

**DARLINGTON BOROUGH COUNCIL**

**PLANNING APPLICATIONS COMMITTEE**

**COMMITTEE DATE: 2 JUNE 2010**

**Page**

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<b>APPLICATION REF. NO:</b>	10/00159/FUL
<b>STATUTORY DECISION DATE:</b>	24 November 2009
<b>WARD/PARISH:</b>	HURWORTH
<b>LOCATION:</b>	22 Friars Pardon
<b>DESCRIPTION:</b>	Erection of 1.No dormer bungalow (revised scheme).
<b>APPLICANT:</b>	Mr L Puchala

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MEMBERS MAY RECALL A SIMILAR APPLICATION THAT WAS REFUSED PERMISSION AT THE PLANNING COMMITTEE HELD ON 13 JANUARY 2010 AND PRIOR SITE VISIT UNDERTAKEN ON 7 JANUARY 2010.

**APPLICATION AND SITE DESCRIPTION**

The application site measures approximately 327m<sup>2</sup> and consists of part of the garden area of No. 22 Friars Pardon, at the head of a cul-de-sac, which is situated on the western fringe of the village of Hurworth and accessed from Roundhill Road to the east. The site itself is currently laid to lawn and is bounded to the east and west by residential properties, to the north by public vehicular highway and to the south by public footpath. Within the garden of the neighbouring property to the east, No. 20 Friars Pardon are three trees, which are subject to a Tree Preservation Order for their group value. The site lies outside, but immediately adjacent to the Hurworth Conservation Area to the South.

Revisions have been made to the scheme in relation to the previous reasons for refusal of planning permission that has primarily resulted in a reduction of the footprint and slight reduction in height of the property. The property has also been moved slightly further to the north to ensure full compliance with the 45 degree rule when measured from the neighbouring property at 20 Friars Pardon.

Full planning permission is sought for the erection of a single detached dormer bungalow with an integral garage. The building is similar in proportions to the existing properties in the locality with the main section of the building measuring 8.5m in width and 12.6m deep. The scheme previously contained a wider section towards the rear of the proposed dwelling which has now been removed. The maximum height of the dwelling is 3.3m (previously 3.5m) to eaves and ridge height of 5.9m (previously 6m), this still represents almost a 1m increase in height over the immediately adjoining bungalows but is not as high as three dormer bungalow style properties

located to the north. The proposed development also includes a separate driveway with in - curtilage parking provision.

The application includes a Design and Access Statement, as required by the regulations.

## **PLANNING HISTORY**

09/00672/FUL - Planning permission was refused by committee on 13 January 2010 for the following reasons:

- 1) In the opinion of the Local Planning Authority the proposed development by virtue of its scale and massing would be out of keeping with the scale and massing of existing bungalows on the southern side of Friars Pardon to the detriment of the appearance of the street scene contrary to Policy H11 of the Borough of Darlington Local Plan.
- 2) In the opinion of the Local Planning Authority the proposed development by virtue of its scale and massing would result in the over-development of the site leading to an overbearing impact when viewed from the neighbouring property at No. 20 Friars Pardon contrary to Policy H11 of the Borough of Darlington Local Plan.
- 3) The proposed development would be in breach of the 45 degree code which is a commonly applied principle in establishing likely impact upon residential amenity. As the development is in breach of this principle the Local Planning Authority consider there would be an adverse impact upon the natural light entering the rear of no. 20 Friars Pardon to the detriment of the living conditions of residents and contrary to Policy H11 of the Borough of Darlington Local Plan.

07/00292/OUT – Outline planning permission was granted for the erection of a detached bungalow in a similar (but slightly narrower) location. Details of layout, scale, appearance, access and landscaping were reserved. Permission expires 07 March 2011.

