

## **NORTHAMPTON BOROUGH COUNCIL**

### **PLANNING COMMITTEE**

**Tuesday, 15 December 2009**

**PRESENT:** Councillor Collins (Chair); Councillor Meredith (Deputy Chair);  
Councillors Church, Golby, Lane, Malpas, Mason, Matthews and  
Woods

#### **1. APOLOGIES**

Apologies were received from Councillors J Conroy and M Hoare

#### **2. MINUTES**

The minutes of the meeting held on 17 November 2009 were signed by the Chair.

#### **3. DEPUTATIONS / PUBLIC ADDRESSES**

**RESOLVED:** (1) That Messrs Cook, Lewis and Smith-Cresswell and Councillor Simpson be granted leave to address the Committee in respect of Application No N/2009/0871 – Application for Certificate of Lawful Use of Dwelling House as a House for Children (Class C3) at 6 Kingsley Road.

(2) That Mr Folwell and Councillor Larratt be granted leave to address the Committee in respect of Application No N/2009/0885 – Two Storey Side Extension at 13 Thornby Drive.

#### **4. DECLARATIONS OF INTEREST**

Councillor Church declared a personal and prejudicial interest in Item 9A, N/2009/0676 – Pedestrian and Cycle Bridge Over the River Nene and Grand Union Canal at Banbury Lane, as being the Portfolio Holder for Planning and Regeneration.

Councillor Woods declared a personal interest in Item 9A, N/2009/0676 – Pedestrian and Cycle Bridge Over the River Nene and Grand Union Canal at Banbury Lane, as previously being associated with Connect2.

Councillor Collins declared a personal interest in Item 9A, N/2009/0676 – Pedestrian and Cycle Bridge Over the River Nene and Grand Union Canal at Banbury Lane, as being a prospective parliamentary candidate for Northampton South.

Councillor Matthews declared a personal interest in Item 9A, N/2009/0676 – Pedestrian and Cycle Bridge Over the River Nene and Grand Union Canal at Banbury Lane.

Councillors Church and Woods declared an interest in Item 9B, N/2009/0902 – Demolition of Two Garage Blocks and Development of Eight Affordable Houses and Associated Works at Lock-up Garages on Woodside Way, as having been Members of

the Cabinet when the scheme had first arisen.

Councillor Malpas declared a personal interest in Item 9B, N/2009/0902 – Demolition of Two Garage Blocks and Development of Eight Affordable Houses and Associated Works at Lock-up Garages on Woodside Way, as being the Chair of Scrutiny Committee and had agreed discussion of the Item at Cabinet.

Councillors Mason and Malpas declared a personal interest in Item 12B, N/2009/0910 – Demolition of Existing Bective Works and Jebez House and the Erection of 155no Residential Units With Associated Landscaping and Underground Car Park Between Bective Road and Yelvertoft Road (Application to Replace Existing Planning Permission Ref WN/2006/0028 Dated 1/11/2006 in Order to Extend the Time Limit for Implementation), as having been previous Members of the Planning Committee when the original planning permission had been considered.

Councillors Church and Woods declared a personal interest in Item 12A, N/2007/1570 – Outline Application for 625 Dwellings of Mixed Type and Tenure, Primary School and Community Resource Centre, Local Centre Facilities Including Shops (Class A1), Financial and Professional Services (Class A2), Restaurant/Café (Class A3), Drinking Establishment (Class A4), Hot Food Takeaway (Class A5), Structural Public Open Space With Associated Access, Parking, Groundworks, Infrastructure, Landscaping and Access at land at Pineham North/Banbury Lane, as being Board Members of WNDC.

Councillor Church declared a personal interest in respect of Item 12B, N/2009/0910 – Demolition of Existing Bective Works and Jebez House and the Erection of 155no Residential Units With Associated Landscaping and Underground Car Park Between Bective Road and Yelvertoft Road (Application to Replace Existing Planning Permission Ref WN/2006/0028 Dated 1/11/2006 in Order to Extend the Time Limit for Implementation), as being a WNDC Board Member.

