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Dear Sir/Madam

PLANNING COMMITTEE SUPPLEMENT

Please find attached supplement papers for Planning Committee on **MONDAY, 13TH MAY, 2024 at 6.00 PM**

Yours faithfully

Kerry Dove
Chief Operating Officer

SUPPLEMENT

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SUPPLEMENTARY REPORT

PLANNING COMMITTEE (13 May 2024)

OBSERVATIONS/REPRESENTATIONS RECEIVED SINCE COMPLETION OF REPORT

Pages 72 - 108 **Planning committee report for application 23/01439/FULM – Former site of Bridge Cross Garage, Cannock Road, Chase Terrace, Burntwood.**

Additional / Further Observations

Following the publication of the Planning committee report, there have been some additional documents received on the Council's website concerning this application.

Revised elevations
Drawing AP20027-L03 Rev K was submitted on 8th May 2024, simply correcting the labelling of the eastern and western elevations on the proposed elevational drawings.

Transport statement
V1.3 of this document was submitted on 7th May 2024, correcting the number of bedrooms within the care home. The previous version of the document referred to 78 beds; the corrected version says 72 beds.

Travel Plan
V1.2 of this document was submitted on 7th May 2024. This seeks to address the concerns raised by the Local Highway Authority in its response on 31st January 2024. This was forwarded to the Highways Authority on 7th May 2024 for urgent comment. The Highways Authority has responded advising that none of its original comments have been addressed. Therefore, the Council's recommendation regarding the need for an amended travel plan to be secured via S106 agreement remains applicable, in spite of V1.2 being received on 7th May 2024.

Integrated Care Board
Following the publication of the Planning committee report, Officers have been in correspondence with the Integrated Care Board (ICB) following its comments submitted in February and March respectively.

Officers remain concerned that the ICB's request for a financial contribution/commuted sum does not pass the necessary planning tests required for such contributions, in that the project identified for the funds remains in early preparatory stages (still two months from the forecasted submission of the full planning application).

The ICB's observations
In its most recent comments, dated 19th April 2024 but received on 2nd May 2024, the ICB raises the following points, which have been taken from the comments which can be viewed in full on the Council's website:

- The ICB does not believe the provision of 'visiting clinical' floorspace within the development would neutralise the impact of the proposal on the Primary Care Network (PCN), and make it acceptable in planning terms.
- It is submitted by the ICB that the provision of remote working space for PCN staff would work against the drive towards the integration of services (counter to the NPPF).

- The ICB refers to Para 97 of the NPPF, which requires decisions to plan positively for the provision and use of shared spaces, community facilities and local services to enhance the sustainability of communities. Para 97 also requires decisions to support the delivery of local strategies to improve health, social and cultural well-being for all sections of the community.
- The ICB queries the concerns around the deliverability of the Burntwood project, noting that the scheme has received an initial round of pre-application advice, and that there had been a recent meeting between colleagues within the ICB and the Council's Director of Planning & Regeneration. It is suggested that a Planning Performance Agreement could be used if there is concern about resourcing and determination timescales.
- The ICB questions certainty around the degree of deliverability of the proposed care home, and notes that trigger points within any Section 106 agreement should be linked to the commencement of development, and could include a forward funding clause too.
- The ICB provides testimony from general practice staff articulating what the delivery of the Enhanced Health in Care Homes (EHCH) service entails, in order to illustrate the impacts for workforce and estate capacity, and why the delivery of the service requirements could not all occur within the confines of the floor space proposed.
- It is submitted that a resident within a CQC registered Care Home is required to receive; a weekly contact from a Care Coordinator (a call and discussion with the home about each patient), a bi-weekly multi-disciplinary team meeting (with include a GP and district nursing team and in-house nurses – ideally limited to 25 contacts per day in line with recommendations from the BMA), a GP ward round every two months (wherein each resident is seen, potentially taking a general practitioner out of a surgery for a 'considerable period'), personalised care plans (which must be developed and agreed with new patients/residents within seven working days of admission to the home and again following a hospital episode), and structured mediation reviews (which can take 45-60 minutes if there are more than five medications).
- The general practice staff consulted by the ICB accept that the developer is not responsible for pre-existing deficiencies, but strongly argues that the planning system should be concerned with the capacity of local infrastructure.
- The ICB argue that the physical space offered by the applicant would not support the level and nature of activity required to deliver the EHCH service for the residents. Estate is recognised as a 'capacity constraint' and it is submitted that a model needs to be create that makes 'estate' a catalyst for integration rather than a barrier. This makes an isolated clinical space unsustainable in realising this aim.
- The ICB maintain that the estate within the PCN is inadequate, and a strategic solution is being progressed within which suitable mitigation for additional service demands within the PCN can be realised and integrated.

