



Report of the Chief Planning Officer

PLANS PANEL WEST

Date: 1 March 2012

Subject: APPLICATION 11/05286/FU – CHANGE OF USE OF PUBLIC OPEN SPACE TO DOMESTIC GARDENS AT RIVERDALE GARDENS, OTLEY, LS21

APPLICANT

Otley Town Council

DATE VALID

18 January 2012

TARGET DATE

14 March 2012

Electoral Wards Affected:

Otley & Yeadon

Yes

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

RECOMMENDATION:

Defer and delegate approval to the Chief Planning Officer subject to the conditions specified and the completion of a Section 106 Agreement within 3 months of the date of resolution unless otherwise agreed in writing by the Chief Planning Officer, to include the following obligations

- 1. Deed of variation to the original legal agreement to allow for the change of use of the land; and**
- 2. Requirement for capital receipt for the sale(s) of the land and balance of existing maintenance sum to be invested in other Greenspace initiatives in Otley.**

1. Standard time limit.
2. List of plans to be approved.
3. PD rights removed for garages and outbuildings.
4. Detail of fences or means of enclosure to be submitted prior to sale of any part of the land and carried out and retained as approved.
5. The gardens shall not be severed from the adjacent houses.
6. Protection and retention of existing trees.
7. In granting permission for this development the City Council has taken into account all material planning considerations including those arising from the comments of any statutory and other consultees, public representations about the application and Government Guidance and Policy as detailed in the Planning Policy Guidance Notes

and Statements, and (as specified below) the content and policies within Supplementary Planning Guidance (SPG), the Leeds Unitary Development Plan 2001 (UDP) and the Leeds Unitary Development Plan Review 2006 (UDPR).

Policies GP5, BC7, N19, N20, N12i, N25, N27 and LD1.

On balance, the City Council considers the development would not give rise to any unacceptable consequences for the environment, community or other public interests of acknowledged importance.

1.0 INTRODUCTION:

- 1.1 The Chief Planning Officer considers that this application should be referred to the Plans Panel for determination, due to the history of the site including that the application land is required to be vested as public open space.

2.0 PROPOSAL:

- 1.2 This application seeks planning permission for the change of use of an area of existing public open space (0.22ha) to inclusion within domestic rear gardens at land to the rear of Riverside Gardens, in Otley, Leeds. This land was provided as public open space in conjunction with the adjoining housing development in the 1990's and vested with Otley Town Council. Due to problems with the use/abuse of the area in subsequent years the Town Council now proposes that the area be sold off to form enlarged private gardens for the adjoining houses.

3.0 SITE AND SURROUNDINGS:

- 3.1 The application site is an area of open space to the rear of nine dwellings on Riverdale Gardens and part of the area has been fenced off and included within the garden of the western end house. It is surrounded by mature trees and shrubs and abuts a wider area of public open space including playing pitches.
- 3.2 The former Garnetts Mill site is located to the North of the site. To the South and West of the site are other residential areas on the edge of Otley Town Centre. Allotments are located to the West of the application site.
- 3.3 The application site is with the Otley Conservation Area, lies within Flood Zone 3 and is unallocated with no specific land use allocation.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 Following a review of the Council's records the following planning history on the site is considered relevant:-
- 4.1.1 Planning permission was granted under reference 29/196/95/FU in May 1996 for 31 houses off Riverdale Road and North Avenue, now identified as Riverdale Gardens and Riverdale Court. It is this permission that secured the application site as public open space. This permission included a Section 106 Agreement for a commuted sum for the provision of a children's play area close to the development and for the maintenance of the application site; and
- 4.1.2 Planning permission was granted in 4 July 2000 for the laying out of children's play area to public open space at Riverdale Road in Otley, under

reference 29/26/00/FU. The provision of a children's play area was negotiated during processing of the application for the erection of Riverdale Gardens and Court (see 4.1.1).

4.2 There is no other relevant planning history for the site.

5.0 HISTORY OF NEGOTIATIONS:

5.1 Prior to submission of the planning application, the scheme has been subject to informal pre application advice. A site meeting was held with the Town Council and Officers in 2011. These discussions covered a variety of relevant policy, flood risk, tree protection and legal issues.

