

DARLINGTON BOROUGH COUNCIL
PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 9 March 2011

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APPLICATION REF. NO:	10/00715/FUL
STATUTORY DECISION DATE:	27 December 2010
WARD/PARISH:	MOWDEN
LOCATION:	Mowden Park Rugby Football Club, 22 Yiewsley Drive
DESCRIPTION:	Variation of condition 3 (development in accordance with approved plans) of planning permission 01/00560/FUL dated 15/3/2006 for demolition of existing clubhouse and construction of residential development (67 dwellings) on 3.24 Ha (8 acres) and landscaping of existing and new public open space - to permit the substitution of house types (site investigation report received 20 December 2010, amended plans received 20 and 21 December 2010, additional site sections received 4 January 2011 and further amended plans received 4 February 2011)
APPLICANT:	BELLWAY HOMES LIMITED (NORTH EAST)

APPLICATION AND SITE DESCRIPTION

The application site is the site of Mowden Rugby Club, comprising the existing clubhouse and playing pitches, located on Yiewsley Drive on the Mowden Estate. The site extends to 4.01 hectares and is bounded by residential properties on Parkland Drive, Parkland Grove, Fulthorpe Grove, Yiewsley Drive and Sutton Close on its southern and eastern boundaries, by open countryside on its west boundary and by Baydale Beck to the north. The site lies within Flood Zones 2 and 3. Footpath No. 48 runs to the north of the application site, in an east west direction, but is unaffected by the proposed development. There are a number of trees within the application site that are protected by Tree Preservation Orders.

Planning permission was granted, subject to a Section 106 Agreement, for the demolition of the existing clubhouse and the erection of 67 dwelling houses on the site and for the landscaping of existing and new public open space, in March 2006 (01/00560/FUL). This is an application under Section 73 of the Town and Country Planning Act 1990 to vary condition 3 of that permission, requiring the development be built in accordance with the approved plans, to allow for the substitution of the house types. There will be no overall change to the application in terms of the number of dwellings, access arrangements, provision of open space etc. The application proposes a total of 62 four-bedroom and 5 five-bedroom detached dwellings in two

and two and a half storey form. Parking will be provided for 247 vehicles on the site in a mixture of garages, in-curtilage parking spaces and shared visitor parking spaces.

The application was submitted with the following supporting information:

- Planning Statement
- Design and Access Statement
- Transport Statement
- Habitat and Wildlife Survey
- Flood Risk Assessment
- Open Space Assessment
- Site Investigation Report

PLANNING HISTORY

The site has a lengthy planning history, the most recent and relevant of which are set out below:

01/00560/FUL – Demolition of existing clubhouse and construction of residential development (67 dwellings) on 3.24 Ha (8 acres) and landscaping of existing and new public open space (additional and amended plans received 15 October 2001) GRANTED SUBJECT TO S106 AGREEMENT 15.3.2006

01/00560/CON – Approval of details reserved by condition 2 (materials), 7 (floor levels), 8 (surface water), 10 (bat survey), 13 (tree survey), 16 (archaeological works) and 17 (land contamination) attached to planning permission 01/00560/FUL dated 15 March 2006 for demolition of existing and construction of residential development (67 dwellings) on 3.24 Ha (8 acres) and landscaping of existing and new public open space. PENDING CONSIDERATION

02/00067/CONDIT – Variation of planning permission reference number 98/00693/FUL dated 23 December 1998 to permit the retention of 2 storage containers on site for a further three year period. GRANTED 20.3.2002

09/00452/TF – Pruning works to Horse Chestnut Tree (T1) protected under Tree Preservation Order (No. 5) 2009. REFUSED 6.10.2009

10/00208/FUL – Extension of time limit for implementation of Planning Permission 01/00560/FUL dated 15 March 2006 for the demolition of exiting clubhouse and construction of residential development (67 dwellings) on 3.24ha (8 acres) and landscaping of existing and new public open space. WITHDRAWN

PLANNING POLICY BACKGROUND

The following policies of the Borough of Darlington Local Plan 1997 are relevant:

- E2 Development Limits
- E3 Protection of Open land
- E11 Conservation of Trees, Woodlands and Hedgerows
- E12 Trees and Development
- E14 Landscaping of Development
- E15 Open Land in New Development

E23	Nature and Development
E46	Safety and Security
H3	Locations for New Housing Development
H9	Meeting Affordable Housing Needs
H11	Design and Layout of New Housing Development
H14	Accessible Housing
R1	Designing For All
R13	Recreation Routes and New Development
T12	New Development – Road Capacity
T13	New Development – Standards
T24	Parking and Servicing Requirements for New Developments
T31	New Development and Public Transport
T37	Cycle Routes in New Development
T39	Conditions for Pedestrians

