

**DARLINGTON BOROUGH COUNCIL**

**PLANNING APPLICATIONS COMMITTEE**

**COMMITTEE DATE: 7<sup>th</sup> MAY 2014**

**Page**

---

<b>APPLICATION REF. NO:</b>	13/01038/FUL
<b>STATUTORY DECISION DATE:</b>	30 MAY 2014
<b>WARD/PARISH:</b>	Park East
<b>LOCATION:</b>	Site of Former Darlington Football Club Ground South Terrace
<b>DESCRIPTION:</b>	Erection of 82 No dwellings and associated infrastructure (Revised application) (amended plan received 30 January 2014; Flood Risk Assessment submitted 2 April 2014; amended and additional plans received 10 April 2014 and amended Design and Access Statement received 10 April 2014)
<b>APPLICANT:</b>	Persimmon Homes (Teesside) Limited

---

**APPLICATION AND SITE DESCRIPTION**

The application site measures approximately 2.36 hectares and is located on the western bank of the River Skerne, directly to the south of the Darlington Cricket Club. Access to the site is via South Terrace. It is within a predominantly residential area, albeit near to the town centre.

The site is bounded by the Victoria Embankment and West End Conservation Areas and the adjacent Polam Lane Bridge which is a Grade II listed structure.

In 2009 a planning application was submitted by Esh Developments (Dunelm Homes) for the erection of 146 units of residential accommodation, including family housing, apartments and retirement flats. A Section 106 Agreement was signed in 2011 and the planning permission was issued (see Planning History). The applicant for this application (Persimmon Homes) and Dunelm Homes have subsequently reached an agreement that the development site will be purchased by Persimmon Homes subject to this planning application being granted.

Dunelm Homes submitted a further application in 2012 to discharge the relevant pre-commencement planning conditions attached to the extant planning permission to allow them to commence work on site. These conditions have been discharged and work commenced. To date, work has been carried out to the access road around the Cricket pitch, the Cricket pitch has been enclosed by fencing and protective netting, the means of enclosure at the South Terrace entrance has been erected and sections of the land within the development site has been raised. No further activities have been carried out and the site remains a vacant site.

This revised application is for the erection of 82 dwellings on the site comprising a mix of two, three and four bedroomed properties and 12 two bed apartments. Persimmon Homes would carry out the development in accordance with the details that were submitted by Dunelm Homes to discharge the conditions attached to the extant planning permission and also any new conditions that are imposed.

The applicant carried out a Statement of Community Involvement exercise in December 2013 in accordance with the Council's adopted guidance. This involved a letter drop to approximately 120 households and a total of six responses were received. There was one objection to the proposal with the remaining five raising queries about aspects of the proposal, which the developer has responded to as part of the of this planning submission.

## **PLANNING HISTORY**

The relevant entries are:

09/00706/FUL In July 2011 planning permission was granted, subject to a Section 106 Agreement, for the erection of 146 residential properties including family housing, apartments, retirement flats, open space and associated access road from South Terrace, landscaping and associated works

09/00706/CON In March 2013 an application to discharge condition 5 (ecology buffer zone), 6 (external lighting), 7 (landscaping), 8 (arboricultural method statement), 9 (tree protection plan), 12 (dust), 16 (contamination), 17 (water apparatus diversion), 18 (surface water), 19 (entrance gates), 20 (enclosure), 23 (archaeology) attached to planning permission 09/00706/FUL dated 1 July 2011 for development of former Feethams Football Ground to provide 146 units of residential accommodation including family housing apartments, retirement flats, open space and associated access road from South Terrace, landscaping and associated works was submitted to the Local Planning Authority.

All of the conditions have been discharged apart from 16 (contamination) which can only be fully discharged once development re-commences on site, should planning permission be granted today.

