



Leeds
CITY COUNCIL

Originator: Paul Wilson

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Report of the Chief Planning Officer

PLANS PANEL EAST

Date: 23RD FEBRUARY 2012

Subject: APPLICATION 11/02402/FU – Erection of 86 houses at Unit 12, Temple Point, Austhorpe

APPLICANT

Strata Homes Ltd and
Checkhire Ltd

DATE VALID

23 June 2011

TARGET DATE

22 September 2011

Electoral Wards Affected:

Temple Newsam
Garforth & Swillington

Yes

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

RECOMMENDATION:

DEFER and DELEGATE approval to the Chief Planning officer subject to the conditions specified and the completion of a legal agreement which will include the following obligations subject to the outcome of consultations with Ward Members as to priorities;

- Contribution of £749,228 in total to provide affordable housing, education, the toucan crossing, bus shelter and travel plan monitoring fee (sum to be index linked).
- Local employment and training initiatives
- Long term management plan for on site open space
- Start to be made on development within a specified period within 2012 and to give certainty over early delivery of houses

In the circumstances where the Section 106 has not been completed within 3 months of the resolution to grant planning permission the final determination of the application shall be delegated to the Chief Planning Officer.

1. Time limit for permission
2. Development carried out in accordance to approved plans
3. External materials as specified
4. Submission of a Travel Plan
5. Protection of existing trees
6. Preservation of existing trees
7. Submission and implementation of landscape details
8. Landscape management plan
9. Submission of surface water drainage scheme
10. Protection of grassland area to south during construction
11. Protection of wildlife habitats
12. Protection of watercourses
13. Protection of wild birds during breeding season
14. Boundary treatment, walls and fences (including acoustic fencing) to be as specified
15. Specified plots to have permitted development rights removed
16. Driveways/parking bays and garages to remain available for use
17. Contamination conditions (multiple)

Full details of conditions and any subsequent amendments delegated to the Chief Planning Officer

Reasons for approval: The application is considered to comply with policies SA1, SA3, N49, N51, T2, T2C, T2D, T5, T7A, T24, H1, H2, H4, BD5 and LD1 of the UDP Review, as well as supplementary planning guidance. In particular the principle of housing on this site is considered acceptable given the planning history. Whilst the planning benefits of the site do not deliver the full requirements in accordance with Council policy and supplementary guidance it is recognised that the viability in bringing forward this site is marginal and in the interests of seeing the site developed and a contribution made to meeting housing needs recognition has been taken that the benefits offered are all that can be secured if the site is to be progressed at this time. The decision is therefore made on balance and having weighed the development plan and all other material considerations.

1.0 INTRODUCTION:

Consideration of this item is accompanied by a separate report as referred to in para. 1.9. The information contained within the separate report is confidential as it relates to the financial and business affairs of the applicant. It is considered that it is not in the public interest to disclose this information as it would be likely to prejudice the applicant's current negotiations. It is therefore considered the accompanying report should be treated as exempt under Schedule 12A Local Government Act 1972 and Access to Information Procedure Rule 10.4 (3). This is the only amendment to the report from that originally published.

- 1.1 The application is reported to the Plans Panel as it constitutes a significant development that raises important planning issues regarding viability in the present economic climate if the scheme is to go ahead.
- 1.2 This application was reported to the Panel meeting on 5th January 2012 when Members did not object in principle to a residential development on this site but deferred a decision to allow officers to discuss with the applicant the concerns expressed by Members which are set out below:
- The overall package of Section 106 contributions including affordable housing provision should be considered in consultation with Ward Members
 - The design of the houses and particularly the tall narrow houses shown on the presentation
 - The outstanding noise issues and whether these can be addressed to give an adequate environment for the 3 plots concerned
 - That the standard wording relating to local training and employment initiatives be included in the S106 Agreement
 - That information on the financial viability issues in this case be provided to the Panel when a further report is presented for determination of the application, with an appropriate officer from Asset Management being asked to attend to respond to any questions
- 1.3 Briefing sessions in respect of Section 106 contributions have been arranged with two of the Temple Newsam Ward Members and will be reported verbally to the meeting. The third Temple Newsam Ward Member is currently on maternity leave. There has also been contact with the Garforth and Swillington Ward Members as part of the site falls in that ward. A number of options have been put to the Ward Members as to how the Section 106 package could be structured to deliver planning benefits.
- 1.4 It has been calculated that to be policy compliant the site would need to make total contributions in the order of £1,742,200. The overall contribution is made up of the following elements (rounded);

