

PLANNING COMMITTEE: 5th July 2016
DIRECTORATE: Regeneration, Enterprise and Planning
DIRECTOR: Steven Boyes

APPLICATION REF: N/2015/0479

LOCATION: Community Centre, 35 - 37 St James Mill Road

DESCRIPTION: Change of use from offices (use class B1) into Gurdwara and community centre (use class D1) including extensions and alterations

WARD: St James Ward

APPLICANT: Siri Guru Singh Saba Northampton
AGENT: Resolution Planning

REFERRED BY: Director of Regeneration, Enterprise and Planning
REASON: Of community interest

DEPARTURE: No

APPLICATION FOR DETERMINATION:

1. RECOMMENDATION

1.1 **APPROVAL** subject to the conditions as set out below and for the following reason:

The proposed development would be of benefit to the community and, subject to conditions, would have a neutral impact on flood risk, safety, the highway system, neighbour and visual amenity. The development is therefore in conformity with the requirements of the National Planning Policy Framework, Policy S10 of the West Northamptonshire Joint Core Strategy and Policies B14 and E20 of the Northampton Local Plan.

1.2 The Council is required to give the Health and Safety Executive advance notice of its intention to grant planning permission against the Health and Safety Executive's advice and to allow 21 days from that notice before issuing a decision notice. This is to enable the Health and Safety Executive to consider whether to request the Secretary of State for Communities and Local Government to call-in the application.

2. BACKGROUND

2.1 On 17th May 2016, the Planning Committee considered the planning application and resolved that they were minded to grant planning permission, and agreed that an independent assessment of the health and safety impacts of the proposed development be carried out. The report below highlights the findings of the independent assessment.

2. THE PROPOSAL

- 3.1 The applicant seeks planning permission to change the use of the property from offices to a place of worship and community centre. As part of the development, the applicant is proposing extensions to the northern and eastern elevations. A number of alterations to the various elevations of the building are also proposed.

3. SITE DESCRIPTION

- 4.1 The application site currently consists of an office building, which has been vacant since the autumn of 2012. The application site and the surrounding area are allocated as being an existing business area. The surrounding area is characterised by the presence of commercial buildings, which are generally constructed to functional designs. Of further note is that the application site is in close proximity (approximately 100m) of a fuel storage depot.
- 4.2 The site is predominantly level, with the building being surrounded by car parking and vehicle manoeuvring areas. The site is also sited within an allocated flood zone.

4. PLANNING HISTORY

- 5.1 N/2012/0012 – Community Centre including extensions and alterations (Use Class D1) – Approved but has since lapsed.

5. PLANNING POLICY

6.1 Statutory Duty

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires a planning application to be determined in accordance with the Development Plan unless material planning considerations indicate otherwise. The Development Plan for the purposes of this application comprises the adopted West Northamptonshire Joint Core Strategy (2014) and Northampton Local Plan (1997) saved policies. The Council also has a statutory duty under the Town & Country Planning (Development Management Procedure)(England) Order 2015 to consult the HSE on applications above certain thresholds and within the hazardous installations consultation zone.

6.2 National Policies

The National Planning Policy Framework (NPPF) sets out the current aims and objectives for the planning system and how these should be applied. In delivering sustainable development, decisions should have regard to the mutually dependent social, economic and environmental roles of the planning system. The NPPF should be read as one complete document.

- 6.3 Paragraph 17 emphasises the importance of good design within the planning process and the need to secure a good standard of amenity for the future occupiers of the development and surrounding properties. In addition, paragraph 35 requires the creation of developments that contribute towards safe road layouts. Paragraph 100 requires that developments are protected from inappropriate flood risk.

- 6.4 Paragraph 194 requires that Local Planning Authorities consult the appropriate bodies when determining applications, for development around major hazards.

