

DARLINGTON BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 18 December 2013

Page 20

APPLICATION REF. NO:	13/00794/FUL
STATUTORY DECISION DATE:	5 December 2013
WARD/PARISH:	HUMMERSKNOTT
LOCATION:	9A Tees Grange Avenue
DESCRIPTION:	Erection of a single storey building to form residential annexe (second revised application)
APPLICANT:	MR S EDWARDS

APPLICATION AND SITE DESCRIPTION

Members may recall that an application for the erection of a building within the curtilage of the application property to form a residential annexe (13/00156/FUL) was refused, contrary to Officer recommendation, at the meeting of the Planning Applications Committee on 5 June 2013. An appeal against the refusal of planning permission has been lodged with the Planning Inspectorate and is currently undecided. This is a further revised application, with additional information submitted in support of the proposal, which seeks to overcome the reasons for refusal of the previous application. An earlier application (12/00401/FUL) for the erection of a building to form an annexe was withdrawn in December 2012.

The current application proposes once more the erection of a single storey building within the curtilage of the application property to form an annexe, to be occupied by a family member in connection with the main dwelling. The proposed building is to be built on the site of an existing detached garage to the north of the application property, which will be demolished. It will be L-shaped and is to measure approximately 5.4 metres wide increasing to 9.9 metres wide at its northern end and will be a maximum of 9.9 metres deep. It is to be constructed of brick with stone detailing to the front elevation under a hipped tiled roof, 4 metres in height at ridge level. It will provide two bedrooms, a bathroom, kitchen/diner and lounge. The submitted plans show that there will be sufficient space for the parking of 5 no. vehicles to the front of the existing property.

A draft Section 106 Agreement has once more been submitted with the application which covenants that the building will be used solely as an annexe to the main dwelling and will not be used as a separate dwelling and also that there will be no severance in ownership between the house and the annexe.

A supporting statement has also been submitted with the applicant's agent considers provides additional information which they consider will overcome the previous reasons for refusal.

The application site comprises a detached single storey dwelling and detached garage located on a roughly triangular parcel of land in a backland location to the south of Tees Grange Avenue. Planning permission was granted for the erection of the bungalow and garage in March 1986 (86/00057/MISC). Vehicular access to the property is gained off Tees Grange Avenue and the property is bounded by residential properties on Tees Grange Avenue to the north, on Lauriston Close to the west and on West View to the east. Two trees, protected by Tree Preservation Order (No. 8) 1984 are located to the front of the property but are unaffected by the proposed development.

PLANNING HISTORY

75/00418/TF – Consent to the felling of one tree. REFUSED 6 AUGUST 1975

77/00084/TF – Pruning o beech tree. GRANTED 30 MARCH 1977

86/00057/MISC – Erection of a bungalow and domestic garage. GRANTED 26 MARCH 1986

92/00290/MISC – Felling of chestnut tree protected by Tree Preservation (No. 8) Order 1984. REFUSED 2 JULY 1992

00/00321/FUL – Single storey extension to provide garden room, utility room and kitchen alterations. GRANTED 30 JUNE 2000

00/00416/TF – Application to fell a chestnut tree included in Darlington (Hummersknott Estate) Interim Preservation Order 1945 and the Borough of Darlington Tree Preservation Order (No. 8) 1984. WITHDRAWN 25 JULY 2000

12/00401/FUL – Erection of building to form annexe (as amended by plans received on 15 August 2012). WITHDRAWN 7 DECEMBER 2012

13/00156/FUL – Erection of a building to form annexe (revised application). REFUSED 11 JUNE 2013

PLANNING POLICY BACKGROUND

The following saved policy of the Borough of Darlington Local Plan 1997 is relevant to consideration of the application:

- H12 – Alterations and Extensions to Existing Dwellings

RESULTS OF CONSULTATION AND PUBLICITY

Highway Engineer – There is sufficient curtilage parking to serve the development and the access onto the highway is unaffected therefore I would raise no highway objection to the proposal.

