

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No:	DM/20/01685/VOC
FULL APPLICATION DESCRIPTION:	Variation of condition 2 of planning approval DM/16/03207/FPA to allow a change of materials from render to stone with glazed section above entrance doors and increase of roof line by 300mm.
NAME OF APPLICANT:	Mr Richard Scorer
ADDRESS:	Glenmoor Farm High Street Low Pittington Durham DH6 1BE
ELECTORAL DIVISION:	Sherburn
CASE OFFICER:	Lisa Morina Planning Officer Telephone: 03000 264877 Lisa.morina@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. This site lies directly adjacent to, but outside the settlement boundary of Low Pittington, it is not within a conservation area or the greenbelt. It is located on Glenmoor Farm and was previously occupied by agricultural buildings constructed of brick and metal sheet roofs which housed poultry.
2. To the south of the site is The Farmhouse and The Byre of Glenmoor Farm, both of which are now residential dwellings. These dwellings are not owned or controlled by the applicant. The site extends to the East and occupies land behind two further dwellings on High Street; Eboracum and Stengarth, the residential curtilage of No.12 High Street creates the East boundary of the proposed site, the buildings and boundary at The Garth creates the West boundary of the proposed site whilst to the north is open countryside.
3. Consent was previously approved under planning application DM/16/03207/FPA for the erection of two dormer bungalows with attached double garages and associated landscaping.
4. Since the first approval of this scheme a further conversion has been approved between The Garth and the development site for a further dwelling.

Proposal:

5. Consent is sought to vary the above 2016 condition for the two dwellings. It is proposed to increase the height of the building by 300mm and to change some material details, the application also regularises some issue relating to levels across the site.
6. The application is referred to the Committee at the request of Cllr Bill Kellet in respect of impact on residential amenity.

PLANNING HISTORY

7. There are various applications within the application site or adjacent to the site these include:
8. DM/16/03207/FPA - Proposed 2no. dormer bungalows with attached double garages and associated landscaping. Approved 10/4/2017.
9. 4/97/00023/OUT - Erection of one dwelling (Outline) Withdrawn 3/3/1997
10. 4/97/00525/OUT - Erection of dwellinghouse (Outline). Refused 15/10/1997.
11. 4/07/00718/OUT - Outline application for the erection of a dwellinghouse and detached garage. Refused 5/9/2007
12. 4/09/00256/FPA - Erection of 1 no. two storey dwelling. Approved 26/5/2009.
13. 4/12/00543/FPA - Extension of time limit application for 4/09/00256/FPA for 1 no. two storey dwelling. Approved 17/7/2012.

PLANNING POLICY

NATIONAL POLICY

14. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:
15. NPPF Part 5 Delivering a Sufficient Supply of Homes - To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
16. NPPF Part 11 Making Effective Use of Land - Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land.
17. NPPF Part 12 Achieving Well-Designed Places - The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.

18. NPPF Part 15 Conserving and Enhancing the Natural Environment - Conserving and enhancing the natural environment. The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.

<https://www.gov.uk/guidance/national-planning-policy-framework>

NATIONAL PLANNING PRACTICE GUIDANCE:

19. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters.

<https://www.gov.uk/government/collections/planning-practice-guidance>

LOCAL PLAN POLICY:

County Durham Plan

20. Policy 6 (Development on Unallocated Sites) states the development on sites not allocated in the Plan or Neighbourhood Plan, but which are either within the built-up area or outside the built up area but well related to a settlement will be permitted provided it: is compatible with use on adjacent land; does not result in coalescence with neighbouring settlements; does not result in loss of land of recreational, ecological, or heritage value; is appropriate in scale, design etc to character of settlement; it is not prejudicial to highway safety; provides access to sustainable modes of transport; retains the settlement's valued facilities; considers climate change implications; makes use of previously developed land and reflects priorities for urban regeneration.

21. Policy 10 (Development in the Countryside) will not be permitted unless allowed for by specific policies in the Plan or Neighbourhood Plan or unless it relates to exceptions for development necessary to support economic development, infrastructure development or development of existing buildings. The policy further sets out 9 General Design Principles for all development in the Countryside.

Provision for economic development includes: agricultural or rural land based enterprise; undertaking of non-commercial agricultural activity adjacent to applicant's residential curtilage. All development to be of design and scale suitable for intended use and well related to existing development.

Provision for infrastructure development includes; essential infrastructure, provision or enhancement of community facilities or other countryside based recreation or leisure activity.

Provision for development of existing buildings include change of use of existing building, intensification of existing use through subdivision; replacement of existing dwelling; or householder related development.

22. Policy 21 (Delivering Sustainable Transport) requires all development to deliver sustainable transport by: delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; ensuring that any vehicular traffic generated by new development can be safely accommodated; creating new or improvements to existing routes and assessing potential increase in risk resulting from new development in vicinity of level crossings. Development to have regard to Parking and Accessibility Supplementary Planning Document.
23. Policy 29 - Sustainable Design requires all development proposals to achieve well designed buildings and places having regard to SPD and sets out 18 elements for development to be considered acceptable, including: positive contribution to areas character, identity etc.;
24. Policy 31 - Amenity and Pollution sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that can be integrated effectively with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised. Permission will not be granted for locating of sensitive land uses near to potentially polluting development. Similarly, potentially polluting development will not be permitted near sensitive uses unless the effects can be mitigated.

