APPLICATION FOR PLANNING PERMISSION

ITEM: 5(e)  REFERENCE NUMBER: 10/00639/FUL

OFFICER: Mr B Fotheringham
WARD: Mid/East Berwickshire
PROPOSAL: Erection of 7 Flats
SITE: West Winds and Adjoining Land, Upper Burnmouth
APPLICANT: Arrowhead Housing
AGENT: Thomson & Partners

SITE DESCRIPTION

The site occupies the grounds of the former property known as West Winds, which was a substantial two storey dwelling at the roadside end of Lyall Terrace in Burnmouth. The original dwellinghouse, which was an imposing and dominant building in the street scene, had been showing signs of lack of maintenance and was subsequently demolished to allow the redevelopment to take place.

PROPOSED DEVELOPMENT

This application seeks full planning consent for the erection of 7 flats on the site. Planning consent was granted in December 2007 for the erection of nine flats on the site. The original design of the flatted development took the form of three stepped blocks, stepping down the hill towards Lyall Terrace. These linked units would have provided accommodation on three floors, although the block adjacent to the Lyall Terrace dwellings was a two-and-a-half storey design to reduce the building mass adjacent to the one-and-a-half storey Lyall Terrace property.

During the construction of the units it was noted that the design of the building being erected varied from that approved in terms of the elevational treatment, roof and building form and overall height. An application was then submitted in August 2008 which sought approval for the modified design of the building. This application was later refused for the reasons detailed within the ‘Planning History’ section below and a later appeal to the Scottish Minister was dismissed.

A subsequent application was then submitted in May 2009 which also sought approval for the modified design of the building taking into account the points raised by the Reporter in his decision letter of March 2009. This application was recommended for approval subject to conditions and legal agreement but it transpired that the ‘approved’ drawings were inaccurate and the development could not be constructed on site. This application was subsequently withdrawn and replaced by the current proposals.

This current application seeks to reduce the overall scale, massing and height of the building in order to overcome the stated reasons for refusal and to regularise the unauthorised works that have taken place so far. The application seeks to consolidate the earlier grant of planning consent, the approval in principle granted in 2009 (the application for which was withdrawn before issue) and the property currently constructed on site. The changes, which have been broken down into the three main blocks for ease of reference, include the following:
- Block 1 (closest to Lyall Terrace) has been reduced in height by approximately 3.5m (100mm lower than the proposal approved under 09/00517/FUL) with a full hipped roof. The block has also been moved back approximately 1m further from the boundary of 1 Lyall Terrace so that it would be 3m from the mutual boundary. The entrance hall has been removed and pitched roof ‘dormer’ placed above the front door to allow access to the first floor flat in Block 2. A velux roof light has replaced the pitched roof dormer on the front elevation to serve the internal roof space. This block would provide a 2-bedroomed dwelling;
- Block 2 (central block) has been reduced in height by approximately 2.1m at its highest point and 4.7 metres at its lowest point from the building as constructed with the introduction of a hipped roof which reduces the bulk of the roof quite considerably. Two half dormer windows have been introduced to serve the internal roof space. This block would provide three 2-bedroom flats; and
- Block 3 (Southern most block) has been reduced in height by approximately 0.7m from what is currently constructed. Three dormer windows have been introduced to serve the internal roof space and internal stair case. This block would provide three one-bedroom flats.

Associated with the proposal is the provision of a car parking area for the properties on an area of land lying between Lyall Terrace, the railway line and the Burnmouth to Eyemouth road.

**PLANNING HISTORY**

The planning history relevant to this site is as follows:

06/00167/FUL – Demolition of existing buildings and erection of nine flats approved on 10 December 2007 subject to conditions.

During the construction of the above development, the Council became aware that form and overall height of the building being erected differed from that permitted and this led to work stopping. For a number of reasons, mainly related to the discovery of bedrock close to the surface of the ground, it was found to be physically impossible to construct the approved development. The approved drawings were also incorrect. As a result, the development was redesigned and the following application was submitted:

08/01336/FUL – Erection of nine flats refused on 16 December 2008 for the following reasons:

*The proposed development is contrary to Policy G1 and Policy H2 of the Scottish Borders Local Plan 2008 in that the scale, massing and height of the proposed flatted development, on this elevated site, would give rise to an unsatisfactory relationship with existing properties in the immediate vicinity of the site and act seriously to the detriment of the character, visual and residential amenities of the locality.***

A later appeal against this decision was dismissed by the Reporter on 25 March 2009. The Reporter’s decision letter can be found on Public Access under the above application reference.

09/00517/FUL – Erection of 6 Flats and One Dwellinghouse was withdrawn on 21 April 2010.

