

Planning Committee

Tue 29th Mar
2011
7pm

Council Chamber
Town Hall
Redditch



www.redditchbc.gov.uk

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Your main rights are set out below:-

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- Automatic right to inspect agendas and public reports at least five days before the date of the meeting.
- Automatic right to inspect minutes of the Council and its Committees

(or summaries of business undertaken in private) for up to six years following a meeting.

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- Access, on request, to the background papers on which reports are based for a period of up to four years from the date of the meeting.
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- Access to a list specifying those powers which the Council has delegated to its Officers indicating also the titles of the Officers concerned.
- Access to a summary of the rights of the public to attend meetings of the Council and its Committees etc. and to inspect and copy documents.
- In addition, the public now has a right to be present when the Council determines “Key Decisions” unless the business would disclose confidential or “exempt” information.
- Unless otherwise stated, most items of business before the Executive Committee are Key Decisions.
- Copies of Agenda Lists are published in advance of the meetings on the Council’s Website:

www.redditchbc.gov.uk

If you have any queries on this Agenda or any of the decisions taken or wish to exercise any of the above rights of access to information, please contact the following:

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Member and Committee Support Services Assistant

Town Hall, Walter Stranz Square, Redditch, B98 8AH

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e.mail: janice.smyth@redditchbc.gov.uk

Minicom: 595528

REDDITCH BOROUGH COUNCIL **PLANNING COMMITTEE**



GUIDANCE ON PUBLIC **SPEAKING**

The process approved by the Council for public speaking at meetings of the Planning Committee is (subject to the discretion and control of the Chair) as follows:

in accordance with the running order detailed in this agenda (Applications for Planning Permission item) and updated by the separate Update report:

- 1) Introduction of application by Chair
- 2) Officer presentation of the report (as originally printed; updated in the later Update Report; and updated orally by the Planning Officers at the meeting).
- 3) Public Speaking - in the following order:-
 - a) Objectors to speak on the application;
 - b) Supporters to speak on application;
 - c) Applicant to speak on application.

Speakers will be called in the order they have notified their interest in speaking to the Planning Officers (by the 4.00 p.m. deadline on the Friday before the meeting) and invited to the table or lecturn.

- Each individual speaker, or group representative, will have up to a maximum of 3 minutes to speak. (Please press button on “conference unit” to activate microphone.)
 - After each of a), b) and c) above, Members may put relevant questions to the speaker, for clarification. (Please remain at the table in case of questions.)
- 4) Members’ questions to the Officers and formal debate / determination.

Notes:

- 1) It should be noted that, in coming to its decision, the Committee can only take into account planning issues, namely policies contained in the Borough of Redditch Local Plan No.2, the County Structure Plan (comprising the Development Plan) and other material considerations which include Government Guidance and other relevant policies published since the adoption of the development plan and the “environmental factors” (in the broad sense) which affect the site.
- 2) No audio recording, filming, video recording or photography, etc. of any part of this meeting is permitted without express consent (Section 100A(7) of the Local Government Act 1972).
- 3) Once the formal meeting opens, members of the public are requested to remain within the Public Gallery and may only address Committee Members and Officers via the formal public speaking route.
- 4) Late circulation of additional papers is not advised and is subject to the Chair’s agreement. The submission of any significant new information might lead to a delay in reaching a decision. The deadline for papers to be received by Planning Officers is 4.00 p.m. on the Friday before the meeting.
- 5) Anyone wishing to address the Planning Committee on applications on this agenda must notify Planning Officers by 4.00 p.m. on the Friday before the meeting.

Further assistance:

If you require any further assistance prior to the meeting, please contact the Committee Services Officer (indicated at the foot of the inside front cover), Head of Democratic Services, or Planning Officers, at the same address.

At the meeting, these Officers will normally be seated either side of the Chair.

The Chair’s place is at the front left-hand corner of the Committee table as viewed from the Public Gallery.

Welcome to today's meeting.

Guidance for the Public

Agenda Papers

The **Agenda List** at the front of the Agenda summarises the issues to be discussed and is followed by the Officers' full supporting **Reports**.

Chair

The Chair is responsible for the proper conduct of the meeting. Generally to one side of the Chair is the Committee Support Officer who gives advice on the proper conduct of the meeting and ensures that the debate and the decisions are properly recorded. On the Chair's other side are the relevant Council Officers. The Councillors ("Members") of the Committee occupy the remaining seats around the table.

Running Order

Items will normally be taken in the order printed but, in particular circumstances, the Chair may agree to vary the order.

Refreshments : tea, coffee and water are normally available at meetings - please serve yourself.

Decisions

Decisions at the meeting will be taken by the **Councillors** who are the democratically elected representatives. They are advised by **Officers** who are paid professionals and do not have a vote.

Members of the Public

Members of the public may, by prior arrangement, speak at meetings of the Council or its Committees. Specific procedures exist for Appeals Hearings or for meetings involving Licence or Planning Applications. For further information on this point, please speak to the Committee Support Officer.

Special Arrangements

If you have any particular needs, please contact the Committee Support Officer.

Infra-red devices for the hearing impaired are available on request at the meeting. Other facilities may require prior arrangement.

Further Information

If you require any further information, please contact the Committee Support Officer (see foot of page opposite).

Fire/ Emergency instructions

If the alarm is sounded, please leave the building by the nearest available exit – these are clearly indicated within all the Committee Rooms.

If you discover a fire, inform a member of staff or operate the nearest alarm call point (wall mounted red rectangular box). In the event of the fire alarm sounding, leave the building immediately following the fire exit signs. Officers have been appointed with responsibility to ensure that all visitors are escorted from the building.

Do Not stop to collect personal belongings.

Do Not use lifts.

Do Not re-enter the building until told to do so.

The emergency Assembly Area is on Walter Stranz Square.

Declaration of Interests: Guidance for Councillors

DO I HAVE A "PERSONAL INTEREST" ?

- Where the item relates or is likely to affect your **registered interests** (what you have declared on the formal Register of Interests)

OR

- Where a decision in relation to the item might reasonably be regarded as affecting **your own** well-being or financial position, or that of your **family**, or your **close associates** more than most other people affected by the issue,

you have a personal interest.

WHAT MUST I DO? **Declare the existence, and nature, of your interest and stay**

- The declaration must relate to specific business being decided - a general scattergun approach is not needed
- **Exception** - where interest arises only because of your membership of another **public body**, there is no need to declare unless you **speak** on the matter.
- You **can vote** on the matter.

IS IT A "PREJUDICIAL INTEREST" ?

