

**DARLINGTON BOROUGH COUNCIL**

**PLANNING APPLICATIONS COMMITTEE**

**COMMITTEE DATE: 10 March 2010**

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<b>APPLICATION REF. NO:</b>	<b>09/00836/FUL</b>
<b>STATUTORY DECISION DATE:</b>	<b>5 February 2010</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 two detached dwellings with associated car parking, access and landscaping works.</b>
<b>APPLICANT:</b>	<b>Mr C Brockbank</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.

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.

The proposal is accompanied by an offer to enter into a Section 106 Agreement to provide two affordable housing units if the existing dwelling (Mown Meadows) is converted into four apartments at any time in the future.

By way of background to this application it should be noted that there is an extant planning permission (Application Ref 07/225) for this site, for the conversion of the existing dwelling to four self contained apartments and the erection of three town houses within the rear garden. The permission is subject of a Section 106 Agreement requiring two of the residential units to be of an affordable type.

The present application is essentially a resubmission of a scheme refused in August 2008 (Application Ref: 08/354) and April 2009 (Application Ref: 09/74) for the erection of two detached dwellings within the rear garden. The first of these two applications was refused for the following reason: -

*The previous applications in 2006 and 2007 established the natural development boundary of 64 Middleton Lane. The proposal would result in the sub-division of the site that will preclude any possibility of affordable housing being delivered on the established curtilage of 64 Middleton Lane. Sub-dividing the curtilage into two sites enables the development to avoid the threshold for providing affordable housing that had been previously established by the granting of planning permission 07/00235/FUL in an area defined as being in acute affordable housing need and does not present the most efficient use of this planning unit. As a result the proposals are not in accordance with the following policies:*

*PPS 3: Housing*

*Policies 2, 11 and 30 of the North East Regional Spatial Strategy*

*Policy H9 in the adopted Borough of Darlington Local Plan*

*The adopted Affordable Housing Supplementary Planning Document*

The second application was similar to the previous refusal other than the applicant had indicated that should the existing dwelling be converted to four apartments within five years from planning permission being granted two of the units would be of an affordable type. A draft Unilateral Undertaking to this effect was provided with the application. The application was essentially refused on the grounds that the timescale was too short. During the consideration of this application an appeal was lodged against the previous refusal (08/354) which was dismissed. In dismissing the appeal the Inspector took into consideration the offer of the Unilateral Undertaking by the appellant but was of the view that the five year period was insufficient. The Inspector's reasoning behind his decision is explored in more detail further on in this report.

Given the extant planning permission which exists and the fact that the subsequent (almost identical) applications to the present scheme were refused for affordable housing reasons the predominant issue in the consideration of the current applicant is whether or not the revised affordable housing proposal by the applicant is considered acceptable.

## **PLANNING HISTORY**

Apart from than the planning history described above the only other entries on the planning register are as follows: -

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.

## **PLANNING POLICY BACKGROUND**

### **Development Plan**

*RSS: The North East of England Plan, Regional Spatial Strategy to 2021:*

Policy 2 – Sustainable Development  
Policy 8 – Protecting and Enhancing the Environment  
Policy11 – Rural Areas

*Saved Policies of the Borough of Darlington Local Plan:*

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 Serving Requirements for New Development  
T31 – New Development and Public Transport

### **Supplementary Planning Guidance**

Affordable Housing

### **National Planning Policy**

Parts of the following *Planning Policy Statements* are material considerations:

PPS3 – Housing  
PPG15- Planning and the Historic Environment

## RESULTS OF CONSULTATION AND PUBLICITY

Six letters have been received from local residents objecting to the proposed development on the following grounds: -

- It is understood that this application is identical to that submitted previously with the exception that the applicant is prepared for any future conversion of the house to be subject to an affordable housing provision at any time in the future rather than with a five year restriction. In the event that planning permission is granted, the applicant, could, after five years apply for this restriction to be lifted. The concession for the clause to be open ended is therefore completely irrelevant and therefore the Council should refuse the application. We have no objection to affordable housing in principle, but are surprised that the application has not been submitted in conjunction with a RSL.
- The development 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.
- The 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.
- Loss of light.
- There are already too many developments in the village which are seriously affecting the infrastructure of the village and this development will exacerbate the problem.
- 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.
- Trees on either side of the existing vehicular access are subject to a tree preservation order.

