

**DARLINGTON BOROUGH COUNCIL**

**PLANNING APPLICATIONS COMMITTEE**

**COMMITTEE DATE: 30 July 2008**

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<b>APPLICATION REF. NO:</b>	<b>08/00354/FUL</b>
<b>STATUTORY DECISION DATE:</b>	<b>24 June 2008</b>
<b>WARD/PARISH:</b>	<b>MIDDLETON ST GEORGE</b>
<b>LOCATION:</b>	<b>Mown Meadows, 64 Middleton Lane, Middleton St. George</b>
<b>DESCRIPTION:</b>	<b>Erection of 2 No. detached dwellinghouse</b>
<b>APPLICANT:</b>	<b>Mr Chris Brochbarik</b>

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**APPLICATION AND SITE DESCRIPTION**

The application site is located on the western side of Middleton Lane and lies within the Middleton One Row Conservation Area. The site is occupied by a large Victorian, three storey semi-detached dwelling.

A Grade II listed stone archway is situated close to the side of the dwelling.

Several mature and semi mature trees lie within the front garden of the property some of which are protected by a Tree Preservation Order. There are a few fruit trees in the rear garden, which are not of any significant value.

The site is more or less flat and there are no significant differences in ground levels with neighbouring properties.

The surrounding area is essentially residential in character. A modern dormer bungalow adjoins the site to the east and to the rear (south) it is bounded by modern two storey houses. Early/mid 20th Century bungalows lie immediately opposite, to the east.

The application proposes the erection of two detached dwellings within the rear garden of the existing property. They would be 3 storey in height (the roof space effectively forming the third floor) and would measure 11m in depth, 8.5m in width and 10m in height at ridge level. Planning permission already exists for the development of the site (see Planning History Ref. 07/235).

The existing vehicular access off Middleton Lane would serve the development. It is proposed to reduce the height of the front boundary wall to improve sight lines for vehicles emerging from the site.

## **PLANNING HISTORY**

85/391 – Planning permission was granted in September 1995 for the erection of two private garages.

06/1118- In January 2006 planning permission was refused for the conversion of the existing dwelling to 4 apartments and the erection of 4 No. dwellings in three-storey form, with associated car parking.

06/1208 – In December 2006 an application for listed building consent was submitted for the removal of a wall attached to a listed archway within the grounds of the property. This was subsequently withdrawn in March 2007.

07/235 – Planning permission was granted in January 2008 for the conversion of the existing dwelling to four apartments and the erection of three no. town houses in three storey form, car parking and ancillary works. This was subject to a Section 106 Agreement for the provision of two affordable housing units.

## **PLANNING POLICY BACKGROUND**

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

E2 – Development Limits

E11 – Conservation of Trees, Woodlands and Hedgerows

E12 –Trees and Development

E14 – Landscaping of Development

E29 –The Setting of New Development

H3 – Locations for New Housing Development

H9 – Meeting Affordable Housing Needs

H11 – Design and Layout of New Housing Development

H13 – Backland Development

H18 – Houses in Multiple Occupation in Other Areas

T13 – New Development Standards

T24 – Parking and Servicing Requirements for New Development

T31 – New Development and Public Transport

National Planning Policy Statement (PPS3) Housing and Planning Policy Guidance Note (PPG15) Planning and the Historic Environment are also relevant.

## **RESULTS OF CONSULTATION AND PUBLICITY**

Thirty one letters have been received from local residents to the scheme as originally submitted and the following issues raised:-

- The dwellings would be out of character with surrounding properties
- It is totally out of character with the surrounding buildings and not suitable for the conservation area it will be situated in, on the basis of the cumulative negative impact it will have on the conservation area.
- Loss of garden and green space in the conservation area.

- It would have a detrimental impact on mature trees included those which are protected by a tree preservation order. The loss of these trees will have an adverse impact on the character and visual appearance of the surrounding area.
- The height of the dwellings will have a detrimental impact on the visual amenities of the area.
- The three storey dwellings will constitute an invasion of privacy to the surrounding two storey dwellings as the uppermost rooms will have windows which will overlook rooms and grounds of those properties.
- Overbearing impact.
- Loss of light.
- Increased flooding to neighbouring gardens
- There will be a serious impact on the traffic using Middleton Lane. Several vehicles using a standard driveway opening will create a dangerous traffic hazard.
- The infrastructure of our roads and sewage system is not designed to cope with the increased capacity future development will bring.
- Northumbrian Water seem to suggest that no further development can take place (or at last no new property can be occupied) until the new sewerage treatment facility has been constructed and commissioned which will not be before the end of 2009 at the very earliest.
- The village has expanded substantially in recent years – the school is over capacity;

A further nine letters of objection have been received to the amended scheme which reiterate the issues raised above.

