

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	6/2014/0014/DM/OP
FULL APPLICATION DESCRIPTION:	Outline application for erection of 3 dwellinghouses with access and layout considered
NAME OF APPLICANT:	Shenstone Properties Limited
ADDRESS:	Land adjacent to 43 Ullswater Avenue, West Auckland, Bishop Auckland, County Durham, DL14 9LS
ELECTORAL DIVISION:	Evenwood
CASE OFFICER:	Steve Teasdale Planning Officer 03000 261055 steve.teasdale@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The site

1. The application site is a grassed area extending to approximately 1,320 square metres and lies between 41 and 43 Ullswater Avenue at the junction with Thirlmere Grove. There are some semi mature ornamental trees, mainly Cherry, to the south western end of the site. While the land borders open countryside to the north west, it is seen as falling within the residential estate. The land has not been adopted by the Council for maintenance purposes and is not subject to any special designation.

The proposal

2. The planning application seeks outline planning permission for the erection of three detached dwellinghouses with integral garages. Whilst details of access and layout are included in the application, details of scale, appearance and landscaping would be reserved for future consideration.
3. The application has been called to Committee by Councillor Pauline Charlton on the grounds of local environmental impact and the low level of information provided for the outline proposal.

PLANNING HISTORY

4. There have been 2 previous refusals of outline permission for dwellings on this site; both being refused on the grounds of loss of an area of amenity space:

6/2000/0206/DM – Erection of 3 detached dwellings (outline) – REFUSED

6/2001/0081/DM –Erection of 2 detached dwellings (outline) - REFUSED

PLANNING POLICY

NATIONAL POLICY:

5. On March 27th 2012 the Government published the National Planning Policy Framework (NPPF). However, 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. The following elements of the NPPF are considered most relevant to this proposal:
6. *NPPF Part 6 - Delivering a wide choice of high quality homes* states housing applications should be considered in the context of the presumption in favour of sustainable development. To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.
7. *NPPF Part 11 - Conserving and enhancing the natural environment* states that the planning system should contribute to and enhance the natural and local environment.

LOCAL PLAN POLICY:

8. The following saved policies of the Teesdale District Local Plan are considered to be consistent with the NPPF and can therefore be given weight in the determination of this application:
9. Policy H4 (Infill Development On Sites Of Less Than 0.4 Hectare): Small scale housing will be permitted on sites of less than 0.4Ha, comprising previously developed land, within the development limits of named settlements.
10. *Policy GD1 (General Development Criteria):* All new development and redevelopment within the District should be designed and built to a high standard and should contribute to the quality and built environment of the surrounding area and satisfy the criteria in the policy.

EMERGING POLICY:

11. The emerging County Durham Plan was Submitted in April 2014 ahead of Examination in Public. In accordance with paragraph 216 of the NPPF, decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. Further, the Planning Practice Guidance explains that in limited circumstances permission can be justifiably refused on prematurity grounds: when considering substantial developments that may prejudice the plan-making process and when the plan is at an advanced stage of preparation (i.e. it has been Submitted). To this end, the following

policies contained in the Submission Draft would be relevant, but given the status of the plan carry very limited weight:

12. *Policy 15 – Development on Unallocated Sites* – Sets out that development on sites that are not allocated in the County Durham Plan will be permitted provided the development is appropriate in scale, design and location to the character of the settlement, does not result in loss of a settlement's last community building or facility and is compatible with and does not prejudice any intended use of adjacent sites and land uses.
13. *Policy 34 – Type and mix of housing need* - On all new housing developments the Council will seek to secure an appropriate mix of dwelling types and sizes, taking account of existing imbalances in the housing stock, site characteristics, viability and market considerations and the opportunity to facilitate self-build schemes.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

14. *Highways Authority* - No objection subject to clarity that it is the amended site plan which is considered acceptable. A street lighting column will need to be moved unless one of the houses is handed to flip the floorplan over to match the other two plots.

INTERNAL CONSULTEE RESPONSES:

15. *Tree Officer* - Whilst two dwellings could be accommodated on the site without detrimental impact to landscape features, the third dwelling could result in the gradual loss of all the trees on the site.

PUBLIC RESPONSES:

16. The application was publicised by the display of a site notice and notification letters were sent to 14 households in the vicinity of the application site. Eleven letters of objection have been received from local residents. Their views can be summarised as follows:

- An area of open space and existing landscape features would be lost
- There would be a loss of privacy and amenity to existing residents
- The development would have an overbearing impact on existing residents
- There would be an increase in traffic and an adverse impact on highway safety
- The proposed dwellings would be out of character on the estate
- There would be noise and safety concerns during development
- There would be loss of views and devaluation of properties

APPLICANTS STATEMENT:

17. This estate was built in the late 1960's by William Leech with the expectation of accessing the 'back' land W/NW bounding the rear of Ullswater Ave for future housing. In the 1970's William Leech application to access through this site was refused. The site has remained undesignated since then.

