

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No:	DM/16/02643/OUT
FULL APPLICATION DESCRIPTION:	Outline application for 40 dwellings with access (all other matters reserved)
NAME OF APPLICANT:	Startforth Barnard Castle Ltd
ADDRESS:	Land To The North And East Of Startforth Morritt Memorial School Startforth DL12 9AQ
ELECTORAL DIVISION:	Barnard Castle West
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 of an irregular shaped 2.4 hectare greenfield site, which is currently used for grazing. Visually the land separates High Startforth to the north from Low Startforth to the south. Barnard Castle lies a short distance across the River Tees to the east, but the Barnard Castle Conservation Area extends across the river. The recently closed Startforth Morritt School and associated playing field lies to the south west. Land levels slope downwards from west to east. Mature trees occupy and border some parts of the site, particularly along the Gill Beck, which runs to the north.
2. The application proposes the erection of up to 40no. dwellings to be accessed at two points, one from the C164 to the east, known as Boldron Lane and another from an unclassified road to the south. All other matters have been reserved.
3. The application is reported to the Planning Committee as it constitutes a major development in accordance with the scheme of delegation.

PLANNING HISTORY

4. The site has previous history of refusals for housing development:
5. Outline housing applications 6/1983/0399/DM, 6/1983/0400/DM and 6/1984/0064/DM were all refused in 1984 on grounds of housing supply and highway safety.
6. An outline application for 35 dwellings 6/1989/0497/DM was refused in 1990 on landscape impact.

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 8 - Promoting healthy communities.* The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Local planning authorities should create a shared vision with communities of the residential environment and facilities they wish to see. To support this, local planning authorities should aim to involve all sections of the community in the development of Local Plans and in planning decisions, and should facilitate neighbourhood planning.
12. *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.
13. *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.

14. *NPPF Part 12 - Conserving and Enhancing the Historic Environment* Local planning authorities should set out in their Local Plan a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats. In doing so, they should recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance.

15. *The above represents a summary of those policies considered most relevant in the Development Plan*

LOCAL PLAN POLICY:

16. The following saved 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.

17. *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.

18. *Policy ENV1: Protection Of the Countryside:* Within the countryside development will be permitted for the purposes of agriculture, rural diversification projects, forestry, nature conservation, tourism, recreation, local infrastructure needs and an existing countryside use where there is a need on the particular site involved and where a proposal conforms with other policies of the plan. To be acceptable proposals will need to show that they do not unreasonably harm the landscape and wildlife resources of the area.

19. *Policy ENV3: Development Within Or Adjacent To An Area Of High Landscape Value:* The proposals map defines an area of high landscape value where the distinctive qualities of the countryside are worthy of special recognition. Development will be permitted where it does not detract from the area's special character, and pays particular attention to the landscape qualities of the area in siting and design of buildings and the context of any landscaping proposals such development proposals should accord with policy GD1.

20. *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.

21. *Policy ENV10: Development Affecting Trees or Hedgerows.* Development will only be permitted where it avoids unreasonable harm to or loss of: Any tree or hedgerow protected by a preservation order; or A tree within a conservation area; or Any trees, tree belts or hedgerows which do, or will when mature, contribute significantly to any of the following A. Landscape diversity B. The setting of nearby existing or proposed buildings C. A protected species habitat D. Visual amenity

22. *Policy ENV11: Protection Of Agricultural Land:* Development of the best and most versatile agricultural land will not be permitted unless opportunities have been assessed for accommodating development need on previously developed sites, on

land within the boundaries of existing developed areas, and on poorer quality farmland.

