

	REPORT TO PLANNING & DEVELOPMENT COMMITTEE TO BE HELD ON THURSDAY, 5 December 2019	
APPLICATION REFERENCE NO: 19/00624/OL	TARGET DATE: 9 January 2020	GRID REF: 501138-493077

REPORT OF THE PLANNING SERVICES MANAGER – PSM/19/245

SUBJECT: Proposed development of 24 no. dwellinghouses at Rear Of 38 High Street Burniston Scarborough North Yorkshire YO13 0HJ for Mrs Elaine Carter Brown

1.0 THE PROPOSAL

1.1 This application seeks outline consent for 24 open market dwellings on a 0.56 hectare site in Burniston to west of High Street, to the south of River Meadows and the north of Wandale Drive. All matters (access, appearance, landscaping, layout and scale) are for later consideration at the reserved matters stage; this application seeks to establish the principle of developing the land with 24 dwellings only.

1.2 At present the site constitutes a relatively flat mown grass field. With respect to the site's context, the site is bounded by residential curtilages on all sides bar the eastern boundary, where the site abuts open countryside. Mature hedges and other domestic scale boundary treatments mark the site's north, west and southern edges, but the eastern limit of the site is unmarked.

1.3 In terms of the site's planning designations and constraints, the site is adjacent to (but importantly not within) the Environment Agency Flood Zone 3 (land assessed as having a 1 in 100 or greater annual probability of river flooding). All of the land is located within the Development Limits of Burniston as defined by the Scarborough Borough Local Plan. Importantly, the land is identified within the Council's Green Space Audit (2014) as an area of 'Natural and Semi-Natural Green Space'.

1.4 In addition to the submitted plans, the application is accompanied by several supporting documents (available to view on the Council's website) including:

- Access drawings (these are indicative only, noting that the applicant has reserved access for later consideration);
- Archaeology and heritage desk based assessment;
- Ecology report; and,
- Flood risk assessment.

1.5 Notably, no draft Section 106 agreement or Heads of Terms have been supplied with the application.

2.0 SCREENING OPINION REQUIRED?

2.1 No.

3.0 PRE-APPLICATION COMMUNITY ENGAGEMENT

3.1 None undertaken.

4.0 CONSULTATIONS AND COMMENTS

4.1 The following is a summary of the key and relevant comments received from consultees and interested parties. Their full comments and any accompanying documentation are available to view on the Council's website.

4.2 Burniston Parish Council:

- Reluctantly accepts that development of this site is almost inevitable;
- There are highway safety concerns around parking;
- 24 dwellings amounts to overdevelopment;
- Consideration should be given to moving the electricity sub-station, the provision of two disabled parking spaces immediately outside Wandales Court Community Centre, the prevention of the development becoming a through-road and the provision of double yellow lines from the junction of High Street/ Wandales Road.

4.3 Highway Authority:

- No objection, subject to conditions requiring:
- The approval of highway construction details;
- The construction of roads and footpaths prior to occupation;
- The implementation of a construction phase management plan.

4.4 Lead Local Flood Authority: Awaited.

4.5 Environment Agency: No objection.

4.6 Yorkshire Water: No objection, subject to conditions requiring separate systems of foul and surface water drainage and the prevention of works until a satisfactory surface water outfall has been established.

4.7 Vale of Pickering Internal Board: Awaited.

4.8 SBC Coastal and Drainage Engineers: Awaited.

4.9 Education Authority: A developer contribution of £81,576 is required to assist in providing the primary education facilities required by children who will live on the new development.

4.10 SBC Ecologist: Awaited.

4.11 County Archaeologist: The site has low archaeological potential. No objection.

Publicity - consultation period expired 08 November 2019

4 letters of objection to the proposals have been received by the Council. These are from local residents and make the following points:

- The development is close to a sheltered housing scheme;
- The development will pose a risk to highway safety and will cause parking problems in the area, particularly outside the Wandales Court Community Centre;
- Vulnerable road users are present in the area, and extra traffic will pose a risk to them;
- Local infrastructure and community facilities (including the local primary school and GPs surgery) cannot cope with further development.