In general only if:-

- It is a personal interest **and**
- The item affects your **financial position** (or conveys other benefits), or the position of your **family, close associates** or bodies through which you have a **registered interest** (or relates to the exercise of **regulatory functions** in relation to these groups)

and

- A member of public, with knowledge of the relevant facts, would reasonably believe the interest was likely to **prejudice** your judgement of the public interest.

WHAT MUST I DO? **Declare and Withdraw**

BUT you may make representations to the meeting before withdrawing, **if** the public have similar rights (such as the right to speak at Planning Committee).



PLANNING COMMITTEE

29th March 2011

7pm

Council Chamber Town Hall

Agenda

Membership:

Cllrs: Michael Chalk (Chair) Bill Hartnett
Nigel Hicks (Vice-Chair) Roger Hill
Peter Anderson Robin King
Kath Banks Wanda King
Brandon Clayton

1. Apologies	To receive apologies for absence and details of any Councillor nominated to attend the meeting in place of a member of the Committee.
2. Declarations of Interest	To invite Councillors to declare any interest they may have in the items on the Agenda.
3. Confirmation of Minutes (Pages 1 - 4)	To confirm, as a correct record, the minutes of the meeting of the Planning Committee held on 1st March 2011. (Minutes attached)
4. Planning Application 2011/019/FUL - Land at former Mayfield Works, the Mayfields, Redditch (Pages 5 - 14) Head of Planning and Regeneration	To consider a Planning application for a residential development of 23 apartments and associated landscaping. Applicant: Mr A Coupe (Report attached – Site Plan under separate cover) (Central Ward)
5. Application for Prior Approval 2011/030/GDO - Verge east of Claybrook Drive, Redditch (Pages 15 - 18) Head of Planning and Regeneration	To consider a Planning Application for a 15m monopole, equipment cabinet and ancillary apparatus. Applicant: Vodafone UK Ltd & Telefonica O2 UK Ltd (Report attached – Site Plan under separate cover) (Matchborough Ward)

PLANNING

Committee

29th March 2011

<p>6. Planning Application 2011/041/FUL - 137 to 139 Evesham Road, Headless Cross</p> <p>(Pages 19 - 26)</p> <p>Head of Planning and Regeneration</p>	<p>To consider a Planning Application for a change of use of the ground floor of no's 137 – 139 Evesham Road from A1 (Retail) to A3/A5 (Restaurant and Hot Food Take-away use), new shop front and ground floor rear extension. Applicant: Mr L N Theodorou</p> <p>(Report attached – Site Plan under separate cover)</p> <p>(Headless Cross & Oakenshaw Ward)</p>
<p>7. Variation of Planning Obligations (Section 106 Agreement)</p> <p>(Pages 27 - 32)</p> <p>Head of Planning and Regeneration</p>	<p>To consider a variation to the Section 106 Agreement associated with the development of 13 detached houses under Planning Permission 1997/190.</p> <p>(Report attached – Site Plan under separate cover)</p> <p>(Greenlands Ward)</p>
<p>8. Appeal Outcome - Rear of 23 - 28 Ettingley Close and 1,2,11 & 12 Fernwood Close, Wirehill</p> <p>(Pages 33 - 34)</p> <p>Head of Planning and Regeneration</p>	<p>To note the outcome of an appeal against refusal of Planning Permission in relation to a change of use of vacant land to residential gardens, part of which had been retrospective.</p> <p>(Report attached)</p> <p>(Greenlands Ward)</p>
<p>9. Exclusion of the Public</p>	<p>During the course of the meeting it may be necessary, in the opinion of the Chief Executive, to consider excluding the public from the meeting on the grounds that exempt information is likely to be divulged. It may be necessary, therefore, to move the following resolution:</p> <p>“that, under S.100 I of the Local Government Act 1972, as amended by the Local Government (Access to Information) (Variation) Order 2006, the public be excluded from the meeting for the following matter(s) on the grounds that it/they involve(s) the likely disclosure of exempt information as defined in the relevant paragraphs of Part 1 of Schedule 12 (A) of the said Act, as amended.</p>
<p>10. Confidential Matters (if any)</p>	<p>To deal with any exceptional matters necessary to consider after the exclusion of the public (none notified to date.)</p>



Planning Committee

1st March 2011

MINUTES

Present:

Councillor Michael Chalk (Chair), and Councillors Michael Braley (substituting for Councillor B Clayton), Peter Anderson, Adam Griffin (substituting for Councillor K Banks), Bill Hartnett, Roger Hill, Robin King and Wanda King

Also Present:

M Collins (observer for Standards Committee)

Officers:

A Hussain, I Mackay, A Rutt and S Skinner

Committee Services Officer:

J Smyth

76. APOLOGIES

Apologies for absence were received on behalf of Councillors Kath Banks and Brandon Clayton.

77. DECLARATIONS OF INTEREST

There were no declarations of interest.

78. CONFIRMATION OF MINUTES

RESOLVED THAT

the minutes of the meeting of the Committee held on 2nd February 2011 be confirmed as a correct record and signed by the Chair.

.....
Chair

**79. PLANNING APPLICATION 2010/307/FUL –
FORMER METAL PRESSINGS, STUDLEY ROAD, REDDITCH**

Resiting of warehouse approved under Application 2010/207/FUL,
additional floor space to create a conference room and
external alterations to building

Applicant: Langdon Industries Ltd

RESOLVED that

having regard to the Development Plan and to all other material considerations, Planning Permission be GRANTED, subject to the Conditions and Informatives summarised below:

- “1. Development to commence within 3 years**
- 2. Approved Plans defined.**
- 3. Means of vehicular access to the development hereby approved to be from Studley Road, via Howard Road and Old Forge Drive only.**
- 4. Hours of construction activity to be limited**
- 5. Landscaping to be enhanced within the boundary line**
- 6. Development to be carried out in accordance with travel plan submitted.**
- 7. H.13 Access, turning and parking.”**

Informatives

- “1. Reason for approval**
- 2. Drainage details to be in agreement with Severn Trent Water**
- 3. Light Pollution**
- 4. Odour control**
- 5. Dust mitigation**
- 6. Highway Note No. 5.”**

(To ensure compliance with the original Planning Permission for this site, Members agreed to the inclusion of Conditions 5, 6 and 7 and Informative 6, as detailed above, and as previously included in Planning Permission 2010/207/FUL, but in error not detailed in the main report and update for this application.)

