Bromsgrove District Council
Planning Committee

Committee Updates
4 June 2024

23/00403/OUT Land south side of Houndsfield Lane, Hollywood

Since the publication of the agenda, the applicant has provided a response to the Officer's report and has criticised in particular, the planning balance section set out on pages 24 and 25 of the agenda. This response is on the public access pages through the Council's website associated with application 23/00403/OUT.

The applicant wishes to draw the Committees' attention to appeal decision APP/P1805/W/23/3325834 which was dismissed by the Planning Inspectorate on 6 February 2024 (Planning ref 22/01066/OUT): Land at Intall Fields Farm, Stoke Prior where the applicant for the current application was the appellant. This proposed to erect up to 78 dwellings in a Green Belt location. The application was recommended for refusal and refused planning permission at the Bromsgrove Planning Committee on 6 February 2023.

Whilst dismissing that appeal, the weight afforded to various material planning considerations by the Planning Inspector, differed with respect to some but not all of those issues compared to the level of weight attributed to those factors by the planning department at the time.

The applicant believes that that the proposal to build the dwelling to Passihaus certification should be afforded significant positive weight (instead of limited weight) as set out on page 24 of the agenda.

The applicant also considers that the provision of self-build plots should be afforded significant positive weight (instead of moderate positive weight) as set out on page 24.

Finally, the applicant considers that the economic and social benefits arising from the scheme should attract significant positive weight (instead of moderate positive weight) as set out on page 25.

The applicant considers that with correct weighting, these benefits would significantly upgrade the overall benefits of the scheme.

Officer Response

In arriving at a recommendation to either refuse or to approve an application, Officers will always have due regard to relevant appeal decisions and in particular any high court judgements which may be relevant to any proposal.

At its core, the planning balancing exercise is about comparing the benefits of a proposed development with the harm it would cause. Very rarely are developments entirely without harm, or entirely without benefit.

The Governments Planning Practice Guidance (PPG) states that is for the decision maker to decide what weight is to be given to the material considerations in each case. In terms to a 'hierarchy of weight', this can range from 'Full weight' (at the top) to 'No weight' (at the bottom).

Typically, that hierarchy will be as follows:

1 Full weight
2 Substantial weight
3 Significant weight
4 Great weight
5 Due weight / appropriate weight
6 Moderate weight
7 Limited weight
9 Neutral weight
10 No weight

The starting point for determining any planning application is the development plan. The development has been found to represent inappropriate development in the Green Belt.

The report sets out that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 153 of the NPPF confirms that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

In the Intall Fields Farm appeal case, with regard to the Passivehaus certification proposed in that case the Inspector considered that such certification would accord with Policy 22 of the District Plan regarding Climate change which would amount to environmental and social benefits of significant weight. The Inspector then went on to say that there have been few examples of such developments (Passivehaus) in England, so I afford moderate weight to the proposal as an opportunity to form a template for other schemes to follow and inform preparation of an emerging local plan.

On further consideration of this benefit, I can afford moderate weight to these benefits (from limited) as set out in the main report.

Whilst any new build proposal will benefit through the construction phase of the development and further spend in the economy, insufficient evidence has been advanced to persuade me that significant weight should be afforded to the economic and social benefits. In arriving at this conclusion, I have noted that the proposal is to erect 50 rather than 78 new homes which is, relatively speaking a much smaller number of dwellings.

Appropriate weight can be afforded to the provision of self-build / custom building considering that the development plan does not currently have any policies for such delivery. I have noted however that only 4 dwellings would be provided as self-build plots rather than 5 in the case of Intall Fields Farm.

Whilst there are undeniable benefits arising from granting permission and the decision maker could determine that significant weight should be afforded to the provision of the proposed four self-build or custom build plots, overall, my conclusions are than the benefits of the scheme as a whole are moderate even though the delivery of housing should carry significant weight.

The Planning balance section has set out the harms and benefits and officers have concluded that the harm to the openness of the Green Belt and the harm caused to the countryside setting of this undeveloped parcel of land are not clearly outweighed by all of the benefits.

'Very Special Circumstances' do not therefore exist in this case.

24/00335/FUL Former Library, Council Offices, Fire Station and Residential Buildings, Windsor Street, Bromsgrove

Worcestershire Regulatory Services final comments:

Thank you for providing the additional documentation as requested. WRS have reviewed the application in relation to contaminated land. This has included a review of the following reports:

- Brownfield Solutions letter report entitled "One Creative Environments Ltd Windsor Street, Bromsgrove - Phase II Geo-Environmental Assessment Report", reference SMS/M4400/11066, dated July 2022
- Brownfield Solutions report entitled "NWEDR C/O Bromsgrove District Council Windsor Street, Bromsgrove - DQRA and Remediation Strategy" reference WG/M4400/11231, REV D, dated 25th October 2023
- Brownfield Solutions report entitled "NWEDR C/O Bromsgrove District Council Windsor Street, Bromsgrove - Remediation Specification, Verification and Post-Remediation Monitoring Plan" reference WG/M4400/11682, dated January 2024

WRS have previously reviewed and responded to North Worcestershire Economic Development and Regeneration (NWEDR) in respect of the first two reports listed above although this was outside of this planning context. Investigation and assessment have identified widespread presence of PFAS/PFOS chemicals (per and polyfluorinated alkyl substances) across the site within the soils, groundwater, and in the basement structures within the fire station building. The reports indicate the substances are associated with the history of the site as a fire station and the use and storage of firefighting foams.

