

**Committee Report**

<b>Application No:</b>	<b>DC/17/00623/FUL</b>
<b>Case Officer</b>	<b>Owain Curtis</b>
<b>Date Application Valid</b>	<b>31 May 2017</b>
<b>Applicant</b>	<b>Broadleaf Construction Development</b>
<b>Site:</b>	<b>Fistral Smailes Lane Rowlands Gill NE39 2LS</b>
<b>Ward:</b>	<b>Chopwell And Rowlands Gill</b>
<b>Proposal:</b>	<b>Erection of two split level x three bedroom, semi-detached dwellings with gables, balconies and dormer windows on south elevations</b>
<b>Recommendation:</b>	<b>GRANT</b>
<b>Application Type</b>	<b>Full Application</b>

**1.0 The Application:**

1.1 This application was deferred at the meeting of the Planning and Development Committee on 25 October 2017 to allow the Committee to visit the site. Members visited the site on 9 November 2017.

**1.2 DESCRIPTION OF THE SITE**

The application site lies to the south of Smailes Lane in Highfield, Rowlands Gill and comprises of the garden area to the side of an existing bungalow. There is a significant drop in land levels by approximately 11m between the northern boundary of the application site at Smailes Lane and the southern boundary. To the east of the site is an area of scrubland and to the south is an undeveloped housing plot.

1.3 Surrounding properties are a mix of various house types although all residential properties on the south of Smailes Lane at this location are bungalows.

**1.4 DESCRIPTION OF THE APPLICATION**

This application seeks planning permission for the erection of a pair of semi-detached dwellings. The dwellings would be 3 bedroom family homes and would be split over 3 floors. In terms of the external materials, the dwellings would be finished in red brick and the roof would be tiled with concrete roof tiles.

1.5 The vehicular and pedestrian access into the site would be gained from Smailes Lane at the junction with Cowell Grove and there would be a large front courtyard with 2 parking spaces and 2 visitor spaces provided.

**1.6 PLANNING HISTORY**

DC/10/01099/FUL - Erection of split level two-storey dwellinghouse (use class C3) with associated parking and landscaping in garden area at side of existing dwellinghouse (resubmission) (amended 17/11/10, 31/12/10 and 09/02/12). – Granted - 30.03.2012

DC/09/01786/FUL - Erection of split level two-storey dwellinghouse (use class C3) with associated parking and landscaping in garden area at side of existing dwellinghouse. – Withdrawn - 09.04.2010

1471/89 - Erection of a detached bungalow (use class C3) (amended plan dated 9/1/90) – Granted - 05.02.1990

## **2.0 Consultation Responses:**

Northumbrian Water – no objections

## **3.0 Representations:**

- 3.1 This application is referred to the Planning and Development Committee for determination upon the request of Councillor Bradford. Councillor Bradford made it clear that he neither supports nor objects to the application.
- 3.2 A site notice was displayed and neighbour notifications were carried out in accordance with formal procedures introduced by the Town & Country Planning (Development Management Procedure) Order 2015. A total of 3 representations have been received.
- 3.3 The representations received raise the following issues:
  - Concerns regarding the highway safety risks of the proposed access
  - The proposed access will pose a significant risk to vehicles travelling past the access in both directions
  - The planned entrance/exit to this property is situated on a very dangerous bend on a very busy road and therefore constitutes a great potential hazard.
  - The main road is well known for speeding
  - Neighbours have not been consulted
  - The development is overbearing and the balconies would overlook others
  - Foundation work and piling may cause damage to surrounding properties
  - The proposal is out of character with the area as surrounding properties are detached

## **4.0 Policies:**

NPPF National Planning Policy Framework

NPPG National Planning Practice Guidance

CS1 Spatial Strategy for Sustainable Growth

CS10 Delivering New Homes

CS11 Providing a range and choice of housing

CS13 Transport

CS14 Wellbeing and Health

CS15 Place Making

CS18 Green Infrastructure/Natural Environment

DC2 Residential Amenity

H4 Windfall and Small Housing Sites

ENV3 The Built Environment - Character/Design

ENV44 Wood/Tree/Hedge Protection/Enhancement

ENV54 Dev on Land Affected by Contamination

CFR28 Toddlers' Play Areas

CFR29 Juniors' Play Areas

CFR30 Teenagers' Recreation Areas

## **5.0 Assessment of the Proposal:**

5.1 The key considerations to be taken into account when assessing this planning application are: the principle of residential development on the site, residential amenity, visual amenity, highway safety, land contamination, play and open space and any other relevant considerations.

