

PLANNING COMMITTEE

- * Councillor Fiona White (Chairman)
- * Councillor Colin Cross (Vice-Chairman)

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| * Councillor Jon Askew | * Councillor Liz Hogger |
| * Councillor Christopher Barrass | Councillor Marsha Moseley |
| Councillor David Bilbé | * Councillor Ramsey Nagaty |
| * Councillor Chris Blow | * Councillor Maddy Redpath |
| Councillor Ruth Brothwell | * Councillor Pauline Searle |
| Councillor Angela Goodwin | * Councillor Paul Spooner |
| * Councillor Angela Gunning | |

*Present

Councillor John Rigg was also in attendance.

PL1 APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTE MEMBERS

Apologies for absence were received from Councillors David Bilbé, Ruth Brothwell, Angela Goodwin and Marsha Moseley. Councillors George Potter and Deborah Seabrook attended as substitutes for Councillors Goodwin and Brothwell respectively.

PL2 LOCAL CODE OF CONDUCT - DISCLOSABLE PECUNIARY INTERESTS

There were no declarations of interest.

PL3 MINUTES

The minutes of the Planning Committee held on 5 October 2022 were approved and signed by the Chairman.

PL4 ANNOUNCEMENTS

The Committee noted the procedure for determining planning applications. The Chairperson stated that owing to the complexity and importance of this application, she had agreed to allow three people to speak in support and three people to speak in objection for three minutes each. In addition, she would also permit members of the planning committee to speak more than once in relation to the application.

PL5 21/P/02232 - DEBENHAMS, MILLBROOK, GUILDFORD, GU1 3UU

Prior to the consideration of the application, the following persons addressed the Committee in accordance with Public Speaking Procedure Rules 3(b):

- Mr John Harrison (on behalf of Guildford Resident's Association) (to object) (in person);
- Mr Alistair Smith (on behalf of the Guildford Society) (to object);
- Ms Rachel Broster (to object);

- Mr Jim Pool (DP9) (in support);
- Mr Henry Squire (Squire and Partners) (in support);
- Mr Bill Stokoe (in support) (online)

The Committee considered the above-mentioned full application for demolition of existing building and erection of two buildings comprising residential accommodation (Use Class C3), flexible retail floorspace (Use Class E) and cinema (Sui Generis), together with car and cycle parking, plant and all highways, landscaping and other associated works.

The Committee received a presentation from the Planning Officer, John Busher. The development involved the demolition of the existing building and its replacement with two structures which ranged in height from 7 to 8 storeys. It was a residential led scheme with a range of apartments from the first floor upwards and flexible commercial units below. Significant public realm improvements were also proposed.

The Committee noted the supplementary late sheets which included clarification on the fact that Historic England did actually object to the application. Their full comments had been included for information in the appendices of the report. The Guildford Society had also emailed members separately about the issue. The sketch provided at the bottom of their email, officers did not believe was accurate and the reasons why were set out in the late sheets. Members were advised to base their decision upon the drawings provided on the Council website and those shown as part of the presentation. The Guildford Society had also raised an issue with the red line consistency and the fact that there was a kink in the line which went over the bridge and which in their view represented a hostage strip. Planning Officers had checked with the applicant and the reason for the kink was basically to remove some existing crash barriers that were in that section of the road. The red line included those barriers so that they could be demolished as part of the application, so the land would still remain as public highway. Lastly, it was noted that some additional comments had been received over the last couple of days since the publication of the report.

The site was located along Millbrook, located to the south of the gyratory and one-way system. The Committee noted the planning constraints which affected the site, noting it was in a sensitive and very prominent location in the town centre. The listed buildings which immediately surrounded the site were noted and included Grade I Listed Buildings that were within the top 2.5% of listed buildings nationally. This included, St Marys Church, Castle Keep, Castle Arch and Holy Trinity Church. There were also a number of Grade II star listed buildings such as St Nicolas Church, The Tread Wheel Crane, buildings on Quarry Street, and Guildford Cathedral.

The site was within the Millmead and Portsmouth Road Conservation Area, which was also adjacent to the River Wey, the Godalming Navigation Conservation Area, which incorporated the river, as well as the Guildford Town Centre Conservation Area. Bridge Street Conservation Area was located just to the north. Guildford Castle and The Tread Wheel Crane were scheduled ancient Monuments and the Jellicoe roof garden, was a registered Park and Garden.

