

PLANNING COMMITTEE

Date: 16 July 2014

Schedule of Committee Updates/Additional Representations

Note: The following schedule represents a summary of the additional representations received following the publication of the agenda and received up to midday on the day before the Committee meeting where they raise new and relevant material planning considerations.

SCHEDULE OF COMMITTEE UPDATES

P132028/F - DEMOLITION OF EXISTING BUILDINGS AND ERECTION OF A CLASS A1 RETAIL FOODSTORE, CAR PARKING, NEW ACCESS ROAD, LANDSCAPING ASSOCIATED WORKS AND CHANGE OF USE OF OVERROSS GARAGE SHOWROOM BUILDING TO CLASS D2 AT LAND AT OVER ROSS STREET, ROSS-ON-WYE, HEREFORDSHIRE

For: Tesco Stores Limited per DPP Sophia House, 28 Cathedral Road, Cardiff, CF11 9LJ

ADDITIONAL REPRESENTATIONS

The applicant's agent has noted that the description of the proposal has incorrectly described the proposed change of use of Overross Garage to a meeting hall for the Sea Cadets as D2 whereas it is in fact sui generis.

Further correspondence has also been received and is re-produced below:

It is both surprising and disappointing that nowhere in the description of the proposal (Paragraphs 1.6-1.9) or in either the Economic Development Managers Comments (paragraph 4.14) or the Officer's Appraisal (Paragraph 6.5) is there any reference to the 175 full time equivalent jobs that would be created by the Tesco proposal. This represents a serious omission, as does the lack of any reference in the report to the very sharp contrast with the current 20 full-time equivalent on-site jobs. Furthermore, nowhere in the Report are Members advised of Tesco's commitment to recruit locally, wherever possible. In order for Members to undertake the necessary planning balance, it is essential that they are fully and properly advised of the economic benefits associated with Tesco's proposal. The report demonstrably fails in this very important respect and therefore there is an urgent need to remedy this serious shortcoming.

Paragraph 2.1 focuses on the National Planning Policy Framework ("NPPF") but nowhere in this synopsis is there any reference to the relevant provisions in the national guidance which encourage LPA's to "work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area". We feel very strongly that since late January this year, when the first and only meeting was held with you as case officer, our many requests to meet with relevant officers in order to discuss both technical issues and Section 106 matters, have been denied. Furthermore, where we have been provided with objections and copies of advice provided to the Council, we have rarely been provided with copies of the relevant responses in advance of the Committee Report's publication. We do not feel, therefore, that officers have acted positively and proactively in progressing Tesco's regeneration proposal, contrary to the NPPF's advice. I would add that Ward Members are aware of our continued frustration at attempting but failing to engage with relevant Officers

Paragraph 4.14 refers to one former business that has moved from Ross and consolidated its operation in Gloucester. For the avoidance of doubt, this business' representation in Ross was restricted to a single part-time position and the parent company recently decided to consolidate its business operation in Gloucester where its main business operation is based. The reference that "businesses are also looking at locations outside of the County",

should appropriately be seen in this light. This Paragraph also states that no information has been supplied by DPP concerning the relocation plans of the remaining eight businesses on site. This is simply because the businesses, which provide just 20 full time equivalent jobs, are keeping their options open and have yet to decide if, and to where, they wish to relocate. I can confirm that relocation, should it be necessary, is not seen as presenting a difficulty.

Paragraphs 5.1 – 5.10 set out the representations both ‘against’ and ‘for’ the application. However, whereas the objections submitted on behalf of Morrisons and The Maltings are presented in some detail, namely 26 bullet points, none of the detailed rebuttal to these objections provided by DPP is presented to the Planning Committee. This represents a serious omission which effectively means that Members have not been provided with the relevant information they require in order to undertake the planning balance. I would add that nowhere in Paragraph 5.10 “Economic Factors”, which is a synopsis of two of our most recent written submissions, is there any material relating to our rebuttals of the aforementioned objections. The Report is, therefore, demonstrably unbalanced in this important respect, and Members should be advised of this serious concern raised on behalf of the applicant.

Paragraph 6.1 lists the matters on which Deloitte’s advice was sought by the Council. The Report omits any reference to our written submissions which challenge the extent to which Deloitte have fully and properly advised on these matters. For example, nowhere in the advice provided do Deloitte identify “the degree to which Morrisons is overtrading and the likely scale of trade diversion from it and other town centre units”. Similarly, and cause for even greater concern, Deloitte do not provide any estimate whatsoever of the level of trading impact they consider the proposal will have on the town centre. This falls seriously far short of the requirement to provide clear and compelling evidence of a significant adverse effect, the relevant NPPF test.

