



# Strategic Planning & Environment

## Overview & Scrutiny

### Agenda

**TUESDAY 31 JANUARY 2017 AT 7.30 PM**

#### **Conference Room 2 - The Forum**

The Councillors listed below are requested to attend the above meeting, on the day and at the time and place stated, to consider the business set out in this agenda.

#### Membership

Councillor G Adshead  
Councillor Anderson (Chairman)  
Councillor Ashbourn  
Councillor Bateman  
Councillor E Collins  
Councillor Fisher  
Councillor S Hearn

Councillor Hicks  
Councillor Howard  
Councillor Matthews  
Councillor Ransley  
Councillor Riddick  
Councillor C Wyatt-Lowe (Vice-Chairman)

#### **Substitute Members:**

Councillors Birnie, Link, Ritchie, R Sutton, Timmis and Tindall

For further information, please contact Katie Mogan or Member Support

## **AGENDA**

### **1. MINUTES**

To agree the minutes of the previous meeting.

### **2. APOLOGIES FOR ABSENCE**

To receive any apologies for absence.

### **3. DECLARATIONS OF INTEREST**

To receive any declarations of interest.

### **4. PUBLIC PARTICIPATION**

**5. CONSIDERATION OF ANY MATTER REFERRED TO THE COMMITTEE IN  
RELATION TO CALL-IN**

**6. MARKYATE SURGERY** (Pages 3 - 9)

**7. LUTON AIRPORT**

A presentation will be given to the committee in relation to Luton Airport.



<b>Report for:</b>	<b>Strategic Planning and Environment Overview and Scrutiny Committee</b>
<b>Date of meeting:</b>	<b>31 January 2017</b>
<b>Part:</b>	<b>1</b>
If Part II, reason:	

<b>Title of report:</b>	<b>Markyate GP Surgery Development</b>
Contact:	Graham Sutton - Portfolio Holder, Planning and Regeneration Author/Responsible Officer: James Doe, Assistant Director Planning, Development and Regeneration
Purpose of report:	To provide background to the GP surgery development at Markyate.
Recommendations	That the report be noted. .
Corporate objectives:	<ul style="list-style-type: none"> <li>• Building strong and vibrant communities</li> <li>• Ensuring economic growth and prosperity</li> <li>• Providing good quality affordable homes, in particular for those most in need</li> </ul>
Implications:	<b>Financial</b> - None arising from this report.
Risk Implications	None arising from this report.
Equalities Implications	The redevelopment of the Hicks Road industrial estate achieved a regeneration of a dated part of the village with the delivery of new homes, business space and new community facilities.
Health And Safety Implications	None arising from this report.
Consultees:	Mark Gaynor, Corporate Director Housing and Regeneration Sara Whelan, Group Manager Development Management and Planning Adriana Livingstone, Team Leader Commercial Assets and Property Development Mark Brookes – Solicitor Christopher Gaunt – Team Leader, Legal Governance

	Philip Stanley, Specialist Services Team Leader, Development Management
Background papers:	Planning Application reference 4/01173/11/MFA
Glossary of acronyms and any other abbreviations used in this report:	HVCCG – Herts Valleys Clinical Commissioning Group

### **Background to the report**

1. The Committee requested a report on efforts to deliver a new GP surgery in Markyate following the regeneration of the Hicks Road industrial area. The report provides the background to the development as a whole, and focuses on issues surrounding the construction of new GP surgery space as part of the development.
2. The GP surgery space has been delivered but, in short, the space constructed has been deemed as not fit for purpose for use as a GP surgery without considerable modifications. The report outlines the issues related to this and points to ongoing work by Officers and Councillors to address GP surgery provision in the village.

