

Parish: East Cowton
Ward: Appleton Wiske & Smeatons
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Committee Date : 19 January 2023
Officer dealing : Nathan Puckering
Target Date: 12 August 2021
Date of extension of time (if agreed): 20 January 2023

21/01361/OUT

Outline planning application with some matters reserved (considering access) for the construction of up to 15 dwellings and means of vehicular access as amended by plans received by Hambleton District Council on 01.12.2022.

**At: Land To The East Of Birkby Lane OS Field 4109 East Cowton North Yorkshire
For: B, P & M Tweddle.**

1.0 Site, Context and Proposal

- 1.1 The site is a parcel of agricultural grazing land to the south east of East Cowton. It is accessed via Birkby Lane, a C road that runs south eastwards out of the village towards Birkby before joining the A167 approximately 5km away. Birkby Terrace, a terrace of three dwellings sits directly to the west, with various detached and semi-detached dwellings along the northern boundary. Orchard Bungalow, a larger detached bungalow is set further back than these dwellings and sits at the mid-point of the western boundary. A hedgerow bounds the southern boundary, with several trees also sited here. Beyond these in this direction is open agricultural land.
- 1.2 The site and surrounding land is relatively flat, slightly rising as it moves eastwards. As a result, views are open as one approaches along Birkby Lane from the south east and the rear of the aforementioned dwellings to the north of the site are readily visible from a distance of up to around half a kilometre away. North Yorkshire County Council have advised that ridge and furrow earthworks exist on the site as part of a field system in the wider locality. This is defined as being a local interest rather than regional or national. Other than that, there are no site constraints by way of statutory designations either on, or immediately adjacent to, the site.
- 1.3 This application is seeking outline consent for the construction of 15 bungalows. Only access is to be considered at this stage, with the demolition of one of the aforementioned terraced dwellings on Birkby Terrace proposed to facilitate the new access. An indicative layout has been provided which shows the 15 units arranged as mainly semi-detached properties either side of an internal spine road that would run in roughly a north easterly direction from the south west corner of the site. Open space is shown as a buffer between the existing properties to the north and west.
- 1.4 Originally this application was for 21 dwellings, with this number reduced over the course of the application. The housing types were also altered to propose only bungalows as opposed to mostly two storey dwellings.

2.0 Relevant Planning History

- 2.1 91/0873/OUT - Outline Application for Residential Development - Refused

3.0 Relevant Planning Policies

3.1 As set out in paragraph 2 of the NPPF planning law requires that applications for planning permission be determined in accordance with the Development Plan unless material considerations indicate otherwise. The law is set out at Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990.

Local Plan Policy S1: Sustainable Development Principles
Local Plan Policy S3: Spatial Distribution
Local Plan Policy S5: Development in the Countryside
Local Plan Policy S7: The Historic Environment
Local Plan Policy HG2: Delivering the Right Type of Homes
Local Plan Policy HG3: Affordable Housing Requirements
Local Plan Policy HG5: Windfall Housing Development
Local Plan Policy E1: Design
Local Plan Policy E2: Amenity
Local Plan Policy E3: The Natural Environment
Local Plan Policy E5: Development Affecting Heritage Assets
Local Plan Policy IC2: Transport and Accessibility
Local Plan Policy RM3: Surface Water and Drainage Management
Local Plan Policy RM5: Ground Contamination and Groundwater Pollution

4.0 Consultations

4.1 Parish Council - Objected to the initial proposal for 21 units for the following reasons (it should be noted that this was pre-adoption of the Local Plan and this refers to several now out of date policies):

- The development is not allocated in the Local Plan nor the emerging Local Plan.
- The size and nature of the proposal means it cannot be considered under the Interim Policy Guidance for small scale housing.
- The need for the proposed housing is not understood.
- Surface water drainage in light of localised standing water is a concern.
- The foul water sewers are running at capacity.
- The application needs a detailed drainage plan signed off by Yorkshire Water before it can be properly considered.
- Increased traffic, coupled with the siting of an access road to the proposed development opposite commercial premises, is regarded as undesirable and potentially dangerous, taking into account also the lack of a public footpath within the village along Birkby Lane.
- Concerns about the maintenance of the proposed hedgerow.
- The Parish Council believe that rented dwellings are required within the village.
- The scale of the development proposed would be a dominant feature in the landscape from Birkby Lane.
- The demolition of 3 Birkby Terrace is an "attack on the history of the settlement".
- The development is without support from residents of the village.