Planning Committee

1st March 2011

**80. PLANNING ENFORCEMENT ACTIVITY –
SIX MONTH UPDATE**

RESOLVED that

**the information detailed in the Appendices to the report be
noted.**

The Meeting commenced at 7.00 pm
and closed at 7.13 pm

.....
CHAIR

REDDITCH BOROUGH COUNCIL**PLANNING
COMMITTEE**

29th March 2011

PLANNING APPLICATION 2011/019/FUL**RESIDENTIAL DEVELOPMENT OF 23 APARTMENTS AND ASSOCIATED
LANDSCAPING****LAND AT FORMER MAYFIELDS WORKS, THE MAYFIELDS, REDDITCH****APPLICANT: MR A COUPE**
EXPIRY DATE: 6th May 2011**WARD: CENTRAL**

The author of this report is Ailith Rutt, Development Control Manager, who can be contacted on extension 3374 (e-mail: ailith.rutt@redditchbc.gov.uk) for more information.

(See additional papers for Site Plan)

Site Description

Cleared site, sloping down to north and east, steeply inclined. Site lies in residential area, and is overlooked to a small extent by the rear of properties which front onto Mount Pleasant (on the east, facing west) and lie much further up the hill. These have rear garage blocks facing the site, built into the terraced hillside at a lower level than the Mount Pleasant dwellings. To the east lies more modern residential development at a significantly lower level than the site. There is no uniform character or pattern of development in terms of layout, style, design, materials, age etc in this area.

The site has a heap of used building materials on it towards the rear, which is likely to be the materials from which the previous buildings on the site were made. Some buildings to the rear of the site remain, but are not of substantial construction. There are some scrub plants to the rear of the site, and a tall conifer hedge to the eastern boundary which shields the site from views from the residential properties on Hillside, to the east. The site slopes downwards both from west to east and from south to north (front to back). The site has been vacant for a significant period of time which has allowed natural flora to begin to thrive on the site.

Proposal description

This is a full planning application for the erection of 23 apartments on this site in two blocks. The block to the front would be 2-3 storeys at the front and four at the rear due to the difference in land levels and accommodate 18 apartments. A vehicular access would be located to the eastern side of this block leading to a parking courtyard behind, beyond which a three storey block of five apartments would be located, with amenity space for all the occupants laid out around the parking courtyard and to the rear of the site.

REDDITCH BOROUGH COUNCIL

**PLANNING
COMMITTEE**

29th March 2011

The front apartment block would have a hipped roof with projecting gables to front and rear, and is shown as brick at ground floor level with a string course of soldier bricks, and render above with a tiled roof. The maximum size of the building footprint would be 30m x 19m with a maximum ridge height at the rear of 14m.

The rear apartment block would have a fully hipped roof, with protruding gables to front and rear at either end, and in the centre at the front to form an entrance feature. The block is shown as brick at ground floor level with a string course of soldier bricks, and render above. The roof would be tiled. The maximum size of the building footprint would be 16m wide and 11.4m deep. The height to ridge would be 9.3m.

The courtyard between the two blocks would provide 23 car parking spaces, a disabled parking space and a cycle parking area.

The applicant is proposing that the five apartment block to the rear of the site be provided as affordable housing.

The application is supported by a Design & Access Statement, a community involvement statement, climate change statement, Secured by design statement, transport statement, planning supporting statement & affordable housing statement.

Relevant key policies:

All planning applications must be considered in terms of the planning policy framework and all other relevant material considerations (as set out in the legislative framework). The planning policies noted below can be found on the following websites:

www.communities.gov.uk

www.wmra.gov.uk

www.worcestershire.gov.uk

www.redditchbc.gov.uk

National planning policy

PPS1 (& accompanying documents) Delivering sustainable development
PPS3 Housing

Worcestershire County Structure Plan

SD3 Use of previously developed land

SD4 Minimising the need to travel

T1 Location of development

T3 Managing car use#

IMP1 Implementation of development

REDDITCH BOROUGH COUNCIL**PLANNING
COMMITTEE**

29th March 2011

Borough of Redditch Local Plan No.3

CS6	Implementation of development
CS7	The sustainable location of development
S1	Designing out crime
B(HSG)6	Development within or adjacent to the curtilage of an existing dwelling
B(BE)13	Qualities of good design
C(T)12	Parking standards

Supplementary Planning Guidance / Supplementary Planning Documents

Encouraging good design
Open Space
Education
Designing for community safety

Other relevant corporate plans and strategies

Worcestershire Community Strategy (WCS)
Redditch Sustainable Community Strategy (SCS)
RBC Corporate and performance plan

Relevant site planning history

Appn. No	Proposal	Decision	Date
2010/166/FUL	23 apartments & landscaping	Refused	13/10/10
2010/021/FUL	5 apartments in block at rear	Withdrawn	7/3/2010
2006/187/FUL	18 apartments and ancillary development	Granted	20/7/2006

Application 2010/166/FUL was refused on the grounds of insufficient on-site parking provision with a likely resultant displacement of parking on the surrounding highway network which could compromise road safety and the lack of affordable housing provision.

The 2006 consent has lapsed as it was never commenced. It related to a block of 18 apartments to the front of the site, which now forms part of the current application (and formed part of the refused 2010 application).

Public Consultation responses**Responses in favour**

None

REDDITCH BOROUGH COUNCIL

**PLANNING
COMMITTEE**

29th March 2011

Responses against

Four comments received raising the following points:

- Loss of light to properties in Mount Pleasant
- Overlooking and loss of privacy of properties in Mount Pleasant
- Overdevelopment of site
- Insufficient car parking
- Increase in traffic on surrounding road network
- Access too narrow for vehicles to pass
- These units will not be affordable
- Potential for increased vehicle crime in the area
- Inadequate services in the area for new development to connect to
- Smell from refuse area adjacent to residential property
- Asbestos on old site should be dealt with appropriately

The last issue is not a material planning consideration but has been raised, and so is reported here for information only and cannot be considered in the determination of this application.

Consultee responses

Development Plans Team

No objection in principle, subject to contributions, dwelling types and all other details being acceptable

Worcestershire Regulatory Services

No objection subject to conditions and informatives

Drainage Officer

Comments awaited

Waste disposal team

Will deal with details separately with applicant – no objection to those shown on plans

County Highway Network Control

No objection subject to conditions

County Education Officer

No objection subject to contributions as per SPD being achieved – need for them has been confirmed

Crime Risk Manager

No objection subject to conditions relating to various design details and concern raised regarding overlooking of parking courtyard

REDDITCH BOROUGH COUNCIL

**PLANNING
COMMITTEE**

29th March 2011

Severn Trent Water

No objection subject to a condition regarding drainage details

Economic Adviser

Confirmed that minimal changes to the market have occurred since the previous application, and therefore that their previous findings remain applicable, which were that whilst it would be financially viable to provide the monetary contributions required in line with current local planning policy, the provision of affordable housing would be more difficult given the current climate. However, in addition to this, it might be possible to consider a situation where payments or provision were delayed until market conditions improved and it is acknowledged that this could be included within the planning obligation. (Examples from elsewhere have been provided for information)

Procedural matters

This application is reported to Planning Committee for determination because it falls within the 'major applications' category and is recommended for approval and because a planning obligation is required.

