

DARLINGTON BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 9 February 2011

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| APPLICATION REF. NO: | 10/00040/FUL |
| STATUTORY DECISION DATE: | 23 March 2010 |
| WARD/PARISH: | PARK WEST |
| LOCATION: | 53 Blackwell |
| DESCRIPTION: | Variation of Condition 3 of planning permission 05/00788/FUL Dated 18 November 2005 for substitution of house types relating to plots 3, 4, 5 (Demolition of 2 No. existing dwellings and construction of 5 No. detached dwellings to include upgrading of the riverbank) and retrospective slope stabilisation works (amended and additional plans received 8 and 10 September 2010; Slope Stability Assessment received 20 December 2010 and Flood Risk Assessment and Hydraulic Model received 22 December 2010) |
| APPLICANT: | Dr Jenny Readman And Mr Richard Hadland |

APPLICATION AND SITE DESCRIPTION

The site is currently a development site within this predominately residential area. The western section of the site consists of a sloping embankment which leads to the bank of the River Tees.

Planning permission was granted in 2005 for the demolition of two dwellings and the erection of five detached dwellings including the upgrading of the river bank. Since the approval was granted, the development site has been sub divided into two separate sites and this application deals with Plots 3, 4 and 5 only. The planning application to redevelop Plots 1 and 2 also forms part of this Agenda.

This application is to vary the 2005 approval to revise the design of the house types and to seek retrospective approval for the slope stabilisation works that have been erected to the rear of the site. The new dwellings are of a contemporary design and the slope stabilisation works consist of a gabion basket type retaining wall which runs to the rear along the western boundary adjacent to the River Tees extending from Nos 49 – 59 Blackwell. This application is seeking retrospective consent for the section of the wall behind Plots 3, 4 and 5 only.

PLANNING HISTORY

04/01380/OUT In January 2005 outline planning permission was GRANTED for the erection of a dwelling

04/01398/FUL In February 2005 a planning application for earthworks to the rear of 53 Blackwell to create garden area was WITHDRAWN

05/00645/FUL In August 2005 a planning application for the demolition of two dwellings and the construction of 5 No. detached dwellings together with the regeneration of the riverbank was WITHDRAWN

05/00788/FUL In November 2005 planning permission was GRANTED for the demolition of 2 No. existing dwellings and construction of 5 No. detached dwellings, to include upgrading of the riverbank

06/00101/FUL In February 2006 a planning application for the demolition of 2 No. existing dwellings and construction of 5 No. detached dwellings to include upgrading of riverbank was WITHDRAWN

06/01209/FUL In February 2007 an outline planning application for demolition of existing dwelling and erection of 3 No. dwelling houses was WITHDRAWN

PLANNING POLICY BACKGROUND

The relevant policies are:

National Policy

Planning Policy Statement 1 – Delivering Sustainable Development

Planning Policy Statement 3 – Housing

Planning Policy Guidance Note 14 – Development on Unstable Land

Planning Policy Statement 25 – Development and Flood Risk

Borough of Darlington Local Plan 1997

E2 – Development Limits

E7 – Landscape Conservation

E8 – Area of High Landscape Value

E10 – Protection of Key Townscapes and Landscape Features

E11 – Conservation of Trees, Woodlands and Hedgerows

E12 – Trees and Development

E14 – Landscaping of Development

E16 – Appearance From Main Travel Routes

E17 – Landscape Improvement

E23 – Nature and Development

E24 – Conservation of Land and Other Resources

E25 – Energy Conservation

E27 – Flooding and Development

E28 – Surface Water and Development

E29 – The Setting of New Development

E46 – Safety and Security

E47 – Contaminated and Unstable Land and Development

H3 – Locations for New Housing Development

H11 – Design and Layout of New Housing Development
T8 – Access to Main Roads
T12 – New Development Road – Road Capacity
T13 – New Development – Standards
T24 – Parking and Servicing Requirements for New Development
T39 – Conditions for Pedestrians

Supporting Documents

Supplementary Policy Document – Design for New Development
Manual for Streets
Darlington Borough Council Design Guide and Specification

RESULTS OF CONSULTATION AND PUBLICITY

Following the Council's consultation exercise on the originally submitted plans seven individual letters of objection were submitted. The concerns raised in these initial letters can be summarised as follows:

- *The proposed development is out of character with the existing properties in the surrounding area and will have a detrimental impact on the overall appearance of Blackwell*
- *Six large properties with an architectural style not apparent elsewhere in the surrounding area are going to be shoe horned onto a seemingly small piece of land*
- *To cram five, and now six excessively large houses into such a modest frontage will greatly detract from the relaxed ambience of the area*
- *There will be little privacy for the residents of the development*
- *Is there a common building line for the backs of the houses as each house attempts to push backwards in order to optimise their own view, so they will block their own views*
- *The development would overlook the existing neighbouring dwellings and their gardens*
- *They doesn't appear to be any plans to show how the gardens would be managed or landscaped*
- *There are no three storey town houses anywhere near this part of the west end of Darlington. Likewise the ultra modern design of the dwellings is out of keeping with the neighbourhood in which they are situated*
- *I am concerned over how close the dwellings are to the edge of the pavement – barely a car's length*
- *I hope the foundations are sound the risk of future subsidence on this site is well documented*
- *Vehicles should be able to turn within the plots to allow vehicles to safely enter the highway in a forward gear which cannot be achieved with Plots 3, 4 and 5. It would be impossible to enter/exit the garage on Plots 4 and 5.*
- *There is no planting to the front of Plots 3, 4 and 5 other than small raised planting denoting the plot boundaries. We assume the fronts will be paved with no screening*
- *The proposed method of stability is not known for Plots 3, 4 and 5*

