

**DARLINGTON BOROUGH COUNCIL**

**PLANNING APPLICATIONS COMMITTEE**

**COMMITTEE DATE: 23 November 2011**

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<b>APPLICATION REF. NO:</b>	11/00468/FUL
<b>STATUTORY DECISION DATE:</b>	15 September 2011
<b>WARD/PARISH:</b>	COLLEGE
<b>LOCATION:</b>	Street Record, Glaisdale Court
<b>DESCRIPTION:</b>	Variation of planning permission reference number 02/00937/RM2 dated 20 October 2006 for residential development - to permit substitution of house types on thirteen plots to and revise the approved layout (Additional information and amended plans received 9 August 2011 and 12 October 2011 and 10 November 2011; Arboricultural Method Statement and Implications Assessment received 19 August 2011)
<b>APPLICANT:</b>	Persimmon Homes Teesside Limited

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**APPLICATION AND SITE DESCRIPTION**

The application site is a residential development which is currently under construction. Due to the economic climate the completion of the development has taken longer than anticipated and the applicant has revisited the marketability of the site. They have submitted two planning applications which essentially involve the omission of the approved large detached dwellings on the western edge of the development site and replace them with dwellings which they consider to be more marketable.

The proposal involves the substitution of house types on thirteen plots along with a revision to the layout of the development. The new dwellings would be located in the south west corner of the site (seven plots) and on the north boundary (6 plots) with Dale Road. The following house types would be introduced into the development site:

- Two Hogarth house types – Four bedroomed detached dwelling
- Five Potter house types – Four bedroomed detached dwelling
- Two Hilliard house types – Five bedroomed dwellings
- Three Keating house types – Four bedroomed dwellings
- One Bewick house type – Five bedroomed dwelling

Access to the site off Cleveland Avenue would remain unchanged. The application site contains trees which are covered by a tree preservation order dated 2006. The West End Conservation Area runs along the southern boundary of the site.

In May 2011 the applicant carried out a Statement of Community Involvement exercise which resulted in three residents raising concerns over privacy distances; differences in land levels; flooding; increasing of the number of dwellings and trees. The applicant considered that their original proposal either met or exceeded the Council's guidelines in relation to privacy including taking account differences in levels and results in the loss of no further existing landscaping that the previously approved layout.

The other planning application (reference number 11/00461/FUL) for the site forms part of this Agenda

### **PLANNING HISTORY**

The relevant entries are:

02/00937/OUT In April 2004 planning permission was GRANTED subject to a Section 106 Agreement for the a residential development with associated open space – in outline

02/00937/RM1 In August 2004 planning permission was GRANTED for the erection of 129 dwellings comprising 3 & 4 storey apartment blocks, 3 storey town houses & single detached dwellings, parking & garages pursuant to outline planning permission 02/00937/OUT dated 30 April 2004 for residential development with associated open space

02/00937/RM2 In October 2006 planning permission was GRANTED for the erection of 114 No. new build dwellings comprising 4 storey apartment block, 3 storey town houses and single detached dwellings, associated parking and garages

### **PLANNING POLICY BACKGROUND**

The relevant development plan policies are:

#### **Darlington Core Strategy Development Plan Document (2011) Policies**

- CS1 Darlington's Sub-regional Role and Locational Strategy
- CS2 Achieving High Quality, Sustainable Design
- CS4 Developer Contributions
- CS10 New Housing Development

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

- E2 Development Limits
- E12 Tree and Development

#### **Other Supporting Documents**

- Supplementary Planning Document – Design for New Development
- Darlington Open Space Strategy 2007 - 2017

### **RESULTS OF CONSULTATION AND PUBLICITY**

Four letters of objection have been received and some of those letters raise issues which also relate to planning application reference number 11/00461/FUL which also forms part of this Agenda. Officers have extracted the concerns relating to his proposal which can be summarised as follows:

