

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/15/02604/FPA
FULL APPLICATION DESCRIPTION:	Demolition of existing farm buildings and erection of 3no. dwellings
NAME OF APPLICANT:	Mr Stephen Lee
ADDRESS:	Low Etherley Farm 2 Low Etherley Bishop Auckland DL14 0EU
ELECTORAL DIVISION:	Evenwood
CASE OFFICER:	Tim Burnham Senior Planning Officer 03000 263963 tim.burnham@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

1. The application site comprises approximately 0.35 hectares of land within a redundant farm complex and an adjacent field to the rear of 2-6 Low Etherley. The farm complex currently contains a variety of farm buildings in varying states of disrepair.
2. The farm complex falls within the current development limits of Etherley and Toft Hill while the adjacent field between the farm and garden of 6 Low Etherley lies outside the development limits.
3. The application seeks full planning permission for the demolition of existing buildings and erection of three detached dwellings with access improvements.
4. The application is reported to the Planning Committee at the request of Cllr Heather Smith because of concerns about the principle of development and impacts on neighbouring properties, highway safety, ecology and drainage.

PLANNING HISTORY

5. There is no planning history on the application site relevant to the consideration of this application.
6. An outline application for up to 13 dwellings was recently approved on nearby land to the south of the B6282 (ref: DM/14/01540/OUT).

PLANNING POLICY

NATIONAL POLICY

7. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, 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.
8. *NPPF Part 4 – Promoting sustainable Transport.* The Government recognises that different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas. On highway safety, there must be safe and suitable access to the site for all people. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
9. *NPPF Part 6 – Delivering a Wide Choice of High Quality Homes.* Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. Local planning authorities should seek to deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities. To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities; however, isolated homes in the countryside should be avoided.
10. *NPPF Part 7 – Requiring Good Design.* The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Planning policies and decisions should aim to ensure that developments will function well and add to the overall quality of the area, establish a strong sense of place, optimise the potential of the site to accommodate development, respond to local character and history, create safe and accessible environments and are visually attractive. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.
11. *NPPF Part 10 – Meeting the Challenge of Climate Change, Flooding and Coastal Change.* Planning plays a key role in helping shape places to secure Local Planning Authorities should adopt proactive strategies to mitigate and adapt to climate change. Inappropriate development in areas at risk of flooding should be avoided.
12. *NPPF Part 11 – Conserving and Enhancing the Natural Environment.* The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.

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 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6077/2116950.pdf

LOCAL PLAN POLICY:

13. The following policies of the Teesdale Local Plan are relevant to the application; however, in accordance with paragraph 215 of the National Planning Policy Framework, the weight to be attached to relevant saved local plan policies will depend upon the degree of consistency with the NPPF. The greater the consistency, the greater the weight.
14. *Policy GD1: General Development Criteria:* All new development and redevelopment within the district should contribute to the quality and built environment of the surrounding area and includes a number of criteria in respect of impact on the character and appearance of the surrounding area; avoiding conflict with adjoining uses; and highways impacts.
15. *Policy ENV1: Protection of the Countryside.* This policy restricts the type of development that would be permitted in the Countryside. Tourism and recreation developments would be considered acceptable where compliant with other policy and where they do not unreasonably harm the landscape and wildlife resources of the area.
16. *Policy ENV8: Safeguarding plant and animal species protected by law:* Development should not significantly harm plants or species protected by law and where appropriate adequate mitigation measures should be provided.
17. *Policy H4: Infill Development on Sites of Less Than 0.4 Hectare:* Small scale housing development will be permitted on sites of less than 0.4 hectare, comprising previously developed land, within the development limits of the settlements listed below. Proposals should satisfy the criteria contained in policy GD1. Tandem development will not be permitted. Backland Development will only be permitted where it would not cause unacceptable harm to the privacy or overall residential amenity of the occupants of neighbouring dwellings and an adequate and safe access can be provided.
18. *Policy H12: Design:* The local planning authority will encourage high standards of design in new houses and housing sites, in terms of layout and organisation of public and private open space, including meeting the needs of the disabled and elderly and the consideration of energy conservation and Local Agenda 21. Residential proposals should comply with the criteria of policy GD1 where relevant to the development involved.
19. *Policy TR10: Development affecting public rights of way –* development should adequately incorporate existing public rights of way.

