

**DARLINGTON BOROUGH COUNCIL**

**PLANNING APPLICATIONS COMMITTEE**

**COMMITTEE DATE: 30 July 2014**

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<b>APPLICATION REF. NO:</b>	<b>14/00414/OUT</b>
<b>STATUTORY DECISION DATE:</b>	<b>18 June 2014</b>
<b>WARD/PARISH:</b>	<b>WHESOE</b>
<b>LOCATION:</b>	<b>20 Burtree Lane</b>
<b>DESCRIPTION:</b>	<b>Erection of 3 no. dwellings (outline)</b>
<b>APPLICANT:</b>	<b>MRS L HARTLEY</b>

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**APPLICATION AND SITE DESCRIPTION**

This is an application for outline planning permission for the erection of 3 no. dwellings on land forming part of the residential curtilage of an existing dwelling at 20 Burtree Lane. All matters are reserved for future consideration and consequently no details of the proposed dwellings or access have been submitted with the application.

The application site extends to approximately 0.25 hectares and currently contains a modern two-storey dwelling and detached garage together with a vehicular access off Burtree Lane and an extensive hardstanding area to the front of the dwelling and garage. The remaining area is maintained lawn. The site is bounded by a hedgerow and mature trees to the east and by open countryside to the north, west and east sides. Burtree Lane forms the southern boundary of the site beyond which lies the Harrowgate Farm housing estate.

**PLANNING HISTORY**

99/00587/FUL – Erection of a two-storey side extension and detached double garage.  
GRANTED 4 November 1999

**PLANNING POLICY BACKGROUND**

The following policies are relevant to consideration of the application:

**Saved Policies of the Borough of Darlington Local Plan 1997**

- E2 Development Limits
- E4 New Buildings in the Countryside
- E12 Trees and Development
- E14 Landscaping of Development
- H7 Areas of Housing Development Restraint

**Darlington Core Strategy Development Plan Document 2011**

- CS1 Darlington's Sub-Regional Role and Locational Strategy

CS2 Achieving High Quality, Sustainable Design  
CS10 New Housing Development  
CS14 Promoting Local Character and Distinctiveness  
CS15 Protecting and Enhancing Biodiversity and Geodiversity  
CS16 Protecting Environmental Resources, Human Health and Safety

Council's Supplementary Planning Document – Revised Design of New Development July 2011 (Design SPD)

National Planning Policy Framework

## **RESULTS OF CONSULTATION AND PUBLICITY**

**Highway Engineer** – Has commented that the visibility to/from the access within a 30mph zone would be acceptable to accommodate an increase in traffic associated with a total of 4 no. dwellings. There have been no reportable accidents within the last 5 years within the vicinity of existing junction. There is therefore no highway objection, subject to conditions requiring the submission of a construction management plan and details of bin storage facilities that would affect the principle of development.

**Environmental Health Officer** –Has commented that the historic maps relating to the site show the presence of some small buildings on part of the site. There is the possibility of made ground of demolition fill material on part of the site and possible contamination will need to be considered. It is recommended that the standard contaminated land condition be attached to any permission granted.

**Planning Policy** – Has commented that the proposal site, is located within the curtilage of 20 Burtree Lane, and is located outside of development limits (Saved Policy E2). It is acknowledged that the emerging plan has housing proposals in this area however development of this document is ongoing and at a relatively early stage.

The development plan restricts new development to sites identified within Development Limits and a hierarchy of suitable locations is set out in Core Strategy Policy CS1. The development would therefore be classed as 'development in the countryside' which should be restricted to identified agricultural needs. Although there is some development along the northern side of Burtree Lane this is generally dispersed.

The NPPF is also a material consideration for residential developments proposed in rural areas (i.e. outside of development limits) paragraph 55 sets out circumstances when housing proposals may be deemed acceptable.

**Environment Agency** – Assessed the application as having low environmental risk, therefore no comments to make on the application.