The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.cartoplus.co.uk/durham/text/00cont.htm>

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

25. Highways – No objection
26. Northumbrian Water – No comments to make
27. Coal Authority – No objection

INTERNAL CONSULTEE RESPONSES:

28. Ecology – No objection
29. Trees - Foundation depths must comply with NHBC guidelines chapter 4.2 building near trees.
30. Archaeology – No objection
31. Landscape – No objection
32. Contaminated Land – No objection

PUBLIC RESPONSES:

33. The application has been advertised by means of site notice, press notice and by notifying neighbouring residents by letter. To date, 18 letters (multiple from same dwellings due to re-consultation) have been received with the following comments:

- The work already been carried out looks likely to exceed the height permitted under the original planning application.
- It appears that the dwellings will be significantly more intrusive for neighbouring properties than was foreseen.
- Are the original planning applications being adhered to
- The original proposal should be carried out in accordance with the approved plans it appears that its not due to change in land levels and the buildings appear larger than they should be and are not of a similar footprint with the original being single-storey
- A site visit should be carried out.
- Changes are required to reduce the overall impact.
- Further information in respect of levels should be provided.
- Hopefully following a review based upon accepted planning ethics, ethos and legal practices an amicable outcome can be arrived at as opposed to a compromised position which could well lead to delays, or ultimately even appeal procedures.
- The additional increase is hard to visualise by which we might then be overlooked.
- Devaluation of properties
- Further loss of privacy due to the increased height
- The change of materials to all stone will certainly create a visual impact for the dwellings when viewed from both the street the village green and from Moorsley Bank Road.
- The impact from the preparation of all of the stone for two dwellings will create both a noise and dust nuisance as this is a residential area not an industrial or commercial site.
- The positioning of the applicants machinery and its inconsiderate use has created both a noise and dust nuisance that a residential area should not need to endure
- Confirmation that the site in question is to be solely used as residential and is in no way related to the applicants commercial business.
- Concern over the additional work which has been carried out and that it does not relate to the original approval and has verbal approval already been given.
- Concern over separation distances between the proposal and an extant consent, (see case 4/98/00233/FPA) and the impact on this consent.
- Condition 2 of DCC approval has been breached and therefore the approval is at best invalidated.
- It is understood that only the elements to be varied under the current application can be objected to however it is considered that the current development is not in accordance with the approved plans and therefore it is recommended that a full new application is requested from the applicants and considered afresh.
- Clarification is required over how the roof height will be achieved.
- There has been no apparent planning justification for the increase in roof height submitted, the applicants height is not a legitimate planning consideration and as the applicant can only be living in one of the properties there is no justification for the increase in roof height on both dwellings. People of a similar height have no problem with ordinary houses.

- The proposed changes bring into question the misleading and inaccurate report that Mr Gavillett made relative to the original application
- Paragraph 8 of an appeal decision is relevant to this but was never mentioned in the original application.
- Access to these properties are via a privately owned side road. The road is only suitable for access to a maximum of 5 properties. It has come to light that this cannot be achieved as 6 properties are either in existence or have planning permission in force (Farmhouse, Byre, stables, extant permission for a unit on the site of the Byre and the two 'bungalows')
- The site has a planning history of refused and appealed schemes dating back to at least the mid 1990's.
- The 2016 application was approved contrary to the long established planning position, contrary to the prevailing planning policy and contrary to past history of the site.
- The increase in height on the grounds of the impact of the proposed buildings in views from the northwest and the increased presence of the new buildings in views, contrary to the aims of the approved scheme which kept the buildings subservient to their surroundings. The presence of Juliette balconies on the north elevation brings a prominent, dominant and non-traditional alien element into these elevations and further increases their prominence in wider views across the open countryside.
- The change in materials on the grounds of increasing the visual presence of the buildings and challenging the subservience of their character with relation to the primary frontage buildings at The Byre and The Farmhouse, Glenmoor Farm contrary to the original approval which specifically stated the new buildings would be subservient in their setting.
- The change in materials will increase the visual presence of the buildings in the wider landscapes in particular in views from the open land to the northwest.
- Photos seem to indicate that already the residents in Glenmoor Farm will be overlooked.
- Concern regarding the installation of obscure glazing, the level of it and also whether it will remain.
- Not only do we feel that the 2016 application was decided with a misleading report to members which failed to mention the sites previous history of refusals at both officer and appeal level, inadequate plans and incorrect information, we now have a contradiction and omission of information relevant to the current application.
- Lack of landscaping information.
- No information is provided on the impact of surface run off or measures to contain or manage surface water within this steeply sloping site adjoining an open watercourse. It is unclear whether the development accords with the requirements of the Environment Agency regarding open water courses and drainage of run off to avoid flooding
- Continue to object as per previous comments
- The latest 3 document amount to an admission and acknowledgement by the applicants that there are issues relating to the land levels
- The original planning application granted in 2016 contains so many flaws, inadequacies and omissions particularly in relation to land levels that in my opinion any issues cannot be properly dealt with by a mere variation.
- The original variation (submitted in June) application referred only to the change in materials and additional increase in height. The variation has now been CHANGED to include a change in land levels. This is considered, an attempt to brush over an issue that is significant and will have a major impact on the amenities of myself and my neighbours

- In addition, the original variation application only referred to 1 property (which I was led to believe related to the one on the western side). It is unclear to me now from the drawings submitted whether application is now being made in relation to the 2 properties. Again this is a substantial and material change if it is both properties.
- The original planning approval clearly envisaged 2 properties which were low, subservient and dormer bungalows.
- The properties now being built fly in the face of that decision, they are bigger than normal houses, and are definitely not low or subservient if allowed to continue. Durham County Council do have a duty of care to its stakeholders and I would request that the committee carry out a site visit so that they can see for themselves.