5.0 RELEVANT SITE HISTORY

5.1 There are no entries in the planning history relevant to the determination of this application.

6.0 PLANNING POLICY

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of The Town and Country Planning Act 1990 require that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise (in the case of advertisement applications the Advertisement Regulations 2007 are applicable). Attention is drawn to the following Development Plan and other planning policies and guidance which are considered to be particularly relevant to the consideration of this application:-

Scarborough Borough Local Plan 2017

SD 1 - Presumption in Favour of Sustainable Development

SH 1 - Settlement Hierarchy

DEC 1 - Principles of Good Design

DEC 3 - The Efficient Use of Land and Buildings

DEC 4 - Protection of Amenity

DEC 6 - Archaeology

HC 1 - Supporting Housing Development

HC 2 - New Housing Delivery

HC 3 - Affordable Housing

HC 10 - Health Care and Education Facilities

HC 14 - Open Space and Sports Facilities

ENV 3 - Environmental Risk

ENV 5 - The Natural Environment

National Planning Policy Framework

NPPF2 - Achieving Sustainable Development

NPPF4 - Decision-making

NPPF5 - Delivering a sufficient supply of homes

NPPF8 - Promoting healthy communities

NPPF11 - Making effective use of land

NPPF12 - Achieving well-designed places

NPPF14 - Meeting the challenge of climate change, flooding and coastal change

NPPF15 - Conserving and enhancing the natural environment

Scarborough Borough Supplementary Planning Documents

Affordable Housing

Education Payments

Green Space (Adopted November 2014)

Local Planning Policy and Guidance

None relevant

7.0 ASSESSMENT

7.1 Taking into account the relevant planning policy, representations, consultation responses and all other material planning considerations, your Officers consider the key issues in the determination of this application to be:

- A) The principle of developing this site for 24 dwellings
- B) Public open space considerations
- C) Affordable housing
- D) Impact on amenity
- E) Education
- F) Highways
- G) Surface water and flood risk
- H) Archaeology
- I) Ecology and trees

- A) The principle of developing this site for 24 dwellings

7.2 Policies HC1 and HC2 of the Local Plan are the starting point for consideration. These policies set out the Borough's spatial housing objectives, and they provide for the delivery of sites allocated for housing development and support for the development of appropriate sites inside the Development Limits (as they are shown on the Local Plan Policies Map).

7.3 These policies are clear in that where the proposal is for housing within the Development Limits (as in this case) the principle of development will only be supported where the proposal is otherwise in accordance with other policies in the Local Plan.

7.4 In this regard, policy DEC1 is of critical importance in this case. In general terms it requires that new development is of a high standard of design responds positively to its context.

7.5 The application site is surrounded by residential development. In the immediate vicinity it is all two storey and at a density of 32 dwellings per hectare or less. This application seeks outline consent for 24 dwellings on a 0.56 hectare site, so the proposed density is 43 dwellings per hectare.

7.6 Residential development of this density will be conspicuously at odds with the prevailing character of the area and would harm its visual amenity, contrary to policies HC1, HC2 and DEC1 of the Local Plan.

7.7 Generally, to achieve a density of 43 dwellings per hectare (as proposed) a site would need to be developed with houses and flats of 2 and 3 storeys. In this low density village environment this would clearly be inappropriate. The applicant has not supplied any indicative drawings to demonstrate how they plan to deliver the 24 dwellings on the site.

B) Public open space considerations

7.8 Importantly, the application site is identified within the Council's Green Space Audit (2014) as an area of 'Natural and Semi-Natural Green Space'. As such, any redevelopment of the site for non-open space use must be considered in the context of Local Plan policy HC14.

7.9 At point b) policy HC14 states:

The redevelopment of existing open spaces.... including those identified within the Green Space Audit.... for non-open space uses will only be permitted where:

- i) the existing open space does not contribute positively to the character and appearance of the area; and,
- ii) there is an identified surplus of that type of open space or sports provision in that locality and the site cannot be reclassified to meet an identified deficit in another form of open space or sports provision; or,
- iii) a replacement open space of an equal or higher quantity and quality can be provided in a nearby accessible location.

7.10 This area of Natural and Semi- Natural Green Space provides the locality with an open, spacious quality which contributes positively to the character and appearance of the area. It has evidently been included in the Green Space Audit for this reason, and its loss would cause significant harm to the visual amenity of the area contrary to point b)i) of the policy HC14 of the Scarborough Borough Local Plan. The applicant has not submitted any information to address or in any way mitigate this element of conflict with Local Plan policy.

7.11 In light of this, your Officers would advise that this is reason to refuse the application in and of its own right.

7.12 Additionally, if Members were to grant consent, it is important to note that Policy HC14 of the Scarborough Borough Local Plan and the Council's Green Space Supplementary Planning Document (2014) together with the associated Scarborough Borough Playing Pitch Strategy (2013) are clear in that the provision of sufficient high quality open space, sports and recreation (including play) space is key to new residential development being 'sustainable development'. This stance is supported by the Government's planning policies as set out in paragraph 96 of the NPPF. It states that access to high quality open space, sports and recreation space should be provided.

