

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Planning Committee

5 October 2016

AUTHOR/S: Head of Development Management

Application Number: S/2068/15/OL

Parish(es): Gamlingay

Proposal: Outline application for the demolition of existing industrial and office units and 5 dwellings, and the erection of up to 90 dwellings, together with associated garaging, parking, public open space, landscaping, access, highways drainage and infrastructure works (All matters reserved apart except access)

Site address: Land at Green End Industrial Estate, Green End, Gamlingay

Applicant(s): R & H Wale Ltd and A G Wright and Sons Farms

Recommendation: Delegated Approval

Key material considerations: The main issues are whether the proposed contributions towards early years education provision adequately mitigate the needs arising from then development

Committee Site Visit: 21 April 2016

Departure Application: Yes

Presenting Officer: John Koch, Team Leader

Application brought to Committee because: Objections have been received during the completion of the section 106 agreement in respect of early years provision

Date by which decision due:

Executive Summary

1. On 22 April 2016, the Planning Committee resolved to grant delegated approval of the application. This approval was subject to conditions and the completion of a section 106 agreement. Conclusion of the agreement was to include consultation with Cambridgeshire County Council (CCC), as Local Education Authority, the Chairman and Vice-Chairman of the Planning Committee and the local Councillors for Gamlingay, in connection with the provision of additional early years accommodation.
2. The proposed provision is for a contribution of £240,006 to be paid to the CCC towards an additional classroom at Gamlingay First School. Consultation on this

option has taken place and has resulted in objections from the parish council and local members who oppose the nature and extent of the contribution to facilitate the necessary provision.

3. Officers have considered the various options put forward. While the above option has been opposed by the parish council and local members, officers have concluded that the proposed payment still meets the requirements of national and local planning policy. As such, there are no valid planning reasons not to accept this as a means of mitigating the impact of the development.

Relevant Planning History

4. This planning application was previously considered by the Planning Committee at its meeting on 22 April 2016.
5. As part of the consultation process, CCC originally responded to the planning consultation stating that there were sufficient early year's places in the village to accommodate the additional children from this development. Gamlingay Parish Council subsequently advised that the Women's Institute Hall (providing space for 25 full time early years spaces to Gamlingay Sunshine pre-school) was likely to close in the future on the basis that the temporary building had surpassed its life expectancy.
6. This prompted a further assessment by CCC who then indicated that this factor (and others) justified the need for securing early year's mitigation measures. When the Planning Committee were asked to determine the application the parish council expressed the view that it could deliver the necessary mitigation by extending the Old Methodist Chapel adjacent the development site. This would require a developer contribution of £350,000 and an area of land being transferred.
7. In the event, Planning Committee resolved to grant delegated approval subject to;
 1. The prior completion of a Legal Agreement under Section 106 of the Town and Country Planning Act 1990
 - (a) based on the Heads of Terms set out in an update report from the Planning and New Communities Director;
 - (b) preserving in perpetuity the Class B2 employment use of the 25% of the Industrial Estate not destined to be developed for housing;
 - (c) securing the affordable housing in a manner consistent with that at Station Road, Gamlingay – for local people, with cascade outwards only once the housing waiting list in Gamlingay had been eliminated;
 2. Consultation with Cambridgeshire County Council, as Local Education Authority and in conjunction with the Chairman and Vice-Chairman of the Planning Committee and the local Councillors for Gamlingay, in connection with the provision, but not quantum, of additional early years accommodation for inclusion as a Planning Obligation;
 3. The application being reported back to Committee for determination should negotiations with Cambridgeshire County Council under Point 2 above be unsuccessful; and
 4. The Conditions set out in the update report from the Planning and New Communities Director.
8. A copy of the original committee report and update report are provided for reference.

as appendix 1.

Planning Policies

9. *National Planning Policy Framework (NPPF)*
Planning Practice Guidance
10. *South Cambridgeshire Local Development Framework (LDF) Core Strategy, adopted January 2007*
ST/2 Housing Provision
ST/5 Minor Rural Centres
- 11.. *South Cambridgeshire LDF Development Control Policies, adopted July 2007*
DP/1 Sustainable Development
DP/4 Infrastructure and New Developments
12. *Draft Local Plan*

S/1 Vision
S/2 Objectives of the Local Plan
S/3 Presumption in Favour of Sustainable Development
TI/8 Infrastructure and New Developments

