

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	6/2010/0188/DM
FULL APPLICATION DESCRIPTION:	Outline application with some matters reserved for the erection of 12no. dwellings
NAME OF APPLICANT:	Mr A Bainbridge & Mrs D Dowson
SITE ADDRESS:	Land west of Victoria Cottages, Butterknowle, Bishop Auckland, County Durham
ELECTORAL DIVISION:	Evenwood
CASE OFFICER:	Adrian Caines 03000 263943 adrian.caines@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

1. The application site is a linear strip of land along Pinfold Lane Butterknowle, approximately 0.33 Hectares in area. It runs the full extent along Pinfold Lane from the western end of Victoria Cottages to the western limit of the village and is part of a larger agricultural field. The site is classified as greenfield land, but it lies mostly within the development limits of the village. A public footpath (No.61) runs through the western end of the site and continues in a south west direction through the adjacent fields. Opposite, on the northern side of Pinfold Lane is a terrace of two storey dwellings known as West View, as well as a number of detached dwellings, all typically following the linear pattern of ribbon development that characterises Butterknowle.
2. The application seeks outline planning permission for residential development of 12 dwellings with access and layout considered. The dwellings would follow the linear pattern of development along Pinfold Lane and comprise 4 detached, 4 terraced and 4 semi-detached dwellings with a new vehicular access taken off Pinfold Lane. A small section of the site to the south would extend beyond the defined development limits in order to accommodate a shared driveway and parking area.
3. The application was originally submitted in June 2010 and in November 2010, Members of the SW Area Planning Committee were minded to approve the application subject to the signing of a Section 106 Agreement to secure 4 affordable dwellings within the scheme (30% affordable Housing). However, as the S106 agreement was not progressed, planning permission was never issued and accordingly, the applicant remains undetermined. The applicant is now seeking to argue that there should be no S106 affordable housing requirement on the basis that over 3 years have passed without any interest from Registered Social Landlords to take on the affordable housing and in addition, it is claimed the economic downturn has now made the development unviable with affordable housing.

4. The application is therefore being reported back to the Planning Committee to revisit the issue of the S106 affordable housing requirement and for a new resolution to be made so that the application can then be determined. The proposal itself in terms of the dwelling numbers, layout and access remains unchanged from the scheme Members previously resolved to approve in November 2010 subject to the S106 for affordable housing.

PLANNING HISTORY

5. As explained above, the proposal was submitted in 2010 and already has a minded to approve resolution from the Planning Committee. The previous Committee report is attached as an appendix for information.
6. The application is a resubmission of application 6/2007/0198, which was refused on 27th July 2007. The proposal made amendments to the layout, provision for the public right of way through the site, and offer of 4 affordable dwellings to overcome previous reasons for refusal.

PLANNING POLICY

NATIONAL POLICY

7. On March 27th 2012 the Government published the National Planning Policy Framework (NPPF). This supersedes all previous PPS and PPG documents. The NPPF does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused, unless other material considerations indicate otherwise.

REGIONAL PLANNING POLICY

8. The Regional Spatial Strategy for the North East (RSS) was revoked on 15 April 2013 and therefore the RSS policies are no longer of any relevance to the determination of this application.

LOCAL PLAN POLICY:

9. The following saved policies of the Teesdale District Local Plan are considered to be consistent with the NPPF and therefore relevant in the determination of this application:
 - GD1 General Development Criteria
 - H1A Open space requirements
 - H12 High standards of design in new house and housing sites.
 - ENV1 Protection of the Countryside

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

10. The following is a summary of the consultation responses to the original application in 2010, updated where any additional comments have been received from the reconsultation exercise.

STATUTORY RESPONSES:

11. *Lynesack and Softley Parish Council* – Having been reconsulted, the Parish Council have reiterated their previous objection to the scheme, minus the comments relating to affordable housing, which are:

- There are currently a large number of properties for sale in the area, therefore is there any need for further development in the Parish?
- The current application is 43% larger than the 2007 refusal. The identified plot also extends beyond the settlement boundary.
- The development is on a Greenfield site.
- Parking and traffic would be a problem.
- People living close to the development would have their views and living environment spoilt.
- The Parish Council would not be in favour of diverting the right of way.
- Concern regarding the vast infrastructural improvements that would be required.

12. *Northumbrian Water* – Had no objection

13. *Highways Authority* – Had no objection, however conditions were recommended to secure 4 visitor parking spaces on the access road between plots 4 & 5, a 1.8m wide footway, drainage details (a surface water attenuation tank is not acceptable if the access is to be adopted), and for all gates to be inward opening so they do not obstruct the highway. The potential displacement of informal parking from the highway verge is noted but it is not a material reason for refusal.

INTERNAL CONSULTEE RESPONSES:

14. *County Spatial Policy Section* – Had no objection, noting that the Durham County Council Settlement Study identifies Butterknowle as a Category 4 settlement, which is of a sufficient size and has sufficient services, facilities and infrastructure to accommodate the size of development proposed. The provision of affordable housing would be significant in improving the sustainability and viability of Butterknowle.

15. *County Estates Section* – Have considered the viability assessment and concur with the findings that the scheme as it stands is unviable with the inclusion of any affordable housing.

16. *County Public Rights of Way Section* – Had no objection subject to a Diversion Order under Section 257, Town and Country Planning Act 1990 being made for Public Footpath No61, Lynesack and Softley.

17. *The County Sustainability Section* – The Design and Post Construction Stage Assessment should be sent for consultation, together with an estimation of the total energy and carbon emissions from the development.

PUBLIC RESPONSES:

18. When the application was first considered in 2010 there were 18 objections and one letter of support received. All previous responses are summarised in the Committee report attached as an appendix to this report.

19. Following reconsultation on the proposal to remove the affordable housing there have been another 3 objections received, including one from the Open Spaces Society.