6.5 **West Northamptonshire Joint Core Strategy (2014)**

The West Northamptonshire Joint Core Strategy (JCS) provides an up to date evidence base and considers the current Government requirements for plan making as it has been prepared in full conformity with the NPPF. Policies of particular relevance are:

S10 – Sustainable Development Principles

6.6 **Northampton Local Plan 1997 (Saved Policies)**

Due to the age of the plan, the amount of weight that can be attributed to the aims and objectives of this document are diminished, however, the following policies are material to this application:

B14 – Non-business uses

E20 – New development

6.7 **Supplementary Planning Documents**

Northamptonshire County Parking Standards SPG 2003

6.8 **National Planning Practice Guidance**

The National Planning Practice Guidance (NPPG) states that the Health and Safety Executive's (HSE) role is an advisory one and that it has no power to direct refusal of planning permission or of hazardous substances consent; however, advice from the HSE should only be overridden following the most careful consideration. The guidance states 'There may be particular issues to consider for hotels and similar developments where people may be unfamiliar with their surroundings, or which may result in a large number of people in one place.....In view of its acknowledged expertise in assessing off-site risks presented by the use of hazardous substances, any advice from the HSE that planning permission should be refused for development for ,at or near to hazardous installations or pipeline **should not be overridden without the most careful consideration**'. In instances when a Local Planning Authority is minded to approve the application, the HSE should be re-notified. This provides them with a period of time to consider the Council's proposed reasons for approval and to consider requesting that the application is 'called in' by the Secretary of State. The NPPG advises that such 'call in' powers are only used very selectively.

6. **CONSULTATIONS/ REPRESENTATIONS**

Comments received are summarised as follows:

7.1 **Environment Agency** – No objections, subject to a condition relating to the implementation of the recommendation of the submitted Flood Risk Assessment.

7.2 **Highway Authority (NCC)** – Request a condition requiring the submission of a Travel Plan. This is required due to the age of the previous document and the number of people that would be employed within the development.

7.3 **Health and Safety Executive** – Recommend that planning permission is not granted due to the proximity of the development to a fuel storage depot. Whilst it is noted that an evacuation plan has been submitted, implementation of this can degrade over time and events can happen quickly. It is the HSE's general advice that mitigation is best secured through separation distances.

- 7.4 **Northamptonshire Police Crime Prevention Design Advisor** – Make a number of recommendations regarding possible improvements to security at the site, such as door access controls.
- 7.5 **Environmental Health** – Request planning condition to be imposed regarding contamination investigation.

7. APPRAISAL

- 8.1 It is recognised that the proposed development, which is a community use, is not located within a residential area near to local communities. It is also recognised that the quantum of development proposed (being a place of worship, with a variety of other community functions) limits the likely number of buildings in such areas that could accommodate the type of development proposed in this application. It is considered appropriate to site the proposal within a more commercial area as this allows for suitable off-street car parking to be provided. In addition, the application site is reasonably close to St James Road, which is well served by public transport.
- 8.2 It is also considered that the development would be of benefit to the community and it is noted that 20 full time members of staff would be employed, in addition to a number of part time positions. Therefore the scheme would generate community and employment benefits in line with the requirements of Policy B14 of the Northampton Local Plan.
- 8.3 In addition, the application site was most recently used as offices and a canteen. The NPPF advises that such functions should be located within allocated centres in order to promote the viability and vitality of these locations. The proposal would replace a similarly non-conforming land use and, as a consequence, there would be no significant adverse impact upon the viability and vitality of the area or a significant loss of employment opportunities.
- 8.4 By reason of the character of the surrounding area and the application site, it is considered that the revised appearance of the building would have a neutral impact upon visual amenity. In order to provide some certainty of this, a condition is recommended that would ensure that the Council approves construction materials. The separation distances between the development site and the surrounding buildings, combined with the scale of the proposals is sufficient to prevent any significant loss of amenity to surrounding properties in terms of considerations such as light, outlook and privacy.
- 8.5 In line with the advice of the Highway Authority, a condition is recommended that would ensure the submission of an updated Travel Plan. This is needed as the previous document was drawn up in 2012 and due to the passage of time and the increase in the proposed number of staff working at the development.
- 8.6 In order to ensure that the development does not adversely increase flood risk on the site or elsewhere, a condition is recommended to ensure that the development is constructed in accordance with details submitted with the application. This ensures that the proposal would proceed in line with the advice of the Environment Agency.
- 8.7 The comments from Northamptonshire Police's Crime Prevention officer are noted, but it is considered that these are more related to the management of the site, rather than a land use planning matter.

