

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/17/00925/OUT
FULL APPLICATION DESCRIPTION:	Outline application for 23no. bungalows for the over 55's
NAME OF APPLICANT:	Brett Bros Developments
ADDRESS:	Land To The East Of, Aldridge Court, Ushaw Moor
ELECTORAL DIVISION:	Deerness
CASE OFFICER:	Chris Baxter Senior Planning Officer 03000 263944 chris.baxter@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site relates to an open parcel of land to the east of Aldridge Court in Ushaw Moor. To the north of the site is the Sir Bobby Robson Sports Centre. The residential properties of Middlewood and Aldridge Court are located to the west, with properties on Ash Avenue to the south. Broom Hall Farm is also located to the south of the site. A public right of way borders the site along the east with open fields situated beyond. The application site is also located with the Durham City Green Belt.

The Proposal

2. Outline planning permission with all matters reserved (except access) is sought for the construction of 23no. bungalows for people aged 55 years of age and older. Access is to be taken direct from Middlewood in front of properties 9, 10 and 11 Middlewood. An illustrative layout plan has been submitted with the application indicating that properties would be located around a central estate road.
3. The application is reported to the Planning Committee as it constitutes a major development.

PLANNING HISTORY

4. Planning permission (ref: 4/10/00184/FPA) was refused on this site in June 2010 for the change of use of the land for the keeping of horses including erection of stables, siting of storage containers and formation of hard standings. This application was refused primarily due to the harmful impact the development would have on the Durham City Green Belt.

5. In July 2014, the Central East Planning Committee refused planning permission on the site for residential accommodation for over 55's and a care home facility. Planning permission was refused due to the harmful impacts the development would have on the Green Belt and open countryside. This refusal decision was appealed to the Planning Inspectorate. On 7th July 2015, a Planning Inspector dismissed the appeal concluding that the proposal would be inappropriate development in the Green Belt.

PLANNING POLICY

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), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.
7. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve 'core planning principles'.
8. The following elements are considered relevant to this proposal;
9. *NPPF Part 1 – Building a Strong and Competitive Economy.* The Government attaches significant weight on the need to support economic growth through the planning system. Local Planning Authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century.
10. *NPPF Part 4 – Promoting Sustainable Transport.* Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
11. *NPPF Part 6 – Delivering a Wide Choice of High Quality Homes.* The Government advises Local Planning Authority's to deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities.
12. *NPPF Part 7 – Requiring Good Design.* The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
13. *NPPF Part 8 – Promoting Healthy Communities.* The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
14. *NPPF Part 9 – Protecting Green Belt Land.* The Government attaches great importance to Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.

15. *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 the NPPF considered most relevant the full text may be accessed at:

<http://www.communities.gov.uk/publications/planningandbuilding/nppf>

LOCAL PLAN POLICY:

City of Durham Local Plan

16. *Policy E1 (Durham City Green Belt)* states that within the Green Belt the construction of new buildings is inappropriate and will not be permitted unless it is for purposes relating to agriculture or forestry; essential sport and recreation facilities or cemeteries; replacement of an existing dwelling, re-use or conversion of an existing building; and limited extensions to existing dwellings.
17. *Policy E7 (Development in the Countryside – Development Outside Settlement Boundaries)* aims to protect the countryside as an important resource.
18. *Policy E14 (Trees and Hedgerows)* sets out the Council's requirements for considering proposals which would affect trees and hedgerows. Development proposals will be required to retain areas of woodland, important groups of trees, copses and individual trees and hedgerows wherever possible and to replace trees and hedgerows of value which are lost. Full tree surveys are required to accompany applications when development may affect trees inside or outside the application site.
19. *Policy E15 (Provision of New Trees and Hedgerows)* states that the Council will encourage tree and hedgerow planting.
20. *Policy E16 (Protection and Promotion of Nature Conservation)* is aimed at protecting and enhancing the nature conservation assets of the district. Development proposals outside specifically protected sites will be required to identify any significant nature conservation interests that may exist on or adjacent to the site by submitting surveys of wildlife habitats, protected species and features of ecological, geological and geomorphological interest. Unacceptable harm to nature conservation interests will be avoided, and mitigation measures to minimise adverse impacts upon nature conservation interests should be identified.
21. *Policy H5 (New Housing in the Countryside)* states that new housing development will only be acceptable if it is required for occupation by persons employed solely or mainly in agriculture or forestry.
22. *Policy H13 (Residential Areas – Impact upon Character and Amenity)* states that planning permission will not be granted for new development or changes of use which have a significant adverse effect on the character or appearance of residential areas, or the amenities of residents within them.

