

APPLICATION NO.	P13/V2301/O
APPLICATION TYPE	OUTLINE
REGISTERED	23.10.2013
PARISH	GREAT FARINGDON
WARD MEMBERS	Roger Cox Mohinder Kainth Alison Thomson
APPLICANT	Tetronics (International) Ltd
SITE	5B Lechlade Road, Faringdon, SN7 8AL
PROPOSAL	Erection of 14 dwellings with associated access
AMENDMENTS	None
GRID REFERENCE	428476/195522
OFFICER	Peter Brampton

SUMMARY

This application is referred to planning committee to consider issues of viability.

The proposal is for outline planning permission (all matters reserved apart from access and layout) for the erection of 14 houses on a brownfield site within the built up limits of Faringdon

The main issues are:

- The principle of the development
- Whether the scheme can be supported without any Section 106 contributions, due to viability concerns
- The impact of the proposal on the character of the area
- Whether the proposal will impact on highway safety
- Whether the proposal will impact on the setting of the adjacent listed building
- Whether the proposal will impact on neighbouring amenity

The application is recommended for approval, with no Section 106 contributions sought.

1.0 INTRODUCTION

- 1.1 The application site lies on the western edge of Faringdon town centre, totalling around 0.36 hectares in size. It has a “T” shape, with the northern “stem” previously being used as a builder’s yard. The wider part of the site held a gas works and a council depot. The site has lain vacant for some time.
- 1.2 In 2005, full planning permission was granted for the demolition of the then still-standing industrial facility and the erection of 24 dwellings in the form of 1 and 2 bed flats and maisonettes. The previous industrial use left the site contaminated and the site could not be sold in its current state. The applicants then decontaminated the site at their own expense, but the high-density nature of the approved scheme was subsequently found to be unpopular commercially. This consent has now lapsed.
- 1.3 Access to the site is from Canada Lane, which runs along the western boundary. There is a small frontage onto Lechlade Road, but intervening buildings, a change in land levels and the adjacent Grade II listed Duke of Wellington public house, make vehicular access onto Lechlade Road impractical.

1.4 To the south of the site lies a burial ground, with Faringdon Infant's school on the opposite side of Canada Lane.

1.5 A location plan is **attached** as Appendix 1.

2.0 PROPOSAL

2.1 The applicant now seeks outline planning permission for 14 dwellings, in the form of four 4-bed properties, eight 3-bed properties and 2 two-bed properties. Full consent is sought for access and layout, with appearance, scale and landscaping being reserved matters.

2.2 The layout takes vehicular access from Canada Lane as is existing. Ten of the houses are located in the wider southern part of the site, in the form of one detached house fronting onto Canada Lane, one terrace of six properties and one of three. Parking is generally located immediately in front of the houses or off the main access road. This road turns north to the narrowest part of the site, where one detached property and a terrace of three are located. Again, parking courts are used.

2.3 The layout includes a pedestrian access onto Lechlade Road, running alongside the terrace of three units on this northern section of the site.

2.4 Financial contributions towards off-site services have been requested by County Council and District Council consultees to mitigate the impact of the additional residents who will occupy the proposed development. These contributions can be summarised thus:

2.5 County Council requests

- Public transport - £14,000
- Primary school - £57,910
- Secondary school - £70,936
- Special Education Needs - £3,066
- Libraries - £3,485
- Museum - £205
- Waste Infrastructure - £2,624
- Health and Social Care - £3,300
- Adult Learning - £432

County Council total request = £155,958

2.6 District Council requests

- Sport and Recreation - £30,891
- Public Open Space maintenance - £14,348
- Waste Collection - £2,380
- Faringdon Town Council requests - £11,894

District Council total request = £56,659

2.7 Thus, the total Section 106 package requested from this development is **£212,617**. The applicants have contended these payments would render the scheme unviable. The council has, at the applicant's expense, contracted BNP Paribas to independently assess this application. The findings are discussed within the report.

2.8 Extracts from the applications plans are attached as **Appendix 2**. Documents submitted in support of the application, included the design and access statement and transport statement are available on the council's website.

