

DARLINGTON BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 9 February 2011

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APPLICATION REF. NO:	09/00908/FUL
STATUTORY DECISION DATE:	16 February 2010
WARD/PARISH:	PARK WEST
LOCATION:	Site Of Former Number 59 Blackwell
DESCRIPTION:	Variation of condition 3 of planning permission 05/00788/FUL dated 18 November 2005 for substitution of house types relating to plots 1 and 2 (Demolition of 2 No. existing dwellings and construction of 5 No. detached dwellings to include upgrading of the river bank) and retrospective slope stabilisation works. (amended plans received 16 September 2010; Flood Risk Assessment and additional information relating to land stability received 26 October 2010 and Hydraulic Modelling information received 17 December 2010)
APPLICANT:	Mr John Lees And Mr Mike Gales

APPLICATION AND SITE DESCRIPTION

The site is currently a development site within this predominately residential area. The western section of the site consists of a sloping embankment which leads to river bank of the River Tees. The Public Footpath No 1 Darlington (Teesdale Way) runs along the north eastern boundary of the site, where it then adjoins Blackwell itself.

Planning permission was granted in 2005 for the demolition of two dwellings and the erection of five detached dwellings including the upgrading the river bank. Since the approval was granted, the development site has been sub divided into two separate sites and this application deals with Plots 1 and 2 only. The planning application to redevelop Plots 3, 4 and 5 also forms part of this Agenda.

This is an application to vary the 2005 approval to revise the design of the house types and to seek retrospective approval for the slope stabilisation works that have been erected to the rear of the site. The new dwellings are of a contemporary design and the slope stabilisation works consist of a gabion basket type retaining wall which runs to the rear along the western boundary adjacent to the River Tees extending from Nos 49 – 59 Blackwell. This application is seeking retrospective consent for the section of the wall behind Plots 1 and 2 only.

On this application site, the foundations of the dwellings have already been constructed but no further works have been carried out.

PLANNING HISTORY

05/00645/FUL In August 2005 a planning application for the demolition of two dwellings and the construction of 5 No. detached dwellings together with the regeneration of the riverbank was WITHDRAWN

05/00788/FUL In November 2005 planning permission was GRANTED for the demolition of 2 No. existing dwellings and construction of 5 No. detached dwellings, to include upgrading of the riverbank

06/00101/FUL In February 2006 a planning application for the demolition of 2 No. existing dwellings and construction of 5 No. detached dwellings to include upgrading of riverbank was WITHDRAWN

PLANNING POLICY BACKGROUND

The relevant policies are:

National Policy

Planning Policy Statement 1 – Delivering Sustainable Development

Planning Policy Statement 3 – Housing

Planning Policy Guidance Note 14 – Development on Unstable Land

Planning Policy Statement 25 – Development and Flood Risk

Borough of Darlington Local Plan 1997

E2 – Development Limits

E7 – Landscape Conservation

E8 – Area of High Landscape Value

E10 – Protection of Key Townscapes and Landscape Features

E11 – Conservation of Trees, Woodlands and Hedgerows

E12 – Trees and Development

E14 – Landscaping of Development

E16 – Appearance from Main Travel Routes

E17 – Landscape Improvement

E23 – Nature and Development

E24 – Conservation of Land and Other Resources

E25 – Energy Conservation

E27 – Flooding and Development

E28 – Surface Water and Development

E29 – The Setting of New Development

E46 – Safety and Security

E47 – Contaminated and Unstable Land and Development

H3 – Locations for New Housing Development

H11 – Design and Layout of New Housing Development

T8 – Access to Main Roads

T12 – New Development Road – Road Capacity

T13 – New Development – Standards

T24 – Parking and Servicing Requirements for New Development
T39 – Conditions for Pedestrians

Supporting Documents

Supplementary Policy Document – Design for New Development
Manual for Streets
Darlington Borough Council Design Guide and Specification

RESULTS OF CONSULTATION AND PUBLICITY

Following the Council's consultation exercise on the originally submitted plans four individual letters of objection were submitted. The concerns raised in these initial letters can be summarised as follows

- *The development is on a flood plain and has diverted flood waters onto the opposite banking so resulting in major damage to the field on the Stapleton side, which was planted with winter barley. Over half of the crop was killed at a cost of approximately £5000*
- *The design of the frontages are totally out of character with the rest of the street*
- *I am concerned about the number of trespassers coming into, lighting fires in and causing damage to plants and wildlife in the bottom of the garden by the riverbank as there appears to be an easy access below the retaining wall on the new development. Will a secure fence be created around the development right down to the riverbank to restrict trespassing*

One of the letters gives a detailed view on background of the development site and how that proposal was determined by the Council in 2005 but it continues to comment that the design of the dwellings will be discordant with the area and that their scale is too large.