- *Concern that there are more houses proposed at the Elton Road side of the development than original plan. This will result in more hard surface areas which could cause surface water to flow onto our property when it would previously have drained through soil. Our property is at a lower level than the housing site.*
- *My major concern relates to two dwellings that were intended adjacent to Nos 58, 60 and 62 Elton Road by one dwelling that now seems to be adjacent to 58 and 60. It is not clear whether the proposal involves a change of design name or design type and I am not provided with any dimensions. However, I am worried that the now proposed dwelling (Bewick design) may be larger than the previously intended Tennyson design*
- *What does appear to be the case is that these applications bring the site of this proposed dwelling much nearer to our boundary wall than that was previously proposed. I am aware that this may not breach legal requirements concerning separation but given the likely height differences between our site it does concern me that these new proposals will have a definite impact on my privacy*
- *There is currently a retaining wall and a hedge between my property (60 Elton Road) and the Glaisdale Court development. I have been given assurances that maintenance of both of these, which was previously the responsibility of Darlington College, will become the responsibility of any new occupier. Given what seems to be a much closer location of the proposed dwelling to the boundary wall, I wonder if the current situation will prevail*
- *I have experienced a long term problem of flooding in my garden which has been attributed to the height difference between my garden and what were the college fields. It is unclear from the plans what surface is intended around this dwelling but given that the same height difference seems to remain it concerns me that any changes may worsen what is already quite a significant problem for me*
- *Concern that the houses could be up to 3m higher than our houses and so reduce sky/sun light to our property.*
- *Concern that it is proposed that the oak tree at our boundary is to be pruned to provide a 2m gap to property to be built, suggests that this property is be too close to boundary with our property.*
- *Concern that there are more houses proposed at the Elton Road side of the development than original plan. This will result in more hard surface areas which could cause surface water to flow onto our property when it would previously have drained through soil. Our property is at a lower level than the housing site.*
- *Concern that the houses could be up to 3m higher than our houses and so reduce sky/sun light to our property.*
- *Concern that it is proposed that the oak tree at our boundary is to be pruned to provide a 2m gap to property to be built, suggests that this property is be too close to boundary with our property.*
- *Was the arborist who prepared the 2011 Tree Report aware that the land to the rear of Dale Road will be built up in order to build the houses. Changes in soil level around trees can result in root death which is a common cause of damage together with root damage caused by vehicles/plant equipment and excavation. The request for nine more properties is obviously going to cause and exacerbate problems elsewhere*

- *Behind Nos 25 – 29 Dale Road, two new properties are requested. If granted this will push the four properties the company wishes to substitute far closer to the boundary*
- *This behind us where the boundary is 52.64 a property with a FFL 58.90 is requested. A 1.26m artificial increase in the land immediately behind the 52.64 boundary. An enormous difference in the natural topography artificially engineered with scant regard for the existing Dale Road properties or for many trees around the boundary*
- *The degree of overbearingness will be vastly different from the 2006 proposal. Especially properties such as the 4 bedroomed Keating behind us. FFL 53.90 plus property height 8.034 immediately behind a boundary of 52.64. FFL 29 Dale Road 51.20*
- *It is a very sad situation that a developer who requested 7 more properties immediately behind Dale Road in 2006 is now requesting even more. In 2006 permission was granted for 6 of the 7 properties. That is a high percentage of success in anyone's book. Now the company is asking for nine more dwellings plus permission for more numerous other properties closer to the boundaries of Dale Road and Elton Road.*
- *The company did not respond to the 2011 Statement of Community Involvement or offer any degree of betterment in their design.*
- *Surely financial considerations cannot be the only deciding factor.*
- *In 2004 Niven Architects advised the Council of several concerns relating to trees; internal relationships between the proposed and build and the landscaped element of the site; the contextual relationship between the proposed build, landscaped elements and the existing site surroundings to be assessed; consistent landscaping treatment; the design of the dwellings. Could Nivens provide a 2011 assessment as the concerns are still relevant?*
- *Loss of privacy*
- *Increased vehicles and traffic fumes*
- *Increased artificial light*
- *Increased noise*
- *Security Issues*
- *Vast overbearingness*
- *Effect on skyline*
- *Possibility of increased flooding*
- *Flood Risk Assessment is not based on 2004, 2006 and 2011 proposal. The EA are not aware of land increase, the flood protection measures taken by some Elton Road properties near built up rubbish tip*
- *The company has failed to realise the concerns of residents raised in this and other applications. Surely bungalows would be a more ideal solution. We are concerned that the companies research for smaller properties is unlikely to be successful with 4/5 bedroomed houses on miniscule gardens*
- *For more than 80 years from Abbey Road to Milbank Road, from Carmel Road to Cleveland Avenue the standard of residential amenity and balance has been very high. Indeed through out the College Ward. May future generations enjoy the same standard and balance and wonderful trees*
- *We would like to register our objection to the change of plans for additional properties on the above site and in particular to the change to layout directly behind our own property (plot 13).*
- *When we purchased our property in 2010 we chose to buy a property, which on original plans passed, had only a small section of boundary fencing with building in close proximity (original plan enclosed). Indeed on original plans passed all properties, including town houses, were not excessively near boundaries and not overcrowded. Changes to plans have gradually brought plot 17, new plan, southwards so that two*

