

DELEGATED

AGENDA NO.

**PLANNING COMMITTEE
21st FEBRUARY 2007**

**REPORT OF CORPORATE DIRECTOR
OF DEVELOPMENT AND
NEIGHBOURHOOD SERVICES.**

Application 06/3693/FUL

Belasis Avenue/Chiltons Avenue, Billingham

Residential development of 3 no. three storey blocks of six apartment and 12 no detached dwellinghouses and associated means of access

Expiry: 8th March 2007

SUMMARY

The planning application seeks detailed approval for residential development on 0.86 hectares of land located at the junction of Belasis Avenue and Chiltons Avenue, Billingham and follows the grant of outline planning permission last year (05/0624/REV). The land is currently disused but was previously used as tennis courts 12 years ago. It had been owned by Billingham Synthonia Cricket Club, which uses the adjoining cricket field but sold for development following the granting of outline planning permission for housing development last year. The cricket pavilion at the eastern end of the application site will need to be removed to facilitate the development. The existing clubhouse on the other side of the cricket is to be refurbished to provide new changing facilities and provided next to it will be a replacement for the clubhouse bar facilities. These works are the subject of a separate planning application (06/3835/FUL).

The site is within the established urban limits but is not allocated for any specific use in the adopted local plan. The proposed development comprises 18 apartments in three separate blocks and 12 detached houses and is very similar to that approved in the previous outline approval. That permission included a Section 106 legal agreement to contribute towards the provision of replacement facilities at Billingham Campus and the setting aside some £50,000 for replacement changing facilities in the clubhouse.

The new application follows from a need to adjust the approved layout of the site to accommodate highway concerns and because of this the applicant has decided to seek full planning permission rather than reserved matter approval.

Residents raised a number of objections at the outline stage particularly in respect of highway and traffic concerns. Other concerns include loss of privacy and loss of a wildlife habitat. These concerns were addressed at the outline stage. No concerns from residents have been raised in respect of the current planning application except for a late verbal concern about how the site is being operated. It is noted that work has commenced on site clearance without awaiting the detailed approval. The matter is being investigated and any necessary enforcement will need to be authorised.

Because of the lack of capacity in the sewerage system, Northumbrian Water has advised against the development but would withdraw its objection if approval was conditioned to prevent occupation of the dwellings until the necessary diversionary works are completed next year.

The development has an existing permission for very similar development, it does not conflict with planning policy and the Head of Technical Services has not objected to the application. Concerns by Sport England about the loss a sports facility have previously been overcome by the Section 106 agreement and it is being investigated whether this agreement needs to be revised in light of the new application. Conditions can be attached to cover other concerns including those of Northumbrian Water. Accordingly, conditional approval is recommended.

RECOMMENDATION

It is recommended that subject to clarification as to whether a new Section 106 is needed or the existing agreement remains extant, the application be approved subject to conditions covering the following matters:

- ***Development carried out in accordance external appearance and landscaping of the site***
- ***Tree and hedgerow retention and protection measures***
- ***Implementation of new tree and shrub planting***
- ***Provision of 7 No secure cycle parking bays.***
- ***Land remediation***
- ***Sound insulation in apartment blocks***
- ***Mitigation measures to protect wildlife to including controls over timing of any site clearance works***
- ***Limits on hours of construction***
- ***Means of enclosure***
- ***Facing materials***
- ***No occupation of dwellings until off-site sewage diversionary works are completed.***
- ***Surface water drainage rates to be regulated***
- ***Site drainage***
- ***And any other relevant matters***

The application site constitutes previously developed land and is an unallocated site in the adopted local plan, located within the defined urban limits the development of which does not conflict with planning policy. It already has planning permission for an almost identical development to that now proposed. The development is not considered to give rise to a significant highway concerns notwithstanding the previous concerns of local residents The new blocks will not adversely affect the residential amenities of existing residents given their distance away. Existing trees and hedgerow around the site the site will be affected but not to an unacceptable degree and conditions can be imposed requiring the remaining trees and hedgerows to be properly managed and maintained.