Following the submission of the amended plans four letters of objection were received and the concerns can be summarised as follows:

- *We are concerned about the impact that the slope stabilisation works will have on flooding. Despite having no previous significant flooding issues at Bridge House the house and garden have suffered from recent floods. Building on the floodplain can only increase the risk of flooding to the surrounding area*
- *The recent flooding of the River Tees was exacerbated by the building on the flood plain on the Darlington side.*
- *PPS 25 states that on Zone 3b "development should not be permitted"*
- *The dwellings are out of scale with the existing and neighbouring properties in terms of height and overall scale and far exceed the dimensions of the single dwelling originally situated on this plot*
- *The dwellings represent overdevelopment of a plot this size with inadequate distance between the individual buildings*
- *The proposed size and scale of the dwellings present an oppressive visual impact at street level*

One of the above objection letters gives a detailed account on the planning history of the site and continues with further comments upon the design of the proposed development.

Stapleton and Cleasby Parish Council has objected to the application on the grounds that the development will lead to flooding of land and property and over time the course of the river will be altered

A letter on behalf of **Richmondshire District Council** was received objecting on the grounds that there is insufficient information to demonstrate that the development will not increase the risk of flooding elsewhere. The District Council would be strongly opposed to any further planning permission being granted for the developments if the Environment Agency is not entirely satisfied that there would be no increased risk of flooding elsewhere

Letters of Support

Following the submission of the Geotechnical Certification and further documents relating to land stability a letter of support was received withdrawing their previous objections to the proposal.

Following the submission of the Hydraulic Modelling information, the Council carried out a further consultation exercise and one letter of objection was received raising the issues below:

- *The buildings are distasteful and offensive factory looking buildings which by no means fits with our current buildings in Blackwell.*
- *Our home is directly opposite the property and it would anger me every day to be forced to look at an obscene building of such style. This proposed building is ugly and insulting*

Consultee Responses

Natural England are satisfied that a planning condition be imposed relating to securing appropriate bat mitigation measures

Following the submission of further information, the **Environment Agency** have withdrawn their original objection and requested the imposition of planning conditions relating to surface water drainage and the creation and management of a buffer zone between the slope stabilisation works and River Tees

Northern Gas Networks have no objections to the proposed development

CE Electric UK has no objections to the proposed development

Northumbrian Water has not objected to the application but requested the imposition of planning conditions relating to protection measures and unrestricted access for their apparatus

The **Council's Highways Engineer** has no objections to the planning application subject to the imposition of planning conditions requiring visibility splays; highway verge improvements; materials for the driveway, the formation of a footway to the frontage of the site and dropped crossings

The **Council's Environmental Health Officer** has no objections to the proposed development subject to the imposition of a planning condition relating to the submission of a contaminated land report

The **Council's Senior Arboricultural Officer** has requested the imposition of a planning condition to secure the submission of Arboricultural Methods Assessment; an Arboricultural Method Statement and a Tree Protection Plan.

PLANNING ISSUES

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

Planning Policy
Land Stability
Design and Impact upon the Visual Appearance of the Surrounding Area
Residential Amenity
Highway Matters
Flood Risk
Protected Species
Trees and Landscaping
Contaminated Land

Planning Policy

At a national level, PPS1 - Delivering Sustainable Development sets out the overarching planning policies on the delivery of sustainable development through the planning process and provides some design advice. PPS1 states “Design which is inappropriate in its context, or which fails to take the opportunities available for improving the character and quality of an area and the way it functions, should not be accepted.” It continues that “It is, however, proper to seek to promote or reinforce local distinctiveness particularly where this is supported by clear plan policies or supplementary planning documents on design”

