



NORTHAMPTON
BOROUGH COUNCIL
Planning Committee

PLANNING COMMITTEE: 28th July 2015
DIRECTORATE: Regeneration, Enterprise and Planning
DIRECTOR: Steven Boyes
REPORT TITLE: Amendments to the Reasons for Refusal

N/2013/1035: Outline Application for the Northampton South Sustainable Urban Extension to comprise up to 1000 dwellings, a mixed use local centre, a site for a primary school, green infrastructure including formal and informal open space, reconfiguration and extension of Collingtree Park Golf Course, demolition of all existing buildings and structures within the site, new vehicular accesses off Windingbrook Lane and Rowtree Road, car parking, sustainable drainage systems (including flood risk betterment) and infrastructure (including highway improvements) all matters reserved except access at land south of Rowtree Road and West of Windingbrook Lane

and

N/2013/1063: Full Application for 378 dwellings served by a new access from Windingbrook Lane, and the re-configuration of part of the Collingtree Park Golf Course including a new temporary hole 17 and the demolition of all existing buildings and structures within the site, green infrastructure including formal and informal open space, car parking, sustainable drainage systems (including flood risk betterment) and infrastructure (including highway improvements) at land south of Rowtree Road and West of Windingbrook Lane

1. RECOMMENDATION

1.1 That Members **agree** to the amendments to the reasons for refusal for both applications N/2013/1035 and N/2013/1063 as follows:

(1) The highway mitigation measures proposed fail to demonstrate that this major development would not have a residual cumulative impact on the A45 trunk road and associated junctions including local highway network such that the cumulative

impacts of the development would be severe. These adverse highway impacts would lead to a detrimental impact on the wider Northampton highway network thereby adversely affecting the prospects for economic growth and regeneration in Northampton. The proposed development would therefore be contrary to the policies of the National Planning Policy Framework and Policies C2, INF1, INF2, N1 and N5 of the West Northamptonshire Joint Core Strategy.

(2) The proposed development would introduce unacceptable impact on residential and general amenity due to the increase in traffic on the local highway network contrary to the policies of the National Planning Policy Framework and Policies S10 and BN9 of the West Northamptonshire Joint Core Strategy.

(3) The proposed development site is located within close proximity of the M1 motorway. The noise mitigation measures proposed fail to demonstrate that a satisfactory residential environment could be created for the future residents of the proposed development detrimental to residential amenity and contrary to the policies of the National Planning Policy Framework and Policies S10 and BN9 of the West Northamptonshire Joint Core Strategy.

(4) Due to the proximity of Village 1 and the historic settlement of Collingtree Village, the proposed development would fail to preserve the setting of Collingtree Village Conservation Area and the Grade II* listed St Columba's Church, contrary to the policies of the National Planning Policy Framework and Policy BN5 of the West Northamptonshire Joint Core Strategy.

2. PURPOSE OF REPORT

- 2.1 This report seeks Planning Committee's agreement to amend the refusal reasons following the Committee resolution to refuse the application proposals on 28th January 2015.
- 2.2 The applications are currently the subject of appeals to be dealt with by Public Inquiry scheduled to commence on 1st of December 2015. Queen's Counsel acting on behalf of the Council has advised that the amendments to the refusal reasons should be considered by Planning Committee.

3. BACKGROUND

- 3.1 The outline planning application N/2013/1035 (for development of up to 1,000 dwellings) and the full planning application N/2013/1063 (the development of 378 dwellings) on land to the south of Rowtree Road and west of Windingbrook Lane, Collingtree were considered by the Planning Committee on 28th January 2015. The Committee resolved to refuse planning permissions for the following reasons:

(1) The proposed development is contrary to the resolution of Northampton Borough Council on 19th January 2015 to confirm an objection to the identification of the site for the development of 1,000 dwellings in Policy N5 (Northampton South SUE) of the West Northamptonshire Joint Core Strategy.

(2) The highway mitigation measures proposed fail to demonstrate that this major development would not have a residual cumulative impact on the A45 trunk road and associated junctions including local highway network such that the cumulative impacts of the development would be severe. These adverse highway impacts would lead to a detrimental impact on the wider Northampton highway network thereby adversely affecting the prospects for economic growth and regeneration in

Northampton. The proposed development would therefore be contrary to the objectives of the National Planning Policy Framework and Policy C2 of the West Northamptonshire Joint Core Strategy.

(3) The proposed development would introduce unacceptable impact on residential and general amenity due to the increase in traffic on the local highway network contrary to the objectives of the National Planning Policy Framework and Policy S10 of the West Northamptonshire Joint Core Strategy.

(4) The proposed development site is located within close proximity of the M1 motorway. The noise and air quality mitigation measures proposed fail to demonstrate that a satisfactory residential environment could be created for the future residents of the proposed development detrimental to residential amenity contrary to the objectives of the National Planning Policy Framework and Policies S10 and BN9 of the West Northamptonshire Joint Core Strategy.