Councillor Woods declared a personal and prejudicial interest in respect of Item 12B, N/2009/0910 – Demolition of Existing Bective Works and Jebez House and the Erection of 155no Residential Units With Associated Landscaping and Underground Car Park Between Bective Road and Yelvertoft Road (Application to Replace Existing Planning Permission Ref WN/2006/0028 Dated 1/11/2006 in Order to Extend the Time Limit for Implementation).

Councillor Collins declared a personal and prejudicial interest in respect of Item 12B, N/2009/0910 – Demolition of Existing Bective Works and Jebez House and the Erection of 155no Residential Units With Associated Landscaping and Underground Car Park Between Bective Road and Yelvertoft Road (Application to Replace Existing Planning Permission Ref WN/2006/0028 Dated 1/11/2006 in Order to Extend the Time Limit for Implementation), as his partner had objected to the proposal.

**5. MATTERS OF URGENCY WHICH BY REASON OF SPECIAL CIRCUMSTANCES THE CHAIR IS OF THE OPINION SHOULD BE CONSIDERED**

None.

## **6. LIST OF CURRENT APPEALS AND INQUIRIES**

The Head of Planning submitted a report and elaborated thereon.

**RESOLVED:** That the report be noted.

## **7. OTHER REPORTS**

None.

## **8. NORTHAMPTONSHIRE COUNTY COUNCIL APPLICATIONS**

None.

## **9. NORTHAMPTON BOROUGH COUNCIL APPLICATIONS**

### **(A) N/2009/0676- PEDESTRIAN AND CYCLE BRIDGE OVER THE RIVER NENE AND GRAND UNION CANAL AT BANBURY LANE**

Councillor Church left the room in accordance with his earlier Declaration of Interest.

The Head of Planning submitted a report in respect of Application No N/2009/0676 and referred to the Addendum, which amended the width of the proposed bridge to 3 metres and set out comments received from Councillor P D Varnsberry.

The Committee discussed the application.

**RESOLVED:** That the application be approved subject to the conditions set out in the report as the proposal would enhance access to the Upton Country Park, which would contribute to the promotion of more sustainable means of transport. The proposal had demonstrated that it would not unduly impinge upon the character and appearance of the locality and would not adversely impact upon the ecology of the location or increase flood risk. The proposal therefore complies with Policies E20 and L17 of the Northampton Local Plan and PPS9 and PPS25.

(Councillor Church rejoined the meeting.)

### **(B) N/2009/0902- DEMOLITION OF TWO GARAGE BLOCKS AND DEVELOPMENT OF EIGHT AFFORDABLE HOUSES AND ASSOCIATED WORKS AT LOCK- UP GARAGES ON WOODSIDE WAY**

The Head of Planning submitted a report and referred to the Addendum, which set out a revision of the Scheme and set out comments from the Highways Authority.

The Committee discussed the application.

**RESOLVED:** (1) That determination of the application as revised be delegated to the Head of Planning to secure adjustments to the layout in order to improve the visibility splay to the drive of Plot 2 subject to the conditions set out in the report and addendum as the proposal would result in the enhancement of the character and appearance

of the are through the removal of an unattractive and disused garage court. The proposal would secure a satisfactory level of amenity for the future occupiers of the proposed and existing dwellings and would not detrimentally impact upon highway safety or other interest of acknowledged importance. The proposal therefore complies with Policies E20, E40 and H6 of the Northampton Local Plan and PPS1, PPS3 and PPG13.

- (2) That the Head of Planning be delegated authority to agree adjustments to Plot 2 so as to improve the visibility splays.

## **10. ITEMS FOR DETERMINATION**

### **(A) N/2009/0868- DROPPED KERB AND VEHICULAR CROSSOVER AT 53 KENMUIR AVENUE**

The Head of Planning submitted a report in respect of Application No N/2009/0868 and elaborated thereon.

The Committee discussed the application.

**RESOLVED:** That the application be approved subject to the conditions set out in the report as the proposal is not considered detrimental to highway or pedestrian safety and is in accordance with advice received from the Highway Authority and the aims and objectives of PPG13 – Transport.