6.0 PUBLIC/LOCAL RESPONSE:

6.1 The application has been advertised on site by means of four site notices located on Riverdale Gardens (x2), Riverdale Road and Manor Street. These site notices gave reference to a application which is a departure as it does not accord with the provisions of the Adopted Unitary Development Plan and affects a right of way and they were posted from the 3 February 2012 and gave a publicity expiry period of 24 February 2012.

LOCAL WARD COUNCILLORS:

6.2 No written comments from Local Ward Councillors have been received.

OTLEY TOWN COUNCIL:

6.3 No written comments from the Town Council has been received.

MEMBER OF PARLIAMENT:

6.4 We have not received any formal comments from Greg Mulholland MP in relation to this application.

LOCAL RESIDENTS GROUPS:

6.5 No letters of representation have been received regarding this application.

LOCAL RESIDENTS:

6.6 No letters of representation have been received regarding this application.

7.0 CONSULTATIONS RESPONSES:

Statutory:

ENVIRONMENT AGENCY:

7.1 No objections.

Non-statutory:

CONTAMINATED LAND TEAM:

7.3 A Phase I Desk Study should ideally be provided.

PUBLIC RIGHTS OF WAY:

7.4 No objection to the proposed as long as the footpath (Public Footpath No.6 Otley) which abuts the site is not encroached upon in any way and is open and available for use at all times.

WEST YORKSHIRE POLICE:

7.5 No comments received.

NEIGHBOURHOODS AND HOUSING:

7.6 No objections.

8.0 PLANNING POLICIES:

8.1 As required by Section 38(6) of the Planning and Compulsory Purchase Act 2004 this application should be determined in accordance with the Development Plan, unless material considerations indicate otherwise, which consists of the adopted Regional Spatial Strategy for Yorkshire and the Humber of May 2008 and the Leeds Unitary Development Plan (Review 2006), unless material considerations indicate otherwise.

REGIONAL PLANNING POLICIES:

8.2 The Regional Spatial Strategy for Yorkshire and the Humber to 2026 (RSS) was adopted in May 2008 and sets out a strategic framework for development up to 2026.

8.3 However, it is not considered that this proposal raises any issues of regional significance.

LOCAL PLANNING POLICIES:

8.4 Locally Leeds City Council has begun work on our Local Development Framework ("LDF") with the Local Development Scheme most recently approved in July 2007. This provides a timetable for the publication and adoption of the Local Development Documents.

8.5 In the interim period a number of the policies contained in the Leeds Unitary Development Plan ("UDP") have been 'saved'. The Leeds UDP Review was adopted in 2006.

8.6 The application site lies within the Otley Conservation Area and is unallocated with no specific land use allocation. The relevant Leeds Unitary Development Plan policies are considered to be: -

- Policy GP5: Development control considerations;
- Policy BC7: Developments within Conservation Areas to be in traditional local materials;
- Policy N19: New buildings and extensions within or adjacent to Conservation Areas should preserve or enhance the character or appearance of that area;
- Policy N20: Demolition of other features which contribute to the character of the Conservation Area will be resisted;
- N12i – Spaces between buildings are of considerable importance. Development should create a series of linked and varied spaces that are defined by buildings and landscape elements;
- Policy N25: Site boundaries should be designed in a positive manner;
- Policy N27: Where a landscaping scheme will be required, an application should be accompanied by an illustrative scheme; and
- Policy LD1: Landscape schemes should meet specific criteria.

SUPPLEMENTARY PLANNING GUIDANCE:

- 8.7 Supplementary Planning Guidance provides a more detailed explanation of how strategic policies of the Unitary Development Plan can be practically implemented. The following SPGs are relevant and have been included in the Local Development Scheme, with the intention to retain these documents as 'guidance' for local planning purposes:
- SPG13: Neighbourhoods for Living (December 2003); and
 - SPG29: Otley Conservation Area Appraisal (June 2004).