**Northern Gas Network** – No objections.

**Northumbrian Water** – No concerns regarding the treatment capacity of the proposed 3 dwellings on this site. The treatment works which this development would discharge into is of sufficient capacity to deal with the increased flows. A foul sewer crosses the site and may be affected by the proposed development.

**Whessoe Parish Council** – The Parish Council has raised no objection to the application.

One letter of objection has been received which raises the following issues:

- *No plans of the proposed new dwellings are available. How can anyone understand of and how the new dwellings will have an impact on themselves and the landscape surrounding their property;*
- *Access to the property is on a bend on Burtree Lane, a road that is already heavy with traffic, including a large number of HGVs. Additional traffic entering and leaving the site of the new dwellings would add to this traffic and would be an additional hazard on the road;*
- *The road immediately outside the access to the property is liable to flooding at all times of the year making access even more difficult.*

## **PLANNING ISSUES**

This is an application for outline planning permission with all matters reserved and seeks to establish the principle of residential development for 3 dwellings on the site. No details of the proposed dwellings have been provided for consideration at this stage. The sole issue for consideration here is the principle of the development. Consideration of the application is therefore limited to the following matters which relate directly to the principle of development:

- Planning Policy
- Contaminated Land
- Land Drainage
- Impact on Trees

### **Planning Policy**

The application site is located adjacent to, but outside of, development limits as defined by the proposals map accompanying the Borough of Darlington Local Plan 1997. Saved Local Plan Policy E2 (Development Limits) states that most new development will be located inside development limits. The reasoned justification to the policy explains that the limits to development are intended to maintain well defined settlement boundaries and safeguard the character and appearance of the countryside, and that outside of development limits, development will be strictly controlled.

Core Strategy Policy CS1 (Darlington's Sub Regional Role and Locational Strategy) states that outside of development limits, development will be limited to that required to meet an identified rural need. Saved Local Plan Policy H7 (Areas of Housing Development Restraint) also states that outside of development limits, new residential development will be permitted where it is for an agricultural worker, involves the conversion of an existing building, involves the subdivision of an existing residential building or extends an existing residential building.

Significantly the Government published the National Planning Policy Framework (NPPF) in 2012 which establishes a presumption in favour of sustainable development. The NPPF does not change the statutory status of the development plan as the starting point of decision making. Proposals which accord with an up to date local plan should be approved and development that conflict with the plans should be refused unless other material considerations indicate otherwise. Section 38(6) of the Town and Country Planning Compulsory Purchase Act 2004 also states that

if regard is to be had to the development for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.

Paragraph 55 of the NPPF states that local planning authorities should avoid new dwellings in the open countryside unless a proposal meets one of a list of special circumstances set out in that paragraph, which include that dwellings meeting an essential need for a rural worker, where development would secure optimal use of a heritage asset, where development would re-use a redundant or disused building or a new dwelling of exceptional quality or innovative design.

In this instance the proposal would not comply with the requirements of Policy CS1 or Saved Policy H7 or meet any of the exceptions criteria set out in paragraph 55 of the NPPF. The Council is however being asked to consider the application in light of other material considerations the applicant considers are relevant to the proposed development together with the general principles of sustainable development as set out in the NPPF.

The site lies outside of development limits for the urban area, with the development limit for this part of the urban area running opposite the site on the south side of Burtree Lane, encompassing the Harrowgate Farm housing estate, approximately 9 metres from the southern boundary of the application site. A review of development limits has been carried out as part of work to inform the preparation of the emerging Making and Growing Places Development Plan Document and the accompanying Policies Map and Draft Policy MPG8 (Development Limits) show development limits extended to include the application site to allow for the possible allocation of additional housing land in this area.

A parcel of land immediately to the north and east of the application site (Option B) together with a parcel of land on the opposite side of Burtree Lane to the west of the Harrowgate Farm estate (Option A) is currently under consideration for allocation as housing land as part of the Making and Growing Places Revised Draft Policy MGP16. It is proposed that the land at either Option A or Option B would be brought forward to provide land for 380 dwellings on the Option A site or 370 of the Option B site which would contribute towards an increase in housing land required within the Borough to meet a need to provide 6,200 new homes by 2026.