The following policies within the Darlington Open Space Strategy 2007 – 2017 are relevant:

Policy 6	Overall Standards of Provision
Policy 19	Open Space Provision associated with New Development
Policy 20	Securing appropriate Open Spaces and Their Maintenance
Policy 22	Design of Open Spaces

The following Supplementary Planning Guidance (SPG) and Supplementary Planning Document (SPD) are also relevant

Commuted Sums from New Housing Developments for Existing Equipped Play Areas (September 2001)
Affordable Housing (April 2007)
The Design of New Development (July 2009)

RESULTS OF CONSULTATION AND PUBLICITY

Highway Engineer

There is no highway objection in principle to the proposed housing development. The indicative number of dwellings is below the number for which a Transport Assessment is required. A Transport Statement has been submitted in support of the application and as with the previous application the conclusion of that report is that the traffic generated by the proposed development will not have a significant impact on the surrounding road network. Support this conclusion. There would be a requirement for conditions/obligations to be included with an approval requiring the access road to be built to an adoptable standard; traffic calming measures within the site; improvement works to the junction of the access road with Yiewsley Drive; the carrying out of a Road Safety Audit; the provision of a good pedestrian link to adjacent facilities and improvements to footpath/cycle links to the wider highway network by the provision of a link to Parkland Grove along Baydale Beck. The Transport Policy Section are likely to seek contributions for the enhancement of public transport facilities as before, however it is likely that the amount of contribution would need to be reviewed.

Environmental Health Officer

Requires that a Desk Top Study be submitted for consideration prior to the determination of the application, but recommends that the standard contaminated land condition be attached. Also requests further information regarding the potential for noise and odour from the proposed

pumping station. Conditions also recommended restricting the hours of construction and the submission of a Dust Action Plan.

Northumbrian Water

Recommend that a condition be attached requiring the submission of a scheme for the disposal of surface water from the scheme.

The Ramblers

No comments to make.

Natural England

Following the receipt of further information from the applicants' ecologist, Natural England notes that no further surveys are required for the site and is therefore able to withdraw its objection. Based on the information provided, Natural England advises that the proposal is unlikely to have an adverse effect in respect of bats, water vole, otter and badger species especially protected by law, subject to the a number of conditions.

Sport England

The principal of the site being developed, and a replacement club and ground being provided at West Park was established by granting planning approval (subject to a Section 106 Agreement) on 15 March 2006. While planning permission for the replacement facility has now expired, a new permission for the same replacement provision is now in place. In light of this, the proposal meets exception circumstance E4 (Replacement/better quality playing fields provided for), within the Local Plan. Sport England is aware that negotiations are progressing by way of a legal mechanism to secure the new provision of playing pitches at West Park, however wishes to maintain a statutory objection to the application on the basis that it will result in the loss of playing field, until a suitable Section 106 Agreement, or other legal mechanism is delivered or arrangements are confirmed on replacement provision. Sport England has confirmed that once a suitable Section 106 Agreement or other legal mechanism has been signed, they will withdraw their objection.

Environment Agency

No comments

Transco

No objections

CE Electric UK

No objection

Six letters of objection have been received which raise the following issues:

- *Object to the proximity of the planned development to our home. The distance from my house to the nearest house on the new development is 17 metres. I believe the minimum distance should be 21 metres;*
- *A reduction in separation distances would cause serious issues for myself and my family; including loss of light and loss of privacy;*
- *Concerned that the proposed dwellings will result in an increase in the use of the roads in the Fulthorpe Road/Barnes Road areas which is considerable enough as it is now. Understand that parking in these roads has previously drawn complaints from public*

transport companies and additional vehicles using these roads will only add to the problems and road safety at junctions etc;