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/media/3403/Wear-Valley-local-plan-saved-policies/pdf/WearValleyLocalPlanSavedPolicies.pdf>

RELEVANT EMERGING POLICY:

The County Durham Plan -

20. Paragraph 216 of the NPPF says that 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. The County Durham Plan was submitted for Examination in Public and a stage 1 Examination concluded. An Interim Report was issued by an Inspector dated 15

February 2015, however that report was quashed by the High Court following a successful Judicial Review challenge by the Council. As part of the High Court Order, the Council has withdrawn the CDP from examination. In the light of this, policies of the CDP can no longer carry any weight.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

21. *Highway Authority*: No objection. The layout, parking and sight visibility at the access point are acceptable. Details of footway construction on part of the site should be conditioned.
22. *Coal Authority*: No objection. The site falls within the High Risk Area; however the Coal Authority concurs with the recommendations of the submitted Coal Mining Risk Assessment and recommends a condition requiring intrusive site investigations prior to commencement of development to determine whether any remedial works are required.
23. *Northumbrian Water*: No objections. A public sewer cross the site, but NWL will be liaising directly with the developer in this respect.

INTERNAL CONSULTEE RESPONSES:

24. *Landscape Section*: No objection. The loss of a tree and the hedgerow are accepted for the reasons detailed in the tree survey. Details of the new tree and hedge planting should be conditioned.
25. *Trees*: No objection. The loss of an Ash tree is accepted because it is in severe decline, as is the removal of small insignificant trees and shrubs. The removal of hedge, which is predominantly Elder shrub, is accepted as it is un-maintained. Remaining trees and hedges should be protected and a replacement planting scheme should be incorporated in the final design.
26. *Environmental Health (Noise)*: No objection. Conditions are recommended to control construction related impacts and site drainage.
27. *Environmental Health (Contaminated Land)*: No objection. A Contaminated land condition should apply though because the development constitutes a change to a more sensitive receptor. This requires a scheme to investigate and deal with any contamination to be approved.
28. *Public Rights of Way*: No objection. Footpath 49 runs through the site and will require diversion. A condition is recommended for the existing route to remain open and available for public use until diversion has been approved and confirmed.
29. *Ecology*: No objection. The likely risk or presence and hence impact on bats is low. However, there is evidence of nesting birds within some of the existing buildings and therefore demolition and vegetation clearance must be timed to avoid breeding birds.
30. *Design and Conservation*: Considers the houses to be too tall and formal for the site. House 3 is considered to be overly large and has no garaging. Generally, it would be preferable if the stone was random rubble rather than sawn stone and if

the roofs were Welsh slate, which is traditional to the area. Overall, would like to see amendments to reduce the size and scale of the development in order to provide a more satisfactory form of development, which integrates satisfactorily with the surrounding village environment.

PUBLIC RESPONSES:

31. The application has been publicised by way of press notice, site notice, and neighbour letters. Letters of objection were received from 7 addresses in relation to the development. Grounds of objection are summarised below.

Principle of development

- One of the houses falls outside the development limits of the village and the development generally represents backland development, which is not in keeping with the linear form of the village. Concern about setting a precedent in this respect.
- The location is not sustainable because of a lack of local services and poor bus accessibility.
- There is no need for more dwellings in High Etherley, particularly as outline approval has been granted for up to 13 dwellings across the road.

Highway safety

- The access is onto a busy road (B6282) which is subject to speeding and a large number of heavy goods vehicles. The dwellings would accommodate large families and the increased vehicle movements onto the B6282 would increase the potential for accidents.

Impact on character and appearance of the area

- The new dwellings would be more prominent than the existing buildings.
- Landscape impact from loss of trees, hedges and intrusion into agricultural land.
- The small gardens are not in keeping with other properties in the area, which have larger gardens.
- The lack of garaging would make parked cars highly visible to the detriment of the area.
- The size and appearance of the dwellings will look out of place and would not be in keeping with the character of existing agricultural buildings on the site. Clay pantiles would be more appropriate than blue slate.

Impact on neighbouring properties

- The development would lead to loss of countryside views for 4 Low Etherley and Tree Tops, as well as being overbearing and causing loss of light to those properties.
- There would also be inadequate separation distances to prevent loss of privacy to those neighbours and plot 1 includes an external staircase facing the neighbours.
- Vehicles entering/leaving the site would cause disturbance to neighbours.

Impact on local infrastructure

- The development would add to local drainage and flooding problems.
- The development would put further pressure on local gas, water, sewerage and electricity supplies.

Other environmental issues

- Concern over mine workings beneath the site and contamination if the land is disturbed.
- Impacts on bats, breeding birds and other wildlife from loss of trees, hedges and buildings.

