

Application No: 2010/433	Application Type: OUTLINE
Proposal: To extend the time limit by which implementation of Planning Permission 2002/261 must commence (for erection of 45 dwellings)	Location: Land off Eastgate (formerly Spring Mill) Whitworth
Report of: Planning Unit Manager	Status: For Publication
Report to: Development Control	Date: 18 October 2010
Applicant: Mr HH Yearsley	Determination Expiry Date: 2 December 2010
Agent: Mr T Dust	

REASON FOR REPORTING

Tick Box

Member Call-In

X

Name of Member:

Cllr A Neal

Reason for Call-In:

Whitworth is no longer a housing need area. The site owner has not proceeded with development they proposed 8 years ago and has not demonstrated there is now any need for housing in this location. The site has not been identified by the Council's Forward Planning Section for development. There are more suitable sites in and around Rossendale.

3 or more objections received

No

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 for which Outline Permission for the erection of 45 dwellings was granted following re-consideration of Application 2002/261 by Committee in July 2006.

2. SITE

The application relates to a site of approximately 1.5ha in area which is located to the rear of houses that front Eastgate and Westgate.

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

Whilst the public footpath that runs through the centre of the site on a north-south axis is little used, the vehicular access to the former mill that passes between 63 Eastgate & 128 Westgate and then crosses the centre of the site on an east-west axis is better used and also connects with the wider footpath network (although not a public right of way).

3. RELEVANT PLANNING HISTORY

2002/261 - Outline Application 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 reduction in the Borough's annualised housing allocation from 220 to 80 units as a result of 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.

The Legal Agreement was entered into and requires that, in the event that the Outline Permission is implemented, the following sums 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 issued in August 2007 granting Outline Permission, subject to Conditions, with the following Summary Reason for Approval :

"The case has been made for granting this permission as an exception to Policy 12 of the Joint Lancashire Structure Plan as it would adequately aid regeneration of a derelict/brownfield site in need of remediation. Furthermore, the resulting development would not detract to an unacceptable extent from

visual or neighbour amenity, highway safety or in respect of any other material planning consideration.”

Condition 1 required that approval be sought for the Reserved Matters (namely layout, scale, appearance and landscaping) and Condition 2 required that implementation of the development commence within 3 years of the date of the Outline Permission (ie before 6 August 2010).

2009/360 - Reserved Matters Application for erection of 45 residential units

This application provided details of the 45 dwellings to be erected, all to be 2-storey and constructed of stone & slate. The 4 house-types to be used would provide across the site a mix of detached and semi-detached properties of 2, 3 or 4 bedrooms.

The new estate would be served by a road passing between 63 Eastgate & 128 Westgate (as required by the Outline Permission), this estate road then crossing the site on an east-west axis, its footways enabling walkers to broadly follow the alignment of the unadopted footpath they presently use.

This application was approved by Committee in October 2009.

4. PROPOSAL

Recognising that it would not wish to commence implementation of Outline Permission 2002/261 in accordance with the timescale referred to in Condition 2, the applicant has submitted the current application seeking to vary it.

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 Whitworth. There is no site-specific allocation in the Local Plan relating to the site.

When Application 2002/461 was considered by Committee in July 2006 Development Plan policy in respect of Housing was to be found in Policy 12 of the Joint Lancashire Structure Plan (adopted in 2005), Policy 3 of the Local Plan having been determined not to accord with Policy 12.

In September 2008 the Joint Lancashire Structure Plan was replaced by the Regional Spatial Strategy, and increased the annualised housing allocation for the Borough from 80 to 222, in accordance with the Council's wishes. The Council's Interim Housing Policy Statement of July 2008 reflected this increase in the housing allocation.

The RSS has recently been revoked. However, the Council's Interim Housing Policy Statement was most recently 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 and the Council is continuing to progress its Local Development Framework on the basis of an annualised housing allocation of 222 dwellings.

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

National

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

Rossendale District Local Plan (1995)

DS1 Urban Boundary
DC1 Development Criteria
DC3 Public Open Space
DC4 Materials
C10 Valley Ways
E4 Tree Preservation
E6 Ground Instability
E7 Contaminated Land

Other Material Planning Considerations

RSS for the NW (2008) & its evidence base
LCC Landscape Strategy for Lancashire
LCC Planning Obligations in Lancashire
LCC Parking Standards
RBC Emerging Core Strategy (2010)
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

Whitworth Town Council

Requests that the application be determined by Committee, thereby giving Members an opportunity to re-visit the site and consider whether it is still appropriate for development.

7. NOTIFICATION RESPONSES

To accord with the General Development Procedure Order the application has been publicised by way of a newspaper notice on 9/9/10, site notices posted on 7/9/10 and letters sent to the relevant neighbours on 3/9/10.

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 Section 91 of 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 the new submission.

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

In light of the increased annualised housing allocation and desire for a greater proportion of new housing to be on previously-developed land arising from replacement of the Housing policy of the Joint Lancashire Structure Plan with that of the RSS, and in the Council’s own Interim Housing Policy Statement and Emerging Core Strategy, I am satisfied that there is now a stronger case for permitting the residential development of this site than when Committee considered Application 2002/261 in July 2006 and determined that permission should be granted.

Accordingly, it is considered appropriate in principle to extend the date by which the development must be commenced to 5 years calculated from the date of issue of Outline Permission 2002/261 (ie before 6 August 2012).

The resulting development is still considered necessary to secure regeneration of a derelict/brownfield site in need of remediation and will not detract to any greater extent from visual or neighbour amenity, in terms of highway safety or in respect of any other material planning consideration.

Having regard to the economic downturn, and date by which the development must commence, I do not consider it necessary or appropriate to seek to vary the financial contributions required by the previous S.106 Legal Agreement, other than :

- by up-rating for inflation; and
- to enable the sum previously ring-fenced for improvement of bus services to also be available for pedestrian and cycle schemes, as they too can help

ensure travel by means other than the private car; this better reflects the LCC Planning Obligations in Lancashire Policy up-date of 2008.

9. SUMMARY REASON FOR APPROVAL

The proposed development is appropriate in principle in the Urban Boundary of Whitworth and will secure the regeneration of a derelict/brownfield site in need of remediation. Furthermore, the resulting development would not detract to an unacceptable extent from visual or neighbour amenity, highway safety or in respect of any other material planning consideration.

10. RECOMMENDATION

That Outline Permission be granted subject to :

- the S.106 Obligation requirements associated with Outline Permission 2002/261 (up-rated for inflation and pedestrian & cycle schemes)
- the Conditions of Outline Permission 2002/261, except for Condition 2 which shall read as follows :

Condition 2

The development hereby permitted shall be begun before 6 August 2012.

Reason: Required by Section 51 of the Planning and Compulsory Purchase 2004 Act.

Contact Officer	
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