23. *Policy ENV16: Development Affecting Flood Risk:* Development (including the intensification of existing development or land raising) which may be at an unacceptable risk of flooding or may increase the risk of flooding elsewhere will not be permitted. Development in high risk flood areas will only be permitted as an exception where there are no reasonable opportunities to develop in a lower risk area. Applications will be considered against the criteria in the sequential test set out in paragraph 30 and table 1 of ppg25. All applications for development in flood risk areas and/or where the development would result in an increased risk of flooding elsewhere will be accompanied by a flood risk assessment as outlined in ppg25, appendix f. Developers will be required to fully fund the provision and future maintenance of flood mitigation and defence measures required as a result of their proposals, including any consequent works to prevent additional flood risk to other land/properties. Where appropriate, new development should incorporate a sustainable drainage system in order to manage surface water run-off.
24. *Policy BENV3: Development Adversely Affecting the Character of a Listed Building.* Development which would adversely affect the character of a listed building or its setting will not be permitted.
25. *Policy BENV4: Development within and / or adjoining Conservation Areas* Development within and/or adjoining conservation areas will only be permitted provided that: A) the proposed location, design layout, materials and scale respects the quality and character of the area; B) materials for buildings and hard landscaping must be appropriate to and sympathetic with the characteristics of the area; C) the proposal does not generate excessive traffic, parking, noise or other environmental problems which would be detrimental to the character and appearance of the conservation area; D) the proposal does not destroy trees, hedgerows, landscape features, views and undeveloped areas which contribute to the character or the appearance to the area and its settings; E) any services which lead to the new development should wherever possible be located underground; F) proposals should meet the requirements of other relevant policies of the local plan. Proposals which would adversely affect the setting of a conservation area or the views into or out of the area will not be permitted.
26. *Policy BENV11: Archaeological Interest Sites.* Before the determination of an application for development that may affect a known or potential site of archaeological interest, prospective developers will be required to undertake a field evaluation and provide the results to the planning Authority. Development which would unacceptably harm the setting or physical remains of sites of national importance, whether scheduled or not, will not be approved. Developments which affect sites of regional or local importance will only be approved where the applicant has secured a scheme of works which will in the first instance preserve archaeological remains in situ or where this is not possible by excavation and record.
27. *Policy H1A: Open Space within Developments:* In new residential development of 10 or more dwellings, open space will be required to be provided within or adjacent to the development.
28. *Policy H14: Provision Of Affordable Housing within Residential Developments* The local planning authority will, in appropriate circumstances as identified by a needs assessment of the district, seek to negotiate with developers for an element of affordable housing to be included housing developments.

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 -

29. 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:

30. *Startforth Parish Council:* Object to the application. There is concern about the lack of services and residential infrastructure available within Startforth. Concern is expressed in relation to the existing highways network and the additional strain that this development will place upon it.

31. *Highway Authority:* The site has shortcomings in terms of both pedestrian and vehicular access. A vehicular access from the southern boundary is not favoured given it would encourage use of a substandard junction with the B6277, reached by a substandard carriageway width for two way traffic as it nears the same junction and where visibility of and for northbound B6277 Church Bank traffic is substandard. There is a carriageway pinch point at 24 Boldron Lane where only single lane traffic is possible. The adopted footway also terminates at this point, due to inadequate width. Boundaries on each side are high walled. In relation to pedestrian access, there are many locations in the vicinity where footways are of substandard width, and incapable of improvement; in some cases absent. The most direct pedestrian route between the site and the town centre is via Thorngate Footbridge to the east but is suboptimal and, due to topography and physical constraints, has limited scope for meaningful improvement.

32. *Northumbrian Water:* No objection.

INTERNAL CONSULTEE RESPONSES:

33. *Spatial Policy:* In accordance with the NPPF the proposal must be considered in the context of Paragraph 14 of NPPF. The effect of the Paragraph 14 places a greater emphasis on approving sustainable development by setting a higher test in relation to the significance of dis-benefits. In this case the site offers opportunities to boost slightly housing supply. However, in terms of dis-benefits the development would be of a form that does not reflect the current settlement form for housing resulting in an incursion into attractive greenfield land designated as AHLV. Development would

also lead to coalescence between Startforth and High Startforth. Furthermore, there are listed buildings to the North & South of the site.

34. *Landscape Section:* Object to the Development: The site is within an Area of High Landscape Value and contributes to the local landscape by providing attractive rural separation between High Startforth and Low Startforth. The site is part of a Landscape Conservation Area as defined in the County Durham Spatial Strategy. For these reasons it can be considered a valued landscape as referred to in paragraph 109 of NPPF that should be protected and enhanced.

