



ITEM 4(b)

**REPORT FROM: PLANNING, ECONOMIC DEVELOPMENT AND
REGULATORY SERVICES MANAGER**

TO: POLICY AND RESOURCES COMMITTEE

DATE: 17th DECEMBER, 2020

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PLANNING APPLICATIONS

PURPOSE OF REPORT

To determine the attached planning application.

POLICY AND RESOURCES COMMITTEE 17TH DECEMBER 2020

Application Ref: 20/0524/PIP

Proposal: Permission in Principle: Erection of up to 6 No. dwelling houses.

At: Land to the North of Rockwood, Halifax Road, Nelson.

On behalf of: The Mill Company Ltd.

Date Registered: 24.08.2020

Expiry Date: 06.11.2020

Case Officer: Charlotte Pinch

This report has been referred from Brierfield and Reedley Committee as members were minded to refuse the application, on the ground of loss of open space and amenity, against officer's recommendation. No evidence was presented to support these reasons for refusal.

In the absence of supporting evidence, if refused on the grounds of open space loss and amenity, there would be a significant risk of an adverse costs award against the Council

Site Description and Proposal

This application has been deferred from the November 2020 committee to allow for a site visit. It is to be decided at committee as it has received more than three objections.

The application site is a piece of undeveloped land linked to Nelson Golf Club, which is designated as Open Space. The site is located within the Open Countryside, directly adjacent to the settlement boundary.

The proposal is for the erection of six dwellings, no further details have been provided at this stage. The principle of residential development in this location is the only aspect to be considered as part of this application.

Relevant Planning History

None relevant.

Consultee Response

United Utilities

Should the applicant receive Planning in Principle permission for this proposal, United Utilities will review the drainage element of any application for Technical Detail Consent in line with the surface water hierarchy. Our consideration of the drainage proposals in line with the drainage hierarchy will be reflected in our response to the Local Planning Authority which is likely to include a suggested condition relating to drainage. Should the applicant propose to connect surface water to the public sewer, we will request evidence to show that the previous options detailed in the hierarchy have been fully investigated and discounted.

The Coal Authority

Our records indicate that the application site is in an area of likely historic unrecorded coal mine workings at shallow depth. It is a requirement of the National Planning Policy Framework, paragraphs 178-179, that the applicant demonstrates to the satisfaction of the LPA that the application site is safe, stable and suitable for development. We would therefore expect the potential risks posed to surface stability by past coal mining activity to be properly considered and any necessary investigations and remedial works carried out in order to ensure the safety and stability of the development proposed.

On the basis of the above the Coal Authority wish to be consulted on any future technical details consent submitted, should Planning in Principle be granted.

Any application for approval of technical details consent needs to be supported by a Coal Mining Risk Assessment, or equivalent report, which should make an assessment of the coal mining legacy risks present on the site and to inform any remedial works necessary to address any identified land stability issues.

Lancashire Fire and Rescue

No objection.

PBC Countryside Access Officer

The site of the proposed development is crossed by two public footpaths. Public footpath 23 runs along the southern edge of the site and public footpath 24 runs through the site between Kings Causeway and Halifax Road. The planning report is therefore incorrect to state that the loss of the site to outdoor recreation open space is immaterial. The public rights of way in fact allow informal recreation on foot through the site.

Careful consideration will need to be given to the site layout to accommodate the existing footpaths. A wide landscaped corridor should be retained for each footpath in order that the land retains some of its natural characteristics for footpath users. With the land being developed as an urban area the developer should be required to improve the footpaths as made-up paths.

In the event that proposals are made for footpath 24 to be diverted for the site to be developed then the applicant would need to make an application for a public path order. We recommend that the applicant makes a diversion application at the earliest opportunity due to the time scales involved. The developer should pay careful attention to the guidance on the DEFRA Rights of Way Circular 2/93. In particular the applicant must show the existing rights of way on any plans submitted and illustrate how these will be accommodated by the proposed development.

PBC Environmental Health

Whilst no objection is raised, conditions regarding contaminated land and a construction method statement are advised.

Public Response

16 letters of objection were received from neighbouring occupiers, their comments can be summarised as follows:

- Access onto a busy road is unsafe.
- Ruin the appearance of the most scenic approach into the area, with grassed verge and tree lined road side.
- Will ruin access to the existing public footpaths, and the open views enjoyed by walkers.
- Detrimental loss of green space and wildlife habitat.
- Disruption from building works.
- Will result in an eyesore in the countryside and wider landscape.
- Already sufficient development permitted and built within the area.
- The properties will not be in keeping with the area.
- Result in pressure on local services and infrastructure.

Officer Comments

This is an application for a Permission in Principle ("PiP"). This is a form of planning application that has been specifically allowed to come forward as an alternative to normal planning applications.

The scope of permission in principle is limited to location, land use and the amount of development. A decision must be made in accordance with relevant policies in the development plan but based around the three factors. There is no other specific guidance about the way a PiP should be considered other than considering it based on existing prevailing planning policies.