The loss of recreational facilities is limited to disused facilities and is to be compensated for and concerns about the lack of capacity in the sewerage system

can be overcome by preventing occupation of the dwellings until the necessary off-site diversionary works have been completed.

The Proposal has been considered against the policies below and it is considered that the scheme accords with these policies and there are no other material considerations which indicate a decision should be otherwise.

***Stockton on Tees Local Plan policies GP 1, HO 3, HO11, EN38
Tees Valley Structure Plan policies ENV16, H1A, H2A, SUS2, T25.
Regional Policy Guidance 1
Planning Policy Statement 1 and Guidance Notes No 1, 3, and 13***

BACKGROUND

1. The application relates to a 0.86-hectare site located on the corner of Belasis Avenue and Chiltons Avenue in Billingham. The land was formerly occupied by 5 No tennis courts, last used about 12 years ago. The site had become disused and dilapidated and is currently being cleared of these structures. On the eastern end of the site is a wooden cricket pavilion now disused. The site is enclosed along the main road frontages by a substantial hedge. There are also a number of trees on the site particularly within the hedgerow.
2. Outline planning permission was granted in July 2006 (05/0624/REV) for the erection of 18 No apartments housed in three blocks together with the erection of 12 detached dwellings with detailed approval granted also for the siting, external appearance of the residential units and means of access from Chiltons Avenue. The cricket pavilion at the eastern end of the application site was to be removed to facilitate the development.
3. A previous outline application (03/0176/P) that sought approval for 60 dwelling units on the site was withdrawn following concerns raised by the Health and Safety Executive about the scale of such development in close proximity to a Hazardous Installation. There was also an objection by Sport England to the loss of sports facilities.
4. The site was owned by Billingham Synthonia Cricket Club, which uses the adjoining cricket field but has been now acquired by the applicant following the grant of outline approval. The permission granted was subject to a Section 106 agreement with the following heads of terms:
 1. *Developer to pay £16,554.50 towards the upgrade of tennis facilities at Billingham Campus*
 2. *Billingham Synthonia Cricket Club to set aside £50,000 from the sale of the land to the developer for the conversion of and refurbishment of its clubhouse to provide changing facilities to Sport England's specification*
 3. *Funds to be paid within 3 months of obtaining detailed planning permission.*

THE PROPOSAL

5. The current application is for the same development as previously approved in outline (erection of 18 No apartments housed in three blocks together with the

erection of 12 detached dwellings with the means of access from Chiltons Avenue) and in layout and design follows closely the previously approved layout. However, in order to meet the highway requirements of the Head of Technical Services (a condition of the outline permission) the internal road layout has to be adjusted which has had a knock on effect in terms of needing to slightly adjust the siting of the residential units. As result the applicant, rather than submitting two further applications (an application under Section 73 of the Act to secure approval for the revised layout and an application for approval of reserved matters) has decided instead to submit one new application for full detailed approval for the development.

THE CONSULTATIONS

6. The local residents and occupiers have been individually notified of the application. The application has also been advertised on site and in the local press. No representations have been received. However, a late telephone complaint from a local resident has been received complaining primarily about mud on the road and that the hours of working on the site (8am to 6pm) were not been adhered to.

7. The Head of Technical Services:

“The development will need to comply with the Design Guide and Specification (Residential Estates Development), to that end the following matters are amongst those requiring attention: -

- *Each apartment block requires 7 no covered secure cycle parking bays*
- *The developer will need to enter into a section 38 agreement for the construction of the length of roads to be adopted and a section 278 agreement for construction of the entrance and modification of the parking bays on Chiltons Avenue.*
- *I have no knowledge of flooding to this site and the applicant is advised to make there own enquiries”*

8. The Environmental Health Unit

“I have no objection in principle to the development, however, I do have concerns regarding the following environmental issues and would recommend the conditions as detailed be imposed on the development should it be approved.

