

**DARLINGTON BOROUGH COUNCIL**

**PLANNING APPLICATIONS COMMITTEE**

**COMMITTEE DATE: 9 February 2011**

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<b>APPLICATION REF. NO:</b>	<b>10/00703/FUL</b>
<b>STATUTORY DECISION DATE:</b>	<b>3 December 2010</b>
<b>WARD/PARISH:</b>	<b>PARK WEST</b>
<b>LOCATION:</b>	<b>56 Linden Avenue, Darlington D3 8PP</b>
<b>DESCRIPTION:</b>	<b>Erection of detached dwelling house and detached double garage (revised application)</b>
<b>APPLICANT:</b>	<b>Mr And Mrs D A Leighton</b>

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**APPLICATION AND SITE DESCRIPTION**

Planning permission is sought for the erection of a large six bedroom, three storey detached house with a detached garage.

The main body of the house would be approximately 13m in width and a maximum of 12.2m in depth. At ground floor level there would be a single storey sun lounge to the rear which would project out an additional 4m from the main rear building line. The house would be approximately 6.3m in height to eaves level and a further 3.8m to the ridge.

The proposed detached garage would be 6.2m in width and 6.5m in depth. The garage would be 2.4m in height to eaves level and would be a further 3.7m to ridge level.

The house would be positioned relatively centrally within the site and the garage would be set behind the house and to the side.

In the Design and Access Statement submitted with the application it is stated that the dwelling would be of a traditional construction with facing bricks with rough cast render to the upper floors (to reflect No. 56 Linden Avenue). It is also stated that window openings will have stone heads and sills and are vertically emphasised with reference to the Arts and Crafts style in many of the properties in the area.

The property would face onto Cleveland Terrace and to facilitate the development a new vehicular access would be required. This would include altering the existing boundary brick wall to create visibility splays and space for the vehicular access itself. As the boundary wall is over 1m in height and fronts a highway, Conservation Area Consent is required for the demolition to accommodate the new access. A separate application for this (Ref: 10/00795/CAC) has been submitted.

The site consists of the rear garden of No. 56 Linden Avenue which is relatively large. The garden is located to the south of Cleveland Terrace and this boundary consists of a relatively

high brick wall. There are many trees and shrubs in the garden including a mature protected oak tree.

The site is surrounded by residential dwellings although it is faced by the side elevations of the properties opposite to the north (No 1 and No 2 Neville Road) and the side elevation of the property to the east (Number 113 Cleveland Terrace). To the south the site is faced by the rear elevations of No 5 and No 7 Sylvan Grove. To the west the site is faced by the rear elevation of No. 56 Linden Avenue (in the garden of which the new property is proposed as being built).

## **PLANNING HISTORY**

10/00483/FUL, on 20 August 2008 a planning application was withdrawn for the erection of a dwelling on the site. This application was withdrawn so that a better design could be considered and a new application made.

## **PLANNING POLICY BACKGROUND**

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

E2 (Development Limits)

E12 (Trees and Development)

H11 (Design and Layout of New Housing Development)

E7 (Landscape Conservation)

E29 (The Setting of New Development)

T24 (Parking and Servicing Requirement for New Development)

The Council's adopted Design Supplementary Planning Document (July 2009) is relevant to the application.

National planning guidance is relevant to this application particularly Planning Policy Statement 1: Delivering Sustainable Development (2005), Planning Policy Statement 3: Housing (2010) and Planning Policy Statement 5: Planning for the Historic Environment (2010).

