

Erection of one detached two storey dwelling

Report Item No
A5

Land At Pitt Lane Coleorton Coalville Leicestershire LE67 8FS

Application Reference
17/01511/FUL

Applicant:
Mr George Baxter

Date Registered:
9 October 2017

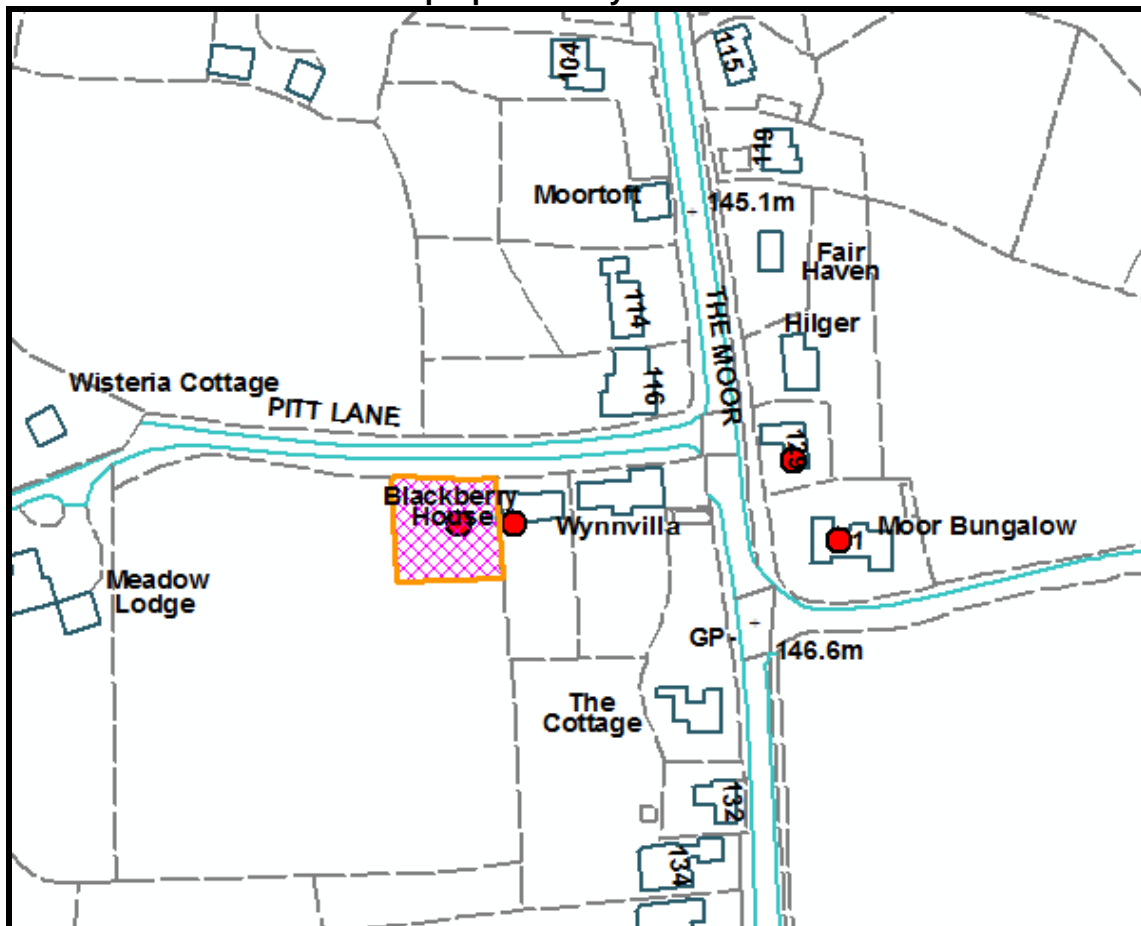
Case Officer:
Hannah Exley

Consultation Expiry:
13 December 2017

Recommendation:
REFUSE

8 Week Date:
4 December 2017
Extension of Time:
12 January 2018

Site Location - Plan for indicative purposes only



Reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the controller of Her Majesty's Stationery Office ©copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Licence LA 100019329

Executive Summary of Proposals and Recommendation

Call In

The application is brought to the Planning Committee as the planning agent is related to a serving councillor (Councillor Blunt) and contrary representations to the recommendation to refuse the application have been received.

Proposal

Planning permission is sought for the erection of a detached two-bedroom dwelling (with habitable accommodation in the roofspace) on land to the south of Pitt Lane, Coleorton. Vehicular access into the site would be achieved by a new access located at the eastern end of the site frontage with parking for two vehicles in the site.