## **PLANNING POLICY BACKGROUND**

The following policies of the Borough of Darlington Local Plan are relevant: -

- E2 – Development Limits
- E11 – Conservation of Trees, Woodlands and Hedgerows
- E12 – Trees and Development
- E13 – Tree Preservation Orders
- E24 – Conservation of Land and Other Resources
- E29 – The Setting of New Development
- H3 – Locations for New Housing Development
- H11 – Design and Layout of New Housing Development
- T13 – New Development - Standards
- T24 – Parking and Servicing Requirements for New Development

The following national policy guidance is relevant: -

- Planning Policy Statement 1: Delivering Sustainable Development (2005)
- Planning Policy Statement 3: Housing (2006)

## Planning Policy Guidance 13: Transport (2001)

**RESULTS OF CONSULTATION AND PUBLICITY**

Twelve letters of objection have been received in respect of the proposed development, the following is a summary of concerns raised: -

- *This current application is a two-storey dormer building whereas the previous (outline) application was for a single storey bungalow. The proposed building will sit between bungalows and is not in keeping with the visual aesthetics.*
- *The footprint of this application is larger on the site than the previous (outline) proposal and it appears too large for the site providing a reduced acceptable level of amenity for the occupants of the proposed dwelling.*
- *I have noted that Northumbrian Water had no comments on the previous proposals in this regards, but it is undeniable that some problems are apparent. At times the Fire Brigade has had to attend to clear water from the road gullies to prevent houses being flooded. Over the past few years various extensions to houses and bungalows in the road have been constructed, most will no doubt contain further sanitary facilities. This additional strain on the system will probably now exceed the original drainage design; the addition of another property discharging into the combined drainage system would exacerbate the already overstretched capacity. Evidence has previously been provided of flooding events within the cul-de-sac.*
- *The applicants tree report was valid for one year. We have requested on several occasions in our letters and at the planning meeting on 16th November 2009 for this relevant information.*
- *It was proved at the site meeting that the measurements were incorrect eg the height of the existing bungalow. The minor tweaks to this amended build ie the reduced footprint and approximately 150mm lower height may tick a few boxes for planning approval, but the overall affect remains the same.*
- *In the design statement attached to this revised planning application it stated that outline planning permission was granted for a bungalow and garage. The applicant gave assurances at the planning meeting in March 2008 when this proposal was discussed, that the proposed bungalow and garage would be built 'like for like' with existing properties. The land available for the frontage of the property is insufficient in width in comparison to the other properties, therefore could never be built 'like for like' with the rest of the bungalows/garages in Friars Pardon.*
- *The bedroom window to the front of the property would overlook the livingroom window of the property opposite (32 Friars Pardon).*
- *The revised plans have made no difference on the negative impact this building will have on the aesthetic nature of the 15 bungalows from Roundhill Road up the left hand side of Friars Pardon and into the cul-de-sac.*
- *The height of the eaves (3.4m) compared to the eave height of the bungalows (2.4m) has not changed and the 150mm reduction in the height of the apex is 3% and is indiscernible in practice. Which is still 1.35m (30%) higher than the apex of the bungalows.*
- *The shade and loss of light from the dormer will be significant and unlike the tree canopy lasts 365 days a year.*
- *The dormer contravenes the 45 degree guidelines when viewed from our extension which has planning approval (20 Friars Pardon).*

- *The applicants tree report has never been dated, we believe it is two years old and needs updating.*
- *The Ash tree, due to the canopy of the Sycamores, grows to the west and north of the garden towards the proposed dormer. Roots in our garden extend past the root protection zone. So where do the roots go in No.22?*
- *The proposed dormer, would encroach into the tree canopy.*
- *We must point out that this 'revised scheme' implies a more radical change than those put forward in this proposal. The plot footprint, 327 sq metres is reduced by a mere 22.5sqm and the height reduced by a derisory 150mm. In other words it is virtually the same plan rejected by planning committee.*
- *We must highlight the fact that the threat of flooding has not gone away. We still have the sandbags, provided by the council in June 2008 and November 2009 to help keep the water from yet again flooding and damaging our property. We mention this because if more pressure is put on the drainage system by the addition of another bungalow the threat of back-up to the houses Nos. 22-30 is very real.*
- *The dormer looking south would look directly into our private garden (to the rear of the proposed property).*
- *I do not think this is an appropriate development, the building seems to be much further back than all the other properties.*
- *The development may disturb the protected trees and also disturb the rookery.*
- *We get the evening sun in the garden and this will surely block it (No. 18 Friars Pardon).*
- *The development will cause more parking congestion within the cul-de-sac.*
- *The development(housing estate) was well designed, to ensure an appropriate balance between green space and the built environment. We feel that allowing this planning application to be granted will set a precedent within the area for further development and reduction in green space. The resultant increase in housing density and loss of open areas will be detrimental to the ambiance of Friars Pardon.*
- *There is a flood risk in this section of Friars Pardon from the sloping field behind the bungalows. This has been exacerbated by the drainage system failing to take away water speedily enough. One more building would impede the water even more.*