Two of the letters give a detailed view on the background of the previous development and how that proposal was determined by the Council in 2005 and they continue to comment upon the need for the development to comply with Planning Guidance Note 14 – Development on Unstable Land and that the dwellings will have a discordant impact upon the surrounding area due to their size, scale and design

Following the submission of the amended plans, eight letters of objection were received and the concerns can be summarised as follows:

- *The gabion wall has displaced more than 270 cubic metres of water and caused more flooding on the opposite side of the River Tees*
- *PPG14 requires a full geotechnical survey to be carried out by a suitability qualified geotechnical engineer prior to accepting a planning application, yet it appears that this has still not been undertaken*
- *The dwellings are considerably deeper than the previous application by approximately 4 metres*
- *The development on Plot 5 will be overbearing when viewed from No 51 Blackwell and will overlook Nos 49 and 51 Blackwell*
- *The dwelling on Plot 3 protrudes approximately 4 metres to the rear of Plot 2 (on the adjacent development site) which will have an adverse impact in terms of overshadowing*
- *The drawings submitted to address construction/slope stability issues are noted as feasibility/methodology drawings only and do not address slope stability issues or PPG14*
- *The houses are too close together and do not blend in with the various building styles already to be found on Blackwell*
- *The details on the construction/slope stability drawings such as contours and boundaries are incorrect*

Two of the letters give detailed comments upon the history of the development site and the importance of compliance with PPG14 – Development on Unstable Land and raising issues over the design of the development

Stapleton and Cleasby Parish Council has objected to the application on the grounds that flooding was exacerbated by the inability of the flood water to flow onto the Blackwell side and thereby being forced onto the opposite side where Bridge House, Stapleton is situated. Bridge House has seen substantial flooded during the winter of 2009/2010 and there is an ongoing risk of further flooding if action is not taken to review the current arrangements

A letter on behalf of **Richmondshire District Council** was received objecting on the grounds that there is insufficient information to demonstrate that the development will not increase the risk of flooding elsewhere. The District Council would be strongly opposed to any further planning permission being granted for the developments if the Environment Agency is not entirely satisfied that there would be no increased risk of flooding elsewhere

Following the submission of the land stability information and flood risk information four letters of objection were received and the concerns can be summarised as follows:

- *The buildings are distasteful and offensive factory looking buildings which by no means fits with our current buildings in Blackwell.*
- *Our home is directly opposite the property and it would anger me every day to be forced to look at an obscene building of such style. This proposed building is ugly and insulting*
- *The slope stability assessment has no design certification or signed plans on which the Council can rely. The Council cannot rely upon the conclusion of the assessment for PPG14 purposes*
- *The construction/slope stability plans are not carried out by competent persons as required by PPG14. The Blackwell residents went to a lot of trouble to persuade the*

Council to impose condition 15. This is a guarantee that our neighbourhood will be developed safely and local residents will not allow this to be overlooked.

- *The revisions to the design of the dwellings requested by the Council are welcome but remain far short of sympathetic development because these buildings are too many and too large for this relatively small, yet uniquely prominent and protected site. Plots 1 and 2 and the new dwelling at No 51 Blackwell have more aesthetic appeal and superior design when compared to these three oversized boxes*
- *The conclusion of the assessment considers that the potential development is feasible but it is conditional. It is not clear that the report relates to any actual proposals and there is no apparent linkage between the geotechnical analysis and any structural designs.*
- *Since the structural element will form an integral part of the overall proposal to ensure maintained stability it is essential that a coherent design is presented that combines all relevant disciplines and enables endorsement/certification by those specialists as required by PPG14. The required endorsement/certification of a coherent design is not provided. This apparently separate report includes recommendations which would need to be included in any designs to allow endorsement by the geotechnical engineer and some uncertainties which may impact on design certification.*

A letter with eight signatories has been submitted outlining the background of the development site and how the Council determined the 2005 application. The concerns relating to this proposal can be summarised as follows:

- *The professional people who submitted the plans and the construction/slope stability plans are not defined by PPG14 Annex 1 as being competent persons to take responsibility for safe, cost effective development of unstable land*
- *The slope stability assessment falls well short of a slope stability report required by PPG14 and merely concludes that “the site is suitable for proposed development in accordance with PPG14”. It is apparent that the architects plans, structural engineer’s design and the geotechnical engineer slope stability assessment has not been integrated into a single coherent plan, and none of these professionals have access to crucial information regarding ground conditions and engineering solutions proposed for the properties in either side*
- *By putting forward the documents to the Planning Committee it is apparent that neither the applicant or the Council have seriously engaged with the absolute need to develop unstable land under the aegis of a geotechnical engineer in accordance with PPG14 and Annex 1*
- *The Council’s officers are apparently attempting to manipulate speedy and inappropriate passage of this application without design certification and indemnity provided by a competent person.*
- *We urge the Council to engage the services of a geotechnical engineer to formulate criteria and policies with which to determine this application as the Council has no “in house” expertise to do the job and our neighbourhood is being put at unacceptable risk as a result*