The above is not intended to repeat every point made and represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at

http://plan1:8080/IDOXSoftware/IG_search?app_id=1002&FormParameter1=DM%2F15%2F00373%2FOUT

APPLICANTS STATEMENT:

32. This application has undergone detailed discussions with planning officers, first commenced via a Pre-application Enquiry in March 2015, followed by the submission of the present application in August 2015. The development comprises a small scale housing development, discreetly behind the roadside, utilising the site of a redundant farm complex and a small parcel of adjoining grazing land. The applicant's family have had links to farming in the village for generations prior to the dairy farm operations at Low Etherley Farm ceasing at the end of 2013, for economic and health reasons. The land associated with the farm is now rented out for cattle grazing, whilst the farm complex stands redundant. The proposed site is one of very few developable locations in Low Etherley. An opportunity is presented which would accommodate three new, high quality family homes within the existing structure of the village and would be considered to be the type of development supported by the NPPF and the Local Development Plan.
33. It is acknowledged that part of the application site lies outside of the defined development limits of Etherley and Toft Hill. However it is clear that this parcel of grazing land is contained within the physical structure of the village and would benefit from being incorporated in the redevelopment of the farm complex giving its limited use for agriculture. This would be consistent with the NPPF, which looks to provide a wide choice of high quality homes and promote sustainable development in rural areas where it would enhance and maintain the vitality of rural communities. Low Etherley, as part of the grouped settlement of Etherley and Toft Hill share various services and facilities. The site is in a sustainable location and any development can only be seen to support these existing facilities. The site also benefits from links to public transport within walking distance. Low Etherley is not a remote rural settlement; the edge of Bishop Auckland is only some 1.8km to the east along the B6282.
34. It is noted that several representations have been lodged in objection to the application. However, the issues raised within the representations will have been considered accordingly by the planning officer and it is believed that on balance, the development would not create any adverse impacts which would significantly and demonstrably outweigh the benefits. It is firmly believed that the development proposed can be regarded as acceptable in terms of physical form, layout and appearance; planning policy, both local and national; sustainability and viability, and it is hoped that the Planning Committee will regard the application as a positive addition to the structure and layout of the village of Low Etherley.

PLANNING CONSIDERATIONS AND ASSESSMENT

35. 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 principle of development, impact on character and appearance of area, highways, impact upon residential amenity, ecology and other issues.

Principle of development

36. Two of the proposed dwellings (plots 2 and 3) fall within the current settlement boundary and would occupy land that contains a number of existing buildings. These dwellings would be compliant with Teesdale Local Plan Policy H4, subject to detailed assessment. The third dwelling (plot 1) would however occupy agricultural land outside of the settlement boundary. This element of the proposal therefore represents a departure to Teesdale Local Plan Policy ENV1 in respect of development in the countryside. Consideration must however be given to whether there are any other material considerations and benefits to outweigh this conflict as well as to the compliance of these relevant policies with up to date planning guidance.
37. The NPPF is an important material consideration. Section 6 of the NPPF seeks to significantly boost the supply of housing. Local planning authorities should seek to deliver sustainable, inclusive and mixed communities, while avoiding isolated homes in the countryside. Section 4 requires development to be located where the need to travel will be minimised.
38. In accordance with paragraph 215 of the NPPF, the weight to be attached to relevant Teesdale Local Plan policies depends upon the degree of consistency with the NPPF. In this respect the settlement boundary policies of the Teesdale Local Plan are housing policies and date back to 2002. These policies cannot be considered as being up to date or compliant with the NPPF and can no longer be given any weight. Accordingly, whether the proposal complies or not with these policies is not a factor which can be given any weight. In addition, following the withdrawal of the County Durham Plan (CDP) after the recent High Court decision to quash the Inspector's Interim Report, the housing policies of the CDP can no longer be given any weight either.
39. In these circumstances where there are no up to date local housing policies, the NPPF in paragraph 14 advises that developments should be approved unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the NPPF as a whole.
40. The main purpose of the NPPF is to achieve sustainable development, but the sustainability of the site has been questioned by objectors pointing to a lack of local facilities and poor bus access. Low Etherley is classed as a Tier 4 settlement in the Council's Settlement Study, which reflects the limited range of services on offer. However, at the same time, it could not be said to be a remote rural settlement. Low Etherley is grouped with Toft Hill and High Etherley as one settlement for the purposes of the Teesdale Local Plan. The settlements merge into one another and share services including community facilities and a primary school (Toft Hill). There are lit, adopted footpaths between the settlements. The edge of Bishop Auckland, a major centre in respect of services, employment and education, lies just 1900m to the east along the B6282. Bishop Auckland College, St John's Catholic School and Bishop Barrington Schools lie around 2700m from the application site.
41. Accordingly, the site is reasonably located in relation to major services, employment and education and cannot therefore be considered as isolated in the context of NPPF paragraph 55. The small scale of development proposed, even in conjunction with the recent approval of up to 13 dwellings on the other side of the road is entirely commensurate with the role of Low Etherley, High Etherley and Toft Hill within the County's settlement hierarchy and is not a scale of development that would overwhelm local infrastructure.