Whilst Paragraph 6.2 sets out Deloitte’s 2012 retail capacity estimates, nowhere in the Report is there any reference to our Retail Capacity Note provided to Officers in February 2014 which, inter alia, highlights several serious shortcomings in the Deloitte assessment. This too is a material consideration which Members have not been advised of.

Paragraph 6.2 also contends that “the applicant has not satisfactorily explained why a lower (turnover) figure has been used”. This is plainly wrong, as we have provided in at least two written submissions, a reasoned justification for our turnover estimate, which is endorsed by Tesco. With regard to the contrasting forecast turnovers of the two proposed Tesco stores at Ross and Bromyard, major factors determining the former are the ‘head to head’ competition with the adjacent Morrisons store and the likely effect of the Asda store at Cinderford.

Paragraph 6.2 also questions our turnover estimate for Morrisons and, by inference, our Sainsbury’s estimate. Members should be advised that consultants acting for Morrisons have not challenged our turnover estimate. Members should also be advised that HOW Planning act on behalf of The Maltings and not Sainsbury’s. Furthermore, HOW’s submission in this regard is hearsay and no written substantive evidence has been provided to counter our turnover estimate that is derived from the independent household survey.

Paragraph 6.2 refers to Deloitte’s concern that DPP has not considered the likely trading consequences of the two consented Asda stores at Cinderford and Lydney. This is incorrect and it is essential that this error is rectified and Members advised accordingly. Our submitted retail assessment expressly refers to the potential impact of the Cinderford store on Morrisons, noting that should the Morrisons store face competition from both Tesco in Ross and Asda in Cinderford, its post-impact turnover would be further reduced to a level broadly comparable to that of the new Tesco store. Furthermore, as the Lydney store is widely acknowledged as serving a more remote, different catchment, it would not be likely to

materially affect expenditure flows to stores within Ross town centre, as evidenced by the shopping patterns identified by the relevant household survey findings.

Perhaps our greatest concern with Paragraph 6.2 is the reference to “the shortcomings identified by Deloitte and others in the accuracy of the (DPP) retail assessment cast significant doubts over its projected impacts on the town centre”. As indicated above, we have robustly responded to the objections submitted by third parties and the advice given by Deloitte to the Council, but nowhere in the report is there any reference to our written rebuttals. This represents a serious omission, and we would challenge Officers to clearly state what the inaccuracies are in our retail assessment and advise Members accordingly. Furthermore, it is essential that Officers identify which of our assumptions, for which we have provided justification, they are challenging. It is simply not sufficient to reject an assumption without providing a reasoned justification. Moreover, as Officers consider our estimated impact levels to be too low, what level of unacceptable impact have they identified that would warrant setting aside the ‘presumption in favour’ embodied in the NPPF and withholding planning permission? It is essential in our view that Members are clearly advised as to the level of impact Officers believe the Tesco proposal would have on Ross town centre.

Paragraph 6.2 advises Members that the two new Asda stores in the Forest of Dean “will undoubtedly reduce the amount of trade” attracted to the town centre and, as a consequence, local residents’ expenditure will be spread more thinly. This in turn is seen as reducing the profitability of all convenience retailers in the town centre, particularly the smaller independent retailers which are seen as being less able to absorb such loss of profitability. Importantly, this unquantified loss of trade is equated to a “significant adverse effect”. Neither Deloitte nor the Officers have considered the relevant household survey findings and how much trade they believe the two Asda stores would attract from Ross town centre. The key issue for Members is not whether a store in the Forest of Dean would divert trade from Ross, but how much trade would be likely to be lost and by whom, and what would be the likely effect based on evidence “on the ground” of the centre’s vitality and viability? Furthermore, a reduction in turnover/profitability does not equate to a “significant adverse effect” and, importantly, no evidence whatsoever is presented to Members to support the Report’s inference that small independent stores will close because of their inability to absorb an unquantified trade loss that Deloitte and Officers believe would arise. The conclusion and advice to Members that “the proposal would have a significant detrimental effect on the vitality and viability of the town centre” is not substantiated by any evidence whatsoever and therefore cannot be relied upon as a sound and compelling basis for a refusal of planning permission. Moreover, nowhere in the Report is there any evidence that either Deloitte or the Officers have undertaken any kind of ‘health check’ of the town centre as a pre-requisite to assessing the likely effect of the proposed store. This too represents a serious omission and, as such, Members have not been provided with any evidence whatsoever regarding the current ‘health’ of the town centre, a very important material consideration in any planning balance of a proposal’s likely impact. I would add that nowhere in the Report is there any suggestion that the Tesco proposal would materially harm the town centre’s comparison goods retailers. This is also an important material consideration which Members should be advised of accordingly.