PPS 3 - Housing provides advice on the delivery of housing through the planning system and also offers design advice. PPS3 states, “Local Planning Authorities should facilitate good design by identifying the distinctive features that define the character of a particular local area” and “To facilitate efficient delivery of high quality development, Local Planning Authorities should draw on relevant guidance and standards and promote the use of appropriate tools and techniques, such as Design Coding alongside urban design guidelines, detailed masterplans, village design statements, site briefs and community participation techniques”

The section of the application site where the replacement dwelling would be located lies within the development limits of the urban area as defined by Policy E2 (Development Limits) of the Borough of Darlington Local Plan 1997. Policy H3 (Locations for New Housing Development) of the Plan states that new housing development will normally be approved within the development limits of the urban area provided that the site is not specifically proposed or safeguarded for other uses and that the development accords with other Plan policies. This section of the site is not safeguarded for other uses and has no other designations within the Plan.

The embankment land leading down to the river is within the designated Area of High Landscape Value and Policy E8 of the Plan looks to ensure the Council give special attention to conserving the landscape character and quality within the Area.

The above are general overarching national and local planning policies and the remainder of the report shall assess the proposal in development control terms.

Land Stability

During the course of determining the 2005 application, it was highlighted that the embankment running down from the rear of the proposed dwellings to the riverbank of the River Tees had a history of unstable land and landslips. The 2005 application was approved subject to a planning condition stating:

Prior to the commencement of the development a full site investigation analysis shall be undertaken and a report containing the findings submitted for consideration by the Council. The report shall also contain details of foundations and piling deemed necessary to carry out the

development and measures to mitigate the development's impact upon the embankment fronting onto the River Tees. The approved details shall thereafter be implemented in full.

A gabion wall has been erected as part of a wider slope stabilisation scheme to the rear of the Nos 51 and 49 Blackwell and the adjacent development site.

Policy E47 (Contaminated and Unstable Land and Development) of the Borough of Darlington Local Plan 1997 states that proposals for development on unstable land will be permitted only if the applicant can demonstrate that the site is or will be made safe for the proposed development and its surroundings. The supporting text for the policy states that it is desirable that unstable sites, which are otherwise unsuitable for development are brought back into productive use but it is essential that the health and well being of people is not put at risk.

Planning Policy Guidance Note 14 – Development on Unstable Land explains the effects of instability on development and land use. It gives consideration to the responsibilities of the various parties to development and emphasises the need for instability to be taken into account in the planning process. PPG14 says that the responsibility for determining whether land is suitable for a particular purpose rests primarily with the developer. In particular, the responsibility and subsequent liability for safe development and secure occupancy of a site rests with the developer and/or the landowner.

The developer should therefore make a thorough investigation and assessment of the ground to ensure that it is stable or that any actual or potential instability can be overcome by appropriate remedial, preventive or precautionary measures. It is important that such an assessment of a proposed development site should examine the site within its geographical context since instability of nearby ground may affect a site even where there is no evidence of instability within its boundaries.

Where there are reasons for suspecting instability, the developer should determine by appropriate site investigations. If this investigation and appraisal indicates that the ground is unstable or may become unstable due to the development proposed or for any other reason, the developer and/or his consultants should then assess the suitability and sufficiency of the proposed precautions to overcome the actual or potential instability. The developer should also provide at his own expense such evidence as is required by regulatory authorities to indicate clearly that the problem has been addressed satisfactorily.

It is *not* the responsibility of the local authority to investigate the ground conditions of any particular development site unless they propose to develop it. When reaching decisions on development proposals, local planning authorities have a duty to take all material considerations into account. The stability of the ground in so far as it affects land use is a material consideration which should be taken into account when deciding a planning application.

The principal aims of considering land instability at the planning stage are:-

- to minimise the risks and effects of land instability on property, infra-structure and the public;
- to help to ensure that various types of development should not be placed in unstable locations without appropriate precautions;
- to bring unstable land, wherever possible, back into productive use; and
- to assist in safeguarding public and private investment by a proper appreciation of

site conditions and necessary precautionary measures.

A planning authority does not owe a duty or care to individual landowners when granting applications for planning permission and accordingly is not liable for loss caused to an adjoining landowner by permitting development. Nevertheless, where development is proposed on land which the planning authority knows is unstable or potentially unstable, it should ensure that the following issues are properly addressed by the development proposed:-

- the physical capability of the land to be developed;
- possible adverse effects of instability on the development;
- possible adverse effects of the development on the stability of adjoining land; and
- possible effects on local amenities and conservation interests of the development and of any remedial or precautionary measures proposed.

