



Report to:

South Cambridgeshire District
Council Planning Committee

11 November 2020

Lead Officer:

Joint Director of Planning and Economic Development

S/4279/19/FL – Land adjacent to More’s Meadow, Great Shelford, CB22 5LS

Proposal: Erection of 21 dwellings (Almshouses), the relocation of existing allotments and public open space provision, together with associated landscaping and infrastructure

Applicant: Great Shelford Parochial Charities

Key material considerations: Planning Committee Decision (10 June 2020)
Mortgagee in Possession (MiP) Clause

Date of Member site visit: None

Is it a Departure Application?: No (advertised 18 December 2019)

Decision due by: 13 November 2020 (extension of time agreed)

Application brought to Committee because:

By affirmation, on 10 June 2020 the Planning Committee gave officers delegated authority to approve the application subject to (1) to the completion of a Legal Agreement under the Town and Country Planning Act 1990 to ensure that the properties remain affordable in perpetuity and the future maintenance and management of various elements of on-site open space and (2) the conditions and informatives set out in the officer report.

As works have progressed on the legal agreement the need to include a Mortgagee in Possession (MiP) clause has arisen which was not presented to the Planning Committee on 10 June 2020.

The application is therefore brought back to the Planning Committee to advise members of the need for a MiP clause and seek Member endorsement.

Officer Recommendation: Approval

Presenting Officer: Michael Sexton

Executive Summary

1. On 10 June 2020, officers presented to the Planning Committee a full planning application for the erection of 21 dwellings (Almshouses), the relocation of existing allotments, and public open space provision, together with associated landscaping and infrastructure at More's Meadow, Great Shelford.
2. By affirmation the Planning Committee gave officers delegated authority to approve the application subject to (1) to the completion of a Legal Agreement under the Town and Country Planning Act 1990 to ensure that the properties remain affordable in perpetuity and the future maintenance and management of various elements of on-site open space and (2) the conditions and informatives set out in the officer report.
3. While completing the Section 106 agreement it has come to light that a Mortgagee in Possession (MiP) clause is required as part of the legal agreement, to enable the development to proceed and for the applicant to secure the required funding.
4. The need for a MiP clause was not known when the scheme was previously presented to the Planning Committee on 10 June 2020 and therefore its inclusion was not in front of the Committee when the original resolution to grant was made. The officers report only made passing reference to MiP clauses in paragraph 97 of that report, in the context that adopted policy does allow for their use.
5. In consultation with the Council's Housing Team, officers are satisfied that a MiP clause is necessary to enable the development to proceed following the confirmation provided by the Charity in terms of their funding requirements.
6. The inclusion of a MiP clause would accord with policy H/11 of the Local Plan, and paragraph 145 of the NPPF in terms of development in the Green Belt.
7. Officers recommend that the Planning Committee again approves the application subject to (1) the inclusion of a MiP clause as part of the completion of a Legal Agreement under the Town and Country Planning Act 1990 to ensure that the properties remain affordable in perpetuity and the future maintenance and management of various elements of on-site open space and (2) the conditions and informatives set out in the officer report presented to the Planning Committee on 10 June 2020.