Consultation

13. Following the original resolution of Planning Committee to grant delegated approval, discussions have taken place in respect of Early Years provision. This is in line with point 2 of the approved committee minute.
14. **Gamlingay Parish Council** - On 7 July 2016, the Council's Section 106 Officer updated the parish council on progress with the section 106 agreement. On 1 August 2016 the parish council replied as follows:
15. The Council's s.106 group met to discuss the main issues raised with regard to securing short to medium term preschool facility for the pre-school children's needs as a result of this development.
16. The Councillors reiterated that a new extension could not be achieved without the full £350k and free land to be provided by the developer. The alternative option, identified by the County Council for developing a preschool facility on the First school site by requesting £258k is not a 'like for like' comparison. As stated in the County officers report- at least £450k would be needed to deliver at least one extra classroom for these preschool children. There is no mention of where the further £192k is to be found. Also there is no mention of when this facility would be provided, if at all.
17. The parish is not the statutory provider of preschool facilities and to expect the Parish to fund a shortfall in funding to provide a single use facility from its precept is unfair and outside our existing powers. To burden the parishioners of Gamlingay with cost to provide a preschool facility which is not multi-functional is not acceptable. As the non-statutory provider we would be unable to access external grant funding for this single purpose. It would be inappropriate to obtain a Public Works Loan as explained above. Any community building allocation from this or any other development would be directed to improving the roof and insulation of the existing property which is in need of further improvement. This aspect falls within the powers and responsibility of parish councils (Power to equip building for use of clubs having athletic, social, or

recreational objectives –Local Government Miscellaneous Provisions Act 1976 s.19).

18. In the longer term the Parish and County Council recognise that there will be a further need for 18 (+4) preschool children within 5 years, which needs to be addressed. We need to create a longer sustainable plan for our village with regard to preschool facilities.
19. The Parish Council strongly urges SCDC to ensure that the developer makes sufficient contribution to enable a short-medium term provision of a facility to be provided for these 14 children as part of its s.106 contributions. In the Parish Councils view to provide the £350k and free land to fund the extension to the Old Methodist Chapel is the only secure deliverable option in the short to medium term.
20. **Section 106 Officer** - Further to this response, the Section 106 Officer has evaluated the various options and the mitigation required to provide sufficient early years provision. This is set out in the report provided as appendix 2 to this report. The main conclusions can be summarised as:
 - Both the Parish Council and County Council have provided solutions to mitigate the impact of the development.
 - The informal views of the applicant has been sought to assist the decision and their view is that they are prepared to pay the contribution as sought by Cambridgeshire County Council being £240,006.
 - There is no planning reason as to why this option does not mitigate the impact of the development and why planning permission could not be issued on this basis.
21. On 30 August 2016 and, in line with paragraph 7 above and point 2 therein, the Chair and Vice Chair of Planning Committee and the two local members for Gamlingay were asked to confirm their acceptance of the proposed Early Years provision in the village.
22. **Cllr Bridget Smith (Local Member)** – I have discussed this with Sebastian (Kindersley) and the parish council and we would like it to go back to Planning Committee, please.
23. The Parish Clerk made it quite clear why the proposal was completely unacceptable in her last email to James Fisher and the reality is that the land owners are just trying to get out of meeting their responsibility to the community and the extra 18 children in order to maximise their profit. We are not prepared to lie down and let them get away with this I am afraid. I am just sorry that the will mean more work for you and your team.

Representations

24. **Eclipse Planning Services (agent for the applicant)** - As agreed I have discussed the option outlined for my client to pay the EYP contribution stated below (to be used by Gamlingay Parish Council in the first instance) and for land to be safeguarded (area to be agreed), for a specified time period (to be agreed), to allow the Parish Council the opportunity to demonstrate that their proposals to extend the Methodist Chapel are both viable and deliverable. In the event that this case is not demonstrated within the agreed timeframe the land would be released back to my client for development and the contributions released to the County Council.

25. In commercial terms this is unacceptable to my client. The site will be developed by a third party and it is scheduled to be marketed this month. The uncertainty that the above arrangement would create is considerable and would prejudice market interest, substantially delay the delivery of housing and potentially reduce the amount of dwellings delivered on this site overall. Given that there is an acceptable alternative arrangement of paying the EYP contribution to the County Council, which has been agreed by Council's officers and discussed with both the Chair and Vice Chair of Planning Committee, my client would like to proceed on that basis. I would therefore be grateful for the S106 agreement to be progressed and engrossed and for the decision notice to be issued as a matter of urgency to allow the site to be marketed as scheduled.

