

Planning Services

COMMITTEE REPORT

AGENDA ITEM NUMBER: 3F

APPLICATION DETAILS

APPLICATION NO: 3/2010/0567

FULL APPLICATION DESCRIPTION: APPLICATION TO VARY CONDITION 14 - PROVISION OF AFFORDABLE HOUSING (PLANNING APPLICATION REF: 3/2010/0144)

NAME OF APPLICANT: DUNELM HOMES

ADDRESS: LAND AT MIDDLEWOOD AVENUE, ST. HELEN AUCKLAND, BISHOP AUCKLAND, DL14 9DH

ELECTORAL DIVISION: WEST AUCKLAND

CASE OFFICER: Chris Baxter
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1.0 DESCRIPTION OF THE SITE AND PROPOSALS

1.1 Site

1.2 The application site is currently under construction with a number of properties completed. There is a relatively new housing estate to the east of the site. Residential properties also bound the application site to the south and south west. Allotments are located to the west with open agricultural fields to the north of the site.

1.3 Proposal

1.4 Members may recall that planning permission was granted for 111 dwellings on 3rd June 2010 at meeting of this Planning Committee. Of these 111 dwellings, 30 of them were to be made affordable homes, and a condition was accordingly attached to the planning permission to ensure that this would be the case.

1.5 Condition 14 of planning permission 3/2010/0144 states:

'In respect of the provision of affordable housing on the site:

- (a) *the development shall be completed in accordance with the approved plan drawing no. DAMHA/Endeav layout 3.*
- (b) *the dwellings to be constructed on plots DAMHA 1-10 and RSL 11-30 (inclusive) shall be affordable housing as defined in Planning Policy Statement 3 (Housing) Annex B and retained in perpetuity as such.*
- (c) *the number, type and location of the affordable housing units shall be constructed as shown on the approved plans.*
- (d) *no more than 75% of the market housing hereby approved shall be occupied until the affordable housing units have been transferred to a Registered Social Landlord. Details of the transfer of the affordable housing units to a Registered Social Landlord shall be submitted to the local planning authority.*

The delivery of the affordable housing shall be in accordance with the terms of this application and the submitted Affordable Housing Statement.'

1.6 This application proposes to vary condition 14, in particular part (b) of this condition. The following variation of condition 14 part (b) is proposed:

- (b) *The dwellings to be constructed on plots DAMHA 1-10 and RSL 11-30 (inclusive) shall be affordable housing as defined in Planning Policy Statement 3 (Housing) Annex B.*

Provided that such dwellings shall be permitted to be disposed of by a non-profit registered provider of social housing ("an RP") as defined in Section 115 (1) (a) Housing and Regeneration Act 2008 ("the Act") to:

- i) tenants pursuant to any statutory rights that they may have to acquire the freehold (or a long leasehold) interest in the dwelling that they occupy; or*
- ii) leaseholders pursuant to any contractual right that they may have to acquire the freehold (or an unencumbered long leasehold) interest in the dwelling that they have been leased pursuant to shared ownership arrangements (within the meaning of Section 70 (2) (a) of the Act)*

whereupon, in each case this Condition shall cease to have effect and shall not bind such tenants or leaseholders and their respective successors in title.

1.7 Essentially this variation of condition 14 part (b) will allow tenants to exercise their statutory rights under the Right to Acquire (RTA) scheme. The existing wording of condition 14 would not allow this statutory right to be exercised. Without the affordable homes having this statutory right to RTA, the homes would not be eligible for Homes and Communities Agency (HCA) grant funding. The varied condition would ensure that HCA grant funding is available for the affordable homes.

1.8 This application is reported to committee as the original application was classed as a major.

2.0 PLANNING HISTORY

2.1 3/2010/0144 – Development of vacant site to provide 111 dwellings including 10 bungalows and 20 two storey dwellings as affordable homes, associated roads and infrastructure – Approved 04/06/2010.

3.0 PLANNING POLICY

3.1 NATIONAL POLICY:

3.2 **Planning Policy Statement 3: Housing (PPS3)** - Underpins the delivery of the Government's strategic housing policy objectives and our goal to ensure that everyone has the opportunity to live in a decent home which they can afford in a community where they want to live.

