

PLANNING COMMITTEE

28th September 2022

REPORT OF:

Head of Planning - Vincent Lacovara

Subject:

Planning Committee – 28th September 2022

Update for Members

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Update to Planning Committee

Ahead of Wednesday's Planning Committee meeting, please note the following updates to the Committee report will be of assistance to Members in your assessment of the proposals.

Agenda Item: 7

21/04742/FUL – Meridian Water Willoughby Lane and Meridian Way London N18 (Pages 137-202)

1. This addendum is to update with respect to four matters pertaining to the planning application for the development proposed on land at Meridian Water, Willoughby Lane and Meridian Way (ref: 21/04742/FUL) following additional information that has been received since the publication of the Committee report; namely:
 - i.) Flood Risk: At the time of the publication of the report to Committee, the applicant had submitted flood models and a Flood Risk Assessment (FRA) to the Lead Local Flood Authority (LLFA) and Environment Agency (EA) for review. While the LLFA and EA have completed their review of the submissions, further amendments to the modelling are required to validate the conclusions and mitigations identified in the FRA. The applicant is in the process of making these amendments, which need to be submitted for further review.
 - ii.) S106 Heads of Terms: Following further communication with the applicant in respect of the proposal's viability position, the applicant has agreed to make a contribution of £3.8 million in total to the whole of Phase 1, of which the present application for Phase 1b is a part. The table and discussion in the respective section below specifies the Heads of Terms and the allocation of contributions based on this figure.
 - iii.) Ecology: An update on the review of the Shadow Habitats Regulations Assessment carried out by an ecology consultant on behalf of the Council.
 - iv.) Waste Servicing: An update to the waste arrangement and servicing proposal by the applicant.

Flood Risk

2. The Environment Agency (the EA) and Lead Local Flood Authority (LLFA) are currently maintaining objections to the application for the following reasons:

- The initially submitted flood models were not accepted. The EA set out, in detail, the amendments and clarifications to the flood modelling that needs to be incorporated in order to help address the outstanding issues. The EA has expressed confidence that the applicant is able to overcome remaining issues to make the models acceptable.
 - The Flood Risk Assessment submitted on 5 September is unacceptable. The EA and LLFA have set out, in detail, the necessary amendments and clarifications to the FRA in order to make it acceptable. The EA has expressed confidence that the applicant is able to overcome remaining issues to enable the EA and LLFA to remove the objection.
 - The applicant has not yet demonstrated an acceptable form for the naturalisation of Pymmes Brook. Key components of the naturalisation of Pymmes Brook are included in the flood models and FRA. This objection can be removed only once there is confirmation that the flood models and FRA are acceptable.
3. The applicant has submitted a revised FRA in response to comments from the EA and LLFA; the resubmission of the flood modelling is awaited. Both require review by the EA and LLFA.
 4. The recommendation before Members is two-fold. Recommendation 1 is subject to 'No Objection' being raised by the EA meaning that following referral of the application to the GLA and completion of a S106 Agreement, planning permission can be granted subject to conditions.
 5. Recommendation 2 is included should the EA still be in a position that they 'Object' but where there is agreement about the additional technical information required to address their objection. In such circumstances, officers would reconsult the EA once the necessary information was submitted. Assuming the EA remove their objection, Officers would prepare an update report for Chair, Vice Chair and Opposition Lead to set out what additional information has been provided and for them to confirm the acceptability of proposed development based on the comments of the EA and whether it would require the application to be reported back to Planning Committee. If the Chair, Vice Chair and Opposition Lead are content that the application does not need to be reported back to Planning Committee, the decision will be issued once the GLA Stage II referral process has been undertaken and the S106 Agreement is completed.

S106 Heads of Terms

6. At the time of the publication of the report to Committee, the applicant had submitted a viability appraisal that was independently reviewed on behalf of the Council. The appraisal and review confirm that Phase 1, taken as a whole, is in financial deficit and cannot support S106 contributions, given the uplift in affordable housing to 50%. Notwithstanding this, the applicant has agreed to make contributions totalling £3.8 million for the entirety of Meridian Water Phase 1. As has been highlighted in the report to Committee, there is an existing Phase 1 S106 that has secured contributions related to the outline permission and Phase 1a reserved matters permission. However, following the viability appraisal, it is evident that these contributions cannot be met in full alongside the uplift in affordable housing to 50% and the contributions that need to be made, to support the current application.
7. Policy H5 of the London Plan stipulates that 'fast tracked' applications are not required to provide a viability assessment at application stage. To follow the Fast Track Route, applications must meet the threshold level of affordable housing (50% for public sector land), be consistent with tenure split and meet policy requirements and obligations. Where an application meets the threshold level of affordable housing, but is not meeting Development Plan requirements or obligations, the application must follow the Viability Tested Route. On this basis, the applicant submitted a viability appraisal that confirms the

applicant's inability to meet all obligations. Policy H5 further requires that viability tested schemes are subject to staged viability reviews. Given the development, is unable to meet all S106 obligations, the applicant has agreed staged viability reviews and this will be secured through the S106 Agreement.