A total of six letters of objection, from the residents of three neighbouring properties, have been received which raise the following issues:

- *Having studied the application I find it to be the same as the previous two applications, one of which was withdrawn and the other was rejected by the Council for the reason that 'by virtue of its size, scale and proposed use it would have an adverse impact on the amenity of residential property located in the immediate locality';*
- *The size, scale and position of the new building applied for is the same as the last rejected application, and the only difference between this application and the last is the planning argument. With size, scale and position the same as the last rejected application, then this application should also be rejected and I ask the Council to do so;*
- *As the application is unchanged, I believe it should be refused on the same basis without further consideration. In submitting an unchanged application it could be considered that the applicant is wasting the Council's time;*
- *My reasons for objecting to the proposed scheme remain unchanged. In addition I shall address misleading and false statements made in the England and Lyle Supporting Statement;*
- *The proposal relies on the classification of the new building as an annexe. It is clear that the building cannot be considered as such. The new building provides all the accommodation considered necessary on an independent, self-contained home. There is no dependency on the existing dwelling, no functional or physical links which would be expected of an annexe and the proposed development cannot be considered as subservient to the existing dwelling;*
- *The proposed building is clearly intended for a separate household and I therefore strongly object to the planning application being considered as an annexe;*
- *The Supporting Statement clearly states in Sections 1.8 and 3.8 that the proposed development is of a similar size to the existing garage. These statements are false. The proposed development is virtually double the plan of the existing garage. Any arguments based on this premise should be dismissed;*
- *The drawings in the Supporting Statement should the distance between the neighbouring properties and the visual impact on them area incorrect, not showing extensions built many years ago. This error was pointed out several times in objections to the previous application. The drawings are therefore misleading;*
- *The main drawings accompanying the application contain the same errors, again previously pointed out. Question why these comments have been ignored and the drawings not corrected to show the true arrangement. Any arguments based on these drawings should be dismissed;*
- *Local Plan Policy H13 (Backland Development) should apply when assessing the application, as the proposed bungalow cannot be considered as an annexe for the reasons previously stated. This was also the conclusion of the Planning Committee when the previous application was refused under this policy and for this reason the application should be refused again;*
- *The applicant has argued that this is an annexe and that as such Policy H12 applied and has appended a Section 106 Agreement to the application. The design of the building has all the rooms and facilities necessary to form independent accommodation and it is clear that it is intended to be used as such. The National Planning Policy Framework requires that all conditions must be enforceable. The occupation of the annexe will be impossible to control and there is nothing to prevent the applicant submitting a Certificate of Lawfulness in the future, circumventing any conditions imposed. The proposed should be refused on this basis;*
- *The Darlington Borough Council document Design of New Development SPD, section 5.11 Proximity Distances gives minimum acceptable distances between new developments. The applicant clearly considers this to be an independent new*

development and that the separation distances apply as the submitted plans show the requisite separation distance of 21 metres between the new development and a property in Lauriston Close;