**Middleton St George Parish Council** has stated that they object to the development on the same grounds previously raised, which were given as cumulative impact on the conservation area.

**Campaign to Protect Rural England** has stated that they have the following concerns: -

- What if in the future the house is converted, but to a different scheme which does not include affordable housing?
- Will the affordable housing be affordable in perpetuity if it is constructed?

**CE Electric UK** has raised no objections to the proposed development

**Northumbrian Water** has raised no objection to the proposed development but requested conditions requiring the submission of foul and surface water disposal details to any approval.

**The Council's Housing Strategy Manager** has commented: -

“ There should be a resistance to planning applications seeking to dissect sites in an attempt to fall under the affordable housing threshold requirements and any subsequent application should be considered alongside the current application in the context of the Affordable Housing policy.

In respect of the offer of affordable apartments in any subsequent planning application for this site, I think in this location, apartments would still meet a local need but my preference would be for family homes as this is the greatest housing pressure accepting that the financial viability may actually determine the route taken on this issue.”

**The Council’s Conservation Officer** has commented as follows:-

“The site lies within Middleton St George, roughly in the middle of Middleton One Row Conservation area, which as a historic area of longstanding settlement contains nine Listed Buildings and one Ancient Monument. One of the Listed Buildings is the Grade II Listed, early 13th century, arched stone doorways, which stand in the garden on no. 64 Middleton Lane. It is believed they formed part of Bishop’s Palace or its boundary walls, which once stood near St Cuthbert’s Church and the River Skerne at Feethams; the building was bought and demolished by Richard Luck in 1870, with these arched doorways all that remains, following their relocation to their current site in the same year. No. 64 Middleton Lane itself is a large, Victorian, red brick, semi-detached house of some size and stature, both no. 64 and no. 65 each have a large, long back garden. Both the houses and gardens make a positive contribution to the Conservation Area.

Regardless of the origin of the Listed, arched doorways, they are of an age very rare to surviving structures in the Borough and so are worth preserving. However, it is likely their original setting has been lost as a result of relocation; therefore it would not be reasonable to resist development in its vicinity on the basis of setting. The new access is further away from the arched doorways than the existing access, so will have less physical impact on the Listed Building, which is positive because they are suffering some damaging from plants growing on and around them.

I am aware of the site history, including a number of refusals for new dwellings and an approval and now extant permission for three dwellings in the back garden of no. 64 Middleton Lane. However, my understanding is that this is a new application and should be treated as such, as evidenced by paragraph 73 of Planning Policy Statement 3: Housing, which says *When considering applications relating to sites for which planning permission has been previously granted for a similar proposal...there is no presumption that planning permission should be granted because of a previous approval.*

Therefore it would be remiss of me not to raise my concerns about the negative impact the proposed development is likely to have on the Conservation Area. Paragraph 2.4 of Planning Policy Guidance 15: Planning and the Historic Environment (PPG15) says that Local Planning Authorities *should pay special attention to the desirability of preserving or enhancing the character or appearance of any conservation area in exercising their development control functions.* This application proposes two new houses in the rear garden of no. 64 Middleton Lane, which I feel would have an equally unacceptable impact on the Conservation Area as the three dwellings previously approved. This is because, in my opinion, the principle of development in this location is inappropriate because it would have a negative impact on the open nature, character and appearance of the Conservation Area. In my opinion, development in this location would not to *preserve or enhance* the Conservation Area and is therefore contrary to PPG15.

I also have concerns about a precedent being set for the numerous other houses with large, long back gardens in the Conservation Area; approving this scheme could encourage future, comparable schemes and leave us unable to resist them, which would further degrade the quality

of the Conservation Area. I would also question whether the proposal conforms with policy H13 – backland development – of the Local Plan.