## **RESULTS OF CONSULTATION AND PUBLICITY**

Occupiers of neighbouring properties were advised of the proposal by way of letter. Three letters of objection have been received and the points raised are summarised below:

- *Large modern building not in keeping with the West End Conservation Area.*
- *Three storey building which is of an overbearing nature will invade our privacy (No. 5 Sylvan Grove).*
- *The building is completely out of scale with the adjacent properties. Clearly insufficient consideration has been given by the architect to the many objections from neighbours to the original proposal.*
- *The proposed dwelling would be completely out of keeping with the cherished character of Cleveland Terrace which consists of a harmonious mixture of much smaller properties.*
- *Principal of development by the impact it will have on the character of the conservation area.*
- *The proposed dwelling appears to be completely unsuitable for this area.*

- *The proposal to erect such a large house will have a detrimental effect on the light in our house and garden (No. 113 Cleveland Terrace).*
- *The privacy in our garden will be compromised as the proposal has windows which face our garden.*
- *Impact of privacy into garden and proposed first floor bedroom windows (No. 7 Sylvan Grove).*
- *The proposed layout of the new dwelling will come extremely close to the boundary and will block out sunlight and make it very imposing.*
- *The proposed massive three storey structure would still overshadow and dominate the area with the immediate neighbours suffering a significant loss of amenity and enjoyment.*
- *The new entrance to the property will be on a very busy road opposite a school. A new entrance would have an impact on the highway and safety.*
- *The proposed erection of a very large detached house is a major development for this small space and will create an unacceptable increase in traffic in the area which has two schools in very close proximity.*
- *The proposed entrance to the house is opposite a busy junction in the road, which is very narrow at this point. This will pose a significant road safety problem.*
- *There are two road junctions next to the proposed property adding to the chaos.*
- *The proposed development has the potential of introducing a significant number of new residents to the area with the associated increase in traffic and on-street parking.*
- *We believe that the visibility splays do not adequately address safety as they only assist drivers exiting the property and give no real advanced warning to drivers on the main road.*
- *Had the ground floor plan been correctly drawn with all relevant details show, it would have been obvious that the lamp post is within the splay visibility area and is a dangerous obstruction. The driveway is therefore incorrectly located as otherwise the lamp post would have to be moved with the possibility of damage to the adjacent tree roots.*
- *The omission of the lamp post from the plan proves that a thorough design safety review could not have been conducted.*
- *Impact of the proposed building on drainage in our garden (No. 5 Sylvan Grove).*
- *Impact of proposed building on drainage in Cleveland Terrace which currently cannot cope in periods of heavy rain.*
- *Drainage in the area, which is poor at the moment, will be made even worse, with such a large area of roof and hard standing the existing drains will be inadequate.*
- *We would ask that the Planning Committee / Owner agree at their cost to have a civil engineer undertake a full land and drainage survey and then draw up a contract to confirm that if any problems did arise due to the new build they would be 100% liable for these problems, associated costs and compensation.*
- *During heavy rainfall the road driveways and local gardens often flood. This problem has been greatly exacerbated by the installation of traffic calming measures that restrict water dispersal.*
- *The addition of this house with large roof area and additional hard-standing would be of concern to us as it could prevent more rainwater from soaking away.*
- *We note that the plan includes a “sustainable drainage system” with self-draining. Notwithstanding this, we still believe it is probable that the rainwater would be channelled onto the surrounding gardens and into the road*
- *The wall in Cleveland Terrace will need to be partially knocked down for the entrance.*

- *As part of the new Government's manifesto they have stated that they are very much against "land grab" and the overdevelopment of suburban gardens for short term profit.*
- *Private residential gardens are now excluded from the definition of previously developed land. This appears to be a prima facie case of this practice.*
- *The garden has been a haven for wildlife and we have enjoyed the presence of bats, frogs, toads and newts.*
- *The grant of planning permission will undoubtedly undermine any objection to further garden development in the area.*
- *The granting of this application will set a precedent for the development of other large gardens in the area.*
- *Impact of the removal of trees within a conservation area.*
- *The large mature Oak tree's viability will be compromised as the foundations for such a large house will necessarily have to come in to contact with the root system.*
- *The welfare of trees within the area is an asset that should be preserved wherever possible.*
- *There are a large number of properties for sale in the area, which are not selling. The building of yet another house may result in yet more stagnation.*

The **Highways Officer** commented that satisfactory site-lines would be provided and that there would be adequate off road parking provided.