20. The following is a summary of the concerns raised, some of which repeat concerns raised previously:

- The application was only passed previously because the positives of the affordable housing were considered to outweigh the negatives of building on a Greenfield site and outside the development limits.
- There is a national shortage of affordable houses and affordable housing is viable.
- Butterknowle has very few amenities.
- Traffic and parking impact.
- The development is on greenfield land.
- The area has drainage problems and the development might increase flooding.
- Loss of views for the dwellings opposite
- Any diversion of footpath 61 would be detrimental for users because of loss of a direct route, loss of view of the countryside, loss of a firmer surface.

APPLICANTS STATEMENT:

21. The present application was reported to Committee on 18th November 2010, when Members were minded to approve the application subject to the completion of a Section 106 Agreement relating to the provision of 4no. affordable dwellings. A draft S106 Agreement was issued by the Council's solicitor on 4th January 2011. Enquiries were made on behalf of the applicant to potential RSL's and despite meetings with one in particular, 4 Housing, no level of interest was actually registered. There were also considered to be issues with the structure of the draft S106.

22. Discussions moved towards the provision by our client of a viability assessment for the site as a means of identifying a basis for the provision of affordable housing or an off-site contribution. This assessment was discussed with officers prior to a meeting on 21st September 2012, as well as being discussed again at that meeting, after which it was formally issued for examination by the Council and duly acknowledged in November 2012 as being correctly prepared. It was confirmed, therefore, that on the scheme as submitted no justification existed for requiring affordable housing on-site or an off-site contribution. This remains the position as at this date and the planning application remains undetermined.

23. All that the applicant is seeking to achieve is the establishing of the principle of development on her land, and by the resolution of the Committee in November 2010, it is clear that the development of the land was accepted in principle, i.e. it could be physically built upon. No viability assessment was undertaken at the time of making the application, but it is almost certainly the case, given the stagnant market of the past 2-3 years or more, that the scheme proposed would not have been viable at the time of submission.
24. To turn to the prevailing policy framework, both NPPF, and in particular the 'Growth and Infrastructure Bill' which is likely to gain Royal Assent in April this year, highlight the presumption in favour of sustainable development, and the latter Bill is explicit in reducing Section 106 requirements where they are shown to be economically unviable. In the case of this site, once the Local Planning Authority accepted the principle of development (as it did in November 2010), it is difficult to sustain arguments on the basis of affordable housing requirements which have been proved to be unviable, and have been accepted as such through the viability assessment.

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://82.113.161.89/WAM/showCaseFile.do?action=show&appType=planning&appNumber=10/00955/PA>

PLANNING CONSIDERATIONS AND ASSESSMENT

25. 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 previous committee resolutions and additional representations received, it is considered that the main planning issues in this instance relate to whether the requirement to enter into a S106 Agreement to secure 4 affordable dwellings in the scheme should be removed. Apart from the request for removal of the affordable housing requirement, the application has not changed and therefore matters of the layout and means of access, along with other related issues of drainage, flooding, impact on the footpath, impact on adjacent properties, traffic and parking impact, have already all been considered to be acceptable when Members of the Planning Committee were minded to approve the application on 18th November 2010, as detailed in the attached 2010 Committee Report.

Whether the requirement to enter into a S106 Agreement to secure 4 affordable dwellings in the scheme should continue to be imposed

26. Since the application was last considered in 2010, there has been a change in planning policy with the National Planning Policy Framework replacing all PPS and PPG documents, however, the NPPF does not change the statutory status of the development plan as the starting point for decision making and the weight to be attached to relevant saved local plan policies depends on the degree to which they accord with the NPPF. Paragraph 50 of the NPPF recognises that affordable housing contributes to widening opportunities for home ownership and the objective of creating mixed and balanced communities. Policies to secure affordable housing should be based on a demonstrable need, but there is recognition of the need for flexibility to take account of changing market conditions over time. Teesdale Local Plan Policy H14, which states that the local

planning authority will seek to negotiate an element of affordable housing based on need, is therefore still relevant as it accords with the NPPF.

27. When the application was originally considered in 2010 the local requirement for affordable housing in the whole of the former Teesdale area was 30%, hence the requirement for 4 affordable dwellings in the scheme. This requirement has more recently been revised to 25% for the West Durham Market Delivery Area as a result of the Strategic Housing Market Assessment (2012), which forms the evidence base for the emerging County Durham Plan. This immediately suggests the current requirement should be for just 3 affordable dwellings in the scheme. Butterknowle is however located on the eastern perimeter of the West Durham Market Delivery Area where it is less closely associated, in terms of house prices and land values, to those of Barnard Castle and west Teesdale, and more closely associated with those of the Bishop Auckland/West Auckland area in the adjacent South Durham Market Delivery Area, which has a much lower affordable housing requirement of 15%. There could therefore be an argument that the affordable housing requirement should be somewhere between 25-15% when taking into account specific local context and need, which would lower the requirement further.
28. The applicant however suggests that since November 2010 there has been no interest from Registered Social Landlords (RSLs) to take on any affordable houses in the scheme and in addition, the effect of the economic downturn has now made the development unviable with any affordable housing. The NPPF does recognise the need for flexibility to take account of changing market conditions over time and more recently regard can be given to the Growth and Infrastructure Act of 25th April 2013, which aims to get building going on stalled housing sites by allowing the reconsideration of economically unviable S106 requirements. The applicant has submitted a viability appraisal which has been appraised by the Council's Estates Section in consultation with the Planning Policy and Housing Sections. They have carefully examined the projected sales revenues, build costs, other costs and profit margins, and concur with the findings that the scheme as it stands is unviable with the inclusion of any affordable housing, noting that securing affordable housing is always going to be difficult on small sites in this market area where sales revenues are relatively low and required building materials are likely to be stone. Because the applicant has demonstrated the scheme is unviable with affordable housing it is not appropriate to seek an off site financial contribution for affordable housing.
29. Having accepted that the provision of any affordable housing is unviable on this site consideration must then be given to whether the scheme could still be approved without any affordable housing and whether this triggers the consideration of any other material considerations. The 2010 Committee Report did suggest that the provision of affordable housing was a factor to outweigh development of a greenfield site, including land outside the development limits of Butterknowle and would contribute to meeting the aims of PPS3 to create sustainable mixed communities.
30. Looking at the proposal in the current policy context under the NPPF, Butterknowle contains a number of important services including a school, doctors, village hall, pub, and post office. There is a bus service and bus stop within 300m of the site. The site therefore remains a sustainable location for the scale of development proposed. The site is greenfield land, but most of it is within