(5) Due to the proximity of Village 1 and the historic settlement of Collingtree Village, the proposed development would fail to safeguard the setting of Collingtree Village and Collingtree Village Conservation Area, contrary to the objectives of the National Planning Policy Framework and Policy BN5 of the West Northamptonshire Joint Core Strategy.

4. Current Situation

- 4.1 Appeals were lodged on 22nd of May 2015 in relation to the refusals of the planning applications. The appellant Bovis Homes Ltd have asked that the appeals are to be considered by way of a public inquiry, scheduled to commence on 1st of December 2015.
- 4.2 The Council needs to adhere to a very strict time table set by the Planning Inspectorate in terms of submitting relevant documentations prior to the public inquiry. The Council needs to submit its Statement of Case to the Planning Inspectorate by 7th of August 2015.
- 4.3 The Council has engaged a leading barrister and a team of independent consultants to defend the Council's decisions to refuse planning permission and to act as expert witnesses at the forthcoming public inquiry.
- 4.4 Following a recent conference with the appeal team, and in line with NPPG advice to review cases early in the appeal process, Officers have been strongly advised that out of the 5 original reasons for refusal, reason 1 would need to be removed and reasons 2, 3, 4 and 5 would need to be amended in order to avoid the Council defending reasons for refusal which cannot be substantiated with sound evidence. Removing and amending the reasons as proposed will avoid both the Council and the appellant incurring unnecessary costs through the appeal process.

5. Government Guidance of Appeal Process

- 5.1 The National Planning Practice Guidance (NPPG) published by the Government advises that all those involved in the appeal process to behave in a reasonable way and follow good practice, both in terms of timeliness and in the presentation of full and detailed evidence to support their case. It also encourages Local Planning Authorities to properly exercise their development management responsibilities, to rely only on reasons for refusal which stand up to scrutiny on the planning merits of the case, not to add to development costs through avoidable delay.

- 5.2 The NPPG guidance is that Local Planning Authorities are at risk of costs awarded against them for failure to produce evidence to substantiate each reason for refusal on appeal and for not reviewing their case promptly following the lodging of an appeal against refusal of planning permission, as part of sensible on-going case management.

6. Amendments to Reasons for Refusal

Reason 1

- 6.1 The West Northamptonshire Joint Core Strategy (JCS) was adopted by the West Northamptonshire Joint Strategic Planning Committee in December 2014. Following adoption the JCS forms part of the development plan. In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. No legal challenge was made by Northampton Borough Council, South Northamptonshire Council and Daventry District Council to the adoption of the JCS.
- 6.2 Although the resolution of the Full Council on 19th of January 2015 to object to Policy N5 of the JCS was a material consideration in the determination of this application, and the weight to be given to material considerations is ultimately a matter for the decision maker, the advice from the Queen's Counsel was that very limited weight could be afforded as the JCS has been very recently adopted and forms part of the development plan. On the basis of the clear advice given Officers consider that it would not be reasonable to pursue Reason 1 given the weight that can be afforded to the resolution in comparison with Policy N5 of the JCS. To pursue Reason 1 would put significant risk of costs being awarded against the Council.

Reason 2

- 6.3 The reason remains substantially the same but with minor adjustment to wording and with the addition of relevant Development Plan policies.

Reason 3

- 6.4 The reason remains substantially the same but with minor adjustment to wording and with the addition of relevant Development Plan policy.

Reason 4

- 6.5 Independent advice from a specialist air quality consultant has been sought, which concludes that based on their assessment and the information submitted by the applicant as part of the Environmental Statement, there is no evidence to substantiate the refusal of the applications on the grounds of air quality. The consultant has confirmed that:

- 1) The air quality assessment which accompanied the planning application was robust and used current best practice guidance and assessment tools;
- 2) The review undertaken by the Environmental Health Officer was thorough and considered all of the relevant points made in the application and in the subsequent correspondence;

3) Levels of pollutants in the area are generally showing some reduction over the longer term and continuing improvements in vehicle emission and Council measures to improve air quality are likely to ensure that this remains the case;

4) That the impacts are negligible once mitigation is in place (which should be detailed in a Construction Environmental Management Plan for dust and a 'mitigation statement' for air pollutants). The mitigation could be secured by the Council by the imposition of conditions on the planning permissions if the appeals were allowed by the Secretary of State.

It is proposed to amend the reason to remove reference to air quality mitigation measures.

6.6 The reason for refusal also refers to noise mitigation measures, and this element will remain substantially the same with minor adjustment to wording.

Reason 5

6.7 The reason remains substantially the same but with minor adjustment to wording to make reference to the Grade II* listed St Columba's Church which is an important component of the Collingtree Village Conservation Area.

6.8 In addition, the reference to the setting of Collingtree Village was a drafting error and is recommended to be removed.