### **The Development**

3. The Hicks Road area was a slowly degrading and low density employment industrial area between Markyate High Street (and Conservation Area) and the A5. The site is designated in the Dacorum Borough Core Strategy as Strategic Housing Site SS2, where proposals are encouraged for a comprehensive redevelopment of the site for a mixed use scheme incorporating:
  - Business, light industrial and storage and distribution units.
  - 90 residential units.
  - New GP surgery.
  - New public space.
  - Small retail units.
  - Replacement public car parking.
  - Residential care home.
4. The development was programmed for delivery very early in the Core Strategy Plan period – 2013/2014.
5. Informal pre-application discussions took place at various times in the period 2008-2011 relating to the whole SS2 site (larger than the site that eventually came forward with planning applications as one landowner, who owned a small portion of the SS2 site, did not eventually participate). For the SS2 site a Hicks Road Masterplan was devised with a view to the future comprehensive development of the area.
6. This culminated in a full application being submitted in February 2011 under ref: 4/00206/11/MFA for the current site area of 1.9 hectare. Due to significant objections raised to this scheme it was withdrawn in May 2011, followed by a series of meetings, including with ‘Shape East’, the then regional urban design agency.
7. A second full application was submitted in August 2011 under ref: 4/01173/11/MFA. This application sought:

- 75 residential units
  - New business floorspace including retention of two light industrial units
  - New surgery health centre of 344 sq. m.
  - 3 commercial units
  - New public square
  - 197 car parking spaces
8. The Surgery Manager at the existing Hicks Road GP surgery was one of numerous statutory and local consultees. No response was received from this surgery.
9. This application was heard for determination at the Development Control Committee on 15 December 2011, where Members agreed with the Officer recommendation to delegate the decision to the Group Manager for Development Management and Planning, with a view to approval subject to the signing of an accompanying s.106 Agreement. The s.106 Agreement was signed on 27 June 2012 and the Decision Notice dispatched on 4 July 2012.
10. The applicant at that stage was Zog Brownfield Ventures Limited, however on 2 January 2013 the Planning Department was informed by Weston Homes, the developer of the site, that it had completed on the acquisition of the above development site from Zog the week before Christmas 2014 and were looking to progress matters on-site at the earliest opportunity. All applications to discharge the conditions attached to the permission have been submitted by Weston Homes.

#### **Outstanding Planning issues with the development**

11. There are planning issues relating to:
- outstanding planning conditions;
  - outstanding legal agreement obligations;
  - unsuitability of the surgery space for the purpose of a doctor's surgery;
  - non-development of the DBC-owned portion of the site.
12. In terms of the **planning conditions** the following remain outstanding:
- Conditions 4 & 5 (landscaping)
  - Condition 8 (CCTV)
  - Condition 10 (Parking Management Plan)
  - Condition 13c (Contamination)
  - Condition 24/25 (Hicks Road / A5 junction).
13. In terms of these conditions, nos. 4, 5 and 10 relate to management responsibilities of the site. In terms of landscaping, concerns have also been raised by the Environment Agency in terms of the planting species that have been used.
14. The contamination condition outstanding is the final piece in that jigsaw, whilst the Hicks Road/A5 junction conditions have been made partly redundant by the Highways Agency changing its view about the need for signals.
15. Officers are progressing work to achieve the discharge of the outstanding conditions with the developer of the site.
16. In terms of the **Planning legal obligations** the following remains outstanding:

17. In terms of the legal obligations under the s.106 Agreement there has been non-compliance with the obligation in paragraph 5.1.1 of the s.106 Agreement, which sought (prior to commencement of Phase 3) a Surgery Specification to have been submitted to the Council for written approval. 'Surgery Specification' is defined within the Agreement as *'the size and internal layout of the Surgery'*. It is understood that the developer has made no effort to deliver this.
18. Phase 3 of the development, which features the new surgery space, public square and new residential properties, has been completed.
19. Whilst a 'Surgery Specification' would outline the size and internal layout of the Surgery, the developer is only obliged in terms of the planning permission and s106 agreement to provide this Specification and not to deliver it. As such it would be of more interest for the organisation delivering the Surgery to assess and detail how the available space should be laid out and fitted out.
20. There is also potential non-compliance with 5.1.3 (a) which states that no dwelling in Phase 3 can be occupied until the Surgery has been constructed in accordance with the approved Surgery Specification to Practical Completion. It must be noted, however, that the legal agreement only requires the developer to provide the surgery shell as 'Practical Completion' is defined in the Agreement as, *'the practical completion of a building such that it is built to shell and core and ready for fit out and decoration and "Practically Complete" shall be construed accordingly'*.
21. Paragraph 5.1.3 (b) has been met in that the Council has received an offer to transfer the surgery at market value. The Council has two years from the date of this offer to make a decision. This period will expire in December 2017. In accordance with paragraph 5.1.6, should the Council not take up the offer then the owner in title is released from all obligations within paragraph 5.

### **The Current Surgery in Markyate**

22. The current surgery is held under a commercial lease direct to the local GP as sole practitioner, from which the Borough Council derives an income.
23. The current building is a former house, and accommodation of the GP practice is somewhat constrained. The size of the surgery as a net internal area is:

Ground floor	736 sq ft	(68.37 m <sup>2</sup> )
First Floor	660 sq ft	(61.3 m <sup>2</sup> )
Total	1,396 sq ft	(129.67 m <sup>2</sup> )

24. The building is located in the north of the site with rights of way to the car parking spaces and, through the car park, the rest of the site. The total area of the current surgery premises is 0.42 acre.
25. DBC land in the areas also comprises a free public car park with a total of 37 spaces including 2 designated disabled spaces. Out of these 37 spaces the current surgery has 10 spaces marked out for their specific use, (although the provision in the lease is for 6 spaces reserved).

### **Suitability of the new Surgery space**

26. In terms of suitability as a doctor's surgery, concerns have been raised after the grant of planning permission. These relate to the height of the first floor space (internally),

the lack of disabled parking immediately outside of the surgery, and the shape of the ground floor and the poor relationship resulting between potential surgery / waiting rooms and the adjacent public square.

27. At the time, officers understood the 'surgery specification' to relate mainly to internal layout issues. As some of the concerns now being expressed by the health care sector relate to issues such as floor heights, parking and relationship to the public square, it is regrettable that no health care views were received on these matters at the planning application stage where they could have been addressed. These fundamentals relate to the design of the development rather than the detailed specification which was required under paragraph 5.1.1. of the s016 agreement.

#### **The DBC-owned portion of the site**

28. This has not been developed. This is a result of the developer saying that as they do not control this land, it is unable to implement the planning permission on this portion of the site. The developer has not sought to acquire the land or to enter into discussions regarding the future of this land. Officers from Planning and Property met with the developers following the grant of planning permission to discuss their intentions about the DBC part of the site and this was followed up in writing. This included the possibility of land swap arrangements.
29. This proposed access also needed a bridge over a proposed de-culverted section of the River Ver and as such future responsibilities of this bridge were also an issue.
30. It is also noted that the DBC-owned portion of the development site is meant to accommodate the pocket park, new public parking facilities and a recycling bank. This wider development benefits have not as yet been achieved due to the non-implementation of this part of the permission, though parking and recycling facilities presently exist on this land.

#### **Issues on delivery of new surgery premises**

31. A key issue is the difficulty in pursuing outstanding issues given that the original applicant for the development of the site has since gone into administration.
32. The DBC element of the site was part of the wider regeneration of the area and was included in the planning application for the scheme even though there is a protected tenancy for part of it on the current surgery premises. The Surgery tenant was a consultee as part of the process and, officers understand, was keen for additional surgery space. The expectation was that the current lease would be surrendered on the basis of that practice moving to the new surgery property that the developer/adjacent land owner was building as a planning obligation.
33. This is of course a commercial matter in terms of DBC potentially acquiring the new surgery space from the developer, and the current practice moving to it; and in turn the Council making arrangements to either re-let the current surgery premises, or redeveloping it.
34. Under the s.106 agreement DBC has a 2 year option to buy the new built shell site allocated for surgery use. A notice was served on the Council on 4<sup>th</sup> December 2015 offering them the option to take this building despite outstanding planning conditions.

