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## SPEAKERS PANEL (PLANNING)

**Day:** Wednesday  
**Date:** 26 July 2017  
**Time:** 10.00 am  
**Place:** Guardsman Tony Downes House, Manchester Road,  
Droylsden, M43 6SF

Item No.	AGENDA	Page No
1.	<b>APOLOGIES FOR ABSENCE</b>	
2.	<b>DECLARATIONS OF INTEREST</b> To receive any declarations of interest from Members of the Council.	
3.	<b>MINUTES</b> The Minutes of the meeting of the Speakers Panel (Planning) held on 21 June 2017, having been circulated, to be signed by the Chair as a correct record.	1 - 4
4.	<b>APPEAL DECISION NOTICES</b>	
a)	<b>18 FRASER STREET, ASHTON-UNDER-LYNE</b>	5 - 8
5.	<b>CONSIDERATION TO VARY A S106 AGREEMENT SECURED AGAINST APPLICATION 15/00631/FUL PHASE 1</b> To consider the attached report.	9 - 12
6.	<b>URGENT ITEMS</b> To consider any other items, which the Chair is of the opinion should be considered as a matter of urgency.	

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From: Democratic Services Unit – any further information may be obtained from the reporting officer or from Carolyn Eaton, Senior Democratic Services Officer, 0161 342 3050 or [carolyn.eaton@tameside.gov.uk](mailto:carolyn.eaton@tameside.gov.uk) to whom any apologies for absence should be notified.

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# Agenda Item 3

## SPEAKERS PANEL (PLANNING)

21 June 2017

Commenced: 10.00am

Terminated: 11.40am

Present: Councillor McNally (Chair)

Councillors: Dickinson, Glover, P. Fitzpatrick, Kinsey, D. Lane,  
Quinn, Sweeton, Travis and Wild

Apologies for absence: Councillors Ricci and Ward

### 1. DECLARATIONS OF INTEREST

Member	Subject Matter	Type of Interest	Nature of Interest
Councillor F Travis	Planning application no: 16/01126/OUT	Prejudicial	Member of Mossley Town (Parish) Council and, as such, expressed views on the application as detailed in the report.
Councillor Dickinson	Planning application no: 17/00289/FUL	Personal	Personal friend of applicant.

### 2. MINUTES

The Minutes of the proceedings of the meeting held on 22 May 2017 having been circulated, were taken as read and signed by the Chair as a correct record.

### 3. PLANNING APPLICATIONS

The Panel gave consideration to the schedule of applications submitted and it was:-

#### RESOLVED

That the applications for planning permission be determined as detailed below:-

Name and Application No.	17/00096/FUL Bryal Developments Ltd
Proposed Development:	Variation of planning condition 2 attached to application 12/00731/FUL Stamford Street Methodist Church, Stamford Street Central, Ashton-under-Lyne.
Speaker(s)/Late Representations:	Billy Hodge (on behalf of the applicant) – spoke in support of the application
Decision:	Approved subject to: (a) the prior signing of a Section 106 legal agreement to secure £6112.18 towards Education and £5000 towards Green Open Space; and

	(b) Conditions as set out in the report.
<b>Name and Application No</b>	16/00897/OUT Carrfield Mill LLP
<b>Proposed Development:</b>	Residential development comprising up to 127 dwellings (C3), access, public open space, landscaping and associated recreation facilities, together with the provision of related infrastructure. Outline – all matters reserved for subsequent approval apart from vehicular access into the site. Carrfield Mills, Newton Street, Hyde. SK14 4NR
<b>Speaker(s)/Late Representations:</b>	Richard Adams spoke against the application Andy Frost (on behalf of the developer) spoke in support of the application.
<b>Decision:</b>	Approved subject to: (a) the prior signing of a Section 106 legal agreement to secure £89,310.78 towards Green Open Space and £156,743.46 towards Education; and (b) Conditions as set out in the report.

<b>Name and Application No:</b>	16/01163/OUT B & H Precision Tooling Ltd
<b>Proposed Development:</b>	Outline application attached to 0.63Ha of land (some matters reserved) for proposed residential development including access from Cheshire Street. Land off Egmont Street, Mossley.
<b>Decision:</b>	Approved subject to; (a) the prior signing of a Section 106 legal agreement to secure: <ul style="list-style-type: none"> <li>• £30,000 towards re-surfacing the canal towpath;</li> <li>• £25,537.26 towards Green Open Space; and</li> <li>• £30,978.77 towards Education.</li> </ul> (b) Conditions as set out in the report.

