

DELEGATED

AGENDA NO PLANNING COMMITTEE 21 December 2022 REPORT OF DIRECTOR OF FINANCE, DEVELOPMENT AND BUSINESS SERVICES

21/2925/FUL

**Mount Leven Farm, Leven Bank Road, Yarm
Erection of 215no. dwellinghouses with associated infrastructure.**

SUMMARY

Members will recall that this planning application for 215 dwellinghouses was considered at planning committee on the 26th of October 2022 when the planning committee resolved it was minded to refuse the application for the following reasons;

1. the development did not meet the needs of the ageing population and the proposal is therefore contrary to policy
2. the roundabout was unsafe and unsuitable to serve the development
3. the proposal would have an adverse impact on the character and appearance the area
4. the proposal would have an adverse impact on the green space.

In addition, members raised concerns with regards to the formular for education contributions, and the lack of response from Director of Children's Services.

Since the last committee a number of objections have been received and these are summarised below along with the comments from Director of Children's Services

CONSULTATION COMMENTS

Director of Children's Services

The Director of Children's Services consider that the standard formula approach is the preferred approach as this allows for contributions to be collected at the time of impact, given that schemes can be implemented but not built out for many years.

Generally, schools in Yarm remain popular with children from families from outside the immediate area, as they are able to secure places due to parental choice when they are not full of local children.

However, any demand for schools places from families of school age children (aged 4 to 16) from this development are given priority (as per the Admissions Policy) due to them residing within the admission zone(s) of the four primary schools and one secondary school.

ADDITIONAL COMMENTS FROM NEIGHBOURS/INTERESTED PARTIES

1. Additional Comments were received from the addresses detailed below
 - Mr Brazell, 16 Braeworth Close, Yarm TS15 9SB
 - Mr Howson, Hedgeside Leven Bank Road Yarm TS15 9JL
 - Mrs Christine Mundy, 28 Crosswell Park, Ingleby Barwick

- Mrs Smith Hillcroft Leven Bank Road Yarm TS15 9JL
(submitted to the Highways Transport and Design Manager)
2. The main objections are summarised below and where relevant grouped into issues relating to the suggested reasons for refusal. The full details of the objections can be viewed online, <http://www.developmentmanagement.stockton.gov.uk/online-applications/>

Reason for Refusal 1 the development did not meet the needs of the ageing population on the proposal is therefore contrary to policy

- The new proposal is not specific to meeting the needs of the ageing population because it does not include a separate care home, community facilities and over 55 retirement bungalows as originally proposed. It therefore fails to satisfy Policy H4.
- The M4 adaptability does not help the ageing population now and therefore is not considered specific to meeting their needs.
- SBC Housing Strategy 2018-2023 recognizes demand for bungalows and special care far out strips supply.
- Fails to provide a sustainable elderly pedestrian connection to bus routes and the only remaining shop on Glaisdale Road. These facilities will be at least half a mile away for most elderly residents necessitating them to use the private car to exit the estate contrary to Policy SD6 and the Council's Core Strategy Policy 2 for Sustainable Transport and Travel

Reason for Refusal 2 Roundabout and access was unsafe and unsuitable to serve the development