8. There are contributions associated with the present application for Phase 1b and commensurate uplift in residential units that are fixed, including:
 - Carbon offset payment in order to mitigate the proposal's shortfall in meeting net-zero carbon measures and required pursuant to the approved Energy Statement (£650,208)
 - The Strategic Access Management and Monitoring Plan (SAMM) contribution (£9,478) and Suitable Alternative Natural Greenspace (SANG) contribution (£2,021,379.01) required under the adopted Shadow Habitats Regulations Assessment to mitigate any impacts to the Epping Forest Special Area of Conservation in line with Habitats Regulations legislation. The SANG contributions are the same payments as the Off-Site Open Space Enhancement and Maintenance Contribution. The latter are contributions to open space and public realm improvements that Natural England has accepted as suitable SANG mitigation avoidance measures.
 - Funding for two additional bus stops on Leaside Road and contributions towards a car club. These obligations are fixed because they have been factored into the evaluation of appropriate parking provision.

9. It should be noted that the existing Phase 1 S106 agreement linked to the outline planning permission included contributions towards education provision based on the formula for calculating such contributions in the adopted S106 SPD. (£760,500 for Phase 1a, £1,077,375 for Phase 1b and £638,820 for the present application residential unit uplift.) In light of the results of the viability assessment confirming that the whole of Phase 1 is, at present, in deficit, the totality of this education contribution, including that which supports Phase 1A, cannot be met. The majority of the £3.8 million contribution that the applicant has agreed to make needs to be assigned to the mitigation identified above. This alongside contributions that have already been met, means there remains a residual of £503,849.99, which has not been allocated. As this figure is less than previously-calculated education contributions, the entirety of the education contributions cannot be met.

10. The table below summarises the contributions that are fixed (in bold) and those that need funding, which are identified with an asterisk (*) or pound sign (£). The unpaid-for obligations include education (as discussed above) and some sustainable transport measures. Sustainable transport measures include cycling campaign membership and Oyster Cards for residents.

Heads of Terms	Description	Existing S106 Agreement applicable to Phase 1a (300 units)	Existing S106 Agreement applicable to Phase 1B (425 unit scheme)	This application
Affordable Housing	Overall quantity, tenure and size mix, early stage viability	25%	25% ✓	50% ✓
Transport	Additional bus stops on Leaside Road			£70,000
	Vehicle management strategy	✓	✓	✓
	Travel Plan	✓	✓	£2,625*
	Travel Plan monitoring	✓	✓	£5,250*
	CPZ	£70,000 (paid)		
	Car club	£97,700		£

	Unrestricted access across the site and to the station			✓
	Sustainable transport	✓	✓	£
Education	Contribution towards education provision.	£760,500*	£1,077,375*	£638,820*
Climate change, flooding and environment	Carbon Offset Payment towards the Carbon Offset Fund	If not connected to DEN	If not connected to DEN	£650,208
	Connection to Energetik district heat network.	✓	✓	✓
	Monitoring ('Be Seen' – GLA Energy Monitoring Portal).			✓
Health	Plot B health space	✓	✓	✓
Public Realm, Public Art and Cultural Facilities	Estate Management Plan	✓	✓	✓
	Space supporting estate management			✓
Employment & Skills	Employment and Skills Strategy	✓	✓	✓
Green Infrastructure, Open Space and Recreation	SAMM contribution			£9,478
	Off-Site Open Space Enhancement and Maintenance Contribution and SANG contributions	£620,689.66	£879,310.35	£521,379
	On site open space management plan	✓	✓	✓
	Ecological corridor and monitoring reports	✓	✓	✓
Design	Retention of project architect.			✓
	Design monitoring costs.			✓
Additional costs	RPI indexation			£142,842
	Contributions paid to date			£304,543

Tally of fixed contributions				£3,128,450.01
Total contribution committed to by applicant				£3,800,000
Remaining contribution to be allocated				£503,849.99

11. £503,849.99 of contribution remains unallocated and is available to be allocated to the Heads of Terms that are unfunded.
12. In addition to the £3.8 million in planning obligations that the applicant has already agreed for Phase 1, Members should also be aware that the applicant has also made a previous contribution through the land deal of £3.89 million in the form of £2m towards the Station upgrade and £1.89m to other community benefits to be managed by the Meridian Water team.
13. Given the conclusions of the viability assessment, the applicant has committed to early stage and late stage viability reviews in order to assess whether the development can sustain additional contributions to the above Heads of Terms later in the development process.