35. In October 2015 Council representatives met a property representative for the current Surgery Tenant and the CCG who verbally confirmed the new built shell site in Hicks road is not suitable for their needs and the intended use.
36. As yet the Council has not formally declined nor agreed this option to take the new surgery space.
37. As a sole practitioner, the current tenant would need to secure funding direct from the NHS, and the current tenant needs to make a business case.
38. It is important to note that it is not the Council's responsibility to actually provide the new surgery and implement detailed works to make it operational. This is a matter for the Clinical Commissioning Group working with the current, or indeed another, GP practice/practitioner. DBC has a role in helping to facilitate this through both the planning process and using its land and property interests as appropriate. Critically also that any such property arrangements are financially acceptable to the Council and offer value for money to the taxpayer.
39. The CCG themselves expressed that they felt they were not fully consulted with the scheme from the outset, though there was no legal requirement for the Council to do so. That said the Doctors' practice was consulted (in accordance with DBC's policy on planning consultations) but offered no comment.
40. The NHS' financial backing for a new building is unconfirmed but at meetings they do seem supportive of the idea and they have advised that they have given the sole practitioner advice on what is needed to get approval from them.
41. Officers from both the Planning and Property services met with the CCG and NHS England in June 2016 to discuss options. The CCG advised that it needed to understand the scope of works and costs associated with converting the new surgery premises in their current shell and core state to make them fit for purpose as a GP surgery, and this could only be done through a specialist survey.
42. The DBC property service arranged for this to take place and an outline report was produced by consultant surveyors in autumn 2016. This provided an indicative cost for the work required. Whereas this cannot be reported for matters of commercial confidentiality, it is understood following informal feedback from the CCG that it considers the cost is high and may struggle to achieve funding approval from NHS England.

#### **Potential solutions to delivering a new surgery**

43. Officers from the planning and property services, with Ward Members, are continuing to liaise with the CCG about the possibility of works to make the new space fit for purpose.
44. The success of this will ultimately come down to the costs of doing so and the likelihood of NHS England funding. There is a high possibility that this will not be forthcoming, but as referred to above this is a matter for the NHS to resolve.
45. Critical to this is the expiry of the option that DBC has to acquire the space, which is in December 2017. If this does not take place, the owner of the building can then dispose of the space to another party. Planning permission would have to be sought and obtained for an alternative use. New or improved surgery provision on the DBC

land is a corporate property matter and therefore outside of the terms of reference of this Committee. However it is helpful to outline some of the issues.

46. The options would appear to be either: improvements to the current surgery premises; development of a new surgery on the wider DBC land including the public car park; or redevelopment of the current surgery on the plot in which it stands.
47. The risk with the option of redeveloping the DBC site is that there would be a loss of village centre free parking provision both on a short term basis while the scheme is being developed and then there would be a long term impacts.
48. There would be a need for continuity of using the existing surgery site given the service this use provides so any development would need to be elsewhere on the site with the current building being demolished at a later date.
49. If the Council decided to redevelop its land asset, it would need to decide if there are outstanding elements of the current 2012 planning consent. For example, it includes the provision of a play area, recycling area, replacement parking. S106 funds have been received for the play area and that will need to be spent, or allocated to another play area locally.

#### **Next Steps**

50. In terms of the outstanding planning matters, Officers are following up on the discharge of the current planning conditions with the developer.
51. Regarding the more substantive issues on the surgery, work is ongoing to arrive at a satisfactory and workable solution.
52. Officers will need to meet with the CCG shortly on both the new surgery space as built to resolve whether the necessary works are achievable in funding terms, and to discuss options on the current practice site and the wider DBC land.