Of major importance to the character of this piece of land are the trees that largely surround it. There is concern that the northern fringe of the site, between the access road and the northern boundary, still seems to be considered as a proposed residential area. This will not protect and enhance the landscape, and is likely to cause conflict between any houses and the trees to the north. There is also concern that the attenuation storage and its discharge may affect the ancient woodland to the north east of the site, and more detail of what is proposed, and the route of the outflow, is needed. The current views across the site, referred to above, will be destroyed if the site is developed as indicated. The proposed tree planting will obscure the views, while the current rural foreground to the views will be obliterated by roads and houses. The avoidance of the coalescence of Startforth and High Startforth is important in landscape terms. Although the distance between the two is not great their separateness is reinforced by the woodland strip that lies immediately to the north of the site. This proposal would cause complete coalescence.

35. *Design and Conservation:* It is not possible to agree with the conclusions of the heritage statement in regard to the magnitude of impact. The document correctly identifies that there will be no direct impact upon designated assets and that issues of setting are the primary concern. In addition to this the issues of coalescence of historic High and Low Startforth and the loss of local landscape character associated with this are perhaps as important if not more so. Overall it is considered that the scheme will cause less than substantial harm to the setting of a number of designated assets, but without any demonstrable public benefits which outweigh this as defined in the NPPF. The loss of local landscape character and the coalescence and loss of the distinct character of the two villages which is not offset by the proposed site layout and mitigation, further add to the reasons that support cannot be provided for this development.

36. *Ecology:* Note that the Preliminary Ecological Appraisal (E3 Ecology, August 2016), report is in draft form, with recommendations for further survey work. This will need to be undertaken and provided in support of the planning application, prior to determination. The results of the survey work undertaken should help shape the site plan, and will detail the mitigation required, which should be conditioned.

37. *Noise Action Team:* No specific objections but there is potential to cause disturbance to nearby properties during the construction phase and therefore a Construction Management Plan should be submitted in the event of approval.

PUBLIC RESPONSES:

38. The application has been publicised by way of site notice, press notice and neighbour notification letters. Letters of objection from 26 addresses have been received.
39. Full details of concern can be found on the Councils web site, but the main common points of objection are summarised below:

Highways

- Concern over impact of additional traffic in terms of road safety

Landscape and Ecology

- Negative impact on residential amenity and privacy
- Concern over loss of open field which affords important views into Barnard Castle but which is also important in views out of Barnard Castle
- Concern over loss of good quality agricultural land
- Flooding and Pollution concerns in relation to Gill Beck
- Concern over loss of ecology habitat
- Negative impact on setting of listed property at Low Startforth Hall East

Sustainability of Location

- Concern over lack of facilities and amenities within Startforth
- No evidence of need for additional housing in the area because other housing developments have been recently approved
- Concern over capacity of schools in the area given the recent closure of nearby school

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:

40. Durham County Council are currently unable to demonstrate a five-year supply of deliverable housing land. As such, in accordance with paragraph 49 of the NPPF the application should be considered in the context of the presumption in favour of sustainable development. The site lies immediately adjacent to the south-western development limits of Barnard castle and Startforth and as such, the site is sustainably located with regards to access to core services including; shops, schools and employment opportunities within Barnard castle. In addition to providing much needed housing in an area which lacks a five-year housing land supply, the proposal would provide a number of other benefits, including:

- the provision of 15% affordable housing, based on the most up-to-date SHMA, which would contribute to the delivery of objectively assessed affordable housing need within the district and would improve the housing tenure mix of the area;
- onsite public open space and recreation facilities for use by the whole community,
- an indicative layout that illustrates the opening up of more publically available views to Barnard Castle, the Church of St, Mary's and a new view to the Bowes Museum;
- properties would be built to modern building regulations requirements and therefore provide excellent thermal performance through insulation and heating systems, helping to ensure the proposal is contributing towards carbon savings and the move to a low carbon economy;
- The scheme will provide housing in close proximity to services, facilities and employment opportunities. The occupants would shop and live locally, therefore ensuring that local services have a greater catchment population to serve.

