

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No: DM/16/00516/OUT
FULL APPLICATION DESCRIPTION: Outline 1no. dwelling all matters reserved except access
NAME OF APPLICANT: Mr D Fox

ADDRESS: Glencrest Kennels And Cattery
Glencrest
Copley Lane
Butterknowle
Bishop Auckland
County Durham
DL13 5LW

ELECTORAL DIVISION: Evenwood

CASE OFFICER: Tim Burnham Senior Planning Officer 03000 263963
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DESCRIPTION OF THE SITE AND PROPOSALS

1. The application site comprises approximately 0.1 hectares of land which sits in a countryside location within the rear garden curtilage of Glencrest Bungalow. Grewburn Lane runs to the west of the site, with trees and hedgerow in between the road and the site. Existing kennel buildings sit immediately to the east. Residential properties at 6 & 7 Grewburn Lane sit across the road to the north west.
2. The application proposes the erection of 1no. dwelling on the site. The application is in outline form, only seeking to agree details of access. All other matters such as appearance, landscaping, layout and scale are reserved for consideration at reserved matters stage; however, plans showing how the development could be accommodated on the site show a single dormer bungalow with vehicular access from Grewburn Lane.
3. The application is reported to the Planning Committee at the request of Cllrs Smith and Turner who consider the proposed dwellings comply with the provisions of the NPPF and are similar to permissions recently granted in Low Etherley.

PLANNING HISTORY

4. There is various planning history related to development of the wider site to establish the Kennel and Cattery buildings.
5. The Camphill bungalow was granted permission in 2010 and 2011 subject to a condition that it remained as a manager's dwelling for the Kennels and Cattery. (6/2010/0083/DM & 6/2011/0164/DM/RM).

6. An application to remove the manager's restriction condition on the Camphill Bungalow was refused in 2015 (DM/14/03652/VOC).

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

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. *ENV10 Development Affecting Trees Or Hedgerows:* development will only be permitted where it avoids unreasonable harm to or loss of any hedgerows which do, or will when mature, contribute significantly to any of the following: Landscape diversity, the setting of nearby existing or proposed buildings, a protected species habitat or visual amenity.
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.

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/article/3271/Teesdale-Local-Plan>

RELEVANT EMERGING POLICY:

The County Durham Plan -

19. 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:

20. *Highways Authority*: Copley is a small rural settlement with modest facilities; it is likely residents place a relatively high reliance on the private motor car. The 83 bus service runs between Copley and Barnard Castle however the first service arrives at Galgate, Barnard Castle, at 0925 with the last return leaving Galgate at 1425. There is no Sunday service. The proposed access is located within a 60mph section of C42 highway. Southbound C42 vehicle speeds are naturally greater than those northbound. A planning condition must be attached requiring the securing of a 2.4m by 90m visibility splay to the north and 43m to the south.

21. *Northumbrian Water*: No objection.

INTERNAL CONSULTEE RESPONSES:

22. *Environmental Health (Noise)*: The application relates to the introduction of noise sensitive receptors in close proximity to a potential significant noise source, namely the dog kennels and cattery. The applicant does not appear to have considered or quantified the potential noise in relation to the impact on possible future occupiers and in turn the future viability of the business. The Environmental Health section has record of two complaints in relation to noise from this site. For the reasons stated above the section have significant concerns regarding the potential for the development to cause a statutory nuisance, as defined by the Environmental Protection Act 1990 and object to this application.

Landscape Section (Trees): The proposed development will retain the majority of the trees however it will result in a break in the roadside vegetation, the extent of which is unclear until the exact visibility splay requirement is mapped. It is recommended that should this develop into full planning permission, the tree protection locations and methods should be included in a method statement and tree protection plan.

23. *Landscape Section*: No objection.

