

DELEGATED

**AGENDA NO
PLANNING COMMITTEE**

7 SEPTEMBER 2016

**REPORT OF DIRECTOR ECONOMIC
GROWTH AND DEVELOPMENT SERVICES**

15/1643/OUT

**Land South Of Kirklevington, Thirsk Road, Kirklevington
Outline application for the construction of up to 145 dwellings and associated community
and sport facilities (all matters reserved except for access)**

Expiry Date: 7th July 2016

SUMMARY

1. Members will recall that this Outline planning application for a residential development of up to 145 houses with all matters of Access, Layout, Appearance, Scale and Landscaping reserved was considered at the Planning Committee on 27 July 2016 when the Planning Committee resolved it was minded to refuse the planning application primarily for the following reasons:

1. The development was unsustainable with no long term guarantee of bus provision and no safe walking route to schools
2. Unacceptable change to the character of the village and an overdevelopment
3. Outside limits to development
4. Unacceptable flood risk and inadequate drainage facilities
5. Unacceptable highway access and egress to the site
6. Lack of satisfactory education provision and facilities

PLANNING CONSIDERATIONS

2. As the decision would be contrary to the recommendation made to the Committee by the Director of Economic Growth and Development Services the Planning Development Services Manager, and the Chief Solicitor- Planning agreed that the Protocol for Decisions Contrary to Officers Recommendation should be invoked to give further consideration to the concerns raised. The determination of the application was deferred and the Protocol requires that the application be reported back to Planning Committee for Members to give consideration to any further advice from Officers before making a final determination.

3. A copy of the original Planning Committee reports and update report are attached at Appendix 1, 2, 3 and 4. Appendix 5 is Counsel's opinion on how the planning application would be likely to be determined on appeal based on Members reasons for refusal. Counsel's opinion was sought to independently test whether there were any sustainable grounds which could be relied upon to refuse the application.

Turning to the reasons for refusal put forward by Members

The development was unsustainable with no long term guarantee of bus provision and no safe walking route to schools

4. The Council produced a villages study and Kirklevington was classed as a sustainable village in the 2012 version. However, the bus service was removed from the village and the December 2014

edition detailed Kirklevington as being an unsustainable village for new development. Whilst the council have been using the villages study as a guide to assessing the suitability of villages for new housing, recent appeal decisions for housing in the Borough have concluded that the council's villages study is not an approved document within the Local Development Plan documents and does therefore not carry significant weight in determining the planning application. Furthermore, two recent inspector's decisions allowed housing in Redmarshall based on the range of services within Redmarshall and the nearby villages and due to there being a regular bus service to link residents to services as a sustainable form of development. In one of the appeal decisions in Redmarshall the Planning Inspector noted that there were concerns regarding the long term future of the bus service but determined the appeal on the basis of the current situation. This reflects the reality that the provision and retention of bus services cannot be guaranteed.

5. Kirklevington already has a number of provisions and services within the village including a school, church, community centre, play area, public house and car repair garage and these are a starting point of a sustainable settlement. The main omission that planning inspectors give greatest weight to is the provision of a regular bus service.

6. In making this application the submission accepts that services within the village could be increased and has sought to add to those existing services in order to make Kirklevington sufficiently sustainable to support new housing. The provisions and facilities being proposed would be;

- a funded daily bus service for a 5 year period to allow sustainable transport options to be relied on,
- A village shop,
- A village green and amenity green space area,
- Landscaped footpaths within the site,
- A small car park to serve the locality,
- A multi-use games area.

7. The existing and proposed array of services would be notably greater than Redmarshall which the Planning Inspector deemed sufficiently sustainable for new development

8. Although comments have been made that safe and lit footpaths and cycleways are required to connect the site to sustainable settlements, suggesting these do not exist between Kirklevington and Yarm, these are only one strand of many elements that may serve to support a sustainable settlement and are one strand of sustainability in wider terms taking into account economic and social strands. Although officers consider there is no immediate opportunity to provide a cycleway between Yarm and Kirklevington, there is already a footpath which is considered to be safe.

