

10. Outline Application - Erection of Building to Accommodate 6 No. One Bedroom Flats, Endcliffe Court, Ashford Road, Bakewell (NP/DDD/0914/0997 P.11903 420931/368985 3/11/2014/CF)

APPLICANT: COUNTY ESTATES (BAKEWELL) LTD

Site and Surroundings

Deepdale Business Park lies approximately 1km to the northwest of Bakewell's town centre and is accessed from the A6 Ashford Road. The site is designated for employment uses (B1 & B2) by saved policy LB6 in the Local Plan, and to the rear of the site there are a range of units occupied by various tenants.

At the front of the site, there are two units known as Media House and Endcliffe House, which overlook the A6. These buildings have a curved plan form and are built primarily from natural stone and have pitched roofs clad with blue slates. Until recently these buildings have been unoccupied for some time, but both now have consent under permitted development rights for conversion to C3 dwellings. Endcliffe House has already been converted to six residential apartments, which are currently being rented out.

Proposals

The current application seeks outline permission for the erection of a new building between Endcliffe House and the A6, which would accommodate six one-bedroom flats. In this case all matters have been reserved, which means that the precise details of the appearance of the building, means of access from the A6, landscaping, layout and scale would not normally be included with the submitted application.

However, the submitted application does include plans that show the proposed building would be almost identical to Media House and Endcliffe House in terms of its design and the materials used in its construction albeit the new building would be on a rectangular plan rather than a curved plan. The plans also show that each flat would have an internal floor area of around 54m² and the occupants of the flats would utilise the existing access and parking arrangements.

Significantly, the application makes it clear that the new flats are intended to be rented out on the open market to meet general demand. A financial development appraisal has been submitted that supports the applicant's offer of a commuted sum of £55,000 to facilitate affordable housing to meet local needs elsewhere in Bakewell if permission is granted for the current application.

RECOMMENDATION:

That the application be APPROVED subject to prior entry into a s.106 legal agreement securing payment of a commuted sum and retaining the new housing in the same ownership as the remainder of the site and subject to the following conditions:

- 1. Statutory time limits for submission of reserved matters and commencement of proposed development.**
- 2. Requirement to submit details of reserved matters**
- 3. Limitations on size and scale of development**
- 4. Specifications for design details and construction materials including energy saving measures.**

5. Provision and maintenance of parking and access provision to meet Highway Authority requirements

Key Issues

- whether the benefits that would be achieved by approving this application justify an exception to the Authority's adopted housing policies.

History

- 2000 Full planning permission granted conditionally for Media House (NP/DDD/0499/187).
- 2002 Full planning permission granted conditionally for Endcliffe House (NP/DDD/0901/406).
- 2013 Planning permission refused for the change of use of Media House and Endcliffe House from offices to apartments (NP/DDD/0612/0616).
- 2013 Notification of the change of use of Endcliffe House to residential use accepted (NP/GDO/0613/0452)
- 2013 Notification of the change of use of Media House to residential use not accepted because of condition 12 attached to NP/DDD/0499/187 limiting the use of the building to offices (NP/GDO/0913/0771).
- 2013 Planning permission refused for variation of condition 12 - office use only on NP/DDD/0499/187 – the subsequent appeal was allowed in 2014 and condition 12 has been deleted (NP/DDD/0613/0451).
- 2014 Notification of the change of use of Media House to residential use accepted (NP/GDO/0514/0562).

It is also relevant to the current application that the Authority has received further notifications to change the use of a third building at Deepdale Park known as Ardern House. These notifications were not accepted because there is a condition attached to the building limiting its use to a B1 use. This condition was imposed to enable the National Park Authority to retain control over the extent of the use and to prevent any adverse effect upon the character of the area.

Consultations

County Council (Highway Authority) – No objections subject to conditions

District Council - No response to date

Town Council - Resolved to recommend approval of the current application subject to parking concerns being resolved and a Section 106 agreement securing a sum of at least sixty thousand pounds to be reinvested in Bakewell.

Representations

No representations were received by the Authority during the statutory consultation period.

Main Policies

The application proposes new housing therefore the most relevant policies in the Development Plan are policy HC1 of the Core Strategy and saved Local Plan policy LH1. HC1 says provision will not be made for housing solely to meet open market demand and that housing land will not be allocated in the development plan. HC1(A) goes on to say exceptionally, new housing (whether newly built or from re-use of an existing building) can be accepted where it addresses eligible local needs. LH1 provides the detailed operational criteria for assessing affordable housing proposals.