A triangular parcel of land, immediately to the east of the application site, between Burtree Lane and the A167 is common to both options and would mean that whichever option is brought forward there would be a significant number of new houses to the east of the application site together with land surrounding the application site or on the opposite side of the road. As these proposals have recently been consulted upon (consultation took place between 23 May and 4 July 2014) there is therefore only limited weight that can be attached to this argument. There is also the possibility following the consultation stage that neither site will be brought forward. However the inclusion of these sites within the emerging DPD, including the land to the east of the application site which is common to both options, suggests that these are considered suitable for housing development in terms of their impact on the character of the surrounding area and in terms of being within a sustainable location on the edge of the urban area.

The site is located on the edge of the urban area and is one of a number of other dwellings along the northern side of this part of Burtree Lane, which form a ribbon of sporadic development which extends west wards away from the urban area into open countryside. These dwellings are all of a varied scale and design which adds to the sporadic character of this part of Burtree Lane.

The application site is limited to the domestic curtilage surrounding the existing dwelling which is located to the west of the site and the proposed new dwellings would be built on the remaining land to the east. There would be no enlargement of the site so as to encroach further into surrounding agricultural land. As such, while the proposed dwellings would be located on land outside of development limits, being located amongst other sporadic residential development and with the Harrowgate Farm estate on the opposite side of the road, the harm to the character of the surrounding area arising from the proposed development of three dwellings is not considered to be significant.

Paragraph 49 of the NPPF identifies that housing applications should be considered in the context of the presumption in favour of sustainable development. The site is considered to be in a sustainable location, being approximately 200 metres from the nearest bus stop on Hayle Court from which the 14A service runs every 30 minutes to the town centre. Other services to Stockton and Middlesbrough and links to Newton Aycliffe, Shildon and Bishop Auckland stop close by on Salters Lane North and Beaumont Hill respectively. In addition the site is within walking distance of nearby amenities, including a number of local shops, services and schools. As such the site is considered to be in a sustainable location in accordance with Policy CS1 and the NPPF.

The key issue here is the consideration of planning policy as it stands both at a Local and National level and the emerging local policies of the Local Plan. Officers consider that the development of a site outside of, but adjacent to, development limits within an area of sporadic development and opposite the Harrowgate Farm estate, would not have a harmful impact upon the character of the surrounding area. The proposed development would not result in isolated development in an open countryside location. Furthermore, the site is adjacent to an area of land which could be allocated for residential development which could bring forward approximately 370 – 380 new dwellings immediately adjacent to the application site. The site is also considered to be in a sustainable location, well served by public transport, local shops and services in accordance with Policy CS1 and the NPPF. On balance therefore it is considered that the proposal would comply with the wider principles of sustainable development set out in the NPPF to justify a departure from adopted policy in accordance with the NPPF and the Town and Country Planning Compulsory Purchase Act 2004.

Court and appeal decisions have established that it is legitimate for Local Planning Authorities to give weight to the possibility of creating an undesirable precedent when considering whether to grant permission. However it is not enough for Local Planning Authorities to have a general anxiety that their decisions may be used in the future to justify other proposals. There has to be evidence that there is a real likelihood that similar applications would be submitted and no such evidence has been provided. The site remains for the time being, outside of development limits but is nevertheless within a sustainable location.

### **Contaminated Land**

The Environmental Health Officer has advised that historic maps relating to the site show the presence of small buildings on parts of the site which suggest the possibility of made ground or demolition material on part of the site and therefore the issue of contamination will need to be considered. The standard land contamination issue is therefore attached to the recommendation.

### **Land Drainage**

The application form states that the proposed dwellings will be connected to the mains sewer. Northumbrian Water has been consulted on the application and has advised that there is no

objection to the proposal on the basis that there is sufficient capacity within the treatment works to which the development would discharge to deal with the increased flows. In addition they have also advised that a foul sewer crosses the site and may be affected by the proposed development. The presence of the sewer may therefore impact upon the layout of the scheme. However as this is an outline application and as no layout has been submitted at this stage, this matter will need to be considered prior to the submission of the reserved matters application.