Relevant planning history

8. None.

Planning policies

National Guidance

9. National Planning Policy Framework (NPPF) 2019
National Planning Practice Guidance
National Design Guide 2019

South Cambridgeshire Local Plan 2018

10. S/1 – Vision
S/2 – Objectives of the Local Plan
S/3 – Presumption in Favour of Sustainable Development
S/4 – Cambridge Green Belt
S/5 – Provision of New Jobs and Homes
S/6 – The Development Strategy to 2031
S/7 – Development Frameworks
S/8 – Rural Centres
CC/1 – Mitigation and Adaptation to Climate Change
CC/3 – Renewable and Low Carbon Energy in New Developments
CC/4 – Sustainable Design and Construction
CC/6 – Construction Methods
CC/7 – Water Quality
CC/8 – Sustainable Drainage Systems
CC/9 – Managing Flood Risk
HQ/1 – Design Principles
HQ/2 – Public Art and New Development
NH/2 – Protecting and Enhancing Landscape Character
NH/3 – Protecting Agricultural Land
NH/4 – Biodiversity
NH/6 – Green Infrastructure
NH/8 – Mitigating the Impact of Development in and adjoining the Green Belt
NH/14 – Heritage Assets
H/8 – Housing Density
H/11 – Rural Exception Site Affordable Housing
H/12 – Residential Space Standards
SC/2 – Health Impact Assessment
SC/4 – Meeting Community Needs
SC/6 – Indoor Community Facilities
SC/7 – Outdoor Play Space, Informal Open Space and New Developments
SC/8 – Protection of Existing Recreation Areas, Allotments and Community Orchards
SC/9 – Lighting Proposals
SC/10 – Noise Pollution
SC/11 – Contaminated Land
SC/12 – Air Quality
TI/2 – Planning for Sustainable Travel
TI/3 – Parking Provision
TI/8 – Infrastructure and New Developments

South Cambridgeshire Supplementary Planning Documents (SPD):

11. Sustainable Design and Construction SPD – Adopted January 2020
- Cambridgeshire Flood and Water SPD – Adopted November 2016
- Health Impact Assessment SPD – Adopted March 2011
- Affordable Housing SPD – Adopted March 2010
- District Design Guide SPD – Adopted March 2010
- Landscape in New Developments SPD – Adopted March 2010
- Biodiversity SPD – Adopted July 2009
- Open Space in New Developments SPD – Adopted January 2009
- Public Art SPD – adopted January 2009
- Trees & Development Sites SPD – Adopted January 2009

Cambridge Southern Fringe Area Action Plan (February 2008)

12. Policy CSF/5 Countryside Enhancement Strategy

Consultation

13. None

Planning Committee Decision (10 June 2020)

14. On 10 June 2020, officers presented to the Planning Committee a full planning application for the erection of 21 dwellings (Almshouses), the relocation of existing allotments, and public open space provision, together with associated landscaping and infrastructure at More's Meadow, Great Shelford.
15. The site is located outside of the development framework boundary of Great Shelford, in the open countryside and Green Belt.
16. Officers were satisfied that the proposed Almshouses would accord with national and local policies in respect of Green Belt and rural exception site development, and would meet the definition of a rural exception site contained in Annex 2: Glossary of the NPPF.
17. Officers were satisfied that the relocation of the existing allotments and public open space provision, together with associated landscaping would also accord with Green Belt policy.
18. Officers considered that the proposed development represents high quality design. The design is responsive to the constraints of the site, seeking minimal intrusion to the visual amenity of the area and landscape character, with existing and enhanced landscaping incorporated to screen the development. The development incorporates enhancements to biodiversity and public amenity

and access across the site which will enhance its the ecological, visual and amenity value.

19. There were no technical objections to the proposed development from statutory consultees, with the use of planning conditions to secure precise details of matters including contamination, surface and foul water drainage, landscaping, biodiversity enhancements, contractor and construction arrangements and renewables. The relocation of allotments is also secured by condition.
20. Whilst officers were of the view that developer contributions towards education and library infrastructure do meet the relevant tests set out in the CIL Regulations 2010 (as amended) officers were unable to support the County Council request as the contributions would render the scheme unviable. Due to the special and unique characteristics of the scheme, officers did not consider that the proposed contributions should be secured.
21. By affirmation the Planning Committee gave officers delegated authority to approve the application subject to (1) to the completion of a Legal Agreement under the Town and Country Planning Act 1990 to ensure that the properties remain affordable in perpetuity and the future maintenance and management of various elements of on-site open space and (2) the conditions and informatives set out in the officer report.