9. Whilst objections have suggested that former services have failed due to lack of use or viability, that there is no desire from locals for more services and suggested that new development should be located in other areas which are sustainable, the content of the Kirklevington and Castlelevington Community Plan dated June 2012 has been considered. As detailed at para's 19 and 74 of your reports, the Community Plan, amongst other things, advises of aspirations for the village including;

- Play equipment for older children,

- Food retailing;
- Addressing parking problems along Forest Land and near to the school;
- Acquisition of land for use as a playing field;
- A more frequent bus service.

10. It is considered that the proposed services and provisions of this development would assist in giving regular access to the wider settlements and the associated retailing, education and employment uses whilst also provide services within the village which would assist in reducing the need to travel from the village, not only for occupants of the proposed development but also existing residents, being in accordance with National Policy.

11. Specific concern has been raised about the potential for the bus service or other provisions to not be provided. These would all form part of a Section 106 agreement and would need to be complied with. Should there be an unforeseen change of circumstances in relation to such services being provided then appropriate applications and submissions would be required and considered at such time, as is the case for any Section 106 Agreement.

12. A number of concerns have been raised about the ability for residents to walk to Yarm, suggesting it is too far, along an unlit path and being inherently unsafe, particularly for school children going to the local secondary schools. Whilst noted, this is an existing formal route and is not considered to be unsafe by the Director of Economic Growth and Development. Members will need to produce strong technical evidence to rely upon to prove that the footpath is unsafe. In addition, it is considered that the provision of a 5 year daily bus service will assist this travel.

13. As identified in the original report the National Planning Policy Framework (para 49) indicates that relevant policies for the supply of housing should not be considered up to date if the Local Planning Authority is unable to demonstrate a five year supply of deliverable housing sites. In view of this, the locating aspects of Policy EN13 (limits of development) and CS7 as well as SP2 are unable to be relied upon in decision making currently in view of the Local Planning Authority being unable to demonstrate a deliverable 5 year housing supply.

14. Para 49 of the NPPF also advises that housing applications should be considered in the context of the presumption in favour of sustainable development. In view of this, in considering the principle of residential development on the site, the main thrust of weight needs to be balanced against whether the site is in a sustainable location.

15. The NPPF advises at para.7 that there are three dimensions to sustainable development, an economic, social and environmental role. The economic role is more about land allocation and providing a strong and competitive economy. The social role relates to support for a strong, vibrant and healthy community by the provision of housing to meet the needs of present and future generations and creating a high quality built environment accessible to local services. The environmental role relates to the protection and enhancement of the natural, built and historic environment.

16. The proposed housing will make a reasonable contribution to the provision of deliverable housing, and is therefore considered to meet part of the social strand of sustainable development. With regards to creating a built environment accessible to local services, considerations need to take into account the sites proximity to services. There are a limited amount of services within the village which led to the village being re-categorised within the council's villages study. There is a school, community centre; children's play area, public house, church and car repair garage. Importantly, there is no daily regular bus service which is a point which led to the village being re-

categorised from a sustainable place for new residential development to an unsustainable location for new development within the council's villages study.

17. The National Planning Policy Framework (NPPF paragraph 17), requires that; planning should *“actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations **which are or can be made sustainable**”*. These objectives are reflected in Policy CS2 of the Stockton-on-Tees Core Strategy Development Plan Document which requires, amongst other things, that transport choice is widened by ensuring that all new developments are well serviced by an attractive choice of transport modes, including public transport, footpaths and cycle routes to provide alternatives to the use of all private vehicles. Core Strategy Development Plan Policy CS6 which supports the provision of services which contribute to the sustainability of communities.

18. In making the application, the applicant has put forward opportunities to expand services within the village with the aim of making it sufficiently sustainable to support new residential development. Given that the village already has a number of services, and given that the site is not a significant distance from the southern edge of Yarm where there is a shopping parade, secondary school and train station, this approach is considered to align with national policy.

