

Planning Committee: 18 April 2024

Observations received following the publication of the agenda.

Update on the Net Zero Carbon Development Plan Document (DPD)

Councillors are advised that following the receipt of the Inspector's letter on 9 April 2024, within which the Inspector confirmed that the DPD had passed the test of soundness, from that date the DPD attracts substantial weight in the consideration of all relevant planning applications.

The assessment of the applications included on the agendas for the Planning Committee meetings of 16 and 18 April 2024 was undertaken prior to the receipt of the Inspectors letter and therefore prior to that increased level of weight taking effect.

In order to accommodate that change, it will be necessary for some applicants to make further submissions to which detailed consideration will be given to demonstrate compliance with the DPD, taking account of specialist advice where appropriate. In other cases, it will be necessary for information already submitted to be assessed by the Council's technical specialist.

Rather than remove items from the Committee agendas to facilitate that, it is proposed to update a number of the recommendations which will be set out below for each relevant item.

Those updated recommendations will seek delegated authority from the Committee for the Head of Place, Arts and Economy in conjunction with the Chair of Planning Committee to issue the decisions, granting planning permission subject to appropriate additional planning conditions and/or Section 106 Agreement requirements on relevant applications in the circumstances where, following the technical assessment of information either already submitted or yet to be submitted, it is considered that the proposals will comply with the requirements of the DPD.

Delegated authority will also be sought to refuse planning permission in the circumstances where the Head of Place, Arts and Economy in conjunction with the Chair of Planning Committee consider that an appropriate time period has elapsed without the submission of sufficient information to demonstrate such compliance.

In view of the timing of the receipt of the Inspector's letter, which neither Officers or applicants had any control over, Officers consider that this approach is the most appropriate and proportionate in the circumstances.

Item 04 – Land at Goggbridge Lane

Updated Recommendation

The following updated recommendation reflects the consultation response from the Lead Local Flood Authority dated 10 April 2024 and the Net Zero Carbon Development Plan Document as discussed above:

Planning Committee is recommended to GRANT planning permission, subject to the imposition of conditions as detailed at the end of this report and the completion of a Section 106 Agreement to secure the necessary financial contributions/obligations (including any variation to, or clarification of, the sums requested where the revised sums are agreed by the relevant consultee and meet the relevant statutory test).

Should a satisfactory Section 106 Agreement not have been completed within 4 months of the date of Committee or in the opinion of Officers, insufficient progress has been made within this period to warrant the agreement of additional time to complete the Agreement, Planning Committee are recommended to delegate authority to the Head of Place, Arts and Economy to refuse planning permission on the grounds that the proposal makes inadequate provision in respect of the issues the subject of that agreement.

Planning Committee are also recommended to delegate authority to the Head of Place, Arts and Economy in consultation with the Chair of Planning Committee to issue the decision notice, granting planning permission subject to any additional planning conditions or Section 106 Agreement requirements which they consider appropriate in the circumstances where they consider that the applicant has demonstrated compliance with the requirements of the net Zero Carbon Development Plan Document (DPD).

In the circumstances where those requirements have not been demonstrated within an appropriate time period, Planning Committee are recommended to delegate authority to the Head of Place, Arts and Economy in consultation with the Chair of Planning Committee to refuse planning permission for that reason.

In view of the substantial weight which the Net Zero Carbon DPD now attracts, Officers consider that the revised recommendation is necessary in this case to enable a full assessment of the proposed development's compliance with the requirements of the Net Zero Carbon DPD. It is expected that the Applicant will submit additional supporting information to inform that assessment. Specialist advice will be sought by Officers on the information submitted.

Flood risk and drainage

Following the publication of the committee report, the Lead Local Flood Authority (LLFA) has provided a further consultation response on the application (dated 10 April 2024).

The LLFA raises no objection to the application, subject to conditions. The conditions would secure a detailed surface water drainage scheme for the site (that is based on sustainable drainage principles), a verification report for the installed surface water drainage scheme and a maintenance plan for this infrastructure.

Subject to the imposition of these conditions, Officers consider that flood risk and drainage matters have been satisfactorily addressed.

Clarification on the treatment of the northern site boundary

As noted on pages 16 and 20 of the committee report, there was some uncertainty regarding the proposed extent of the 5m high acoustic barrier along the site's northern boundary. This matter has now been clarified.

