

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: 28th January 2010

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1. Report Summary:

1.1 That the resolution to grant planning permission, made at the Southern Area Planning Committee on 27th August 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 of Salisbury District Council 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.

2.3 A time limit was originally imposed for the legal agreement to be completed within 3 months of the resolution, ie by 11th March 2009. It was subsequently agreed, at Western Area Committee on 19th March, that this period could be extended until 16th August 2009 because the original time-frame was too short to allow negotiations to be completed. This was extended again at the 27th August 2009 meeting, to last until 16th January 2010.

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 last resolution, officers have negotiated the terms of the s106 agreement with the applicants to both side's satisfaction. However, the final signing of the agreement involves a number of third parties and it is because of delays with these parties that the agreement has not yet been signed.

2.6 It is hoped that the legal agreement can be completed, and the decision notice issued, within a period of three months. However, it would be preferable for this period to be extended without further recourse to committee, under the Area Development Manager's delegated powers.

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. An appeal would be likely to involve the Council in significant time and expense and the appeal would almost certainly be allowed, because in the time that an appeal takes (at least 6 months) the legal agreement should have been completed anyway.

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 a period of three months is likely to sufficient but it would be preferable for this to be extended under officers' delegated powers. Therefore this option is recommended.

4. Recommendation:

4.1 That option 2 be followed and the resolution approved on 19th March 2008 in respect of this application be varied so that the s106 agreement has to be completed before 16th January 2010, but that delegated authority be given to the Area Development Manager to extend this period, or to refuse permission for the reasons stated in the original resolution.

5. Background Papers:

5.1 The original report to Western Area Committee on 11th December 2008 and the minutes of that meeting (which were amended at the meeting on 22nd January), and of the Southern Area Committee on 27th August 2009.