3.0 **SUMMARY OF CONSULTATIONS & REPRESENTATIONS**

- 3.1 **Great Faringdon Town Council** - No objections
- 3.2 **Neighbour Representations** – One letter confirming no objection received. One letter from a neighbour raising concerns about additional on-street parking. One letter from the adjacent bowls club requesting a “substantial” boundary between the houses and their site.
- 3.3 **Oxfordshire County Council Highways Authority** – No objections subject to conditions relating to access, visibility splays and parking.
- 3.4 **Oxfordshire County Council Property Team** – Requests financial contributions to libraries, waste management, museum, health and social care and adult learning
- 3.5 **Oxfordshire County Council Education team** – Requests financial contribution to primary, secondary and special educational needs provision
- 3.6 **Oxfordshire County Council Archaeologist** – No objections
- 3.7 **Oxfordshire County Council Drainage** - No objections subject to conditions relating to drain capacity and SUDS
- 3.8 **Oxfordshire County Council Rights of Way Officer** – No objections
- 3.9 **Vale of White Horse Leisure Dept** – Financial contributions requested to local sports and recreational facilities
- 3.10 **Conservation Officer** – Raises concerns over the impact on the setting of the adjacent Duke of Wellington pub, which is Grade II listed, and the conservation area. Particularly concerned over the height, scale, massing and materials of the new dwellings. Also concerned about the manner that the northern dwellings turn their back on Lechlade Road. Concerns withdrawn following discussion with officers and consideration of planning history
- 3.11 **Landscape Officer** – No objections, but identifies that boundary treatments will require careful consideration
- 3.12 **Forestry Officer** – No objections, confirms a detailed application will need a full tree protection plan
- 3.13 **Urban Design Officer** – Concerns over the three northern dwellings turning their back onto Lechlade Road, the isolated three bedroom house centrally within the development, the lack of surveillance of the public footpath and the over-dominant parking layout
- 3.14 **Drainage Engineer** – No objections subject to conditions requiring foul and surface drainage strategy and SUDS scheme to be agreed prior to work commencing
- 3.15 **Thames Water** – No objections subject to condition requiring foul and surface water drainage strategy to be agreed prior to work commencing
- 3.16 **Environmental Protection – Contaminated Land** – No objections subject to standard contamination investigation pre-commencement condition
- 3.17 **Environmental Protection** – No objections

3.18 **Countryside Officer** – No objections subject to condition relating to reptile surveys

3.19 **Waste Management Officer** – General information on bin provision provided.

3.20 **Crime Prevention Design Adviser** – General comments on Secured By Design provided

4.0 **RELEVANT PLANNING HISTORY**

4.1 [P05/V1023](#) - Approved (13/10/2005)

Demolition of existing industrial facility. Erection of 1 x 1 bedroom flat, 7 x 2 bedroom maisonettes and 16 x 2 bedroom flats.

5.0 **POLICY & GUIDANCE**

5.1 **Vale of White Horse Local Plan 2011 policies;**

GS1 - Developments in Existing Settlements

DC1 - Design

DC3 - Design against crime

DC4 - Public Art

DC5 - Access

DC7 - Waste Collection and Recycling

DC8 - The Provision of Infrastructure and Services

DC9 - The Impact of Development on Neighbouring Uses

H10 - Development in the Five Main Settlements

H13 - Development Elsewhere

H16 - Size of Dwelling and Lifetime Homes

5.2 **Supplementary Planning Documents/Guidance (SPD/SPG)**

Residential Design Guide – December 2009

Open space, sport and recreation future provision – July 2008

Affordable Housing – July 2006

Flood Maps and Flood Risk – July 2006

Planning and Public Art – July 2006

5.3 **National Planning Policy Framework (NPPF)** – March 2012

Paragraphs 14 and 29 – presumption in favour of sustainable development

Paragraphs 34 & 37 – encourage minimised journey length to work, shopping, leisure and education

Paragraph 47 – five year housing supply requirement

Paragraph 50 – create sustainable inclusive and mixed communities

Paragraphs 57, 60 & 61 – promote local distinctiveness and integrate development into the natural, built and historic environment

Paragraph 99 – Flood risk assessment

Paragraph 109 – contribution to and enhancement of the natural environment

Paragraph 111 – encourage the effective use of land

Paragraph 209 – Flexible approach to obligations to bring development forward

5.4 **Planning Policy Guidance (PPG)** – March 2014

5.5 **Relevant appeal decision**

APP/N0410/A/13/2207771 – Kebbell Development Ltd against the decision of South Bucks District Council to refuse consent for the erection of 39 apartments

6.0 **PLANNING CONSIDERATIONS**

Principle of development

- 6.1 Policy H10 confirms that within the development boundary of Faringdon, new housing development will be permitted provided there is no loss of a community facility and the proposal makes efficient use of the land and the character of the area is protected. This site falls within that boundary and so the principle of development is accepted.