Assessment of proposal

Background

The previous application on this site was for an almost identical scheme, however it did not include any affordable housing provision and only provided 16 car parking spaces instead of the 23 now proposed.

As the planning policy framework has not changed in the interim, it is these changes that need to be given most consideration when determining this application. However, these issues also need to be balanced against all the other relevant material considerations when reaching a conclusion on this application.

The key issues for consideration in this case are therefore as follows:

Principle

The site is previously developed land within close proximity to the town centre. It is not under any specific use designation within LP3, and is within a residential area. Therefore, the principle of residential development on this site is considered to be acceptable, subject to the details meeting the relevant policy criteria.

REDDITCH BOROUGH COUNCIL

**PLANNING
COMMITTEE**

29th March 2011

Design and layout

The details of design, siting and appearance of the block proposed at the front of the site are as for those previously approved in 2006, and the policy framework relating to these has not changed since that decision was made. Therefore, these elements are considered to be acceptable and in compliance with the relevant policies and guidance.

The addition of the second block to the rear is also considered to be acceptable. It would be at sufficient distance from both existing properties and those proposed at the front of the site that it would be unlikely to cause significant harm to amenity and would not have any impact on the streetscene. Whilst it would reduce the overall amenity space provision on the site relative to the previous scheme, it is considered that sufficient would remain that the proposed scheme would be acceptable.

Landscaping and trees

The existing tree screening to the perimeter of the site is to be retained and thus the existing views of the site from surrounding residential properties would not increase. Minimal details of landscaping proposed have been provided, other than the layout for the site and therefore it is recommended that a condition be imposed to agree these details and implement them as appropriate.

Any of the trees that have been on the site since 1965 are also protected by a TPO and therefore would remain on site and retain their protection. It is not considered that the proposed development would result in any significant or long term harm to their health and vigour.

Highways and access

The parking layout has been amended since the previous application to address the previous refusal reason and 23 parking spaces are now proposed, which equates to one space per unit. As these are small units, then this complies with the adopted maximum standards. One visitor space is also proposed. The expert adviser has not raised any objections to the parking and access details proposed. It is therefore considered that this is now compliant with policy and acceptable.

Sustainability

The site lies within a sustainable location, and is therefore an appropriate location for a development of this type. Minimal information has been provided regarding the construction to sustainable standards of the proposed development, and therefore rather than recommend a condition seeking a particular level of the code for sustainable homes, it is considered more appropriate to require that the standard of sustainable construction be agreed prior to the development commencing, and for monitoring to be carried out to ensure this through the construction phase. This would be done in liaison

REDDITCH BOROUGH COUNCIL

**PLANNING
COMMITTEE**

29th March 2011

with the Building Control team. Recent and imminent changes to the building control requirements will increase the demands for sustainable design features in the construction of the development, and therefore this would be controlled separately under other legislation.

Planning obligation

The previous application was refused due to a lack of proposed affordable housing provision, and this has been addressed in this application.

The size of the proposed development is above the policy threshold for requiring contributions which should be sought via a planning obligation:

- A contribution towards County education facilities would normally be required, and the County have confirmed that there is a need in this area to take contributions towards three schools – St Lukes First, Birchensale Middle and Trinity High;
- A contribution towards playing pitches, play areas and open space in the area, due to the increased demand/requirement from future residents, is required in compliance with the SPD.
- The proposal would also normally require that 40% of the dwellings (in this case 9 units) be provided as affordable units for social housing in line with SPD policy. This must also be included in the agreement to ensure the retention of the units for this purpose in perpetuity.

The applicant has provided supporting information to demonstrate that the development would be economically unviable if these contributions and the provision of nine units of affordable housing were required. However, the applicant has indicated that they are willing to provide the block of five units to the rear of the site as affordable housing as well as pay the financial contributions.

Expert advice from an economic consultant has been provided, agreeing that whilst it would be viable to provide the financial contributions, it would not be economically viable to provide nine units of affordable housing.

Therefore, the offer from the applicant to provide five units of affordable housing and the financial contributions detailed above, which meets most of the policy requirements, is, on balance and in the light of the evidence provided, considered to be acceptable in this case. However, it is necessary to ensure that the detailed terms of the planning obligation are such that officers from the housing team are convinced that the affordable housing element will be provided to their satisfaction, and this aspect is being dealt with by legal officers.

REDDITCH BOROUGH COUNCIL

**PLANNING
COMMITTEE**

29th March 2011

Other issues

In the event that the proposal is considered favourably, it is recommended that conditions be attached following the comments received from consultees.

Conclusion

It is considered that the changes to this application following the previous refusal adequately address those issues, and that in those matters, the proposed development is now compliant with the policy framework. It is further considered that there are no other material considerations that might tip the balance against the proposed development.

It is therefore considered that the principle, design, layout, siting and details of the proposed development meet the relevant planning policy criteria, and that the planning obligation proposed is an acceptable compromise given the evidence of current market conditions when considered against the planning policy criteria and that the application as now proposed is acceptable.

Recommendation

Officers are seeking an either/or resolution from Members in this case as follows, in that officers would carry out whichever of the two recommendations below applied:

Either:

- 1. That having regard to the development plan and to all other material considerations, authority be delegated to the Head of Planning Regeneration to GRANT planning permission subject to:**
 - a) a planning obligation ensuring that the five units are for the provision of social housing in perpetuity; that the County Council are paid appropriate contributions in relation to the provision of education facilities in the locality; that the Council are paid appropriate contributions in relation to the development for pitches, play areas and open space provision in the locality to be provided and maintained; and any future minor changes required to the content be carried out as necessary by Officers; and**
 - b) conditions and informatives as summarised below:**

Conditions

1. Time limit for commencement of development
2. Materials to be agreed and implemented
3. Landscaping details to be agreed and implemented
4. Boundary treatments to be agreed and implemented (including retention of existing)

REDDITCH BOROUGH COUNCIL

**PLANNING
COMMITTEE**

29th March 2011

5. Refuse compound details to be agreed and implemented prior to occupation
6. Hard surfacing details to be porous and agreed
7. Sustainable standard to be agreed and implemented
8. As requested by Highways
9. As requested by Environmental Health
10. Secured by Design
11. Drainage details as requested by Severn Trent Water
12. Approved plans specified

Informatives

1. Reason for approval
2. As requested by Environmental Health
3. As requested by Highways
4. Secured by Design
5. As requested by Severn Trent Water

Or:
2.

