

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	6/2012/0240/DM
FULL APPLICATION DESCRIPTION:	Erection of dormer bungalow and alterations to existing frontage area to improve turning space for vehicles.
NAME OF APPLICANT:	Mr Steve Schroeter
SITE ADDRESS:	Land at 2 Bankwell, Low Etherley, Bishop Auckland, County Durham, DL14 0HE
ELECTORAL DIVISION:	Evenwood
CASE OFFICER:	Steve Teasdale 03000 260834/ 261055 steve.teasdale@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

Site:

1. The application site comprises garden land to the east of 2 Bankwell, Low Etherley, Bishop Auckland. The application site extends to 0.05Ha, within a larger parcel of land of approximately 2.2Ha used as garden area to 2 Bankwell. The part of the application site on which the proposed dwelling would be built lies beyond the defined development limits of Etherley and Toft Hill, the boundary of which coincides with the eastern gable wall of 2 Bankwell.

The proposals:

2. The proposal is for the erection of a single dormer bungalow adjacent to 2 Bankwell, including changes to the existing site layout to the front of 1 & 2 Bankwell to formalise a turning area for vehicles. The proposed bungalow would have a footprint of approximately 175 square metres, and would provide three bedrooms (one with ensuite facilities at ground floor), kitchen, lounge, utility room, bathrooms and garden room.
3. This application is being reported to Committee at the request of Councillor Hugill because he considers that the personal circumstances of the applicant carry significant weight in the consideration of the proposal.

PLANNING HISTORY

4. Earlier this year, planning application 6/2012/0052/DM describing a similar proposal was withdrawn prior to determination under delegated powers. The

proposal was considered unacceptable for similar reasons to those set out in the planning considerations below.

PLANNING POLICY

NATIONAL POLICY

5. The Government has now published its *National Planning Policy Framework (NPPF)*, which replaces almost all *Planning Policy Statements and Guidance notes*. The Framework sets out the Government's planning policies for England and how these are expected to be applied. The Framework sets out the presumption in favour of sustainable development. In terms of implementation, the Framework sets out that for the 12 months from the day of publication, decision-takers may continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with this Framework. In particular it is of note that at paragraph 12, it is highlighted that the NPPF does not change the statutory status of the development plan as the starting point for decision making.
6. Chapter 4 promotes sustainable transport and requires new development to be located where the need to travel will be minimised and the use of sustainable transport modes can be maximised. It also requires that safe and suitable access to the site can be achieved. Chapter 6 encourages the delivery of a wide choice of quality homes and Chapter 7 attaches great weight to the importance of good design.

REGIONAL PLANNING POLICY

7. *The North East of England Plan - Regional Spatial Strategy to 2021 (RSS) July 2008*, sets out the broad spatial development strategy for the North East region for the period of 2004 to 2021.
8. In July 2010 the Local Government Secretary signalled his intention to revoke Regional Spatial Strategies with immediate effect, and that this was to be treated as a material consideration in subsequent planning decisions. This was successfully challenged in the High Court in November 2010, thus for the moment reinstating the RSS. However, it remains the Government's intention to abolish Regional Spatial Strategies when Orders have been made under section 109 of the Localism Act 2011, and weight can now be attached to this intention. The following policy is nevertheless considered relevant:
9. *Policy 4 The Sequential Approach to Development* advocates a sequential approach to the identification of sites for development, recognising the need to make the best use of land and optimise the development of previously developed land and buildings in sustainable locations.

LOCAL PLAN POLICY: Teesdale District Local Plan 2002 (Saved)

10. *Policy ENV1 (Protection of the Countryside)* is a general policy to limit development in the countryside.

11. *Policy H4 (Infill Development on sites of less than 0.4 Hectare)* presumes in favour of redevelopment of small previously developed sites within the development limits of Teesdale's settlements.
12. *Policy H6 (New Housing in the Open Countryside)* presumes against new housing in the countryside unless there is an essential and justified need.
13. *Policy GD1 (General Development Criteria)* sets out the general design principles for development.