Following the earlier 2008 application which was withdrawn and subsequently dismissed at appeal, a further application was submitted in order to regularise the situation. The amended drawings submitted with this application continued to be factually incorrect despite full survey by the agent. It transpired that the flats and dwelling were being constructed on land outwith the control of the applicant and not in accordance with the original approval. Following several detailed discussions between the applicant and his newly appointed agent, it was agreed that the 2009 application should be withdrawn and a new, accurate application submitted.
REPRESENTATION SUMMARY

A total of 15 objections have been received. These can be viewed in full on the Council’s Public Access system. The following is a summary of the objections / concerns / issues raised:

- The plans only differ slightly in terms of height reduction
- The development fails to take into account the Reporters decision as it is still occupies a footprint which exceeds that permitted
- The footprint is still larger than the site on which it should sit
- The proposals fail to ‘fit’ with what is in the village
- The proposed flats should reflect the character of the immediate vicinity and the area as a whole
- The existing illegal building should be demolished and plans for properties more appropriate to the village should be submitted
- The Reporter referred to the building as ‘hideous’
- Every guideline and item of good practice in the Placemaking & Design SPG has been ignored
- What is proposed is inappropriate and the ruination of this formerly lovely little village environment
- There are only slight difference between the new plans and the unacceptable building that stands there now and it is an eyesore and totally unsuitable for a small village
- It dominates everything due to its height and size in its setting
- The sheer scale of the building overshadows the surrounding properties and do not go far enough to address the situation
- The proposals do not comply with SPG on Placemaking and Design – Development should be sited sensitively and with careful consideration of orientation and micro-climate, overall composition of massing and roofline, key landscape features and existing access networks that can anchor buildings in their context
- This ‘mass’ sits in a prominent position in the village and is viewed by all who visit or pass through. It dominates and overshadows all surrounding property especially No 1 Lyall Terrace
- Out of character with the surrounding properties

APPLICANTS’ SUPPORTING INFORMATION

The applicants have submitted a drawing which accurately plots the original approved development, the development as built, the planning permission approved in principle under 09/00517/FUL and the current proposals. The drawing also shows the approximate ridge height of the demolished former school house and an accurate position for No 1 Lyall Terrace.

DEVELOPMENT PLAN POLICIES

Consolidated Scottish Borders Structure Plan 2001-2018

Policy N20 – Design
Policy I11 – Parking Provision in New Development
Policy I12 – Provision of Water and Sewerage Services
Policy I14 – Surface Water
Policy I15 – Flood Risk Areas

Scottish Borders Local Plan 2008

Policy G1 – Quality Standards for New Development
Policy G2 – Contaminated Land
Scottish Borders Local Plan Amendment 2009

Policy H2 – Protection of Residential Amenity
Policy G7 – Infill Development

OTHER PLANNING CONSIDERATIONS

SBC SPG – Placemaking and Design, January 2010

CONSULTATION RESPONSES

Scottish Borders Council Consultees

Technical Services (Roads): The proposed parking layout does not meet the required standard in terms of numbers. Communal parking should be on the basis of 175% provision, which in this case would equate to 13 spaces. In addition the current plans also lack information on drainage and construction makeup and the northern corner of the site should be altered include a suitable radius. The public footway should be extended into the parking area.

The footway should be extended along the frontage to a point opposite the gable end as this would help pedestrian movements at this location and guide traffic away from the corner of the building. Land ownership issues may prevent this therefore a kerb along the boundary line should be installed.

Housing Strategy: On site provision should be sought in line with Affordable Housing Policy. RSL AH delivery will not be an option since the AHP obligations are below the 4 house de minimis level and also due to the greatly reduced level of Scottish Government Affordable Housing Investment Programme funding.

Education and Lifelong Learning: Eyemouth Primary School is near capacity and the High School replaces one which was near capacity therefore a contribution will be sought for each school.

A contribution of £411 per flat is sought for the Primary School and £578 per flat for the High School, making a total contribution sought for education infrastructure of £6,923 for the seven flats.

Archaeology: There are no archaeological implications for this proposal.

Environmental Health: The above application appears to be proposing the redevelopment of land which previously housed a feature indicative of a quarry which may have been in filled. This land use is potentially contaminate and it is the responsibility of the developer to demonstrate that the land is suitable for the use they propose.

It is recommended that planning permission should be granted on condition that development is not be permitted to start until a site investigation and risk assessment has been carried out, submitted and agreed upon by the Planning Authority.

Statutory Consultees
Burnmouth Community Council: Objects on the following grounds:

- The building is too big for the footprint and for the area.
- The mass of the building is too great.
- The ridge height is too high.
- Building is blotting the landscape and is felt to be an inappropriate building for a rural area.

