

Planning Committee – 2 July 2008

Report of the Development Control Manager

Miscellaneous Item

Development comprising employment, residential (389 dwellings), and village centre (incorporating health care facilities, two village shops, retail unit and public house), part construction of Norton Fitzwarren relief road and provision of infrastructure and services, former cider factory, Norton Fitzwarren (25/2006/020)

The above planning application was considered by Committee in February 2007 and planning permission was granted in August 2007. The permission was subject to conditions, several of which were related to measures to reduce the incidence of flooding in the locality. These related to both off site and on site measures. A central element to these measures is the provision of an upstream flood attenuation dam. This has now been completed and is operational. This has been designed to significantly attenuate high flood flow events and reduce levels of flood risk downstream, both to the new development including the current proposal and existing properties.

One of these conditions read as follows:-

“Built development above existing ground levels within the flood plain as at November 2004 shall not be commenced until such time as the on-site flood risk management infrastructure has been completed to the satisfaction of the Local Planning Authority unless otherwise agreed in writing by the Local Planning Authority”.

These works include the provision of a flood mitigation channel through the site. The first stage of these works have now been carried out. However, due to the location of key service infrastructure upstream of the railway bridge and delays in the removal of several trees along the line of the channel due to nesting birds, the construction of the remaining part of the new channel is unlikely to be completed until November 2008.

Construction of the development is currently under way and some of the properties being built by one of the 3 developers of the site, Bellway Homes, will be ready for occupation in July. Bellway Homes have commissioned Hyder Consulting to assess flood risk to the newly constructed properties due for occupation in July, and to existing properties, based upon the partial implementation of the flood mitigation measures. Their Report (included as an appendix to this Item) demonstrates that there is no increase in flood risk to existing properties, compared with the base line situation, and new properties constructed in the north western section of the first phase of the development (Mill House area) will be protected to a standard above the 1 in 100 year (1%) design flood event.

The developers have requested that the Local Planning Authority agree to development proceeding within the flood plain, prior to the completion of all the flood risk management infrastructure. Specifically they are seeking the occupation of a maximum of 50 plots in the north western Mill House area of the site. The developers contend that these will provide a vital source of funding needed to begin to recover the very significant investment made by the developers, not only in the development itself but also for the off site flood alleviation dam.

The following is the view of the Environment Agency:-

"I refer to Hyder's letter dated 4 June 2008 regarding their wish to relax planning condition 34.

This constitutes one of a number of conditions relating to flood risk management that were set and agreed by all parties prior to issue of planning permission for the Norton Fitzwarren Cider Factory redevelopment.

Notwithstanding the fact that the Consortium have consistently ignored a considerable number of Conditions associated with planning permission 25/2006/020 they now wish to allow occupation of a number of completed dwellings. The Environment Agency would object to any relaxation of conditions for the following reasons:-

1. The Conditions were set on the basis of the recommendations set out in the applicants own Flood Risk Assessment report, dated January 2007.
2. There was no objection to any of the submitted conditions by the applicant, prior to granting of permission.
3. The Conditions meet all the tests for conditions as set out in Circular 11/95.
4. Whilst we accept the results of Hyder's supplementary report dated May 2008, the flood management works have always been viewed as a 'package' of measures and NOT to be assessed in isolation of each other. The dam, on-site channel works and residual off-site flood management work are all required to provide the necessary standard of protection to new and existing development.
5. The Environment Agency would also express its disquiet about any proposal to occupy residential units, which could lessen the incentive of the Consortium – especially in today's economic climate, to fully discharge the conditions associated with this permission. We understand that the Consortium have proposed a Bond to cover the outstanding works. This is clearly NOT for the Environment Agency to discharge. If the Local Planning Authority were to accept this proposal, it would be down to Taunton Deane Borough Council to complete the necessary work under the Bond. We strongly disagree with this course

of action as it could appear to third parties that the developer could 'ride roughshod' over any condition they do not like."

Notwithstanding their objection to the developer's proposition, the Environment Agency accept the consultant's findings that the new dwellings would be suitably protected from flooding and that there is no increase in risk to existing dwellings. On this basis, I consider that the developer's request for a maximum of 50 occupations to take place in the north western part of the site in advance of the full completion of the on site channel works is reasonable and should be accepted. There would still be a requirement for the remaining flood works to be carried out, with the developers expecting this to be completed by November.

Recommendation

That the developers be allowed to occupy a maximum of 50 dwelling units in the Mill House area of the site in advance of the completion of the on site infrastructure works required by condition 34 of planning permission 25/2006/020. The developers be reminded that the outstanding works should be carried out at the earliest possible opportunity with best endeavours to secure completion by November 2008.