



Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	7/2011/0055/DM
FULL APPLICATION DESCRIPTION:	APPLICATION TO RENEW PLANNING PERMISSION APP/M1330/A07/2040536 FOR RESIDENTIAL DEVELOPMENT (OUTLINE APPLICATION)
NAME OF APPLICANT:	MR. ALLEN WATSON
ADDRESS:	LAND NORTH EAST OF HIGH STREET, BYERS GREEN
ELECTORAL DIVISION:	Spennymoor
CASE OFFICER:	Steve Teasdale Planning Officer 01388 816166 x7758 steve.teasdale@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

1. The site lies to the north east of High Street, at the southern entrance to the village. The application site comprises an unused field that has an unkempt appearance, and additional agricultural land which lies beyond a mature hedgerow to the north east. The red line boundary also includes the existing access track onto High Street, the site of 132 High Street, and part of the existing highway, to allow significant highway junction improvements to take place. In all, the site extends to approximately 1.2 hectares.
 2. The proposal, for which this renewal of consent is sought is in outline only, and was granted following an appeal against the decision of the former Sedgefield Borough Council to refuse planning permission. This is explained in more detail in the planning considerations below.
 3. The current application does not propose any changes to the originally approved development.
 4. The application is presented to South & West Area Planning Committee because it concerns extending the time period for commencement of a major development.
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PLANNING HISTORY

- 7/2006/0407/DM Residential development (Outline) – REFUSED
 - APP/M1330/A/07/2040536 Planning appeal - ALLOWED
 - 7/2006/0716/DM Residential development (Outline) (Smaller site area) - APPROVED
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PLANNING POLICY

NATIONAL POLICY:

- **Planning Policy Statement 1: Delivering Sustainable Development** sets out the Government's overarching planning policies on the delivery of sustainable development through the planning system.
- **Planning Policy Statement 3: Housing** underpins the delivery of the Government's strategic housing policy objectives.
- **Planning Policy Statement 7: Sustainable Development in Rural Areas** sets out the Government's planning policies for rural areas, including country towns and villages and the wider, largely undeveloped countryside up to the fringes of larger urban areas.

REGIONAL POLICY:

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 2004 to 2021. The RSS sets out the region's housing provision and the priorities in economic development, retail growth, transport investment, the environment, minerals and waste treatment and disposal. Some policies have an end date of 2021 but the overall vision, strategy, and general policies will guide development over a longer timescale.

- Policy 1 – North East Renaissance
 - Policy 2 – Sustainable Development
 - Policy 3 – Climate Change
 - Policy 4 – The Sequential Approach to Development
 - Policy 5 – Phasing & Plan, Monitor and Manage
 - Policy 6 – Locational Strategy
 - Policy 7 – Connectivity and Accessibility
 - Policy 8 – Protecting and Enhancing the Environment
 - Policy 10 – Tees Valley City-Region
 - Policy 11 – Rural Areas
 - Policy 24 – Delivering Sustainable Communities
 - Policy 28 – Gross and Net Dwelling Provision
 - Policy 29 – Delivering and Managing Housing Supply
 - Policy 30 – Improving Inclusivity and Affordability
 - Policy 38 – Sustainable Construction
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Members should be aware that the Rt Hon Eric Pickles MP (Secretary of State for Communities and Local Government) wrote to all Local Planning Authorities on 27th May 2010 advising of his intention to abolish Regional Spatial Strategies. CLG has confirmed more recently that this is a material planning consideration in the determination of any planning application.

LOCAL PLAN POLICY:

- **Policy H8** presumes in favour of development within defined larger villages, including Bishop Middleham, and establishes a settlement boundary for those villages.
 - **Policy D3** aims to ensure that new developments are accessible and safe for pedestrians, cyclists, public transport, cars and other vehicles.
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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 www.durham.gov.uk

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

Spennymoor Town Council – no objections

INTERNAL CONSULTEE RESPONSES:

DCC Policy Section – The applicable policies have not changed since the original planning considerations were made. Specified RSS policies are still applicable, but the appropriate amount of weight must be afforded to this part of the development plan in light of the Government's intention to abolish the RSS when the Localism Bill is introduced. The appeal decision clarifies that Policy H8 of the Local Plan, and the settlement boundary prescribed for Byers Green is still relevant. No objection to extending the life of that consent is made. There is a case for affordable housing if a new consent is granted, and this should be conditioned.