Hurworth Parish Council has been consulted and has commented that the comments they made on the previous application also apply to this scheme:

*The proposed development represents overdevelopment of the site with the scale and mass of the proposals being inappropriate in that location. Hurworth Parish Council also recognises the loss of privacy to adjacent properties together with the negative impact on their outlook. Concern was also expressed regarding the reduced turning circle it would provide for traffic, also concerns in regard to flooding.*

The Campaign for the Protection of Rural England (CPRE) have objected to the proposal as the proposed dwelling is far too large for the site and the dwelling is far larger than others in the street and is consequently out of proportion with its locality.

The Council's Arboricultural Officer has been consulted and has raised no objections to the revised proposal. If the development is approved it is recommended that a condition be imposed to protect the root protection area during construction.

The Council's Highways Officer has been consulted and has raised no objections to the proposed development.

Northumbrian Water has been consulted and has raised no objections to the proposed development.

Northern Electric has been consulted and has raised no objections to the proposed development.

Northern Gas Networks has been consulted and has raised no objections to the proposed development.

## **PLANNING ISSUES**

The main planning issues to be considered in the determination of this application are:

- Planning Policy
- Residential amenity
- Character and visual appearance of the locality
- Trees
- Highway Issues
- Other matters

### **Planning Policy**

The site lies within the development limits and in the context of Policy E2 (Development Limits) and Policy H3 (Location of New Development), housing development is acceptable in principle in such locations, provided that the site is not specifically proposed or safeguarded for another use, and that the development complies with other plan policies. Therefore there is no objection to the proposed development as a matter of principle.

Planning Policy Statement 1: Delivering Sustainable Development (2005) sets out the key principles that should be applied in the determination of decisions on planning applications, in order to contribute to the delivery of sustainable development. The guidance places increased emphasis on the role of high quality and inclusive design in the achievement of the Government's objectives.

Planning Policy Statement 3: Housing (2006) sets out the Government's aims and objectives in respect of housing development and is a material consideration in the determination of planning applications. The guidance seeks the following outcomes for high quality housing that is well designed and built to a high standard; a mix of housing to support a variety of households in both urban and rural areas; housing development in suitable locations, which offer a good range of community facilities with good access to jobs, key services and infrastructure; and the efficient and effective use of land, including re-use of previously developed land where appropriate.

The site is embraced within the definition of previously developed land, as defined in Annex B of the above guidance. The acceptability of the scheme given the context of the site and the characteristics of the area will be considered in more detail in the following sections of this report.

The development is considered to be acceptable as a matter of principle. The remaining issues to be considered are whether the proposed development would be acceptable in the context of detailed matters of development control.

### **Residential Amenity**

When considering proposals for infill development it is important to consider impact upon residential amenity of existing properties as well as the amenity afforded to the proposed dwelling. Objections have been received that the proposed dwelling will affect the amenity of a number of neighbouring residential properties, particularly in terms of shading and overlooking.

The proposed dwelling is larger than that of the indicative layout submitted with the previous outline application and in proposing a dormer bungalow instead of a traditional bungalow the issue of an additional storey should be considered in determining likely impact on amenity. Permission was previously refused for a very similar scheme with one of the reasons for refusal being the impact upon the residential amenity of the occupants of no. 20 Friars Pardon. There have been a number of modifications to the proposal with the aim of addressing these reasons for refusal.