*thirds of our back boundary fence now has building in very close proximity. Our property appears to be one of the most directly affected by these amended plans.*

- We object to this in view of effect on light to our garden and property. Our west-facing garden will be overshadowed, as will be our west-facing main rooms. The effect of shadowing on the garden will impact negatively on our use and enjoyment of this amenity. Afternoon and evening shadowing of our home would again significantly affect our enjoyment of this. The dimensions and in particular the height of the new property on plot 17, the Hilliard, have not been made available to us and we are concerned that this property appears to be built over its garage. As a result the garage will not only be much nearer our boundary but may be higher than that originally planned for the Tennyson on the plot.*
- Visual impact/claustrophobic effect/overbearingness/privacy We chose to move to an attractive property in a leafy area of Darlington, close to amenities, as one family member was seriously ill with health problems requiring 6 months in hospital. Gardening and planting some trees was recommended and has been therapeutic. Such close proximity of building will affect ability to have garden trees because of root problems, which will impact negatively on our family and also on how Glaisdale Court can become established and fit in with the surrounding neighbourhood. Disturbance impact. Obviously in moving to a new build site we appreciate that there will be building disturbance for some time and we like all neighbours wish for the site to be finished as soon as possible. However the very close proximity of the building on plot 17 to our boundary suggests we might have scaffolding in our garden for erection of this property. This would not have been needed on previous plans passed. We would be very anxious if this was needed, as it is of extreme importance for our family health and well being that disturbance is kept to a minimum.*
- Discharge fumes/from boiler. Most Properties on the estate have their heating on the back wall of the garage. Due to the proximity of building into our boundary fence this will result in discharge of fumes directly into our garden*
- General concerns we have regarding the increased number of houses to be erected on the remaining site include:*
- Increased traffic and safety issues-on Glaisdale Court which is already a narrow road with difficult junctions onto Cleveland Avenue*
- The ability of the infrastructure such as drains to cope. We already find drains in the area tend to be prone to smelling and some drains have been blocked*
- It will mean a building on the boundary of my property (58 Elton Road). A virtual block wall with two small windows.*
- There is also a problem of the boundary wall with a drop of approx three foot with the privet hedge above. The college maintained this wall and cut the hedge but it has been unattended since the college closed*

### **Consultee Responses**

**Northern Gas Networks** have stated that they have no gas mains in the area but their records indicate that gas pipes owned by other Gas Transporters may be present in the area

The **Environment Agency** has raised no objections to the application

**Northumbrian Water** has raised no objections to the application

The **Council's Senior Arboricultural Officer** has raised no objections to the proposed development and requested the imposition of a condition to secure appropriate tree protection measures

The **Council's Environmental Health Officer** has no objections to the proposed development

The **Council's Highways Engineer** has raised no objections to the proposed development

