
SUPPLEMENTARY REPORT ON APPLICATIONS

REPORT BY DEPUTY CHIEF EXECUTIVE

PURPOSE OF REPORT

This report is circulated a few days before the meeting and includes additional information on the following applications. This information may allow a revised recommendation to be made.

LIST OF SUPPLEMENTARY ITEMS

Applications for the following sites are included in this report.

South Sunderland

S2	Land off Burdon Road, adjacent to The Fold, Burdon Road, Tunstall, Sunderland
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**Development Control
(South Sunderland) Sub-Committee**

SUPPLEMENT

3 September 2013

Number:	S2
Application Number:	13/01585/FUL
Proposal:	Erection of detached dwelling
Location:	Land off Burdon Road, adjacent to The Fold, Burdon Road, Tunstall, Sunderland

Members may recall that at the time of the main agenda, the public consultation period had yet to expire. In this respect it would have been premature to fully consider issues relating to the siting and design without receiving any potential representations which may have first come forward. The public consultation period has now expired and 2no objections and a 10no signature petition against the development have also been received from residents of The Fold.

Representations

The main issues raised by the objectors are:

- The land in question is subject to a legal agreement which prohibits any building operations from taking place.
- The proposed dwelling is not in keeping with the style and size of the existing houses or the character of the area.
- The land is not large enough to accommodate a new dwelling.
- The proposed dwelling would be too close to No's 1 and 2 The Fold and does not meet minimum spacing standards.
- The lack of spacing would remove light and privacy and create shadows to the rear of The Fold.
- The erection of the two storey detached dwelling would have a detrimental effect on the value of properties within The Fold.
- The access to the new dwelling is too close to the main road (Burdon Road and create potential hazards with traffic coming and going.

In respect of point 6, it should be noted that the planning system does not exist to protect the private interests of one person against the activities of another, although private interests may coincide with the public interest in some cases. It can, on occasion, be difficult to distinguish between public and private interests but this may be necessary in some instances. The basic question is not whether owners and occupiers of neighbouring properties would experience financial or other loss from a particular development, but whether the proposal would unacceptably affect amenities and the existing use of the land and buildings which ought to be protected in the public interest.

In light of the above, the matter of house value is not one which can be given material weight in the determination of this planning application.

1. Principle of proposed development

As has been referenced above in site description and history, the host site is subject to a legal agreement that was made under Section 106 of the Town and Country Planning Act 1990 to secure the retention of the remainder of the paddock as open land and to protect the setting of the adjacent Listed Building following the approval of planning application 98/01332/LEG.

Point (6) under **WHEREAS**, states that:

The Council has resolved to grant planning permission for the development in the terms of the attached draft subject to the making of the Agreement without which planning permission would not have been granted.

The restrictions contained within the schedule are outlined below.

1. Not to carry out on the Red Land or any part thereof any development within the meaning of Section 55 of the 1990 Act or any provision amending or replacing that section.
2. To use the Red Land as and for an open space and for no other purpose and to maintain the Red Land in a condition so that the amenity of the Development and the neighbouring areas are not adversely affected.

In light of the above the Council, acting in its capacity as Local Planning Authority (LPA) must therefore consider whether the original justifications for imposing the section 106 on the land in question remain of material importance to the land and wider amenity of the area today.

The development site is identified as 'white land' on the proposals map of the City Council's adopted Unitary Development Plan (1998) and as such the proposal is subject to policy EN10. This policy dictates that where the UDP does not indicate any proposals for change, the existing pattern of land use is intended to remain and development in such areas must

be compatible with the principal use of the neighbourhood.

In addition to the above and given the nature of the land, policy B3 is also considered to be relevant stating that 'public and private open space will be protected from development which would have a serious adverse effect on its amenity, recreational or nature conservation value, proposals will be considered in the light of their contribution to the importance of such space and to the established character of the area'.

