
Planning (West and City Centre Area) Sub-Committee

3 October 2006

Report of the Assistant Director (Planning & Sustainable Development)

PLANNING APPEAL AT 26-28 TADCASTER ROAD

Summary

1. A Public Inquiry is to be held, into the appeal against the Council's refusal of planning permission for residential development at 26 – 28 Tadcaster Road. One of the reasons for refusal was on highway grounds, against highway officers' recommendation. The Council has to provide evidence at a Public Inquiry in support of all reasons for refusal. However, in this case, highway officers consider that it is not possible for them to defend the highway reason for refusal at the Inquiry. Officers have to advise that this leaves a serious risk of an award of costs against the Council, in the absence of supporting evidence: serious doubts will be raised about satisfying the Inspectorate that the Council has acted reasonably in relation to the highway issues. Officers, therefore, request Members to consider whether they would wish to withdraw the highway reason, in the hope of reducing the risk of costs. The other reason for refusal, on design grounds, will still be defended at the Inquiry. Officers are taking further advice from an independent traffic consultant, at the time of writing, and a verbal up-date will be given at the meeting.

Background

2. The planning application in question was submitted by Pilcher Homes for the erection of 3 no. 3 storey houses and a 3 storey block of 10 no. flats at 26-28 Tadcaster Road, together with ancillary garages and cycle/bin stores. Existing dwellings and lock-up garages on the site were to be demolished.
3. The application was recommended for approval at Committee on 16 March 2006. However, by unanimous decision, Members overturned the recommendation, the application being refused upon design and highway safety reasons. A copy of the refusal notice and officer Committee Report is attached at Annexes A and B.
4. An appeal has been submitted, to be heard at a forthcoming Public Inquiry. Officers will defend the design reason for refusal at the Inquiry. However, because highway issues are more bound by technical considerations, highway officers feel unable to defend the highway reason for refusal. This leaves the Council at serious risk of an award of costs.

Consultation

5. There have been no further external consultations. Discussions have been held with the relevant highway and legal Officers of the Council.

Options

6. There are two options at this stage:
 - (i) For the highway reason to be defended at the Inquiry. If the independent traffic consultant's findings concur with those of the Council's own highway officers, then the reason could only be defended as part of the planning officer's proof of evidence; that is without any technical highway evidence or expertise from the highway profession. However, if the consultant's advice differs substantially, the consultant could be retained to appear at the Inquiry as the expert witness.
 - (ii) For Members to agree to withdraw the highway reason for refusal; with the planning officer's evidence relating solely to the design reason.

Analysis

7. Members are advised that option (i) above has the disadvantage of leaving the Council exposed, to possibly substantial costs, on the grounds that it has acted unreasonably in not producing tangible highway evidence, through an expert witness. The advantage is that the issue would at least be debated at the Inquiry. Local residents or individuals could still appear at the Inquiry (that is not representing the Council) and object upon highway grounds.
8. Option (ii) would significantly reduce, but not entirely remove, the risk of costs against the Council. However, any defence of the highway reason would fall upon local residents or individuals, who are unlikely to have highway expertise. Again the results of the consultant's findings to be reported to Members at the meeting will help to clarify this role.

Corporate Priorities

9. Members are referred to the Background and Analysis sections.

Implications

10. The implications are discussed in the Analysis section.

Risk Management

11. The main risk is the award of costs against the Council and as discussed in the Analysis section.

Recommendations

12. Members are asked to consider the withdrawal of the highway reason for refusal, from the refusal notice dated 20 March 2006 (reference 06/00103/FUL). Officers will provide further details of the implications involved and the findings of the traffic consultant at the meeting, and provide further guidance for Members.

Contact Details

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Report Approved



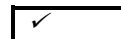
Date 28 September 2006

Specialist Implications

None.

Wards Affected:

Dringhouses & Woodthorpe



For further information please contact the author of the report.

Background Papers:

None.

Annexes

- Annex A – Refusal of planning permission, notice dated 20 March 2006.
- Annex B – Officer's report to Planning Sub-Committee dated 16 March 2006.

CGN/GE

28 September 2006

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