YORKSHIRE DALES NATIONAL PARK AUTHORITY **ITEM 6**

Committee: Planning

Date: 14th November 2023

Report: Non-compliance with conditions 1 (approved plans) and 18 (retention of lintels) of planning application reference S/03/637A - Full planning permission for erection of 49 dwellings at Station Road, Sedbergh

Purpose of the report

1. To seek Member's decision on enforcement action.

Policy Context

2. The Government, in the National Planning Policy Framework (July 2021), advises that effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary and local planning authorities should act proportionately in responding to suspected breaches of planning control.

3. The Yorkshire Dales National Park Authority's Enforcement Policy requires, in considering whether or not to take formal enforcement action, that the Authority assesses all breaches of planning control against the following criteria:

   - whether the unauthorised development or works conflict with the relevant policies of the local plan;
   - the statutory aims of the National Park and the provisions of the National Park Management Plan;
   - the content of Government advice and guidance contained in the National Planning Policy Framework (NPPF);
   - the level of harm that is being caused, or could potentially be caused, to the natural or built environment;
   - the level of harm that is being caused, or could potentially be caused, to visual or residential amenity; and
   - whether there are any public safety implications.

4. In accordance with Section 172 of the Town and Country Planning Act 1990, as amended, the local planning authority has a discretionary power to issue an enforcement notice where it appears to the authority that there has been a breach of planning control and the authority considers it expedient to do so having regard to the provisions of the development plan and to any other material considerations.

Background

5. Planning permission was granted on the 20th December 2021 for the erection of 49 dwellings (15 open market, 17 affordable/social rented, 17 affordable shared-ownership). Although 7 of the social rented houses were later taken out of the Section 106 agreement, the development remains the same in terms of the mix of open market and affordable units. The development is currently underway with the 49 dwellings midway in their construction.

6. A Section 73 application (ref. S/03/637A) for the variation of the approved plans in respect of *the relocation of the electrical substation; amendments to the infiltration basin; amended road surface colours; removal of stone window/door heads to the rears of Plots 16 to 42; revised locations of Bat/Bird boxes and amendments to the landscape drawings to reflect the above amendments*, was part approved and part refused on the 10th August 2023 following the Planning Committee decision to refuse the proposal to omit the lintels from the ground floor windows and patio doors on the rear of plots 16-27 and 34-42. Members of the Planning Committee were concerned that the omission of the lintels would reduce the quality and finish of the build. They also took into account the comments of the Parish Council in reaching this decision.

7. Sedbergh Parish Council had objected to the proposed amendment on the grounds that they viewed this as *'the down grading of the quality of the scheme by the removal of stone window/door heads to the rears of Plots 16 to 42. The scheme has already changed in terms of its provision of affordable housing and to now lower the quality of build for the sole financial benefit of the developer would deliver in perpetuity to the community of Sedbergh housing below the specification originally envisaged and agreed.'*

8. A condition was therefore added to the amended planning permission which required the inclusion of the lintels. It should be noted that these plots already have approval without lintels at first floor level and single-storey plots 28-33 already have approval without lintels on the rear ground floor, under the original planning permission (S/03/637).

9. It has since come to light through discussion with the applicant (Mulberry Homes – a subsidiary of Broadacres Housing Association) that the construction of the relevant buildings was underway by the time the decision was made by the Planning Committee. The applicant has provided a letter detailing the reasons they decided to progress with the development without installing the said lintels before the decision had been made. This letter is attached. In brief, they state that they had to make a decision early on whether to install the lintels so as to not affect the programme of build as the properties were already under construction.

10. The applicant has set out the implications to the development of rectifying the breach. The two key concerns they have set out is that the retrospective insertion

of the lintels would be a significant cost to the development and that it would add several months to the completion time of the development.

Assessment and recommendation

11. In accordance with the Authority's adopted enforcement policy, the key issue to consider is the level of harm that is being caused, or could potentially be caused, to the natural or built environment. In order to assess the level of harm it is relevant to consider the impact of the development having been carried out with such a breach on the character and appearance of the development overall within the wider settlement of Sedbergh.

12. In assessing the breach, it is pertinent to consider the visual impact in public views. The elevations affected by the change (plots 16-27 and 34-42) are all rear elevations, the ground floors of which are not readily visible in public views due to their position and their approved boundary treatment. Plots 16-27 would be viewed from the newly created woodland trail to the west of the site. From here the ground floor will not be easily visible as their rear boundaries are enclosed with 1.8 metre high close board fencing with hedging on the outer face of the fencing. Plots 34-42 rears are not publicly visible except very obliquely and at a distance. Again the rear boundaries are a mix of close boarding fencing (plots 36-37) or are mixed hedging. Tree planting has been approved along most boundaries which will further screen views of the rear elevations in time.

13. Secondly, the elevations affected are all with a rendered finish. There is no strong precedent in Sedbergh for exposed stone lintels on rendered properties, and often where they are present they have been painted over. The frontages will all remain with stone lintels, giving a sense of hierarchy commonly found on vernacular buildings. As such, it is considered that the treatment of the rear elevations would not be incongruous in this context.

14. It is therefore considered that the minor change to the original design will not dilute the overall quality of the design of the housing development within the context of Sedbergh.

15. It is also noted that the applicant has stated that to rectify the breach would result in implications for them in delivering the houses, both in terms of the costs associated with the works and the delays in the completion. They have also proposed to add minor enhancement features to the development in recompense, either through additional benches on the public open space or through number plaques to each property, although these could not be secured through any planning permission.

16. It is therefore considered that it would not be reasonable nor proportionate to require the lintels to be retrospectively fitted given the limited contribution they would make to the overall design quality.

Recommendation

17. It is recommended that it is inexpedient to pursue enforcement action in respect of the breach of conditions 1 and 18 of S/03/637A.

Katherine Wood
Principal Planning Officer

31st October 2023