

Report of the Chief Planning Officer

PLANS PANEL WEST

Date: 15th APRIL 2010

Subject: APPLICATION 10/00613/FU – VARIATION OF CONDITION 28 OF APPLICATION NUMBER 25/407/05/OT (AFFORDABLE HOUSING MATTERS) TO APPROVED RESIDENTIAL DEVELOPMENT AT LAND TO THE REAR OF MID POINT, OFFICE PARK, DICK LANE, PUDSEY.

APPLICANT

Taylor Wimpey Yorkshire

DATE VALID

11 February 2010

TARGET DATE

13 May 2010

Electoral Wards Affected:

Calverley & Farsley

☒ X

Ward Members consulted

Specific Implications For:

Equality and Diversity ☐

Community Cohesion ☐

Narrowing the Gap ☐

RECOMMENDATION: DEFER AND DELEGATE TO THE CHIEF PLANNING OFFICER TO APPROVE SUBJECT TO THE FOLLOWING CONDITIONS AND A SECTION 106 AGREEMENT COVERING
- OFF SITE AFFORDABLE HOUSING CONTRIBUTION

1. Time period for commencement of development
2. External walling and roofing materials to be submitted
3. Details of boundary treatment to be submitted
4. Area to be used by vehicles laid out
5. Landscaping scheme to be submitted
6. Landscape buffer on 08:4119:01 Rev k to be provided
7. Landscape management to be submitted
8. Landscaping to be in line with approved scheme
9. Green Travel plan to be submitted
10. Separate system for foul and surface water drainage to be submitted
11. Details of drainage to be submitted
12. No piped discharge of surface water

13. Surface water from vehicle parking and hardstanding areas to be passed through an interceptor
14. Scheme for surface water run off limitation to be submitted
15. Instructive investigation re contamination to be submitted
16. Five existing boreholes to be available for gas monitoring or alternatives to be provided
17. Remediation statement to be submitted
18. Remediation works to be carried out
19. Notice required for date of commencement in relation to remediation
20. Revised remediation statement if other contamination found.
21. Unexpected contamination to be notified
22. Validation report to be submitted
23. Full details to prevent mud, grit and dirt on highway to be submitted
24. Prevention of dust generation
25. Ground levels, floor levels to be submitted
26. Three areas of on site open space on drawing ref 08:4119:01 rev K to be provided.
27. Scheme for affordable housing to be submitted
28. Local parking measures
29. Surfacing materials
30. Plots 49, 53, 57, 65 and 95 to have all side gable windows obscure glazed at first and second floor level.
31. Planning permission obtained for rear extensions or rear curtilage buildings erected on plots with private amenity space comprising less than 50% Gross Floor Area (namely 36-39, 58, 60-61, 67-69, 76-77, 96 and 128 -130)

1.0 INTRODUCTION:

- 1.1 The application comprises a request to vary the condition 28 for affordable housing provision on an outline planning permission for residential development. The condition requires the developer to identify before development commences the provision of affordable housing. This variation is to coincide with the signing of a section 106 agreement to delay the provision of affordable housing and variation of condition 5 (of approval reference 07/05428/RM) which is also on this agenda.

2.0 PROPOSAL:

- 2.1 Outline planning permission for residential development was granted in September 2006. This outline permission was for layout of access road and to erect a residential development. Subsequent to this approval a reserved matters application was granted permission in February 2009 for laying out of an access road, 48 apartments, 1 flat over garage, 119 houses with associated bin and cycle's store. This permission was granted by Panel on 22nd January 2009 and a copy of this Panel report is attached.

- 2.2 Condition 28 of the outline permission stated:

'Development shall not commence until arrangements for the provision of affordable housing as part of the development shall be submitted to and approved in writing by the Local Planning Authority. Such arrangements shall address and contain the following matters:

- a) The delineation of the area or those areas of land upon which the affordable housing units shall be constructed.
- b) The type and nature of the affordable housing provision to be made as part of the development.
- c) The number of affordable housing units to be provided, that being a minimum of 25% of the total number of dwellings to be provided on the site

- d) The arrangements for ensuring that such provision is affordable for both initial and subsequent occupiers
- e) The occupancy criteria to be adopted for determining the identity of prospective and subsequent occupiers of such affordable housing and the means by which such occupancy criteria shall be enforced and
- f) The phasing and timescale (s) for provision and bringing into use the affordable housing units.

