

Committee: Planning Committee

Agenda Item

Date: 13 February 2013

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Title: UTT/12/5513/OP Land South Of Stanley Road And Four Acres And West Of B184 Walden Road, Great Chesterford, Es

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Item for decision

Summary

1. The applicant has requested that the Committee give further consideration to aspects of its determination of this application. In some respects the representations are considered to have merit.
2. Recommended that:
 - Condition 2 be amended to require an application for approval of reserved matters within two years of the date of outline planning permission, and the development to be implemented within two years of the approval of reserved matters.
 - Condition 9 relating to the maximum ridge height of properties directly behind the bungalows in The Elms be omitted and substituting an informative recording the Committee's concerns.
 - The agreement in respect of the provision of a School Site to include an obligation on the part of the council to use its best endeavours to ensure that it is used as the site for a non fee paying pre school or primary school for children living in the locality of Great Chesterford within fifteen years from the date of the transfer of the land. The transfer of the land to the council to include provision for it to be conveyed back to the owners if it is not used for a pre-school or primary school within 15 years.

Financial Implications

3. There would be potential costs estimated at £5,500 to prepare and seed the school site and £500 annually to mow it twice a year until it is developed for educational purposes. It is anticipated that the parish council would take on this responsibility.

Background Papers

4. The following papers were referred to by the author in the preparation of this report and are available for inspection from the author of the report.

None

Impact

5.

Communication/Consultation	This report is submitted following consultation with the Applicant
Community Safety	No impact
Equalities	No effect
Health and Safety	No issues
Human Rights/Legal Implications	A S106 agreement is required
Sustainability	No issues
Ward-specific impacts	Great Chesterford
Workforce/Workplace	No issues

Situation

6. The resolution to grant was made on 17 December 2012. Since then negotiations for the completion of a section 106 agreement have proceeded. It has not proved possible to secure its completion within the time scale that was part of the committee's resolution of 17 December 2012 because of two of the proposed planning conditions and the obligation in respect of the School Site, in particular securing the use of the land for primary education and/or non fee paying pre school purposes.
7. As part of the discussions the applicants have reviewed the conditions and suggested some amendments. While the amendments are minor enough not to require any formal re-consultation some of them require Committee authorisation.
8. Changes are requested to 2 conditions:

Replacement words are underlined and the deletions are contained within brackets.

Condition 2

2 - Application for approval of the Reserved Matters shall be made to the Local Planning Authority not later than the expiration of 2 (1) years from the date of this permission.

The development hereby permitted shall not begin later than the expiration of 2 (1) year from the date of approval of the last of the Reserved Matters to be approved.

REASON: To comply with the provisions of Article 3 of the Town and Country Planning (General Development Procedure) Order 1995 and Section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

Recommendation: Accept alteration

Explanation from Applicant:

Condition 2 requires the submission of the reserved matters application within 1 year from the date of the grant of the planning permission. This is too restrictive and severely limits the time available to find a purchaser of the site. Furthermore it would be standard practice to have undertaken the archaeological investigation works prior to the submission of the RM application as this could have implications for the eventual layout. As currently drafted we cannot undertake the archaeological works until within the season for ground nesting birds and until the alleged lizard has been trans located. The season for ground nesting birds is between 1st March and 31st August and so it is highly unlikely that we will get confirmation to the site clearance works prior to 1st March. Therefore the site clearance works will have to take place from 1st September 2013 onwards, allowing the alleged lizard to be found and moved during the period from 1st April 2014. Once the lizard is translocated then we could start the on site archaeological investigations which will require approximately an 8 weeks period and so should be completed by the late summer of 2014. Therefore we would like to suggest that the draft condition is amended to a period of two years in which to submit the reserve matters application.

Condition 9

(9 - The properties indicated on Drawing NJP 11 420-02 Rev C (directly behind the bungalows in The Elms) shall be no higher than 5.5metres to ridge height.

REASON: To ensure that the occupiers of the properties in The Elms are not materially affected by loss of light, loss of privacy or overlooking in accordance with Uttlesford Local Plan Policy GEN2 and NPPF)

Recommendation:

Delete condition and add as an informative.

Explanation from Applicant:

Condition 9 is proposing to restrict the ridge height of the proposed dwellings which may be sited opposite The Elms to no more than 5.5 metres. We do not believe that this condition should be imposed in an outline planning permission and should be dealt with at reserved matters stage. There is the requirement for the intending developers to undertake a public consultation event and details of scale, siting and elevations will be presented to demonstrate the details of the dwellings at this stage. This draft condition will provide too much

uncertainty for any potential purchaser and will impede the deliverability of the site. The Parish Council and local residents will have a chance to comment on any detailed plans in assessing the impact of the proposal on The Elms.

S106 Agreement:

The resolution granted on 17 December 2012 included a requirement that the land being provided for Community Use would never be returned to the land owner if the site was not developed for education/community facility.

The applicants are proposing that ‘the Council to use the land only for a Community Use or they ensure that it is so used and to use its best endeavours to ensure that it is used as a pre school or school within 15 years. The transfer requires it to be re-conveyed if it is not used as a school within 15 years.’

Recommendation:

Accept alteration

Explanation from applicant:

15 years is allowing a long period to give the Council a chance to secure development of the site for the purposes it was provided. The approach is consistent with that for financial contributions to education provision.

Risk Analysis

9.

Risk	Likelihood	Impact	Mitigating actions
1. If agreement cannot be reached with the owners, the application will be refused on thin grounds..	4. The application needs to be determined expeditiously.	3 – The site will not contribute to 5 year land supply.	None
2 The owners will appeal against refusal of planning permission.	4. The agent has confirmed this would be the owners’ intention	3. Award of costs against the council for the appellants’ expenses if addressing any unreasonable refusal reason.	Ensure that any reasons for refusal are arguable
Maintenance costs of the School site fall on	2 It is anticipated that	2 The site area is 2.1ha. The costs will depend on the form of	Low cost maintenance regime and

the district council until the site is developed for community purposes or it is conveyed back to owners	agreement could be reached with the parish council to be responsible for maintenance of the site	maintenance, for example as an agricultural field or intensively mown grass	reach agreement with parish council
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1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.