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.durham.gov.uk/Pages/Service.aspx?ServiceId=6619>

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

14. None

INTERNAL CONSULTEE RESPONSES:

15. *The Planning Policy Section* objects to the proposal on the grounds that it represents unjustified development in the countryside beyond defined settlement boundaries and therefore unnecessarily impacts upon the countryside; and on the grounds that the dwelling would be served by an unsafe vehicular access.
16. *The Highways Section* objects on the grounds of extremely substandard forward visibility in a northerly direction caused by the gable wall of 1 Bankwell being close to the southbound carriageway of the adjacent unclassified road. The proposed rearrangement of the private track to the front of the Bankwell properties, including the formation of a turning area, would not make a material difference to the fundamental visibility issues and highway safety.
17. *The Arboricultural Officer* offers no objections.
18. *The Landscape Section* offers no objections

PUBLIC RESPONSES:

19. One letter of support has been received from a local resident as a result of the consultation and publicity exercise. It is noted however that 11 letters of support were included within the submitted application. These were from local residents, businesses and health professionals.

APPLICANTS STATEMENT:

20. The applicant has provided a statement which has been summarised as follows. A proposal, spot on in line with County and national policy for more specialist housing for the independent living of the ageing or ailing was submitted a few

months ago on brownfield land. Indeed, it was on the site of a quite recently demolished building. Mr Schroeter has advancing Parkinson's Disease.

21. He has lived and been a smallholder at 2 Bankwell, for many years. As his illness progresses, he finds it increasingly difficult- and already dangerous- to manoeuvre around the multi levelled and steeply staired two storey dwelling. No wheelchair could turn in his kitchen. He has had to retire from his special needs teaching job, but with a proper layout can continue his other career as specialist in nuclear medicines. His present office is up two flights of stairs. There is extensive public support for a purpose designed bungalow so he can continue to live independently within the same village as his family and friends. Many moving independent letters of support have been written. It is Durham and NPPF policy both to help people maintain quality of life and reinforce community values.
22. The site is at the edge of the hopelessly inept, and in any case out of date, Teesdale village line despite looking straight at the post office and a few yards from the pub. The line actually follows a wall line only there because Mr Schroeter himself – with consent- incorporated part of an outbuilding. The line bears no relation to the village form and the proposal actually restores the traditional form of “Whitecake Row”. It is a wholly sustainable site.
23. There was a single issue to overcome; highway safety. We could see this was based on a misweighing of facts so we withdrew. There are two vital points of change in the present application. Firstly, new OS plans showing the over 200 metre sightline downhill were bought and the architect paid to redesign. We accept that after being in clear sight for ample time to avoid accidents to forward gear traffic there is a spot where the uphill traffic is briefly masked. Users of Bankwell know this. It is just not factually correct to say there is simply a short sightline and the new plans submitted prove that. Secondly, the new application before you provides an overwhelming improvement to the safety of the residents of the two existing dwellings and the new one. At present residents have to regularly back out of the access. The new proposals will create a turning area to the south of the site, to allow all residents and visitors readily to exit the site forwards. This is the only realistic way the reversing out issue will be overcome. NPPF quite rightly requires that refusals be only issued on highway grounds if the “residual effect” on safety is severe. Here, the overall residual effect is safer. To the extent that anyone, highway officer or not, says the sightline is imperfect and an issue then a refusal which continues many movements coming out backwards must be a far greater danger.

The above 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 <http://teesdale.planning-register.co.uk/PlanAppDisp.asp?RecNum=21656>

PLANNING CONSIDERATIONS AND ASSESSMENT

24. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance relate to the principle of the development and highway safety. Other

issues including design and layout, and the personal circumstances of the applicant are also commented on below.