23. *Policy T1 (Traffic – General)* states that the Council will not grant planning permission for development that would generate traffic likely to be detrimental to highway safety and / or have a significant effect on the amenity of occupiers of neighbouring property.
24. *Policy T10 (Parking – General Provision)* states that vehicle parking should be limited in amount, so as to promote sustainable transport choices and reduce the land-take of development.
25. *Policy Q15 (Art in Design)* states that the Council will encourage the provision of artistic elements in the design and layout of proposed developments. Due regard will be made in determining applications to the contribution they make to the appearance of the proposal and the amenities of the area
26. *Policy R2 (Provision of Open Space – New Residential Development)* states that in new residential development of 10 or more units, open space will be required to be provided within or adjacent to the development in accordance with the Council's standards. Where there is an identified deficiency and it is considered appropriate, the Council will seek to enter into a planning agreement with developers to facilitate the provision of new or improved equipped play areas and recreational/leisure facilities to serve the development in accordance with Policy Q8.
27. *Policy T21 (Safeguarding the Needs of Walkers)* states that the Council will seek to safeguard the needs of walkers by ensuring that: existing footpaths and public rights of way are protected; a safe, attractive and convenient footpath network is established throughout the City; that the footpath network takes the most direct route possible between destinations; and the footpath network is appropriately signed. Wherever possible, footpaths should be capable of use by people with disabilities, the elderly and those with young children. Development which directly affects a public right of way will only be considered acceptable if an equivalent alternative route is provided by the developer before work on site commences.
28. Policies Q1 and Q2 (General Principles Designing for People and Accessibility) states that the layout and design of all new development should take into account the requirements of all users.
29. Policy Q3 (External Parking Areas) requires all external parking areas to be adequately landscaped, surfaced, demarcated, lit and signed. Large surface car parks should be subdivided into small units. Large exposed area of surface, street and rooftop parking are not considered appropriate.
30. Policy Q5 (Landscaping General Provision) sets out that any development which has an impact on the visual amenity of an area will be required to incorporate a high standard of landscaping.
31. Policy Q8 (Layout and Design – Residential Development) sets out the Council's standards for the layout of new residential development. Amongst other things, new dwellings must be appropriate in scale, form, density and materials to the character of their surroundings. The impact on the occupants of existing nearby properties should be minimised.
32. *Policy U5 (Pollution Prevention)* states that development that may generate pollution will not be permitted where it would have unacceptable impacts upon the local environment, amenity of adjoining land and property or cause a constraint the development of neighbouring land.

33. *Policy U8a (Disposal of Foul and Surface Water)* requires developments to provide satisfactory arrangements for disposing foul and surface water discharges. Where satisfactory arrangements are not available, then proposals may be approved subject to the submission of a satisfactory scheme and its implementation before the development is brought into use.
34. *Policy U11 (Development on Contaminated Land)* sets out the criteria against which schemes for the redevelopment of sites which are known or suspected to be contaminated. Before development takes place it is important that the nature and extent of contamination should be fully understood.
35. *Policy U13 (Development on Unstable Land)* will only be permitted if it is proved there is no risk to the development or its intended occupiers, or users from such instability, or that satisfactory remedial measures can be undertaken.
36. *Policy U14 (Energy Conservation – General)* states that the energy efficient materials and construction techniques will be encouraged.

EMERGING POLICY:

County Durham Plan

37. 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 (CDP) was submitted for Examination in Public and a stage 1 Examination concluded. An Interim Report was issued by an Inspector dated 18 February 2015, however that Report was quashed by the High Court following a successful Judicial Review challenge by the Council. In accordance with the High Court Order, the Council has withdrawn the CDP and a new plan being prepared. In the light of this, policies of the CDP can no longer carry any weight. As the new plan progresses through the stages of preparation it will begin to accrue weight.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

38. *Environment Agency* has not raised any objections to the proposed development.
39. *Durham County Highways Authority* has indicated that a dimensioned engineering layout drawing showing that suitable access and safe servicing arrangements can be achieved before support is offered to the scheme.
40. *The Coal Authority* has not raised any objections subject to further investigation works being undertaken.
41. *Drainage Section* have indicated that there is insufficient information with regards to surface water management and SuDs design.