the development limits. It is also of note that the RSS which contained the sequential approach to development has been revoked and the NPPF does not carry forward a sequential approach to site identification, the key criteria of NPPF being sustainability. The greenfield/brownfield dichotomy is therefore much less important than it was when the application was considered previously. The fact the site was included in the development limits when it could easily have been excluded is an indication of its development potential, mostly because the presence of dwellings across the road means it is a natural extension of the village without causing intrusion into the countryside. All proposed dwellings would be located within the development limits with only the access and parking area falling outside, which would be adequately screened by a new hedgerow to replace the one lost to the front of the site. Affordable housing would have contributed to the objective of creating mixed and balanced communities, but for the reasons above, is not viable on this site. There would still be 2 bungalows within the scheme to meet the needs of older people, or those with disabilities, and with the loss of the affordable housing it is even more important that these bungalows are retained in the scheme so a condition is recommended accordingly. It is therefore considered that in the current policy context under the NPPF, the justifiable absence of affordable housing does not make the site unsuitable in principle for housing development, subject to other material considerations.

31. The scheme previously did not include any contribution towards recreational open space in the area because the delivery of a high amount of affordable housing (30%) was seen as a more pressing need, and an open space contribution in addition to the affordable housing on such a small site may have potentially threatened deliverability of the affordable housing. Now that it is proposed to remove the affordable housing from the proposal there is no longer any reason why the proposal should not comply with Teesdale Local Plan Policy H1A, which states development of 10 or more dwellings should either provide or contribute to play and amenity space in the area. In addition, the Council has since produced an Open Space Needs Assessment (OSNA), which is a new material consideration to be taken into account. The OSNA identifies that Lynesack Parish, within which Butterknowle falls, is deficient in recreational open space and therefore there is added justification for this development proposal to make an open space contribution towards provision/improvement in the locality in lieu of there being no open space proposed within the scheme. This is entirely in accordance with Section 8 of the NPPF, which recognises that the planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities and that access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities. Accordingly, the applicant has agreed to an open space contribution of £12,000 which can be used for provision and improvement of recreational open space in the local area. This would be secured through a S106 Agreement. This is a public benefit that would not have been delivered previously and therefore it would provide some compensation for the loss of the affordable housing from the scheme and in respect of meeting the aims of creating sustainable, inclusive communities.

Other issues

32. Objections have again been received on matters in respect of impacts on neighbouring properties, flood risk, highway safety and impact on the public

footpath, however the scheme is physically unchanged from the one Members of the Planning Committee previously considered acceptable in these respects. The acceptability of these issues are covered in the 2010 Committee Report and planning policy relevant to these matters and site circumstances have not changed materially to justify coming to any different view.

CONCLUSION

33. This is an outline application with matters of layout and access being considered. The layout and access, along with other related issues of drainage, flooding, impact on the footpath, impact on adjacent properties, traffic and parking impact, have already all been considered to be acceptable when Members of the Planning Committee were minded to approve the application on 18th November 2010. Planning policy relevant to these matters and site circumstances have not changed materially to be able to justify coming to any different view.
34. The key issue is whether the development should be approved without a S106 Agreement to secure 4 affordable dwellings. While the policy justification for seeking affordable housing in the development remains relevant, albeit at a reduced amount, the advice from the Government in the NPPF and through the Growth and Infrastructure Act 2013, is that there should be flexibility to take account of changing market conditions and reconsideration of economically unviable S106 requirements. In this case it has been demonstrated and accepted that the provision of any affordable housing would not be economically viable on the site and there has been no interest from RSLs to take on the amount of affordable houses in this location.
35. When considered under the changes in policy context of the NPPF the site remains, in principle, a suitable site for the scale of development proposed. With a proposed contribution now of £12,000 towards recreational open space in the local area, the proposal would accord with Teesdale Local Plan Policy H1A and the related provisions of the NPPF, and this would provide some compensation for the absence of affordable housing.
36. Given all of the above, it is considered that the proposal accords with the NPPF and Teesdale Local Plan Policies GD1 and H1A, while a minor departure to policies ENV1 and H14 of the Teesdale Local Plan is justified to deliver an acceptable scheme. The proposal can therefore be approved without any affordable housing requirement, but it should still be subject to a S106 Agreement to secure the open space contribution of £12,000.

RECOMMENDATION

That the application is **APPROVED** subject to the completion of a new S106 Agreement for a contribution of £12,000 towards the provision and maintenance of recreational open space in the local area, and subject to the following conditions;

1. The development hereby approved shall be carried out in strict accordance with the following approved plans in so far as access and site layout is concerned:-

Plan Reference Number	Date received
1612 - Site location plan	29/06/10
1612/05 F - Proposed site layout	29/06/10

Reason: To define the permission.

- Application for approval of reserved matters shall be made to the local planning authority before the expiration of three years beginning with the date of this permission and the development must be begun not later than the expiration of two years from the final approval of the reserved matters, or in the case of approval on different dates, the date of approval of the last of the reserved matters to be approved.

Reason: Required to be imposed pursuant to Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- Approval of the details of appearance, landscaping, and scale (hereinafter called the reserved matters) shall be obtained from the local planning authority before the development is commenced.

Where relevant, the reserved matters submissions shall provide details of the following:

- The design and external appearance (including type of materials) of all dwellings; the number of which shall not exceed 12;
- Landscaping including areas of hard and soft landscaping and the new hedgerow along the southern boundary;
- The energy efficiency measures to be incorporated into layouts and buildings, and renewable energy technologies to be incorporated;
- Details of the means of surface water drainage and the disposal of foul sewage including the outfall points and their connection to the site's main surface water drainage and disposal of foul sewage network;
- All boundary enclosures;
- Existing and proposed ground and floor levels;

Reason: To achieve a satisfactory form of development.

- The scheme hereby approved shall contain no less than 2 bungalows which shall be constructed prior to the occupation of the 4th dwelling on the site.