5.2 **PRINCIPLE OF RESIDENTIAL DEVELOPMENT**  
Paragraph 49 of the NPPF states that all “housing applications should be considered in the context of the presumption in favour of sustainable development.”

5.3 The Newcastle Gateshead Core Strategy and Urban Core Plan seeks to increase the range and choice of housing across the plan area by improving the balance of the borough’s housing stock in terms of dwelling size, type and tenure. Accordingly, Core Strategy policy

CS11(1) requires that a minimum of 60% of new private housing across the plan area is suitable and attractive for families (i.e. homes with three or more bedrooms).

- 5.4 The proposed development of a pair of three bedroom dwellings would help contribute to increasing the provision of family homes in Gateshead. The proposal is therefore considered to be compatible with the Council's policies regarding the range and choice of housing.
- 5.5 Further, this site would be considered as a housing windfall site under saved policy H4 of the Gateshead Unitary Development Plan. The site is not situated in an isolated location and it is considered that the location of the proposal within an existing residential area is sustainable and will help build and sustain the community. On this basis, the proposed development is considered to be a windfall housing site that will bridge a portion of the gap in the dwelling stock within the borough.
- 5.6 Overall the principle of two dwellings on this site can be supported subject to all other material planning considerations being satisfied.
- 5.7 **RESIDENTIAL AMENITY**  
The NPPF states that a core principle of planning is to always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.
- 5.8 Local policies CS14 of the Core Strategy and DC2 of the UDP require that development does not have any negative impacts on nearby residents and ensures a high quality of design and amenity for existing and future residents.
- 5.9 The application site is approximately 5.5m higher than the land level of the adjacent plot to the south – 1 Red Kite Way. Planning permission was granted for the erection of a dwelling at 1 Red Kite Way in September 2010. Whilst the construction of the dwelling has not been commenced, the permission was implemented through discharging conditions, conducting groundworks and laying foundations therefore the 2010 approval is extant.
- 5.10 It is considered that the proposed houses would not have an unacceptable impact on the future occupants of 1 Red Kite Way. 1 Red Kite Way has been designed with a fully glazed wall looking south, and on the northern elevation, which faces the application site, there would be 2 clear glazed windows serving bedrooms. These windows would be small, only 70cm in width and would not directly face onto the rear elevations of the proposed development, therefore it is considered that any overlooking from the proposed houses would not have a material impact on the living conditions of the future occupiers of 1 Red Kite Way. Further, there would be a separation distance of over 30m

between the rear elevation of the proposed houses and 1 Red Kite Way preventing both the perception of, and actual level of overlooking.

- 5.11 Officers do not consider that the proposed houses would cause harm to the living conditions of the occupiers of 2 Red Kite Way which is complete and occupied, as there would be a 35m separation distance and the development would be at an oblique angle.
- 5.12 The application site is within the garden of 'Fistral'. The side wall of the proposed development would be located approximately 14m from this bungalow. The proposed properties are likely to have a slight overshadowing effect on the side elevation of 'Fistral' however as there are no primary windows in this elevation the development would not have a material impact on the occupiers of the bungalow. With regard to overlooking, the rear elevation of the proposed dwellings would be set back by over 5m from 'Fistral'. It is considered this staggered building line would ensure the current occupiers of 'Fistral' would not suffer undue loss of privacy on account of the development, particularly, the level of privacy the occupiers currently enjoy in the rear garden.
- 5.13 Overall, it is officers' opinion that the proposed development would be acceptable in terms of its impact on residential amenity as the proposal would not cause an unacceptable loss of privacy nor would it create an overshadowing or overbearing impact on the neighbouring properties.
- 5.14 Turning to the living conditions of the future occupiers of the proposed dwellings, the internal floor area of the properties would be 112m<sup>2</sup>. The internal living space the dwellings would provide would be adequate for a family home with 3 bedrooms. It is also considered that the level of outdoor amenity space would ensure the living conditions for the future occupants is acceptable.
- 5.15 In light of the above it is considered the proposed scheme would comply with policy CS14 of the Core Strategy and saved policy DC2 of the UDP which seek to safeguard residential amenity for existing and future occupants of land and buildings.
- 5.16 VISUAL AMENITY  
Section 7 of the NPPF states that the Government attaches great importance to the design of the built environment and 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. Local policies CS15 of the Core Strategy and ENV3 of the UDP reflect this.
- 5.17 One representation has raised the appearance of the dwellings as a concern stating that the proposal is out of character with the area as surrounding properties are detached.