NON STATUTORY RESPONSES:

42. *Police Architectural Liaison Officer* has not raised any objections however the footpath to the east of the site is a concern as footpaths to the rear of houses can generate crime.
43. *Northumbrian Water* have not raised any objection but has requested that a condition is imposed for details of foul and surface water drainage to be submitted prior to works commencing.
44. *Public Rights of Way Section* has not raised any objections but has indicated that the proposal should contribute to the enhancement of surrounding public rights of ways.
45. *Tree Section* has not raised any objections to the proposed scheme.
46. *Landscape Section* has indicated that the proposals would have some adverse landscape and visual effects.
47. *Design and Conservation* has indicated that there are no heritage impacts or objections from a design perspective however there does appear to be harm to the open countryside and Green Belt.
48. *Environmental Management (Noise/Odour)* has indicated that to the south east of the proposed development site is an equestrian site with both stables and training yards, and therefore there is the potential that noise/odour arising from this use may impact on the proposed development.
49. *Environmental Management (Contamination)* has not raised any objections but has indicated that further investigation works shall be undertaken prior to development commencing.
50. *Archaeology Section* has not raised any objections to the scheme.
51. *Ecology Section* has indicated that there are no major ecological issues however no mitigation has been provided for habitat loss.
52. *Spatial Planning Policy Section* has indicated that the proposed development would be regarded as inappropriate development under policy E1 of the local plan relating to development in the Green Belt.

PUBLIC RESPONSES:

53. The application has been advertised in the local press and a site notice was posted. Neighbouring residents have also been notified in writing. One letter of objection has been received from a local resident. This letter indicates that the applicants for this proposal have previously built development at Middlewood which was specifically for over 55's however some of these properties are now occupied by residents below the age of 55. There are concerns over increase in traffic and the impact this has on the surrounding road network. It is also questioned if there is a need for further housing when there are vacant properties in the immediate area.

PLANNING CONSIDERATIONS AND ASSESSMENT

54. 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 residential development of the site; 5 year land supply; access issues; residential amenity; and impacts on surrounding area.

Principle of residential development

55. The application site is located within the Durham City Green Belt. The fundamental aim of the Green Belt is to prevent urban sprawl by keeping land permanently open.

56. Local plan policy E1 (Green Belt) clearly states that the construction of new buildings within the Green Belt is inappropriate and will not be permitted. There are some exceptions which do allow development in the Green Belt and these relate to agriculture or forestry; outdoor sport and recreation; limited infilling; replacement of an existing building; re-use or conversion of an existing building; or limited extensions to existing dwellings. The proposed development for residential accommodation for 55's and over does not fall within the exception criteria and therefore the proposals are clearly contrary to policy E1 of the local plan and represent inappropriate development, as defined by paragraph 89 of the NPPF.

57. The NPPF further states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The NPPF also advises that substantial weight should be given to greenbelt harm and that very special circumstances will not exist unless the potential harm to the greenbelt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. Very special circumstances has not been demonstrated in this application and the application is therefore considered contrary to paragraph 88 of the NPPF.

58. It is noted that applications for development on this land have been refused in the past. Most recently in July 2014, the Central East Planning Committee refused planning permission on the site for residential accommodation for over 55's and a care home facility. Planning permission was refused due to the harmful impacts the development would have on the Green Belt and open countryside. This refusal decision was appealed to the Planning Inspectorate. In July 2015, a Planning Inspector dismissed the appeal. The Planning Inspector concluded that:

59. *'the proposal would be inappropriate development in the Green Belt and the Framework establishes that substantial weight be given to the harm by reason of inappropriateness. There would be a severe loss of openness, a factor to which I afford significant weight. There would also be harm to the character and appearance of the area, another factor to which I afford significant weight.'*

60. *'I note that the proposal can be accessed, that it would provide for new housing for older people and that there is a commitment to developing the site in a sustainable manner. There would also be some immediate and longer term economic benefits. However, these are not factors which, together, clearly outweigh the totality of the harm arising – which is the test which has to be met. Consequently, very special circumstances do not exist.'*

61. It is accepted that the application site is located within a sustainable location within walking distance to shops, services and public facilities. The sustainable location of the site does not however outweigh the significant harm that the development would have on the openness of the Durham City Green Belt.