- a) **In the event that the planning obligation cannot be completed by 5th May 2011, Members are asked to delegate authority to officers to refuse the application on the basis that without the planning obligation the proposed development would be contrary to policy and therefore unacceptable due to the resultant detrimental impacts it could cause to community infrastructure by a lack of provision for their improvements, and that none of the dwellings could be restricted to use for affordable housing in line with current policy requirements; and**
- b) **In the event of a refusal on this ground and the applicant resubmitting the same or a very similar planning application with a completed legal agreement attached, authority be delegated to the Head of Planning and Regeneration to GRANT planning permission subject to the conditions stated above as amended in any relevant subsequent update paper or by Members at the meeting.**

REDDITCH BOROUGH COUNCIL**PLANNING
COMMITTEE**

29th March 2011

APPLICATION FOR PRIOR APPROVAL 2011/030/GDO**15M MONOPOLE, EQUIPMENT CABINET AND ANCILLARY APPARATUS****VERGE EAST OF CLAYBROOK DRIVE, REDDITCH****APPLICANT: VODAFONE UK LTD & TELEFONICA O2 UK LTD****EXPIRY DATE: 8TH APRIL 2011****WARD: MATCHBOROUGH**

The author of this report is Ailith Rutt, Development Control Manager, who can be contacted on extension 3374 (e-mail: ailith.rutt@redditchbc.gov.uk) for more information.

(See additional papers for Site Plan)

Site Description

Wide grass highway verge adjacent distributor road with trees set back and residential properties to western side of road beyond verge and boundary planting.

Proposal Description

New monopole 15m in height, along with associated cabinet and development. This would serve two mobile phone operators.

Relevant Key Policies:

All planning applications must be considered in terms of the planning policy framework and all other relevant material considerations (as set out in the legislative framework). The planning policies noted below can be found on the following websites:

www.communities.gov.uk

www.wmra.gov.uk

www.worcestershire.gov.uk

www.redditchbc.gov.uk

National Planning Policy

PPS1 (& accompanying documents) Delivering sustainable development
PPG 8 Telecommunications

Worcestershire Country Structure Plan

D44 Telecommunications

Borough of Redditch Local Plan No.3

B(BE)13 Qualities of good design

REDDITCH BOROUGH COUNCIL

**PLANNING
COMMITTEE**

29th March 2011

Relevant Site Planning History

None

Public Consultation Responses

Responses in favour

None

Responses against

Five objections received raising the following concerns:

- Pole would overshadow garden of residents in Ansley Close
- Pole would be too tall
- Pole would have detrimental impact on outlook from residential properties in Ansley Close and Atherstone Close
- Pole should be located further south into the industrial area away from residential properties
- Impact on health of local residents
- Recent new masts on Warwick Highway – this one should not be needed as well

Consultation responses

County Highway Network Control

No objection subject to informative

Environmental Health

No objection

Procedural Matters

This is an application under the prior notification procedure under Part 24 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended). The Local Planning Authority has 56 days in which to decide whether to grant prior approval for the siting and appearance of the mast. (A failure to determine the application within this time period would result in default consent for the proposed development.)

This application is reported to Planning Committee at the request of Councillor Brunner due to local interest in the application.

Assessment of Proposal

Need and alternative sites

The applicant has demonstrated that there is a need for an installation in this area, through the submission of coverage plots, and these are considered to be acceptable.

Policy states that to redevelop existing sites in preference to developing new sites is to be encouraged and this proposal is therefore considered to be

REDDITCH BOROUGH COUNCIL

**PLANNING
COMMITTEE**

29th March 2011

acceptable. However, the applicant has demonstrated that in this case there are no suitable existing sites, hence the proposed new site. It is also a shared operator proposal, which is encouraged through local and national policy.

Siting and Design

The policy framework seeks that wherever possible, additional equipment required is located on existing installations and at existing sites, in preference to the proliferation of additional installations, providing that this does not result in an increase in visual impact to such an extent that it becomes detrimental to the amenity of the site and its surroundings.

In this case it is not considered that the proposal would result in any significant harm to visual amenity and is considered not to cause significant detrimental impact due to the location being at a significant distance from residential properties and with some natural screening in between, such that direct views even from rear first floor windows would be extremely limited. It is not considered that the visual impact on the streetscene would be inappropriate in this location.

Health Considerations

Although health can be a material planning consideration, current government advice states that there is no proven health risk from masts and that they expect all future masts to fall within the ICNIRP guidelines (as referred to in the Stewart Report). The applicants have stated that their proposal would be well within these guidelines, when considered cumulatively in relation to the existing equipment on the site. In the circumstances it would therefore not be considered reasonable to refuse this application on health grounds.

Conclusion

The proposal is therefore considered to be compliant with policy and unlikely to cause harm to amenities in the area due to its siting and appearance.

Recommendation

That having regard to the development plan and to all other material considerations, the PRIOR APPROVAL of the Local Planning Authority IS NOT REQUIRED for the siting and appearance of the proposal and planning permission not be required for the proposed development.

Informatives

Informative as requested by Highways

REDDITCH BOROUGH COUNCIL**PLANNING
COMMITTEE**

29th March 2011

PLANNING APPLICATION 2011/041/FUL

CHANGE OF USE OF GROUND FLOOR NO'S 137-139 EVESHAM ROAD FROM A1 (RETAIL) TO A3/A5 (RESTAURANT AND HOT FOOD TAKE-AWAY USE); NEW SHOPFRONT AND GROUND FLOOR REAR EXTENSION

137 TO 139 EVESHAM ROAD, HEADLESS CROSS, REDDITCH

APPLICANT: MR L N THEODOROU

EXPIRY DATE: 19TH APRIL 2011

WARD: HEADLESS CROSS & OAKENSHAW

The author of this report is Steven Edden, Planning Officer (DC), who can be contacted on extension 3206 (e-mail: steve.edden@redditchbc.gov.uk) for more information.

(See additional papers for Site Plan)

Site Description

The site is situated to the eastern side of the main Evesham Road which runs through the centre of Headless Cross. The premises sit within a Victorian terraced row of properties of similar ages though having a mixture of architectural styles. 50 metres due north of the site lies the Evesham Road/Headless Cross Drive road junction. Approximately 50 metres to the south lies a mini roundabout off which branch Birchfield Road and Mason Road.

The premises are situated within the heart of the Headless Cross District Centre.

Proposal Description

This is a full application to Change the Use of the ground floor (no's 137-139 Evesham Road) from A1 (retail) to A3/A5 (restaurant and hot food take-away use) together with a new shopfront and the erection of a ground floor rear extension.

The change of use proposal would allow the existing fish and chip shop at 141 Evesham Road (A3/A5 Use) to expand into Units 137-139 (a former butchers shop, now vacant) by creating a much larger 'sit down' restaurant (approximately 32 covers).