Consultee Responses

Natural England are satisfied that a planning condition be imposed relating to securing appropriate bat mitigation measures

Following the submission of further information, the **Environment Agency** have withdrawn their original objection and requested the imposition of planning conditions relating to surface

water drainage and the creation and management of a buffer zone between the slope stabilisation works and River Tees

Northern Gas Networks have no objections to the proposed development

CE Electric UK has no objections to the proposed development

Northumbrian Water has not objected to the application but requested the imposition of planning conditions relating to protection measures and unrestricted access for their apparatus

The **Council's Highways Engineer** has no objections to the planning application subject to the imposition of a planning conditions requiring visibility splays; highway verge improvements; the formation of a footway to the frontage of the site and dropped crossings

The **Council's Environmental Health Officer** has no objections to the proposed development subject to the imposition of a planning condition relating to the submission of a contaminated land report

The Council's **Senior Arboricultural Officer** has requested the imposition of a planning condition to secure the submission of Arboricultural Methods Assessment; an Arboricultural Method Statement and a Tree Protection Plan. He has raised no objections to the principle of the proposed landscaping scheme.

PLANNING ISSUES

The main issues to be considered here are whether or not the proposed development is acceptable in the following terms:

Planning Policy

Land Stability

Design and Impact upon the Visual Appearance of the Surrounding Area

Residential Amenity

Highway Matters

Flood Risk

Protected Species

Trees and Landscaping

Contaminated Land

Planning Policy

At a national level, PPS1 - Delivering Sustainable Development sets out the overarching planning policies on the delivery of sustainable development through the planning process and provides some design advice. PPS1 states "Design which is inappropriate in its context, or which fails to take the opportunities available for improving the character and quality of an area and the way it functions, should not be accepted." It continues that "It is, however, proper to seek to promote or reinforce local distinctiveness particularly where this is supported by clear plan policies or supplementary planning documents on design"

PPS 3 - Housing provides advice on the delivery of housing through the planning system and also offers design advice. PPS3 states, "Local Planning Authorities should facilitate good design by identifying the distinctive features that define the character of a particular local area" and "To facilitate efficient delivery of high quality development, Local Planning Authorities should draw on relevant guidance and standards and promote the use of appropriate tools and techniques, such as Design Coding alongside urban design guidelines, detailed masterplans, village design statements, site briefs and community participation techniques"

The section of the application site where the new dwelling would be located lies within the development limits of the urban area as defined by Policy E2 (Development Limits) of the Borough of Darlington Local Plan 1997. Policy H3 (Locations for New Housing Development) of the Plan states that new housing development will normally be approved within the development limits of the urban area provided that the site is not specifically proposed or safeguarded for other uses and that the development accords with other Plan policies. This section of the site is not safeguarded for other uses and has no other designations within the Plan.

The embankment land leading down to the river is within the designated Area of High Landscape Value and Policy E8 of the Plan looks to ensure the Council give special attention to conserving the landscape character and quality within the Area.

The above are general overarching national and local planning policies and the remainder of the report shall assess the proposal in development control terms.

Land Stability

During the course of determining the 2005 application, it was highlighted that the embankment running down from the rear of the proposed dwellings to the riverbank of the River Tees had a history of unstable land and landslips. The 2005 application was approved subject to a planning condition stating:

Prior to the commencement of the development a full site investigation analysis shall be undertaken and a report containing the findings submitted for consideration by the Council. The report shall also contain details of foundations and piling deemed necessary to carry out the development and measures to mitigate the development's impact upon the embankment fronting onto the River Tees. The approved details shall thereafter be implemented in full.

A gabion wall has since been erected as part of a wider slope stabilisation scheme to the rear of the Nos 51 and 49 Blackwell and the adjacent development site.

Policy E47 (Contaminated and Unstable Land and Development) of the Borough of Darlington Local Plan 1997 states that proposals for development on unstable land will be permitted only if the applicant can demonstrate that the site is or will be made safe for the proposed development and its surroundings. The supporting text for the policy states that it is desirable that unstable sites, which are otherwise unsuitable for development are brought back into productive use but it is essential that the health and well being of people is not put at risk.

Planning Policy Guidance Note 14 – Development on Unstable Land explains the effects of instability on development and land use. It gives consideration to the responsibilities of the various parties to development and emphasises the need for instability to be taken into account in the planning process. PPG14 says that the responsibility for determining whether land is suitable for a particular purpose rests primarily with the developer. In particular, the responsibility and subsequent liability for safe development and secure occupancy of a site rests with the developer and/or the landowner.