Following amendments, a further re-consult was carried out. The Parish Council objected again to the revised scheme. New points raised can be summarised as followed:

- This amended (outline) application does not provide a detailed drainage plan but appears to assume reliance on an existing culverted drain to remove the surface

water and relies on the suitability of the existing infrastructure off site for foul and surface water and we question whether the developer has engaged with Yorkshire Water to plan for sewer network reinforcement.

- The applicant's justification for 15 bungalows relies heavily on providing suitable accommodation for elderly, disabled and vulnerable persons however the support services available in East Cowton are limited.
- There is currently a planning application for 70 dwellings in the village and we understand it is well progressed. There needs to be time to analyse the impact of that development on the village before considering any further development irrespective of size or whether it meets HG5 (Windfall) criteria.

- 4.2 Local Highway Authority - No objection to either the initial proposal or the re-consult, subject to conditions. Concerns are raised about the indicative layout significant potential issues with regard to the proposed alignment of certain of the proposed off-street parking spaces and driveways and with regard to the alignment of the proposed turning head and as a result it is recommended that the applicant engage with the LHA prior to a reserved matters application, should outline permission be granted.
- 4.3 Yorkshire Water - No objection subject to conditioning of submitted Drainage Statement. Note that to use the existing culverted watercourse will require permission from the Local Land Drainage Authority. No response received to the re-consult on the amended scheme.
- 4.4 Lead Local Flood Authority - Initially objected to the proposal as a result of the lack of information relating to how surface water would be dealt with and evidence to demonstrate exactly where the culvert is that they intend to use. Following an Outline Drainage Statement being submitted the LLFA were re-consulted and withdrew their objection with the following comments of note:
- The LLFA is content the culvert exists and a plan submitted shows where this runs to has been submitted. However, the applicant must ensure the receiving waterbody is in a suitable condition and consent may be required to discharge into this watercourse.
 - It has been stated in the Drainage Statement that the final design will be as such that the peak flow will be as close as practical to the greenfield rate.
 - Detailed Micro Drainage calculations will be required to confirm the required surface water attenuation volume for any reserved matters/discharge of conditions application. The proposed SuDS attenuation features should be able to provide the 1 in 100 years design flood event plus with an allowance for climate change and for urban creep. This should be incorporated into the detail drainage design.
 - The drainage strategy states that the drainage system will be maintained by a paid for maintenance company and a typical maintenance schedule is outlined in the drainage strategy. It must be demonstrated to the satisfaction of the LPA that maintenance will be assured for the lifetime of the development.
- 4.5 Swale & Ure IDB - It's noted that the surface water is discharging beyond the IDB catchment before probably discharging back into the district. The Board are satisfied with the proposed discharge rate. The Board have no comment.
- 4.6 Environmental Health (Contaminated Land) - Given the former agricultural land use, the associated potential sources of contamination and the proposed vulnerable end use, the applicant is required to submit a Phase 1 Preliminary Risk Assessment.

Ideally this information should be submitted prior to determination, however, if you are minded to approve the application then I would recommend a condition in order to secure the investigation and, where necessary, remediation of any contamination on the site.