Principle of the development

25. The core principles set out in the NPPF include a requirement for the planning system to be 'genuinely plan-led', and it does not change the statutory status of the development plan as the starting point for decision making. The Teesdale District Local Plan, together with its inset maps and associated prescribed development limits was adopted in 2002 and saved. In addition, although there is an intention to abolish the RSS, this has yet to happen and so the policies of the RSS remain relevant, although it is accepted that the RSS carries less weight because of the intention to abolish. Until the County Durham Plan is finally adopted, the saved policies of the local plan therefore remain as the most relevant development plan and the policies relevant to this proposal are considered sufficiently robust and in conformity with the aims of the NPPF. Therefore, despite the applicant's views on the relevance of the policies and development limits within the Teesdale Local Plan, it remains the fundamental basis upon which the application must be determined.
26. The development limits of Low Etherley are defined in the inset maps appended to the adopted Teesdale District Local Plan 2002. This designation is drawn tightly around a housing estate (Bankwell Drive to the west), and along the unclassified road which runs north from Low Etherley to Phoenix Row. The boundary however crosses the road to include 1 & 2 Bankwell, but it excludes the majority of the application site, in particular the portion that would contain the proposed dwelling. Historic maps suggest that the buildings that previously existed to the east of Bankwell disappeared in the 1950's, over 40 years before the development limits were being drawn up. It could not reasonably be expected therefore that the development limits established in 2002 should take account of those buildings. It cannot be disputed that the application site lies outside the identified limits to development and to all intents and purposes, the proposed dwelling would therefore be located in the countryside.
27. Policy ENV1 has a fundamental aim of protecting the open countryside from unnecessary development, and prescribes a range of rural activities for which development might be acceptable. These activities include agriculture, rural diversification projects, forestry, nature conservation, tourism and recreation. The proposed dwelling does not associate itself with a recognised rural activity and simply represents the erection of a dwelling in the countryside, beyond the prescribed development limits of Etherley and Toft Hill.
28. Policy H4 of the Local Plan encourages the development of previously developed infill sites within the settlement boundaries of the former district's towns and villages, provided they would not cause adverse privacy and amenity conditions for existing occupiers, and provided they can be safely accessed. The application site is neither within the development limits, nor can it be properly regarded as previously developed. Whilst the applicant asserts that there were previously dwellings in this location, all signs of such development have long since gone, and the land has the appearance of a well maintained garden. Gardens are no longer classed as brownfield land and the presence/demolition of any buildings within a garden do not turn it into brownfield land. The site is therefore greenfield land. This is irrelevant in any case because the site is not within the development

limits, and so Policy H4 does not apply. The proposal must therefore be assessed against rural protection and housing policies.

29. RSS policy 4 advocates a sequential approach to housing sites and the application site would be given a very low priority given its location outside the development limits and the fact that any buildings previously present on the land have long since gone and the land used for garden purposes. The most relevant policy though is Policy H6 of the Teesdale Local Plan, which deals with dwellings in the countryside. This policy does not permit a new dwelling in the countryside unless it can be shown to be essential in any particular location to the needs of agriculture or forestry and this presumption against housing in the countryside is repeated in the NPPF. The application does not promote the development for the essential need for a rural worker to live permanently at or near their place of work in the countryside; rather, the dwelling would be for private residential use promoted on the basis of a medical condition. Whilst paragraph 50 of the NPPF says that LPA's should plan for a mix of housing including that which meets the needs of different groups in the community such as people with disabilities, a disability or medical condition is not cited in paragraph 55 as a special justification that might otherwise allow residential development in the countryside and medical conditions seldom carry significant weight as a material planning consideration, unless a proposal is finely balanced. In this case the proposal is not considered to be finely balanced because there is a serious highway safety issue with the access, which will be discussed below.
30. The principle of the proposal therefore runs contrary to Policies H6 and ENV1 of the Teesdale District Local Plan 2002, as well as being contrary to RSS policy 4 and the guidance within the NPPF.
31. The applicant considers that the emerging County Durham Plan (CDP) would support the principle of the current proposal and that because the emerging CDP reflects considerably changed aims and priorities in the County, it ought to be given more weight than the existing local plan.
32. As already explained, the NPPF is clear that the development plan against which applications must be determined is the Plan that is currently in force, which is the Saved policies of the Teesdale Local Plan 2002 and RSS. The County Durham Plan (Local Plan Preferred Options) is the most recent component of the emerging development plan, and it is still out to the first stage of consultation. The weight it can be given is therefore very limited because it is likely to be subject to change following consultation. It is worthy of note, however, that while the proposal in locational terms, might find more favour under CDP Preferred Options Policy 16 because of the absence of development limits, it would however, for the reasons set out below, fail test (i) of that policy in terms of the adverse impact upon highway safety, as will now be discussed. There is also no certainty that the policy will be retained, or remain unaltered, so reference to this policy cannot be given any meaningful weight.
33. As for any arguments on housing supply numbers, it cannot be argued that a single dwelling would make any meaningful contribution to the area's housing supply performance and therefore this factor carries no weight as justification for a proposal that is otherwise contrary to the identified housing and countryside policies.