18. There is no provision in the current emerging Durham County Plan for housing on the 'back' land bounding the rear of the properties W/NW of Ullswater Avenue.
19. This proposal complies with the Teesdale District Council Local Plan Policies 2002 GD1 and H4.
20. We are mindful of the small copse of trees and shrubs at the southern end of the site. The intention is to submit a detailed Landscape design at Reserved Matters stage, briefed to clear the ground scrub, undistinguished shrubs and bushes but retaining/trimming the 'well found' established healthy trees in the copse group bordering the path. To extend to the maximum extent 'rootwise' up to the adjacent property, supplementing tree and shrub planting both here and throughout the proposal to dispel and minimize any feeling of loss as expressed in public comments to date.
21. Further to public conjecture and for avoidance of doubt, this Outline Planning Application footprint is specifically designed to cater for current and future needs. These have extended most significantly since the creation of this estate in the late 1960's. This footprint is designed to be flexible and compliant at the outset to current and future social needs, protocols, government, NHS etc, subject to application at the Reserved Matters Stage, as appropriate.
22. From analysis of all the relevant adopted and emerging policy relating to the application proposal it is demonstrated this is in full accord with both current and emerging planning policy. In addition the indicative drawing illustrates the capacity to accommodate the proposed dwellings and provide the occupants with high quality internal and external special standards', adequate parking and access.
23. We request that the officers of the Council recommend the application is approved and Outline Planning Permission granted.

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; the suitability of the layout in respect of visual amenity and privacy; and the suitability of the access in terms of highway safety.

Principle of Development

25. The application is for outline planning permission for the erection of three detached dwellinghouses, including details of access and layout. If approved, details of scale, appearance and landscaping would be reserved for later consideration.

26. The application site has functioned as a landscaped open space since completion of this housing estate although it appears not to have been formally adopted by the Council. Despite this, anecdotal evidence suggests that it was, for a time, maintained by the Council along with other amenity areas within the estate. It may have remained undeveloped to retain an access point to land to the north west for later expansion of the housing area into the countryside beyond, but there is currently little prospect of future housing expansion to the north west so the land has no tangible value as access to that land. The south-western half of the site contains a number of trees, the remainder of the site generally being an open grassed area having a more unkempt appearance than others in the locality. The site is declared to be in the Applicant's ownership.
27. Physically the application site forms part of a much larger housing estate, the majority of which lies within the former Wear Valley District Council area. The site, however, along with 43 to 65 (odd) Ullswater Avenue, lies within the former Teesdale District Council area. The site offers some amenity value to the area, but there are other adopted areas of amenity space nearby in Thirlmere Gove and Windermere Drive and the large village green lies approximately 600m to the east of the site. The availability of other areas of public amenity areas is perhaps reason why the application site has no open space designation in either the Teesdale or Wear Valley Local Plans and diminishes the importance of the site as a local amenity.
28. It is noted that permission has been refused twice in the past for housing on the site on the grounds of loss of amenity space, but it is worthy of consideration that the land is in private ownership and that public access could be denied at any time by, for example, erecting enclosures around the perimeter. The proposal should therefore be considered on its merits in terms of whether it represents an appropriate site for housing and accords with the sustainable development aims of the NPPF and saved policies of the Teesdale District Local Plan.
29. Policy H4 of the Teesdale District Local Plan states that small scale housing development will be permitted on sites of less than 0.4 hectare, comprising previously developed land, within the development limits of most settlements. Whilst the land has not previously been built on, and on face value the proposal would not fulfil a key requirement of that policy, it is visually seen within a large residential estate and not within open countryside. In the absence of any official designation as open space, it is considered to represent a logical infill housing site to continue the line of dwellings to the north and south. It is considered that the proposal complies with the general aims and principles of Policy H4, despite its greenfield nature, particularly when the sustainability requirements of the NPPF are taken into account.
30. It is considered that as an unallocated housing site within a suburban setting of West Auckland, which has good access to local services and facilities, the proposal represents sustainable development in line with the NPPF, and would accord with emerging policy 15 of the County Durham Plan in terms of scale and location. The compliance with current and emerging planning policy should carry significant weight in balancing the planning considerations.
31. Notwithstanding previous refusals of planning permission on the grounds of loss of amenity space, it is not considered that in the context of current planning policy, refusal of planning permission could be justified in this instance. It is noted

that previous decisions were made against the background of draft local plan policies, and that planning policy has changed since that time, not least the introduction of the NPPF. The principle of development is therefore considered acceptable.

