

**MISCELLANEOUS ITEM**  
**PLANNING COMMITTEE**  
**22 August 2013**  
**Head of Development Management**

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**Planning application: 12/00593/FUL**

**Site Address: 152 New Road Ascot**  
**(Head of Development Management)**

**Erection of 8no. 3 bedroom and 6no. 4 bedroom houses with associated amenity space, parking and landscaping following demolition of existing dwelling.**

## **1 BACKGROUND**

Members will remember that this application was considered by the Planning Committee at its meeting on 17 January 2013, where it the Committee:

“RESOLVED that following the completion of planning obligation(s) under Section 106 of the Town and Country Planning Act 1990 relating to:-

01. Transport measures (including securing the landscaped area at the back of the site until such time as it is required by the Local Highway Authority to serve future developments on New Road), open space/recreational facilities, built sports facilities, primary and secondary educational facilities, local library facilities

That the Head of Development Management be authorised to **APPROVE** the application subject to the following condition(s) –“

This miscellaneous item seeks the Planning Committee’s agreement to enter into an Agreement that maintains the landscaped area of the site referred to in the minutes from the January Planning Committee, without requiring the land to be dedicated to the Local Authority or otherwise formally secured for highway purposes. Instead, the wording seeks to retain the landscaped areas with an agreement as to their maintenance in the future. The areas will not be included within garden areas or curtilages of any houses and other than temporary uses in connection with construction works, no buildings will be permitted on the land.

## **2 RECOMMENDATION(S)**

**Members resolve to agree a revised recommendation for this application:**

“RESOLVED that following the completion of planning obligation(s) under Section 106 of the Town and Country Planning Act 1990 relating to:-

**01 Transport measures, retention and future management of the landscaped area at the back of the site, open space/recreational facilities, built sports facilities, primary educational facilities, local library facilities.**

**That the Head of Development Management be authorised to APPROVE the application subject to the following condition(s) –**

01. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.  
REASON: To comply with Section 91 of the Town and Country Planning Act 1990.
02. The development hereby permitted shall be carried out only in accordance with the following approved plans and other submitted details received by the Local Planning Authority on 24.7.12 and 6.11.12:-  
The development hereby permitted shall be carried out only in accordance with the following approved plans and other submitted details received by the Local Planning Authority on 24.7.12 and 6.11.12:-  
PL-102 (S2)E, 200 (S2), 201 (S2)B, 202 (S2)B, 203 (S2)B, 204 (S2)B, 205 (S2)C, 206 (S2)A, 207 (S2)A, 208 (S2) A, 209(S2)A, 210 (S2) A, 400 (S2)A, 401 (S2)A, 402 (S2)B, 403 (S2)B, 404 (S2)A, 405 (S2) A, 406 (S2), 407 (S2), 408 (S2) A, 409(S2), TD595\_01D.  
REASON: To ensure that the development is carried out only as approved by the Local Planning Authority. REASON: To ensure that the development is carried out only as approved by the Local Planning Authority.
03. No development shall take place until samples of the materials to include bricks, roof tiles, timber panelling, render, block pavements to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.  
REASON: In the interests of the visual amenities of the area.  
[Relevant Policies: SEP CC6, BFBLP EN20, Core Strategy DPD CS7]
04. The development hereby permitted shall not be begun until details showing the finished floor levels of the buildings hereby approved in relation to a fixed datum point have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details.  
REASON: In the interests of the character of the area.  
[Relevant Policies: SEP CC6, BFBLP EN20, Core Strategy DPD CS7]
05. No dwelling shall be occupied until a means of vehicular access has been constructed in accordance with details which have been submitted to and approved by the Local Planning Authority. REASON: In the interests of highway safety. [Relevant Policies: Core Strategy DPD CS23]
06. No dwelling shall be occupied until the associated vehicle parking and turning space has been surfaced and marked out in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority. The spaces shall not thereafter be used for any purpose other than parking and turning.

REASON: To ensure that the development is provided with adequate car parking to prevent the likelihood of on-street car parking which would be a danger to other road users.