- The roundabout does not provide the proposal with all modes of transport including buses, cyclists and pedestrians as required for market housing
- The existing road width of 5.5m at its entrance access arm is not wide enough to accommodate both this proposal for 215 houses and the additional 129 dwellings still to be provided in what remains of the retirement village. A total extant approval of 344 mainly market dwellings would require a width of 6.7m.
- Concerns about highway Safety on the A1044 for all pedestrians and cyclists.
- Lack of footpath on the southside leading to people trespassing on the land belong to Hedgeside
- Suggestion that a safer solution could be found using Mr Howsons land but this a cannot be subject to a Compulsive Purchase Order (CPO) for highway safety reasons at a later date should it be needed (Mr Howsons own Legal Advice)
- Implications of professional negligence forcing this proposal through in its current format that later results in a fatality?
- There is a distinct lack of footpath/cycle provision to connect outside of the development site and in particular on the roundabout and the A1044. Without pedestrian and cyclist provision at the access roundabout the application is not Policy compliant with Transport and Infrastructure Policy TI1 and Strategic Development Policy SD8.
- Why has the Highways, Transport and Design Manager not considered improving the roundabout as part of this application to the recognised SBC design Standards and national Design Manual Road's and Bridges to meet the needs of all modes of transport including buses, cyclists and pedestrians?
- Why have the foreseeable pedestrian and cyclist movements at the roundabout not been fully considered in the final Highways report which if this application is approved will put the lives of future residents at risk.
- The only cycleway on the proposed layout terminates before the roundabout on the west side of the access road and no consideration for the safety of cyclists entering this busy roundabout has been provided in this application. Can the Highways Manager explain why

segregated cycling facilities as set out in the latest national standard for Cycleways LTN 1/20 have not been required for this application?

- Why have officers not requested an update of the Highway Safety Audit for the access roundabout?
- Further why were Sustrans not included in the Consultee process?
- Was the council's cyclist officer in the decision process ?
- The lack of a cycle route to Busby Way will require ALL cyclists to exit the site via the existing roundabout where there are no dedicated cycleways and, more importantly, no safety audit has been undertaken in the consideration of the application regarding the roundabout use by cyclists.
- There is no continuous adopted footway along the Leven Bank Road from the roundabout to the bus stop at the top of Leven Bank, the land is owned by Mrs Smith
- A safe crossing point over the A1044 is a safety concern - officer's comments do not address the location and safety of the proposed pedestrian crossing over the A1044
- If the Spell Close Prow is not being upgraded then it will remain on 3rd Party land as an unsurfaced non DDA standard route of a fixed width. Therefore this can only be considered as a recreational route not a sustainable link which ELG sought to promote within their Planning Design and Access Statement

Other Matters raised since the last planning committee

- Contrary to Policy TI2 where proposals resulting in loss of valued shops and facilities will not be supported.
 - Will the connection through Busby have a cycle path as there is insufficient detail in the plans provided to confirm this.
 - The Public Right of Way (PROW) leading to Spell Close and the footpath to the bus route at the top of Leven Bank would require third party land to make them safe and fully inclusive regardless of disability and age
 - The exit of the PROW at the point of the Leven Valley bridge is directly on to the carriageway near the bridge making it highly dangerous for children occupying the proposed family development.
 - Impact the proposal will have on the adjoining River Leven. The privately owned surface water drainage system and SuDS Pond controlling discharge into the river will not satisfy Nutrient Neutrality requirements unless adequately monitored.
 - The SuDS Pond is below minimum design standards.
 - There has been no climate change or energy statement provided to verify if the proposal will meet the required targets.
 - Concerns over the number of conditions – meaning a lack of information
 - Can the council officers confirm to committee members that the area which has already been allocated for landscape improvements under the planning approval for the retirement village can be used for nutrient credits on this new application. Surely this is a matter of double counting?
 - Secondly, the allocated Country Park area is 13.75 hectares but already contains significant areas of existing trees and scrub. As these areas must be excluded from the area offered for ecological enhancement, the required 13.1 hectares which is required to comply with the Natural England Nutrient Budget Calculator has not been met.
 - Concerns over the calculations for Nutrient Neutrality
3. Members should be aware that comments were received since the update report was published for the 23 November 2022 and were circulated in advance of the Committee. As members are aware only the reasons for refusal are to be debated at the Committee and the comments were circulated for information.

PLANNING CONSIDERATIONS

4. As the decision would be contrary to the recommendation made to the committee by the Director of Finance Development and Business Services, the Planning Services Manager and Head of Legal Services, agreed that the protocol for decision's contrary to officer recommendation should be invoked to give further consideration to the concerns raised.
5. 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.
6. A copy of the original planning committee report is attached at Appendix 1.