## **PLANNING POLICY BACKGROUND**

The relevant national and local development plan policies are:

### **National Planning Policy Document 2012**

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

- E2 Development Limits
- E3 Protection of Open Land
- E12 Trees and Development

#### **Darlington Core Strategy Development Plan Document 2011**

- CS2 Achieving High Quality Sustainable Development
- CS3 Promoting Renewable Energy
- CS4 Developer Contributions
- CS10 New Housing Development
- CS11 Meeting New Housing Needs
- CS14 Promoting Local Character and Distinctiveness

CS15 Protecting and Enhancing Biodiversity and Geodiversity

CS16 Protecting Environmental Resources, Human Health and Safety

CS17 Delivering a Multifunctional Green Infrastructure

CS19 Improving Transport Infrastructure and Creating a Sustainable Transport Network

### Other Documents

Supplementary Planning Document – Design for New Development

Supplementary Planning Document – Planning Obligations

### RESULTS OF CONSULTATION AND PUBLICITY

Nine letters of objection have been received to the original proposals and the comments can be summarised as follows:

- *Can you confirm what impact the raising of the site out of flood zone areas 2 and 3 will have to South Terrace particularly since there will now be far more hard areas. I have seen this cause flooding in adjacent areas and both the football ground and the cricket club grounds become flooded from heavy rainfall- not flooding by the river.*
- *Can you confirm what affordable housing is? Is this appropriate to a mature area which currently has no provision.*
- *There is a sum of money for a crossing but nothing has been shown on any plans with regard to where this will be positioned. Can I have some details of this?*
- *From the drawing it's difficult to tell if any pedestrian access is intended between the site and Polam Lane. Can this be clarified? Preferably there would be no access as this would end up as a rat run to avoid Victoria embankment. The reason we moved to a cul-de-sac was to avoid a thoroughfare.*
- *Despite Persimmons response to my concerns about the size and scale of the terrace houses opposite Victoria Embankment, I still feel the new properties should not exceed the height of Victoria Embankment. They would have an overbearing effect and there is no justification for doing so.*
- *I suggest that planting of shrubs and trees is appropriate between the new footpath and the existing trees alongside the riverbank. This would support the wildlife corridor. Perhaps a rustic double chain and pole fence should be erected alongside the path, mimicking the one along Victoria Embankment. I agree with access from the footpath to Polam Lane thereby allowing access both to the South Park and the cricket field*
- *The poles and netting (already erected) between the cricket pitch and the access road are quite out of character, hideous, unnecessary and should be removed*
- *I believe the new terrace houses on the east side of the site next to the River Skerne are too high and will have a detrimental effect on the Victoria Road Embankment Conservation Area. The original plans on which the conditions of these plans are based, made a point of showing the height of the new houses to be the same as those on Victoria Embankment but now that the height of the site has been raised the new houses will now be higher*
- *The flats are going to be higher than the new terraced houses and significantly higher than the terraced houses on Victoria Embankment. I believe these flats will be a blot on the landscape and have a detrimental impact on the conservation area*
- *The applicant states on the planning application that the site is not in a flood area. This is not correct. It was also the case that the original plans made provision for holding tanks to store surface water so that there would be no additional risk of flooding. I*

*believe that this was a condition insisted upon by the Environment Agency. The raising of the ground which acted as a natural flood plain has in my opinion already increased the risk of flooding to Victoria Embankment. I would ask that some of the Section 106 Agreement money be spent on increasing the height of the kerb stones which run along the Victoria Embankment side of the river underneath the chain link fence, which would act as a flood barrier*