Reason: To ensure the proposal provides a choice and mix of house type, particularly for older people and people with disabilities, and to contribute to meeting the aims of creating inclusive, mixed communities. In accordance with the aims of the NPPF.

- Notwithstanding any details of materials submitted with the application the walls of the dwellings hereby approved shall be constructed in stone. No development shall commence until samples of the external walling and roofing materials have

been submitted to and approved in writing by the Local planning authority. The development shall be constructed in accordance with the approved details.

Reason: In the interests of the appearance of the area and to comply with Policies GD1 and H12 of the Teesdale District Local Plan.

6. No dwelling hereby approved shall be occupied until that part of the approved service/access road which provides access to it has been constructed up to base course level in accordance with details to be submitted to and approved by the Local planning authority.

Reason: In the interests of highway safety and to comply with policy GD1 of the Teesdale District Local Plan.

7. No development shall commence until full engineering details of all new roads and footways have been submitted to and approved in writing by the local planning authority. Development shall be in accordance with the approved details. These details shall include provision of the following:
 - A new 1.8m wide footway, which shall be continued around the radius into the road between plots 4 & 5;
 - The provision of four visitor parking spaces on the access road between plots 4 & 5.
 - Details of highway drainage.

Reason: In the interests of highway safety and to comply with policy GD1 of the Teesdale District Local Plan.

8. Any on-site vegetation clearance should avoid the bird breeding season (March to end of August), unless an ecologist undertakes a checking survey immediately prior to clearance and confirms that no breeding birds are present. The survey shall be submitted to and approved in writing by the Local Planning Authority prior to the removal of any vegetation during the bird breeding season.

Reason: In order to ensure ecological interests are safeguarded in accordance with policy GD1 of the Teesdale Local Plan.

9. Construction works; including excavations, deliveries, ground works; on the site shall be restricted to the hours of 08:00 hrs to 18:00 hrs Monday to Fridays and 08:00 hrs to 13:00 hrs Saturdays. Construction works; including excavations, deliveries, ground works; shall not be undertaken on Sundays and Bank Holidays.

Reason: In the interests of the amenity of nearby residents in accordance with policy GD1 of the Teesdale Local Plan.

REASONS FOR THE RECOMMENDATION

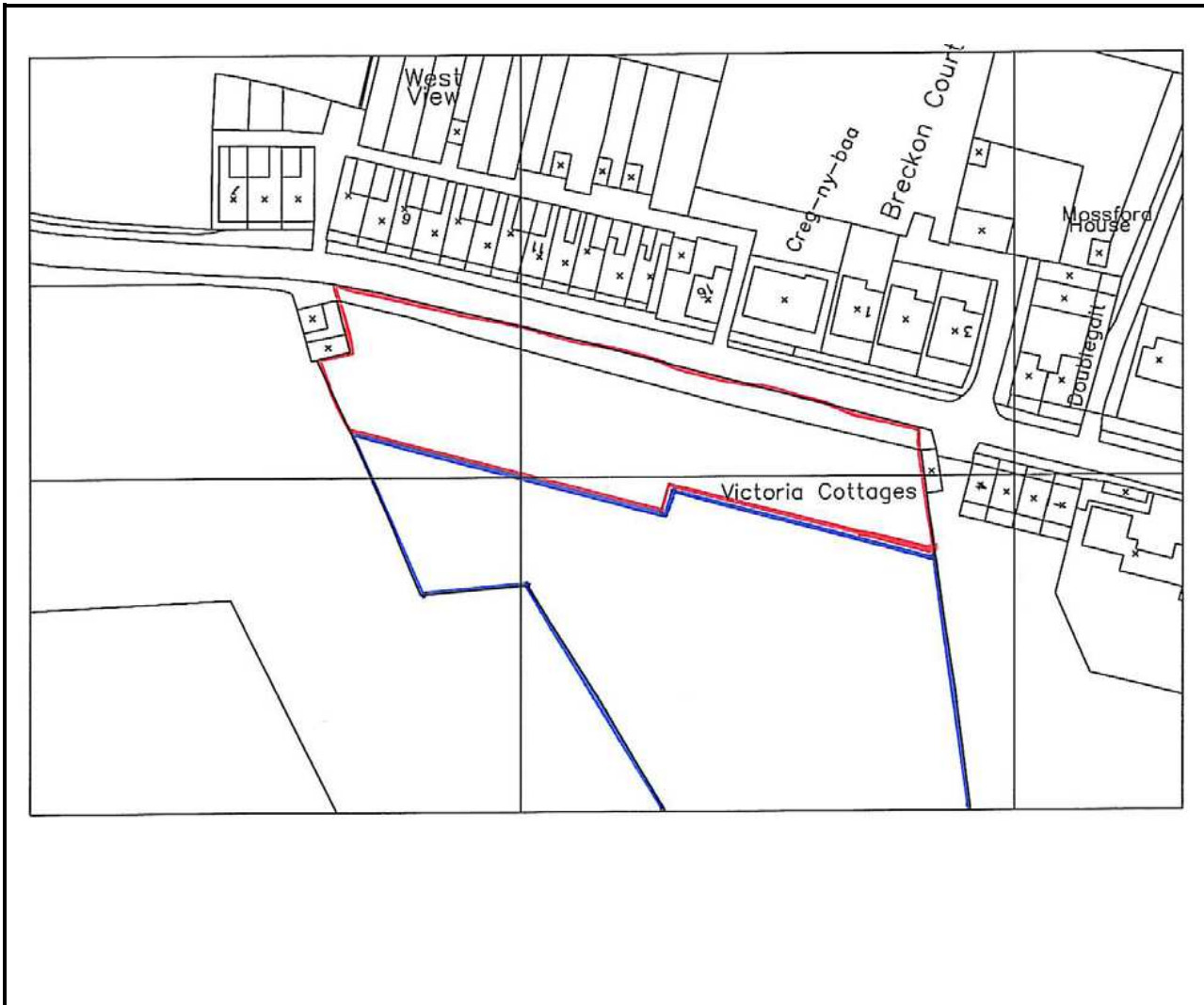
37. The proposal is considered acceptable in relation to policies GD1, H1A and H12 of the Teesdale Local Plan and guidance contained within the National Planning Policy Framework.
38. In particular, the development is considered acceptable in principle, despite not including any affordable housing on the grounds of viability, and the layout and access, along with other related issues of drainage, flooding, impact on the footpath, impact on adjacent properties, traffic and parking impact are all also considered acceptable.
39. In arriving at this recommendation, all consultation responses received have been considered, however, on balance, the issues raised are not considered to be sufficient to warrant refusal of the application, and matters can be considered further both through the submission of subsequent reserved matters and through the imposition of planning conditions.

