

Decision under Delegated Powers

Officer Requesting Decision

Principal Planning Officer

Officer Making the Decision

Head of Planning and Growth

Recommendation

That the second reason for refusal of planning application P/21/1105/2 in respect of residential development at Loughborough Road, Burton on the Wolds be amended to remove a reference to Prestwold Hall.

Reasons

To ensure that the reason for refusal reflects the advice of the Heritage officer and Counsel.

Authority for Decision

Delegation of Council functions - Section 8.2 of the Constitution states that the Chief Executive, Strategic Directors and Heads of Service can take such action as is required in the case of an emergency or urgency subject to:

- (i) consultation with the Mayor, the Chair of the relevant committee, or, in the Chair's absence, the Vice-Chair;
- (ii) consultation with the Chief Executive and relevant Strategic Directors in each case; and
- (iii) a report on the action taken being made to the next meeting of the Council or relevant committee, as appropriate.

Decision and Date



21 April 2023

Background

Planning application P/21/1105/2, by Jelson Homes Ltd had been recommended for approval to the Plans Committee on 24th August 2022. The Committee took a different view, and permission was refused, with two reasons for refusal. One of those reasons, in part addressed:

“...less than substantial harm to the significance of the surrounding heritage assets Prestwold Hall, Prestwold Registered Gardens and 32-34 Field House, which have a strong historic relationship to the site, by virtue of development within and harmful to their setting.”

It appears that the reference to Prestwold Hall was a minuting error. It was not identified in the report, or discussed in the debate, nor in the motion made to refuse planning permission, against the officer recommendation. The full title of the registered parkland is “Prestwold Hall Park and Gardens”. It appears as though the minuting resulted in that combined title becoming two heritage assets on the decision notice, along with 32-34 Field House.

During preparation for the planning appeal the Council has taken advice from a barrister, Mr Howard Leithead BL of No.5 Chambers, together with internal and external experts. The view of the Council’s heritage expert is that the part of the Reason for Refusal, which refers to Prestwold Hall, cannot be defended. The barrister advises the Council that in such circumstances there is a significant risk of a cost award being made against the Council.

It is therefore proposed that the wording be changed to read:

“...less than substantial harm to the significance of the surrounding heritage assets Prestwold Registered Gardens and 32-34 Field House, which have a strong historic relationship to the site, by virtue of development within and harmful to their setting.”

The only difference is the removal of “Prestwold Hall” from the reason for refusal.

Ordinarily such a change would require the consideration and approval of the Plans Committee. However, the Statement of Case in respect of the planning appeal is due to be submitted by the end of the day on Friday 21st April. The officers preparing the Council’s case will need some time before that date to make any changes arising from this decision to their submission documents, and to advise the appellant as early as possible.

The current circumstances are such that an urgent decision is required and the use of delegated powers are therefore appropriate. In accordance with the Constitution, the required consultation has been undertaken and the matter will be reported to the next meeting of the Plans Committee when these are able to resume.

Consultation with the Mayor, the Chair of the relevant Committee, or in their absence, the Vice Chair

Both the Mayor and Vice Chair of the Plans Committee (in lieu of the Chair) were consulted on 20th April 2023 and supported the proposal and had no further comments or observations.

Consultation with Chief Executive and relevant Director

The Chief Executive and the Director of Customer Experience were consulted on 21st April 2023 and supported the proposal and had no further comments or observations

Financial Implications

There is some likelihood that the appellant will make a cost claim if the requested change is not agreed. There is a higher value cost risk, as well as diminution of credibility of the Council's case to the Inspectorate, if this change to the reason for refusal is not made

Risk Management

No specific risks have been identified with this report.

Background Papers: Contained in the planning file for ref: P/21/1105/2