

DARLINGTON BOROUGH COUNCIL
PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 15 May 2024

APPLICATION REF. NO:	22/00118/FUL
STATUTORY DECISION DATE:	17 May 2024
WARD/PARISH:	Park West
LOCATION:	Land At 1 Briar Close DARLINGTON DL3 8QX
DESCRIPTION:	Erection of 1 no. two bed residential dwelling incorporating attached double garage, hard standing, temporary siting of 1 no. static caravan, new pedestrian and vehicular access, means of enclosure and associated works (Revised Scheme) (Amended plans received 1 March 2022; amended plans, nutrient calculator and Provisional Nutrient Certificate received 22 November 2023; amended plans received 18 March 2024 and 9 April 2024)
APPLICANT:	Robert Burnside

RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS

Application documents including application forms, submitted plans, supporting technical information, consultations responses and representations received, and other background papers are available on the Darlington Borough Council website via the following link:

<https://publicaccess.darlington.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=R6Z8YFPKLS00>

APPLICATION AND SITE DESCRIPTION

1. The application site is triangular piece of land located to the north of No 1 Briar Close. The site is bound by dwellings on Briar Close to the west and north and by dwellings that form The Willows housing development to the east. The existing boundary treatment for the site comprises a set of double gates on the north boundary; fencing belonging to the occupiers of The Willows development along the east boundary; a low

picket fence on the south boundary and a low hedge on the western boundary adjacent to the highway (Briar Close).

2. Trees have been removed from the site, a hardstanding area has been created across part of the site, water and electric points have been installed and gates have been erected at the northern end of the site which are currently unauthorised.
3. In August 1987, a planning application (ref no 8/87/228/DM) was granted for the erection of a bungalow and private garage on the application site and Council records showed that foundation excavations for the garage had been carried out in 1992 and were then backfilled in 1996. On this basis, an application for a Certificate of Lawfulness (Proposed Development) under Section 192 of the Town and Country Planning Act 1990 (ref no: 03/00978/LU) concluded that works had begun on site within the required time period (then 5 years) to ensure that planning permission 8/87/228/DM remained valid.
4. Members are advised that the applicant has been advised it is highly unlikely that the Certificate of Lawfulness decision can still be relied upon to continue and implement the 1987 proposal due to the works that have subsequently been carried out on the site (for example, the laying of hardstanding area) resulting in the abandonment of the said approval. This has not been challenged.
5. This planning application is to redevelop the site with a dwelling comprising a kitchen/dining room, study and lounge and attached garage on the ground floor and two bedrooms and a dressing room within the roof space. Vehicular and pedestrian access to the site would be located at the southern end of the site and new two metre high close boarded fencing would be erected on the north, east and south boundaries with the existing hedge on the west boundary being retained along with a one metre high fence. The hardstanding area would be replaced by a landscaped garden/lawn and the double gates at the northern end of the site would be removed and replaced by the two metre high fencing. The removal of the gates would be secured through a planning condition.

MAIN PLANNING ISSUES

6. The main issues to be considered here is whether the proposed development is acceptable in the following terms:
 - a) Planning Policy
 - b) Impact on the General Character and Appearance of the Surrounding Area
 - c) Residential Amenity
 - d) Highway Safety, Parking Provision and Accessibility
 - e) Land Contamination
 - f) Ecology
 - g) Flood Risk and Drainage
 - h) Siting of a caravan
 - i) Nutrient Neutrality

PLANNING POLICIES

7. The relevant local development plan policies are as follows:

- SD1: Presumption in Favour of Sustainable Development
- SH1: Settlement Hierarchy
- DC1: Sustainable Design Principles and Climate Change
- DC2: Flood Risk & Water Management
- DC3: Health & Wellbeing
- DC4: Safeguarding Amenity
- H3: Development Limits
- H4: Housing Mix
- H8: Housing Intensification
- ENV4: Green and Blue Infrastructure
- ENV7: Biodiversity and Geodiversity and Development
- ENV8: Assessing a Development's Impact on Biodiversity
- IN2: Improving Access and Accessibility
- IN4: Parking Provision including Electric Vehicle Charging
- IN6: Utilities Infrastructure

Other relevant Documents

Supplementary Planning Document – Design of New Development (2011)

National Planning Policy Framework 2023

RESULTS OF TECHNICAL CONSULTATION

8. The Council's Highways Engineer, Environmental Health Officer and Ecology consultant have raised no objections to the principle of the proposed development.
9. Natural England have raised no objections to the proposed development.
10. Northern Gas Networks have raised no objections.

