

Regulatory Committee – 11 July 2017

Outline planning permission with all matters reserved apart from access, to allow the development of a new secondary school, associated sports provision, new SEN school, demolition of the existing Rokeby Infant School and replacement playing fields on land adjacent to Rokeby Primary School, Anderson Avenue, Rugby.

RBC/16CC016

Committee Report Update

Additional information received following the publication of the committee report.

The Secretary of State

- 1.1 The Secretary of State has received a request to call in the above application, under section 77(1) of the Town and Country Planning Act 1990. As a result the Secretary of State requests that if Committee are minded to grant permission a decision is not issued until the Secretary of State has considered the case against his call-in policy and issued a decision. The Secretary of State will of course endeavour to make a decision as soon as is practically possible following your committee meeting.

If the council **refuses** permission then they may proceed with the issuing of the Decision Notice.

Technical Consultees

- 1.2 **WCC Ecology** - There are two Biodiversity Impact Assessments (BIAs), one for the Anderson Avenue area and the other for the larger Rokeby Schools area. The BIAs suggest a 9.97 unit loss for the Anderson Avenue area and a 0 (zero) loss for the Rokeby School area. As the application is an outline, with reserve matters to be submitted at a later stage, this loss should be regarded as indicative of the actual loss. It is noted that the BIAs do not include any sustainable drainage and are very much a 'precautionary principle' approach showing what the maximum impact would be with very little onsite compensation. To this end, WCC is able to calculate a maximum figure of how much WCC would ask to compensate for this amount of impact should the developer not find their own offset provider. Similarly, if WCC is asked to find an offset site in good time prior to the commencement of works then this

figure could be substantially reduced. The maximum figure being £247100. However before considering off site compensation, there are multiple opportunities to reduce the impacts by onsite ecological enhancements, and thus reduce the impact and associated costs.

With what I have been presented with to date, it is recommended that the standard Biodiversity Offsetting clauses are put into the S106 obligation schedules with the figure of £247100 added to the Financial Contribution element of the schedule.

WCC Planning Response – It is concluded that this matter may be dealt with by the following condition:

No development shall commence unless and until a scheme ("the scheme") to ensure that there is no net biodiversity loss as a result of the development has been submitted to and agreed in writing by the Local Planning Authority. The net biodiversity impact of the development shall be measured in accordance with the DEFRA biodiversity offsetting metric as applied in the area in which the site is situated at the relevant time and the scheme shall include:

- 1. Proposals for on-site mitigation (full details of which will be provided in relation to each phase of development in accordance with Condition X of these conditions) and/or for off-site offsetting;**
- 2. A methodology for the identification of any receptor site(s) for offsetting measures;**
- 3. The identification of any such receptor site(s);**
- 4. The provision of arrangements to secure the delivery of any offsetting measures (including a timetable for their delivery); and**
- 5. A management and monitoring plan (to include for the provision and maintenance of any offsetting measures in perpetuity).**

The written approval of the Local Planning Authority shall not be issued before the arrangements necessary to secure the delivery of any offsetting measures have been executed. The scheme shall be implemented in full accordance with the requirements of the scheme or any variation so approved.

- 1.3 **WCC Archaeology** – Advise that assessments on site have indicated that the proposed development will have an impact upon the archaeological deposits that the evaluation has established survive across parts of this site. There is also a potential for archaeological features to survive across the areas not yet examined, and for these to also be disturbed by the development. Any such impacts could be mitigated by an appropriate programme of archaeological work. This could be secured by an appropriately worded condition attached to

any consent granted. I therefore recommend that a condition such as the following should be attached to any consent:

No development shall take place until an Archaeological Mitigation Strategy document (including a Written Scheme of Investigation for any archaeological fieldwork proposed) shall be submitted to, and approved in writing by, the LPA. This should detail a strategy to mitigate the archaeological impact of the proposed development and should be informed by the results of the archaeological evaluation.

The development, and any archaeological fieldwork post-excavation analysis, publication of results and archive deposition detailed in the Mitigation Strategy document, shall be undertaken in accordance with the approved Mitigation Strategy document.

