

# DEVELOPMENT MANAGEMENT COMMITTEE

Meeting held on Wednesday, 16 September 2015 at the Concorde Room, Council Offices, Farnborough at 7.00 pm.

## Voting Members

Cllr G.B. Lyon (Chairman)  
Cllr B.A. Thomas (Vice-Chairman)

Cllr Mrs. D.B. Bedford  
Cllr D.M.T. Bell  
a Cllr R. Cooper

Cllr Sue Dibble  
Cllr D.S. Gladstone  
a Cllr P.I.C. Crerar

Cllr C.P. Grattan  
Cllr J.H. Marsh  
a Cllr Jennifer Evans

## Non-Voting Members

Councillor Roland Dibbs (ex-officio)

Apologies for absence were submitted on behalf of Councillor Rod Cooper, Councillor Peter Crerar and Councillor Jennifer Evans.

Cllr P.F. Rust and Cllr S.J. Masterson attended as standing deputy in place of Cllr Rod Cooper.

Cllr D. Gladstone arrived at 7.20 p.m. during the discussion on Planning Application No. 15/00475/FULPP (The Queen's Head, No. 97 North Lane, Aldershot) and did not vote on this or the previous item.

35.

## DECLARATIONS OF INTEREST

Having regard to the Members' Code of Conduct, the following declarations of interests were made. Those Members with a disclosable pecuniary interest left the meeting during the debate on the relevant agenda items:

Member	Application No. and Interest Address	Reason
Cr. G.B. Lyon	1500475/FULPP (The Queen's Head, No. 97 North Lane, Aldershot)	Personal Member of the Campaign for Real Ale.
Cr. J.H. Marsh	15/00606/FULPP (31 – 33 Queen's Road and No. 62 Peabody Road, Farnborough)	Prejudicial Friend of the owner of the site/applicant and had spoken to the applicant about this application.

Cr. Thomas	B.A. 1500475/FULPP (The Queen's Head, No. 97 North Lane, Aldershot)	Prejudicial	Ran a public house within a mile of the application premises.
Cr. P.F. Rust	B.A. 1500475/FULPP (The Queen's Head, No. 97 North Lane, Aldershot)	Personal	Member of the Campaign for Real Ale.

### 36. **MINUTES**

The Minutes of the Meeting held on 19th August, 2015 were approved and signed by the Chairman.

### 37. **TOWN AND COUNTRY PLANNING ACT, 1990 (AS AMENDED) - TOWN AND COUNTRY PLANNING (GENERAL DEVELOPMENT PROCEDURE) ORDER, 1995 - DEVELOPMENT APPLICATIONS GENERALLY**

**RESOLVED:** That

- (i) planning permission/consent be refused in respect of the following application and as set out in Appendix "A" attached hereto for the reasons mentioned therein:  
\* 15/00475/FULPP (The Queen's Head, No. 97 North Lane, Aldershot);
  - (ii) the applications dealt with by the Head of Planning, where necessary in consultation with the Chairman, in accordance with the Council's Scheme of Delegation, more particularly specified in Section "D" of the Head of Planning's Report No. PLN1544, be noted;
  - (iii) the following application be determined by the Head of Planning, in consultation with the Chairman:  
15/00562/FULPP (The Old Mint, Pound Road, Aldershot); and
  - (iv) the current position with regard to the following application be noted pending consideration at a future meeting:  
15/00606/FULPP (Nos. 31 – 33 Queen's Road – No. 62 Peabody Road, Farnborough).
- \* The Head of Planning's Report No. PLN1544 in respect of this application was amended at the meeting.

### 38. **REPRESENTATIONS BY THE PUBLIC**

In accordance with the guidelines for public participation at meetings, the following representations were made to the Committee and were duly considered before a decision was reached:

<b>Application No.</b>	<b>Address</b>	<b>Representation</b>	<b>In support of or against the application</b>
15/00475/FULPP	(The Queen's Head, No. 97 North Lane, Aldershot)	Mr. J. Coll Ms. R. Haines	Against In support

### **39. APPLICATION NO. 15/00462/FULPP - THE OLD MINT, POUND ROAD, ALDERSHOT**

The Committee considered the Head of Planning's Report No. PLN1544 regarding the retention of two three-bedroom flats with associated works at The Old Mint, Pound Road, Aldershot.