The agent/applicant's response

On 7th May, a response to this was submitted to the Council from the agents Lambert Smith Hampton (LSH). LSH prepared the response following consultation with the proposed end operator Bracebridge Care Group (i.e., the proposed care home provider). The following points have been extracted from the response, which can be seen in full on the Council's website:

- It is submitted that that the on-site facilities would negate the need for patients to have to visit off-site facilities.

- LSH consider that the ICB has put forward no evidence to back up the claim that the proposed care home development would add significant working pressures to general practitioners (GPs). An example of this is that there is no evidence submitted that reinforces the claim that the proposed care home will result in GPs undertaking new or additional services.
- It is submitted that GPs are already required to perform regular health checks on those aged 75 or over, requiring home visits across a given authority. An in-house space within the care home is argued to require only one 'house call' as all residents will be within a single building. Therefore, neither LSH nor the intended operator agree that the care home will add burden to GPs, and it is believed that the business model will result in a more efficient and streamlined process due to all residents being under a single roof.
- The intended operator considers providing facilities within an existing health-related building is more sustainable than requiring additional facilities to be constructed elsewhere. Furthermore, LSH reference an Institute of Health Informatics research study into the protection of care home staff and residents from infection (following the COVID pandemic), and note that the development is set up in a way with infection prevention and control at the core of its design.
- It is submitted that the ICB's request for an off-site financial contribution is not necessary to make the development acceptable, and it fails the tests set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010.
- The operator also reasserts the view that there is no certainty on the deliverability of the strategic health centre project. As there has been no formal planning submission made yet, LSH 'strongly query' how a financial contribution can be considered reasonable given there is no planning certainty or security at this stage that the project could even commence.
- Following discussions with the proposed operator, LSH note that ICB do not appear to request financial contributions on other major care home schemes delivered by the proposed operator, and other providers across the UK. It is submitted that the proposed operator has opened three care homes since 2023 and none of these required a financial contribution from the ICB. LSH acknowledge that each case is unique, but consider the ICB's request to be not demonstrating a consistent or reasonable approach with other ICBs across the country.
- Finally, it is argued that the ICB's own market position statement confirms that it expects to ese an increased demand for 'higher level complex care' linked to dementia. There is a need for this level of specialised care which the proposed operator is ready to deliver following the granting of permission.
- LSH therefore submit that the S106 request made by the Staffordshire and Stoke-on-Trent ICB should not be accepted as CIL compliant by the Council due to being unnecessary to make the development acceptable in planning terms.

Summary of positions

The Inspector's conclusions and decision on this matter when determining appeal **APP/K3415/W/22/3308505** remains the starting point for appraising the matter of the development's impact on the PCN, and how this might be mitigated. Officers consider the Inspector's findings that the development will have an impact on the PCN, and that this impact requires mitigation, to be uncontested. Therefore, it is the mitigation, which is very much contested, which requires further discussion.

Interpreting the three separate submissions made by the ICB, its case appears to be that the only means of mitigating the impact of the development on the PCN is through a financial contribution towards the delivery of a strategic health centre within Burntwood. The ICB's position is that in-house floorspace is incompatible with the aspirations of

national policy which, arguably, do encourage decisions to support the delivery of local strategies to improve access to healthcare.

The applicant's position is that the provision of in-house visiting clinical floorspace, nearly double the amount of floorspace that the financial contribution represents, provides suitable mitigation to the development's impact on the PCN, through negating the need for off-site floorspace to be provided within the strategic healthcare facility. Further, there remains significant uncertainty over the delivery and timescales associated with the strategic healthcare facility. Thus, it fails the Regulation 122(2) tests.

Have the Inspector's concerns regarding deliverability/timescales been overcome?
Paragraph 33 of the Inspector's decision remains fundamental to this aspect of the request for a commuted sum:

> *'Nevertheless, the timing of delivery of that facility relative to completion and occupation of the appeal scheme is unknown. As such, there is considerable uncertainty over whether the intended facility would be available to meet the needs of future occupants of the appeal scheme. In the absence of any substantive evidence on the nature and timing of delivery of that facility, I cannot be sufficiently certain that the requested contribution would deliver the necessary increase in healthcare infrastructure.'*

The draft legal agreement that was considered by the Inspector at the point of the appeal being determined has been given further scrutiny. Clause 4.a and 4.b of Schedule 1 both require the payment of 50% of the primary healthcare contribution, prior to first occupation of the development and prior to occupation of more than 25% of the development respectively. There are no further clauses. Therefore, the Inspector's conclusions were formed on the basis of just those clauses.