42. In addition, 2 of the 3 dwellings proposed would occupy land which has been previously developed, which is the majority of the application site. The reuse of previously developed land is supported in the NPPF.
43. The scale of development proposed is not subject to any affordable housing or open space contribution requirements.
44. Taking all the above into account the proposal is considered to represent a sustainable form of development and complies with the key aims of the NPPF. Compliance with the NPPF overrides the out of date housing and settlement limit policies of the Teesdale Local Plan. Therefore, subject to further consideration of detailed matters the proposal represents development that should be approved unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

Impact on character and appearance of area

45. The application site lies towards the eastern end of the village which comprises mostly linear development along the B6282. The site itself however lies behind the main roadside frontage development and there are numerous buildings already on the site. The replacement of those existing buildings with 2 of the proposed dwellings does not therefore conflict with the established village form. It is also noted that there is some development behind the frontage at West View and Hillside slightly further to the west. Development behind the roadside frontage on the north side of the B6282 is not therefore a wholly unusual feature.
46. The third dwelling (plot 1) would be located within part of the adjacent field that lies between the existing farm yard and the garden of 6 High Etherley. The garden of 6 High Etherley was only recently given planning permission for its extension northwards into the same field that plot 1 would be located in (ref: DM/14/01947/FPA). In that application it was noted that the land was not likely to be of agricultural value, had limited visibility and would not be viewed as harmful in the context of overall settlement form and landscape character. The same applies to this proposal, but even more so in respect of lack of agricultural value of the remaining field given the fragmentation caused by the garden of 6 High Etherley. The proposed development would in effect be rounding off the edge of the settlement at this point and there is no objection from the Landscape Section. The proposed 1.5m high stone wall and native species hedgerow would be an appropriate treatment to this boundary and an appropriate planting mix can be conditioned.
47. Objectors have also raised concerns about the loss of an Ash tree and the hedge along the western boundary of the farm yard to facilitate development in the field. However, both the Landscape and Tree Sections consider this to be acceptable. The Ash tree is in a severe state of decline and the hedge is predominantly unmaintained Elder shrub. The Ash tree is not suitable for retention and the hedge would not be classed as an important hedgerow under the Hedgerow Regulations. A suitable landscaping scheme within the development and protection measures for remaining trees and hedges during construction can be conditioned. This would also control planting at the site entrance.
48. The concerns of the Design and Conservation Section are noted in respect of the scale of the proposed dwellings and use of materials. Objectors have raised similar concerns also noting the development would not have an agricultural character and would be more visible than the existing buildings. However, in considering whether the proposal is appropriate in these respects, the site does not lie within a conservation area or any special landscape designation where strict design

requirements apply. The existing dwellings in the surrounding area comprise of a vastly different range of styles, size, age and materials such that there is no uniform character. In accordance with NPPF paragraphs 59 and 60 it would be unreasonable in this context to be overly prescriptive to insist on a maximum height of 8m as suggested by the Design and Conservation Section, or for the development to replicate a scheme of conversion of agricultural buildings when it is not one. It is however appropriate to seek local distinctiveness generally in terms of character and materials.

49. The proposed dwellings would be built in an appropriate traditional character and the use of stone and slate is entirely appropriate to the local area. It is however agreed that the use of random rubble laid to courses would be more locally distinctive and in keeping with other stone-built properties in the area than the proposed use of sawn stone, which is not locally distinctive. The specific details of the finish of the stonework and type of slate are matters that can be dealt with by conditions requiring samples to be approved.
50. In terms of height, the dwellings would be two storeys high and well proportioned. They would be located approximately 30m back from the existing dwellings and have a floor level set around 2m lower than the existing properties resulting in ridge heights that would not exceed those of the nearest neighbouring properties, numbers 2, 4 and tree Tops. They would not therefore be viewed as unreasonably large in this context.
51. Each property would have sufficient private amenity and parking space. Again, there is no uniform garden size in the area and there is no local requirement for a specific garden size, except that sufficient amenity space is provided, which it has. Additional bin storage would be provided at the site entrance, likely to be in the form of a simple enclosure and further details can be conditioned. The presence of parked cars would be contained entirely within the curtilage of each property with very limited visibility from the surrounding area and is therefore not an issue of concern. Lighting from 3 residential dwellings on the edge of an established settlement and in a landscape without any special designation is also not a concern.
52. Taking all the above into account it is considered that the development could be comfortably accommodated on the site without detriment to the character and appearance of the surrounding area, subject to a number of conditions controlling materials and landscaping. Therefore, while the dwellings would be more visible than the existing buildings on the site, they would not be unacceptable. There is no conflict with Teesdale Local Plan Policies GD1 and H12 and the development is considered to be in accordance with NPPF Parts 7 and 11 in respect of design and impact on the countryside.