Reason for Refusal 1 - The development does not meet the needs of the ageing population and the proposal is therefore contrary to policy

7. As detailed in the main report the original application was for 1,2 and 3 bedroom bungalows with a Section 106 Agreement restricting the occupancy to the over 55s which in reality meant that only one person needs to be over 55 to occupy the dwellings and does not prevent younger persons sharing houses.
8. Policy H4 sets out the Boroughs approach to Housing for a variety of needs, which includes the ageing population. It is acknowledged that within the supporting justification (para 5.58) for this policy that there is an *"increasing demand for specialist housing which helps support people in the community with very specific needs, for example the elderly, people with a physical or learning disability and other vulnerable people"* and that *"Meeting the needs of the growing elderly population is essential when planning for new housing with the principle of delivering specialist accommodation which promotes independent living being integral to this".*
9. Paragraph 5.59 of the justification for Policy H4, that meeting the need for the ageing population and the challenges to the general housing stock are already evidenced by the funding being spent on adapting homes. It goes on to state that *"Providing more accessible homes will ensure that the Borough's housing stock is more easily adaptable and will help people to maintain their independence for longer. This policy recognises the existing commitment at Mount Leven in Yarm, which is anticipated to deliver housing provision specific to the ageing population."*
10. Paragraph 5.60 sets out the various specification for the Optional Standards which include;
 - M4(1) – can be visited by a range of people including older people and those with reduced mobility.
 - M4(2) - can be accessed by most people and are potentially suitable for a wide range of occupants, including older people, those with reduced mobility and some wheelchair users.
 - M4(3) - are suitable for a wheelchair user to live in, and to use any associated outdoor space;
11. Policy H4(9) is the 'policy hook' which secures this provision, it seeks to *"ensure that homes provide quality living environments for residents both now and in the future and to help deliver sustainable communities"* and that Optional Standards will apply to achieve those aims. The policy sets a requirement of 50% for standard M4(2) and 8% for M4(3).

12. The purpose of Standard M4(2) is to make 'general' housing more suitable to meet the ageing populations needs, by being easily adaptable, thus by meeting the optional standards the housing offer meets the ageing populations needs. The houses as proposed are all designed to meet Building Regulation Standard M4(2) except for the 9.3% which meet M4(3).
13. The proposed due to the level of M4(2) and M4(3) housing provided therefore exceeds the requirements set out in policy H4 and is fully complaint with policy H4(9) and the aim of the policy H4 overall which includes meeting the specialist housing needs of the aging population.
14. As highlighted by an objector, the Councils Housing Strategy 2018-2023 recognises that demand for bungalows and special care far out strips supply however the Strategic Housing team have confirmed that work is currently underway on assessing the future need on specialist housing over the next 5-10 years, that assessment includes older persons and also goes beyond, by looking into housing need for those with mental health, physical and mental disabilities and those at risk of homeless. The assessment will also look at appropriate models of provision in response to identified need and will consider which scale(s) and model of accommodation
15. At this stage that work is not yet complete and there is no definite evidence before the Council at this time. However, early indications do confirm that there is a need across the borough for older persons housing. This is likely to be a mix of both market and affordable housing which is likely to be spread across the borough and its six towns.
16. However, it is envisaged that up to half of this estimated need could be met through the provision of mainstream housing that is designed for and accessible to, older people. That will include housing even if it is not technically 'designated' for older people such as within a retirement village. Instead it may include mainstream housing to accessible and adaptable standards i.e. those optional standards which are set out within the Local Plan under M4(2) and M4(3).
17. In this regard the current housing offer is not only consistent with the requirements of the Local Plan but also with elements of the emerging evidence from the boroughs future housing need on specialist housing.
18. Comments with regards to on site facilities are noted however Policy SD3 and H4 allocates the site for residential development for housing the meet the needs of the ageing population. There is no requirement for on site facilities to be provided by Policy.
19. Concerns are that the development fails to provide a sustainable elderly pedestrian connection to bus routes and the only remaining shop on Glaisdale Road and that the facilities will be at least half a mile away.
20. Whilst it is acknowledged that the bus stop on Glaisdale Road is between 400-800 metres and the shop 400 metres further it is considered that the site is sufficiently sustainable to meet the needs by providing accessible links to services and bus stops. Whilst this will require the person accessing the services to be relatively able, not all 'aged population' are infirm or need on site facilities.
21. The proposed development includes the footpath link to the bus stop on Leven Bank heading east towards Ingleby Barwick and also to the bus stops on Glaisdale Road.

