

**DELEGATED**

**AGENDA NO .**

**PLANNING COMMITTEE  
29<sup>th</sup> AUGUST 2007**

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

**07/0857/FUL**

**Ramsey Gardens and Nevern Crescent, Ingleby Barwick  
Extension of roadways to boundary of Betty's Close Farm/proposed residential  
development**

**EXPIRY DATE: 21<sup>ST</sup> JUNE 2007**

**Summary:**

Members will be aware that they deferred consideration of this application on the 27<sup>th</sup> June 2007 and requested further information regarding section 106 agreements and section 38 agreements on ensuring the access roads were properly maintained.

An outline planning application for 17 no. Self-build housing plots and the creation of a riverside park/local nature reserve was approved with conditions in June 2006 (06/1064/OUT). Whilst this current application relates to the housing/riverside park it is a separate application and needs to be judged on its own merits.

Planning permission is sought for the construction of access roads from the edges of the existing roads of Ramsey Gardens and Nevern Crescent up to the boundaries of the Betty's Close residential/riverside park site

It is considered that the proposed roadway extensions would have a minimal impact on the surrounding residents and would not pose any significant impacts on the highway network. Issues in relation to land ownership are a civil matter and are not for consideration as part of this application.

**Recommendation:**

**RECOMMENDED that application 07/0857/FUL be approved subject to the following conditions: -**

***1. The development hereby approved shall be carried out in accordance with the following approved plan(s); unless otherwise agreed in writing with the Local Planning Authority. Drawing Number(s): - SJR/06:79 &HS70017-D-002***

***Reason: To define the consent.***

***2. The commencement of the development authorised by this permission shall not begin until a detailed scheme for the approved works has been submitted to and approved in writing with the Local Planning Authority. The approved***

***works shall be implemented in accordance with the Local Planning Authority's written approval and shall be certified in writing as complete on behalf of the Local Planning Authority; unless alternative arrangements to secure the specified works have been approved in writing by the Local Planning Authority.***

***Reason: In the interests of highway safety***

Policy GP1 of the adopted Stockton on Tees Local Plan were relevant to this decision.

## **History**

1. Members will be aware that an outline application for 17 no. Self-build housing plots and the creation of a riverside park/local nature reserve was approved with conditions in June 2006 (06/1064/OUT).
2. Whilst this current application relates to the above development it is important for members to recognise that the principle of the additional housing and riverside park has been agreed and that this is a separate application and needs to be judged on its own merits.

## **The Proposal**

3. The application site is formed by two pieces of land situated at the end of Ramsey Gardens and Nevern Crescent in the Roundhill Area of Ingleby Barwick.
4. Planning permission is sought for the construction of access roads from the edges of the existing roads of Ramsey Gardens and Nevern Crescent up to the boundaries of the Betty's Close residential/Riverside park site.
5. The land is presently owned by Yuill's and Bellway Homes, the applicant has signed certificate B and served the required notice on the two landowners.

## **Consultations**

The following responses have been received from departments and bodies consulted by the Local Planning Authority

### Urban Design - Engineers

I have no objection to the application. The applicant will need to enter into a section 38 agreement for the adoption of the highway

### Ingleby Barwick Town Council

This proposal would have an impact on the existing properties, as there are safety implications involved as well as disruption to the residents. The environmental impact is therefore a material consideration and a reason for refusal.

6. The Local residents and occupiers have been individually notified of the application. The latest neighbour consultation period expired on the 31<sup>st</sup> May 2007. A total 44 letters of objections have been received; these comments are detailed below in summary.

**Objections;**

- ❑ Unsuitability of residential roads for HGV's and additional properties.
- ❑ Public/pedestrian safety
- ❑ Parking of construction workers vehicles.
- ❑ Objects as the land, which is granted outline planning consent is green belt land and Ingleby Barwick has numerous properties, which are unsold.
- ❑ Increase in traffic
- ❑ Limited parking facilities for the park
- ❑ Car park will attract anti social behaviour
- ❑ Noise and environmental pollution
- ❑ Impact on Wildlife
- ❑ Development of the site could last for many years
- ❑ Impact on protected tree
- ❑ Land ownership issues
- ❑ Impact on neighbouring residents quality of life
- ❑ Loss of privacy
- ❑ Valid planning consent to build a dwelling on Nevern Crescent (at plot 13 of our Ingleby Vale development).
- ❑ Permission is not given for applicant to construct the access road across the land or to enter into any adoption agreement.