*At this juncture, Councillor F Travis, having declared a prejudicial interest in the following application, left the room and took no part in the discussion or decision making thereon.*

<b>Name and Application No:</b>	16/011266 Scout Green Ltd
<b>Proposed Development:</b>	Outline planning application for the demolition of buildings and erection of up to 41 dwellings and 6 live/work units with associated car parking and access arrangements (to include re-

	building of bridge over the River Tame) Scout Green Depot, 27 Manchester Road, Mossley
<b>Speakers/Late Representations:</b>	Gareth Glennon (on behalf of developer) spoke in support of the application.
<b>Decision:</b>	<p>Approved subject to:</p> <p>(a) The prior signing of a Section 106 legal agreement to secure:</p> <ul style="list-style-type: none"> <li>• £38,157.24 to £56,933.21 towards Education, depending upon the final format of the development and number of units;</li> <li>• between £38,157.24 and £56,933.21 towards Public Open Space; and</li> <li>• a contribution towards the construction and maintenance of the access to the site, right turn facilities and the proposed replacement and on-going maintenance of the bridge.</li> </ul> <p>(b) Conditions as set out in the report.</p>

<b>Name and Application No:</b>	17/00266/FUL Bellway Homes Ltd & Toray Textiles Europe Ltd
<b>Proposed Development:</b>	29 dwelling houses with associated car parking, access, internal roads, private gardens, public open space and landscaping. Wharf Mill, Dukinfield Road, Hyde
<b>Speaker(s)/Late Representations:</b>	Mike Stone (on behalf of applicant) spoke in support of the application.
<b>Decision:</b>	<p>Approved subject to;</p> <p>(a) the prior signing of a Section 106 agreement to secure:</p> <ul style="list-style-type: none"> <li>• £12,974, (revised amount as reported at the meeting), towards Green Open Space; and</li> <li>• £36,507.09 toward Education.</li> </ul> <p>(b) Conditions as set out in the report.</p>

*At this juncture, Councillor Dickinson, having declared a personal interest in the following application, left the room and took no part in the discussion or decision making thereon.*

<b>Name and Application No:</b>	17/00289/FUL Mrs Ruth Welsh
<b>Proposed Development:</b>	Front and rear dormer and single storey side extension. 16 Arnold Avenue, Hyde

**Decision:**

**Approved subject to conditions as set out in the report.**

**CHAIR**

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## Appeal Decision

Site visit made on 16 May 2017

by **J C Clarke BSc(Hons) BTP MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 9 June 2017

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**Appeal Ref: APP/G4240/D/17/3167579**

**18 Fraser Street, Ashton-under-Lyne OL6 6LL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mrs Pearson against the decision of Tameside Metropolitan Borough Council.
  - The application Ref 16/00595/FUL, dated 17 June 2016, was refused by notice dated 15 August 2016.
  - The development proposed is a Two Storey Side & Rear Extension & single Storey Rear extension.
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### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue is the effect of the proposed development on the living conditions of occupiers of 16 Fraser Street.

### Reasons

3. Number 18 Fraser Street is an end of terrace house with an existing part single and part 2 storey rear outrigger. The neighbouring house at 16 Fraser Street has, immediately next to the boundary with the appeal dwelling, a large rear facing ground floor window.
4. The Council's Residential Design Guide Supplementary Planning Document (SPD) states that, to help avoid issues such as overshadowing or reduced outlook from habitable room windows in neighbouring dwellings, the Council will limit the size of 2 storey and single storey rear extensions using, respectively, a 45 degree and a 60 degree rule. Whilst the SPD only has the status of guidance it is nevertheless material to my decision.
5. The proposed extension would project just over 4 metres from the main rear facing wall of the appeal dwelling<sup>1</sup>, the alignment of which is itself set further back than that of the wall containing the rear facing window in number 16. Whilst its 2 storey part would be set away from the boundary with number 16, its single storey part would run alongside this boundary.