Visual impact – landscape, layout, design and appearance

- 6.2 The NPPF is explicit in seeking a high quality outcome for good design in terms of layout and building form, seeing as a key aspect of sustainable development. Paragraph 109 states, “*the planning system should contribute to and enhance the natural and local environment.*”
- 6.3 The applicants seek full consent for the layout of the scheme. In reality, the shape and nature of the site rather drives the layout, and the result is perhaps not ideal. However, it is considered the overall harm this layout causes to the character of the area does not warrant objection.
- 6.4 One of the concerns of the urban design officer has been the three dwellings at the northern part of the site, as these turn their back on Lechlade Road. It is a generally accepted principle of urban design to secure active frontages onto public roads and rights of way. This proposal fails to achieve this. However, this is primarily due to No. 1-3 Lechlade Road, which lies between this site and the road. To insist on this terrace facing north would create a rather close and oppressive relationship to the rear of this existing property, with a confused arrangement of front and rear elevations. Furthermore, this north facing relationship would leave rear gardens backing onto the main access road within the site, creating parking areas that suffer from a lack of natural surveillance.
- 6.5 On balance, to insist on an active frontage onto Lechlade Road would likely compromise the scheme in other areas. As such, it is considered that the current layout represents a better solution. With this arrangement, the westernmost property of the terrace will need to be arranged to ensure natural surveillance of the footpath that runs between the terrace and the Duke of Wellington pub. The planting and boundary treatments along the northern and western boundaries of the terrace will need careful consideration to mitigate the impact of the inactive frontage onto Lechlade Road. It is certainly the case that close-boarded fencing will not be acceptable along these boundaries. These details will be covered by the reserved matters application.
- 6.6 The rest of the site is more traditionally arranged, with one house providing an active frontage onto Canada Lane, and good natural surveillance of the communal parking areas from the two terraces of houses. The reserved matters application will need to introduce further planting into communal parking areas to soften what is currently quite a hard edged scheme. The southern boundary of the site will need careful treatment, as it backs onto a burial ground and will be visible across this neighbouring site from Canada Lane.
- 6.7 One regrettable aspect of the scheme is the isolated three bed house in the central, thinner, section of the site. It will be difficult to integrate this house into the scheme. However, the wider impact of this will be limited and overall; the layout of this scheme is acceptable.
- 6.8 As scale is a reserved matter, it is not clear from the application what heights the proposed dwellings will be. However, it is likely the majority will be two storeys. This would be acceptable in this location given the surrounding grain of development.

Appearance is also a reserved matter, but it is likely brick and tile dwellings under a traditionally pitched roof would be the most acceptable approach.

- 6.9 The density of the development is just under 40 dwellings to the hectare. This is slightly below what the council normally expects to see in an edge of town centre location such as this. However, to increase the number of dwellings on the site would lead to greater issues relating to car parking, landscaping, impact on neighbouring properties and the layout of the scheme. Furthermore, the density is in-keeping with the surroundings. Thus, it is not considered reasonable to require more units on the site, which would also trigger the requirements to provide affordable housing.

Impact on residential amenity

- 6.10 One of the restricting factors on the layout of this scheme is the surrounding neighbours. In particular, the rear gardens of Aspen Court to the west and 35 Gravel Walk to the east are constraints on where houses can be located. The proposed layout ensures there is no undue overlooking or overshadowing of any neighbouring property. The final layouts of the houses are a reserved matter, and side facing windows will need to be kept to a minimum to preserve an acceptable relationship with neighbours. In particular, the centrally located detached house backs onto the rear garden of 35 Gravel Walk. This house will need careful designing to ensure adequate amenity for both the neighbour and the new occupants.