Health and Safety issues

- 8.8 The control of development in the vicinity of existing hazardous sites is informed through statutory consultation with the HSE. Site specific consultation zones are specified by HSE around all sites with hazardous substance consents and consultation with the HSE on planning applications

within these zones is obligatory for all relevant development proposals such as residential development, and large retail, office or industrial developments. Consultation is also required on applications which are likely to result in an increase in the number of people working in or visiting the notified area. The Applicant has stated that the number of employees would be 20 and expects 150 people would attend Sunday events and 300 people would attend special events.

- 8.9 The site is in close proximity to a fuel storage depot, and 50% of it falls within the development proximity zone (DPZ), where the Health and Safety Executive (HSE) advises against the granting of planning permission for all but “not normally occupied” development. The HSE’s definition of ‘not normally occupied’ is no more than 3 workers to be present at any one time and the total time for people to be present not to exceed 2 hours in any 24 hours. The sensitivity level of the proposed development is categorised as sensitivity level 2. On this basis, the HSE have raised objections regarding the proposed development. It is understood that the crux of these objections is that if there were to be an incident at the fuel storage depot, there may not be sufficient time to allow for the proposed development to be evacuated.
- 8.10 Whilst the site could be returned to use as a commercial/office development without needing planning permission, and therefore would not require HSE consultation, the HSE remain concerned about the nature of the proposed community use and the fact that large events could attract visitors who are not familiar with the buildings, its surroundings and the evacuation plan, and therefore might not be able to safely evacuate the premises in an incident. Therefore the HSE have placed less weight on the evacuation plan that has been prepared by the applicant as events can develop at a fast rate. It is the advice of the HSE that mitigation is more appropriately secured through ensuring separation between various uses.
- 8.11 However, it is also important to consider, among other factors, the views expressed in Chapter 5 of the First Report of the Advisory Committee on Major Hazards (ACMH) and Chapter 4 of the Second Report of ACMH. In these reports it was stated that:
“... the siting of developments should remain a matter for planning authorities to determine, since the safety implications, however important, could not be divorced from other planning considerations.” and
“... local authorities are well placed to take proper account of the full range of local factors, including safety issues, which are relevant to a planning decision.”

When assessing the HSE advice and the potential risk to users of the facility, HSE considers the following factors when deciding whether to call applications in;

- The size of the development. Whilst the Community Centre has the potential to attract increased numbers of visitors to the facility, the previous use, as a canteen within the Use Class B1 office element of the Cosworth site, was an unrestricted use in planning terms and could have attracted significant numbers of staff and visitors in its own right. The size of the facility proposed is also not as significant as, for example, a large housing site and therefore is not of a major scale.
- The extent of occupation. The applicant has submitted details of potential use which confirms that whilst the community centre would be open every day, for the majority of the day there would be limited numbers of people on site.
- The frequency of occupation. The information submitted with the application also confirms that the occasions when the facility is likely to have significant numbers of visitors, such as weddings, are very limited.
- The scale of the hazardous substance facility. The fuel storage tanks are large, but the site as a whole is not as significant as, for example, as busy oil refinery, and therefore the potential risk is not of a major scale.

- 8.12 As with any objection, it is necessary to weigh any potential harm against the likely benefits of the development. In this instance, it is considered that the presence of an evacuation plan, which can be secured through a planning condition, carries some weight in the determination of the planning application as this provides some assurances that the proposed development would operate with strategies in place to ensure that any event at the fuel storage depot could be responded to. Furthermore, the development does provide community benefits in the form of an enlarged place of worship, with improved parking facilities when compared to the existing site operated by the applicant. In addition, the development would provide a wide range of other facilities, including classrooms, a computer room, a library and meeting rooms.
- 8.13 It is considered that weight should be given to the fact the proposed development would result in the reuse of a prominent and vacant site, creating a valuable community facility, whilst the proposed works would improve the appearance of the site, which would be beneficial to the visual amenity of the locality.
- 8.14 Therefore, on balance, it is considered that the benefits of the scheme could outweigh the concerns of the HSE and these therefore should not form a barrier to the development proceeding. However, given the technical nature of the issues raised, an independent assessment of the health and safety issues raised has been commissioned and the findings are reported below.
- 8.15 Following the consideration of this report, if members are in agreement that the proposal represents an acceptable form of development, the Council would be required to re-notify the HSE. They would then have a 21 day period to consider requesting that the application be determined by the Secretary of State, which is normally only 'in cases of exceptional concern or where important policy or safety issues are at stake (NPPG, paragraph 072).
- 8.16 As the planning condition requested by Environmental Health has previously been discharged, it is not necessary to impose such a condition in this instance.