The Committee noted that the existing building would be completely demolished, apart from the retention of the basement walls, and replaced by two new buildings. Building A was the structure adjacent to the Town Bridge and Building B would occupy the southern part of the site. Building A would be 7 storeys in height with the top floor inset so to reduce its bulk, scale and massing. Building B would be between 6-8 storeys in height and had a number of insets and terraces incorporated so to also reduce its bulk. The gap between the two proposed buildings would provide a new view of St Mary's Church. The southern elevation which would front onto the Yvonne Arnaud Theatre with stepped back floors and terraces would clearly reduce the bulk, scale and massing of the proposal and improve the

relationship with the Town Mill and the Theatre. The elevation of the proposed building that would front onto the new Civic Square would be 7 storeys in height with the top floor inset from the front.

The commercial units were located on the ground floor and were allocated for flexible Class E purposes that included retail, restaurants and cafes, or in part alternatively as a cinema. The wraparound of the external façade of the building provided an active ground floor frontage which would increase the vitality and attractiveness of this part of the town centre. The servicing bay would be accessed from Millbrook and was where all refuse was to be collected from for both the residential and commercial units, laid out so this would be undertaken by service vehicles solely in forward gear.

The new Civic Square would be located to the north of Building A and would be level with Millbrook or Building A via steps, in terms of its height and included a new area of seating and landscaping which would be open to the public. There would also be a new riverside walk that was proposed to run along the western edge of the site. On the other side south of Building B was a pocket park which would be landscaped and have seating areas. With regard to the relationship between the site and the residential properties on St. Mary's Terrace, the distance of separation between the rear elevations of St. Mary's Terrace and the site was between 31 and 44 metres. Planning Officers had therefore concluded that the proposal would not result in any material harm to the amenity of these properties in terms of overlooking. It was acknowledged however that the dwellings would suffer from some loss of sunlight and daylight. This harm had been assessed in the overall balancing exercise undertaken by officers.

A private outdoor amenity space would be provided above the cinema for the residents of the scheme and included areas of soft and hard landscaping as well as a children's play space. The residential dwellings complied with the national space standards and would have an appropriate level of internal and external amenity space. Green and brown roofscapes would be provided for the development that would assist with the biodiversity and ecology improvements that the scheme would deliver. The public space pedestrian street provided between the two buildings would be open to the public for 24 hours a day. The pocket park and riverside walk from the Civic Square up to Millbrook at the southern end of Building B would have public access, but only during the hours of 6am to 11:30pm at night in the summertime and during 7am to 11:30pm in the wintertime. Access to these spaces would be controlled with a glazed barrier at the Civic Square and, at Millbrook, a gated barrier of bespoke design, which could potentially be pieces of artwork, secured by condition. The space between the buildings and river bank forming the riverside walk would be paved and softened through the use of landscaping and planted beds. The gap between the two buildings would be roughly 10 metres wide. The riverside walk would be an area of part colonnade and part open space from the edge of the buildings to the landscaping along the river bank. The walkway would vary from approximately six to ten metres in width. For comparison, the existing Debenham's building was set back from the river by 4-8 metres and was not currently accessible to the public. The pocket park would overlook the Town Mill pool and would be finished with soft landscaping and seating areas. The existing building and its footprint covered an area of up to 73% whereas the proposed building would occupy a footprint of about 51%. The actual footprint of the proposed building was therefore significantly less.

The applicant's Townscape and Visual Impact Assessment view taken from St Catherine's Hill demonstrated that the proposed building would not break the skyline and was set within a winter scene where the trees were not in leaf.

The Council's Conservation Officer and Historic England had concluded that the proposal would result in some harm to the surrounding heritage assets. Harm had been identified to a number of assets in the range from mid-level of "less than substantial harm", to low level of "less than substantial harm". For the most important listed buildings in the area, the harm had been set as medium range "less than substantial harm" for St Mary's Church which was the Grade I Listed building. For St Nicolas Church the harm had been set at between low to medium range of "less than substantial harm" and then in the