Given the nature of the site, the sensitivity of the sites hydrogeology with the presence of the principal aquifer, and the nature of the contamination (PFAS chemicals), the key driver for remediation at this stage is the risk to controlled waters. The Environment Agency (EA) are the statutory authority in relation to controlled waters and are therefore the lead authority on such matters. It is understood that the assessment process, including the DQRA and development of site remedial targets, has been through liaison and agreement with the EA. It is considered that works to remove PFAS impacted material on site and provision of a suitably protective cover system will mitigate risks to human health. However further assessment may be required once demolition has taken place and further investigation in previous inaccessible areas is undertaken.

In addition to the PFOS/PFAS contamination across the site there may be other contaminants of concern present (such as asbestos, hydrocarbons etc.) that will require further assessment following the demolition process. This has been raised in the previous correspondence made by WRS to the NWEDR. Although this application is only for demolition and remediation it is understood that proposals in the future are likely to be for residential housing (this is also referred to in the various contamination assessments). Large areas of the site where buildings are present have not yet been investigated. The remediation specification states that further samples will be taken for PFAS/PFOS to confirm if present and inform whether further remediation may be required however no reference is made to sampling for other substances as part of this process.

It is considered that further site investigation for other contaminants of concern will be required within the previously inaccessible areas to provide full coverage of the site in terms of future residential development to ensure that ground conditions are fully characterised, all potential pollutant linkages are fully assessed, and unacceptable risks identified.

Asbestos

As well as the presence of PFAS substances present on site there is known to be asbestos material within the building fabric. As such this will need to be subject to the necessary asbestos

surveys and removal and disposal by a suitable contractor. The demolition process needs to take account of the possible asbestos within the building fabric and care taken so that asbestos material does not become distributed across the site within soils or demolition material for reuse. It is noted that asbestos fibres have not yet been identified within the soils as part of site investigation undertaken so far. Asbestos removal from the structures is briefly referred to within the Remediation Specification document with demolition "following completion of any enabling works such as service disconnections and asbestos removal, as required".

Remediation Specification, Verification, and Post-Remediation Monitoring Plan Report
The report provides an overview of previous assessment and site conditions encountered. The report details that sources of PFAS (PFOS & PFOA) have been identified within soil, groundwater, drainage channels / sediments and within basement structure (concrete, brick and bitumen) presenting a risk to human health / construction workers, the principal aquifer, and controlled waters (Spadesbourne Brook) requiring remediation.

The report summarises the remediation strategy as follows (p.9):

1. Pre-Development Controlled Waters Remediation:
- Confirmation of extent of soil source zone(s) following demolition and site clearance by additional trial pitting and sampling/verification in previously inaccessible areas.
- Source removal of soil, brick, concrete, bitumen and drainage sediment impacted with PFAS above the soil remedial target (6.33ug/kg for PFOS and 4.02ug/kg for PFOA) to prevent further harmful inputs into groundwater and disposal off site at a licenced facility or treatment on/off site as agreed with the Client and EA following review of BSLs Waste Options Appraisal report.
- Pump/remove any perched water encountered during source removal works and tanker off site to a suitable waste treatment facility.

2. Groundwater Monitoring:
- Installation of perimeter groundwater monitoring wells to monitor PFAS concentrations both up and down hydraulic gradient of the site pre and post source removal, during and after construction works as appropriate.

3. Development Specific Human Health Remediation:
- Subject to the proposed end use and extent of source removal detailed above, placement of a cover system of suitable clean subsoil and topsoil in areas of soft landscaping (if adopted) or hardstanding to protect mitigate risks to human health and provide a growing medium. The clean cover system in private gardens should include implementation of a root barrier / anti-dig layer at the base, to mitigate migration of contaminants, should any residual PFAS remain in soils, and to ensure pathways from plant uptake are broken.

4. Controlled Waters Remediation Contingency:
- Pump and treat groundwater with activated carbon-based system to reduce PFAS concentrations in the groundwater if required following assessment of the monitoring results (including up hydraulic gradient concentrations) and liaison with the EA. It is noted that whilst a target concentration of 0.1 ug/l has been determined for the groundwater at a 50m compliance point, the ability to achieve this will depend upon up hydraulic gradient sources of PFAS.

