

ITEM 2

Case Officer: Paul Staniforth
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Planning committee: 6th January 2020

File No: CHE/16/00229/OUT
Plot No: 2/1605

OUTLINE APPLICATION FOR DEVELOPMENT OF 14 NO RESIDENTIAL UNITS WITH NEW ACCESS AT BANK CLOSE HOUSE, HASLAND ROAD, HASLAND, CHESTERFIELD FOR VITAL BALANCE LTD

Local Plan: Open Countryside and Other Open Land
Ward: St Leonards

1.0 BACKGROUND

- 1.1 The report attached at appendix A was considered by planning committee on 10th October 2016 and was agreed as recommended.
- 1.2 The planning application was agreed subject to a s106 agreement concerning:
- A Percent for Art scheme to meet policy CS18;
 - Clauses tying the funds raised from the sale of the land as a result of the outline residential planning permission being granted to be invested in the repair and refurbishment works for the listed buildings together with a programme for implementation of such works.
- 1.3 The listed building consent and planning permission for extension and alteration of the Bank Close House were agreed and issued in 2016 following the necessary referral to the Secretary of State as set out in paragraph 11.3 of the report. (CHE/16/00222/FUL and CHE/16/00225/LBC). The two permissions were recently safeguarded by implementation of sufficient works in advance of the permissions lapsing.

2.0 PROGRESS

- 2.1 Since the planning committee resolution negotiations have continued with the site owner and their legal representatives in an attempt to achieve satisfactory clauses within the s106 agreement and the point has now been reached where the negotiations have been concluded.
- 2.2 The site owner has secured a potential purchaser (house builder) and confirms that the funding arrangements with their new bank lapses on 11th January 2020 and that the s106 agreement will need to be signed and the permission issued before this date. The 3 year impasse has been partly due to the original bank, Santander, moving out of the none purpose built care home sector and, as a result, refusing to progress with the s106 agreement.
- 2.3 The s106 agreement as now drafted includes clauses requiring:
% for Art
- Prior to the submission of the application for Reserved Matters Consent the Owners/Lessee by way of a Viability Appraisal shall make proposals for the provision of Public Art in accordance with Core Strategy Policy CS18 of the Council's adopted Local Plan 2013 and shall provide the Council (acting reasonably) if so required such supporting information as may be reasonably requested and any dispute about such costs shall be conclusively determined by reference to Spon's Index current at the date of such dispute;
 - To liaise with the Council in devising a strategy and design brief for the Public Art Provision, including its location, in accordance with the said Core Strategy Policy CS18 (no less than 1% of the overall development cost);
 - To provide the Public Art Provision at its own cost in accordance with the said strategy and design brief.

Use of funds for Listed Building Refurbishment

1. Not to complete the sale before:
 - (a) submitting the Scheme and Programme to the Council for approval;
 - (b) written approval by the Council of the Scheme and Programme (such approval not to be unreasonably withheld or delayed)
 - This includes an itemized scheme of essential works to the Listed Building and a programme and timescale for the implementation of the Refurbishment which shall comprise works in the following stages:
 - (a) Essential works – amounting to repair/replacement of roof, windows, rainwater goods;
 - (b) construction of link block and extension is completed and;
 - (c) once link block and extension are approved by the Care Quality Commission and residents of the Listed Building are relocated to the extension (or after 5 years from the date of this agreement if later) the remainder of the Refurbishment
2. On the sale to apply the necessary proportion of the Sale Proceeds (and to make up any shortfall) to facilitate the carrying out and completion of the Refurbishment
3. To carry out and complete the Refurbishment within five years of the sale.

3.0 CONSIDERATIONS

- 3.1 Because of the passage of time it is appropriate for planning committee to consider whether it remains appropriate for the development to proceed and in this respect it is appropriate to consider any change in circumstances over the period since the committee consideration on 10th October 2016.
- 3.2 A number of changes are of relevance as follows:

1. The Council's position in relation to the 5 year housing land supply;
2. The advice contained in the new NPPF and
3. The status of the emerging local plan and the status of policy EVR2, CS10 and LP4.

3.3 5 Year Housing Land Supply:

3.3.1 A main difference now is that the council can now demonstrate a five year supply of deliverable housing sites and this site remains undeveloped as part of the open countryside area. This position has been supported by a couple of appeal decisions over the last year which have dealt with the 5 year housing supply position.

3.4 Emerging Local Plan and status of policies:

3.4.1 The Chesterfield Local Plan Core Strategy (2013) and the Replacement Chesterfield Borough Local Plan (2006) remain the relevant Development Plan and the policies identified in the original policy comments on the proposal remain the most relevant policies.

