



PLANNING COMMITTEE: 11th February 2014
DIRECTORATE: Regeneration, Enterprise and Planning
HEAD OF PLANNING: Susan Bridge

N/2008/1036: Demolition of existing buildings and erection of 23 flats with associated access and parking at land at Balmoral Road

WARD: Trinity

APPLICANT: Babington Properties Ltd

REFERRED BY: Head of Planning
REASON: Major development requiring a Section 106 Agreement

DEPARTURE: Yes

APPLICATION FOR DETERMINATION:

1. PURPOSE OF THE REPORT

- 1.1 This application was originally reported to the Council's Planning Committee in December 2008 and approved in principle subject to a Section 106 Agreement being completed to secure 35% of the development for use as affordable housing and a financial payment towards education provision. Whilst a significant period of time has elapsed since this committee resolution, the Section 106 Agreement has not been completed and therefore planning permission has not been granted. Officers have considered whether the application could be 'finally disposed of'; however, this course of action would not be appropriate as the landowner has made a number of endeavours in attempting to complete the agreement; however, this has not been possible for reasons outside of the control of the landowner.
- 1.2 The preparation of the Section 106 Agreement is now nearing completion. Due to the passage of time since the original committee resolution it is necessary to reconsider the application in order to ascertain whether there have been any pertinent changes in material considerations.

2. RECOMMENDATION

2.1 APPROVAL IN PRINCIPLE subject to conditions and the matters in paragraphs 2.2 and 2.3 for the following reason:

The proposed development would have a neutral impact upon neighbour and visual amenity; highway safety; and the functioning of Northampton's commercial areas. The proposal is therefore in compliance with the requirements of the National Planning Policy Framework and Local Plan Policies B14, E19, E20 and H7.

2.2 The prior completion of a Section 106 Legal Agreement to secure:

- i) The provision of 35% affordable housing on site; and
- ii) A financial payment towards education provision.

2.3 It is also recommended that in the event of the Section 106 Legal Agreement not being completed within three calendar months of this Committee meeting, in addition to being able to grant planning permission as recommended above, the Head of Planning be given delegated authority to either refuse or finally dispose of the application (at their discretion) on account of the necessary mitigation measures having not been secured in order to make the proposal acceptable in line with the requirements of Northampton Local Plan Policy E19 and the National Planning Policy Framework.

3. THE PROPOSAL

3.1 The application seeks planning permission to erect 23 flats consisting of two apartment blocks. The block to the north of the site would have a frontage onto Balmoral Road and contains 10 two-bedroom apartments and 3 one bedroom apartments. The block to the south adjacent to the existing depot contains 10 two-bedroom apartments. The proposal includes the provision of 23 car parking spaces, including the provision of three spaces for disabled residents. Vehicular access to the development would be provided from Balmoral Road.

4. SITE DESCRIPTION

4.1 The application site is located to the south of Balmoral Road, which in the main comprises residential accommodation (typically terraced houses), with some commercial properties within the western section of this road. Kingsthorpe Road runs to the west of the site, which serves as one of the main routes into the town centre. Properties that face onto this road are generally in use for business purposes. The application site contains a building that has most recently been used as a drinking establishment (although it has been vacant since May 2009).

Historically, the site has been used for various industrial processes and is allocated within the Local Plan as being an employment site.

5. PLANNING HISTORY

- 5.1 N/2004/1112 – Erection of 20 flats – Approved
- N/2007/1045 – Erection of 36 flats and associated parking, cycle and bin stores – Allowed on Appeal
- N/2008/0261 – Demolition of existing buildings and erection of 22 flats with associated access and parking – Withdrawn

6. PLANNING POLICY

6.1 Development Plan

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires a planning application to be determined in accordance with the Development Plan unless material planning considerations indicate otherwise.

6.2 National Policies

Paragraph 17 of the National Planning Policy Framework (NPPF) seeks to ensure that new developments are of a good standard design and amenity. Paragraphs 21 and 22 state that a flexible approach should be taken in assessing whether sites allocated for employment uses should be retained. Paragraph 50 requires that a variety of housing types is provided.

