“Members considered that the harm in terms of increase in population within the (0-3km) Detailed Emergency Planning Zone (DEPZ) was outweighed by the benefits it represented in terms of housing supply, affordable housing provision in a highly sustainable location.”

And subject to the following;

“1) Consultation with the ONR for 21 days and taking on board any call in requirements or conditions suggested by them (delegated to officers to agree any conditions)

And

2) A legal agreement being entered into (in accordance with the Community Infrastructure Levy Regulations 2010 (CIL Regs) and Saved Policies E1, C1, C2, C9 and A2 of the Basingstoke and Deane Borough Local Plan 1996-2011) between the applicant and the Borough Council to secure:

- contribution towards Affordable Housing, BEST (Basingstoke Environmental Strategy for Transport), community facilities, open space, playing fields, play areas/recreation and allotments

Should the requirements set out above not be satisfactorily secured, then the Planning and Development Manager be delegated to REFUSE permission for appropriate reasons;

And

3) Subject to conditions”

- 3.2 Reviewing the webcast of the meeting it is also proposed to expand the reason for granting planning permission to include the acknowledgement that the site is previously developed land which was clarified by officers at the previous DCC meeting but not captured in the reason for approval. This is particularly in

light of subsequent responses from the Office for Nuclear Regulation (ONR) and West Berkshire Council (WBC) discussed in more detail below. It is proposed to amend the reason for approval to:

“Members considered that the harm in terms of increase in population within the (0-3km) Detailed Emergency Planning Zone (DEPZ) was outweighed by the benefits it represented including matters in terms of housing supply, affordable housing provision in a highly sustainable location and re-use of previously developed land.”

- 3.3 The decision notice was not issued pending the required consultation with the Office for Nuclear Regulation (ONR). The CIL Regs that came into force on 6 April 2015 has changed the way that the obligations contained within the S106 agreement on this site can be requested as set out below.

CIL Regulations and Section 106 Agreement

- 3.4 In summary the result of the CIL Regs is that no more than 5 obligations can be pooled towards any one infrastructure project e.g. a specific Community Hall and it is no longer possible to spend contributions in the general vicinity of the site if the council have already secured more than 5 obligations since April 2010 towards the general unspecified infrastructure.

- 3.5 As such the application has been re-scoped in consideration of the CIL Regs. As a result there are some amendments to the heads of terms for the Section 106 Agreement compared to the original resolution. In summary what would now be justified in accordance with Policy E1 of the Local Plan and having taken account of the CIL Regs is as follows:

- **Community Facilities** - Applicant to transfer land 0.079 hectares to BDBC for use of local community in lieu of financial contribution
- **Affordable Housing** – 40% of the development
- **Landscape Management Plan** – to cover all public landscape areas and structural planting (as before)
- **Open Space** – On site - Provision of accessible natural green space and informal green space as shown in the indicative site layout plan. Off site - contribution towards the enhancement of kickabout facilities at Southdown Road open space through provision of additional goals and reinforcement of goal areas in lieu of green space not provided on site up to 2764.8sq.m.
- **Playing Fields** - off site contributions towards new clubhouse on The Green, Tadley. Project identified by Tadley District Community Association and is the first obligation towards this first project.
- **Play area / Recreation** - the enhancement of the play area at Southdown Road Open Space to provide additional play balancing and climbing equipment as the first contribution requested for this infrastructure since April 2010.

- 3.6 Therefore since the original resolution to grant planning permission it is no longer possible to justify a contribution towards BEST or allotment provision because there are no specific infrastructure schemes that can be identified and it is no longer possible to secure contributions based on general infrastructure in the vicinity of the site due to the impact of the CIL Regs. Accordingly to allow for the original intention of the Development Control Committee to grant planning permission it is considered necessary to amend the original resolution to reflect the above as set out in paragraph 3.5.
- 3.7 The same conditions as discussed at the original meeting and identified in the written minutes set out in the original resolution would be imposed.

Update Following Consultation with the Office for Nuclear Regulation

- 3.8 With regard to the part of the original resolution that requires consultation with the ONR this was completed and a response was received from them on 20 May 2015. In this letter it was confirmed that no call-in request to the Secretary of State would be made.
- 3.9 However in the response from the ONR it was stated that it is still a requirement for the council to comply with the duty to co-operate and consult under Regulation 11(3) of the Radiation (Emergency Preparedness & Public Information Regulations 2001 (REPPiR). This duty of co-operation relates to the Emergency Plan and BDBC have a defined role within the AWE Off-Site Plan to co-operate to the extent necessary with West Berkshire Council (WBC) so that they are able to discharge their duty under REPPiR Regulation 9(1) to prepare an adequate off-site emergency plan.
- 3.10 The council have sought clarification from the ONR on their response. Officers have also sought internal legal advice on the 20 May 2015 letter and the response of the ONR to queries raised. The advice is that the approval of the application would not contravene the council's duties under either REPPiR (because we consulted in accordance with our agreed consultation arrangements with ONR, HCC, WBC) or the Civil Contingencies Act 2004.
- 3.11 Subsequently the ONR and WBC have been advised of this understanding and have been informed that the application would be presented to this evenings meeting.
- 3.12 The council were advised that WBC were considering requesting the Secretary of State to call in the application. However a further response was received from WBC on 21 September 2015, in conjunction with the ONR setting out the following in confirming that a request for call-in to the Secretary of State will not be made:

"In our deliberations we have considered:

1. Your feedback: (attached) in particular the points in relation to your comment re 'the emerging Policy SS7 which states: "Development will only be permitted where the Off Site Nuclear Emergency Plan can accommodate the needs of the population in the event of an emergency', whilst it was noted that there was a balance taken it is however accepted that by this comment BDBC is accepting they can accommodate the needs of the population in the event of an emergency;
2. the NRPB guidance ("Principles for the protection of the public and workers in the event of accidental releases of radioactive materials into the environment

and other radiological emergencies.” Documents of the NRPB Vol. 1 No. 4 1990

3. the current Hazard Identification and Risk Evaluation (HIRE) report for the Aldermaston site.

As a result it was agreed not to request a call in from the Secretary of State.”

- 3.13 Officers have responded to one point in the above response where it is stated that “whilst it was noted that there was a balance taken it is however accepted that by this comment BDBC is accepting they can accommodate the needs of the population in the event of an emergency;”. From the original resolution it is clear from the reason for approval that Members considered the harm of the increase in population but considered that other material benefits of the development outweighed that harm. This is very different to the decision being based on an acceptance that the council can accommodate the needs of future residents in the case of an emergency. This point has been clarified with WBC and the ONR but at the time of writing no further response has been received.
- 3.14 To further articulate the material reasons for approving the application it is recommended that the original reason for approval is expanded to cover in more detail the points raised at the original DC Committee Meeting as set out in paragraph 3.2 above.
- 3.15 Moving forward Officers have accepted an invitation to attend a meeting with the ONR and WBC to discuss developing policies and to discuss how to approach similar situations in future for the authorities involved and to provide clarity to the community and potential developers.
- 3.16 Based on the above and in the absence of a call-in request it is before the Development Control Committee whether to confirm the resolution to grant planning permission.

4 Corporate Implications

4.1 Financial Implications

- 4.1.1 There are no significant financial implications from this report (loss of potential BEST contribution).

4.2 Risk Issues

- 4.2.1 There are no risk issues from this report.

4.3 HR Issues

- 4.3.1 There are no HR issues from this report.

4.4 Equalities

4.4.1 There are no equalities issues from this report.

4.5 Legal Implications

4.5.1 There are no legal implications from this report.

4.6 Any Other Implications

4.6.1 There are no other implications from this report.