### **(B) N/2009/0871- APPLICATION FOR CERTIFICATE OF LAWFUL USE OF DWELLING HOUSE AS A HOUSE FOR CHILDREN (CLASS C3) AT 6 KINGSLEY ROAD**

The Head of Planning submitted a report and referred to the Addendum, which set out a further objection received from 120 St Georges Avenue. The Head of Planning noted that this matter was a technical issue and was not a planning application. The issue to be determined was whether the proposed use fell within the same Use Class of the Town and Country Planning (Use Classes) Order 1987 (as amended), as the current use. The applicant had submitted evidence to support their position. He also referred to paragraphs 7.4 to 7.19 of the report, which set out guidance on the interpretation and application of the Use Classes Order and the criteria for “a single person or persons living together as a family” and for “no more than six residents living together as a single household”. The Borough Solicitor confirmed that the issue before the Committee was not a planning application and that the burden of proof was on the applicant to demonstrate that the proposed use still fell within Class C3. The issues to be considered were solely legal and evidence based.

Mr P Smith-Cresswell noted that the question before the Committee was whether the proposed use was similar to the existing. He believed the guidance was not clear regarding the meaning of a single household. Up to four children with two carers or even five children with one carer would still be within the meaning of Use Class C3. This proposal was for potentially six carers to provide care and support on a rotared basis. It appeared that no-one would be sleeping in over night and there would be a frequent turnover of children. He queried whether this was more akin to an Institution,

which seemed to better fit the definition of a care home within Use Class C2. He felt the Committee needed to be careful that the applicant was not using this situation as a device to avoid applying for planning permission.

Mr Lewis noted that the applicant needed to demonstrate that the proposed use fell within Use Class C3. It seemed clearly to him that it was C2. There would be a frequent turnover of children, which was not consistent with family use. He noted that as the young people could come from potentially a wide range of backgrounds, how would they be integrated as a single household. He noted that no carer would be sleeping over night and queried whether carers would write reports and risk assessments etc on the children resident. All of this seemed to him to be more like an Institution. He also queried if fire doors and notices were to be provided; then this would not normally be found in a dwelling. He believed that the applicant had not provided sufficient evidence and asked that consideration of the matter be deferred to allow the applicant to provide further information.

Councillor Simpson noted that the matter was a technical one and he had called it in as he had received five separate representations about it. He noted that the issue could not be considered on planning grounds, but the question was if it was a care home did it fall within C3 or C2. He noted that there would be a turnover of staff and of children and queried whether this was the same as a family home. He believed that there would be more intensive support to the children who would be resident and felt that the proposal seemed more like a Class C2 use. He commented that he was not opposed to the idea if the concerns raised by the public could be addressed through the planning process.

Mr Cook, on behalf of the applicant, commented that he believed the report was accurate and that it concurred with the legal advice they had received. He noted that a similar Certificate of Lawfulness had been given to another property in the town. He noted that the premises would be subject to Ofsted requirements in respect of children living in homes and that there should be a family environment for up to five children.

In answer to a question, the Head of Planning noted that there was no technical definition of "living together as a family" within the Use Classes Order. It was also noted that the proposed use fell within Use Class C3 but if this changed over time, such that it was no longer within C3 then planning permission would then be required and the Council could assess and control the use either by taking enforcement action or requiring the submission of a planning application for the change of use.

The Committee discussed the application.

**RESOLVED:** That the application for a Certificate of Lawfulness be granted as the Council is satisfied that the use of the building as described fell within Use Class C3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended).

### **(C) N/2009/0885- TWO STOREY SIDE EXTENSION AT 13 THORNBY DRIVE**

The Head of Planning submitted a report in respect of Application No N/2009/0885 and referred to the Addendum, which set out further comments by the applicant's son, Mr Folwell. He noted that the proposal was a revised scheme and the applicant had

asked for the family's personal circumstances to be taken into account. He noted that personal circumstances were not a material consideration.