Consequently I cannot support the principle of development in this location because it will not *preserve or enhance* Middleton One Row Conservation Area as required by PPG15.”

**The Council’s Urban Design Officer** has made the following comments:-

*“The fundamental character and appearance of the area (within the Middleton-one-Row CA) is based upon substantial properties set back from the road in their own spacious grounds. Typically gardens are long and contribute to the character of the area in plan form. These gardens provide high levels of ecological and amenity value to the area and the properties they serve.*

*Typically, where entrances penetrate boundary walls these serve one property, and this constitutes another key characteristic of the area. The presence of these dwellings behind the host building and overlooking the garden and listed arch would harm the appearance of the area.*

*Notwithstanding previous permissions, I would not be able to support this form of development in this area as it would harm the character and appearance of the area by compromising the open aspect and characteristic plan form as identified above.*

*I would support the Conservation Officer’s argument that this development should be resisted as backland development against policy H13.*

*In the emerging Conservation Area Character Appraisal for the area a proposed management prescription would be the protection of long gardens.*

*In terms of detailed design I am satisfied that the proposed dwellings would be of an appropriate design.”*

**The Council’s Public Protection Division** has requested conditions to control Construction work to the hours of 07:30 – 1800 Mondays to Friday, 08:00 – 14:00 Saturday and no working on Sunday or Bank Holidays, and for details of external lighting to be submitted together with a lighting impact assessment.

**The Council’s Highways Engineer** has requested the imposition of a condition requiring the reduction of the front boundary wall to 600mm in order to provide for an adequate visibility at the access onto Middleton Lane. He has also raised an issue in respect of access for emergency service vehicles and comments: -

*“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 3.7m. 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.*

*Provided the above conditions, in relation to drive width (min. 4.1m.), visibility at the access and access by the Fire and Rescue Service, are included with an approval I would raise no highway objection to the proposal.”*

## **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

### **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.

Policy H9 of the adopted Local Plan provides the policy basis for seeking an element of affordable housing on new housing sites where a local need has been identified.

Paragraph 4.1(b) of the Affordable Housing SPD states that outside the main urban area, proposed developments of five or more dwellings or residential development on sites of 0.2 ha or more would require the application of Policy H9. The target for affordable housing provision that would be expected from new residential development in the Rural Sub Area of Darlington, as set out in the Affordable Housing SPD, is 40%.

The application excludes the existing house, and as such, only constitutes part of the curtilage of the property. Paragraph 4.4 of the Affordable Housing SPD specifically addresses the subdivision of sites, as a means to circumvent the requirement to provide affordable housing. It states that *'for the purposes of establishing the affordable housing requirement, planning applications will be taken as relating to any composite or naturally defined larger area, whether or not subject to phased development and regardless of ownership. This will normally mean the curtilage of the property.'* Although no affordable housing provision is included with the scheme the applicant is prepared to enter into a planning obligation that will secure the provision of an element of affordable housing if the existing dwelling were to be converted into four apartments in the future. Two of the units in that conversion would be offered as an affordable housing contribution. Unlike the previously refused scheme (Ref:09/74) where the offer to provide affordable housing was limited to a five year period from the grant of planning permission the applicant is now offering this in perpetuity as part of the application.

The main issue of the recent appeal decision was the effect of the proposal on affordable housing. In his decision letter the appointed Inspector acknowledged that although the size of the site itself was not of sufficient size to meet the threshold requiring the provision of affordable housing, in view of the site history, he considered the whole of the curtilage of No.64 is the natural boundary of the site. He saw the appeal proposal as sub-division of the previously approved scheme (Ref: 07/225) and therefore in accordance with the SPD requirements it was necessary to ensure that should additional dwellings be subsequently developed within the curtilage of No.64 (resulting in a total of five or more new dwellings) an appropriate number of these need to be affordable. Turning to the proposed unilateral undertaking put forward by the appellant he made the following comments: -

*"I have seen nothing to indicate that five years from now the need for affordable housing in Middleton St George is likely to be significantly less than at present. Consequently, with such a clause in the undertaking (and bearing in mind the potential for future housing development within the curtilage of no 64) I cannot be satisfied that the appeal proposal makes appropriate provision towards the affordable housing needs of the area. It thus conflicts with the SPD and the objectives of policy H9.*