- 4.7 Natural England - No comments to make.
- 4.8 MOD - No safeguarding objections.
- 4.9 NYCC Heritage Services - The application site contains well-preserved ridge and furrow earthworks. These form part of a more extensive field system which extends to the south-east of East Cowton. The ridge and furrow within the development area is a heritage asset in its own right and forms part of a wider landscape providing the agricultural setting to the village. This adds to the significance of the ridge and furrow. On the converse side, the ridges are relatively straight and narrow suggesting that they are later rather than earlier medieval in date and this lowers their level of significance. On balance the ridge and furrow might be best described as a heritage asset of local interest rather than of regional or national interest.
- 4.10 Environmental Health - No objection initially subject to conditions requiring a Construction Management Plan and limiting working hours and external lighting. However, following the revised applications reference to air source heat pumps as part of the development on the indicative plans, concern has been raised about the potential for noise and disturbance. As such, a noise assessment would be required to address this.
- 4.11 The Environment Agency, Yorkshire Wildlife Trust and The Safety Regulation Group were consulted but did not respond.
- 4.12 Site Notice and Neighbour Notification - 18 letters of objection were received to the initial scheme. The comments and concerns can be summarised as follows:
- There are issues with the infrastructure in the village that cause flood risk and drainage issues and this scheme will compound this problem.
 - Residents of East Cowton are reliant on the car to access services owing to lack of alternatives and therefore the assumption residents of these dwellings will be using the bus is flawed.
 - The volume of traffic resulting from this development and the roads being in disrepair will cause highway safety issues.
 - The access being opposite an agricultural machinery business will cause safety issues.
 - The development will have a harmful landscape impact owing to the visibility upon approach from the south east.
 - There will be a negative impact on the daylight provision and privacy of adjacent residents.
 - The culvert proposed for use for surface water is inadequate.
 - The housing need set by the government for Hambleton has been met and thus no other residential development in East Cowton is needed.
 - East Cowton needs more houses to rent, which isn't mentioned as part of the application.
 - The demolition of the 100 years old cottage is unacceptable, and the worry and uncertainty is unfair on the occupant.

- Ecological impact of disturbance to birds and hedgerows.
- Loss of ridge and furrow field system.

Following a re-consult on the amendments, a further 12 objections were received. The majority of comments reiterated previous concerns. New issues raised can be summarised as follows:

- The number of units is too large to be considered a windfall housing development.
- There is no evidence to show that there are no previously developed sites in the settlement that could be used.
- The site is not appropriate for the development of bungalows for more elderly and vulnerable people who should be located closer to services and facilities.
- East Cowton lacks the facilities to serve residential development.

5.0 Analysis

- 5.1 The main issues for consideration in this instance are i) the principle of the development in this location, ii) affordable housing, iii) the implications for heritage assets, iv) residential amenity v) access/highway safety, vi) drainage & flood risk and vii) biodiversity net gain.

The Principle

- 5.2 The site in this instance is not allocated for housing development and therefore Policy HG5: Windfall Housing Development becomes the most relevant policy insofar as the principle of the development is concerned. This supports housing development when it is either "within" or "adjacent to" the built form of a defined settlement. The requirements of Policy HG5 differ depending on which of these descriptions the development site falls within and thus this is a key issue. Firstly, however, it is important to note that East Cowton is in fact defined as a Service Village and is therefore one of the more sustainable settlements in the district. It has a primary school, a public house/restaurant, a part time postal service within the village hall and a church. On this basis, it is considered that it can support a small-medium size windfall housing scheme such as this.
- 5.3 The Planning Statement submitted with the application asserts that owing to the fact the site bound by residential development on several sides and would not extend beyond the existing built form, it is a "logical rounding off of the village" and should therefore be classified as "within the built form" for the purposes of HG5. Officers disagree with this assertion.
- 5.4 Policy S5 sets out the definition of "built form" and specifically excludes "gardens, paddocks and other undeveloped land on the edge of the settlement where this land relates more to the surrounding countryside than to the main part of the settlement" from being considered as part of a settlement. It is noted that the site is bound on two sides by residential development, but it does not automatically follow that it relates well to the settlement and its development could be considered infill development or "rounding off". It is open, undeveloped and used for grazing land that is completely separate to the adjacent residential uses. Whilst it may only marginally extend further south than the row of dwellings to the west, it is still wholly different in character and is visibly open agricultural land that one would view as part of the countryside to the south, rather than the village to the north and west.

The built form to the east is a single residential dwelling and a large agricultural unit - neither of which engulf the site in a way that would change this impression of the site and its character. As a result, Officers would assert that this development must be assessed under the second part of Policy HG5.