Highways Development Control Section – There is no change to the previously approved highway details, therefore there are no objections to the proposal.

DCC Ecology Section – No objections to the proposal, subject to specified mitigation measures being subject of a condition.

DCC Archaeology – No objections to the proposal, subject to imposition of a condition requiring archaeological survey and report before commencement of development.

DCC Landscape – Comments made about landscape sensitivity and importance of securing an adequate landscaping scheme.

PUBLIC RESPONSES:

Local Residents – Ten letters of objection have been received from the local community. The reasons for objection are summarized as follows:

- There would be a significant increase in traffic
- Hedgerows would be removed to accommodate the development
- The access is too close to an existing play area
- Development would cause disruption to the local community
- Wildlife and its habitat would be compromised
- Public transport in the village is limited
- There are no shops in the village
- There could be a reduction in privacy for existing residents
- Highway visibility and vehicle stopping distances are inadequate
- The natural boundary to the village created by the eastern hedgerow would be breached

APPLICANT'S STATEMENT:

5. The approved site has remained undeveloped as a result of the economic downturn experienced over recent years. Disappointingly for the owner of the land, a major house-building company had agreed to purchase the site not long after the appeal decision in 2008, but the offer was withdrawn due to economic conditions. Accordingly, it is now the intention of the owner to seek to renew the existing planning application.

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 www.durham.gov.uk Officer analysis of the issues raised and discussion as to their relevance to the proposal and recommendation made is contained below

PLANNING CONSIDERATIONS AND ASSESSMENT

6. This is an application to extend the life of a planning permission, a facility made permissible from the 1 October 2009 via the Town and Country Planning (General Development Procedure) (Amendment No. 3) (England) Order 2009 (SI 2009 No. 2261). The proposal is a straightforward extension of time to planning permission APP/M1330/A/07/2040536 that expired on 31st March 2011.

7. The application draws on the change to the legislation that allows applicants to apply to their LPA for a new planning permission to replace an existing permission which is in danger of lapsing, in order to obtain a longer period in which to begin the development. The change in legislation has been introduced as a temporary measure in order to make it easier for developers and LPAs to keep planning permissions alive for longer during the economic downturn so that they can more quickly be implemented when economic conditions improve. Only one such extension of time can be sought.

8. The Guidance on Greater Flexibility for Planning Permissions November 2009, explains that the procedure is for extension of time for the same development without changes. There can be no negotiation on alterations to the design, for example.

9. It is essential however to ensure that the development would still comply with any significant policy changes since the original consent was granted.

10. As previously mentioned, whilst the application site was within the Policy H8 settlement boundary, it was considered that the boundary had been prescribed to take account of an old planning permission which had long since lapsed. Officers felt at the time that the natural boundary created by an existing hedgerow was a more logical definition of the edge of the settlement, and the application was refused primarily for this reason. In considering the subsequent appeal, the Inspector did not agree that the Policy H8 settlement boundary was out of date or unreliable and upheld the appeal, granting outline planning permission.

11. Greater emphasis is placed on the Sedgefield Borough Local Plan in terms of its part of the development plan because of the more limited weight now afforded to the RSS. It is clear therefore that the current proposal continues to conform to Policy H8. There is in any event no apparent conflict with the applicable policies of the RSS.

12. The comments raised by the objectors have been considered:

- Highways and traffic: The viability of the proposal relies heavily on securing adequate vehicle access from High Street, and includes a comprehensive improvement of the existing junction, including demolishing an end of terrace house and realigning the main road. This scheme meets with the approval of the Highway Authority who have raised no concerns about traffic flows, highway safety or the safety of users of the play area.
- Loss of hedgerows, wildlife and habitat: The proposal has not met with adverse comments from the landscape architect or ecologist, and appropriate conditions are recommended in respect of mitigation works. Further control over landscaping can be exercised in any subsequent reserved matters proposal.
- Sustainability: Whilst it is recognised that there has been a decline in shops in the village over a number of years, Byers Green is located near to Spennymoor and is served by a reasonably good bus service. Furthermore, Policy H8 presumes in favour of residential development in 'larger villages' including Byers Green.
- Privacy: The outline application seeks planning consent in principle. Assessment of privacy can be examined at the reserved matters stage.
- Natural boundary to the village: This point is answered in the planning considerations above.