*The appellant argues that the five year period reflects the uncertainty of current market conditions and also enables the Council to take account of future changes to planning policy with regard to need for, and provision of, affordable housing needs in the area. However, in ceasing to be of effect, in its entirety, after five years, the undertaking provides no opportunity for the Council to take account of any changes in the need (either greater or lesser than now) for affordable housing with regard to development within the curtilage of no.64, Whilst I accept that it is difficult to predict market conditions for housing in the future, I consider that any uncertainty for the developer does not outweigh the need for development of the property's curtilage to make appropriate provision towards the area's acute affordable housing needs. Moreover, after of five years, legislation allows for the appellant to apply to the Council for an undertaking to be modified or discharged, with the right of appeal if the application is refused. Thus, I am satisfied that were the need for affordable housing in Middleton St George to be reduced or eliminated at the time of development of the flats, the appellant could seek to be released from a time- unlimited obligation. Consequently, I conclude that the five year limit clause in the undertaking to be inappropriate."*

In view of the Inspector's comments it is considered that the applicants proposed unilateral undertaking is acceptable, though the planning obligation should be worded to include for the

provision of affordable housing if a subsequent application is made that would bring the total number of dwellings to five or more (whether apartments or any other form of dwelling unit) on the land comprising the existing curtilage.

### **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.

Both the Council's Conservation Officer and Urban Design Officer have expressed views that the development would be harmful to the character and appearance of the conservation area and therefore cannot support the application. Their detailed comments are set out earlier in this report under the section on Results of Consultation and Publicity. Whilst their comments are noted it is important to consider the planning history for this site and of a recent appeal decision on the adjoining site (No. 63 Middleton Lane) for a similar development.

There is an extant Planning permission for the site (Ref:07/225) 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 in the rear garden.

Although two subsequent applications (References: 08/354 and 09/74) have been refused for development in the rear garden only, for the erection of two detached dwellings (excluding any conversion of the existing property) these applicants were refused solely on the grounds of affordable housing provision.

Turning to the adjacent property, No63 Middleton Lane. Planning permission was refused in April 2008 for the erection of two detached dwellings in the rear garden for the following reason:

-  
*"The proposed development would result in the loss of a substantial garden area, which together with other similar gardens nearby contribute towards the character and appearance of the Middleton St George Conservation area. The loss of this garden area and those of properties to the north for similar residential development would cumulatively erode the character of this part of the conservation area to its detriment. The development would thereby be contrary to policies-----."*

An appeal was lodged against this decision, which was subsequently allowed. In arriving at his decision the appointed Inspector made the following comments: -

*"The Middleton Lane part of the Conservation area was described in the original designation document as 'consisting of mature parkland and woodland, fenced and walled with some architecturally interesting Victorian villa properties. During recent years, there has been considerable new housing development along the west side of Middleton Lane: this includes the former Ropner Convalescent Home, a bungalow and dairy building redeveloped as Cedar Grove, and the Thorntree House site. In addition, planning permission was granted in January 2008 for the conversion of the adjoining house at 64 Middleton Lane to four apartments and the erection of three townhouses in the rear garden."*

*There were special circumstances, which distinguish the former Ropner Convalescent Home Site and the dairy site from the current appeal. The redevelopment of the former dairy removed a commercial use from a residential area and could be seen as an enhancement of the Conservation Area. Nevertheless, the plans and aerial photographs show that the dairy site*

*included a large expanse of undeveloped garden attached to the bungalow. This open land has now become part of the Cedar Grove development.*

*The density of housing in this part of Middleton Lane has greatly increased in recent years and extensive open areas of gardens have been developed. There will be a further erosion of open space if the development at No. 64 is carried out. The Council argues that the cumulative erosion of large gardens would detract from the character of this part of the Conservation Area. On the other hand, the appellants' agent suggests that the planning approval at No. 64 sets a precedent.*