- *Noise disturbance between living accommodation*

Due to the probability of noise complaints resulting from the intensified use of these residential premises, the building shall be provided with sound insulation, prior to being used, to ensure that adequate protection is afforded against the transmission of noise between living accommodation and bedroom in adjacent flats in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority.

- *Possible land contamination*

C407 Environmental Risk Assessment Phase 1a+b

No Development hereby approved shall commence on site until a Phase 1a+b desk study investigation to involve hazard identification and assessment has been carried out, submitted to and approved in writing by the Local Planning Authority. The study must identify industry and geologically based contaminants and include a conceptual model of the site. If it is likely that contamination is present a further Phase 2 site investigation scheme involving risk estimation shall be carried out, submitted to and

approved in writing by the Local Planning Authority prior to any development hereby approved commences on site.

Reason: To ensure the proper restoration of the site.

ENVIRONMENTAL RISK ASSESSMENT PHASE 2

If it is likely that contamination is present, no development shall commence until a Phase 2 site investigation scheme to involve risk estimation has been carried out. The developer must design and implement intrusive investigations to provide sufficient information on potential contamination.

Reason: To ensure the proper restoration of the site.

- **Construction Noise**

I am concerned about the short-term environmental impact on the surrounding dwellings during construction, should the development be approved. My main concerns are potential noise, vibration and dust emissions from site operations and vehicles accessing the site.

Should the application be approved, the developer should apply for consent under Section 61 Control of Pollution Act 1974. This would involve limiting operations on site that cause noise nuisance.

I will recommend working hours on site to be restricted to 8.00 a.m. - 6.00 p.m. on weekdays, 8.00 a.m. - 1.00 p.m. on a Saturday and no Sunday working."

9. Development Plans:

No objections received

10. Landscape Officer:

Views awaited

11. Sport England:

Objects to the development would withdraw its objection once a section 106 agreement is signed covering all the matters discussed with the developer for a financial contribution towards the provision of replacement sports facilities and as set out in its letter of 5th July 2005.

12. Environment Agency:

"The Agency has no objections, to the proposed development but wishes to make the following comments:

There should be no discharge of foul or contaminated drainage from the site into either groundwater or any surface waters, whether direct or Via soakaways. To prevent pollution of the water environment."

13. Northern Gas Networks:

No objections

14. Northumbrian Water

Objects to the development on the basis that the sewage works at Billingham is unable to accept the anticipated flows. However, it is proposed to build a new pumping station and main which will divert the effluent discharge to Seaton Carew aim for completion in December 2008. Accordingly, the objection would be withdrawn if a condition were attached stating occupation of the development shall not take place until the diversionary works are completed.

15. NEDL:

No objections

16. Campaign For the Protection of Rural England

"We welcome this application and hope it will provide an attractive new residential range to this central area of Billingham."

17. Tees Forest:

"The development should include a higher proportion of green landscaping and tree planting where appropriate"

18. Police:

Draws to the applicant's attention that it the duty of local planning authorities to exercise their functions both in respect of the effect upon and the need to do all they can to prevent crime and disorder and that crime prevention is a material consideration. Cleveland Police operate the "Secured by design" initiative and offers assistance to help the applicant's scheme meet the required standard. It has written to the applicant offering this assistance.

19. HSE

Does not advise, on safety grounds, against the granting of planning permission in this case.

20. Joint Public Transport Group

No objections received.

21. Corporate Director Children, Education And Sport

No objections received

22. Ward Councillors:

Councillor M Smith has commented:

"This has previously been before the committee and permission given. Can you tell me please?"