The ICB appears to recognise the concerns revolving around the deliverability of the strategic healthcare project, and how its timing may be misaligned significantly with the delivery of the care home. In its initial comments from February 2024, the ICB suggested two further clauses be added:

- The first clause requires the Council to pay back the contribution (or part thereof) in the event that it remains unused after 5 years from the first occupation of the development.
- The second clause appears to allow funding to be secured by the ICB from the Council retrospectively, in the event it has to finance the delivery of the strategic healthcare project before works commence (or first occupation) of the proposed care home.

Neither of these clauses appear to address the Inspector's concerns, which clearly revolve around the uncertainty over whether the intended facility would be available to meet the needs of future occupants of the appeal scheme. The second clause is not particularly problematic, and would appear to be a sensible way of securing the contributions only if the care home were commenced on a schedule *behind* that of the strategic project.

However, the first clause fully reveals the risk that exists in this situation; the care home is commenced and occupied, and the healthcare project either commences on a significantly delayed timetable (i.e., years later), or it is never brought forwards. In this scenario, the occupation of the development and the needs of its residents place pressure on the PCN, and there is no mitigation for this, in the form of increased/improved infrastructure.

Therefore, even with the additional clauses suggested by the ICB, the Inspector's concern that the uncertainty over the timing of delivery of the facility would mean the requested

contribution would fail to deliver the required increase in healthcare infrastructure to serve the development remains unaddressed.

The ICB's requested contribution therefore cannot be regarded as compliant with the referenced CIL regulations.

Is the provision of in-house floorspace categorically inappropriate?
Regardless of the ICB's position on the commuted sum, Officers do not believe that this solution addresses the Inspector's concerns. Therefore, as a standalone means of mitigating the development's impact on the PCN, it is now disregarded.

It is necessary to consider whether the Council is now in receipt of sufficient evidence to convince it that the provision of in-house visiting clinician space is incapable of mitigating the development's impact on the PCN.

The ICB's position is that having in-house visiting clinician space wouldn't *'neutralise'* the impact of the proposal on the PCN, and that it would *'work against the drive towards the integration of services'*.

Officers concede that the NPPF's position, as provided in Para 97(b), encourages Councils to make decisions that support the delivery of local strategies to improve health (amongst other things). Therefore, in the event that a strategic healthcare facility were already in the process of being constructed, or was already in existence within the PCN, securing a financial contribution towards improving and enhancing the healthcare provision of the facility would be the option most consistent with the NPPF.

However, as set out above, the strategic facility is in such an early phase of development – pre application submission – that its delivery relative to the care home's delivery is uncertain.

The NPPF does not preclude or prohibit the provision of other solutions which do not link into local strategies. In fact, Para 97(a) refers to the use of *'shared spaces…and other local services to enhance the sustainability of communities and residential environments'*. It can equally be argued, as by the agents Lambert Smith Hampton, that the care provider delivering a 'shared space' within its own facility allows visiting GPs to make a single 'house call' wherein they can stay in one location within the building and have residents come to them.

It is acknowledged that, at a limit of 25 a day, there will be a need for a GP to visit for three consecutive days to see all 72 residents of the care home (assuming full occupation). However, Officers cannot see how visiting the same building for three consecutive days is any more onerous than conducting the same number of private home visits. It would appear, on face value, to be a *more sustainable* way of securing the service for the residents, even if it's not the *ICB's preferred way*.

Therefore, Officers note the ICB presents a reasonably compelling case as to why the provision of in-house visiting clinical space is not preferred from a strategic perspective, but neither does it provide sufficient evidence that shows, or allows conclusions to be drawn that providing in-house floorspace would result in *the same level of harm to the PCN in terms of increased pressure that having no facility at all in place would*.

Consequently, Officers are not able to conclude, on the basis of what is before the Council at present, that the provision of in-house floorspace would be ineffective in providing a degree of mitigation for the development's impact on the PCN.

Therefore, the provision of in-house floorspace, at the time of writing, is considered by Officers to be the preferred and most effective way of securing mitigation for the development's impact on the PCN.

Recommendation

The recommendation in the committee report remains the recommendation for committee to consider.