

**Application No:** 2009/360 **Application Type:** Reserved Matters

<b>Proposal:</b> Erection of 45 residential units pursuant to Outline Planning Permission 2002/261, entailing diversion of Public Footpath No 70 Whitworth	<b>Location:</b> Land off Eastgate Whitworth
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<b>Report of:</b> Planning Unit Manager	<b>Status:</b> For Publication
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<b>Report to:</b> Development Control Committee	<b>Date:</b> 5 October 2009
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<b>Applicant:</b> Harry Yearsley Self Administered Pension Fund	<b>Determination Expiry Date:</b> 2 November 2009
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<b>Agent:</b> Mr T Dust
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**REASON FOR REPORTING** **Tick Box**

**Outside Officer Scheme of Delegation**

**Member Call-In**

Name of Member:  
Reason for Call-In:

**More than 3 objections received**

**Other** (please state) ..... **MAJOR**

**HUMAN RIGHTS**

The relevant provisions of the Human Rights Act 1998 and the European Convention on Human Rights have been taken into account in the preparation of this report, particularly the implications arising from the following rights:-

**Article 8**

The right to respect for private and family life, home and correspondence.

**Article 1 of Protocol 1**

The right of peaceful enjoyment of possessions and protection of property.

## **APPLICATION DETAILS**

### **1. SITE**

This application relates to a site of approximately 1.5ha in area which is located to the rear of houses that front Eastgate and Westgate. The applicant's land ownership extends over an area approximately three times the size of the application site, including land principally to the north and south.

Formerly occupied by Spring Mill, the application site is presently of unpleasing appearance, with floor slabs/rubble from the now-demolished buildings and associated hardstandings still to be seen. However, scrubland is naturally re-vegetating parts of the site and the area is used for informal recreation by children from the Wallbank estate, dog-walkers, etc.

Whilst a public footpath runs through the centre of the site on a north-south axis, it is little used. Although the vehicular access to the former mill that passes between 63 Eastgate & 128 Westgate and crossing the centre of the site on an east-west axis is not a public right of way it is better used, as are other routes that connect with the wider footpath network.

### **2. RELEVANT PLANNING HISTORY**

2002/261 - Outline for erection of 45 residential units, including access

This application was first considered by the Council's Development Control Committee in January 2003. In accordance with the Officer Recommendation, Committee was minded to grant permission subject to a Section 106 Agreement first being entered into.

The Legal Agreement having not been entered into prior to significant changes in the policy context (not least replacement of the Structure Plan), the application was reported back to Committee in July 2006. Committee was again minded to grant Outline Permission subject to a Legal Agreement.

In May 2007 the Legal Agreement was entered into and requires that, in the event that this Outline Permission is implemented, the following sums are to be paid to the Council : £45,000 towards open space; £20,000 towards a quality bus service; & £45,000 towards affordable housing to meet an identified local need.

Accordingly, the decision notice was then issued granting Outline Permission on the site for the erection of 45 dwellings, to be served by an access between 63 Eastgate & 128 Westgate. The approved plan provides for the existing access to be widened to meet current standards for an adoptable road, with proper footway to each side, by inclusion of Council-owned land forming part of the garden of 128 Westgate. All matters of detail other than Access - namely Layout, Scale, Appearance & Landscaping - were reserved by the Applicant for later consideration. Having regard to former industrial use of the site, other conditions of the Outline Permission require

that the application for approval of the Reserved Matters be accompanied by details of intended measures for remediation of land contamination/changes to ground-levels.

### **3. THE PROPOSAL**

In accordance with the Outline Permission 2002/261 this application provides details for the erection of 45 dwellings. All of the proposed dwellings are to be 2-storey, the 4 house-types proposed resulting in a mix of detached and semi-detached properties, of 2, 3 or 4 bedrooms. They are to be constructed of stone and slate.