Affordable Housing – 15% equates to 13 houses (5 social rent and 8 sub market)	£1,033,000
Education – primary	£ 255,600
Education – secondary	£ 154,100
Public Transport	£ 97,100
Offsite greenspace (N2.3 and fixed play equipment)	£ 115,200
Toucan crossing	£ 40,000
Metro cards	£ 34,700
Bus shelter	£ 10,000
Travel Plan monitoring	£ 2,500
TOTAL	£1,742,200

- 1.5 Following the last Panel the developer has offered a further £80,000 to the contributions pot (£40K each from the housebuilder and the landowner). **The latest offer therefore amounts to £749,228** in total which represents 43% of the total sum being sought by the Council.
- 1.6 The applicant has provided further supporting information about the layout and house types including a fly through, artist's impressions of street scenes and photographs of completed schemes in other areas where the same range of house types have been used and with a similar palette of materials.
- 1.7 The noise issue on the three plots has been the subject of further negotiation and the applicant has proposed additional acoustic fencing to address this. A meeting is to take place with the noise consultant for the Council and for the developer prior to Panel and the outcome of this meeting will be reported verbally at Panel.
- 1.8 Wording in relation to local training and employment initiatives will be included in the Section 106 Agreement with the applicants agreement.
- 1.9 This report will be accompanied by a confidential report about viability which will be circulated to members prior to the meeting and an officer from Asset Management and the developers will be in attendance at the panel meeting to answer any Members questions.

2.0 PROPOSAL:

- 2.1 The application originally sought permission for the erection of 88 houses with associated open space on land previously granted planning permission for an office park. In the course of negotiations officers raised concerns about various layout deficiencies and as a result the total number of dwellings proposed has been reduced to 86.
- 2.2 The scheme seeks to provide family housing with the majority of units (80 in total) being either two and a half or three storey 3, 4 and 5 bedroom houses with a traditional external appearance. The remaining units comprise of 5, two storey 2 bedroom houses and 1 flat built over garages.
- 2.3 The houses are to be constructed in red or cream facing bricks, with some dwellings also having an element of ivory render at ground floor. The flat over garages unit is to be wholly finished in ivory render. Grey or red roof tiles are proposed throughout.
- 2.4 Access to the site is from Bullerthorpe Lane, via the existing road network that serves the surrounding office park. Two entrances serve the site and provide an internal loop serving cul-de-sacs at either end. Parking is provided via a combination of garages, driveways and designated parking bays.
- 2.5 An area of public greenspace is provided to the southern part of the site, adjacent to the flood storage/balancing pond which serves the remainder of

the office park. The drainage strategy for the current application is to connect into the existing balancing pond.

- 2.6 The applicant has submitted all necessary documentation including a Design and Access Statement, Noise Attenuation Report and importantly a Viability Assessment in recognition that the scheme is unable to deliver all the Section 106 contributions.

3.0 SITE AND SURROUNDINGS:

- 3.1 The application site lies close to Colton Village and Colton Retail Park but is on the edge of the urban area between the existing office park and the slip road from the motorway.
- 3.2 Specifically it is bounded to the west by the carriageway of Finch Drive and the office buildings which it serves. Bullerthorpe Lane is further west. An office building is directly to the north and the slip road which serves junction 46 of the M1 is to the east. Agricultural fields are to the south.
- 3.3 The site is served by two stub access points from Finch Drive and it slopes gently from north to south. It has been cleared of all landscape features many years ago in preparation of further office development although it now appears relatively overgrown due to the passage of time.
- 3.4 To the south (but still within the application site boundary) is an area of open land which includes a balancing pond and new planting. This part of the site lies within the Green Belt and has some mature trees on it.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 The following planning history is relevant to the consideration of this application:

32/195/99/OT	Outline application for office park - Approved 20/12/01.
32/188/02/RM	Laying out of access road, site leveling and landscaping to proposed business park - Approved 15/11/02
08/03752/FU	Laying out of access and erection of 3 storey office block with 28 parking spaces and landscaping. Refused 18/09/08 – Appeal subsequently dismissed in May 2009.

- 4.2 The Temple Point office development on site was given outline approval under 32/195/99/OT and detailed approval under application 32/140/05/RM