- *Firstly the groundworks, while it is good they are raising the ground level with sandstone, I have not seen any land drainage put in so this will create a dam effect for properties further up the bank like mine, for rainwater which would normally drain into the river. You only have to look at Victoria Road/Bedford Street, for example to see what happens, the answer being the current drains struggle to cope. There does not appear to be any effort in building energy efficient housing. In this part of the country we should be setting an example by building energy efficient/insulated houses which people can afford to live in and want to live in rather than houses that consume unaffordable amounts of gas and electricity.*
- *Whilst I wholeheartedly agree with developing this plot of land that has become a site for vandals, rubbish, dumping and drug taking there must be more consideration for the residents at the far end of Victoria Embankment. These houses have enjoyed views over Polam grounds for over 100 years but these plans include a 4 storey apartment block at the Polam Bridge corner blocking these views and detracting from the glorious restoration of this Victorian bridge completed only a few years ago with lottery funding. Along the remaining ground adjacent to Victoria Embankment the plans include terraced housing to "mimic" the Victorian buildings but again these are 3 storey buildings. Previous planning has included restrictions on heights of the building but this has been ignored with this plan. The hardcore has already been built up by several feet before any building going on too. Previous plans also had to include a wild life zone of 10 meters and a green route cycle path along the river, this is not evident on the current plan. There is a large colony of bats in the area and kingfishers and otters are seen frequently in this area of the Skerne river which needs privacy and protection in order to continue to thrive in this area. A further concern is the lack of waste water holding tanks in the current plans. This area has recently been upgraded to a level 3 flood zone and the impact of new housing will increase the pressure on this fragile run-off area. It has only been 1 year since our homes were very close to flooding. Already the holding tank in South Park has caused continuous standing water over the site and more frequent water collection in our cellar. I appreciate that there are benefits to developing this area but there seems to be little consideration to the existing housing on Victoria Embankment.*
- *I would like to register my objection to the building of a four storey block of flats in the south corner of the site. The block will be directly opposite my home and also a stone's throw from the Victorian park gates, and will be grossly out of scale with its surrounding buildings in the Victoria Embankment Conservation Area. I understand that the flats are there to satisfy the Council's requirement that 15% of the housing must be affordable, but this solution seems particularly unsympathetic to the local surroundings. At four storeys it will dwarf the houses nearby. Surely a more creative solution to the need for affordable housing can be found.*
- *I am very concerned that the submitted plans have included buildings on the riverbank opposite Victoria Embankment at a much higher level than the existing terrace. I think they will be out of place and unsympathetic to the conservation area and dominate the existing residents' views. I am worried that the charm of the Victorian river walk leading to the park will be overshadowed and spoiled by the new development. Also, what is happening regarding the flood water management on the site? I am concerned about the*

*additional run-off from the new estate and how it will be controlled. Increased levels of water in the river due to the loss of the natural "sponge" of the old football pitch might make it even more difficult for residents to obtain flood insurance. I think the four storey building at the end of the site will overlook and overshadow and be extremely intrusive for the existing residents of the embankment.*

- I would like to object to the proposed 4-storey apartment block next to the newly restored, listed bridge. I feel this will detract from the appeal of the historic bridge, and will also have a negative impact on the historic environment and outlook of the houses on Victoria Embankment - which, as a conservation area, the Council has a responsibility to protect. This is particularly true for a conservation area which has been defined as "at risk" - as is, unfortunately, the case with Victoria Embankment. Wouldn't it be more in keeping with the character of the area to extend the proposed row of terraced houses all the way up to the park instead (so as to mimic Victoria Embankment itself) and move the 4-storey apartment block elsewhere? Could you please assure me that the following extract from the Darlington Borough Council website will be put into practice in this case, and the proposed development will be rethought? "The Council has a duty, through decisions made on planning applications within Conservation Areas, to ensure decisions have a positive or neutral impact on the Conservation Area under section 72(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990. In Conservation Areas identified as being At Risk a positive impact on the Conservation Area will be sought, where appropriate"*
- Everything that is being done on the Feethams ground opposite Victoria Embankment in no way echoes the Victorian terraced houses. We were originally assured the design would not dominate our houses. The land already feels oppressive without any building taking place. The planned height of the development is not sympathetic to the conservation area. I am concerned that there will not be enough car parking spaces for families who often have more than one car these days and they may well have to park in local streets. I am concerned that there will not be enough land open for rainfall to soak away. Are the drains intended to be large enough to take water away below Victoria Embankment as I see the development will lead to displacement or rainfall and other water coming down the River Skerne elsewhere than on the development*
- The development would detract from the visual, historic or architectural character of the area. Since the Character Appraisal was completed in 2006 the Polam Lane Bridge has been listed which I believe should deserve even more scrutiny when the development is considered. I believe the flat development will take away from its open aspect and visual impact upon the conservation area. I am not sure there is an on-going requirement for flats as there seems to be quite a large amount of apartments currently unoccupied and it would be more desirable to build housing suitable for families and gardens*
- The Flood Zone for the site has changed since the last application on 2009 and this must mean there is more onerous scrutiny of the developers Flood Risk Assessment*
- I am an environmentalist and keen to see modern energy saving measures included in new developments such as multiple glazing and wall, roof and floor insulation against noise and loss of heat/energy/photovoltaic tiles to collect solar energy; installation of water meters; using grey water and capture of rainwater*

