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| Planning Reference No: | 11/2999C |
| Application Address: | Land South of Portland Drive, Scholar Green, Stoke-On-Trent |
| Proposal: | Variation of conditions 2, 3, 5, 10, 10 and 11 of Planning Permission 08/0712/FUL |
| Applicant: | Ben Bailey Homes (Part of Gladedale Group) |
| Application Type: | Full Planning Permission |
| Ward: | Congleton Rural |
| Registration Date: | 9-August-2011 |
| Earliest Determination Date: | 12-October-2011 |
| Expiry Date: | 4-October-2011 |
| Date report Prepared | 4-November-2011 |
| Constraints: | None |

SUMMARY RECOMMENDATION:

APPROVE

MAIN ISSUES:

- Principle of Development
- S106 Agreement
- Conditions
- Other Issues Raised by Representation

1. REASON FOR REFERRAL

Cllr Rhoda Bailey has called this application in for determination by the Southern Planning Committee for the following reasons:

"The permission originally granted was ".to provide a much needed healthcare centre as well as affordable and low cost housing. The proposal would accord with the policies of the adopted Congleton Borough Local Plan First Review and with PPS1 and PPS3," to quote from the decision notice dated 30th July, 2009.

The basic premise of the grant of permission was for the provision of the surgery before that of the houses. The present proposal turns that basis on its head; it is not in the interests of the community for the application to be dealt with under delegated powers and the arguments should be placed before the planning committee."

2. PREVIOUS MEETING

At the 16th November 2011 Southern Planning Committee, Members resolved to defer the planning application pending the receipt of further information from the applicants over the requirement and status for the delivery of the Health Centre. This update report therefore deals with the additional information and the report should be read in conjunction with the original committee report below.

In response, the applicant's agent has submitted additional information to support the commitment to deliver the approved health centre. This information comprises of a letter from the agent, a response from the PCT's Primary Care Project Manager and Chief Executive, a letter from Scholar Green Surgery and a letter from the developer charged with delivering the Health Centre (Oakapple Primary Care).

The PCT have confirmed that the financing relating to the health centre is in place including detailed plans and specifications for the building itself. It is anticipated that contracts are due to be exchanged imminently. This position is corroborated by Oakapple who state that contracts are due to be exchanged week commencing 28th November.

This demonstrates a commitment towards the delivery of the health centre. Nonetheless, legal contracts and the construction, completion and the fit-out of the medical building will take at least 12 months and therefore the applicant still requires the variations sought to allow the dwellings to be commenced and delivered first as per the original report below.

3. DESCRIPTION AND SITE CONTEXT

The application site comprises a vacant farmhouse and its associated farm buildings that include a barn and single storey outbuildings and open fields. The outbuildings have a very low level of use and the fields are used for grazing and the buildings generally present a poor appearance of neglect and decay. The site covers an area of approximately 1.85 hectares and is bounded to the north by Portland Drive and a row of terraced properties in the North West corner, to the east by open fields beyond which lies the Macclesfield Canal which, in this location lies within a deep cutting. To the south and west the site is bounded by residential development. The site generally slopes up towards the Canal which lies in a deep cutting in this location. Current access to the site is from Congleton Road North. Boundary treatment is generally made up of hedging.

4. DETAILS OF PROPOSAL

Planning permission was granted in October 2008 for the erection of a new health care centre and residential development comprising of 56 residential units with a dedicated access off Portland Drive. This application seeks to vary condition numbers 2, 3, 5, 10 & 11 of this approval under Section 73 of the Town and Country Planning Act 1990 and also seeks to vary the terms of the section 106 legal agreement.

The applicant wishes to vary these conditions and the legal agreement so that work can proceed on commencing development on the residential element of the approved scheme before commencing the approved health care centre.

5. RELEVANT HISTORY

- 08/0712/FUL – Demolition of dwelling & erection of new health care centre & residential development comprising 39no. open market units & 17no. affordable housing units with associated means of access, landscaping & alterations to Portland Drive, including parking bay & dedicated residents' car park (resubmission of 06/1146/FUL) - Amended Plans – Approved 07.10.2011
- 06/1146/FUL - Demolition of dwelling and erection of new Health Care Centre and enabling residential development comprising 39 No. open market units and 17 No. affordable units with associated means of access, landscaping and alterations to Portland Drive, including parking bay and dedicated residents' car park. Amended Plans - re-plan of south end of site; additional financial and legal info; tree survey; habitat survey. – Withdrawn - 17.04.2011

6. POLICIES

Local Plan Policy

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| PS5 | Villages in the Open Countryside and Inset in the Green Belt |
| GR1 | New Development |
| GR2 | Design |
| GR3 | Residential Developments of More than 10 Dwellings |
| GR4 | Landscaping |
| GR6&7 | Amenity & Health |
| GR9 | Accessibility, servicing and parking provision |
| GR10 | Managing Travel Needs |
| GR18 | Traffic Generation |
| GR19 | Infrastructure |
| GR20 | Public Utilities |
| GR21 | Flood Prevention |
| GR22 | Open Space Provision |
| H1 & H2 | Provision of New Housing Development |
| H4 | Residential Development in Towns |
| H13 | H13 Affordable and Low Cost Housing |
| NR1 | Trees & Woodland |
| NR2 | Wildlife & Nature Conservation |
| SPG1 | Provision of Public Open Space in New Residential Developments |
| SPG2 | Provision of Private Open Space in New Residential Developments |
| SPD4 | Sustainable Development |
| SPD6 | Affordable Housing and Mixed Communities |

Other Material Considerations

Interim Policy on the Release of Housing Land
 Interim Planning Statement on Affordable Housing
 Planning for Growth' Ministerial Statement

Circulars of most relevance include: ODPM 05/2005 Planning Obligations; and 11/95 'The use of Conditions in Planning Permissions'.