APPLICANT'S STATEMENT:

34. The principal of residential new build has already been accepted through the granting of the 2016 permission, which has been lawfully implemented following the discharge of conditions and remains extant. The local planning authority should therefore restrict the consideration of this application to the proposed changes before them. Both the changes to materials and the increase of the roof line will have no impact on the privacy or amenity of the neighbouring residents. The change to stone will make the dwelling more attractive and the increased roof height will improve internal proportions and create a better standard of amenity for future residents.
35. The 2016 permission did not consider that there were issues with the site levels and no condition relating to finished floor levels or site levels were attached to the permission. However, cut and fill has been required to provide a level development platform across the site. There is a c.2.5m reduction in site level across the site, ensuring that the proposed dormer bungalows are appropriately sited.
36. The separation distances remain as approved. It has been demonstrated through submitted plans that the proposed dwellings will retain a suitable level of amenity for existing residents. In relation to extant consent (Ref. 4/98/00233/FPA) for an additional dwelling located to the rear of The Byre, to ensure that a suitable level of amenity will be maintained for future residents, amended plans have been submitted proposing that obscure glazing is installed. The use of obscure glazing to allow a relaxation of separation distances is acceptable in accordance with the guidance set out at paragraph 3.5 of the recently adopted *Residential Amenity Standards SPD* (2020).
37. The proposed changes are acceptable in planning terms and the application has considered the concerns raised by both neighbouring residents and the local planning authority and has been amended accordingly. The amended plans, along with the ability of the local planning authority to attach additional conditions relating to both the finished floor levels and site levels and the installation of obscure glazing, represents an improvement compared to extant 2016 permission, as well as according with both national and local policy."

The above is not intended to list every point made and represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <https://publicaccess.durham.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=P8X9C0GDL8J00>

PLANNING CONSIDERATIONS AND ASSESSMENT

38. Section 73 of the Town and Country Planning Act 1990 (as amended) applies to the determination of applications to develop land without the compliance with conditions previously attached. S73 states that on such an application the Local Planning Authority (LPA) shall consider only the question of the conditions subject to which planning permission should be granted. The LPA should decide whether planning permission should be granted subject to conditions differing from those subjects to which the previous permission was granted or that it should be granted unconditionally. If the LPA decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they should refuse the application.
39. In considering such an application, the Development Plan and any other material considerations under section 38(6) of the Planning and Compulsory Purchase Act, are relevant in the determination. LPAs should, in making their decisions, focus their attention on national and development plan policies, and other material considerations which may have changed significantly since the original grant of permission.
40. As the development plan has now changed, the proposal needs to be considered with regard to the principle of the development, impact on the visual amenity of the area, residential amenity issues as well as any other issues.

Preliminary matters

41. There is previous planning history on this site which includes 97/00023/OUT for the erection of a dwelling located between the original sheds and also the properties on the main road with the access road running along the front of the sheds. This was refused and dismissed on appeal for backland development.
42. Also, 07/00718/OUT for the erection of a dwelling in front of The Garth on the access road. This application was refused due to being on undeveloped land and also due to the position of the proposal. This has subsequently been approved in 2009 however has not been implemented, although the permission is still extant.
43. As stated above, in 2016 consent was approved for the erection of two detached dormer bungalows to which this application proposes amendments .
44. The site is located outside of the settlement boundary as detailed within The City of Durham Local Plan 2004. It is considered by objectors that the 2016 application was approved contrary to the long established planning position, contrary to the prevailing planning policy and contrary to past history of the site and that the Committee Report provided to inform councillors of relevant factors omits all mention of the planning history of the site, a critical and very relevant consideration when assessing the suitability of the site for a development which had been previously been refused on several occasions and has gone against how others have been determined in the village in similar circumstances.
45. Concern has also been considered re the content of the previous report and that the previous consent is flawed due to the proposal not considering land levels and also mentioning incorrect planning policies and that the variation of this should not be considered. In addition, comments from previous appeal statements have not been considered that previous proposals would have harmed the settlement.