RESULTS OF PUBLICITY AND NOTIFICATION

11. Following the Council's notification exercises on the planning application, twenty seven letters of objection have been received from eleven addresses. The objections can be summarised as follows:

- *The layout is not for a bungalow but a large two bed house.*
- *The development is not in keeping with the area.*
- *There are habitable windows within 2 metres of my rear garden fence (with Romanby Close) which will impact on my privacy within the garden.*
- *The application is contrary to Backland Development policy (H8) on the Local Plan*
- *The application would be contrary to Safeguarding Amenity policy (DC4) of the Local Plan*
- *No information relating to finished floor levels and there is a difference in ground levels between application site and gardens on Romanby Close*
- *Drastically reduced greenspace*

- *Drainage/Flooding concerns*
- *Noise impact*
- *Impact on free and safe flow of traffic*
- *Impact no highway safety.*
- *Visually dominant and overbearing on neighbouring dwellings on Romanby Close and Briar Walk*
- *The Design SPD states that buildings should be a minimum of 2m of the edge of a development plot.*
- *First floor windows will overlook neighbouring properties.*
- *No details have been provided on the static caravan.*
- *The proposal is an overdevelopment of the site.*
- *Details are required for construction traffic.*
- *The applicant has removed all trees from the site and laid out hardstanding, destroying the site.*
- *A new 2m high fence on the boundary would increase the height of fencing with Romanby Close to approx. 2.4m due to the differences in ground level. This will be overbearing.*
- *There would be undue shadowing of rear gardens.*
- *Inadequate Construction Management Plan which makes no reference to the Party wall Act, how properties will be protected from piling; the erection of scaffolding, falling debris; dust, surface water run-off, pollution.*
- *The development is in close proximity to a narrow single track road resulting in an imposing impact on the immediate area.*
- *The construction phase will be a year of dirt and disruption to residents.*
- *The separation distance between the proposed dwelling and existing dwellings on Briar Close does not meet the 21m requirement in the Design SPD*
- *There will be an increase in traffic flow.*
- *The development would alter the character of Briar Close*
- *A precedent may be set for further development of the site to encroach toward the common boundary or develop as a house impacting on outlook and privacy.*
- *We don't agree with the comments made by the Council's Highways Engineer on highway safety, vehicular and pedestrian access and lack of a footpath on the site frontage.*
- *Fencing has been attached to my boundary fence without my permission.*
- *Downstairs windows will look into my rear garden above fence line.*
- *This busy single road is used by pedestrians, not from the immediate area, walking their dogs.*
- *In the last six years, two large properties have been built on the site of the old Golf course with the associated disruption and traffic and vans using the lane daily. Is this more upheaval?*
- *There is nothing in the Design SPD that states by having obscure glazing, the 21m proximity distance does not have to be met.*
- *The proximity distance to No 1 Briar Close does not meet the Design SPD requirements.*
- *The building line of the proposal is set 4 metres behind No 1 Briar Close contrary to the houses on the street.*

- *Policy H8 states that Backland Development will not normally be permitted if it has significant impacts on items listed in the policy.*
 - *The use of obscure glazing shows that this is not a development site.*
 - *The proposed access is unsafe.*
 - *The Nutrient Neutrality calculations based on 1.1 occupancy rate cannot be supported.*
 - *Briar Close is a substandard road and should not be further impacted upon or damaged by these proposals.*
 - *Briar Close, which is a single track lane, is not acceptable for further development due to the existing number of houses and lack of safe footpath.*
 - *The development will result in Briar Close no longer being a single side development and there needs to be a new footpath along the length of the development boundary.*
 - *How is biodiversity net gain being considered?*
12. Comments have been received relating to there being a covenant on the land stating that no other dwelling can be erected on the land. The comments state that the covenant was enforced in 2006 and still exists. Members are advised that the presence of a restrictive covenant is not a consideration material to the grant of planning permission. The planning authority should not take the covenant into account or seek to analyse the covenant's true meaning and legal effect.
13. Comments have been also made on the accuracy of the plans during the determination process which has resulted in amended plans being submitted on a number of occasions. The architect has advised officers that the site survey plans and architectural plans that are being presented to Members are accurate and the positions of neighbouring fencing and the post and rail fence are accurate.
14. Comments have been made over the applicant erecting a gated entrance at the north of the site. As stated in paragraph 4 of this report, the gates do not form part of the development proposals that are being presented to Members of the Planning Applications Committee and would be removed in order to complete the development.

