

Application Number:	2010/433	Application Type:	Full
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 Committee	Date:	12 th July 2011
Applicant:	Harry Yearsley Self Administered Pension Fund	Determination Expiry Date:	-
Agent:	Mr S Beckwith		

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REASON FOR REPORTING	Tick Box
Outside Officer Scheme of Delegation	<input checked="" 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 / Council Land

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. RECOMMENDATION(S)

That the Outline Permission granted be modified, subject to the conditions at point 11 of this report.

APPLICATION DETAILS

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.

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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, to the south-west of the Wallbank housing estate.

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 local residents.

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 itself 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 required 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 and 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.

2010/433 To extend the time limit by which implementation of Planning Permission 2002/261 must commence (for erection of 45 dwellings)

Recognising that it would not commence implementation of Outline Permission 2002/261 in accordance with the timescale referred to in Condition 2, in September 2010 the applicant sought to extend the date for commencement.

I advised that, 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 Joint Lancashire Structure Plan with the RSS in 2008 (and as reflected in the Council's own Interim Housing Policy Statement and emerging Core Strategy), there was now a stronger case for permitting the residential development of this site than when Committee determined permission should be granted in July 2006.

In accordance with the Officer Recommendation, at its meeting in October 2010, Committee decided that it was appropriate to extend the date by which the development of the Eastgate site must be commenced to 5 years calculated from the date of issue of Outline Permission 2002/261 (ie before 6 August 2012).

The financial contributions required by the S.106 Obligation accompanying Planning Permission 2002/261 were not to be varied, 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 expenditure on pedestrian and cycle schemes. The necessary Deed of Variation was completed on 4 February 2011.

A copy of the decision notice issued in respect of Application 2010/433 is attached; the Conditions it contains are the same as those on Outline Planning Permission 2002/261, except for Condition 2 which 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.*

4. THE PROPOSAL

The applicant has now indicated that they would wish to proceed with development of the site in accordance with the details of layout/scale/appearance/landscaping for which Reserved Matters approval was given under Application 2009/360.

Accordingly, the applicant asks that the decision notice in respect of Application 2010/433 be modified with the date by which the development must be commenced to again be 6 August 2012,

but with the other Conditions varied in order to bind them to the details of the Reserved Matters approval under Application 2009/360 rather than have to apply again for their approval.

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). 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 Council most recently up-dated its Interim Housing Policy Statement 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 submitted Core Strategy was 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 Submitted Core Strategy (2010)
RBC Interim Housing Policy Statement (May 2010)
RBC Strategic Housing Land Availability Assessment (2009)
RBC Strategic Housing Market Assessment (2009)

6. CONSULTATION RESPONSES

Whitworth Town Council

In respect of the time-extension application originally submitted, it requested that it be determined by Committee, thereby giving Members an opportunity to re-visit the site and consider whether it is still appropriate for development.

7. REPRESENTATIONS

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. REPORT

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 & County 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 October 2010 I advised Committee it was appropriate to grant a time extension for Outline Permission 2002/261 to 6 August 2012. There has since been no change in policy or circumstances that leads me to a different conclusion on this matter.

The applicant has now indicated that they would wish to be bound by the details of layout/scale/appearance/landscaping for which Reserved Matters approval was given under Application 2009/360, rather than have to apply again for approval of the Reserved Matters. This Reserved Matters application was reported to Committee in October 2009 and, in accordance with the Officer Recommendation, was approved. There has since been no change in policy or

circumstances that leads me to conclude that development should not be allowed to proceed on the basis of the details then approved.

Under Section 97 of the Town & Country Planning Act 1990 a Local Planning Authority may modify a planning permission so long as there are sound planning reasons for doing so.

The S.106 Obligation dated 11 May 2007, and the subsequent Deed of Variation dated 4 February 2011, will continue to apply to the modified permission being sought.