Access to the site accords with the details approved at Outline stage. Having passed between 63 Eastgate & 128 Westgate the estate road will cross the site on an east-west axis, broadly following the alignment of an existing track, with properties grouped around a short cul-de-sac projecting northwards and two longer cul-de-sacs that project southwards. The Public Footpath which runs through the site is to be re-routed to follow estate roads through site, connecting then back into the wider network of paths. The houses are to be provided with 2 off-street parking spaces (the 4-bedroomed units also to possess a garage) and are arranged generally to have their back gardens bounding the perimeter of the site.

### **4. CONSULTATION RESPONSES**

#### LCC (Highways)

It has raised concerns regarding traffic on the basis that the site is only accessed from via Wallbank Drive and Hall Street, where there is a Junior School and a High School. As a consequence, it requests a traffic assessment to see the affect of this development, and any possible future developments, on the estate roads and the junctions at Cowm Park Way and Market Street.

It has made no comments on the internal layout proposed for the site.

#### LCC (Rights of Way)

Advises that the development ought not to proceed without the necessary footpath diversion/closure procedures first being completed.

#### LCC (Ecology)

The submission is lacking in terms of the information it provides on ecological interest of the site, what of value is being retained and what is needed to compensate for any loss.

#### RBC (Environmental Health)

Comments upon the submitted remediation report are awaited.

#### Environment Agency

It objected to the scheme as first submitted for the following reasons :

#### **Culverting:**

The plans indicate an intention to extend and divert the existing culvert structure on the site. It strongly recommends the layout be revised to incorporate an open channel

watercourse, which will be advantageous in terms of reducing flood risk and maintenance liabilities, and be of ecological and recreational value. Where a revised layout to accommodate the watercourse is not forthcoming, then prior to the determination of this application, an assessment should be submitted to demonstrate why reasonably practicable alternatives to any additional culverting are not suitable and that the detrimental effects of the culverting would be so minor that they would not justify a more costly alternative.

**Surface Water Drainage:**

The drainage details submitted do not satisfy the requirement it expressed at the Outline stage that, as the River Spodden has flooding problems in its lower reaches, surface water run-off from this development must be limited to 5 litres per second per hectare and adequate provision of on-site surface water attenuation for a range of events up to and including the 1 in 100 year event (including a 30% additional allowance for climate change).

**Land Contamination:**

Having reviewed the submitted reports it considers further work to be needed to demonstrate to its satisfaction that the development of the site in the manner proposed does not pose an unacceptable risk to nearby watercourses/groundwater receptors.

United Utilities

No objection in principle; there should be separate foul and surface-water drainage systems

Lancashire Police

Ask that the development be built to 'Secure by Design' specifications.

Whitworth Town Council

Requests that the submitted scheme for remediation of land contamination be adhered to.

Has consulted the Whitworth Footpath Group for its comments on the proposed re-routing of Public Footpath 70 but, while appreciating the desire to divert it, favours its re-routing to a more 'rural' alignment bounding an existing stone wall rather than running it through the housing estate.

**5. NOTIFICATION RESPONSES**

To accord with the General Development Procedure Order the application was publicised by way of a newspaper notice and site notices posted on 21/8/09 and the relevant neighbours were notified by letter on 18/8/09.

No comments have been received.

**6. POLICY CONTEXT**

**National**

PPS1 Delivering Sustainable Development

PPS3 Housing

PPS9 Biodiversity and Geological Conservation  
PPG13 Transport  
PPS22 Renewable Energy  
PPS23 Pollution Control  
PPG 24 Noise  
PPS25 Flood Risk

### **Development Plan**

#### **Regional Spatial Strategy for the NW (2008)**

DP1-9 Spatial Principles  
RDF1 Spatial Priorities  
L3 Existing Housing Stock and Housing Renewal  
L4 Regional housing Provision  
RT2 Managing Travel Demand  
RT4 Management of the Highway Network  
EM1 Environmental Assets  
EM2 Remediating Contaminated Land  
EM3 Green Infrastructure  
EM16 Energy Conservation & Efficiency

#### **Rossendale District Local Plan (1995)**

DS1 Urban Boundary  
DC1 Development Criteria  
DC4 Materials  
E4 Tree Preservation  
E7 Contaminated Land