PLANNING ISSUES/ANALYSIS

a) Planning Policy

15. Planning law (S.38(6) of the Planning and Compulsory Purchase Act 2004) requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework (2023) supports the plan led system providing that planning decisions should be "genuinely plan-led" (NPPF para 15).
16. The proposed development is located within the development limits of the main urban area of Darlington as established in Policy H3 of the Local Plan. The proposed development therefore accords with Policy H3, which seeks to achieve the locational strategy for new development in the Borough by establishing development limits within

which development will generally be acceptable in-principle, subject to compliance with other relevant national and local policies.

17. In this case, the proposed development would be situated on land that has historically been garden within the curtilage of No 1 Briar Close. As garden development, the main relevant Local Plan policy is Policy H8. However, it should be noted that Policy H8, Section B is written predominately with the intention of resisting inappropriate rear residential garden/backland development of new dwellings, since this type of relationship between properties can result in poor levels of amenity and issues with vehicle access. As the proposed bungalow is located to the side of the existing property, and would front on to Briar Close, the principle of the proposed development raises less concerns in this regard.
18. It should be noted that the intention of Policy H8 is also to safeguard a range and choice of housing, including properties with larger than average gardens at the upper end of the property market, and to maintain local character, biodiversity, and amenity space. Therefore, the position set out in the supporting text for the policy, is that the Council will resist proposals for developments on garden land. However, Policy H8 does state that a limited scale of garden development may be acceptable providing it does not have a significant adverse impact upon the following, which will be considered as part of this Report along with all other material planning considerations:
 - a) Rear garden land which contributes either individually or as part of a larger swathe of green space to amenity of residents or provides wildlife habitats.
 - b) The privacy of existing homes and gardens of neighbours or occupiers of the new development.
 - c) Vehicular access or car parking – both in terms of highway safety or visual, noise or light impact on neighbours.
 - d) Existing trees, shrubs, and other wildlife habitats.

b) Impact on the General Character and Appearance of the Surrounding Area

19. Briar Close comprises five dwellings (Nos 2 to 6 Briar Close) on the west side of the street and No 1 Briar Close and the application site on the east side of the street. No 1 Briar Close is a single storey bungalow fronting onto the single access road. The other properties on the west side of the road are a mix of single and two storey detached dwellings, with No 6 Briar Close being a recent addition and which formed part of the redevelopment scheme of the former Blackwell Golf clubhouse. There is a variation of house designs and materials within Briar Close. The Willows is a modern housing development comprising two storey detached dwellings.
20. The proposed development is for a single storey dwelling with living accommodation within the roof space and an attached garage to the side. The dwelling would be constructed from red brickwork with natural red clay pantiles and timber windows and doors. The dwelling is of a simple design under a dual pitched roof with a mix of rooflights and dormer extensions in both the rear and front roof slopes of the main dwelling and adjoining garage.

21. The proposed dwelling would front onto Briar Close, set behind the retained hedge with amenity space to the front and primarily to the side (north). The front elevation of the dwelling would be positioned behind the front elevation of No 1 Briar Close, the adjacent dwelling.
22. The application site is identified within the Council's Supplementary Document on Design for New Development (Design SPD) as being within Character Zone 4 – Outer Suburbs. The Design SPD advises that developments of between one and 2.5 storeys are generally acceptable within the Outer Suburbs Character Zone. Site context is also a material planning consideration, but the Design SPD advises that detached buildings set within their own grounds and defensible space would be acceptable and the inclusion of dormer extensions on pitched roofs with the design of the development and the use of brick to reflect local context is also supported by the Design SPD.
23. A planning condition has been recommended to secure the precise details of the materials.
24. The scale, style and height (approx. 5.6m) of the dwelling would be compatible with the other neighbouring single storey dwellings, especially No 1 Briar Close which adjoins the application site on the east side of the road.
25. The Design SPD does advise that a detached dwelling should be a minimum of 2m from the edge of a development site. The proposed dwelling would not accord with this requirement as the rear elevation of the property would be approximately 1.1m from the new boundary fencing on the eastern boundary. It is not possible for the proposal to meet this requirement due to the elongated shape of the site and the need to address proximity distances with neighbouring dwellings. However, the dwelling does sit comfortably within the extents of the application site taking into account the land to the side which will form its garden area. Site context and constraints are also a material planning consideration when assessing the compliance of a development with the Design SPD.
26. The land in question has been greatly altered by the applicant following the removal of trees and the creation of the partial hardstanding area. Prior to such works, the land was side (not rear) garden land, and it would have contributed, in visual terms, to amenity of residents and provided wildlife habitats. However, the trees were not covered by a tree preservation order and the site is not within a conservation area resulting in there being no need for the applicant to have obtained consent from the Council to remove them. The land was a private garden and would remain so as part of this development and the submitted landscaping scheme will reintroduce some greenspace back into the street scene.
27. It is considered that the proposed dwelling is suitably designed and does comply with many aspects of the Design SPD, but it would not be possible to fully comply with guidance due to the site context and the need to address other considerations.