Consultations

A total of 28 letters of representation have been received including 2 anonymous letters, 14 of which are supportive of the proposals and 12 raise objections. Coleorton Parish Council raises objection to the proposal and all other statutory consultees have raised no objections.

Planning Policy

The application site is located outside the Limits to Development as defined in the adopted Local Plan. The application has also been assessed against the relevant policies in the NPPF, the adopted Local Plan and other relevant guidance.

Conclusion

The proposal would fulfil the applicant's own 'local need' for a dwelling in Coleorton but would not meet a 'local need for affordable housing'. The proposal would not qualify as an exceptions site for affordable housing under the provisions of Policy H5 of the adopted Local Plan. In the absence of any local or national policy which supports local needs housing, the proposal would fall to be determined under the provisions of Policies S2 and S3 of the adopted Local Plan, and the proposed residential dwelling would not be a form of development permitted by Policies S2 or S3 of the adopted Local Plan (2017). The application would result in the unwarranted development of a greenfield site located outside Limits to Development, not constituting sustainable development, contrary to the policies and intentions of Policies S2, S3 and H5 of the adopted Local Plan (2017) and the advice in the NPPF. It is therefore recommended that the application be refused.

RECOMMENDATION:- REFUSE

Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies and the Officer's assessment, and Members are advised that this summary should be read in conjunction with the detailed report.

MAIN REPORT

1. Proposals and Background

Planning permission is sought for the erection of a detached two-bedroom dwelling (with habitable accommodation in the roofspace) on land to the south of Pitt Lane, Coleorton. Vehicular access into the site would be achieved by a new access located at the eastern end of the site frontage and amended plans provided during the course of the application show parking for one vehicle on the driveway and one in the garage.

Amended plans have been provided during the course of the application reducing the number of bedrooms to two and increasing the dimensions of the garage to make it a useable car parking space.

The land is currently scrub grassland and lies immediately to the west of existing residential dwellings (Blackberry House and Wynnvilla) fronting Pitt Lane. Opposite the site on the northern side of Pitt Lane are the large rear gardens of properties fronting The Moor and open fields. The nearest public footpath lies to the north west of the site on the opposite side of Pitt Lane.

The site is located outside the defined Limits to Development, as identified on the Policy Map to the adopted North West Leicestershire Local Plan (2017).

A design and access statement accompanied the application submission. It is identified within the statement that the dwelling proposes to meet a local need:

"The occupants on completion will be the applicant's Mr George Baxter (73) and Mrs Maureen Baxter (72). Mr Baxter is disabled and uses a wheelchair, they currently reside in Coleorton in a property that has had to be converted to Mr Baxter's needs, however, there is no sleeping accommodation on the ground floor and as such is no longer suitable. The proposed dwelling has been designed specifically for Mr and Mrs Baxter's needs with a downstairs bedroom, wet room and enlarged doorways and hallways for easy access use for wheelchairs, as well as an enlarged single garage allowing Mr Baxter to have easy access to a vehicle in bad weather. Additionally, there are upstairs bedrooms allowing for the applicant's grandchildren whom they look after regularly, as Mrs Baxter is still able bodied."

"The proposal is for a new dwelling that both meets a local need highlighted in the 2015 Housing Needs Survey of Coleorton and has a specific end occupant in Mr and Mrs Baxter's. The local need element of the property will be secured by way of a restricted occupation condition that would restrict the market value of the property at 60 percent, which fulfils [Policy S3 of the adopted Local Plan]".

Relevant Planning History:

A Mr Baxter has previously sought planning permission for a two storey dwelling on the site and this was refused on the grounds that the proposal would result in the unnecessary development of the countryside and harm the rural character and appearance of the locality, be out of character with existing properties in the immediate vicinity of the site to the detriment of the rural character and appearance of the locality and that The Moor is inadequate to cater for the level of traffic associated with the proposed development (01/01465/FUL). The decision was appealed and was dismissed by the Planning Inspectorate.

2. Publicity

4 neighbours have been notified.

Site Notice displayed 17 October 2017.

Press Notice published Leicester Mercury 18 October 2017.

3. Summary of Consultations and Representations Received

The following summary of representations is provided.

Coleorton Parish Council raise objection to the application on the grounds that it is outside the Limits to Development and highway concerns. The Parish Council advise that as the owners of Pitt Lane, they will be seeking an easement fee should the application be approved.

Severn Trent Water Ltd - no comments received.