It was noted that the recommendation was to grant planning permission, subject to the completion of a satisfactory agreement under Section 106 of the Town and Country Planning Act, 1990.

**RESOLVED:** That

- (i) subject to the completion of a satisfactory agreement under Section 106 of the Town and Country Planning Act, 1990 by 12th October, 2015 to secure an appropriate contribution towards Special Protection Area mitigation and open space, the Head of Planning in consultation with the Chairman, be authorised to grant planning permission, subject to the conditions and informatics set out in the Head of Planning's Report No. PLN1544; however
- (ii) in the event that a satisfactory Section 106 agreement is not received by 12th October, 2015, the Head of Planning, in consultation with the Chairman, be authorised to refuse planning permission on the grounds that the proposal fails to make provision for open space contrary to the provisions of Policy CP12 of the Rushmoor Core Strategy and 'saved' Policy OR4 of the Rushmoor Local Plan Review 1996 – 2011; fails to provide mitigation for the impact of the development on the Thames Basin Heaths Special Protection Area in accordance with the Council's Thames Basin Heaths Special Protection Area Avoidance and Mitigation Strategy contrary to Policy CP13 of the Rushmoor Core Strategy; and does not provide appropriate car and cycle parking in accordance with the Council's adopted car and cycle parking standards or make satisfactory provision for refuse storage as required by Saved Local Plan Policy ENV17 and Core Strategy Policies CP2 and CP17.

### **40. ENFORCEMENT AND POSSIBLE UNAUTHORISED DEVELOPMENT**

#### **(1) No. 177 Ash Road, Aldershot –**

The Committee received the Head of Planning's Report No. PLN1546 regarding the unauthorised change of use of commercial space into residential accommodation at No. 177 Ash Road, Aldershot.

It was reported that No. 177 Ash Road was a long-established hot food takeaway (Star Kebabs) located in the middle of the ground floor of the building. To the east side of this was a sub-divided area of the building with lawful planning use as a separate hot food takeaway shop on the ground floor and with storage space above. No. 177a Ash Road was located to the west side of Star Kebabs and was also understood to be in the same ownership and was currently in use as a hairdressers. There was also a self-contained residential one-bedroom flat located on the first floor of the building, No. 177c. It was highlighted that there was limited on-site parking due to its position alongside the traffic-light junction of Ash Road, Lower Newport Road and Lower Farnham Road.

Following complaints, an inspection had revealed that parts of the eastern takeaway premises were being occupied residentially, in the form of a pair of studio units on the ground floor and with a further flat in the ancillary storage space on the first floor. The owner had submitted a planning application in June, 2015 which had been declared invalid due to material inaccuracies in the plans. Although the applicant's agent had advised that work was afoot to prepare corrected plans, this work had not, to date, been completed and no corrected plans had been submitted to the Council.

The Committee was informed that the conversion of these premises would be considered acceptable in principle. However, such conversions would only be granted planning permission, subject to conditions to secure and retain various provisions in the interests of the amenities of the area, the amenities of neighbours, highway safety etc. In this case this would involve the provision, allocation and retention of parking spaces, and provision and retention of bin storage. This had not been possible in the configuration of this site and the unauthorised development in question because there had been no means to impose the requisite conditions to render the proposals acceptable in planning terms.

In addition, none of the usual Section 106 financial contributions had been secured, most notably the contribution for special protection area mitigation and avoidance. This was considered fundamentally unacceptable and in conflict with the Habitats Regulations, Government Planning Policy and Guidance and adopted Development Plan Policy. It was also considered that there would have been a requirement for a public open space contribution in this case. These matters were therefore considered to be grounds for serving an Enforcement Notice.

