

Issue 1
Appendix 5a_REN

Respondent 822, Somerset Valley Friends of the Earth

Contents:

Somerset Valley Friends of the Earth summary comment regarding the application to extend the 2008 outline permission for development on site RAD1

6.0 Summary

6.1 The applicants intend to make changes which are subject to a "thorough review". Without indication of what these changes are, there is no way of knowing if this impacts the environmental assessment, which must be "proper and thorough". There is a danger that this could be an application for a different development by default. This would not necessarily be intentional, but could result from the review of the proposals in the light of financial constraints. The benefits are now lower and the disbenefits higher than at outline and there is an opportunity to address matters that the outline failed to address adequately. The changes in national policy combined with the lack of a sufficiently robust approach to environmental impact are sufficient to warrant refusal. The applicants have not put forward a convincing argument for compliance with changes to national policy. The regeneration case was central to the function of the development, but this has now fallen down; it is not the same development as it was at outline.

6.2 The Government's General Principles on the Planning System state that the Government's statements of planning policy are material considerations and that where such statements indicate the weight that should be given to relevant considerations, decision-makers must have proper regard to them. PPS1 Planning and Climate Change has been introduced since outline approval was given. It responds to substantial changes in the UK's commitments on emissions and recognition of the magnitude of the problem in a number of spheres. So significant is this, that Government policy stipulates that *PPS1: Planning and Climate Change* is a material consideration that supersedes the Local Plan in material terms in certain cases - this is one of those cases. It is clear that PPS1 Climate Change must be given great weight in the decision before the Council. The proposal comes out unfavourably when weighed against *PPS1: Planning and Climate Change*.

6.3 Suitability, or not, of the site for development rested at outline on the decisions to include it in the Local Plan and to reject the Planning Inspectorate's recommendations. Although it could be said that the unsuitability of this site for development had already been recognised prior to the submission of an application in 2006, the Council did not agree that this was the case. The view of the Planning Inspectorate (The Inspector speaks for the Inspectorate) was that greater weight must be given to wildlife and biodiversity matters. It emphatically ruled out a development such as the one permitted at outline. The Inspectorate's view was misrepresented by officers in their reports to the Council and full compensation for ecological losses was not required by B&NES. The applicants have presented no 'disproving' of the socio-environmental case set out by the Inspectorate. This is grounds for the planning authority going with the Inspectorate's view.

6.4 There have now been significant changes to site conditions and further environmental information is available. *PPS 1: Planning and Climate Change* demonstrates a greater emphasis on biodiversity and associated resources as important climate change matters. Applications for extension of time are treated as new applications under the environmental impact regulations, so the impact must be thoroughly assessed afresh whilst looking at the same application as the original. The benefits will now be less, and the harm greater, than at outline and the weight given to biodiversity resources, including the physical resource, greater. New Government policy, especially the Climate Change policy, means that greater weight must be given to environmental considerations than was the case at outline. The conclusions in the original environmental analysis and the update provided by the applicant are unsound, including on traffic and pollution, and the

environmental information supplied, including regarding traffic and ecological information, is insufficient for "*proper and thorough consideration of environmental issues*" (*PPS 1: Planning and Climate Change*). Indeed, parts of the information and analysis supplied are positively misleading. An initial analysis of B&NES traffic data from 2004, Spring 2009 and September 2009 shows a much more complex picture than the applicants have presented.

6.5 PPS4 has also been introduced since approval, and the applicant refers to it to support their case. However, there are a number of statements and policies within PPS4 that do not support the proposal, including paragraph 9 on the overarching planning objective, paragraph 10 on planning objectives to help achieve sustainable economic growth, and policies EC1, EC4, EC5, EC7, EC9 and EC10.

6.6 The decision presented to the committee at outline was, " a simple balancing act – weighing the remaining ecological harm identified by both objectors and the Council's own consultant ecologist, against the regeneration benefits identified by the Applicants and by the Council's specialist officers". This instruction left out significant disbenefits and potential benefits. In order to properly assess this application for extension of the time limit, this instruction and the decision must be re-visited, with particular attention to PPS1: Planning and Climate Change. Conservation Area consent is needed in order to deliver the outline application, and is unnecessary without outline permission.