3.3 REGIONAL POLICY:

The North East of England Plan - Regional Spatial Strategy to 2021 (RSS) July 2008, sets out the broad spatial development strategy for the North East region for the period 2004 to 2021. The RSS sets out the region's housing provision and the priorities in economic development, retail growth, transport investment, the environment, minerals and waste treatment and disposal. Some policies have an end date of 2021 but the overall vision, strategy, and general policies will guide development over a longer timescale.

3.4 LOCAL PLAN POLICY:

3.5 The following Wear Valley District Local Plan as amended by Saved and Expired Policies 2007 are relevant in the determination of this planning application:

3.6 **General Development Criteria (GD1):** All new development and redevelopment within the District should be designed and built to a high standard and should contribute to the quality and built environment of the surrounding area.

3.7 Policy H15 (Affordable Housing):

The District Council will, where a relevant local need has been established, seek to negotiate with developers for the inclusion of an appropriate element of affordable housing.

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.planningportal.gov.uk/england/government/en/1020432881271.html> for national policies; <http://www2.sedgefield.gov.uk/planning/WVCindex.htm> for Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.

4.0 CONSULTATION AND PUBLICITY RESPONSES

4.1 STATUTORY RESPONSES:

4.2 None

4.3 INTERNAL CONSULTEE RESPONSES:

4.4 None

4.5 PUBLIC RESPONSES:

4.6 The neighbouring properties were consulted and a site notice was posted close to the site. A press notice was also placed in the local newspaper. No letters of objection/observation have been received.

5.0 APPLICANT'S STATEMENT

- 5.1 The re-submission of the scheme is to amend planning permission to ensure it is in accordance with HCA funding guidelines, which allow RSL tenants to exercise their statutory right to acquire the freehold of their social rented dwelling or leaseholders the contractual right to acquire the freehold of their property. Without the planning condition being amended to accord with HCA Guidelines, the RSL would not be able to complete and take possession of the properties.

The above 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 Crook Area Office.

6.0 PLANNING CONSIDERATIONS AND ASSESSMENT

- 6.1 Condition 14 of planning permission 3/2010/0144 was attached to ensure that the provision is made for a proportion of affordable housing on the site to meet local needs. The proposed variation of this condition would not reduce the amount of affordable units developed on the site.
- 6.2 The Registered Social Landlords (RSL) found that the wording of condition 14 is contrary to that which is acceptable to the Homes and Communities Agency (HCA) for grant funding purposes. At present, the wording of condition 14 would not allow the tenants to exercise their statutory right under the Right to Acquire (RTA) schemes. If the RTA schemes are not available to future tenants of these affordable homes, then this development becomes ineligible for HCA grant funding. It is noted that whilst RTA is a statutory right under the 2004 Housing Act, in reality few occupiers take up the RTA schemes. In 2009/10 only 90 RTA schemes were completed nationally.
- 6.3 The proposed variation of condition 14, as described in the 'Proposals' section of this report, would allow flexibility which ensures that the affordable homes are developed but also allows scope for future tenants to exercise RTA schemes. This therefore also means that the varied condition would allow the development of the affordable homes to be eligible for HCA grant funding.
- 6.4 The proposed variation of condition 14 would still ensure that the affordable homes, approved under planning permission 3/2010/0144, will be developed. Therefore, taking into account the relatively low number of RTA schemes which are actually completed, it is considered that the proposed variation of condition 14 of planning permission 3/2010/0144 is acceptable and not contrary to policies GD1 and H15 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.

7.0 CONCLUSION

- 7.1 The proposed variation of condition 14 would still ensure that the affordable housing units are developed, however the variation would allow scope for future tenants to exercise their statutory rights under Right to Acquire schemes. This variation would also ensure that the development would be eligible for Homes and Communities Agency grant funding for the affordable homes.