- *It has come to my notice that the houses to be built directly behind my home, number 26 Yiewsley Drive, and house numbers 24 to 32 (and perhaps beyond) are less than 21 metres away from the existing houses in Yiewsley Drive. At this distances the houses cannot be built;*
- *Strongly object to the closeness in proximity of plot 6 to the rear of our property which is only 20 metres from our external wall but 17 metres from our conservatory;*
- *Plot 5 is only 16 metres from our external wall;*
- *As the dwellings on plots 3, 4, 5 & 6 are set on a stagger and have integral garages, they will be viewed by ourselves as terraced houses which will block a lot of natural light to our property;*
- *If the plan of the rugby field behind were to be moved closer to the boundary fence near Baydale Beck, it would move the properties further aware from existing dwellings;*
- *Yuills agreed to the erection of a brand new perimeter fence backing into all the properties on the site. Are the new builders prepared to honour this agreement?*
- *The land to the rear of our property falls away into the rugby field and our conservatory was built on high foundations, we envisage looking down onto the new dwellings causing loss of privacy;*
- *Would have much preferred a community centre or the like built on the site instead of so many houses;*
- *When we decided to purchase our house from Yuills we were informed that the land immediately behind our plot (Darlington Mowden Park Rugby Club) was protected by a deed of Covenant and as such could not be used for any future building development. This was the main reason went ahead with the purchase of our house;*
- *The area to be used is an excellent sporting facility in our area and is enjoyed by a wide range of people from ages 5 – 60, many of whom will struggle to attend the proposed alternative site at West Park;*
- *In the present economic climate, question the wisdom of building four and five bedroom houses and fear the site could well be under-occupied for a number of years. There are a number of larger houses in the roads close-by which have been on the market for many months and have not sold;*
- *We are concerned about the extra volume of traffic which this new site will generate as Yiewsley Drive is already very congested with parking cars on the roadside;*
- *We are unable to make out from the plan which houses are of the higher height. Strongly object to these higher houses being built in such a position that they will overlook existing houses.*

PLANNING ISSUES

The detailed acceptance of residential development on this site has been established by the previously approved scheme (01/00560/FUL) for the demolition of the clubhouse and the erection of 67 dwellings on the site which was granted on 15 March 2006 subject to a Section 106 Agreement, and which is currently extant. The Section 106 Agreement, amongst other things, sought to link the redevelopment of this site to a planning permission for the provision of replacement rugby facilities at West Park (03/00733/FUL) and to ensure that replacement facilities were provided before this site was developed. Although that permission has now expired, planning permission was recently granted, under delegated powers, for a new scheme for replacement rugby facilities at West Park (10/00722/FUL). The Section 106 Agreement is currently being re-drafted to include reference to this new permission.

The current permission (01/00560/FUL) is due to expire on 14 March 2011, however officers are currently in receipt of an application to discharge the conditions attached to this permission with the intention of the developer carrying out a material operation on the site, within the definition of Section 56(4) of the Town and Country Planning Act 1990, to implement the permission, once the relevant conditions have been discharged and prior to the permission expiring on 14 March 2011.

This is an application under Section 73 of the Town and Country Planning Act 1990 to vary condition 3 of that permission; that the development is built in accordance with the approved plans, to allow for the substitution of the house types. The application has arisen as a new developer intends to develop the site and wishes to erect different house types on the site. The access, internal access road and site layout and open space proposals remain the same as the previous application and there will be no change to the number of dwellings proposed. The material operation to be undertaken in order to implement the permission would therefore be common to both proposals.

Section 73 of the Town and Country Planning Act 1990 requires that Local Planning Authorities in determining such application should only consider the question of the conditions subject to which planning permissions should be granted. It cannot extend the implementation period for the application and consequently the principle of development cannot be reconsidered, neither can any changes in planning policy be considered as part of the application. Consequently while a number of the objections received relate to the principle of development, this cannot be reconsidered. Consideration of this application is based solely on those issues arising from the proposed variation of condition. Those issues for consideration are therefore whether the proposed substitution of house types is acceptable in terms of their impact on the amenities of existing residential properties and upon the character and appearance of the surrounding area, together with any resultant impact the proposed alternative house types may have on existing trees within the site and on highways matters.

Local Plan Policy H11 (Design and Layout of New Housing Development) states that proposals must relate well to the surrounding area, respect its predominant character and density, and avoid damage to the amenities of adjoining properties. In addition, the policy also requires that appropriate amenity standards be met in respect of both existing and proposed dwellings and their gardens and that adequate curtilage and amenity space be provided for the proposed dwellings. The Council's Design of New Development Supplementary Planning Document (July 2009) 'Design SPD', also sets out a series of proximity distances that should be achieved both within new developments and also in relation to existing dwellings to ensure that adequate privacy distances are maintained.

The application site is bounded by existing residential properties on Fulthorpe Grove and Fulthorpe Avenue to the east, by properties on Sutton Close and Yiewsley Drive to the south and south east respectively and by open space to the west and Baydale Beck to the north. The predominant form of the existing dwellings is a mixture of detached and semi-detached two-storey dwellings, with semi-detached bungalows on Fulthorpe Grove and Parkland Grove to the east. A topographical survey submitted with the application shows that the application site is relatively flat, although there is a fall of approximately 3 metres across the application site from east to west, with the highest part of the site being in its south east corner.

A number of objections have been received which express concern regarding the close proximity of the proposed dwellings to existing dwellings on Yiewsley Drive and the resultant impact this would have in terms of loss of privacy and overbearing impact.