6.7 In considering these applications, regard must be paid to the following:

- There are significant material changes and matters that work against the Local Plan policy that was used to determine the original application.
- The information supplied does not indicate that this proposal meets to any significant or substantial degree the *PPS1: Planning and Climate Change* criteria regarding suitability for development in the light of present policy, that supersedes Local Plan Policy.
- The application does not sit well with the principles for determining applications set out in *PPS1: Planning and Climate Change*, para 11.
- There was a failure to examine important socio-economic matters at outline, including those falling within IEM environmental assessment guidelines. The failure to properly examine this and other socio-economic matters in 2006 is no justification for avoiding them now.
- There has been no 'disproving' of the Inspectorate's view and every reason to believe that the material changes, particularly in national policy, together with the doubtful financial viability and increased cost of contamination, serve to indicate refusal
- The matter of prematurity ahead of consideration of the Core Strategy at Inquiry is a reason for refusal, which is valid when in combination with other reasons
- the weight given to the ecological value must now be higher, in line with the new emphasis on this as a Climate Change matter of importance and strong material consideration
- identifiable disbenefits (other than ecological) were not part of the outline decision taken by councillors - this has not been addressed
- benefits of alternative uses are not put forward by the applicants or officers and were not part of the outline decision taken by councillors; the socio-economic benefits of a nature and heritage reserve were not appraised or part of the "simple balancing act" decision taken by

councillors in 2006 - this has not been addressed

- the creation of and increase in size of dormitory areas goes against policies that seek to reduce carbon emissions and there is no indication that this proposal, plus any further developments it promotes, would do otherwise
- the transport assessment provided is inadequate; it is selective and misleading; data is incorrectly entered on Table 5.1; it relies on only a partial and unrepresentative data set which misrepresents the traffic volumes; it relies in part on an unreliable outline analysis; it is unsupported by the results of pollution monitoring in Radstock; it conflicts with the results of traffic counts from Spring 2009 and unused September 2009 counts, that have either been ignored or not been supplied to the applicants by B&NES; the modelling of junction and pedestrian movements does not appear to cover cumulative impacts on traffic flow in the centre and modelling for large and heavy vehicles on the roundabouts is not thorough, or even remotely adequate
- there is no updated pollution analysis or analysis regarding rat-running
- there is reason to believe that a railway could be re-opened on the site, and this possibility was ruled out at outline
- bat surveys are being conducted following receipt of independent survey data that shows a different use of the site by bats than that assumed at outline - the use of the site by bats cannot be established until the surveys are complete and a report produced
- the outline case for services was that eventually, when the population became large enough (critical mass), B&NES would provide services - there is no guarantee that the formation of such a critical mass would not breach local environmental limits, no indication of the cost to the environment or impact in a climate change context, and no comparative analysis with locating this population mass elsewhere
- the outline proposal is subject to a £1 million funding gap and there is no guarantee that the economy will pick up sufficiently quickly to allow delivery
- there is little chance of roll-over funding and so little chance that the envisaged regeneration benefits will be delivered
- the case for the regeneration benefits was largely theoretical, yet unsupported, at outline - this has not been addressed
- the disbenefits were understated at outline, including the impact on existing traders, which was assumed to be - this has not been addressed
- the cost to the Council of the road is much higher now, at £400,000.00, than the Section 106 figure of £150,000.00 minus the fee that was to be paid to B&NES by the applicant - this is a further dis-benefit, as the funds could have been used for other purposes
- key benefits identified at outline are not now to be delivered, including the benefit of meeting housing targets handed down by Government, which B&NES no longer has to meet
- the road infrastructure was to be a key benefit of the scheme, but will not now be provided directly by the applicant
- there are still unknowns such as the degree of threat to the watercourse from the foundations methodology and the effectiveness of the decontamination technique

6.8 Somerset Valley Friends of the Earth holds that, if proper regard is to be given to the weight of the relevant considerations in this case, the Council will have no alternative but to consider that the

application be rejected on the grounds that:

- to reject this application would be in line with PPS1: Planning and Climate Change, which supersedes Local Plan policy
- to approve this application would act against PPS1: Planning and Climate Change
- this application sits unfavourably against policy PPS4 in many important respects
- the outline decision was taken in line with Local Plan policy but against the recommendations of the Planning Inspectorate, which upholds national policy
- the applicants have not provided a 'disproving' of the Inspectorate's view
- the environmental impact analysis is incomplete, insufficient and significantly flawed, including regarding traffic, transport and pollution
- the financial viability of the proposal is doubtful
- the economic case is unsound and impact on existing businesses and trade not taken properly into account
- key benefits that were part of the outline package that was thought to outweigh ecological losses will not now be delivered
- ecological losses will be higher than accepted at outline should the development now go ahead
- the cost to the Council of the road will be higher than agreed at outline
- prematurity is invoked on several counts relating to the Public Inquiry into the development plan
- an opportunity to provide for Radstock an alternative valuable community and transport asset will be lost
- The applicants have not provided clear and convincing reasons not to follow the relevant new Planning Policy Statements
- alternative use of the site as a public amenity is a strong public interest which should be considered within the planning system and so is applicable here
- the original outline decision was flawed, the officer advice to councillors flawed, and the process leading up to outline permission did not follow procedure in line with natural justice, including providing adequate public scrutiny of environmental and other information
- the flaws, unreliable data and false assumptions in the outline application have not been addressed and many of the original conclusions are still being relied upon in this application