Whilst the land to the west of The Fold is not specifically allocated as open space within the UDP proposals map, the land subject to the development presents and is read within the context of the street scene as open space in tandem with the paddock to the front of Tunstall Lodge.

In this respect, the development of this land would, in the LPA's opinion, fail to respect the existing pattern of land use and would have an adverse effect on its amenity. As such it is considered that the proposal conflicts with the requirements of aforementioned policies EN10 and B3 and is therefore unacceptable in principle.

2. The impact of the proposed development on visual amenity and the streetscene

On approaching the site from the north (Doxford Parkway), the entrance to Burdon Road appears semi rural in nature with an open rail bound field lying to the immediate east and a large open landscaped verge with notable tree planting evident to west. The roofscapes and subsequent rear elevations of The Fold development to the east become more evident as the host site nears. Whilst the visual nature of the streetscene alters to some extent due to the presence of The Fold, the general openness of the streetscene is maintained by virtue of the rectangular paddock to its west which sweeps into the larger open paddock to the front of Tunstall Lodge. This general openness does, in the LPA's opinion, offer a perception of openness that helps to provide a semi rural character to the streetscene by providing distinct visual relief between Burdon Road and the built development of The Fold.

As has been noted above, the land in question is somewhat unkempt and has been left to grow naturally in recent times. Piles of branches presumably from trees which have previously been felled were located at various points throughout the site although these were largely masked beneath the high level grasses.

Within refused application 11/03669/FUL, it was acknowledged that whilst the design approach of the proposed dwelling was unremarkable, it did appear of acceptable proportions and of reasonable aesthetic quality within in its own right.

However, it was argued that the western edge of The Fold development represents a clear and defined settlement boundary which is delineated from the street by the openness of the paddock and that the addition of a single dwelling orientated in a different manner to the established layout of The Fold would appear to be largely piecemeal and would adversely impact on the open break which offers significant amenity to the prevailing street scene. The development was therefore considered to be harmful to the character of the area and refused accordingly.

The above considerations were given due weight by the Independent Planning Inspectorate in the dismissal of the applicant's appeal wherein it was stated in Para 8 that;

"The proposed dwelling on plot 1 would be of typical suburban character, which, in my view, would be less successful than the adjacent development at the Fold which incorporates vernacular details. Nevertheless, in terms of scale it would not be out of keeping with its neighbours. The Fold however, is a distinctive, inward facing, self contained development. In terms of layout, the proposed development on plot 1 would not relate well to its neighbours, but appear as a piecemeal afterthought. Overall, it would not positively enhance the area, but harm its overall character"

In light of the above the applicant has sought to address the above concerns by virtue of reducing the physical scale and massing of the development through a redesigned scheme. In addition, whereas the previous dwelling was located more centrally within the host plot the new dwelling would now be positioned towards the north eastern corner behind the properties of No's 1 and 2 The Fold.

In reducing the scale and massing of the dwelling and positioning it towards the north eastern corner of the site, it is understood that the applicant has attempted to minimise the visual appearance of the development within the context of the area whilst trying to address the Inspectorates comments in Para 7 of his report wherein it is stated that the previous proposal would also contribute to the further erosion of the historic layout of the Lodge and thereby have some impact on the setting of the Listed Lodge.

Having considered the revised scheme officers do not believe that the proposal has or indeed can address the concerns that have previously been raised by both the LPA and the Independent Planning Inspectorate due to the nature of the site and the character of the area.

Aesthetically, the design of the dwelling is again considered to be of limited architectural quality and offers poor visual cohesion particularly given the prominent position it would occupy on Burdon Road. Whilst the use of render and slate would assist to some extent in integrating the dwelling into the backdrop of the properties on the Fold, the property would nonetheless still be viewed as a piecemeal form of development that would not assimilate into, but would appear physically divorced from the inwardly facing adjacent site.