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 Prior to the submission of the planning application the applicant submitted a pre-application enquiry. The pre-application enquiry established that residential development could be supported in principle due to the availability of other employment land in the area. Normal planning considerations (layout, design, S106 contributions) would therefore be key.
- 5.2 Further pre-application discussions therefore focussed on the proposed layout and design matters with extensive negotiations taking place prior to the formal submission. The requirement to submit a viability appraisal in the event not all S106 contributions could be delivered was also discussed, albeit no financial details had been provided at that stage.
- 5.3 A number of meetings have taken place during the application stage to address officer and consultee issues. The site layout has therefore been amended and a reduction of dwellings from 88 to 86 is now proposed.
- 5.4 In addition to the above, discussions have been ongoing regarding the issue of noise from the adjacent M1 motorway. The applicant has proposed mitigation measures in relation to window design to secure an internal noise level which is acceptable. Within garden areas the use of acoustic fencing is proposed albeit discussions are still on-going regarding the impact on 3 particular plots.
- 5.5 Further discussions have also taken place with regard to the level of contributions which the applicant can afford based on the submitted viability appraisal. An additional £80,000 of funds has recently been added to the overall S106 'pot' following the Panel's consideration of the application in January.
- 5.6 Overall to get to this point has involved 18 months of pre application discussion and negotiation resulting in the submission of the application back in June 2011.

6.0 PUBLIC/LOCAL RESPONSE:

- 6.1 The application has been advertised by site notices, posted 1st July 2011. The application has also been advertised as a departure from the Adopted Development Plan in The Leeds Weekly News, published 21st July 2011.
- 6.2 2 letters of representation have been received in respect of this proposal.
- 6.3 The comments received related to the development increasing traffic on Stile Hill Way and using Colton Lane East as a cut through and that Colton Primary School is at capacity.
- 6.4 Local Ward Councillors have been consulted on this application. One member expressed concern regarding the capacity of local schools in that they are already full.

6.5 Further comments have been sought from Ward Members regarding local priorities following consideration of the application in January. Discussions are on-going so a verbal update will be provided at Panel.

7.0 CONSULTATIONS RESPONSES:

Statutory:

7.1 Environment Agency – no objections subject to conditions

Non-statutory:

7.2 Yorkshire Water – no objections

7.3 Environmental Health - Initial comments raised concerns regarding noise to the occupants of the proposed dwellings from traffic on adjacent slip road and the M1 motorway itself. Improved internal specification for windows (including ventilation) is such that noise levels within the houses has been reduced to a satisfactory level. Acoustic fence also brings the noise levels within the gardens to an acceptable level although still a question mark regarding the garden areas of 3 particular plots.

7.4 Policy – Site is still an employment allocation so policies E4/E18 relevant. However, following appeal decision offices are no longer acceptable despite the formal allocation due to change in central government policy. Assessment against criteria in Policy E7 therefore undertaken and shows criteria can be met. Site is considered to be greenfield from a policy perspective, however, recent release of Phase2 and 3 sites would support this alternative use of this employment site. Requirements in respect of affordable housing and greenspace contributions set out.

7.5 Highways – No objections subject to conditions

7.6 Nature Conservation – No objections subject to retention of existing landscape features within southern part of the site and need to avoid wild birds during the breeding season. Conditions recommended

7.7 Drainage – No objection as the existing infrastructure has been designed to serve the entire office park allocation. Conditions recommended.

7.8 Access – Concern raised regarding the use of shared surfaces which have been discussed in meetings with the developer

7.9 Contamination – No objection subject to conditions

7.10 Metro - discounted residential metro cards should be provided by developer and bus stop improvement required

7.11 Asset Management – Viability appraisal in respect of affordable housing submitted by applicant. Considered that in relation to other contributions required would not be viable to provide affordable housing.

- 7.12 Sustainability – Proposal does not provide sufficient information on sustainability. Code for sustainable homes pre-assessment required.
- 7.13 Travel wise – Request for Toucan crossing on Stile Hill Way and other off site highway works.

8.0 PLANNING POLICIES:

8.1 The Development Plan includes the Regional Spatial Strategy to 2026 (RSS) and the adopted Leeds Unitary Development Plan (Review 2006) (UDP) along with relevant supplementary planning guidance and documents. The Local Development Framework will eventually replace the UDP but at the moment this is still undergoing production with the Core Strategy still being at the draft stage but to be published soon for a 6 week period of consultation following its consideration at Executive Board on February 10th. The RSS was issued in May 2008 and includes a broad development strategy for the region, setting out regional priorities in terms of location and scale of development including housing.

8.2 Regional Spatial Strategy (adopted May 2008):

H4: Affordable housing.

YH4: Focus development on Regional Cities

YH4(b): Informs detailed design considerations

E2: Centres of regional cities should be the focus for offices

8.3 UDP Review (adopted July 2006):

SA1: Secure the highest possible quality of environment.

SA3: Adequate provision for housing needs.

E4: Allocated Employment site

E7: Except for residential development and uses ancillary to employment, applications for uses outside B use classes not permitted on allocated sites

E18: Key business park sites reserved for B1 use

GP5: General planning considerations.

GP7: Use of planning obligations.

GP11: Sustainable development principles.

N2: Greenspace hierarchy.

N4: Provision of greenspace.