The building and the subsequent turn of events has 'impacted' on residents since the original application in 2006 which led to the original school house being demolished in Autumn 2007 with building construction work commencing in Winter 2007/08 only to be halted by building enforcement in August 2008. Here we are in June 2010 where we are faced with a 'new' set of plans with not a lot of difference to the building seen by the reporter in March 2009 and with no measurements recorded on them, they may be drawn to scale however with such misrepresentation on previous plans Burnmouth Community Council objects and asks for a full planning committee visit to the site prior to any decisions being made as our confidence in Arrowhead Housing has been seriously dented.

SEPA: To assist with streamlining the planning process, we now focus our site specific advice in development management where we can add best value in terms of enabling good development and protecting Scotland's environment. We have therefore provided standing advice applicable to this type of small-scale local development.

Standing advice for small scale local development is available on our website at www.sepa.org.uk/planning.aspx

Other Consultees

None

KEY PLANNING ISSUES

Consideration must be given as to whether or not the proposed changes to the design, scale and massing of the proposals are acceptable and whether or not they cause demonstrable harm to the visual amenities of the area or impact adversely on the immediate neighbours. Consideration must also be given to the contents of the Reporter's decision letter and whether or not the issues raised therein have been overcome.

ASSESSMENT OF APPLICATION

Planning Policy

Although the previous consent for the development of nine flats and the approval in principle (now withdrawn) on the site are un-implementable due to inaccuracies within the approved drawings, the principle of a residential development on this site has previously been accepted. In considering this current application, a judgement must be made as to whether or not the design, scale and massing of the proposed development is acceptable, in line with Policy G1 (Quality Standards for New Development) of the Scottish Borders Local Plan 2008 and whether or not the development would detract from the character and amenity of the surrounding area, against Policy G7 (Infill Development). Furthermore, consideration must be given as to whether the proposed development would have a detrimental impact upon the residential amenity of the immediate neighbours, against Policy H2 (Protection of Residential Amenity). The decision of the Reporter in relation to the appeal against the previous refusal is a material consideration in the consideration of this application as is the fact that the Council has previously supported a two-and-a-half storey to three-storey block of nine flats on the site.
Design, Scale and Massing

Whilst the general design approach has not changed significantly, the general scale and massing of the building has been reassessed. The plans have been amended during the process of the application whereby accommodation has been introduced within the roof space of the blocks much in the same way as the 2009 application proposed. This has enabled a reduction in the height of the overall development. Furthermore, a hipped roof has been introduced to ‘Block 2’ which sees a significant reduction in the overall massing of the building. The most significant change relates to ‘Block 1’ where a duplex flat is now proposed as opposed to a two-and-a-half storey block of flats. It is considered that this would greatly improve the relationship between the existing properties on Lyall Terrace and the development itself. ‘Block 1’ has also been set back from the boundary of 1 Lyall Terrace by a further metre, the total distance between the properties would be approximately 3m as scale from the plans. This is in accordance with the plans approved under the 2006 application. Given this increased gap and the significant reduction in the scale of this block, which would now be approximately 2.2m higher than 1 Lyall Terrace (previously 4.9m), it is considered that it is in keeping with the amenity of the area and the existing neighbouring properties. This slight difference in height would sit comfortably within the local topography, considering the natural progression of ground levels at this location from Lyall Terrace up to Gipsyville to the South.

Visual and Residential Amenity

Policy H2 (Protection of Residential Amenity) of the Scottish Borders Local Plan seeks to ensure that any development does not have a detrimental impact upon the residential amenity of existing properties within the vicinity. The reduction in the height of the development, and in particular ‘Block 1’, ensures that there would be minimal impact on the residential amenity of neighbouring properties as a result of a loss of sunlight / daylight and over shadowing. The position of windows on the proposed building would not lead to over looking of neighbouring dwellings. It is considered that the scale, massing and height of the proposed building are appropriate to its surroundings and would respect the character of the immediate surrounding area.

It is accepted that the proposed building will have a ridge height higher than West Winds but it is worth bearing in mind the earlier grant of consent approved under 06/00167/FUL for the erection of nine flats. The current proposals would reduce the overall height and mass of the property resulting in a building which will not have a significant adverse impact on the amenity of existing properties in the adjoining residential areas, particularly 1 Lyall Terrace and No16 Gipsyville.

Access and Parking

The proposed layout shows an area of parking for 11 cars, including one disabled space, on a separate area of ground adjoining the East Coast railway line to the north of the development site. The Director of Technical Services (Roads) has highlighted that the proposed parking layout does not meet the required standard in terms of numbers. Communal parking should be on the basis of 175% provision, which in this case would equate to 13 spaces. In addition the current plans also lack information on drainage and construction makeup and the northern corner of the site should be altered include a suitable radius.

The footway should be extended along the frontage to a point opposite the gable end as this would help pedestrian movements at this location and guide traffic away from the corner of the building. Land ownership issues may prevent this therefore a kerb along the boundary line should be installed.