STATEMENT OF PROACTIVE ENGAGEMENT

40. In arriving at the recommendation to approve the application the Local Planning Authority has assessed the proposal against the NPPF and the Development Plan in the most efficient way to ensure a positive outcome through appropriate and proportionate engagement with the applicant and taking a flexible approach to renegotiating the requirements of the S106 Agreement.

BACKGROUND PAPERS

Submitted Application Forms, Plans and supporting documents
National Planning Policy Framework
Teesdale District Local Plan 2002
Consultation responses and representations



Planning Services

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Outline application with some matters reserved for the erection of 12 no dwellings

Site

Land west of Victoria Cottages, Butterknowle. Bishop Auckland, County Durham

Date 20/06/2013

Scale 1:1250



Planning Services

COMMITTEE REPORT

AGENDA ITEM NUMBER:

APPLICATION DETAILS

APPLICATION NO: 6/2010/0188/DM

FULL APPLICATION DESCRIPTION: Outline application with layout and access considered for the erection of 12no dwellings (including 4 affordable units)
Land west of Victoria Cottages, Butterknowle

NAME OF APPLICANT: Mr A Bainbridge & Mrs D Dowson

ADDRESS: 3 Breckon Hill
Butterknowle
Bishop Auckland
Co Durham
DL13 5QA

ELECTORAL DIVISION: Evenwood

CASE OFFICER: **Matthew Gibson**
Planning Officer
01833 696244
matthew.gibson@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

This application site is a strip of agricultural land mostly within the development limits of the village of Butterknowle located at the western end of the village. The site is classified as greenfield for the purposes of planning and covers approximately 0.33 Hectares.

The village follows a pattern of ribbon development along a single main road that runs from east to west. The application site is bounded by housing to the north and east and development on this site would form the southern and western boundary to the village.

Outline planning consent is sought for the erection of 12 dwellings. The proposal seeks

consent for 8 open market houses and 4 affordable dwellings.

This outline application has been submitted with details of layout and access with matters related to landscaping, scale and appearance reserved.

This application is being reported to committee due to scale of housing proposed.

PLANNING HISTORY

2009/0370 – Previous application withdrawn

2007/0198 – Outline application for 14 houses refused

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. The key principles include:

- making suitable land available for development in line with economic, social and environmental objectives to improve people's quality of life;
- contributing to sustainable economic development;
- ensuring high quality development through good and inclusive design, and the efficient use of resources;
- ensuring that development supports existing communities and contributes to the creation of safe, sustainable, liveable and mixed communities with good access to jobs and key services for all members of the community;
- protecting and enhancing the natural and historic environment, the quality and character of the countryside, and existing communities.

Planning Policy Statement 3 (PPS3) Housing – Sets out the delivery of the Government's national housing objectives. New housing should be directed to sites within the development limits of towns and villages which offer access to a range of local facilities, jobs, services and public transport, with priority given to development on previously developed land (brownfield). The PPS defines affordable housing and suggests proposals in excess of 15 dwellings should have an appropriate affordable housing commitment.

Planning Policy Statement 7 (PPS7) Sustainable Development in Rural Areas - Sets out the Government's planning policies for rural areas. The key objectives are for continued protection of the open countryside and to promote more sustainable patterns of development by:

- focusing most development in, or next to, existing towns and villages;
- preventing urban sprawl;
- discouraging the development of 'greenfield' land.

New building development in the open countryside away from existing settlements, or outside areas allocated for development in development plans, should be strictly controlled. In particular, when considering housing, house in the countryside will not normally be

permitted and regard must be given to national housing policy requirements (PPS3).

Planning Policy Guidance (PPG13) Transport - Aims to promote accessibility to jobs, shopping, leisure facilities and services by public transport, walking and cycling and to reduce the need to travel, especially by car. To deliver these objectives, the guidance says that local planning authorities should actively manage the pattern of urban growth, locate facilities to improve accessibility on foot and cycle, and accommodate housing principally within urban areas.

Planning Policy Statement 22 (PPS22) Renewable Energy – Sets out government policies for renewable energy. The guidance preceded the PPS1 Climate Change Supplement. The importance of renewable energy in delivering the Government's commitments on climate change is emphasised. Local planning authorities and developers should consider the opportunity for incorporating renewable energy projects in all new developments. Small scale renewable energy schemes utilising technologies such as solar panels, biomass heating, small scale wind turbines, photovoltaic cells and combined heat and power schemes can be incorporated into new developments.

Planning Policy Statement 25 (PPS25) Development and Flood Risk - Sets out government policies for development and flood risk. Flood risk should be considered at all stages in the planning process to avoid inappropriate development in areas at risk from flooding and to direct development away from areas of highest risk using a sequential approach. In addition to considering the risk of flooding, consideration has to be given to managing surface water to prevent flooding elsewhere. Surface water drainage should conform to the hierarchy of preference with first priority given to Sustainable Urban Drainage systems (SUDS).

LOCAL PLAN POLICY:

- GD1 General Development Criteria
- H12 High standards of design in new house and housing sites.
- H1 Allocated sites for residential development
- H4 Small scale housing development on sites less than 0.4 Hectare
- ENV1 Protection of the Countryside

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=494>

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

Lynesack and Softley Parish Council – Recommend that the proposal be rejected for the following reasons:

- Two further permissions have been granted in the village for housing. The Parish Council believes that these sites could quite easily accommodate any affordable housing need.
- The Parish Council requests proof of an affordable housing need. If a need is demonstrated then the Parish Council would like to see the housing being made available to those already living in the locality.