Setting of listed Duke of Wellington PH

- 6.11 In consultation, the council's conservation officer raised initial concerns about the impact of this development on the setting of the Duke of Wellington public house. The proposed impact is not clear without details of the height and scale of the terrace immediately adjacent to it. However, it is important to remember the previous use of the site and the previous consent.
- 6.12 The site has been used for some reasonably heavy duty industrial activity in the past that would not have been particularly sympathetic to the setting of this pub, which faces north onto Lechlade Road. Furthermore, the 2005 permission for a much higher density scheme proposed housing that was larger in scale and located closer to the pub than is proposed now. Such a high density scheme would have been at odds with the grain of development in the area, which is of larger buildings in generous plots. The Duke of Wellington is an example of this grain.
- 6.13 Generally, the setting this scheme offers would be more positive than either the previous use or the consented scheme. Again, careful treatment of boundaries and planting will be necessary at reserved matters stage to secure an acceptable relationship with this historic building.

Highway Safety

- 6.14 The transport statement accompanying the application demonstrates that the overall level of traffic movement associated with this scheme would likely be lower than the previous employment use and the lapsed scheme for 24 units. The existing access point will be upgraded to ensure appropriate visibility in both directions and is safe for the proposed development.
- 6.15 The indicative layout provides turning for all vehicles. The applicant proposes a mix of 14 allocated and 14 unallocated spaces, which meets adopted parking standards in this sustainable location. The distribution and location of spaces will need careful consideration to prevent ad-hoc parking close to front doors.

- 6.16 Given the above, there are no concerns relating to highway safety. Local resident concerns about parking on Canada Lane are noted. This appears to be an existing problem given the primary school. However, as this site provides appropriate levels of off-street parking within its boundaries, there can be no concerns on this point.

Drainage and flooding issues

- 6.17 There do not appear to be any particular concerns about this site being liable to flooding. Nonetheless, a full surface water drainage strategy will be needed and a pre-commencement condition can secure this.
- 6.18 Of more concern is the foul drainage network, in particular the capacity of the local sewage treatment works. Thames Water recommends a detailed pre-commencement condition that requires the applicant to agree a foul water drainage strategy prior to work commencing on site. That strategy will need to be fully implemented prior to the first occupation of any dwelling on the site. It is noteworthy that Thames Water intends to upgrade the sewage treatment works in the period 2015-2020. There is a reasonable chance this work will happen alongside the development of this site to allow more certainty over the foul drainage strategy.

Viability

- 6.19 As outlined in Section 2, a total Section 106 payments package of over £210,000 has been requested from this development. The applicant has consistently maintained throughout the determination of the application that any such payment would make this scheme unviable. The council's consultant has assessed this stance in detail, and is in agreement, following negotiations with the applicant, that this scheme could not support any financial obligations to mitigate the impact on local infrastructure.
- 6.20 The main issues of debate have been the private residential values of the houses once they are ready for sale and the construction costs. The applicant has provided details of likely sale values below the initial assumption made by the council's consultant, in respect of the three bed houses. These lower values obviously affect the final revenue generated from the site.
- 6.21 The second area of difference has been the construction cost plan. Initially, the council's consultant believed that the applicant had overstated the cost of construction. Again, the applicant has provided more details to demonstrate why the assumptions made on construction cost were incorrect. The council's consultant has agreed the stated build costs.
- 6.22 Therefore, with the construction costs remaining as stated, but the sale value of the houses reduced, the council's consultant is now in agreement with the applicant that the scheme would run at a deficit slightly over £100,000 and so it cannot bear any Section 106 payments.
- 6.23 Paragraph 205 of the NPPF states, "*Where obligations are being sought...local planning authorities should take account of changes in market conditions over time and, wherever appropriate, be sufficiently flexible to prevent planned development being stalled.*" This paragraph is clear that obligations should not be sought to the point that the ability of the development to come forward is undermined. In this case, to insist on the requested Section 106 contributions would leave the developer unable to deliver fourteen units in a sustainable location.
- 6.24 The council's consultant recommends a Section 106 agreement is entered into to secure an open-book review mechanism. This would require the applicant to allow the scheme to undergo a fresh viability assessment if they delayed bringing the scheme

forward. The consultant believes that any increase in the residential values or a reduction in construction costs could render the scheme viable, to the point that it could bear some S106 contributions.