46. Looking at the previous case file, the application was dealt with under delegated powers and was not presented to committee. In addition to this, the 2016 proposal was assessed under paragraph 11 of the NPPF due to previous planning policies being considered out of date and as a result less weight was afforded to the policies in the City of Durham Local Plan. Officers do not consider that the grant of the 2016 permission was erroneous and in any event, this decision has not been subject to any legal challenge. It must therefore be approached on the basis that it was validly granted. Whilst previous appeals and applications would need to be considered, ultimately applications would be considered on their own individual merits.
47. As stated above, concerns have been raised that the original consent should not have been approved due to previous refusals on the site and also that the proposal was not in accordance with relevant planning policies due to its position outside of the settlement of Low Pittington, that the properties are not subservient and low level as previously considered and also that a variation of condition application should not be accepted given the nature of the changes.
48. As stated above, section 73 of the Town and Country Planning Act 1990 allows applications to be made for permission to develop without complying with a condition previously imposed on a planning permission and the local planning authority can grant such permission unconditionally or subject to different conditions.
49. Furthermore, Section 73A of the Act provides, amongst other things, for retrospective planning applications to be made in respect of development which has been carried out without permission, and for applications for planning permission to authorise development which has been carried out without complying with some planning conditions to which it was subject.
50. There are considered to be no significant fundamental changes in respect of the proposed access point and layout of the bungalows and the description is the same. Given this it is considered that a variation of condition application is the most appropriate way to deal with this as detailed by The Court of Appeal in the recent case of *Finney v Welsh Ministers & Ors [2019]*.
51. There is no statutory definition of a 'minor material amendment' but it includes any amendment where its scale and/or nature results in a development which is not substantially different from the one which has been approved.
52. Officers are therefore of the view that the application is within the scope of Section 73 and that the changes proposed which include the change in materials, the height of the proposals and regularisation of land levels can be considered under this application. A section 73 application also gives the LPA the right to add additional conditions which may be necessary to ensure an appropriate development is achieved.

Principle of the Development

53. Although the principle of the development has previously been agreed through the 2016 permission for the site, as there has been a change in policy since that permission was granted, it is relevant to assess the proposal against the new local plan policies of the County Durham Plan.
54. The County Durham Plan was recently adopted at full council on the 21st October 2020 therefore, the City of Durham Local Plan is no longer relevant.

55. The site is considered to be within the open countryside given its position adjacent to but outside of the old settlement boundary of Low Pittington within the old City of Durham Local Plan. Whilst there are no defined settlements within the new County Durham Plan, it is considered that the proposal is located outside of a settlement therefore, policy 10 of the Local Plan would be relevant in addition, policy 6 is also relevant given it relates to residential development on unallocated sites and this site is not allocated for housing.
56. Policy 10 states that development in the countryside will not be permitted unless allowed for by specific policies in the Plan, policy 6 being one of these which states that development on sites not allocated in the Plan or Neighbourhood Plan, but which are either within the built-up area or outside the built up area but well related to a settlement will be permitted provided it is compatible with use on adjacent land; does not result in coalescence with neighbouring settlements; does not result in loss of land of recreational, ecological, or heritage value; is appropriate in scale, design etc to character of settlement; it is not prejudicial to highway safety; provides access to sustainable modes of transport; retains the settlement's valued facilities; considers climate change implications; makes use of previously developed land and reflects priorities for urban regeneration.
57. As stated above, the proposal sits outside but adjacent to the settlement of Low Pittington. Given the position of the site, it does not extend beyond the existing building line of the settlement further into the countryside and also replaces existing structures which have previously been on the site. It is also considered that the principle of development on the site has already been established in the implemented planning permission which represents a significant fallback position. Give this, the principle of the development of housing on the site would be considered acceptable subject to appropriate consideration of other issues in accordance with policies 6 and 10 of the Local Plan.

Visual impact on the amenity of the area

58. The overall design and siting of the dwellings have previously been approved and this variation proposes changes to the materials and also the increase in the height of the proposal by 300mm as well as clarifying and regularising the levels and groundworks across the site.
59. Objections have been raised in respect of the materials that they would not result in an appropriate form of development within the area impacting on the open countryside and that the increase in the height would have an unacceptable impact given the proposed changes are clearly at complete odds with the original approval which gave consent specifically for a low set building of similar scale and mass to the chicken sheds and of an appearance subservient to the main frontage buildings i.e. Glenmoor Farm. In addition that land levels have been significantly changed to accommodate the proposal.
60. In addition to policy 6 which talks about proposals providing an acceptable impact within the area, policy 29 of the Local Plan also states that development should contribute positively to an area's character, identity, heritage significance, townscape and landscape features. This is in accordance with the NPPF as it too seeks to secure a good standard of amenity for all existing and future occupants of land and buildings.

