

## SUPPLEMENTARY INFORMATION

### APPLICATIONS UNDER VARIOUS ACTS / REGULATIONS – SUPPLEMENTARY INFORMATION

1. **Application Number: 15/00277/OUT**

**Address: Land between Drake House Crescent and Eckington Way,  
Drake House Way S20 7JJ**

#### **Report Corrections**

In the 'General Policy' section reference is made on page 133 to Policy IB5. This is the wrong reference and should be replaced with CS5 (it is a Core Strategy policy). The remaining text in the paragraph is correct.

On page 143 (in the 'response to representations' section) the shopping centre of Woodseats is wrongly referenced. The correct reference is Woodhouse Shopping Centre as referred to earlier in the report.

#### **Response from Coal Authority**

Since the publication of the report, the Coal Authority have had the chance to assess the Geotechnical and Geo-environmental Report prepared by Terra Firma (Wales) Ltd, dated May 2015 and are satisfied with the broad conclusions of the report. They conclude that the coal mining legacy issues are not significant and do not pose a risk to the proposed development. On this basis the Coal Authority **does not object** to the proposed development. On the this basis the recommendation remains 'Grant Conditionally subject to the completion of a legal agreement' and the Coal Authority's lack of objection removes the need for any further consideration by officers in relation to coal mining risk issues.

#### **Additional Representation**

Clive Betts MP has written to reiterate the concerns he raised in his previous correspondence, with particular reference to traffic congestion:

- Real problem of congestion both at peak periods during the week and also at weekends
- Incremental additions to traffic from a number of developments over the years which are collectively causing a problem
- Additional problems in particular will be caused by the development to the Drake House / Eckington Way roundabout; the right turn from Drake House Way to Drake House Crescent and the roundabout next to McDonald's on Drake House Way
- The junction with Moss Way / Drake House Crescent is already problematic as are the junctions with both Birley Spa Lane and Bighton Road / Moss Way (with a history of minor collisions).

- Consideration should be given to measures to deal with the potential increase in congestion from the development. If planning policies are insufficient to insist on this, the Council should make it a condition of the sale of the land (Members should note that this is not a planning consideration).
- Concern that workers at the complex will park on nearby residential roads and add to congestion and problems for people living nearby.

### **Officer Response**

It is considered that the points raised are not new ones and that a response to them is already provided within the officer report to Committee.

### **Amended Conditions**

It is proposed to amend the order of the conditions and tighten up the wording as follows:

#### Condition 3

Re-number as Condition 1 and re-word as follows:

*No development shall commence until details of landscaping (hereinafter called "the reserved matters") have been submitted to and approved in writing by the Local Planning Authority and the development shall thereafter be carried out as approved.*

#### Condition 13

Re-number as Condition 2 and re-word as follows:

*Application for approval of the reserved matters shall be made to the Local Planning Authority not later than three years from the date of this permission.*

#### Condition 1

Re-number as Condition 3 and re-word as follows:

*The development shall begin not later than two years from the date of approval of the reserved matters.*

#### Condition 2

Re-number as Condition 4 and re-word as follows:

*The development must be carried out in complete accordance with the following approved documents:*

*Drawing Numbers:*

*13762-50 Location Plan*

*13762- 100D Proposed Site Layout*

*13762-101A Proposed GA Layouts*

*13762-102A Proposed GA Unit C*

*13762-103A Proposed GA Unit D*

*13762-104 Proposed Elevations Sheet 1*

*13762-105 Proposed Elevations Sheet 2*

*13762-106A Proposed Roof Plans*

#### Conditions 4 & 5

Re-number as Conditions 5 & 6

#### Condition 6

Re-number as Condition 7 and insert “(produced by Waterman, April 2014)” after “Phase I Preliminary Risk Assessment Report”

Conditions 7, 8, 9

Re-number as Conditions 8, 9, 10

Condition 10

Re-number as Condition 11 and re-word as follows:

*"No development shall commence until a report has been submitted to and approved in writing by the Local Planning Authority identifying how a minimum of 10% of the predicted energy needs of the completed development will be obtained from decentralised and renewable or low carbon energy.*

*Before a unit may open to trade any agreed renewable or low energy equipment connection to decentralised or low carbon energy sources referred to in such report in respect of that unit shall be installed and a post-installation report shall have been submitted to the Local Planning Authority to demonstrate that the agreed measures in respect of that unit have been met.*

*Thereafter the agreed equipment connection or measures in respect of that unit shall be maintained for the lifetime of such unit but may be altered replaced and upgraded provided that the energy needs for such unit from decentralised and renewable or low carbon energy are at least equal to those referred to in the above report"*

Conditions 11 & 12

Re-number as Conditions 12 & 13

Condition 19

Re-place the word “building” with “development”. Add the words “This shall not preclude minor modifications to the parking area provided that the total number of parking spaces is maintained as approved.”