lower range of “less than substantial harm” for Holy Trinity Church. For Guildford Cathedral and Guildford Castle Keep, these were at the lower range of “less than substantial harm”. The proposal would also result in harm to the Conservation Areas. Historic England and the Council’s Conservation Officer had concluded that the development would result in “less than substantial harm” in the medium to low range respectively to both the Millmead and Portsmouth Road Conservation Area as well as the Town Centre Conservation Area. The Conservation Officer had concluded a low level of “less than substantial harm” had been identified to the River Wey Navigation Conservation Area and the Bridge Street Conservation Area. Harm had therefore been identified to the heritage assets and the decision maker was required to weigh this harm against the public benefits of the proposal. It was however emphasised that paragraph 199 of the NPPF said that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation, and the more important the asset, the greater the weight should be, irrespective of whether any potential harm amounted to “substantial harm”, total loss or “less than substantial harm” to its significance. Paragraph 200 went on to note that any harm to or loss of the significance of a designated heritage asset from its alteration or destruction or from development within its setting should require clear and convincing justification. Where a development proposal will lead to “less than substantial harm” to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including where appropriate, securing its optimum viable use. So as the harm had been identified as within the category of “less than substantial”, the public benefit balance had been carried out taking account of the significance of the assets and recorded on pages 140-145 of the report. The public benefits were set out in detail, but in summary they included the provision of both market and affordable dwellings on a windfall site, removal of a vacant building from a prominent location in the town centre and preventing long term dereliction of the site. The proposal would also provide and improve access to the riverside where none exists at present. The proposal would help to improve the vitality and viability of the area, via the new residential dwellings as well as the proposed commercial units. The proposal would offer a new view of St. Mary’s Church from the west bank of the River Wey where no views were currently possible. The proposal would also result in twofold economic benefits, during construction works and also when the scheme was completed. The proposal would result in a biodiversity net gain of approximately 319% and would result in carbon reductions of 39%. The proposal would also have air quality benefits to the town centre area. Officers had concluded that the public benefits were wide ranging and would have a positive transformative impact on this area of the town centre. As such, officers were of the opinion that the public benefits afforded by the scheme clearly outweighed the identified harm, even when considering the great weight to be given to the highly graded assets that were affected by the proposal.

The final balancing exercise, carried out on pages 145-151 of the report, balanced all of the harm caused by the proposal, not just the heritage harm against all of the benefits. In accordance with the NPPF, the heritage harm was afforded substantial (great) weight and considerable importance in the planning balance. Officers had also apportioned substantial weight to the resulting townscape harm and modest weight to the harm to the impact on daylight and sunlight to the St Mary’s terraced properties. However, there were numerous benefits of the scheme. Officers had given substantial weight to the provision of market housing, the removal of the vacant building and preventing long term dereliction, to improving and providing access to the riverside and improving and protecting the vitality of this area of the town centre. Significant weight was also afforded to the supply of affordable housing, the economic benefits, the biodiversity improvements and the energy and sustainability benefits. Modest weight had been afforded to the air quality benefits resulting and the safeguarding of the landing points for a potential bridge as well as the benefits associated with the S106 contributions which totalled just over 3 million pounds. Officers had therefore concluded that the benefits of the proposal would transform this part of the town centre and would be wide ranging, long lasting and benefit a wide spectrum of the community. Even taking into account the substantial (great) weight and considerable importance to the heritage harm, the benefits of the proposal were considered to materially and demonstrably outweigh the harm, which had been identified, and therefore, subject to

the conditions in the report and the completed S106 Agreement, the proposal was recommended for approval.

The Chairperson, Councillor White permitted the Lead Councillor and Portfolio Holder for Regeneration to speak for three minutes regarding the application.

The Committee noted that he had formed the Guildford Vision Group in 2011 when he and other residents recognised that Guildford was stuck in a time warp of inaction and deterioration. The current site was regarded as an eyesore and would remain so unless there was a viable scheme. The presumption in planning law was in favour of development, including regeneration of brownfield land for homes. 185 new homes in this case. The Committee noted comments that the scheme would not please everyone, but he supported the mixed use with shops and restaurants and a new riverside walk. It offered the first such amenity for decades, offering future opportunities to create riverside access from the High Street to the Theatre and Millbrook Car Park and beyond. He supported active travel and well-being which was important for mental health. The proposed scheme would encourage extra visitors and tourism and the new homes combined would have a positive impact on the High Street. Online retail undermined town centres. The height and massing concessions made by the developer was positively viewed in response to constructive criticisms received. Developing brownfield sites such as this, especially in sustainable locations helped to save the Green Belt. The historic environment would be conserved and enhanced by the proposed development by bringing vibrant activity to the vacant site.

The Chairperson, Councillor White reminded the Committee that they could only consider planning matters and material planning considerations when making their decision.