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<sup>1</sup> Although a distance of 3.95 metres is given on drawing PL0415082/Rev A this is from the outer wall of the existing dining room bay window

6. As it would be to the north of number 16, the proposal would not cause any substantive loss of sunlight for the occupiers of that dwelling. However, whilst the term 'overshadowing' used in policy H10 of the Tameside Unitary Development Plan (TUDP) 2004 is typically applied to loss of sunlight it can also have a broader meaning, applying to loss of daylight or outlook.
7. Furthermore, the ground floor part of the proposal would extend substantially beyond the '60 degree' line when drawn from the centre of the window in number 16 in accordance with the SPD. A small part of the 2 storey element would project beyond the '45 degree' line. Whilst the ridge and eaves line of the 2 storey part of the extension would be set below those on the main part of the dwelling, this would not substantially reduce the effects of the extension as a whole as perceived from the affected window in number 16. Having regard to all these points, the proposal would substantially restrict the outlook from, and to some extent the daylight available to, the rear facing window in number 16.
8. The proposed extension would project no further to the rear than the 2 storey part of an existing outrigger at number 16, which also has a single storey section projecting even further to the rear. However, the outrigger at number 16 is set away from the boundary with number 18. Its existence, and that of other outriggers at numbers 12 and 14, does not lessen the effects of the appeal proposal referred to above.
9. Having regard to all these points, I conclude that the proposal would cause substantial harm to the living conditions of the occupiers of 16 Fraser Street. Its approval would therefore conflict with policy H10(d) of the TUDP and the relevant provisions of the SPD and the National Planning Policy Framework (the 'Framework') related to this issue.

### **Other Considerations**

10. The proposed extension would provide independent living space for the appellant's mother, who has limited mobility and a range of other medical conditions. Furthermore, it would do so in an environment where she can have access to her own stair lift, cooking, washing and sanitary facilities and to a safe and secure garden, whilst having access to convenient practical and emotional support by the family if and when she needs it. It would reduce the risk of the mother having to move into a nursing home or other facility away from the family and be likely to reduce the need for home support to be sourced from outside the family. The provision of such space is supported by the Government housing policy as expressed in 'Laying the Foundations: A Housing Strategy for England' and would help address the needs of an ageing population. I have no reason to doubt that it would do so in an affordable manner.
11. However, whilst the above considerations are clearly important, they must be balanced against the harm that I have identified earlier and the fact that any planning permission would run with the property.
12. I acknowledge that the Framework sets a presumption in favour of sustainable development. However, this must be considered in the context of its core principles which include always seeking to ensure a good standard of amenity for existing and future occupants of land and buildings.



13. I agree that the proposal would not harm the character or appearance of the host property or the surrounding area. I also note that the property is not in a Conservation Area. However, these points constitute a lack of harm in relation to these issues rather than positive benefits to weigh in the planning balance.
14. I also agree that the proposal would accord with policy C1 and several of the criteria in policy H10 of the TUDP, and with policy RD2 of the SPD. However, this point does not outweigh the policy conflicts that I have identified earlier.
15. In coming to my decision I have also had due regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010, which sets out the need amongst other things to advance equality of opportunity between people who share a protected characteristic, such as age and disability, and people who do not share it.

### **Planning balance and conclusion**

16. Against the proposal I have found that it would cause substantial harm to the living conditions of occupiers of 16 Fraser Street. Given the resultant conflict with development plan policy this matter carries substantial weight against allowing the appeal.
17. In support of the proposal it would provide supported independent living space for the appellant's mother. However, whilst this would be an important benefit I am not convinced that it is sufficient to outweigh the harm that I have identified. I conclude that the proposal would not accord with the development plan as a whole or constitute sustainable development in the terms of the Framework.
18. For the reasons given above I conclude that the appeal should be dismissed.

*Jonathan Clarke*

INSPECTOR

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## Application 17/00598/D106

<b>Proposal</b>	Consideration to vary a s106 Agreement secured against application 15/00631/FUL Phase 1, approved 14 October 2015
<b>Site Location</b>	Wharf Mill / Toray Textiles, Dukinfield Road, Hyde
<b>Applicant</b>	Bellway Homes Ltd & Toray Textiles Europe Ltd (TTEL)
<b>Recommendation</b>	<p>That Members consider the variation of a section 106 Agreement entered into following the grant of planning permission subject to conditions and prior signing of the said section 106 agreement in respect of Application 15/00631/FUL, in the following terms requested by the Applicant in their application 17/00598/D106</p> <p><b><i>‘to refund the Bond upon completion of the first dwelling on the Employment Site as the site will no longer be available for employment purposes’.</i></b></p>
<b>Reason for report</b>	A Speakers’ Panel decision is required because the application proposes a material amendment to a previous resolution of the Committee.