Condition 21

Add the words “The electric charging points shall be retained and maintained for the lifetime of the development” to the end of the condition.

Condition 22

Re-word as follows:

*“Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (or any statutory instrument revoking and re-enacting that Order with or without modification), no more than 70 % of the sale floorspace in each of the two main units (C and D) shall be used for the sale of non-food goods”*

Condition 23

Re-word as follows:

*Across the whole development the total retail sales area falling with Use Class A1 shall not exceed 2435m<sup>2</sup>*

Condition 25

Re-word as follows:

*Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(England) Order 2015, Schedule 2, Part 3 class A, or any Order revoking or re-enacting that Order, no building shall change from use class A3 to use class A1 without prior planning permission being obtained from the Local Planning Authority.*

Condition 31

Re-place the words “*commercial use(s)*” with “*buildings*”

Condition 34

Re-word as follows:

*“The development hereby approved shall be constructed to achieve a minimum rating of BREEAM 'very good' (for the shell only) and within 3 weeks of practical completion (or within an alternative timescale to be agreed) the relevant application for construction certification, demonstrating that BREEAM 'very good' (shell only assessment & certification) has been achieved, shall be submitted to and approved in writing by the Local Planning Authority.”*

**Revised Heads of Terms**

An agreement to secure the dedication of the land coloured yellow on plan 13762-100D Proposed Site Layout, for highway improvement works

**2. Application Number: 15/01180/FUL**

**Address: 245 Ecclesall Road**

**Additional Representations**

Following the publication of the Committee report, the applicant’s agent has written to express concern at elements of the Committee report which they say ‘*appear subjective/demonstrate a lack of real understanding of the detail of the scheme/evidence a desire to mislead*’ and which if misconstrued might prejudice the planning decision.

The agent requests the application is withdrawn from Committee to have ‘*the entire contents of the Officer’s report reconsidered*’.

The statement is too lengthy to reproduce here but is summarised, with officer comment below.

The statement starts with a number of ‘points of clarification’ similar to those which would appear as a Statement of Common Ground in an appeal situation, however these statements are the views of the applicant and are not necessarily agreed as a correct interpretation of facts or views presented in the report.

It then identifies 7 areas of concern (see below followed by officer comment) before concluding that the report is:-  
-factually incorrect

- contradictory
- could mislead
- plays down and gives insufficient weight to the benefits of the development

#### 1. Historic England Consultation

The applicant is concerned that Historic England (HE) have been consulted about the application proposals, seeing this as a '*direct attempt to alter decision-makers' perceptions of the scheme and to mislead*'. They state that there was no requirement to consult, that the consultation was only sent after a very difficult meeting, and that this practice is inconsistent with previous consideration of an adjacent site where, officers acknowledge there was a case for notification.

The Porter Brook Conservation Area and the Grade 2 Listed Bow Works are within 15-20m of the site on the Pear St/Pomona St junction. Officers had consulted the Conservation Advisory Group (CAG) at an early stage in the process but did not initially consult HE. From 15 April 2015 there was no statutory obligation to do so.

The absence of any statutory obligation does not prevent consultation with HE, particularly where they may have an interest, and add value to the assessment. The regulations state when consultations must take place rather than directing when they should not. Given the proximity of the Conservation Area, but more particularly Bow Works, consulting HE was entirely reasonable albeit undertaken late in the process and not a statutory requirement. HE have commented and, this being the case, it is right that officers report those comments to Members.

The extent to which the proposals affect the setting of the Conservation Area and Listed Building is to some degree subjective. HE have taken a slightly stronger line than officers with officers concluding that, on balance, the impact on Bow Works would be acceptable when considering the benefit of creating a strong urban form to this part of Ecclesall Road. It is unclear why this is being suggested as "*a direct attempt to alter decision-makers' perceptions of the scheme and to mislead*" particularly where Historic England's concerns do not feature in a reason for refusal.

#### 2. Assessment of Impact on the adjoining Car Wash site and Residential Amenity

Officers consider that the proximity of the end elevation of the Zone 1 building to the boundary with the adjoining car wash will impact on the ability to develop that site to its full potential in the future. Other aspects of the scheme, including the 12 storey student block may also compromise the successful development of that site but the 11 storey block is the issue of greatest concern.

The applicant states that they have demonstrated how the site can be developed successfully. The two schemes put forward by the applicant show a building of around two storeys adjacent to the 11 storey block which is an inappropriate scale for this prominent frontage and wide carriageway.

The implications of windows facing onto the car wash site have been a concern from an early stage. The applicant has been given every opportunity to redesign the scheme to address this. The applicant considers that the design of the windows can be altered to protect outlook but has not shown how this could be achieved. Officer's view is that the scheme would require alteration of the floor plans to achieve this.

Officers and Members have to consider the proposals put forward by the applicant and the planning authority cannot redesign the scheme through planning conditions. This would be entirely unreasonable.

