

# Report

**Report Subject:** Outline application S/2008/0779 for mixed use development of land to comprise around 90 dwellings and 3800 square metres of B1 business floorspace (including associated highway infrastructure) and landscaping on land off Hindon Lane, Tisbury.

**Report to:** Southern Area Planning Committee

**Date:** 27<sup>th</sup> August 2009

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## 1. Report Summary:

1.1 That the resolution to grant planning permission, made at the Western Area Committee of the former Salisbury District Council on 19<sup>th</sup> March 2009, should be varied to allow a further period of time to complete the legal agreement beyond the previously agreed time period.

## 2. Considerations:

2.1 The background to this report is the resolution of the former Western Area Committee to grant planning permission for mixed use development of land off Hindon Lane, Tisbury, for around 90 dwellings and 3800 square metres of B1 business floorspace (including associated highway infrastructure). This was subject to a legal agreement under s106 of the Town and Country Planning Act 1990 to secure a number of planning requirements.

2.2 The requirements and the legal agreement relate to:

- (1) the provision of public recreational open space;
- (2) the provision of affordable housing;
- (3) the phasing of development;
- (4) the sum in relation to policy R4 (the community land) and R2 (public recreation facilities);
- (5) the provision of educational facilities;
- (6) the need for a Travel Plan and the requirements of the Highway Authority;
- (7) Public art;
- (8) the satisfactory long term operation and maintenance of the surface water drainage scheme;
- (9) Landscape Management;
- (10) A contribution in relation to bin storage and kerbside waste management facilities.

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- 2.3 A time limit was originally imposed for the legal agreement to be completed within 3 months of the resolution, ie by 11<sup>th</sup> March 2009. It was subsequently agreed, at Western Area Committee on 19<sup>th</sup> March, that this period could be extended until 16<sup>th</sup> August 2009 because the original time-frame was too short to allow negotiations to be completed.
- 2.4 In the event that an agreement was not reached within the deadline, the resolution gives the Head of Development Services delegated authority to refuse permission on the grounds of loss of public open space (compliance with R2), lack of affordable housing, inadequate travel planning, highway safety, inadequate access, surface water drainage, unsatisfactory phasing of development - ie all those issues that would need to be achieved by means of the legal agreement.
- 2.5 Since the resolution, officers have sought to negotiate the terms of the s106 agreement. Although negotiations are nearly complete, it has not proved possible to conclude them within the time frame set. It should be stressed that the delay in completing negotiations rest primarily on the side of the Council (including complications resulting from local government re-organisation), rather than with the developers, who remain keen to progress the proposal.
- 2.6 It is hoped that negotiations can be finally agreed, and the decision notice issued, within a period of five months, bearing in mind that there will be five different firms of solicitors considering the s106.

### **3. Options for consideration:**

- 3.1 Members have two options. They could either decide to extend the deadline, or not extend the deadline.

#### **Option 1**

- 3.2 The effect of not extending the deadline would be to refuse permission, on the basis that the agreement cannot be secured in time, and that without the legal agreement a number of key planning requirements would not be met.
- 3.3 However, in the event of this option being taken the applicants would be likely to appeal against the refusal to the Secretary of State. Given that the delays in securing the completion have been largely on the Local Planning Authority's side, the Authority would be at risk of costs if it was judged that refusal was unreasonable.

#### **Option 2**

- 3.4 Alternatively, it would be preferable to extend the deadline to allow the legal agreement to be completed and for the planning application to be submitted and approved. It is considered that negotiations should be completed relatively quickly, but that a period of five months should be provided in case this proves to take longer (particularly given the involvement of a number of solicitors). Therefore a period until 16<sup>th</sup> January 2010 is recommended.

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**4. Recommendation:**

- 4.1 That option 2 be followed and the resolution approved on 19<sup>th</sup> March 2008 in respect of this application be varied so that the s106 agreement has to be completed before 16<sup>th</sup> January 2010, but that if no agreement is secured by this time, that delegated authority be given to the Area Development Manager to refuse for the reasons stated in the original resolution.

**5. Background Papers:**

- 5.1 The original report to Western Area Committee on 11<sup>th</sup> December 2008 and the minutes of that meeting (which were amended at the meeting on 22<sup>nd</sup> January).