8.0 RECOMMENDATION

8.1 That the application be APPROVED subject to the following conditions:

1. The development hereby permitted shall be begun no later than 4th June 2013.
2. The development hereby approved shall be carried out in strict accordance with the following approved plans:

Plan Ref No.	Description	Date Received
LP_01	Location Plan	30/03/2010
DAMHA/Endeav layout 3	Site Layout	30/03/2010
840/2BB Gable/PD Rev C	2B Bungalows:Central and Gable End Options	30/03/2010
840/2B CornB/PD Rev C	2B Corner Bungalow	30/03/2010
3860 SK102	RSL Typical Plot	30/03/2010
3860 SK109 brk	Cypress (1)	30/03/2010
3860 SK113 brk	Hornbeam (1)	30/03/2010
3860 SK126	1800 High Wall	30/03/2010
3860 SK125	1800 High Close Boarded Fence	30/03/2010
3860 SK124	900 High Post and Rail Fence	30/03/2010
NO-Std-00	The Norwich	30/03/2010
CA-Std-00	The Canterbury	30/03/2010
EL-Std-00	The Ely	30/03/2010
CH-Std-00	The Chelmsford	30/03/2010
LN-Std-00	The Lincoln	30/03/2010
YO-Std-00	The York	30/03/2010
303-GD-01	Single Attached Garage Plans and Elevations	30/03/2010
303-GD-11	Standard garage Details Twin Garage Type 3 – Plans & Elevations	30/03/2010
303-GD-20	Standard Garage Details Treble Garage Plans & Elevations	30/03/2010
TD/0059/01	Proposed Floor Levels	13/04/2010

3. The development hereby approved shall achieve a Code for Sustainable Homes minimum rating of level 3. Evidence shall be provided to the local planning authority that:

Prior to the commencement of development, the development has been registered for formal assessment by a licensed Code assessor to achieve a Code for Sustainable Homes Design Certificate level 3; and

Prior to the first occupation of the development, the development has achieved a Code for Sustainable Homes post construction certificate level 3, or alternative as agreed in writing by the local planning authority.

4. Development shall not commence until details demonstrating how CO2 reduction and energy efficiency measures will be incorporated into the approved development have been submitted to and approved in writing by the local planning authority. Thereafter the development shall be implemented and retained in accordance with the approved details. The submitted details shall include an assessment to demonstrate how a minimum improvement in DER over TER of 25% will be achieved - the equivalent of Code level 3 of the Code for Sustainable Homes.
5. No development shall take place until a full schedule of all the materials to be used in the external surfaces of the development hereby approved have been submitted to and approved in writing by the local planning authority. Thereafter, samples of the materials to be used in the external surfaces of the development hereby permitted shall be submitted to and approved in writing by the local planning authority prior to commencement of development. Development shall be carried out in accordance with the approved details.
6. Prior to the commencement of the development details of the surface treatment and construction of all hardsurfaced areas shall be submitted to and approved in writing by the local planning authority. The development shall be undertaken in accordance with the approved details.
7. Before commencement of development, details of the height, siting, appearance and construction of all means of enclosure to be erected upon the site shall be submitted to and approved in writing by the local planning authority, and the works shall be carried out in accordance with such approved details.
8. No development shall commence until a detailed landscaping scheme has been submitted to and approved in writing by the local planning authority. The scheme of landscaping shall include details of planting species, sizes, layout, numbers and maintenance regime.
9. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first available planting season following the practical completion of the development (or occupation of buildings or commencement of use) and any trees or plants which within a period of 5 years from the substantial completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation.
10. Before the development hereby approved is commenced wheel washing equipment shall be provided at all site egress points to ensure that site vehicles are cleansed of mud so that mud is not trailed onto the public carriageway. The wheelwashing equipment shall be used on all vehicles leaving the site during the period of construction works.
11. Notwithstanding the information shown on the submitted plans, no development shall be commenced until details of the means of access, including the layout, construction, and sight lines to be provided have been

submitted to and approved in writing by the local planning authority, and the buildings hereby permitted shall not be occupied until the approved access has been constructed, in accordance with the approved plans.

12. Development shall not commence until a detailed scheme for the supply of potable water for the development hereby approved has been submitted to and approved in writing by the local planning authority in consultation with Northumbrian Water. Thereafter the development shall not be occupied until the scheme for the supply of water has been completed and commissioned in accordance with the approved details.
13. Development shall not commence until a detailed scheme for the disposal of surface water from the development hereby approved has been submitted to and approved in writing by the local planning authority in consultation with Northumbrian Water. Thereafter the development shall take place in accordance with the approved details.
14. In respect of the provision of affordable housing on the site;
 - (a) the development shall be completed in accordance with the approved plan drawing no. DAMHA/Endeav layout 3.
 - (b) The dwellings to be constructed on plots DAMHA 1-10 and RSL 11-30 (inclusive) shall be affordable housing as defined in Planning Policy Statement 3 (Housing) Annex B.

