

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/17/02004/VOC
FULL APPLICATION DESCRIPTION:	Variation of Condition 2 of planning permission DM/14/02309/FPA to remove a footpath link onto the A177
NAME OF APPLICANT:	Partner Construction Ltd
ADDRESS:	Land to South of Crow Trees Lane, Bowburn
ELECTORAL DIVISION:	Coxhoe
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 is located on land to the south of Crow Trees Lane in Bowburn. The residential properties of Heath Close, Cambridge Terrace and Oxford Terrace along with Durham Road (A177) are situated to the west of the site. The south boundary comprises of an area of tree plantation and a further undeveloped area to the east, with the A1(M) beyond. The site is currently under construction with the buildings which were approved under planning permission DM/14/02309/FPA.

The Proposal

2. Planning permission is sought for the variation of permission DM/14/02309/FPA to vary condition 2 which requires the provision of a footpath link which connects the residential housing estate to the A177 to the west. The original planning permission has a footpath link which ran between plots 24 and 25 and stopped at the site boundary.
3. The application is reported to the Planning Committee at the request of Councillor Jan Blakey.

PLANNING HISTORY

4. Planning permission (ref: DM/14/02309/FPA) was granted for 46no. affordable homes on 26th November 2014.

PLANNING POLICY

NATIONAL POLICY:

5. 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.
6. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities when determining planning applications to approve development proposals that accord with the development plan without delay and where the development plan is absent, silent or relevant policies are out of date, to grant planning permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF or specific NPPF policies indicate that the development should be restricted.
7. The following elements are considered relevant to this proposal;
8. *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.
9. *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.
10. *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.
11. *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.
12. *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.
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.

LOCAL PLAN POLICY:

City of Durham Local Plan

14. *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.
15. *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.
16. *Policy T21 (Walkers Needs)* states that the Council will seek to safeguard the needs of walkers by ensuring that existing footpaths and public rights of way are protected; safe, attractive and convenient footpath network is established throughout the city; footpath network takes the most direct route possible between destinations; and the footpath network is appropriately signed.

EMERGING POLICY:

17. 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:

18. *Highways England* has not raised any objections to the proposal but has further clarified that there should be no direct vehicular access to the site from the A177.

INTERNAL CONSULTEE RESPONSES:

19. *Public Rights of Way Team* has not raised any objections.

PUBLIC RESPONSES:

20. The application has been advertised in the local press and a site notice was posted. Neighbouring residents have also been notified in writing. The Parish Council and the Bowburn and Parkhill Community Partnership have objected to the proposals. These objections indicate that the proposal would give rise to road safety issues. The loss of the footpath would result in loss of direct access to public transport, shops and employment opportunities on Durham Road and the Integra 61 development, as well as a more direct access for pedestrians walking to Parkhill or Coxhoe.

PLANNING CONSIDERATIONS AND ASSESSMENT

21. 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 issues in this instance relate to the principle of development and the impact on surroundings if condition 2 were to be varied to permit the removal of the footpath link.

Principle of Development

22. Section 73 of the Town and Country Planning Act 1990 enables a developer to apply to the Local Planning Authority for planning permission to develop land without complying with conditions subject to which a previous permission was granted.
23. Section 73 provides that in determining an application pursuant to that section, a Local Planning Authority shall consider only the question of the conditions subject to which the planning permission should be granted. However, this does not mean that any changes in circumstances since the original planning permission was granted, such as changes to planning policy, to the development plan or material planning considerations should be ignored. Such issues are capable of consideration by Members of the Committee.
24. Notwithstanding this, the principle of development was established by the granting of the original permission and officers do not consider that there have been any changes in circumstances which would change the acceptability of the principle of development in this instance.

Impact on Surroundings

25. The footpath link between plots 24 and 25 of the housing estate was secured by condition as it was considered necessary to make the development acceptable by providing pedestrian access allowing residents of the estate easy access onto the A177. The removal of this footpath link would mean that the only footpath links from the site would be to the north onto Crowtrees Lane.
26. No objections have been received from the Council's Public Right of Way Team and also Highways England which manage the section of land between the A177 and the application site. There have been some concerns raised by the Parish Council and the Community Partnership that the loss of the footpath would result in the loss of direct access to public transport, shops and services. The nearest bus stop is located adjacent to the former Cooperage pub. The walking distance from plots 24 and 25 of the development would be approximately 190 metres via the footpath link onto the A177. If this footpath link was to be removed then the walking distance to the bus stop from plots 24 and 25 via Crowtrees Lane would be approximately 350 metres. A distance of 350 metres walking distance to a bus stop is considered acceptable.