PUBLIC RESPONSES:

24. The application has been publicised by way of site notice. No responses have been received.

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 <https://publicaccess.durham.gov.uk/online-applications/>

APPLICANTS STATEMENT:

25. The old settlement boundaries in the outdated Teesdale District Local plan excludes the land and buildings around the property known as Glencrest on the eastern edge of the village of Copley. However, the reality on the ground is that Glencrest, as well as 17 properties (some of which have been built in recent years) opposite Glencrest, are clearly part of the structure of Copley, and is land within this already defined structure which is being proposed for the development of the new proposed dwelling. The proposal does not seek to introduce new development into the countryside, particularly given that the dwelling proposed would lie within the existing, extensive garden of Glencrest itself.
26. Copley is a village which has unfortunately lost many of the facilities which it once enjoyed, and as a village it can reasonably expect to have the opportunity to sustain itself rather than being seen as a settlement in decline. Paragraph 55 of the National Planning Policy Framework made the clear statement that 'To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby.'
27. This is precisely the case in this instance, and where the villages of Copley, Woodland and Butterknowle all require the mutual support which can be given to ensure their sustainability. In planning policy terms, it is suggested that the proposed development is entirely acceptable and members of the Committee are requested to support this application for appropriate new residential development.

PLANNING CONSIDERATIONS AND ASSESSMENT

28. 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, residential amenity, impact on character and appearance of area and highways issues.

Principle of development

29. The site lies in the garden to the north of Glencrest bungalow, outside of the development limits of Copley as identified in the Teesdale Local Plan. Despite the presence of other dwellings located intermittently along Grewburn Lane and the B6282 the site is not within or closely associated with an existing settlement. Development of the site for market housing, as proposed, therefore represents a departure to saved Policy ENV1 of the Teesdale Local Plan.
30. However, 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 dating back to 2002 so they cannot be considered as being up to date and accordingly can no longer be given any significant 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 policies of the CDP can no longer be given any weight either.

31. In these circumstances and regardless of 5 year land supply, the NPPF in Para 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. The main purpose of the NPPF is to achieve sustainable development.
32. In relation to housing, Section 6 of the NPPF seeks to significantly boost the supply of housing and states housing applications should be considered in the context of the presumption in favour of sustainable development. 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; key facilities such as primary schools and local shops should be located within walking distance of most properties. Section 7 requires development to improve the character and quality of an area and the way it functions.
33. The nearest settlement to the site is Copley, the edge of which lies approximately 240mtrs to the west. The County Durham Settlement Study scores the sustainability of each settlement based upon the range and number of services within the settlement. Copley is identified as a tier 6 Hamlet (the lowest tier), which offers very few or no facilities and services. The 83 bus service to Barnard Castle is extremely limited, effectively a half day service with no Sunday service. The nearest primary schools are in the villages of Woodland and Butterknowle, both beyond acceptable walking distance and not on safe walking routes.
34. It is likely therefore that residents of the proposed dwelling would be heavily reliant on private car use to access any services and facilities. The proposal does not therefore support sustainability objectives of the NPPF in respect minimising the need to travel.
35. It is acknowledged that NPPF paragraph 55 identifies that where there are groups of smaller settlements, development in one village may support the services in a village nearby, but it goes on to state that new isolated homes in the countryside should be avoided. As this site is not within any village and there would be a need to travel by private car to access almost all services and facilities, the proposal represents isolated housing development in the countryside.
36. It is accepted that the dwelling would make a small contribution to housing supply and there would be some economic benefits from the building works. However, the proposal does not find full support from paragraph 55 of the NPPF and overall, the site does not represent a sustainable location for new housing development. The principle of the development is not therefore supported.
37. In calling the application to committee Councillors Cllrs Smith and Turner expressed a view that the proposed dwelling did comply with the provisions of the NPPF. However, for the reasons set out above it has been shown that this is not the case. In addition, comparisons cannot be drawn with permissions granted in Low Etherley as those sites were judged to be within the confines of the village of Low Etherley, which itself forms part of a larger conjoined settlement of High Etherley and Toft Hill containing a better range of services and facilities, as well as being close to the major town of Bishop Auckland. Regardless, each application has to be considered on its own merits. There are also other detailed matters to consider, which will be considered in the sections below, but the principle of development is not supported.

