

**Application No:** 2010/403

**Application Type:** Full

**Proposal:** To extend the time limit by which implementation of Planning Permission 2006/609 must commence (for erection of 13 houses)

**Location:** Land adj 368 Rochdale Road, Britannia

**Report of:** Planning Unit Manager

**Status:** For Publication

**Report to:** Development Control Committee

**Date:** 18 October 2010

**Applicant:** Boundary Edge Developments Ltd

**Determination Expiry Date:** 25 October 2010

**Agent:**

**REASON FOR REPORTING**

**Tick Box**

**Member Call-In**

Name of Member:

Reason for Call-In:

**3 or more objections received**

**Other** (please state) ..... **MAJOR**

**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.

**BACKGROUND**

This application relates to a site for which Planning Permission for the creation of 13 Town Houses was granted on 6 November 2007, subject to conditions and a S.106 Obligation requiring payment of £15,990 towards provision of transport improvements in the locality.

## 1. SITE

The application site relates to a broadly L-shaped site, bounded to the west by a surfaced road providing access to Meadow View, a bungalow that faces the site, and complex of buildings at Higher Stack, agricultural land to the north, a pair of houses (368/370 Rochdale Road) to the east and Rochdale Road to the south. As viewed from Rochdale Road, the site is a natural vegetated area of poor appearance.

The site lies partly in the Urban Boundary and partly in the Countryside, as delineated in the Rossendale District Local Plan.

## 2. RELEVANT DEVELOPMENT CONTROL HISTORY

2006/609 : Erection of 13 Town House

A copy of the Officer Report is appended. It will be seen that Officers recommended that this application be refused only because of the housing oversupply issue considered to then exist, indicating that in all other respects it was considered appropriate to grant a permission.

Having regard to the sites location in the middle of Britannia/fronting a main road, and within the Bacup, Stackstead & Britannia AAP, the Inspector that dealt with the subsequent Appeal granted Permission on 6 November 2007, subject to conditions and a S.106 Obligation requiring payment of £15,990 towards provision of transport improvements in the locality.

Condition 1 of the Permission reads as follows :

*“The development hereby permitted shall be begun before the expiration of three years from the date of this permission”.*

No works have commenced on the site.

## 3. THE PROPOSAL

Recognising that it would not wish to commence implementation of Planning Permission 2006/609 before its expiry date, the owner of the site has submitted the current application seeking to extend the date by which it must commence development.

## 4. POLICY CONTEXT

The Proposals Map of the Local Plan adopted in April 1995 identifies the site as being partly within the Urban Boundary and partly within the Countryside.

When Application 2006/609 was considered by the Appeal Inspector in November 2007 Development Plan policy in respect of Housing was to be found in the Joint Lancashire Structure Plan, Policy 3 of the Local Plan having been determined not to accord with Policy 12 of the 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 RSS has recently been revoked. However, the Council's Interim Housing Policy Statement was most recently reviewed and amended 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 is continuing to progress its Local Development Framework on the basis of an annualised housing allocation of 222 dwellings.

Accordingly, the policy context in which the current application should be assessed it as follows :

### **National**

PPS1 Sustainable Development  
PPS3 Housing  
PPS7 Rural Areas  
PPS9 Biodiversity & Geological Conservation  
PPG13 Transport  
PPS23 Pollution Control  
PPG24 Noise

### **Rossendale District Local Plan (1995)**

DS1 Urban Boundary  
DS5 Development Outside the Urban Boundary and Green Belt  
DC1 Development Criteria  
DC3 Public Open Space  
DC4 Materials  
E7 Contaminated Land

### **Other Material Planning Considerations**

Regional Spatial Strategy (2008) & its Evidence Base  
LCC Landscape Strategy for Lancashire  
LCC Planning Obligations Policy  
LCC Creating Civilised Streets  
LCC Parking Standards  
RBC Emerging Core Strategy (2009)  
RBC Interim Housing Policy Statement (May 2010)  
RBC Strategic Housing Land Availability Assessment (2009)  
RBC Strategic Housing Market Assessment (2009)  
RBC Affordable Housing Economic Viability Assessment (2010)  
RBC Open Space & Play Equipment Contributions SPD

## **5. Consultation Responses**

### **LCC (Highways)**

Awaited.

## **6. Notification Responses**

To accord with the General Development Procedure Order a site notice was posted on 9 August 2010 and the relevant neighbours were notified by letter on 3 August 2010.

Two letters raising objection to the proposal, have been received. The comments made are:

- The development is a disgrace and complete eyesore.
- Prior to granting an extension of the time period, remedial works including fencing, drainage and improvement to Lees Street should be secured.
- The site attracts vandals as well as children playing in and around it.