Latimer Hinks Solicitors have responded on behalf of the Darlington Cricket Club and their comments can be summarised as follows:

*The Club's concern is as to what precautions will be taken in the design and construction of the dwellings nearest to the cricket ground to avoid damage to those dwellings resulting from*

*cricket balls being hit over the protective netting and into the development. There are provisions in the sale documentation between the Club and initial purchaser as to designing the buildings so as to minimise potential damage and the Club considers that it may be appropriate to include a condition obliging design of the houses nearest to the cricket ground to take into account the necessary protection from damage by cricket balls*

A letter of support has been received which states:

*Personally, and on behalf of the South Terrace Residents Group, we support the proposed plans.*

### **Consultee Responses**

The Environment Agency has raised no objections to the application

Northumbrian Water has raised no objections to the application

Northern Gas Networks have raised no objections

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

The Council's Highways Engineer has raised no objections to the scheme

### **PLANNING ISSUES**

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

- Planning Policy
- Residential Amenity
- General Design and Layout Matters
- Impact upon the Conservation Areas and the Polam Lane Bridge
- Highway Matters
- Noise
- Flood Risk
- Contaminated Land
- Impact upon Trees
- Wildlife Matters

### **Planning Policy**

The site is within the development limits for the urban area as defined by the Proposals Map of the Borough of Darlington Local Plan 1997 and its redevelopment for residential purposes has been established by the extant planning permission.

The new development must be to a high standard, be safe and sustainable in accordance with Policy CS2 of the Core Strategy and all highways, transport and footpath works must accord with Policy CS2 and also CS19 of the Core Strategy.

The use of sustainability measures within the development must meet with the requirements of Policy CS3 of the Core Strategy to ensure that it is a sustainable and energy efficient development.

Policy CS16 of the Core Strategy states that new development should protect and where possible improve environmental resources, whilst ensuring there is no detrimental impact on the environment, general amenity and the health and safety of the community

The provision of 82 dwellings is consistent with Policy CS10 of the Core Strategy and any revised planning obligations must accord with Policy CS4 of the Core Strategy and the requirements of the Supplementary Planning Document - Planning Obligations (Planning Obligations SPD).

Government guidance on conservation areas and listed buildings is contained within the National Planning Policy Framework 2012

The proposal is considered to be acceptable in general planning policy terms.

### **Residential Amenity**

The properties on Victoria Embankment are two storey terraced dwellings which face the application site. The River Skerne separates these dwellings and the application site and there are mature trees on both sides of the river bank. The proximity distances between the proposed townhouses on the riverside and existing dwellings would be in excess of 50m. The proximity distance with the four storeys flatted development would be approximately 49m. There would be some Juliet balconies on the frontages of some of the dwellings and the flats that face onto Victoria Embankment but these are safety features rather than balconies/platforms that the occupier can sit out on.

Having taken into consideration the raising of the land levels within the site, the proximity distances would fully comply with the requirements within the Design SPD. Whilst there would be views of the development through the mature trees on either side of the riverbank, they would act as a screen between the existing and proposed dwellings to lessen any visual impacts. It is considered that the amenities of the dwellings on Victoria Embankment will not be significantly affected by the proposed development.

The properties immediately to the west (Quaker Lane) are two storey flatted developments which are screened from the application site by trees. These properties would face the gable ends of the new housing and the proximity distances here are also considered to be acceptable.

The properties on South Terrace are not directly affected by the housing development and the increase in traffic movements created by the development are not considered to be so extensive to create significant amenity problems

A condition would be imposed to secure the submission of a Construction Management Plan which would include a Dust Action Plan and methods for controlling noise and vibration during the construction phase. Separate conditions would be imposed to restrict the hours of construction, demolition works and deliveries to the site and to control noise and vibrations from any piling activities

### **General Design and Layout Matters**

Access to the site would be from South Terrace with the road continuing around the Cricket Pitch before reaching the entrance to the housing development. The internal road network is a series of cul de sacs so there is no through road in the development, which will increase road safety and reduce the opportunity and fear of crime. A pedestrian footway/cycleway would run along the riverside elevation to connect Polam Lane to South Terrace.

