

RIBBLE VALLEY BOROUGH COUNCIL REPORT TO PLANNING & DEVELOPMENT COMMITTEE

Agenda Item No.

meeting date: THURSDAY, 18 SEPTEMBER 2014
title: REPORT RELATING TO AN APPEAL IN RESPECT OF THE NON-DETERMINATION OF PLANNING APPLICATION 3/2013/1023/P FOR THE ERECTION OF FOUR SEMI-DETACHED THREE BEDROOM DWELLINGS (TWO OPEN MARKET AND TWO AFFORDABLE DWELLINGS) WITH ASSOCIATED GARDEN AREAS AND PARKING (RESUBMISSION OF APPLICATION 3/2012/0702/P) ON LAND AT KINGSMILL AVENUE, WHALLEY
submitted by: JOHN HEAP – DIRECTOR OF COMMUNITY SERVICES
principal author: COLIN SHARPE – SENIOR PLANNING OFFICER

1 PURPOSE

- 1.1 To advise Committee of a recently received appeal against the non-determination of the planning application as described above, and to inform Committee of the decision that would have been taken on the application, under delegated powers, in the event that the appeal had not been submitted.
- 1.2 Relevance to the Council's ambitions and priorities:
 - Community Objectives – } The matters identified raise issues associated with protecting the local environment and the amenities of local residents.
 - Corporate Priorities – }
 - Other Considerations – None.

2 BACKGROUND

- 2.1 This application was accepted by the Council as a valid submission on 6 December 2013.
- 2.2 On 24 December 2013 a letter was received from United Utilities (UU) stating (amongst other things) that "as public sewers cross the site, a modification of the site layout or a diversion of the affected public sewers at the applicant's expense may be necessary". To establish if a sewer diversion is feasible, it was advised in the letter that the applicant should discuss the matter at an early stage with a development engineer at United Utilities.
- 2.3 On 7 January 2014 an email was sent by the application case officer to the applicant's agent to which the United Utilities letter of 24 December 2013 was attached. The email requested the agent to respond to the UU letter, but it was suggested that discussions took place with the relevant officer at United Utilities before such a response was drafted.
- 2.4 In the same email on 7 January 2014 (and referring to a telephone conversation that had previously taken place between the case officer and the applicant's agent) the agent was requested to submit a further Supporting Statement which covered the matters of energy efficiency and affordable housing; and also to submit amended plans to address mistakes that have been made on the original plans in relation to the north/south notations on the elevational drawings.

- 2.5 On 20 May 2014, when the requested information, amended Supporting Statement and amended/corrected plans had not been received, the case officer telephoned the applicant's agent for an update/explanation. This resulted in an email from the agent to the case officer in which he made the following points:
- I can confirm that the delay in negotiations with UU are due to the Council's record supplied by UU are out of date and we are awaiting the new records to be sent to allow a sewer diversion plan to be approved.
 - Also the development with the eco houses to meet the 2016 regulations has altered as the technology has not advanced as fast as the claims of the manufacturer, so I have decided to change to a manufacturer with a track record of actual construction, though the house technology is not as advanced, it is proven. I will therefore submit the amended Supporting Statement shortly.
- 2.6 On 6 June 2014 United Utilities sent an email to the agent (cc'd to the case officer) in which they confirmed that, following a review of an onsite survey "the proposals do not interfere with the public sewers because a minimum of 3m easement has been maintained".
- 2.7 An amended Planning Justification Statement (PJS) was received by the Local Planning Authority on 18 June 2014. The contents of this document were site description and development proposal; appraisal of national planning policy and local planning policy; structural insulated panels and their sustainability; creating sustainable rural communities; and conclusions. There is a lot of detail in the PJS about the energy efficiency of the proposed construction method/materials. There was no explanation, however, of how two of the relatively large dwellings would be offered as "affordable" units of accommodation (as had been requested by the case officer on 7 January 2014). Corrected versions of the plans (as also requested on 7 January 2014) were also not submitted with the revised PJS (the plans submitted with the appeal to the Planning Inspectorate, however, do contain the correct north/south notations).
- 2.8 The Environment Agency made comments about the proposed means of foul drainage for the development (ie by the installation of a new package treatment plant) on 12 August 2014.
- 2.9 The case officer had therefore given the applicant and agent a considerable amount of time to submit supporting and explanatory information to assist in the proper consideration and determination of the application. However, at a time when all the required information had still not been received, and without warning or explanation, the applicant/agent submitted an appeal to the Planning Inspectorate in respect of the non-determination of the application on 7 August 2014. The Planning Inspectorate have confirmed the start date for the appeal as 29 August 2014.

