

determined by the raised plinth on which they would sit, but on the form and dimensions of the actual buildings.

25. The approved height parameters relate to the altered ground level: a 2 storey house could not fit in to a height of 5m above the pre-existing ground while complying with the required minimum finished floor level. The sketch sections submitted in evidence by the Council also note the 10m limit above the proposed ground level. As the precise level of the raised ground is not set by the outline permission, other than through the FRA, and as there is some flexibility in the finished floor level, subject to the minimum of 32.4m AOD, the overall height of the houses is not fixed to any set datum. A condition seeking to impose such a restriction would not be justified.
26. At the Inquiry, the Council raised a particular point about the sloping ground shown on the submitted elevation of Plots 14C-12C. This relates to the potential impact of the southern end of Terrace B on *Cumana*, to which I return below. In my view, local variations in ground level, such as this, do not invalidate the general measurement. In assessing the reserved matters, the parameters approved at the outline stage must be interpreted pragmatically. Therefore, a slightly lower ground level adjacent to the southern gable of Terrace B would not amount to a critical breach of the scale parameters.
27. I accept that approval of the scale parameters on the outline permission does not "authorise" the final form of development. But I consider that there must be a good reason not to allow the final scale to reach the maximum level set by the parameters. Harm would have to be shown. The Council's committee report on the outline application rightly states that development within the parameters would be acceptable.
28. The Council's evidence does not present a convincing case that harm would be caused to the general character and appearance of the area by the scale of the proposed houses. The context is provided by the existing Croft House and No.1 Tees View. Despite their rather bulky roofs, the proposed houses would be of much smaller scale than the originals. The principle of new houses in a verdant setting, accepted at the outline stage, would not be compromised. The proposals would deliver the 2.5 storey terraces envisaged at that time.
29. The Council now suggests that at least some of the units could be lower than the maximum. But in this case, what is clearly proposed, and was accepted at outline stage, is a development of terraces, made up, as indicated on the approved plan, of repetitive units. Moreover, there would be little scope to alter the eaves level much below 5m, while maintaining 2 storey development. Consistent lowering of the ridge heights would involve shallower roof pitches that might not be typical of the area. Variation in the ridge heights would probably involve differing roof pitches, which would not be consistent with the terrace form. The benefit of such changes is not obvious.
30. A schedule of dimensions agreed by the main parties at the Inquiry suggest that the eaves and ridge heights for house types B and C would be generally slightly greater than the agreed parameters of 5m eaves and 10m ridge. However, I note that the submitted plans (B 20 04, C 20 02 and C1 20 04) indicate an overall height from ground level to ridge of 10.025m for both house types, which would be only 25mm (or 1 inch) taller than the set parameter. If the measurement were taken from external ground level at the entrance to the

house, which would be very close to finished floor level, the level would probably drop below the maximum.

31. It is not clear why dimensions now put forward should differ from the plans. But in any event, in the case of these two house types, I agree with the appellant that the discrepancies, which need not have arisen had the plans been prepared with closer attention, are *de minimis*.
32. The Council draws attention to the eaves height of the gabled houses at each end of Terrace C. I accept that the eaves height shown on the schedule as 7m, but noted on the plan (C1 20 05) as 7.5m, would be significantly higher than the approved 5m. However, these gables are used as an accent to the general run of the terraces, whose introduction appears to have been supported by the Council. They do not change the perception of the overall terrace as of 2 storeys with dormers. The raised eaves height would still be below the head of the attic windows, so that the houses would still fall within the approved description of 2.5 storeys. The Council's current objection appears to be in principle rather than based on an analysis of what harm would be caused.
33. I conclude that the scale of these terraces would be consistent enough with the outline planning permission not to prevent its approval and would be acceptable in other respects.

Appearance: Terraces A, B and C

34. The submitted DAS explains the clear choice for the appearance of the proposed houses to attempt to relate to the design of Croft House and 1 Tees View rather than to earlier, more vernacular cottages in the villages on both sides of the river. As the two large houses are highly characteristic, I see no objection in principle to the chosen approach. The proposed houses would be clearly distinguishable as a contemporary addition to the site. The idea of formal terraces in a green setting is not without precedent in Hurworth Place, where Banks Terrace offers a fine example.
35. The reservations outlined by the Council in evidence to the Inquiry about the detailed appearance of the proposed terraced houses were not explicitly referred to in the reasons for refusal. I accept that the lack of alignment of the smaller first floor front window on House Type C would be slightly disturbing. The proportions and placement of the pair of small windows flanking the central first floor front window of the Type B houses would appear rather incongruous. However, in neither case would the effect be sufficiently adverse to justify withholding approval of the reserved matter. The need for a condition on the redesign of the front elevation does not arise. I do not agree with the Council that the proposed dormers would appear tall relative to their width: in my view, a narrower width would, if anything, provide a slight improvement.
36. The Council raises no concern about the appearance of the proposed gables at each end of Terrace C. I agree with the appellant's design witness that the appearance of the terrace might be improved by the omission of the northern gable, so that the remaining one would appear as a more central feature in the run of terraced houses. However, that would form a material change which is not before me and could not be addressed by a condition. The appearance of the terrace as submitted would be acceptable.