N24: Development proposals abutting the Green Belt

N38a: Prevention of flooding.

N38b: Flood Risk Assessments.

N39a: Sustainable drainage.

N49: Habitat protection.

N51: Habitat enhancement.

T2: New development and highways considerations.

T2C: New development and Travel Plans.

T2D: Public transport contributions.

T5: Safe access for pedestrians and cyclists.

T7A: Requirement for secure cycle parking.

T24: Car parking provision.

H1: Provision for completion of the annual average housing requirement Identified in the RSS.
H2: Monitoring of annual completions for dwellings.
H4: Residential development on non allocated sites
BD5: General amenity issues.
LD1: Landscape schemes.

8.4 **Leeds City Council: Supplementary Planning Guidance/ Documents:**

SPG4 Greenspace relating to new housing development (adopted).
SPG3 Affordable Housing (adopted) and Affordable Housing interim policy (applicable to all applications determined after 1st June 2011)
SPG10 Sustainable Development Design Guide (adopted).
SPG11 Section 106 Contributions for School Provision (adopted).
SPG13 Neighbourhoods for Living (adopted).
SPG22 Sustainable Urban Drainage (adopted).
SPG25 Greening the Built Edge (adopted).
SPD Street Design Guide (adopted).
SPD Public Transport Improvements and Developer Contributions (adopted).
SPD Designing for Community Safety (adopted).
SPD Travel Plans (draft).
SPD Sustainability Assessments (draft).

8.5 **Government Guidance:**

PPS1: Delivering Sustainable Development
PPS3: Housing
PPS4: Planning for Sustainable Economic Growth
PPS9: Biodiversity and Geological Conservation
PPS12: Local Spatial Planning
PPS25: Development and Flood Risk
PPG13: Transport
PPG24: Planning and Noise
Manual for Streets
Planning for Growth – Ministerial Statement - 23rd March 2011

9.0 **MAIN ISSUES**

- Principle
- Site Layout
- Amenity
- Highways
- Access
- Public Open Space
- Sustainable Design and Construction
- Travel Wise
- Contributions

10.0 **APPRAISAL**

Principle

- 10.1 The application site is allocated within the Leeds UDPR as an employment site under policies E4 and E18. As such, the Council's preferred use for the site is for employment purposes.
- 10.2 Policy E18 identifies specific employment sites allocated under Policy E4 as Key Business Park sites which are reserved for B1 use, (in this case, for prestige office development). However subsequent to the adoption of the UDP, PPS4 now requires that office developments are subject to a sequential test with, in the first instance, such developments being located within City or Town Centre locations, then edge of centre and only if no such sites can be identified, on out of centre sites. This is clearly an out of centre site and other sites in city centre or edge of centre are available to accommodate such an office park development. As such, the use of this site for office development can no longer be supported. This position was clarified in 2008/2009 with the refusal and subsequent dismissal of an appeal for an office scheme on this site referred to in the history section above. There is at least a ten year availability of office sites within the surrounding area (which in this case includes the City Centre due to the motorway access as well as Thorpe Park on the opposite of Selby Road), so there is now no requirement for the site to be retained as a Key Business Park site under Policy E18.
- 10.3 The proposed use needs to be assessed against the requirements of Policy E7. This policy sets out four criteria that development, including residential development, that are outside the Class B uses, must meet to be able to be supported in planning terms.
- 10.4 The criteria are set out below with a commentary against each one:

i) The site is not reserved for specific types of employment use under Policies E8 and E18;

The site is allocated under E18 as a key business park for prestige office use. However, as discussed above the change in the national policy stance to require the sequential approach for office uses means that this site no longer needs to be retained as a Key Business Park site. Policy E8 does not refer to this particular site and as such is not considered relevant.

ii) Sufficient alternative employment sites exist district wide, readily available in terms of quality and quantity so as to not prejudice the achievement of the employment land strategy through Policies E1 and E2;

Policy E1 seeks to make sufficient land available for the retention of existing firms and the growth of new economic sectors. Policy E2 seek to identify adequate employment land to maintain a balanced portfolio of sites in the district. The majority of the employment allocation at Bullerthorpe Lane has already been developed for offices. Within Leeds there is more than adequate employment land already available

for the employment uses envisaged for the site. There is a considerable supply of employment premises on the market.