NWLDC Environmental Protection has no environmental observations subject to contaminated land conditions.

NWLDC Housing advises that the proposal would not qualify as an exceptions site for affordable housing.

Leicestershire County Council - Ecology advises that the submitted ecology documents are satisfactory and no further actions or surveys are required.

Leicestershire County Council - Estates Department advise that the County Council owns the verges of Pitt Lane and would expect to charge a fee for granting any easement to the applicant if access is required to the proposed dwelling.

Third Party Representations

A total of 28 letters of representation have been received including 2 anonymous letters.

12 letters have been received raising objection on the following grounds:

- the proposal is outside Limits to Development in an unsustainable location and is contrary to policy;
- the details of distances to services are unreliable and the site is at a distance from services;
- no need for housing when a 5 year supply can be achieved;
- bungalows and retirement homes have been difficult to sell in the area as residents are choosing to move to retirement homes in Coalville and Ashby;
- adverse impact on neighbouring amenities by overlooking;
- adverse impact on the character of the area to the detriment of the countryside;
- the property is not suitable for wheelchair usage due to the small en-suite and upstairs bedroom;
- it is a greenfield site that contributes to the area;
- a number of special needs housing outside limits in unsustainable locations have been approved and this trend should be resisted;
- loss of views;
- an application for a dwelling on the same piece of land for the applicant was refused at dismissed at appeal;
- concern that the proposal would set a precedent for the development of the remainder of the field;
- additional traffic along Pitt Lane;
- a single track lane with poor surfacing, which is used by visitors to Coleorton Woods, is not suitable for the development;
- there is not space within the highway for visitor parking;
- there may be a gas pipeline with legal easement which may have an impact on this development;
- Pitt Lane is not public highway

- the site is agricultural land not overgrown and neglected scrubland;
- the application would not provide an advantage to the local community;
- open spaces and fields should be protected;
- an illegal gateway has been formed on Pitt Lane and this should be enforced;
- there is currently no authorised access to the field as this was closed off when building a new development on the Moor.

14 letters (13 identical and 1 bespoke) have been received stating support for the application on the following grounds:

- a housing need survey identified that there was need for 13 mixed size and tenure properties for local people;
- the applicant is a resident of the village and the proposal would enable him to remain in the village within a dwelling that meets his needs;
- the proposal is being misconstrued locally as a market dwelling when it is an intermediate market dwelling with restrictions on value and occupation;
- affordable housing is acceptable outside limits;
- the proposal relates well to existing development;
- the cumulative highway impacts of the proposal and existing development would not be severe.

4. Relevant Planning Policy

National Policies

National Planning Policy Framework

The policies of the North West Leicestershire Local Plan as listed in the relevant section below are consistent with the policies in the NPPF. The following paragraphs of the NPPF are considered relevant to the determination of this application:

The following sections of the NPPF are considered relevant to the determination of this application:

- Paragraph 7, 17 (Achieving sustainable development)
- Paragraph 14 (Presumption in favour of sustainable development)
- Paragraph 32, 34 (Promoting sustainable transport)
- Paragraph 47, 49 (Delivering a wide choice of high quality homes)
- Paragraph 57, 59, 61 (Requiring good design)
- Paragraph 109, 118 (Conserving and enhancing the natural environment)

Adopted North West Leicestershire Local Plan (2017)

The following Local Plan policies are relevant to this application:

- Policy S1 - Future Housing and Economic Development Needs
- Policy S2 - Settlement Hierarchy
- Policy S3 - Countryside
- Policy D1 - Design of New Development
- Policy D2 - Amenity
- Policy En1 - Nature Conservation
- Policy En3 - National Forest
- Policy IF4 - Transport Infrastructure and New Development
- Policy IF7 - Parking Provision and New Development

Other Guidance

National Planning Practice Guidance - March 2014.

Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within The Planning System.

6Cs Design Guide (Leicestershire County Council)

Good Design for North West Leicestershire SPD.

5. Assessment

Principle of the Development

In accordance with the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the starting point for the determination of the application is the development plan which, in this instance, includes the adopted North West Leicestershire Local Plan (2017).

The application site lies outside the defined Limits to Development with residential dwellings not being a form of development permitted by Policy S3 of the adopted Local Plan (2017) save for limited exceptions as specified in the policy (i.e re-use or adaptation of an existing building or the redevelopment of previously developed land). The NPPF requires that the District Council should be able to identify a five year supply of housing land with an additional buffer of 5% or 20% depending on its previous record of housing delivery. The Local Authority is able to demonstrate a five year supply of housing (with 20% buffer) against the requirements contained in the adopted Local Plan.