19. It is considered that an element to providing a sustainable location for development would be a daily and regular bus service. The applicant has agreed to provide such for a 5 year period and this is detailed within the Heads of Terms and would form part of any Section 106 Agreement. In addition, the applicant has sought to provide a large area of open space within the site, informal footpaths, a building to be used as a small scale shop, a parking / drop off area for general use although which could be used by parents dropping children at the adjacent school as well as a multi-use games area for children. The combination of these services are considered to provide for the future occupants of the scheme and would also be able to be used by existing residents and combine with the other services within the village. Subject to adequate provision, which is detailed within the Heads of Terms, it is considered that Kirklevington would be sufficiently sustainable to support new residential development. Members' attention is drawn to paragraph 29 of the NPPF which advises that *“the transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel. However the Government recognises that different policies and measures will be required in different communities and opportunities to maximise sustainable solutions will vary from urban to rural areas. “*

20. It is considered that the proposed bus service would represent a reasonable solution for the site, considering the size of the proposed development and the rural context of the area. On appeal relevant appeal decisions indicate that the Planning Inspectorate consider that car use may remain the predominant form of travel for residents of a scheme. Whilst the proposed offer provides a reasonable choice, the rural nature of the site and complex travel patterns associated with every day life are such that the car will remain the most popular choice for most. The village is in relative close proximity to Yarm and Stockton accordingly, it is likely that most car journeys would be short. In that sense, the Framework does not seek to prevent car use but requires a balanced approach, based on the context and scale of development proposed.

21. Turning to the current National Planning Practice Guidance as set out in full below this makes quite clear the role of the Local Planning Authority as the Government sees it of housing in supporting the broader sustainability of villages and smaller settlements. There is no robust evidence that blanket policies restricting housing development in some settlements and preventing other settlements from expanding are justified and the Local Planning Authority is required to consider and address how settlements can play a role in delivering sustainable development in the rural areas

Rural Housing

How should local authorities support sustainable rural communities?

Paragraph: 001 Reference ID: 50-001-20160519

- *It is important to recognise the particular issues facing rural areas in terms of housing supply and affordability, and the role of housing in supporting the broader sustainability of villages and smaller settlements. This is clearly set out in the National Planning Policy Framework, in the core planning principles, the section on supporting a prosperous rural economy and the section on housing.*
- *A thriving rural community in a living, working countryside depends, in part, on retaining local services and community facilities such as schools, local shops, cultural venues, public houses and places of worship. Rural housing is essential to ensure viable use of these local facilities.*
- *Assessing housing need and allocating sites should be considered at a strategic level and through the Local Plan and/or neighbourhood plan process. However, all settlements can play a role in delivering sustainable development in rural areas – and so blanket policies restricting housing development in some settlements and preventing other settlements from expanding should be avoided unless their use can be supported by robust evidence. A neighbourhood plan can allocate additional sites to those in a Local Plan where this is supported by evidence to demonstrate need above that identified in the Local Plan and the plan proposal meets the basic conditions.*

22. The National Planning Policy Framework also recognises that different sustainable transport policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas.

23. The Framework seeks to boost significantly the supply of housing. It also aims to deliver a wide choice of high quality homes based upon the size, type, tenure and range of housing required in particular locations. The proposal would contribute up to 145 dwellings to the local supply, including 15% which would be affordable homes, in the context of the serious and persistent under-provision of housing, as described in the main report, significant weight is required to be attached to the benefit of the proposal in terms of its contribution to housing supply.

24. When taken in the round, with the services and facilities that will be available in the village, the enhanced public transport offer, and the relative close proximity of Yarm and Stockton, residents of the application site would have good levels of access to the range of services to meet their day to day needs, with a reasonable choice of transport modes commensurate with the location of the site. The scheme would also serve to make the village more sustainable for the existing occupants which is a significant positive benefit.

25. In view of these matters, the proposal would conform to the principles set out within section 4 of the Framework and guidance of the provision of rural housing within the National Planning Practice Guidance.

Unacceptable change to the character of the village and an overdevelopment

26. The proposal is located on the southern edge of the village and would be visible from areas to the south. The site is not in or adjacent to any land / landscape which has a landscape designation on it. Highways, Transport and Environment have considered the indicative layout and consider that the scheme demonstrates that notwithstanding the scheme, glimpsed views of the historic church across the green will be retained with a number of properties facing directly onto the green reminiscent of a traditional village green. It is recognised that the layout is relatively dense and would need further consideration at reserved matters stage and that it is appropriate for the development to not have a uniform grain or generic house types but instead be more bespoke design to better reflect its location on the edge of a village.