**Comments from Ward Hadaway on behalf on Yuills and Bellway's;**

As you will be aware, our clients, Yuill Homes and Bellway, own the land, which is the subject of this application. Both firms hereby object to the application due to the loss of one dwelling, which has permission to be constructed on the part of the application site off Nevern Crescent.

Such a loss would prejudice the supply of housing in the area, contrary to the development plan and national planning policy. If planning permission were granted, the firms would therefore not allow the development to take place on their land.

This would result in an undesirable accumulation of permissions, which are incapable of implementation. For the reasons given, the firms request that the application be refused.

Alternatively, should the Committee be minded to approve the application, the firms would draw to its attention the consultation response from the Head of Technical Services. He states a section 38 agreement for adoption of the proposed roads will be needed and the safest way to do so would be through a section 106 agreement.

The firms agree that if permission is granted, the new roads should become maintainable by the Council. They therefore request that the Committee not grant permission immediately, but make approval subject to completion of a section 106 agreement requiring the development to be constructed in accordance with plans and particulars previously approved in writing by the Local Planning Authority and dedicated as highways maintainable at public expense before the dwellings approved under permission 06/1064/OUT have been occupied or before the public car park approved under permission 06/1064/OUT is brought into use (whichever is the sooner).

The firms consider that their assistance, as neighbouring landowners, is essential to the delivery of the country park. At present it is not possible to be certain that the country park could be provided due to the lack of access from the existing highway

network to the site. A section 106 agreement with the firms would provide certainty and remove a significant obstacle which is currently preventing the country park from being developed.

### **Planning Policy Considerations**

7. Where an adopted or approved development plan contains relevant policies, Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that an application for planning permissions shall be determined in accordance with the Development Plan(s) for the area, unless material considerations indicate otherwise. In this case the relevant Development Plans are the Tees Valley Structure Plan (TVSP) and the Stockton on Tees Local Plan (STLP).

The following policies of the adopted Stockton on Tees Local Plan are considered to be relevant to this decision: -

#### **Policy GP1**

Proposals for development will be assessed in relation to the policies of the Cleveland Structure Plan and the following criteria as appropriate:

- (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 the public rights of way network.

### **Material Planning Considerations**

8. The main planning considerations of this application are the impacts on the amenity of neighbouring occupiers and access and highway safety.

### **Planning Obligations (Section 106 agreements)**

9. Planning obligations were originally introduced under section 106 of the Town and Country Planning Act 1990 although original legislation has been substituted by sections 46 and 47 of the Planning and Compulsory Purchase Act 2004 which give the Secretary of State the power to make regulations to replace s106, but the Secretary of State has not yet taken these powers.
10. ODPM Circular 05/2005 give the latest government advice in relation to section 106 agreements (planning obligations) although it does not take into consideration section 46 and 47 of the Planning and Compulsory Purchase Act 2004, given the Secretary of State has not yet taken up on the powers to replace s106.
11. Planning obligations, are a means of enabling persons with an interest in land to either reach an agreement with, or enter into a unilateral undertaking to, the local planning authority to:

- restrict the development or use of the land in a specified way;
  - require specified operations or activities to be carried out in, on, under or over the land and;
  - requiring the land to be used in a specified way; or
  - require a sum or sums to be paid to the authority on a specified date, dates or periodically.
12. Typically obligations are negotiated in the context of granting planning permission. They are used to secure provisions to enable the development of the land that are not suitable or capable of being contained in a condition attached to the planning permission. Although obligations have also been used to secure benefits or contributions associated with a scheme of development to mitigate the impacts of development upon a community or an area.
13. However Circular 1/97 and 05/2005 set out the Necessity Test which requires planning obligations to be:
- (i) necessary;
  - (ii) relevant to planning;
  - (iii) directly related to the proposed development;
  - (iv) fairly and reasonable related in scale and kind to the proposed development; and
  - (v) reasonable in all other respects.
14. Although it is advised that this is guidance and failure to comply with the Circular would not render the planning permission invalid. The Circular is a material consideration as are any benefits provided through a planning obligation provided the benefit has a more than de minimis link with the proposed development and It is for the local planning authority to decide what weight should be attached to a particular material consideration.