61. The area is characterised by a variety of properties within the area being a mix of both single and two-storey dwellings. The overall design approach of the development remains the same as that already approved with a substantially storey and a half dwelling, the upper floor accommodation being within the roof. The amendment now sought increases the overall height of the dwellings by 300mm with a near identical design approach over a storey and a half. It is considered therefore, that the visual amenity of the area would not be adversely affected with the addition of the 300mm increase in the height of the dwellings which is expected to have a minimal impact on the wider character of the area.
62. Whilst objections state that the original planning approval clearly envisaged 2 properties which were low, subservient and dormer bungalows however, consider that they are bigger than normal houses, and are definitely not low or subservient, it should be noted that the changes to the overall scale of the proposal as stated above, involve a 300mm increase in height only from the original approved plans.
63. In addition, although the proposal would be viewed from the open countryside behind, it is not considered that the increase in height or the change in materials which includes the use of stone as opposed to render would have a significant detrimental impact on the open countryside/viewed from it.
64. Issues with respect to land levels have also been raised and the previous consent did not take account of this. A land level plan has been provided which shows that cut and fill has been required to provide a level development platform across the site. Between the eastern and western part of the site there is a 2.5m difference in levels across the site with Plot 1 being dropped down as shown on the submitted site section plan which shows the overall height of Plot 1 being almost in line with the garage height of Plot 2.
65. Both plots have been cut into the site at the eastern end and the western end of the plot is therefore filled, to create a level development platform for each plot.
66. The reduction across the site is made up of cutting both plots into the site at their eastern ends and introducing a step between the FFL of the main house and the garage.
67. The applicants have also confirmed that the stone wall has been started from foundation level to keep the height lower with an approx. 0.66m to finished floor level.
68. It is considered that the proposed finished levels would be appropriate and not result in a significant detrimental impact on the host dwellings or the nearby dwellings or the area generally.
69. Concern was also raised regarding the plans not being clear enough to establish where the height increase is coming from and clarification was required for this.
70. The height increase is taken from the walls with the amount of brick work between the eaves height and the window being increased. The height increase is to allow the internal ceiling height of the first floor to be raised. This will increase the amount of useable floorspace within the first floor rooms. The maximum ceiling height at the first floor is 2300mm. The higher roof increases the amount of max ceiling height by:

Front – 362mm
Back – 362mm
Total – 720mm

71. It is considered that this is entirely reasonable and encouraged by national guidance as the National Described Space Standards states that the minimum floor to ceiling height should be 2.3m for at least 75% of the Gross Internal Area
72. In respect of the materials, again there are a mix of materials used within the area and it is considered that the change in materials proposed from render to stone is appropriate and would not result in a detrimental impact on the amenity of the area and would result in a material which is considered to have a greater longevity and be more sustainable and therefore, is considered to be an improvement to the render which was previously approved.
73. The proposal therefore, is considered acceptable in respect of the impact on the visual amenity of the area in accordance with policies 6 and 29 of the local plan.

Residential Amenity

74. Concerns have been raised that the proposal given the change in land levels would result in a significant detrimental impact on the surrounding residents through providing overlooking issues. Concern has also been raised that an extant consent at The Byre has not been taken into consideration when assessing the impact on residential amenity issues. Concern is also raised regarding noise and disturbance issues during the construction of the dwellings in respect of material preparation and general disturbance and that the site may be used for a commercial nature. Concerns have been raised that a dead wall has been constructed to the eastern end of the site which significantly raises the height of the proposal and that building work has commenced on a large structure adjacent to Plot 2.
75. Original land levels are difficult to establish given that the development is well under construction and such information was not provided as part of the 2016 permission,. Specifically, the 2016 application did not include a condition relating to finished floor levels or site levels and no issue was raised as part of the application however, given the uneven nature of the site it would seem logical that some work would have been required to undertake the development and subsequently cut and fill has been required to provide a level site. However, it is now for the Council to consider if the current land levels are acceptable in respect of the impact on the amenity of the residents. This is considered below.
76. The applicant has confirmed that the eastern end of the site the dwelling is 1.3m below original ground level. The western dwelling (dwelling no. 1) is also stepped down by 0.95m. In addition, the garages on the western end of each dwelling have been stepped down by 0.33m and 0.14m (total 0.47m).
77. Policy 31 of the local plan relates to amenity and pollution issues and states that proposal which will have an unacceptable impact such as through overlooking, visual intrusion, visual dominance or loss of light, noise or privacy will not be permitted unless satisfactory mitigation measures can be demonstrated whilst ensuring that any existing business and/or community facilities do not have any unreasonable restrictions placed upon them as a result.
78. In addition development which has the potential to lead to, or be affected by, unacceptable levels of air quality, inappropriate odours, noise and vibration or other sources of pollution, either individually or cumulatively, will not be permitted including where any identified mitigation cannot reduce the impact on the environment, amenity of people or human health to an acceptable level.

79. The policy is in accordance with the NPPF as it too seeks to secure a good standard of amenity for all existing and future occupants of land and buildings.
80. Whilst it is acknowledged that there may be some noise implications arising from the development during the construction period, it is not considered that this is an appropriate reason to refuse this application. A certain amount of noise disturbance would be inevitable from any construction project and would not be considered unreasonable. Environmental Health do have separate powers in respect of noise and disturbance which can be considered. In addition, it is not felt that the development of two dwellings would result in noise issues being created that could not be adequately controlled through a construction management plan condition and it is important to note that no such requirement was imposed on the 2016 permission.
81. In relation to business use on the site, the proposal is not being considered as a commercial proposal and is purely for residential development. However, it must be noted that a certain degree of business use can be carried out at a residential property without planning approval depending upon fact and degree however this is not being considered at present as part of this application. Should any commercial use be forthcoming in the future, this would need to be carefully assessed and a further application may need to be considered at that time, depending on the circumstances. In respect of the building of a further structure, a site visit has found that no work is currently being carried out on the site other than the two dwellings.
82. Turning to the impact on the amenity of residents in respect of overlooking issues. The Councils Residential Amenity Standards Supplementary Planning Document 2020 states all new development, including new dwellings, will have some bearing on neighbouring properties and it is important to ensure that the impact does not result in a significant loss of privacy, outlook or light for occupiers of new dwellings and existing dwellings. The design and layout of new development should ensure that reasonable privacy and light is provided for surrounding residents and occupiers, particularly in relation to residential use and enjoyment of dwellings and private gardens.
83. It goes on to state that in order to achieve these objectives, the following minimum standards will be applied to new residential developments:
84. Main facing elevation to main facing elevation containing window/s serving a habitable room - 21 metres between two storey buildings and 18 metres between bungalows.
85. Main facing elevation to gable wall which does not contain a window serving a habitable room- 13 metres to two storey gable and 10 metres to single storey gable.
86. It also states that where there is a significant change in levels, the minimum separation distance will increase by 1 metre for every 1 metre that the floor level of the development would be above the affected floor or ground level of the neighbouring property.
87. However, it does go on to state that it is not intended to apply the standards rigidly. For example, distances may be relaxed where the impacts on privacy can be reduced. This may occasionally be achieved, using obscure glazing, boundary treatments, restricted openings and directional windows for example.