Mortgagee in Possession (MiP) Clause

22. While completing the Section 106 agreement it has come to light that a MiP clause is required as part of the legal agreement, to enable the development to proceed and for the applicant to secure the required funding.
23. The need for a MiP clause was not known when the scheme was previously presented to the Planning Committee on 10 June 2020 and therefore its inclusion was not in front of the Committee when the original resolution to grant was made. The officers report only made passing reference to MiP clauses in paragraph 97 of that report, in the context that adopted policy does allow for their use.
24. Policy H/11 of the Local Plan, which deals with rural exception sites for affordable housing, makes provision for the inclusion of MiP clauses where demonstrated necessary to enable the development to proceed (criterion 1d). Policy H/11(1) of the Local Plan states in full:
 1. Affordable housing developments to meet identified local housing needs on small sites adjoining a development framework boundary will be permitted subject to:
 - a. The number, size, design, mix and tenure of affordable homes are confined to, and appropriate to, meeting identified local needs;
 - b. The development is of a scale and location appropriate to the size, facilities and character of the settlement;

- c. For sites at settlements within or adjoining the Green Belt, that no alternative sites exist that would have less impact on Green Belt purposes;
 - d. That the affordable homes are secured for occupation by those in housing need in perpetuity. Mortgagee in Possession clauses will be allowed where demonstrated to be necessary to enable development to proceed.
25. In addressing the inclusion of a MiP during the Section 106 discussions, the agent has provided a letter detailing that, by virtue of the site delivering 100% affordable housing, the applicant will be unable to access traditional development finance. The delivery of the project will therefore rely on a combination of grant funding and ethical loan products over and above the applicant's own significant capital investment. The letter is supported by evidence of costings of the project and has been subject to review by the Council's Affordable Housing Team.
26. The applicant, in common with most social housing providers, has made it clear that the Section 106 agreement will require a Mortgagee in Possession clause to be added. Where MiP clauses have been agreed on other sites in the district, it has not been the case that because of the MiP clause that the dwelling has needed to be made available on the open market and thus no longer affordable in perpetuity. Even if there was to be a default on the part of the mortgagee, the Section 106 agreement will contain a proviso that the Local Authority should first be given an opportunity to acquire the property. Thus, the risk of "losing" an affordable dwelling remains remote.
27. The Planning Committee has also previously regarded the need for a MiP clause as necessary on other exception sites in the district in the knowledge that the funding requirements of the affordable housing provider require this. Therefore, there is nothing unusual with the inclusion of a MiP clause, albeit the Committee should acknowledge that the applicant is registered with The Charities Commission and the Almshouse Association, rather than as a registered provider with Homes England. However, given the fact that the Charity was established back in 1890 and have provided affordable homes by way of Almshouses within the village does give the Council comfort that they are a well established provider of affordable housing.
28. Officers are satisfied that a MiP clause is necessary to enable the development to proceed following the confirmation provided by the Charity in terms of their funding requirements.
29. The inclusion of a MiP clause would accord with policy H/11 of the Local Plan.
30. As the development would accord with policy H/11 of the Local Plan, there is no conflict with paragraph 145 of the NPPF in terms of Green Belt development, which makes provision for limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites), i.e. policy H/11 of the Local Plan.

Planning balance and conclusion

31. Officers consider that the inclusion of a MiP clause is necessary to enable the development to proceed and that the development would accord with the relevant policies in the South Cambridgeshire Local Plan 2018.

Recommendation

32. Officers recommend that the Planning Committee again approves the application subject to (1) the inclusion of a MiP clause as part of the completion of a Legal Agreement under the Town and Country Planning Act 1990 to ensure that the properties remain affordable in perpetuity and the future maintenance and management of various elements of on-site open space and (2) the conditions and informatives set out in the officer report presented to the Planning Committee on 10 June 2020.

Background Papers

The following list contains links to the documents on the Council's website and / or an indication as to where hard copies can be inspected.

- South Cambridgeshire Local Plan 2018
- South Cambridgeshire Supplementary Planning Documents (SPDs)
- Cambridge Southern Fringe Area Action Plan (February 2008)
- Planning File References: S/4279/19/FL.

Report Author:

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