NATIONAL PLANNING GUIDANCE:

- 8.8 In addition to the principal elements of planning policy other advice contained in Planning Policy Guidance Notes and replacement national Planning Policy Statements (PPS) may be of relevance to the submitted proposal. This includes: -
- PPS1: Delivering Sustainable Development (2005);
 - PPS3: Housing (2006);
 - PPS5: Planning for the Historic Environment (2010);
 - PPS9: Biodiversity and Geological Conservation (2005); and
 - PPG17: Planning For Open Space, Sport and Recreation.

9.0 MAIN ISSUES:

- 9.1 Having considered these applications and representations, it is considered that the main issues in this case are:
- Principle of the Development;
 - Loss of Public Open Space; and
 - Impact on Residential Amenity.

10.0 APPRAISAL:

Principle of the Development:

- 10.1 The application site is a Greenfield site within the settlement limits of Otley. The site was secured as public open space as part of the approval (29/196/95/FU) of the adjacent Riverdale Gardens housing estate. The land is available for recreation purposes and you access the area via the recreation ground to the west. However, the open space is not formally recognised as such in the UDP and the site remains unallocated. As there is no specific policy protection, any application should be assessed on its own merits. That being said, It is considered that the main consideration is the loss of an area provided as Public Open Space.

Loss of Public Open Space:

- 10.2 The open space is located in a dip in the land to the rear of houses on the estates in was attached too. It is treed on all boundaries and this renders the area rather isolated. It has to be accepted that if the Riverdale Gardens Estate was re-determined, the likely outcome would be a more centrally located area of open space. The area may have been identified as open space due to its flood zone allocation (Zone 3) as the remainder of the estate is in Zone 1.
- 10.3 It is considered that there would be limited impact if this area were included within garden curtilages. Otley does not suffer from a lack of public open space, parks or other recreational areas. The new play area to the west of the site was a direct benefit from the original residential estates

10.4 It is considered that the open space does not form any strategic functions as it does not separate urban areas or provide for recreational needs over a wide area. In terms of urban quality, the area does not support regeneration or improve the quality of life for communities by providing a visually attractive green space.

10.5 In general, it is a rather isolated area which has a limited, if any, public open space function.

Impact on Residential Amenity:

10.6 Given the secluded location of the open space and lack of natural surveillance, the Town Council have reported issues of anti-social behaviour occurring on the site. Although no factual evidence has been submitted, the Town Council has stated that it has received numerous complaints from nearby residents. Officers have noted from site visits that there is evidence of anti-social usage of the area.

10.7 The inclusion of this vulnerable open space with secure rear gardens would reduce any anti-social behaviour in the area. Conditions could be imposed to assess the details of any boundary treatments. Permitted Development right would have to be removed to ensure the area would be used for garden space only. Bearing the above in mind, it is considered that there would be no adverse impact on residential amenity.

Other Material Considerations:

10.8 In terms of flood risk, the proposed development lies within Flood Zone 3 as defined by the Environment Agency. Accordingly the EA considers that the land is at risk from flooding for a 1 in 100 year event. That being said the EA have no record of this site flooding and does not object to the garden use of the land.

10.9 There are existing trees on the boundaries of the site. As the application site is within the Otley Conservation Area, the trees benefit from some existing protection. Whilst it is accepted that the trees would benefit from some maintenance and pruning, it is considered that the majority could be retained and incorporated within residential curtilages. Conditions are suggested to ensure that the insertion of boundary fences would take into account the trees and to ensure that there is no wholesale tree removal.

10.10 Given that the land was gifted to the Town Council and that a commuted sum was deposited for the site's maintenance, it is considered reasonable to ensure that any funds from the sale of the land and the balance of the original maintenance are spent on other Greenspace with Otley. This will accord with the original purpose of safeguarding the land and to ensure that Otley residents see the planning benefit of the original development.

11.0 CONCLUSION

11.1 The application site is not formally protected public open space. It is accepted that the area was poorly conceived at the design stage in 1995 to be open space. This has led to the area's isolation and abuse occurring. No objections are raised to the loss of this space as its removal would not detract from the existing public open space offer in Otley.

11.2 The proposal therefore complies with the relevant policies of the Leeds Unitary Development Plan (review 2006). In light of the above the application is considered acceptable and is recommended for approval.