- a. What has changed from the previous plans to warrant another application?*
- b.in light of it being before the committee previously why is it not going back there.*

PLANNING POLICY CONSIDERATIONS

National Planning Policy

23. National Planning policies are set out in Planning Policy Guidance Notes (PPG) and the newer Planning Policy Statements (PPS).
24. Relevant to this application are:
- PPS 1 “Delivering Sustainable Development”
 - PPS 3 “Housing” (advises that most additional new housing should be on previously developed land within urban areas to minimise the amount of Greenfield land developed)
 - PPG 13 “Transport” (promotes more sustainable transport choices and greater accessibility by all forms of transport with housing located principally within the urban areas)
25. Regard also has to be given to the Regional Spatial Strategy, which is to replace RPG1. Policies in RPG1 set out the need for a sequential approach to development; sub-regional guidance to include, inter alia, targets for the re-use of previously developed land and buildings; and a managed release of housing land for development.
26. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise. In this case the relevant Development Plans are the Tees Valley Structure Plan 2004 and the Stockton Borough Local Plan 1997

Tees Valley Structure Plan

27. The Tees Valley Structure Plan policies that particularly need to be considered include:
- H1A (Sequential approach for allocation of new housing sites) preference given to previously developed land
 - ENV16 (protection of trees and hedgerows)
 - SUS2 (Sustainable Development Policy) states the Tees Valley authorities should give regard to several factors through their local plans, development control decisions and partnership activities, including: give preference to brown field sites, and prevent the unnecessary use of Greenfield sites; promote the re-use of vacant land and buildings; encourage development in locations which minimise the need for travel and can be well served by public transport; maintain and enhance the vitality and viability of town and district centres.
 - T25 (Transport Requirements for New Developments) promotes the location of new development to give priority to walking, cycling and public transport access.

Stockton Borough Local Plan

28. Policy GP1 is the general policy and sets out ten criteria that all development proposals need to be assessed against. These criteria are as follows: -

- i. The external appearance of the development and its relationship with the surrounding area.
- ii. The effect on the amenities of the occupiers of nearby properties.
- iii. The provision of satisfactory access and parking arrangements.
- iv. The contribution of existing trees and landscape features.
- v. The need for a high standard of landscaping.
- vi. The desire to reduce opportunities for crime.
- vii. The intention to make development as accessible as possible to everyone.
- viii. The quality, character and sensitivity of existing landscapes and buildings.
- ix. The effect upon wildlife habitats.
- x. The effect upon public rights of way.

29. Policy HO3 states that within the limits of development, residential development may be permitted provided that:

- (i) The land is not specifically allocated for another use; and
- (ii) The land is not underneath electricity lines; and
- (iii) It does not result in the loss of a site which is used for recreational purposes; and
- (iv) It is sympathetic to the character of the locality and takes account of and accommodates important features within the site; and
- (v) It does not result in an unacceptable loss of amenity to adjacent land users; and
- (vi) Satisfactory arrangements can be made for access and parking.

30. Policy HO11 requires all new residential development to be designed and laid out to a high quality standard with open space and a satisfactory degree of privacy and amenity for both the new dwellings and the occupiers of nearby properties.

31. Policy EN 38 states residential development or development which attracts significant numbers of people, particularly the less mobile, will be permitted in the vicinity of a hazardous installation only where there is no significant threat to the safety of the people involved.

MATERIAL PLANNING CONSIDERATIONS

32. The previous planning permission, which was granted last July, has established the principle of development of this site for essentially the same scheme now proposed. Nevertheless, in light of the consultation responses and current planning policy there are number of planning issues material to the consideration of this application that still need to be addressed.

Traffic and access

33. One of the major concerns previously of the local residents (though not raised this time) was the potential adverse impact on highway safety through increased traffic along Chiltons Avenue. The residents argued that there has been a number of a traffic accidents in the area and the further traffic generated by the new development will add to the danger.