Independent assessment of hazardous substance issues

- 8.17 The Council has commissioned an independent assessment from Amec Foster Environment and Infrastructure Limited ('Amec').
- 8.18 The report has confirmed that the approach taken by the HSE complies with the PADHI procedure, and correctly identifies that the site straddles the DPZ and inner zone, where the advice is normally to advise against development.
- 8.19 Amec have also identified that the HSE are unlikely to attach significant weight to the previous use of the building, given that the proposed use could accommodate an increase in both the number of people on site and the "type" of individuals present, including people unfamiliar with the site and its evacuation procedures, and vulnerable people, including elderly persons, staff living on site and children attending the upper floor crèche.
- 8.20 On the basis of the above, Amec conclude that as the HSE may consider the risks associated with the development to be high, and they may represent a challenge to the land Use Planning methodology they use to comment on applications of this nature, there is a significant potential for the HSE to request a Call-in.
- 8.21 However, Amec also conclude that the Council has been, and continues to seek to take a balanced view of the full range of benefits and impacts associated with the proposal, including health and safety issues associated around Major Accident Hazard sites, as well material planning considerations relating to design and community benefit.

- 8.22 Amec have encouraged further discussions with the HSE. Officers have spoken to the HSE, seeking clarification of the Call-in position, and the results of this will be reported to Committee.
- 8.23 Amec have also suggested that the scheme be redesigned, to locate the building outside the DPZ. However, they recognise that even if it could be modified, it would still be within the Inner Zone, and still be advised against. On that basis, the risk of call in could still be significant.

8. CONCLUSION

- 9.1 It is considered that, on balance, and in light of the independent assessment, the concerns raised by the HSE are outweighed by the securing an evacuation management plan and the benefits of the scheme in terms of creating an additional community facility. As the development would have a neutral impact upon the character and appearance of the area and neighbour amenity, it is considered that the development is acceptable.

10. CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

2. The development hereby permitted shall be carried out in accordance with the following approved plans: AA2093/2006; AA20093/2007; AA2093/2012; AA2093/2013; AA2093/2021; and AA2093/2022

Reason: For the avoidance of doubt and to accord with the terms of the planning application.

3. Details of all proposed external facing materials shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: In the interests of visual amenity and to ensure that the development will harmonise with its surroundings in accordance with Policy E20 of the Northampton Local Plan.

4. The premises shall be used as a place of worship and a community centre and for no other purpose (including any other purpose in Class D1 of the Town and Country Planning (Use Classes) Order 1987 or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.

Reason: In order to ensure that the impacts of alternative uses are given full consideration by the Local Planning Authority in accordance with the requirements of the National Planning Policy Framework.

5. The development hereby permitted shall only be carried out in accordance with the approved flood risk assessment (FRA) BCAL Ref. 4492R003A FRA 'revision A' dated 18 January 2012 and the following mitigation measured within it. No ground floor sleeping accommodation as shown on Drawing 10-155-03 Rev. C dated June 10 (appendix B).

Reason: to reduce the risk of flooding to the proposed development and future occupants in accordance with the requirements of the National Planning Policy Framework.

6. Prior to the first occupation of the premises hereby approved, a travel plan shall be submitted to and approved in writing by the Local Planning Authority. The plan shall be implemented at

all times that the development is occupied unless otherwise agreed in writing by the Local Planning Authority.

Reason: To reduce the reliance on the private car for journeys to work in accordance with the National Planning Policy Framework.

7. The refuse storage as shown on drawing AA2093/2022 shall be fully implemented prior to the first occupation of the development hereby permitted and shall be retained thereafter.

Reason: In the interests of amenity and to secure a satisfactory standard of development in accordance with the National Planning Policy Framework.

8. The development hereby permitted shall at all times operate in accordance with the details contained within the submitted Health and Safety Policy, dated January 2016, which shall be updated annually.

Reason: In the interests of ensuring the safety of future users of the development in accordance with the requirements of the National Planning Policy Framework.

