

DELEGATED

AGENDA NO 5
PLANNING COMMITTEE

UPDATE REPORT

3 DECEMBER 2014

REPORT OF CORPORATE DIRECTOR,
DEVELOPMENT AND NEIGHBOURHOOD
SERVICES

14/2291/EIS

Tithebarn Land, Harrowgate Lane, Stockton-on-Tees
Application for outline permission for residential development (340 dwellings) including access

Expiry Date 3 December 2014

SUMMARY

Since the original report to Members of the Planning Committee the applicant's agent has issued a letter in response to the Officers recommendation, this is set out in full as an appendix to this update report. In summary it is contended that the Local Authority have no basis on which to dismiss the application on grounds of 'prematurity' or lack of infrastructure. That they would request the application be deferred to allow further time to address the highways matters and that matter relating to flood risk has been resolved.

Whilst the views expressed in rebutting the first reason for refusal are noted, Officers remain of the view the recommendation and first reason for refusal is both sound and justified and rather than the matter be an issue of "prematurity" it is whether the proposed development constitutes sustainable development. The benefits of the scheme are readily acknowledged within the Officers report, however, in this instance the proposal is not considered to represent sustainable development given the significant economic and social harm that would arise. All material planning considerations therefore remain as set out within the original officers report unless otherwise indicated in the report below.

However, the Head of Technical Services has they have no objection to the proposal subject to a condition regarding surface water discharge rates. The amended recommendation (below) therefore removes the third reason for refusal, as outlined below;

RECOMMENDATION

That planning application 14/2291/EIS be Refused for the following reason(s);

- Development does not represent sustainable development**
- 01 ***In the opinion of the Local Planning Authority the proposal in coming forward ahead of an established masterplan, could lead to an unfair distribution of uses and another developer coming forward later being asked to provide more than is justified by their own development. This could make some parcels unviable and***

risk necessary infrastructure not being provided for the proper planning of the area, resulting in significant social and economic harm which would be contrary to the definition and aims of sustainable development as set out in the NPPF (paragraph 7, 9 and 14).

Highway Safety:

- 02 *The applicant has failed to provide sufficient information to satisfactorily demonstrate that the proposed development would not have a detrimental impact on highway safety and the free flow of traffic to both the Local and Strategic Highway Networks or that the impact could be satisfactorily mitigated to the reasonable satisfaction of the Local Planning Authority and is therefore contrary to guidance within policy CS2 of the Core Strategy (1&2) and paragraph 32 of the National Planning Policy Framework (NPPF).*

CONSULTATIONS

Head of Technical Services

Flood Risk Management - additional comments

CONDITION 1: Surface water discharges from this site should be flow regulated to ensure that flooding problems elsewhere in the catchment are not exacerbated. The final details of an appropriate surface water drainage solution shall be submitted to and approved by the Local Planning Authority before development commences and the development shall be completed in accordance with the approved scheme.

The discharge rates from the site will be restricted to the existing greenfield runoff rates (QBAR value) with sufficient storage within the system to accommodate a 1 in 30 year storm. The design shall also ensure that all subsequent storm water events up to the and including the 1 in 100 year event surcharging the drainage system can be stored on site without risk to people or property and without overflowing into drains or a watercourse. Micro Drainage design files (mdx files) are required to be submitted for approval. The flow path of flood waters exiting the site as a result of a rainfall event exceeding the 1 in 100 year event should also be provided.

MATERIAL PLANNING CONSIDERATIONS

1. As indicated above, the applicant's agent has issued a letter in response to the Officers recommendation, which contends that; a) the Local Authority have no basis on which to dismiss the application on grounds of "prematurity" or lack of infrastructure; b) that they would request the application be deferred to allow further time to address the highways matters; and, c) that matters relating to flood risk has been resolved. Such matters are discussed below;

Principle of development;

2. Paragraph 216 of Annex 1 of the National Planning Policy Framework and the National Planning Practice Guidance (NPPG) give guidance as to the weight that can be given to emerging policies and plans, with the NPPG giving specific advice with regards to the issue of "prematurity". It clearly states that "*arguments that an application is premature are unlikely to justify a refusal of planning permission other than where it is clear that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits*". The two examples given when such circumstance are reasonable are limited to; where development is so substantial that granting permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new

development that are central to the emerging plan; or, where the emerging plan is at an advanced stage but is not yet formally part of the development plan.