### **Other Material Planning Considerations**

4NW Draft NW Plan Partial Review (July 2009)  
LCC Parking Standards  
LPOS Planning Obligations Policy Paper  
RBC Core Strategy  
RBC Interim Housing Policy Statement (July 2008)  
RBC Strategic Housing Land Availability Assessment (2009)  
RBC Strategic Housing Market Assessment (2009)

## **7. Planning Issues**

The main issues to consider are:

- 1) Principle; 2) Housing Policy; 3) Land Contamination;
- 4) Flood Risk/Ecology; 5) Design/Appearance;
- 6) Neighbour Amenity; & 7) Access/Parking.

### **Principle**

In the adopted Local Plan the application site lies within the Urban Boundary and the current application is seeking approval in respect of the Outline Permission previously permitted for erection of 45 dwellings. Through the Legal Agreement accompanying the Outline Permission a financial contribution is to be paid towards improvement of bus services in the vicinity of the site. It is therefore considered that the proposal accords with Policy DS1 and is acceptable in principle.

### Housing Policy

As this application is seeking approval of details pursuant to an Outline Permission for residential development of the site with 45 dwellings, and the 'affordable housing' issue was addressed at the Outline stage, there is no objection in principle to what is proposed.

The application proposes housing at a density of 30 per ha, which is appropriate. Furthermore, the proposed mix of house sizes and types is considered acceptable.

### Land Contamination

The submitted scheme of Remediation is considered broadly acceptable by the Council's Environmental Health Officer and their specialist advisor; the matters still requiring resolution are not considered likely to result in the need for amendment of the layout.

### Flood Risk/Ecology

Whilst the Environment Agency has raised objection to the application in respect of intended culverting/surface-water drainage arrangements, it has advised that there are means of resolving these matters. The Applicant's agent is currently engaged in discussions with the Environment Agency to avoid the need for additional culverting/attenuate the rate of surface-water run-off, and in doing so address the ecological concerns expressed also by LCC (Ecology). The applicant owns substantial areas of land beyond the boundaries of the application site with which to also address concerns.

I hope to report to Committee upon how these matters have been resolved.

Progress on resolving the Environment Agency's concern about how the development of the site can be undertaken without posing an unacceptable risk to nearby watercourses/groundwater receptors is likely to take somewhat longer. However, this is not a Reserved Matter, but a Condition of the Outline Permission requiring resolution prior to commencement of development.

### Design/Appearance

The proposed layout is much as expected, having regard to the constraints presented by the topography of the site and more particularly, the watercourse and roadways/paths running through and around the site. Appropriate facing materials are being proposed for construction of the 2-storey houses being proposed.

It is important that the development does not appear unduly prominent as viewed from the surrounding open land. As much of the surrounding land is owned by the applicant it is considered appropriate that the scheme of landscaping/boundary treatment extend to this land, and the opportunities to enhance its appearance/ecological interest and provide the re-routed Public Footpath in a more rural setting (as Whitworth Town Council asks) taken on-board.

### Neighbours Amenity

No objections to the proposed scheme have been received from neighbours. The scheme respects the spacing standards of the Council in relation to the existing residential properties to the east of the site. Most of the existing dwellings sharing a

boundary with the site have rear gardens bounded with high fences &/or mature hedges.

#### Access/Parking

The Highway Authority has raised no objection to what is proposed on the site, the submitted scheme providing a conventional road layout and an adequate number of off-street parking spaces to serve each of the dwellings.

The concerns expressed by LCC (Highways) regarding the additional traffic the 45 houses will put on to Wallbank Drive/Hall Street, are matters of principle and not matters that can be returned to on the back of this Reserved Matters application.

### **8. CONCLUSION**

In light of the on-going discussions taking place in order to resolve the concerns expressed by the Environment Agency it is my intention to provide Members with the Up-Date Report a full list of the Conditions to be attached to the Approval recommended.

### **9. RECOMMENDATION**

That Approval be granted, subject to the Conditions.

<b>Contact Officer</b>	
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