*Each case must be considered on its individual merits, but despite the differences between the various sites, it seems to me that the Council has accepted the general principle of more intense backland development. Whatever the background reasons for the planning permissions, the density of development and the Victorian villa character of the area have changed. Nevertheless, the mature parkland and woodland appearance has, to a large extent, been retained because of the front boundary trees, the spacious front gardens, and glimpses of large houses seen through the trees. The two new dwellings would be well screened by the existing dwelling and by the frontage trees and bushes. They would have very limited visual when seen from Middleton Lane and would not significantly detract from the wooded appearance of the street scene. I conclude that the cumulative effect of development of this secluded site would not cause undue additional harm to the area. The development would have a 'neutral' impact on the Conservation Area and would, therefore, preserve its character and appearance with PPG15. It would also comply with Local Plan Policy E29- The setting of New Development."*

Mindful of the contextual planning background to the site and surrounding area, officers are of the opinion that the development would have a neutral effect upon the character and appearance of the Conservation Area.

### **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 approximately 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 would be no significant overlooking issues. 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 Council's Highways Engineer has requested the imposition of a condition requiring the reduction of the front boundary wall to 600mm in order to provide for an adequate visibility at the access onto Middleton Lane. He has also raised an issue in respect of access for emergency service vehicles and comments: -

*“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 3.7m. 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.*

*Provided the above conditions, in relation to drive width (min. 3.7m.), visibility at the access and access by the Fire and Rescue Service, are included with an approval I would raise no highway objection to the proposal.”*

The submitted drawings indicate a driveway width of approximately 4.1m, which would exceed the minimum requirement requested by the Highways Engineer.

The Fire and Rescue Service have advised that a sprinkler system would be acceptable. 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 under that legislation when an application is made to the Council's Building Control Section.

### **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 proposed development through a planning obligation would provide for affordable housing units in the event of existing property being converted to apartments at any time in the future.

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.

### **RECOMMENDATION**

THAT THE ASSISTANT CHIEF EXECUTIVE (REGENERATION) BE AUTHORISED TO NEGOTIATE AN AGREEMENT UNDER SECTION 106 OF THE TOWN AND COUNTRY PLANNING ACT 1990 TO SECURE THE PROVISION OF AFFORDABLE HOUSING IF A SUBSEQUENT APPLICATION IS MADE THAT WOULD BRING THE TOTAL OF DWELLINGS TO FIVE OR MORE ON THE LAND COMPRISING THE EXISTING CURTILAGE OF NO.64 MIDDLETON LANE.

THAT UPON SATISFACTORY COMPLETION AND SIGNING OF THAT AGREEMENT, 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.

- 13) The obscure glazed landing windows shown on drawing no.06.554.L (10) 03 Rev:B, shall be hinged to open inwards and shall not be repaired or replaced other than with obscure glazing.

REASON- To prevent overlooking of adjoining residential properties

- 14) Construction work shall not take place outside the hours of 07:30 to 18:00 hours Monday to Friday, 08:00 to 14:00 hours Saturday, with no working on a Sunday, Public Holiday or Bank Holiday, without prior agreement with the Local Planning Authority.

REASON- In the interests of residential amenity.

- 15) Details of any proposed lighting scheme, together with a lighting impact assessment 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 to safeguard the amenities of nearby residential properties

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

The application site lies within the development limits identified in the development plan. The proposed development through a planning obligation would provide for affordable housing units in the event of existing property being converted to apartments at any time in the future.

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 the policies in the development plan and Government planning policy set out below: -

## **PLANNING POLICY BACKGROUND**

### **Development Plan**

*RSS: The North East of England Plan, Regional Spatial Strategy to 2021:*

Policy 2 – Sustainable Development  
Policy 8 – Protecting and Enhancing the Environment  
Policy11 – Rural Areas

*Saved Policies of the Borough of Darlington Local Plan:*

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

**Supplementary Planning Guidance**

Affordable Housing

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

- 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 Assistant Director:Highways and Engineering (contact Ms.P.Goodwill 01325 388760) to discuss naming and numbering of the development.