22. In addition, whilst the bus service has not yet been agreed, the facilities for a bus service have been included, thereby future proofing the development should there be demand for a service.
23. Should the Planning Committee consider the development to be not strictly in accordance with Local Plan policy, Members would need to clearly identify why not and what harm would occur in developing a site that is allocated in the local plan for housing purposes under policy H1.

Reason for Refusal 2 - Roundabout was unsafe and unsuitable to serve the development

24. Whilst it is acknowledged that the roundabout has departures from standard, an appropriate independent road safety audit (RSA) was undertaken and the measures identified to mitigate the departures from standard have been implemented, are satisfactory and the roundabout is considered to be safe. The roundabout was never designed for the sole purpose of a 'retirement village' it was design based on the safety of the road and the traffic accessing the site and the existing traffic using Leven Bank Road.
25. As set out in the previous response from the Highways, Transport and Design Manager (HTDM) the existing roundabout, which would serve the proposed development, is considered to operate safely and the mitigation measures that were implemented are considered to be effective as there has only been 1 recorded minor accident at the roundabout since it was constructed in 2017. The cause of this accident was attributable to driver behaviour and was not related to the design of the roundabout.
26. It is acknowledged that driver behaviour at the junction is currently poor however, the roundabout is not currently operating as a junction as there are no traffic movements from the side arm which would serve the proposed development. Once flows are introduced on the arm which serves the proposed development drivers travelling east / west will need to take account of this and amend their behaviour accordingly and as set out in the Highway Code, give way to vehicles on the circulatory area of the roundabout. It is therefore reasonable to assume that the introduction of traffic movements from the development will improve driver behaviour at the junction as the roundabout will, once the development is implemented, operate as intended.
27. In terms of car drivers utilising the overrun area again it is acknowledged that this is not ideal however, there is no specific guidance within the Highway Code stating that this is not acceptable, although it is expected that drivers keep to the lanes as appropriate.
28. Therefore, in relation to existing driver behaviour at the junction it is not considered that this presents a road safety concern and, as set out above, the introduction of traffic movements from the development should address this issue as the roundabout would operate as intended.
29. In terms of issues raised in relation to pedestrians and cyclists utilising the roundabout as previously stated a suitable 3m wide shared pedestrian / cycle link is to be provided from the development to the Levendale Estate via Busby Way. Therefore pedestrians and cyclists from the proposed development should have no need to utilise the roundabout in order to access nearby facilities as a suitable alternative route will be provided.

30. There is a cycle lane on the plan shopping short of the roundabout, however the HTDM asked for this to be included so that at some point in the future if infrastructure at the roundabout and along A1044 is implemented then the cycle path can tie into the provision. Should Members not think this necessary we can condition that this not be included.
31. The owner of Hedgeside has suggested that his land may be available to make a 'safe' roundabout and links however this is not considered necessary. At the time of construction of the roundabout the land was not to be provided by the owner of Hedgeside and therefore the roundabout was designed with the land available with appropriate mitigation features to ensure the safety of the roundabout/ roads. The roundabout was never designed for the sole purpose of a 'retirement village' it was design based on the safety of the road and the traffic accessing the site and the existing traffic using Leven Bank Road.
32. Comments relating to the existing road width of 5.5m are noted, however the standard road width for residential development is 5.5 metres regardless of the scale of the development and 6.7 metres refers to route with buses. Whilst this width is desirable the Developer has tracked a bus accessing and leaving the site and this can be achieved with the current road width and would not be a reason to refuse the application.
33. Sustrans were not included in the Consultee process as they are not a statutory consultee and the HTDM consider cycling routes as part of any application.
34. For the above reasons the roundabout and roads are considered acceptable and can accommodate the associated traffic arising from this development. To sustain any reason for refusal, Members would need to provide and demonstrate evidence as to why the roundabout is so inherently unsafe. In doing so they would need to rely on technical evidence to contradict the advice of the Highways Transport and Design Manager. Failure to do so will result in an award of costs for unreasonable behaviour.