- 5.5 The assessment for residential development adjacent to the built form requires the following:
- a. A sequential approach to site selection has been taken where it can be demonstrated that there is no suitable and viable previously developed land available within the built form of the village; and
 - b. to provide a housing mix in terms of size, type and tenure, in accordance with the Council's Housing and Economic Development Needs Assessment (HEDNA) and Strategic Housing Market Assessment (SHMA) or successor documents.

All proposals to individually or cumulatively.

- c. represent incremental growth of the village that is commensurate to its size, scale, role and function;
 - d. not result in the loss of open space that is important to the historic form and layout of the village; and
 - e. have no detrimental impact on the character and appearance of the village, surrounding area and countryside or result in the loss of countryside that makes a significant contribution to the character or setting of that part of the village.
- 5.6 It is not clear from the supporting information whether a sequential approach to this development has been carried out as per requirement a) of Policy HG5. Nevertheless, East Cowton is a fairly densely developed settlement that lacks any substantial previously developed site that would be viewed as being within the built form and that could accommodate 15 dwellings such as those proposed in this instance. On that basis, HG5 a) is achieved.
- 5.7 The proposal is now for 15 bungalows. The exact design of these dwellings is not for consideration at this stage, although the indicative layout notes 10 x 2 bed units and 5 x 3 bed units would be possible. The Housing SPD (adopted May 2022) sets out that Hambleton has a very low proportion of bungalows within its existing stock and that the Council is keen to include more two-bedroom bungalows in their schemes to address this short coming, especially paying heed to the issue of ageing population set out in the SHMA. Clearly a scheme of 15 smaller bungalows as shown on the indicative plans would be fully in line with this overall aim of the SPD and SHMA, as well as policy HG2 of the Local Plan. In this respect, requirement b) of HG5 is met.
- 5.8 Requirement c) of HG5 requires an assessment of the size and scale of the development and the subsequent impact on the role of the settlement to which it relates. As set out above, East Cowton is considered to be one of the most sustainable settlements in the district owing to its positioning on the second tier of the settlement hierarchy. It therefore follows that it can support a greater amount of residential development than those settlements further down the hierarchy. As a result, 15 units is considered to be an acceptable amount without altering the scale and function of East Cowton. The Parish Council and a number of the public objections refer to the previously allocated site just to the west which is the subject of an ongoing outline application that is pending consideration at the time of writing. This is noted but the allocation of this for housing land has fallen away since the

adoption of the new Local Plan and the granting of this permission is not certain. In any event, every application has to be assessed on its own merits. The development is considered to be suitable in size for the location and therefore complies with HG5 c).

- 5.9 East Cowton is effectively dominated by late C20 residential development to the southern side of road that runs west-east through the main body of the village. Historically relevant areas of open space are very limited, and the site does not play any role in this respect. NYCC Archaeological Services' response regarding the ridge and furrow field system and the archaeological interest of this is noted and will be assessed in a subsequent section of this report but this does not mean the site is overtly important to the historic layout of the village, especially given the extent that this is still evident. As such, it complies with HG5 d).
- 5.10 Requirement e) requires an assessment of the development on the character and appearance of the village and the surrounding countryside that makes a significant contribution to the character or setting of that part of the village. Policy S5 is also relevant in this respect, which requires development to not harm the character, appearance and environmental qualities of the area in which it is located.
- 5.11 Generally speaking the character of East Cowton is defined by the lack of depth to development to the north, with it mainly just comprising individual dwellings fronting the highway, contrasting sharply with the depth of the late C20 suburban style residential development to the south. This is clearly evident as one travels through the village. However, the wider context and setting is more nuanced. The approach to the village from the south east is characterised by the pleasant open character of the landscape. The flat nature of the land means that views of the settlement are readily available from quite a distance. The eastern part of the village is a lot less densely developed than the central and western parts and this juxtaposition means the open setting to the east becomes even more apparent. The only depth to the settlement to the south west comes from a large agricultural unit on the very edge of the settlement and a cluster of development around the junction to the north west of the site - most of which is concentrated on the western side of Birkby Lane. This set up means that the site actually plays quite a prominent role in the setting of the village upon approach from the south east, as it is this parcel of land that allows for the lack of depth and open nature of this part of the village to be perceived.
- 5.12 The development of this parcel of land would completely erode this setting and mean that the distinctive open setting of the village in the south easterly direction would be lost. In an attempt to overcome this concern, the scheme was reduced in scale and altered to bungalows only, which will obviously sit lower in the landscape. There is also a greater amount of open space in the top third of the site to 'break up' the development to a greater extent. Officers would concede that this is a much-improved proposal relative to the initial scheme, but it would still lead to the loss of an important aspect of the setting of this part of the village and in this respect is still in conflict with requirement e) of the Policy HG5 and Policy S5 of the Local Plan.
- 5.13 Consequently, this windfall housing scheme does not gain support in principle from the relevant Local Plan policy. Notwithstanding, other material considerations and technical issues will be assessed below.

