

DELEGATED

AGENDA NO 6

PLANNING COMMITTEE

15 March 2017

UPDATE REPORT

**REPORT OF DIRECTOR,
ECONOMIC GROWTH AND DEVELOPMENT
SERVICES**

16/3022/REV

Land South Of Cayton Drive, Thornaby,

Revised application for reserved matters approval (appearance, landscaping, layout, access and scale) for the erection of 45 No. dwellings, access from Cayton Drive and ancillary works pursuant to outline planning consent ref:15/1466/OUT

Summary

The applicant has submitted a revised plan showing the extensions to the existing properties located along the northern boundary of the site (1614/001 M). The separation distances shown on the revised drawing are considered to be acceptable and accord with the guidance set out in SPD1-Sustainable Design Guide.

The applicant has submitted a briefing note dated 15th March 2017 (appendix 1) reiterating that only one access is provided for the development as the applicant does not own the area of land required for the second access which is owned by Places for People. Furthermore, they have commented that the Planning Inspector, the applicant's highway engineer and the council's highway engineers have raised no highway safety objections to a single access for the development.

Additional objection comments have been received from 9 Kintyre Drive, 27, 33 Liverton Crescent, 25, 29, 35 Lockton Crescent and 91 Bassleton Lane. New objection comments have been received from 2 Cayton Drive, 19 Burniston Drive, 1, 23 Liverton Crescent, 12 Lulsgate and 20 Kintyre Drive

The majority of the objection comments have been addressed within the original report in relation to the single access to the site, traffic congestion and on street parking, loss of light, loss of privacy, potential overbearing, shadowing impact, impact on the character of the area, proximity of the development to the trees on the southern boundary, location of the Northumbrian Water easement, inaccuracy of plans, short consult period to planning committee, proximity of plots 19 and 20 to the existing properties,

In summary, the additional comments received relate to the fact no separation distance are shown between the proposed plots and Middleton Avenue and reference to the previous appeal for the site and the loss of the green wedge.

These points have been addressed below:-

Recommendation

That the application be approved in accordance with the recommendation in the main report

Material Planning Considerations

The majority of the additional comments received from the neighbours have been considered in the main report, further guidance is however given in respect of separation distances and the status of the green wedge.

1. Comments have been received regarding the fact there are no separation distances shown on the plans between the proposed plots and Middleton Avenue. The separation distance between the side elevation of Plot 41 and the boundary will be 3 metres with the minimum separation distance between the properties being 4 metres. As set out in paragraph 23 of the original report given the orientation of the proposed plot and the fact there will be no windows facing towards 24 Middleton Avenue, there is considered to be no significant impact on the amenity of these neighbours.
2. Representations have been made regarding the green wedge status of the application site and the case put forward by the council at the appeal against the refusal of the outline planning application. Whilst the status of the land as green wedge or otherwise is not relevant to the determination of this reserved matters application as the principle of development has been established, a brief overview of the change in status of the land is provided for clarification.
3. The land was designated as green wedge in the 1997 Local Plan and identified as such on the Local Plan key diagram. The Core Strategy was then adopted in 2010 and policy CS10(3) replaced the Local Plan policies in relation to the green wedge and the Strategic Diagram replaced the key diagram. The Strategic Diagram in the 2010 Core Strategy was intended to be a diagrammatic representation of the key allocations of land in the borough, which would be given further detail in the future RELP. This is common practice by local planning authorities. The council therefore treated the application site, at that time, as green wedge, however following the decision of the High Court in *Tiviot Way Investments Limited v SoS and Stockton on Tees Borough Council* in 2014 the court determined that only the land shaded green on the Strategic Diagram could be treated as green wedge under policy CS10(3). This excluded the land south of Cayton Drive. That case is binding on how we interpret the Core Strategy and Strategic Diagram.
4. Cabinet in January 2015 then sought to put the application site back in the green wedge notation via the RELP process, which could replace the Strategic Diagram with precise plans and boundaries, which was agreed. This route was the only means by which the status could be reinstated and would only become effective upon the adoption of the RELP. The appeal against the refusal of the outline planning application was heard in the meantime. The local planning authority's reasons for refusal could not include the land being in the green wedge for the above reasons and therefore no evidence was required to be put forward by the LPA. Third parties continued to make reference to the green wedge status and the Inspector responded to that in his decision. Because the RELP was in its very early stages he did not give any weight to it and granted the permission.
5. As the principle of development had therefore been established it was no longer appropriate to allocate the site as green wedge and is not moving forward on that basis in the current Draft Local Plan which replaced the RELP and is progressing through the adoption process.

IMPLICATIONS

No additional implications to those detailed within the main report are raised by the content of this update report.

16/3022/REV

Second Access/Highway Safety

As Members were previously advised at the committee of the 6th July 2016, the second access is not within the client's ownership nor is it within the Council's gift to facilitate this access. The land is owned by Places for People. We have approached them about the provision of the second access and they responded with concerns about the creation of a 'rat run' through the site. Our client then appointed consultants to address the Council's reservations about the use of the single access.

TPS (Highway Consultants) were appointed by the applicant and have confirmed that the single access was acceptable with respect to all relevant guidance.

The Council's own Engineers have accepted that the second access is not required, stating that, **"the proposed access from Cayton Drive is suitable for serving the scale of development. The Highways, Transport and Environment Manager is therefore unable to raise a highways objection, to the proposed development, in relation to the means of access."**

Most pertinently the Inspector dealing with the previous appeal has agreed that the use of the single access is acceptable.

*Para 19: "I acknowledge the concerns of many neighbouring residents with regards the impact of the traffic generated by the appeal proposal. However on the basis of the substantive evidence before me and the lack of objection from the Highway Authority I consider that **the appeal scheme would be acceptable in terms of highway safety.** In this regard the proposal **would comply with Policy CS2** of the Stockton-on-Tees Core Strategy Development Plan Document 2010 which aims to ensure that new development has no adverse impacts on the existing road network and paragraph 32 of the Framework which seeks to achieve a safe and suitable access for all people." (Our emphasis added)*

The need for a second access has been assessed by the Council and the Planning Inspector and is not considered to be necessary as set out above. As such, our client has no intention of pursuing the purchase of this land.

In our view any refusal on these Grounds creates a clear risk of an award of costs against the Council. Planning Practice Guidance clearly sets out circumstances where costs may be awarded which among other things includes **persisting in objections to a scheme or elements of a scheme which the Secretary of State or an Inspector has previously indicated to be acceptable.**

