

DEVELOPMENT CONTROL COMMITTEE

19 FEBRUARY 2015

Present: Councillor R Martins (Chair)
Councillor G Derbyshire (Vice-Chair)
Councillors S Bashir, N Bell, J Connal, I Sharpe, M Watkin and
P Jeffree

Officers: Development Management Section Head
Major Cases and Enforcement Manager
Committee and Scrutiny Support Officer (RW)

66 APOLOGIES FOR ABSENCE/COMMITTEE MEMBERSHIP

There were changes to the Committee at this meeting: Councillor Jeffree replaced Councillor Johnson.

Apologies were received from Councillor T Williams.

67 DISCLOSURE OF INTERESTS (IF ANY)

There were no Disclosures of Interest.

68 MINUTES

The minutes of the meeting held on 29 January 2015 were submitted and signed.

69 19 KING STREET

The Committee received a report of the Development Management Section Head including the relevant planning history of the site and details of four letters from nearby properties. Two replies had raised objections, one had raised no objections and the fourth had been generally supportive of the application.

The Major Cases Manager introduced the report and advised that the s.106 agreement had been received since publication of the report and that consequently Recommendation (B) would not apply.

The Major Cases Manager then informed that a further objection had been received from a resident whose previous comments on the application had been summarised in the report. The new objection concerned privacy issues and stated that the minimum distance of 27.5 m from neighbouring homes, as specified in the policy, had not been achieved. Whilst the comments had been

largely similar to previous objections, the resident had asked that the statements were brought to the attention of the Committee.

The Chair invited Mr Simon Warner to address the committee.

Mr Warner explained that he was the Planning Manager for Heronslea Group and that the application addressed the retention of the façade, demolition of the rear aspect and construction of a new building on the site of the former cinema. The development would include provision for retail and financial or professional services as well as 25 flats and would be of high quality thus enhancing the street scene.

Mr Warner advised that the current building had been vacant since 2014 and was in a poor condition. Demolition of the rear element would allow for the construction of a development which would complement the façade and improve the area: the Art Deco features would be retained and additional decoration added.

Mr Warner emphasised that the development would be policy-compliant, meeting all residential policies. He further advised that the application had had support from the Highway Authority whose statement within the report had concluded that the proposals were acceptable and would not result in an adverse impact on the public highway.

The Committee then discussed the application.

Councillor Jeffree noted the reference to the existing internal decorations and asked how these would be retained. He also wished for reassurance that the number of affordable units had been agreed with the Council's Housing department and asked for an explanation regarding the number of such units: four rather than the nine units which would comply with the Council's policy of 35% affordable housing in all new developments. Councillor Jeffree noted the consultants' judgement that the scheme would be non-viable were 35% affordable housing to be included and suggested that it would be wise to have sight of the calculations resulting in this assessment.

Councillor Derbyshire considered that the design was good and approved the retention of the art deco façade; the design would create a fine corner and would enhance the conservation area. He agreed, however, that the application was contrary to the relevant policy in not providing 35% affordable housing. He concurred with Councillor Jeffree and said that to rely on an 'outside' consultant with no opportunity to view the report was troubling.

Councillor Sharpe agreed that it would be useful to see what aspects the consultants had looked into and how their judgement could be justified. He said that the committee needed to be certain whether the assessment was satisfactory or not.

The Chair asked the Major Cases Manager to clarify issues for the committee.

The Major Cases Manager agreed that some parts of the consultants' report, including figures, could have been included in the application report which would have provided the committee with more information. He explained that advice had been sought from external consultants as Council officers did not have the level of expertise required for this assessment. He added that the report was a very technical document which was difficult to interpret without considerable familiarity with the terms used. It also contained some confidential information. However, he agreed that in future it may well be possible to include more detail on viability assessments in application reports.

The Major Cases Manager pointed out that the Council relied on other external bodies who were expert in their fields, such as the Highway Authority and the Environment Agency.