It is the function of the planning system to determine, taking account of all material considerations of which instability is only one, whether a proposed development should proceed. Having made that decision, for certain types of development, it is the function of the Building Regulations to determine whether the detailed design of buildings and their foundations will allow the buildings to be constructed and used safely.

The assessment of the significance of ground instability and of the associated risks requires careful professional judgement. In line with his responsibility for the safe development of any site, the developer should ensure that he has available the appropriate expertise to design and interpret the necessary site investigations and to design and execute any necessary remedial, preventive or precautionary measures.

On the basis of relevant information available to them, including any submitted by developers, local planning authorities should be able to form a view of the significance of ground instability for general development control purposes. With regard to specific development, however, it must be emphasised that responsibility for assessment, as well as investigation, of ground conditions and the design and execution of any necessary remedial or precautionary measures, rests with the developer and not the local planning authority. The local planning authority is entitled to require the developer at his expense to provide at application stage suitable expert advice in relation to such matters, and is entitled to rely on that advice in determining the application and formulating any necessary conditions.

PPG14 Annex 1 also expresses in further detail the required scope of a slope stability report and the need for it to have been prepared by a "competent person" with the relevant specialist experience in the assessment and evaluation of slope stability. PPG14 states that a competent person would normally be expected to be a Corporate Member of a relevant professional institution such as the Institution of Civil Engineers or the Geological Society. A competent person would be a geotechnical specialist as defined by the Site Investigation Steering Group of the institution of Civil Engineers.

If the report shows that instability can be satisfactorily overcome, planning permission may be granted subject to conditions specifying the measures to be carried out in order to overcome such instability. If the report is insufficient to resolve specific details but sufficient to resolve the main issues regarding stability, planning permission can be granted subject to conditions that the development cannot commence until adequate site investigations have been carried out and that the development shall incorporate the measures shown in the investigations to be necessary. A

third option is to refuse the application if the submitted report does not resolve the primary issues or contain details of whether or not the development can proceed

Many local planning authorities may not have the required expertise available to them to assess the reports . It may be appropriate in some circumstances to consider the need to use commercial consultants who may be members of the relevant professional institutions to advise on particular aspects of instability.

If Members grant planning permission for this development the Council would issue a notice to the applicant to inform them that the responsibility and subsequent liability for safe development and secure occupancy of the site rests with the developer/landowner.

The applicant has had a slope stability investigation carried out but they are not willing to submit a copy of the Analysis to the Local Planning Authority and have it placed within the public domain for reasons of commercial sensitivity but they have stated that officers can inspect a copy at their offices if required. As an alternative measure, a signed Geotechnical Certificate has been submitted to certify that the Analysis has been “prepared with reasonable professional skill, care and diligence” and that

- It constitutes an adequate and economic design for the project
- Provides a solution to all the reasonably foreseeable geotechnical risks with acceptable factors of safety
- Shows the work intended is accurately represented and conforms to the clients requirements
- Documents have been prepared in strict accordance with PPG14 and the relevant British Standards

The Council does not have the required expertise available “in house” to assess the Slope Stability Analysis which was carried out on behalf of the applicant but officers accept that the Analysis has been carried out by a person who fulfils the “competent person” requirement as per PPG14 and by virtue of the submitted signed Certification the “developer” has confirmed that he has access to the relevant and appropriate expertise to design and interpret the necessary site investigations to design the appropriate measures for remediation, prevention and precaution.

Officers consider that the development is in accordance with Planning Policy Guidance Note 14 – Development on Unstable Land and Policy E47 (Contaminated and Unstable Land and Development) of the Borough of Darlington Local Plan.

Design and Impact upon the Visual Appearance of the Surrounding Area

The prominent character of the area is defined by two storey dwellings that relate directly with the street. In plan form, the dwellings are typically orientated laterally with the footprint presenting the longest side to the highway.