Mr Folwell commented on the importance of the proposal to his family and displayed photographs of nearby properties, including some in Thornby Drive that had been extended. He noted that the property had been the family home for forty five years.

Councillor Larratt noted that the property had been the Folwell family home for forty five years and believed that the proposed refusal of the application was ridiculous. He commented that the property was currently occupied by Mr Folwell's mother and disabled brother and that Mr Folwell wanted to move into the property with his own family so as to be able to look after them. He had visited the area and was surprised at the proposed refusal, considering the other properties which had been extended in the vicinity. He noted that the gap between 15 and 13 Thornby Drive was significant and the proposal was only to build to the existing building line and therefore the whole gap would not be infilled.

The Head of Planning noted that the other properties that had been extended in Thornby Drive had a different relationship with neighbouring properties and had been decided before the Council's Residential Extensions Design Guide SPG had been adopted in September 2002 as set out in paragraphs 7.8 and 7.9 of the report.

The Committee discussed the application.

Councillor Malpas proposed and Councillor Church seconded:

"That the application be approved subject to conditions to be agreed by the Head of Planning, as the proposed extension by reason of its design, scale, and siting would be sympathetic to the character and appearance of the host building and wider area and would not give rise to harm of neighbour amenity or other interests of acknowledged importance in accordance with Policies H18 and E20 of the Northampton Local Plan and advice in SPG "Residential Extensions Design Guide".

Upon a vote the motion was carried.

**RESOLVED:** That the application be approved subject to the Head of Planning agreeing appropriate conditions, the proposed extension, by reason of its design, scale and siting, would be sympathetic to the character and appearance of the host building and wider area and would not give rise to harm to neighbour amenity or other interests of acknowledged importance in accordance with Policies H18 and E20 of the Northampton Local Plan and advice in SPG "Residential Extensions Design Guide".

**(D) N/2009/0895- PROPOSED SINGLE STOREY REAR EXTENSION AT 140 BEECH AVENUE**

The Head of Planning submitted a report in respect of Application No N/2009/0895 and elaborated thereon.

The Committee discussed the application.

**RESOLVED:** That the application be approved subject to the conditions set out in the report, as the siting and design of the extension is acceptable and would not be detrimental to visual or residential amenity in accordance with Policies H18 and E20 of the Northampton Local Plan.

## **11. ENFORCEMENT MATTERS**

None.

## **12. APPLICATIONS FOR CONSULTATION**

- (A) N/2007/1570- OUTLINE APPLICATION FOR 625 DWELLINGS OF MIXED TYPE & TENURE, PRIMARY SCHOOL & COMMUNITY RESOURCE CENTRE, LOCAL CENTRE FACILITIES INCLUDING SHOPS (CLASS A1), FINANCIAL & PROFESSIONAL SERVICES (CLASS A2), RESTAURANT/CAFE (CLASS A3), DRINKING ESTABLISHMENT (CLASS A4), HOT FOOD TAKEAWAY (CLASS A5), STRUCTURAL PUBLIC OPEN SPACE WITH ASSOCIATED ACCESS, PARKING, GROUND WORKS, INFRASTRUCTURE, LANDSCAPING & ACCESS AT LAND AT PINEHAM NORTH, BANBURY LANE**

The Head of Planning submitted a report in respect of Application No N/2007/1570 and the Addendum, which set out comments from Councillor P D Varnsvery and proposed an additional recommendation to request the WNDC to ensure Section 106 Agreement contributions are made to cover the requirements of the 2009 Parks and Open Space Strategy for Northampton and the 2007 WNDC Planning Obligation Strategy.

The Committee discussed the application.

**RESOLVED:** That the Council does not object to the proposed development provided that the following measures are achieved/ concerns noted:

- (1) Conditions relating to noise, construction, management and decontamination are applied as laid out by NBC Public Protection (EHO) in their consultation responses.
- (2) That 10% of all dwelling units are to be constructed to NBC's mobility standard. 35% of all dwellings are to be affordable, with 70% committed for social rented housing and 30% for immediate affordable housing. NBC must be involved in negotiation of the Section 106 Agreement.
- (3) In addition to securing a robust Travel Plan including suitable public transport provision, movement corridors, 24 hour connectivity and general accessibility including vehicular access to the primary school, must be suitably addressed for improvement by planning condition for the master planning stage of the planning process. WNDC should bear in mind the lessons learned by the experience of opening St Luke's at St Crispins and seek to avoid similar problems occurring.

