

**DELEGATED**

**AGENDA NO  
PLANNING COMMITTEE**

**26 August 2020**

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

**20/0344/VARY**

**Tall Trees Development, Green Lane, Kirklevington**

**Section 73 application to vary condition no.2 of planning approval 15/2152/REM - Reserved matters application (appearance, landscaping, layout and scale) for planning approval 13/2568/EIS - Phase 2 for the erection of 149 dwellings and open space.**

**Expiry Date: 26 August 2020**

**UPDATE REPORT**

**SUMMARY**

The additional information relates to a number of issues that have been raised since issuing the officer report.

**Recommendation subject to Deed of Variation**

1. As the proposed development would alter the affordable housing mix from the previous section 106 agreement and would also introduce a Local Lettings Policy, there is a requirement for a deed of variation of the section 106 to be signed to secure these details. The recommendation of the proposed development is therefore subject to the signing of the deed of variation.

**RECOMMENDATION**

**That planning application 20/0344/VARY be approved subject to signing the deed of variation of the section 106 and subject to the following conditions and informative set out below:-**

**01 Approved Plans**

The development hereby approved shall be in accordance with the following approved plans;

<b>Plan Reference Number</b>	<b>Date Received</b>
1774-01D (SHEET 1 OF 3)	27 July 2020
1774-02D (SHEET 2 OF 3)	27 July 2020
1774-03D (SHEET 3 OF 3)	27 July 2020
SD-100.01 REVC	27 July 2020

SD-200-02 REV C	12 June 2020
20 5377 - 10	10 February 2020
20 5377 - 20	10 February 2020
20 5377 - 21	10 February 2020
20 5377 - 24	10 February 2020
20 5377 - 25	10 February 2020
20 5377 - 26	10 February 2020
20 5377 - 27	10 February 2020
20 5377 - 28	10 February 2020
20 5377 - 29	10 February 2020
20 5377 - 30	10 February 2020
SD.100-03 REV D	12 June 2020
SD.100-04 REV B	12 June 2020
SD.100-06 REV B	12 June 2020
SD.200-01 REV B	12 June 2020
SD.200-03 REV D	12 June 2020
SD.200-04 REV A	12 June 2020
SD.200-05 REV C	12 June 2020

Reason: To define the consent.

02 **Limits of Consent**

This approval relates solely to this application for the approval of the variation of Reserved Matters and condition 2 of 15/2152/REM. It does not in any way discharge conditions contained within the Outline Planning Approval reference 13/2568/EIS which still require the submission of specific details and the written approval of the Local Planning Authority.

Reason: For the avoidance of doubt and to define the consent.

03 **Tree Pit Details**

No development shall be commenced until the Local Planning Authority has approved in writing the details of arrangements for the planting of trees within the adopted highway to ensure a suitable tree pit package and soil volume will be provided for each tree, and that the adopted highway is protected from future tree root damage.

Reason: To ensure the longevity of trees within the adopted highway prevent future damage by tree roots.

04 **Trees adjacent to the adopted highway**

No development shall be commenced until the Local Planning Authority has approved in writing the details of arrangements for the protection of the adopted highway, from tree root damage where trees are planted within 2 metres.

Reason: To protect the adopted highway from damage by tree roots.

05 **Permitted Development Rights means of enclosure**

Notwithstanding the provisions of Part 2, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order) no gates, fences, walls or other means of enclosure shall be erected between the front or side wall of any dwelling which the curtilage of the dwelling fronts or abuts.

Reason: In order that the local planning authority may exercise further control in order to protect the amenity of adjoining residents.

06 **Removal of PD Rights – Class A Householder**

Notwithstanding the provisions of class A of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order), the buildings hereby approved shall not be extended or altered in any way, nor any ancillary buildings or means of enclosure erected within the curtilage without the written approval of the Local Planning Authority.

Reason: To adequately control the level of development on the site to a degree by which the principle of the permission is based.

07 **Hedgehogs Fencing**

Notwithstanding the submitted information, prior to the erection of any fencing details of the specification for holes in boundary walls and fences at ground level to allow for the movement of hedgehogs shall be submitted to and be approved in writing by the Local Planning Authority. The agreed works shall be implemented in accordance with the agreed details and be retained thereafter for the lifetime of the development.

Reason: In compliance with the requirements of the NPPF.

## **INFORMATIVE OF REASON FOR PLANNING APPROVAL**

### **Informative: Working Practices**

The Local Planning Authority has worked in a positive and proactive manner and sought solutions to problems arising in dealing with the planning application by seeking a revised scheme to overcome issues and by the identification and imposition of appropriate planning conditions.

### **Informative: Secure by Design Gold Standard**

The applicant should consider working alongside the Crime Prevention Officer to reach the gold standard for secure by design principles. Secured by Design details are available at the following website <https://www.securedbydesign.com/contact-us/national-network-of-designing-out-crime-officers?view=article&id=308#cleveland-police>.

### **Tall Trees Action Group letter**

2. Since the publication of the officer report, the Council have received a solicitor's letter acting on behalf of the Tall Trees Action Group. A response to the main points raised within the letter is detailed below.
3. The submitted letter suggests that the proposed changes from the approved scheme for 4 and 5 bedroomed properties with studies to 2 and 3 bedroom dwellings is beyond the scope of a section 73 planning application and is susceptible to legal challenge by way of judicial review. The letter states that a new planning application should be submitted with a full and transparent consultation taking place.
4. In response, the approved reserved matters scheme was for 149 dwellings and the current proposed scheme would be for the same number of dwellings. The change in housetypes, as described, is considered not to be beyond the scope of the section 73 planning application. With respect to consultation process, the planning application has been processed in exactly the same manner as any other major planning application, where it has been advertised through press notice, neighbour notification letter and through the display of site notice.