The Design of New Development SPD requires that where a site is level, the minimum proximity distance from habitable room to habitable room in 2-storey development is 21 metres. The layout plans have been amended on several occasions in order to meet this separation distance in respect of the existing dwellings surrounding the site. The most recent amended plans show that the relationship of proposed two storey dwellings with existing two storey dwellings on the south and south eastern boundaries is no less than 21 metres between the rear elevations of the respective dwellings. In respect of the relationship between the dwellings on the eastern side of the site and the existing bungalows on Fulthorpe Grove, this distance increases to between 25 and 30 metres. Similarly the requirement for a minimum separation distance of 13 metres between habitable room and non-habitable room is comfortably met between the existing and proposed dwellings. A sectional drawing has been submitted showing the relationship between existing and proposed dwellings on Fulthorpe Grove and Yiewsley Drive respectively has been submitted showing that the relative separation distances and site levels. On this basis the separation distances between the existing and proposed dwellings and the resultant impact of the proposed dwellings on those existing dwellings surrounding the site are considered to overcome those concerns expressed and are considered to be acceptable.

Although the separation distances between some of the proposed dwellings falls slightly short of the recommended proximity distances, the spatial relationship between these new dwellings is considered to be acceptable and in amenity terms is considered to comply with the requirements of Policy H11.

The Council's Design SPD has been adopted since the original application was granted in March 2006 and provides detailed guidance on the form and detail of new development within the Borough. Local Plan Policy E29 (The Setting of New Development) is also relevant and states that new development will be required to respect the intrinsic character of its townscape setting in terms of its siting, design, materials, landscaping and the protection of existing townscape features. The application site lies within Zone 4 'Outer Suburbs' for the purposes of the SPD and the revised scheme was the subject of pre-application discussions with the officers. Following amendments to the scheme as a result of these discussions, the proposed dwellings are considered to comply with specific requirements of the SPD in terms of their design and layout. The design of the proposed house types is also considered to comply with the requirements of Local Plan Policy E29 (The Setting of New Development).

The comments of the Council's Senior Arboricultural Officer with regard to the impact of the change of in house types on the health and stability of the existing protected trees on the site are awaited and will be reported at the meeting, however it is not anticipated that the proposed changes will adversely impact upon the existing trees.

The Highway Engineer has advised that in view of the extant permission on the site there is no highway objection in principle to the proposed development, subject to a number of conditions that were imposed previously. A condition is suggested reiterating that all conditions previously imposed on the original permission (01/00560FUL) once more apply to this permission.

SECTION 17 OF THE CRIME AND DISORDER ACT 1998

The proposed development has been considered in the context of the requirements placed on the Council by Section 17 of the Crime and Disorder Act 1998, namely, the duty on the Council to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. The proposed development does not give rise to crime and disorder issues.

CONCLUSION

This is an application under Section 73 of the Town and Country Planning Act 1990 to vary condition 3 of the original planning permission (01/00560/FUL); that the development is built in accordance with the approved plans, to allow for the substitution of the house types. The principle of development cannot be reconsidered; only the impact of the proposed change in house types on visual and residential amenity. The proposed house types are considered to be acceptable in terms of their design and layout in the context of the surrounding area and following the receipt of amended plans are considered to meet the appropriate separation distances in respect of existing dwellings surrounding the site, therefore maintaining appropriate amenity levels. Consequently the proposal is considered to comply with Policies E29 (The Setting of New Development), H11 (Design and Layout of New Housing Development) and guidance contained with the Design of New Development Supplementary Planning Document (July 2009).

RECOMMENDATION

THAT PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITION:

1. The conditions attached to and specified on notice of planning permission 01/00560/FUL dated 15 March 2006 relating to this development are reiterated and are still in force insofar as the same have not already been discharged to the satisfaction of the Local Planning Authority.

REASON – Not all the conditions attached to the said planning permission have yet been discharged and this condition is imposed on this present permission in order that it shall be clear to the applicant that the said undischarged conditions are still in force and have to be complied with.

SUGGESTED REASONS FOR GRANTING OF PLANNING PERMISSION

This is an application under Section 73 of the Town and Country Planning Act 1990 to vary condition 3 of the original planning permission (01/00560/FUL); that the development is built in accordance with the approved plans, to allow for the substitution of the house types. The principle of development cannot be reconsidered; only the impact of the proposed change in house types on visual and residential amenity. The proposed house types are considered to be acceptable in terms of their design and layout in the context of the surrounding area and following the receipt of amended plans are considered to meet the appropriate separation distances in respect of existing dwellings surrounding the site, therefore maintaining appropriate amenity levels. Consequently the proposal is considered to comply with Policies E29 (The Setting of New Development), H11 (Design and Layout of New Housing Development) and guidance contained with the Design of New Development Supplementary Planning Document (July 2009).