The **Arboricultural Officer** commented that if the application is approved the root area of the trees must be completely protected from damage and that a condition requiring protective fencing is required.

The **Environmental Health Officer** commented that the standard condition regarding contamination should be placed on the granting of any planning permission.

## **PLANNING ISSUES**

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

- Planning Policy
- Residential Amenity
- Visual Amenity and Conservation
- Highway Issues
- Tree Issues
- Flooding
- Ecology

### **Planning Policy**

The site lies within development limits as set out in Policy E2 (Development Limits) of the Borough of Darlington Local Plan, the site has no special designation other than being located in the West End Conservation Area.

Planning Policy Statement 3 (Housing) has been updated and the development of private gardens would now no longer be regarded as brownfield development and so would not contribute to the objectives of favouring development on previously used land. Notwithstanding this change, the

site remains inside the development limits set out in the Local Plan and the proposal is acceptable in principle subject to other details of development control.

### **Residential Amenity**

The privacy distances and relationship to nearby residential properties are acceptable and comply with the standards set out in the Design SPD.

The proposed new dwelling would have a kitchen window and a dining room window located in its side (east) elevation. The dining room window would face onto the blank gable wall of No. 113 Cleveland Terrace. The kitchen window would face towards the garden. The oblique angle to the rear elevation of No. 113 is such that the proposal would not cause any significant direct overlooking to this property. There is also a relatively high boundary fence and many shrubs which further reduce any potential overlooking issues.

There would be more than 27m separation distance from the rear elevation of the proposed dwelling to the rear elevations of No 5 and No 7 Sylvan Grove). There would also be more than 15m separation distance from the rear elevation of No. 56 Linden Avenue and the side elevation of the proposed house. The proposal will not, therefore, significantly impact upon the residential amenity or privacy of existing properties.

### **Visual Amenity and Conservation**

Planning Policy Statement 5 (Planning for the Historic Environment) states that in considering the impact of a proposal on any heritage asset, local planning authorities should take into account the particular nature of the significance of the heritage asset and the value that it holds for this and future generations.

Section 72 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 states that in determining an application within a conservation area the Local Planning Authority should pay particular attention to preserving or enhancing the character and appearance of the area. Case law has established that whilst a proposal need not necessarily be required to enhance the area, a proposal should have at least a neutral effect and should not detract from the appearance and character of the area.

The Conservation Officer has raised concerns regarding the proposal. This is with particular regard to the Conservation Area Character Statement which states that a character of the area includes the dispersal of larger plots with smaller plots which gives variety in house forms, setback and spatial quality. Notwithstanding the concerns of the Conservation Officer, the proposed dwelling would have a relatively large garden and a large garden would also be retained for the existing property (No. 56 Linden Avenue). This would not therefore undermine the development pattern of the area.

The proposed dwelling would be well set back with a garden to the front and the existing high boundary wall would be retained other than as altered to provide access. There are several trees on the site including a Protected Mature Oak Tree (which would be retained). These trees would provide a significant amount of screening to the development. The built form and design of the proposed dwelling is sympathetic to the character of the existing buildings and is judged to have at least a neutral impact on the character and appearance of the West End Conservation Area.

**Highway Issues**

The proposal would feature sufficient provision for vehicular parking within the site and the proposed alterations to the existing boundary wall would provide adequate visibility. The proposal does not raise any significant concerns regarding its impact on highway safety. The proposed location of the vehicular access would not require the moving of an existing lamppost as had been previously identified.

**Tree Issues**

There are many trees on the site including mature and immature trees and conifers. There is a Mature Red Oak located towards the north of the site which is protected by a Tree Preservation Order. The protected tree and the other mature trees would not be harmed as a result of the proposal. There would, however, be some smaller trees that would not be retained. These trees would be located in the same position as the proposed new dwelling, at a location close to the east boundary and a semi mature Eucalyptus tree next to the site of the proposed garage would also be felled. This Eucalyptus is in slightly poor form and will outgrow its current location if not removed. All the trees to be removed are categorised as being of low quality and value. The Council's Arboricultural Officer has not objected to the proposal but has identified that a condition for tree protection measures (during construction) are required.