- Previous affordable housing in the area led to substantial anti social behaviour problems. The Parish and parishioners would not wish to see a repeat of those issues.
- There are currently a large number of properties for sale in the area, therefore is there any need for further development in the Parish?
- The current application is 43% larger than the 2007 refusal. The identified plot also extends beyond the settlement boundary.
- The development is on a Greenfield site.
- Parking and traffic would be a problem.
- People living close to the development would have their views and living environment spoilt.
- The Parish Council would not be in favour of diverting the right of way.
- Concern regarding the vast infrastructural improvements that would be required.

Northumbrian Water – No objection

INTERNAL CONSULTEE RESPONSES:

Public Rights of Way Officer – No objection subject to a Diversion Order under Section 257, Town and Country Planning Act 1990 being made for Public Footpath No61, Lynesack and Softley.

Low Carbon Officer – requests that a copy of the Design and Post Construction Stage Assessment is sent for consultation, together with an estimation of the total energy and carbon emissions from the development.

Highways Officer – No objection however included detailed comments to be taken into account at reserved matters stage regarding visitor parking, layout and legal matters.

PUBLIC RESPONSES:

This application was advertised and a total of 18 objections were received. The following concerns were raised:

- The application does not contain the minimum information required for outline permission.
 - The ownership of land, covenants and rights of access are questioned.
 - The site is prone to water logging and flooding.
 - The drainage is unsuitable for a development of this scale.
 - The application has not altered significantly since the previous refusal in 2007.
 - The development will look like a small, modern housing estate which would be totally inappropriate to the village.
 - The development will lead to parking problems and highway safety issues.
 - There is no need for affordable or low cost housing in the village
 - The site is Greenfield.
 - The removal of the hedge would lead to a loss of wildlife.
 - The development will have an environmental impact.
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- The application makes no reference to renewable energy.
- The parking provision provided is inadequate.
- The services, such as water, electricity and telephone are inadequate and are not sufficient for any new development.
- There are a number of other sites in the village which could be viewed as infill.
- Peoples views would be restricted which will drastically reduce quality of life for residents.
- Residents paid a premium for views across countryside and this development would reduce house prices dramatically.
- The development would spoil the countryside and create urban sprawl.
- The doctors and school are fully subscribed and do not require any additional clients.
- The grass verge and hedge have been maintained by the residents due to lack of maintenance by the owners.
- The village has few amenities and a limited bus service.

In addition, an objection was received in direct response to the submitted planning statement however it is considered that these points have been summarised above.

One letter of support was received for the application stating that they require a bungalow in the village and there are none for sale, so would like to see the application passed.

APPLICANTS STATEMENT:

- 1 In April 2007 the applicants had made an outline planning application for the residential development of their land west of Victoria Cottages, Butterknowle, this being land identified within the settlement limits of the village as set out in the adopted Local Plan. Planning permission was refused, however, in July 2007 for three reasons, and since that refusal, the applicants, through different agents, have set about addressing the concerns of the Local Planning Authority expressed in the reasons for refusal.
 - 2 The result was that in October 2009 a new planning application was submitted, following discussions with the case planning officer. This application addressed the issues previously raised in respect of the physical arrangements of the proposed site and its design (albeit at an outline stage), and further it acknowledged the issue of an affordable housing provision, in which regard negotiations had taken place with what was then known as Three Rivers Housing Group. However, as a result of ongoing discussions with the case planning officer and with the Council's Design and Conservation officer, it was requested by the officers that the application be withdrawn. This was to enable time to be afforded to the preparation of a Design Brief by the Council's officers, by which further guidance and improvement could be made to the design and indicative layout of the proposed site.
 - 3 The Council's Design Brief was duly prepared and issued, and following further liaison and discussions, a revised application was prepared following the advice and guidance provided in the Brief, and this application was submitted on 28th June 2010 and is now before the Committee for consideration. Importantly, and after a gestation period of some 3 years since the original application, the present application satisfactorily addresses the issues originally raised, in that:-
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- It is now acknowledged that the proposal is appropriate in general policy terms
- It provides a quota of affordable housing for the village
- It makes satisfactory provision for public footpath arrangements
- It responds to the advice and guidance contained in the Council's Design Brief

4 At the heart of this application is a proposal for ensuring attractive, well-designed and sustainable growth for the village of Butterknowle, which is classed as a Category 4 village in the Draft Local Development Framework Settlement Study. It meets all reasonable requirements in terms of planning policy, potential layout and good design, and as such it is a proposal which should be seen as an example of sound planning correctly enabling development for the future of the village.

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=19295>

PLANNING CONSIDERATIONS AND ASSESSMENT

In assessing the proposals against the requirements of the aforementioned policies, and having regard to all material planning considerations, including representations received, it is considered that the principle of development, impact on countryside, impact on neighbouring properties, affordable housing, flood risk and highway safety, represent the principle material planning considerations. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires local planning authorities to determine planning applications in accordance with the statutory Development Plan unless material considerations indicate otherwise.

Principle of development

This application seeks outline planning permission for the erection of 12 dwelling on land adjacent to Victoria Cottages, Butterknowle. The application reserves some matters for the next stage of the process apart from access and layout. However, in response to a design brief produced by the Council the applicant has submitted an indicative layout with sufficient detail to show how the site may function in terms of scale, appearance, layout and landscaping.

The application site lies partly within the development limits of Butterknowle and there is existing housing to two sides of the site. It is therefore a location where new residential development would normally be deemed acceptable in principle, subject to compliance with other relevant planning policies and considerations.

National Policy in the form of PPS1 and PPS7 highlights the need to ensure that development proposals are based on sustainable development principles. Consideration needs to be given to: social inclusion - recognising the needs of everyone; effective protection and enhancement of the environment; prudent use of natural resources and maintaining high and stable levels of economic growth and employment. Development in the countryside away from existing settlements or outside areas allocated for development in the development should be strictly controlled. The government's aim is to protect the countryside for the sake of its own intrinsic character, heritage, landscape and wildlife so that it can be enjoyed by all.