The site is located within Flood Zone 1 and therefore not at a significant risk of flooding. The Environment Agency has been consulted on the application and considers the proposal to have a low environmental risk and therefore have no comments to make on the application.

### **Impact on Trees**

There are a number of trees along the eastern boundary of the application site. The Design and Access Statement submitted with the application, states that the layout of the proposed dwellings will be designed so as to limit the impact of the proposed dwellings on the trees. It is considered appropriate to impose suitable conditions relating to the submission of tree surveys, trees protection measures and a landscaping scheme.

### **SECTION 17 OF THE CRIME AND DISORDER ACT 1998**

The proposed development has 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. The proposed development does not give rise to crime and disorder issues.

### **CONCLUSION**

The proposal is contrary to development plan policy but it has also been assessed in accordance with the NPPF and the Town and Country Compulsory Purchase Act 2004 in terms of how much weight should be given to other material considerations.

In this instance Officers consider that the development of a site outside of, but adjacent to, development limits within an area of sporadic development and opposite the Harrowgate Farm estate, would not have a harmful impact upon the character of the surrounding area.

Furthermore, the site is adjacent to an area of land which could be allocated for residential development which could bring forward approximately 370 – 380 new dwellings immediately adjacent to the application site. While weight can be attached to this consideration given the emerging status of the Making and Growing Places DPD, the site is also considered to be in a sustainable location, well served by public transport, local shops and services in accordance with Policy CS1 and the NPPF. It is considered therefore that the proposal would comply with the wider principles of sustainable development set out in the NPPF and justify a departure from adopted policy in accordance with the NPPF and the Town and Country Planning Compulsory Purchase Act 2004.

### **RECOMMENDATION**

THAT OUTLINE PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:

1. A1 (Submission of reserved matters)
2. A2 (Implementation limit)

3. B4 (Details of materials)
4. The dwellings hereby approved shall achieve Level 3 of the Code for Sustainable Homes. The dwellings shall not be occupied until a final Code Certificate has been issued for them certifying that Code Level 3 has been achieved.

REASON – To ensure that the development accords with the Darlington Core Strategy Development Plan Document 2011 and the Revised Design of New Development Supplementary Planning Document 2011.

5. E2 (Submission of landscaping scheme)
6. E11 (Submission of tree protection measures)
7. Notwithstanding the details of condition 6, an Arboricultural Implications Assessment and an Arboricultural Method Statement shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The Statement shall include precise details of how the proposed dwellings will be constructed to ensure that the root systems of the trees along the eastern boundary of the site will not be adversely affected.

REASON – To safeguard the life of the trees in the interest of visual amenity.

8. J2 (Land contamination)
9. Prior to the commencement of development hereby permitted a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Plan shall include details for wheel washing, a dust action plan, the proposed hours of construction, vehicle routes, road maintenance and signage. The development shall not be carried out otherwise than in complete accordance with the approved details.

REASON – In the interests of highway safety and general amenity.

10. Prior to the commencement of the development hereby permitted precise details of a bin storage facility and location shall be submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out otherwise than in complete accordance with the approved details.

REASON – In the interests of highway safety and general amenity.

### **INFORMATIVE**

The applicant is advised that contact be made with the Assistant Director – Highways, Design and Projects (contact Ms P Goodwill 01325 406651) to discuss naming and numbering of the development.

### **THE FOLLOWING POLICIES AND DOCUMENTS WERE TAKEN INTO ACCOUNT IN CONSIDERATION OF THE APPLICATION:**

**Saved Policies of the Borough of Darlington Local Plan 1997**

- E2 Development Limits
- E4 New Buildings in the Countryside
- E12 Trees and Development
- E14 Landscaping of Development
- H7 Areas of Housing Development Restraint

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