Highways

53. The issue of highway safety was similarly raised by objectors during the consideration of the larger outline proposal for up to 13 dwellings on the opposite side of the road. Representations have again been made in respect of the busy nature of the B6282 and tendency for vehicles to exceed the speed limit through the village with the potential for new development served off this stretch of road to be prejudicial to highway safety.
54. This is however an even smaller scale of development and makes use of, and proposes improvements to, an existing access that could presently serve all manner of agricultural vehicles. Notwithstanding a 1992 appeal decision on the site across

the road with highway concerns, the Highway Authority had no objection to the larger outline scheme and again has no objection to this proposal.

55. As previously advised by the Highway Authority, the road is part of the classified road network, intended for carrying inter-urban traffic. Despite cars sometimes being parked on the highway near the application site the road is not of substandard width under current highway guidance and does not carry an atypical traffic flow for a B road in the County. A development of 3 dwellings, even in combination with the outline approval across the road would not have a material effect on traffic flows on this section of the B6282, particularly given the existing use of the site, and can be easily accommodated by the existing highway network. Ample off street parking would be provided within each property and sight visibility at the access point with the B6282 is considered acceptable. Details regarding the engineering construction of the footway area to be created can be dealt with by condition.
56. On this basis and given the lack of objection from the Highway Authority, it is considered that the proposed development would be served by a safe and suitable access arrangement, and the development would not be prejudicial to local highway safety conditions. The proposal does not therefore conflict with Teesdale Local Plan Policy GD1 and NPPF Part 4 in this respect.

Impact upon residential amenity

57. The proposed development would be visible to the rear of the existing residential dwellings that sit to the south and west of the application site; numbers 2 to 6 Low Etherley. Numbers 2 and 4 are located behind the existing farm complex, but number 2 is the applicant's property. Tree Tops currently enjoys open views of the countryside across the field where the third dwelling (plot 1) would be located. Plot 1 would be located only marginally past the boundary of number 6. All 3 of the neighbouring properties outside the applicant's ownership have objected to the proposal on the grounds of overbearing, overshadowing, loss of privacy and loss of view.
58. The development would significantly change the rear outlook of the neighbouring properties. However, there is no right to a view over another person's land so loss of view is not one of the issues that can be given any weight in the consideration of the application.
59. In terms of the other issues raised, the proposed dwellings would be located directly to the north and could not therefore cause any loss of light to the neighbouring properties.
60. In terms of overbearing and loss of privacy the proposed dwellings would be located significantly back from the existing properties to the extent where the distance between habitable rooms would be over 30m. This is well in excess of 21m separation distances normally applied to modern residential developments. The forward projecting garage on Plot 1 would be the closest part of the development to the neighbouring properties (Tree Tops and 6 Low Etherley), but at just 6.5m high, 19m from Tree Top's conservatory and 20m from the rear of number 6, this element of the development could not be considered as overbearing. The external staircase to the gym within the roofspace of the garage is not a feature that would unacceptably impact on the privacy of those neighbours.
61. Other concerns were raised in the objections in respect of disturbance to neighbouring properties from traffic movements associated with the development, but the development is not a scale that would lead to such impacts and there was no

objection from Environmental Health (Noise) in this respect. Environmental Health (Noise) has recommended conditions to control construction related impacts. However, these construction-related effects are matters which the planning system cannot reasonably prevent or control and there are controls outside of planning that deal with noise nuisance and other disturbance, which would be more appropriate controls than planning conditions for such a small scale of development. Such conditions would not meet the requirements of necessity in this case.

62. Taking all the above into account it is considered that the development would have an acceptable relationship with neighbouring properties and impacts on residential amenity. The proposal does not conflict with Teesdale Local Plan Policy GD1 and NPPF Part 11 in this respect.