In its current state, the western edge of The Fold development represents a clear and defined settlement boundary which is delineated from the street by the openness of the paddock. The addition of a single dwelling orientated in a different manner to the established layout of The Fold would appear to be largely piecemeal and would adversely impact on the open break which offers significant amenity to the prevailing streetscene.

It is noted that the applicant proposes to replant 7no trees to replace the 8no trees which have previously been removed due to their condition. The proposed siting of the trees would not screen the prominence of the development on the northerly approach on Burdon Road but would present some screening on the southern approach whilst providing a good level of visual amenity along the western perimeter of the site. Nonetheless and notwithstanding the appropriateness of the planting, as the removed trees were subject to a Tree

Preservation Order there is a requirement on the applicant to replace the previously removed trees in any event and the potential quality of the replanting scheme does not override the unacceptability of the wider development of the paddock in this respect.

One of the aims of UDP policy B2 is to ensure that the scale, massing, setting and layout of a new development respects and enhances the best qualities of the locality and in this instance the LPA do not believe that the development of the paddock to the west of The Fold would result in compliance with this policy.

Section 7 of the newly adopted NPPF states that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. In this respect new development should reflect the identity and character of local surroundings and permission should be refused if it fails to take the opportunities available for improving the character and quality of an area and the way it functions.

In view of the above reasoning, the LPA would contend that the proposed siting of the dwelling would adversely impact on the semi rural character of the streetscene by diminishing the existing openness and visual qualities of the paddock. It is considered that the proposed dwelling would not accord with the sentiments of UDP policy B2 or the provisions of section 7 of the NPPF.

3. The impact of the proposed development on the amenity of existing residential dwellings

Policy B2 of the UDP also requires that new development respects residential amenity and retains acceptable levels of privacy. Supplementary Planning Guidance and the 'Residential Design Guide' Supplementary Planning Document to the UDP provide spacing standards to which new residential development should adhere, in order to achieve acceptable levels of privacy and provide adequate levels of outlook. The SPG and SPD state that a distance of 21 metres should be maintained between main living windows of residential buildings, and 14 metres between main living windows and an elevation free of main living windows.

In contrast to the previous application, the proposed dwelling has been positioned closer to the rear gardens and elevations of No's 1 and 2 The Fold and representations have been made from these properties in terms of the potential impact the development would have on their living conditions.

As there are no primary windows located in the eastern elevations of the new dwelling a minimum spacing of 14m would need to be achieved between the rear elevation of No's 1 and 2 and the new build. On the basis of the drawings submitted, the development would largely meet these standards although shortfalls in spacing are evident to the south east between the rear elevation No.2 and the dining area and the rear elevation of No.1 and the car port (approximately 12.45m).

Whilst it is noted that the applicant has sought to reposition the dwelling to overcome perceived issues relating to sightlines (on to the larger area of paddock in front of Tunstall

Lodge), this has in turn brought the proposed property closer to the properties on The Fold. Although for the most part spacing standards have been adhered to, outlook from the rear elevations of No's 1 and 2 would be on to a long 18m stretch of partial wall and roof slope. Due to a combination of the appearance and proximity of the dwellings eastern elevation, officers consider that the development would appear visually discordant and, given the size of the wider plot, unnecessarily reduce outlook for the occupiers of No's 1 and 2 The Fold.

In terms of impact on privacy the development would have no discernable impact on the occupiers of The Fold with only an en-suite window located at ground floor and a high level landing window located at first floor. Whilst roof lights are proposed within the roof slope of the dining and study areas the configuration of these windows would be such that there would be no direct impact on privacy.

In respect of the developments impact on sun/daylight and potential overshadowing, it is considered that there would be some effect on the properties of 1 and 2 The Fold. However, the degree to which the presence of the new dwelling would impact on these properties is considered to be relatively minor. The new dwelling would be positioned due west of No's 1 and 2 with some overshadowing likely to occur within the uppermost sections of the gardens during the mid afternoon to early evening period of the day. The development is largely compliant with requisite spacing standards and the elements that fall short of compliance are relatively low rise in terms of scale and incorporate a pitched roof which slopes away from the boundary of the site. As such any loss of day/sun light/creation of overshadowing is likely to be within acceptable parameters and would not be of sufficient detriment to warrant the refusal of the application.

