

Application No: 2010/238	Application Type: Outline
Proposal: To extend the time limit by which implementation of Outline Planning Permission 2003/497 (for residential development) must commence	Location: Whinberry View, Bacup Road, Rawtenstall
Report of: Planning Unit Manager	Status: For Publication
Report to: Development Control Committee	Date: 5 July 2010
Applicant: B & E Boys Ltd	Determination Expiry Date: 9 August 2010
Agent:	

REASON FOR REPORTING	Tick Box
Outside Officer Scheme of Delegation	<input type="checkbox"/>
Member Call-In Name of Member: Reason for Call-In:	<input type="checkbox"/>
3 or more objections received	<input type="checkbox"/>
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.

1. BACKGROUND

This application relates to a site with Outline Planning Permission for residential development, granted following re-consideration of Application 2003/497 by Committee in July 2006.

2. THE SITE

The site is located to the east of Rawtenstall town centre, on the north side of the mini-roundabout at the junction of Bacup Road with Bocholt Way.

The site has an area of approximately 0.6ha (1.5 acres) and is occupied by buildings, of brick/concrete tile construction, last used as an Elderly Persons Home but which have now been vacant for some years. The building facing/nearest to Bacup Road is 1-storey, and those to the rear are of 2 and 3-storeys. There are a number of trees on the site; half a dozen or so to the front and west side of the buildings, the majority to the rear.

If it were not for the 2-storey building at 166 Bacup Road, the site would be of regular shape and bounded :

- to the West by Co-operation Street, to the other side of which are terraced houses that front to Wheatholme Street;
- to the East by detached dwellings that front Lambton Gates; &
- to the North by rising land that is wooded.

3. RELEVANT DEVELOPMENT CONTROL HISTORY

In July 2006 Committee was minded to grant Outline Permission for the residential development of this site, with all matters of detail reserved for later consideration, subject to the Developer/Landowner first entering into a S.106 Obligation to ensure that if development proceeded pursuant to this permission (or any renewal thereof) payment of £1,000 per dwelling would be made to the Council to be expended on the improvement/maintenance of a nearby recreational area.

Following completion of the S.106 Obligation the decision notice granting Outline Planning Permission was issued on 30 June 2008, subject to various conditions.

Condition 1 requires implementation to have commenced within 3 years of the date of the Outline Permission (ie 30 June 2011) and Condition 4 requires application for approval of the Reserved Matters to be made within 2 years of the date of the Outline Permission (ie 30 June 2010).

4. PROPOSAL

Recognising that it would not wish to submit the details for reserved matters approval/commence implementation of Planning Permission 2003/497 in accordance with the timescales referred to in Conditions 1 & 4, Boys has submitted the current application seeking to vary them.

5. POLICY CONTEXT

The Proposals Map of the Rossendale District Local Plan, adopted in April 1995, shows the site to be within the Urban Boundary of Rawtenstall. Whilst there is no site-specific policy relating to most of the site, that part of the site to the north of the existing buildings is located within an area designated as Greenlands.

When Application 2003/497 was considered by Committee in July 2006 Development Plan policy in respect of Housing was to be found in the Joint Lancashire Structure Plan, Policy 3 of the Local Plan having been determined not to accord with Policy 12 of the Structure Plan adopted in 2005. Policy E1 of the Local Plan, in respect of Greenlands, remained in force.

Since July 2006 the Joint Lancashire Structure Plan has been replaced by the Regional Spatial Strategy, and contains a higher annualised housing allocation for the Borough. The Council's Interim Housing Policy Statement of July 2008 reflected this. The Council's Interim Housing Policy Statement was most recently been reviewed and amended in May 2010, to take on-board the latest information the Council possesses in relation to housing land availability and housing needs. Policy E1 of the Local Plan, in respect of Greenlands, remains in force.