Ecology

63. The presence of protected species such as bats is a material consideration in accordance with Circular 06/05. Teesdale Local Plan Policy ENV8 does not permit development that would significantly harm a protected species or its habitat unless mitigation is achievable and the overall effect would not be detrimental to the species as a whole. This is consistent with the guidance in NPPF Part 11 which seeks to minimise impacts on biodiversity, as well as the general requirements of the Habitats Regulations and Wildlife and Countryside Act (1981) for England, Scotland and Wales.
64. A bat survey was submitted with the application, but concluded that the potential of bats being present within the buildings and the Ash Tree to be removed were low, and hence the risk to the species was low. The Council's Ecologist has agreed with the findings.
65. It is however noted that bird nests were found in the outbuildings and hedges can be an important nesting habitat for birds. It is an offence to intentionally or recklessly disturb nesting birds and therefore demolition and vegetation clearance works will need to be sensitively timed to avoid the nesting season. This can be conditioned. The field itself is considered to have very little ecological interest because of past agricultural use.
66. The proposal does not conflict with Teesdale Local Plan Policy ENV8, NPPF guidelines in Par 11 and wildlife regulations, subject to suggested condition on timing of works.

Other Issues

67. The objections have raised concerns in relation to previous incidents of flooding in the area, similar to the concerns raised for the larger outline scheme across the road. However, the application site and immediate surroundings fall within Flood Zone 1, which is the area at least risk of flooding. Previous problems were attributed to highway drainage issues and surface water from extreme rainfall. The development proposal is under no obligation to address or improve any existing problems with highway drains and is not a scale of development that is likely to significantly worsen the existing situation, particularly as most of the site already contains buildings. There is no objection from Northumbrian Water subject to diversion of the sewer crossing the site. They will take that issue up separately with the developer, but in any case it can be covered in a condition requiring a detailed scheme of foul and surface water drainage to be submitted for further approval. The proposal therefore complies with Teesdale Local Plan Policy GD1 and NPPF Part 11 in respect of flooding.

68. Objectors have raised other issues in relation to sewerage, electric, gas and water supply, but those are matters to be taken up with the relevant providers and cannot be afforded any weight in the consideration of this application.
69. The application site falls within the Coal Authority High Risk Area where underground mining activity is recorded to have been undertaken at shallow depths and local concerns have been expressed in this respect. A coal mining risk assessment has been undertaken which recommends that intrusive investigation works are undertaken to establish the nature of the issues at the site. The Coal Authority has assessed the Report and agrees with the conclusions and recommendations, recommending that the further intrusive works are conditioned. Subject to the inclusion of a condition requiring these works, the Coal Authority has raised no objection. As a result and because the Coal Authority have not objected, it is felt that there are not sufficient grounds for refusal in this respect and the proposal complies with NPPF Part 11.
70. A public footpath no.49 currently passes through the access and the site. Minor re-alignment would be required along a new pedestrian footway adjacent to the access road, which would also need a separate diversion consent. It is noted that the Public Rights of Way Section has no objection to this and it is considered that the proposal makes safe provision for users of the footpath and would not lead to an unacceptable reduction in the amenity of the footpath. The obstruction and/or diversion of public rights of way is covered by other means and therefore a condition is not necessary; an informative would suffice. The proposal complies with Teesdale Local Plan Policy TR10.

CONCLUSION

71. NPPF Paragraph 14 advises that where relevant development plan policies are out of date, as is the case in this instance, developments should be approved unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the NPPF as a whole.
72. A presumption in favour of sustainable development is at the heart of the NPPF. The site is reasonably located in relation to major services, employment and education and represents a small scale of development appropriate to its location. It can be accommodated without causing unacceptable harm to the character and appearance of the area, amenity of neighbours, highway safety and ecology. Issues regarding drainage and land stability can be dealt with by conditions.
73. It is therefore considered that the development represents a sustainable form of development and complies with the key aims of the NPPF. This compliance with the NPPF overrides the proposal's partial non-compliance with the out of date housing and settlement limit policies of the Teesdale Local Plan. There is no conflict with other policies of the Teesdale Local Plan, namely GD1, ENV8, H12 and TR10.
74. All representations have been carefully considered, however when taking all matters into account, there have not been any adverse impacts identified to outweigh the presumption in favour of granting permission in this case. The proposal is therefore recommended for approval.

RECOMMENDATION

That the application be **APPROVED** subject to the following conditions;

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby approved shall be carried out in strict accordance with the following approved plans and documents.

ML01 – Proposed Site Plan/Proposed Street Scene

ML02 - Proposed Site Sections

ML03 - House Type 1

ML04 - House Type 2

ML05 - House Type 3 Received 20th August 2015.

Reason: To define the consent and ensure that a satisfactory form of development is obtained.