Firstly considering overlooking issues windows both to the front and rear of the dwelling raise no significant concerns. The main upper floor bedroom windows face due north over the public highway and south towards the rear garden and public footpath. Both properties to the front and rear have objected to the proposal however there are significant separation distance from both properties. The property opposite is around 31m to the north when measured between the proposed first floor bedroom and the existing living room of 32 Friars Pardon. To the rear of the proposed bungalow is 'The Cottage', 1 West End which is set within extensive, well landscaped, grounds and is approximately 15m to the south with a public footpath separating the two properties. It is not considered within the setting of these extensive grounds that a new dwelling on Friars Pardon would create an unacceptable loss of privacy.

There are a number of side facing rooflight windows proposed in each side facing roof slope. It is unlikely that these windows will be low enough within the rooms to afford views to the side towards neighbouring rear gardens. In order further safeguard neighbouring amenity it is recommended that should consent be granted these rooflights should be obscure glazed. The side facing ground floor window apertures are kept to a minimum. The western elevation contains one small window to an ensuite shower room, which will require obscure glazing. This window faces towards the existing garage of 22 Friars Pardon. On the eastern elevation towards the rear of the property is one window and a door to a utility room. This window faces towards the rear garden of 20 Friars Pardon but only offers oblique views towards living rooms at this property and is to be obscure glazed. The development has been reduced by 1.1m in length and now is fully compliant with the 45 degree rule when measured from the nearest window to a habitable room in the neighbouring dwelling, a lounge window/patio door.

Objection is now raised that the proposal would not comply with the 45 degree rule when measured from an extension that planning permission was recently granted for, a side extension to 20 Friars Pardon within a portion of this space. It is acknowledged that should the extension be constructed the outlook from the rear facing bedroom window would be restricted and shaded to the west by the proposed dwelling. However as yet no work has started on this extension nor does the planning authority have any control as to whether the development is undertaken at all. It is therefore considered that only very limited weight should be given to this consideration.

Objections have also been raised that by virtue of the size and location of the proposed dwelling an unacceptable amount of shading will be caused. The dwelling will undoubtedly create some additional shading towards both immediately adjoining properties at 20 Friars Pardon and the existing property at 22 Friars Pardon. This shading will be limited to certain periods of the day 20 Friars Pardon in the evening and No. 22 in the morning. The additional shading cast towards 22 Friars Pardon in the morning will be limited to mainly non-habitable rooms such as the entranceway and attached garage. 20 Friars Pardon could however experience some loss of daylight in the evening in a section of their rear garden, which could extend towards the livingroom door/window. It should be noted that the properties on this side of Friars Pardon have south facing gardens that will already experience shading for large parts of the year caused by the belt of protected mature trees within the rear gardens. Against this backdrop additional shading caused by the proposed dwelling is likely to be minimal and any additional shading that is created would be minimised to mainly non habitable rooms in the adjacent property at 22 Friars Pardon and a section of rear garden at 20 Friars Pardon.

The proposed dwelling is afforded a reasonable standard of amenity space with a modest front garden area with in-curtilage parking for at least two vehicles. The property would also have a reasonably sized rear garden (now larger than the previously refused scheme) of approximately 10.6m in length and 11.8m in width (125m<sup>2</sup> area). An increased area of side garden is also provided to the western boundary. It is not considered that the site could be viewed as overdevelopment. The area of garden surrounding the bungalow is sufficient for a property of this size.

Should planning permission be granted it is recommended that permitted development rights be removed from this development as any additions or alterations to the property would have potential to significantly impact upon neighbouring amenity and would need further consideration.

### **Character and visual appearance of the locality**

The immediate locality is characterised by gable fronted detached bungalows, set back from the highway in a cul-de-sac arrangement with plots of a similar size and has an open feel due to the relatively uniform existence of grassed front gardens and variety of trees visible from public vantage points. The proposal would be consistent with this general character and would not be considered to detract significantly from the visual appearance of the locality. The area of openness afforded by the existing garden is limited due to its position at the end of the cul-de-sac and provides a dwelling of similar proportions to the existing bungalows in a design which would not be considered to be out of keeping with the character of the area. In providing a dormer bungalow the dwelling does represent a higher dwelling (0.9m higher) than that of the bungalow dwellings immediately to the east and west. It should be noted that opposite the application site are three dormer style bungalow developments (32, 34 and 36 Friars Pardon) that are significantly higher than that proposed. These properties also feature a steeply sloping roof pitch. The roof pitch of the proposed dwelling is not considered to vary so greatly from that of the other bungalow properties to be unduly prominent. It is shallower at an angle of 30 degrees as opposed to the bungalows at around 32 degrees. Within this context it is not considered that a 0.9m increase in ridge height will have a discernable negative impact upon the overall appearance of the area.