- The proposed development would generate employment opportunities in construction and in other sectors linked to the construction market. There would also be ongoing maintenance costs and services required by the occupants which would supplement the local economy.
41. As an outline application, including access, the exact details of the layout and landscaping are for reserved matters. However, an indicative layout has been submitted that illustrates how the site can respond to the important landscape features of the site, including the retention boundary trees and key views, and the separation of Startforth and High Startforth through utilising public open space and additional planting and landscaping. The application is supported by a number of technical assessments, all of which outline the acceptability of the site for residential development. The applicant considers that the proposal comprises sustainable development and that it would not result in any significant adverse impacts that demonstrably outweigh the benefits which arise from the scheme.

PLANNING CONSIDERATIONS AND ASSESSMENT

42. 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, Location, Impact on character and appearance and designated heritage assets, Highway safety, and Ecology.

Principle of development

43. The application site is agricultural land which sits outside of the Barnard Castle and Startforth settlement boundary and as such is within the open countryside where saved policy ENV1 of the Teesdale Local Plan states that development will only be permitted for the purposes of agriculture, farm diversification, forestry or outdoor recreation or if it is related to existing compatible uses. The proposal for residential development is therefore in conflict with Policy ENV1.
44. Nevertheless, because of the age of the Teesdale Local Plan, having regard to paragraph 215 of the NPPF, there are no up to date housing policies for the area and therefore only limited weight can be given to Policy ENV1 in respect of its guidance relating to housing location.
45. To that end, due consideration is to be given to the proposal in the context of the presumption of sustainable development as set out in paragraph 14 of the NPPF. This presumption states that development should be approved unless the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits. This will be considered in the sections below.

Location

46. Some objectors have noted the very limited facilities within Startforth itself, particularly after closure of the school, and the incline involved in walking to access services and facilities available within the centre of Barnard Castle.
47. It is accepted that the quickest footpath links via the unclassified road to the south, the Lendings and associated footpaths and a pedestrian crossing on the river tees is suboptimal and use of this route may not be favoured during for example times of darkness or those of less adventurous spirit. It is noted that while the site is served by a scheduled bus service, this is limited to Monday to Friday daytimes only.

48. However, at the same time the location cannot be considered as remote or isolated. Barnard Castle is a major centre in respect of services, employment and education, and lies just 1-1.5 km to the east if accessed across Barnard Castle Bridge. Bus stops and the services/facilities in Barnard Castle are within walking distance of the site.
49. Accordingly, the proposal does not significantly conflict with paragraph 55 in respect of avoiding isolated housing.

Impact on the character and appearance of the area and designated heritage assets

50. The site is identified in the Teesdale Local Plan as an area of high landscape value (ALV), defined in the County Durham Landscape Character Appraisal as the Dales fringe landscape character area. The landscape strategy for this area is to conserve the character of the landscape and restore it where it has been weakened. This includes aims to maintain and strengthen the rural character of the landscape between towns and villages. Saved Policies GD1 and ENV3 of the Teesdale Local Plan require among other things, that new development does not unreasonably harm the rural landscape of the area and qualities of the ALV. These policies are consistent in this respect with the aims of the NPPF, as one of the core planning principles within paragraph 17 is to recognise the intrinsic character and beauty of the countryside. Paragraph 56 attaches great importance to the design of the built environment and requires that development should contribute positively to making places better for people. Paragraph 109 states valued landscapes should be protected.
51. In addition, although the site does not sit within the Barnard Castle Conservation Area, which terminates on the western banks of the Tees to the east of the development site, it does play a role within its setting due to the sloping topography of the area and views to and from Barnard Castle. There are also a number of nearby Listed buildings bordering the site. Immediately to the north of the site is Grade II Listed Low Startforth Hall. To the south is Grade II Listed Startforth House. To the east is Grade II Listed Holy Trinity Church.
52. As such, the local planning authority must have particular regard to Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Section 66 requires that in considering whether to grant planning permission for development which affects the setting of a listed building the local planning authority shall have special regard to the desirability of preserving its setting. Saved Policies BENV3 and BENV4 of the Teesdale Local Plan relate to development in relation to listed buildings and impact on Conservation Areas respectively, including their setting. These policies are consistent with NPPF Part 12, which seeks to protect heritage assets. Specifically, paragraph 126 states heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. Paragraph 132 gives great weight to the asset's conservation and notes significance can be harmed or lost by development within its setting.
53. The application site lies between the settlements of High and Low Startforth. High Startforth comprises of a small collection of mostly traditionally-built dwellings, along with the former school and Holy Trinity Church, which creates an attractive small rural village character within a landscape setting. Low Startforth on the other hand is predominantly a housing estate with a large proportion of post war housing and is experienced more as an extension of the built up area of Barnard Castle. The mature trees along Gill Beck provide a strong settlement edge to Low Startforth and the application site provides a pleasant open pasture which separates these two very