The application site is located on the west side of Blackwell and occupies the northern section of the development boundary for the 2005 approval. The development consists of two five storey dwellings of the same design. The front elevations (east facing) would be three storeys when viewed from the street and the rear west facing elevations would be five storeys due to the changes in the ground level. The first and second floors provide the bedroom accommodation whilst the remaining floors provide the family accommodation. The dwellings both have a double garage at ground floor level (entrance level) projecting beyond front elevations. The

design of the building is very contemporary constructed from a mix of materials such as stone, painted render, glass and cedar boarding. Each dwelling has balconies of differing sizes at various storeys on the rear elevations facing west over the River Tees.

The two dwellings do not directly front the street. The dwelling on Plot 1 fronts the route of the Public Footpath No 1 Darlington (Teesdale Way) to the north east of the application site and its forecourt and access runs across the frontage of the dwelling on Plot 2. This dwelling is also angled from the street frontage.

The section of the site where the two dwellings would be located lies outside but adjacent to the Area of High Landscape Value. The dwellings would be highly visible on Blackwell but also they will be viewed in the distance from the A66 when entering Darlington from the south west.

Revised plans for the development have been submitted following concerns being raised by officers on the design and scale of the development. The Supplementary Planning Document – Design for New Development allows a maximum of 2.5 storeys in this location, subject to the local context. Consequently, it is not unreasonable to expect developers to make use of the roof space for accommodation and the third storey of this dwelling is within the roof hence the use of dormer extensions. However, Officers consider the use of a gable construction and the design and size of the dormer extensions to cater for the third storey in the two dwellings are inappropriate.

The third storey is beneath a flat roof construction, which is contrary to the guidelines of the SPD and is an inappropriate form of development. No architectural method has been used to reduce the perceived scale of the dwelling and it remains quite clearly a dominant three storey building, which is contrary to the character of the locality.

Roofs typically slope towards the street occasionally penetrated by gables within the main roofline. The SPD reinforces this characteristic. There are no properties that make a positive contribution to the area that have a gable on to the road or have plan forms as proposed in this scheme. The elevational treatment presents the gable to the highway, and this is split, creating effectively a mono pitch roof, again out of character of the area. This form of roof line would harm the character and appearance of the area.

From the river side aspect (the west) the rear elevations are essentially five storeys in height. In terms of overall height, when observed from the ground, and from distance, the form informs the scale of the dwelling. The rear elevations have been modified at basement levels to reduce the visual impact when viewed from the west but the flat roofs of the dwellings and the projecting gabled form of the rear elevation makes the height and by inference the scale of the dwellings inappropriate in this locality.

Overall, whilst some amendments have been made to the design of the rear elevation of the dwellings the design, scale and massing of the proposed dwellings are considered to remain inappropriate and would have an adverse impact upon the street scene and the wider surrounding areas contrary to the relevant national and local planning policies and the Supplementary Planning Document – Design for New Development. Essentially, the massing of the dwellings is inappropriate as their form and scale is not broken up adequately which could have been achieved through the use of materials, architectural detailing, altering the roofline and reconsidering their orientation and how they interact with the street.

The gabion wall is a basket type retaining wall built adjacent to the River Tees. Overall it is approximately 6 metres high, built in staggered sections of 4metres and 2 metres with a plateau of approximately 5metres. It stretches along the riverbank to the rear of Nos 49 – 59 Blackwell. The wall sits within the Area of High Landscape Value. It is considered that once the landscaping for the garden areas has matured, the gabion walls would assimilate against the backdrop of the development and it would not have an adverse impact upon the visual appearance and character of the Area of High Landscape Value.

Residential Amenity

There are a pair of semi detached dwellings and a row of detached dwellings to the east of the application site, on the opposite side of Blackwell and the separation distance between these dwellings and the dwelling on Plot 2, which is located closer to the highway frontage is approximately 40 metres and 30 metres respectively. These distances would comply with the relevant proximity distances contained within the Supplementary Planning Document – Design for New Development.

The Church of Jesus Christ Latter Day Saints lies to the north but it would be approximately 65metres from the application site with a mature tree belt and the Public Footpath No 1 Darlington (Teesdale Way) separating the two sites.

Whilst the two dwellings are part of the same development, their inter relationship from an amenity viewpoint has been assessed by officers. The north facing elevation of the dwelling on Plot 2 and the south facing elevation of the dwelling on Plot 1 contain some principle openings which face each other and also which are offset rather than directly opposite and each dwelling has four balcony areas to the rear and one at the front above the garage. There would also be direct views of the garden areas from each dwelling. If this relationship was between existing and proposed dwellings, it would arguably be unacceptable but this is a composite development and each dwelling will impact upon the other, Officers therefore consider that the relationship between each dwelling is acceptable.