[Relevant Policies: SEP T4, BFBLP M9, Core Strategy DPD CS23]

07. The development hereby permitted shall not be begun until a Sustainability Statement demonstrating how the development will meet current best practice standards in the sustainable use of natural resources has been submitted to and approved in writing by the Local Planning Authority. The Statement shall include either a Design Stage Report and BRE Interim Certificate or a pre-assessment estimate carried out by an independent assessor licensed by the Building Research Establishment demonstrating that the development meets a minimum standard of Level 3 of the Code for Sustainable Homes. The development shall be implemented in accordance with the Sustainability Statement and the measures set out in the statement shall be retained in accordance therewith.

REASON: In the interests of sustainability and the efficient use of resources.

[Relevant Policy: Core Strategy DPD CS10]

08. The development shall not be occupied until a Post Construction Review Report carried out by an independent assessor licensed by the Building Research Establishment and a Final Code Certificate has been submitted to the Local Planning Authority which demonstrates that the development has been constructed to meet a minimum standard of Level 3 of the Code for Sustainable Homes.

REASON: In the interests of sustainability and the efficient use of resources.

[Relevant Policy: Core Strategy DPD CS10]

09. The development hereby permitted shall not be begun until an Energy Demand Assessment demonstrating that:-
- (a) the proposed development will reduce carbon dioxide emissions by at least 10% against the appropriate Target Emission Rate as set out in Part L of the Building Regulations (2006), and
  - (b) a proportion of the development's energy requirements will be provided from on-site renewable energy production (which proportion shall be 20% unless otherwise agreed in writing by the Local Planning Authority).
- has been submitted to and approved in writing by the Local Planning Authority. The building(s) thereafter constructed by the carrying out of the development shall be in accordance with the approved assessment and retained in accordance therewith.

REASON: In the interests of the sustainability and the efficient use of resources.

[Relevant Plans and Policies: CSDPD Policy CS12]

10. The development hereby permitted (including any demolition) shall not be begun until details of a scheme (Working Method Statement) to control the environmental effects of the demolition and construction work has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include:-
- (i) control of noise (proposed delivery hours)
  - (ii) control of dust, smell and other effluvia
  - (iii) control of surface water run off
  - (iv) construction and demolition working hours
  - (v) hours during the construction and demolition working hours when delivery vehicles or vehicles taking materials are allowed to enter or leave the site.

The development shall be carried out in accordance with the approved scheme.

REASON: In the interests of the amenity of the area  
[Relevant Policies: SEP NRM10, BFBLP EN25]

11. The development hereby permitted shall be carried out in accordance with the mitigation measures outlined in the Ecological Appraisal and Bat Survey Report and Mitigation Strategy.

REASON: In the interests of nature conservation  
[Relevant Plans and Policies: SEP NRM5, Core Strategy CS1]

12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 or any Order revoking and re-enacting that order, no external lighting shall be installed on the site except in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of visual amenity.  
[Relevant Policies: BFBLP EN15, EN20 and EN25]

13. The areas shown for ecological mitigation/bat roost purposes in the approved plans shall thereafter be retained as such and shall not be used for any other purposes.

REASON: In the interests of nature conservation.  
[Relevant Plans and Policies: Core Strategy CS1, CS7]

14. The development hereby permitted shall not be begun until:

- 1) a scheme depicting hard and soft landscaping and
  - 2) a three year post planting maintenance scheme
- have been submitted to and approved in writing by the Local Planning Authority. The approved post-planting maintenance schedule shall be performed and complied with.