The Planning Officers were invited to respond to comments made by the public speakers and Lead Councillor and Portfolio Holder for Regeneration. It was confirmed that an outline application for the bridge had been withdrawn by the applicant in the last couple of weeks. The scheme therefore did not include a bridge, but it did safeguard some landing points for a bridge if it did come forward in the future. Cost differences in relation to materials used could be picked up by way of the review mechanism with the applicant. In response to the alleged claim that the Council's Conservation Officer had overruled Historic England's comments, this was false. The conclusions made in the assessment undertaken by Historic England and the Council's Conservation Officer were essentially the same with a few exceptions. Both had identified harm and it was for the Committee to weigh up the harm caused. The assertion that the heritage assessment had not been done correctly was strongly refuted. In terms of the mass, scale and height of the proposal creating a precedent, this aspect of the scheme had been assessed thoroughly, looking at the impact on both long- and short-range views which would act as a safeguard in relation to future applications coming forward. A broad range of housing types had been included as part of the scheme with a high percentage of one- and two-bedroom properties and 31 x 3 bed units. The mix of housing the applicant had put forward was deemed to be acceptable by planning officers for this location in the town centre. In terms of traffic and highway safety impacts, the actual traffic movements associated with the development were less than the previous occupation as a department store. A benefit was therefore attributed to the overall reduction in traffic. Surrey County Council had not raised any Highway Safety concerns and were content with the improvements being made to sightlines in relation to the entrance and exit into the delivery bay and access to the basement car park. Delivery vehicles used to be parked on the pavement fronting the loading bay of the former Debenham's store and this would no longer happen owing to the activity now taking place in the dedicated delivery bay. In relation to flood risk, the Environment Agency had looked at the application very carefully and had originally objected to it. Those issues had been resolved by the applicant and the Environment Agency no longer had any objections to the scheme.

Conor Fegan, Counsel advising the Local Planning Authority confirmed that as a matter of law members may disagree with Historic England who had objected to the application but the reasons for doing so must be clear and coherent.

Peter Luder, Planning Officer also clarified in relation to the comment that housing was not needed on this site that the local plan planning policy required that mixed use development include housing in the town centre.

The Committee discussed the application and noted a query raised with regard to how big the cinema was. Disappointment was also noted that with regard to viability, out of a total of 185 homes, only 5 were affordable. Were viability calculations fixed or would they vary according to the high inflation rates the UK was currently experiencing and were we therefore in danger of losing the 5 affordable homes? One of the speakers referred to two large boilers in the current building which were producing high levels of CO². What heating scheme was proposed for the new development?

The Committee also noted commendation to the Planning Officer, John Busher for the production of a thorough and fair report and noted that improvements had been made throughout the application process with regard to this scheme in liaison with the developer.

However, the Committee noted concerns raised that the proposal remained out of scale, was too high, too bulky, impacting many heritage assets. It was unusual for the Council to be recommending approval for something which Historic England had clearly objected to as well as the National Trust and most other community and amenity groups in the town. The balance between the harm to the heritage assets and the public benefit was quite clear. The Committee noted that it was entitled to take a different view from officers if they thought it was justified and the proposal needed to be looked at very closely. With regard to NPPF paragraph 199 the significance of a designated heritage asset was given great weight in respect to assessment of any harm which included "less than substantial harm". Concern was raised that the Council's own Conservation Officer was in close agreement with Historic England's comments. The number of heritage assets for which harm was in the middle range of less than substantial according to our own Conservation Officer or Historic England amounted to 6. That was six very significant heritage assets suffering harm and concern was raised therefore that the public benefits were not strong enough to outweigh that harm.

The Committee noted further queries regarding the porte-cochere, being whether it was an open area for vehicles which could be seen? Additionally, was a playground area proposed to be put on top of the cinema and how high was it? Lastly, one of the speakers mentioned that 188 letters of support had been received when it was thought it was 147 letters only.

The Planning Officer, John Busher confirmed that a boutique cinema was proposed, so it was not envisaged to be a large-scale operation. The number of seats in the cinema would also need to be agreed by the applicant to set out the internal arrangements. With regard to the boilers, it was confirmed on page 127 of the Officer's report that both the commercial units and the residential apartments would be serviced by air source heat pumps with zero emissions. It was also confirmed that the porte-cochere would be located on ground level and at a commercial height, so large enough to get lorries onto site but with a screen to the street. An additional 33 letters of support had been received over the last week. With regard to the resident's area of open space, this would be based on top of the cinema and one floor up and offset by a balustrade or fence running alongside so as to protect people.

