
ST MODWEN DEVELOPMENT PROPOSAL: ACCESS ARRANGEMENTS

**Responsible Cabinet Members – Councillor Stephen Harker,
Efficiency and Resources Portfolio and
Councillor Chris McEwan, Economy and Regeneration Portfolio Holder**

Responsible Director – Richard Alty, Director of Economic Growth

SUMMARY REPORT

Purpose of the Report

1. To consider a request for access rights across Council land at Faverdale, for the residential-led development proposed by developers St Modwen.
2. Developers St Modwen have submitted an outline planning application to develop a major residential led mixed use scheme on land they own at Faverdale. To implement the development, 2 no access roads would be required across Council-owned land. Part of the proposed development site, known as Faverdale 58, already has approval to grant outline planning permission (subject to the signing of a planning agreement) for employment uses and an access agreement is in place for those particular uses.
3. Having considered the proposed development through the usual development management pre-application process, officers have various serious planning concerns including that the proposal:
 - (a) is contrary to the Local Plan Core Strategy locational strategy;
 - (b) is not needed in terms of housing land availability requirements;
 - (c) is on land allocated for employment uses;
 - (d) could prejudice future employment development;
 - (e) could lead to adverse impacts on residents of the new development.
4. In light of the above, officers feel the existing access agreement, which is due for renewal in May 2014 and is required to enable the development to go ahead, should not allow for this proposed residential led mixed use scheme, and should be renewed only for the previously agreed employment uses.
5. The applicants have been informed of the officers' position and St Modwen have asked that they be permitted to 'park' the planning application while they await the outcome of the Cabinet decision and before they decide what to do next with the planning application. They have indicated that if Cabinet agree the recommendation, they would be keen to pursue the proposals for employment

uses, including signing up to the original S106 and putting in the access roads in line with the existing access agreement.

Recommendation

6. It is recommended that :-

- (a) Cabinet does not agree to give rights of access across its land at Faverdale for residential-led development proposed by developers St Modwen; and
- (b) Cabinet reaffirms its commitment to working with St Modwen to facilitate the development of their land for employment uses, and agrees to enter into a new access agreement only for employment uses, following the ending of the current agreement.
- (c) The Director of Economic Growth in consultation with the Efficiency and Resources and Economy and Regeneration Portfolio holders be authorised to agree terms for a new access agreement in line with the existing agreement and the heads of terms as previously reported to Cabinet in 2006.
- (d) The Borough Solicitor be authorised to complete the necessary documentation.

Reasons

7. The recommendations are supported by the following reasons :-

- (a) to avoid undermining the Council's ability to deliver the overall long term spatial strategy of the adopted development plan for Darlington;
- (b) to avoid unsustainable patterns and forms of new development;
- (c) to ensure the land owned by St Modwen is not developed for residential purposes; and
- (d) to confirm the Council's continued commitment to work with and encourage St Modwen to open up its land for employment uses and have it available and serviced for potential enquiries.

Richard Alty, Director of Economic Growth

Background Papers

- (i) Making and Growing Places Preferred Options, DBC June 2013
- (ii) Darlington Core Strategy, DBC April 2011
- (iii) Cabinet report – June 2006

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S17 Crime and Disorder	The recommendation does not have any specific crime and disorder implications
Health and Well Being	The recommendation does not have any specific health and well being implications
Carbon Impact	The recommendation does not have any specific carbon impact implications

Diversity	The recommendation does not have any specific diversity implications.
Wards Affected	Faverdale, Harrowgate Hill
Groups Affected	None
Budget and Policy Framework	The recommendation does not change the Budget and Policy Framework
Key Decision	This is not a Key Decision
Urgent Decision	This is not an Urgent Decision
One Darlington: Perfectly Placed	The recommendations support the objectives in One Darlington : Perfectly Placed
Efficiency	None.