It should be noted that development of the car wash site has the potential to restrict light and outlook to the 16 bedrooms in 8 apartments (not 7 rooms as stated by the applicant), and will also affect large windows to the main living areas in the 16 apartments, albeit these rooms having dual aspects and are of less concern.

### 3. Height

The applicant states that if the 12 storey block was reduced to 9 storeys as suggested by officers it would still have the same impact on the 6 storey building on Pomona Street, and refers to the acceptance of a 10 storey building on the nearby former Gordon Lamb site as a precedent.

Officer's view is that reducing the 12 storey building to a maximum of 9 storeys would significantly improve amenity for the residents of the 6 storey block opposite, and would enable the building to sit more comfortably within its context.

Ecclesall Road at this point rises from the 3-4 storeys of the shops and restaurants with which the area is synonymous to the dense urban scale of the 6-7 storey blocks of Wards Brewery. The 12 storey student block and 11storey frontage building are considerably greater than anything within the context appearing out of scale and dominating its surroundings. The 10 storey building is part of a recently expired planning permission for the former Gordon Lamb site which in the main is 5-8 storeys high; with a small footprint block on the Summerfield Street frontage, a more significant street than Pomona Street.

The proposed design places greatest height on Pomona Street, to the rear of the development; turning what is an established secondary street with activities along it into a canyon. Elsewhere the buildings rise and fall, with a substantial gap on the main road frontage. The result is unbalanced, with an adverse impact on the smaller scale streets to the southeast, yet failing to create a strong, cohesive frontage to Ecclesall Road. Officers have explored alternative arrangements which strengthen the main road perimeter and reduce the impact of the rear blocks, but inevitably this does lead to some reduction (approx. 10%) in the level of accommodation provided and was resisted by the applicants when suggested.

### 4. Economic Benefits

The applicant's concern here is that the economic benefits of the scheme are underplayed; that the benefits are much wider than increased expenditure in the economy; and that the report ignores other benefits such as jobs and spending created during the construction period. It also refers to non-material planning benefits such as increased Council revenues.

The applicant's statement criticising the report appears to miss a paragraph (p114 and p116) which acknowledges the 'significant benefit' of 'creating employment, predominantly in the construction phase, but also as a result of employment in the retail and facilities management sectors'.

The report is accurate in its comment that the applicant was unwilling to engage in discussion about a Local Employment Strategy and made it clear (at the last meeting with officers) that was a matter for the contractor. The statement now submitted states that the applicant is willing to accept such a condition. This is noted, but it is worth noting that this issue did not form part of a recommended reason for refusal.

#### 5. Environmental Benefits

The applicant considers that greater weight should be given to *"the environmental benefits of delivering a high density development in a sustainable location, within easy walking distance of a wide variety of local shops and services and the city centre, within easy access of public transport (thus reducing the need to travel by car), designed to BREEAM Very Good standards, where biodiversity is maximized."*

The benefits are acknowledged but are given more limited weight when considering that such benefits are not exclusive to these particular proposals and would be equally applicable to other forms of development, of a more appropriate scale on this site.

#### 6. Viability

The applicant considers that the District Valuer's (DV) appraisal of the proposals demonstrates that any reduction in the development would not be economically viable and that officers are misleading members by suggesting that there is no evidence that viability would *be "unacceptably compromised" by designing an alternative scheme....desired by officers'.*

The DV did conclude that the currently proposed scheme would not make a profit with a contribution for Affordable Housing. The DV did manage to identify an overall 15% profit without the Affordable Housing contribution whilst allowing for substantial commuted sums for Open Space and Education (now replaced by CIL). The applicant's point is therefore noted, but it does not necessarily follow that an alternative scheme would significantly reduce the return in relation to the revised development costs. It has previously been argued by developers for instance that construction costs increase with the height of a development (typically above 5 or six storeys). This can only be established with confidence by examining alternatives, through a revised DV appraisal.

#### 7. Housing Supply

The applicant does not consider that adequate consideration has been given to the contribution that the development would make to housing supply and that they cannot tell how much weight has been given to this issue.

The report makes clear reference to the contribution that the development would make to housing supply and this is stated to have been given 'significant' weight in the 'Housing Supply, Density and Mix' section on p101, and the 'Balancing Material Considerations' section on p114. It is then confirmed in the Summary and Recommendation section that the matters of scale, massing and residential amenity outweigh that benefit, amongst others.

#### Request for Withdrawal from the Agenda

Officers have delivered a report to Committee in the timescale agreed with the applicant and on a very clear understanding that they were unwilling to amend the scheme, despite several attempts to secure their agreement to do so. It is not considered appropriate to defer consideration of the application (withdraw from Committee agenda as requested). There may have been scope for this if the statement incorporated a timely offer or willingness to negotiate in line with officer's suggestions for a successful scheme; however it simply takes issue with elements of the report and the weight given to particular aspects.

It is therefore recommended that the application is considered as per the agenda.