

19 November 2020		ITEM: 6
Extraordinary Planning Committee		
Monitoring Officer Report On The Decision Of The Planning Committee In Relation To Land Adjacent To Wood View And Chadwell Road, Grays (Application ref: 19/01373/OUT)		
Wards and communities affected: Little Thurrock Rectory	Key Decision: N/A	
Report of: Ian Hunt – Monitoring Officer, Assistant Director of Law and Governance		
Accountable Director: Andrew Millard, Director of Place		
Accountable Director: Sean Clarke – Director of Finance, IT and Legal		
This report is Public but the appendix is not to be published by virtue of Part 1 of Schedule 12A of the Local Government Act 1972 because it contains exempt information as set out in category 5, in that it is information in respect of which a claim to legal professional privilege can be maintained in legal proceedings.		
<i>If the report, or a part of this, has been classified as being either confidential or exempt by reference to the descriptions in Schedule 12A of the Local Government Act 1972, it is hereby marked as being not for publication. The press and public are likely to be excluded from the meeting during consideration of any confidential or exempt items of business to which the report relates.</i>		

Executive Summary

This report is brought by the Monitoring Officer in accordance with his duty under section 5 of the Local Government and Housing Act 1989 to report on contraventions or likely contraventions of any enactment or rule of law. The Planning Committee is referred to the legal position set out in the exempt appendix in respect of the inadequate reasons that have been given for the decision taken on 16 July 2020 in relation to the land adjacent to Wood View and Chadwell Road (19/01373/OUT).

The Committee is asked to rescind the earlier decision in order to be able to reconsider the application in order to ensure that there is adequate and legally justifiable reasoning given. In making its new decision the Committee may accept the original officer recommendation, or depart from this if it is able to set out grounds which are sustainable in terms of planning law, policy and guidance.

1. Recommendation(s)

- 1.1 To rescind the decision taken by the Planning Committee on 16 July 2020.**
- 1.2 To reconsider planning application 19/01373/OUT and to determine the application setting out legally adequate reasons for the decision to be sustainable.**

2. Background

- 2.1 The planning application seeks outline planning permission (with all matters reserved) for 75 dwellings consisting of 57 houses and 18 apartments. The application site is not allocated for development in the Council's local development framework and is within the Metropolitan Green Belt.
- 2.2 The application was reported to the Planning Committee on the 25th June 2020, with an officer recommendation that the application should be refused for two reasons, namely that – i) the site was located in the Metropolitan Green Belt (GB) and ii) the detrimental visual impact that would occur as a result of the acoustic fencing that would be required to mitigate traffic noise.
- 2.3 The Committee did not support the officer recommendation and indicated that it was minded to approve the application. The application was therefore deferred for consideration at a later meeting.
- 2.4 At the meeting on 16 July 2020, the matter was returned to Committee with a supplemental report considering the implications of the application and the proposed reasons for approval. Officers made a further recommendation for refusal, with the legal adviser in attendance outlining that the Committee's decision needed to be evidenced by clear analysis and legally adequate reasoning.
- 2.5 Having considered the matter at length, the Committee rejected the officer recommendation by a majority and supported a motion to approve the application for the following reasons:
 - 1. *The scheme would create employment during the construction phase.*
 - 2. *The scheme would contribute towards the 5 year housing supply.*
 - 3. *Significant weight should be afforded to the contribution towards sustainable development.*
 - 4. *Delivering a sufficient supply of homes had significant weight.*
 - 5. *Making effective use of land had significant weight.*
 - 6. *Achieving well-designed places had significant weight.*

7. *The scheme was “shovel ready” because it would come back with a full planning application and if the current application was passed, the Committee would be ‘duty-minded’ to approve future applications.*

8. *The site was a windfall site.*

9. *The Council did not have a local plan.”*

2.6 The Committee resolved to grant permission subject to consideration by the Monitoring Officer and the usual conditions.

2.7 No planning permission will be issued to the applicant in respect of the decision taken by the Committee until further notice.

2.8 The Committee report packs and minutes of the meetings held on 25 June and 16 July respectively may be viewed via the links below:

<https://thurrockintranet.moderngov.co.uk/documents/g5836/Public%20reports%20pack%2025th-Jun-2020%2018.00%20Planning%20Committee.pdf?T=10>

<https://thurrockintranet.moderngov.co.uk/documents/g5836/Printed%20minutes%2025th-Jun-2020%2018.00%20Planning%20Committee.pdf?T=1>

<https://thurrockintranet.moderngov.co.uk/documents/g5863/Public%20reports%20pack%2016th-Jul-2020%2018.00%20Planning%20Committee.pdf?T=10>

<https://thurrockintranet.moderngov.co.uk/documents/g5863/Printed%20minutes%2016th-Jul-2020%2018.00%20Planning%20Committee.pdf?T=1>

3. Issues, Options and Analysis of Options

3.1 The Planning Committee should consider the advice of the Monitoring Officer contained within the report, together with any verbal advice that may be offered during the meeting.

Option 1 – Rescind the Resolution of 16 July 2020

3.2 The Committee may take the specific legal advice of the Monitoring Officer and

(i) revoke the earlier decision

(ii) consider the planning application again

3.3 The Council will then be in a position to defend any future challenge as the decision will have been reviewed and a sustainable decision taken with legally adequate reasons set out.

Option 2 – Refuse to take the advice of the Monitoring Officer

- 3.4 The Committee may decide not to accept the advice of the Monitoring Officer and resolve that the earlier decision should stand.
- 3.5 The Monitoring Officer will then be required to discharge his responsibility under s.5 of the Local Government and Housing Act 1989 and take a report to Full Council.

4. Reasons for Recommendation

- 4.1 If the Council were to implement the decision taken by the Committee on 16 July 2020 and issue planning permission to the applicant, the decision would not be sustainable on legal challenge.
- 4.2 By revoking the earlier decision and considering the advice of the Monitoring Officer, the Planning Committee may resolve to grant permission or refuse the application setting out legally adequate reasons for its decision.

5. Consultation (including Overview and Scrutiny, if applicable)

- 5.1 This matter has not been placed before an Overview and Scrutiny Committee

6. Impact on corporate policies, priorities, performance and community impact

- 6.1 The planning application proposes that 28 of the 75 dwellings (35%) will be allocated for affordable housing in line with the Core Strategy.

7. Implications

7.1 Financial

Implications verified by: **Dammy Adewole**
Senior Management Accountant, Central Services

In the event of legal challenge the Council would be subject to financial costs in managing any challenge to the Committees decision.

7.2 Legal

Implications verified by: **Ian Hunt**
Assistant Director of Law and Governance

The legal implications are contained within the body of the report with further detail and analysis of the legal position set out in the exempt appendix. The Monitoring Officer has carefully considered the public interest test and has

determined that the public interest in maintaining the exemption outweighs the public interest in disclosing the information in the appendix.

7.3 **Diversity and Equality**

Implications verified by: **Roxanne Scanlon**
**Community Engagement and Project
Monitoring Officer**

There are no specific Diversity and Equality implications from this report. A full Community and Equalities Impact Assessment should be carried out if this scheme is approved.

7.4 **Other implications** (where significant) – i.e. Staff, Health, Sustainability, Crime and Disorder)

None

8. **Background papers used in preparing the report**

None

9. **Appendices to the report**

Exempt Appendix 1

Report Author:

Ian Hunt
Monitoring Officer
Assistant Director of Law and Governance