#### **Highways adoption (Section 38 agreements)**

15. Where a planning application involves a new estate road, developers are required to design them to standards approved by the Council. After planning permission is granted and before commencing construction, developers are requested to enter into an agreement and bond under Section 38 of the Highways Act 1980 to cover the full road construction.

#### **Principle of development;**

16. The principle of the additional dwellings and Riverside Park has already been agreed under the previous outline planning consent and cannot be re-addressed under this application. This application must be assessed only on the impacts on the additional road infrastructure.

#### **Amenity of the neighbouring properties;**

17. The proposed development areas lie adjacent to several residential properties situated on both Ramsey Gardens and Nevern Crescent. As the roadway extensions will provide only small extensions to the existing roadways it is not considered that the proposed development will have a significant or detrimental impact on the existing residents privacy or amenity to justify a refusal of the application.

18. Concerns raised in relation to the noise/pollution impacts from additional traffic to and from the wider scheme (housing and riverside park) are noted. However, this was considered as part of the approval of the housing and riverside park development given approval. The proposed road extensions are therefore not considered to result in any increase in noise/pollution over and above the existing levels.
19. Concerns in relation to the times scale for the housing development to be built out are noted but were again considered as part of the determination of that particular application.

**Access and Highway Safety;**

20. The Urban Design unit (Engineers) have commented that they have no objections to the proposed development subject to the developer entering into a section 38 agreement for adoption of the roads. It is therefore considered that the development for the extension to the roads does not pose any significant threat to pedestrian or public safety.
21. Many of the objections received from neighbouring residents raise concerns over the impacts of the development on pedestrian and highway safety, particularly as the roads are considered to be narrow and unsuitable for construction traffic. The issue of access and construction traffic was considered as part of the outline application for housing and the riverside park and considered acceptable at that time, hence the approval of the outline scheme.
22. Equally the issues of the increase traffic was also considered as part of the outline application for the additional housing and Riverside Park, the approval of this application is unlikely to result in any significant increase in traffic levels on the existing situation.

**Other issues;**

23. Some of the objections received raise concerns that the development is associated with the outline approval for the additional housing/riverside park and will involve the loss of green wedge.
24. Issue of land ownership have been raised, as the applicant does not own the land required to access the site. The applicant has indicated that he has a right to access over the land and as certificate B has been signed and the required notice severed on the applicant this would be a civil issue between the applicant and landowner should planning approval be given.
25. Issues in relation to the anti-social behaviour in the car park, impact on wildlife and overall parking issues in relation to visitors of the riverside park were considered as part of the outline application for the housing/riverside park development and are not for consideration under this application.
26. Comments have also been made in relation to the loss of one potential dwelling. It is considered that this is a commercial decision by Bellways and indeed during a previous attempt to gain permission on the site was shown as a potential access point into the site (01/1132/P), though this is again not a material planning consideration.

**Conclusion;**

27. In conclusion it is considered that the proposed roadway extensions would have a minimal impact on the surrounding residents and would not pose any significant impacts on the highway network. Issues in relation to land ownership are a civil matter and are not for consideration as part of the application. The proposal is considered to be in accordance with policy GP1 of the adopted Stockton on Tees Local Plan, subsequently the development is recommended for approval.

**Corporate Director of Development & Neighbourhood Services****Contact Officer: Simon Grundy****01642 528550****Financial Implications**

As report.

**Environmental Implications**

As Report

**Community Safety Implications**

N/A

**Human Rights Implications**

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

**Background Papers**

Stockton-on-Tees Adopted Local Plan (1997)

Planning Application 06/1064/OUT

**Ward and Ward Councillors**

Ingleby Barwick West Ward

Councillors K Dixon, L Narroway and R Patterson