Planning Assessment

26. A resolution to approve the planning application has already been made. The single issue at this stage for members is whether the proposed means of providing early years accommodation in the village to meet the needs of the development is acceptable.
27. Paragraph 204 of the NPPF states that planning obligations should only be sought where they meet all of the following tests:
- Necessary to make the development acceptable in planning terms;
 - Directly related to the development; and
 - Fairly and reasonably related in scale and kind to the development
28. Planning Practice Guidance provides additional advice and confirms that agreements should normally include clauses stating how and when funds will be used by and allow for their return after an agreed period of time where they are not.
29. LDF Policy DP/4 states that planning permission will only be granted for proposals that have made suitable arrangements for the improvement or provision of infrastructure necessary to make the development acceptable in planning terms. The nature, scale and phasing of any planning obligations sought will be related to the form of the development and its potential impact upon the surrounding area.
30. The parish council's concerns essentially revolve around a desire to see the Old Methodist Chapel extended and reused. In the Parish Council's view, this requires the developer to provide £350,000 and free land to fund the extension to the Old Methodist Chapel. The parish see this as the only secure deliverable option in the short to medium term.
31. In contrast, CCC consider that (in order to meet the CIL tests) they can only justify securing a proportionate contribution from this development and therefore base their section 106 request on the impact of the 14 early years children arising from the development. When multiplied by the cost per pupil the contribution would be £240,006 and would be used to help fund an early years classroom currently planned at Gamlingay First School.
32. As set out in appendix 2, the County Council would expect to dedicate money towards the project once it has been granted planning permission. This could result in the County Council forward funding a project the impact of which is not expected to be realised for several years.
33. This approach is nothing new to the Planning Committee where it is often the case

that a single development (quite often the 'first' development) contributes a proportion of the total project cost and where that approval is not withheld on the basis that the remaining monies are yet to be identified.

34. If the parish council have an alternative early years plan there is no reason why CCC would not be willing to listen to it. It would also be possible to draft the terms of the section 106 agreement to require the funds to be paid to the parish council if requested. This would give the parish council some confidence that the required provision would be made, although it would still need to be within the timescale set out in the agreement. This is likely to be a period of 10 years from completion of the agreement.
35. While officers have sought to negotiate an alternative means of provision, it is clear from the developer's response set out in paragraph 25 above, that there is no proposal to offer the additional land and thus the potential to expand the Old Methodist Chapel.
36. Whether or not such an arrangement was possible, officers have still concluded that the applicant's willingness to pay the contribution of £240,006 as sought by the CCC is a viable option that adequately mitigates the impact of the development. This is consistent with national and local planning policy and there are no material planning reasons why the section 106 agreement should not be concluded on this basis.
37. If considered necessary, the agreement could contain a fall-back clause that allows the parish council to be given an option to use the money instead of the CCC if requested. Such a request would need to be made at the appropriate time (i.e. before the CCC has already financially committed to a project) and the contribution spent within the specified time period. CCC has been asked to confirm when the project to deliver the early years classroom is likely to be delivered and the committee will be updated on this point as necessary.

Other Matters

38. It has come to light that the primary school contribution reported at the April Planning Committee was inaccurate. The figure reported to Committee was to secure £551,873. It has since been realised that this included indexation into the future and that that actual figure should be £513,835 (cost at 1Q16, with indexation to be applied from that date) as requested by the County Council.
39. This change is not considered to go to the heart of the decision to approve the planning application and can therefore be noted as the correct figure to be applied.

Conclusion

40. The Committee has previously concluded that the adverse impacts of this development, which include scale of development, retention of employment uses, prematurity, limited impact on local services, residential amenity and highway safety are not considered to significantly and demonstrably outweigh the benefits of the development, when assessed against the policies in the NPPF taken as a whole. These policies aim to boost significantly the supply of housing and which establish a presumption in favour of sustainable development in the context of the lack of a 5-year housing land supply, and the proposed Local Plan allocation H1f.
41. The proposed early years provision is considered acceptable in the context of planning policy and potentially mitigates the impact of the development in this respect.

Recommendation

42. (a) That the payment of a contribution of £240,006 towards early years provision as detailed in appendix 2 and to be used in the first instance by the CCC but with a clause allowing possible drawdown by the parish council if requested be approved.
- (b) Members note the primary school contribution should be £513,835.

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 Development Framework Core Strategy (adopted January 2007)
- South Cambridgeshire Local Plan 2004
- Planning File Ref: S/2068/15/OL

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