3 ISSUES

- 3.1 In respect of non-determination appeals, the LPA needs to inform the Planning Inspectorate how the application would have been determined if the appeal had not been submitted. In this case, the application would have been determined under delegated powers. For the Committee's information, I outline below the relevant considerations and state the decision that would have been made on this application.

- 3.2 The application seeks permission for two pairs of semi-detached houses, one pair on each side of the cul-de-sac head at the western end of Kingsmill Avenue. A previous application (3/2012/0702/P) had sought permission for a similar development at the western end of the avenue but also included a terrace of five affordable dwellings, a detached house and a pair of semi-detached dwellings on each side of the avenue at its eastern end adjoining Mitton Road. That application was refused for four reasons. Three of the reasons related to detailed aspects of the development proposed at the eastern end of Kingsmill Avenue. The other reason, however, stated that the whole development (including the four proposed dwellings at the western end of the avenue) was unacceptable in principle. The precise reason for refusal is as follows:

The proposed development, due to its location in the open countryside, and not either within or immediately adjoining a settlement boundary, does not represent sustainable development as required by NPPF. It would therefore represent inappropriate development in the open countryside contrary to saved Policies H2 and G5 of the Ribble Valley Districtwide Local Plan and Policies DMH3 and DMG2 of the Core Strategy 2008 – 2028 – A Local Plan for Ribble Valley Regulation 22 Submission Draft.

- 3.3 Since that decision was made in December 2012, the Core Strategy has been modified and is now at a stage such that it can be afforded more weight in the decision-making process. The modifications, however, do not change the fundamental reason for refusal of the previous application.

- 3.4 The site remains in the open countryside outside, and not close to, any settlement boundary. The Development Strategy as defined in Key Statement DS1 still seeks to direct the majority of new housing development to the strategic site at Standen; to the principal settlements of Clitheroe, Longridge and Whalley; and to the identified Tier 1 villages. In the open countryside, Policies DMG2 and DMH3 still restrict residential development to essential agricultural workers dwellings or development which meets an identified local need. In this application, two of the dwellings are stated to be “affordable” (although precise details of how such relatively large dwellings would be provided as such properties has not been submitted). Irrespective of this, the application remains contrary to the relevant Core Strategy policies by virtue of the two proposed market dwellings. However, I have not received any formal response in relation to the need or benefits of the affordable housing element.

- 3.5 Members are therefore informed that the application would have been refused under delegated powers for a reason similar to that given in respect of the previous application but updated to reflect the current version of the Core Strategy. In order to protect the Core Strategy, a reason relating to the setting of a harmful precedent is also now considered to be necessary and justified. The two reasons for refusal are therefore as follows:

1. The proposed development is contrary to Key Statement DS1 and Policies DMG2 and DMH3 of the Ribble Valley Core Strategy submission version as proposed to be modified as it would involve the construction of dwellings in an open countryside location that do not meet an identified local need. As such, the proposal would cause harm to the Development Strategy for the borough as set out in the emerging Core Strategy leading to unsustainable development.
2. Permission for the proposed development would create a harmful precedent for the acceptance of other similar proposals without sufficient justification which would have an adverse impact on the implementation of the emerging planning

policies of the Council contrary to the interests of the proper planning of the area in accordance with the core principles and policies of the NPPF.

4 RISK ASSESSMENT

4.1 The approval of this report may have the following implications:

- Resources – The appeal process is costly in terms of officer time required to provide all the relevant documentation to the Planning Inspectorate.
- Technical, Environmental and Legal – No implications identified.
- Political – No implications identified.
- Reputation – No implications identified.
- Equality & Diversity – No implications identified.

5 **RECOMMENDED THAT COMMITTEE**

5.1 Note the content of the report.

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BACKGROUND PAPERS

None.

For further information please ask for Colin Sharpe, extension 4500.

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