WCC Planning Response – It is concluded that the recommended condition should be imposed in order to record the archaeological features on the site

1.4 **WCC Highway Authority** – have no objections and reach the following conclusions:

1. Three junctions directly affected by the access arrangements for the proposed schools were selected for standalone junction analysis: Dunchurch Road/Goldsmith Avenue, Dunchurch Road/Orson Leys and Dunchurch Road/Kingsway. Of these junction assessments, Dunchurch Road/Kingsway was indicated to be over capacity in 2031 when the impact of the proposed development traffic is included, whilst the other two junctions are shown to operate within capacity.
2. A mitigation scheme has been proposed for the junction of Dunchurch Road and Kingsway, which would replace the existing priority 'T' junction with a signalised junction, and incorporate improvements to pedestrian crossing facilities at the junction. A Stage 1 Road Safety Audit has been undertaken for this scheme and has been reviewed by the Highway Authority. The Highway Authority considers that this scheme would adequately mitigate the impacts of the development, and a condition is therefore recommended for its provision.
3. Strategic modelling to identify the impacts of the development on the wider highway network, using the Highway Authority's Paramics model. This work identifies five junctions where the modelling indicated that queuing on a single arm would increase by five or more vehicles at any point within the morning or evening peak traffic hours in the future year of 2031, as a result of the proposed development. Of these junctions the Highway Authority considers that the impact relating specifically to the proposed development is unlikely to be material in two, the Hillmorton Road / Ashlawn Road (Paddock) junction (improvement scheme required as part of other consented developments), and the junction of Cawston Lane and Adkinson Avenue (considered to be a secondary effect of the issues at Dunchurch Crossroads discussed

below). The junction of Dunchurch Road and Kingsway was also identified through the strategic modelling process, however a mitigation scheme is proposed as discussed above. The data indicated that the proposed development may have a material impact on the Rugby gyratory system and the Dunchurch Crossroads junction.

4. In the case of the Rugby gyratory, an improvement scheme has been identified by the Highway Authority, and the applicants have agreed to provide a financial contribution towards this scheme, proportionate to the need to mitigate the impacts of the development.
5. Regarding the Dunchurch Crossroads, further analysis was requested from the applicants in the form of a detailed junction model using a LinSig model of the operation of the junction in each development scenario. The LinSig outputs indicate that the junction is likely to be over capacity on all arms in the design year of 2031 before the impacts of the proposed development are taken into account (Reference Model scenario). The results of the LinSig in the Development scenario indicate that the impacts of the development are likely to increase queuing on some of the arms, for example Southam Road and Daventry Road in the morning peak hour, however queues reduce on the other two arms, including some reduction on the Rugby Road arm during the morning peak, which is indicated to have the largest queue length in the Reference Model scenario. Whilst the junction would remain over capacity, the forecast model flows for the junction, which show some reassignment occurring as a result of the school traffic, show that the overall operation of the junction would notionally improve slightly in comparison with the Reference Model scenario.
6. The Highway Authority raised concerns in its initial consultation response regarding the layout of the proposed site access junction from the corner of Long Furlong and Anderson Avenue, specifically relating to forward visibility for vehicles at and around the proposed junction. A revised access junction has since been proposed by the applicants, incorporating traffic calming in the vicinity of the junction and the provision of parking restrictions adjacent to the junction; the Highway Authority considers that the traffic calming is likely to be adequate to ensure that speeds are kept sufficiently low to provide sufficient visibility between vehicles and pedestrians at the junction. The junction has been subject to a Stage 1 Road Safety Audit, which has been reviewed by the Highway Authority. Conditions are requested to ensure that the access scheme is in general accordance with the details provided, and that a suitable scheme for ensuring adequate maintenance of the existing boundary hedge at 71 Long Furlong can be provided to ensure that it doesn't significantly oversail the adopted highway and therefore reduce forward visibility.
7. With regard to the existing 'Puffin' pedestrian crossing on Dunchurch Road adjacent to the junction with Kingsway, it was originally requested by the Highway Authority that this should be upgraded to

allow cycle crossing. The mitigation scheme required at this junction for the vehicular impacts of the proposed development however necessitate the signalisation of the junction, and pedestrian and cycling crossing facilities are provided as part of this scheme. The Highway Authority is therefore satisfied with the approach of the Technical Note with regard to this crossing.