different settlements, enhancing the rural identity of High Startforth as an independent settlement with its own unique character, and makes a strong positive contribution to the landscape quality and character of the area appropriate to its ALV designation.

54. The mix of open pasture of the application site and adjacent woodland also contributes positively to the setting of Barnard Castle Conservation area and other nearby heritage assets. The views out towards the pastoral and wooded landscape are noted as being important within the most recent Barnard Castle conservation area character appraisal and are therefore important to its significance. There is also a strong intervisibility between the site and the Castle, particularly through the gap in the existing houses to the south. To the north of the site, whilst the setting of Low Startforth Hall primarily relies on the land within its curtilage, the appreciation of open pasture on the application site through filtered views beyond Gill Beck and the southern boundary of its curtilage is a positive contributor to its setting, and thereby its significance, particularly as development has surrounded it to the north over time. Similarly, while the Holy Trinity Church sits within grounds contained by trees, in the winter it does become more visible within an open landscape, which is a positive contributor to its setting, and thereby its significance. Furthermore, rigg and furrow features have been identified on the site, adding to the landscape character and archaeological significance of the site.
55. It is acknowledged that the application is in outline and therefore final details of appearance, landscaping and layout are unknown, but to accommodate the level of development proposed a substantial part of the site would have to be developed leading to irreversible harm to the character of the site. The two vehicular accesses proposed would also necessitate removal of significant sections of stone walls that currently bound the site at the two access points and are strong landscape features.
56. The applicant suggests some open views could be retained through the site and new landscaping within the site could offset any effects of the development on the landscape. However, indicative plans cannot be given any weight and even if some open views could be retained through the site, the change from the rural and open pastoral character of the site to a suburban character would be a fundamental change and erosion of the character of the site and to the experience of views to and from the notable nearby designated heritage assets. Further landscaping to screen and soften the proposal would also serve to reduce the open nature of the site, and overall there would be a coalescence between High and Low Startforth. This coalescence effect would be significantly detrimental to the character of High Startforth, which supports low density development reflective of an open and rural feel, enabling the village to sit comfortably in its own right within the wider open landscape. This important visual connection to the wider landscape would be lost and as a result High Startforth would no longer be seen in the context of the wider landscape. In addition, the removal of the boundary walls to accommodate two vehicular accesses into the site, along with loss of rig and furrow features in the site, would add further to the negative visual and landscape impacts of the proposal.
57. Overall, it is considered that the proposed development would not appear as a comfortable extension to either High or Low Startforth. Instead it would be a significant intrusion of built form into the landscape leading to the loss of the open and attractive qualities of the application site, which separates and makes a positive contribution in that respect to the two distinctly different settlements of High and Low Startforth. This fundamental and harmful change to the character of the site would in turn also have a negative impact on and fail to preserve or enhance the wider setting of the Barnard Castle Conservation Area, Low Startforth Hall and the Holy Trinity Church. As a result, the adverse landscape and visual impacts upon the ALV and designated heritage assets would be significant, albeit the harm in respect to

designated heritage assets would fall within the “less than substantial” category in the terms set out in the NPPF part 12. There are objections from the Design and Conservation, Landscape and Archaeology Sections on the grounds identified.