There is a general duty under section 72 of the Planning (Listed Building and Conservation Areas) Act 1990 to ensure that, in determining applications in, or adjacent to Conservation Areas, special attention be paid to the desirability of preserving or enhancing the character or appearance of that area. The Hurworth Conservation Area boundary lies to the south of the

application site. The Conservation Officer has been consulted and is of the opinion that the proposal will have no additional impact on the conservation area to that of the existing cul-de-sac.

### **Trees**

A tree survey has been submitted with the application. This contains a revised tree constraints plan and the survey previously submitted with the application refused consent. The agent for this application has informed officers that this report was prepared on 8 March 2010. The results of this survey indicated that the development is outside of the Root Protection Area (RPA) of a protected Mature Ash Tree. The development is now around 1m further away from the RPA than it was previously. The Council's Arboricultural Officer is satisfied that it would be possible to carry out the development without impacting significantly on the protected trees within the adjacent site. Furthermore, he considers that it would be possible to provide adequate protection during construction works. It is recommended that a planning condition be attached to any approval to secure submission and agreement of tree protection prior to and during any works on site.

### **Highway Issues**

The Council's Highways Officer has been consulted on the proposed development and considers that a satisfactory access to the new dwelling can be achieved. It should be noted that the turning head of Friars Pardon at this point is larger than average at a width of some 14.5m immediately in front of the proposed dwelling and wider elsewhere at 22.1m with a depth of 17m. During a number of visits undertaken by officers there were a few cars parked within this turning head but within such a larger area this should not pose a significant obstruction to most road vehicles.

The proposal does include space for at least two parking spaces within the curtilage of the dwelling.

### **Other Matters**

Other matters raised by objection include the impact of any further development on the existing drainage system. Historically there have evidently been problems caused by localised flooding within this section of Friars Pardon. Northumbrian Water has been consulted and has raised no objections to the proposed development. It should also be noted that the application site is not within an area identified by the Environment Agency as being at risk of flooding or identified within the Darlington Borough Council Strategic Flood Risk Assessment 2009 which identifies areas vulnerable to surface water flooding. In response to these concerns it is proposed that should planning permission be granted a condition be imposed to require the prior submission and approval of a scheme to deal with surface water drainage scheme incorporating run-off limitation. This should help to ensure that an additional dwelling would not have a negative impact upon the local drainage system.

There is no evidence that the development would impact upon any nearby rookery. Rooks are not identified as a protected species. Although all nesting birds are afforded protection under the Wildlife and Countryside Act 1981

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

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

The application site lies within development limits identified in the development plan. It is considered that the proposed single dwelling will respect the amenity and general character of the area and will not significantly impact on the residential amenities or privacy of neighbouring dwellings, whilst providing an acceptable level of amenity for the occupants of the new dwelling. The scheme has been revised to reduce the footprint of the dwelling within the application site and there has been a slight, but not significant, reduction in the overall height of the dwelling. The proposed dwelling is now fully compliant with the 45 degree rule when measured from 20 Friars Pardon. The application is not considered to raise any issues in relation to car parking provision, highway safety or crime prevention. The proposal accords with the relevant policies in the development plan set out below:

## RECOMMENDATION

Planning permission BE GRANTED subject to the following conditions:

- 1) A3 - Statutory Time limit (3 Years)
- 2) E5 - Boundary Treatment Submission
- 3) C5 - Restriction of PD Rights (Residential)
- 4) No development shall commence until a scheme for the provision and implementation of a surface water drainage scheme incorporating run-off limitation has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved programme and details prior to the development being brought into use.

