

TWC/2011/0871

Land East and West Station Road, Newport

Erection for up to 350 no. dwellings (Use Class C3); extra care housing (Use Class C2); 4.5ha of employment land (Use Classes B1, B2 and B8); public open space and landscaping provision including sports pitch and landscaped park; demolition of existing industrial buildings; highway works and associated infrastructure development (Outline to include Access).

AND

TWC/2015/0057

Land South of Springfield Industrial Estate, Station Road, Newport

Outline application for the erection of up to 120 dwellings with associated open space, infrastructure works and access of Station Road with all other matters reserved.

OFFICER Kate Stephens

1.0 Purpose of this report

- 1.1 This is an information report to update members with regards to a change of circumstances in relation to two sites off Station Road Newport prior to the issuing of the planning permission pursuant to Members' previous resolutions to grant.
- 1.2 The case of R (on the application of Kides) v South Cambridgeshire District Council and others (Court of Appeal) clarified that local planning authorities must have regard to any material factors that arise between the date of a Committee resolution and the formal grant of planning permission. Officers have therefore decided to take the prudent course of providing this update for Members although the extent to which this change is material is debateable.

2.0 Background

- 2.1 Members will recall at Planning Committee on 30th August 2017 resolving to grant outline planning consent (TWC/2015/0057) for up to 120 dwellings on land South of Springfield Industrial Estate off Station Road subject to the signing of a Memorandum of Understanding (to secure ongoing section 106 requirements). The Memorandum has been signed.
- 2.2 The Planning Committee on 24 June 2015 resolved to grant outline planning consent (TWC/2011/0871) for up to 350 no. dwellings; extra care housing; 4.5ha of employment land; public open space and landscaping provision including sports pitch and landscaped park; demolition of existing industrial buildings; highway works and associated infrastructure development on Land east and west of Station Road, subject to a s106 legal agreement, which is nearing completion.
- 2.3 On December 7th 2017 Shropshire Wildlife Trust (SWT) wrote to the Council as landowner advising that it had designated land as local wildlife site due to

the presence of wax cap mushrooms and asked for the Council's "observations". The consultation period expired on January 31st 2018.

- 2.4 The land in question is grassland that was last used for horse grazing, which forms the eastern part of the 120-dwelling site (TWC/2015/0057) and a northern section of the 350-dwelling site (TWC/2015/0871). Both of the planning applications share the same access arrangements, namely a new roundabout that will be constructed on Station Road that would then lead to a new spine road and mini roundabout. This would then give access to the 120 dwelling site to the north and part of the 350 house scheme to the south. This new spine road is located at the southern end of the proposed local wildlife site.
- 2.5 The Council as Local Planning Authority must consider what status this suggested designation has and whether it affects the planning position on either site. Hence this information report has been brought before Members at this stage to notify them of this suggested designation which has occurred between their resolution grant planning permission for both applications and the issuing of the decisions.
- 2.6 The Council as landowner has also written to SWT raising concerns about the process undertaken to reach the proposed designation and the lack of evidence/survey data.

3.0 Wax cap mushrooms and site selection criteria

- 3.1 The attached plans show the two application sites and the SWT intended local wildlife site. Wax cap mushrooms are a known indicator of undisturbed grassland and the presence of wax cap mushrooms was reported in the Committee report to Members on 31st August 2017.
- 3.2 SWT submitted 2 letters (from Robin Mager) that were reported as updates to the Planning Committee in August, saying that the presence of wax cap mushrooms would qualify for Local Site status in some counties. At the time, wax caps were not a site selection criteria in Shropshire and the Committee report the Council's Ecologist responds to SWT's assertion by saying:-

"The site was presented to the Local Sites Partnership on 12th January 2016 – the partnership is chaired by Shropshire Wildlife Trust and Robin Mager (who has written the Shropshire Wildlife Trust comments) and who was present at the meeting. The site was not adopted by the Local Sites partnership, who commented that "*the grassland does not meet the Local Sites Selection Criteria*"".

- 3.3 However, the criteria for site selection used by the Shropshire Local Sites Partnership (LSP) has since been changed to now include wax cap mushrooms, which are included in selection criteria used in some areas of the country. This was done at the LSP meeting on November 7th 2017 (the Council's Ecologist was not present at the meeting). As a result of this site selection change, SWT has chosen to designate the site as a local wildlife

site. However, there are procedures that should be followed to progress the process through to formal designation.