All planting comprised in the soft landscaping works shall be carried out and completed in full accordance with the approved scheme, in the nearest planting season (1st October to 31st March inclusive) to the completion of the development or prior to the occupation of any part of the approved development, whichever is sooner. All hard landscaping works shall be carried out and completed prior to the occupation of any part of the approved development. As a minimum, the quality of all hard and soft landscape works shall be carried out in accordance with British Standard 4428:1989 'Code Of practice For General Landscape Operations' or any subsequent revision. All trees and other plants included within the approved details shall be healthy, well formed specimens of a minimum quality that is compatible with British Standard 3936:1992 (Part 1) 'Specifications For Trees & Shrubs' and British Standard 4043 (where applicable) or any subsequent revision. Any trees or other plants which within a period of 5 years from the completion of the development, die, are removed, uprooted, are significantly damaged, become diseased or deformed, shall be replaced during the nearest planting season (1st October to 31st March inclusive) with others of the same size, species and quality as approved.

REASON: In the interests of good landscape design and the visual amenity of the area.

[Relevant Policies: BFBLP EN2 and EN20, CSDPD CS7]

15. The development hereby permitted (including initial site-clearance) shall not be begun until a detailed scheme, and programme for its implementation for the protection of existing trees, hedgerows and groups of mature shrubs to be retained, in accordance with British Standard 5837:2005 'Trees In Relation To Construction Recommendations' (or any subsequent revision), has been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall include proposals for the phasing of its implementation so that protection is provided from the commencement of demolition or site clearance works (whichever is the sooner), through to the construction works and the completion of hard landscaping works. The submitted scheme shall include the following:-
- a) Accurate trunk positions and canopy spreads of all existing trees within the site and on adjoining land adjacent to the development.
  - b) Positions and spreads of existing hedgerows and groups of mature shrubs.
  - c) All proposed tree, hedge, shrub removal and retention.
  - d) Minimum 'Root Protection Areas' of all existing retained trees within the site and on neighbouring land adjacent to the approved development, calculated in accordance with BS 5837 recommendations.
  - e) Plans of a minimum scale of 1:200 (unless agreed otherwise by the Local Authority) showing the proposed locations of 2.3m high protective barrier(s), supported by a metal scaffold framework, constructed in accordance with Section 9 (Figure 2) of BS 5837:2005, to include appropriate weatherproof tree protection area signage (such as "Keep Out - Construction Exclusion Zone") securely fixed to the outside of the protective fencing structure at regular intervals.
  - f) Proposed ground protection measures in accordance with Section 9 (Figure 3) of BS 5837:2005.
  - g) Annotated minimum distances between fencing and trunks of retained trees at regular intervals.
  - h) Illustration(s) of the proposed fencing structure(s) to be erected.
- The development shall be carried out in accordance with the approved scheme and programme.
- REASON: In order to safeguard trees and other vegetation considered to be worthy of retention in the interests of the visual amenity of the area.  
[Relevant Policies: BFBLP EN1 and EN20, CSDPD CS7]
16. No development hereby permitted shall be begun until a site specific method statement for the removal of all existing hard surfaced areas and structures of any other description, located within the minimum Root Protection Areas (RPA's) of trees to be retained, has been submitted to and approved in writing by the Local Planning Authority. Details shall include: -
- a) A site plan identifying all areas where such work is to be undertaken.
  - b) Reinstatement to soft landscape area including proposed ground de-compaction works.
  - c) Timing and phasing of works.
- The approved Method Statement shall be observed, performed and complied with.
- REASON: In order to safeguard tree roots and thereby safeguard trees in the interests of the visual amenity of the area.  
[Relevant Policies: BFBLP EN1 and EN20, CSDPD CS7]
17. The development hereby permitted shall not be commenced until such time as a detailed level-for-level floodplain compensation scheme to demonstrate that any increase in footprint within the 1 in 100 year plus 20% allowance for climate change floodplain can be compensated for has been submitted to,

and approved in writing by, the Local Planning Authority. The scheme shall be fully implemented and subsequently maintained, in accordance with the timing/phasing arrangements embodied within the scheme.

REASON: To prevent flooding off-site by ensuring that compensatory storage of flood water is provided.

18. Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the Local Planning Authority.
- (1) A preliminary risk assessment which has identified:
- all previous uses
  - potential contaminants associated with those uses
  - a conceptual model of the site indicating sources, pathways and receptors
  - potentially unacceptable risks arising from contamination at the site
- (2) A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
- (3) The site investigation results and the detailed risk assessment (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
- (4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.
- The scheme shall be implemented as approved.
- REASON: The River Terrace Deposits (Secondary A Aquifer) overlies the London Clay (Unproductive Stratum) under this site. The proximity to the Blackmore Stream and the fact that the site is partially within a Flood Zone suggests that groundwater is shallow under the site. The groundwater in the River Terrace Deposits need to be protected from contamination that may be present in the soils as a result of the previous use of the site as a petrol filling station. There is the potential for underground fuel storage tanks to have been left in situ and therefore a site investigation that includes a geophysical survey of the site is required. Results of chemical analysis of groundwater samples taken from the River Terrace Deposits are required. The application form indicates that surface water drainage will be disposed of using a sustainable drainage system, therefore The Environment Agency will need to know the contaminative status of this parcel of land before it can endorse this proposal.
19. None of the Dwellings permitted by this permission shall be occupied until a verification report demonstrating completion of the works set out in the approved remediation strategy referred to in condition 18 and the effectiveness of the remediation has been submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include a plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the Local Planning Authority.

REASON: The River Terrace Deposits (Secondary A Aquifer) overlies the London Clay (Unproductive Stratum) under this site. The groundwater in the River Terrace Deposits must be protected from contamination that may be present in the soils, as a result of the previous use of the site as a petrol filling station.

20. Piling or any other foundation designs using penetrative methods shall not be undertaken other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater.  
REASON: The River Terrace Deposits overlie the London Clay, which may be thin under this site. Since the previous use of the site is potentially contaminative, this status must be established to ensure that deep foundations will not form a pathway for contamination to migrate to the Secondary A Aquifer in the Lambeth Group below the London Clay.
21. The development hereby permitted shall not be commenced until such time as a scheme to dispose of surface water has been submitted to, and approved in writing by, the Local Planning Authority. The scheme shall be implemented as approved.  
REASON: The previous use of the site is potentially contaminative and this status needs to be established to ensure that soakaways or other infiltration systems are not constructed into contaminated land.
22. No development shall take place within the site, including any works of demolition or ground preparation, until the applicant, or their agents or their successors in title, has secured and implemented a programme of archaeological work (which may comprise more than one phase of work) in accordance with a written scheme of investigation, which has been submitted to and approved in writing by the Local Planning Authority. The development shall only take place in accordance with the detailed scheme approved pursuant to this condition.  
REASON: To ensure that any archaeological remains within the site are adequately investigated and recorded or preserved in situ in the interest of protecting the archaeological heritage of the borough.  
[Relevant Policies: BFBLP EN6 and EN7]
23. No development (other than the construction of the access) shall take place until the access has been constructed in accordance with the approved plans [insert reference].  
REASON: In the interests of highway safety.  
[Relevant Policies: Core Strategy DPD CS23]
24. The dwelling(s) shall not be occupied until visibility splays of 2.0 metres by 2.0 metres have been provided at the junction of the driveway and the adjacent carriageway. The dimensions shall be measured along the edge of the drive and the edge of the carriageway from their point of intersection. The visibility splays shall at all times thereafter be kept free of all obstructions to visibility over a height of 0.6 metres measured from the surface of the carriageway.  
REASON: In the interests of highway safety.  
[Relevant Policies: Core Strategy DPD CS23]