Provided that such dwellings shall be permitted to be disposed of by a non-profit registered provider of social housing ("an RP") as defined in Section 115 (1) (a) Housing and Regeneration Act 2008 ("the Act") to:

- i) tenants pursuant to any statutory rights that they may have to acquire the freehold (or a long leasehold) interest in the dwelling that they occupy; or
- ii) leaseholders pursuant to any contractual right that they may have to acquire the freehold (or an unencumbered long leasehold) interest in the dwelling that they have been leased pursuant to shared ownership arrangements (within the meaning of Section 70 (2) (a) of the Act) where upon, in each case this condition shall cease to have effect and shall not bind such tenants or leaseholders and their respective successors in title.
- (c) the number, type and location of the affordable housing units shall be constructed as shown on the approved plans.
- (d) no more than 75% of the market housing hereby approved shall be occupied until the affordable housing units have been transferred to a Registered Social Landlord. Details of the transfer of the affordable housing units to a Registered Social Landlord shall be submitted to the local planning authority.

The delivery of the affordable housing shall be in accordance with the terms of this application and the submitted Affordable Housing Statement.

15. An easement strip of a minimum of 5 metres wide located between the development and northern edge of the site boundary, as per drawing LP_01, shall remain free of all structures unless otherwise agreed in writing by the local planning authority.

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16. Development shall not begin until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall also include:
- *Confirmation the drainage network can operate without flooding up to the 30 year peak storm event, and that there is no flood risk to people and property up to the 100 year peak storm event*
 - *Details of how the scheme shall be maintained and managed after completion*

Reasons

1. To ensure planning permissions are not extended by Section 73 applications and that the time limit remains consistent to the original consent 3/2010/0144 pursuant to Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.
2. To define the consent and ensure that a satisfactory form of development is obtained in accordance with policy GD1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.
3. In order to minimise energy consumption and to comply with the aims of the Regional Spatial Strategy North East Policy 38 and Planning Policy Statements 1 and 3.
4. In order to minimise energy consumption and to comply with the aims of the Regional Spatial Strategy North East Policy 38 and Planning Policy Statements 1 and 3.
5. In the interests of the appearance of the area and to comply with policy GD1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.
6. In the interests of the appearance of the area and to comply with policy GD1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.
7. In the interests of the appearance of the area and to comply with policy GD1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.
8. In the interests of the visual amenity of the area and to comply with policy GD1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.
9. In the interests of the visual amenity of the area and to comply with policy GD1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.
10. In the interests of highway safety and to comply with policy GD1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies

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- September 2007.
11. In the interests of highway safety and to comply with policy GD1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.
 12. The water supply system is at capacity and to comply with policy GD1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.
 13. To ensure the discharge of surface water from the site does not increase the risk of flooding from sewers in accordance with the requirements of PPS25.
 14. To ensure that provision is made for a proportion of affordable housing on the site to meet local needs and to comply with policy H15 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007 and the requirements within PPS3.
 15. To ensure suitable provision is made for access to the main river Tindale Beck for Environment Agency maintenance purposes and to comply with policy GD1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.
 16. To prevent the increased risk of flooding and ensure future maintenance of the surface water drainage system and to comply with policy GD1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.