58. Having regard to the above, it is concluded that the proposal conflicts with Teesdale Local Plan saved policies GD1, ENV3, BENV3 and BENV4, and paragraphs 56, 109 and 132 of the NPPF.

Highway safety

59. Two vehicular accesses are proposed to the site, one from the C164 to the west of the application site, known as Boldron Lane and another from an unclassified road to the south.
60. While noting that the westernmost access is not without its shortcomings, the Highway Authority’s principle objections are in relation to the southern access point onto the unclassified road, which runs through High Startforth. The Highway Authority has advised that a vehicular access from the southern boundary of the site onto the unclassified road is not favoured because it would lead to intensified use of a substandard junction with the B6277 to the west, where visibility of and for northbound B6277 Church Bank traffic is very poor due to the acute angle of the junction, severe bend and rising land, which almost completely obscures the view of downhill traffic. They also advise that the carriageway width leading up to the junction is a substandard width for two way traffic where the adopted footway terminates due to the narrow width of the carriageway. While the applicant suggests this access will not serve the whole development there is no guarantee of that in the absence of detailed plans.
61. Having regard to the above, it is considered that the development would lead to intensification in vehicular traffic use of a substandard carriageway and junction with the B6277. This would be likely to increase the risk of accidents for all highway users, resulting in a significant adverse effect on highway safety. Thus, the proposal would conflict with Teesdale Local Plan Policy GD1 and NPPF paragraph 32 in respect of ensuring that developments that generate additional traffic can achieve safe and suitable access to the site by all people.

Ecology

62. The presence of protected species is a material planning consideration. The requirements of the Habitats Directive were brought into effect by the Conservation of Habitats and Species Regulations 2010 (The Regulations). Regulation 9 states that the competent authority “must exercise their functions which are relevant to nature conservation...so as to secure compliance with the requirements of the Directives” and “without prejudice to the preceding provisions, a competent authority, in exercising any of their functions, must have regard to the requirements of the Directive so far as they may be affected by the exercise of those functions”. It is incumbent on the planning authority to consider whether there is a reasonable likelihood of protected species being present and affected by the development. This is reflected in Teesdale Local Plan Policy ENV8 and NPPF Part 11.
63. A preliminary ecological appraisal has been supplied with the application. It indicates that while the recently grazed semi-improved grassland on the site is of limited value, there are potential opportunities for roosting bats in the trees within and surrounding the site and the boundaries are likely to be used by foraging and commuting bats roosting locally. Among other things the site and adjacent woodland and watercourse were also considered to be suitable foraging and commuting habitat for badgers and

otters, with records of such species having been recorded within 2km of the site. Accordingly, the report recognises that the development has potential to impact on protected species. However, the report advises that a detailed ecological impact assessment and the design of required mitigation cannot be fully completed until further work including Bat transect surveys, further tree assessment in relation to bats and a watercourse survey of Gill Beck has been completed. It is noted that the report is also in draft form.

64. In the absence of the further surveys and their findings, it is not possible to determine whether the application would have a material adverse effect on any protected species. The planning authority cannot therefore be satisfied the Regulations won't be breached and cannot establish if any works may be licensed by Natural England, as it is required to do under the derogation tests of the Habitats Regulations. The proposal therefore also fails to demonstrate compliance with Teesdale Local Plan Policy ENV8 and the aims of NPPF Part 11.

Other matters

65. In line with Policy H14 of the Teesdale Local Plan and the advice of the Council's Housing Section a minimum of 15% Affordable Housing would be required on the site to be split (75% - 25%) between affordable rent and affordable home ownership. This is in accordance with the aims of NPPF paragraph 50 to deliver a wide choice of homes and widen opportunities for home ownership to create sustainable, inclusive and mixed communities. The applicant has supplied a heads of terms agreement which states they are willing to make this provision on site through a Section 106 agreement.