Visual amenity and privacy

32. The development, if approved, would result in the entire site being changed in character and appearance from an open grassed area with some maturing landscape features to residential with associated enclosed garden areas. It would be possible however to retain some of the maturing trees at the south western end of the site, and in the absence of details in this outline application, it would be possible to impose a condition to identify and protect existing trees where possible as part of a wider landscaping scheme including replanting.
33. The proposed dwellings would be sited so as to maintain a regular building line with 41 and 43 Ullswater Avenue, set back from the public footway by approximately 6 metres. The north easternmost dwelling would be sited 1 metre from the boundary with 43 Ullswater Avenue, with 2 metre spacing between the other two dwellings, which is in keeping with the character of the street and estate as a whole. The south westernmost dwelling would retain most of the existing trees in a side garden extending some 13 metres towards an existing footway which runs alongside 41 Ullswater Avenue.
34. Individual house designs, materials and detailing would be controlled at reserved matters stage. The layout suggest that there would be no adverse privacy implications arising from the development but further consideration of the internal room arrangement and window positions would be given detailed consideration at reserved matters stage.
35. The proposal therefore accords with Teesdale Local Plan Policy GD1.

Highway safety

36. Following comments by the Highways Authority, the proposed dwellings have been repositioned to ensure a minimum 6 metre drive length, and the house on the centre plot has been handed to avoid conflict with an existing street lighting column and water hydrant. The Highways Authority has no objection to the proposal following these amendments.
37. The proposal is considered to accord with Policy GD1 of the Teesdale District Local Plan.

Other matters

38. The concerns of the objectors have been considered. Whilst loss of views and property devaluation are not material planning considerations, other matters have been assessed. The increase in traffic would be very small in the context of the overall housing estate and there is no objection from the Highways Section to the amended proposal. All development sites result in some environmental impact during construction, but it is temporary and therefore not sufficient to justify refusal on those grounds, particularly when any statutory nuisances could be

dealt with under separate legislation. The form of development would not result in overbearing impact or reduction in standards of privacy and amenity.

CONCLUSION

39. It is acknowledged that development of the application site would result in the loss of a landscaped area on the edge of this housing estate. The land does not however have any formal status as a public amenity space and it is in private ownership and is not adopted by the Council for the purposes of maintenance. There are other adopted amenity spaces in close proximity to the site, including the large village green so the proposed development would not result in the total loss of amenity space in the area. As a site lying between a row of dwellings in a residential area and without any open space designation, it is considered that the site represents a logical infill housing site in a sustainable location.
40. Notwithstanding previous refusals of planning permission on the grounds of loss of amenity space, it is not considered that in the context of current planning policy, refusal of planning permission could be justified in this instance.
41. In recognition of the existence of landscaping on the site, it is proposed that relevant conditions be imposed with respect to a tree survey and protection measures for those trees which can be retained.
42. The comments and objections of local residents have been considered. Whilst the application site has to some extent functioned as a landscaped amenity space, it has not been formally adopted for maintenance purposes, and any maintenance 'in kind' by the former Teesdale District Council ceased several years ago. Issues of loss of views and property devaluation are not material planning considerations.

RECOMMENDATION

43. That the application be **APPROVED** subject to the following conditions and reasons.
1. Approval of the details of scale, appearance and landscaping (hereinafter called "the reserved matters") shall be obtained in writing from the Local planning authority before any development is commenced.

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.

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.

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.

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

Plan Reference Number	Date received
Site location plan	24th January 2014
Indicative house type floorplan	15th January 2014
Amended site layout plan	24th March 2014

Reason: To define the permission and ensure that a satisfactory form of development is obtained in accordance with Policy GD1 of the Teesdale District Local Plan 2002.

4. 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.

Reason: In the interests of the appearance of the area and to comply with Policy GD1 of the Teesdale District Local Plan 2002.

5. No development shall commence nor any site cabins, materials or machinery be brought on site until all existing trees and hedges have been identified on a tree protection plan which has been submitted to and approved in writing by the Local Planning Authority beforehand. The plan shall identify all trees and hedges to be retained together with measures for their protection during development in accordance with BS5837:2012. Development shall not take place otherwise than in accordance with the approved tree protection plan.

Reason: In the interests of the visual amenity of the area and to comply with Policy GD1 of the Teesdale District Local Plan 2002.

INFORMATIVE:

The new vehicular crossings of the highway will be required to be constructed in accordance with S.184(3) of the Highways Act 1980, and the applicants are advised to contact Jonathan Cardy, Assistant Engineer, Durham County Council, Policy and Development, Strategic Highways, Neighbourhood Services, Tel: 03000 268102 in order to receive the necessary (separate) permission prior to undertaking works within the public highway, and to agree details of the construction specification.

STATEMENT OF PROACTIVE ENGAGEMENT

44. The local planning authority has engaged with the applicant in a proactive manner by discussing objections to the proposal and securing additional information.

BACKGROUND PAPERS

Submitted Application Forms, Plans and supporting documents
National Planning Policy Framework
Teesdale District Local Plan
County Durham Plan (submission version)
Internal responses from Highways Authority and Landscape Section
Representations received from the public and other representative bodies



Planning Services

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Application ref. 6/2014/0014/DM/OP
 Land at Ullswater Avenue, West
 Auckland

Date July 2014

Scale NTS