88. Turning to the properties which surround the development site. The dwellings are located approximately 10m from the boundary wall between the properties The Byre and The Farmhouse rear gardens. Given this, separation distances of well in excess of 21m remain between the two-storey facing elevation of the properties and that of those properties as well as the properties Eboracum and Stengarth all of which are located on the main street. This also gives additional distance in respect of changes in land levels.
89. In respect of the conversion of the property to the west, separation distances of between 19m will remain between the front of this extension to the single-storey garage element and 27m to the two storey element of the proposed dwelling. Again this is well in excess of the separation distances which are required again incorporating land level changes.
90. In respect of the 1998 permission for an additional dwelling, limited plans are available to the Council in respect of this application however the plans available show that this extant consent essentially is affixed to the rear of the property known as The Byre and extends as far as the boundary wall. It has been established that the consent from 1998 has been implemented due to the other elements of the scheme being carried out and therefore remains extant which means that the impact upon this as yet unbuilt dwelling must be considered in the context of this application.
91. Approximately 25m remain between the rear elevation of The Byre and the front elevation of the proposed dwelling (plot 1) which sits behind this property. The extant plans show that the proposed dwelling attached to the Byre will extend the full depth of the elevation resulting in the two-storey extension sitting on the rear wall which separates The Byre from the development site. This would leave separation distances of around 9.7m between the front elevation of Plot 1 and the additional dwelling permitted by the 1998 extant consent. A window is contained in this elevation which would serve a habitable room. Separation distances would therefore, be substantially less than the 21m recommended distances.
92. Whilst this would be significantly below standard, members should be aware that a fallback position does exist in respect of the 2016 application. Whilst the 2016 report states the relationship between the proposal and the extant consent is acceptable, further consideration of this as part of the current application has established that separation distances are lacking.
93. The applicants have attempted to improve the situation by adding obscure glazing to the window in Plot 1 which would be in close proximity to this extant consent which would result in an elevation with no overlooking implications from the affected habitable room and would be more akin to a blank gable arrangement which has a required separation of 13m. Whilst this relationship still does not meet the standard of 13m, it is considered that this is an improvement on the current fallback position which has no such restriction. On this basis it would be unreasonable to seek to refuse the application on this issue now.
94. Concern has been raised that the glazing could be removed at any time and no details of the glazing has been provided however, a condition can be added in this respect to ensure the obscure glazing is retained in perpetuity and also that it must be to a specific level which is at minimum level 3 of the Pilkington scale of privacy and therefore, a further application would be required to remove this in future and it would be for the applicants to provide sufficient justification for its removal.

95. The proposal therefore, is considered acceptable in respect of policy 31 of the Local Plan in respect of neighbouring properties and the NPPF.

Highway Issues:

96. Policy 21 of the CDP relate to providing sustainable transport in which the council is committed to delivering a high quality integrated and sustainable transport network which supports our aspirations for a strong economy, a vibrant tourism offer and improved quality of life for all of our residents, including reducing air pollution and emissions of CO2.

97. Objections have been raised that the proposal would result in 6 dwellings being accessed from the road to the side of the Farmhouse which is unacceptable and that the increase causes a safety concern for the neighbour at The Farmhouse.

98. Highway guidance usually states that no more than 5 new dwellings can be accessed from an unadopted roadway and with the two existing dwellings, the extant consent, the two proposed dwellings under this application and the conversion approved in 2019, this would result in 6.

99. The highways officer has stated that the design guide is primarily focussed on new build development and one of these applications was a conversion. In addition it is considered that this is not a standard highway but rather a Mews Court development then it is acceptable to provide access for a higher number of units off a private courtyard.

100. In respect of this application, the proposal does not alter/impact on existing highway arrangements therefore, the proposal is considered acceptable from a highways viewpoint.

Other Issues

101. Devaluation of properties is not a material planning consideration.

102. Concern was raised over the process of the previous consent and misleading information and also in respect of this one however, the application has been considered in accordance with all relevant planning policies and procedures and all relevant information has been taken into account assessing the differences from the fallback position.

103. Concern was raised over the ongoing work that was continuing and that verbal agreements had been carried out. It is an applicant's responsibility if they wish to continue to build while an application is pending and any work would be carried out at their own risk.

