

**Pinehurst House, 117 Farnborough Road, Farnborough**

**1. Introduction**

Further to the decision by the Development Management Committee in November 2018 to refuse the planning application (18/00466/FULPP) for **“Erection of extensions and alterations to existing office building (Use Class B1) to facilitate conversion and change of use to residential use (Use Class C3) to provide 113 flats (comprising 7 X studio, 52 X 1-bedroom, 52 X 2-bedroom and 2 X 3-bedroom units); retention/provision of 199 on-site parking spaces and use of existing vehicular access to Farnborough Road; and landscaping including creation of new landscaped podium amenity courtyard”** the applicants have indicated that they intend to lodge an appeal to the Planning Inspectorate. In this respect they have advised that they wish to submit a draft s106 Agreement to the Inspector in order to address those reasons for refusal that relate to failure to secure s106 contributions.

There is a general duty imposed upon all involved in the appeal process to act reasonably and to seek to resolve matters of dispute where possible.

**2. Background**

In November 2018 planning permission was refused for the proposed development for the following reasons:-

- “1 *The proposal, by virtue of the design, mass, bulk, and height of the additions to the building and the proximity of windows of new residential units, would have a detrimental effect on the amenities of neighbouring residential properties within The Convent, 115 Farnborough Road by virtue of enclosure and loss of privacy due to actual and perceived overlooking. The proposal is therefore contrary to adopted Rushmoor Core Strategy Policy CP2; saved Local Plan Policy ENV16; and emerging New Rushmoor Local Plan (2014 to 2032) Policy DE1. The proposal further fails to address the requirement for high quality design set out in the National Planning Policy Framework and Planning Practice Guidance.*
- 2 *In the absence of a s106 Planning Obligation, the proposal fails to make provision for an appropriate Special Protection Area Mitigation and Avoidance contribution towards strategic access management measures in order to address the impact of the proposed development upon the nature conservation interests and objectives of the Thames Basin Heaths Special Protection Area. The proposals are thereby contrary to the requirements of retained South East Plan Policy NRM6; Policies CP13 and CP15 of the adopted Rushmoor Core Strategy (October 2011); and Policies NE1 & NE4 of the emerging New Rushmoor Local Plan (2014 to 2032).*

- 3 *In the absence of a s106 Planning Obligation, the proposal fails to make provision for public open space in accordance with the requirements of Policies CP11 and CP12 of the adopted Rushmoor Core Strategy (October 2011); saved Local Plan Policies OR4 and OR4.1; emerging New Rushmoor Local Plan (2014 to 2032) Policy IN2; 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".*
- 4 *In the absence of a s106 Planning Obligation, the proposal fails to make provision for appropriate transport contributions to address the impact on local highway infrastructure as required by Policies CP16 and CP17 of the adopted Rushmoor Core Strategy (October 2011); saved Local Plan Policy TR10; emerging New Rushmoor Local Plan (2014 to 2032) Policy IN2; and the Council's adopted "Planning Contributions : Transport" Supplementary Planning Document, April 2008."*

The matters relating to Reasons for Refusal Nos.2, 3 and 4 can be resolved by the applicants offering the appropriate financial contributions through a s106 Legal Agreement.

The applicants have approached the Solicitor to the Council to request that work be undertaken with the Council to produce a draft s106 Agreement seeking to address Reasons for Refusal Nos.2, 3 and 4. Authority is sought from the Development Management Committee for the Head of Planning in consultation with the Solicitor to the Council to prepare the necessary draft s106 Agreement to address these matters.

Undertaking this work would not affect the Council's position in relation to Reason for Refusal No.1 as set out above, but would remove the need for the Council to defend Reasons for Refusal Nos.2, 3 and 4 with the appeal proceedings.

As was set out in the Committee Report presented to the Committee at the 7 November 2018 meeting, as any planning permission that may be granted on this site could take some time to build-out once implemented, there is also a need (as recommended by the District Valuer in assessing the applicants Financial Viability Assessment submitted with the application) for the s106 Agreement to be subject to a financial re-assessment clause. This would ensure that the applicant/developer does not benefit from any improvement in the market value of the scheme that could justify provision of affordable housing or an equivalent financial contribution in the event that completion of the proposed development were to be protracted. The applicants and their agents were aware of this requirement prior to the refusal of the application and it is considered essential that this clause should remain to ensure compliance with the requirements of Rushmoor Core Strategy Policy CP6 and/or emerging New Rushmoor Local Plan Policy LN2 (Affordable Housing).

### **3. Recommendation**

Members are asked to give authority to complete a legal agreement to address the impacts of the development as identified in Reason for Refusal Nos.2, 3 and 4 as set out in this report. Furthermore, that the legal agreement includes an appropriate financial viability re-assessment clause for the reasons re-stated in this report.

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