- *Section 3.14 of the England and Lyle Supporting Statement specifically states that the new development has been sited to comply with the Council's adopted separation distances in relation to Lauriston Close;*
- *If the separation distances apply between the new development and Lauriston Close then they should also apply between the new development and my property;*
- *Taking into account the 2m difference in floor levels between my house and the new property then the SPD recommends a separation distance between habitable rooms of 25m (21m plus 2m per metre elevation difference, my property being the lower). The lounge at the rear of my property has once again been omitted from the application plans and this lounge has large patio windows. The distance from this lounge to the boundary fence is only 9.6m suggesting the proposed development should be over 15m back from the fence line within the plot of 9A;*
- *Also note that the minimum separation distance given in the SPD between habitable and non-habitable rooms is 16.5m (taking into account the level difference) and on this point alone the proposed property should be at least 7 metres back from the fence within the boundary of plot 9A. On this basis I believe the plans should be refused;*
- *The proposed development raises a number of issues that would significantly impact on the enjoyment of my home and the character and appearance of the surrounding area;*
- *The surrounding area is characterised by its spaciousness, with good sized architect designed homes sitting in large plots with distinctive character and strong sense of place which I believe to be protected under local and national planning policy;*
- *The proposal is contrary to that pattern of development; it seeks to squeeze and additional property into a backland setting and increases the development density to a degree that is out of keeping with the area. The proposed building is small, cramped and of utilitarian design. This is contrary to paragraph 53 of the NPPF and Core Strategy Policies CS2 and CS14;*
- *The proposal affects the enjoyment of my home and garden by way of its impact on the visual amenity I enjoy and due to the impact it will have on privacy and peaceful use of my garden;*
- *The proposed dwelling will replace the existing garage that runs along approximately 50% of my rear garden and will dominate the back of my garden and views from my own extension (not shown on the submitted plans);*
- *The plans show considerable hedging between my property and the application site, but this is incorrect. The existing shrubs are regularly controlled and cut back to make it manageable and do not conceal what would be elevation of the proposed dwelling;*
- *At present I do not have living accommodation in direct proximity to my house; the existing main house at 9A Tees Grange Avenue is set back and viewed obliquely;*
- *What is presently a seldom used corner of the larger garden of 9A, tucked behind the garage, will become the main back garden area of the new dwelling. This will introduce people sitting out in the garden directly behind my rear wall. I will hear their conversations, music and barbeques and they will be able to overhear conversations in my own garden. This loss of amenity is contrary to both Policies H12 and H13 and the NPPF (p5) and on this basis the application should be refused;*
- *The only additional evidence that the Supporting Statement attempts to make is a different planning argument. It does not alter the physical aspects of the development. Whatever the planning argument it cannot alter the fact that 'by size, scale and proposed use it would have an adverse impact on residential property';*

- *I find the conflict in definition between 'new building', 'detached building', 'detached bungalow' and 'annexe' very confusing. It appears to me that if the case officer decides to call the building an annexe, then one set of planning rules apply and if it is called a new building or a bungalow then a completely difference set of planning rules apply. In one case approval is given and in the other approval is rejected. If I am correct in this belief this is a most unsatisfactory situation, and you may as well grant or reject an application on the spin of a coin;*
- *I maintain the view that this application is for a new detached building because this is what ordinary members of the public would call it. Is it a detached two bedroom bungalow? Yes. It is a new building? Yes. Does it require any service from the existing house? No. Does the building rely on sharing accommodation with the existing house? No. Is the building design for and capable of completely independent living? Yes. I therefore argue that this is a new detached building and contrary to planning policies relating to the location of new dwellings within the urban area and should be rejected;*
- *A photograph submitted with my objection shows the proposal does not comply with the minimum 21 metre minimum acceptable distance specified in the Design of New Development SPD and shows the size of the proposed building relative to the existing garage which demonstrates the nonsense of the England and Lyle statement that the 'proposed building will not be significantly larger than the existing garage on site';*
- *Please also note the closeness of this new detached building to the rear garden fence of 1 Lauriston Close and the limited potential narrow garden space overlooked by the kitchen, dining area, bathroom and bedroom;*
- *I find the statement that the building will be used as a residential annexe to be occupied by a family member in connection with the main dwelling difficult to believe. Is this family member (singular) a dependent now living at 9a Tees Grange Avenue and if so how can one dependent justify the use of a two bedroom bungalow with all the facilities for a totally independent living for four or more people? If more than one person is to occupy the annexe, then where do they appear from and are they forming a new independent detached family accommodation? I believe this should be investigated far more thoroughly than simply accepting the writings in the Section 106 Agreement;*
- *The submitted plans do not show the extension to the rear of our property, approved in April 2004 and constructed soon after. This fact was pointed out in the objection to last year's application, discussed at the Council meeting and sent in writing to the Council's Principal Planning Officer. Despite this the application continues to exclude this and offers incorrect plan drawings which are at least nine years out of date and give false and deceptive information to the Council;*
- *It can be clearly seen how this detached building dominates this small area of the garden and how it extends across and beyond the rear garden of 1 Lauriston Close. With kitchen, dining area, bathroom, toilet and bedroom overlooking this small area of garden, all of which overlooks the rear of 1 Lauriston Close, I believe that sound, smells and noise will permeate the garden and also the rear garden of our property, destroying privacy and peace that has existed today;*
- *The existing view from the rear of our property of greenery will disappear and be replaced by roofs of the existing property overlapped by the roof of the proposed new building;*
- *We searched for a long time to find a suitable property which offered freedom from noise and smells and provided the restfulness, peace and tranquillity we believed we needed during the latter stages of our lives. At the time we purchased the property searches showed no sign of any intended building beyond our back garden, but since then 3*

applications have been made which if approved will destroy our enjoyment of our later lives;