Scale and Appearance: Houses on northern boundary

37. The approved layout includes a long unbroken run of built form along the northern boundary. The placement of the two houses and their linked wings tight against the boundary would inevitably represent a significant change from the existing boundary wall condition, and would present a somewhat more urban edge to the adjoining countryside. The raised ground level of the houses would be higher than the ground level in the adjoining field. This was clear in the plans and sections submitted with the FRA (Drawings No.SK-005/1 and SK-006/1). These issues are fixed by the approval of the layout.
38. As outlined above, I consider that the scale parameters must relate to the new ground level. In fact, the Council accepts that the proposed scale of this pair of houses would be appropriate, relative to the villa scale of Croft House and No.1 Tees View. The submitted drawing of the view of the northern elevation from the field confirms that this would also be true from that side. The main blocks of the proposed houses would be similar in scale to the main front of No.1 Tees View, while the lower linked section would be akin to the rear wing of No.1.
39. As discussed at the Inquiry, I accept that the appearance of the buildings could be improved by the insertion in each house of one or more windows. There would be a potential added benefit of enhanced surveillance of the footpath, as now sought by the Council. However, I do not regard this change as essential on grounds of appearance. The use of a condition to secure the amendment would fail the test of necessity outlined in Circular 11/95⁵.
40. The scale and appearance of the proposed houses would not harm the character and appearance of the area or have an overbearing impact on the adjoining footpath.

Setting of listed buildings

41. The effect on the adjoining listed buildings did not form an explicit part of the reasons for refusal. The existing site does not make a particularly positive contribution to the setting. The outline permission approved the loss of the block of planting projecting into the site close to the terrace.
42. The specific restriction on the layout of the nearest house to 2 storeys rather than 2.5 is borne out in the detailed submission. The similarity of the end house's proposed form to the rest of the terrace is to be expected from the approved layout and the scale parameters. There is nothing in the scale or appearance of the proposed terrace that would be harmful to the significance of the listed houses. Witnesses for the Council and the appellant agreed that the proposed replacement tree planting close to the listed terrace would be appropriate in character.
43. The setting of the listed buildings would not be adversely affected by the approval of the reserved matters.

Living conditions

44. The Council's concern about scale is heavily influenced by the perceived effect of the southern end of Terrace B on the residents of *Cumana*. On my visit to *Cumana*, I noted that the outlook most affected would be from a north-facing

⁵ Circular 11/95: *The use of conditions in planning permissions*

bedroom and the west-facing kitchen window. I acknowledge that the addition of Terrace B in its elevated position would represent a significant change. However, outlook from these windows is already constrained by the row of tall trees along *Cumana's* boundary, which Condition No.9 of the outline planning permission seeks to protect. The terrace would be offset from the bedroom window, whose direct outlook would not be impaired. The view from the kitchen, which has another window facing east, would be very oblique. The effect on outlook would not be unacceptably harmful.

45. *Cumana* benefits from a large garden. The narrow area between the bedroom and the site boundary does not appear to be heavily used. The area most used for sitting out appears to be aligned with the end of the proposed access road and would thus be centrally placed between the two terraces, without suffering an overbearing effect from either of them. Additional screening would be provided by the proposed tree planting along the site boundary, which the Council accepts would be suitable close to *Cumana*.
46. As outlined above, the effect on the amenity of *Cumana* of the proposed footpath along the southern boundary of the site relates to the matter of layout rather than to any of the reserved matters. Discussion at the Inquiry suggested that there were a number of options for the design and construction of the path. These are relevant to compliance with Condition No.9 of the outline permission, which is considered below.
47. It was also agreed at the Inquiry that the proposed tree planting at the south-eastern corner of the site would be appropriate close to the end house of Terrace A. There would be no adverse effect on living conditions for future residents.

Protected trees

48. The approved layout shows the proposed access road passing within the crown spreads of the protected trees that line the existing avenue. It was confirmed at the Inquiry that the detailed proposals had not altered the position of the road. Therefore, some raising of the ground level and associated pruning of the weeping beech tree were always going to be required. The path to the south of the access road and the path inside the southern boundary of the site are also shown in their previously approved positions. I agree with the appellant that issues arising from the effect on trees of changes of level of these routes fall to be considered under Conditions No.3 and No.9 of the outline planning permission, rather than under any of the reserved matters.
49. The Landscape Proposals plan (No. 2990/90/01 Rev.E) incorporates the retained trees. The plan gives a very approximate indication of the outline of the proposed pond. The appellant's landscape witness confirmed that the proposed landscape treatment was not contingent on the final shape and volume of the pond. The Council raises no objection to the landscape treatment in itself.
50. I share the Council's concerns about the impact on protected trees, particularly those on the road frontage, of the pond shown on the Engineering Layout drawing (No. 307:03:103:01 Rev.B). I agree that premature loss of these trees would have a very significant adverse impact on the character and appearance of the area. The appellant's arboricultural consultant recommends a greater separation distance from these trees than hitherto envisaged.