104. Concerns were raised that a site visit should be carried out. Officer site visits are always carried out as part of a formal application and this was the case in this respect. An initial site visit was carried out by an officer and then two additional visits have been carried out with the case officer and Area Team Leader. Unfortunately at this present time, committee site visits are not permitted however, Members are provided with information in the Officer presentation to help them to consider the position on the ground.

105. Concern has been raised that the application originally included the height increase and materials only and that after it was changed to include the land level changes and that this is considered, an attempt to brush over an issue that is significant and will have a major impact on the amenities of residents. In respect of applications, changes can be made to an approval and in this instance, renotification has been carried out in respect of the changes to allow comments to be received from neighbouring properties. In addition, full consideration of these issues have been considered above.

106. Concern has been raised that the original variation application only referred to 1 property (which I was led to believe related to the one on the western side) and it is unclear now from the drawings submitted whether application is now being made in relation to the 2 properties. Again this is a substantial and material change if it is both properties. The original variation of condition made no reference to only one property being changed.

107. As part of a variation of condition application, conditions from the previous application are usually repeated but in this case the conditions have been amended to reflect the discharge of condition application which has recently been approved. In respect of contamination, a condition is no longer required as all criteria has been met.

CONCLUSION

108. The impact upon the visual amenity of the area as well as the impact on residential amenity and highway safety is considered to be acceptable. The proposed changes are considered to be acceptable as a variation to the scheme.

109. The application is considered to meet the requirements of the National Planning Policy Framework and Policies 6, 10, 21, of the County Durham Plan,

110. The objections and concerns raised have been taken into account and addressed within the report. On balance the concerns raised were not felt to be of sufficient weight to justify refusal of this application.

RECOMMENDATION

That the application be **APPROVED**, subject to the conditions detailed below:

1. The development hereby approved shall be carried out in strict accordance with the approved plans listed in Part 3 - Approved Plans.

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies 6, 10, 29 and 31 of the County Durham Plan.

2. No construction work shall take place, nor any site cabins, materials or machinery be brought on site until all trees and hedges, indicated on the approved tree protection plan as to be retained, are protected by the erection of fencing, placed as indicated on the plan and comprising a vertical and horizontal framework of scaffolding, well braced to resist impacts, and supporting temporary welded mesh fencing panels or similar approved in accordance with BS.5837:2005.

Reason: In the interests of the visual amenity of the area and to comply with policy 40 of the County Durham Plan.

3. No development shall take place unless in accordance with the mitigation detailed within Ecology Survey and Risk Assessment for the Development Site at Glenmoor Farm Low Pittington by Veronica Howard received 30th November 2016 (Rev B).

Reason: In the interests of protected species and to comply with the National Planning Policy Framework part 16 and policy 41 of the County Durham Plan.

4. The materials shall be carried out in strict accordance with those details approved under DRC/20/00075.

Reason: In the interests of the visual amenity of the area and to comply with policy 29 of the County Durham Plan.

5. In undertaking the development that is hereby approved:

No external construction works, works of demolition, deliveries, external running of plant and equipment shall take place other than between the hours of 0730 to 1800 on Monday to Friday and 0730 to 1400 on Saturday.

No internal works audible outside the site boundary shall take place on the site other than between the hours of 0730 to 1800 on Monday to Friday and 0800 to 1700 on Saturday.

No construction works or works of demolition whatsoever, including deliveries, external running of plant and equipment, internal works whether audible or not outside the site boundary, shall take place on Sundays, Public or Bank Holidays.

For the purposes of this condition, construction works are defined as: The carrying out of any building, civil engineering or engineering construction work involving the use of plant and machinery including hand tools.

Reason: To protect the residential amenity of existing and future residents from the development in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any Order revoking and re-enacting that Order) the glass to be used in the window as shown in the front elevation facing south towards The Byre shall be fixed and obscure to level 3 or higher of the Pilkington scale of privacy or equivalent as may be previously agreed in writing by the Local Planning Authority and such shall be maintained in place in perpetuity.

Reason: In the interests of the privacy of the neighbouring occupier and to comply with Policy 31 of the County Durham Plan.

7. Within 3 months of the date of this approval, a detailed landscaping and boundary treatment scheme shall be submitted to and approved in writing by the Local Planning Authority.

Any submitted scheme must be shown to comply with legislation protecting nesting birds and roosting bats.

The landscape scheme shall include accurate plan based details of the following:

Trees, hedges and shrubs scheduled for retention.

Details of hard and soft landscaping including planting species, sizes, layout, densities, numbers.

Details of planting procedures or specification.

Finished topsoil levels and depths.

Details of temporary topsoil and subsoil storage provision.

Seeded or turf areas, habitat creation areas and details etc. Details of land and surface drainage.

The establishment maintenance regime, including watering, rabbit protection, tree stakes, guards etc.

Any proposed boundary treatments

The Local Planning Authority shall be notified in advance of the start on site date and the completion date of all external works.

Trees, hedges and shrubs shall not be removed without agreement within five years.

Reason: In the interests of the visual amenity of the area and to comply with Policy 29 of the County Durham Plan and Part 12 of the National Planning Policy Framework

8. Within 8 weeks of the date of this permission a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Construction Management Plan shall include as a minimum but not necessarily be restricted to the following:

A Dust Action Plan including measures to control the emission of dust and dirt during construction.

