

APPLICATION NO: 17/01266/FUL	OFFICER: Miss Michelle Payne
DATE REGISTERED: 4th July 2017	DATE OF EXPIRY: 3rd October 2017
WARD: Pittville	PARISH: n/a
APPLICANT:	Mrs Catherine Sheppard – Newland Homes Ltd
AGENT:	n/a
LOCATION:	102 Prestbury Road, Cheltenham, Gloucestershire
PROPOSAL:	Construction of 30 new dwellings with associated infrastructure and parking following the demolition of existing commercial buildings

REPORT UPDATE 2

1. ADDITIONAL CONSULTATION RESPONSE

GCC Local Flood Authority (LLFA) – further revised comments
 16th October 2017

No Objection subject to condition

I refer to the above planning application, which the Lead Local Flood Authority previously objected on 13th of October, 2017 with surface water detail provided in the Drainage Strategy. The surface water drainage information for the proposed site confirmed that the proposal meets the requirements of a major application for which the LLFA is a statutory consultee. The site is situated principally with in flood zone 1, and 2 as demonstrated by the Environment agency’s (EA) interactive web based mapping service.



Please note that the detail design is yet to be developed and FFL is also yet to be agreed with the Environment Agency. The LLFA have no objections to this application based upon the surface water management proposals for the site

however LLFA recommends following condition should apply to any planning approval and their responses should include the information indicated above.

Condition (Maintenance)

No development shall be put in to use/occupied until a SuDS management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime, has been submitted to and approved in writing by the LPA. Plan should fully detail the access that is required to reach surface water management component for maintenance purposes. It should also include a plan for safe and sustainable removal and disposal of waste periodically arising from drainage system, detailing the materials to be used and standard of work required including method statement. The approved SUDS maintenance plan shall be implemented in full in accordance with the agreed terms and conditions.

Reason: To ensure the continued operation and maintenance of drainage features serving the site and avoid flooding.

Foul Water

Please note that proposed foul water is a matter that will be dealt by local sewerage authority and is not therefore considered by Lead local flood authority in this response.

Guidance for SuDS

The LLFA does have standing advice, Flood Risk Assessment Guidance and SuDS Design and Maintenance Guidance document which can still be applicable in principle for this development. They can be accessed on the following website:

<http://www.gloucestershire.gov.uk/extra/sudsplanning>

NOTE 1: The Lead Local Flood Authority (LLFA) will give consideration to how the proposed sustainable drainage system can incorporate measures to help protect water quality, however pollution control is the responsibility of the Environment Agency.

NOTE 2: Future management of Sustainable Drainage Systems is a matter that will be dealt with by the Local Planning Authority and has not, therefore, been considered by the LLFA.

NOTE 3: Any revised documentation will only be considered by the LLFA when resubmitted through suds@gloucestershire.gov.uk e-mail address. Please quote the planning application number in the subject field.

Planning Policy Team

16th October 2017

The application site is an existing employment site, consisting of a vehicle recovery garage, a workshop and store for the repair and storage of vehicles with ancillary offices and a vacant shop fitter's storage unit. It also appears to be used for car washing.

In considering the application for the redevelopment of this employment site for residential development the following matters need to be considered:

- The saved policies of the Cheltenham Borough Local Plan Second Review (2006), which comprise the adopted development plan, and;
- Relevant material considerations which include:
 - National Planning Policy Framework (NPPF)
 - National Planning Practice Guidance (nPPG)
 - The emerging JCS and its evidence base;

Policy EM2: Safeguarding of employment land, Cheltenham Borough Local Plan

Policy EM 2 is a saved policy within the adopted local plan which seeks to safeguard employment land that is currently, or was last, in use for employment purposes.

The Council's evidence base shows that there remains a quantitative and qualitative shortage of viable employment land within the borough, and recommends that all existing employment land should continue to be used for that purpose unless there is clear evidence that the land in question is no longer suitable for that use. Because of these circumstances policy EM2 in the Development Plan is broadly consistent with the NPPF and identifies strong economic reasons why, normally, housing development should not replace employment development in the B classes.

Criterion b of EM2 requires the applicant to demonstrate the retention of the site for employment purposes has been fully explored without success. Note one provides further guidance and states evidence will be required to demonstrate demand; this may include details of past advertising, vacancy levels and rent levels. Importantly the note further states the list is not exhaustive and further information may be requested.

The applicant states that the site has been extensively marketed since January 2014 and a Marketing Report has been submitted as part of the pre-application process. The Marketing report states that KBW began marketing in January 2014 as warehouse/industrial units for sale or to let with potential for redevelopment to alternative uses. There was no interest in terms of leasehold enquiries but interest in the freehold from developers and potential owner occupiers looking to redevelop as well as an offer from Marchants.