11. BACKGROUND PAPERS

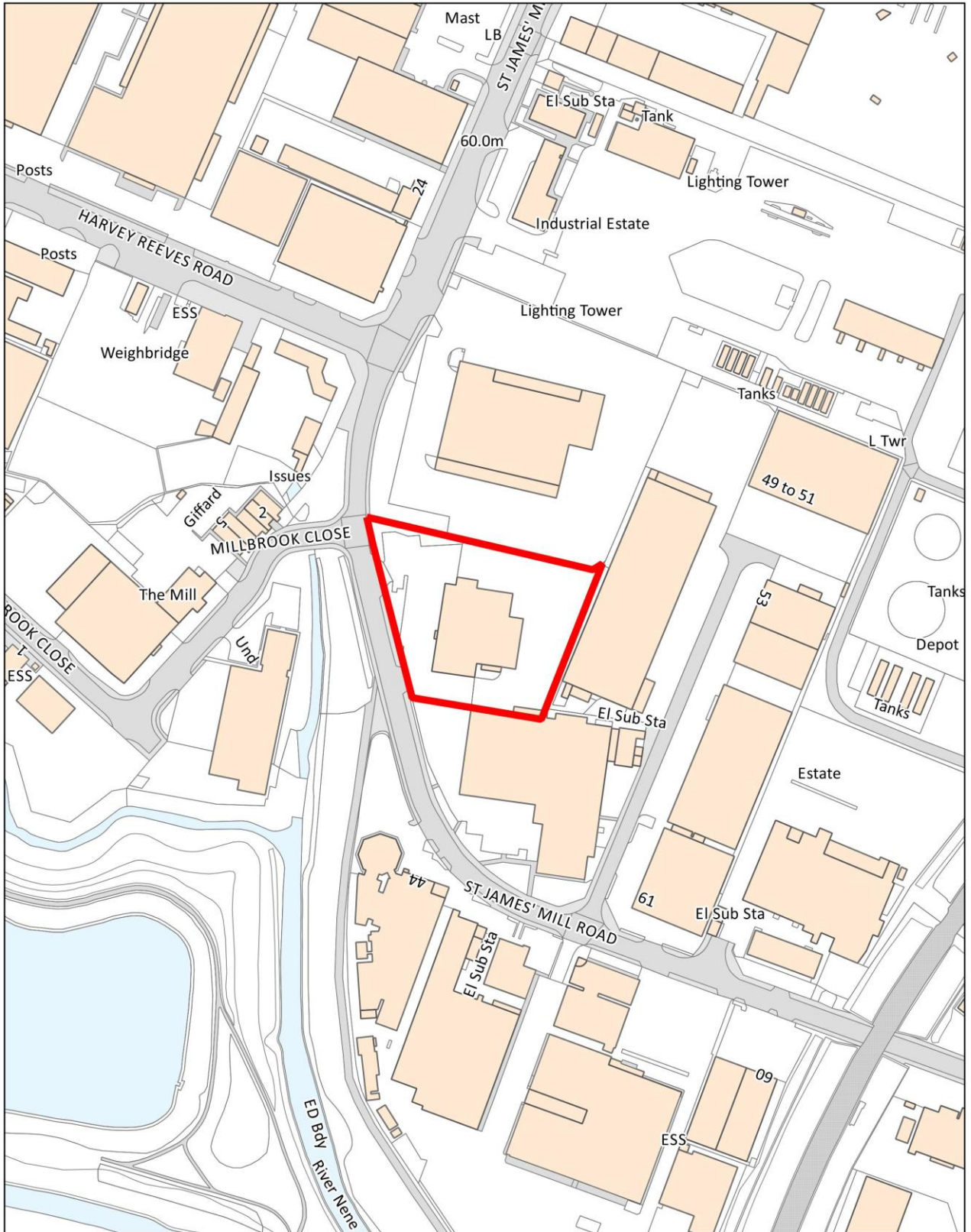
- 11.1 N/2015/0479

12. LEGAL IMPLICATIONS

- 12.1 None

13. SUMMARY AND LINKS TO CORPORATE PLAN

- 13.1 In reaching the attached recommendations regard has been given to securing the objectives, visions and priorities outlined in the Corporate Plan together with those of associated Frameworks and Strategies.



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Date: 27-06-2016

Scale: 1:2,000

Drawn by: -----