Conor Fegan, Counsel advising the Local Planning Authority also confirmed that condition 45 allowed the authority to retain some degree of control, before the cinema was brought into use for there to be a scheme setting out screening times and other measures to safeguard the living conditions of residents within the development which the cinema had to be operated in accordance with.

The Committee noted support for developing a brownfield site. Concerns were raised that the viability exercise was skewed. The developer would not proceed if such losses were envisaged on page 11 of the BNPP viability exercise. Knight Frank had underestimated the sales value. The changes to the construction costs therefore limited the number of affordable homes that could be provided. It was not completely clear what the profit share percentage was, however, if it was 50:50 then the developer was gaining funds and the Council was not receiving affordable homes and only getting 50% of the extra profit achieved. Concerns were raised regarding the effect upon air quality caused by demolishing the existing building. There was also an anticipated effect upon Shalford and Compton's local economy with construction traffic expected every 10 minutes.

The use of Shalford Bridge for construction traffic was not acceptable given it was not wide enough for a lorry and a car to pass each other. Alternatively, barges could be recommended to carry demolition materials. It was also questioned how an increase in biodiversity of 31% was achieved and how that figure had been calculated. A question was raised regarding the children's play area and how that would be segregated for children with the river? The height of the proposed buildings was also noted as a concern.

The Committee noted shared concerns raised that the proposal would create significant harm from a heritage point of view, particularly to the setting of a Grade I listed asset in the form of St. Mary's Church. Concerns were also noted regarding the viability of the scheme. A £3.8 million pound difference had been identified in the viability assessment undertaken by BNPP versus the assessment undertaken by the developer. It was noted that the developer was willing to provide 5 affordable units at a point when viability was, according to their own calculations, £3.8 million pounds less than the Council's own review had concluded. Clarification was sought regarding the development period and whether it would be as long as suggested by the applicant. A shorter development period had been identified by BNPP to significantly impact on financials, particularly in terms of cashflow assumptions but yet the developer did not provide any clarification on that point. The assessment also indicated that a scheme in this location could easily attract a premium of 5-10% which would have an impact upon the viability assessment. In addition, a very low estimated retail value for this site had been quoted despite bringing employment to a riverside location. Given the large unit sizes and inclusion of a resident's lounge in the scheme, it would suggest that a build to rent arrangement was a likely outcome and therefore an appraisal of the space on that basis should be included. It also stated that if a proposed scheme were to be assessed on the basis of the build to rent scheme for the private element, this would attract significantly lower profit levels in the region of 12.5%. Yet the applicant had a large portfolio of build to rent schemes elsewhere in the country and further clarification was sought on that point.

Further clarification was sought in paragraph 4.1, where there was reference to affordable housing. It stated that the appraisal assumed a maximum income level for the affordability which was £80,000 per annum per household income.

Mr Antony Lee (BNP Parabas) who was in attendance to advise on viability queries confirmed that with regard to household income, for shared ownership units, it was typical that Local Authorities set maximum incomes for people who qualified for the purchase of shared ownership homes. Therefore, a qualifying household would need to be earning no more than £80,000 pa and would not spend more than 40% of their net income on housing costs. With regard to the comment that the provision of 5 affordable homes by the developer was being offered when the scheme was not viable according to the applicant's own numbers was an indication that the appraisal was not accurate, such an offer was not an uncommon phenomenon. The developer would always consider whether to provide affordable housing even though there were a number of indicators that indicated it was not viable. A balance had to be struck between the numbers indicating how viable a scheme was and also wanting to secure planning consent. Planning appeal precedents had been set on this point. Developers had offered

affordable housing as part of a planning application despite the viability assessment indicating that they cannot or should not be providing that level of affordable homes.

Regarding the anticipated length of time taken to build a development, there was a duration calculator which provided an approximation of the length of time it would take to build out a scheme based on typical costs. Whilst it was possible that this scheme could be compressed into a shorter construction timescale, the fact that the UK was heading into a recession was a key issue. This would influence the speed at which properties could be sold owing to the lack of mortgage finance available. The developers therefore had to balance the speed at which they could sell the units with the speed at which they build. The faster the units were built the more quickly the developer would need to sell. The site was not in a prime retail location so restaurants and cafes would pay less rent than in other parts of the town centre. Build to rent residential schemes would be less viable than build to sale. A query was also raised in relation as to whether the viability assessment was fixed in terms of costings. Build costs did increase or reduce over time as well as sales values, therefore the viability exercise sought to predict what would happen in 2-3 years' time. Currently, there was no similar scheme of this quality to compare it to in Guildford at this time. A review mechanism was in place via the S106 to capture cost reductions and increases, but the five affordable houses were fixed into those costs via the developer's contingency plans and would not disappear according to market variations. More affordable homes could be sought by the Local Authority via a review, and this was still in negotiation with the developer.

