

## 5.0 Recommendations - The Way Ahead

- 5.1 The Application. It should be noted that all members will have the opportunity to call-in the reserved matters application or applications in respect of the Site.
- 5.2 In terms of planning applications generally:
  - 5.2.1 Applications should be accompanied by plans that show the land that is the subject of the application clearly outlined in red.
  - 5.2.2 Planning Officers need to be less accepting and more challenging of the information being provided by applicants and consultees. Where for example, there was a clear disagreement between consultees' views on the capacity of schools in Tavistock as occurred here, the disagreement should have been referred to the County Council and if the disagreement remained, this should have been explained in the report.
- 5.3 The draft Section 106 Agreement. While the Council is limited by the requirement that that the draft Section 106 Agreement is to be substantially in the form of that attached to the Permission, there is scope for negotiations to be had with the other parties about amendments to:
  - 5.3.1 the provisions relating to the Primary School Contribution; and those relating to the schemes on which the Transport Contribution may be spent if not spent on the provision of the railway (to include the potential for some of the Transport Contribution to be used to fund the No. 89 bus), and the formalities for doing so;
  - 5.3.2 require a minimum of 8,500m<sup>2</sup> of employment floorspace to be provided. This will provide greater clarity as to what employment floorspace must be provided elsewhere within the Policy TTV17 allocation.
  - 5.3.3 align the description of the use described in the draft Section 106 Agreement with that authorised by the Permission (Class B1(Light Industry)).
- 5.4 Planning Permissions. Details of an application are usually incorporated into a planning permission as doing so helps in interpreting the planning permission. It is noted that the only reference to an application in the template decision notice is the application reference number. The template should therefore be amended to make incorporation of the application to which it relates clearer.
- 5.5 Given the need for outline planning permissions to clearly identify those matters that are reserved for subsequent approval, insofar as the Council does not have a standard condition, a condition in the following terms (suitably amended to reflect any reserved matters approved at outline planning permission stage) should be considered:

“Approval of the details of the siting, design and external appearance of the building(s), the means of access to them and the landscaping of the site (“the Reserved Matters”) shall be obtained from the Local Planning Authority in writing before any development is commenced.

Plans and particulars of the Reserved Matters shall be submitted in writing to the Local Planning Authority for approval and shall be carried out as approved.”

“Reason: To comply with Section 91 (1) of the Town and Country Planning Act 1990.”

- 5.6 Information to members. The determination of planning applications is a joint enterprise involving both officers and members; both of whom have their respective roles and responsibilities. So that members can perform their part, it is important that they have sufficient and correct information. It has already been agreed by the Deputy Chief Executive in consultation with the Informal Hub Committee that:
- 5.6.1 Members of the Development Management and Licensing Committee will be provided with an informal update by the Head of Planning at the conclusion of each Development Management and Licensing Committee. The update will be limited to those applications that are “significant”. Significant in this context refers to applications that are:
- 5.6.1.1 for Major Development<sup>1</sup> and likely to generate public interest;
  - 5.6.1.2 likely to be controversial eg 5G masts; or
  - 5.6.1.3 likely to be of benefit to the Borough eg job creation.
- 5.6.2 Further training is to be provided to members of the Development Management and Licensing Committee.
- 5.6.3 Officers will be given political awareness training.
- 5.7 In addition, it is suggested that the informal update given by the Head of Planning includes details of the progress of section 106 agreements.
- 5.8 All Ward Members should be notified of amendments to planning applications in their Ward.
- 5.9 Induction. It would be helpful for newly elected members to be provided with information on all current applications within their Wards and the identity of the planning officer dealing with the application as part of the “welcome pack”. The induction should also draw new members’ attention to their responsibilities in connection with the determination of planning applications, including monitoring the weekly list of planning applications for applications in their Ward.

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<sup>1</sup> “major development” is defined in the Town and Country Planning (Development Management Procedure) (England) Order 2015 Art. 2 as meaning “development involving any one or more of the following—

- (a) the winning and working of minerals or the use of land for mineral-working deposits;
- (b) waste development;
- (c) the provision of dwellinghouses where—
  - (i) the number of dwellinghouses to be provided is 10 or more; or
  - (ii) the development is to be carried out on a site having an area of 0.5 hectares or more and it is not known whether the development falls within sub-paragraph (c)(i);
- (d) the provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more; or
- (e) development carried out on a site having an area of 1 hectare or more.