7.13 The relevant policies and associated documents provides an evidence based assessment of what provision is required in any given locality in the four areas below:

- Parks and gardens;
- Sports facilities;
- Children's play; and
- Amenity open space.

7.14 As set out in the Council's Green Space SPD, the sums required will depend on the nature of the final scheme (whilst the numbers of the proposed units are specified at this point the size of these is not). With this in mind, the Council would normally expect to see a legal agreement that would obligate applicant to provide payments in line with the Green Space SPD. This would allow the sum required to reflect the housing mix as it is eventually proposed (rather than collecting an estimated sum at this point).

7.15 To give Members some idea of what might ultimately be required, based on a development of 24 dwellings (albeit of unspecified size in terms of bedrooms per unit), there would be a need for an off-site contribution towards children's play facilities of £16,309, an off-site sports contribution of £10,039.68 and a parks and gardens contribution of £7,835. Owing to the number of units there would be no requirement for on-site amenity open space.

7.16 In the absence of a completed legal obligation means to secure contributions are not in place. The applicants have not indicated an intention to pay the required sums in their submission (there is no draft Heads of Terms, for example).

7.17 As such, approval of the development would be contrary to policy HC14 of the Scarborough Borough Local Plan, the Council's Green Space Supplementary Planning Document (2014), the associated Scarborough Borough Playing Pitch Strategy (2013) and paragraph 96 of the NPPF as the development fails to provide sufficient high quality open space, sports and recreation (including play) space. With this in mind, the proposal will not achieve 'sustainable development' in line with the overarching objectives set out in Section 2 of the National Planning Policy Framework.

C) Affordable housing

7.18 Policy HC3 of the Scarborough Borough Local Plan together with the Council's Affordable Housing Supplementary Planning Document are clear in that the provision of affordable housing on eligible developments will be expected. In accordance with policy HC3 of the Scarborough Borough Local Plan, 30% of the units are required to be affordable dwellings in this case.

7.19 The applicant has proposed (section 9 of the submitted application form) that none of the 24 units are affordable homes (i.e. it is made clear that this is a 100% market housing scheme). That, in its own right, clearly represents a sustainable reason for refusing planning permission.

7.20 As such, approval of the application would be contrary to policy HC3 of the Scarborough Borough Local Plan, the provisions of the Council's Affordable Housing Supplementary Planning Document, as the development fails to provide sufficient affordable housing provision. With this in mind, the proposal will not achieve

'sustainable development' in line with the overarching objectives set out in Section 2 of the National Planning Policy Framework.

D) Impact on amenity

7.21 Policy DEC4 of the Local Plan deals specifically with the protection of amenity. It states:

7.22 Proposals should ensure that existing and future occupants of land and buildings are provided with a good standard of amenity. Proposals for development should not give rise to unacceptable impacts by means of:

- a. Overbearing impact;
- b. Overlooking and loss of privacy;
- c. Disturbance arising from such things as noise, light pollution and other activities;
- d. Emissions including smells and other pollutants; or
- e. Overshadowing or loss of natural light.

7.23 Considering points a, b and e (overbearing, overlooking and overshadowing), issues relating to appearance, landscaping, layout and scale are all issues for consideration at the (later) reserved matters stage. However, without prejudice to Officers' concerns with the proposals as set out in this report, it is the view of your Officers that, with careful consideration, a design could be achieved (at least notionally) for consideration at the reserved matters stage which would prevent the unacceptable overbearing, overshadowing and overlooking impacts to neighbouring dwellings. Residential development, by its character and nature, even of the density proposed here, is unlikely to have undue impacts in terms of points c. and d.

7.24 However, notwithstanding these views, if Members were minded to grant consent and the scheme presented to them at the reserved matters stage raised concerns with respect to neighbourliness, then it would be within the gift of the Committee to withhold consent at that point.

E) Education

7.25 Policy HC10 of the Scarborough Borough Local Plan together with the Council's Education Payments Supplementary Planning Document are clear in that the provision of education places for the children living in new dwellings is key to the development being 'sustainable development'.

7.26 This stance is supported by the Government's planning policies as set out in paragraph 95 of the NPPF. It states that great weight should be attached to the need to create, expand or alter schools (to cater for new development), and that the Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities.

7.27 The local Education Authority has requested that £81,576.00 be provided by the developer to pay the cost of providing additional school places for the children likely to be living on the new development. As set out in the Council's Education Payments SPD, the sum required will depend on the nature of the final scheme to be presented at the

reserved matters stage (numbers and size of the proposed units), so normally the Council would require a Section 106 Agreement obligating the site owner(s) to comply with the provisions of the Education Payments SPD (i.e. the Local Planning Authority would not normally seek to secure a particular sum at this stage).