The Committee sought further clarification regarding why a build to rent to scheme would attract a significantly lower profit margin. It was confirmed that the build to rent schemes were modelled with a lower profit margin, typically 15% GDP and also attracted a lower GDP.

Clarification was also provided by the Planning Officer, John Busher that the application did not include a bridge. The Council did not have a policy to support the provision of a bridge in this location. However, the Council had negotiated a contribution of £1 million pounds to open up the riverside so to improve access and provide pedestrian and cycle routes to the river which was also backed up by planning policies E6 and D1. Opening up Millbrook car park frontage to the river was also an option and broadening the access to the river overall was the main aim. In terms of air quality, the site would deliver an overall net reduction in traffic movements compared to the previous use. Construction traffic was anticipated but it was not known what percentage of such traffic would use the road to Shalford and could likely use the A3 too. The impact upon air quality was therefore anticipated to be temporary. Condition 27 was also in place to ensure that the construction management plan was adhered to. The County Highway Authority had not raised any issues in relation to the construction traffic using the bridge in Shalford or that it was too narrow. Despite the Environment Agency raising concerns about biodiversity, the biodiversity of the river would not be affected by the proposed scheme and a 31% increase in biodiversity was anticipated to be delivered by the development overall within the site. The pocket park would include an informal play area with some steppingstones, but it was not a children's playground next to the river and a balustrade would go along the riverbank of the entire site to make it safe.

The Committee noted comments that as part of the S106, safeguards had been put in place to ensure the landing points for a potential bridge. £1 million pounds had been allocated as well to improve access to the riverside. The Council's Park Team also requested a contribution of £218,000 towards playing field provision and £175,000 towards playspace. However, this was not being provided due to viability and affordability. Similarly, healthcare contributions had been reduced from £114,000 to £100,000. The County Highway Authority had also requested £200,000 for a contribution towards a cycling route between Guildford and Godalming and that had also been reduced to £100,000. Lastly, only five affordable homes were being provided. The cost of building an affordable studio flat was approximately £80,000 per unit. All of these things appeared to have been short-changed in the S106 contributions.

The Committee noted concerns raised that if the application was deferred it was likely that an application with more houses and less green space provision would be proposed for the site. The opening up of the riverside was welcomed and more affordable homes if possible.

The Committee also noted that whilst some of the heritage assets would be affected by the proposal this was outweighed by the advantages of replacing the existing vacant building with a much more attractive development overall. The additional shops, restaurant and cinema were seen as a great asset for Guildford's economy overall.

In response to queries raised by councillors, the Planning Officer, John Busher confirmed that the Environment Agency had originally objected to the application owing to the flood risk. However, those concerns were addressed by the applicant and had now been resolved. The Environment Agency was now satisfied that the flood risk had been adequately mitigated against both onsite and in the surrounding area. The £1 million pound contribution was not for the provision of a bridge but for improving the pedestrian access to the riverside. As set out in the report, this could include a bridge as well as connecting the riverside with the town centre which met the policies in the Local Plan. A balance had to be struck between reducing other contributions and the £1 million pounds.

The Committee noted concerns raised that it was a sensitive site and that once the proposed development was built it was irreversible and would be in situ for decades to come. The harm caused to the six heritage assets as well as the townscape harm had to be balanced against the public benefits of the scheme. The riverside walk was very attractive and noted to be of great benefit. Concerns were raised though that the riverside walk would remain in private ownership and that the management company may wish to restrict public access in the future. The number of affordable homes provided by this scheme was considered to be very disappointing given the Council already had a robust housing land supply.

The Committee again raised the issue regarding flood risk but specifically related to the flooding of the basement of the Debenham's site which was known to occur regularly. Given it was indicated on the plans that the basement area was now to be used for electric car points clarification was required on how the flood risk was being mitigated against.

The Committee received clarification from the Planning Officer, Peter Luder regarding the flood risk in the basement. In order for the Environment Agency to be satisfied, they had required the provision of automatic flood protection for the basement. The modelling that had been undertaken satisfied the Environment Agency that the flood barriers would rise at a particular level to stop the basement from flooding, so the electric plant equipment was safeguarded, which would also be assured as well by the installation of flood protection doors. Existing and future flood risks associated with climate change had also been factored into the scheme. A culvert under the riverside walk to help store water would ensure that there would not be any increase in downstream flooding as a result of the scheme.