Policy changes

13. No regional policy was applicable to consideration of the original proposal, and it is therefore not applicable to this variation of the time limit for commencement.

14. The Planning Policy Section has pointed out that the Inspector did not consider the issue of affordable housing, and that there would now be a requirement for 20% of the dwellings to be affordable units as a result of the issue of the SHMA Strategic Housing Market Assessment in 2008. It is considered entirely appropriate, therefore, in effectively granting a new planning permission for this major residential development, that a relevant condition be imposed.

15. As previously mentioned in the report, the Archaeology Section consider that archaeological evaluation of the site ought to take place prior to any development occurring. The introduction of PPS5 (Planning for the Historic Environment) is cited as the reason for adopting a precautionary approach to the development of the site. Following consultation, an appropriate condition is recommended.

Other matters

Conditions

16. Conditions attached to the original consent are generally repeated for the purposes of any extended consent granted by the Council. Where appropriate, amendments can be made to those conditions where something has changed. In this instance, the following changes have been made:

- Deletion of condition 11 in respect of limiting the hours of construction work. This is more appropriately dealt with by an informative.
- Condition 13 in respect of renewable energy has been amended to reflect the current advice on reduction of carbon emissions.
- Insertion of condition 16 in respect of affordable housing.
- Insertion of condition 17 in respect of ecological mitigation.

CONCLUSION

17. This is an application to extend the time limit of planning permission APP/M1330/A/07/2040536 which is unimplemented and expired on 28th February 2011. The case for this development remains the same as in 2008 when planning permission was granted on appeal.

18. The proposal meets the requirements of the development plan and national planning policy expressed in PPS1, PPS3 and PPS7.

RECOMMENDATION

That the application be APPROVED subject to the following conditions, and subject to the prior completion of an acceptable agreement under Section 106 of the Town and Country Planning Act 1990 in order to secure 20% affordable housing within the scheme:

1. Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
2. Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
3. The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
4. No development comprising the construction of a dwellinghouse or associated site clearance and infrastructure works shall take place until the approved highway realignment and highway works at the access point off High Street have been completed in accordance with details to be submitted to and approved in writing by the local planning authority.

5. No development shall take place until a scheme for the provision of surface water drainage works has been submitted to and approved in writing by the local planning authority. The scheme shall be completed in accordance with the details and timetable agreed.

6. No development shall take place until a scheme for the provision and implementation of a surface water run-off limitation has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details.

7. There shall be no discharge of foul or contaminated drainage from the site into either groundwater or any surface waters, either directly or via soakaways.

8. All trees and hedges to be retained shall be properly fenced off from those parts of the site to be demolished or redeveloped and shall not be removed without prior approval of the local planning authority. Details of the type and positioning of the protective fencing shall be submitted to and approved in writing by the local planning authority before any demolition works start.

9. No development shall take place until details of the existing and proposed site levels have been submitted to and approved in writing by the local planning authority. Development shall take place in accordance with the approved plans.

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order) details of any walls or fence or other means of enclosure shall be submitted to and approved in writing by the local planning authority. Development shall take place in accordance with the approved plans.

11. No development shall take place until a detailed plan indicating the location of material storage and employee parking on site have been submitted to and approved in writing by the local planning authority. Development shall take place in accordance with the approved plans.

12. No development shall take place until a vehicle wheel washing facility has been installed at the main exit from the site in accordance with details, including siting, to be submitted to and approved in writing by the local planning authority. All construction traffic leaving the site must use the facility and it must be available and maintained in working order at all times.