- 5.18 Officers consider the proposed dwellings would integrate well within the established street scene. The scale and massing of the properties would be comparable to the surrounding properties when seen from Smailes Lane on the northern boundary of the site. It is considered the proposal respects the established character of the area but also positively responds to the site's topography.
- 5.19 As the site can accommodate the new dwellings whilst providing a sufficient internal floor area and an acceptable amount of outdoor amenity space, it is not considered that the proposal would appear as out-of-character or over-development.
- 5.20 In terms of external materials, the dwellings would be finished in red brick and hanging tiles and it is proposed that the roof be tiled with concrete large format flat tiles. Final details of the finishing materials can be approved via condition to ensure the materials are appropriate for the area to ensure the development integrates within the street scene. (condition 3)
- 5.21 The proposal would result in the loss of a hedge along the southern boundary of Smailes Lane which is particularly visible from the junction with Cowell Grove. The existing hedge makes a positive contribution to the area however it is considered that the removal of the hedge to facilitate the access and to create an adequate visibility for drivers would not cause significant harm to the character or appearance of the area. Full details of the replacement boundary treatment and hedge can be secured by condition to ensure that the replacement is appropriate and helps mitigate the loss of the existing hedge (conditions 6 and 7).
- 5.22 It is officers' opinion that the proposed development would respond positively to the site and would integrate well within the existing street scene. It is therefore considered that the proposal is in accordance with policy CS15 of the Core Strategy and saved policy ENV3 of the UDP.
- 5.23 **HIGHWAY SAFETY AND PARKING**  
Paragraph 32 of the NPPF states that applications should only be refused on transport grounds where the residual cumulative impacts of development are 'severe'. Case law has recently clarified that the severity test over residual cumulative transport impacts, referred to in paragraph 32 does not apply to matters of highway safety.
- 5.24 Several objections raise the issue of highway safety and that the proposed access from the development onto Smailes Lane would pose a significant risk to vehicles travelling past in both directions and that the access is situated on a dangerous bend on a busy road and therefore contributes to a great potential hazard. An objection also states that in their view, vehicles on this stretch of the road often exceed the speed limit.

5.25 During the consideration of the application, the boundary treatment on Smailes Lane has been amended to ensure that drivers have adequate visibility at the junction. The amended plans show that the visibility at the junction would now meet the required standard for a 30mph road, subject to the removal of the hedge within the visibility splay. The removal of the hedge and other vegetation can be secured by planning condition (condition 4 and 5). The conditions require the submission, approval and implementation (along with a scheme to secure its retention) of the proposed visibility splay prior to any other part of the proposed development commencing, and would include land outside of the application site.

5.26 The proposed level of parking to be provided is considered to be acceptable and would be sufficient space for vehicles to manoeuvre effectively in the front courtyard.

5.27 Overall officers consider that the proposed development would be acceptable from a highways point of view subject to conditions (conditions 4 and 5).

#### 5.28 LAND CONTAMINATION

The application site has not previously been developed and as such, the risk of contamination in made ground affecting the development is considered to be low. To ensure the safety of the future users of the land, it is recommended that a condition be included requiring the developer to cease works and submit a remediation scheme to the Local Planning Authority should any undesirable material be discovered. (condition 8)

#### 5.29 PLAY AND OPEN SPACE

5.30 Saved UDP policies CFR20, CFR28, CFR29 and CFR30 relating to the provision of play and open space are considered to apply to the current application for the creation of new residential development.