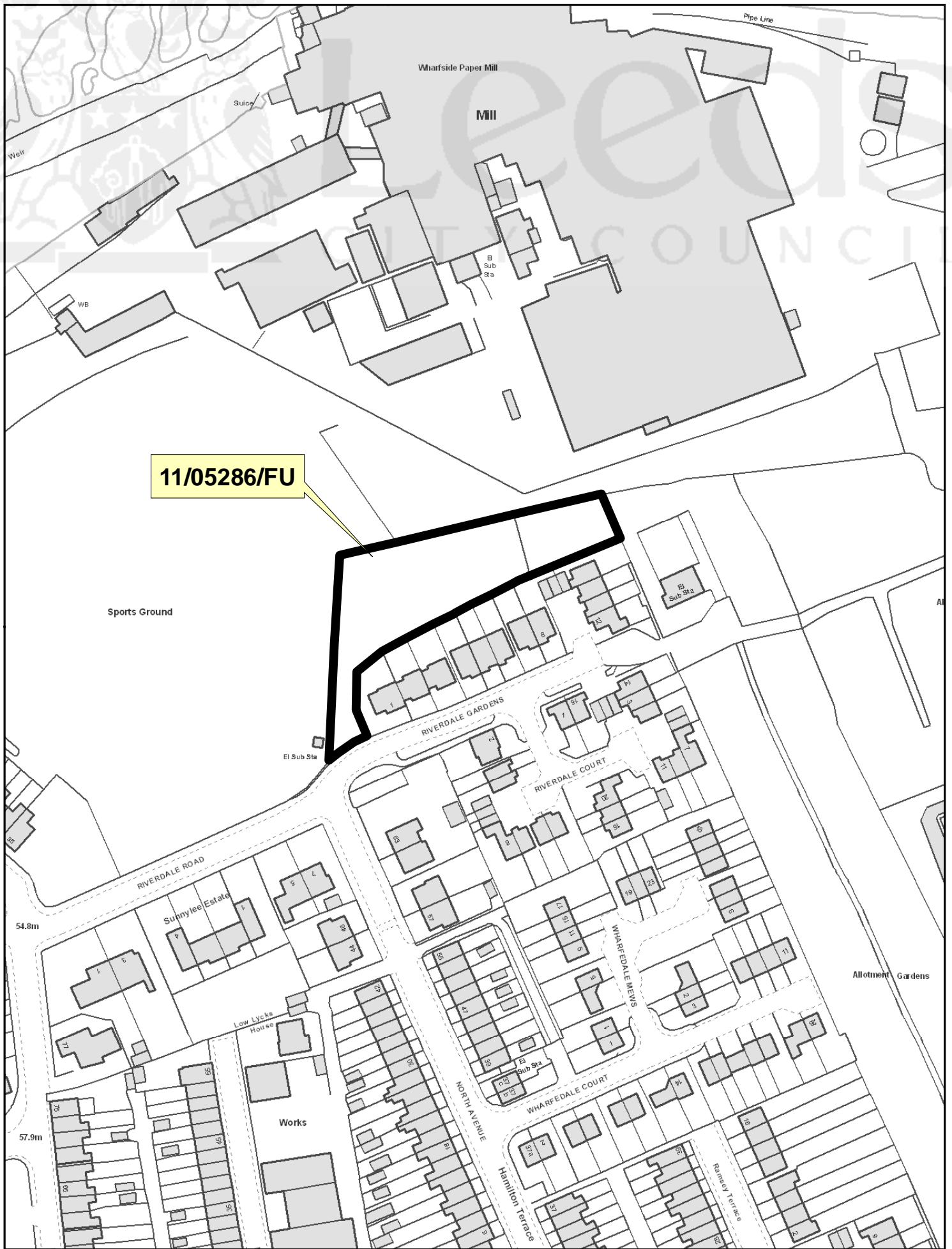
Background Papers:

Application and history files.

Certificate of Ownership.

Planning Permission 29/196/95/FU.

Planning Permission 29/26/00/FU.



WEST PLANS PANEL

