

# COMMITTEE REPORT

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### APPLICATION DETAILS

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APPLICATION NO:	DM/17/00463/FPA
FULL APPLICATION DESCRIPTION:	Demolition of existing outbuildings and erection of 1no. dwelling (revised scheme to refusal DM/15/03005/FPA)
NAME OF APPLICANT:	Ms Josie Bell
ADDRESS:	Land To The East Of Cobweb Cottage Loop Lane Butterknowle DL13 5JY
ELECTORAL DIVISION:	Evenwood
CASE OFFICER:	Tim Burnham Senior Planning Officer 03000 263963 <a href="mailto:tim.burnham@durham.gov.uk">tim.burnham@durham.gov.uk</a>

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### DESCRIPTION OF THE SITE AND PROPOSALS

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1. Cobweb Cottage lies in the countryside beyond the built up limits of Butterknowle. It comprises of a detached two storey dwelling with a range of adjacent outbuildings fronting directly onto Loop Lane. There is a sporadic scattering of properties and farms along this lane as it heads north from the western edge of Butterknowle.
2. The application is a revised scheme for the erection of a dwelling following refusal of application DM/15/03005/FPA and the subsequent appeal which was dismissed in August 2016. The scheme dismissed at appeal sought to locate the dwelling on the hard standing area adjacent to the roadside outbuildings. This revised scheme seeks to construct the dwelling on the site of the roadside outbuildings through their demolition. As before, the dwelling would be a single storey larch clad building, but some changes have been made to its design.
3. The application is reported to the Planning Committee at the request of Cllr Smith who supports the proposal.

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### PLANNING HISTORY

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4. DM/15/03005/FPA Erection of 1no. dwelling – refused 19 January 2016 for the following reason:

*“The application site sits within the countryside in a position clearly separate and distinct from the built up area of Butterknowle and would lead to an isolated form of development where occupiers of the dwelling would have a reliance on private car travel. The proposal therefore conflicts with NPPF paragraphs 14-17, 34-38 and 55 and does not represent a sustainable form of development.”*

5. The appeal against the above refusal was dismissed 15 August 2016 with the Inspector upholding the refusal reason and concluding:

“..the proposal would be in direct conflict with the requirements of the Framework on the basis of being in an unsustainable location.”

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

6. 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.
7. *NPPF Part 4 – Promoting sustainable Transport.* Plans and decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised.
8. *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. 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.
9. *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.
10. *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:**

11. 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.
12. *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.
13. *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.
14. *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.

*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**

15. 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.

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

16. *Highway Authority:* No objections subject to the imposition of conditions requiring appropriate visibility splays to be provided and maintained and requiring the closure of redundant vehicular access.
17. *Coal Authority:* Object to the application as the site lies within the High Risk Area and no Coal Mining Risk Assessment has been submitted.

### **INTERNAL CONSULTEE RESPONSES:**

18. *Landscape Section*: No objection.

19. *Environmental Health (Noise)*: No objection.

20. *Ecology*: No objection to the principle of the proposal. The demolition of the existing outbuildings may impact on breeding birds it is therefore recommended that an informative be added should planning approval be granted.

21. *Contaminated Land*: No objection, but contaminated land condition required.

#### **PUBLIC RESPONSES:**

22. The application has been publicised by way of press notice, site notice and neighbour notification letters. 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:**

23. The Applicant was born in Butterknowle & has grown up in the area, she is qualifying to be a teacher & is applying for jobs locally. She & her sister inherited the family house & land but she will be unable to buy out her sister's share of the property on a teacher's salary. The sisters wish to sell the house & half of the land & the Applicant use her share of the sale to self-build a new low-energy house, she will use the remaining land to live in as environmentally-friendly way as possible.

24. Following the rejection of the previous Application the design of the house has been changed & is now to be located on land currently occupied by outbuildings adjacent to the existing property, it will form a cluster with the existing house & the extensive property across the road. Despite having received no objections the previous application was rejected because the residents of the proposed new house were deemed to be dependent on the use of the private vehicle. However, there is a serious inconsistency in that new houses within Butterknowle village itself are expected to have car-parking spaces but do receive Planning Approval. The very particular circumstances of this Application should mean that it will not create a precedent for developments elsewhere.