Middleton St George Parish Council has objected to the proposed development on the grounds that it would result in a cumulative impact on the conservation area.

## **PLANNING ISSUES**

The main issues raised by the submission of this application are as follows:-

- Planning Policy
- Impact on the Character and Appearance of the Area and Setting of the Listed Building
- Residential Amenity
- Trees
- Highway Matters
- Foul and Surface Water Drainage

### **Planning Policy**

The Government's objectives in respect of housing development is set out in Planning Policy Statement 3: Housing (PPS3). One of the main commitments of PPS3 is to promote more sustainable forms of development and make use of previously developed land. The focus for additional housing should be within the urban areas. The application site would fall within the definition of previously developed land found within PPS3.

PPS3 recommends that good design and layout of new development can help to achieve the Government's objectives of making the best use of previously developed land. Also new development of whatever scale should not be viewed in isolation. Considerations of design and

layout must be informed by the wider context, not just the neighbouring buildings but the townscape and landscape of the wider locality.

Against this national policy background, it is important to consider the policies within the Borough of Darlington Local Plan, as a basis for considering this application.

The site lies within the development limits of Middleton St George and therefore falls within the provisions of Policies E2 (Development Limits) and H3 (Locations for New Development) of the Local Plan. It is not a site that is specifically identified as being subject to any particular policies or proposals.

In these circumstances, there are no planning policy objections to the principle of this development.

### **Impact on the Character and Appearance of the Area and Setting of the Listed Building**

The main issues to be considered here are the character of the existing area, the impact of the development on the existing character and its design and visual appearance.

The site lies within the northern leg of the conservation area, which is characterised primarily by a limited number of substantial houses set in spacious garden landscapes. Within the conservation area these date mainly from the late C19 and the earliest part of the C20, whereas just outside the conservation area, on the east side of Middleton Lane buildings of the C20 inter war period and mid/late C20 predominate. These are much more tightly set. Similarly, to the west of, and adjoining the site, the conservation area is characterised by late C20 two storey detached dwellinghouses set within less spacious grounds than their older counterparts.

The proposed new buildings is in scale with both the ranges of predominant local existing buildings, although a little larger than the C20 ones. In design terms the building incorporates elements of the traditional local vernacular and represents an improvement on the relatively more modern dwellings adjoining the site.

The supporting text to Policy H13 (Backland Development) states that development of large back gardens will not normally be acceptable where it involves the loss of an open area which contributes to the ground amenity of the area.

The existing spacious garden, although characteristic of the older plots here, is not an especially noticeable feature from the main public viewpoints over the conservation area.

Nevertheless, the open amenity space provided between the existing building and the new buildings is sufficient to ensure that the open and 'green' side of Middleton Lane is not diminished.

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act imposes a duty on Local Planning Authorities to pay special attention to the impact of new development on the character and appearance of conservation areas. Current case law is that duty is discharged where it is considered the development will enhance or have a neutral impact.

The view of officers is that in this case the proposed development would have a neutral effect upon the character and appearance of the Conservation Area.

Members will wish to note that planning permission was recently refused, under delegated powers, for residential development in the rear gardens of the properties either side of the application site, numbers 63 and 64 Middleton Lane, on the basis that the loss of further large gardens within this part of the conservation area would cumulatively erode the character and appearance of the conservation area. However, in isolation, the development of the application site, which already has the benefit of a planning approval is considered acceptable.

Regarding the listed structure at the side of the house this currently sits within a garden setting which would not alter to an extent that its setting would be adversely affected.

### **Residential Amenity**

Policy H11 (Design and layout of New Housing Development) sets out a number of criteria against which new housing development must be assessed, which relate to the need to provide an attractive and safe environment, adequate privacy standards in rooms and gardens, the relationship of the proposed dwellings with existing dwellings, car parking standards and safe pedestrian access.