66. In addition Policy H1A seeks the provision of open space within developments of 10 or more dwellings. This is in accordance with the aims of NPPF Part 8, which recognises the important role planning can play in facilitating social interaction and creating healthy communities through delivery of social and recreational facilities. The nearest equipped play area is within Low Startforth. The applicant proposes that the S106 agreement includes an obligation for either a specified on-site open space provision, or a financial contribution to be made towards improvements of facilities in the immediate locality in lieu of on-site provision. The Council's preference would however be on-site provision to serve the needs of the development and accord with the requirements of Regulation 122 of the Community Infrastructure Levy Regulations, 2010. The alternative would be contributions towards maintenance/improvements to the play area in Low Startforth, but that facility would be more than 500m away for most residents in the site.

67. However, although the applicant's intention to enter into such agreements has been made clear, there is currently no S106 to secure this, and having regard to the Planning Practice Guidance (PPG) which states that a condition requiring that a planning obligation be entered into should only be used in exceptional circumstances in the case of more complex and strategically important development which would otherwise be at serious risk, the use of a condition would not be appropriate in this case.

68. Accordingly, in the absence of an appropriate Agreement or Undertaking the intention to provide affordable housing and open space provision/contributions cannot be given any weight and it cannot be said the proposal makes adequate provision for affordable housing or open space provision to comply with Teesdale Local Plan Policies H1A and H14 and NPPF paragraphs 50 and 73.

CONCLUSION

69. Because of the age of the Teesdale Local Plan the housing policies for the area cannot be considered as up to date. To that end, the proposal must be considered in the context of the presumption of sustainable development as set out in paragraph 14 of the NPPF. This presumption states that development should be approved unless the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF as a whole. In addition, given that less than substantial harm to designated heritage assets has been identified, it is required in the terms of NPPF paragraph 134, that this harm should be weighed against the public benefits of the proposal.
70. In its favour, the development would make a contribution to housing supply and provide some support to local services. Investment in construction and related employment for its duration would also represent a benefit. In this respect it would deliver socio-economic benefits to the public that can be given some weight. However, given most of the local services the development would help to support are in Barnard Castle, those services would not be under threat in the absence of the development and therefore the impact of the development in that respect would be very modest. The intentions to provide affordable housing and open space provision/contributions are noted, but in the absence of an appropriate Agreement or Undertaking those intentions cannot be given any weight.
71. On the other hand it has been concluded that the development would have significant harmful effects on the character and appearance of the area, the setting of designated heritage assets and highway safety. There is also insufficient information to determine whether the development would have a material adverse effect on any protected species. There is conflict with Teesdale Local Plan Policies GD1, ENV3, BENV3, BENV4 and ENV8 in these respects. The environmental dimension of sustainable development would therefore not be achieved and being particularly mindful of the statutory duties imposed by Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, the Conservation of Habitats and Species Regulations 2010, and the stipulation in paragraph 132 of the NPPF that great weight should be given to the conservation of designated heritage assets, the objections in these respects are particularly strong and weigh heavily against the proposal.
72. The Council's current position in respect of five year housing supply does not automatically lead to a grant of planning permission. In this case the adverse impacts of the proposal are considered to significantly and demonstrably outweigh the benefits when assessed against the policies of the NPPF taken as a whole. It is therefore concluded that the proposal would not constitute sustainable development.

RECOMMENDATION

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

1. The development would have a significant harmful effect on the character and appearance of the area and setting of designated heritage assets by reason of its intrusion into and urbanisation of an area of attractive open pasture, which is considered important to the rural character and landscape setting of High Startforth, as well as to the setting and thereby significance of the Barnard Castle Conservation Area and the Grade II Listed Low Startforth Hall and Holy Trinity Church. This is contrary to Teesdale Local Plan Policies

GD1 (B & I), ENV3, BENV3 and BENV4 as well as paragraphs 56, 109 and 132 of the NPPF.

2. The proposed vehicular access onto the unclassified road through High Startforth would lead to intensification in vehicular traffic use of a substandard carriageway and junction with the B6277. This would be likely to increase the risk of accidents for all highway users, resulting in a significant adverse effect on highway safety. Thus, the proposal would conflict with Teesdale Local Plan Policy GD1(Q) and NPPF paragraph 32 in respect of adequate and safe access.

