

REPORT TO:	Corporate Performance Panel		
DATE:	11 November 2020		
TITLE:	Knights Hill appeal		
TYPE OF REPORT:	For information		
PORTFOLIO(S):	Development		
REPORT AUTHOR:	Stuart Ashworth		
OPEN/EXEMPT	Open	WILL BE SUBJECT TO A FUTURE CABINET REPORT:	No

## KNIGHTS HILL APPEAL

PURPOSE OF REPORT/SUMMARY:
The purpose of the report is to provide the panel with an update and background following the decision in July of the Secretary of State, to allow the appeal at Knights Hill. The report also sets out the costs of the appeal to the Council.
KEY ISSUES:
<ol style="list-style-type: none"> <li>1. Background to the appeal</li> <li>2. Costs of running the appeal</li> </ol>
OPTIONS CONSIDERED:
N/A
RECOMMENDATIONS:
That the Panel note the report.
REASONS FOR RECOMMENDATIONS:
The report is for information.

## **1.0 Background**

- 1.1 The site at Knights Hill has been a long-standing mainly residential allocation in the Local Plan. It was originally identified in the Core Strategy (adopted 2011) as an area for the urban expansion of King's Lynn. It was then identified as a specific allocation in the Site Allocations and Development Management Policies Plan (2016), and detailed policy E4.1 deals solely with the development of Knights Hill, allocating land for "...at least 600 dwellings..." Part of the allocation is within South Wootton parish, and the Knights Hill site is also acknowledged and covered in the South Wootton Neighbourhood Plan.
- 1.2 In December 2016 an outline planning application, with all matters reserved saved for access, was submitted to the Council for the vast majority of the allocation (a smaller application for circa 60 dwellings already had outline permission granted previously on the smaller part of the site in separate ownership). The application was accompanied by an Environmental Statement (ES). The application was for *residential development of the land to provide up to 600 dwellings, incorporating affordable housing, together with a local centre for uses A1, A2, A3 and/or A5 (600 m<sup>2</sup>) with the total quantum of A1 net sales area not to exceed 279m<sup>2</sup> in the alternative, D2 community floorspace (up to 500m<sup>2</sup>), open space, formal sports pitches, a car park to serve Reffley Wood and associated development to include substations, drainage features, roads, cycle and pedestrian paths and other such works.*
- 1.3 The planning application was determined at the 13 March 2019 Planning Committee, where, contrary to the recommendation of the case officer, the application was refused for the following reasons:
  1. The proposed development would adversely affect the setting of Castle Rising castle, harming the significance of this Scheduled Monument and Grade I Listed Building. The proposed development therefore fails to protect the setting of the castle as required by Policy E4.1 of the adopted Site Allocations & development Management Policies Plan 2016 (SADMPP), and is also considered contrary to Policy CS12 of the Core Strategy 2011 and Policy DM15 of the SADMPP. In addition the benefits of the proposed development are not considered to outweigh this harm, and it is also considered to be contrary to paragraphs 193, 194, and 196 of the National Planning Policy Framework (NPPF).
  2. It is considered that the impacts of the proposed development for up to 600 dwellings on the local road network will be unacceptable and severe, and the proposed development is therefore contrary to paragraph 109 of the NPPF.
- 1.4 The applicant submitted an appeal against the refusal, and following legal advice, a report was taken back to the 7 October 2019 Planning Committee, relating to the merits of the second reason for refusal. It was agreed at the Planning Committee meeting, that the Council would not contend the second reason for refusal at the appeal.
- 1.5 Following confirmation of the appeal timetable, which followed the new fast-track process introduced by the Inspectorate to speed up the appeal process, the Council appointed a barrister, and other witnesses as necessary.

- 1.6 On the 31 October 2019, the application/appeal was recovered for the Secretary of State's determination. This meant that the Planning Inspectorate would continue to hold a Public Inquiry, but rather than make the decision, the Inspector would make a recommendation to the Secretary of State, who would then make the final decision.
- 1.7 A Public Inquiry was held on the 14 – 17 January 2020, at the Knights Hill barn.
- 1.8 On 14 July 2020, the Secretary of State confirmed that outline planning permission had been granted. The accompanying report from the Inspector recommended approval, and the Secretary of State agreed with this.

## **2.0 Costs of the appeal**

- 2.1 The overall cost to the Council of the Knights Hill Public Inquiry was £50,237 plus VAT.
- 2.2 The first cost to be borne by the Borough Council was the venue. The appeal venue had to be approved by the Inspector, and needed sufficient capacity to cater for an appeal which had a significant amount of public interest. After a search it became clear the barn at Knights Hill was the only venue available within the relevant time period, with the required capacity and facilities that were needed. It was also adjacent to the appeal site which was also of benefit.
- 2.3 The major costs borne by the Council were for expert witnesses and legal representation, which were required to put forward the Council's case at a Public Inquiry. Reasons for refusal (the Council's case) must be properly evidenced otherwise there is a risk of the Council having an award of costs against it for unreasonable behaviour. In addition it should be noted that because the Council's own officers had recommended approval, external witnesses (consultants) had to be used.
- 2.4 Officer time in dealing with the appeal was significant, although there was no cost attributed to this.
- 2.5 The appellants did not submit an application for costs against the Council, on the grounds of unreasonable behaviour.

## **3.0 Issues for the Panel to Consider**

- 3.1 That the Panel note the appeal process that took place, as well as the costs involved.

## **4.0 Corporate Priorities**

- 4.1 N/A

## **5.0 Financial Implications**

- 5.1 As above the costs of the appeal were £50,237 plus VAT.

**6.0 Any other Implications/Risks**

6.1 N/A

**7.0 Equal Opportunity Considerations**

7.1 N/A

**8.0 Environmental Considerations**

8.1 N/A

**9.0 Consultation**

9.1 Geoff Hall, Cllr R Blunt (Portfolio Holder - Development)

**10.0 Conclusion**

10.1 The appeal followed a formal process that the Council had to follow. The decision to 'call-in' the appeal was made by the Secretary of State.

**11.0 Background Papers**

11.1 The relevant documents associated with the appeal are available to view on the Council's website.