
MEETING: PLANNING CONTROL COMMITTEE

DATE: 17 APRIL 2007

SUBJECT: TOWNSIDE, KNOWSLEY STREET, BURY

REPORT FROM: BOROUGH PLANNING, ENGINEERING AND
TRANSPORTATION SERVICES OFFICER

CONTACT OFFICER: TOM MITCHELL – DEVELOPMENT MANAGER

TYPE OF DECISION: COUNCIL

**FREEDOM OF
INFORMATION
STATUS:** This paper is within the public domain

SUMMARY:

Planning permission has been granted for the development known as Townside (ref:47200). The consent was part outline and part full permission and included two specific conditions requiring pedestrian linkage to the Metrolink. The applicant has prepared a submission requesting that the mechanism for complying with the conditions be agreed.

OPTIONS AND RECOMMENDED OPTION (with reasons):

The Committee is recommended to agree to the proposed mechanisms and authorise the Borough Planning, Engineering and Transportation Services Officer to issue the required approval.

IMPLICATIONS -

Corporate Aims/Policy Framework: N/A

**Financial Implications and
Risk Considerations** N/A

**Statement by Director of Finance
and E-Government:** N/A

Equality/Diversity implications: N/A

Considered by Monitoring Officer: Yes

Are there any legal implications? The suggested alternative to the planning conditions in question addresses the requirements of the local planning authority and meets Government guidance on the use of conditions in planning permissions (Circular 11/95)

Staffing/ICT/Property: N/A

Wards Affected: ALL

Scrutiny Interest: N/A

TRACKING/PROCESS

EXECUTIVE DIRECTOR:

Chief Executive/ Management Board	Executive Member/ Chair	Ward Members	Partners
Scrutiny Commission	Executive	Committee	Council

The permission granted at Townside includes two identical conditions specifically requested by the Planning Control Committee, which are worded as follows:-

“Prior to the first occupation of any building full details of pedestrian linkages from the site to the Metrolink facility adjacent to the site and a timetable for the implementation of the details, with such timetable requiring the linkages to be achieved and completed prior to the first occupation of any building, shall be submitted to and approved by the Local Planning Authority. The approved details shall be implemented in accordance with the approved scheme and timings, unless otherwise agreed in writing by the Local Planning Authority.”

The submission prepared by the applicant (attached) sets out the practical issues around compliance with this condition and the applicant has concluded that the conditions would actually prevent the development proceeding.

The condition includes a clause which states that the implementation shall be in accordance with the approved scheme unless *“otherwise agreed in writing”*. It is therefore being requested that a Unilateral Undertaking be submitted to the Local Planning Authority which would provide a commitment from the developer to use *“Reasonable Endeavors”* to obtain the consent of relevant third parties required for the at grade crossing of the Metrolink Track, implement the ‘at grade’ crossing and so satisfy the conditions.

“Reasonable Endeavours” is a legal definition capable of enforcement should the developer fail to take such steps as required pursuant to the definition. The developer will also be required to regularly provide updates to the Local Planning

Authority as to actions taken to secure the third party consents and implement the link so that progress towards compliance with the Unilateral Undertaking can be monitored .

In the event that no engineering solution to the provision of a Metrolink crossing can be found or is available only at a cost which the development cannot bear there will not be any requirement for the Developer to provide such link.

The arguments put forward by the developer are compelling and if this development is to proceed it will be necessary to review the matter. The mechanism proposed by the developer is a reasonable way forward. It will not replace or revoke the requirements of the condition; rather it will present an alternative way in which the condition is satisfied. I would therefore recommend that the Council agrees to the Developer's request for an alternative mechanism for compliance.

List of Background Papers:- None

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