With regard to the relationship between the existing dwelling and the proposed new build, a privacy distance of 21m is provided between facing habitable rooms, which is considered acceptable to safeguard the amenities of the future occupiers of the development as a whole.

In terms of the adjoining residents to the north (No. 65 Middleton Lane) there are a number of ground floor windows which would face the rear part of the garden to neighbouring dwelling, however the existing boundary wall should ensure that there will be no significant overlooking issues. As originally submitted the scheme incorporated a dormer window within the roof plane facing the garden, this has now been omitted. A first floor landing window also looks onto the garden area but this is shown to be obscure glazed to avoid privacy problems. The proposed building is likely to result in some overshadowing and loss of light to a portion of the rear garden area to No. 65 but not to a degree that would justify a refusal of planning permission.

The relationship with existing dwellings in the Paddock (along the western boundary) is also considered acceptable. The rear elevations of the proposed new dwellings would either face the gable end of No. 9 The Paddock, approximately 19m away or the gap between this dwelling and the one to the south (No. 8). The distance between No. 8 the Paddock and the nearest of the proposed dwellings would be some 28m.

There is unlikely to be any adverse effects on the dwelling to the south, No. 63 Middleton Lane which is set well forward of the proposed new build. The elevation and fenestration of the nearest of the two proposed dwellings has been amended in line with the dwelling facing No.65 Middleton Lane.

Overall the scheme is not considered to give rise to conditions that would prejudice the amenities currently enjoyed by adjoining or neighbouring properties.

### **Trees**

The proposal will involve the removal of a number of fruit trees at the rear of the site, which are not of any visual significance. The application makes it clear that the trees at the front of the site covered by the Tree Preservation Order are to be retained. In order to ensure that they are not damaged during construction works, should permission be granted, it would be advisable to implement a scheme of protection, which can be achieved by way of a condition.

**Highway Matters**

The Highways Manager has made the following comments:-

*“In relation to visibility at the access I recognise that it will not be possible to achieve the advised visibility of 2.4m.x 43m.. However, to optimise the visibility that is achievable a condition must be included with an approval requiring that the front boundary wall (including piers) must be no higher than 1.05m.*

*There is another highway issue and this is in regard to access for emergency service vehicles. The requirements for access for a pump appliance ( Fire and Rescue Service) is for that appliance to be able to get within 45m. of a dwelling entrance. In this instance the entrance to dwelling on plot 2 is approx. 65m. from the adopted highway. The access road must be constructed to a width of 4.1m. and this would accommodate a pump appliance however it will not be able to manoeuvre within the site. It should therefore be made a condition of approval that the layout provides for sufficient space for a fire service vehicle to be able to turn within the site. The current proposed turning facility is not of sufficient size to allow a fire appliance to turn. Alternatively discussion could take place with the Fire and Rescue Service as there are instances where they will allow the 45m. to be exceeded if residential sprinkler systems are provided within the properties.*

The Fire and Rescue Service have advised that a sprinkler system would be acceptable and the applicant has agreed that this will be provided. However it is considered inappropriate to seek such a requirement through this planning application. Fire safety is covered within the Building Regulations and this matter would be addressed at that stage.

**Foul and Surface Water Drainage**

Northumbrian Water have advised that the Middleton One Row Sewage Treatment Works (STW) is at full capacity. The company have stated that they intend to undertake a scheme to transfer the flows from the STW to the Stressholm STW, but the earliest date that this would commence is unlikely to be until the end of 2009 and may be later.

Nevertheless Northumbrian Water advise that they would raise no objection to the application subject to a condition requiring the submission and approval of details for the treatment of foul flows from the development and that the dwellings shall not be occupied until the completion and commissioning of this scheme. They have requested an additional condition requiring surface water to be disposed of separately from foul water.

**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 the development limits identified in the development plan. The scale, design and appearance of the development is considered acceptable and will not harm the amenity and general character of the Middleton One Row Conservation Area or the setting of the Grade II listed archway within the site. The development has no significant effects in terms of overbearing impact, loss of daylight or sunlight to adjoining dwellings and maintains adequate levels of privacy. The application is not considered to raise any issues in relation to car parking provision, highway safety or crime prevention. Consequently it is considered that there are no material reasons to withhold a grant of planning permission.