A site that benefits from a PiP would then be subject of a further application for approval of technical details. It is regrettable that there has been no adequate guidance on what this would entail but in basic terms a Council can require any necessary details to be considered at the technical stage. The principle could not however be revisited at that stage.

Policy

Local Plan Part 1: Core Strategy

Policy SDP1 (Presumption in Favour of Sustainable Development) sets out the presumption in favour of sustainable development which runs through the plan.

Policy SDP2 (Spatial Development Principles) states that new development within settlement boundaries will be acceptable, unless it is an exception outlined in the Framework or elsewhere in the LPP1.

Policy LIV1 (Housing Provision and Delivery) sets out the housing requirement for Pendle, on allocated sites within settlements.

Policy ENV1(Protecting and Enhancing Our Natural and Historic Environments) states that the historic environment and heritage assets of the borough (including Listed Buildings, Conservation Areas, Scheduled Monuments, non-designated assets and archaeological remains), including and their settings, will be conserved and where appropriate should be enhanced.

Policy ENV2 (Achieving Quality in Design and Conservation) All new development should viably seek to deliver the highest possible standards of design, in form and sustainability, and be designed to meet future demands whilst enhancing and conserving our heritage assets.

Replacement Pendle Local Plan

Saved Policy 31 of the Replacement Pendle Local Plan sets out the maximum parking standards for development.

Policy 33 (Existing Open Space) advises that the loss of open space will only be permitted where it involves poor quality space in areas where there is surplus provision in the particular ward area.

National Planning Policy Framework

The Framework states that the purpose of the planning system is to contribute to the achievement of sustainable development. It states that there are three dimensions to sustainable development: economic, social and environmental. The policies in the Framework, taken as a whole, constitute the Government's view of what sustainable development in England means in practice for the planning system.

Principle of Development

Policy LIV1 deals with housing provision and delivery. It states that sustainable sites outside, but close to a settlement boundary, which make a positive contribution to the five year supply of housing land will be supported.

The application site is located within the Open Countryside, directly adjacent to the settlement boundary, which adjoins the northern western boundary of the site. The proposed development would be bordered by existing properties on Kings Causeway to the north west and 'Rockwood' to the south east, therefore situated between existing residential development. The location does not give rise to landscape or other unacceptable impacts occurring. The relationship with Brierfield is such that the site would be considered to be in a sustainable location, this being reinforced by previous committee decisions regarding the proximity of sites to settlements. Therefore, in accordance with Policy LIV1, the principle of residential development on this site is acceptable.

Open Space

The application site is identified within the Pendle Open Space Audit 2019 as designated for Outdoor Sports, as part of Nelson Golf Club.

Open space is defined in the NPPF as being all open space of public value which offer important opportunities for sport and recreation and can act as a visual amenity. This land formed part of the Open Space assessment examined as part of the EIP into the Local Plan, which was found to be sound.

The application site is 0.6 hectares with a quality score of medium (43). Overall the Reedley ward has a surplus of Outdoor Sports of 46.95ha. Therefore, the loss of this site would result in a remaining surplus of 40.95ha, remaining of low priority for increased provision.

The Council seeks to protect those areas of designated open space. Policy 33 of the Replacement Pendle Local Plan states that the loss of open space will only be permitted where; there is the loss of poor quality amenity open space in areas where there is a surplus provision, or replacement open space provision is provided as compensation.

Similarly in accordance with the National Planning Policy Framework, the applicant must meet one of the defined exceptions, in Paragraph 97 of the NPPF, as follows:

- a) An assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or
- b) The loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or
- c) The development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.

The application site is one of 8 outdoor sports sites within the Reedley ward. OS064 is a 42ha site which covers all of Nelson Golf Course. The application site forms a very small portion of this, in the north eastern corner of the course. Compared to the rest of the golf course this section is not maintained or manicured to the same standards and is not part of the main course. It is overgrown and partitioned from the main course by a dense hedgerow and public footpath. As a result, the loss of this small piece of open space, would not compromise the outdoor sports provision of the golf club.

The 2019 OSA places a low priority on increasing the provision of outdoor sports space within Reedley and the societal benefits of 6no. residential dwellings would outweigh the loss of the existing outdoor sports space.

Reason for Decision

Section 38 of the Planning and Compulsory Purchase Act 2004 requires that applications be determined in accordance with the development plan unless material considerations indicate otherwise. The proposed development is acceptable in principle. There is a positive presumption in favour of approving the development and there are no material reasons to object to the application.

RECOMMENDATION: Approve

INFORMATIVE

As part of a technical details application the following information should be provided:

- Plans, including location plan, site plan, elevation and floor plans.
- Planning Statement.
- Contamination Survey
- Foul and Surface Water Drainage Scheme.
- Ecology Survey.
- Landscaping Scheme.

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