In terms of the Council's adopted Local Plan, Policy S2 of the adopted Local Plan contains a settlement hierarchy and this part of Coleorton is specified as a Small Village with very limited services and facilities and where development will be restricted to conversions of existing buildings or the redevelopment of previously developed land or affordable housing in accordance with Policy H5 of the adopted Local Plan. The concept of new development being directed to locations that minimise reliance on the private motorcar is also contained within the NPPF. Given the above, it is considered the future occupiers of the dwelling would be heavily reliant upon the private motorcar to access basic day to day needs, which weighs heavily against the site being socially and environmentally sustainable.

In respect of this particular application it is noted that the dwelling is proposed to be provided to meet a 'local need' with the need in this circumstance being outlined in the Proposals and Background section of this report. The agent proposes that the local need element of the property will be secured by way of a legal agreement that would restrict occupation and would restrict the market value of the property at 60 percent, which the agent considers makes the proposal affordable housing which is permissible under criterion 2(g) of Policy S3 and Policy H5 of the adopted Local Plan.

Policy H5 deals with rural exceptions sites for affordable housing to meet an identified need which are located outside the Limits to Development. Affordable housing is defined at Annex 2 of the NPPF as "social rented, affordable rented and intermediate housing, provided to eligible households whose needs are not met by the market. Eligibility is determined with regard to local incomes and local house prices. Affordable housing should include provisions to remain at an affordable price for future eligible households or for the subsidy to be recycled for alternative affordable housing provision".

Consideration must therefore be given as to whether the proposal would constitute affordable housing, having regard to the above definition and the provisions of Policy H5.

If a household is in a position to meet their own housing needs in the housing market, then they cannot be regarded as an eligible household. Whilst the eligibility criteria is determined by local incomes and local house prices, the definition states that the affordable housing should "remain" at an affordable price which implies that the property should be "affordable" on initial occupation.

The applicant has provided financial information which demonstrates that they are able to fund the building of the proposed dwelling themselves and the applicant would be the end user. The Council's Strategic Housing team has been consulted on the application and advises that the fact that an applicant is in a position to build a property on their own land, would indicate that this would be a market home and would therefore indicate that they are in a position to meet their own housing needs in the housing market. Irrespective of what happens in the future sales of the property (ie at a reduced market rate), it is considered that the proposal could not be regarded as "affordable" initially. Only at some unknown point in the future, when the applicant's or their successors, decide to sell the property would the property be available as intermediate affordable housing.

Policy H5 of the adopted Local Plan sets out the circumstances where Rural Exception Sites for Affordable Housing will be permitted. Amongst others, criteria (1a) requires that the housing is demonstrated to meet an identified local need for affordable housing and criteria 2 requires that conditions/obligations will be required to ensure that all initial and subsequent occupiers of the affordable dwellings will be local people in housing need and benefit from the status of the dwellings as affordable housing in perpetuity.

The "local need" set out in the policy does not relate to local need in isolation, it refers to a local need for affordable housing; with the affordable housing element being the key trigger. Whilst the Strategic Housing Team recognises that this application seeks to meet a local housing need, it does not identify a need for affordable housing nor does it seek to meet the need for affordable housing as identified by the rural housing needs survey (ie 1 bed bungalows, 2 bed bungalows or flats to be provided as rented accommodation through the Council or a Registered Social Housing Provider). Whilst the proposed 2 bed bungalow would meet the property type needed by the applicant, the tenure does not meet that identified in the housing needs survey. As such, if these affordable needs have not been met, then the exception site policy cannot be applied to the proposals.

In addition, the proposal would not comply with criterion 2 of Policy H5, which requires that planning permissions for exceptions sites will be subject to conditions, or a planning obligation to ensure that all 'initial' and subsequent occupiers of the affordable dwellings will be local people in local need and benefit from the status of the dwelling as affordable housing. As detailed above, the initial occupation of the dwelling would be as a market home and only upon future sale of the property would the property be available as an intermediate affordable dwelling.

In summary, the proposal would constitute housing to meet a 'local need' but would not meet a 'local need for affordable housing', and therefore, the proposal would not qualify as an exceptions site for affordable housing. In the absence of any local or national policy which supports local needs housing, the proposal would fall to be determined under the provisions of Policy S3 of the adopted Local Plan, and the proposed residential dwelling would not be a form

of development permitted by Policies S2 or S3 of the adopted Local Plan (2017).