- *My husband has been diagnosed with cancer and is now an outpatient under the care of James Cook University Hospital. He is currently being fitted with the appropriate masks to facilitate radiotherapy and a PEG tube to administer liquid foods and medicines when he is too ill to be able to feed himself. The Consultant Oncologist has told us that my husband will become very ill;*
- *You will understand that I am shattered by this application which if approved would lead in the short term to substantial noise and dirt from demolition and in the longer term to the destruction of our peace and tranquillity. I believe this will cause enormous damage to my husband at the moment that he needs quiet and rest;*
- *I have no other option unlike Mr Edwards who can, if he wishes, purchase a detached bungalow backing directly onto his land in West View and saving himself the costs of architects, demolition costs and building and associated costs. Once such property came up for sale in an ideal position at 2 West View within the last three months but has now been sold;*
- *Considered that through design the building is intended for a separate household and independent accommodation and is therefore backland development. During previous applications, the Case Officer has commented with regard to the acceptance of the building if it wasn't regarded as an annexe, stating that the proposed annexe would not be acceptable for use as a separate unit and would be contrary to Policy H13. Therefore strongly object to England and Lyle's comments at paragraph 3.2 that Policy H13 is not relevant;*
- *Policy H12 would be relevant if the new development was considered part of the larger house and was either an extension and/or alteration. It is considered that this scheme does not comply with this policy as the proposal will have an adverse impact on the privacy of neighbouring properties and the proposal is overbearing when viewed from neighbouring properties. Either way, a new dwelling on backland or as an extension/alteration to the main dwelling, the proposal does not accord with either H12 or H13;*
- *Paragraph 53 of the NPPF states that local planning authorities should 'resist inappropriate development of residential gardens, for example, where development would cause harm to the local area'. The proposal is contrary to national guidance;*
- *The proposed scheme appears to have increased in size since the previous planning application (13/00156/FUL) adding further concerns in respect of how the proposal will impact on our client and his neighbours. The proposal has increased in size in respect of its southern and eastern elevations. Plans 12301/8C (dated June 2012) and 12301/10 (dated October 2012) refer;*
- *The considerable increase in size of the building from the existing garage to proposed new building will increase from running along 50% of our clients' garden boundary to almost 100% of the boundary, dominating our clients' outlook from their garden and property;*
- *Therefore contend the assertions by England and Lyle Ltd and dispute that the proposed new building will have significant impact in terms of visual amenity from outside of the site;*
- *The proposed new building is considered to be unsympathetic to the character and design of the locality in terms of appearance, layout and established grain of development locally;*
- *Serious concerns relating to the application being subject to a Section 106 Agreement preventing its use as a separate dwelling. Whilst support the need for a Section 106*

Agreement, consider the building to be of a scale of an independent unit. There is nothing to prevent the applicant or future owner submitting a Certificate of Lawfulness of the property in due course if the unit is inhabited by means outside of the described Section 106 Agreement. Therefore ask how the property will be policed and how the planning authority will ensure the future use of the building does not become subject to independent living via the submission of a Certificate of Lawfulness in the future;

- *Due to the size of the unit and the additional parking provision shown on the submitted plans it is considered acceptable to anticipate that the property, in due course, will be sublet or sold independently, once the correct planning consent/certificate is applied for;*
- *If the unit was smaller in scale and represented more of an annexe rather than an independent building the Council would have more security regarding the future occupation and without the need of significant policing/monitoring which would require significant time by the Council;*
- *Continue to fully support the Committee Members for refusing the last application in that the development by virtue of its size, scale and proposed use would have an adverse impact on the amenity of residential property located in the immediate locality and would thereby conflict with Policy H13 of the Local Plan;*
- *Request that if the application is recommended for approval by the Case Officer, the application is considered by a Committee of Council Members and that the Members are invited to visit the site so that they are able to see the damaging effect this proposal will have on our client (and surrounding neighbours) first hand.*

PLANNING ISSUES

The main issues to be considered are whether the erection of the proposed single storey building to be used as annexe accommodation in connection with the main dwelling are acceptable in terms of the following matters:

Planning Policy

Visual and Residential Amenity

Highway Safety

Planning Policy

The previous application was refused by Members on the basis that the proposed development would have an adverse impact on the amenities of surrounding residential properties, contrary to Saved Local Plan Policy H13 (Backland Development).