In Paragraph 6.3, which addresses sequential testing, Members are advised that “pedestrians would be required to navigate a busy road junction....and at some point cross the steep railway embankment that runs along the southern boundary of the site”. This is potentially very misleading for Members. No mention is made in Paragraph 6.3 of our proposed pedestrian crossing on Millpond Street, which would facilitate safe and convenient pedestrian movement. Furthermore, the proposed pedestrian link will not require pedestrians to cross the steep railway embankment, which clearly implies major and inconvenient changes in levels that would militate against the route being used. Members should be properly advised to this effect and, moreover, that the pedestrian link construction will comply with both Part M and Part K of the relevant Building Regulations. It should also be

noted that the proposals were amended at pre-application stage in specific response to Officer recommendations of the preferred pedestrian link route.

In Paragraph 6.4, which addresses linked shopping trips, Tesco's willingness to accept a planning restriction on in-store "ancillary uses" is simply set aside and afforded no weight whatsoever in the planning balance. This has previously been identified by third parties and Officers as a material consideration, which has not been properly and reasonably presented to Members.

In Paragraph 6.4 Members are advised that because there is no visual link between the site and the town centre, this represents a significant constraint that will limit linked shopping trips because "pedestrians will have no perception of the necessary walking distance". The vast majority of local residents clearly know the site's location relative to the town centre and, for those that do not initially, there would be appropriate signage. The advice presented to Members is misleading and, moreover, it is seriously at odds with the advice provided to the Council in which Deloitte confirm that any loss of linked shopping arising from Morrisons shoppers switching to Tesco, will be offset by new linked trips to the town centre associated with new shoppers attracted to Ross by the Tesco store. This clearly demonstrates that Deloitte believe the Tesco store is capable of generating a substantial number of new linked shopping trips with associated spin-off economic benefits for the town centre. This is a very important acknowledgement which should be reported to the Planning Committee. Importantly, however, this represents an under estimate of likely linked shopping trips as Deloitte's view is predicated on Morrisons shoppers who currently link trip and who switch to Tesco, not undertaking any linked shopping whatsoever following their switch. Common sense dictates that this is unrealistic and, as such, one could reasonably expect a net gain in linked shopping trips. The above view expressed by Deloitte is an important material consideration that Members should be advised of. We have identified a number of serious shortcomings in the Committee report presented to Members to assist them in their determination of Tesco's major inward investment and development proposal. It is essential that Members are properly informed in relation to these important material considerations and, as such, we trust that you will respond fully to the points raised and advise Members accordingly.

Further correspondence has been received from Peacock and Smith Planning Consultants on behalf of Morrisons. They reiterate their concerns about the retail impacts of the development. They consider that the reduction in the convenience turnover of the town of £2.58m; which equates to a 12.1% impact, is high. They also consider that the £11.67m or 32.1% impact on their clients business is similarly high and that the result will be to significantly reduce footfall in the town centre to the detriment of its vitality and viability.

A further response has been received from the Council's Transportation Manager which refers specifically to the methodology used by the applicant's highway consultant to calculate the S106 contributions. The methodology is acceptable, except for the amount of transferred trips from Morrisons and Sainsburys, and the Aldi that is currently under construction. The methodology uses a 72% discount.

It is recognised the store will generate 7,264 vehicle movements and, with a calculation based on 28% new trips the applicant's highway consultant proposes a S106 contribution for highway improvements of £225,000.

However, the Transport Assessment suggests that only 39% of trips will be transferred from the existing stores. Taking this figure into the calculation will equate to £704,030.

Without a sound, logical rationale for a 72% discount rate, the Council's Transportation Manager recommends that the figure in the Transport Assessment is used to calculate S106 contributions.

The schemes identified for inclusion in the S106 are:

- Traffic Calming and improvements to Alton Street, Kent Avenue and Walford Road to mitigate additional traffic in peak times
- As 6.2.6 of the TA upgrade of public rights of way in the vicinity of the store
- Improvements to the public transport service
- Due to the additional traffic in the vicinity of the site, provide a cycle / footway NW of Ledbury Road
- Infrastructure improvements not covered by the Section 278, to include dropped crossings, and improvements on Brampton Street

Three additional letters of representation have been received. The matters raised reflect those outlined in the officer's report and do not give rise to any new issues that have not previously been covered.