Residential Amenity

38. The site lies immediately adjacent to animal housing buildings associated with the Kennels and Cattery.
39. The existing Kennels and Cattery business is a noise generating use with the potential to cause disturbance to neighbouring residential properties. The Environmental Health Noise Action Team has stated that there is a record of two complaints relating to noise from the Kennels and Cattery. As the two nearest dwellings are occupied in conjunction with the running of the business, the complaints were from properties further away than the proposed dwellings.
40. The application has not considered noise impact and there has not been any assessment undertaken to establish potential noise levels at the proposed property. The Environmental Health Noise Action team therefore has significant concerns and objects to the proposal.
41. The effects of not adequately assessing the noise levels from the adjoining Cattery and Kennels, would be likely to lead to a poor living environment for future residents of the proposed dwellings. This could also lead to complaints from future occupiers of the properties, which could curtail operations of the Kennels and Cattery.
42. The NPPF seeks to avoid circumstances where established businesses have unreasonable restrictions placed on them because of changes in nearby land uses. In addition the Planning Practice Guidance states that noise needs to be considered when new developments would be sensitive to the prevailing acoustic environment.
43. Because of the potential conflict between the uses which would harm the living conditions of future residents and lead to potential constraints on the existing business, the proposal is in conflict with the above aims of the NPPF and PPG. It also conflicts with Teesdale Local Plan Policy GD1 in this respect.

Impact on the character and appearance of the area

44. Visually the site is well screened by boundary vegetation. A new access would be formed onto Grewburn Lane, but the majority of the existing vegetation could still be retained. Detailed matters of the appearance and scale of the dwelling would be considered at a later stage, but it's likely that a single bungalow form of development would relate appropriately to the scale and type of existing development it would sit alongside and would not appear unduly prominent or intrusive on the site.
45. Accordingly, there is no conflict with Teesdale Local Plan Policy GD1 in respect of the impact on the character and appearance of the area.

Highways

46. Access is a matter for consideration and the dwelling would have its own vehicular access onto Grewburn Lane.

47. Although the access would be located within a 60mph section of the highway, the Highway Authority is not opposed to the provision of this access, providing it is served by a 2.4m by 90m visibility splay to the north and 43m to the south.
48. It would be possible to secure this by a condition and therefore the proposal does not conflict with Teesdale Local Plan Policy GD1 and the guidance in NPPF Section 4 in respect of requirements for safe and suitable access.

CONCLUSION

49. NPPF Para 14 advises that where relevant policies are considered out of date 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.
50. In its favour, the proposal would make a small contribution to housing supply and bring economic benefit from the construction. This would contribute to the social and economic aspects of sustainability.
51. However in environmental terms the site has poor access to services and facilities and does not therefore represent a sustainable location for new development. The potential for conflict between occupants of the proposed dwelling and the Kennels and Cattery business represents negative impacts in environmental, social and economic terms. Consequently the proposal would result in disbenefits in environmental, economic and social terms.
52. Having regard to the NPPF as a whole, it is considered that these factors lead to a conclusion that the development should not be considered to be sustainable development. Furthermore, these adverse impacts of the proposal significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF as a whole, and conflict with the relevant policies of the Teesdale Local Plan.

RECOMMENDATION

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

- 1) The application site has poor access to services and facilities and as a result future residents would be reliant on private car travel. This conflicts with Section 4 of the NPPF, which seeks to minimize the need to travel, and NPPF paragraph 55 which seeks to avoid isolated housing development in the countryside.
- 2) The proposal has not assessed the existing noise climate in order to demonstrate that future residents would not be adversely affected by the activities at the adjacent Kennels and Cattery. Because of the proximity of the proposed dwellings to a number of operational buildings, the failure to do so is likely to cause significant harm to the living conditions of future residents, as well as hampering the operations of the adjacent business. This conflicts with Teesdale Local Plan Policy GD1(D), as well as paragraph 123 of the NPPF.
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STATEMENT OF PROACTIVE ENGAGEMENT

The Local Planning Authority in arriving at its decision to recommend refusal of this application have, without prejudice to a fair and objective assessment of the proposal, considered the proposal in relation to relevant planning policies, material considerations and representations received, however, in the balance of all considerations, the issues of concern could not result in a positive outcome being achieved.

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

Outline 1 no. dwelling all matters reserved except access

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