## REPORT

### 1. APPLICATION DESCRIPTION

- 1.1 This application seeks to vary a s106 agreement secured against application 15/00631/FUL approved on 14 October 2015 by Speaker’s Panel (Planning) <http://www.tameside.gov.uk/speakerspanel/planning/14oct15/agenda> which sought full planning permission for the erection of 66 no. dwellings with associated car parking, access, internal roads and landscaped open space on the central and southern part of the site, and outline planning permission for employment uses (Use Classes B1/B2/B8) with all matters reserved, except for access on the northern part of the site. This application was permitted in October 2015 subject to a S106 Agreement which secured financial contributions towards the off-site provision of open space and educational facilities.
- 1.2 The section 106 agreement also required a £300,000 bond to be paid to the Council in connection with the construction of commercial units on the employment site unless the developer/owner substantially completed one or more commercial units of at least 6,000 square feet. The purpose of this was to provide an incentive to see the remainder of the site to be developed for employment uses.
- 1.3 Members granted planning permission on 21 June 2017 for residential development on the northern part of the site. Commercial development had not been forthcoming on the site.
- 1.4 The variation sought by the Applicant requests the amendment of the existing section 106 agreement for the wider Wharf Mill site (dated 5 November 2015) to reflect this change in circumstance, and states *‘it is reasonable for the Council to refund the Bond upon completion of the first dwelling on the Employment Site as the Site will no longer be available for employment purposes.’*

## **2. PLANNING HISTORY**

- 2.1 09/00002/OUT, demolition of the existing premises on the site, and erection of a mixed residential and employment development. Refused April 2009 for the following reason:
- 2.2 “The proposed development introduces without adequate justification a non-employment use on a site designated as an Established Employment Area which is contrary to both Policy E3 of the Unitary Development Plan and also the Employment Land Supplementary Development Document.
- 2.3 A subsequent appeal was dismissed.
- 2.4 09/01070/OUT, demolition of the existing premises on the site, and erection of a mixed residential and employment development (resubmission of 09/00002/OUT). Approved subject to a section 106 agreement requiring a bond to be paid to the Council prior to the occupation of any residential units or the completion of two industrial units on the site together with contributions towards education and open space.
- 2.5 15/00631/FUL, hybrid application was submitted seeking full planning permission for the erection of 66 no. dwellings with associated car parking, access, internal roads and landscaped open space on the central and southern part of the site, and outline planning permission for employment uses (Use Classes B1/B2/B8) with all matters reserved, except for access on the northern part of the site. Permitted October 2015 subject to a S106 Agreement which secured financial contributions towards the off-site provision of open space and educational facilities. It also required the provision of 6,000 sq ft (c. 557 sq m) of commercial floorspace on the northern part of the site, or the payment of a financial bond, prior to the occupation of the first residential dwelling on the site. The bond was paid to TMBC by TTEL on 20 January 2017.
- 2.6 17/00266/FUL, 29 Dwellings with associated car parking, access, landscaping etc. Resolution to approve subject to conditions and prior signing of a s106 agreement

## **3. PUBLICITY CARRIED OUT**

- 3.1 There are no third parties affected by the agreement who would need to be consulted.

## **4. RESPONSES FROM CONSULTEES**

- 4.1 N/A

## **5. ASSESSMENT**

- 5.1 At Speakers Panel on 21 June 2017 members resolved to approve application 17/00266/FUL for 29 Dwellings with associated car parking, access, landscaping etc. on the northern part of the above – mentioned site subject to conditions and prior signing of a s106 agreement.
- 5.2 The Council had previously entered into a legally binding agreement with the Developer where the Developer agreed that prior to the occupation of the first dwelling on the 2015 approval they would either build and substantially complete one or more of the commercial units or pay the bond. Implementation of a subsequent planning permission is required before this could be considered to cease to have effect, and that has not so far been achieved. It does not follow therefore that terms in the previous section 106 agreement should be considered for modification, variance or discharge at this stage.

5.3 The Applicant should therefore explain to the Speakers Panel why the Council should modify the obligation they have requested in these circumstances, either at all, or at this moment in time.

**6. RECOMMENDATION**

6.1 As set out at the beginning of the report.

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