28. A planning condition has been recommended to secure the precise details of an enclosures and gate, if one is proposed, alongside and across the vehicular access in the interests of the visual appearance of the site.
29. Having considered the guidance within the Design SPD and the site context, the principle of redeveloping the site and the proposed property itself would not have an adverse impact on the character and appearance of the wider street scene, and it is considered that the development would generally accord with policies DC1 and H7 of the Local Plan in this regard.

c) Residential Amenity

30. The application site is bound to the east, south and west by dwellings that have direct views across the application site.
31. The Council's Design SPD contains guidance on the minimum proximity distances between buildings that should be met to ensure an acceptable level of privacy is achieved for occupants of both existing and proposed dwellings. The guidelines are based on distances between habitable windows and also habitable to non habitable windows taking into account any differences in finished floor levels.
32. Policy DC4 of the Local Plan states that the visual dominance and overbearing effects of a development are a material planning consideration. However, the planning system is not necessarily intended to protect an outlook that a resident may enjoy at a particular point in time but to maintain an outlook that meets or maintains an acceptable standard of amenity.
33. The Willows housing development lies to the west of the application site and the rear garden fences of these properties run alongside the site boundary. The properties have quite extensive gardens to the rear and the dwellings are approximately 26m from the rear elevation of the proposed dwelling which exceeds the proximity distance requirement between habitable windows (21m) which will give both occupants adequate privacy within the dwellings.
34. The submitted plans show that the proposed dwelling would be constructed on ground that is slightly higher than the rear gardens of these dwellings. A new 2m high boundary fence would be constructed within the application site, alongside the existing boundary fence erected as part of The Willows development. The fence would be constructed on land that is higher than the neighbouring gardens increasing the overall fencing height when viewed from The Willows by approximately 0.5m. The rear elevation of the proposed dwelling includes a kitchen door and window; a stairwell window, a bathroom window; a lounge window and a garage window at ground floor level. Of these openings, only the lounge and kitchen windows would serve habitable rooms. The submitted plans show that the proposed fencing along the east boundary of the site will provide adequate screening of these openings and doors to minimise any loss of privacy issues relating to the gardens of the dwellings on The Willows development.

35. The increase in the height of the fence line (approximately by 0.5m) across the east boundary would not have such an adverse visual impact to refuse planning permission on amenity grounds, given that the fence is some distance from the rear of the nearest properties at The Willows. A condition is recommended to ensure the fencing is erected prior to the occupation of the dwelling to maintain privacy levels.
36. The proposed rooflights in the rear roof slope which would provide natural light to a stairwell, a bedroom, a dressing room and bathroom within the roofspace are positioned so that there is not a clear, direct view from them across The Willows development. All windows within bathrooms would be fitted with obscure glazing and this would be secured via a planning condition.
37. The dining room and kitchen will have openings in the north elevation of the dwelling which open onto the proposed garden and there are two dormer extensions in the same elevation at first floor level. These are bedroom and bathroom openings. The bathroom window would be fitted with obscure glazing (secured by a planning condition) and the direct view from the habitable windows would be north facing over the proposed garden. There would be indirect views east and west, but these would not be so adverse to maintain an objection on amenity grounds.
38. No 1 Briar Close is located to the south of the site and has a habitable window in its north elevation facing across the site. The existing picket fence currently provides no substantial visual screen but the submitted plans show that a close boarded fence will be erected on this shared boundary which will provide privacy between the two sites. The southern elevation of the proposed building, which is an external garage wall, would not have any window openings facing onto No 1 Briar Close and so there will be no privacy impacts with this dwelling. It is considered that the 11m distance, with the aforementioned boundary fence between the gable elevations of the two dwellings is acceptable and the proposed dwelling will not be dominant or overbearing when viewed from the habitable window belonging to No 1 Briar Close.
39. The dwelling directly opposite the proposed dwelling is No 2 Briar Close which is a detached dwelling with three habitable windows in its front elevation which face the application site. The property is set back from the back edge of the footway with an open garden and driveway to the front. The proposed dwelling would have three habitable windows in the front elevation at ground floor level (dining room, study and lounge) and a bedroom room window at first floor. The submitted plans show that the dining room and bedroom windows would be fitted with obscure glazing (secured by a planning condition) although it should be noted that these rooms would also be served by other clear openings on other elevations.
40. As the aforementioned windows are obscured, they are exempt from amenity considerations which is common practice adopted by the Council when assessing a proposal against the guidelines set out in the Design SPD. The next habitable window is the first dormer extension and the study window. Plans submitted in support of the planning application indicate that the proximity distance to this window is 21m whilst