Three additional letters of support have been received, but again no new issues are raised to those outlined in the officer's report.

Correspondence has also been received from The Ross Town Plan Progress Group outlining their ideas for the uses of monies accrued through the completion of a Section 106 Agreement should planning permission be granted. These include funding for a Town Centre Manager, affordable housing, a cinema and investment in a community building.

OFFICER COMMENTS

The description of the proposal is amended in accordance with the applicant's agents comments. The proposed change of use of the garage is not a crucial matter in the determination of the application. No objections have been raised in this regard and it is not considered that the description of the use by the Sea Cadets as D2 under the Use Classes Order has in any way prejudiced the determination of the application.

With regard to the most recent submission made by the applicant's agent, your officers are content that the level of information contained within the report is sufficient for the Planning Committee to make a balanced and rational assessment of the proposal. The retail assessment submitted with the application has been independently reviewed by Deloitte; their remit was not to provide a further retail assessment of the proposal. Their advice is clear:

Despite its relative health, there can be no doubt that Ross-on-Wye is vulnerable to the changes in retailing that are taking place and to which we have referred in the DJD Study 2012. We therefore have concerns that introduction of a second large foodstore in Ross-on-Wye of the size proposed outside the town centre could significantly undermine the shopping role and function of the town centre.

NO CHANGE TO RECOMMENDATION

P141526/O - PROPOSED RESIDENTIAL DEVELOPMENT (UP TO 110 DWELLINGS), ACCESS, PARKING, PUBLIC OPEN SPACE WITH PLAY FACILITIES AND LANDSCAPING AT LAND SOUTH OF HAMPTON DENE ROAD, HEREFORD

For: Gladman Developments Ltd per Planning Prospects Limited, 4 Mill Pool, Nash Lane, Belbroughton, Worcestershire DY9 9AF

**ADDITIONAL REPRESENTATIONS
S106 Contributions**

The report identifies contributions falling into three broad subject headings:

- 1) Education
- 2) Off-site highway improvements
- 3) Off-site play

A level of contribution has now been agreed for all three.

1) Education

A contribution of **£277,000** has been agreed towards primary and secondary schools, to be spent according to need at the time. The primary schools are Mordiford, St Pauls and Hampton Dene. The secondary is Bishops.

2) Off-site highway improvements

A contribution of **£250,000** has been agreed towards off-site highway improvements. This is a change in the approach as set out in the Committee Report whereby the developers were to assume responsibility for delivering the three projects identified at 6.32 of the report. It is now intended that the applicant contribute £250,000 for expenditure towards these and other localised highway improvement projects to be spent in accordance with a prioritisation scheme drawn up with Ward and adjoining Member and Highway Authority input.

3) Off-site play

As per the report a contribution of **£68,460** towards off site sports pitch provision has been agreed. This was identified for expenditure at Aylestone Park. It has now been agreed that a degree of flexibility can be included in the S106 to allow for a proportion of the money to be directed to the Quarry Recreation Area, which is more local to the application site.

The overall contribution would amount to circa £600,000, which is a significant contribution when one considers that the scheme would also deliver 35% affordable housing.

Transportation Manager – Accident Record update

The amended Transport Assessment has not updated the 5 year accident history for Hampton Dene Road to cover the period to 31 March 2014.

Since submission there have been two further personal injury accidents in the length referred, both at Church Road roundabout - one slight in 2013, the other in April this year sadly fatal.

In respect of the likely impact of the proposed development upon this particular junction, the proportionate increase in total traffic inflow at the roundabout in the 2019 AM peak is 10 vehicles as compared to an overall junction inflow of 805 vehicles, equating to a small percentage increase (1.2%) and on average one vehicle every 6 minutes. In the 2019 PM peak the development figure is 11 of an overall inflow of 512, equating to 2.1% of the total inflow. It is not considered that this will have a material impact on the operation of the roundabout.

As confirmed in respect of the previous application, the transportation impact is considered acceptable and my recommendation is for approval subject to conditions.

The applicant has provided a rebuttal to the Conservation Manager's comments in relation to the impact of the development on the setting of the Grade II listed Meadow Cottage and the unregistered parkland associated with Hampton Dene House. These are reproduced below.