Reason For Refusal 3 - The proposal would have an adverse impact on the character and appearance

35. The main concern is that the development is no longer a single storey development and now includes portion of two storey houses on the western side of the development which is out of character. As noted in the main report presented to last committee the bungalows are positioned in the more sensitive part of the Leven Valley.
36. To give this context the plan at Appendix A shows the development in relation to the existing houses. As can be seen the two-storey development will be seen with the existing two storey houses on the Levendale Estate, with the bungalows located to the east which is the most sensitive location. It is not considered that the development would therefore be out of character.
37. The plans include areas of planting to ensure that the development is appropriately screened and whilst some planting is outside the red edge it is within the gift of the landowner who has agreed for the planting to be implemented as per the submitted plans.
38. Whilst design and impact on character are often subjective matters, this application has been assessed and critiqued through a professional and objective process, a Landscape and Visual Impact Assessment (LVIA). Such a process is well recognised and considers a range of impacts and views based on the individual merits and impacts of an application. In this instance the submitted LVIA has been considered by the Council's landscape

architect who has advised the Highways Transport and Design manager that whilst there will be a change to the landscape, this change would not be sufficient to warrant refusal of the application.

39. Similarly to the advice on the reasons or refusal above, to sustain any reason for refusal Members would need to provide and demonstrate evidence as to what causes such significant harm, why that is the case and what evidence they could provide to contradict the advice of the Highways Transport and Design Manager on the visual impacts.

Reason for Refusal 4 - The proposal would have an adverse impact on the green space.

40. The proposed development will be built on land that is allocated for residential development, there is no change to the surrounding green space, or the green wedge designation. As detailed above there is no impact on the character and appearance of the area that would be sufficient to warrant refusal of the application.
41. Comments in relation the green wedge were made at Planning Committee, however, the nature of the development is one which will retain the existing openness of the Leven Valley and therefore the separation between Ingleby Barwick and Yarm will be retained at a level which was previously accepted at the time of the approval of the retirement village. The proposal is therefore not considered to undermine the role of the green wedge.
42. In addition, the country park will be delivered with associated linkages and bridge crossing, and available for use of the public not just the residents of the development in perpetuity free of charge at all times of the day or night.
43. The proposed residential development is therefore wholly within the area of land allocated in the local plan for housing purposes. There is no conflict with any of the Local Plan policies which seek to protect green or open spaces, including the Green Wedges or Limits to development.
44. To continue to pursue such a reason for refusal is considered unsound and it is considered that the proposed development will have no greater impact on the surrounding greenspace than the existing extant retirement village, regardless of the changes to house types.

Education

45. Comments have been received from the Director of Children's Services who has confirmed that the that the standard formula approach is the preferred approach as this allows for contributions to be collected at the time of impact.
46. As detailed, whilst schools in Yarm remain popular any demand for schools places from families of school age children (aged 4 to 16) from this development are given priority (as per the Admissions Policy) due to them residing within the admission zone(s) of the four primary schools and one secondary school.
47. There are no objections to the proposed scheme due to potential demand for school places and as per the approach on most schemes for residential development the standard formula is the accepted method for dealing with demand.