**RESOLVED:** That an Enforcement Notice be served requiring the cessation of the unauthorised material change of use of the land for residential use with a period of six months for compliance for the following reasons:

- (i) the unauthorised development intensifies the use of the property and is provided with inadequate and unsatisfactory on-site parking to meet its functional needs in the vicinity of limited on-street parking opportunities; the proposed residential development would thereby be likely to attract indiscriminate, dangerous and obstructive parking in the streets nearby, to the detriment of the safety and convenience of highway users and would thereby be unacceptable, contrary to the National Planning Policy Framework and adopted Rushmoor Core Strategy Policies CP2 and CP16;

- (ii) the unauthorised development is provided with inadequate facilities for the on-site storage of refuse to the detriment of the visual amenities of the area and the living environment of occupiers contrary to adopted Rushmoor Core Strategy Policy CP2;
- (iii) the proposal fails to make provision for an appropriate Special Protection Area Mitigation and Avoidance contribution towards the Hawley Meadows suitable accessible natural green space, or strategic access management measures in order to address the impact of the proposed development upon the nature conservation interest and objectives of the Thames Basin Heaths Special Protection Area; the proposal is thereby contrary to the requirements of Policies CP13 and CP15 of the Rushmoor Core Strategy adopted in October, 2011; and
- (iv) the proposals do not make provision for public open space in accordance with the requirements of Policies CP11 and CP12 of the Rushmoor Core Strategy adopted October, 2011, saved Local Plan Policies OR4 and Or4.1 and the Council's continuing Interim Advice Note (dated August, 2000 and updated July, 2006) "Financial Contributions towards Provision of Open Space in Association with New Housing Development".

**(2) No. 19 Whittle Crescent, Farnborough –**

The Committee received the Head of Planning's Report No. PLN1546 regarding the erection of a single storey rear extension at No. 19 Whittle Crescent, Farnborough. - 34 -

It was reported that it had come to the Council's attention that a single storey rear extension had been built measuring 3.7 metres from the original rear wall of the home. The extension would have required planning permission as it was 700 mm greater than the permitted development tolerance for this type of property, as set out in Schedule 2, Part 1, Class A of the general Permitted Development Order, 2015. The owner's response to contact had been that they were not in a position to submit a formal planning application.

On considering the matter, it was felt that the extension did not cause any significant material harm to the visual character of the area, to the amenities of the neighbours or to highway safety. Had a planning application been submitted, it would have received a recommendation that permission be granted. Therefore, in accordance with Policies CP2 and CP16 of the Core Strategy and saved Policy ENV17 and H15 of the Rushmoor Local Plan, it was considered neither expedient or reasonable for the Council to take enforcement action in respect of the breach of planning control in this case.

**RESOLVED:** That no further action be taken.

**41. MOUNTBATTEN COURT, BIRCHETT ROAD, ALDERSHOT - SECTION 52 LEGAL AGREEMENT**

The Committee considered the Head of Planning's Report No. PLN1547 (as amended at the meeting) which sought approval to relax a clause in a legal agreement which restricted the age of the occupiers of flats in Mountbatten Court, Birchett Road, Aldershot.

The Committee was informed that the owners of Flat No. 5 Mountbatten Court had written to the Council requesting a relaxation of the clause because the age restriction had been causing problems with the sale of the flat.

Planning permission had been granted for the erection of a three-storey block of seventeen two-bedroom flats and nine one-bedroom flats in August, 1987. At the time, parking standards had been considerably higher and based on minimum standards. The developer had provided less than the full requirement on the basis that the flats would be for the elderly. A clause in the legal agreement had therefore been drawn up under Section 52 of the Town and Country Planning Act, 1971 which required that the sixteen flats on the ground and first floors should be occupied by at least one person of pensionable age.

Following consultation with the residents of Mountbatten Court, one letter had been received from the executors of the late owner of Flat No. 13 who had indicated that they had no objections in respect of the request from the owners of Flat No. 5 and, in addition, making their own request for non-enforcement in respect of Flat No. 13. Another letter had subsequently been received from the managing agents for the Mountbatten Court Management Company, who confirmed that they were in support of the Council not enforcing the terms of the Legal Agreement in terms of the age restriction of occupiers.

It was also noted that none of the age-restricted flats at Mountbatten Court had been designed to current mobility standards and the age restriction had only been imposed because the developer had been unable to provide enough parking on the site for the development. Since planning permission had been granted, the Council's parking requirements had changed significantly in response to changes in Government planning guidance. The parking standards applicable to residential development did not now make any distinction in terms of parking requirements between general purpose flats and those restricted to residents of pensionable age. The only reductions in parking requirements available for residential development now related to sheltered housing establishments providing care to much less mobile residents. Furthermore, current Government guidance and the Council's adopted parking requirements allowed for significant reductions in parking provision in town centre locations.