5 year land supply

62. Durham County Council is unable to demonstrate a 5 year supply of deliverable housing land as Objectively Assessed Need (OAN) for housing is yet to be fully tested. The council is to consult on preferred options for the County Durham Plan shortly and this may give rise to a change in this stance.

63. The current position therefore is that as of August 2016, Durham County Council has a deliverable supply of 9,527 dwellings. The Issues and Options Local Plan presented for consultation three scenarios for future housing growth that were subject to consultation and will be tested as part of establishing the OAN for County Durham. The supply of housing can be considered against these three scenarios as follows:

Scenario	Dwellings per annum	Years supply against
Population Growth Short Term	1,533	4.65
Population Growth Combination	1,629	4.31
Population Growth Long Term	1,717	4.04

64. As the Council is currently unable to demonstrate a 5-year housing land supply against full Objectively Assessed Needs (OAN) for housing, paragraph 49 of the NPPF is relevant and policies for the supply of housing should not be considered up-to-date. As such, the weight to be applied to the residential framework is reduced. In this circumstance paragraph 14 is engaged and this sets out an overarching position that where the development plan policies are out-of-date (or not up-to-date in respect of paragraph 49), planning permission should be granted unless, via a two limbed approach: firstly, any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole; or, secondly specific policies in the NPPF indicate development should be restricted.

65. In the context of this proposal this certainly renders Saved Policy H2 'out of date'. The implication of this is that limited weight should be attributed to this policy and the proposal should be determined in accordance with the two limbed test set out in Paragraph 14 of NPPF.

66. The main purpose of the Framework is to achieve sustainable development. This includes the provision of housing, the need to move towards a low carbon economy and the need to protect and enhance the natural environment. In providing housing a key theme of the NPPF is to seek to boost significantly the supply of housing and expects LPAs to help deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities (including meeting the needs of people who wish to build their own homes) (Paragraphs 47 – 55 of NPPF).

67. It has already been established that the Council does not have a five year supply of housing land. In the context of paragraph 14, any adverse impacts of the proposal must therefore significantly and demonstrably outweigh the benefits if it is to be refused on the basis of the sustainability of its location. It is considered that the harm and adverse impacts of developing within the Green Belt would significantly and demonstrably outweigh the benefits in this instance and refusal of the application is considered justified.

Access issues

68. Although this is an outline application, means of access has been requested to be determined as part of the application. The County Highways Manager has assessed the proposed development and has raised some concerns with regards to the proposed access. The proposed access appears to cross over private driveways of 9, 10 and 11 Middlewood, however it is understood that the applicant holds title to this land and not the residents, therefore a suitable vehicular access with acceptable pedestrians links could be constructed.
69. The Highways Manager has indicated that the proposed site plan shows a carriageway with a footway on one side within the red line boundary of the development. The interface between the proposed carriageway 4.8m wide and existing carriageway 6.4m wide would result in a step down in carriageway width and an unacceptable alignment of the new footway. It appears that vehicles proceeding on Aldridge Court would be met with a footway stepping out from the carriageway alignment, which is unacceptable. The proposed means of access submitted on the plans is therefore considered unacceptable.

Residential amenity

70. The application is made in outline therefore the layout and positioning of the properties would be reserved for future consideration. An illustrative layout plan has been submitted with the application which does indicate that 23no. bungalows can be positioned on the site. Adequate separation distances are achieved between the proposed properties and existing neighbouring properties. It is considered that a suitable development could be achieved which would not compromise residential amenity.