5. The letter refers to Policy H4 suggesting that it relates to affordable housing which is incorrect. Policy H4 is set out in the main committee report but the pertinent section, H4(1), states “Sustainable residential communities will be created by requiring developers to provide a mix and balance of good quality housing of appropriate sizes, types and tenures which reflects local needs and demand, having regard to the Strategic Housing Market Assessment, its successor documents or appropriate supporting documents.” This does not refer solely to affordable homes.
6. Paragraph 5.52 of the Local Plan then goes on to advise that the SHMA identifies a need for market housing focused heavily towards the provision of 3 bedroom homes followed by the provision of 2 and 4 bedroom homes.
7. The submitted letter suggests that the proposed development is in conflict with the adopted development plan in respect of insufficient evidence of the tenure of shared ownership; no robust evidence why the affordable housing target is beyond 20%; affordable homes being provided in an area of limited sustainability and that the proposed development should not have a negative impact on the area.
8. In response, with respect to the tenure of shared ownership, additional information was provided by the applicant in respect to the nature of the housing product as outlined in paragraph 33 of the main report. It is also noted that the occupants of the affordable homes would be subject to a Local Letting Policy that provides management controls over prospective residents that would not otherwise be possible through open market property sales.
9. With respect to the provision of affordable housing above the 20% housing target, this matter has been comprehensively addressed within paragraphs 22 to 31 of the main report. In response to the suggestion that the proposal provides affordable housing in a less sustainable location, the sites sustainability has been fully assessed and is considered to be an appropriate location for the housing proposed.
10. The letter refers to paragraph 5.53 of the Local Plan and suggests it states that “a higher density of affordable homes will only be provided where there is a higher level of public transport accessibility such as Stockton, Billingham and Thornaby town centres”. Paragraph 5.53 of the Local Plan does not relate just to affordable homes and actually refers to the density of housing developments in their entirety, being market housing and affordable housing. The proposed development does not increase the number of dwellings to be built and does not increase the density of the development. It relates to Policy H4(2) which provides “Support will be given to higher density development within areas with a particularly high level of public transport accessibility. Elsewhere housing densities will be considered in the context of the surrounding area in accordance with Policy SD8.”
11. Concerns raised that the proposed development would create significant pressure on existing infrastructure such as schools and doctor’s surgeries have also been taken into account within the main report, and it is considered that the impact of the proposal would not be dissimilar from the accepted approved scheme at the site.
12. The suggestion that the proposed scheme would have a negative impact on the area is considered to be an unsupported claim and the Local Planning Authority consider that the proposed scheme to provide a balanced mix and a cohesive residential scheme.
13. The submitted letter also claims that the proposed development illustrates 119 Broadacres dwellings instead of 114, as set out within submitted planning statement. The Broadacres

dwellings would provide 114 dwellings and 35 properties provided by Yorvik Homes, totalling 149 dwellings.

14. It is considered that the matters raised on behalf of the Tall Trees Action Group have been considered and addressed within the main report and through the additional clarification provided within the current update report and that no information has been provided that would alter the officer recommendation as detailed above.

### Consultation Response

15. A neighbouring residents' name and address was missed from the list of contributors within the officer report. Mr Wallace Walton of 4 Ash Drive submitted letters of objection and a summary of the points raised are detailed below.

- The development is out of character with the surrounding area and is not a cohesive form of development, which is significantly different to the already approved scheme.
- The changing demographics of the proposed development would put significant pressure on existing infrastructure, such as the transport network, schools and doctor's surgery.
- The site has limited public transport and is at a distance from local amenities, which is not suitable for a high proportion of affordable homes and a lack of employment opportunities within the area to serve prospective residents.
- The proposal is beyond the scope of a section 73 variation application.
- There is a disproportionate level of social housing above the requirement of local plan.
- Concerns are raised that the proposed development will result in crime and anti-social behaviour.
- The proposed development would result in an increased level of traffic, the vehicular access is not suitable and there is not enough available parking, which would result in highway safety concerns.
- Residents have purchased properties based on original plans for the neighbouring site and therefore the proposal should be rejected.
- Concerns over noise, close proximity, visual impact.
- Concerns over air quality and increased carbon footprint as result of development.
- Residents consider that not enough consultation has been carried out.
- The proposed development would result in a negative impact on house prices.
- A comment has questioned the ability of the applicant to benefit from subsidises outcompeting the private market.

16. All of the issues raised have been taken into account within the main report.

**Director of Economic Growth and Development**  
**Contact Officer Kieran Campbell Telephone No 01642 528551**

**WARD AND WARD COUNCILLORS**

<b>Ward</b>	<b>Yarm</b>
<b>Ward Councillor</b>	<b>Councillor Tony Hampton</b>
<b>Ward Councillor</b>	<b>Councillor Julia Whitehill</b>
<b>Ward Councillor</b>	<b>Councillor Andrew Sherris</b>

**Financial Implications:** As report

**Environmental Implications:** As report

**Human Rights Implications:** The provisions of the European Convention of Human Rights 1950 have been taken into account in the preparation of this report.

**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.

**Background Papers**

The Town and Country Planning Act 1990.  
National Planning Policy Framework  
Stockton-on-Tees Local Plan