9. CONCLUSION

That the Outline Permission granted be modified, subject to the conditions below.

10. REASONS 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 scheme will contribute to meeting the housing needs of the Borough will not detract to an unacceptable extent from visual or neighbour amenity, highway safety or in respect of any other material planning consideration.

11. CONDITIONS

- 1) The development shall be completed in accordance with Reserved Matters Approval 2009/360, unless a variation has otherwise been first agreed in writing by the Local Planning Authority.

Reason for Condition: For the avoidance of doubt.

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

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

- 3) Prior to the commencement of development a Contaminated Land Phase One Report (to assess the actual/potential contamination risks at the site) for the approval in writing of the Local Planning Authority (after consultation with the Environment Agency). Should the Phase One Report recommend that a Phase Two Investigation is required it shall be carried out and the results submitted to and approved in writing by the Local Planning Authority. Should the Phase Two Investigation indicate that remediation is necessary then a Remediation Statement shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The Remediation Scheme in the approved Remediation Statement shall then be carried out and, prior to first use of any building hereby permitted, a Completion Report shall be submitted to the Local Planning Authority detailing the conclusions and actions taken at each stage of the works (to include validation works).

Reason for Condition: to ensure the site can safely and satisfactorily accommodate the proposed development and pollution of ground and surface waters on and off-site is avoided, in accordance with the criteria of Policy DC1 of the adopted Rossendale District Local Plan.

- 4) No development shall take place until details of the proposed foul and surface water drainage arrangements, together with a programme for their implementation, have been

submitted to and approved in writing by the Local Planning Authority (after consultation with the Environment Agency). The submitted scheme shall provide for surface-water to drain separate from the foul and for surface-water regulation. No part of the development shall be occupied until the approved systems of water drainage have been implemented in accordance with the agreed programme.

Reason for Condition: to secure proper drainage and to prevent flooding, in accordance with the criteria of Policy DC1 of the Rossendale District Local Plan.

- 5) Unless otherwise first agreed in writing the approved access shall be constructed to basecourse-level for a distance of not less than 40m measured from Eastgate prior to construction of any of the dwellings and none of the dwellings hereby permitted shall be occupied until that part of the access serving it has been fully completed in accordance with the approved details.

Reason for Condition: in the interests of highway and pedestrian safety, in accordance with provisions of PPS1 and PPG13 and Policy DC1 of the adopted Rossendale District Local Plan.

- 6) Prior to the commencement of development details of the existing and proposed ground levels, together with the intended floor level for the proposed buildings, shall have been submitted to and approved in writing of the Local Planning Authority. The development shall be implemented in full accordance with the agreed levels, unless a variation is otherwise first agreed in writing by the Local Planning Authority.

Reason for Condition: in the interests of visual and neighbour amenity and to minimise the risk of flooding, in accordance with the provisions of PPS1 / PPS25 and Policy DC1 of the adopted Rossendale District Local Plan.

- 7) Prior to the commencement of development a scheme shall be submitted to and approved in writing by the Local Planning authority describing the methodology to be employed to suppress dust arising during the period of construction; such measures may include water-bowsers, sprayers, regulation of the speed of vehicle movements, etc. Development of the site shall be undertaken in accordance with the approved scheme.

Reason for Condition: in the interests of neighbour amenity, in accordance with the criteria of Policy DC1 of the adopted Rossendale District Local Plan.

- 8) Construction works associated with the development hereby permitted shall not take place except between the hours of 7:00 am and 7:00 pm Monday to Friday and 8:00 am and 1:00 pm on Saturdays. No construction works shall take place on Sundays, Good Friday, Christmas Day or Bank Holidays.

Reason for Condition: to safeguard the amenities of nearby residential properties in accordance with the criteria of Policy DC1 of the adopted Rossendale District Local Plan.

- 9) This consent relates to the amended drawing(s) received on 6 August 2007.

Reason for Condition: for the avoidance of doubt.