Whilst the site could, in theory, be developed for B1 light industrial uses or B1 research and development, the UDP does not envisage this. Market demand for these uses on the site is currently very weak, as evidenced by the increased amount of floorspace on the market compared with previous years.

iii) Within the locality there are sufficient alternative employment sites available in terms of quality and quantity so as not to prejudice opportunities for local employment uses;

As mentioned in (ii), the majority of the original allocation has already been developed for offices. To the north of the site, on the opposite side of the A63 is Thorpe Park, one of the largest business parks in the region. The Council's October 2009 property market report indicates that there was over 117,000 sq ft of office floorspace available at Thorpe Park with a further 1,200,000 sq ft permitted. In addition, there was over 240,000 sq ft of industrial floorspace available in East Leeds with a further 77,500 sq ft proposed.

iv) The proposal would not result in environmental, amenity or traffic problems.

The existing roads constructed for the anticipated office development on the site are more than adequate to cater for residential traffic. In this regard residential and B1 office development are by definition compatible. Residential development on the site would not result in environmental or amenity problems for existing development and users. In respect of the amenities of the future occupants of the development mitigation measures are required as part of the development.

In the light of the above, it is considered that the criteria in Policy E7 have been met and the proposal could be considered favourably. Given the amount of employment land available in the area it would be very difficult to mount an argument that the land was required for employment use, certainly in the short to medium term.

- 10.5 The application site, is already partly serviced by infrastructure previously intended to serve an office development. Whilst the site outwardly has the appearance of a greenfield site, its allocation as an employment site and the surrounding existing office developments, means it is in effect an area of land which, because of circumstances, has been left undeveloped. Works have been undertaken to make the site ready for development and it was used as the construction compound for the construction of the A1/M1 link. As such, the nature of the site is not clear cut. In the light of the above, it is considered that support could be given, in principle, to the residential

development of this urban site subject to it being otherwise acceptable in planning, design and access terms.

- 10.6 At the last Panel meeting when this site was considered Members were comfortable with the principle of housing development on this site given its history.

Site layout

- 10.7 The site is accessed through a recently constructed development of office buildings. The application site previously had planning permission for office development which lapsed and, due to a change in national planning policy, an application to renew the permission was refused and dismissed at appeal. The application therefore seeks permission for residential development as an alternative use for the site.
- 10.8 In terms of context, the office buildings are two storey and are situated on the opposite side of Finch Drive, facing the site and adjacent to the northern boundary. The buildings have a contemporary external appearance and are constructed in a modern cladding system featuring extensive glazing.
- 10.9 Access to the site is provided via two stub roads and these are to be retained. The residential layout therefore comprises of a central spine road (part of which forms a loop) terminated at the north and south ends by cul-de-sacs. The houses are all positioned to form active street frontages including a number which face onto Finch Drive itself.
- 10.10 Although the adjacent office buildings are only two storey, the floor to ceiling heights associated with these buildings are greater than modern houses and accordingly the three storey house proposed are considered to be appropriate.
- 10.11 With respect to detailed layout matters, the scheme has been amended a number of times to address various problems such as overlooking, small gardens and large expanses of off street parking. The number of units has therefore been reduced from 88 to 86 and the revised layout is considered to have addressed officers main concerns.
- 10.12 At the previous Panel meeting on 5th January 2012 Members were concerned about the appearance of the houses from the presentational material shown at the meeting given the narrowness and height of some house types. In addition, some Members had concerns about the spatial setting of the layout and considered that the dwellings were not in keeping with the Colton area. Reference was also made to another development by the applicant in Guiseley which was considered to be disappointing. In response, the applicant has now submitted further supporting information which will be used in the officer presentation. Furthermore, the house types used on the Guiseley scheme are from a different range to those proposed here.

- 10.13 In terms of the site's relationship with the residential part of Colton, the main estate is found on the opposite side of Stile Hill Way and does not readily relate to the development due to the intervening office buildings. Nevertheless, the Colton houses are constructed from red and buff bricks, have a fairly traditional design and comprise almost exclusively of family housing. In this respect the house types proposed share many similar characteristics and accordingly are considered to be appropriate.