The proposed acoustic barrier would wrap around the site's north western corner and extend along the side of plot 64 to the start of this plot's rear garden. The barrier would then reduce in height to 2.5m alongside the rest of this garden. The remainder of the northern boundary would be formed by a 1.8m high screen wall. This would form the rear boundary to plots 62 and 63 and would form a continuation of the proposed screen wall adjacent to the existing footpath at the side of plot 62. This is shown on an updated plan and is to be included within the list of approved plans within condition 2.

From a visual and residential amenity perspective the proposed boundary treatment is considered acceptable. It is to be noted as well that the modelled noise levels within the submitted noise report were calculated on the basis of the boundary treatment as described above and as such the noise assessment is unaffected.

Additional representation

An objection has been received from Councillor Gabriel Rosu.

"As a ward councillor, I wish to object to the proposed application as the standards of living for future occupiers will not be acceptable. There will be high level of noise pollution, high levels of air pollution and inadequate levels of light. The development is over-developed with inadequate levels of green space and inadequate parking spaces. There is also the risk of flooding which is still not mitigated within this application."

Question from Councillor Richard Dickson

"I note the extensive comments on the planning portal from the Green Spaces Team about the proximity of public open space. With regards to policy BE3, where is the nearest children's play area located and what are the approximate minimum and maximum distances of this play area from properties on this development?"

Officer Response:

The nearest children’s play areas are:

Play Area	Approximate walking distance – minimum	Approximate walking distance – Maximum
Hickmans Green Play Area	90 metres	330 metres
Chase Meadow Park	360 metres	600 metres
Tapping Way open space area	460 metres	700 metres

It is widely accepted that 800 metres is equivalent to a ten-minute walk and Officers consider the nearest play areas to be within an acceptable walking distance from the development. Furthermore, the play areas are readily accessible using existing public footways.

The development would provide a financial contribution to improve local play provision within the vicinity of the site and the comments from the Green Space Team indicate that there are deficiencies in the range of play facilities that are currently available at Chase Meadow Park and Tapping Way.

Given the site’s accessibility to three different play areas and the potential for additional and upgraded play equipment and facilities to be delivered through this scheme, Officers consider that the development would provide a good standard of amenity in relation to open space and the application would not therefore conflict with Policy BE3 in this regard.

Condition 11 (Sustainability Statement)

Condition 11 requires the submission of a Sustainability Statement to demonstrate how the development will, *inter alia*, reduce carbon emissions and incorporate sustainability measures into the development. This condition was recommended prior to the receipt of the Inspector’s letter on 9 April 2024 regarding the Net Zero Carbon DPD.

Following the Inspector’s letter and the increased level of weight being afforded to the DPD, condition 11 is not considered to be appropriate because such matters need to be considered against the requirements of the DPD. This necessitates the submission of further information from the Applicant and for Officers to assess that prior to any planning permission being issued, with relevant conditions and/or planning obligations secured as necessary (as reflected in the updated recommendation to committee).

The Applicant has provided a letter to Members (17 April 2024) which discusses the Net Zero Carbon DPD and the developer’s commitment to working towards net zero. It also suggests that the requirements of the DPD be addressed by way of an update to condition 11.

Officers do not consider that the requirements of the Net Zero Carbon DPD can be addressed by condition when an assessment of compliance with the DPD has not first been undertaken.

Additional conditions

Three additional conditions are recommended which reflect the consultation response from the LLFA. These are:

Detailed drainage design

20. No development shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and the approved drainage strategy has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme to be submitted shall:

1. Limit the discharge rate generated by all rainfall events up to and including the 1 in 100 year (plus an allowance for climate change) critical rain storm to the QBar Greenfield runoff rate of 3.03l/s/ha for the site in line with the Flood Risk Assessment and Drainage Strategy (Second Issue, dated 21.03.2024).
2. Where the drainage scheme proposes to connect into a 3rd party asset, for example a public sewer, further information should be provided regarding the ownership, purpose, location and condition of this asset along with confirmation of the right to connect into it. This could take the form of land ownership plans showing riparian ownership, land drainage consent, flood risk activity permit or agreement under Section 106 of the Water Industry Act (1991).
3. Provide drawings / plans illustrating the proposed sustainable surface water drainage scheme. The strategy agreed to date may be treated as a minimum and further source control SuDS should be considered during the detailed design stages as part of a 'SuDS management train' approach to provide additional benefits and resilience within the design.
4. Provide detail drawings including cross sections, of proposed features such as attenuation features and outfall structures. These should be feature-specific demonstrating that such the surface water drainage system(s) are designed in accordance with 'The SuDS Manual', CIRIA Report C753. It should also be evidenced that the attenuation basin feature will be designed appropriately, with consideration to appropriate bank slopes.
5. Provide detailed, network level calculations demonstrating the performance of the proposed system. This should include:
 - a. Suitable representation of the proposed drainage scheme, details of design criteria used (incl. consideration of a surcharged outfall), and justification of such criteria where relevant.
 - b. Simulation of the network for a range of durations and return periods including the 1 in 2 year, 1 in 30 year and 1 in 100 year plus 40% climate change events