6.3 Northampton Local Plan

B14 – Non business uses
E19 – Implementing development
E20 – New development
H7 – Residential development

6.4 Supplementary Planning Guidance

Parking
Planning out Crime

7. CONSULTATIONS/ REPRESENTATIONS

- 7.1 **Anglian Water** – In order to provide water and waste water infrastructure, a request needs to be made to Anglian Water under the terms of the Water Industry Act.
- 7.2 **Central Networks** – No objections.
- 7.3 **Development Management (NCC)** – A financial payment is requested in order to fund education provision within the vicinity.

- 7.4 **Environmental Health (NBC)** – The current layout addresses matters pertaining to air quality. The contamination report recommends further investigation, which should be carried out. A condition is recommend regarding the provision of refuse storage
- 7.5 **Highway Authority** – No objections
- 7.6 **Housing Strategy (NBC)** – 35% of the development should be secured for the provision of affordable housing. 10% of the dwellings should meet NBC’s Mobility Standards
- 7.7 **1-5 Balmoral Road** – The design fits in with the apartments that already have Planning Permission. The problems associated with the United Trades Club are becoming worse and the redevelopment of this site will be positive for local residents.
- 7.8 **Sally Keeble** – There is concern regarding the increasing housing density and the impact on traffic congestion. There has been an increase in the number of flats that have raised concerns with regards to lack of parking and traffic congestion. *(NB. Ms Keeble was the MP for the Northampton North constituency at the time the application was submitted).*
- 7.9 The above consultation responses were received in advance of the application being reported to Committee in December 2008. By reason of the unchanged material considerations, as detailed below, it has not been necessary to repeat this process.

8. APPRAISAL

Principle of the development

- 8.1 It is accepted that the site is allocated for business use within the Local Plan; however, as the time of the first assessment of this application, it was determined that the development would not be contrary to the requirements of Local Plan Policy B14 (which seeks to retain land with employment allocations) due to the wider benefits that would emanate from the site’s redevelopment. It is considered that this conclusion remains reasonable.
- 8.2 Planning Policy Guidance 4 (Industrial, commercial development and small firms) and Planning Policy Statement 3 (Housing), which were material in December 2008 have since been superseded by the National Planning Policy Framework (NPPF). However, the NPPF promotes a flexible approach to such allocations in order for the planning system to better respond to changes in economic circumstances. As a consequence of this, the principle of redeveloping this site for residential purposes is in conformity with national and local planning policies. The proposed development would also contribute to meeting the identified housing need in Northampton.

- 8.3 As discussed within paragraph 3.1 of this report, the site has previously been used for industrial purposes. The application was accompanied by a contamination assessment, which made a number of recommendations for the remediation of the site in order for this to make the site suitable for residential accommodation. By reason of the passage of time that has elapsed since 2008, this report can no longer be relied upon. However, the landowner has secured an update to this report that confirms that there have been no changes in circumstances that would challenge the original conclusions.

Design and appearance

- 8.4 The design of the building is unchanged from that assessed in 2008. Whilst it is accepted that the design policies within PPS1 – Delivering Sustainable Development have been replaced by the NPPF, it is considered that due to the general conformity between the two documents in respect of design, combined with the fact that the relevant design policies within the Local Plan are still material, the proposed scale and design of the development is acceptable.
- 8.5 No major developments have taken place within the immediate surroundings of the application site since 2008. As a consequence of this, the development would still harmonise with its surroundings and provide a suitable feature adjacent to Kingsthorpe Road. Similarly, this situation ensures that there would be no undue detrimental impact upon the occupiers of neighbouring properties in terms of considerations such as light, outlook and privacy as required by Local Plan Policy E20. A condition is recommended that would ensure that the Council approves the building materials in order to ensure a positive impact upon visual amenity.
- 8.6 The design and layout of the proposal is such that there is a satisfactory separation distance between the two sets of apartment blocks to ensure an adequate amount of privacy for the future residents of the development. These separation distances together with the orientation of the blocks also ensures that there would be no significant impact on the amenities of the occupiers of surrounding properties in terms of levels of light and outlook of the existing residents.

Highway considerations

- 8.7 The development includes the provision of 23 car parking spaces. This provision is unchanged from 2008 and is sufficient to meet the likely needs arising from the development. A condition is recommended that would ensure that the parking and access road is provided prior to the first use of the development in order to ensure a satisfactory standard of development is provided. By reason of the relatively unchanged local context and the scale of the development, it is likely that the highway impacts of the development would be any greater than that assessed in 2008.