Affordable Housing

- 5.14 Policy HG3 of the Local Plan requires all development of over 9 dwellings to provide the provision of 30% affordable housing. This would equate to 4.5 units in this case. The Housing SPD clarifies that when the figure is not a whole number, the Council will require a financial contribution for the difference - i.e. 0.5 units. Discussions with the applicant about this requirement have taken place and they have confirmed that they would deliver this requirement, with at least one unit shared ownership, one unit affordable rented and one social rented unit provided. The fourth unit would be provided as per recommendations from the Council and the outstanding 0.5 units would be in the form of a contribution. Consequently, should the Committee come to a different conclusion as to the principle of the development, the proposal would comply with Policy HG3 which must be given weight in the overall planning balance.

Impact on Heritage Assets

- 5.15 NYCC Archaeological Services have identified that the site contains well-preserved ridge and furrow earthworks which part of a more extensive field system which extends to the south-east of East Cowton. They outline that the fact it forms part of a wider landscape providing the agricultural setting of the village. That said, it is also said that the ridges are relatively straight and narrow suggesting that they are later rather than earlier medieval in date, and this lowers their level of significance. On balance, they are classified as being of local interest, rather than regional or national.

- 5.16 This development would lead to the loss of this local heritage asset. Policy EG5 states that those elements which contribute to the significance of a non-designated archaeological sites will be conserved, in line with the importance of the remains. The loss of these earthworks, which are limited to local importance only, is considered to equate to a low level of harm. This must be given weight in the planning balance but in and of itself is not considered to be a reason for refusal on this occasion.

Residential Amenity

- 5.17 Policy E2 of the Local Plan requires all proposals to provide and maintain a high standard of amenity for all users and occupiers, including both future occupants and users of the proposed development as well as existing occupants and users of neighbouring land and buildings, in particular those in residential use.

- 5.18 In light of the detail available at outline stage, there are no concerns relating to the impact on the residential amenity of the existing neighbours. The site can comfortably accommodate 15 units without appearing overbearing to the surrounding units and potentially impacting their daylight provision or privacy. Equally, the future occupiers of the dwellings proposed could be afforded ample amenity space and separation distance from one another to ensure their living conditions were of a high standard.

- 5.19 Environmental Health's concerns relating to the inclusion of air source heat pumps and the potential for noise and disturbance is noted. The plans at this stage are indicative only and their inclusion isn't definite. Should this outline permission be granted, Officers are content that the applicant could address this issue at reserved matters by either omitting the ASHPs or carrying out a noise assessment. As such, this is not seen to be a reason for refusal.

- 5.20 Whilst the living standards of future and neighbouring residents could not be fully ensured until detailed design stage, for the purposes of this outline application, Officers are content the proposal complies with Policy E2.

Access and Highway Safety

- 5.21 Policy IC2 of the Local Plan requires development to, amongst other things, ensure that highway safety would not be compromised, and safe physical access can be provided to the proposed development from the footpath and highway networks. As set out in the introductory section, access will be created by the demolition of one of the terraced dwellings that front Birkby Lane. To assess this aspect of the development the Local Highway Authority were consulted. They subsequently offered no objection subject to conditions that could be addressed moving forward. On this basis, Officers are content that the development will not compromise highway safety and that the development complies with Policy IC2.