13. Prior to the commencement of the development a scheme to minimise energy consumption shall be submitted to and approved in writing by the Local planning authority. The scheme shall consist of energy from renewable or low carbon sources provided on-site, to a minimum level of at least 10% of the total energy demand from the development, or an equivalent scheme that minimises carbon emissions to an equal level through energy efficiency measures. Thereafter the development shall be carried out in complete accordance with the approved scheme prior to first occupation and retained so in perpetuity.

14. There shall be no site clearance or ground disturbance between the months of March and August inclusive unless it can be demonstrated to the local planning

authority by a suitably experienced person that no nesting birds would be adversely affected by the operations on the day that such clearance is due to take place.

15. No development shall be commenced until the developer has undertaken an agreed programme of archaeological works in accordance with a written scheme of investigation which has been submitted to and approved by the planning authority. A copy of any analysis, reporting, publication or archiving required as part of the mitigation strategy shall be deposited at the County Durham Historic Environment Record within 6 months of the date of completion of the scheme hereby approved by this permission. The strategy shall include details of the following:

- i) the proper identification and evaluation of the extent, character and significance of archaeological remains within the application area in accordance with a brief issued by the County Durham Archaeology Section; the evaluation is to be undertaken following the approval of planning permission,
- ii) an assessment of the impact of the proposed development on any archaeological remains identified in the trial trench evaluation phase;
- iii) proposals for the preservation in situ, or for the investigation, recording and recovery of archaeological remains and the publishing of the findings, it being understood that there shall be a presumption in favour of their preservation in situ wherever feasible;
- iv) sufficient notification and allowance of time to archaeological contractors nominated by the developer to ensure that archaeological fieldwork as proposed in pursuance of (i) and (iii) above is completed prior to the commencement of permitted development in the area of archaeological interest; and
- v) notification in writing to the County Durham and Darlington County Archaeologist of the commencement of archaeological works and the opportunity to monitor such works.

16. No development shall take place unless in accordance with the mitigation detailed within section 5 of the protected species report "*Ecology Report by Dendra Consulting Ltd dated 18th February 2011, reference no.*

PlanArch_Watson_001Eco_R1.1" including, but not restricted to:

- timing of vegetation removal to prevent impact on breeding birds;
- the timing of the demolition of the building to be undertaken outside the hibernation season (November to March inclusive);
- soft stripping of roofing materials;
- installation of a minimum of 4 Schwegler 1FR bat tubes within the fabric of the new buildings (taking into consideration recommended siting as detailed in the report); and
- the planting of new species rich hedgerows along the boundaries of the site.

INFORMATIVE: REASON FOR GRANT OF PLANNING PERMISSION

In the opinion of the Local Planning Authority the proposed development would be within the defined settlement boundary of Byers Green where there is a presumption in favour of residential development would provide a safe means of access to a future residential development site and would improve the environmental qualities of the area through remediation of contamination.

INFORMATIVE: LOCAL PLAN POLICIES RELEVANT TO THIS DECISION

The decision to grant planning permission has been taken having regard to the key policies in the Sedgefield Borough Local Plan as set out below, and to all relevant material considerations, including PPS 1, PPS3 and PPS7.

POLICY H8 (RESIDENTIAL FRAMEWORKS FOR LARGER VILLAGES)

POLICY D3 (DESIGN FOR ACCESS)

INFORMATIVE

Be a considerate developer. In order to minimise any disturbance to adjoining or nearby properties, it is recommended that:

Site works (including deliveries and temporary site generators) should only be carried out during the following hours:

- Monday - Friday (08:00 to 18:00 hours)
- Saturday (09:00 to 14:00 hours)
- Sunday and Bank Holiday (Noisy work audible at site boundary should not be permitted).

INFORMATIVE

The proposed development lies within a coal mining area which may contain unrecorded mining related hazards. If any coal mining feature is encountered during development, this should be reported to The Coal Authority.

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires the prior written permission of The Coal Authority.

Property specific summary information on coal mining can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at www.groundstability.com

BACKGROUND PAPERS

- Submitted Application Forms and Plans.
- Sedgefield Borough Local Plan 1996
- Planning Policy Statements / Guidance, PPS1,3,5,7
- Responses from Highways Authority, Ecologist, Environmental Health, Policy Section, Landscape Architect

