

Cabinet/Committee:	Development Management Committee
Date of Circulation:	17 July 2007
Subject:	INFORMATION REPORT – Urgent Non-Executive Decision: Planning Application P/2315/06/CFU: Former Government Offices, Honeypt Lane, Stanmore
Responsible Officer:	Director of Legal and Governance Services
Portfolio Holder:	Councillor Marilyn Ashton - Portfolio Holder for Planning, Development and Enterprise
Exempt:	No.

## **SECTION 1 – SUMMARY**

The Urgent Non-Executive Decision procedure requires all decisions taken under the procedure to be reported to the appropriate Committee. The Committee is requested to note the action taken under the Urgent Non-Executive Decision procedure, as outlined in Section 2 below.

### **FOR INFORMATION**

## **SECTION 2 - REPORT**

### CIRCUMSTANCES

At the Development Management Committee on 2 May 2007, this planning application was refused for the following reasons:

- (i) The proposed density of development is outside the ranges set out as appropriate for suburban locations in the London Plan table 4B.1 and policy 4B.3 and, in the absence of compelling reasons to justify the deviation, is considered excessive.
- (ii) The proportion and mix of the affordable housing as proposed does not comply with HUDP policy H5 and London Plan policy 3A.7 and 3A.8. The requirement to provide for affordable housing arising from the development at Brockley Hill, Brockley Park (now completed) has not been taken into account satisfactorily in the overall proposal.
- (iii) Contrary to HUDP policy D4, the design, appearance and layout of the proposed development is unsatisfactory in this suburban context and will be out of character within the locality, which is typically of traditional design and predominantly semi-detached houses with large gardens together with a few terraced conventional style town houses and a modest number of flatted developments.
- (iv) The proposal, by reason of its excessive building envelope and overall density, does not provide enough amenity space to meet the needs of all ages and requirements, and would give rise to a loss of residential amenity to the future occupiers of the site, contrary to HUDP policy D5.

Prior to this, the duplicate application had been reported to the Strategic Planning Committee on 10 January 2007. The Committee resolved that if they had had the power to determine the applications, which had been appealed, they would have refused them, for a number of reasons, including affordable housing and unacceptable demands on local health care facilities generated by the development.

The appellant at the pre-inquiry meeting held on 18 May 2007 requested to substitute the drawings refused on 2 May in place of the drawings as reported in January. Initially the planning inspectorate declined but have now changed their position and accepted that this may be done.

Therefore the planning inquiry which opens on 17 July will effectively be into the revised application refused in May and not the original application as reported in January.

Members will recall that the Mayor of London raised a number of issues in respect of the January application, one of which was the tenure mix of the affordable housing provision. As a result of the Mayor's intervention the applicants amended the mix to significantly increase the rented element from 30% to 47%. The Mayor indicated his approval of the revised mix. The Council's task to defend this reason for refusal will therefore be an onerous one.

The applicants have subsequently confirmed that they are willing to submit an S106 agreement to the Inspector in the same terms as submitted to the Strategic

Planning Committee on 2 May 2007 subject to the Council endorsing the agreement. The provisions of the S106 would include:

- i. Affordable Housing: The provision of 259 homes of social renting (122) shared ownership (78) and low cost homes (59). 21 Social rented units to be for the elderly.
- ii. Business: The provision of business incubator units totalling approximately 5,200sqm together with 2600sqm of 'move on' space to allow firms to expand and space to accommodate 'Harrow in Business' into a 10 year lease with a discounted rent for 7 years.
- iii. Travel Plan: Provision of a car club and a financial contribution for monitoring and/or implementing a controlled parking zone.
- iv. Public access for pedestrians and cyclists to access all roads and footpaths at all times.
- v. Community Facilities: To construct, furnish and fit out these facilities of 405sqm.
- vi. Local Employment Initiatives: Make a contribution of £250,000 to Local Construction Training & Employment and encourage employment of local people including work placements for all 116 trainees over a 4 year period.
- vii. Playing Area: To be constructed to LAP standard and contribution to off site playing area of £75,000.
- viii. Public Art: To be provided to the sum of £50,000.
- ix. Flood Management Site Flood Management Scheme: To be proposed and implemented, funded by developer and maintained thereafter.
- x. Public Transport: A contribution to be made to TFL for improved bus stops and access to Canons Park Station (£125,000).
- xi. Planning Administration Fee: To be paid (£50,000).
- xii. Health Care contribution: Of £50,000.
- xiii. The works as shown in application P/2245/06/COU shall be completed prior to the completion of the residential development (upgrading and footpath link through common land).
- xiv. The development shall be managed in accord with the applicants' 'Operational Statement'.

- xv. The renewable energy provisions should be installed prior to completion of the residential development and maintained thereafter.

The S106 would be dependant upon the provisions relating to affordable housing as recommended to the 2 May DMC and endorsed by the Mayor, being accepted by the Council. The effect of this would be the removal of the affordable housing reason for refusal.

If the Council is not prepared to enter into a signed S106 agreement prior to the Public Inquiry, the provisions of the agreement would be at significant risk. The applicants would submit their own unilateral undertaking for the Inspector to consider. It is possible that a number of the provisions included above would be struck out. The applicants have agreed that in the event of the Council withdrawing the affordable housing reason for refusal they would pursue a claim for costs at the Inquiry in this respect, and proceeding with the S106 will be dependant on receiving written agreement to this effect.

#### Conclusion

The applicant has offered to enter into a S106 agreement prior to the Public Inquiry which, in the event that the Inspector and Secretary of State were allowed to appeal, would secure all of the benefits previously negotiated and presented to the DMC on 2 May.

This would include provision of affordable housing as recommended to the Committee and endorsed by the Mayor of London and the contribution of £50,000 towards health care facilities. If this is agreed no evidence will be prepared or presented to the Public Inquiry in respect of health care facilities and the affordable reason for refusal, nor in respect of defending the S106 provisions.

If the Members are not prepared to agree the S106, the affordable housing reasons for refusal, the health care contribution and the terms of the S106 will need to be defended at the Inquiry through the preparation of evidence and appearance of witnesses.

The Council's case for dismissal of the appeal would be dependent upon the other three reasons for refusal, which are considered to have greater strength in particular with the Mayor's position now clearly opposing the Council's. In the event of the appeal being upheld, the Council would benefit from the S106 provisions as set out. In the event of the appeal being dismissed, it would be in respect of the other 3 reasons for refusal and not relate to affordable housing.

#### ACTION SOUGHT

Action Proposed: It is recommended that the Council rescind the reason for refusal (i) in respect of affordable housing as set out above and agree to enter into a S106 agreement with Berkeley Homes in accordance with the Heads of Terms set out above.

Date of Request for Action: 12 June 2007

Reason for Urgency: The next available Committee would be the 27 June 2007 which would be too late to inform the appellant and agree the S106 prior to the Inquiry commencing, and could involve abortive costs in preparing unnecessary evidence, which has to be submitted by 15 June 2007.

Decision: Officer Recommendation agreed.

### **SECTION 3 – FURTHER INFORMATION**

None.

### **SECTION 4 - CONTACT DETAILS AND BACKGROUND PAPERS**

Contact: Kate Boulter, Senior Democratic Services Officer, 020 8424 1269

Background Papers:

Individual Urgent Non-Executive Decision Form, as reported.