Relevant Key Policies:

All planning applications must be considered in terms of the planning policy framework and all other relevant material considerations (as set out in the legislative framework). The planning policies noted below can be found on the following websites:

REDDITCH BOROUGH COUNCIL

**PLANNING
COMMITTEE**

29th March 2011

www.communities.gov.uk

www.redditchbc.gov.uk

National Planning Policy

PPS4 Planning for Sustainable Economic Growth

PPG24 Noise

Borough of Redditch Local Plan No.3

E(TCR).9 District Centres

E(TCR).12 Class A3, A4, and A5 Uses

B(BE).13 Qualities of Good Design

B(BE).14 Alterations and extensions to buildings

B(HSG).6 Development within the curtilage of an existing dwelling

S1 Designing out crime

SPDs

Designing for community safety

Encouraging Good Design

Relevant Site Planning History

2009/262/FUL Change of Use of ground floor (no's 137-139 Evesham Road) from A1(retail) to A3/A5 (restaurant and hot food take-away use); new shop front; demolition of existing single storey rear extension to create new two storey rear extensions and creation of 4 no. flats over no's 137-141 Evesham Road. REFUSED: 3rd February 2010

2010/280/FUL Change of Use of ground floor (no's 137-139 Evesham Road) from A1(retail) to A3/A5 (restaurant and hot food take-away use); new shop front; ground floor rear extension and provision of 3 no. flats over no's 137-141 Evesham Road. REFUSED: 10th January 2011

Public Consultation Responses

Responses in favour

One letter received in support. Comments are summarised as follows:

- Such a facility would be welcomed in Headless Cross in the interests of offering residents greater choice in eating establishments

Responses against

None received

REDDITCH BOROUGH COUNCIL

**PLANNING
COMMITTEE**

29th March 2011

Consultee Responses

County Highway Network Control

No objection

Worcestershire Regulatory Services

Comments awaited

RBC Development Plans Section

This application does not comply with the development plan. PPS4 raises an important issue with regard to maintaining the primary retail function within district centres. By allowing the proposal for an A3/A5 use, this would effectively prevent an A1 use on this site and would detract from the main function of the area. This type of application would negatively impact on the vitality of the district centre

Police Crime Risk Manager

Comments awaited

RBC Community Safety Officer

Comments awaited

Procedural matters

All applications for Class A3/A5 use are reported to Planning Committee for determination

Background

A very similar application (2009/262/FUL as detailed under the site planning history above) was determined by the Planning Committee in February 2010. At that time, Members agreed with Officers that the proposed A3/A5 use including the potential loss of a preferred A1 use would impact upon and undermine the retail and community function of the District Centre to the detriment of its vitality and viability. In addition, the proposed residential part of the scheme was considered to represent an over-intensive form of development providing a lack of amenity space for occupiers of the development. Further, insufficient details at that time were submitted with respect to odour extraction and therefore amenities for occupiers of the proposed development were considered to be prejudiced. This application was therefore refused planning permission.

Application 2010/280/FUL was determined earlier this year at the 4th January 2011 Planning Committee. The change of use element was identical to that proposed under 2009/262/FUL, but the number of flats proposed had been reduced from 4 to 3, deleting the two storey extension. Members at that time considered that the application should be refused planning permission for the following (single) reason:

REDDITCH BOROUGH COUNCIL

**PLANNING
COMMITTEE**

29th March 2011

The proposed residential properties would represent an over-intensive form of development, with the scheme providing an inadequate level of communal amenity space for occupiers of the proposed scheme to the detriment of residential amenity. As such, the proposals would fail to comply with Policy B(HSG).6 of the Borough of Redditch Local Plan No.3 and the Council's adopted Supplementary Planning Guidance 'Encouraging Good Design

Officers had recommended that the application should be refused for two reasons which included the following reason in addition to that above:

The proposed A3/A5 use including the potential loss of a preferred A1 use would materially impact upon, and undermine the retail and community function of the Headless Cross District Centre, to the detriment of its vitality and viability. As such, the proposed development would be contrary to the aims and objectives of Policy E(TCR).9 and Policy E(TCR).12 of the Borough of Redditch Local Plan No.3, and Policy ES.7 of the Preferred Draft Core Strategy

The recommended reason for refusal above is identical to that which was applied to the refusal notice for application 2009/262/FUL.

The current application has been amended such that no new residential units would be created above the premises. A small ground floor extension to the rear is still proposed, as is a new brick chimney/flue to the rear, to deal with cooking odours. The proposed shop front changes are also identical to those considered under application 2010/280/FUL.

Assessment of Proposal

The key issues for consideration are as follows:

Principle of Change of Use

The relevant Planning Policy in this case is E(TCR).9 of the Borough of Redditch Local Plan since the Unit falls within the Headless Cross District Centre.

The Town Centre is the primary focus for major shopping needs. District centres are the secondary level of shopping, meeting daily needs for basic items. Typically district centres in the Borough accommodate a newsagent, a general grocery store, a sub-post office and occasionally a pharmacy, a hairdresser and other small shops of a local nature. It is naturally important to protect and where appropriate, enhance district centres particularly with regard to their useful retail function. Proposals that would undermine the retail and community function of the district centre will normally be refused.

REDDITCH BOROUGH COUNCIL**PLANNING
COMMITTEE****29th March 2011**

Under Para.5 of the reasoned justification for Policy E(TCR).9, it comments that the Council appreciates that in some circumstances there may be an over provision of units for retail. If during the plan period there is a problem of vacant units despite appropriate marketing and rent levels, then other uses may be acceptable in district centres. Only developments that would not hinder the primary retailing function of the district centre will normally be acceptable. Change of Use in district centres should only be at a level necessary to overcome a problem of vacancy as the provision of retail and community facilities should continue to be the predominant district centre function.

In assessing this application, it is important to determine if the unit in question is currently and likely to remain surplus to retail requirements. The previous occupier of Unit 137-139 Evesham Road was a shop use (butchers) and has been vacant since June 2009. Despite the length of time that has lapsed since its last occupation, nothing would suggest to your officers that a unit of this size, in this location would not prove attractive to traders in the future, even considering the current financial climate. It is important to next examine the likely impact of the proposed change of use upon the vitality and viability of the district centre itself.

Impact upon the Vitality and Viability of the Headless Cross District Centre

Policy E(TCR).9 seeks to prevent the unacceptable loss of retail floor space in district centres which stems from the overall objective of ensuring the continuing vitality and viability of the district centres. As stated above, E(TCR).9 indicates that district centres are primarily intended to fulfil a retailing role, meeting daily shopping needs for basic items. It is therefore important to assess the existing mix between retail and non-retail uses within the district centre.