Highway safety

34. There is a loose surfaced track and forecourt to the front of 1 & 2 Bankwell, accessed from the adopted, but unclassified highway to the west. This road links Etherley and Phoenix Row to the north. The frontage area contains garages, with a gate to the east to allow access to agricultural land and gardens beyond.
35. In response to highway objections expressed on the previously withdrawn application, the applicant has incorporated into the current application a scheme for improving the frontage area to enable cars to be turned so as to exit the site in forward gear. This does not however overcome the serious deficiency in highway visibility to the north, which forward facing vehicles would still face, caused by the proximity of the gable wall of 1 Bankwell to the southbound carriageway of the adjacent road.
36. The Highways Authority has commented that sight visibility from the side road to Bank Well is wholly substandard in a northern direction, which is the critical traffic stream. When measured in the correct manner upon the submitted 'proposed site layout', sight visibility is just 7.5m, i.e. commensurate with approach speeds of 9mph. If, not unreasonably, assuming 85th percentile approach speeds are in the region of 35mph, then the appropriate minimum sight visibility splay required for this proposal would be 54m, which is not achievable. The deficiency in visibility is therefore considered to be serious. As outlined above, the applicant's assertion that the proposal would lead to an overwhelming improvement to highway safety for all residents is overstated because even forward facing vehicles would still experience significantly substandard visibility. The pertinent issue, as before with the previously withdrawn application, is whether reversing or driving forward on to Bank Well makes any material difference in practice to the available substandard existing sight visibility. A car driver typically sits very close to the mid point of a vehicle but even assuming they are slightly closer to the rear (i.e. 2m), this alters the visibility distance along Bank Well to the north from 2.4m by 7.5m, to 2.0m by 8.5m. When compared to the required visibility splay (54m) commensurate with likely vehicle speeds, then whether or not a car is reversing or moving forward cannot be considered to make a material difference to the identified serious sight visibility deficiency; rather, the difference is virtually negligible. Therefore, while leaving in forward gear would be more convenient than reversing out, it would not make any fundamental difference to the safety of the access, which would remain wholly unsafe for all users. The proposal would not therefore deliver the overwhelming improvements to highway safety claimed by the applicant and the fact that the situation is already unsafe for existing properties should not justify adding to an already poor situation. Adding further residential development and associated vehicle movements to this already substandard situation with no fundamental improvement being achieved, would worsen conditions and increase highway safety risks at the access making it more unsafe. This issue of highway safety is a matter of public interest which is considered to carry much greater weight than the applicant's private medical interest.
37. The inability of the proposal to secure a safe vehicular access and intensification of use of an unsafe access is therefore contrary to Policy GD1 and H6 of the Teesdale Local Plan, as well as chapter 4 of the NPPF.

Design and layout

38. The proposed dormer bungalow would be located at the eastern end of Bankwell, close and generally in line with 2 Bankwell. The three bedroom dwelling would be constructed using random stonework and slate covered pitched roof, with integrated solar panels. Windows and doors would be UPVC and two small dormer windows and five rooflights would be used to provide daylighting to the first floor rooms. The bungalow would also feature an integral single garage.
39. The proposed dwelling would retain most of the substantial garden land, part of that land being allocated to the rear of 2 Bankwell to serve as private amenity space for that dwelling.
40. In terms of design and layout, the proposal is considered acceptable. Appropriate materials and detailing would be used, sufficient private amenity space would be provided, and there would be no adverse impact upon the privacy and amenity of the existing two dwellings which lie close by. Adequate off-street parking would be provided. The proposal would accord with these aspects of Policy GD1 of the Local Plan.