REASON – To reduce the risk of flooding.

- 5) D1 – Obscure glazing (east and west elevation velux windows).
- 6) Prior to the commencement of the development hereby approved (including demolition work), details shall be submitted of a scheme to protect the existing trees on the site. The submitted details shall comprise generally of the specification laid down within BS5837: 2005 and shall include fencing of at least 2.3m high and consist of a scaffolding frame, braced to resist impacts, supported by a weld mesh wired to the uprights and horizontals to dissuade encroachment. The agreed scheme of protection shall be in place not less than seven days before the commencement of any development and the Local Planning Authority shall be given notice of the completion of the protection works prior to the commencement of development to allow an inspection of the measurements to ensure their compliance with the approved scheme of protection. Notwithstanding the above approved specification, none of the following activities shall take place within the segregated protection zones in the area of the trees:

- a) The raising or lowering of levels in relation to the existing ground levels;

- b) Cutting of roots, digging of trenches or removal of soil;
- c) Erection of temporary buildings, roads or carrying out of any engineering operations;
- d) Lighting of fires;
- e) Driving of vehicles or storage of materials and equipment.

REASON - To ensure that a maximum level of protection in order to safeguard the wellbeing of the trees on the site and in the interests of the visual amenities of the area.

- 7) Notwithstanding any information provided in the submitted application, a minimum of two in-curtilage parking spaces shall be provided for the proposed dwelling.

REASON – In the interests of highway safety.

- 8) Notwithstanding any description of the external materials in the submitted application, details of the external materials to be used in the carrying out of this permission (including samples) shall be submitted to, and approved by, the Local Planning Authority in writing prior to the commencement of the development and the development shall not be carried out otherwise than in strict accordance with any such approved details. Such details should consider the use of timber cladding to part of the frontage of the building as this is a local feature.

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.

- 9) Notwithstanding any details provided on the approved plans the ‘soldier course’ brickwork above windows and doors shall be omitted from the development.

REASON - Soldier coursing is not a feature of the local area.

## **SUGGESTED SUMMARY OF REASONS FOR GRANTING PLANNING PERMISSION**

The application site lies within development limits identified in the development plan. It is considered that the proposed single dwelling will respect the amenity and general character of the area and will not significantly impact on the residential amenities or privacy of neighbouring dwellings, whilst providing an acceptable level of amenity for the occupants of the new dwelling. The application is not considered to raise any issues in relation to car parking provision, highway safety or crime prevention. The proposal accords with the relevant policies in the development plan set out below:

### **Borough of Darlington Local Plan (1997)**

E2 – Development Limits

E11 – Conservation of Trees, Woodlands and Hedgerows

E12 – Trees and Development

E13 – Tree Preservation Orders

E24 – Conservation of Land and Other Resources

E29 – The Setting of New Development

H3 – Locations for New Housing Development

H11 – Design and Layout of New Housing Development

T13 – New Development - Standards

T24 – Parking and Servicing Requirements for New Development

**INFORMATIVE TO BE INCLUDED SHOULD PLANNING PERMISSION BE GRANTED**

The applicant is advised that works are required within the public highway, to adjust level of existing kerbs, and contact must be made with the Assistant Director : Highways and Engineering (contact Mr.A.Ward 01325 388743) to arrange for the works to be carried out or to obtain authority under Sec.184 of the Highways Act 1980 to execute the works.

The applicant is advised that contact must be made with the Assistant Director : Highways and Engineering (contact Ms. P.Goodwill 01325 388760) to discuss naming and numbering of the development.

THIS PROPERTY IS LOCATED ADJACENT TO A NUMBER OF TREES SUBJECT TO TREE PRESERVATION ORDER WHICH ARE IN SEPARATE OWNERSHIP OUTSIDE OF THE CONTROL OF THE APPLICANT. ANY APPLICATIONS BY THE OWNERS, OR SUBSEQUENT FUTURE OWNERS OF THE PROPERTY HEREBY APPROVED, TO UNDERTAKE WORKS TO THESE TREES PURELY FOR AMENITY REASONS WILL BE UNLIKELY TO BE SUPPORTED.