These policies are consistent with policies in the National Planning Policy Framework ('the Framework') which say in rural areas, local planning authorities should be responsive to local circumstances and plan housing development to reflect local needs, particularly for affordable housing, including through rural exception sites where appropriate.

Policy E1 of the Core Strategy and saved Local Plan policy LB6 of the Local Plan are also relevant to this application. In particular, LB6 says general industry or business development (Use Classes B1 and B2) will be permitted on Deepdale Business Park and development which would prejudice the development of this site for general industry or business development will not be permitted.

E1(D) says the National Park Authority will safeguard existing business land or buildings, particularly those which are of high quality and in a suitable location such as Deepdale Business Park. E1(D) goes on to say where the location, premises, activities or operations of an employment site are considered by the Authority to no longer be appropriate, opportunities for enhancement will be sought, which may include redevelopment to provide affordable housing or community uses.

These policies are also consistent with the Framework, which promotes sustainable rural economic development but encourages local planning authorities to consider appropriate alternative uses of employment sites that are no longer viable.

Wider Policy Context

The Authority's housing and economic development policies are supported by a wider range of design and conservation policies including GSP1 of the Core Strategy which states all policies should be read in combination. GSP1 also says all development in the National Park shall be consistent with the National Park's legal purposes and duty and where national park purposes can be secured, opportunities must be taken to contribute to the sustainable development of the area.

Policy GSP3 of the Core Strategy and Policy LC4 of the Local Plan are also directly to the current application because they set out the design principles for all new development in the National Park, seeking to safeguard the amenities of properties affected by development proposals, and setting out criteria to assess design, siting and landscaping. The Authority's Supplementary Planning Documents (SPD) the Design Guide and the Building Design Guidance offer further advice on design issues.

Policies LT11 and LT18 of the Local Plan require new development to be provided with adequate access and parking provision but also say that access and parking provision should not impact negatively on the environmental quality of the National Park. Policy CC1 of the Core Strategy and the associated supplementary planning document on climate change and sustainable development encourage incorporating energy saving measures and renewable energy into new development.

These policies are consistent with the core planning principles set out in the Framework including the Government's objectives to secure high quality design that is sensitive to the locally distinctive characteristics of the National Park's built environment.

Assessment

Reserved Matters

An application for outline planning permission is normally used to establish whether the principle of a development would be acceptable before detailed plans are prepared. In this case, plans have been submitted which show a development that gives rise to no overriding objections in terms of its design, siting and layout. The building would harmonise with the adjacent Endcliffe House and Media House and because it would be sited close to the boundary of the site against the backdrop of rising land and Endcliffe Wood, the new building would not have a significant visual impact on the wider landscape.

The proposals would not be unneighbourly by virtue of the orientation of the new building relative to the adjacent Endcliffe House and the intervening distances between the two nearest neighbouring residential properties either side of the Business Park. Access and parking provision would be adequate for the new development and the twelve apartments that would be located in Endcliffe House and Media House. Importantly, this part of the site is also now functionally and physically separate from the remainder of the employment units on the Business Park and there are no overriding concerns that the employment units and the residential accommodation at the front of the site would be incompatible uses.

Therefore, whilst these issues generally relate to reserved matters that would need to be controlled by planning conditions if permission were granted for the current application, the new building would not conflict with the range of design and conservation policies in the Development Plan and the Framework or result in any demonstrable harm to the amenities of the local area. Equally, the proposals would not result in the loss of employment land or compromise the ability of the remainder of the site to be retained for employment uses. Therefore, the proposals do not conflict with Local Plan policy LB6 and E1(D) insofar as these policies seek to safeguard the existing business land and buildings at Deepdale Business Park.

Consequently, if the proposed flats were intended to be affordable housing to meet local need, it would be possible to conclude that the proposals would meet the requirements of E1(D), which is otherwise permissive of affordable housing to meet local need on employment sites albeit where the site is no longer viable. The proposals would also meet the criteria of housing policies HC1 of the Core Strategy and saved Local Plan policy LH1 if the flats were found to be needed by, and affordable to, people on low and moderate income who had an appropriate local qualification. However, the houses are intended to meet general demand and this weighs heavily against the acceptability of the principle of the proposed development.

Principle

In summary, there are no provisions for open market housing in the National Park to meet general demand unless the proposed housing would be required to conserve or enhance a valued vernacular or listed building, or within settlements, the proposed housing would be required to achieve enhancement objectives or the relocation of a non-conforming use in accordance with policy HC1(C)II of the Core Strategy. In this case, the proposed development simply does not meet the requirements of HC1(C)II and the current application conflicts with the more general presumption in HC1 and LH1 that new housing within the National Park will only be allowed exceptionally if it is affordable housing to meet local need.