7. CONSIDERATIONS (External to Planning)

Environmental Health:

No objection

8. VIEWS OF ODD RODE PARISH COUNCIL

No objections provided that the new wording of the conditions does not prejudice the proper commencement and completion of the Heath Centre.

9. OTHER REPRESENTATIONS

Letters from 27 properties have been received objecting to this application on the following grounds:

- The new Doctor's surgery should be built and occupied before the new homes are built
- This flies in the face of the council's initial decision
- This is not a minor change
- If the Health Centre isn't delivered, will more houses be built on the site
- Scholar Green needs a new health centre not houses.
- There is no demand for houses in Scholar Green
- If extra houses included in this development on the village edge against the Macclesfield Canal will ruin the area's rural character.
- Portland Drive is unsuitable to accommodate any increase in traffic resulting from this scheme.
- The area is a commuter area.
- Local Amenities and public transport are lacking and any further house will make this worse
- Lack of publicity
- If funding is an issue, why is this not being sought elsewhere

10. APPLICANT'S SUPPORTING INFORMATION

The applicant has submitted a letter in response to concerns expressed during the consultation period.

11. OFFICER APPRAISAL

Principle of Development

The previous approval established the acceptability in principle of the proposed new health care centre as well as the construction of 56 residential units on the site. As a result, this application does not present an opportunity to re-examine those matters. The main issues in the consideration of this application are the acceptability of building the approved dwellings before commencing work on the approved health care centre and the variation of the relevant conditions to enable information for the health care centre to be submitted at a later date without preventing development from commencing on the dwellings.

S106 Agreement

When the application was originally considered, local residents were concerned about the release of this green field site for housing and also the delivery of the proposed health care centre. To give local residents some comfort, the applicant decided to include within the s106 a requirement for the new health care centre to be complete and ready for use prior to the commencement of development of the housing scheme. Whilst it would be beneficial to deliver the health care centre as soon as possible, there is no policy requirement to do so and as such it is considered that it would be unreasonable to require the developer/applicant to commit to such.

Due to the current economic climate, the applicant has experienced delays in securing the funding to build out the health care centre which has in turn prevented the delivery of the housing element of the scheme. Given that there is no policy justification for delivering the health care centre part of the scheme before the residential element it is recommended that the terms of the s106 be varied to this requirement by way of a formal deed of variation. Taking this into account, condition numbers 2, 3, 5, 10 and 11 would need to be varied to reflect this.

Conditions

Condition number 2 requires details of the materials to be submitted and approved prior to the commencement of development. The applicant wishes to vary this condition to allow details of the health care centre and the housing to be submitted separately to reflect the phasing of development. The same request is made for condition number 3, which relates to landscaping. The variation of these conditions would still meet with the tests of the conditions circular 11/95.

Condition number 5 deals with drainage. The health care centre and the housing development will be drained on separate systems and therefore the application also seeks to vary this condition in order to differentiate between the two systems. Such variation is considered to be acceptable and in accordance with the conditions circular.

Condition number 10 and 11 require the submission of a Crime Prevention Plan and a scheme for the acoustic enclosure of fans and compressors prior to the commencement of development. These conditions are aimed specifically at the health care centre and are not required for the housing element. As such, it is proposed that this condition be reworded to make specific reference to the commencement of development on the health care centre so that it does not preclude the development from commencing on the housing scheme. Such variation would accord with the tests of the conditions circular.

Other Issues Raised by Representation

With respect to other issues raised by representation, these deal with the principle of the development, which has already been accepted by the original approval. With respect to funding, this is not a material planning consideration.

12. CONCLUSIONS AND REASONS FOR THE DECISION

The principle of the development has already been accepted. The terms of the existing S106 legal agreement will need to be varied, as currently there is a clause which prevents the new dwellings from being occupied until the new health care centre has been delivered. This and the wording of condition numbers 2, 3, 5, 10 and 11 is precluding the delivery of much needed housing in the borough. The variation of such conditions would continue to meet the tests outlined

within Circular 11/95 and as such the proposal is deemed to be acceptable and is recommended for approval.

RECOMMENDATION:

APPROVE the formal deed of variation on the S106 Legal Agreement and permit the variation of condition numbers 2, 3, 5, 10 and 11 to allow the development to commence on the housing scheme prior to the delivery of the health care centre subject to the following conditions:

1. Development to commence within 3 years
2. Details of materials to be submitted and approved in 2 phases
3. Details of landscaping to be submitted in 2 phases
4. Submission of Tree protection measures for retained trees
5. Details of foul and surface water drainage to be submitted in 2 phases
6. Hours of construction limited
7. Further gas monitoring shall be carried out
8. Protected species – details of bat boxes to be submitted
9. No work to be carried out with the bird breeding season
10. Details of CCTV to be submitted prior to commencement on the new health care centre
11. Scheme for acoustic enclosure of fans/compressors etc. to be submitted prior to commencement on the new health care centre
12. No burning of materials associated with demolition
13. Management regime for hedgerows to be submitted and approved prior to commencement
14. Hours of operation limited
15. Submission of details of levels for rear gardens
16. Submission of details of levels for rear gardens