51. However, as outlined above, the Council accepts that changes in ground level other than for amenity purposes relate to the matter of layout. The effect of the pond on protected trees falls to be considered under Condition No.9 of the outline planning permission, relating to tree protection, and Condition No.22 on approval of the pond, which I address below.

Conditions to be applied to approval of reserved matters

52. The Statement of Common Ground (SoCG) submitted before the Inquiry included the text of one condition, agreed between the main parties. At the Inquiry, a longer list of potential conditions was drawn up and discussed, as were several other conditions not on the list. A chief concern, as discussed at the Inquiry, is that conditions can only be imposed that are necessary and reasonable with regard to the reserved matters under consideration, and not with regard to the principle of development or the matters given full approval at the outline stage.
53. Having considered all of these proposed conditions in the light of the advice of Circular 11/95, I conclude that four conditions are necessary and reasonable in each of the two appeals.
54. The SoCG condition related to the approval of materials for walls and roofs, including the submission of samples. As the precise choice of materials, which are not specified on the submitted plans, will have an important bearing on the appearance of the houses, and because the existing brick is a distinctive feature of the locality, this condition is necessary to ensure that the development will relate well to the character of the surrounding area and provide an attractive residential environment, in accordance with LP Policy H11. For the same reason, details of the windows and doors need to be approved.
55. Details of the main boundaries of the site are covered by Condition No.8 of the outline planning permission. However, boundaries to the individual plots and the design of any balustrades and railings will be important in setting the quality of external space in the development. A condition is necessary to secure approval of the relevant details, which are not provided by the Landscape Proposals plan, to provide an attractive residential environment in accordance with LP Policy H11.
56. The Landscape Proposals plan shows Terrace B nearer to the southern boundary than its approved position. As a condition to fix the position was not placed on the outline permission, it cannot now be added under the matter of landscaping. But as the houses will need to be built in the correct place, information is required on the treatment of the area that would be exposed immediately to the south of the terrace, in order to ensure that the character of the landscape setting is respected, in accordance with LP Policy E7, and that an attractive residential environment is provided, in accordance with LP Policy H11.
57. Similarly, details of the levels and construction of footpaths, the provision of street lighting and the escape route at the north-east corner of the site are not appropriate under the landscaping reserved matter, but are mainly covered by conditions on the outline planning permission.

Conclusion on reserved matters appeals

58. I conclude that the reserved matters of scale, appearance and landscaping would be consistent with the outline planning permission and acceptable in other respects, and would not in themselves give rise to adverse effects on the character and appearance of the area, on the setting of nearby listed buildings, on protected trees and on the living conditions of adjoining and future residents. The two reserved matters appeals should be allowed, subject to conditions on items of outstanding detail.

Appeals B and D: Conditions

59. The Council offered little specific evidence on the two appeals relating to the approval of details (other than the reserved matters) required by conditions attached to the outline planning permission. I agree with the appellant that these can be considered separately from the reserved matters and either individually or in related groups.

Conditions No.3 and 4: Access road

60. Condition No.3 requires details of the upgrading of the existing access and the proposed access road extension. The submission refers to a Roof Plan drawing, and to the DAS. This plan appears very similar to the approved plan for the outline permission (No. W1685/10A) and provides no details. More detail is provided by the Engineering Layout drawing (No. 307:03:103:01 Rev.B), which is primarily concerned with drainage, but there is no explanation of why the proposed levels appear to exceed those considered necessary by the FRA, and would therefore have potentially greater impact on the protected trees.

61. Whilst I accept the suitability in principle of "no dig" construction for the areas of roadway within the root protection areas, insufficient information is provided on details of construction of the elevated sections of road and of the retaining structures needed, or of construction above the water storage tanks. The provision of street lighting also needs to be added. The road layout requires amendment to reflect the correct approved position of Terrace B, further away from the boundary. The details cannot be approved in their current form.

62. The details of a management regime for the access road, as required by Condition No.4, cannot be approved until the details of the road and lighting are finalised and reflected in the management proposals.

Condition No.5: Landscaping scheme

63. The main thrust of the condition is to control implementation. The requirement for submission of details effectively repeats that for the reserved matter and can therefore be approved.

Conditions No.6 and 7: Advanced planting and planting along boundaries

64. The appellant accepted at the Inquiry that no provision had been proposed to meet Condition No.6 on advanced planting. Although the landscaping scheme shows planting along boundaries, including the agreed hedge to replace the road boundary wall, no specific scheme has been provided. Further details are required in each case.