The developer should therefore make a thorough investigation and assessment of the ground to ensure that it is stable or that any actual or potential instability can be overcome by appropriate remedial, preventive or precautionary measures. It is important that such an assessment of a proposed development site should examine the site within its geographical context since

instability of nearby ground may affect a site even where there is no evidence of instability within its boundaries.

Where there are reasons for suspecting instability, the developer should determine by appropriate site investigations. If this investigation and appraisal indicates that the ground is unstable or may become unstable due to the development proposed or for any other reason, the developer and/or his consultants should then assess the suitability and sufficiency of the proposed precautions to overcome the actual or potential instability. The developer should also provide at his own expense such evidence as is required by regulatory authorities to indicate clearly that the problem has been addressed satisfactorily.

It is *not* the responsibility of the local authority to investigate the ground conditions of any particular development site unless they propose to develop it. When reaching decisions on development proposals, local planning authorities have a duty to take all material considerations into account. The stability of the ground in so far as it affects land use is a material consideration which should be taken into account when deciding a planning application.

The principal aims of considering land instability at the planning stage are:-

- to minimise the risks and effects of land instability on property, infra-structure and the public;
- to help to ensure that various types of development should not be placed in unstable locations without appropriate precautions;
- to bring unstable land, wherever possible, back into productive use; and
- to assist in safeguarding public and private investment by a proper appreciation of site conditions and necessary precautionary measures.

A planning authority does not owe a duty or care to individual landowners when granting applications for planning permission and accordingly is not liable for loss caused to an adjoining landowner by permitting development. Nevertheless, where development is proposed on land which the planning authority knows is unstable or potentially unstable, it should ensure that the following issues are properly addressed by the development proposed:-

- the physical capability of the land to be developed;
- possible adverse effects of instability on the development;
- possible adverse effects of the development on the stability of adjoining land; and
- possible effects on local amenities and conservation interests of the development and of any remedial or precautionary measures proposed.

It is the function of the planning system to determine, taking account of all material considerations of which instability is only one, whether a proposed development should proceed. Having made that decision, for certain types of development, it is the function of the Building Regulations to determine whether the detailed design of buildings and their foundations will allow the buildings to be constructed and used safely.

The assessment of the significance of ground instability and of the associated risks requires careful professional judgement. In line with his responsibility for the safe development of any site, the developer should ensure that he has available the appropriate expertise to design and interpret the necessary site investigations and to design and execute any necessary remedial, preventive or precautionary measures.

On the basis of relevant information available to them, including any submitted by developers, local planning authorities should be able to form a view of the significance of ground instability for general development control purposes. With regard to specific development, however, it must be emphasised that responsibility for assessment, as well as investigation, of ground conditions and the design and execution of any necessary remedial or precautionary measures, rests with the developer and not the local planning authority. The local planning authority is entitled to require the developer at his expense to provide at application stage suitable expert advice in relation to such matters, and is entitled to rely on that advice in determining the application and formulating any necessary conditions.

PPG14 Annex 1 also expresses in further detail the required scope of a slope stability report and the need for it to have been prepared by a "competent person" with the relevant specialist experience in the assessment and evaluation of slope stability. PPG14 states that a competent person would normally be expected to be a Corporate Member of a relevant professional institution such as the Institution of Civil Engineers or the Geological Society. A competent person would be a geotechnical specialist as defined by the Site Investigation Steering Group of the Institution of Civil Engineers.

If the report shows that instability can be satisfactorily overcome, planning permission may be granted subject to conditions specifying the measures to be carried out in order to overcome such instability. If the report is insufficient to resolve specific details but sufficient to resolve the main issues regarding stability, planning permission can be granted subject to conditions that the development cannot commence until adequate site investigations have been carried out and that the development shall incorporate the measures shown in the investigations to be necessary. A third option is to refuse the application if the submitted report does not resolve the primary issues or contain details of whether or not the development can proceed

Many local planning authorities may not have the required expertise available to them to assess the reports. It may be appropriate in some circumstances to consider the need to use commercial consultants who may be members of the relevant professional institutions to advise on particular aspects of instability.

If Members grant planning permission for this development the Council would issue a notice to the applicant to inform them that the responsibility and subsequent liability for safe development and secure occupancy of the site rests with the developer/landowner.

The applicant has submitted a Slope Stability Assessment. The Assessment recommends that piled foundations are used to eliminate the potential for sliding failure as well as to reduce the loading on the slope; that the garden areas are formed in a terraced fashion and that groundwater is not permitted to rise above the base of the gabion wall. The Assessment concludes that "the development will effectively reduce the overall slope angle for the site, and subject to the implementation of the recommendations, the analysis confirms that the site is suitable for the proposed development in accordance with PPG14"

The Council does not have the required expertise available "in house" to assess the Slope Stability Assessment which has been carried out on behalf of the applicant but officers consider that it does not show the actual proposals and details needed to link the geotechnical analysis to the structural designs of the development. The applicant has not submitted a Geotechnical Certificate signed by a competent person, as defined by PPG14 to certify that the design of the development combines all the relevant disciplines and that a solution to all foreseeable geotechnical risks has been found.