3. Notwithstanding any details of materials submitted with the application and condition 2, the external walls shall be formed using random rubble laid to courses and the roofs of natural slate. Prior to the commencement of development a sample panel of the proposed stone and pointing to be used in the construction of the walls shall be erected on site for the inspection and a sample of the slate shall be submitted for approval to the local planning authority . The written approval of the local planning authority for the sample panel and slates shall be received prior to the commencement of the building works and the sample panel shall be retained for reference on site throughout construction. 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 Local Plan. The details are required before commencement as the external appearance of the materials are fundamental to the appearance of the area and relate to matters at the start of the development process.

4. No development other than remediation works shall commence until a detailed scheme for the disposal of foul and surface water, to include provision for any diversion of public sewers crossing the site, has been submitted to and approved in writing by the local planning authority. The development shall be carried out and implemented in accordance with the approved scheme and timings thereafter.

Reason: In the interest of the adequate disposal of surface water in accordance with Policy GD1 of the Teesdale District Local Plan.

4. No development other than remediation works shall commence until a detailed landscaping scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme of landscaping shall include details of hard and soft landscaping, planting species, sizes, layout, densities, numbers, method of planting and maintenance regime. It shall also include details for the protection of all retained trees and hedges, which shall be put in place prior to commencement of development and retained throughout the construction period.

Reason: In the interests of visual amenity having regards to Policy GD1 of the Teesdale Local Plan. The details are required before commencement as the landscaping of the site is fundamental to the appearance of the area.

5. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first available planting season following the practical completion of the development and any trees or plants which within a period of 5 years from the substantial completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: In the interests of visual amenity having regards to Policy GD1 of the Teesdale Local Plan.

6. Prior to their installation/erection, details of means of enclosure shall be submitted to and approved in writing by the Local Planning Authority. The enclosures shall be constructed in accordance with the approved details prior to the occupation of the dwelling to which they relate and shall be retained for the lifetime of the development.

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

7. No development shall commence until intrusive investigation works relating to coal mining risk have been undertaken at the site and the results of the investigative work and any necessary scheme of remedial/mitigation works have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be undertaken in accordance with the approved remedial/mitigation scheme.

Reason: To ensure that the site is safe and stable to accommodate the proposed development in accordance with NPPF paragraphs 120-121. The details are required before commencement as they relate to fundamental issues regarding the stability of the site which need addressing at an early stage.

8. No development shall take place unless in accordance with the mitigation and recommendations detailed within Section E, Bat Survey for the site carried out by Dendra Ltd Ecology dated August 2015.

Reason: To conserve protected species and their habitat in accordance with Policies GD1 and ENV8 of the Teesdale Local Plan.

9. Notwithstanding condition 8, no demolition or vegetation clearance shall take place between 1st March and 31st August or at any time while birds are nesting within the site, unless an Ecologist has confirmed the absence of any nesting birds.

Reason: To secure the long term protection of the species. In accordance with the NPPF and policies GD1 and ENV8 of the Teesdale Local Plan.

10. No dwelling shall be occupied until a footway has been constructed between the rear of B6282 footway and new walled boundary in accordance with engineering details which shall first have been submitted to and approved in writing by the local planning authority. The footway shall thereafter be retained as such for the lifetime of the development.

Reason: In the interests of Highways Safety in accordance with Policy GD1 of the Teesdale Local Plan.

11. No dwelling shall be occupied until suitable provision has been made for the storage of bins at the site entrance in accordance with details which shall first have been submitted to

and approved in writing by the local planning authority. The bin storage shall thereafter be retained as such for the lifetime of the development.

Reason: In the interests of the appearance of the area in accordance with Policy GD1 of the Teesdale Local Plan.

12. The development hereby permitted shall not commence until a scheme to deal with contamination has been submitted to and agreed in writing with the Local Planning Authority. The scheme shall include the following:

Pre-Commencement

- (a) No development approved by this permission other than preliminary site excavation and remedial works shall commence until a Phase 1 Preliminary Risk Assessment (Desk Top Study) has been carried out, to identify and evaluate all potential sources and impacts on land and/or groundwater contamination relevant to the site.
- (b) If the Phase 1 identifies the potential for contamination, a Phase 2 Site Investigation and Risk Assessment is required and shall be carried out before any development commences to fully and effectively characterise the nature and extent of any land and/or groundwater contamination and its implications.
- (c) If the Phase 2 identifies any unacceptable risks, remediation is required and a Phase 3 Remediation Strategy detailing the proposed remediation and verification works shall be carried out. No alterations to the remediation proposals shall be carried out without the prior written agreement of the Local Planning Authority. If during the remediation or development works any contamination is identified that has not been considered in the Phase 3, then remediation proposals for this material shall be agreed in writing with the Local Planning Authority and the development completed in accordance with any amended specification of works and timescales.

