

APPLICATION NO.	P12/V1240/FUL
APPLICATION TYPE	FULL
REGISTERED	12 June 2012
PARISH	GROVE
WARD MEMBER(S)	John Amys ; Sue Marchant ; Kate Precious
APPLICANT	Dandara Ltd, Johnshaven Developments Ltd & Maconie Property
SITE	Land at Stockham Farm Denchworth Road Wantage OX12 9BE
PROPOSAL	Residential development to provide 200 new homes across private and affordable tenures, with public open space and play space, the protection of the existing route of the Wilts and Berks Canal and the provision of land to allow for a realigned route, on-site car and cycle parking and improvements to site access and egress
AMENDMENTS	12 October 2012
GRID REFERENCE	439273/188877

1.0 INTRODUCTION

- 1.1 This application was considered by the planning committee on 7 November 2012 with a favourable recommendation subject to completion of a legal agreement and the imposition of conditions. The planning committee accepted the recommendation and steps to complete the legal agreement were set in motion. This matter is close to resolution so that a decision may be issued.
- 1.2 An issue has arisen concerning the wording of the time implementation condition. This condition, similar to others which have featured on applications for major housing proposals submitted to seek to address the current shortfall in the housing allocation the council has to address, requires implementation of the permission within 12 months of the date the application was considered by the planning committee.
- 1.3 This time scale has been criticised by the developer as being too restrictive to enable the eventually approved permission (once the section 106 agreement has been issued) to be implemented, once the requirement for applications for the discharge of conditions have to be considered and any amendments to those to be agreed. In addition the developer would also like to allow for a period of 3 months before commencement of works on site for any judicial review challenge.
- 1.4 The implementation period is normally tied to the issue of the planning permission, with a 3 year period the usual time period allowed for.
- 1.5 In considering applications submitted to address the housing allocation shortfall, a shorter period of 12 months was chosen to encourage the early commencement on site and to show that development to address the housing allocation shortfall was being practically and proactively addressed.
- 1.6 The shorter period included in the condition (i.e. 12 months) is not an issue, as this has been endorsed at appeal as being justified given the current situation regarding housing allocation figures.

- 1.7 The time trigger linked to the committee date was viewed as stressing the desirability of seeking a swift issue of permission and implementation on the ground.
- 1.8 The trigger for the consideration of the implementation period has been raised as concern. The linkage of this to the date of the planning committee meeting rather than following the completion of the legal agreement and issue of decision is criticised.
- 1.9 One decision has been issued with the condition wording linking the implementation to the planning committee date. That was an outline submission for development for 50 dwellings on land south of Faringdon Road, Southmoor. This proposal is now subject to the consideration of the reserved matters pursuant to the outline permission, which should be determined within the prescribed timescale. The developer for this admittedly smaller development proposal has not taken issue with the timescale imposed.

2.0 **PLANNING CONSIDERATIONS**

Legal position

- 2.1 The challenge has raised some legal concern which has been carefully considered. Within Section 91(1) of the Town and Country Planning Act 1990 it states that every planning permission shall be granted subject to the Condition that the development must be begun not later than the expiration of (a) three years beginning with the date on which the permission is granted or (b) such other period beginning with that date [i.e. the date of grant] as the Authority concerned with the terms of the planning permission may direct to avoid any protracted debate on the justification or otherwise of the approach taken.
- 2.2 The consideration of what constitutes the date on which the permission is granted, the date of grant is the key trigger point. The committee report recommendation for this (and other) applications sought delegated powers to enable the completion of the necessary legal agreement for the proposal on the basis that the decision to grant planning permission be delegated to the head of planning in consultation with the committee chairman. This recommendation places the onus on the date of grant to rest with others than the planning committee and therefore the consideration of the planning committee date as the trigger mechanism for the implementation time period condition is now not deemed appropriate.

Way forward

- 2.3 The intended condition would have given 12 months from 7 November 2012 to see the implementation of the scheme on the ground. This allowed for a period of 3 months to complete the legal agreement, which has been allowed to be expanded as the agreement nears completion following delays on education contribution negotiations and finalising leisure contribution calculations, and therefore would leave just under 9 months to see work commencing on site. In this 9 month period the applicant would have to submit and have discharged various planning conditions required before works started on site, and as indicated above, would enable a 3 month period to elapse for any judicial review challenge to the decision (a period that would follow the issue of the permission).
- 2.4 The option available to the planning committee would be to set a period of time through the condition to require the implementation of the scheme after the issue of the grant of permission. This could be set at 9 months to reflect the original intention as considered by the committee, or could be a different period, such as 12 months from the grant date. This latter option would enable time to enable the developer to carry out all the tasks required in order to enable works to start on the ground within a reasonable time

scale. It is this later option which is recommended by your officers.

- 2.5 The implication of this decision would require all other major housing applications that are awaiting decision and which have been considered on the basis of implementation triggered from the planning committee date to be readjusted to enable the period, all being 12 months, to run from the eventual date of the grant of permission, which would follow the completion of the legal agreement.
- 2.6 This alteration would not impact on the recommendation enabling the committee to set a period of time following the committee's consideration for the completion of a legal agreement to encourage a swift issue of planning permission so as to seek to address the housing allocation shortfall identified.

3.0 **CONCLUSION**

The conclusion is that it would be pragmatic to return to the normal wording of the implementation condition to be triggered on the issue of the planning permission by the council. Therefore the wording of the condition would return to the standard format, linking the implementation period to the issue of a decision.

4.0 **RECOMMENDATION**

It is recommended that the resolution as made is altered in respect of the implementation condition so that the decision to grant planning permission be delegated to head of planning in consultation with the committee chairman subject to:

- 1. The prior completion of a section 106 agreement as previously detailed**
- 2. Conditions, including the requirement to commence development within 12 months of the date of grant of permission to help address the immediate housing land shortfall**

And that a similar approach is taken on implementation conditions for resolutions issued by the planning committee for major housing application submitted to address the housing allocation shortfall where a 12 month period for implementation has been worded in terms of the date of the committee consideration rather than on the grant of permission.

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