8.8 The 2008 resolution required a Section 106 Agreement to secure affordable housing and education provision. Circular 05/05 (which was relevant in 2008) has now been replaced by the Community Infrastructure Levy Regulations, which specify three key legal tests in ascertaining whether a particular obligation can be requested. These specify that obligations should be:

- i) Necessary to make the development acceptable in planning terms;
- ii) Directly related to the development; and
- iii) Fairly and reasonably related in scale and kind to the development.

8.9 With reference to these tests, the securing of 35% of the development for affordable housing and a payment towards the provision of education remains appropriate and any approval of this application should be subject to the completion of the a legal agreement to secure these elements.

9. CONCLUSION

9.1 In conclusion, it is considered that despite a number of planning policy changes at a national level, the principle of the proposed development remains acceptable. Furthermore, the context of the site and relevant materials considerations are unchanged from 2008 and therefore it is likely that the impacts of the development would be no greater than that previously deemed acceptable.

10. CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

2. The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan; 1709/20c; 1709/21c; 1709/22b; 1709/24a; 1709/25d;1709/26d; and 1709/27b.

Reason: For the avoidance of doubt and to accord with the terms of the planning application.

3. Details and/or samples of all proposed external facing materials shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: In the interests of visual amenity and to ensure that the development harmonises with Policy E20 of the Northampton Local Plan.

4. A minimum of 10% of the total number of dwellings shall be constructed to the Local Planning Authority's mobility standards in accordance with further details to be submitted to and approved in writing by the Local Planning Authority and implemented concurrently with the development and thereafter retained.

Reason: To ensure the provision and retention of dwellings suitable for use by people with disabilities in accordance with Policy H17 of the Northampton Local Plan.

5. Prior to the commencement of the development hereby permitted, an investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

(i) A survey of the extent, scale and nature of contamination;

(ii) An assessment of the potential risks to:

- Human health,
- Property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- Adjoining land,
- Ground waters and surface waters,
- Ecological systems,
- Archaeological sites and ancient monuments;

(iii) An appraisal of remedial options, and proposal of the preferred option (s).

Reason: To ensure the effective investigation and remediation of contaminated land sites and in the interests of health and safety and the quality of the environment in accordance with the requirements of the National Planning Policy Framework.

6. Prior to the commencement of the development hereby permitted, a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings, and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local

Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: To ensure the effective investigation and remediation of contaminated land sites and in the interests of health and safety and the quality of the environment in accordance with the requirements of the National Planning Policy Framework.

7. The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure the effective investigation and remediation of contaminated land sites and in the interests of health and safety and the quality of the environment in accordance with the requirements of the National Planning Policy Framework.

8. Prior to the commencement of the development, the applicant shall assess the Noise Exposure Categories of the site due to its exposure from transportation noise. This must take into account, where appropriate, roads or railways that may not be immediately adjacent to the site and the likely growth in traffic over the next 15 years.

The applicant shall also submit to the Local Planning Authority for it to agree in writing a scheme to protect the site where its noise exposure exceeds NEC A. The scheme shall include a site plan showing the position, type and height of the noise protection measures together with the resultant NEC(s) for the site.

Where façades or floors do not fall into NEC A, a noise insulation scheme, which will require the provision of mechanical ventilation, be submitted to and agreed in writing by the Local Planning Authority and implemented prior to the dwellings hereby permitted being first occupied and retained thereafter.

Reason: To protect the amenities of future occupiers of the development in accordance with the requirements of the National Planning Policy Framework.

9. Details of the provision for the storage of refuse and materials for recycling shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development, implemented prior to the occupation or bringing into use of the building(s) and thereafter maintained.

Reason: In the interests of amenity and to secure a satisfactory standard of development in accordance with Policy E20 of the Northampton Local Plan.

10. The car parking and access road as shown on drawing 1709/21c and the site location plan shall be fully implemented prior to the first occupation of the development hereby permitted.

Reason: In the interests of securing a satisfactory standard of development in accordance with the requirements of the National Planning Policy Framework.