The Planning Officer John Busher also confirmed that the overall balance and the way that harm and or benefits of the scheme were attributed was a matter for each individual committee member. Public access of the new riverside walk was also controlled via condition 13. If the applicant wished to vary the hours of access, then a new application to vary that condition would need to be made.

It was also confirmed that both the Conservation Officer and Historic England had found "less than substantial harm" both in terms of individual assets and also in terms of the cumulative harm. Therefore, paragraph 202 of the NPPF rather than 201 was applied.

Further clarification was sought from the Committee regarding the terminology used that in heritage terms it was "less than substantial harm". Those assets that were affected were in the middle range of

that category, either in the Conservation Officer's or Historic England's opinion. The balancing exercise therefore carried great weight and importance. Substantial weight was given to the heritage harm and was equivalent to the use of substantial in the normal planning balance metric.

Conor Fegan, Counsel advising the Local Planning Authority confirmed that planning officers were correct in terms of the assessment of the scheme which produced "less than substantial harm" to the heritage assets. On page 98 of the Officer's report, it stated that considerable importance and weight should be attached to any harm, so even if there was "less than substantial harm", the Committee should attach considerable importance and weight to that in the final planning balance.

The Committee noted comments that 36 out of the 42 views were not considered by planning officers to be adversely affected by the proposed development.

The Committee also noted comments regarding questioning the merits of a bridge which closed at 11:30pm at night as well as the lighting impact upon St. Mary's Terrace. A mid-stage review mechanism was also suggested for the viability appraisal so as to consider any additional affordable housing provision to offset any excess profit. It was also suggested that the additional traffic caused by the construction vehicles could be addressed by permitting barges to take construction materials to and from the site instead.

The Planning Officer, Peter Luder directed the Committee to the Urban Design Officer's conclusions on page 86 which stated that overall, the amended scheme was a balanced design response to the post-submission Design Review Panel, Officer and consultee comments. It enhanced the new and improved areas of public realm and the pedestrian environment. Regarding Millbrook, the proposal had considered the setting of the building in terms of height and massing, materials palette and detailing. The Committee was asked to bear in mind the Urban Design Officer's conclusions on his own assessment of the use. In relation to a reduction in daylight to no.4 St. Mary's Terrace, Gordon Ingram Associates (GIA) (the Council's Daylight Consultants) had identified a transgression of the BRE guidelines. GIA had advised that it was important to remember they were just guidelines, and that the situation was different in an urban environment as opposed to a suburban environment. With regard to number 3 St. Mary's Terrace, there was only one window which was adversely affected and only during the winter months. For number 4. St Mary's Terrace, two rooms were adversely affected; one was the ground floor kitchen diner which resulted in a minor adverse impact and the second was the first-floor bedroom which had a moderate adverse effect which when grouped together, was considered by industry standards, according to GIA, to have a minor adverse effect. The distance between the rear windows on numbers 3 and 4 St. Mary's Terrace and the proposed development was considerable, at between 35 to 45 metres. Number 4 St. Mary's Terrace would also face directly towards the gap between the Buildings A and B. Overall, GIA had concluded that the impact on St Mary's Terrace properties was acceptable.

The Council's Viability Advisor, Anthony Lee confirmed that a proposed late-stage review mechanism was in place and there was no reason why it was not possible to negotiate a mid-stage review.

A motion was moved and seconded to approve the application which was not carried as it was then subject to further debate.

The Committee noted a request to add to the motion, to include an early and mid-stage review. In addition, a further request was sought to add to the motion the requirement to include reference to the importance of Air Quality Management Areas (AQMA). Lastly, a query was raised regarding dissatisfaction with the S106 balance and noted there was the potential to vary the S106 balance in terms of allocating contributions. Was it therefore possible to include that as part of the recommendation?

The Legal Advisor, Delwyn Jones confirmed that the planning obligation was already well in progress, in terms of being negotiated, agreed and completed and that it should be taken to completion as it was currently set out. Once it was completed, and if necessary, and there was a case made for doing so, either side could propose a Deed of Variation. With regard to AQMA's, the Committee was referred to page 53 of the report which included a list of County Highway Informatives which was a matter for the Highway Authority to control and impose. The Committee noted that with regard to AQMA's that was incorrect and that District and Borough Council's in fact dealt with AQMA's.