5.10 Revisions to the scheme of delegation. Revisions should be made to:

- 5.10.1 clarify the circumstances when the Head of Planning may refer an application to the Development Management and Licensing Committee, for example “Or which in the reasonable opinion of the HoP Lead: (a). are of sub-regional or district-wide significance; or (b) due to all of the circumstances of an application including the scale and nature of the development proposed; the degree of compliance with the Joint Local Plan or national planning policy; any technical issues raised; or the number of representations received etc it is appropriate for the application to be determined by the Development Management and Licensing Committee”. This would allow an application to be referred due to a conflict of interest; significant levels of public interest etc.
- 5.10.2 provide for a further exemption from the Head of Planning’s delegated powers to ensure that all applications where it is proposed that the Council will have the right to acquire an interest in or over all or any part of the land proposed to be developed.
- 5.10.3 ensure consistency of terminology and to clarify the role of the Development Management and Licensing Committee in agreeing section 106 agreements and clarity as to the role of the Strategic Director of Place and Enterprise with respect to section 106 agreements.
- 5.10.4 extend the period in which Ward Members are given to say whether they agree to the decision being dealt with by the Head of Planning under delegated powers
- 5.10.5 require the Head of Planning to re-consult Ward Members where:
  - 5.10.5.1 there is a difference in the heads of terms agreed as part of a delegated decision and the terms of the final section 106. It would be expected that Members would only depart from their previous position where the change was material and of sufficient weight so as to be capable of tipping the planning balance.
  - 5.10.5.2 it has not been possible to complete the final section 106 agreement within three months of the date on which Ward Members agreed to the decision being dealt with under delegated powers or in the event that Ward Members did not reply to the request to agree to the exercise delegated powers by the head of Planning, the date by which Ward Members were asked to reply. It would be expected that Members would only depart from their previous position where the applicant has not engaged fully and as a result there is no realistic prospect of agreement being reached in the near future. Where that is the case the application will be referred to the Development Management and Licensing Committee for decision.

- 5.11 Reports. A clearer framework is required to ensure that reports provide a crisp technically accurate legally compliant analysis of an application. It should be clear from the report what has been taken into account and what has not. The officer report template should therefore:
- 5.11.1 be reviewed and revised so that it encourages more analysis and questioning and rather less copying of representations into the report body. A summary of such representations will suffice in most cases. If the full consultation response is required, links to the website can be incorporated into the report.
  - 5.11.2 identify relevant provisions of the development plan at the beginning and the subsequent analysis should lead to a logical and balanced conclusion
  - 5.11.3 show version/date of clearance by officer and in the case of significant or complex applications, clearance by the Head of Planning or another Senior Planning Specialist. This will aid understanding by members of the public when more than one version of the officer report is published on the Council's planning application pages.
- 5.12 A process should be put in place to ensure that reports for significant or complex applications are reviewed and signed-off either by the Head of Planning or by a Senior Planning Specialist, who is not the report author, before such applications are determined. In this context significant or complex means significant or complex due one or more of the following factors:
- 5.12.1 scale;
  - 5.12.2 nature;
  - 5.12.3 degree of compliance with the Joint Local Plan or national planning policy;
  - 5.12.4 any technical issues they raise;
  - 5.12.5 environmental impact assessment required;
  - 5.12.6 the level of public interest; or
  - 5.12.7 any financial or other interest in the development of the Council.
- 5.13 Authors of reports are reminded that they should avoid or at least keep the use of acronyms to a minimum and where used the report should provide a full title when used for the first time. A similar recommendation was made as part of the Planning Advisory Service Review in 2018.
- 5.14 Heads of terms. The importance of getting the heads of terms right has been highlighted and more formal drafting of heads of terms in reports in respect of applications referred to Development Management and Licensing Committee is recommended to aid member understanding of what is proposed.
- 5.15 Post-completion. On completion of all section 106 agreements, Legal Services e-mail a copy of the completed agreement together with a summary of what the agreement provides for to various sections of the Council. It is suggested that Ward Members are copied into the completion e-mail prepared by Legal Services following completion of a section 106 agreement. Members will then be aware of the details

of planning obligations to be delivered by development in their Wards. This in turn may assist enforcement further on in time.

- 5.16 Website. Steps should be taken to ensure the timely uploading of documents, plans and representations to the Council's planning applications pages to ensure that the public have up-to-date information on which to base any representations on a planning application.
- 5.17 Software. As part of the acceptance testing of the new process management software the Council should ensure that it is sophisticated enough to recognise when an application crosses ward boundaries and is able to populate templates with the identities of all the wards that are concerned.
- 5.18 Relationship with the County Council. Arrangements should be put in place so that planning officers determining planning applications are made aware either through regular briefings with County Council officers or other regular communication about changes made by the County Council in any of its policy affecting planning applications.
- 5.19 Relationships with town and parish councils. A memorandum of understanding should be developed and agreed between the Council and town/parish councils. The purpose of the memorandum would be to provide a framework for the process of consulting town and parish councils on planning applications. In doing so it will set out the responsibilities and reasonable expectations of the signatories so that each works proactively and engages constructively with the other. The memorandum may therefore include:
  - 5.19.1 a description of the respective roles of the Council and the town and parish councils;
  - 5.19.2 the circumstances in which the Council will have pre-application discussions with the town and parish councils or seek their views about draft proposals;
  - 5.19.3 details of what information to be provided to town and parish councils by the Council when application is registered and how the information will be provided;
  - 5.19.4 guidance as to what should be included in consultation responses so that they are relevant to the application;
  - 5.19.5 timescale for town and parish councils to respond and the circumstances in which these may be varied;
  - 5.19.6 how town and parish councils will be consulted about amended plans;
  - 5.19.7 speaking at Development Management and Licensing Committee;
  - 5.19.8 the provision of training for town and parish councils on planning law and policy;
  - 5.19.9 the role of Ward Members in liaising with town and parish councils.

5.20 In accordance with the recommendations with the 2016 Peer Challenge, report authors should be reminded that in addition to clearly summarising any town or parish council comment they should also clearly explain the reasons for any differences of opinion in their report.