- 3.4 The Council as landowner has responded to SWT's consultation raising concerns about the proposed designation process of the site, and in particular:-
- a) Proper process has not been followed, as set out in detailed guidance issue by DEFRA entitled "*Local Sites – Guidance on their Identification, Selection and Management*" (2006).
 - b) Failure to engage with the Council as landowner in line with the above DEFRA guidance and securing the landowner's permission to survey and monitor sites.
 - c) Lack of formal survey/data/biological records/reports upon to which make proper decision, including:-
 - SWT presented the LSP meeting with only a pro-forma of basic information prepared in late 2015/early 2016 by an ex-Council member of staff.
 - Failure of SWT to give the LSP all the relevant facts or proper survey data about the site for it to make a proper informed decision.
 - SWT have been unable to provide the Council with any reliable survey data, so it is unclear what information/evidence the LSP actually based their decision on.
 - Following the Council's repeated request for data, SWT provided an email that said Mr Daniel Nicholas had carried out a survey on 2 November 2017.
 - Mr Nicholas' qualifications are unknown and he cannot be considered 'independent' as he and members of his family have written to the LPA to "strongly object" to any form of development on the site.
 - d) Process has lacked transparency, independence and rigour.
 - e) Refer the Council's letter back to the Shropshire LSP and confirm the site has been removed from the 'candidate' list due to lack of evidence.

4.0 Implications for planning decisions

- 4.1 The main issues for the Council as Local Planning Authority, in light of the Kides case above, are what status this 'candidate' local wildlife site designation has, what weight can be attached to it, and whether it affects the resolutions to grant outline planning permission.
- 4.3 Officers are satisfied that little or no weight can be given to the 'candidate' site for the following reasons:-
- The site can only be considered as a 'candidate' site.

- It is not a designated local wildlife site as it has not been through due and proper process.
- Members are already aware of the presence of wax cap mushrooms on site, as set out in the Committee report of August 31 2017, so the presence of wax caps on the site is not a new issue.
- The procedure followed by SWT for site selection is flawed and faulty and has not followed DEFRA guidelines – for example the landowner has not been engaged, no independent survey has been undertaken, there is no expert report, and there is no information to indicate the extent of any wax cap colony – therefore little weight can be given to the circumstances of its selection as a ‘candidate’ site.
- Local proposed ‘candidate’ sites have no formal protection unlike potential Special Protection Areas, Special Areas of Conservation, proposed RAMSAR sites, which are given European protection – see NPPF.
- Policy NE1 of the newly adopted Telford & Wrekin Local Plan refers to designated sites and does not refer to ‘candidate’ local wildlife sites. The Local Plan refers to Local Wildlife Sites and a list of Local Wildlife Sites is included as an Appendix to the Local Plan which does not include this site in Newport.

4.4 The Telford & Wrekin Local Plan (TWLP) has now been adopted (January 2018) since the resolutions to grant both planning applications. The Policies Map shows the amended built up boundary around Newport, which now includes both application sites, so development on both these sites is in accordance with the newly adopted TWLP.

4.5 Newport Town Council have prepared a Neighbourhood Development Plan that is progressing through to adoption. It will establish a long term view for the Newport area and help deliver the local community’s aspirations and needs for the plan period 2017 - 2031. It sets out a number of key objectives and planning policies which the Newport Town Council wishes to be used to help determine planning applications in the Newport area. The Plan has been out for public consultation and is now at Regulation 15 stage, but is yet to go through Examination. Therefore only limited weight can be attached to the document and any of its policies at this stage. There are no policies relating to these sites.

5.0 Conclusion

5.1 In these circumstances, officers are satisfied that little or no weight can be given to the site being made a ‘candidate’ site for designation as a local wildlife site due to faulty procedure. The Newport Neighbourhood Plan has limited weight at this stage of its preparation and, in any event, includes no proposed policies relating to these sites. The Telford & Wrekin Local Plan has recently been adopted and the urban boundary for Newport includes both application sites, so there is no conflict with development plan policy.

- 5.2 Taking into account all the circumstances pertaining to the post-Committee resolution changes referred to in this report, it is the officer position that outline planning permission can be granted for both the 120-dwelling application (TWC/2015/0057) and the 350-dwelling scheme (TWC/2011/0871) subject to planning conditions and obligations.

Background Papers and Previous Minutes:

- a) SWT submissions pre-Planning Committee (ref: TWC/2015/0057)
- b) LPA Ecologist comments pre Planning Committee (ref: TWC/2015/0057)
- c) Report to Planning Committee – 30th August 2017 (ref: TWC/2015/0057) + minute
- d) Report to planning Committee – 24th June 2015 (re: TWC/2011/0871) +minute
- e) DEFRA Guidance re Local Sites – Guidance on their Identification, Selection and Management 2006
- f) Shropshire Local Sites Partnership (LSP) Agenda and Minutes 7th November 2017
- g) Telford & Wrekin Local Plan
- h) Draft Newport Neighbourhood Development Plan
- i) Letter dated 31st January 2018 from Council as landowner