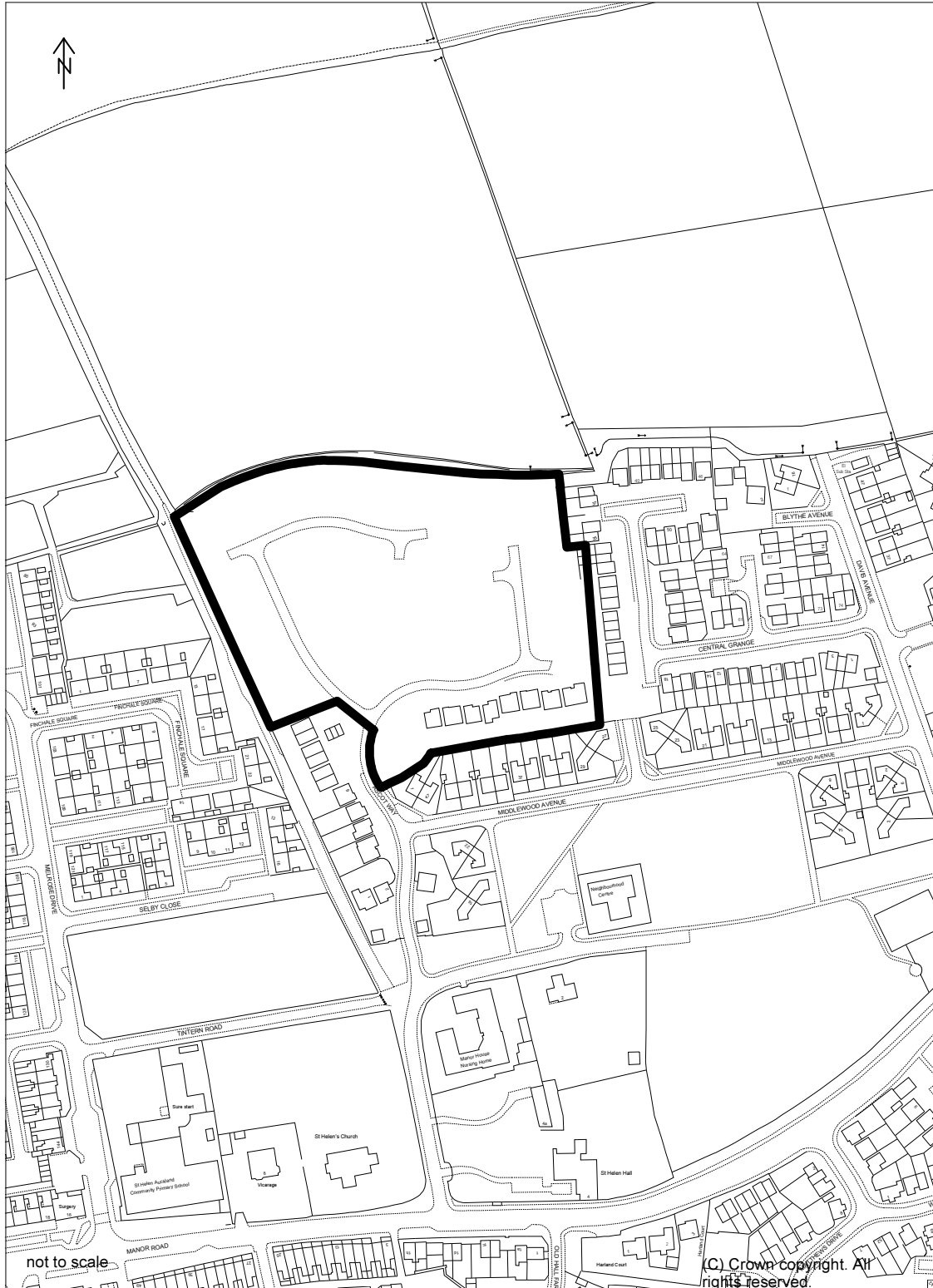
9.0 REASONS FOR THE RECOMMENDATION

- 9.1 The proposed variation of condition 14 of planning permission 3/2010/0144 would still ensure that the affordable homes are developed while also allowing future tenants of the affordable homes the opportunity to exercise their statutory rights under Right to Acquire schemes. The proposed variation would not be contrary to the aims of policies GD1 and H15 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.

10.0 BACKGROUND PAPERS

- Submitted Application Forms and Plans
- Design and Access Statement
- Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007
- Planning Policy Statements/Guidance, PPS1, PPG2, PPS3, PPS5, PPS7, PPS9, PPS13, PPG16
- Consultation Responses
- Public Consultation Responses

3/2010/0567 - APPLICATION TO VARY CONDITION 14 - PROVISION OF AFFORDABLE HOUSING (PLANNING APPLICATION REF: 3/2010/0144) AT LAND AT MIDDLEWOOD AVENUE, ST. HELEN AUCKLAND FOR DUNELM HOMES



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