## **PLANNING ISSUES**

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

- Planning Policy
- Residential Amenity
- Impact Upon the Visual Appearance of the Surrounding Area
- Highway Safety
- Impact upon Trees
- Contaminated Land
- Flooding and Drainage
- Other Matters

### **Planning Policy**

The Council has formally adopted its Core Strategy Development Plan Document (DPD). The Core Strategy DPD sets out how the Borough will develop over the next 15 years (2011-2026), and forms part of the Local Development Framework for the Borough. The policies in the Core Strategy replace several policies in the Borough of Darlington Local Plan (1997) that were 'saved' under the provisions of Section 38 of the Planning and Compulsory Purchase Act 2004.

The application site is within the development limits for the urban area and would accord with Saved Policy E2 of the Borough of Darlington Local Plan 1997 and Policy CS1 of the Darlington Core Strategy Development Plan Document 2011. The site forms part of an existing housing development currently under construction and therefore the principle of housing development in this location has already been established but the proposal must accord with the general development control matters outlined below.

### **Residential Amenity**

The development site is surrounded by existing residential properties and the boundary consists of a mix of retaining walls and fencing supported by hedges and a belt of mature trees. The dwellings within the development site are enclosed by a mix of fencing and brick walls.

There are changes in ground levels between the existing dwellings on Dale Road, Elton Road and Abbey Road and the applicant has submitted Sectional Drawings to reflect the differences in levels. The applicant has stated that while the proposed site levels are generally slightly reduced from the original levels, Plots 15 – 19 will be increased by between 300mm and 700mm from the original levels due to the site having being plateaued to accommodate the larger detached dwellings already erected on the site. The levels for Plots 15 – 19 will have to be raised to match the ground levels of the adjoining plots. The areas to be raised will be restricted to the footprint of the dwellings and their front gardens and driveways. The land between the rear of the dwellings and the trees would not be raised.

These increases are shown on the Sectional Drawings.

The Council's Supplementary Planning Document – Design for New Development contains the minimum proximity distances that need to be met between existing and proposed dwellings. The minimum acceptable distance from habitable room window to habitable room window between

two storey dwellings is 21metres. The minimum acceptable distance from a habitable room window to a non habitable room window or a blank wall between two storey dwellings is 12.5m. However, for every 1 metre difference in finished floor levels between the two dwellings, 2 metres must be added to the aforementioned standards.

Some of the dwellings, such as those on Plot 15, 17, 118 and 119 have been orientated so that blank gables ends or elevation with no principal windows face onto the rear elevations of existing dwellings.

The existing hedges and belt of trees will help to screen the new dwellings from the neighbouring dwellings on Elton Road, Abbey Road and Dale Road and even though they will be constructed on a higher ground level they will not be overbearing structures when viewed from these properties due to the proximity distances involved.

The spatial relationship between these proposed dwellings and those previously approved under the original planning permission is considered acceptable.

Officers have assessed the proximity distances between the new dwellings and the existing dwellings, both surrounding and within the development site, taking into account the differences in ground levels and can confirm that they comply with the requirements of the Supplementary Planning Document – Design for New Development document. It is considered that the proposed development will not cause unacceptable harm the residential amenities of the neighbouring dwellings.

### **Impact upon the Visual Appearance of the Surrounding Area**

The house types that would be introduced by this proposal are new to this development site. They are two storey dwellings replacing larger detached dwellings. The majority of the new dwellings have integral garages, but there are some properties requiring separate detached garages. Some of the dwellings would front onto the existing road network and the remaining dwellings would be accessed off shared drives.

Following comments made by the Council's Arboricultural Officer the position of the dwellings on Plots 16 to 20 has been revised and the Holland house type has been omitted from the scheme.

The dwellings have been designed to take account of the Council's Supplementary Planning Document – Design for New Development document and the use of a shared drive is a common feature within the development site.

