

The removal of planning conditions is something that should only be done with great care and scrutiny particularly when they relate to a large scale permission in a recognised sensitive location. The report today is devoid of detail of your officers reasoning.

Government Circular 11/95 concerns conditions and says “a condition ought not to be imposed unless there is a definite need for it.”

Conversely a condition should not be removed unless there is a definite need to do so. The material considerations that were extant when this matter was first considered have not changed. Indeed in respect of the volume of traffic through Shotley and the safety of residents it has deteriorated sharply. 2 months ago there was another road traffic fatality. Bristol Hill is essentially a single lane due to parking on the road on the north side and the area around the Bristol Arms is at capacity from visitors and bus turning.

Shotley Parish Plan which should be viewed as supplementary planning guidance places road safety at the top of our agenda for action. The applicant has not been asked for a Traffic Impact Assessment and the observations of County Highways are at best cursory and offer no view on the impact of the construction traffic on the locality.

The trip estimations are for peak AM only; the 24 hour trip rates will be in excess of 490 plus 80 or so for the development at the boatyard. The requirement to hold a berth at the marina may well lessen the impact but only if the new home owners are existing berthholders. The new homeowners will also be commuters as there is no employment obligation with the current permission. It was your view when this matter was first determined that the unimproved road and Bristol Hill could not cope with construction traffic and nothing material has changed.

Para 42 of the guidance says “An unreasonable condition does not become reasonable because an applicant suggests it or consents to its terms.” And again the converse must be true: a reasonable condition cannot suddenly become unreasonable simply because the applicant has decided they do not like it or has been unable to deliver. The time and place to have done that was when the consent was granted by means of appeal.

The guidance is clear about what needs to be considered when a third party, in this case Haylink can in effect veto the development. Effectively it says that this is not a material

consideration. It is for the applicant not the planning authority to ensure that all actions to effect the development can be carried out. Even where a s106 agreement to be agreed between Babergh and the Marina it would be ineffectual if the work to complete the new access road will not start until the completion of the development, if Haylink and the Marina are unable to resolve their differences. Again the guidance is clear "Such difficulties can usually be avoided by framing the condition so as to require that the development authorised by the permission should not commence until the access has been constructed" Para 28

The condition may well be unlawful if there was no prospect of the parties agreeing to co-operate. This would only occur if the condition would seriously damage the interests of one of the parties. That is not the case here. Haylink and the Marina will make substantial sums from the developments. One cannot help but wonder that this application alongside the Marina's letter to the Ganges Inquiry stating that they do not need to co-operate with Haylink as they can effect there plans without them, is a ransom device. Haylink themselves certainly seem to think so. Should the Inquiry reject the Haylink application a material change will have occurred and the marina can and should re-visit the problem at that point in consultation with the local community.

Should you be minded to agree the recommendation the Marina may well stop one unit short of the seventy leaving the possibility of no improved road or the new access road. We do not believe that "to secure satisfactory access" meets the test of "precision" and is compounded by the absence of detail about Bristol Hill.

Finally we do support the proposed improvements to King Edward VII Drive. We would have liked to have seen an assessment that the designs are fit for purpose from the Highways Authority. More importantly we are very concerned that the application is not being considered separately. We have had assurances from the Marina that the work is required irrespective of the housing development. Presented in this way it is open to the allegation that planning permission can be bought. We would urge the committee to consider both applications on their own merits and not as the reward for repealing the conditions.

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