3. It further states that a refusal on the grounds of prematurity will rarely be justified where a draft Local Plan has yet to be submitted for examination. At present this is the Council's position with the emerging Regeneration and Environment LDD, which will contain the housing allocations for the Borough.
4. Therefore Officers would agree that the proposed development could not be classed as "premature" under the terms set out within the National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG) and a refusal would not be justified on this basis.
5. However, the basis for the first reason for refusal is that the proposed development would not represent sustainable development when considered against the definition and roles of the NPPF. Paragraph 7 defines the Government's view on what is sustainable development and the three roles which it has, these are the economic, social and environmental roles. For those reasons within the original report, Officers consider that approval of housing development on this site ahead of an established masterplan would result in significant social and economic harm.
6. Supporting this view are paragraphs 14 and 58 of the NPPF. Paragraph 14 states the presumption in favour of sustainable development where the development plan is absent, silent or out-of-date, unless "*any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or specific policies in this Framework indicate development should be restricted*". In this instance it is considered that the proposal would not represent sustainable development and therefore the social and economic harm outweighs the associated benefits and presumption in favour of development.
7. Furthermore, paragraph 58 of the NPPF (3rd bullet point), states that planning policies and decisions should aim to ensure that developments "*optimise the potential of the site to accommodate development, create and sustain an appropriate mix of uses (including incorporation of green and other public space as part of developments) and support local facilities and transport networks*".
8. Again for those reasons set out within the Officers report, bringing this site forward for development could lead to a number of knock-on effects for those remaining landowners within the proposed Harrowgate Lane and Yarm Back Lane housing allocation sites. These would include an unfair distribution of uses, the potential for remaining parcels being unviable, the risk that the required infrastructure will not be provided and/or other developments being asked to provide more than is justified by their own development. Therefore, the proper planning of these two allocations (Yarm Back Lane and Harrowgate Lane) would not be achieved and nor would there be any guarantee that those other development sites would come forward, providing fewer houses and failing to deliver the homes the Borough requires. There could also be no guarantees that sustainable connections or essential infrastructure which the applicant's agent refers to would be delivered and this again represent significant economic and social harm which weigh against those benefits of the proposal.

9. In weighing up the benefits against the harm, and despite those views expressed in rebutting the first reason for refusal, Officers remain of the view the recommendation and first reason for refusal is both sound and justified, particularly in view of work Spatial Planning Officers and ATLAS have done into bringing all parties together to demonstrate that the two allocations are deliverable through the Examination in Public of the LDD.

Flood Risk;

10. As outlined above the Flood Risk Management section have revised their position and no longer object to the application, instead they have commented that a planning condition should be imposed to ensure surface water discharges from this site regulated. As a consequence it is no longer considered that the proposal represents a flood risk.

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WARD AND WARD COUNCILLORS

Ward Bishopgarth and Elm Tree
Ward Councillor Councillor J M Cherrett & Elliot Kennedy

IMPLICATIONS

Financial Implications

Section 143 of the Localism Act and planning obligations as set out in the report.

Environmental Implications

As report.

Community Safety Implications

Section 17 of the Crime and Disorder Act 1998 has been taken into account in preparing this report and it is not considered the proposed development would not be in conflict with this legislation.

Human Rights Implications

The provisions of the European Convention of Human Rights 1950 have been taken into account in the preparation of this report and the proposed development will not contravene these human rights.

Background Papers

Stockton on Tees Core Strategy

Stockton on Tees Local Plan

Stockton on Tees Regeneration and Environment DPD (Preferred options)

National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

Planning Applications; 284/72; 93/1967/P and 94/2380/P