the occupant of No 2 Briar Close states that the dwelling would need to be 21.8m away from the front elevation of No 2 Briar Close having taken into account any differences in finished floor levels to accord with the Design SPD.

41. Having considered the submitted plans, the site context and the comments that have been made, the proposed development will not adversely impact upon the privacy levels of existing dwellings even if it is not fully compliant with the Design SPD by approximately 0.8m
42. Views from the rooflights and dormer extensions do not give rise to any issues relating to overlooking or loss of privacy and are therefore considered to be acceptable.
43. The impact of a development upon the outlook of a neighbouring property is a material planning consideration. The proposed dwelling would be separated from dwellings on the opposite side of Briar Close by the road and footway and the amenity spaces to the fronts of the dwellings. It is considered that the proposed dwelling would not be overbearing when viewed from these properties and the retained hedge would give some softening to the visual appearance of the proposed development.
44. It is acknowledged that the proposed dwelling would be approximately 1.1m from the shared boundary of the properties on The Willows and it will be built on ground approximately 0.5m higher. There is a gabled feature within the rear elevation but the most visually prominent part of the dwelling, above the fence line, would be the roof of the dwelling and garage which is pitched away from the shared boundary. The dwelling is single storey, albeit with accommodation in the roofspace and the garden area to the side would retain openness across the full length of the boundary. It is acknowledged that the outlook from these properties will be changed from a piece of open land, but the dwelling has been designed to minimise such impacts and would maintain an acceptable standard of amenity for the dwellings.
45. The rear gardens are south west facing, and some overshadowing will occur, but the extent of overshadowing is not considered to be so adverse to recommend the planning application be refused on such grounds.
46. The planning application has been supported by a Construction Management Plan providing information relating to the hours of construction, control of dirt and dust on the public highway etc. However, precise details on construction traffic routes, site compound, hours of deliveries have not been provided. It is considered appropriate to impose a planning condition to secure the submission of a Management Plan. However, such plans would not cover issues such as the Party Wall Act requirements or safety measures to protect neighbouring dwellings from scaffolding or falling debris as these are matters covered by under health and safety and civil legislation and are not for consideration as part of the planning application.
47. Overall, it is acknowledged that the proposed development is not fully compliant with the Design SPD but with the use of appropriate planning conditions to secure obscure

glazing where appropriate, and having taken account of the size and scale of the development and site context, the proposed development would not result in conditions so prejudicial to the amenities of neighbouring dwellings to recommend the application be refused on such grounds.

d) Highway Safety, Parking Provision and Accessibility

48. The unauthorised gates on the northern end of the site do not form part of the planning application and therefore their acceptability or otherwise, in highway safety terms is not a material planning consideration.
49. The traffic generation from one single additional dwelling is not considered to have any detrimental impact on the local highway network or demonstrate the 'severe impact' required to warrant refusal under National Planning Policy Framework guidance. A review of the past 5 years of recorded police accident statistics demonstrates that there is no accident history within Briar Close or within its near proximity. As such there are no existing road safety concerns which are likely to be exacerbated by this proposal.
50. The proposed site layout demonstrates improved vehicular and pedestrian access, with pedestrian connectivity available directly from the footway located opposite on the western side of Briar Close to the internal driveway. Visibility from the proposed vehicle access is also improved with the recommended visibility splays of 2.4m x 4.5m being demonstrated on plan from the edge of the driveway in order to provide intervisibility and make a vehicle exiting the site more conspicuous to approaching drivers. Whilst the access does require some localised removal of the hedge and fence, it is otherwise retained and to be maintained at a height which does not exceed 1.0m in line with recommendations.
51. The site has sufficient parking provision both on the in-curtilage driveway and within the integral garage which also offers secure cycle parking and EV Charging (policy IN4). The proposed site layout plan would suggest that the driveway material is to be herringbone block paving and as such would satisfy the requirements of a 'sealed' material to ensure gravel or other similar loose material is not deposited within the highway. Any gates must also be prohibited from opening outwards over the public highway in the interests of highway safety. Provision is made for refuse storage within the site ensuring bins will not be placed within the highway other than for collection.
52. There is no available land or reasonable justification to request the provision of a footway on the opposite side of Briar Close. The carriageway is already narrow and to do so there would be a need to reduce the existing carriageway in width which would not be acceptable. As the dwelling has a direct footway link, local plan policy requirements for safe pedestrian access have been met.
53. There are no highway objections to the proposed development and the scheme would accord with policies DC1, IN4 and H7 of the Local Plan in this regard.