Officers consider that whilst the Assessment does not include any specific measures to overcome land stability issues it does contain sufficient recommendations and conclusions to resolve the main issue of land stability and in such circumstances it would be appropriate to impose a planning condition requiring further site investigations being carried out; the submission of the details of the investigations and the appropriate measures and a Geotechnical Certificate, signed by a competent person as defined by PPG14. In these circumstances, the application has been considered in accordance with Planning Policy Guidance Note 14 – Development on Unstable Land and Policy E47 of the Borough of Darlington Local Plan

Design and Impact upon the Visual Appearance of the Surrounding Area

The prominent character of the area is defined by two storey dwellings that relate directly with the street. In plan form, the dwellings are typically orientated literally with the footprint presenting the longest side to the highway.

The application site is located on the west side of Blackwell and occupies the southern section of the development boundary for the 2005 approval. The development consists of three five storey dwellings of differing designs.

The dwellings on Plot 3, 4 and 5 would be three storeys when viewed from the street and five storeys when viewed from the rear due to the changes in the ground level. The first and second floors provide the bedroom accommodation whilst the remaining floors provide the family accommodation. There would be an integral garage at ground floor level. All three dwellings front directly onto Blackwell and their design is very contemporary constructed from a mix of glazing, render, stone and timber cladding. Each dwelling incorporates west facing balcony areas and verandas as part of their design.

The section of the site where the three dwellings would be located lies outside but adjacent to the Area of High Landscape Value. The dwellings would be highly visible on Blackwell but also they will be viewed in the distance from the A66 when entering Darlington from the south west.

Following discussions with officers, the design of the dwellings has been revised in order to reduce their scale and impact upon the street scene and wider surrounding area, including the Area of High Landscape Value.

The Supplementary Planning Document – Design for New Development allows a maximum of 2.5 storeys in this location, subject to the local context. Whilst the dwellings have three storeys when viewed from the street, the third floor is situated within the roof design and the roofline and the scale of the dormer extensions has been revised to reflect a dwelling of 2.5 storeys, which is more appropriate within the Blackwell frontage. The footprints of the dwellings have been revised and are now much more appropriate in particular the reduction of the projecting gables to the front elevations. The revised design and scale of the rooflines of the main dwellings and the projections from the roofs are more in keeping with the character of the area.

The front garden design has been revised and has less hard surfacing and the boundary treatments to the front are considered appropriate. However, it is considered appropriate to impose planning conditions to secure appropriate materials for the hard standing areas and all means of enclosure for the site.

The materials palette has been revised and rationalised. There is a clear hierarchy of materials from ground level to roofline and the distinction between lower and upper storeys (and those

down the slope) has been skilfully handled. The choice and composition of materials has remained contemporary, but will be more in keeping with their use in the area.

The rear elevations to the River Tees which face the Area of High Landscape Value have been revised to create much more articulation and variety and the use of glazing, now justified and at design stage assessed for Code for Sustainable Homes, is no longer problematic. The skilful use of the balcony level to obscure the lowest storey has reduced the visual impact of the scheme on the landscape in the Area of High Landscape Value and views approaching the town and as such is much more appropriate.

The reduced scale of the buildings has been achieved by revising the design in accordance with advice and negotiations and it is considered that the proposal has subsequently been improved.

It is considered appropriate to impose a planning condition to remove permitted development rights for the dwellings to ensure the Local Planning Authority retains control over the development

The gabion wall is a basket type retaining wall built adjacent to the River Tees. Overall it is approximately 6 metres high, built in staggered sections of 4metres and 2 metres with a plateau of approximately 5metres. It stretches along the riverbank to the rear of Nos 49 – 59 Blackwell. The wall sits within the Area of High Landscape Value. It is considered that once the landscaping for the garden areas has matured, the gabion walls would assimilate against the backdrop of the development and it would not have an adverse impact upon the visual appearance and character of the Area of High Landscape Value.

It is considered that the revised design of the development has improved following discussions with officers and it accords with the relevant national and local planning policies and the Council's Supplementary Guidance Note – Design for New Development.

Residential Amenity

There are two semi detached dwellings and a detached dwelling on the opposite side of Blackwell (to the east of the application site) and the separation distance between these properties and the proposed dwellings are approximately 32 metres and 40 metres respectively. These distances would comply with the relevant proximity distances contained within the Supplementary Planning Document – Design for New Development.

Whilst the three dwellings are part of the same development, their inter relationship from an amenity viewpoint has been assessed by officers. The dwellings have been designed so that no principle windows in the side elevations directly overlook another principle window of the neighbouring dwelling. Each dwelling has balcony areas at the same storey level and therefore the occupiers of the three properties would to a certain extent have views into each others balcony and the rear elevations (which contain a high number of glazed openings) and would allow the occupiers to have direct views into each others gardens. If this relationship was between existing and proposed dwellings, it could be argued to be unacceptable but this is a composite development and each dwelling will have the same impact upon each other, officers consider that the relationship between each dwelling is acceptable.

The dwelling on Plot 5 has a lounge window and two narrow corner windows in its south elevation overlooking the development plot to the south (No 51 Blackwell). The other glazed openings are not principle openings. The northern elevation of the proposed building at No 51 Blackwell contains two kitchen windows but these openings in the two dwellings are offset from

one another rather than directly facing each other and therefore this relationship is considered acceptable. Again, these two dwellings have balcony areas which overlook each other but officers consider that in these circumstances, this relationship is acceptable.