Accordingly, the policy context in which the current application should be assessed is as follows :

National Planning Guidance

PPS1	Sustainable Development
PPS3	Housing
PPS9	Biodiversity & Geological Conservation
PPG13	Transport
PPG14	Unstable Land
PPG17	Sport & Recreation
PPS23	Pollution Control
PPG24	Noise
PPS25	Flood Risk

Development Plan Policies

Regional Spatial Strategy for the NW (2008)

DP1-9	Spatial Principles
RDF1	Spatial Priorities
L4	Regional Housing Provision
L5	Affordable Housing
RT2	Managing Travel Demand
RT4	Management of the Highway Network
EM1	Environmental Assets
EM2	Remediating Contaminated Land
EM3	Green Infrastructure
EM5	Integrated Water Management

Rossendale District Local Plan (1995)

DS1	Urban Boundary
DC1	Development Criteria
DC3	Public Open Space
DC4	Materials
E1	Greenlands
E4	Tree Preservation
E6	Ground Instability
E7	Contaminated Land

Other Material Planning Considerations

4NW Draft Partial Review of the RSS
LCC Planning Obligations in Lancashire
LCC Parking Standards
RBC Emerging Core Strategy (2009)
RBC Interim Housing Policy Statement (May 2010)
RBC Strategic Housing Land Availability Assessment (2009)
RBC Strategic Housing Market Assessment (2009)
RBC Affordable Housing Economic Viability Assessment (2010)
RBC Open Space & Play Equipment Contributions SPD (2008)

6. CONSULTATION RESPONSES

LCC (Highways)

No highways comments.

RBC (Environmental Health)

There are no Environmental Health observations in relation to noise/dust/fumes/contaminated land on this application.

7. NOTIFICATION RESPONSES

To accord with the General Development Procedure Order the application has been publicised by way of a newspaper notice on 17/06/10, site notices posted on 11/6/10 and letters sent to the relevant neighbours on 8/6/10.

No comments have been received.

8. ASSESSMENT

In order that Local Planning Authorities could better plan, manage and monitor development the Planning & Compulsory Purchase Act 2004 amended the Town & Country Planning Act 1990 so as to reduce the duration of Planning Permissions generally granted from 5 years to 3 years.

In light of the present economic downturn, on 1 October 2009 an amendment to the Town & Country Planning (General Procedure) Order came in to force enabling an application to be submitted seeking a time extension in respect of a permission granted before this date and which had not lapsed at the time of its submission.

In short, this temporary measure is a mechanism for extending the date by which a scheme previously-permitted has to be commenced, and not a means by which the applicant can seek to amend the scheme.

Government guidance makes it clear that the Council is not bound to grant approval to such an application : *“This process is not a rubber stamp. LPAs may refuse applications to extend the time limit for permissions where changes in the development plan or other relevant material considerations indicate the proposal should no longer be treated favourably”*.

This is a previously-developed site, located near to the Town Centre of a Main Development Location within the Borough, and is near to a 'quality' bus route.

With respect to Housing Policy, I am satisfied that the replacement of the Joint Lancashire Structure Plan (2005) with the RSS (2008), and the Council's own Interim Housing Policy Statement (2010), have strengthened the case for permitting the residential re-development of this site.

With respect to Greenlands Policy, the Conditions of Outline Planning Permission 2003/497 require the application(s) for approval of the reserved matters to have particular regard for the retention / protection of trees on the site.

Accordingly, it is considered appropriate to extend the date by which the submission of the Reserved Matters should be made from 2 years to 4 years, and the date by which development must commence from 3 years to 5 years, from the date on which Planning Permission 2003/497 was permitted.

If the development of the site is to proceed pursuant to this Time Extension application it is considered appropriate to require compliance with the requirements of other Conditions attached to Planning Permission 2003/497 and the S.106 Obligation accompanying it.

9. SUMMARY REASON FOR APPROVAL

The site lies within the Urban Boundary of Rawtenstall, constitutes previously-developed land in a location served by a 'quality' bus service, and is a key 'gateway site' the re-development of which will aid regeneration of the Town Centre. Accordingly, it is considered appropriate to permit an extension to the date by which application for reserved matters approval must be made and the development permitted by Planning Permission 2003/497 must be commenced.