3.4.2 The emerging Local Plan is however now at an advanced stage of preparation, having been submitted for examination and Hearings now being completed.

3.4.3 As the council is now able to demonstrate a five year supply, greater weight is now given to the provisions of policy CS10, which restricts the development of greenfield sites however following the Brimington South appeal decision little weight should be given to policy EVR2, as the policy is now considered to be 'out of date'.

3.4.4 Policy CS10 will be replaced by emerging policy LP4, which will be more flexible in its wording on sites within the urban area, similar to this one. However as that policy is still the subject of outstanding objections that will need to be addressed through consultation on modifications, little weight can be afforded to the new policy at this stage of plan preparation, as per para 48b of the NPPF.

- 3.4.5 Policy CS19 concerning the heritage environment will be replaced with an updated policy, but the emerging policy remains largely unchanged in function in relation to this proposal.
- 3.4.6 Whilst there have been some changes to the policy background to this application since originally considered, it does not change the overall conclusion that the application would remain contrary to Local Planning policy if it was not linked to the enabling of works to the associated listed building.
- 3.4.7 Since the original report in 2016 the Council has now justified the addition of a condition on new housing schemes which require electric vehicle charging points to be installed. This is supported by policy CS20 which refers to the provision of opportunities for charging electric vehicles where appropriate and by paragraph 110 which indicates that applications for development should be designed to enable charging of plug in and other ultra-low emission vehicles in safe, accessible and convenient locations. It would be appropriate to now include an additional condition on any decision which may be issued.
- 3.5 National Planning Policy Framework:
- 3.5.1 The report attached at appendix A made reference to the 2012 NPPF however a revised version was issued in July 2018 and a further version in February 2019.
- 3.5.2 The latest version of the government advice maintains the importance of conserving and enhancing heritage assets. Para 192 sets out that in determining applications, local planning authorities should take account of
- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation.
 - b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic viability: and
 - c) the desirability of new development making a positive contribution to local character and distinctiveness.

- 3.5.3 Para 193 confirms that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
- 3.5.4 Para 196 confirms that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
- 3.5.5 The position argued in the October 2016 report remains a valid argument and the refurbishment of the grade II* listed building is a priority. The legal agreement ties the funds realised from the sale of the land into the restoration and refurbishment of the listed building and which will secure significant public benefit. There is no doubt that the care home use of Bank Close House is an appropriate viable and sustainable use and there would be significant concerns in the event that the building became vacant. The building is in desperate need for investment in its repair and refurbishment and the funds realised from the development on the frontage field and the terms of the s106 agreement will achieve appropriate works and a programme and which will be achieved over a 5 year period.
- 3.5.6 Refusal of the scheme will result in the refurbishment and repair works not been undertaken and the prospect that the existing care home operator deciding to vacate the building as continued occupation as existing will not be viable. The care home operator has provided a letter which is attached as appendix B and which confirms that the financial position remains no different since 2016 but that the Care Quality Commission has concerns which confirm that the use cannot continue without necessary improvement.

4.0 CONCLUSION

- 4.1 The policy position remains largely unaltered in that the development proposed is contrary to policy however the

- emerging policy, which is yet to be adopted, gives additional flexibility and would accept developments within the existing urban area especially where the site is well located close to all services and facilities as this site is.
- 4.2 The need for repair and refurbishment of this important grade II* listed building remains as important a priority now as it was when planning committee considered the application in 2016 and in this respect it remains an appropriate and valid argument to accept the public benefit of delivering a refurbished and occupied grade II* listed building which is likely to otherwise be vacated and become vulnerable with continued neglect and deterioration.
- 4.3 The planning balance argued in 2016 remains valid accepting the limited housing scheme on the open field to the frontage is contrary to policy but that, subject to the terms of the s106 agreement, that this achieves the beneficial repair, refurbishment and continued occupation of the listed building.

5.0 **RECOMMENDATION**

- 5.1 That concurrent with the signing of the s106 agreement as now drafted, that the application CHE/16/00229/OUT be **APPROVED** subject to the conditions and notes set out in the original report and the addition of the following additional condition.

Condition 23.

Residential charging points shall be provided for each dwelling with an IP65 rated domestic 13amp socket, directly wired to the consumer unit with 32 amp cable to an appropriate RCD. The socket shall be located where it can later be changed to a 32amp EVCP. Alternative provision to this specification shall be approved in writing, by the local planning authority. The electric vehicle charging points shall be provided in accordance with the stated criteria prior to occupation of the dwelling to which they relate and shall be maintained for the life of the approved development.

Reason 23.

In the interests of reducing emissions in line with policies CS20 and CS8 of the Core Strategy.