Planning Policy Statement 3: Housing (PPS3) sets out the national planning policy framework for delivering the Government's housing objectives. PPS3 states: *'that the planning system should deliver:*

- *High quality housing that is well designed and built to a high standard.*
- *A mix of housing, both market and affordable, particularly in terms of tenure and price, to support a wide variety of households in all areas, both urban and rural.*
- *A sufficient quantity of housing taking into account need and demand and seeking to improve choice.*
- *Housing developments in suitable locations, which offer a good range of community facilities and with good access to jobs, key services and infrastructure.*
- *A flexible, responsive supply of land – managed in a way that makes efficient and effective use of land, including re-use of previously-developed land, where appropriate.'*

In assessing the proposal in this application it is important that the above points are taken into consideration.

Both PPS1 and PPS3 advocate delivering sustainable development. Planning should facilitate and promote sustainable and inclusive patterns of urban development by ensuring that proposed developments support existing communities and contribute to the creation of safe, sustainable, liveable and mixed communities with good access to jobs and key services for all members of the community.

The site is identified as being greenfield. New housing is normally directed towards previously developed land, which is the approach supported by both local and national policy. Policy H4 is a policy aimed at encouraging the redevelopment of previously developed land for housing in key settlements of which Butterknowle is one. Policy H4, however, does not discuss the incidents where the land is predominately greenfield and is within the development limits. In fact there is no policy which dictates the approach to such sites as this at Meadow Close. It is therefore important to assess the principle related to a wider balance of material considerations when considering justification for this particular site.

It is considered that there are more than adequate services and community facilities within close distance to the site and there are good transport links to neighbouring communities. The application site is therefore a sustainable location for development and in that respect the proposal is in accordance with guidance contained within PPS1 and PPS3.

Since the submission of the application the Council's planning policy department have been in the process of producing a number of new documents, one of which is an important consideration in the determination of this application. The Draft Settlement Study, prepared as part of the County Durham LDF Core Strategy sets out a categorisation of settlements within the County and identifying what would be appropriate levels of development in each. It is acknowledged that this study is in draft format however, it is anticipated that this will not alter significantly but will remain relative. The Settlement Study identifies Butterknowle as a Category 4 settlement, which is of a sufficient size and has sufficient services and facilities to accommodate sustainable growth for a development of up to 25 dwellings. Also in accordance with the provisions of PPS1 and 3 the study emphasises the importance of development in sustaining existing services and facilities in villages (and contributing to the establishment of new community facilities). This particularly relates to the provision of affordable/low cost housing and the opportunity for population increases to sustain other services such as schools, shops, health and leisure centres.

In conclusion, it is accepted that the site does not conform specifically to the provisions of

local policies for small scale housing and any decision is finely balanced based on the individual merits associated with these proposal. Therefore, subject to this assessment of principle based on the relevant policies and up to date studies, the development of this site for 8 market houses and 4 affordable dwellings is considered acceptable.

Impact on countryside

The land to which the application relates occupies a prominent position within the village and the local area and there is no doubt that the development of this site for housing will have an impact on this. The site is currently agricultural field adjacent to the existing built form within Butterknowle and the development of housing will extend the housing further to the west. Butterknowle is mostly a village that follows traditional ribbon pattern development therefore these proposals will continue this building line and it is considered that the housing will become a natural extension to the village that would not extend beyond the western most limit that the properties directly adjacent create.

The site is mostly contained within the existing development limits as set out within the adopted local plan however a relatively small strip of land outside the development limits has been included in the application site. It is accepted from the indicative site layout that the inclusion of this land would allow for an improved layout in terms of access whilst retaining adequate amenity space for the prospective residents. Without the depth proposed it would undoubtedly be necessary to provide the majority of parking for the proposed residences adjacent to the highway. This would not only be visually harmful but would also potentially present a large problem in terms of parking. Therefore, on balance the inclusion of land outside the defined development limit is considered acceptable.

Impact on neighbouring properties

The proposal includes layout and indicative design details to allow some impact on neighbours to be assessed. On the basis of these details it is considered that the development could be designed to respect the privacy and amenity of existing neighbouring dwellings. The indicative plans in particular demonstrate that reasonable separation can be retained in character with the rest of the existing development and therefore the living conditions of the neighbours opposite are unlikely to be unacceptably harmed. Further assessment of room layout and window position will be possible at reserved matters stage.

There will undoubtedly be a large impact on the views from properties directly adjacent to the site. It is appreciated that these properties located along West View have always enjoyed an open aspect across the road and to the open countryside beyond. This proposed development would affect the views of those properties over the site, however the loss of view is not a material planning consideration and cannot therefore be taken into consideration. Similarly, the effect on values of those neighbouring houses cannot be taken into consideration.

For the above reasons, the development complies with Policy GD1 of the TDLP.

Flood risk

A number of objections have been received related to current level of standing water on the site during periods of rainfall and the potential of the site to exacerbate the flooding issues at The Slack, further down the valley. Northumbrian Water were consulted on the proposals and have raised no objections and it is proposed that conditions to require further drainage

details be submitted at the reserved matters stage for both surface and foul drainage. It is not considered that the development of 12 additional properties in this location, outside the flood risk areas, with adequate drainage provision would directly worsen the existing flooding problems further down river.

Highway safety

The occupiers of the properties have also benefitted from the use of the adjacent grass verge for parking and general amenity use. A history of use of the grass verge for parking is not sufficient reason to refuse an application. The Council's highways officer states that "if the street does not have parking restrictions on it, there is space, no obstruction is being caused then people can park outside their homes, but generally there is no right to park there".

Therefore, in conclusion the Highway Officer has raised no objection to the proposed access subject to some minor amendments which can be addressed by condition and will be incorporated and assessed at the reserved matters stage.