The Chairman confirmed that there were now three things that needed further clarification from planning officers prior to the vote being taken; 1. Requiring an early-stage review as well as a late-stage review, 2. AQMA's and 3. Where the S106 monies should be spent.

The Planning Officer, John Busher confirmed that having a two-stage review, in principle was fine. It was not uncommon but given the size of the scheme it was a little unusual. It was requested that the Committee gave an indication of what stage the first review should be carried out, even if within a range.

The Committee suggested that the review should be based upon the model adopted by the Greater London Authority to have an early, mid and late-stage review owing to the site being located in an urban and densely populated area.

The Planning Officer, John Busher asked if the stage of review could be agreed in liaison with the Council's Viability Consultant.

The Committee stated that they wished for either an early or late-stage review that provided time to incorporate affordable housing within the development, rather than accepting a financial contribution, if it turned out the viability was there.

The Planning Officer, John Busher also confirmed that the AQMA issue could be reinforced via an informative to ensure that the applicant thought about how construction vehicles were entering and exiting the site and the use of alternative modes of transport such as barges.

Conor Fegan, Counsel advising the Local Planning Authority stated that if members were minded to change the balance of S106 contributions, this would require determination prior to a decision being made.

The Chairman, Councillor White suggested that if members did have concerns about the S106 monies that the application could be deferred to enable planning officers to have further discussions with the developers to ascertain if different calculations could be brought forward.

The Committee decided against deferring the application and agreed to proceed with the vote based upon the existing S106 contributions as laid out.

Conor Fegan, Counsel advising the Local Planning Authority also stated that comments had been made regarding the £1 million pound contribution being arbitrary and the planning officers were invited to comment that the figure had been justified in terms of reasonableness and necessity in their planning judgement.

The Planning Officer, Paul Ricketts confirmed there was not a tariff on the contribution of £1 million but planning policies were in place which supported it to enhance the riverside access for all.

A motion was moved and seconded to approve the application which was carried subject to the following:

- Securing a mid-stage (as agreed in liaison with the Council’s Viability Consultant) and late-stage viability review; and
- An additional Informative regarding Air Quality Management Areas (AQMA’s).

| RECORDED VOTE LIST | | | | |
|--------------------|------------------|----------|----------|----------|
| | COUNCILLOR | FOR | AGAINST | ABSTAIN |
| 1 | Paul Spooner | | | X |
| 2 | Jon Askew | | | X |
| 3 | Chris Barrass | X | | |
| 4 | Pauline Searle | | X | |
| 5 | Chris Blow | X | | |
| 6 | Liz Hogger | | X | |
| 7 | George Potter | | X | |
| 8 | Fiona White | | X | |
| 9 | Deborah Seabrook | X | | |
| 10 | Angela Gunning | | X | |
| 11 | Colin Cross | X | | |
| 12 | Maddy Redpath | X | | |
| 13 | Ramsey Nagaty | X | | |
| | TOTALS | 6 | 5 | 2 |

In conclusion, having taken account of the representations received in relation to the application, the Committee

RESOLVED to approve application 21/P/02232 subject to the following:

- (i) That a s.106 agreement be entered into to secure:
- Onsite affordable housing (five one bed shared ownership units);
 - Primary healthcare contribution;
 - Education contribution;
 - Management and future maintenance of all open space within the site;
 - That the Civic Square and access between the buildings (in part) remain publicly accessible in perpetuity;
 - Highways contributions for cycle improvements;
 - SANG (Suitable Alternative Natural Green Space) and SAMM (Strategic Access Management and Monitoring) contributions;
 - Safeguarding land for two potential landing points along the southern edge of the site to facilitate the potential future provision of a pedestrian bridge across the basin of the River Wey (subject to reasonable time limitations);
 - Contribution towards riverside access improvements;
As well as the following, agreed by the Committee:
 - Securing a mid-stage (as agreed in liaison with the Council’s Viability Consultant) and late-stage review; and
 - An additional informative regarding Air Quality Management Areas (AQMA’s)

If the terms of the s.106 or wording or the planning conditions are significantly amended as part of ongoing s.106 or planning condition negotiations such changes shall be agreed in consultation with the Chairman of the Planning Committee and lead Ward Member.

- (ii) That upon completion of the above, the application be determined by the Executive Head of Planning/Joint Strategic Director – Place. The recommendation is to approve planning permission, subject to conditions.

The meeting finished at 9.50 pm

Signed

Chairman

Date

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