The spatial relationship between the dwelling on Plot 1 and 2 and the proposed dwelling on Plot 3 of the development site to the south is different as the dwellings on Plots 1 and 2 does not front Blackwell and are sited on an angle. The dwelling on Plot 2 has a dining room window at ground floor level in the south facing elevation and the dwelling on Plot 3 has a lounge room window at the lower ground floor level so whilst two principle openings overlook each other, they are offset and this relationship is considered acceptable. The other openings in the side elevation of Plot 2 are not principle windows.

Both of these dwellings and the dwelling on Plot 3 have balcony areas that would overlook each other and officers accept this relationship. There is a covered balcony area above the proposed garage at the front of the dwellings but they would not directly overlook the frontages of the dwelling on Plot 3. The garden areas would be overlooked by both neighbouring dwellings and this relationship is considered acceptable.

It is considered that the spatial relationship Plots 1 and 2 and Plot 3 of the adjoining development site is acceptable and will not give rise to any adverse residential amenity issues

Essentially, if the development had a similar relationship with any existing dwellings it could be argued that the relationship would be unsatisfactory, however, as the two dwellings and the neighbouring properties to the south are all new and part of a composite development the residential amenity impacts are considered acceptable.

Highway Matters

Each property would have a separate access onto Blackwell and the design of each dwelling includes the erection of a double garage with a forecourt area to their frontages for further off street parking. The Council's Highways Engineer has raised no objections to the proposal subject to the imposition of planning conditions relating to visibility splays; highway verge improvements; the formation of a footway to the frontage of the site and dropped crossings.

The Highways Engineer has raised concerns over the use of gravel driveways adjacent to a public highway and he has requested a further condition stating that the section of the driveways adjacent to the highways are constructed in a bound material

Flood Risk

A Flood Risk Assessment (FRA) was submitted for the 2005 approval but as the proposed development differs from the previously approved scheme, it was considered necessary that the applicant presented a new Assessment. The submitted Flood Risk Assessment (FRA) states that the replacement dwelling would be built above the lower garden areas and will not be affected by any flood events but the lower garden areas themselves may be influenced by an extreme flood event. The gabion wall is located adjacent to the River Tees. The Environment Agency were consulted on the revised FRA and requested further information on the gabion wall and its potential impact upon the River Tees.

A River Modelling exercise has subsequently been carried out on behalf of the applicant and it concluded that the proposed development should have no impact on flood levels on the River Tees. The Environment Agency are satisfied that the retaining wall will not cause or exacerbate flooding elsewhere and they have withdrawn their original objection to the proposed development and recommended the imposition of planning conditions relating to securing an acceptable surface water drainage scheme and to securing and managing a buffer zone between the gabion wall and the River Tees

Northumbrian Water has not objected to the application but requested the imposition of planning conditions relating to protection measures and unrestricted access for their apparatus

Protected Species

The 2005 approval was granted subject to planning conditions stating:

“Notwithstanding the details shown on the approved plans, the requirements of the Bat Survey Report prepared by Argus Ecological Services dated 2005 shall be fully complied with.” and

“Prior to the occupation of any of the dwellings, a plan for the management of the communal gardens to the rear of the dwellings adjacent to the riverbank shall be submitted to and approved by the Local Planning Authority and thereafter implemented.”

As this is an application to vary the 2005 permission the above conditions are still relevant and Natural England has stated that the imposition of similarly worded conditions could be imposed onto any grant of planning permission.

Trees and Landscaping

The application site does not contain any trees covered by a tree preservation order but the Council's Senior Arboricultural Officer has requested the imposition of a planning condition to

secure the submission of an Arboricultural Methods Assessment; an Arboricultural Method Statement and a Tree Protection Plan.

A condition to secure a satisfactory landscaping scheme can also be imposed if Members decide to approve the planning application

Contaminated Land

The Council's Environmental Health Section have requested the imposition of a planning condition to secure the submission of Phase 1 Desk Top Contaminated Land Study and also a condition to restrict the hours of construction activities.