MAIN REPORT

Background

8. On 8 January 2014, an application for outline planning permission was submitted to the Council on behalf of developer St. Modwen, for a residential led mixed-use development on land at Faverdale 58 and Whessoe Road.
9. Outline planning consent (with all matters reserved) was sought for:
 - (a) Up to 600 dwellings;
 - (b) 37,500ft² B1(c), B2 & B8 employment space;
 - (c) A small retail centre;
 - (d) Improved pedestrian and cycle links; and
 - (e) Open space and associated landscaping
10. The application site (**see Appendix 1**) is separated by the Bishop Auckland branch line railway. The western part of the site is known as Faverdale 58. To the north is the Argos distribution depot and agricultural land, to the west, Faverdale Industrial Estate where development is currently underway on a sub-sea production and testing centre. To the south is the Honeypt Lane gypsy and traveller site. The eastern part of the site is known as Land at Whessoe Road and is bound to the east by Whessoe Road itself and the railway line to the west. The majority of the middle and northern part of the Whessoe Road site was previously occupied by industrial buildings which have now been cleared.
11. The two parts of the site are subject to previous planning applications / approvals:
 - (a) Land at Whessoe Road - Outline planning permission was granted for residential development in December 2009 and this application has subsequently been renewed (ref: 13/00244/FUL).
 - (b) Faverdale 58 - Outline planning permission was granted (subject to the signing of a Section 106 planning agreement) for over 1 million square foot of B1, B2 & B8 development including 2 no. access roads in December 2009 (ref: 08/00778/OUT). The planning agreement remains to be signed by the developer.

12. The recent outline application indicates that the Faverdale 58 site would need to be accessed from two new links westwards to the existing Faverdale highway infrastructure at Legion Avenue and Samian Way. These access roads would need to cross Council owned land. As part of the planning application process, the applicants have served notice on the Council as landowner and an access agreement would be required for the development to be implemented.
13. As part of the existing approval (subject to signing the S106 agreement) for employment uses at Faverdale 58, the Council signed an agreement giving access rights for two roads across its land and this agreement has subsequently been renewed twice. The most recent agreement expires in May 2014. After that date either party can terminate the contract by 10 working days' notice, except if at the time St Modwen has lodged a planning appeal or there has been a call-in. In these events the deadline date is extended until expiry of the challenge period.

Information/Analysis

14. The proposed residential-led mixed use development was considered by officers as part of the Council's One Stop Shop pre-application process (13/00088/PREAPP). On 20 September 2013 the applicants were advised by letter of the officers significant planning concerns. Given that the outline application remains, in principle, the same as the pre-application proposal, many of the concerns remain.
15. The Core Strategy clearly states that the Faverdale area of the North West Urban Fringe has potential as a strategically important logistics, distribution and large, modern, general employment area, and information published in the Strategic Housing update (Jan 2014), and the work to identify the preferred option for the location of new housing at the North West Urban Fringe, indicate that new housing in this area should be located as identified in the Making and Growing Places Preferred Options 2013 document (Figure 3.4.2). The proposed development on land known as Faverdale 58 would therefore be contrary to the overall locational strategy for new housing and employment, set out in the adopted Core Strategy. The principle of new housing on the land at Whessoe Road part of the site is acceptable.
16. The availability of housing land is not a reason to deviate from the policies of the development plan. There are sufficient deliverable sites available elsewhere to meet housing requirements for the next five years, and no reasons which outweigh the application of adopted development plan policy to the consideration of this proposal.
17. The Faverdale 58 part of the site, whilst within the development limits, is not considered to be a sustainable location for new housing. The elevated railway line and limited access to the site under the railway line from Whessoe Road make it functionally and physically isolated and remote from existing or planned residential areas and associated shops, services and other community facilities. Also, given existing other uses in the area, e.g. the Honey Pot Lane Gypsy and Traveller site, and the likely costs of creating any improved or additional accesses under the railway line, it is difficult to see how this could be satisfactorily addressed.

18. The identification of the Faverdale area as employment land in the Local Plan, with its specific references to its good access to the A1(M), indicate the planning policy intention is to market the Faverdale area on the basis of its convenient unfettered access to the trunk road network. The Council has commissioned a Logistics Study specifically so that we can market Darlington sites for these uses in the most advantageous way. The volume of residential traffic that this development could generate on roads serving a primarily employment area could reduce the attractiveness of the employment area as a whole.
19. The Core Strategy makes it clear that the provision of new housing is complementary to achieving the goals of economic growth, investment and regeneration in Darlington. By using up employment land whose accessibility offer is unique in the Borough, and potentially constraining the range of uses on other adjacent highly accessible and developable employment land in the Borough, this proposal would conflict with the goal of achieving sustainable economic growth.
20. Whilst the proposed development would bring some previously developed land back into use and potentially result in biodiversity and other green infrastructure, transport connectivity improvements for the site and the wider area, these are not significant enough material considerations to outweigh the continued protection of this site for employment uses, as set out in the adopted Core Strategy and saved policies of the Borough of Darlington Local Plan.