34. It is accepted that traffic along Chiltons Avenue has significantly increased following the opening of the staff car park for Avecia particularly at peak times in the morning and late afternoon. Increased usage of the former ICI west gate at the bottom of the road by Nicholson's transport has also exacerbated the problem. Traffic calming measures has been introduced funded in part by Avecia aimed at alleviating the problem. However, it is not considered that a relatively small housing development of some 30 units is going to significantly add to existing problems. The access to the site is located near to the existing junction with Belasis Avenue and traffic using it will be relatively light.
35. Given that Chiltons Avenue was until the closure of the Chilton House office of ICI one of the main access points into the chemical works and heavily trafficked and that the Head of Technical Services has raised no concerns in terms of traffic generation and highway safety, a refusal on traffic grounds cannot be sustained.

Impact on residential amenity

36. As well as the main traffic concerns, local residents were also previously concerned that the development would lead to a loss of privacy through being overlooked by the new development. It is accepted that the change will have an impact on the amenities residents currently enjoy particularly as a part of the hedgerow which screens the site from view will need to be removed to provide the necessary sight lines for the access road to the new development. However, that impact is not sufficiently detrimental to sustain a refusal of the planning application. There will be no significant loss of privacy. Two of the small three storey apartment blocks are sited on the Belasis Avenue frontage away from the houses on Chiltons Avenue whilst the third block is sited immediately on the Belasis Avenue/Chiltons Avenue roundabout road junction. In this location occupants of 1 and 2 Chiltons Avenue will only have an oblique view of the side gable of the block. On the Chiltons Avenue frontage either side of the new access will be two detached houses opposite Nos 3 and 4. These properties will be side on to the existing houses presenting in one case a blank gable wall and for the other (a 2 ½ storey property) a bathroom window at first floor level and a small bedroom window in the second floor. However, the separation distances (approximately 27m) more than meet normal standards. Furthermore trees and as much of the hedgerow as possible will be retained adding to the screening of the development.

Landscape, visual impact and ecological concerns

37. Concerns about the loss of trees and on the site as well as a potential impact on local wildlife were also raised previously. Some trees within the site will be lost to development but replacement planting is proposed. Part of the hedgerow will have to be removed to facilitate the provision of the new access, but the remainder is retained. A landscape plan showing new planting has been submitted and details of tree and hedge protection measures provided. To ensure full implementation of the measures appropriate conditions will need to be imposed as well as requiring details of the means of enclosure. The views of the Landscape architect on the submitted details are awaited and will be provided in an update report.
38. With regard to the wildlife concerns, the application is accompanied by an ecological study (as required by condition of the outline approval). This habitat survey states

that no unusual plants or habitats were found on the site. However, it states there are many opportunities for birds to nest and as such recommends a precautionary approach to the removal of the vegetation or the demolition of the pavilion, advocating that the works should not occur between March and September. Also the pavilion has significant potential as a bat roost and survey of this structure for the presence of/use by bats should be undertaken prior to demolition. These concerns can be secured by condition.

Loss of Recreational facilities

39. Sport England has objected because of the loss of the tennis courts on the site as well changing facilities provided in the Pavilion and if its objection is to be removed it needs to be satisfied the replacement facilities previously agreed and secured by a Section 106 Agreement will still be provided in mitigation. The applicant's solicitor is of the view that the agreement remains in force notwithstanding that a new permission could be granted. This opinion of the Council's Solicitor is awaited as to whether she agrees. If not, any approval for this development will need to be subject to the same heads of terms as for the previous permission – applicant to pay over £16,000 towards the upgrade of facilities at Billingham Campus school as well as providing funds through the purchase of the land for secured upgraded facilities in the existing club house. Subject to the signing of such an agreement or acceptance that the previous agreement remains valid for the current revised proposal the Sport England objection would be withdrawn. Clarification will be provided in the update report.
40. It is clear from the previous application that the tennis courts were no longer needed and the cost of any repair to them would have been significant. The loss of the cricket pavilion is regrettable but it is accepted that it has been a target of vandalism and that upgrades to the clubhouse would provide better facilities. Accordingly, it is considered, as before that adequate mitigation is provided for the loss of the tennis courts to satisfy Sport England's requirements.