The affordable housing shall thereafter be provided in accordance with the approved phasing and timescale (s). There shall be no occupation of any dwelling within the development unless it is in accordance with the approved phasing and timescale (s) for the provision of affordable housing units.

2.3 The application is to vary this condition to the following:

‘Prior to the commencement of development arrangements for the provision of affordable housing shall be agreed in writing by the Local Planning Authority.’

There is an application to vary condition 5 of the reserve matters application which also covers affordable housing also on this agenda.

3.0 SITE AND SURROUNDINGS:

3.1 The site comprises of 3.76 ha, and was formerly used for engineering and manufacturing purposes. It is accessed off Dick Lane, which itself links onto the Thornbury roundabout 200m to the north west and the A647 Leeds Road/Bradford Road.

3.2 The site is surrounded by open land to the south, a golf course to the east, both of which are in green belt, the Odeon cinema and car park to the north and office uses to the west.

4.0 RELEVANT PLANNING HISTORY:

4.1 An outline planning application (25/407/05/OT) for residential development was reported to Panel on the 13th July 2006 and granted permission on 28th September 2006. A reserved matters application (07/05428/RM) was forwarded to Panel on 22 January 2009 and granted planning permission on 26 February 2009. A copy of this Panel report is attached.

4.2 A number of planning permissions exist on the adjoining site to the west originating with an outline permission in 1991 for a major leisure development. (H25/47/91.). Since then a variety of permissions have provided for mixed uses comprising a leisure use, A3 uses, Travelodge hotel and various offices.

4.3 Planning application number 10/00613 is to vary condition 5 of the reserved matters application relating to affordable housing is also on this agenda.

5.0 HISTORY OF NEGOTIATIONS:

5.1 A residential viability assessment has been submitted which formed the basis for a section 106 agreement to ensure the provision of affordable housing, greenspace and highway contribution. The section 106 is about to be signed and these applications have been submitted as the conditions the subject of these applications have to be attached to the section 106.

6.0 PUBLIC/LOCAL RESPONSE:

6.1 The application was advertised by way of a site notice on 16 February 2010 with comments required by 9th March 2010. It was also advertised in the Pudsey Times on the 4th March 2010 with an expiry date of 25 March 2010.

6.2 Ward Members for the site have been briefed and support the applications providing the affordable housing is paid as a full commuted sum with some payment up front.

7.0 CONSULTATIONS RESPONSES:

7.1 Statutory

No comments received.

Non-Statutory

Policy – No objections

Environmental Protection Team – No adverse comments

8.0 PLANNING POLICIES:

8.1 The Development Plan for the area consists of The Yorkshire and Humber Plan - Regional Spatial Strategy 2008 (RSS) and the Leeds Unitary Development Plan (Review 2006).

Unitary Development Plan (Review 2006)

The site is located within the main urban area and comprises part of a LT5B:5 (leisure and tourism) allocation as defined by the Leeds UDP Review 2006. It is also includes a small element of the adopted green belt and a protected playing pitch. The whole site is also included within an area under GP5 (unimplemented local plan proposals). No other allocations or designations affect the site.

Relevant policies include:

GP5 Applications to resolve development control considerations.

H12 Affordable housing to be negotiated.

Leeds City Council SPG3 'Affordable Housing' is relevant.

PPS3 states that new housing development should provide good private and public amenity space.

9.0 MAIN ISSUES

1. Validity of condition
2. Viability

10.0 APPRAISAL

1. Validity of condition

10.1 It is concluded that the condition meets the tests of Circular 11/95 on the basis that it is:

- i) necessary (the proposal would not have been granted planning permission without the provision of adequate affordable housing and greenspace),

- ii) relevant to planning (affordable housing/greenspace are legitimate material planning considerations),
- iii) relevant to the development to be permitted (the affordable housing provision is based on 25% of the specific scheme with units identified on-site),
- iv) enforceable (the condition is clear, precise and enforceable),
- v) Reasonable in all other respects (although circumstances may have changed, the condition itself is reasonable).