c. Results should demonstrate the performance of the drainage scheme including attenuation storage, flows in line with agreed discharge rates, potential flood volumes and network status. Results should be provided as a summary for each return period.

d. Evidence should be supported by a suitably labelled plan/schematic (including contributing areas) to allow suitable cross checking of calculations and the proposals. Details such as pipe and manhole numbers should be annotated in addition to levels across the network.

6. Provide plans such as external levels plans, supporting the exceedance and overland flow routing as submitted with this planning application. Such overland flow routing should:

a. Demonstrate how runoff will be directed through the development without exposing properties to flood risk.

b. Recognise that exceedance can occur during any storm event due to a number of factors therefore exceedance management should not rely on calculations demonstrating no flooding.

Verification Report

21. No occupation shall take place until a Verification Report for the installed surface water drainage system for the site based on the approved Flood Risk Assessment and Drainage Strategy (Second Issue, dated 21.03.2024) has been submitted in writing by a suitably qualified independent drainage engineer and approved in writing by the Local Planning Authority. The details shall include:

1. Demonstration that any departure from the agreed design is in keeping with the approved principles.

2. Any As-Built Drawings and accompanying photos.

3. Results of any performance testing undertaken as a part of the application process (if required / necessary).

4. Copies of any Statutory Approvals, such as Land Drainage Consent for Discharges etc.

5. Confirmation that the system is free from defects, damage and foreign objects.

Surface water management plan

22. No occupation and subsequent use of the development shall take place until a detailed, site specific maintenance plan is provided to the LPA in consultation with the LLFA. Such maintenance plan shall:

1. Provide the name of the party responsible, including contact name, address, email address and phone number.

2. Include plans showing the locations of features requiring maintenance and how these should be accessed.
3. Provide details on how each surface water relevant feature shall be maintained and managed for the lifetime of the development. This also includes how responsibilities will be conveyed and ensured by homeowners in relation to the water butt features.
4. Be of a nature to allow an operator, who has no prior knowledge of the scheme, to conduct the required routine maintenance.

Item 05 – 24 Kenilworth Road

Updated Recommendation

Planning Committee are recommended to delegate authority to the Head of Place, Arts and Economy in consultation with the Chair of Planning Committee to issue the decision notice, granting planning permission subject to the planning conditions listed and any additional planning conditions or Section 106 Agreement requirements which they consider appropriate in the circumstances where they consider that the applicant has demonstrated compliance with the requirements of the net Zero Carbon Development Plan Document (DPD).

In the circumstances where those requirements have not been demonstrated within an appropriate time period, Planning Committee are recommended to delegate authority to the Head of Place, Arts and Economy in consultation with the Chair of Planning Committee to refuse planning permission for that reason.

In view of the substantial weight which the Net Zero Carbon DPD now attracts, Officers consider that the revised recommendation is necessary in this case to enable the applicant to provide further submissions to demonstrate compliance with the Net Zero Carbon DPD and once received for Officers to seek specialist advice as to that compliance prior to the issuing of the decision for this application.

Item 06 – Flat 3 62 Bath Street

Net Zero Carbon DPD

This proposal relates to the change of use of the property in question between different categories of residential use.

Technically, the requirements of the Net Zero Carbon DPD Policy NZC4 apply to this proposal.

That policy would require the applicant to demonstrate that they have considered a sustainable construction and design approach to the proposals and also considered alternatives to conventional fossil fuel boilers.

However, in practical terms the development proposes a change in the nature of the occupation of the unit only. That change being from occupation as a single

household to occupation by the same number of occupants but not as a single household.

For that reason, Officers do not consider that it would be reasonable or proportionate in this particular instance to require the applicant to demonstrate compliance with that policy.