e) Land Contamination

54. The application has been accompanied by a Screening Assessment Form which is an appropriate way of assessing the possible risks of contaminated land on a small-scale development like this with no obvious history of past contaminative land use. Having looked at this form and searched the historical maps of the area Environmental Health do not anticipate that contaminated land will be an issue at the site and there is no need to attach any conditions relating to potentially contaminated land to any approval. The development would accord with policy DC1 of the Local Plan in this regard.

f) Ecology

55. In line with the policies ENV7 and ENV8 of the Local Plan, the proposed development will be expected to minimise the impact on and provide net gains for biodiversity. In this case, the most appropriate method of enhancement to increase biodiversity is through the installation a minimum of integrated bird boxes to the proposed dwelling. Further enhancement would be secured through the landscaping scheme. These measures can be secured by planning conditions as recommended by the Council's ecology consultant. The proposed development would comply with policies EN7, EN8 and H7 of the Local Plan.

g) Flood Risk and Drainage

56. The planning application site within Flood Zone 1 and surface and foul water would be disposed via the existing mains sewer (Policy DC2).

h) Siting of a Caravan

57. The Planning Statement submitted in support of the planning application states that the static caravan would be positioned on site during the construction phase and, upon being suitable for habitation, will be removed.

58. In the majority of cases, a caravan can be temporarily located on a site and lived in if used in connection with development taking place on the land, such as building a new home. The position of councils does vary, however, so where an applicant plans to live on site during the build, it is advisable to include a caravan as part of the planning application for the property. A planning condition is recommended which ensures that the caravan is to be removed from the site prior to occupation of the dwelling.

i) Nutrient Neutrality

59. The application site is located within the River Tees Catchment Area and is therefore subject to the guidance issued by Natural England in respect of the unfavourable condition of the Teesmouth and Cleveland Coast Special Protection Area (SPA), Ramsar Site and associated Sites of Special Scientific Interest. The Natural England Teesmouth and Cleveland Coast Special Protection Area/Ramsar Evidence Pack August 2022 (TIN204) confirms that this protected area is currently in an unfavourable condition due to nutrient enrichment, which includes pollution from nitrates, including Nitrogen.

60. The applicant has submitted a nutrient budget calculator and Provisional Nutrient Credit Certificate. This information is considered sufficient to enable the Local Planning

Authority as the Competent Authority to fully consider the impacts of the development proposal on Teesmouth and Cleveland Coast SPA/Ramsar.

61. The submitted nutrient budget calculator demonstrates that the proposals will increase the nitrogen arising from the development and consequently it cannot be ruled out at the screening stage that this development will not have a likely significant effect on the Teesmouth and Cleveland Coast SPA/Ramsar.
62. The applicant has used Natural England's Nutrient Budget Calculator tool for the River Tees catchment to establish a nutrient budget for the proposal. This proposal for one dwelling would increase the total annual nitrogen load arising by 1.56kg per year. Whilst the submitted plans include the provision of a static caravan it is understood this is only to be on-site during construction of the dwelling and will be removed from site when the dwelling is completed. It is therefore considered acceptable to treat the proposal as 1 net additional dwelling. A condition is however required to ensure that the static caravan is removed from site upon occupation of the dwelling to avoid two residential accommodation units being occupied on the site.
63. As a nitrogen surplus would arise, the applicant has accepted that mitigation would be necessary in order to avoid likely significant effects. Informed by the Nutrient Budget Calculator Tool the applicant proposes to mitigate this nitrogen surplus by purchasing 1.56 credits from the Natural England Tees Catchment credit scheme which is equivalent to the surplus nitrogen of 1.56kg that needs to be mitigated. The applicant has provided a countersigned provisional credit certificate obtained from Natural England which is sufficient evidence for this form of mitigation to be considered robust and achievable and appropriately located within the Tees catchment. A pre-occupation condition will be required to ensure that the required and necessary mitigation is secured and in place. The condition sets out that prior to the occupation of the static caravan or proposed dwelling, whichever is sooner, the final signed credit certificate must be provided to the Local Planning Authority demonstrating that the credits have been purchased and the necessary mitigation secured.
64. This Appropriate Assessment has found that the proposed mitigation measures would adequately mitigate the effects of the proposal and ensure the proposed development will not result in an increase in nitrogen reaching the Teesmouth and Cleveland Coast SPA. So, it can be concluded that the proposal will not adversely affect the integrity of the Teesmouth and Cleveland Coast SPA and meets the relevant Habitat Regulations, subject to condition as set out above.
65. In accordance with Regulation 63 of the Conservation of Habitats and Species Regulations (2017) Natural England have been consulted and they have raised no objections subject to the imposition of the aforementioned planning condition.