10. RECOMMENDATION

That Outline Planning Permission be granted, subject to the provisions of the S.106 Obligation accompanying Outline Planning Permission 2003/497 and the Conditions below :

1. The development hereby permitted shall be begun before 30 June 2013.
Reason : Required by Section 51 of the Planning and Compulsory Purchase 2004 Act
2. Approval of the details of the layout, scale, external appearance, means of access and landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the local planning authority, in writing before any development is commenced.
Reason : The application is in outline only and is not accompanied by detailed plans.

3. Plans and particulars of the reserved matters referred to in condition 1 above shall be submitted in writing to the Local Planning Authority and shall be carried out as approved.
Reason : The application is in outline only and is not accompanied by detailed plans.
 4. Application for approval of the reserved matters shall be made to the Local Planning Authority before 30 June 2012.
Reason : Required by section 51 of the Planning and Compulsory Purchase Act 2004.
 5. The access to this development shall be via Co-operation Street and this street shall be widened by 3 metres along its easterly edge in accordance with details to be submitted to and approved in writing by the Local Planning Authority as part of the first reserved matters application. The scheme shall be implemented in accordance with the approved details before any of the dwellings hereby approved are occupied.
Reason : In the interests of highway safety and to accord with Policy DC1 of the adopted Rossendale District Local Plan.
 6. Details of the proposed access to the site via Co-operation Street, including any necessary alterations to the reserve to allow the creation of a longer right-turn lane and subsequent need to relocate existing pedestrian dropped kerbs, shall be submitted to and approved in writing by the Local Planning Authority as part of the first reserved matters application. The scheme shall be implemented in accordance with the approved details before any of the dwellings hereby approved are occupied.
Reason : In the interests of highway safety and to accord with Policy DC1 of the adopted Rossendale District Local Plan.
 7. The development shall be built to a minimum density of 30 dwellings to the hectare.
Reason : In accordance with Policy L4 of the Regional Spatial Strategy for the NW of England (20098) and the Council's approved Interim Housing Policy Statement (2010).
 8. The plans and particulars submitted in accordance with Condition 1 above shall include:
 - (a) a plan showing the location of, and allocating a reference number to, each existing tree on the site which has a stem with a diameter, measured over the bark at a point 1.5 metres above ground level exceeding 75 mm, showing which trees are to be retained and the crown spread of each retained tree;
 - (b) details of the species, diameter (measured in accordance with paragraph (a) above) and the approximate height, and an assessment of the general state of health and stability, of each retained tree and of each tree which is on land adjacent to the site and to which paragraphs (c) and (d) below apply;
 - (c) details of any proposed topping or lopping of any retained tree, or of any tree on land adjacent to the site;
 - (d) details of any proposed alterations in existing ground levels, and of the position of any proposed excavation within the crown spread of any retained
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tree or of any tree on land adjacent to the site or within a distance from any retained tree, or any tree on land adjacent to the site, equivalent to half the height of that tree;

(e) details of the specification and position of fencing (and of any other measures to be taken) from the protection of any retained tree from damage before or during the course of development.

In this condition "retained" tree means an existing tree which is to be retained in accordance with the plan referred to in paragraph (a) above.

Reason : In the interests of visual amenity and to accord with Policy E4 of the adopted Rossendale District Local Plan.

9. The plans and particulars submitted in accordance with Condition 2 above shall include details of the size, species, and positions or density of all trees to be planted, and the proposed time of planting.

Reason : In the interests of visual amenity and to accord with Policies DC1 / E4 of the adopted Rossendale District Local Plan.

10. In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars; and paragraphs (a) and (b) below shall have effect until the expiration of 1 year from the date of the first occupation of any of the buildings hereby approved.

(a) No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval the Local Planning Authority. Any topping or lopping approved shall be carried out in accordance with British Standards 3998 (Tree Work).

(b) If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the Local Planning Authority.

(c) The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall, be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the Local Planning Authority.

Reason : In the interests of visual amenity and to accord with Policy E4 of the adopted Rossendale District Local Plan.

Contact Officer	
Name	N Birtles
Position	Principal Planning Officer
Service / Team	Development Control
Telephone	01706-238642
Email address	planning@rossendalebc.gov.uk