27. The site layout shows structural buffer planting to the south and west edges of the site and internal landscape / communal routes which would all need to form part of considerations at reserved matters stage. This will again be critical in achieving a high quality scheme and all of these matters would be detailed at reserved matter stage. In order to fully understand the layout, the benefit of existing trees and other similar matters, a condition is recommended to prevent any tree or hedge loss until the landscaping reserved matters have been agreed. The increase in the size of the village in itself is not sufficient to warrant a reason for refusal, members would have to demonstrate the significant harm caused by the increase.

28. Further objection is raised on grounds that the scheme would represent development of the village sprawling into the open countryside and would therefore be out of place with the village. The proposal would represent an extension to the southern side of the village and would extend across a notable extent of its southern boundary. The village is contained to the east and west by the A67 and the Railway Line which are defined edges to the built form of the village. This proposed extension is illustratively showing a structural tree belt on the southern side of the development and set built form back behind a large area of open space, both of which would serve to create a buffer between the extended village and the open countryside which is considered would prevent the site appearing like unplanned sprawl of building into the open countryside.

Outside limits to development

29. Notwithstanding the matters of policy guidance referenced in the original report, the National Planning Policy Framework (para 49) makes clear that relevant policies for the supply of housing should not be considered up to date if the Local Planning Authority is unable to demonstrate a five year supply of deliverable housing sites. Consequently, the locating aspects of Policy EN13 (limits of development) and CS7 as well as SP2 are unable to be relied upon in decision making currently in view of the Local Planning Authority being unable to demonstrate a deliverable 5 year housing supply.

30. Para 49 of the National Planning Policy Framework also advises that housing applications should be considered in the context of the presumption in favour of sustainable development and undertaken in places which are or can be made sustainable, making the fullest use of public facilities.. In view of this, in considering the principle of residential development on the site, the main thrust of weight needs to be balanced against whether the development is sustainable as defined within the NPPF.

Unacceptable flood risk and inadequate drainage facilities

31. Concerns have been raised in respect to the potential for flooding at the site, and adjoining properties and the impacts of the scheme on the surrounding foul and surface water drainage networks as well as the ability for the sewage treatment works to cope.

32. Surface water is indicated as being collected into a new drainage system, attenuated on site sufficiently to limit the run off from the site and for this to be discharged into the adjacent beck on the southern side of the site which is away from existing properties. Northumbrian Water and the councils Highways, Transport and Environment Team, acting as the lead flood authority, have accepted the scheme would not increase to the risk of flooding of the wider area subject to a suitable surface water drainage scheme being achieved by condition. There is no requirement for this scheme to improve the current problems of surface water ponding in existing residential gardens, however, there is often reduced water ponding in such areas following development taking place given there being a designed, formal system for dealing with surface water at the site.

33. With regards to foul water from the site, Northumbrian Water have advised that the existing and recently upgraded Sewage Treatment Works in Kirklevington can accommodate the additional flows from the proposed development. Objectors have questioned this and advise of a long period of upgrade works to the treatment works and highlight the existing network may be old and at capacity. Northumbrian Water have advised that suitable connection can be made into the existing system and that the existing system is fit for purpose. They have also advised that, were connections to be made and problems occur in the future then it would be their responsibility to resolve. Northumbrian Water have also advised that due to the improvements to the STW, there will be no increase in tankers visiting the site for normal operations which means there should be no increase in tankers travelling down the residential street of Ash Grove which has been a specific concern for local residents.

34. Members would need to demonstrate what evidence they rely upon to contradict the above views.

Unacceptable highway access and egress to the site

35. In terms of the access, a likely position and type of access into the site and internal road layout has been shown indicatively. These details have been considered given the nature of the A67 at that position. A road safety audit would be required to demonstrate the final suitability of the access proposals however; officers are satisfied a suitable access can be achieved and that impacts relating to traffic and transport would be fully addressed and therefore not be severe, therefore giving no basis for refusal in traffic / transport grounds.

36. Means of Access was originally not a Reserved Matter but as the layout is only indicative, appropriate details reflecting the final layout could not be provided for approval and Means of Access was changed to a Reserved Matter to enable appropriate details to be submitted when the details could be finalised.

37. Members would need to demonstrate what technical evidence they rely upon to support why they are of the view that an acceptable means of access cannot be achieved.