Completion

- (d) Upon completion of the remedial works (if required), a Phase 4 Verification Report (Validation Report) confirming the objectives, methods, results and effectiveness of all remediation works detailed in the Phase 3 Remediation Strategy shall be submitted to and agreed in writing with the Local Planning Authority within 2 months of completion of the development.

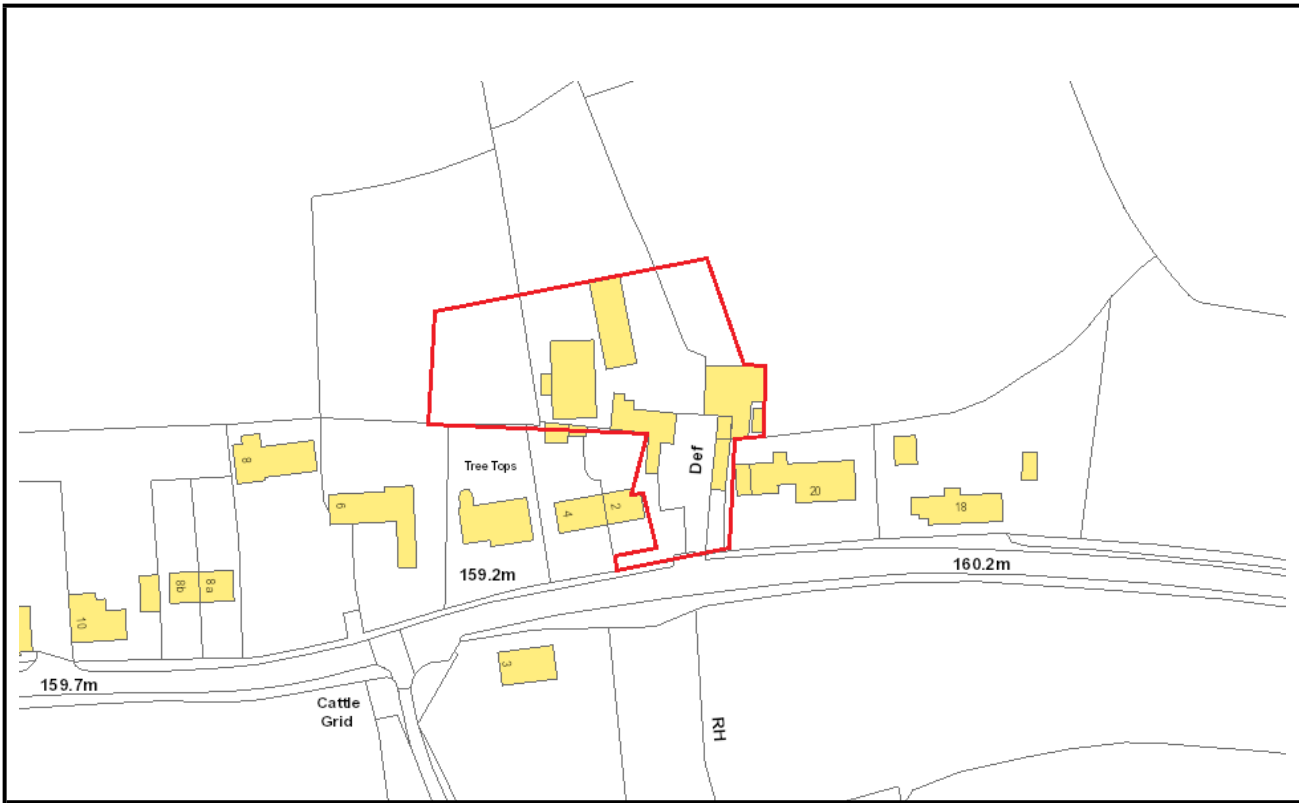
Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, and to ensure that the development can be carried out safely without unacceptable risk to workers, neighbours and other offsite receptors in accordance with NPPF Part 11.

STATEMENT OF PROACTIVE ENGAGEMENT

75. In arriving at the decision to recommend approval of 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 carefully weighing up the representations received to deliver an acceptable development. The use of pre commencement conditions is deemed necessary are fundamental to the appearance of the area and relate to matters at the start of the development process

BACKGROUND PAPERS

Submitted application form, plans supporting documents
The National Planning Policy Framework (2012)
National Planning Practice Guidance Notes
Teesdale Local Plan
The County Durham Plan (Submission Draft)
County Durham Settlement Study 2012
All consultation responses received



Planning Services

Erection of 3no. dwellings and associated works

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19th November 2015