Proximity of development to hazardous installations

41. The development is located within the consultation distance of a hazardous installation (Terra Nitrogen) which requires formal consultation with the Health and Safety Executive (HSE). Because of the relatively low numbers and density HSE has not raised any objection on health and safety grounds to the proposed development. Policy E38 of the adopted local plan permits residential development in the vicinity of a hazardous installation but only where there is no significant threat to the safety of the people involved. That is the case in this development and therefore no case can be made for rejecting the development as being contrary to the relevant planning policy.

Planning Policy

42. Policy HO3 of the approved local plan allows for new residential development within the limits to development provided a number of criteria are met including that:

“(iii) It does not result in the loss of a site which is used for recreational purposes; and

- (iv) It is sympathetic to the character of the locality and takes account of and accommodates important features within the site; and
- (v) It does not result in an unacceptable loss of amenity to adjacent land users; and
- (vi) Satisfactory arrangements can be made for access and parking.”

43. Viewed against the criteria, it considered that there is no significant loss of a recreational facility; the development is considered sympathetic to the area and there is no unacceptable loss of amenity and that satisfactory arrangements are made for access and car parking. Accordingly, it is not considered the application conflicts with Policy HO3.
44. This site is a Windfall housing site (a site not specifically identified through the local plan process). Such sites can make an important contribution to housing supply and help prevent the unnecessary loss of Greenfield land. The site is in a sustainable location for housing development close to bus routes and within the vicinity of the site there are a range of shopping and service facilities, schools, community and health facilities necessary to meet the everyday needs of residents.

Other matters

45. The one verbal objection received is primarily concerned with operational matters (mud on road and work outside of controlled hours) following recent commencement of development with site preparation works. Such works are unauthorised given that detailed approval has not yet been granted and the applicant has been premature in carrying out such works. The matter has been referred to the Enforcement team for investigation. Mud on the road is, it understood being investigated by Highway maintenance.
46. If Committee is minded to refuse the current application formal enforcement action will be needed to secure a cessation of site works.
47. The objection from Northumbrian Water is noted and can be overcome by imposing, as the statutory provider recommends, a condition to prevent occupation of the dwellings until the sewage diversion works have been completed by December next year. This can and should be done but it does have serious implications for the developer, particular that he has already, albeit unauthorised, made a start on the site. He will not be able to sell the dwellings until that time unless an alternative arrangement is made with the sewerage provider. The applicant has been advised accordingly.

CONCLUSIONS

48. The application site constitutes previously developed land and is an unallocated site in the adopted local plan, located within the defined urban limits the development of which does not conflict with planning policy. It already has planning permission for an almost identical development to that now proposed. The development is not considered to give rise to a significant highway concerns notwithstanding the previous concerns of local residents The new blocks will not adversely affect the residential amenities of existing residents given their distance away. Existing trees and hedgerow around the site the site will be affected but not to an unacceptable

degree and conditions can be imposed requiring the remaining trees and hedgerows to the properly managed and maintained and replacement planting implemented.

49. The loss of recreational facilities is limited to disused facilities and is to be compensated for and concerns about the lack of capacity in the sewerage system can be overcome by preventing occupation of the dwellings until the necessary off-site diversionary works have been completed.

50. On balance it is considered approval can be recommended subject to appropriate planning conditions to secure necessary controls over the development.

Director of Neighbourhood Services and Development

Contact Officer: Peter Whaley - Telephone No. 01642 526061

Financial Implications:

None

Environmental Implications:

See report

Human Rights Implications

The provisions of the European Convention of Human Rights 1950 have been taken into account in the preparation of this report.

Community Safety Implications

None

Background Papers:

Application files: 03/0176/P, 05/0624/REV and 06/3509/FUL

Ward and Ward Councillors:

Billingham South:

Councillor M Smith
Councillor J O'Donnell