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

Planning permission (reference number 05/00788/FUL) was granted in 2005 for the erection of five detached dwellings including the upgrading the river bank. Since the approval was granted, the development site has been sub divided into two separate sites and this application is to vary the 2005 approval for the substitution of house types relating to plots 1 and 2 and to receive retrospective planning permission for slope stabilisation works to the rear of the site.

The application site lies within development limits and the Area of High Landscape Value identified in the development plan.

During the course of determining the 2005 application, it was highlighted that the embankment running down from the rear of the proposed dwellings to the riverbank of the River Tees had a history of unstable land and landslips and that application was granted subject to a planning condition to ensure that the development was built in accordance with the requirements of Planning Guidance 14 Development on Unstable Land.

The applicant has had a Slope Stability investigation carried out but they are not willing to submit a copy of the Analysis to the Local Planning. As an alternative measure, a signed Geotechnical Certificate has been submitted to certify that the report has been prepared in strict accordance with Planning Policy Guidance 14 – Development on Unstable Land (PPG14) and the relevant British Standards. The Council does not have the required expertise available “in house” to assess the Analysis but officers accept that it has been carried out by a person who fulfils the “competent person” requirement as per PPG14 and the submitted signed Certification shows the “developer” has confirmed that he has access to the relevant and appropriate expertise to design and interpret the necessary site investigations to design the appropriate measures for remediation, prevention and precaution. The Council consider that the development is in accordance with Planning Policy Guidance Note 14 – Development on Unstable Land and Policy E47

(Contaminated and Unstable Land and Development) of the Borough of Darlington Local Plan.

The development would not have any significant impact in terms of flood risk, loss of daylight or sunlight to adjoining existing dwellings and those proposed as part of redevelopment of land to the south. It would also ensure that adequate levels of privacy were maintained taking into

account the circumstances of the development. The application is not considered to raise any issues in relation to car parking provision, highway safety or crime prevention.

Notwithstanding the above conditions the overall design, scale and massing of the proposed dwelling is considered inappropriate and it would have an adverse impact upon the street scene and the wider surrounding areas contrary to the relevant national and local planning policies and the Supplementary Planning Document – Design for New Development

The following national and local planning policies were taken into consideration

National Policy

Planning Policy Statement 1 – Delivering Sustainable Development

Planning Policy Statement 3 – Housing

Planning Policy Guidance Note 14 – Development on Unstable Land

Planning Policy Statement 25 – Development and Flood Risk

Borough of Darlington Local Plan 1997

E2 – Development Limits

E7 – Landscape Conservation

E8 – Area of High Landscape Value

E10 – Protection of Key Townscapes and Landscape Features

E11 – Conservation of Trees, Woodlands and Hedgerows

E12 – Trees and Development

E14 – Landscaping of Development

E16 – Appearance from Main Travel Routes

E17 – Landscape Improvement

E23 – Nature and Development

E24 – Conservation of Land and Other Resources

E25 – Energy Conservation

E27 – Flooding and Development

E28 – Surface Water and Development

E29 – The Setting of New Development

E46 – Safety and Security

E47 – Contaminated and Unstable Land and Development

H3 – Locations for New Housing Development

H11 – Design and Layout of New Housing Development

T8 – Access to Main Roads

T12 – New Development Road – Road Capacity

T13 – New Development – Standards

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T39 – Conditions for Pedestrians

Supporting Documents

Supplementary Policy Document – Design for New Development

Manual for Streets

Darlington Borough Council Design Guide and Specification

RECOMMENDATION

PLANNING PERMISSION BE REFUSED FOR THE FOLLOWING REASON

The overall design, scale and massing of the proposed dwelling is considered inappropriate and would result in a discordant development adversely affecting the visual appearance of the street

scene and its wider surroundings including the Area of High Landscape Value. The development is considered contrary to Planning Policy Statement 1 – Delivering Sustainable Development; Planning Policy Statement 3 – Housing and Policies E7 (Landscape Conservation), E8 (Area of High Landscape Value), E10 (Protection of Key Townscapes and Landscape Features), E16 (Appearance From Main Travel Routes), E29 (The Setting of New Development) and H11 (Design and Layout of New Housing Development) of the Borough of Darlington Local Plan 1997 and the Council’s adopted Supplementary Planning Document – Design for New Development)