



PLANNING COMMITTEE

26th June 2014

REPORT OF HEAD OF PLANNING AND BUILDING CONTROL

Hydesville Tower School, Broadway North, Walsall, WS1 2QG

1.0 PURPOSE OF REPORT

To continue to advise and update members of the position with regard to the S106 Legal Agreement entered into by Hydesville Tower School in conjunction with planning permission 08/0520/FL which were discussed by Planning Committee on 13 February and 13 March 2014 as a consequence of the proposed redevelopment of the Park Tavern Public House under planning reference 13/1529/FL. The committee ask that there are regular updates on this matter.

1.1 The school are continuing to work with Centro and their consultants (Mott MacDonald) on the schools options for Local Sustainable Transport Fund (LSTF). The draft Travel Plan has been submitted to the Council and requires some amendments. Whilst it will help with the parking issues I should add that the modal shift targets, whilst realistic for an educational establishment, are targeted for relatively low numbers as it affects only secondary aged pupils and staff i.e. the target reduction in students car use is 3% per annum; in real terms this equates to only 3 students (base 93); likewise the target for staff travelling alone by car is a 2% reduction per annum which is less than 2 in real terms (base 72). It is hoped that this can be signed off over the next few weeks. The Travel Plan only targets staff and secondary aged pupils, to engage with primary aged pupils the school have joined the Councils A*Stars programme and will shortly be preparing an action plan of initiatives for the 2014/15 academic year.

1.2 Since the last Planning Committee, Hydesville School has confirmed that the Park Tavern Car Park has been closed to public access and visitors to the school no longer have the use of it.

2.0 RECOMMENDATION

2.1 **To note** that the Head of Planning and Building Control has served notice on the School pursuant to the terms of the Section 106 Agreement which then provides the School with a period of 6-months to arrange for alternative suitable car parking for staff and parents of Nursery Pupils; and

2.2 **To authorise the Head of Planning and Building Control to institute injunctive proceedings** in the event of the non-compliance with the Section 106 Planning Obligation by the failure to provide alternative suitable car parking and the failure to cease nursery intake from September 2015.

Reason for commencing enforcement and injunctive steps:-

On 16 July 2010 the Council and the School entered into a Section 106 agreement which made provision for steps to be taken by the school in relation to the parking of staff and visitors vehicles, amongst other things. Specifically, paragraph 4.3 of the Schedule required a Car Park Facility to be made available for Parents of Nursery Pupils. This was required in order to balance the interests of the school with those of the surrounding residents and highway safety. In the event that the parking facility became unavailable at any point in the future, the School would have 10 days within which to notify the Council, after which the Council would serve notice on the School to commence a 6-month period for the School to put alternative provision in place. If the School failed to establish a replacement car parking facility within the given 6 month period, the School will cease taking new nursery pupils from the commencement of the next following academic year.

3.0 FINANCIAL IMPLICATIONS

None arising from this report

4.0 POLICY IMPLICATIONS

The following planning policies are relevant in this case:

National Planning Policy Framework (NPPF)

The NPPF sets out the Government's position on the role of the planning system in both plan-making and decision-taking. It states that the purpose of the planning system is to contribute to the achievement of sustainable development, in economic, social and environmental terms, and it emphasises a "*presumption in favour of sustainable development*".

All the **core planning principles** have been reviewed and those relevant in this case are:

- Seek to secure high quality design and good standards of amenity for all existing and future occupants
- Take account of the different roles and character of different areas
- Conserve heritage assets in a manner appropriate to their significance.

Key provisions of the NPPF relevant in this case:

4: Promoting Sustainable Transport

32 All development should have safe and suitable access to the site for all people. Development should only be refused on transport grounds where the residual cumulative impacts of development are severe.

207 LPAs should act proportionately in responding to suspected breaches of planning control.

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of

sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

The Development Plan

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

The Black Country Core Strategy (BCCS)

http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework *"decision-takers may continue to give full weight to relevant policies.* However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall's UDP) the NPPF advises that *"... due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)."* To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a 'Compatibility Self-Assessment Checklist' (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity.