Lack of satisfactory education provision and facilities

38. In accordance with Core Strategy Development Plan Policy CS11, contributions towards education can be required from development in order to offset the demands placed on the surrounding educational provisions. The Council's School Placement team have advised that at this point in time, there is uncertainty in respect of available places for both primary and secondary school places within the surrounding schools to meet the demands of this scheme. There has been relatively significant levels of housing approved and commenced within the wider area and therefore, in view of this, a contribution is required in relation to the provision of school places in line with the Heads of Terms. The Council's education contribution is calculated at the time of the development commences and whether a payment is required is based on the capacity within schools at that time.

39. This site lies immediately adjacent to the primary school and there is potential opportunity for the development of the site to assist with the expansion of Kirklevington School site should this be desirable. Whilst no requirement of this has been highlighted at this present time by officers, the applicant has requested that the Section 106 Contribution of education provision be sufficiently flexible to allow provision to be made for expanding the school site were officers to deem this to be suitable. This is considered to be reasonable and is detailed within the Heads of Terms.

40. If the impact of a proposed development can be mitigated by a condition or planning obligation the impact cannot form a reasonable reason to refuse an application. The obligation to contribute to education facilities has been accepted by the Council in relation to all recent major developments and there is no reason to refuse the same mitigation proposal in relation to this application.

CONCLUSION

41. Members are referred to the appended counsel opinion regarding the reasons for refusal proposed by members and the report above. Members will note that counsel advises that the reasons for refusal cannot be sustained at appeal, with most being unreasonable and may lead to costs being awarded against the council. Whilst the possibility of a costs award cannot be taken into account members are advised accordingly as this also goes to the strength and reasonableness of the reasons for refusal.

42. While it is noted that Counsel opinion includes comments on the withdrawal of the proposed Kirklevington bus service after five years, in one of the appeal decisions in Redmarshall the Planning Inspector noted that there were concerns regarding the long term future of the bus service in that location but determined the appeal on the basis of the current situation. This reflects the reality that the provision and retention of bus services cannot be guaranteed.

43. Having carefully considered the material planning considerations relating to this application it is considered that the presumption in favour of sustainable development should operate to indicate that the application should be granted unless any consequent adverse impact would significantly and demonstrably outweigh the benefits when assessed against the Framework as a whole. It is considered that no such adverse impact can be identified.

44. The Officer's recommendation remains as previously set out in the report and update report made to Members at the Planning Committee on 27th July 2016 that the Planning Committee be minded to That committee be minded to approve the application subject to conditions and

informatives as detailed within the main report and update report and subject to a S106 Agreement as detailed within the Heads of Terms within the main report or such other terms as may be deemed necessary by the Director of Economic Growth and Development Service, and that the application be approved under the same terms should the Secretary of State not call the application in. In the instance that the Section 106 is not signed within 6 months from the date of permission being granted, then the application be refused due to lack of the provision for affordable housing, education and other important infrastructure identified in the report.

Corporate Director of Economic Growth and Development Services
Contact Officer Mr Barry Jackson Telephone No 01642 526066

WARD AND WARD COUNCILLORS

Ward	Yarm
Ward Councillor	Councillor Ben Houchen
Ward Councillor	Councillor Elsi Hampton
Ward Councillor	Councillor Julia Whitehill

IMPLICATIONS

Financial Implications:

There are no known financial implications in dealing with this application.

Environmental Implications:

The proposed development would result in the loss of green fields and re-provide some of the residential site as green open space. The proposal will therefore result in visual impacts and in physical impacts, all of which have been considered. The physical impacts were considered would not be significantly detrimental and some re-provision of wildlife corridors and other environmental provision would be beneficial.

Human Rights Implications:

The provisions of the European Convention of Human Rights 1950 have been taken into account in the preparation of this report. The view of persons commenting on the application have been taken into account.

Community Safety Implications:

The provisions of Section 17 of the Crime and Disorder Act 1998 have been taken into account in the preparation of this report. It is considered that suitable safe access can be achieved into the site and within the site and there are no known safety implications for the community.

Background Papers

Stockton on Tees Local Plan Adopted 1997

Core Strategy – 2010

Emerging

Regeneration and Environment Local Plan – Publication February 2015.

Supplementary Planning Documents

SPD1 – Sustainable Design Guide

SPD2 – Open Space, Recreation and Landscaping

SPD3 – Parking Provision for Developments

SPD6 – Planning Obligations

SPD8 – Affordable Housing