Amenity

- 10.14 There are two areas where the amenity of the future occupants of the proposed houses could be compromised. One is through possible overlooking and secondly because of noise.
- 10.15 In respect of overlooking the main issue relates to the relationship between the existing office units facing the northern boundary of the site as internally adequate separation has been provided or houses are orientated accordingly. The height of the office building and extent of glazing means that care is needed to ensure that overlooking does not occur or can be mitigated to a satisfactory degree.
- 10.16 At ground floor level overlooking has been overcome through the provision of 1.8 metre high screen fencing along the northern boundary supplemented with tree planting to help filter views. At first floor level the distance between the office building and the first floor windows of the dwellings achieve distances above those given as guidance in Neighbourhoods for Living.
- 10.17 These proposed methods of mitigation in conjunction with the re-orientation of some of the units so only a gable wall presents itself are considered to address the issue of overlooking to a satisfactory level.
- 10.18 With respect of noise, the main issue relates to noise from traffic using the main M1 carriageway (due to its concrete construction) and its associated slip road - albeit this is less of a problem as vehicle speeds reduce on approaching the junction.
- 10.19 Noise from the motorway will impact on the proposed houses in two ways. Firstly, noise within the dwellings themselves and secondly, noise in the private garden areas of the dwellings.
- 10.20 In respect of noise within the dwellings themselves it is proposed to provide windows to the dwellings in the near vicinity of the motorway with enhanced double glazing and acoustically treated background ventilation. This will ensure that when windows are closed, the ventilation system will operate to ventilate the houses but not leave them subject to noise issues, like they would if the windows had to be opened to provide ventilation.
- 10.21 In respect of noise in the garden areas, it is intended to provide acoustic fencing of between 2.4 and 3 metres high along the eastern boundary with the slip road. The fencing will be 2.4 metres high adjacent to that part of the

slip road where the surface is tarmac but rises to 3 metres where the road surface is concrete due to higher noise levels. This, it is considered, will reduce to an acceptable level noise within the gardens of dwellings which lie adjacent to the slip road. The only exception concerns three plots at the extreme south eastern corner of the site where the gardens will still experience a higher noise level. As part of the officer presentation, reference was made to noise levels being high and on the limit of what is generally recognised as being acceptable. Some concern was also expressed about the methodology used in arriving at these figures and accordingly the Council's noise expert was concerned levels could be higher, albeit only when certain environmental conditions existed e.g. wind direction. Within this context and noting the houses themselves were fully protected from noise, officers were of the opinion the issue was marginal and finely balanced but could nonetheless be accepted.

- 10.22 At the Panel meeting, Members expressed concern about this approach and wanted the issue to be considered further. In this respect the applicant has submitted a revised layout plan which shows additional acoustic fencing extending in front of the properties and into the greenspace. Additional fencing is also proposed between the properties.
- 10.23 The additional measures proposed will help mitigate the noise to the front of the houses although it is not yet clear if improvements will also be achieved within the rear gardens. The issue has not therefore been completely resolved. There is also disagreement between the consultants regarding the appropriate standard to be used in this situation. However a meeting has been arranged with the Council's and the applicant's noise consultants to try and resolve this issue prior to Panel. The outcome of the meeting will be reported verbally.

Highways

- 10.24 No objections were raised to the principle of development on this site but matters of detail, mainly in respect of provision and size of parking spaces and garages and other minor amendments, were identified and the plans have been amended to the satisfaction of Highways officers.
- 10.25 The issues regarding the possibility of further queuing of traffic on Stile Hill Way and the potential for traffic taking a shortcut through Colton, raised in the two letters of objection, have been considered by Highways officers. The Highway file indicates that the highway improvement works at the nearby traffic signal controlled roundabout of Stile Hill Way/Selby Road were carried out on the basis of an anticipated commercial/employment development being implemented at the application site. A comparison of the vehicular traffic generated by a residential development of 86 dwellings with the equivalent employment use indicates that traffic associated with the residential scheme would be less than the originally envisaged employment development. Accordingly, it is considered that the proposed development would not have a material traffic impact on the local highway network above that already approved.

Access

- 10.26 The Access Officer has raised concerns about shared surfaces within the development and the problems that could arise for the safety of blind and partially sighted residents who rely on changes in surfaces to indicate whether they are on a footway or a carriageway used by vehicles.
- 10.27 It is considered that the main area of shared surface where such a situation may occur is the cul-de-sac at the southern end of the development which serves plots 58 to 62. However, it is considered that vehicles travelling in this area will be approaching the end of a cul-de-sac and will, of necessity, be slowing down. In such situations, drivers will be more aware of pedestrians in the road sufficiently in advance and should take the necessary care.

Public Open Space

- 10.28 The application site includes an area of land adjoining the southern edge of the development which is situated in the Green Belt. This land includes a flood storage/balancing pond which was provided to serve the entire office allocation. This land will be retained as a green buffer to the development and will provide semi-wild open space for informal recreation.
- 10.29 A footpath link is to be provided from the development direct into this open space area and existing trees between the development and the open space will also be retained.
- 10.30 Policy N24 requires that, where development adjoins the Green Belt, provision shall be made to assimilate the edge of development into the Green Belt. It is considered that the vegetation that exists between the built part of the site and the Green Belt/greenspace is sufficient to achieve such assimilation and additional planting will not be required in this respect. Conditions requiring the retention of this existing vegetation will however be imposed and a landscaping scheme for the entire application site will also be secured.
- 10.31 Overall it is considered that the development will provide sufficient open space for use by the occupants of the development – possible contribution to the wider area is discussed in the section on Contributions below.
- 10.32 The introduction of additional acoustic fencing proposed to mitigate the noise issue for the most southerly plots will not impact on existing trees and its visual impact can be ameliorated with judicious planting.