**Flooding**

The Standing Advice from the Environment Agency for this type of development (less than 1 hectare in Flood Zone 1) states that the main flood risk issue to consider is usually the management of surface water run-off and that Government policy strongly encourages a sustainable drainage system approach. A condition requiring the submission of a surface water disposal system to be approved would be appropriate.

**Ecology**

The 'Standing Advice' and a general guidance flow chart provided by Natural England indicate that a Protected Species Survey isn't required. There are unlikely to be any issues with the development of the site regarding protected species however, an informative can be placed on the granting of any permission stating that if a protected species is discovered during the course of development, then works should cease and advice be sought from an ecological consultant.

**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 proposal would be in keeping with the design of neighbouring properties and would not harm the character and appearance of the Conservation Area. The size and siting of the proposal is such that it will not result in any significant detrimental impacts in relation to residential amenity. The proposal will not be harmful to highway safety and will provide sufficient in-

curtilage vehicle parking. The proposal will not result in any unacceptable impacts on the trees of the site.

## **RECOMMENDATION**

THAT PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:

1. A3 Implementation Limit (3 years)
2. B4 Details of Materials (Samples)
3. B5 Detailed Drawings (Accordance with Plan)
4. J2 (Contamination)
6. The development hereby permitted shall not be commenced until such time as a scheme for the surface water disposal system has been submitted to, and approved in writing by, the local planning authority. The approved scheme shall be implemented prior to the first occupation of the dwelling and shall thereafter be retained.

REASON – To prevent flooding by ensuring the satisfactory disposal of surface water from the site.

7. Prior to the commencement of the development hereby approved, details shall be submitted of a scheme to protect the tree of the site that are identified in the Tree Report submitted with the application to be retained. The submitted details shall comprise generally the specification laid down within BS 5837 and shall include fencing of at least 2.3m height, consisting of a scaffolding frame braced to resist impacts, supported by a weldmesh wired to uprights and horizontals to dissuade encroachment. The agreed scheme of protection shall be in place before the commencement of any work, including demolition operations. The Local Planning Authority shall be given notice of the completion of the protection works prior to the commencement of any work to allow an inspection of the measurements to ensure compliance with the approved scheme of protection. Notwithstanding the above 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) Erecting 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 well being of the trees on the site and in the interests of the visual amenities of the area.

### **Suggested summary of reasons for granting planning permission**

The proposed development is considered acceptable and will not cause significant harm to the character and appearance of the area or the West End Conservation Area. The proposal has no

significant impacts in terms of residential amenity. The proposal does not adversely impact on highway safety. No issues are raised in relation to crime prevention. The proposal is considered acceptable in light of the following Policies of the Borough of Darlington Local Plan 1997 and National Planning Guidance:

E2 (Development Limits)

E12 (Trees and Development)

H11 (Design and Layout of New Housing Development)

E7 (Landscape Conservation)

E29 (The Setting of New Development)

T24 (Parking and Servicing Requirement for New Development)

Planning Policy Statement 1: Delivering Sustainable Development (2005)

Planning Policy Statement 3: Housing (2010)

Planning Policy Statement 5: Planning for the Historic Environment (2010)

## **INFORMATIVES**

1. The applicant is advised that works are required within the public highway, to construct new vehicle crossing, 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.
2. 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.
3. Many species are protected under conservation legislation such as the Wildlife and Countryside Act 1981, The Conservation of Habitats and Species Regulations 2010, the Countryside and Rights of Way Act 2000 and the Hedgerows Regulations 1997. Should a protected species be discovered during the course of development, works should cease and advice be sought from an ecological consultant.