In an attempt to address the above points, the applicant is now advising that the applicant's brother who owns the site would build the property and sell it to the applicant as an intermediate dwelling in order to ensure that the initial occupation was as an affordable dwelling. However, regardless of whether the applicant's brother builds the property, the tenure of the proposed dwelling would not meet that identified in the housing needs survey and the exception site policy cannot be applied. Whilst the applicant may make the argument that the local need for affordable housing has changed since the housing needs survey, it is considered that it would be premature to approve a dwelling in the countryside in advance of a review of the housing needs survey. Furthermore, it is noted that the applicant has not applied to be on the Council's Housing Register and even if they had, they would qualify for sheltered housing only which is accommodation described as group schemes with communal areas for residents to use and therefore, the applicant would not qualify for the intermediate housing which is proposed as part of this application.

With the supporting statement, reference is made to Paragraph 001, associated with Rural Housing, within the Planning Practice Guidance which identifies the following:-

- *"It is important to recognise the particular issues facing rural areas in terms of housing supply and affordability, and the role of housing in supporting the broader sustainability of villages and smaller settlements;"*
- *"A thriving rural community in a living, working countryside depends, in part, on retaining local services and community facilities such as schools, local shops, cultural venues, public houses and places of worship. Rural housing is essential to ensure viable use of these local facilities;"*

Whilst acknowledging the sentiments of the Rural Housing guidance it is considered that although the future occupant of the dwelling could support some local businesses, services and facilities, as well as public transport, the likely contribution of the development to the vitality of the local community as a whole would be very limited given the fact that only one dwelling is proposed. It is also noted that Policies S2 and S3 do provide some opportunities for appropriate residential development in rural areas and that this is informed by a settlement hierarchy which has been developed having regard to the role, functions and sustainability of different settlements. The proposal would not accord with the provisions of Policies S2 and S3 of the adopted Local Plan.

Paragraph 17 of the NPPF outlines that decisions should 'recognise the intrinsic character and beauty of the countryside,' and as such the physical intrusion of the development into the countryside of this type of development would be unwarranted. It could potentially set a precedent for the further expansion of the settlement into the surrounding fields which would be to the further detriment of the rural environment.

Taking this into account it is not considered that the proposal is in accordance with the development plan and cannot be considered to represent sustainable development. Therefore, the application is not considered to be acceptable in principle.

Design

The need for good design in new residential development is outlined not only in adopted Local Plan Policy D1 but also Paragraphs 57, 60 and 61 of the NPPF.

It is concluded above that the development would result in unwarranted development in the countryside to the detriment of the rural environment and, therefore, does not represent

sustainable development. However, it is also important to assess whether the design, scale and appearance of the dwellings as well as the layout of the scheme would integrate with the character of the development it would be associated with and whether it would maintain the appearance of the streetscape.

Properties in the vicinity are a mix of two-storey and single storey detached properties which largely present their principal elevations to the roads on which they are sited. There is no particular building line for the street owing the limited number of dwellings on Pitt Lane but the houses in the vicinity have a staggered building line.

The proposed dwelling would be of dormer bungalow style and would be set back from the highway a similar distance to the nearest neighbouring property to the east; Blackberry House. The scale and form of the building would not appear inconsistent with the other properties on Pitt Lane or around the junction with The Moor.

Notwithstanding the in principle objection to this proposal outlined above, it is considered that the design, scale and layout of the dwellings would be compliant with the aims of Policy D1 of the adopted Local Plan as well as Paragraphs 57, 60 and 61 of the NPPF.

Residential Amenities

The property that would be most immediately affected by the proposals would be Blackberry House, which is a two-storey dwelling located to the east of the application site. Other dwellings are sited at sufficient distance away in order to prevent any loss of residential amenities. With regard to the impacts upon Blackberry House, the proposal would have a similar alignment to this neighbouring property which has three windows in the side elevation, one being a first floor obscure glazed window serving a bathroom and the second and third being side windows to a dining room and lounge at ground floor level. The proposed dwelling would be sited between 2.5 and 3.5m from the side elevation of this neighbouring dwelling and contains no windows facing this neighbouring property. When having regard to the siting and scale of the proposal and the positioning and nature of windows in the proposed and existing dwellings, it is not considered that there would be any significant overbearing or overshadowing impacts upon or any direct overlooking of Blackberry House. It is considered that the proposal would accord with the provisions of Policy D2 of the adopted Local Plan.

Highway Safety

Pitt Lane provides the access to the site but this is not adopted highway, rather a private drive with the carriageway owned by the Parish Council and the verges owned by the County Council.