It is not part of the applicant's case that the condition should be removed because it is ultra vires.

2. Viability

- 10.2 Based on the submitted viability information Asset Management ran a number of different development scenarios based on fixed cost/residual land value and different affordable housing requirements of 0%, 25% and 30%. The conclusions of the various assessments are:
- 10.3
1. Given the price that George Wimpey paid for the land, the scheme for which they have permission would not be viable if affordable housing and greenspace contributions provided now on the basis that development commenced immediately.
 2. If the land was sold to another housebuilder at current residential land values, the scheme would be viable with a 20% profit and a partial contribution towards affordable housing and greenspace (£300,000 - £400,000).
 3. The land would be more profitable in the current market for an industrial development.
- 10.4 The view from Asset Management is that the price paid for the land was paid knowing the commercial risk involved and it is not the responsibility of the planning system to underwrite developer's losses.
- 10.5 On the other hand the local planning authority is seeking to be helpful to the development sector where appropriate in a difficult economic climate. It is agreed that this is in line with the recent DCLG announcements and both the national and local need in Leeds to increase housebuilding development rates, particularly on brownfield sites such as this. It is acknowledged that the economics of provision are a material planning consideration.
- 10.6 The developer is committed to starting on site in the very near future and have submitted a letter to this effect. They need to start on site before February 2011 when the reserve matters application expires. The section 106 agreement is only awaiting the decision on these variations of condition applications and then it is ready for signature and issuing. The section 106 ties the developer to the site so they cannot sell the land on for a profit and allow another developer to not have to contribute to affordable housing. If the site is sold it would involve a new section 106 agreement and this matter would have to be re-examined.
- 10.7 A residential viability assessment which seeks to demonstrate that the scheme is unviable with contributions to affordable housing and greenspace as stated previously has been submitted. This has formed the basis of negotiation to formulate the section 106 agreement. Flexibility is shown in the wording of this Section 106 agreement which includes clauses foregoing affordable housing provision in early phases, to be reviewed as part of subsequent phases when the market may have improved. This would be appropriate to the individual circumstances of this developer and the section 106 agreement ties the development in with this developer.

- 10.8 This S106 allows for no commitment to affordable housing to be provided immediately development commences, however, if development is not substantially completed within 2 years, the viability assessment will have to be resubmitted. This will assess if the market has improved and whether provision for affordable housing can then be provided. The two years start from when the S106 agreement is signed and not when development starts on site. If in two years time the financial viability shows that a contribution to affordable housing is able to be provided then this will be the full amount required of affordable housing based on the total number of residential dwellings proposed rather than a percentage of the residential units left to be built. This assessment has then to be carried out yearly until the development is complete. The initial provision allowed for 50% of the provision to be provided on site with 50% being a commuted sum. Comments from the Ward Members have indicated that they would prefer to see the affordable housing provided in a full financial contribution and not the 50% split for provision on site and off site contribution. The Ward Members have requested this as the site is in a location where the prices of the houses will be competitive and the financial contribution can then be used were the provision of affordable housing is low which is likely to be locally. Whilst this request is at odds with current policy guidance it does ensure that development can commence on site as soon as possible with all the economic benefits and the prices of the properties in this location would be competitive and the commuted sum put to use where it is most needed.
- 10.9 The s106 allows development to proceed on site in this difficult financial period and protects the interests of the Council in that the full amount of affordable housing provision may be required and provided before the development is complete.
- 10.10 It has to be acknowledged, that the situation could arise where development has been completed on site and the viability of the site still does not generate any affordable housing. However, it is considered, on balance that in view of the current trends viability of the site will improve and the early commencement of development on site and the economic benefits this will bring, outweighing the possibility that the site may not generate any affordable housing provision.
- 10.11 To allow the development to proceed with this 2 year delay on provision of affordable housing means that condition 28 of the planning permission cannot be complied with. The rewording of the conditions allows for development to proceed and complies with the original outline permission and the section 106 agreement. The application to reword condition 5 of the reserve matters application is for the same reason.

After considering all these matters, on balance approval is recommended.