Drainage and Flood Risk

- 5.22 The vast majority of the objections from residents and the Parish Council refer to concerns with drainage which are effectively two-fold; surface water flooding of the site and surrounding area and the foul water sewer system having the capacity to deal with the development. Policy RM3 of the Local Plan sets out the Councils requirements for drainage and surface water management. Key requirements particularly relevant to this proposal are a) surface water run-off is limited to existing rates on greenfield sites and b) if a road would be affected by the drainage system the details of the system have been agreed with the relevant highway authority.
- 5.23 Following an objection from the Lead Local Flood Authority (LLFA) on the basis of a lack of information, an Outline Drainage Statement was submitted by the applicant. It has been confirmed that it is likely infiltration methods of managing surface water are unfeasible due to slowly draining soils. The exact location of the culvert adjacent to the site has been provided on a plan and discussions with the Local Highway Authority have also taken place as this culvert also serves two highway gullies. Effectively, the surface water management plan will seek to mimic the existing arrangement in terms of the final outfall owing to the natural lie of the land going towards the existing culvert connection. SuDs will be incorporated to further mitigate some of the existing surface water flooding issues referred to in the objections by introducing slower runoff rates. Finally, it has been confirmed that the peak flow run off rate will be as close as practically possible to the existing greenfield rate. The final design detail of how this will be achieved will be secured at reserved matters stage, but a possible design is shown on the indicative drainage scheme. Owing to this additional information, the LLFA subsequently removed their objection.
- 5.24 Foul water is to be directed to the existing Yorkshire Water sewer under Birkby Terrace. The issue of the capacity of this to cope with the increased demand from the development has been raised on numerous occasions and it is understood that there has been occasions where the pumping station has failed previously, leading to problems with the sewer system in the village. This is noted but is considered to be an operational issue which is in the control of third parties and not for the applicant to address through this development. Yorkshire Water have not objected to the use of this sewer and therefore on that basis Officers are content the proposed measures are adequate.

5.25 Based on the above, Officers are content that the issues of foul and surface water management has adequately been considered for this outline application and notwithstanding wider concerns with the scheme, the proposal complies with policy RM3.

Biodiversity Net Gain

5.26 Policy E3 of the Local Plan now requires all development to demonstrate the deliverability of a net gain of biodiversity. Details of a calculation using the biodiversity metric 3.1 tool were submitted. At this stage there is no finalised landscape plan, but the calculations show that the loss of habitat units due to the development of the site will be minimal and with a fully considered landscape plan at reserved matters, this will be offset. Officers are content with this conclusion and that the deliverability of biodiversity net gain has been adequately demonstrated.

Planning Balance

5.27 Assessment in the context of the Local Plan has demonstrated that the application is on the most part compliant with Policy HG5, however falls at the last hurdle insofar as its impact on the setting of the village. This is owing to the development of an area of agricultural land that presently helps to create a more sporadic and open feel as one approaches East Cowton from the south east. The flat and open nature of the surrounding landscape allows one to perceive this setting which places even greater importance on its retention and protection.

5.28 Officers would concede that the amendment to a reduced scheme by the applicant and the introduction of bungalows has gone some way to addressing the wider landscape issues and it has to be noted that generally speaking East Cowton is characterised by this kind of suburban style development on the southern side, which this proposal would comply with. However, when the intricacies of this site and its role in the immediate locality are considered, it is still felt that on balance the development would still conflict with Policy HG5 e).

5.29 Weight has to be given to the fact the proposal will deliver bungalows and a provision of affordable housing that is in line with policies HG2 and HG3, as well as the Housing SPD. Furthermore, there are no other technical issues that weigh against this proposal. However, ultimately Officers feel the harm arising to the countryside and the setting of the village outweighs these facts and refusal is recommended on that basis.

6.0 Recommendation

6.1 That subject to any outstanding consultations the application be **REFUSED** for the following reason(s)

The reasons are:-

1. The development of the agricultural land in question will erode the open nature of the setting of the south eastern part of the village and in this respect lead to the loss of an important part of the open countryside surrounding the village. The proposed development therefore conflicts with Policy HG5 and Policy S5 of the Local Plan.