The applicant's personal circumstances

41. It has already been alluded to that the justification put forward for departing from the development plan in this case has been on the grounds of the applicant's medical condition. The application is supported by comprehensive statements describing the applicant's medical condition and the likely deterioration in his mobility over time. One letter of support has been received since the application was submitted, and a further 11 letters of support are included in the supporting documents to the application, from local residents, businesses and health professionals.
42. Clearly, the applicant's existing two storey accommodation would become increasingly unsuitable in its present form to meet the applicant's needs, and it is stated that the constraints of the existing 'two up, two down' building with its steep staircase make it unsuitable for adaptation. This is not disputed.
43. However, an applicant's personal circumstances are seldom a material planning consideration which can be given significant weight when faced with strong policy presumption against the proposed development, because they seldom outweigh the wider public interest which the policies seek to protect and the development would exist long after the personal circumstances cease to apply. Accordingly, personal circumstances will normally only be decisive when other material considerations are finely balanced. There are also no planning policy provisions which suggest that an applicant's medical condition can be taken into account as a special circumstance to justify departing from rural restraint housing policy.
44. In this case it has been established that the proposed dwelling would be clearly contrary to housing and countryside policies in the Teesdale Local Plan and would not achieve a safe vehicular access. Notwithstanding Member's own views on the principle of development in the countryside, the issue of highway safety is held to be of particularly significant importance. This is therefore not considered to be a case which is finely balanced and therefore while consideration has been given to the applicant's medical condition, this factor is a private matter which is

not considered to carry sufficient weight to outweigh the public interest and identified conflict with the development plan policies, particularly in respect of highway safety.

CONCLUSION

45. As explained above, the proposed development is considered to be unacceptable due to its location beyond the development limits of Etherley and Toft Hill, and because of extremely substandard forward visibility at the junction of the access with the main road. Whilst that access already serves two dwellings, the addition of a third dwelling, regardless of whether vehicles would be able to leave in forward gear, would increase vehicle movements and the potential for an accident at the access point because of seriously deficient visibility at the junction with Bank Well.
46. Regard has been given to the personal circumstances of the applicant including his medical condition and his desire to remain close to his family. It is further recognised that the present dwellinghouse would become progressively less suitable if not adapted to suit his needs. Regrettably however, it is not considered that the personal circumstances of the applicant carry sufficient weight to outweigh the conflict with the current development plan, particularly in respect of highway safety.

RECOMMENDATION

That the application be **REFUSED** for the following reasons;

1. The proposed development would lie beyond the development limits of Etherley and Toft Hill as defined in Inset Map 2 of the Teesdale District Local Plan 2002. The application site is land which is of greenfield character, used for garden purposes associated with 2 Bankwell, Low Etherley. The proposal is therefore considered to constitute development in the countryside and in the absence of a proven need for a private dwelling in this location; the proposed development is contrary to Policies H6 and ENV1 of the Teesdale District Local Plan 2002, RSS policy 4, and the guidance within the NPPF.
2. Notwithstanding the formation of a turning area on the existing frontage area to 1 and 2 Bankwell, the proposal would be detrimental to highway safety by reason of inadequate forward visibility of southbound traffic at the point of access onto the unclassified road Bank Well. The proposal would intensify the use of this substandard junction with a detrimental impact upon highway safety, contrary to Policy GD1 of the Teesdale District Local Plan 2002, and the guidance within the NPPF.


BACKGROUND PAPERS

Submitted Application Forms, Plans and supporting documents
National Planning Policy Framework
North East of England Plan Regional Spatial Strategy to 2021 (RSS) July 2008

Teesdale District Local Plan 2002
Response from County Highway Authority
Response from the Planning Policy Section

Durham County Council GIS



 <p>Planning Services</p>	<p>LAND ADJACENT TO 2 BANKWELL, LOW ETHERLEY, BISHOP AUCKLAND</p>	
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