In these respects, the Authority's housing policies are generally consistent with rural housing policies in the Framework. However, paragraph 54 does say that planning authorities should

consider whether allowing some market housing would facilitate the provision of significant additional affordable housing to meet local need. This scenario is not provided for in the Authority's Development Plan. Therefore, the Authority has to be mindful of the provisions of paragraph 14 of the Framework, which says where the Development Plan is absent, silent or relevant policies are out-of-date, local planning authorities should grant permission for development unless:

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
- specific policies in this Framework indicate development should be restricted.

In this case, it is clear that the proposed development would not harm the valued characteristics of the National Park, and whilst the proposals may conflict with housing policy in the Development Plan, there are no overriding concerns that the housing would be in an unsustainable location, for example. Therefore, the acceptability of the development is considered to rest on whether the benefits of granting permission for the application outweighs or offsets the potential adverse impacts of either making an exception to, or departing from the Authority's adopted housing policy. For clarity, this assessment arises because the development Plan does not cover the issues raised by this application rather than any concerns that housing policies in the development plan are out-of-date.

The adverse impacts of making an exception to the Development Plan can include undermining the consistency of decision making within policy within the National Park by creating considerations that are easily repeated elsewhere. For example, a proliferation of similar developments that are outside of policy could follow a single exception where others are able to repeat the arguments used to justify a non-conforming development. The adverse impacts of making a departure from the Development Plan can include allowing development that would have a significant impact on the National Park and/or significantly compromise the implementation of policies in the Development Plan.

In this case, the proposed development would be a departure if the case for the development was simply that open market housing should be allowed in the National Park in the absence of harm. If the development was allowed on this basis then any approval would significantly compromise affordable housing policies and lead to a significant impact on the National Park. However, there is an offer of a commuted sum that is intended to help facilitate the proposed housing scheme in Bakewell at Lady Manners school. If this scheme were to come forward, it would provide 40 affordable houses that would meet identified need for affordable housing in Bakewell.

Therefore, the proposed commuted sum would be supported by the provisions of paragraph 54 of the Framework, which would mean that if the proposals were allowed on the basis of the commuted sum, this development would be an exception to the Development Plan supported by national planning policies. The Framework provides for off-site provision of affordable housing where it can be robustly justified. In this case, the financial development appraisal demonstrates the development proposed in this application would not be viable if it were subject to the Authority's normal affordability criteria either in terms of private sale or renting below market value. In particular, the construction costs of the development restrict the profitability of the proposals, and the specifications for stone-clad buildings are the principal factor that increases the cost of individual developments within the National Park. The affordable housing scheme at Lady Manners would otherwise provide a far better opportunity to improve the stock of affordable housing to meet local need in Bakewell.

Therefore, it is considered there is some justification to accept the principle of the proposed development based on the exceptional circumstances of the case whereby allowing the six flats would be an exception to housing policy. However, an approval for the proposed development

would help to facilitate development of a significant amount of affordable housing to meet local need elsewhere in Bakewell, in circumstances where, the development proposed in this application would not harm the valued characteristics of the National Park.

Other Considerations

It is acknowledged that the commuted sum in itself would not provide an equal amount of affordable housing commensurate with the development proposals. However, it is important to note that the development proposals would not normally be a viable proposition in the first instance if this was a stand-alone development. The only reason that these proposals make commercial sense is because they would provide a source of income to support the viability of the Business Park as a whole.

In summary, the rental income from the six flats proposed in this application would support retention of the employment units of the rear of the site that experience fluctuating occupancy at a time when market demand for these type of units is not strong - hence the reason for converting Media House and Endcliffe House to housing under permitted development rights. From the developer's perspective the housing at the front of the site promotes the viability of the employment units at the rear of the site.

In these respects, the current proposals do represent a way of producing a supplementary income that would help to safeguard and prevent the loss of business land and buildings in business use on Deepdale Business Park in accordance with the aims and objectives of LB6 and E1(D). This is an important factor in determining the overall benefits of the current application because the previous planning history associated with Deepdale Business Park indicates that in the prevailing market conditions there is a real risk that other employment units could be lost to housing via the operation of permitted development rights.

Therefore, the benefits to the National Park of allowing this application would be twofold because the proposals would help facilitate a significant amount of affordable housing elsewhere in Bakewell alongside helping to safeguard high quality employment land, which is in a suitable location in Bakewell. These benefits would be closely linked to the overall aims and objectives of the Development Plan and if they were to be achieved would make a significant contribution to the viability and vitality of Bakewell itself.