There does not appear to be any detailed information submitted relating to the relocation requirements of the existing user and proposed new location. It would have been useful to have this information and to know whether the company is intending to remain within Cheltenham Borough or not.

Housing Land Supply

The NPPF states applications should continue to be determined in accordance with the development plan unless material considerations indicate otherwise.

Paragraph 49 of the NPPF states that housing applications should be considered in the context of the presumption in favour of sustainable development and that relevant policies for the supply of housing should not be considered up-to date if the local authority cannot demonstrate a five-year supply of deliverable housing sites.

The borough cannot currently demonstrate an ongoing 5-year housing land supply. Adopted Local Plan Policies relating to housing supply may therefore be considered

out of date. However, this will change once the JCS is adopted and the borough will then be able to demonstrate a 5-year land supply.

The NPPF states that where the development plan is absent, silent or relevant policies are out of date then the presumption in favour of sustainable development means that (unless material considerations indicate otherwise) permission should be granted unless; any adverse impacts of so doing would significantly and demonstrably outweigh the benefits when assessed against the NPPF policies as a whole or specific NPPF policies indicate development should be restricted.

Having regard to Cheltenham's housing supply and the principles established in paragraph 49 of the NPPF, relevant local plan policies for the supply of housing should be considered out of date. Although, paragraph 14 makes it clear that (unless material considerations indicate otherwise) where specific policies, including heritage assets, indicate that development should be restricted then the presumption in favour of granting permission does not apply.

It should be noted that policies which seek to protect employment uses are not considered to be relevant local plan policies for the supply of housing and therefore remain relevant, however the supply of housing as part of the application is a material consideration which would help to meet need.

Whilst the NPPF sets out the Government's commitment to securing economic growth (paragraph 19), it is also noted that the NPPF supports the alternative use of land where (paragraph 22) there is no reasonable prospect of a site being used for that purpose and that in that case "alternative uses should be treated on their merits".

The site is within the Principal Urban Area as defined in the Cheltenham Borough Adopted Local Plan, and despite directly neighbouring employment uses, is in a broadly residential area. If matters of design and occupant amenity (existing and future) and adjoining business activities and operational requirements can be adequately accommodated then the site could be acceptable for residential redevelopment. In 2008, the *Prestbury Road/Windsor Street Concept Statement*, was prepared covering the pre-application site and wider area with the aim to *create an area of mixed housing and employment use which integrates well with its surroundings and makes a positive contribution to sustainability and design quality*. Whilst parts of the site have already been developed it nevertheless remains an admirable aim for the area.

Both the local plan and the NPPF and nPPG are clear that:

- One of the overarching roles of the planning system should be to always seek to secure high quality design and good standards of amenity for all existing and future occupants of land and builds ; and
- Permission should be refused for development of poor design that fails to take opportunities available for improving the character and quality of an area and the way it functions.

Therefore, whilst there may be a requirement for housing within the borough, there is also a requirement for employment land that needs to be considered alongside other material considerations.

Conclusion

The application benefits from a lengthy marketing campaign which has shown that there are no realistic opportunities for new users of the site within B1, B2 or B8 use-classes. However, the fact that the site remains in use at present demonstrates that it could be retained as a site for employment purposes. It could then be argued that the application does not meet criterion b of policy EM2. On the other hand, the site

is in a poor state of repair and within a mostly residential area. The results of the marketing campaign clearly indicate that the market has little desire to reuse the site for employment uses in the long term.

The site has been seen as a possible redevelopment area by the Borough since 2008 and was also considered in the recent Cheltenham Plan Preferred Options consultation. Given these points and the current lack of a 5 year housing land supply it is considered that, on balance, the application complies with Local Plan policy EM2.

2. OFFICER COMMENTS

2.1 Loss of employment land

2.1.1 An outline of the relevant policy considerations along with a discussion on the principle of the proposal has been provided by the Planning Policy Team above. It is not intended to repeat these comments but, in summary, it is concluded that the application, on balance, complies with local plan policy EM2. The site has been the subject of a lengthy marketing campaign which has demonstrated that there are no realistic opportunities for new users of the site within B1, B2 or B8 use classes.

2.1.2 Whilst it could be argued that, as part of the site remains in a B1 use offering car valeting services, the application does not meet criterion (b) of policy EM2, officers consider it important to recognise that the site is in a poor state of repair and is located within a mostly residential area. The results of the marketing campaign clearly indicate that the market has little desire to reuse the site for employment uses in the long term.