Affordable Housing

In response to the realised need for affordable housing within Teesdale and the lack of a robust policy framework to determine need and an approach to delivery, the Council produced a Draft Affordable Housing Supplementary Planning Document (SPD). This recognises a specific need in the more rural parts of the Dale. This site within Butterknowle falls within the threshold for a 30% requirement for affordable housing. Therefore, the developer proposes 4 of the 12 dwellings to be secured for affordable uses. The provision of these units in response to a recognised need adds further justification in the balance of suitability of the site. This approach is considered to comply with advice contained within Planning Policy Statement 3 – Housing (PPS3) and for this reason the proposals appear to be acceptable in principle.

A number of objections were received relating to a previous development of social housing within the village and occurrences of anti-social behaviour that resulted from that development. This is not a material planning consideration and will not be considered as part of this application. The creation of mixed communities is a key element of securing sustainable communities and is at the forefront of government planning policy in PPS1 and PPS3.

CONCLUSION

This application has been assessed in relation to relevant national and local policies and takes into account existing and emerging studies and policy frameworks. It is acknowledged that the proposals, being on a Greenfield site including land outside the development limit, do not benefit from the full support of planning policy. However, when considering the proposed provision of affordable housing and the positive contribution additional housing will make to the viability and sustainability of the village and the location of the site in relation to the existing built form, these factors outweigh the potential negative impacts on the landscape and on nearby residents.

Therefore, on balance the application is considered acceptable in accordance with the

relevant policies and material considerations.

RECOMMENDATION

That the application is APPROVED subject to the following conditions;

1. The development hereby approved shall be carried out in strict accordance with the following approved plans:-

Plan Reference Number	Date received
1612 - Site location plan	29/06/10
1612/01 A - Existing site layout	29/06/10
1612/05 F - Proposed site layout	29/06/10

To define the permission and ensure that a satisfactory form of development is obtained in accordance with Policy GD1.

2. Application for approval of reserved matters shall be made to the local planning authority before the expiration of three years beginning with the date of this permission and the development must be begun not later than the expiration of two years from the final approval of the reserved matters, or in the case of approval on different dates, the date of approval of the last of the reserved matters to be approved.

Required to be imposed pursuant to Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

3. Approval of the details of appearance, landscaping, and scale (hereinafter called 'the reserved matters') shall be obtained from the local planning authority before the development is commenced.

Where relevant, the reserved matters submissions shall provide details of the following:

- a) The design and external appearance (including type of materials) of all dwellings; the number of which shall not exceed 12;
- b) Landscaping including areas of hard and soft landscaping;
- c) The energy efficiency measures to be incorporated into layouts and buildings, and renewable energy technologies to be incorporated;
- d) The provision of sustainable surface water drainage (SUDS) and the disposal of foul sewage including the outfall points and their connection to the site's main surface water drainage and disposal of foul sewage network;
- e) Water conservation measures including recycling;
- f) Confirmation of the Code for Sustainable homes rating;
- g) All boundary enclosures;
- h) Existing and proposed ground and floor levels;

To achieve a satisfactory form of development.

4. The development hereby approved shall achieve a Code for Sustainable Homes rating of level 3 or above. Evidence shall be provided to the Local Authority that:

- (i) Prior to the commencement of development, the development has been registered for formal assessment by a licensed Code assessor to achieve a Code for Sustainable Homes Design Certificate level 3 or above; and
- (ii) Prior to the occupation of the development, the development has achieved a Code for Sustainable Homes post construction certificate level 3 or above, or alternative as agreed in writing by the Local Planning Authority.

In the interests of environmental sustainability and reducing the effects of climate change as supported in PPS1, PPS3 and PPS22.

5. Notwithstanding any details of materials submitted with the application no development shall commence until samples of the external walling and roofing materials have been submitted to and approved in writing by the Local planning authority. The development shall be constructed in accordance with the approved details.

In the interests of the appearance of the area and to comply with Policy H12.

6. Before the development hereby approved is commenced, detailed drawings including sections showing the existing and proposed site levels and the finished floor levels of the proposed new buildings and those of existing neighbouring buildings (if any) shall be submitted to and approved in writing by the local planning authority and the works shall be completed entirely in accordance with any subsequently approved submission.

In the interests of the amenity of nearby residents/appearance of the area in accordance with policy GD1.

7. No development shall commence until a scheme for the provision of foul water drainage works has been submitted to and approved in writing by the Local planning authority. The drainage shall be completed in accordance with the details and timetable agreed.

To prevent pollution of the water environment in accordance with GD1.

8. No development shall commence 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 drainage shall be completed in accordance with the details and timetable agreed.

To prevent pollution of the water environment in accordance with GD1.

9. No dwelling hereby approved shall be occupied until that part of the approved service/access road which provides access to it has been constructed up to base course level in accordance with details to be submitted to and approved by the Local planning authority.

In the interests of highway safety and to comply with policy GD1.

10. No development shall commence until full engineering details of all new roads and footways have been submitted to and approved in writing by the local planning authority. Development shall be in accordance with the approved details. These details shall include

provision of the following:

- A new 1.8m wide footway to be continued around the radius into the road between plots 4 & 5;
- The provision of four visitor parking spaces on the access road between plots 4 & 5

In the interests of highway safety and to comply with policy GD1.

REASONS FOR THE DECISION

1. The development was considered acceptable having regard to the following development plan policies: -
 - GD1 General Development Criteria
 - H12 High standards of design in new house and housing sites.
 - H1 Allocated sites for residential development
 - H4 Small scale housing development on sites less than 0.4 Hectare
 - ENV1 Protection of the Countryside
 2. In particular the development was considered acceptable having regard to consideration of the principle, the impact on countryside, impact on residents, highway safety and flood risk.
 3. The nature of the objections received from the general public and the impact of the development on the area were not considered sufficient to outweigh the positive contributions this development will make in terms of the provision of affordable homes and the sustainability of the village.
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BACKGROUND PAPERS

- Submitted Application Forms and Plans.
- Design and Access Statement, additional comments on objections and planning statement
- Teesdale District Local Plan 2002
- Planning Policy Statements / Guidance, PPS1, PPS3, PPS7, PPG13, PPS22, PPS25
- Responses from County Highways, Northumbrian Water, Lynesack and Softely Parish Council, PROW Officer, Low Carbon Officer
- Public Consultation Responses
- Code for Sustainable Homes