## **7. ASSESSMENT**

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 & Country 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 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 Housing policy of the Joint Lancashire Structure Plan with that of the RSS, and in the Council’s own Interim Housing Policy Statement and Emerging Core Strategy, I am satisfied that there is now a stronger case for permitting the residential development of this site than when Committee considered Application 2006/609 and when the Inspectorate granted permission on appeal.

Accordingly, it is considered appropriate in principle to extend the date by which the development must be commenced to 5 years calculated from the date of issue of Outline Permission 2002/261 (ie before 6 November 2012).

The resulting development is still considered necessary to secure regeneration of a derelict/brownfield site in a prominent location in Britannia that fronts a main road, and

will not detract to any greater extent from visual or neighbour amenity, in terms of highway safety or in respect of any other material planning consideration.

Objectors have not raised any issues not considered in the determination of Planning Permission 2006/609. I have reviewed the Conditions attached to the previous permission and consider them appropriate having regard to the Consultee Responses now received.

Having regard to the economic downturn, and date by which the development must commence, I do not consider it necessary or appropriate to seek to vary the financial contributions required by the previous S.106 Legal Agreement, other than by up-rating for inflation.

## **8. SUMMARY REASON FOR APPROVAL**

The proposed development is appropriate in principle and will secure the regeneration of a derelict/brownfield site in a prominent location in Britannia that fronts a main road, and will not detract to an unacceptable extent from visual or neighbour amenity, highway safety or in respect of any other material planning consideration.

## **9. RECOMMENDATION**

That Permission be granted subject to :

- the S.106 Obligation requirements associated with Permission 2006/609 (up-rated for inflation)
- the Conditions of Permission 2006/609, with Condition 1 amended, to read as follows :

### **Conditions**

1. The development hereby permitted shall be begun before 6 November 2012.  
*Reason : Required by Section 51 of the Planning and Compulsory Purchase 2004 Act.*
2. No development shall take place until details of the proposed surface and foul water drainage arrangements have been submitted to and approved in writing by the Local Planning Authority. No part of the development shall be occupied until the drainage arrangements have been installed in accordance with the approved details.  
*Reason : To ensure satisfactory provision is made for the completion of essential works to the drainage system, in accordance with Policy DC1 of the Rossendale District Local Plan.*
3. No development shall take place until details of the colour, form and texture of all external facing materials to the town houses hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

*Reason : To ensure a satisfactory appearance to the development, to accord with Policy DC1 of the Rossendale District Local Plan.*

4. No development shall take place until a scheme of boundary/ landscaping treatment, which shall include details of all existing trees and hedgerows on the land, indicating those that are to be retained together with measures for their protection during the period of the development has been submitted to and approved in writing by the Local Planning authority.

*Reason : In the interests of visual & neighbour amenity, in accordance with Policy DC1 of the Rossendale District Local Plan.*

5. All walls and fences forming part of the approved boundary/ landscaping scheme shall be completed prior to the first occupation of the town house to which they relate. All planting, seeding or turfing included in the scheme shall be carried out in the first planting season following the occupation of the first dwelling. Any trees which within a period of five years die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

*Reason : In the interests of visual & neighbour amenity, in accordance with Policy DC1 of the Rossendale District Local Plan.*

6. No development shall take place until details of the surfacing, draining and marking out of all areas to be used for the parking and manoeuvring of vehicles has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details prior to the first occupation of any of the town houses hereby permitted, unless otherwise agreed in writing by the Local Planning Authority. The parking and manoeuvring areas shall be kept permanently available for such uses.

*Reason: In the interests of highway safety, in accordance with Policy DC1 of the Rossendale District Local plan.*

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, (or any order revoking and re-enacting that Order, with or without modification), there shall not at any time in connection with the development hereby permitted, be erected or planted, or allowed to remain, upon the land hereinafter defined, any wall, fence, hedge, tree, shrub or other device which shall obstruct the view above a plane 1 metre above the crown level of Rochdale Road. The area of land affected by this condition shall be that land within the application site in front of a line drawn from a point 4.5 metres measured along the centre line of the site access from the carriageway of Rochdale Road to points measured 90 metres in both an easterly and westerly direction along the nearest edge of the carriageway of Rochdale Road from the intersection of the centre line of the site access.

*Reason : To define the permission and to prevent inappropriate development within the Countryside, in accordance with Policies DS5 / DC1 of the adopted Rossendale District Local Plan, and the Council's approved Alterations & Extensions to Residential Properties SPD.*

8. Any construction works in connection with the development hereby permitted shall only take place between 7.00 to 19.00 hours on Monday to Friday and between 8.00 to 13.00 hours on Saturdays. No construction works shall take place on Sundays or Bank Holidays.

*Reason : To safeguard the amenities of neighbours, in accordance with Policy DC1 of the Rossendale District Local Plan.*

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