7.28 The applicant has made no proposal for providing an education contribution, and in the absence of a completed legal obligation no contribution has been secured.

7.29 As such, approval of the application would be contrary to policy H10 of the Scarborough Borough Local Plan, the provisions of the Council's Education Payments Supplementary Planning Document and paragraph 94 of the National Planning Policy Framework, as the development fails to provide sufficient contribution towards education provision and is therefore not sustainable development because the choice for parents to choose the nearest may not be available, and children would need to travel further to a school with capacity.

F) Highways

7.30 The Local Highway Authority is a statutory consultee in the planning process, and the Council is reliant on their technical expertise when assessing proposals from transport and highways perspectives.

7.31 The Highway Authority has assessed the proposals from the point of view of safety and has not raised objections subject to conditions requiring:

- The approval of highway construction details;
- The construction of roads and footpaths prior to occupation;
- The implementation of a construction phase management plan.

7.32 With this in mind, if Members were minded to grant consent, subject to the imposition of the above conditions Officers do not consider that the development will harm the safety and convenience of users of the public highway.

G) Surface water and flood risk

7.33 Policy ENV3 of the Local Plan states that development will only be permitted where adequate provision for foul and surface water disposal exists or can be provided. Section 14 of the NPPF requires Local Planning Authorities to ensure flood risk is not increased elsewhere as a result of new development.

7.34 The County Council as the Lead Local Flood Authority is the statutory consultee on matters related to surface water drainage and Yorkshire Water has a role as the statutory undertaker. The Council is reliant on the technical advice of these expert agencies.

7.35 It is proposed that surface water run-off from the development be attenuated by appropriate means before being discharged into the watercourse running to the east of the site.

7.36 At this point the comments of the Lead Local Flood Authority are yet to be received. Members will be updated on this point at the meeting of the Committee.

7.37 No 'in principle' objection has been raised by Yorkshire Water in respect of the proposal to discharge foul water to the existing sewerage infrastructure.

H) Archaeology

7.38 Policy DEC6 of the Local Plan requires that archaeological heritage is protected, enhanced and promoted.

7.39 The applicant has submitted an archaeology report with the application. This states that the site is of no archaeological interest, and this is confirmed by the County Archaeologist who states in his consultation response that the site is of no archaeological significance.

7.40 With this in mind, Officers do not consider that the proposed development would have an impact on archaeology.

I) Ecology and trees

7.41 In general terms, policy ENV5 of the Local Plan requires that new development conserves and enhances the natural environment.

7.42 Officers have considered the site's features and the submitted ecological work against the Natural England Standing Advice. On the basis of the evidence in hand, Officers consider that the development could be implemented without the applicant first having to apply to Natural England for a European Protected Species License.

POSITIVE AND PROACTIVE STATEMENT

In accordance with Section 4 of the National Planning Policy Framework (paragraphs 39 to 43) the Local Planning Authority strongly encourages early positive and proactive engagement with applicants (through the pre-application advice process). Regrettably, this application was submitted for determination by the Local Planning Authority without advice first being sought, which limited that ability of the Local Planning Authority to act in a positive and proactive fashion.

RECOMMENDATION

PERMISSION BE REFUSED, for the following reason(s)

1 Policies HC1 and HC2 of the Scarborough Borough Local Plan set out the Borough's spatial housing objectives, and they provide for the delivery of sites allocated for housing development and support for the development of appropriate sites inside the Development Limits (as they are shown on the Local Plan Policies Map).

These policies are clear in that where the proposal is for housing within the Development Limits (as in this case) the principle of development will only be supported where the proposal is otherwise in accordance with other policies in the Local Plan.

In this regard, policy DEC1 is of critical importance in this case. It requires that new development is of a high standard of design responds positively to its context.

The application site is surrounded by residential development. In the immediate vicinity it is all two storey and at a density of 32 dwellings per hectare or less. This application seeks outline consent for 24 dwellings on a 0.56 hectare site, so the proposed density is 43 dwellings per hectare.

Residential development of the density proposed will be conspicuously at odds with the prevailing character of the area and would harm its visual amenity, contrary to policies HC1, HC2 and DEC1 of the Scarborough Borough Local Plan.

2 The application site is identified within the Council's Green Space Audit (2014) as an area of 'Natural and Semi-Natural Green Space'. As such, any redevelopment of the site for non-open space use must be considered in the context of Local Plan policy HC14.

At point b) policy HC14 states:

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- iii) a replacement open space of an equal or higher quantity and quality can be provided in a nearby accessible location.