- (4) The open space provision overall is considered acceptable but its sub-division by type of use and future maintenance must be agreed in consultation with NBC when master planning and reaching a legal agreement.
- (5) That the retail permitted within the local centre shall be limited to a maximum of 500m<sup>2</sup> gross floor space for convenience use and a maximum of 300m<sup>2</sup> for other retailing, in order to ensure the local centre response to local needs and does harm other recognised retail centres.

**(B) N/2009/0910- DEMOLITION OF EXISTING BECTIVE WORKS & JEBEZ HOUSE & THE ERECTION OF 155NO RESIDENTIAL UNITS WITH ASSOCIATED LANDSCAPING & UNDERGROUND CAR PARK BETWEEN BECTIVE ROAD & YELVERTOFT ROAD. (APPLICATION TO REPLACE EXISTING PLANNING PERMISSION REF: WN/2006/0028, DATED 1.11.2006, IN ORDER TO EXTEND THE TIME LIMIT FOR IMPLEMENTATION)**

Councillors Collins and Woods left the room in accordance with their earlier declarations of interest.

Councillor Meredith took the Chair.

The Head of Planning submitted a report in respect of Application No N/2009/0910 and referred to the Addendum, which set out comments from the Council's Conservation Team and representations from the occupier of 47a Newington Road. The Head of Planning noted that since 1 October 2009 applicants were able to seek extensions to the life of extant planning permissions (a temporary Government initiative to assist the construction industry) and he referred to Government advice, which suggested a constructive approach should be adopted and noted that as the principle of development had already been established, consideration should be focused upon any changes in circumstances since the original permission had been granted. He referred to the report and noted that the Harborough Road in that vicinity was now a declared "air quality management area" and that the applicant would be required to make a new assessment of the traffic issues. It was noted that Enterprise House was the former Bective Shoe Company building and that Jebez House was a newer 1960's building attached to Enterprise House.

The Committee discussed the application.

**RESOLVED:** That the Council raise no objections in principle as the re-use of this previously developed site would assist in securing an efficient allocation of land. The scale and use of the site for residential accommodation is consistent with the character of the area and the proposal therefore complies with PPS1 – Delivering Sustainable Development, PPS3 – Housing and H6 of the Northampton Local Plan. However, significant concerns were raised regarding the potential impact on highway safety. In order to ensure that there would be a neutral impact on the level of



highway safety, WNDK is requested to consult the Highways Authority in order to establish whether an updated transport assessment should be carried out to take account of any changes in circumstances subsequent to the previous consideration and proposal. This approach is supported by PPG13 – Transport.

Should WNDK be minded to approve this application, it is requested that the following matters be addressed:

- The provision of 35% of the total development for affordable housing to be secured by a Section 106 Agreement. This should comprise 10% for shared ownership and intermediate tenure and 25% for social rent occupation in order for the development to better reflect the findings of the 2007 West Northamptonshire Housing Market Assessment. WNDK is also requested to investigate the possibility of locating these affordable homes in clusters of not more than twelve units.
- In order for the development to respond to the creation of the Harborough Road Air Quality Management Area, an air quality impact assessment is carried out to assess the likely impact of the proposed development. This would enable the development to comply with PPS23 – Planning and Pollution Control.
- Conditions are attached to any approval requiring investigation into contaminants, likely noise levels including those emanating from construction and light levels. This would ensure that the proposal complies with PPS23 – Planning and Pollution Control and PPG24 – Planning and Noise.
- To ensure that financial contributions are required to cover the requirements of the 2009 Parks and Open Space Strategy for Northampton and the 2007 WNDK Planning Obligation Strategy and secured by a Section 106 Agreement.

The meeting concluded at 20.50 hours