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### **PLANNING CONSIDERATIONS AND ASSESSMENT**

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25. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004, relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issue is whether the proposed development would provide a suitable site for housing, having regards to the location of the site in relation to services and facilities.

26. The site is in a rural location outside of the settlement boundary of Butterknowle 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.

27. However, 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.
28. 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, or specific policies in the NPPF indicate that development should be restricted.
29. Paragraph 55 of the NPPF seeks to promote sustainable development in rural areas and indicates that housing should be located where it will enhance, or maintain, the vitality of rural communities. However, isolated homes in the countryside should be avoided unless there are special circumstances.
30. The site arrangement and design of the proposed dwelling have been altered from the previous application, but these were not matters which led to refusal and subsequent dismissal of the appeal, and once again, they do not raise any issues of concern in respect of impact on the appearance of the area and highway safety.
31. It is noted that as a result of changes to the scheme the proposed dwelling would now replace the roadside outbuildings on the site, but the dismissed appeal scheme was also on previously developed land immediately to the side of these buildings and therefore the proposed scheme is not different in that respect, nor does this change the situation with regards to the location of dwelling in relation to services and facilities, which is what the appeal was dismissed for.
32. The appeal decision is an important material consideration, particularly when it is so recent, and is therefore included as an appendix to this report. In the appeal decision the Inspector considered that although the site was within a small cluster of existing dwellings it did not form an integral part of South Side, as was being suggested by the applicant and representations made during the appeal from Cllr Smith. The Inspector also considered that despite the site lying around 100m from the village edge, the heart of the village is considerably further away, and even though it could be reached by walking, it has only basic services. Occupiers of the proposed dwelling would have to rely heavily on the private motor vehicle to access facilities and services of other larger settlements to meet their daily living needs and therefore the site is isolated in the context of NPPF paragraph 55, which states that new isolated homes in the countryside should be avoided unless there are special circumstances.
33. The applicant's personal circumstances, the low energy design of the dwelling and desire to live in a sustainable manner, as well as the reference to the approved housing scheme at West View Butterknowle (which is within the village envelope and a continuation of the established settlement pattern) were all matters presented to the Inspector by the applicant and Cllr Smith during the appeal and are not therefore new considerations. The Inspector did not regard them as special circumstances that would justify an exception to the principle set out in NPPF paragraph 55, and in the overall planning balance, considered that benefits of the proposal in respect of contribution to the local economy and local services would be very limited and would not outweigh the harm of development in an unsustainable location and the significant conflict with the NPPF.

34. Having regard to the above, notwithstanding changes to the siting of the dwelling within the site, the location of the dwelling in relation to services and facilities has not changed and there has been no change to circumstances, planning policy, or the limited benefits of the proposal since the appeal decision to justify reaching a different conclusion on the current application. It should be noted that recent appeals in Stanhope (DM/16/01460/FPA) and Gainford (DM/15/03195/FPA), which were both for single self build dwellings similarly outside but close to the edge of the settlement in the respective villages, have also been dismissed on a similar basis of conflict with NPPF paragraph 55 and are therefore also material considerations.

#### Other Issues

35. The Coal Authority has objected to the development as the site falls within the Coal Authority High Risk Area and a coal mining risk assessment has not been submitted. It is a requirement of the NPPF, paragraphs 120-121, that the applicant demonstrates the application site is safe, stable and suitable for development. The Coal Authority records indicate that within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application, specifically likely historic unrecorded underground coal mine workings at shallow depth.

36. The application briefly suggests the dwelling would be supported on isolated pad foundations requiring minimal ground disturbance and that the flexible nature of the frame would avoid cracking associated with conventional masonry construction. It is not however clear if this would be sufficient to ensure the safety of the development, as this design has not been informed by any detailed investigation or risk assessment.

37. Further information has not been sought on this matter because the proposal is considered fundamentally unacceptable in principle for other reasons, as set out above, and would have led to further costs being needlessly incurred by the applicant. However, if Members are minded to approve this application it is recommended that a decision is not made until further information has been received as the National Planning Practice Guide in section 45 makes it clear that planning applications in the High Risk area must be accompanied by a Coal Mining Risk Assessment to properly assess any risks to the development by past coal mining activity.