11. BACKGROUND PAPERS

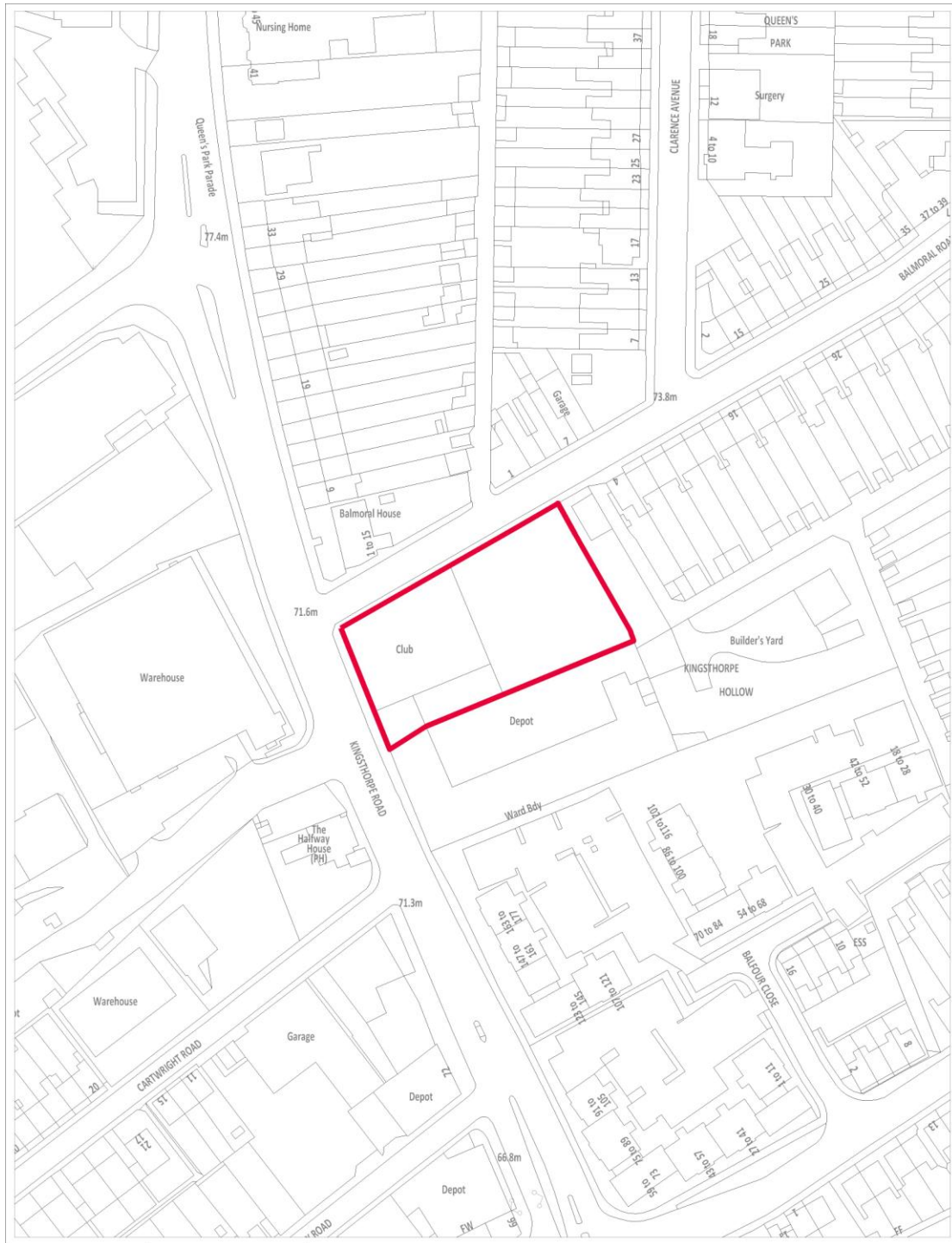
- 11.1 N/2008/1036

12. LEGAL IMPLICATIONS

- 12.1 None

13. SUMMARY AND LINKS TO CORPORATE PLAN

- 13.1 In reaching the attached recommendations regard has been given to securing the objectives, visions and priorities outlined in the Corporate Plan together with those of associated Frameworks and Strategies



Name: Planning
 Date: 27th January 2014
 Scale: 1:1250
 Dept: Planning
 Project: Committee

Title

Balmoral House, Balmoral Road

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