The report provides further detailed commentary on each element of the remediation strategy and other considerations which includes decommissioning of the above ground fuel tank and associated infrastructure and verification, earthworks and materials management, cross contamination prevention, and watching brief for dealing with unexpected contamination,

contingency plans, and outline for verification reporting. The report also details proposals for pre and post remediation monitoring to evidence the efficacy of the remediation process with groundwater sampling to be undertaken prior to source removal and then at 1 to 2 weekly periods during source removal works. Following completion of the works monitoring is to be undertaken on a monthly basis for 6 months. Monitoring is also proposed during and post groundwater treatment should it be necessary. The report acknowledges that further works may be required if remediation is not as successful las anticipated.

WRS Comments

WRS raise no objection to the demolition of the above ground structures which would be necessary to allow for the remediation of PFAS impacts at the site. However, any demolition works must be undertaken with full consideration to the presence of the PFAS/PFOS substances that have been demonstrated to be present within the brick basement structures and foundations, as well as soils and groundwater. The process should be managed so as not to cause migration of those substances around the site or to cross contaminate demolition materials that may be suitable for reuse with those that are unsuitable. The remediation specification states that demolition is to be undertaken to ground floor only and not include below ground structures or foundations, services, or drainage, which will be managed as part of the remediation process. The works should be undertaken in accordance with the remedial specification.

Likewise, and as referred to above, asbestos material is present within the existing buildings and will need to be subject to the necessary asbestos surveys and removal and disposal by a suitable contractor. The demolition process needs to take account of the possible asbestos within the building fabric and care taken so that asbestos material does not become distributed across the site within soils or demolition material proposed for reuse.

Whilst this application is for demolition and remediation of PFAS at this stage reference is made to envisaged future residential use of the site. Currently (and understandably) no site investigation or sampling has been undertaken within the existing building footprints for any other contaminants of concern that may be present (for example asbestos, hydrocarbons, metals etc). This makes up a reasonably significant portion of the site area. Further PFAS sampling is proposed as part of the remediation strategy following demolition but currently no other sampling is proposed. Whilst there is no requirement for this further sampling to take place at this stage it should be noted that this will be required for any future residential application This has been highlighted within previous WRS response to NWEDR following review of various reports. Likewise the conceptual site model will need to be reviewed and updated, where necessary, depending on any final proposals for residential development. The outline for the proposed clean cover system, which is unlikely to be implemented as part of this application, may need to be revised depending on the outcomes of the remediation, and the findings of any additional investigation and assessment.

Recommendations

Given the comments made above, WRS recommend that demolition works and remediation is undertaken in accordance with those works set out within the Remediation Specification, Verification, and Post-Remediation Monitoring Plan Report. It is recommended that a suitably worded conditions is attached to any planning permission granted. The following condition wording is suggested for your information. An informative in relation to asbestos is also set out below.

Contaminated Land - Remediation and Verification Condition

1. The demolition works and remediation scheme is to be carried out as proposed within the agreed Remediation Specification (as detailed within the document entitled "NWEDR C/O Bromsgrove District Council Windsor Street, Bromsgrove - Remediation Specification, Verification and Post-Remediation Monitoring Plan", Brownfield Solutions Ltd, reference WG/M4400/11682,

January 2024). Any significant deviations to the scheme or revisions to the strategy should be agreed in writing by the Local Planning Authority prior to undertaking.

2. Following the completion of the measures identified in the approved remediation scheme a verification report (otherwise known as a validation report) detailing the works undertaken and demonstrating the effectiveness of the remediation carried out must be produced, and be subject to the approval of the Local Planning Authority. The verification works must be undertaken as outlined within the approved remediation scheme.

3. Where not included within the verification report the results of the 'Long Term Monitoring Plan' demonstrating the effectiveness of the remediation, shall be submitted for approval by the Local Planning Authority. The scheme must be carried out in accordance with its terms, recommendations, and timetables, with any revisions or changes subject to agreement.

4. In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where necessary a further remediation scheme must be prepared. These will be subject to the approval of the Local Planning Authority. Following the completion of any measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors

Paragraph 189 of the NPPF requires development to be suitable for its proposed use taking account of ground conditions, any risks arising from contamination, and any proposals for mitigation, including land remediation. Paragraph 189 goes on to state that after remediation, as a minimum, land should not be capable of being determined as Contaminated Land under Part 2A of the Environmental Protection Act 1990.

An Informative is recommended in relation the undertaking of an asbestos survey prior to the demolition of the buildings, together with appropriate mitigation measures.

On the basis of the comments above, the recommendation is for full planning permission to be GRANTED.

The above planning condition will be added to the other planning conditions outlined on pages 43 and 44 of the main Committee Report.

24/00416/S73 Land rear Algoa House, Western Road, Hagley
No Updates