Council Position

21. For the reasons set out above, officers have informed the developers that even if the outline planning application were to receive permission (whether through Planning Committee or on appeal) they would be recommending to Cabinet that access rights are not provided to enable the development to be implemented. Hence the recommendation in this report.
22. The Council remains committed to the development of the Faverdale 58 site for employment uses and worked very closely with St Modwen to try to attract Hitachi to this site having jointly made the case for it being a strategically important site for business uses. Officers will continue to work with St Modwen to realise the minded to approve proposals, including continuing to agree the best mechanism for securing access through the Council's land so that the site can be actively promoted.

Financial Implications

23. If the recommendation is agreed, there will be direct and indirect financial implications for the Council. The capital receipt associated with a potential uplift in land values for residential development will be foregone, although if the existing agreement (related to employment uses) is implemented, this will generate a receipt.
24. A residential-led mixed development of this scale (up to 600 dwellings) would generate New Homes Bonus over a 6 year period, and Council Tax returns on an ongoing basis. However, given the planning strategy would be for the 600 dwellings to be developed elsewhere in the Borough, the New Homes Bonus and

Council Tax would ultimately accrue from other developments. Business rates would also be foregone for the proposed employment and retail units.

25. In addition, if the planning application is withdrawn, the £48,000 planning fee will be refunded to St Modwen. But again, ultimately other development proposals will generate planning fees.

Going Forward

26. Officers have met with the developers to explain the Council's position and to consider a potential way forward.

27. Rather than withdraw their planning application, St. Modwen have asked if it would be possible to 'park' the application at least until after the matter has been to Cabinet. Thus, the application is being held in abeyance at the applicant's request. Officially it is unregistered and not in the public domain until we are instructed by St. Modwen to proceed.

28. St Modwen's have reiterated their commitment to Faverdale and would like to show their commitment by progressing the existing planning consent which is 'minded to approve' subject to an unsigned S106 agreement which needs to be re-visited and re-considered by Planning Applications Committee given the time elapsed.

29. St Modwen's would also like to finalise the positions of the proposed access points and agree with the Council whether these are to be T junctions or roundabouts or one of each etc (**see Appendix 2**). They would then like to proceed with the building of the access roads. This would show commitment to the site and also make the site available should any enquiries come along on the back of Sub Sea or Logistics etc.

30. St Modwen have also stated that they would not be able to progress the Whessoe Road site in isolation because they were going to use the Faverdale site to cross subsidise Whessoe Road.

Conclusion

31. It is felt the proposed redevelopment of this site would have a significant adverse impact on the Council's ability to facilitate the delivery of the overall locational strategy for new housing and employment, set out in the adopted Local Plan Core Strategy.

32. There are strong concerns that the proposal would use up employment land whose accessibility offer is unique in the Borough, and potentially constraining the range of uses on other adjacent highly accessible and developable employment land in the Borough. This proposal would conflict with the goal of achieving sustainable economic growth and create conflicts between residential and commercial activities in this location. It is considered that there are sufficient, more suitable sites available in the borough to meet housing need.

33. Notwithstanding the fundamental policy objections to the principle of the proposal, there are very strong concerns about the potential impacts that the existing

neighbouring uses and the proposed and retained employment uses would have on the potential occupiers of the proposed residential properties.

34. It is considered that there are not significant enough material considerations to outweigh the continued protection of this site for employment uses, as set out in the adopted Core Strategy and saved policies of the Borough of Darlington Local Plan.
35. Access rights across Council land that permit the residential-led proposal should therefore not be agreed. The Council remains committed to promoting the land for employment uses and officers will work with St Modwen to achieve this.