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## **CONCLUSION**

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38. In the absence of any up to date local housing policies the proposal must be considered in the context of the presumption of sustainable development as set out in paragraph 14 of the NPPF.

39. The application is a resubmission of a scheme that was recently refused and dismissed at appeal for being in direct conflict with the requirements of the NPPF on the basis of being in an unsustainable location. Notwithstanding changes made to the design and siting of the dwelling within the site, the proposal remains an isolated form of development, which the NPPF in paragraph 55 seeks to avoid. There has been no change in planning policy since the appeal decision to justify reaching a different conclusion on the current application. The harm identified significantly and demonstrably outweighs the minor benefits of the proposal when assessed against the policies in the NPPF taken as a whole. It is therefore concluded that the proposal would not constitute sustainable development.

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## **RECOMMENDATION**

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

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1. The proposed dwelling, by reason of being in an unsustainable location, would result in an isolated form of development in direct conflict with NPPF paragraphs 34 and 55.
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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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40. 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.

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## **BACKGROUND PAPERS**

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Submitted application form, plans supporting documents

The National Planning Policy Framework (2012)

National Planning Practice Guidance

Teesdale Local Plan

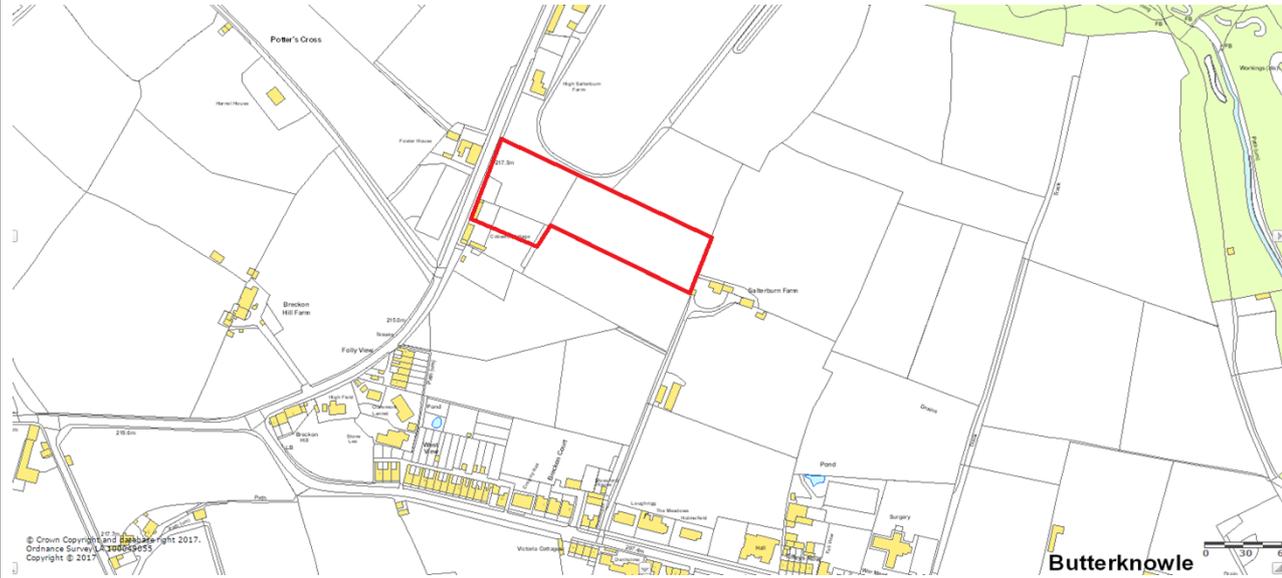
The County Durham Plan (Submission Draft)

All consultation responses received

Appeal decision APP/X1355/W/16/3148943 Cobweb Cottage, South Side Butterknowle (planning ref DM/15/03005/FPA)

Appeal decision APP/X1355/W/16/3144486 Land to the West of Forcett Cottages, Gainford (planning ref DM/15/03195/FPA)

Appeal decision APP/X1355/W/16/3162927 Crawley Edge, Stanhope (planning ref DM/16/01460/FPA)



**Planning Services**

Erection of 1no. dwelling with  
demolition of existing outbuildings

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