The application once more proposes to erect a single storey building for use as a residential annexe to be occupied by a family member in connection with the main dwelling at 9A Tees Grange Avenue. A draft Section 106 Agreement has been submitted which covenants that the building will be used solely as an annexe to the main dwelling and will not be used as a separate dwelling and also that there will be no severance in ownership between the house and the annexe. The proposal would only fall to be considered against the criteria set out in Saved Policy H13 (Backland Development) if the proposal were for a separate dwelling. In view of the backland location of the site, the close relationship of the proposed annexed to the main dwelling and the shared access and parking arrangements, the proposed annexe would not be suitable for use as a separate unit of accommodation and would be contrary to planning policies relation to the location of new dwellings in the urban area.

A number of objections have been received relating to the size of the proposed building and the nature of accommodation provided and its ability to be used as a separate dwelling. These objections consider that the application should therefore be assessed against Saved Policy H13 (Backland Development) and the requirements of the Revised Design of New Development Supplementary Planning Document (Design SPD) specifically relating to the separation distances between existing and proposed dwellings. The application however clearly states that the proposal is for a residential annexe and as such, consideration of the application falls to be assessed against Saved Local Plan Policy H12 (Alterations and Extensions to Existing Dwellings). Other matters raised by the objectors relating to residential and visual amenity will be considered in more detail elsewhere in the report.

Visual and Residential Amenity

Saved Policy H12 (Alterations and Extensions to Existing Dwellings) of the Borough of Darlington Local Plan 1997 is a criteria based policy which seeks to ensure that new development within the curtilage of an existing dwelling is both in keeping with the character and appearance of the dwelling itself and that of the surrounding streetscene and that it maintains the living conditions of surrounding properties in terms of light, privacy and outlook.

As before, the proposed building is to be built on the site of an existing detached garage, adjacent to the northern site boundary. It is to be built of brick and tile with stone detailing to the front (east facing) elevation of the building, under a low-profile, hipped tiled roof. The design of the proposed building is considered to be consistent with that of the host dwelling and in this respect is considered to be in keeping with the character and appearance of the dwelling.

While the proposal remains unchanged, a supporting statement has been submitted with the application which provides information to explain how it is considered the proposal will limit any impact upon the amenities of these properties.

Objections have been raised regarding the impact of the proposal, resulting in a cramped form of development, at odds with the character and appearance of the surrounding area. The annexe will replace an existing detached garage, albeit on a larger footprint, to the north of the existing dwelling. While the typical built form surrounding the site is of dwellings fronting the street, with garages to the side and relatively undeveloped garden areas to the rear, this property is different in that it occupies a larger, backland site. Given its backland location, bounded by existing residential properties along all three of the site's boundaries neither the existing dwelling nor the proposed annexe will be readily visible from public view outside of the site such that it would be difficult to argue that the proposal will have an unacceptable visual impact on the character and appearance of the surrounding area.

Saved Policy H12 also requires that proposed development maintains the living conditions of surrounding properties in terms of light, privacy and outlook. The proposed building is to be located adjacent to the northern boundary of the application site, replacing an existing detached garage, in close proximity to the dwelling immediately to the north at 17 Tees Grange Avenue. Objections to the proposal have been received from the occupants of this property and from the occupants of 19 Tees Grange Avenue, 1 Lauriston Close and 2 Lauriston Close which share boundaries with the application site to its north-west and western sides respectively. These objections are all concerned by the close proximity of the proposed annexe to their properties together with the impact the proposal will have in terms of loss of privacy due to overlooking and increased activity concentrated in this part of the application site, together with loss of outlook. Although the objections all refer to the separation distances set out in the Design SPD these relate only to proposals for new dwellings, to ensure that appropriate levels of privacy and

outlook can be achieved both for existing and proposed dwellings. As has been considered elsewhere in this report, the proposal is not for a new dwelling and therefore stands to be assessed against Saved Policy H12 which makes appropriate provision for these matters to be taken into account in determining such applications.