Sustainable Design and Construction

- 10.33 The SPD in respect of Sustainable Design and Construction is guidance only at this stage and is voluntary. The applicant is aware of the SPD and has indicated the elements in its development where sustainable design and construction methods will be employed.

- 10.34 Whilst the elements offered by the applicant do not achieve all the code levels that would be desired by the SPD, because it is a voluntary code, the applicant cannot be compelled to achieve these levels.
- 10.35 As such the information provided by the applicant in respect of Sustainable Design and Construction is considered satisfactory.

Travel wise

- 10.36 There has been a request from Travel wise in respect of safe access for children to school. A number of off site highway works are suggested including a Toucan crossing on Stile Hill Way, various works including yellow lines before the mini roundabout on Colton Road east at the junction to School Lane, a Traffic Regulation Order on the zig zags outside Colton Primary School and a footpath across the grass verge on Colton Road East near to School Lane.
- 10.37 The Toucan crossing not only will allow safe access across a busy road for school children, it will also provide safe access to bus services on the other side of Stile Hill Way and to the Colton Retail Centre. In this respect, therefore, it is considered that the provision of a Toucan crossing can be supported and should be addressed in the Section 106 Agreement.
- 10.38 However, the other provisions requested are considered to be remote from the application site and as such are not reasonably related to the development and cannot be required.

Contributions

- 10.39 A development of the size proposed (86 dwellings) would generate a requirement for various financial contributions in accordance with Council policies and guidance. These are set out in full in paragraph 1.4 at the start of this report and amount in total to about £1,742,000. All of these contributions are considered to directly relate to the development and are compliant with the three legal tests introduced by the Community Infrastructure Levy Regulations
- 10.40 Following the last Panel consideration and negotiation with the applicant the contributions on offer has been increased by £80,000 to £749,228. Options for what the contributions pot could deliver have been put together and meetings with Ward Members are taking place to discuss priorities and seek their views. The outcome of these meetings will be reported verbally to Panel.
- 10.41 Members should be aware that the advice from Asset Management indicates that even if no contributions at all were being made, the viability of the scheme would be marginal. Further information about the viability appraisal will be made available to Members for the Panel meeting, as

previously requested, and an officer from Asset Management has been asked to attend Panel to answer any detailed questions Members may have.

- 10.42 The applicant submitted, with the application, a Viability Assessment in respect of the required provision of 15% Affordable Housing. This explained why the applicant did not consider that any affordable housing could be provided without making the scheme unviable. The applicant will, however, provide the other financial contributions requested above. The submission of the viability assessment is in accordance with the Council's own Supplementary Planning Guidance. Members will be aware that both national and local policy and guidance are clear that viability is a material consideration which should be taken into account in reaching a decision. The Council's own interim affordable housing policy states

“ The policy is flexible in that it will allow for site specific negotiations based on individual viability appraisals (in accordance with the Supplementary Planning Guidance (SPG) par 3.9). If verified the Council may reduce the affordable housing targets or reduce other S106 contributions in lieu of reduction in affordable housing. Priorities for relaxing other S106 contributions will be decided on a case by case basis.”

- 10.43 Officers in Asset Management have appraised the Viability Assessment. They are of the opinion that market conditions, at the moment, for a site in this location, are such that it is only marginally viable in the market generally to develop the site for housing at all, this being without requirements for either S106 contributions or affordable housing.

- 10.44 The applicant has set out below the particular circumstances that influence, for them, the site's viability:

- This application site is the balance of a larger site allocated for employment (office) development in the UDP. In the context of changes to policy the site cannot come forward for office development.
- This is, therefore, a serviced site where considerable expenditure has already been incurred on infrastructure to enable development and this is reflected in the price paid for the land.
- The land price reflects the cost of providing off and on site infrastructure related to the office scheme and also includes the cost of the land itself and related finance and site-wide professional fees. Up to this point, as each office phase of the scheme was completed, each phase was allocated (i.e.paid for) these site wide costs pro-rata based on that particular scheme's share of total floorspace. In other words, if an office scheme in a particular phase comprised 20% of the total floorspace expected to be accommodated on the site it would pay for 20% of the site wide infrastructure, land, finance and professional costs. The balance of these costs that would have been paid by an office scheme, had the site been developed as originally intended, will now be paid by the residential scheme.