The Core Strategy and the Design SPD sets out broad standards requiring the layout and design of new development to minimise energy consumption and maximise adaptive capacity. To help the Borough tackle climate change, developers will be expected to meet the minimum Code for Sustainable Homes Rating 3 in 2011/2012. Planning conditions can be imposed to secure the submission of a Sustainability Statement prior to the commencement of the development and to secure Final Code Certificate upon completion.

It is considered that the proposed new dwellings would not have an adverse impact upon the visual appearance of the surrounding area but it is appropriate to secure suitable materials via a planning condition, if permission was granted.

### **Highway Safety**

The development site is accessed from two entrances off Cleveland Avenue which, along with the internal road network would remain unchanged. Each new dwelling has a garage (either integral or separate) and sufficient in curtilage parking will be provided. The Council's Highways Engineer has raised no objections to the proposed scheme provided that the private shared drives have a minimum width of 3.7 metres, which they do accord with.

### **Impact upon Trees**

The trees to the north of Plots 17 to 20 are included within the tree preservation order dated 2006. Three trees would be removed in order to facilitate the dwelling on Plot 20. One of the trees is covered by the Order but a Tree Report states that the tree is of low quality and the remaining two trees are not covered by the Order. These three trees would have been removed to facilitate the development approved by the original planning permission. The dwellings on the aforementioned plots have been resited further away from the trees to overcome concerns raised by the Council's Arboricultural Officer that the separation distance was not sufficient and would lead to future requests by the occupiers to prune or fell the trees to aid light penetration.

The existing trees on the south west boundary of the site are not covered by a tree preservation order and are not considered worthy of such protection. An Ash tree would be removed in order to facilitate the dwelling on Plot 118 and dwellings on Plots 119 to 122 have been slightly revised so that they are sited further from the trees.

The Council's Senior Arboricultural Officer considers that the proposed development is acceptable as it fulfils the requirements of BS:5837. He has requested that if planning permission is granted a condition is imposed to secure appropriate tree protection measures

### **Contaminated Land**

The Council's Environmental Health Officer has raised no objections to the proposed development

### **Flooding and Drainage**

The applicant has confirmed that hard surface areas such as roofs and driveways will be designed to positively drain in the development site's surface water sewer system, which will prevent any surface water run off from the site. The surface water drainage system used at the development site has been designed with adequate storage capacity for flood events up to a 1:30 year storm. The sewers have been approved by Northumbrian Water and the discharge from the site into the public sewers is at a restricted flow rate to prevent any flooding issues downstream of the development.

Northumbrian Water has no objected to the planning application.

### **Other Matters**

One of the issues raised by occupiers of dwellings on Elton Road relates to the maintenance of an existing retaining wall and hedgerow which forms the boundary with the application site. Whilst this is not a material planning consideration the applicant considers that the responsibility of maintaining the retaining wall is a joint responsibility with the owners of the properties on Elton Road. Whilst Persimmon Homes accept responsibility during the construction phase, the responsibility would then be passed onto the owners of the properties on Elton Road and the future occupiers of the new properties. The existing hedge would be retained and will be maintained by the future occupiers of the new dwellings.

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



The contents of this report have been considered in the context of the requirements placed on the Council by Section 17 of the Crime and Disorder Act 1998, namely the duty on the Council to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area. It is not considered that the contents of this report have any such effect.

## **CONCLUSION**

The application site lies within development limits identified in the Borough of Darlington Local Plan and the Darlington Core Strategy Development Plan Document. The revised design and layout of the development accords with the relevant policies in the Core Strategy and the Supplementary Planning Document – Design for New Development. The proposed dwellings have no significant impact in terms of loss of daylight or sunlight to neighbouring dwellings and maintain adequate levels of privacy. The development respects the amenity and general character of the area. The location of the dwellings has been revised to ensure that the long term health of the trees within the application site will not be adversely affected. The application is not considered to raise any issues in relation to car parking provision, highway safety or crime prevention. The proposal accords with the relevant policies in the development plan set out below:

### **Darlington Core Strategy Development Plan Document (2011) Policies**

- CS1 Darlington's Sub-regional Role and Locational Strategy
- CS2 Achieving High Quality, Sustainable Design
- CS4 Developer Contributions
- CS10 New Housing Development

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

- E2 Development Limits
- E12 Tree and Development

### **Other Supporting Documents**

- Supplementary Planning Document – Design for New Development
- Darlington Open Space Strategy 2007 - 2017

## **RECOMMENDATION**

PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS

1. A3 – Implementation Limit (Three Years)
2. B4 – Details of Materials (Samples)
3. Prior to the commencement of the development, an Interim Certificate for Code for Sustainable Homes shall be submitted to and approved in writing by the Local Planning Authority. The necessary Code for Sustainable Homes Rating shall be agreed with the Local Planning Authority and the Certificate will include details to show how the approved development will meet the agreed Rating level.

REASON: To ensure that the development accords with the Darlington Core Strategy Development Plan Document 2011 and the Supplementary Planning Document – Design for New Development.

4. Upon completion of the development a Final Certificate for Code for Sustainable Homes shall be submitted to and approved by the Local Planning Authority to show that the development has been carried out in accordance with condition 3)

REASON: To ensure that the development has been carried out in complete accordance with condition 3) in accordance with the Darlington Core Strategy Development Plan Document 2011 and the Supplementary Planning Document – Design for New Development

5. Prior to the commencement of the development hereby approved (including demolition work), details shall be submitted of a scheme to protect the existing trees shown on the submitted plans 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 high, consisting of a scaffolding frame braced to resist impacts, supported by a weldmesh wired to the 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 approved specification, none of the following activities shall take place within the segregated protection zones in the area of the trees:

- (a) The raising or lowering of levels in relation to the existing ground levels;
- (b) Cutting of roots, digging of trenches or removal of soil;
- (c) Erection of temporary buildings, roads or carrying out of any engineering operations;
- (d) Lighting of fires;
- (e) Driving of vehicles or storage of materials and equipment.

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

6. 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 on Plot Nos. 17 – 20 and 119 to 122, including any additional structures/building within the curtilage of the dwellings, shall be carried out without the prior consent of the Local Planning Authority, to whom a planning application must be made.

REASON - In order safeguard the health of the trees contained within the Borough of Darlington Tree Preservation (No 17) Order 2006

7. B5 – Detailed Drawings (Accordance with Plan)

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

The application site lies within development limits identified in the Borough of Darlington Local Plan and the Darlington Core Strategy Development Plan Document. The revised design and layout of the development accords with the relevant policies in the Core Strategy and the Supplementary Planning Document – Design for New Development. The proposed dwellings have no unacceptable impact in terms of loss of daylight or sunlight to neighbouring dwellings and maintain adequate levels of privacy. The development respects the amenity and general character of the area. The location of the dwellings has been revised to ensure that the long term health of the trees within the application site will not be adversely affected. The application is

not considered to raise any issues in relation to car parking provision, highway safety or crime prevention. The proposal accords with the relevant policies in the development plan set out below:

**Darlington Core Strategy Development Plan Document (2011) Policies**

- CS1 Darlington's Sub-regional Role and Locational Strategy
- CS2 Achieving High Quality, Sustainable Design
- CS4 Developer Contributions
- CS10 New Housing Development

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

- E2 Development Limits
- E12 Tree and Development

**Other Supporting Documents**

- Supplementary Planning Document – Design for New Development
- Darlington Open Space Strategy 2007 - 2017

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

**Highways**

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

**Northern gas Networks**

Northern Gas Networks have stated that they have no gas mains in the area but their records indicate that gas pipes owned by other Gas Transporters may be present in the area. Further enquiries about such pipes should be obtained from the owners. Safe digging practices, in accordance with HSE publication HSG47 "Avoiding Danger from Underground Services" must be used to verify and establish the actual position of mains, pipes, services and other apparatus on site before any mechanical plant is used. It is the responsibility of the applicant to ensure that this information is provided to all persons (either direct labour or contractors) working for the applicant on or near gas apparatus