With regard to the viability aspect, the Major Cases Manager advised that retention of the façade would involve extra cost for the developer and that, furthermore, the building would be considerably upgraded resulting in an expensive development with 'abnormal' additional costs. He then gave a brief explanation of the position with regard to affordable housing and shared ownership and clarified the situation at the application site.

Commenting on Councillor Jeffree's query regarding the internal features, the Major Cases Manager advised that it was not clear whether any artefacts would be salvageable.

The Chair pointed out that the standard for affordable housing in any new development was 35%; at approximately 17% this proposal demonstrated too low a level. He considered that this figure was low even taking into account the additional costs to be incurred. Policies had taken housing requirements into account and should be robustly followed. He cautioned Members to consider the application very carefully.

Councillor Watkin agreed that it was regrettable that the application did not fulfil policy requirements. He added, however, that in the case of a refusal by the committee and an appeal going before an Inspector, the report would demonstrate a lack of viability and give weight to the Applicant's case.

Councillor Bell agreed that the consultants' report should be seen by Members. He expressed concern that this situation could reoccur and said that Members should have the opportunity to view an explanation of the consultants' conclusions.

The Chair asked the Development Management Section Head to clarify certain points for the committee.

The Development Management Section Head explained that Government had changed the rules regarding provision of affordable housing and that viability was only one aspect of the matter. Primacy had to be given to the Council's adopted planning policies but decisions also had to take into account other

material planning considerations: viability was an important aspect when determining affordable housing provision.

The Development Management Section Head noted that the Government changes had given developers an advantage in that they now had the ability to challenge existing policies. Appeals, he explained, were usually determined in the developers' favour.

The Development Management Section Head reiterated the Major Cases Manager's statement that advice had been sought from consultants who had the necessary expertise. He said that advice was accepted from the Environment Agency and from technical consultees on a similar basis, i.e. that they were also experts in their fields.

The Development Management Section Head said that were the application to be refused it would almost certainly go to appeal at which point viability would feature highly in the case. It would not be helpful to the Council's case if the consultants' advice had been disregarded. The Development Management Section Head counselled that the Inspector would inevitably conclude that the consultants had advised the correct approach; the failure of the Council to have regard to this advice would result in the appeal being allowed and an award of costs being made against the Council.

In response, Councillor Jeffree said that the Environment Agency's advice was in the public domain and that the Highway Authority's reports proffered information for Members to understand the details. In the case of the viability consultants, however, there had been a total absence of any information. He considered that a sufficient level of information was required on which Members could base their decision.

Councillor Jeffree said that he was inclined to propose a motion to defer the decision until more information had been made available to members.

The Chair agreed that the application would result in a major departure from the Council's agreed policy.

Councillor Sharpe said that, whilst he was reluctant to defer the decision, he had concerns regarding the proposals and was inclined to agree with Councillor Jeffree's suggestion. He noted that where experts had produced a technical report the Council would find it difficult to prove the experts wrong. It was very apparent, however, that in this case Members wished for more evidence and for greater understanding of the logic of the consultants' conclusions.

The Chair confirmed that it was not usual to obtain and understand details of an entire report but that it was necessary to understand the underlying principle on the numbers involved in this case. He agreed that it would be wise to obtain an explanation on how officers had reached their decision and how and why they had supported the independent consultants' rationale.

Councillor Watkin suggested that a scale could be used to rate viability; he considered that this information could be contained in a 'Part B' report and the information thus kept secure.

The Major Cases Manager agreed that this procedure would be reasonable. He said that officers could consult with the applicant to agree the extent of information that could be made publicly available in support of the viability assessment's conclusions.

The Chair concluded the discussion by stating that since the Council had set the figures for affordable housing these standards should be maintained unless valid reasons could be produced for not doing so.

The Chair MOVED that the application be DEFERRED.

On being put to the Committee, the Motion was CARRIED.

RESOLVED –

that the application be deferred in order that more information be made available to members of the Development Control Committee regarding the affordable housing viability assessment.

Chair

The Meeting started at 7.30 pm
and finished at 8.30 pm