2.1.3 It is acknowledged that an offer on the site was received from Marchants Coaches for an extension to the adjacent coach depot but the amount offered was substantially below the conditional offers received and was therefore not considered to be a viable offer. Additionally, a coach depot is *sui generis*, and therefore falls outside use classes B1-B8. Moreover, such a use is unlikely to generate additional employment, and has the potential to increase pollution levels within the area. The Marketing Report sets out that Marchants are now understood to have secured additional parking for coaches in an alternative industrial location.

2.1.4 The site has also been seen as a possible redevelopment area by the Borough since 2008 and was also considered in the recent Cheltenham Plan Preferred Options consultation. Given these points and the current lack of a 5 year housing land supply it is considered that, on balance, the application complies with policy EM2.

2.2 Drainage and flooding

2.2.1 Local plan policy UI1 (development in flood zones) seeks to prevent residential development where it would adversely affect flood flows or flood storage capacities; and would not provide adequate protection against flooding. Policy UI2 (development and flooding) states that development will only be permitted where, in the case of redevelopment, it would reduce surface water run-off, and not adversely affect a watercourse or its flood defences.

2.2.2. In addition, policy UI3 (sustainable drainage systems) requires the incorporation of a SuDS scheme in all new developments, and policy UI4 (maintenance strips for watercourses) requires an 8m wide maintenance strip along both banks of main rivers.

2.2.3 As set out in the main report, the majority of the site lies within Flood Zone 1 but the southern portion of the site is within Flood Zone 2, and a very small portion

within Flood Zone 3. Additionally, the site lies adjacent to the Wymans Brook on the southern boundary, which is designated a 'main river'.

2.2.4 The Environment Agency (EA) has reviewed the application, including the Flood Risk Assessment (FRA), and raises no objections, in principle; they acknowledge that the proposed development will change the use classification on the site from 'less vulnerable' to 'more vulnerable', but that only a small part of the site is located in Flood Zone 2. Also, notwithstanding the LLFA response above, the EA considers the proposed finished floor levels, which shall be set at least 600mm above the 1% flood level including an allowance for climate change, to be appropriate to ensure the safety of future residents even if a blockage were to occur on the adjacent culvert entrance.

2.2.5 In order to provide sufficient unobstructed easement between the existing culvert and any new buildings, and the ability to enable future de-culverting on the adjacent site to incorporate an open channel during the lifetime of the development, a condition is suggested that removes permitted development rights from the development.

2.2.6 Notwithstanding the above, the EA does identify that *“access to and from the site will be affected by flooding from both the Wymans Brook and the local surface water/highway drainage system surcharging, as was the case in the flood event of July 2007”* but given their role and responsibilities, they have not provided comment on the safety of the access or objected on this basis.

2.2.7 In a 1 in 100 chance each year flood event, future occupants would have to walk through flood waters up to 0.15 to 0.30 metres in depth for a distance of approximately 50 metres to reach land above the 58.50m AOD level, the 'design flood' level, and this could create a possible danger for some over the lifetime of the development; however, it is important to recognise the likelihood of such a flood event occurring, and that only a part of the access would be affected. Indeed, the application proposes a footway alongside the site access road which is, for the most part, raised above flood level.

2.2.8 In this location, future occupiers would be able to sign up for Flood Alert messages which give an early alert of possible flooding. As previously stated, the EA considered the finished floor levels of the properties themselves to be appropriate, and this can be adequately controlled by condition.

2.2.9 Further to the above, in their latest response, the LLFA have lifted their objection to the proposed development based upon the surface water management proposals for the site subject to a condition requiring a SuDS management and maintenance plan for the lifetime of the development to be submitted and agreed. The plan would also need plan for the safe and sustainable removal and disposal of waste periodically arising from drainage.

2.3 Conclusion and recommendation

2.3.1 In conclusion, officers consider that when assessed against relevant local plan policy and the provisions of the NPPF, the proposed development is acceptable.

2.3.2 Officers are pleased with the revisions that have been secured during the application process and are firmly of the view that the design and layout now represents an effective and efficient use of land that will create a good residential environment. Furthermore, the proposal will not compromise neighbouring amenity to an unacceptable level.

2.3.3 The site has been the subject of a lengthy marketing campaign which has demonstrated that there are no realistic opportunities for new users of the site within B1, B2 or B8 use classes, and it is concluded that the application, on balance,

complies with local plan policy EM2. The site has been seen as a possible redevelopment area by the Borough since 2008 and was also considered in the recent Cheltenham Plan Preferred Options consultation. Given these points and the current lack of a 5 year housing land supply it is considered that, on balance, the application complies with policy EM2.

2.3.4 Matters relating to flooding and drainage, and highway safety have been suitably addressed.

2.3.5 The recommendation therefore is to grant planning permission subject to a completed S106 legal agreement, and a schedule of conditions which will follow in an update.