8. The Technical Note recommends the provision of an additional 'Toucan' crossing for pedestrians and cyclists on Dunchurch Road adjacent to Overslade Lane. The Highway Authority concurs with this view, but advises that the delivery of a crossing in this vicinity would be more straightforward south of the existing junction than north as proposed in the Technical Note. A condition is recommended for the provision of a Toucan crossing in this location.
9. Consideration is given in the Technical Note to pedestrians crossing Long Furlong when using the existing public right of way RB30, and recommends that the provision of an uncontrolled crossing will be sufficient. The Highway Authority recommends the imposition of a condition to require the details of this crossing to be submitted for its consideration; this will require a Road Safety Audit to be undertaken.
10. The Highway Authority concludes on balance that the measures to be delivered by the proposal including the obligations and conditions would be likely to adequately mitigate the transport and highway impacts of the proposed development such that the residual impacts are unlikely to be severe.
11. The Highway Authority retains some concerns regarding the operation of the Dunchurch Crossroads junction, given that the junction in its current form is likely to be above capacity in 2031 before the impacts of the development are considered, that modelling suggests that it will remain so, and that no mitigation is proposed as part of the proposed development. The modelling nevertheless indicates that, whilst queuing would be likely to increase on some arms during times within peak periods, the overall operation of the junction would be slightly improved and the queuing on some arms slightly reduced.
12. Bearing in mind the above, and the improvements and contributions requested, the Highway Authority on balance has no objection to the planning application subject to the below provisions.

Obligations:

- A contribution of £12,000.00 is required towards the costs of Traffic Regulation Orders relating to the provision of potential speed limit changes and parking restrictions in connection with the traffic calming measures required under Condition 2.

- A contribution of £47,450.86 is required towards highway works to improve highway efficiency and road safety at the Rugby gyratory system.

Conditions:

- 1. The development shall not be occupied until the access road, access junction and proposed pedestrian facilities have been provided in general accordance with drawing number T16514 007 Rev B.**
- 2. The development shall not be occupied until the public highways D3420 Anderson Avenue, D3421 Long Furlong, D3422 Charlesfield Road and D3423 Rosewood Avenue have been improved so as to provide for traffic calming in general accordance with drawing number T16514 007 Rev B.**
- 3. Prior to the development hereby approved first being used a Hedgerow Management Plan containing measures to prevent significant incursion into the highway of the existing boundary hedge for 71 Long Furlong shall be submitted to and approved in writing by the County Planning Authority in consultation with the Highway Authority. Once approved the plan shall be implemented at all times while the site is operational.**
- 4. The development shall not be occupied until the public highways A426 Dunchurch Road and D3416 Kingsway have been improved so as to provide for a signalised junction in general accordance with drawing number T16514 008 Rev A and associated Road Safety Audit.**
- 5. The development shall not be occupied until the public highway A426 Dunchurch Road has been improved so as to provide for a new Toucan signalised crossing in the vicinity of D3469 Overslade Lane in accordance with a scheme approved in writing by the County Planning Authority in consultation with the Highway Authority.**
- 6. The development shall not be occupied until the public highway A426 Dunchurch Road has been improved so as to provide for a new signalised pedestrian crossing in the vicinity of D3740 Shakespeare Gardens in accordance with a scheme approved in writing by the County Planning Authority in consultation with the Highway Authority.**
- 7. The development shall not be occupied until the public highway D3421 Long Furlong has been improved so as to provide for a new uncontrolled pedestrian crossing in the vicinity of the public right of way RB30 in accordance with a**

scheme approved in writing by the County Planning Authority in consultation with the Highway Authority.

8. Each school hereby permitted shall not be occupied until the applicant/developer/occupier has submitted a School Travel Plan to promote sustainable transport choices to the school, the measures proposed to be carried out within the plan to be approved by the County Planning Authority in writing, in consultation with the County Council as Highway Authority. The measures (and any variations) so approved shall continue to be implemented in full at all time. The plan shall:

a) specify targets for the proportion of pupils and employees traveling to and from the site by foot, cycle, public transport, shared vehicles and other modes of transport which reduce emissions and the use of non-renewable fuels;

b) specify policies relating to the provision and monitoring of patronage of school bus services in order to support (a) above.

c) set out measures designed to achieve those targets together with timescales and arrangements for their monitoring, review and continuous improvement;

d) explain and justify the targets and measures by reference to the Sustainable Travel Technical Note;

e) identify a senior manager of the school with overall responsibility for the plan and a scheme for involving employees of the business in its implementation and development.