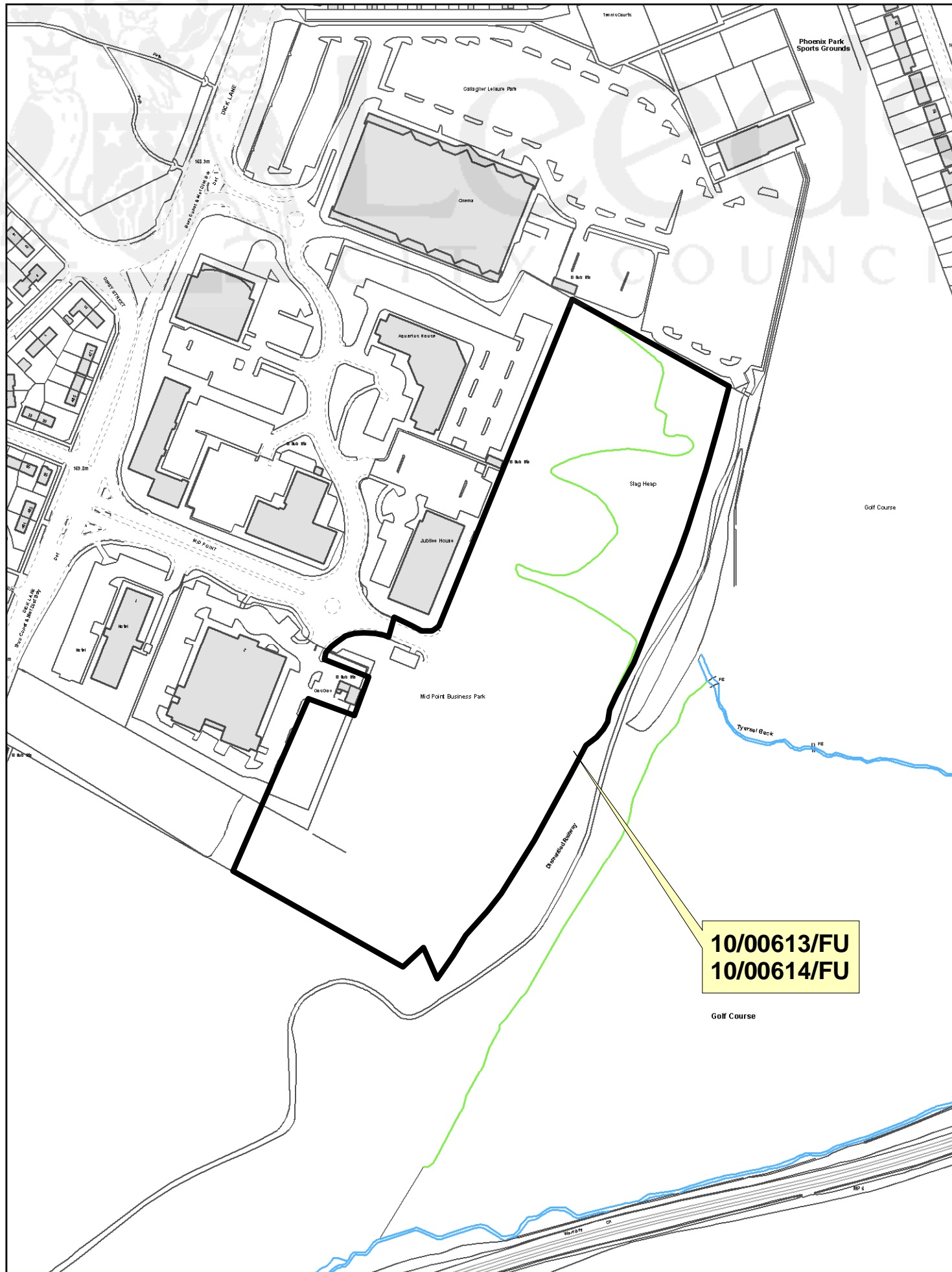
11.0 CONCLUSION

It is concluded that the condition is reasonable and serves a valid planning purpose. The condition cannot be complied with as it conflicts with a section 106 agreement which allows for delayed provision of affordable housing. Variation of the condition allows for development to proceed on site and still allows for affordable housing provision in the future.

Background Papers:

Certificate of Ownership – signed as applicant.

Application file 10 /00613/fu.



WEST PLANS PANEL

Scale 1/2500