The spatial relationship between the dwelling on Plot 3 and the proposed dwelling on Plot 2 of the development site to the north is different as the dwelling on Plot 2 does not front Blackwell and it is sited on an angle. The dwelling on Plot 3 has a lounge window at lower ground floor level in the north facing elevation and the dwelling on Plot 2 has a dining room window at the ground floor level so whilst two principle openings overlook each other, they are offset and this relationship is considered acceptable. Both properties have balcony areas at the lower ground floor levels and they would overlook each other and officers accept this relationship. The garden areas would be overlooked by both neighbouring and this relationship is considered acceptable.

It is considered that the spatial relationship between Plot 3 and Plot 2 of the adjoining development site is acceptable and will not give rise to significant adverse amenity issues.

A planning condition to secure suitable site boundary treatment is considered appropriate in residential and visual amenity terms.

Essentially, if the development had a similar relationship with any existing dwellings it could be argued that the relationship would be unsatisfactory, however, as the three dwellings and the neighbouring properties are all new and part of a composite development the residential amenity impacts are considered acceptable

Highway Matters

Each dwelling would have a separate access off Blackwell and an integral double garage. There would also be a forecourt area for further off street parking. The Council's Highways Engineer has raised no objections to the proposal subject to the imposition of planning conditions relating to visibility splays; highway verge improvements; the formation of a footway to the frontage of the site and dropped crossings.

Flood Risk

A Flood Risk Assessment (FRA) was submitted for the 2005 approval but as the proposed development differs from the previously approved scheme, it was considered necessary that the applicant presented a new Assessment. The applicant submitted a Flood Risk Assessment and a River Modelling Report to assess the impact of the gabion wall on flooding elsewhere. The FRA indicated that the lower level of the site, not where the dwellings would be located, could be at risk of flooding and the river modelling exercise concluded that the results show that the proposed development should have no impact on flood levels on the River Tees. The Environment Agency are satisfied that the retaining wall will not cause or exacerbate flooding elsewhere and they have withdrawn their original objection to the proposed development and recommended the imposition of planning conditions relating to securing an acceptable surface water drainage scheme and to securing and managing a buffer zone between the gabion wall and the River Tees

Northumbrian Water has not objected to the application but requested the imposition of planning conditions relating to protection measures and unrestricted access for their apparatus

Protected Species

The 2005 approval was granted subject to planning conditions stating:

“Notwithstanding the details shown on the approved plans, the requirements of the Bat Survey Report prepared by Argus Ecological Services dated 2005 shall be fully complied with.” and

“Prior to the occupation of any of the dwellings, a plan for the management of the communal gardens to the rear of the dwellings adjacent to the riverbank shall be submitted to and approved by the Local Planning Authority and thereafter implemented.”

As this is an application to vary the 2005 permission the above conditions are still relevant and Natural England has stated that the imposition of similarly worded conditions could be imposed onto any grant of planning permission.

Trees and Landscaping

The application site does not contain any trees covered by a tree preservation order and a landscaping plan has been submitted for the development. The Council's Senior Arboricultural Officer considers that the landscaping scheme is acceptable provided that the trees are containerised. He also requested the submission of an Arboricultural Methods Assessment; an Arboricultural Method Statement and a Tree Protection Plan.

Contaminated Land

The Council's Environmental Health Section have requested the imposition of a planning condition to secure the submission of Phase 1 Desk Top Contaminated Land Study and also a condition to restrict the hours of construction activities.

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

Planning permission (reference number 05/00788/FUL) was granted in 2005 for the erection of five detached dwellings including the upgrading the river bank. Since the approval was granted, the development site has been sub divided into two separate sites and this application is to vary the 2005 approval for the substitution of house types relating to plots 3, 4, 5 and to receive retrospective planning permission for slope stabilisation works to the rear of the site.

The applicant has submitted a Slope Stability Assessment which recommends that piled foundations are used to eliminate the potential for sliding failure as well as to reduce the loading on the slope; that the gardens areas are formed in a terraced fashion and that groundwater is not permitted to rise above the base of the gabion wall. The Assessment concludes that “subject to the implementation of the recommendations, the analysis confirms that the site is suitable for the proposed development in accordance with PPG14” The Council does not have the required expertise available “in house” to assess the Slope Stability Assessment which was carried out on behalf of the applicant but officers consider that it does not show the actual proposals and details needed to link the geotechnical analysis to the structural designs of the development. The applicant has not submitted a Geotechnical Certificate signed by a competent person, as defined by PPG14 to certify that the design of the development combines all the relevant disciplines and that a solution to all foreseeable geotechnical risks has been found.

In such circumstances it would be appropriate to impose a planning condition requiring further site investigations to be carried out; the submission of the details of the investigations and its findings and a Geotechnical Certificate, signed by a competent person as defined by PPG14. The application has been considered in accordance with Planning Policy Guidance Note 14 – Development on Unstable Land and Policy E47 of the Borough of Darlington Local Plan

In design terms, the development has been the subject of discussions with officers and its scale and design has been greatly improved. The development would not have an adverse impact upon the visual appearance of the street scene or the Area of High Landscape Value.