Impacts on surrounding area

71. The Council Drainage Team has been consulted on the proposals and they have indicated that insufficient information has been submitted with regards to surface water management and sustainable drainage scheme (SuDS) design. It is therefore difficult to fully assess the impacts the development will have in terms of drainage on the site and adjoining land.
72. The Environmental Health Officer dealing with noise and odour has identified that there is an equestrian site with both stables and training yards to the south east of the development site. There is the potential that noise and odour arising from this equestrian use may impact on the proposed development. Further noise and odour assessments are required to ensure that the proposed properties are not adversely affected in terms of noise or odour. The Environmental Health Officer dealing with contamination has not raised any objections but has requested that a further contamination report is submitted prior to works commencing on site.
73. There is a public right of way which runs along the east boundary of the site. The County Public Rights of Way Team have not raised any objections to the proposed development as the right of way would be located outside the development site.
74. The Council's Ecology Officer has not raised any major concerns in relation to ecological issues however it is noted that there has been no mitigation provided for loss of habitat. The Council's Archaeology and Tree Officers have not raised any objections to the proposed development.

75. The Council's Landscape Officer has raised concerns stating that the proposed development would have adverse landscape and visual impacts. The Council's Planning Policy Spatial Team has also indicated that the proposed development would be regarded as inappropriate development under policy E1 of the local plan relating to development in the Green Belt.
76. The Coal Authority, Northumbrian Water, Environment Agency and the Police Architectural Liaison Officer have not raised any major objections to the proposed development.

CONCLUSION

77. National and local planning policy clearly states that this type of development in Green Belts is inappropriate. There are no considerations which clearly outweigh the greenbelt harm by reason of inappropriateness and other harm identified such as to amount to very special circumstances. Accordingly, the proposed development is unacceptable in principle and would be contrary to policy E1 of the local plan and part 9 of the NPPF.
78. The site is located within a sustainable location close to shops, service and public facilities. It is also accepted that Council does not have a five year supply of housing land. The harm and adverse impacts of developing within the Green Belt however would significantly and demonstrably outweigh the benefits in this instance and refusal of the application is considered justified.
79. Durham County Highways Manager have raised concerns with the proposed access, indicating that insufficient details have been submitted to ensure that an acceptable access road can be achieved. The proposed development would have an unacceptable access arrangement and would be contrary to policy T1 of the local plan.
80. The Council's Environmental Management Team in respect of noise and odour has raised some concerns in relation to the proximity of a nearby equestrian operation. Further noise and odour assessments would be required to ensure future residents are not compromised.
81. The Council Drainage Team has been consulted on the proposals and they have indicated that insufficient information has been submitted with regards to surface water management and sustainable drainage scheme (SuDS) design. It is therefore difficult to fully assess the impacts the development will have in terms of drainage on the site and adjoining land.
82. The Council's Landscape Team and Planning Policy Spatial Team have raise concerns with regards to the impacts the development would have on the Green Belt and surrounding landscape. No other consultees have raised any significant concerns with regards to the proposed development.

RECOMMENDATION

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

1. The proposed development is contrary to Policy E1 of the City of Durham Local Plan and Part 9 of the National Planning Policy Framework as the proposal is for inappropriate development in the Durham City Green Belt and there are no very special circumstances which clearly outweigh the harm to the greenbelt by reason of inappropriateness and other harm identified.
2. The proposed development is contrary to policy T1 of the City of Durham Local Plan as an acceptable access arrangement to the site cannot be achieved and any access would impact upon highway safety.
3. Insufficient information has been submitted to enable an assessment of whether the proposal is acceptable in terms of noise and odour impacts upon future residential occupiers from the adjacent equestrian operation. The application fails to demonstrate that residential amenity would not be adversely affected contrary to policy H13 of the City of Durham Local Plan.
4. Insufficient information has been submitted to enable an assessment of whether the proposal is acceptable in terms of drainage which could compromise future occupants and surrounding land, contrary to policy U8a of the City of Durham Local Plan.

STATEMENT OF PROACTIVE ENGAGEMENT

In dealing with the application, the Local Planning Authority has worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising during the application process. The decision has been made within target provided to the applicant on submission and in compliance with the requirement in the National Planning Policy Framework to promote the delivery of sustainable development.

BACKGROUND PAPERS

- Submitted Application Forms and Plans.
- Design and Access Statement
- Environmental Statement
- City of Durham Local Plan
- National Planning Policy Framework
- Consultation Responses



Planning Services

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Date 11th July 2017