27. It has been indicated in the application form that the footpath link is being removed as it crosses third party land owned by Highways England. The footpath link approved under the original planning permission finished at the boundary of the application site. Pedestrians using the footpath link would have to cross Highways England land to reach the footpath by the A177 however it is noted that Highways England have not raised any objections to pedestrian accesses. Whilst it would be preferable that the footpath link is retained providing further pedestrian connectivity, it is not considered that the loss of the footpath would have a detrimental impact on the surrounding area and a refusal reason cannot therefore be justified.

CONCLUSION

28. The loss of the footpath is regrettable however the removal of the footpath would not have a detrimental impact on the surrounding area and would not be considered to be contrary to policies H13, Q8 and T21 of the City of Durham Local Plan. It is therefore considered that the application does not give rise to any adverse impacts would justify refusal of the application.

RECOMMENDATION

That Members **APPROVE** the application subject to the following conditions;

1. The development hereby approved shall be carried out in strict accordance with the following approved plans:

Plan Ref No.	Description	Date Received
SD00.00	Location Plan	04/08/2014
SD100.01 L	Proposed Layout	15/06/2017
SD100.02 H	Boundary treatments	15/06/2017
SD100.03 G	External Finishes	15/06/2017
SD100.04 B	Adoption Plan	15/06/2017
R/1607/1G	Landscape Masterplan	15/06/2017
PD10-RSL: F112-1	House type F112 Plan and Elevations	04/08/2014
PD10-RSL: F104-1	House type F114 Plan and Elevations	04/08/2014
PD10-RSL: F119-1	House type F119 Plan and Elevations	04/08/2014
PD10-RSL: F113-1	House type F113 Plan and Elevations	04/08/2014
PD10-RSL: F114-1	House type F114 Plan and Elevations	04/08/2014
CfSH-SD. ENE8-02	ENE8 Cycle storage	04/08/2014
CfSH-SD. ENE8-04	ENE8 Cycle storage – Hoop	04/08/2014
BT/Sheet 05	Boundary Close Boarded Fence	04/08/2014
BT/Sheet 14	1500 Close Boarded Fence Details	04/08/2014
BT/Sheet 15	2000 Close Boarded Fence Details	04/08/2014
BT/Sheet 19	Boundary Party Fence Details	04/08/2014

Reason: To define the consent and ensure that a satisfactory form of development is obtained.

2. The development hereby approved shall be constructed in accordance with the kerb improvements scheme agreed in application DRC/15/00334.

Reason: In the interests of highway safety and to comply with policy T1 of the City of Durham Local Plan.

3. The development hereby approved shall be constructed in accordance with the scheme for contamination agreed in application DRC/15/00334.

Reason: To remove the potential harm of contamination in accordance with Policy U11 of the City of Durham Local Plan 2004.

4. The development hereby approved shall be constructed in accordance with the surface water and foul water scheme agreed in application DRC/15/00334.

Reason: In the interests of the amenity of the area and to comply with policy U8a of the City of Durham Local Plan.

5. The development hereby approved shall be constructed in accordance with the programme of archaeological work agreed in application DRC/15/00334.

Reason: To comply with Policy E24 of the former Durham City Local Plan as the site is of archaeological interest.

6. Prior to the development being beneficially occupied, a copy of any analysis, reporting, publication or archiving required as part of the mitigation strategy shall be deposited at the County Durham Historic Environment Record.

Reason: to comply with para. 141 of the NPPF which ensures information gathered becomes publicly accessible.

7. The development hereby approved shall be carried out in full accordance with all ecological mitigation measures, advice and recommendations within the Ecological Report prepared by E3 Ecology Ltd dated August 2014, the Great Crested Newt Survey prepared by Penn Associates dated May 2014 and the Water Vole Survey prepared by Penn Associates dated March 2014.

Reason: To conserve protected species and their habitat in accordance with the objectives of part 11 of the NPPF.

8. The development hereby approved shall be carried out in full accordance with all noise attenuation measures, advice and recommendations within the Noise Assessment prepared by AMEC report Number 14242i2 dated July 2014.

Reason: To safeguard the residential amenity of future residents and to comply with policies H13 and Q8 of the City of Durham Local Plan.

9. All planting, seeding or turfing shall be carried out in the first planting and seeding seasons following the completion of the development and any trees or plants which within a period of 5 years from the completion die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: In the interests of the appearance of the area and to comply with policies E1, E2, E2A, and H13 of the City of Durham Local Plan.

STATEMENT OF PROACTIVE ENGAGEMENT

The Local Planning Authority in arriving at its decision to approve the application has, without prejudice to a fair and objective assessment of the proposals, issues raised and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF. (Statement in accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015

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

Variation of Condition 2 of planning permission DM/14/02309/FPA to remove a footpath link onto the A177 at Land to South of Crowtrees Lane, Bowburn Ref: DM/17/02004/VOC

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