Details of methods and means of noise reduction/suppression.

Where construction involves penetrative piling, details of methods for piling of foundations including measures to suppress any associated noise and vibration.

Details of measures to prevent mud and other such material migrating onto the highway from all vehicles entering and leaving the site.

Designation, layout and design of construction access and egress points.

Details for the provision of directional signage (on and off site).

Details of contractors' compounds, materials storage and other storage arrangements, including cranes and plant, equipment and related temporary infrastructure.

Details of provision for all site operatives for the loading and unloading of plant, machinery and materials.

Details of provision for all site operatives, including visitors and construction vehicles for parking and turning within the site during the construction period.

Routing agreements for construction traffic.

Details of the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.

Waste audit and scheme for waste minimisation and recycling/disposing of waste resulting from demolition and construction works.

Management measures for the control of pest species as a result of demolition and/or construction works.

Detail of measures for liaison with the local community and procedures to deal with any complaints received.

The management strategy shall have regard to BS 5228 "Noise and Vibration Control on Construction and Open Sites" during the planning and implementation of site activities and operations.

The approved Construction Management Plan shall also be adhered to throughout the construction period and the approved measures shall be retained for the duration of the construction works.

Reason: To protect the residential amenity of existing and future residents from the development in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

STATEMENT OF PROACTIVE ENGAGEMENT

The Local Planning Authority in arriving at its decision to approve the application has, without prejudice to a fair and objective assessment of the proposals, issues raised and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF. (Statement in accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.)

BACKGROUND PAPERS

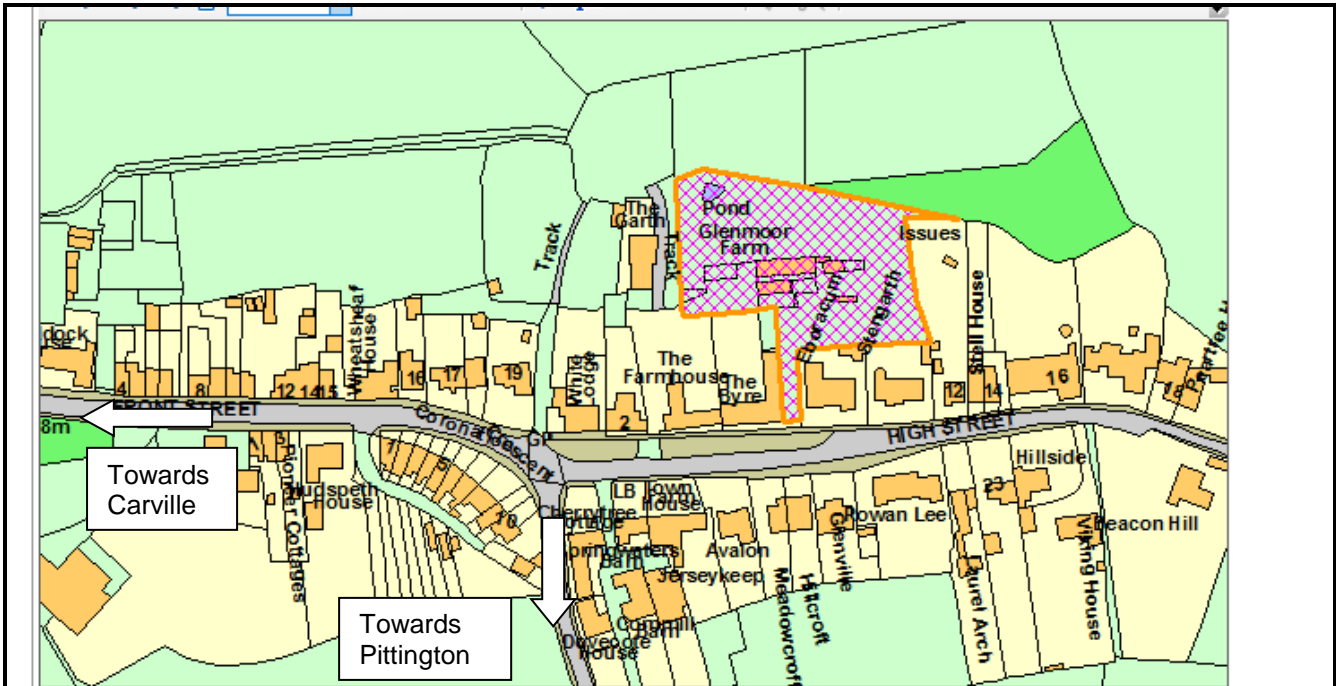
Submitted application form, plans, supporting documents and subsequent information provided by the applicant

The National Planning Policy Framework (2018)

National Planning Practice Guidance Notes

County Durham Plan

Statutory, internal and public consultation responses



Planning Services

Variation of condition 2 of planning approval DM/16/03207/FPA to allow a change of materials from render to stone with glazed section above entrance doors, increase of roof line by 300mm and change in land levels at Glenmoor Farm, High Street, Low Pittington, Durham, DH6 1BE
Application Reference DM/20/01685/VOC

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Date: December 2020

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