The development would not have any significant impact in terms of loss of flood risk and loss of daylight or sunlight to adjoining existing dwellings and those proposed as part of redevelopment of land to the north. It would also ensure that adequate levels of privacy were maintained taking into account the circumstances of the development. The application is not considered to raise any issues in relation to car parking provision, highway safety or crime prevention.

The following national and local planning policies were taken into consideration

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Planning Policy Statement 1 – Delivering Sustainable Development

Planning Policy Statement 3 – Housing

Planning Policy Guidance Note 14 – Development on Unstable Land

Planning Policy Statement 25 – Development and Flood Risk

Borough of Darlington Local Plan 1997

E2 – Development Limits

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H3 – Locations for New Housing Development

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T12 – New Development Road – Road Capacity

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T39 – Conditions for Pedestrians

Supporting Documents

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As this planning application is a variation of the 2005 approval, any planning conditions attached to that approval have been recommended to be imposed to this submission, where considered necessary

RECOMMENDATION

PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS

1. A3 – Implementation Limit (Three Years)
2. B4 – Details of Materials (Samplers)
3. J2 – Contaminated Land
4. Notwithstanding the details contained within “Plots 3, 4 and 5. Slope Stability Assessment” dated 20 December 2010 by 3E further site investigations shall be undertaken and a report containing the findings, including details of piled foundations shall be submitted to and approved by the Local Planning Authority prior to the commencement of the development. The report shall also be accompanied by a Geotechnical Certificate, signed in accordance with Planning Policy Guidance Note 14 – Development on Unstable Land confirming that the slope stability solution will incorporate all the reasonable foreseeable geotechnical risks with acceptable factors of safety
REASON: To ensure that the stability of the embankment is not undermined and that the development is carried out in accordance with guidance within Planning Policy Guidance 14 (Development of Unstable Land) is taken into account.
5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order), no enlargement, improvement or other alteration of the dwellings, including any additional structures/building/fences/hardstanding area and footpaths within the red line boundary of the submitted Site Location Plan, shall be carried out without the prior consent of the Local Planning Authority, to whom a planning application must be made.
REASON - In order not to prejudice the amenities of the adjoining properties and in order that the Local Planning Authority is able to exercise control over future development of the site. Also, development that encroaches on watercourses has a potentially severe impact on their ecological value. Planning Policy Statement (PPS) 1 and 9 requires that planning decisions should prevent harm to biodiversity interests and should seek to enhance biodiversity where possible. PPS 9 stresses the importance of natural networks of linked habitat corridors to allow the movement of species between suitable habitats.
6. Prior to the development hereby permitted being first occupied, or within such extended time as may be agreed in writing with the Local Planning Authority, the site shall be enclosed, on all boundaries, except at the permitted point of access, in accordance with details to be submitted to, and approved in writing by, the Local Planning Authority.

REASON - To safeguard the visual amenities of the locality and privacy of adjoining properties.

7. Notwithstanding the details shown on the approved plans prior to development being commenced the following details shall be submitted to and approved by the Local Planning Authority and thereafter implemented:

- 1) a footway to the frontage of the site (minimum 1.8m);
- 2) dropped crossings at all access points incorporating dropped kerbs either side of Blackwell to provide a pedestrian crossing point.

REASON – In the interests of highway safety.

8. Notwithstanding the details contained in the drawings hereby approved the specification of all hard surfaces including footpaths and driveways shall be submitted to and approved by the Local Planning Authority. The details shall specify that they are constructed to be permeable surfaces. The surfaces shall be constructed in accordance with these details and shall be maintained as such thereafter, unless otherwise agreed by the Local Planning Authority

REASON In order to reduce the impact of this type of development on flooding and pollution of watercourses.

9. Prior to the commencement of any works on site, a settlement facility for the removal of suspended solids from surface water run-off during construction works shall be provided in accordance with details previously submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be retained throughout the construction period.

REASON – To prevent pollution of the water environment.

10. Should the regrading of the embankment require the importation of material, the details and specification of this material shall be assessed and agreed by the Local Planning Authority prior to it being brought onto the site.

REASON – To ensure that contaminated material is not brought onto the site.

11. Notwithstanding the details shown on the approved plans, a detailed scheme for visibility splays (2.4m x 43m) shall be submitted to and approved by the Local Planning Authority prior to the commencement of the development. The development shall not be carried out otherwise than in complete accordance with the approved details

REASON; In the interests of highway safety

12. Prior to the commencement of the development a surface water drainage scheme for the site, where appropriate based on sustainable drainage principles, shall be submitted to and approved in writing by the Local Planning Authority. The details shall also include details of how the scheme shall be maintained and managed after completion, for the design life of the development. The development shall not be carried out otherwise in complete accordance with the approved details

REASON: To prevent the increased risk of flooding, to improve and protect water quality, improve habitat and amenity, and ensure future maintenance of the surface water drainage system.