However, these benefits could only be achieved if the commuted sum were to be secured by a legal agreement, which should also be used to prevent the subdivision of the site.

Legal Agreement

Planning obligations offered in the form of a legal agreement can only be considered to be a reason for approval of any planning application - in law - if they meet three tests set out in Regulation 122 of *The Community Infrastructure Levy Regulations 2010*, as amended. These three tests are whether the obligations are:

- a) necessary to make the development acceptable in planning terms;
- b) directly related to the development; and
- c) fairly and reasonably related in scale and kind to the development.

The Framework sets out identical 'policy' tests and says planning obligations should only be used to secure affordable housing or where it is not possible to address unacceptable impacts of development proposals through a planning condition. Planning Practice Guidance published by the Government this year offers further guidance and make it clear that that the requirement for a planning obligation must be fully justified and evidenced before it can be accepted.

In this case, the financial development appraisal clearly evidences that the offer of a commuted sum of £55,000 is fairly and reasonably related in scale and kind to the development. In summary, the appraisal applies realistic construction costs, yields and plot value and demonstrates that the project could not viably make a payment (contribution) towards the provision of affordable housing. However, because the applicant is able to consider the longer term contribution of the rental income in the context of supporting the commercial viability of the site as a whole, the plot value (i.e. land costs) can be taken out of the equation. This approach allows the applicant to create exceptional circumstances and an opportunity to make a contribution that would not otherwise be forthcoming from the market.

The suggested contribution is at a level that an independent and suitably qualified surveyor considers to be reasonable and sustainable, but it would be necessary, in planning terms, to ensure the proposed flats are 'tied' to the remainder of the estate at Deepdale Business Park by way of a legal agreement. Preventing the separate sale of the flats could not be achieved by a planning condition. It is necessary to prevent the subdivision of the estate to ensure the benefits of allowing this application would be realised in terms of supporting the continuing employment uses of the site and securing a commuted sum not least because of the marginal viability of the proposals.

The commuted sum is necessary to make the proposals acceptable in planning terms, given that the proposals are not in conformity with housing policies in the Development Plan. The commuted sum is also directly related to the development because no on-site provision of affordable provision is proposed, but the open market housing would facilitate delivery of a significant amount of affordable housing elsewhere in Bakewell in accordance with the provisions of national planning policies in the Framework.

Therefore, a legal agreement containing obligations securing the commuted sum offered by the applicant and preventing the separate sale of the flats would meet the policy tests in the Framework and these obligations would constitute 'valid' reasons for approval of the current application.

Conclusions

It is therefore concluded that an appropriate legal agreement would allow the current application to be considered an appropriate exception to the Authority's housing policies, also taking into account the proposals are otherwise in conformity with national planning policies in the Framework. In particular, this application proposes a commuted sum that would facilitate off-site provision of affordable housing in a manner that is provided for by the Framework, but in a manner that is not covered by housing policies in the Development Plan.

In this case, there are exceptional circumstances that demonstrate that this type of proposal and the justification for its approval are unlikely to come forward elsewhere. In particular, any approval for this application does not rest on the absence of demonstrable harm or the acceptability of the siting and design of the housing, even though these factors are relevant considerations that weigh in favour of this application.

One exceptional circumstance that does exist in this case only arises because this development could help facilitate delivery of a significant amount of affordable housing, and in the current economic climate there is a limited likelihood of any schemes of a similar size to that proposed at Lady Manners School coming forward in the foreseeable future.

It is also exceptional that the proposals do not involve the loss of employment space and would go some way towards safeguarding the business use of land and buildings at Deepdale Business Park. Furthermore, it should be noted that this scheme would not be commercially viable other than by the applicant's willingness to offset the commercial viability of the development against

the viability of the wider estate in order to provide a contribution to social housing.

In these respects, it is not considered that the proposals would significantly undermine or compromise the implementation of policies in the Development Plan but it is considered that the benefits of granting permission would be closely linked to the overall aims and objectives of the Development Plan. If the aims and objectives of facilitating the delivery of affordable housing and safeguarding employment land were to be achieved then the approval of this application would also make a significant contribution to the viability and vitality of Bakewell itself.

Accordingly, the current application is recommended for approval subject to prior entry into an appropriate legal agreement and subject to conditions that would be required to ensure that the proposed development would be completed to the high standard of design required by policies in the Development Plan and national planning policies in the Framework.

Human Rights

Any human rights issues have been considered and addressed in the preparation of this report.

List of Background Papers (not previously published)

Nil