The primary frontages within the development are those that face the River Skerne and also the Cricket Pitch. A 10m buffer would be created between the riverside housing and the riverbank to

protect wildlife on and adjacent to the site, to provide a green setting for the development and to respect the adjacent Victoria Embankment Conservation Area. The dwellings on the riverside are predominately blocks of 2.5 and three storey terraced townhouse properties but there is a four storey flatted development in the south west corner. This proposed frontage is quite similar in scale to the extant planning permission apart from the apartment block. The extant planning permission had a three storey block of flats in the south west corner.

The dwellings overlooking the cricket pitch are also a mix of 2.5 and three storey dwellings. These dwellings have first floor level balconies or dormer roof extensions overlooking the pitch. The two central blocks of three storey terraced dwellings would replace the four storey retirement flats that were part of the extant planning permission.

The remainder of the development consists of a mix of terraced, semi-detached and detached dwellings. These dwellings are a combination of two, 2.5 and three storey properties.

The means of enclosure within the site consists of 1.8m high fencing along the boundary with Polam Lane (south) and Quaker Lane (west), brick wall and railings along the boundary with the cricket pitch (north) with the riverside elevation (east) having an open aspect. Individual gardens would be separated by post and rail fencing. There would also be close boarded fencing and brick walls within the internal layout of the development.

Under the provisions of the Council's Design SPD, the site lies within Zone 2 (Town Centre Outer Ring Road). The SPD permits the erection of new developments within Zone 2 which are between 2 and five storeys high and therefore the proposed development would accord with this guidance.

The overall designs of the properties are considered to be acceptable and incorporate features that can be found on existing dwellings within the locality. The entrance into the housing development has been improved by the erection of walling along the primary road and introducing window openings in the gable elevations of the dwellings at the entrance in order to provide some visual interest and natural surveillance.

The spatial relationships between the dwellings within the development are considered to be acceptable.

The landscaping of the site will consist of the existing trees on the riverbank, the wildlife buffer on the riverbank, with additional tree and shrub planting and open front gardens.

It is considered that the design and layout of the proposal is acceptable and will result in a high quality development. The development would accord with the relevant local development policies and adopted guidance.

Under the provisions of the Core Strategy and the Council's adopted Supplementary Planning Document (Design SPD), the development must be built to Code for Sustainable Homes Rating 3 and the development must ensure that at least 10% of its energy supply comes from renewable energy. However the applicant proposes to use the "Standard Assessment Procedure" (SAP) procedure to determine the percentage in CO2 over Target Emission Rate (as determined by the 2006 Building Regulations) to ensure that appropriate energy reduction measures are built into the development, to minimise energy use to an acceptable level. In order to support the principles of delivering sustainable development, viable development required by national planning policy,



it is considered that this approach is fair and reasonable and will contribute to sustainable development in the Borough. However, the imposition of a condition requesting the submission of SAP calculations demonstrating that the reduction in energy use through the built fabric specification is considered to be appropriate.

### **Impact upon the Conservation Areas and the Polam Lane Bridge**

The site lies between but outside of the West End and Victoria Embankment Conservation Areas and also adjacent to the Grade II listed Polam Lane Bridge.

Victoria Embankment Conservation Area is to the east of the application site, and includes both banks of the River Skerne. The proposed development will, despite existing mature tree cover, impact the significance of this Conservation Area and so requires careful consideration.

The West End Conservation Area is mainly to the west of the application site.

Polam Lane Bridge is a Victorian Bridge which has recently been refurbished by the Council and it is important that the bridge is not compromised by the new development.

Development in the setting of listed buildings can harm their significance and developments adjacent to conservation areas should sustain or enhance the significance of the conservation area as per the requirements of the National Planning Policy Framework 2012.

In general terms, the design of the proposed development is acceptable, subject to the use of appropriate materials which would be secured by a planning condition. The various means of enclosure are considered to be appropriate, again subject to the brick walls being constructed from appropriate materials.