9. No construction will be undertaken until a Construction Management Plan, which should contain details to prevent mud and debris on the public highway, and should identify suitable areas for the parking of contractors and visitors, the routing of HGVs, the unloading and storage of materials and times of operation (given existing school children travel on adjacent land), is submitted to and approved by both the Planning and Highway Authorities.

WCC Planning Response – The response of the highway authority is of great significance as it indicates that there are no highway safety objections to the development. The recommended conditions can be accommodated into any permission granted.

The Applicant's Comments

1.5 The applicants have expressed the following criticism of the committee report:

1. The report fails to recognise the considerable work which has occurred behind the scenes to resolve technical issues such as highway safety, air quality and archaeology.
2. The report places undue emphasis upon SHAREs concerns and does not adequately or fully represent the applicant's case.
3. With regard to conditions:
 - There is no mention in the conditions that the scheme shall be carried out in accordance with submitted regulatory plans. On this point it is the "concept" and "parameters" plans that we are seeking to establish the outline application on, not the illustrative plan.
 - There is no mention of the detailed access plan which is a detailed matter and therefore subject to approval.
 - There is no mention of the preferred mechanism which the LPA wish to secure off site highways mitigation. We anticipate that the highways measures would be subject to s278/ condition.
 - Condition 33 – Whilst we are supportive of this but the EfA cannot ultimately lead on this, as this will be delivered by WCC, therefore we are concerned with the timescales linked to occupation of the site.

WCC Planning Response With regard to point 1 and 2 the report attempts to strike a balance between presenting the case for the applicants and dealing with the valid concerns raised by objectors.

With regard to bullet points 1 and 2 these can be accommodated by appropriately worded conditions.

With regard to bullet point 3, this matter is dealt with under the highway authority consultation.

With regard to bullet point 4, the public open space (POS) is important to the basis on which the recommendation is made and must be secured. Although the EfA will not lead on the POS the condition does not specify who is responsible for delivery just that there be delivery. The committee will be requested to endorse the condition.

Third Party Comments

1.6 **Rugby Free Secondary School** - One letter received from the Head Teacher of Rugby Free Secondary School written in support of this application stating (in summary) that:

1. The real justification for our school is seen every day on the faces of over 140 happy children who feel an enormous sense of pride in their new school. Despite their modest surroundings, they have enjoyed a hugely successful year.
2. Rugby Free Secondary School's existence came about from necessity and a direct response to the position WCC found itself in in 2015 with relation to the provision of school places. Rugby Free Secondary School answered the call to provide places and if it had not been established in 2016, over 100 11 year olds from Rugby would have had to have been educated outside of Rugby – these are now our wonderful Year 7 students. This was not about choice, it was about necessity and now it is both.
3. The option of choice is already playing a part for parents in Rugby as during the year we have already been joined by about 20 children from other schools in Rugby where the parents did not feel that they were receiving the education best suited to their needs. Without RFSS there would have been no fluidity in the system let alone the 'sufficient choice' required in the NPPF.
4. It is suggested that RFSS is educating a significant number of children from outside of Rugby. Of the 146 children on the roll, 116 of them have CV21,22 or 23 postcodes. Of the 162 currently accepted places for Y7 September 2017, 137 have CV21,22 or 23 postcodes.
5. It is suggested that a significant number of children were travelling from the North of Rugby to attend the school. RFSS does not operate a catchment area system and goes through the Warwickshire admissions system. One of the main over-subscription criteria is based on distance to the school. Therefore, as the school grows and as the 2017 data shows over 2016 data, the radius of travel for pupils is already contracting and it is likely that this trend will continue, meaning more children are likely to choose to walk or cycle to school.
6. The final designs for the school have yet to be put in place and WCC, the EFA, the Trust and the School appreciate the concerns for parking and access and these can be addressed in the final design stage. This is a school being put onto a school site. We want to be a valued part of the community and are confident that in the years to come we will be seen as such.
7. There are now over 300 children and their families that are part of this school, in addition to the teachers and staff. We sincerely hope the

Committee agree their education is a material consideration and approve this outline application.