An amended plan should be submitted incorporating the points above in order to obtain full support from the Director. However, it is worth noting that the earlier application proposed 20no parking spaces and the area of land available and within the control of the applicant is clearly large enough to accommodate the required number of spaces. In this instance, should Members be minded to support
this application, a condition requiring precise details of the proposed parking area to be submitted to and approved in writing by the planning authority, can be added to any grant of consent.

There was concern raised during the processing of the earlier application about the possible impact of surface water on the railway line and the stability of the parking area. Network Rail intimated during the process of the earlier application that they have no objections to the proposals subject to various issues being addressed in suggested conditions and informatives.

Archaeology

There are no archaeological implications for this proposal.

Unauthorised Development

Members will be aware from the planning history and selected site images that the works on site are unauthorised. The Department has been in regular contact with the developer and his agent to ensure that no further works are carried out on site until such times as a valid planning consent is issued. In addition, the site has been cleared of building materials and debris and the scaffolding located nearest to 1 Lyall Terrace has been taken down.

Development Contributions

The Director of Education and Lifelong Learning has confirmed that a financial contribution would be required towards Eyemouth Primary School and Eyemouth High School. A contribution of £411 per flat is sought for the Primary School and £578 per flat for the High School, making a total contribution sought for education infrastructure of £6,923 for the seven flats. This can be secured through a legal agreement should Members be minded to approve this application.

A financial contribution towards affordable housing would not be required as a legal agreement in this respect was concluded for the earlier application for nine flats on the site. Any decision to approve this application would therefore require the conclusion of a Section 75 or alternative agreement securing the appropriate financial contribution towards education provision.

CONCLUSION

It is considered that the proposed development has been modified to the extent that it addresses the issues raised within the Reporter’s decision letter of 25 March 2009. The current proposals incorporate a number of alterations from that previously granted planning permission and it is now considered that the scale and massing are acceptable within the local context.

The drawings submitted with the application are now accurate and they correctly show the relationship between the proposed development and the neighbouring dwellings, in particular, No1 Lyall Terrace. It is accepted that the proposed block of flats would have a larger footprint and higher ridge height than West Winds but it is contended that a suitable compromise has now been reached. The current proposals consolidate the earlier approval and currently unauthorised development and now represent a satisfactory form of development that would sit comfortably within the wider built form and would not have a significant adverse effect on the amenity of neighbouring dwellings.

RECOMMENDATION BY HEAD OF PLANNING AND BUILDING STANDARDS

I recommend that the application is approved subject to the following conditions, informative and the conclusion of a legal agreement covering financial contributions towards education provision:
1. Notwithstanding the description of the materials in the application, no development shall be re-commenced until precise details of the materials to be used in the construction of the external walls and roofs of the buildings have been submitted to and approved in writing by the Local Planning Authority, and thereafter no development shall take place except in strict accordance with those details.

Reason: The materials require further consideration to ensure a satisfactory form of development, which contributes appropriately to its setting.

2. Sample panels of the external wall finish to be prepared on site for prior approval by the Planning Authority before this aspect of the development is commenced.

Reason: The materials to be used require further consideration to ensure a satisfactory form of development, which contributes appropriately to its setting.

3. The finished floor levels of the buildings hereby permitted shall be consistent with those indicated on a scheme of details which shall have been submitted to and approved in writing by the Local Planning Authority before the development is re-commenced. Such details shall indicate the existing and proposed levels throughout the application site.

Reason: To ensure that the proposed development does not have an adverse effect upon the amenity currently enjoyed by adjoining occupiers.

4. No development shall re-commence except in strict accordance with a scheme of hard and soft landscaping works for the parking area, which shall first have been submitted to and approved in writing by the Local Planning Authority, and shall include:
   i. indication of existing trees, shrubs and hedges to be removed, those to be retained and, in the case of damage, proposals for their restoration
   ii. location of new trees, shrubs, hedges and grassed areas
   iii. schedule of plants to comprise species, plant sizes and proposed numbers/density
   iv. location and design, including materials, of walls, fences and gates;
   v. programme for completion and subsequent maintenance.

Reason: To enable the proper form and layout of the development and the effective assimilation of the development into its wider surroundings.

5. The details of the access to the site, including the provision of a footway on the northern side of the access and boundary treatment along the frontage of the flats, and parking to be submitted to and approved in writing by the Local Planning Authority prior to the re-commencement of works on site. The works must thereafter be undertaken in accordance with the agreed details and must be completed before any residential unit is occupied and shall thereafter be retained in perpetuity.

Reason: In the interests of road safety.

Informative

1. Details of the proposed access, parking area and pedestrian footway shall be formed as per the Director of Technical Services (Roads and Fleet Management) consultation response of 6 July 2010.
Approved by

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The original version of this report has been signed by the Head of Planning and Building Standards and the signed copy has been retained by the Council.

Author(s)

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