3. There is insufficient information submitted with the application to enable the local planning authority to determine whether the application would have a material adverse effect on any protected species. The proposal therefore also fails to demonstrate compliance with Teesdale Local Plan Policy ENV8 and the aims of NPPF Part 11.

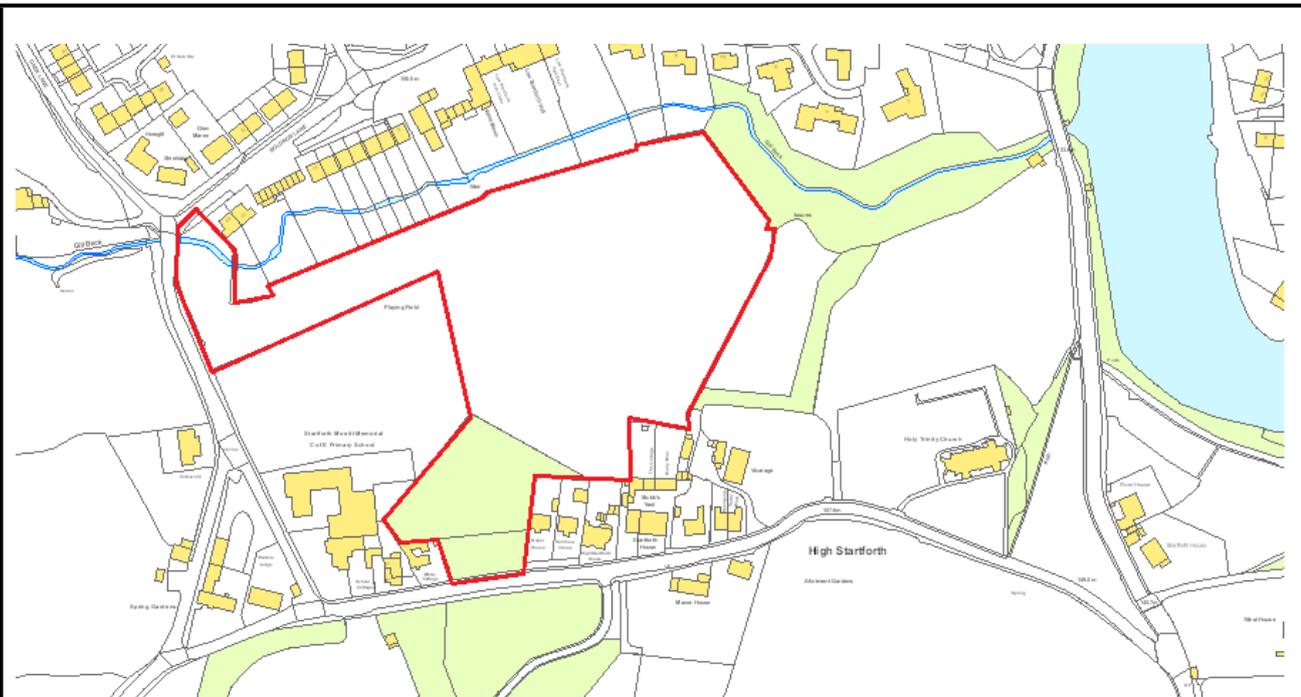
4. In the absence of an appropriate Agreement or Undertaking to provide affordable housing and open space provision/contributions it cannot be said the proposal makes adequate provision for affordable housing or open space provision to comply with Teesdale Local Plan Policies H1A and H14 and NPPF paragraphs 50 and 73.

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. The applicant was advised of the outcome prior to the decision.

BACKGROUND PAPERS

Submitted application form, plans supporting documents
The National Planning Policy Framework (2012)
National Planning Practice Guidance Notes
Teesdale Local Plan saved policies
The County Durham Plan (Submission Draft)
County Durham Landscape Strategy
County Durham Open Space Needs Assessment
All consultation responses received



Planning Services

Outline application with all matters reserved except access for 40 residential dwellings

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23rd March 2017