- 6.25 However the PPG is clear on this point, stating, *“Viability assessment in decision-taking should be based on current costs and values. Planning applications should be considered in today’s circumstances. However, where a scheme requires phased delivery over the medium and longer term, changes in the value of development and changes in costs of delivery may be considered.”*
- 6.26 A scheme of this size would not need phasing and so, against the above advice, it can only be judged against current circumstances. As outlined above, this scheme would not currently be viable. As such, this application should be allowed to proceed without any of the Section 106 payments requested of it.
- 6.27 The council has also discussed the potential for an overage clause within a Section 106 agreement with the applicant. This works slightly differently to a review mechanism in that a proportionate amount of monies are due if the value of the scheme increases by a pre-agreed amount. For example, the agreement could say that 10% of financial contributions could be due if the value of the scheme reaches 10% above the point where it becomes viable.
- 6.28 However, the applicant has refused to enter into such an agreement. They have provided the council with a recent appeal decision for 39 flats in Buckinghamshire. Here, South Buckinghamshire council suggested that in the event of any profit margin being achieved above 20% of gross development value, the council would seek to “claw back” additional revenues at a rate of 40%. The Inspector concluded, *“There is...nothing in national planning policy or guidance that supports this approach for a scheme of this size. Developers operate in a high-risk environment and an overage would introduce post implementation uncertainty. It is also likely to hamper the competitive return referred to in the Framework and the PPG. In this case, the developer has been attempting to bring development forward for over 10 years. The Government is seeking to boost significantly the supply of housing and such a clause would be likely to act as a serious disincentive to the implementation of the proposal.”*
- 6.29 It is noteworthy that this overage requirement featured in an SPD on affordable housing. This council does not have any such SPD at the current time, so would have less of a policy basis to require an overage clause in a Section 106 agreement. Of course, this appeal decision is only one Inspector’s view, and should not be used as a precedent for all decisions in the Vale. However, the Inspector is correct to say that there is nothing in national planning policy or guidance that supports the use of overage on relatively small scale schemes such as this.
- 6.30 On this basis, it remains the case that it is considered this particular application should be approved as it currently stands, with no Section 106 payments due.

Other issues

- 6.31 It is important to highlight that concerns over viability have impacted on the housing mix. There are only two smaller properties on the site, with the other 12 being three and four bed properties. Again, a flexible approach to the normal requirements is necessary to ensure the development is brought forward. To insist on more small units would reduce the overall final sales revenue and threaten the viability of the scheme yet further. It is important to highlight this lack of smaller units can only be justified in light of the detailed viability work undertaken by the council’s consultant and the applicant.

- 6.32 Given the previous use of the site, the council's contaminated land officer has requested an up to date contaminated land investigation. This can be secured via a pre-commencement condition.
- 6.33 The council's countryside officer has requested a reptile survey be completed prior to work commencing on site. Again, this can be secured by a pre-commencement condition.
- 6.34 The layout ensures rear access to all gardens, which ensures there will be adequate storage space for bins, as per the requirements of the council's waste collection contract.

7.0 CONCLUSION

- 7.1 This application proposes the redevelopment of a brownfield site for 14 houses. This is a sustainable location where residential development is supported by local and national policy. The application seeks full consent for the access and layout of the scheme, both of which are acceptable. Scale, appearance and landscaping are reserved matters. There are no material concerns relating to highway safety, drainage, land contamination, protected species, neighbouring amenity and bin storage
- 7.2 The applicants have demonstrated that the scheme would be rendered unviable by the requested Section 106 financial obligations. As such, the unusual step has been taken to recommend approval for this scheme without any financial contributions to mitigate its impact, or any review mechanism or overage clauses that could seek contributions post decision. This is in line with national policy that requires a flexible approach to ensure development is brought forward.
- 7.3 This proposal complies with local and national policy and should be approved.

8.0 RECOMMENDATION

Grant Outline Planning Permission subject to:

- 1 : Commencement period**
- 2 : Approved plans**
- 3 : Slab and ridge heights to be agreed**
- 4 : Surface and Foul water drainage strategy to be agreed**
- 5 : Sustainable Drainage Scheme to be agreed**
- 6 : Contamination to be agreed**
- 7 : Reptile survey to be agreed**
- 8 : Access, Parking & Turn as approved**
- 9 : Closure of Existing Access**
- 10 : No Drainage to Highway**

Author: Peter Brampton
Contact Number: 01491 823751
Email: peter.brampton@southandvale.gov.uk