Land Ownership

48. Comments were made regarding the lack of footpath on the southside leading to people trespassing on the land belong to Hedgeside however this link is not required to make the site sustainable and therefore not for consideration as part of this application. As acknowledged in the application for Handley Cross suitable footpath links cannot be provided across this land.
49. Comments have been received from the owner of Hillcroft Leven Bank Road, stating that the land to the front of hedge is not adopted Highway and no continuous adopted footway along the Leven Bank Road from the roundabout to the bus stop at the top of Leven Bank can be provided. In 1982 the access was provided and a plan shows that the land was to be 'dedicated to the council' nonetheless it has been verified that even without this land a suitable footpath can be provided within the adopted highway, there is a pinch point over a short section but this is not unacceptable when considering the guidance in Tees Valley Design Guide Specification (Residential Estates and Industrial Development).

Sustainable Links/ Cycle Paths

50. The foot/cycle path from the development to Busby Way is 3 metres wide within a 5 metre corridor which is sufficient for cyclists and pedestrians. This provides a link to the Levendale estate which is a main route to the schools and will utilise existing roads and paths. Cyclists can use existing cycle connections and whilst some cyclists use may use Leven Bank Road there are alternative connections.
51. The Spell Close PRow is remaining as it is and whilst the Applicant sought to promote this link within their Planning Design and Access Statement, it was considered unacceptable as a sustainable primary route and the alternative link to Busby Way was provided.
52. Access to the bus stop at the bottom of Leven Bank was also considered to be unacceptable as it would mean pedestrians crossing the main A1044. The link to the bus stops on Glasidale Road were therefore provided.
53. Comments state that the exit of the PRow at the point of the Leven Valley bridge is directly on to the carriageway near the bridge making it highly dangerous for children occupying the proposed family development, however this is an existing PRow and outside the control of the applicant.

Nutrient Neutrality

54. Comments have been made regarding 'double counting', using land already allocated for a country park as nutrient credits and also the methodology used.
55. This matter has been fully considered with Natural England aware of the full history of the development site including the current use which does not include grazing.
56. Several meetings were held with regards to this matter with the LPA, natural England and the Ecologists acting on behalf of the applicant and as agreed with Natural England, and for mitigation calculation purposes the most appropriate use of the land was considered to be Less Favourable Area (LFA).
57. The credits do not come from the land itself, but from the abandoning of sheep being used as maintenance for the Country Park when the park is brought into use.

58. Comments that the SuDS Pond controlling discharge into the river will not satisfy Nutrient Neutrality requirements, however the impacts generally come from foul drainage not surface water run off.

Other Matters

59. Residents refer to the development being contrary to Policy TI2 where proposals resulting in loss of valued shops and facilities will not be supported, this is not the loss of an existing facility and therefore not relevant,
60. Comments relating to the SuDS Pond being below minimum design standards is acknowledged but there is nothing to prevent the pond being greater than 1 metre depth providing its safety and performance have been managed appropriately. This can be secured by condition.
61. Concerns have been raised that there has been no climate change or energy statement provided to verify if the proposal will meet the required targets, however a condition has been recommended to ensure an Energy Statement is submitted and approved in writing prior to commencement of development.
62. Concerns over the number of conditions, which the objectors take to mean a lack of information, this is not the case the conditions are to either secure mitigation or to finalise details. The use of conditions is not unacceptable where the local planning authority is confident that a suitable scheme or mitigation can be achieved.

CONCLUSION

63. For the reasons outlined within the report above, Officers consider that the suggested reasons for refusal cannot be sustained or justified, To pursue a refusal of the application on those grounds would risk an appeal at a Public Inquiry and a strong likelihood of a substantial award of costs.
64. Officers recommendation therefore remains as previously set out in the attached report and the planning committee be minded to approve the application subject to conditions and informative as detailed within the main report and subject to a section 106 agreement as detailed within the heads of terms.

Director of Finance, Development and Business Services
Contact Officer Elaine Atkinson Telephone No 01642 526062

IMPLICATIONS

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: National Planning Policy Framework, Local Plan, Application File and planning history

WARD AND WARD COUNCILLORS

Yarm Ward

Ward Councillor Councillor Julia Whitehill

Ward Councillor Councillor Andrew Sherris

Ward Councillor Councillor Dan Fagan