The applicant advises that the land benefits from a license with Leicester County Council to access the site and that the Parish Council would request a payment for access to a dwelling from Pitt Lane. Notwithstanding whether the applicant currently has a right of access to the site, this would need to be obtained from both the Parish Council and the County Council in order to implement the scheme.

Nevertheless, the application has to be considered having regard to the provisions of the 6Cs Design Guide and Highways Standing Advice. The proposed vehicular access would accord with the requirements set out in the 6C's Design Guide, with visibility splays being available within land owned by the County Highways Authority. Amended plans have been provided during the course of the application showing two parking spaces (of appropriate dimensions) being available on the driveway and within the garage, which accords with the 6 C's Design Guide. Notwithstanding the concerns about the suitability of Pitt Lane for additional development, the proposal would be provided in accordance with current highway guidance and

it is not considered that one additional dwelling would significantly increase traffic along Pitt Lane. In the circumstances that the proposed development would not impact severely on pedestrian or highway safety it is considered that it would accord with Paragraph 32 of the NPPF, Policies IF4 and IF7 of the adopted Local Plan.

Ecology

The proposals relate to the development of a site with ecological potential and during the course of the application, the County Ecologist has advised that a habitat survey and a badger survey would be required prior to the determination of the application. The required surveys have been provided and conclude that there is no evidence of badgers on the site and that the hedgerows on the site were not species rich. Having reviewed the submitted information, the County Ecologist has advised that the surveys are satisfactory and that no further actions or surveys are required. It is not considered that protected species would be adversely affected by the proposal, which is considered to meet the requirements of the Habitats Regulations 2010 in respect of protected species, and would also comply with Policy En1 of the adopted Local Plan and paragraphs 109 and 118 of the NPPF.

Other

In response to neighbour comments which have not been addressed in the above text, loss of view is not a planning matter that can be taken into account in the determination of the application. As for comments about a gas pipeline with legal easement which may affect the development, there is a gas pipeline to the west of the application site but this would not inhibit the development on the site. However, it is considered that it would be prudent to add an informative advising the applicant of the nearby gas pipe.

The agent has recently advised that the applicant does not own the land and that the incorrect certificate of ownership was provided with the application. The correct certificate B has now been completed and the applicant has served notice on the owner of the land (the applicant's brother). The required notice period expires at midnight on the day of the Planning Committee meeting and details of any representation received as a result of this process will be provided to Members via the update sheet. If any representation is received following committee but within the notification period that is material to the consideration of the application, then the application will be reported back to the following meeting of the Planning Committee.

Conclusion

The proposal would fulfil the applicant's own 'local need' for a dwelling in Coloerton but would not meet a 'local need for affordable housing'. The proposal would not qualify as an exceptions site for affordable housing under the provisions of Policy H5 of the adopted Local Plan. In the absence of any local or national policy which supports local needs housing, the proposal would fall to be determined under the provisions of Policies S2 and S3 of the adopted Local Plan, and the proposed residential dwelling would not be a form of development permitted by Policies S2 or S3 of the adopted Local Plan (2017). The application would result in the unwarranted development of a greenfield site located outside Limits to Development, not constituting sustainable development, contrary to the policies and intentions of Policies S2, S3 and H5 of the adopted Local Plan (2017) and the advice in the NPPF. It is therefore recommended that the application be refused.

RECOMMENDATION - REFUSE, for the following reason(s):

- 1 Policy S2 of the adopted Local Plan (2017) contains a settlement hierarchy and this part of Coloerton is specified as a Small Village with very limited services and facilities and where development will be restricted to conversions of existing buildings or the redevelopment of previously developed land or affordable housing in accordance with Policy H5 of the adopted Local Plan. The proposed new dwelling on a greenfield site would not meet the requirements for an exceptions site for affordable housing under Policy H5 of the adopted Local Plan and therefore, consideration of the applications falls under Policy S3 of the adopted Local Plan (2017) which does not support residential development on greenfield sites outside Limits to Development. The proposal would be fundamentally at odds with the settlement hierarchy and strategic housing aims of Policy S2 and the countryside Policy S3 in the adopted Local Plan (2017) and future occupiers of the dwelling would be heavily reliant upon the private motorcar to access basic day to day needs. Approval of the application would result in the unnecessary development of land located outside Limits to Development, not constituting sustainable development, and contrary to the policies and intentions of Policies S2, S3 and H5 of the adopted Local Plan (2017) and the advice in the NPPF.