4. Impact of the proposed dwelling of the setting of the listed building

Policy B10 of the UDP states –

The City Council will seek to ensure that development proposals in the vicinity of Listed Buildings do not adversely affect their character or setting.

Within the Inspectorates dismissal of the applicant's appeal, it was contended that the previously refused dwelling would partly block views of the tree-lined west-east driveway leading up to Tunstall Lodge on the approach from the north. In this respect, it was argued that the presence of the dwelling would further erode the historic layout of the surroundings to the Lodge and that the dwelling would have some adverse impact on the setting of the Listed Building. It is perhaps for this reason that the applicant has sought to re-position the dwelling within the north-eastern corner of the site in an attempt to minimise the impact on the tree lined approach to the Lodge.

Whilst the repositioned dwelling would now be less intrusive in respect of views onto the tree lined approach to Tunstall Lodge, the Inspectorates decision highlighted that *"the land to the west and north-west of Tunstall Lodge remains an important feature of the listed buildings setting; helping to understand the historic development of the area and the way the building is viewed as it is approached"*

In this respect officers would still conclude that the presence of a dwelling on this land would have a negative impact on land held to be an important element of the setting of Tunstall Lodge. Nonetheless and in line with comments previously affirmed by the Inspectorate, officers would concede that the resultant impact of the development on the Listed Building is considered to be less than substantial. In such instances the NPPF therefore advises that the harm involved should be weighed against the public benefits of the proposal.

With regard to the above, the applicant has offered a number of arguments to affirm the benefits of the proposal including its contribution to sustainable development, the City Council's 5 year housing supply and the improvement in the physical condition of the plot.

In taking the above points in turn;

Sustainability

In summing up the dismissal of the recent appeal, the Inspectorate made particular reference to paragraph 49 of the NPPF which states that housing applications should be considered in the context of the presumption in favour of sustainable development. In giving due consideration to this the Inspectorate quite clearly stated that he did not believe that the 'urban fringe' location of the site was a particularly sustainable location for housing development.

Whilst it is acknowledged that there are services/facilities located approximately 1 mile away from the site and the applicant intends to incorporate sustainable practices into the build, such matters are not considered to be overriding factors in determining the sustainability of a development. The NPPF makes it clear that sustainable development is about change for the better and encompasses all aspects of planning whether that is through the natural environment, the historic environment or the design of the development. As identified above, the new dwelling is considered to be of limited visual quality that would not positively enhance the area but would harm its overall character.

Housing Supply

Whether or not a Local Authority can demonstrating an up to date supply of deliverable housing sites can be strong and persuasive material planning consideration in determining applications for new housing development. However, both officers and the Planning Inspectorate have previously stipulated that the contribution of single dwellings to meeting any shortfall would be negligible and would not outweigh the material harm that has already been identified.

Condition of Land

The applicant has stipulated that the land in question remains without any use, whilst the trees that used to occupy the site have been removed due to ill health. The applicant also continues that the plot is not in keeping with the established character of the area and is in fact having a detrimental impact on the amenities of the area due to its unkempt appearance.

In respect of the above it is clear that as land owner, the applicant has a responsibility to

maintain the land in an appropriate manner, particularly given the presence of the Section 106 agreement which in part stipulates that land shall be kept in a condition so that the amenity of the Development and the neighbouring areas are not adversely affected. Whilst the applicant stipulates that the land is not in keeping with the established character of the area and is having a detrimental impact on the amenities of the area, officers would contend that the land actually appears somewhat naturalised through the growth of the long grasses which in many ways is commensurate with the semi rural context of the area.