5.31 The overriding national policy direction is that no tariff based S106 contributions can be required where the development relates to less than ten dwellings. Therefore, while it cannot be concluded that the proposed development would comply with saved policies CFR20, CFR28, CFR29 and CFR30 of the UDP, it is considered that other material planning considerations outweigh the UDP policies.

#### 5.32 COMMUNITY INFRASTRUCTURE LEVY

On 1st January 2017 Gateshead Council became a Community Infrastructure Levy (CIL) Charging Authority. This application has been assessed against the Council's CIL charging schedule and the development is CIL chargeable development as it is housing related. The development is located within Charging Zone C, with a levy of £0 per square metre for this type of development. Therefore, this proposal would not be charged.

### 5.33 OTHER ISSUES

The objections received state that neighbours have not been consulted on the proposed development. As part of the formal planning application, residents have been consulted through the neighbour notification process and a site notice was posted on the junction of Smailes Lane and Cowell Grove. The council has therefore satisfied its statutory duty to advertise the planning application.

5.34 An objection also states that the foundation work and piling which will take place during construction would cause damage to the surrounding properties. Whilst it is understandable residents will wish to protect their property from damage, this is not a material consideration in the determination of planning applications.

5.35 It has also been raised that the application site is within an area in which a highways consultation is taking place to reduce the speed limit to 20mph. At the time of determination of this application, the speed limit of Smailes Lane is 30mph therefore the applicant will secure a visibility splay which would ensure traffic is safe at this speed.

## 6.0 CONCLUSION

6.1 Taking all the material planning considerations into account including the objections raised, it is recommended that planning permission be granted. Given the relevant conditions suggested to be imposed, it is considered the proposal accords with relevant national and local planning policies.

## 7.0 Recommendation:

That permission be GRANTED subject to the following condition(s) and that the Strategic Director of Communities and Environment be authorised to add, delete, vary and amend the planning conditions as necessary:

1

The development to which this permission relates must be commenced not later than 3 years from the date of this permission.

Reason

To comply with section 91 of the Town and Country Planning Act 1990 as amended by section 51 of the Planning and Compulsory Purchase Act 2004.

2

The development shall be carried out in complete accordance with the approved plan(s) as detailed below -

Drawing No 01 Rev C received 31.05.2017



Drawing No 02 Rev D received 06.10.2017  
Drawing No 03 Rev D received 06.10.2017  
Drawing No 04 Rev C received 31.05.2017  
Drawing No 05 Rev C received 31.05.2017  
Drawing No 06 Rev C received 31.05.2017  
Drawing No 07 Rev C received 31.05.2017  
Drawing No 08 Rev C received 31.05.2017  
Drawing No 09 Rev C received 31.05.2017  
Drawing No 16 Rev C received 31.05.2017  
Drawing No 17 Rev C received 31.05.2017  
Drawing No 18 Rev C received 31.05.2017  
Drawing No 21 Rev D received 06.10.2017  
'Visibility splays for 30mph traffic' dated 18.09.2017

Any material change to the approved plans will require a formal planning application to vary this condition and any non-material change to the plans will require the submission of details and the agreement in writing by the Local Planning Authority prior to any non-material change being made.

#### Reason

In order to ensure that the development is carried out in complete accordance with the approved plans and any material and non-material alterations to the scheme are properly considered.

3

No external materials for the development hereby approved shall be used on site until samples of all materials, colours and finishes to be used on all external surfaces have been made available for inspection and are subsequently approved in writing by the Local Planning Authority. The agreed external materials shall then be used on site.

#### Reason

To safeguard the visual amenities of the area and to ensure that the proposed development does not have an adverse effect upon the appearance of the existing street scene in accordance with the NPPF, Saved Policies DC2 and ENV3 of the Unitary Development Plan and Policies CS14 and CS15 of the Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne.

4

The development authorised by this permission shall not begin until there has been submitted and the Local Planning Authority has approved in writing full details of a scheme to provide a 2 metre x 43 metre visibility splay at the site access. The scheme must detail the position and detailed design of the visibility splay and make provision to ensure that the visibility splay will be

provided and retained free of obstruction over 0.6 metres above ground level thereafter.