Members may recall the refusal of planning permission to allow the change of use of 145 to 147 Evesham Road (the former Michaels Cycles shop) from retail to A3/A5 use under application 2008/071. This unit lies just 15 metres due south of the application site, again within the Victorian terraced row of commercial premises to the eastern side of Evesham Road. Following this applications refusal, the applicant appealed against the Council's decision to refuse consent. The appeal was dismissed in October 2008 with the Inspector noting at that time, that *'a high concentration of Class A3/A5 uses already exists in the Headless Cross centre'*. For member's information, permission was granted under a later consent for A2 Use (banks/building societies/estate agents etc) and that premises is currently occupied by an A2 class user. At the time of the appeal, the then applicant and Council agreed that some 42% of all units within the district centre were in A1 (retail) use. Classes A3 and A5 together formed the second largest category at around 27%, which the Inspector in consideration of application 2008/071

REDDITCH BOROUGH COUNCIL

**PLANNING
COMMITTEE**

29th March 2011

considered was, in their opinion '*already a substantial proportion*'. No specific guidance exists in any current LP policies about what constitutes an acceptable level of such uses, or at the level at which over-concentration is reached, and as such a judgement on whether the loss of retail floorspace is unacceptable must necessarily be a subjective one.

Your Officers would draw member's attention to the emerging Core Strategy, which proposes to set a limit for hot food take-aways as one option to address concerns that increasing numbers of Class A5 uses may undermine the vitality and viability of the role and function of district centres. Whilst the document is at a relatively early stage and carries only limited weight, your Officers currently feel strongly that an over-concentration of A3/A5 uses exists in the Headless Cross District Centre, and that therefore, the proposed change of use in such a prominent location should be resisted due to its likely harm to the vitality and viability of the district centre.

Impact upon residential amenity

The proposed ground floor extension to be located at the rear, would not be visible from Evesham Road, and would not hinder existing servicing arrangements. Officers therefore consider that this would not cause harm to the character and appearance of the building. The extension would accommodate toilets and a table and chairs within the extended restaurant area for four persons. A brick chimney/flue is proposed to the rear which is considered to be acceptable visually, although further details would be required in order that the Council's Environmental Health Officer (Worcestershire Regulatory Services) could be satisfied that no harm to amenity caused by noise and smells would result.

Shop front alterations

These propose a new doorway near to the shared boundary with number 135 Evesham Road. This would act as the main entrance to the existing offices above the shop. To the other side of this door would be created a new doorway leading to what would be the seating area for the fish and chip premises. This would replace the existing (recessed) door which gives access to the vacant 137-139 Evesham Road. The shopfront to the existing fish and chip premises (number 141) would remain unaltered. No objections are raised to this part of the proposal since the changes would not harm the character and appearance of the street-scene.

Other matters

Your Officers consider that such applications raise security / anti-social behaviour issues, and as such the Police Crime Risk Manager and the Council's Community Safety Officer have been consulted on the application.

REDDITCH BOROUGH COUNCIL

**PLANNING
COMMITTEE**

29th March 2011

At the time of writing, no comments had been received. Any comments received will be reported in the Update report.

Conclusion

Your Officers consider that the proposed change of use from A1 to A3/A5 would harm the vitality and viability of the Headless Cross District Centre, where an over-concentration of A3/A5 uses is already considered to exist. For this reason, the application is considered to be unacceptable and is recommended for refusal.

Recommendation

That having regard to the development plan and to all other material considerations, planning permission be REFUSED for the reason below:

1. The proposed A3/A5 use including the potential loss of a preferred A1 use would materially impact upon, and undermine the retail and community function of the Headless Cross District Centre, to the detriment of its vitality and viability. As such, the proposed development would be contrary to the aims and objectives of Policy E(TCR).9 and Policy E(TCR).12 of the Borough of Redditch Local Plan No.3, and Policy ES.7 of the Preferred Draft Core Strategy.

REDDITCH BOROUGH COUNCIL**PLANNING
COMMITTEE**

29th March 2011

VARIATION OF PLANNING OBLIGATION (SECTION 106 AGREEMENT)

Relevant Portfolio Holder	Cllr Jinny Pearce, Planning, Regeneration, Economic Development & Transport
Relevant Head of Service	Ruth Bamford, Head of Planning & Regeneration
Non-Key Decision	
This report contains exempt information as defined in Paragraph(s) of Part I of Schedule 12A to the Local Government Act 1972, as amended	

1. SUMMARY OF PROPOSALS

- 1.1 To consider a variation to the Section 106 Agreement (planning obligation) associated with the development of 13 detached houses in order to release the other parties from a requirement that is no longer appropriate and thus should not be perpetuated, relating to the provision of a small area of open space.
- 1.2 This report cross-references to details approved under Planning Application 1997/190 and is therefore business for the Planning Committee. (1997/190 was an application for a residential development of 13 detached dwellings on land off Green Lane, Woodrow, Redditch).

2. RECOMMENDATIONS

The Committee is asked to RESOLVE that:

the variation to the Section 106 Agreement, dated 14th August 1997 and made between 1) Brian Arthur Bennett, 2) Frederick Stanley Bennett, 3) David John Bennett, 4) Wainhomes Midlands Ltd and 5) The Council of the Borough of Redditch regarding the open space obligations therein, be agreed; namely that the requirement for the transfer of land to Redditch Borough Council and the payment of a contribution towards its ongoing maintenance be deleted from the Section 106 Agreement, as it has in practice proven to be unnecessary and not required.

REDDITCH BOROUGH COUNCIL

**PLANNING
COMMITTEE**

29th March 2011

3. BACKGROUND

- 3.1 As is often the case with residential development, an area of open space was provided within the development site and the planning obligation sought to control its provision and maintenance in the long term by requiring that the ownership of the open space be transferred to the Council, along with a sum of money towards its future maintenance.
- 3.2 The land has been laid out as open space and well maintained by the residents of the development. The land is small, and below the size limit that would normally now be transferred to the Council for ongoing maintenance and therefore the practicalities of maintaining it would not be simple.
- 3.3 The matter has come to light as a result of a recent review of outstanding planning obligations, and their follow up.

4. KEY ISSUES

Transfer of land

- 4.1 There is no perceived need for the Council to take over the ownership and/or maintenance of this land, given its current position and the arrangements that have been in place for a significant period.

Open space provision

- 4.2 The planning obligation that requires that the land be set out and kept available for use as open space would remain, and therefore the current and any future owners would be bound by that clause to provide the space for that purpose.
- 4.3 For these two combined reasons, and the length of time since the development occurred, it is considered reasonable to relieve this requirement from this planning obligation as it can be done without detriment to the spirit of the agreement.