This checklist has been published on the BCCS and Council websites. Cabinet on 24th July 2013 resolved to endorse the assessment undertaken by officers from the four local authorities and agreed that the Black Country Core Strategy is consistent with the National Planning Policy Framework, so that the Core Strategy policies should be given full weight in planning decisions.

The relevant policies are:

ENV2: Development proposals will be required to preserve and, where appropriate, enhance local character.

ENV3: Development proposals across the Black Country will deliver a successful urban renaissance through high quality design that stimulates economic, social and environmental benefits. Implementation of the principles of "By Design" to ensure the provision of a high quality networks of streets, buildings and spaces.

It is considered in this case that the relevant provisions of the BCCS can be given full weight.

Walsall's Unitary Development Plan (UDP)

www.walsall.gov.uk/index/environment/planning/unitary_development_plan.htm

Policies that have been saved and not replaced by the BCCS remain part of the development plan. However, in such cases the NPPF says “*due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*”.

The relevant policies are:

GP2: Environmental Protection

The Council will expect all developments to make a positive contribution to the quality of the environment and will not permit development which would have an unacceptable adverse impact on the environment.

T4: The Strategic Highway Network is for long distance and strategic traffic

T8: Developments should promote walking

T9: Developments should promote cycling

T13: Unless otherwise justified developments should provide appropriate car parking to meet their needs. Schools should provide 2 spaces per classroom and 4 bike lockers per parking space.

It is considered in this case that the relevant provisions of Walsall’s saved UDP policies are consistent with the NPPF

5.0 LEGAL IMPLICATIONS

None arising from this report as the steps being taken fall within the provisions of an existing section 106 agreement.

6.0 EQUAL OPPORTUNITY IMPLICATIONS

There are none arising directly from this report. The date by which the School is to secure alternative parking is 17th December 2014. In the event that the School is unable to secure alternative suitable parking the School will be unable to take nursery children from the next following academic year. It is considered there is ample time available for the School to make these arrangements clear to parents and prospective parents of pupils of the nursery school. The terms of the Section 106 Agreement are considered reasonable and well balanced with the interests of those residents within the locality and necessary in the interests of highway safety.

7.0 ENVIRONMENTAL IMPACT

None arising from this report.

8.0 WARD(S) AFFECTED

St Matthews

9.0 CONSULTees

None.

10.0 CONTACT OFFICER

Andrew White – 01922 652609
Development Management

11.0 BACKGROUND PAPERS

Planning permission 08/0520/FL and Section 106 Agreement dated 16 July 2010

Planning Committee
26th June 2014

12.0 BACKGROUND AND REPORT DETAIL

- 12.1 Planning permission was granted under reference 08/0520/FL for the following development description:
A) Extension to Art and Technology Building
B) change of use of 33 Broadway North to part of school (years 1 and 2)
C) Use of vacated year 1 and 2 for nursery provision.
- 12.2 Under the consideration of the previous application it was noted that the UDP parking standards require 2 parking spaces per classroom, plus 4 cycle lockers per car space. The number of classrooms or rooms available for teaching was given as 33 but was stated in the previous application (07/1476/FL/W3) to be 35, which excludes library, dining and music practise rooms. This latter figure resulted in a parking requirement in accordance with UDP maximum standards of 70 spaces for the existing school plus eight additional spaces for the application proposal.
- 12.3 There is a significant shortfall in the parking available for the site. Residents had highlighted the difficulties of parking in the vicinity of their homes and also that inconsiderate parking is an issue. The Park Tavern car park was being used at the time of the 2008 Planning Application by the school. This resulted in occasional queues to exit onto Broadway. Despite this provision, parents regularly dropped off children outside the school.
- 12.4 The changes proposed by the 08/0520/FL application were considered to worsen the parking situation for the school which was already unsatisfactory. In addition to increased numbers of children the application proposed the increase to take place in the nursery. Officers considered that children of this age are the most likely to be brought to school by car and cannot just be dropped off. These children are likely to require longer stay parking than more independent older children and could reduce the availability of spaces for shorter stays.
- 12.5 There were 6 objectors to the 2008 application all of whom were concerned that some parents park in an inconsiderate or illegal manner and other parents or staff occupy on-street parking that is needed by residents of the area who have no alternative parking. Broadway North is a red route and the streets opposite the school have restricted parking and many of the houses have no alternative but to park on-street. Parking derived from the red route scheme cannot be counted as these are essentially for public use.
- 12.6 Given these circumstances it was considered that this development, which would increase the parking requirement of the school with a detrimental effect upon highway safety, could be approved on its face value, because the school worked on the production of a Travel Plan, which was submitted as part of the 2008 application. In order to effectively support the application, the Plan needed only