- 1.7 **Parents of Children at the Free School** – A significant number of e-mail communications have been received from parents of children attending the Free School stating that the wish to support this application because their children are receiving an excellent education and are very happy at this very good school.
- 1.8 **RBC Cllr Bill Lewis** – Wishes the committee to consider the following:
1. He thanks the committee for visiting the site and wishes members to know that objectors limited the number of persons in the site visit party and did nothing to unfairly approach or pressure the committee members. They did not organise gangs of residents waving banners and behaving in an unruly and intimidating manner. That is why there were very few protesters visible. It was not because there was very little local opposition to the proposals.
 2. With regard to the highway consultation reply it is very unfortunate that this very significant report has been submitted at such a late stage in the process, less than two full working days before the regulatory committee meeting. He suggests that there is insufficient time for a true full consultation on its recommendations to be undertaken. It also means that members have insufficient time to review and evaluate the recommendations and for planners to include details in a report to committee. Surely, therefore it is not appropriate to continue with the meeting on Tuesday under these circumstances.
- 1.9 **Share and local residents** further state that:
1. Whilst Highways might have the right to request hedges are cut back, it might be nice if someone let no 71 Anderson Avenue know that Highways suggests there needs to be a maintenance scheme for their hedge. I think I'd like to know. Wouldn't you? Maybe giving the occupants more than 1 ½ days notice of the intention might also be reasonable.
 2. The committee report is wrong it states that the lease to Rugby Borough Council was issued after the field ceased to be used as school playing field. In fact the lease allowed joint use up to 2006
 3. The committee report is wrong it suggests that a building was erected on the site and subsequently removed. There is no evidence that it was ever built.
 4. The application does not adequately deal with access matters in accordance with planning regulations. This is not a Reserved Matter and must be dealt with properly now.

5. Consultation on revisions to the application has been inadequate and misleading.
6. The EFA/WCC Education Department have jumped straight to the bottom of the planning hierarchy and have asked to be excused from their duty to properly plan for biodiversity by making a financial contribution instead. On 20 February 2017 County Ecologist clearly set out how they could enhance the biodiversity impact of the site. They have ignored his recommendations and have not demonstrated that achieving a no net loss of biodiversity on site is possible.
7. I am concerned about the delays in providing ecological information. Firstly there is the failure of the EFA/Warwickshire County Council Education Department to perform the necessary calculations in a timely fashion. The County Ecologist requested this information on 20 February 2017 ie four months ago. The Case Officer reminded them of their failure to produce it on 15 March 2017 ie three months ago. Secondly there is the subsequent failure of the information to be transmitted. The information was provided to Warwickshire County Council on 16 June 2017. It has not yet been posted on the planning portal. This means that local residents were not able to comment on the proposals from the EFA/Warwickshire County Council Education Department in time to influence the report to committee.

WCC Officer's Corrections and Clarifications to the Report

Interested parties have made various representations regarding inaccuracies, ambiguities or omissions from the committee report. The following are those where your officers consider that some correction or clarification is justified. Numbers in bold type are the relevant paragraph numbers in the report.

- 2.17** Education and Learning are identified as consultees in the report. It should be clarified that Education and Learning are also the department within the County Council that is promoting the application and which recommended this project to Cabinet in March 2016.
- 2.17/3** This paragraph quotes Education and Learning as saying that the RFSS opened to provide 180 places to students who would otherwise have been offered places out of the borough. It was incorrect to suggest that all the students offered places at RFSS would otherwise have been offered only places outside the borough. As for the take up of places, the RFSS opened with *capacity* to take 180 pupils in 2016 and 2017. 133 pupils accepted places by the end of July 2016 and in October 2016 the roll numbered 131. 178 pupils have been offered

places for September 2017 but the number of acceptances is not yet known.

- 4.2.** This paragraph is unclear as to which permission was implemented in the 1960s. A permission was granted in 1957 for a secondary school and playing fields. This permission was implemented in that the playing fields were created but the school was not built (the playing fields were utilised by Bishop Wulstan school). Another permission was granted in 1966 for changing rooms but local residents say that they were never built.
- 4.3.** This paragraph implies that Rugby Borough Council were granted a lease of the playing fields only *after* Bishop Wulstan school closed. For clarification, Bishop Wulstan closed in approximately 2007 but the Borough Council was granted its lease in 2000. The lease restricted non-school use of the playing fields to hiring it out to local sports clubs for organised games. Therefore, there was a community use alongside the school use from 2000-2007. After 2007, the lease continued in effect for several more years.