Ecology

14. An ecology consultant has completed review of the submitted Shadow Habitats Regulations

Assessment on behalf of the Council.

15. The ecology consultant concluded that:

“In summary the Shadow HRA has been produced to an appropriate standard and correctly considered the potential impacts on the Epping Forest SPA and the Lee Valley SAC & Ramsar Site.

It concludes that the proposals are unlikely to affect the integrity of those sites and that there are no Likely Significant Effects.

It is my advice that it can be adopted by LBE, and that if planning permission is granted planning application 21/04742/FUL it is unlikely to affect the integrity of the two European Sites referred to above.”

Waste Servicing

16. At the time of report submission, officers had concerns about the arrangement and management of waste facilities, particularly on Plots B and D.
17. In order to comply with fire safety requirements, the applicant made amendments to ground floor plans, ensuring that no building core serving residential units also provides access to ancillary uses, such as waste stores and vehicle parking. With these constraints on the layout of ground floor uses, optimisation of waste servicing will rely largely on efficient management.
18. As set out in the report, officers identified measures expected of the applicant to improve waste servicing. It is recommended that these measures, as set out below, are captured in the Estate Management Plan secured by S106, as well as revised Site Waste Management Plan and Operational Waste Management Plan, which are recommended to be required by conditions.
- As submitted, there is a parking bay on Plot D shared by large deliveries and refuse loading. If there is insufficient space to accommodate a bay solely for refuse loading, operational arrangements will need to be made via the Estate Management Plan requiring that the bay is reserved for waste servicing during certain hours.
 - Once the estate management team has agreed the number of collections and refuse bins with Council waste services and the commercial waste management service, the arrangement of bin stores can be revisited to reduce the areas occupied by bins and allow for more efficient collection arrangements. This should be set out in the Estate Management Plan, as well as Operational Waste Management Plan.
 - Where there are multiple bin stores on the ground floor of one building, maintenance staff will be responsible for bringing bins to a central collection point.
 - A condition is recommended requiring that internal doors leading out to parking and service areas have visually permeable glazing to avoid doors swinging into vehicles.

Items for clarification

- Health space – The provision of a health space listed in the tables of S106 Heads of Terms refers to the delivery of a shell and core space to accommodate the health facility that is proposed as part of the application. A further condition is recommended restricting use of this space to Class E (e) medical services.

- Build to Rent – It should be clarified that the existing S106 agreement for Phase 1 did not include provisions related to Build to Rent as such accommodation was not proposed as part of the outline planning application.

Agenda Item 9:

Ref: 22/00047/FUL Phase 1 of new 23km Borough-wide district heating distribution network in Enfield comprising at this stage pipework of approximately 7km in length.

- 1 The following is an update to the recommended conditions 3 , 5 and 8 based on discussions with consultees and the applicant. The changes are shown in bold and *italics*

- 3 Written Scheme of Investigation

No demolition or development within an individual development zone or section shall take place until a written scheme of investigation (WSI) ***related to archeology*** for that development zone or section has been submitted to and approved by the local planning authority in writing. For land that is included within the WSI, no demolition or development shall take place other than in accordance with the agreed WSI, which shall include the statement of significance and research objectives, and

- A. The programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works
- B. Where appropriate, details of a programme for delivering related positive public benefits
- C. The programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI

- 5 Contamination Plan

No works within an individual development zone or section shall commence until a Contamination Plan has been submitted to and approved by the Local Planning Authority. The Plan must set out a strategy on how to deal with contaminated land and soil, should it be encountered during works, including the method of identifying contamination, removal and disposal of contaminated materials, and protection of human and environmental health.

Reason: To protect against risks arising from contamination

- 8 Construction Environmental Management Plan

In the Kenninghall Open Space and Angel Walk areas no development shall take place within an individual development zone or section (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local

planning authority. The CEMP (Biodiversity) shall include the following.

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of “biodiversity protection zones”.
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Reason: To minimise impacts on biodiversity in accordance with Paragraphs 179 and 180 of the NPPF.