13. Prior to the commencement of the development, a scheme for the provision and

management of a buffer zone alongside the River Tees shall be submitted to and agreed in writing by the Local Planning Authority. The buffer zone to be identified as land between the River Tees and existing gabion wall should be without structures, hardstanding, footpaths, fences and should not include domestic gardens or formal landscaping. The buffer zone needs to be designed and managed to develop this natural character. The development shall not be carried out otherwise than in complete accordance with the approved scheme and any subsequent amendments shall be agreed in writing with the Local Planning Authority. The scheme shall include:

- 1) Plans showing the extent and layout of the buffer zone
- 2) Details of the planting scheme (for example, native species)
- 3) Details demonstrating how the buffer zone will be protected during development and management/maintained over the longer term.

REASON: Development that encroaches on watercourses has a potentially severe impact on their ecological value. Planning Policy Statement (PPS) 1 and 9 requires that planning decisions should prevent harm to biodiversity interests and should seek to enhance biodiversity where possible. PPS 9 stresses the importance of natural networks of linked habitat corridors to allow the movement of species between suitable habitats. The buffer zone condition will ensure protection of the habitat corridor to allow the movement of species along the watercourse.

14. Prior to the commencement of the development a detailed scheme showing the accurate location, protection measures and access arrangements, during the construction period and afterwards, for apparatus belonging to Northumbrian Water shall be submitted to and approved by the Local Planning Authority in consultation with Northumbrian Water. The development shall not be carried out otherwise than in complete accordance with the approved details

REASON: A sewerage rising main is located in the development site. Northumbrian Water requires unrestricted access to this apparatus at all times and will not permit the erection of buildings or structures over or close to it. Any proposed crossing, landscaping, parking areas or tree planting must comply with the standard Northumbrian Water guidelines.

15. Notwithstanding the details shown on the approved plans, the requirements of the Bat Survey Report prepared by Argus Ecological Services dated 2005 shall be fully complied with unless otherwise agreed with the Local Planning Authority in consultation with Natural England

REASON: To ensure that any potential for roosting bats is safeguarded

16. Prior to the occupation of any of the dwellings, a plan for the management of the communal gardens to the rear of the dwellings adjacent to the riverbank shall be submitted to and approved by the Local Planning Authority and thereafter implemented.
REASON: In the interests of visual amenity

17. Notwithstanding the details shown on the submitted Planting Plan (Drawing Number 1012.01A by Leeming Associates), precise details of planting proposals shall be submitted to and agreed by the Local Planning Authority prior to the buildings being occupied. Any trees or shrubs removed, dying, severely damaged or becoming seriously diseased within five years of planting shall be replaced by trees of similar size and species to those originally approved and planted.

REASON - To ensure a satisfactory appearance of the site and to improve the visual amenities of the locality.

18. An Arboricultural Methods Assessment; an Arboricultural Method Statement and a Tree Protection Plan shall be submitted to and agreed by the Local Planning Authority prior to the commencement of the development and the development shall not be carried out otherwise than in complete accordance with the approved details

REASON: To enable the Local Planning Authority to ensure the retention of the maximum number of trees on and around the site and their protection from damage, in the interests of visual amenity.

19. B5 – Detailed Drawings (Accordance with Approved Plan)

SUGGESTED SUMMARY OF REASONS FOR GRANTING PLANNING PERMISSION

Planning permission (reference number 05/00788/FUL) was granted in 2005 for the erection of five detached dwellings including the upgrading the river bank. Since the approval was granted, the development site has been sub divided into two separate sites and this application is to vary the 2005 approval for the substitution of house types relating to plots 3, 4, 5 and to receive retrospective planning permission for slope stabilisation works to the rear of the site.

The applicant has submitted a Slope Stability Assessment which recommends that piled foundations are used to eliminate the potential for sliding failure as well as to reduce the loading on the slope; that the gardens areas are formed in a terraced fashion and that groundwater is not permitted to rise above the base of the gabion wall. The Assessment concludes that “subject to the implementation of the recommendations, the analysis confirms that the site is suitable for the proposed development in accordance with PPG14” The Council does not have the required expertise available “in house” to assess the Slope Stability Assessment which was carried out on behalf of the applicant but officers consider that it does not show the actual proposals and details needed to link the geotechnical analysis to the structural designs of the development. The applicant has not submitted a Geotechnical Certificate signed by a competent person, as defined by PPG14 to certify that the design of the development combines all the relevant disciplines and that a solution to all foreseeable geotechnical risks has been found.

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

Under the terms of the Water Resources Act 1991, and the Land Drainage Act 1991, the prior written consent of the Environment Agency is required for any proposed works or structures, in, under, over or within five metres of the top of the bank of the River Tees, designated a 'main river'.

Northumbrian Water

Any diversion or relocation of Northumbrian Water apparatus would be at the applicant's full cost. The developer must contact Northumbrian Water (Mr T Corner 0191 4196742) to agreed detailed scheme for the accurate location, protection of and access to its apparatus in accordance with Northumbrian Water's standard easement conditions

Highway Matters

The applicant is advised that works are required within the public highway , to construct new footway on site frontage and new vehicle crossings, 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.