7. Main Options

7.1 The Council defends the appeals in so far as Reasons for Refusal 2 (minor adjustment to wording and additional development plan policies), 3 (minor adjustment to wording and additional development plan policy), 4 (removal reference to air quality) and 5 (with reference to the Grade II* listed church and deletion of reference to Collingtree Village).

8. Other Options Considered

8.1 Proceed with the appeals on the basis of defending all 5 reasons for refusal. This would put the Council at risk of an award of costs against it on the grounds of unreasonable behaviour by pursuing objections that it is unable to provide evidence to support or provide a reasonable basis to justify. The Council will also incur its own additional costs in supporting these reasons. This option is therefore not considered appropriate.

9. CONCLUSION

9.1 Members' agreement on the suggested amendments to the refusal reasons will provide clarity and best enable Officers and the appeal team to defend the Council's decisions at the public inquiry.

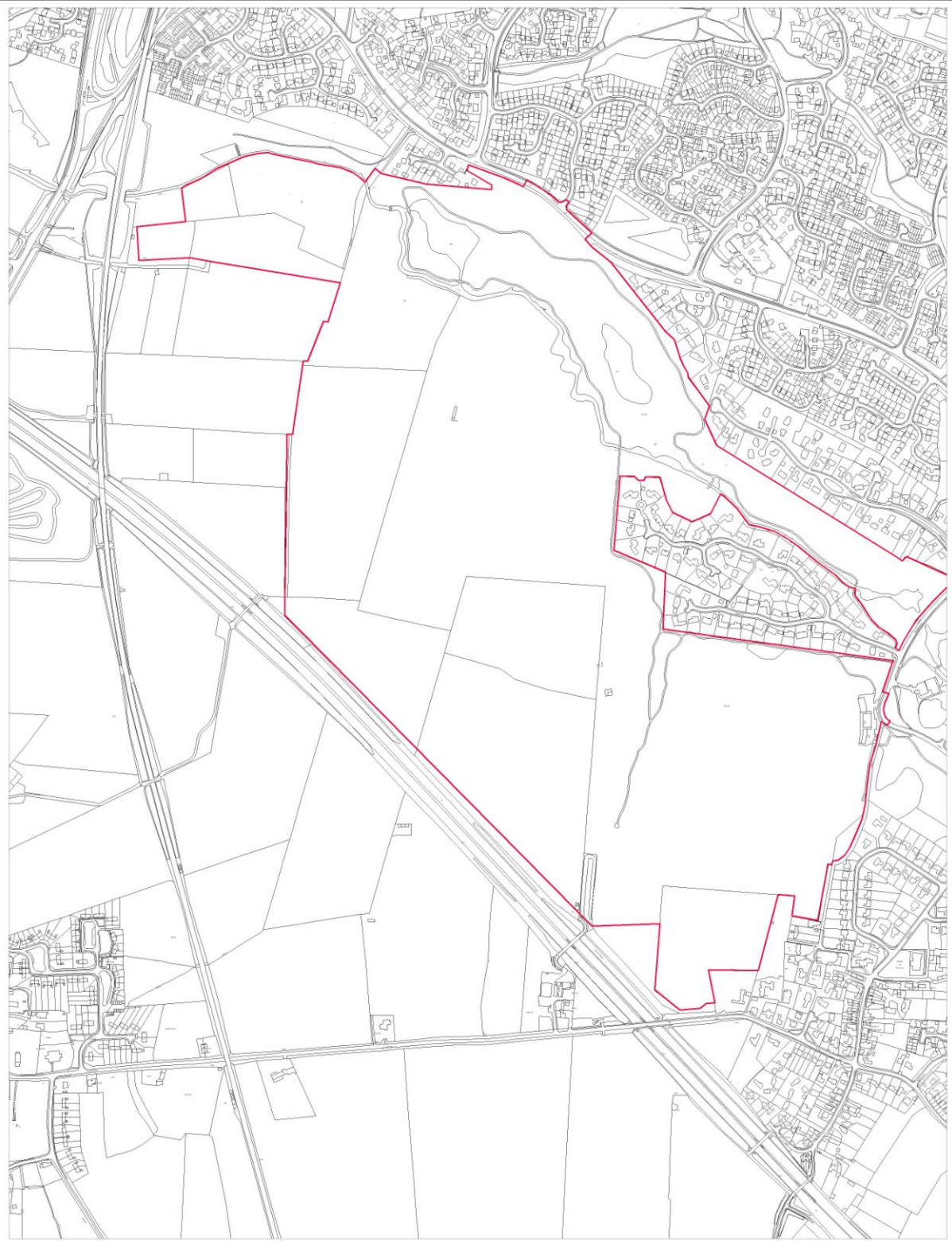
10. LEGAL IMPLICATIONS

10.1 As set out in the report.

11. SUMMARY AND LINKS TO CORPORATE PLAN

11.1 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: **Site Location Plan**
Date: **13th July 2015**
Scale: **1:8000**
Dept: **Planning**
Project: **Planning Committee**

Title

Land south of Rowtree Rd & West of Windingbrook Lane

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