On considering the above, the Committee agreed that retention of the age restriction would no longer serve a planning purpose. In addition, the approach had previously been agreed for other flats in the development, the most recent being Flat No. 10 in November, 2013. Similar age-restricted flats in Phoenix Court had also been subject to requests for relaxations and had been allowed by the Council. In the circumstances, it was therefore felt that the Council should not seek to enforce the terms of the legal agreement in respect of Flat Nos. 5 and 13 Mountbatten Court.

**RESOLVED:** That the Solicitor to the Council be authorised to advise the persons making the above request that the Council is minded not to enforce the terms of the Section 52 Agreement in respect of Flat Nos. 5 and 13 and that they be invited to enter into a Deed of Release, upon payment of the Council's legal costs, to release the property from the terms of the Section 52 Agreement..

The Committee received the Head of Planning's Report No. PLN1548 which requested authority for the Council to complete a Section 106 legal agreement in relation to the Ham and Blackbird site at No. 281 Farnborough Road, Farnborough.

The Committee was reminded that permission had been refused by the Development Management Committee in January, 2015 for the demolition and redevelopment of the Ham and Blackbird site at No. 281 Farnborough Road. Permission had been refused for reasons relating to the impact of traffic movement on highway safety and the local network, failure to secure Section 106 contributions (towards special area protection mitigation and public open space) and failure to provide appropriate provision of affordable housing (as set out in full in the Head of Planning's Report).

The applicants had subsequently lodged an appeal which was due to be heard on 9th December, 2015 and the Committee was advised that, in preparation for the appeal, the applicants and the Council would need to prepare a 'Statement of Common Ground' to identify to the Inspector those issues on which there was no dispute. The applicants had indicated that they intended to submit a draft Section 106 agreement to the Inspector at the hearing in order to address the reasons for refusal that related to failure to secure Section 106 contributions.

In respect of the failure of the proposal to provide affordable housing, the applicants had agreed to make provision to meet the Council's requirement in full (22 units (35%) of the total number of units). In this respect the applicants were proposing that eleven affordable units would be provided in the scheme and, at the request of the Head of Environmental Health and Housing, a financial contribution would be secured equivalent to the cost to the developer of providing the remaining eleven units within the scheme. This would provide affordable housing off-site that would be more appropriate to meeting local housing needs. Although subject to discussion relating to the value of the contribution, should agreement be reached on this matter, this financial contribution would also need to be secured by the Section 106 agreement.

The applicants had approached the Solicitor to the Council to request that work be undertaken with the Council to produce a draft Section 106 Agreement seeking to address the Reasons for Refusal Nos. 2, 3 and 4. Authority was therefore being sought from the Development Management Committee for the Head of Planning, in consultation with the Solicitor to the Council to prepare the necessary draft Section 106 Agreement to address these matters.

The Committee was assured that this work would not affect the Council's position in relation to Reason for Refusal No. 1 as set out in the Head of Planning's Report, but would remove the need for the Council to defend Reason for Refusal Nos. 2, 3 and 4 at the forthcoming appeal hearing.

**RESOLVED:** That the Head of Planning, in consultation with the Solicitor to the Council, be authorised to complete a legal agreement to address the impacts of the development as identified in Reasons for Refusal Nos. 2, 3 and 4 as set out in detail in Report No. PLN1501 considered by the Development Management Committee on 7th January, 2015.

#### 43. APPEALS PROGRESS REPORT

The Committee received the Head of Planning's Report No. PLN1549 concerning the following new appeal:

<b>Application No.</b>	<b>Description</b>
14/00956/EDCPP	Against the Council's decision to refuse an application for a Certificate of Lawful Existing Use as a single dwelling at 35A Camp Road, Farnborough. The appeal would be dealt with by way of the written procedure.

**RESOLVED:** That the Head of Planning's Report No. PLN1549 be noted.

The meeting closed at 8.15 pm.

CLLR G.B. LYON  
CHAIRMAN

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