The areas of Natural and Semi- Natural Green Space provides the locality with an open, spacious quality which contributes positively to the character and appearance of the area. No information has been submitted in support of the application to seek to address or mitigate the impact on the site's identified green space role. On this basis it is considered that its loss would cause significant harm to the visual amenity of the area contrary to point b)i) of the policy HC14 of the Scarborough Borough Local Plan.

3 Policy HC14 of the Scarborough Borough Local Plan and the Council's Green Space Supplementary Planning Document (2014) together with the associated Scarborough Borough Playing Pitch Strategy (2013) are clear in that the provision of sufficient high quality open space, sports and recreation (including play) space is key to new residential development being 'sustainable development'. This stance is supported by the Government's planning policies as set out in paragraph 96 of the NPPF. It states that access to high quality open space, sports and recreation space should be provided.

As set out in the Council's Green Space SPD, the sums required will depend on the nature of the final scheme (whilst the numbers of the proposed units are specified at this

point the size of these is not). With this in mind, the Council would normally expect to see a legal agreement that would obligate applicant to provide payments in line with the Green Space SPD. This would allow the sum required to reflect the housing mix as it is eventually proposed (rather than collecting an estimated sum at this point).

As an indicator of what might ultimately be required, based on an 24 dwellings (albeit of unspecified size in terms of bedrooms per unit), there would be a need for an off-site contribution towards children's play facilities of £16,309, an off-site sports contribution of £10,039.68 and a parks and gardens contribution of £7,835. Owing to the number of units there would be no requirement for on-site amenity open space.

In the absence of a completed legal obligation no such contributions have been secured. The applicants have not indicated an intention to pay the required sums in their submission (there is no draft Heads of Terms, for example).

As such, approval of the development would be contrary to policy HC14 of the Scarborough Borough Local Plan, the Council's Green Space Supplementary Planning Document (2014), the associated Scarborough Borough Playing Pitch Strategy (2013) and paragraph 96 of the NPPF as the development fails to provide sufficient high quality open space, sports and recreation (including play) space. With this in mind, the proposal will not achieve 'sustainable development' in line with the overarching objectives set out in Section 2 of the National Planning Policy Framework.

4 Policy HC3 of the Scarborough Borough Local Plan together with the Council's Affordable Housing Supplementary Planning Document are clear in that the provision of affordable housing on eligible developments will be expected. In accordance with policy HC3 of the Scarborough Borough Local Plan, 30% of the units are expected to be affordable dwellings in this case.

The applicant has proposed (section 9 of the submitted application form) that none of the 24 are affordable homes (i.e. this is a 100% market housing scheme).

As such, the proposal is contrary to policy HC3 of the Scarborough Borough Local Plan, the provisions of the Council's Affordable Housing Supplementary Planning Document, as the development fails to provide sufficient affordable housing provision. With this in mind, the proposal will not achieve 'sustainable development' in line with the overarching objectives set out in Section 2 of the National Planning Policy Framework.

5 Policy HC10 of the Scarborough Borough Local Plan together with the Council's Education Payments Supplementary Planning Document are clear in that the provision of education places for the children living in new dwellings is key to the development being 'sustainable development'.

This stance is supported by the Government's planning policies as set out in paragraph 95 of the NPPF. It states that great weight should be attached to the need to create, expand or alter schools (to cater for new development), and that the Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities.

The local Education Authority has requested that £81,576.00 be provided by the developer to pay the cost of providing additional school places for the children likely to be living on the new development. As set out in the Council's Education Payments SPD,

the sum required will depend on the nature of the final scheme (numbers and size of the proposed units), so normally the Council would require a Section 106 Agreement obligating the site owner(s) to comply with the provisions of the Education Payments SPD (i.e. the Local Planning Authority would not normally seek to secure a particular sum at this stage).

The applicant has made no proposal for providing an education contribution, and in the absence of a completed legal obligation no such contribution has been secured.

As such, approval of the application would be contrary to policy H10 of the Scarborough Borough Local Plan, the provisions of the Council's Education Payments Supplementary Planning Document and paragraph 94 of the National Planning Policy Framework, as the development fails to provide sufficient contribution towards education provision and is therefore not sustainable development because the choice for parents to choose the nearest may not be available, and children would need to travel further to a school with capacity.

David Walker

Background Papers:

Those documents referred to in this report.

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT OR WISH TO INSPECT ANY OF THE BACKGROUND PAPERS, PLEASE CONTACT MR DANIEL METCALFE ON 01723 383538 email daniel.metcalfe@scarborough.gov.uk



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