Reason

In the interest of highway safety in accordance with the NPPF and policy CS13 of the Core Strategy and Urban Core Plan.

5

The development (other than that reasonably required to construct the visibility splay) shall not begin until the visibility splay has been provided in accordance with the Local Planning Authority's approval and has been certified in writing as complete by or on behalf of the Local Planning Authority.

The visibility splay must be provided in full accordance with the details approved under condition 4 prior to the commencement of any development

Reason

In the interest of highway safety in accordance with the NPPF and policy CS13 of the Core Strategy and Urban Core Plan.

6

Prior to the first occupation of the dwellings hereby approved a replacement planting scheme outside of the visibility splay to help offset the loss of the hedge and other vegetation shall be submitted to and approved in writing by the Local Planning Authority.

Reason

In the interests of visual amenity in accordance with the NPPF, policy CS15 of the Core Strategy and saved policy ENV3 of the UDP.

7

The replacement planting scheme approved under condition 6 shall be completed in full accordance with the approved details and specification within six months of the first occupation of the dwellings hereby approved or within the next available planting season following the first occupation of the dwellings, whichever is the sooner.

Reason

In the interests of visual amenity in accordance with the NPPF, policy CS15 of the Core Strategy and saved policy ENV3 of the UDP.

8

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) England Order 2015

(as amended), Article 3, Schedule 2: Part 1 (or any subsequent order or statutory provision revoking or re-enacting that order with or without modification) no fences, walls or other means of enclosure shall be built between Smailes Lane and the principal elevation of the dwellings without prior written approval from the Local Planning Authority.

Reason

To ensure an adequate visibility splay is permanently retained and vehicles are able to manoeuvre in the interest of highway safety in accordance with the National Planning Policy Framework and policy CS13 of the Core Strategy and Urban Core Plan.

9

Unless otherwise approved in writing by the Local Planning Authority, all works and ancillary operations in connection with the construction of the development, including the use of any equipment or deliveries to the site, shall be carried out only between 0800 hours and 1700 hours on Mondays to Fridays and between 0800 hours and 1300 hours on Saturdays and at no time on Sundays, Bank Holidays or Public Holidays.

Reason

To safeguard the amenities of nearby residents and in accordance with the NPPF, policy CS14 of the Core Strategy and saved policy DC2 of the Unitary Development Plan.

10

During development works, any undesirable material observed during excavation of the existing ground should be screened and removed. If any areas of odorous, abnormally coloured or suspected contaminated ground are encountered during development works, then operations should cease until the exposed material has been chemically tested. An amended risk assessment (including a proposed timetable for implementation of works) of the development should then be undertaken, to determine whether remedial works are necessary.

Reason

In order to ensure the safety of site operatives and to ensure that the land is suitable for its end use in accordance with the National Planning Policy Framework, policy CS14 of the Core Strategy and Urban Core Plan and saved policy DC1(p) of the Unitary Development Plan.

11

Any works deemed necessary following testing shall be carried out in full in accordance with the timetable set out in Condition 10.

Reason

In order to ensure the safety of site operatives and to ensure that the land is suitable for its end use in accordance with the National Planning Policy Framework, policy CS14 of the Core Strategy and Urban Core Plan and saved policy DC1(p) of the Unitary Development Plan.

12

The development hereby permitted shall not be commenced until full details of existing and proposed ground and finished floor levels are submitted to and approved in writing by the Local Planning Authority.

Reason

Having regard to the sloping nature of the site this additional information is required to ensure a satisfactory form of development in the interests of residential/visual amenity and in accordance with Policies DC1, DC2/ENV3 of the Unitary Development Plan and policies CS14 and CS15 of the Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne.

13

The development shall be built in complete accordance with the land level details approved under condition 12.

Reason

Having regard to the sloping nature of the site this additional information is required to ensure a satisfactory form of development in the interests of residential/visual amenity and in accordance with Policies DC1, DC2/ENV3 of the Unitary Development Plan and policies CS14 and CS15 of the Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne.



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