REDDITCH BOROUGH COUNCIL

**PLANNING
COMMITTEE**

29th March 2011

5. FINANCIAL IMPLICATIONS

- 5.1 The cost to the Council of varying the agreement will need to be borne, but the other party has agreed to bear their own costs. The Council's costs will be met from within existing budgets.
- 5.2 The other financial contributions required as part of the planning obligation have been paid, and either spent or committed.

6. LEGAL IMPLICATIONS

- 6.1 The legislative framework is provided by Section 106 of the Town and Country Planning Act 1990 (as amended).
- 6.2 Planning obligations, also known as Section 106 Agreements, are typically negotiated between local authorities and developers in the context of granting planning consent. (Sometimes they can take the form of unilateral undertakings made by developers.) They provide a means to ensure that a proposed development contributes to the creation of sustainable communities, particularly by securing contributions towards the provision of necessary infrastructure and facilities required by local and national planning policies.

7. POLICY IMPLICATIONS

Developers are required to provide necessary infrastructure as part of new developments having regard to standards set out in the Local Plan in force at that time.

8. COUNCIL OBJECTIVES

This does not conflict with any Council objectives.

**9. RISK MANAGEMENT INCLUDING HEALTH & SAFETY
CONSIDERATIONS**

If the Council does not take control of the land, there could be future maintenance issues, however these are not envisaged given the length of time that has already elapsed since the development was implemented.

REDDITCH BOROUGH COUNCIL

**PLANNING
COMMITTEE**

29th March 2011

10. CUSTOMER IMPLICATIONS

None identified.

11. EQUALITIES AND DIVERSITY IMPLICATIONS

None identified.

**12. VALUE FOR MONEY IMPLICATIONS, PROCUREMENT AND ASSET
MANAGEMENT**

None identified.

13. CLIMATE CHANGE, CARBON IMPLICATIONS AND BIODIVERSITY

None identified.

14. HUMAN RESOURCES IMPLICATIONS

None identified.

15. GOVERNANCE/PERFORMANCE MANAGEMENT IMPLICATIONS

None identified.

**16. COMMUNITY SAFETY IMPLICATIONS INCLUDING SECTION 17 OF
CRIME AND DISORDER ACT 1998**

None identified.

17. HEALTH INEQUALITIES IMPLICATIONS

None identified.

18. LESSONS LEARNT

This is considered to be an unusual situation and thus would have been difficult to foresee when the obligation was written. However, general lessons relating to the content and drafting of planning obligations are always being learned and put into practice, along with the review of the practicalities of maintaining such spaces. Current practice would not have resulted in such an obligation.

REDDITCH BOROUGH COUNCIL**PLANNING
COMMITTEE**

29th March 2011

19. COMMUNITY AND STAKEHOLDER ENGAGEMENT

None necessary.

20. OTHERS CONSULTED ON THE REPORT

Portfolio Holder	
Chief Executive	
Executive Director (S151 Officer)	
Deputy Chief Executive/Executive Director – Leisure, Environment and Community Services	
Executive Director – Planning & Regeneration, Regulatory and Housing Services	Yes
Director of Policy, Performance and Partnerships	
Head of Service	Yes
Head of Resources	Yes
Head of Legal, Equalities & Democratic Services	Yes
Corporate Procurement Team	

21. WARDS AFFECTED

Greenlands.

22. APPENDICES

None.

REDDITCH BOROUGH COUNCIL

**PLANNING
COMMITTEE**

29th March 2011

23. BACKGROUND PAPERS

Original Section 106 Agreement associated with the development of land at Green Lane and the planning and legal files.

24. KEY

A **Planning Obligation** is a mechanism for requiring financial and other conditions to be attached to proposed development, and must be in compliance with the statutory planning framework.

They most commonly take the form of a legal agreement, often known as a S106 agreement relating to the relevant legislation, although they can also be Unilateral Undertakings, where a land owner undertakes to do specified actions or make specific payments, without the Council being party to an agreement. These are more commonly used in appeal situations.

AUTHOR OF REPORT

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REDDITCH BOROUGH COUNCIL**PLANNING
COMMITTEE**29th March 2011

APPEAL OUTCOME REPORT FOR INFORMATION**APPEAL MADE AGAINST REFUSAL OF PLANNING PERMISSION:****PLANNING APPLICATION DETAILS: 2010/103/COU**

PROPOSAL	CHANGE OF USE OF VACANT LAND TO RESIDENTIAL GARDENS (PART RETROSPECTIVE)
LOCATION	REAR OF 23 - 28 ETTINGLEY CLOSE & 1, 2, 11 & 12 FERNWOOD CLOSE REDDITCH
WARD	GREENLANDS
DECISION	DECISION MADE AT COMMITTEE ON 20 JULY 2010

The author of this report is Ailith Rutt, Development Management Manager who can be contacted on extension 3374 (e-mail: ailith.rutt@redditchbc.gov.uk) for more information.

Discussion

The case related to a strip of land to the rear of existing rear garden curtilages. Some rear gardens had been extended into this land which is designated primarily open space (POS) and others were proposing to extend into the POS strip. The application was refused for the following reasons:

1. The encroachment of the residential use and the enclosure of the land proposed would be contrary to the criteria set out in Policy R1 of the Borough of Redditch Local Plan in that it would detract from the visual openness of the designated Primarily Open Space and as such would be harmful to the visual amenities of the area.
2. The change of use of the land proposed would be likely to have a negative impact on the nearby SSSI and the woodland edge habitat and as such would be likely to be harmful to the biodiversity of the site and its surroundings, contrary to PPS9 and Policies CS2, R1 and B(NE)10a of the Borough of Redditch Local Plan No.3.

Officers sought to defend these reasons through their written representations to the Planning Inspector.

REDDITCH BOROUGH COUNCIL

**PLANNING
COMMITTEE**

29th March 2011

The Inspector considered the effect of the proposed development on the character and appearance of the POS and said that there was a visual merit in retaining the POS strip to the rear of the gardens as it had been. Therefore she saw no justification for allowing the loss of POS relative to Policy R1 of the Local Plan.

She also felt unable to conclude that the proposal would not harm the SSSI as there was insufficient information to prove or disprove any harm. However, it should also be noted that she did not criticise the LPA for not seeking this information.

Appeal outcome

The appeal was DISMISSED and costs were neither sought nor awarded.

Further issues

At the Planning Committee meeting where the application was determined, authorisation was also given for any necessary subsequent enforcement action. This action has been held in abeyance during the appeal process, and the case has now been re-opened and reviewed with the objective of rectifying harmful breaches of planning control.

Recommendation

The Committee is asked to RESOLVE that

the item of information be noted.