Impact on Meadow Cottage

The special interest of Meadow Cottage largely arises through its construction, the style of which is largely characteristic of this part of the country. The CgMs assessment recognises that the proposed development would alter the wider setting of Meadow Cottage. However, based on the English Heritage guidance "the Setting of Heritage Assets" (2011), the assessment concluded that the application site is not considered to be an essential or particularly significant element of the listed buildings setting, and the house will remain embedded within the small woodland, which forms the dominant component of its setting. The view from the application site towards Meadow Cottage is not considered an important part of the setting of Meadow Cottage. We remain of the view that the proposed development would not materially affect the setting or significance of this listed building.

Hampton Dene Landscape Park

Cartographic evidence shows that the northern section of the application site did not form part of the formal or landscaped gardens of Hampton Dene House, but represented an element of its landscape park. By 1928, this area has clearly been segregated from the principle garden of Hampton Dene House. The southern boundary of this former landscape park was removed sometime after 1928 and was absorbed into the surrounding agricultural landscape. There are no surviving or visible attributes associated with this landscape park which would have been a minimally managed area of open ground. There are no significant remains of this park or indeed the site's physical former association with Hampton Dene. This asset is of local significance and its former association with Hampton Dene is no longer evident. Rather, it simply forms part of the agricultural land to the south of the house. As such, we remain of the view that there will be no material harm to the significance of this asset.

OFFICER COMMENTS

The principal amendments when compared against the scheme now at appeal are a reduction in the number of dwellings from 120 to 110 and enhanced landscaping on the eastern boundary against the Lugg Meadows.

Since the publication of the report, however, significant progress has been made towards finalising the terms of the S106 agreement, such that the overall contribution is in the region of £600,000. This, alongside the contribution that the scheme makes towards the provision

of affordable housing and a wider breadth of open market housing, is a significant material consideration to be weighed in exercising the planning balance.

It is envisaged that the contribution towards off-site highway improvements could be used, in part at least, to more effectively manage school traffic on Hampton Dene Road.

NO CHANGE TO RECOMMENDATION

Due to the change in approach to the delivery of off-site highway improvements proposed condition 10 can now be deleted. Otherwise, with regard to the published report and the foregoing update, there is no change to the recommendation.

**P141155/F - PROPOSED SINGLE STOREY DWELLING WITH
DETACHED DOUBLE GARAGE AT LAND ADJ STONE HOUSE,
BROMYARD ROAD, RIDGEWAY CROSS, CRADLEY, WR13
5JN**

**For: Mr & Mrs Cross per The PageSwinford Partnership,
Bodkin Hall, Edwyn Ralph, Bromyard, Herefordshire, HR7
4LU**

ADDITIONAL REPRESENTATIONS

Cradley Parish Council makes the following comments –

In principle the Parish Council approve of the idea of a house being built on the site, but are very unhappy about the proposed design.

OFFICER COMMENTS

The Report sets out Officers' appraisal of the unacceptability of the application site for residential development in accordance with local and national planning policies and sustainable development aims and objectives, however the Parish Council's comments regarding design reinforce Officers' position and application of relevant design policies in the local plan and NPPF.

NO CHANGE TO RECOMMENDATION

P141369/F - PROPOSED REMOVAL OF CONDITIONS 6 AND 7 AND VARIATION OF CONDITION 8 OF PLANNING PERMISSION DMS/110566/F (DEMOLITION OF EXISTING BUNGALOW AND ERECTION OF NEW BUNGALOW AND GARAGE BLOCK, CONSTRUCTION OF DRIVE AREA AND LANDSCAPING) AND S/112561/F (MINOR MATERIAL AMENDMENT TO APPROVAL NUMBER DMS/110566/F. ENLARGE GARAGE BLOCK TO PROVIDE AREA FOR GROUND SOURCE HEAT PUMP EQUIPMENT) TO ALLOW REMOVAL OF YEW TREE AND TO FACILITATE EXCAVATION, CONSOLIDATION, SURFACING, TARMAC AREA AND DRAINAGE OF THE AT LODGE BUNGALOW, LUGWARDINE, HEREFORDSHIRE, HR1 4AE

For: Mr & Mrs Mason Middle Court, Lugwardine, Hereford, Herefordshire HR1 4AE

ADDITIONAL REPRESENTATIONS

One further email has been received from Mr Wilson, a Lugwardine Parish Councillor:

Having had the opportunity to read your report on the above application, I would be grateful if you would address the following inaccuracies through the update for committee members please:

1. Para 1.4 According to the Planning Inspectorate's report the appeal was dismissed in 2013 not 2012. (See para 3.1)
2. Para 4.2, sub-section "Background" 2nd para, How can the Conservation Manager state that "it is considered that the tree is a feature of the **vestigial parkland** associated with Lugwardine Court and as such has historic landscape value", when it is the only conifer in evidence in the parkland. The parkland is otherwise totally broad leaved. It is more likely to be a tree from rogue seed carried from the Churchyard not far away.
3. Para 4.2, sub-section "Background" 4th para, How can the Conservation Manager state that the yew was a **SITE** feature when the Planning Officer had stated, on the 18th April 2011, on behalf of the Council that the yew was not on Highways land and was **OUTSIDE** the application boundary on land of an unknown owner?
4. Para 4.2, sub-section "Assessment of the reasons....." – Reason 3 How can the Conservation Manager state that this is not relevant?... in para 83 there is a clear exception that states "*The authority's consent is not required for carrying out work on trees subject to an Order so far as such work is necessary to implement a full planning permission*"
5. Para 6.4 The first temporary TPO was served on 25th May 2011 and lapsed on 24th Nov 2011 through lack of action, save that of the Conservation section

informing the applicant that he was in a Conservation Area! The Conservation Area lies on the far side of the School playing fields. A second temporary TPO was served on 10th December 2011 and again through lack of action lapsed on 9th Jun 2012. The TPO was eventually confirmed on 19th June 2012. The TPO and appeal decision are not “material considerations” as they apply to a tree outside the application site boundary that the conditions apply to and the TPO was only put in place **AFTER** the application was approved.

6. Para 6.7 It is very obvious that, without “*evidence from a suitably qualified consultant*”, a tree with an 8m crown will have a root protection area across the full 4m width of the drive. Thus condition 8c & d preclude the access for the construction of the drive & access of equipment and vehicles to do all of the site ground work. The 3 conditions conflict with each other.
7. Para 6.8 The conditions of the application in question were “*attached to a planning permission where they do not relate to land within the control of the applicant. Such conditions would be regarded as unenforceable and would not pass the test set out in Planning Practice Guidance*” It is unacceptable to retrospectively include additional land in the site boundary regardless of whether or not the applicant has subsequently acquired it. The triangle of land should be “blue lined” as in “ownership “ of the applicant.
8. Para 6.9 My para 4 refers. The guidance is relevant. The TPO stands on its own and therefore it and its appeal result are not relevant to the application and should therefore not be given “significant weight” in the decision making process.
9. Para 6.10 Contrary to the assertions of the Conservation Manager, whilst the yew is a very long lived species, it is far from slow growing in its early years. It is actually renowned for the speed with which it establishes itself and grows in its early years.
10. Map The red line is incorrect. The triangle of land shown in grey should be “blue lined” as in “ownership “ of the applicant and not in red denoting the application boundary.

OFFICER COMMENTS

In response to the points raised by the Parish Councillor the following comments are made:

1. The appeal decision was issued in 2013 and not 2012 as referred to in para 1.4
2. This is a matter of subjective assessment and is a point supported by the Inspector who dismissed the TPO appeal commenting that the yew tree contributed to the setting of Lugwardine Court.
3. The point being raised here is not about ownership but rather the value of the tree as a feature in the locality.
4. The advice put forward by your Officers is that the granting of planning permission does not necessitate the carrying out of works to the tree beyond that permitted by condition 7 of the permissions. The guidance referred to relates to the revoking and varying a TPO, not conditions there are 2 distinct processes involved.
5. It is considered that the TPO stands alone and as such is a material consideration. Furthermore the applicant controls the land upon which the yew tree is located.

6. Technical advice from the Conservation Manager clarifies that it would be possible to construct the driveway whilst maintaining the yew tree
7. Officers maintain that since the land in question is in the control of the applicant that the conditions are enforceable.
8. Officers maintain that the TPO and the appeal decision are material considerations that favour the retention of the conditions.
9. It is the time that it would take the new tree to grow to the size of the existing tree that is the relevant consideration not the initial growth rate
10. The applicant controls the relevant land and as such whether it was within the red line or blue is not considered relevant.

The advice from the Conservation Manager is clear that there is no technical reason why the planning permission cannot be implemented without felling the Yew tree and therefore no necessity to fell the Yew tree. As such the TPO will remain in force to restrict any works beyond the permitted lifting of the crown to a uniform 2.5 metres. Accordingly there is no change to the recommendation

NO CHANGE TO RECOMMENDATION