THE PUBLIC SECTOR EQUALITY DUTY

66. In considering this application the Local Planning Authority has complied with Section 149 of the Equality Act 2010 which places a statutory duty on public authorities in the

exercise of their functions to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it. The proposal involves a pedestrian access to the front and the submitted plans indicate that development would be constructed in accordance with Category 2 of the Building Regulations (accessible and adaptable dwellings) (Policy H4 of the Local Plan).

SECTION 17 OF THE CRIME AND DISORDER ACT 1998

67. The contents of this report have been considered in the context of the requirements placed on the Council by Section 17 of the Crime and Disorder Act 1998, namely the duty on the Council to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area. It is not considered that the contents of this report have any such effect.

CONCLUSION AND RECOMMENDATION

68. The application site is within the development limits for the urban area and therefore its redevelopment for residential purposes would be supported in planning policy terms subject to compliance with other local and national planning policies. In this instance the application has been assessed against the requirements of Policy H8 as garden development and other development plan policies and the Design SPD.

69. The proposal raises no issues in relation to highway safety and parking, ecology, drainage, land contamination and nutrient neutrality has been achieved through the purchasing of nutrient credits from Natural England.

70. The overall design and scale of the dwelling is considered to be acceptable in terms of its impact on the street scene and it complies with many aspects of the Design SPD guidance except a requirement for a building to be a minimum distance of 2m from the edge of a site which cannot be achieved due to the elongated and linear nature of the application site and the need to address proximity distances.

71. Privacy issues have been addressed by the use of boundary fencing and the fitting of obscure glazing into habitable rooms (which will still benefit from having other non-obscured openings). It is acknowledged that the separation distance between the development and No 2 Briar Close may not fully comply with the Design SPD. However, overall these relatively modest breaches of the guidelines are considered to have a minimal impact on privacy issues and will not result in significant impacts to justify a reason to refuse the planning application.

THAT PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS

1. A3 – Implementation Limit (Three Years)
2. The development hereby permitted shall be carried out in accordance with the approved plans and documents, as detailed below:

- a) Drawing Number 21070 02C – Proposed Elevations
- b) Drawing Number 21070 03E – Site Plans
- c) Drawing Number 21070 01C – Proposed Plans
- d) Drawing Number 21070 04C – Block Plan
- e) Drawing Number 21070 08D – Landscaping Plan
- f) Drawing Number 21070 07B – Proposed Site Sections
- g) Drawing Number 21070 09 – Proposed House Sections

REASON – To ensure the development is carried out in accordance with the planning permission.

- 3. Prior to the first occupation of the static caravan of the dwelling hereby approved whichever is sooner, a Final Nutrient Credit Certificate, signed by Natural England and the applicant, shall be submitted to the Local Planning Authority

REASON: To ensure the development is nutrient neutral in accordance with the Conservation of Habitats and Species Regulations 2017

- 4. The static caravan shall be removed from the site prior to the first occupation of the proposed dwelling hereby approved.

REASON: To ensure the development is nutrient neutral in accordance with the Conservation of Habitats and Species Regulations 2017

- 5. Prior to any demolition works and the commencement of the development, a site specific Demolition and Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The plan[s] shall include the following, unless the Local Planning Authority dispenses with any requirement[s] specifically and in writing:
 - a. Dust Assessment Report which assesses the dust emission magnitude, the sensitivity of the area, risk of impacts and details of the dust control measures to be put in place during the demolition and construction phases of the development. The Dust Assessment Report shall take account of the guidance contained within the Institute of Air Quality Management “Guidance on the assessment of dust from demolition and construction” February 2014.
 - b. Methods for controlling noise and vibration during the demolition and construction phase and shall take account of the guidance contained within BS5228 “Code of Practice for noise and vibration control on construction and open sites”.
 - c. Details of Hours of Construction
 - d. Details of Hours of Deliveries
 - e. Construction Traffic Routes, including parking areas for staff and visitors, if required
 - f. Details of construction traffic access point into the site

- g. Details of site compound
- h. Details of wheel washing.
- i. Road Maintenance.
- j. Warning signage.