- Other relevant factors in the appraisal are:
Build costs – Strata Homes has considerable experience in appraising and developing residential schemes throughout the Yorkshire region. Based on their experience it has been estimated that total development costs per sq m are lower than BCIS costs and lower than the industry norm - a point confirmed by the Council's assessment of the appraisal.
- Strata's build costs are also significantly below the build costs of £95 per sq ft assumed in the Council Economic Viability Assessment. The section 106 costs incurred by Strata on the Temple Point Scheme are also higher than the Section 106 costs of £2,104 per unit in the Council's Viability Assessment.
- Finance charges - are at competitive rates as the company is funded by Yorkshire Bank and Strata's own funds. The company is funded by Director Loans. For this reason it is not necessary to calculate finance on a site by site basis. Average interest charges are therefore much lower than the industry norm.
- As a private company Strata can take commercial views on levels of return to progress schemes that other PLC developers would not be able to progress.
- The return on the scheme is significantly lower than the current industry norm of 17.5% – 20% and this point has been accepted by Asset Management.

10.45 One Local Ward Member asked for clarification that contributions were being sought in respect of education provision in the area. The requirement for an education contribution and the amount sought was confirmed to that member. This ward member had also made comments previously regarding the capacity of local schools and the education contributions, it is considered, will assist in addressing this issue. No comments were received, from other ward members.

10.46 The options indicate that the contributions pot on offer could provide;

Option 1 – 7 affordable houses (all submarket – 4 x 2 bed and 3 x 3bed), primary education contribution, toucan crossing and travel plan monitoring sum

Option 2 – 4 affordable houses (all submarket – 2 x 2 bed, 2 x 3 bed), primary and secondary education contributions, toucan crossing, bus shelter, travel plan monitoring sum and £27K towards greenspace

Option 3 – 5 affordable houses (all submarket – 2 x 2bed, 3 x 3 bed), primary education contribution, toucan crossing bus shelter, £112K towards greenspace and travel plan monitoring sum.

It is possible, with the sum available to make some contribution towards affordable housing and education. It is considered that the toucan crossing is very important as it will give linkages to the local school and facilities for residents. On site greenspace is being provided as part of the development. In the above option the public transport contribution has been omitted and the greenspace sum given less priority apart from in Option 3.

11.0 CONCLUSION

- 11.1 Given the history of the site its alternative use as housing is considered acceptable. It would bring forward family housing which can be delivered in the short term as the housebuilder is wanting to start on site and develop units on this site straight away and is prepared to commit to this in a legal agreement. Technically there are no obstacles to development subject to a satisfactory outcome on the noise issue affecting just three properties. The layout and designs are considered acceptable in this location given the context next to the existing office park and greenspace is delivered as part of the scheme. Development of this site would complete its development in the short term, contribute to available land supply for housing and also give some receipt to the Council in relation to New Homes Bonus over the next few years. Given its context it is not a contentious site and has given rise to little adverse representation.
- 11.2 Against these benefits Members need to weigh the Section 106 contributions which will be paid, amounting to £749,228 against a policy requirement and ask of around £1,742,000. Whilst the contributions can be used to deliver some affordable housing, a toucan crossing and some/ all of the education contributions it will not deliver all of them and will fall short by some measure.
- 11.3 In considering this balance members should have regard to the outcome of the viability assessment and the conclusions reached by the officer in asset management who has considered the assessment in detail. Members should also be aware of the strong messages which are coming from both national and local government stressing the need to get the economy going and go for growth. The written Ministerial Statement issued by Greg Clark on 23rd March 2011 (and which is capable of being a material consideration in its own right according to the Chief Planner at CLG) states that there is “a pressing need to ensure that the planning system does everything it can to help secure a swift return to economic growth.” He goes on to say “ When deciding whether to grant planning permission, local planning authorities should support enterprise and facilitate housing, economic and other forms of sustainable development.” Later in his statement the Minister states

“To further ensure that development can go ahead, all local authorities should reconsider, at developer’s request, existing Section 106 agreements that currently render schemes unviable, and where possible modify those obligations to allow development to proceed; provided this continues to ensure that the development remains acceptable in planning terms”

- 11.4 In considering that balance officers have recognised that the contributions offered on this site fall well short of the policy “ask” but that the offer now on the table would enable the site to be developed in the short term. Given the need to be flexible to get things moving in the present economy officers have given greater weight to delivery and the advantages that flow from that but recognise that the case is finely balanced given the size of the contributions pot. The question for members having regard to what is offered and the consideration of the viability assessment is whether the go ahead can now be given or whether the development is unacceptable in planning terms because of the level of contributions which can be brought forward.
- 11.5 It is important that a decision is now reached on whether this development can proceed given the length of time in negotiation both pre application and through the application process.

Background Papers:

Application and history files.
Certificate of Ownership.