

PLANNING COMMITTEE

10 JULY 2012

URGENT ITEM

REPORT OF THE ACTING HEAD OF PLANNING

A.3 PLANNING APPLICATION - 11/00244/FUL - LAND NORTH OF KIRBY ROAD, MARTELLO CARAVAN PARK, KIRBY ROAD, WALTON-ON-THE-NAZE, CO14 8QP
ERECTION OF CLASS A1 RETAIL SUPERMARKET AND PETROL FILLING STATION WITH ASSOCIATED ACCESS, CAR PARKING, SERVICING, LANDSCAPING AND PEDESTRIAN FOOTBRIDGE.

1. Executive summary

- 1.1 The Chairman has agreed that in view of the special circumstances involved this matter should be considered by the Committee as an urgent item. The Planning Committee considered the application at the 6th March 2012 meeting. The minute of the meeting, minute 123, specified a period of 4 months for the completion of a legal agreement under S106 of the Town and Country Planning Act 1990. The applicant has requested an extension of the period of up to 56 days. The main reason for the failure to complete is the complex land ownership situation on the site. Officers consider that in the circumstances the request is reasonable and are seeking further authority to complete the agreement. This is the first opportunity to bring the matter before Members following the request and to delay until the August committee would further prolong the process. Further to the Committee's decision on 6 March 2012, in the interests of transparency, it is important that the position is clarified as a matter of urgency.

2. Assessment

- 2.1 Members resolved to grant planning permission for this development on the 6th March 2012 subject to:
- Further enhancement of the external appearance of the proposed building to be agreed by the Temporary Head of Planning Services in consultation with the Chairman and Vice-Chairman, the Planning Portfolio Holder and the ward councillors;
 - The Secretary of State not exercising his call-in powers following consultation;
 - The prior completion of a legal agreement under S106 of the Town and country planning Act 1990 within four months;
 - Planning conditions
 - The Temporary Head of Planning being authorised to refuse planning permission in the event that such legal agreement has not been completed within the period of four months.
- 2.2 Proposals for the further enhancement of the external appearance of the proposed building have now been submitted and agreed in consultation with the relevant members. However, the S106 agreement has not yet been completed.
- 2.3. The main reason that the agreement has not been completed is stated to be because of the complicated land ownership position. The agreement needs to be signed by the applicant and other interested parties, which includes landowners, this Council and Essex County Council as Highway Authority. The final wording of the agreement has been finalised and signed by the applicant, but not by all the relevant landowners. Therefore, a maximum of a further 56 days has been requested to enable

outstanding issues to be resolved. Officers consider that this is a reasonable request in the circumstances and that members agree to the extension of time as a maximum period after which planning permission would be refused.

- 2.4. Consultation has not yet been undertaken with the Secretary of State, but this is not dependent upon the completion of the legal agreement. As the external enhancement has been agreed this will now be completed as quickly as possible.
- 2.5. Since the original resolution the Government has issued the National Planning Policy Framework that replaces the previous Planning Policy Statements (PPSs). The 'reason for approval' includes reference to PPS4, PPS5 and PPS25, which have now been superseded by the Framework. Members are, therefore, also asked to agree a revised 'reason for approval' that reflects this changed policy situation.

Recommendation:

1. That the Acting Head of Planning Services (or the equivalent authorised officer) be authorised to grant planning permission for the development subject to:
 - a) The Secretary of State not exercising his call-in powers under Section 77 of the Town and Country Planning Act 1990.
 - b) By the 4th September 2012 the completion of a legal agreement under the provisions of Section 106 of the Town and Country Planning Act 1990 dealing with the following matters (and any further terms and conditions as the Acting Head of Planning Services (or the equivalent authorised officer) in their discretion consider appropriate):-
 - Town Centre Management
 - Retention of Tesco Express Store, Walton-on-the-Naze until end of lease
 - Local Employment
 - Construction and Traffic Management Plan
 - Service Vehicles Transport Plan
 - Heavy Goods Vehicle Signage Review
 - Travel Plan
 - Town Centre Signage
 - Public Transport Contribution
 - Monitoring Fees
 - c) Planning conditions in accordance with those set out in (i) below (but with such amendments and additions, if any, to the detailed wording thereof as the Acting Head of Planning (or the equivalent authorised officer) in their discretion considers appropriate) and with the reason for approval set out in (ii) below.
2. That in the event that such legal agreement has not been completed by 4th September 2012 that planning permission be refused as the requirements necessary to make the development acceptable in planning terms has not been secured through S106 planning obligation, contrary to Local Plan Policy QL12.
 - (i) Conditions:
 - Time limit;
 - List of approved plans;
 - Opening hours;
 - Information Board provision
 - Delivery times;
 - Limit on net sales area;

- No pharmacy or Post Office element within store
- No internal expansion of sales area;
- Limit on proportion of sales area for comparison goods;
- Highway works to be completed prior to opening;
- Staff travel plan;
- Materials of building and car park and circulation areas;
- Sustainability details;
- Archaeology;
- Disabled parking;
- Construction method statement, including timing of site demolition and site clearance;
- Hard and soft landscaping;
- Flood Management plan;
- Building stability;
- Noise;
- Security;
- Pollution control;
- Design of seating, trolleys bays lighting and public art;
- Design of water storage features (SuDS)
- Details of floor levels and finished floor height relative to Martello Tower K;
- Rainwater harvesting.
- Surface water drainage
- Kirby Road Access (Grampian Condition)
- Signalised Pedestrian Crossing of Kirby Road (Grampian Condition)
- Speed Signage at Kirby Road (Grampian Condition)
- Bus Stop upgrades (Grampian Condition)
- Footway enhancement on Mill Lane (Grampian Condition)
- New 3 metre wide Foot/Cycleway to north of Kirby Road between the site access and Mill Lane Car Park (Grampian Condition)
- 3 Metre wide Foot/Cycleway enhancement on northern boundary of Drainage Ditches (Grampian Condition)

(ii) Reason for Approval:

This site is designated in the Tendring District Local Plan (2007) as part of a wider site for caravan and chalet park use and should normally be retained for that purpose. The development of the land for retail purposes is acceptable if the proposals meet the requirements of policy ER18 of the Local Plan and the criteria set out the Framework. The application has been assessed against these criteria, in particular the sequential approach and the impact test. There are no sequentially preferable sites to that proposed and there is no clear evidence that the proposal, as assessed, is likely to lead to any significant adverse impacts in terms of the criteria in the Framework. The proposals also retain the existing caravan park on the wider site.

The site lies in Flood Zones 2 and 3a as defined by the Environment Agency. Shops are identified as a less vulnerable use which is acceptable in Zones 2 and 3a. New development should wherever possible be steered to areas with the lowest risk of flooding (Zone 1). The sequential test has been applied and no sequentially preferable sites that are reasonably available and that are appropriate for the type of development proposed have been identified in the locality in lower flood risk areas. Therefore the development would accord with the guidance in the Framework and its technical guidance.

The application site lies close to a Scheduled Ancient Monument and the impact on the heritage asset has been assessed against the criteria in the Framework. Whilst there would be an adverse impact the overall benefits of the development have been judged to outweigh this impact.

Having had regard to the negative and positive impacts of the proposal assessed against the criteria in the Framework and policies ER18 and EN23 of the Local Plan, the proposals for public realm improvements that would be secured through the planning permission and planning obligation, and taking account of other material considerations, including the representations made in response to the application and the responses from consultees the Local Planning Authority has concluded that on balance that there would be no material conflict with the Local Plan or the National Planning Policy Framework and that the application should be approved.