to make modest improvements in travel patterns, sufficient to compensate for the 8 extra car spaces created by the application. It was considered to be likely that such improvements could be achieved in other parts of the school, not the nursery.

- 12.7 The 2008 planning application Travel Plan set out targets for a reduction in single car journeys and an increase in most other means of transport, allied to a growth in school size to 400 pupils. To encourage compliance/delivery of the targets the Plan proposed that, if the targets were not met, the intake of the nursery would be reduced by 5% in the following year.
- 12.8 In addition to the Travel Plan and its targets, the school and officers agreed that there was a need to provide car parking for parents of nursery students. The school proposed that it used the Park Tavern car park, or its equivalent, to ensure that there was parking for the parents of nursery pupils who would be less able to take advantage of other means of transport.
- 12.9 For the targets set out in the Travel Plan to be monitored and delivered, and the parking on the Park Tavern car park to be secured, or a suitable replacement, a Section 106 Agreement was put in place.
- 12.10 Subsequently the Council was made aware that the Park Tavern Car Park was unlikely to be available to the school in the future, following the grant of planning permission for its redevelopment. The school has now formally confirmed that the use of the Park Tavern Car Park has ceased as the car park has been sealed from public access. Pursuant to the para 2 Schedule 4 of the Section 106 Agreement, where the car park is no longer available for use by the School the Council should serve formal notice on the School/Owner. This must be done within 28 days of the Council becoming aware of the situation or within 28 days of being notified of such by the School. The Council has therefore formally served notice on the School. This has triggered Clause 4.3 of the S106 and requires the school to find a replacement car park within 6 months. Officers continue to monitor the position and have already made contact with the School in relation to their obligations pursuant to the Section 106 agreement.
- 12.11 Clause 4.3 of the S106 Legal Agreement requires the following actions from the School:
- 4.3.1. *to notify the Council within 10 working days that the car park facility (Park Tavern) is no longer available.*
 - 4.3.2 *within 6 calendar months identify for use a replacement car park facility for the use of Parents of Nursery Pupils at an Approved Site*
 - 4.3.3 *provide evidence that 30 spaces are available and that the school has a legal right to use the replacement facility*
 - 4.3.4 *to make the replacement available for the use of Parents of Nursery Pupils*
 - 4.3.5 *defines the subsequent agreed replacement as the car parking facility.*
 - 4.3.6 *In the event of a failure to establish a replacement car park facility to cease taking new nursery pupils from the commencement of the next following academic year until such time as a replacement facility is made available.*

- 12.12 As Clause 4.3 has been triggered, officers have confirmed in writing to the school that they have until the 17th December 2014 to find alternative parking. The Planning authority has also informed Highways officers that have been liaising with the school regarding the Travel Plan, walking bus, parking permits and alternative car park locations. The Local Planning Authority has started to receive complaints from residents in adjacent roads regarding staff now parking outside resident's houses for the day and the additional chaos that has arisen from parents dropping off and collecting their children on the road. This is now starting to cause problems for residents being able to park near to their houses during the day and especially at peak times for the coming and goings to the school.
- 12.13 The service of the notice by the Council starts the 6 month clock within which the school is to secure alternative provision. If, at the end of that six month period, it has not been able to do so, the school will be prevented from taking nursery children in the following Academic Year intake. Whilst the Council has served formal notice on the School it continues to be involved in active discussions with the School in relation to alternative car park provision.



Walsall Council

Ordnance Survey Map 2014



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