## RECOMMENDATION

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

- 1) A3 Implementation Limit (Three Years)
- 2) B4 Details of Materials (Samples)
- 3) B5 Detailed Drawings (Accordance with Plan)
- 4) E2 Landscaping (Submission)
- 5) E5 Boundary Treatment Submission
- 6) E11 Tree Protection
- 7) Notwithstanding condition (3) above detailed working drawings at a minimum of 1:20 scale to include verge, eaves and window details, shall be submitted to and approved by the Local Planning Authority prior to the commencement of development. The development shall not be carried out otherwise than in accordance with the approved details.  
REASON – In order that the Local Planning Authority may be satisfied as to the details of the development within the Middleton One Row conservation area.
- 8) The boundary wall fronting onto Middleton Lane shall be reduced to a height of one metre prior to the occupation of any of the dwelling units hereby approved and thereafter shall be retained at that height.  
REASON – In the interests of highway safety.
- 9) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order) no development within Schedule 2, Part 1, Classes A to H and within Schedule 2, Part 2, Classes A to C of the Order shall take place without the prior written consent of the Local Planning Authority, to whom a planning application must be made.  
REASON - To safeguard the character and appearance of the Middleton One Row Conservation Area and the amenities of adjoining residents.
- 10) Notwithstanding anything shown on the submitted drawings the windows formed in the elevations of the dwellings overlooking no's 63 and 65 Middleton Lane shall be of an

obscure level of glazing to be agreed in writing with the Local Planning Authority prior to the commencement of development. The windows shall be hinged to open inwards only and shall not be repaired or replaced other than with the agreed level of obscurity. REASON - To prevent overlooking of the nearby premises.

- 11) No development shall commence until a detailed scheme for the treatment of the foul flows from the development hereby approved, has been submitted to, and approved by, the Local Planning Authority in consultation with Northumbrian water. The dwellings shall not be occupied until the scheme to transfer foul flows from the Middleton One Row Sewage Treatment Works to the Stressholm Sewage Treatment Works has been completed and commissioned.

REASON – The sewage treatment works to which the development will discharge. Is at full capacity and cannot accept the foul flows.

- 12) No development shall commence until a detailed scheme for the disposal of surface water from the development hereby approved has been submitted to, and approved in writing by the Local Planning Authority in consultation with Northumbrian Water. Thereafter the development shall not take place otherwise than in accordance with the approved details.

REASON – To ensure that the discharge of surface water from the site does not increase the risk of flooding from sewers in accordance with the requirements of PPS25 “Development and Flood Risk” and complies with the hierarchy of preference contained within Part H of the Building Regulations 2000, and for environmental reasons to avoid the unnecessary pumping and treatment of surface water.

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

The application site lies within the development limits identified in the development plan.

The scale, design and appearance of the development is considered acceptable and will not harm the amenity and general character of the Middleton One Row Conservation Area or the setting of the Grade II listed archway within the site. The development has no significant effects in terms of overbearing impact, loss of daylight or sunlight to adjoining dwellings and maintains adequate levels of privacy. The application is not considered to raise any issues in relation to car parking provision, highway safety or crime prevention.

Therefore the proposed development is considered to comply with national planning guidance and the development plan policies set out below:-

### **National Planning Policy**

PPS3- Housing

PPG15-Planning and the Historic Environment

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

E2 – Development Limits

E11 – Conservation of Trees, Woodlands and Hedgerows

E12 – Trees and Development

E14 – Landscaping of Development



E29 –The Setting of New Development  
H3 – Locations for New Housing Development  
H9 – Meeting Affordable Housing Needs  
H11 – Design and Layout of New Housing Development  
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T31 – New Development and Public Transport

## **INFORMATIVES**

The applicant is advised that works are required within the public highway, to improve existing crossing and construct pedestrian entrance, 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 Highways Manager (contact Mrs P Goodwill 01325 388760) to discuss naming and numbering the development.

The site lies in an area where geological assessment should be carried out to establish whether the site is affected by Radon Gas. You are therefore recommended to contact British Geological Survey to obtain a Radon Protection Measures Site Report before proceeding (tel. no 0115 9363143). The Council's Building Control Section and Public Protection Section can also provide general advice on this matter.