The proposed building is to be located adjacent to the northern boundary of the application site, set in approximately 0.75 metre off the boundary with 17 Tees Grange Avenue with the northern elevation of the annexe being approximately 9.9 metres in length adjacent to this boundary. The two properties are separated by an existing close boarded timber fence directly behind the existing garage and a coniferous hedge runs either side of the garage along the remainder of this boundary on the applicant's side of the boundary. There is a level difference of approximately 1 metre between the application site and the property at 17 Tees Grange Avenue, with this property sitting at the lower level.

The existing garage sits a similar distance away from this boundary although is slightly shorter than the proposed annexe at approximately 8.5 metres in length. It has a pitched roof approximately 3.7 metres in height at ridge level with the ridge running east to west adjacent to the northern boundary. The roof of the proposed annexe would be a hipped roof, with a maximum height to ridge of 4 metres, although the form of the roof over the proposed lounge and kitchen/diner element along the north boundary would be similar in height to that of the existing garage albeit that it would extend for a further 1.4 metres along this boundary. Although 17 Tees Grange Avenue has been extended at single storey across its rear elevation, it is not considered that the proposed annexe, when compared to the existing garage in terms of its form and massing would have an unacceptable loss of outlook from the rear of this property or from its extension so as to warrant refusal of the application on this basis. There will be no window openings in the north elevation of the proposed annexe although patio doors serving the kitchen/dining area in the west elevation will be located adjacent to the common boundary facing west. Any views of the rear garden of 17 Tees Grange Avenue from these patio doors would be oblique views of the lower south west corner of the garden, although would largely be restricted by the existing boundary treatment along the common boundary.

Objections have also been received from the owners of numbers 1 and 2 Lauriston Close to the west which both share a common boundary with the application site. Number 1 Lauriston Close is more directly affected by the proposals being directly to the west of the proposed building. The property at 2 Lauriston Close would have a more oblique relationship with the proposed building. Although the proposed annexe would be closer to this boundary and greater in terms of its footprint and massing than the existing garage, the two properties are separated by a substantial coniferous hedge. As before the roof and upper part of the annexe will be visible from the rear of this property, although the majority of the building would be screened by the hedge between the two properties such that there would be no unacceptable loss of amenity to this property in terms of light, outlook or privacy due to overlooking.

A number of objectors have raised the issue regarding the inaccuracy of submitted plans which do not show extensions to the rear of their properties. As a result of this they consider the separation distances between these properties and the proposed building, shown on the plans and referred to in the supporting statement, to be inaccurate. As previously explained, the separation distances set out in the Design SPD do not relate to this application given that the proposal stands to be assessed in the context of Saved Policy H12 (Alterations and Extensions to Existing Dwellings). Notwithstanding this, the separation distances set out in the Design SPD do allow for properties to be extended at ground floor level over time whilst maintaining acceptable levels of privacy.

While it is accepted that the submitted plans do not show extensions to the rear of 1 Lauriston Close and 19 Tees Grange Avenue, the information provided relating to these properties appears to have been taken off an OS base plan which has not been updated to show recent extensions. The purpose of the Officer's site visit is to verify and assess conditions both on site and relating to adjacent properties to enable appropriate consideration of the proposal and its impacts to be given. In this instance for the reasons set out above it is not considered that the proposed building would result in an unacceptable loss of amenity to the neighbouring properties in terms of light, outlook or privacy due to overlooking.

In terms of activity levels associated with the proposed annexe and the potential for disturbance arising from the use of the annexe and existing garden area, it is not proposed to form a separate garden area to serve the annexe. While the family members occupying the annexe may reasonably use the area directly to the rear of the annexe the entire garden is available for the whole family to use. The Local Planning Authority currently has no control over how various parts of the garden area are used and therefore it would be unreasonable to refuse planning permission on the basis that the use of this part of the garden could result in disturbance and loss of privacy to surrounding residents. Conditions restricting permitted development rights across the site and preventing the erection of fences or means of enclosure within the site to avoid the subdivision of the curtilage area are attached to protect the amenities of surrounding properties.