25. No dwelling on plots 1, 2, 4, 5 and 6 shall be occupied until the private drive which provides access to it has been constructed in accordance with the approved plans.  
REASON: In the interests of highway safety.  
[Relevant Policies: Core Strategy DPD CS23]
26. The gradient of private drives shall not exceed 1 in 12.  
REASON: To ensure that adequate access to parking spaces and garages is provided.  
[Relevant Policies: Core Strategy DPD CS23]
27. The development hereby permitted shall not be begun until  
(a) details of the location of 3 visitor car parking spaces, and  
(b) details of the signing for the spaces  
have been submitted to and approved in writing by the Local Planning Authority. The car parking spaces shall be provided and signed in accordance with the approved details and the spaces and signage shall thereafter be retained.  
REASON: To ensure that the development is provided with adequate car parking to prevent the likelihood of on-street car parking which would be a danger to other road users.  
[Relevant Policies: SEP T4, BFBLP M9, Core Strategy DPD CS23]
28. No dwelling shall be occupied until the area shown as parking spaces on the approved plan has been drained and surfaced in accordance with details submitted to and approved by the Local Planning Authority and that area shall not thereafter be used for any purpose other than the parking of vehicles.  
REASON: To ensure that the development is provided with adequate car parking to prevent the likelihood of on-street car parking which would be a danger to other road users.  
[Relevant Policies: BFBLP M9, Core Strategy DPD CS23]
29. The garage accommodation shall be retained for the use of the parking of vehicles at all times, unless otherwise agreed in writing by the Local Planning Authority.  
REASON: To ensure that the Local Planning Authority's vehicle parking standards are met.  
[Relevant Policy: BFBLP M9]
30. No gates shall be provided at the vehicular access to the site.  
REASON: In the interests of highway safety.  
[Relevant Policies: Core Strategy DPD CS23]
31. The development hereby permitted shall not be begun until a scheme has been submitted to and approved in writing by the Local Planning Authority for off site highway works including the following:  
site access works and associated works to the verge and footway along New Road)  
The buildings provided by the carrying out of the development shall not be occupied/open for trade until the off site highway works have been completed in accordance with the scheme.  
REASON: In the interests of highway safety.  
[Relevant Policy: BFBLP M4]



32. The development hereby permitted shall not be begun until a scheme has been submitted to and approved in writing by the Local Planning Authority, to accommodate:
- (a) Parking of vehicles of site personnel, operatives and visitors
  - (b) Loading and unloading of plant and vehicles
  - (c) Storage of plant and materials used in constructing the development
  - (d) Wheel cleaning facilities
  - (e) Temporary portacabins and welfare for site operatives
- and each facility shall be retained throughout the course of construction of the development, free from any impediment to its designated use. No other areas on the site, other than those in the approved scheme shall be used for the purposes listed (a) to (d) above without the prior written permission of the Local Planning Authority.
- REASON: In the interests of amenity and road safety.

### **3 REASONS FOR RECOMMENDATIONS**

The purpose of seeking to secure the landscaped area was to ensure that if future sites in New Road adjacent to the application site were developed, access to those sites may use the access serving this development, avoiding the need for multiple access points on New Road serving a number of developments. In this way, the comprehensive development of the area, if required, could be secured.

Difficulties in dedicating the land for possible highway purposes which are as yet unknown as no planning applications to develop adjacent land have been submitted, and the unwillingness of the highway authority to take control of the land in advance of it being required for highway purposes have resulted in wording for the s106 being prepared between the parties. The wording does not include dedication of the land to the local authority for highway purposes. Instead, the wording seeks to retain the landscaped areas with an agreement as to their maintenance in the future. The areas will not be included within garden areas or curtilages of any houses and other than temporary uses in connection with construction works, no buildings will be permitted on the land.

### **4 SUPPORTING INFORMATION**

As part of the discussions on drawing up the S106, wording has been prepared to ensure that the landscaped areas would be managed as such in the future, and would therefore be physically open, and continue as such in the future. The landscaped areas would not be dedicated to the highways authority, but if development is proposed on adjacent land, the open nature of the areas mean that it would be physically possible for adjacent sited to be accessed through this application site and through the approved access onto new Road.

The applicant does not accept it is necessary in the absence of any proposals to develop the adjoining land and is therefore unwilling to transfer the land to the local authority at this point in time. Should the S106 Agreement not be completed and the scheme proceed to Appeal, it seems unlikely that any inspector would require the land to be transferred to the local authority.

It is not considered that the revision to the S106 requirement with respect to the landscaped areas will prejudice the future comprehensive development of the area.

**Background Papers**

Planning application file ref. no. 12/00593/FUL

**Contact for further information**

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