Further and in respect of the removed trees, it is clear that the land owner is duty bound to re-plant the previously removed specimens regardless of the outcome of the planning application.

Again, both officers and the Planning Inspectorate have previously contended that the potential 'tidying up' of the plot would not compensate for the resultant loss of openness and harm to the character of the area the development would create.

5. The impact of the proposed development on highway and pedestrian safety

The impact of the proposed development on highway and pedestrian safety has been given full consideration by the City Council's Executive Director of City Services (Transportation) and no recommendations have been offered. One observation has been received regarding the fact that Burdon Road has been identified for highway improvements however no further details are available at this time.

As such, it is considered that the access and parking arrangements associated with the development comply with the requirements of aforementioned policies T14 and T22 of the UDP.

6. Tree Implications

Policy CN17 seeks the retention of trees which make a valuable contribution to the character of an area.

As has been referenced previously, the majority of trees protected under TPO 68 have been removed from the host site in recent times as they were found to be either dead or dying. Prior to the felling of the subject trees the City Council's Arboricultural Officer visited the site and verified their condition. Notwithstanding the outcome of the application, the applicant would be duty bound to replace the protected trees.

7. Land Contamination

Policy EN14 of the UDP states that where development is proposed on land which there is reason to believe is contaminated or potentially at risk from migrating contaminants, the Council will require the applicant to carry out adequate investigations to determine the nature of ground conditions below and, if appropriate, adjoining the site. Where the degree

of contamination would allow development subject to preventative, remedial or precautionary measures within the control of the applicant, planning permission will be granted subject to conditions specifying the measures to be carried out.

Given the proposals sensitive end use, the applicant has submitted a desk top study which assesses any potential hazards that may be present on or adjacent to the site and a risk assessment for further consideration.

The study considers that no further investigation of the land is necessary, although confirmatory testing should be considered in the case of other exploratory investigation being undertaken for geotechnical purposes. Given the evidence from the site walk-over and the non-contaminative history of the site and the environs, the City Councils Environmental Health Section considers that ground contamination should not be an obstruction to gaining planning permission on the basis that no sampling and testing of soils has been carried out. However, should the application be recommended for approval it is considered that a condition relating to the finding of unexpected contamination be imposed so that LPA is informed if ground conditions are not as expected.

Conclusion

One of the key threads running through the NPPF is the emphasis on protecting and enhancing the natural, built and historic environment through the pursuance of positive sustainable improvements within it. In considering the submission the LPA must weigh up the perceived harm the proposal would have within the context of the surrounding environment against the benefits it would bring.

In this respect, it is considered that the erection of a single dwelling on the host site would amount to a piecemeal form of development that would adversely impact on the semi rural character of the street scene by diminishing the existing openness and visual and historic qualities of the paddock. The development would sit within relative close proximity to the properties of No's 1 and 2 the Fold to the extent that it would appear visually discordant and unnecessarily reduce outlook for the occupiers of these properties.

The proposed development fails to bring any wider benefit to the local area and therefore fails to comply with the requirements of policies B2 and B3, of the UDP and does not accord with the sustainable principles outlined within the NPPF.

In light of the above, Members are therefore recommended to refuse the application for the reasons laid out below.

1. The proposed development, by reason of its design, siting and layout, would result in the erosion of a valuable area of amenity space and would be detrimental to the established character and amenity of the street scene and local area, contrary to policies B2 and B3 of the adopted Unitary Development Plan and paragraphs 17, 56, 57 and 64 of the National Planning Policy Framework.

2. The proposal, by virtue of its layout and position, would compromise the outlook afforded to No's 1 and 2 The Fold and appear as a visually discordant feature to the occupants of these dwellings, to the detriment of residential amenity and contrary to paragraph 17 of the National Planning Policy Framework, policy B2 of the adopted Unitary Development Plan and Table 10c of the adopted Residential Design Guide Supplementary Planning Document.