Concern has been expressed by a number of objectors regarding the ability of the proposed building to benefit from a certificate of lawfulness if its use as a separate dwelling went unchecked for a period of time. Planning permission cannot be refused for the development, which is considered to be acceptable in policy terms, on the basis that it might not be used for its intended purpose. A Section 106 Agreement would provide control over the use of the building as an annexe in connection with the main dwelling and preventing its use as a separate dwelling or its severance from the main dwelling to address concerns regarding its use as a separate dwelling.

Once signed by both parties the Section 106 Agreement it is a legally binding document which can be enforced by both parties. An application to discharge or modify the agreement can only be made within 5 years of the applicant entering into the agreement. If however the use of the building as a separate dwelling went unchecked for a continuous period of 4 years the use of the building in this way would become immune from enforcement action and there could be grounds for discharging the agreement on the basis that it would be no longer needed to serve its original intended purpose. If a planning condition were also to be attached restricting the use of the building as an annexe then its use as a separate dwelling would need to go unchecked for a longer period of 10 years, before it became immune from enforcement action as a breach of condition. While the Council would endeavour to monitor the Section 106 Agreement regularly, such a condition would provide additional safeguards against non-compliance.

Highway Safety

The existing property at 9A Tees Grange Avenue sits in sizeable grounds served by an existing vehicular access off Tees Grange Avenue. There is sufficient space within the curtilage for the parking and turning of vehicles associated with the existing dwelling and proposed annexe. On this basis the Highway Engineer has raised no highway objection to the proposal.

SECTION 17 OF THE CRIME AND DISORDER ACT 1998

The proposed development has been considered in the context of the requirements placed on the Council by Section 17 of the Crime and Disorder Act 1998, namely, the duty on the Council to

exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. The proposed development does not give rise to crime and disorder issues.

CONCLUSION

The erection of a building to provide annexe accommodation to be used by family members in connection with the main dwelling is considered to be acceptable in principle. A draft Section 106 Agreement has been submitted by the applicant in which he covenants that the building will be used solely as an annexe to the main dwelling, will not be used as a separate dwelling and the ownership of the two properties will not be severed, which provides the Local Planning Authority with appropriate controls over its occupation. The proposed building is considered to be acceptable in terms of its scale, design and use of materials in the context of both the application property and the character and appearance of the surrounding area. It is not considered to have any unacceptable impact on residential amenity, loss of light, outlook or privacy. The proposed building does not give rise to any issues of highway safety and therefore complies with the requirements of Saved Policy H12 (Alterations and Extensions to Existing Dwellings) of the Borough of Darlington Local Plan 1997.

RECOMMENDATION

THAT SUBJECT TO A SECTION 106 AGREEMENT RESTRICTING THE USE OF THE DEVELOPMENT HEREBY APPROVED TO AN ANNEXE ACCOMMODATION AND PREVENTING ITS USE AS A SEPARATE DWELLING AND PREVENTING ANY SEVERANCE IN OWNERSHIP BETWEEN THE HOUSE AND THE ANNEXE BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:

1. A3 Implementation Limit (Three Years)
2. B4 Details of Materials (Samples)
3. D2 No additional windows or glazed openings in the north elevation
4. C5 Removal of permitted development limits
5. The development for which planning permission is hereby granted shall not be occupied, let or otherwise disposed of as a separate dwelling but shall be used only for purposes ancillary to the use of the single family dwelling to which it relates. Furthermore there shall be no severance of ownership of the annexe and single family dwelling known for the time being as 9A Tees Grange Avenue.
REASON – The development is considered unsuitable for occupation by a separate person or household not related to the occupiers of the single family dwelling to which it is attached. It is considered that the occupation of the development as a separate dwelling would have an unacceptable impact on the character of the area.
6. B8 Restriction on means of enclosure
7. B5 Development in accordance with approved plans