The development shall not be carried out otherwise in complete accordance with the approved Plan.

REASON: In the interests of residential amenity and highway safety

6. Notwithstanding any description of the external materials in the submitted application, and prior to the dwelling being built above damp proof course, details of the external materials to be used in the carrying out of this permission shall be submitted to, and approved, in writing, by the Local Planning Authority. The details shall include but not be limited to brickwork, roof tiles, windows, doors and the development shall not be carried out otherwise than in accordance with any such approved details.

REASON - In order that the Local Planning Authority may be satisfied as to the details of the development in the interests of the visual amenity of the area.

7. Prior to the dwelling hereby approved being constructed above damp proof course precise details of the means of enclosure on either side of the vehicular access shall be submitted to and approved in writing by the Local Planning. The details shall include but not be limited to the design, height and materials for the enclosure. If the details include gates, precise details of the gates must also be provided, and the gates must not open outwards over the public highway. The development shall not be carried out otherwise than in complete accordance with the approved details.

REASON – In the interests of the visual appearance of the development and in the interests of public and pedestrian safety

8. The dwelling hereby approved shall not be constructed above damp proof course level until precise details of a scheme of ecological enhancements have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include bird nesting features, and the details shall include, but not be limited to, plans to show the location of the integrated features. The development shall not be carried out otherwise than in complete accordance with the approved details which shall be retained in situ for the lifetime of the development.

REASON: To ensure the development complies with policies ENV7 and ENV8 of the Darlington Local Plan 2016 – 2036

9. The ground floor dining room and first floor bedroom windows formed in the west elevation of the dwelling hereby approved shall be obscure glazed as shown on Drawing Number 21070 02C and shall not be repaired or replaced other than with obscured glazing.

REASON - To prevent overlooking of the nearby properties.

10. Further to condition 9, all windows within bathrooms and ensuite bathrooms (including windows, dormer extensions and rooflights) within the dwelling hereby approved shall be obscure glazed and shall not be repaired or replaced other than with obscured glazing.

REASON - To prevent overlooking of the nearby properties.

11. No additional flank windows or other glazed openings shall be formed in the south facing wall/elevation of the dwelling hereby approved without the prior written consent of the Local Planning Authority.

REASON - To protect the amenities of the neighbouring residential property against increased overlooking with resultant loss of privacy.

12. The existing double gates erected on the north boundary of the application site shall be removed within one month of the completion of the dwelling hereby approved.

REASON: To ensure that the development is carried out in complete accordance with the approved plans

13. The boundary fencing shown on the approved plans shall be erected on all boundaries prior to the first occupation of the dwelling hereby approved and shall not be repaired or replaced other than in accordance with the approved plans.

REASON: In the interests of residential amenity

14. The bin stores shown on the approved plans shall be in place and available for use prior to the first occupation of the dwelling hereby approved. The bin store shall be retained in situ for the lifetime of the development unless otherwise agreed in writing by the Local Planning Authority

REASON; In the interest the general amenity of the development and local area

15. The electric vehicle charging point shown on the approved plans shall be a single phase 13-amp socket (minimum requirement) and shall be in place and available for use prior to the first occupation of the dwelling hereby approved. The electric vehicle charging point shall be retained in situ for the lifetime of the development unless otherwise agreed in writing by the Local Planning Authority

REASON: In order to ensure the development complies with Policy IN4 of the Darlington Local Plan 2016 – 2036.

16. The submitted landscaping scheme shall be fully implemented concurrently with the carrying out of the development, or within such extended period which may be agreed in writing by, the Local Planning Authority and thereafter any trees or shrubs removed, dying, severely damaged or becoming seriously diseased shall be replaced, and the landscaping scheme maintained for a period of five years to the satisfaction of the Local Planning Authority.

REASON - In the interests of the visual amenities of the area.

INFORMATIVES

Prior to the commencement of the development the applicant is advised that contact be made with the Assistant Director: Highways, Design and Projects (contact Mrs. P. McGuckin 01325 406651) to discuss naming and numbering of the development.