The most contentious element of the development is the scale of the four storey flatted development block in the south west corner of the site, closest to the Polam Lane Bridge. The original approval also had a flatted development in this location, albeit a three storey development. However, the fourth floor of the proposed building is located within the roof space of the building and it is set behind the adjacent dwellings on the riverside frontage reducing its visual impact on the locality. The existing tree coverage would help to screen the building when viewed from the opposite side of the River Skerne. Despite being four storeys, it has been designed to reflect the properties within the conservation area incorporating features such as flat topped bay windows.

It is considered that the development will sustain the significance of the Victoria Embankment Conservation Area.

The development site would be well screened from the West End Conservation Area by existing tree coverage in the grounds of the adjacent Polam Hall School and therefore this conservation area will not be adversely impacted upon.

The proposed development would also sustain the significance of the setting of the Polam Lane Bridge. It is considered the development would accord with the National Planning Policy Framework 2012.

**Highway Matters**

A Transport Statement states that when compared with the extant planning permission, the proposed development will generate 26 fewer trips in the AM peak times and 21 fewer trips in the PM peak times resulting in a net reduction of vehicle trips on the surrounding road network. The TS concludes that there will be no adverse traffic impacts associated with the development, when compared to the extant planning permission and the Council's Highways Engineer would agree with this conclusion.

In order for garages to count as a parking space they must be a minimum of 3m x 6m which has now been updated in the latest submission drawings. In curtilage parking numbers across the site generally accords with the latest Tees Valley Design Guidance with only a minor reduction in the parking levels which is considered acceptable as this is an edge of town centre location and would not be detrimental to highway safety.

Following on from the previous extant permission it was agreed that a 20mph zone be introduced with associated traffic calming on the approach roads and internal estate road and the possibility of a residents parking scheme. It was also agreed that parking restrictions should be introduced along the main access road to stop commuter parking. These items would be secured as part of Section 38 Agreement and discussions with the relevant contact as highlighted in the Informative below.

Precise details of secure cycle parking and storage details would need to shall be submitted for the development and this would be secured by a condition.

The highway geometry has been amended subsequent and the revised layout is acceptable from a highways perspective.

Traffic calming would be required along the access road past the cricket ground to keep speeds down to 20mph with indicative locations shown on the layout drawing. Speed cushions are usually provided at around 60 - 70m spacing's however this can be reviewed during the Section 38 process and discussions regarding the implementation of the 20mph speed limit.

A suitable street lighting design will be required to be submitted for approval and agreement should be sought from the relevant contact as highlighted in the informative attached to a permission.

**Noise**

Conditions were imposed on the original approval which sought to secure the submission of a Noise Impact Assessment and the need to use trickle vents within bedroom windows. These conditions have not been discharged by Dunelm Homes.

It is considered appropriate to re-impose the condition requesting a noise assessment, which would then, in its findings, highlight the need for trickle vents. The applicant has been made aware of the recent changes that have occurred at the neighbouring Sainsbury store so they are reflected in any assessment.

**Flood Risk**

The original proposal was granted based on flood risk data that has now been superseded by more recent work commissioned by the Council and the Environment Agency. The Council

produced a Strategic Flood Risk Assessment and a flood mitigation strategy which focused on the Town Centre Fringe regeneration area, including the application site.

The Flood Risk Assessment for the original proposal showed that the site was within the designated Flood Zone 2 but outside of Flood Zone 3 and appropriate mitigation measures were put in place for that development based on the above flood risk designation. However, the subsequent work carried out on behalf of the Council updated the flood data for the locality and the application site was placed within both Flood Zones 2 and 3.

Dunelm Homes commissioned the same consultants used by the Council to undertake an assessment to show that the site would be safe and would not increase risk to others. The previous Assessment stated that the site would not be at risk to others and would be safe if

- the development site is raised above the 1 in 100 year plus climate change flood level which is 37.1mAOD;
- access roads, driveways and gardens should be set at 37.1mAOD; and
- 300mm of freeboard should be included within finished floor levels. The recommended finished floor level for the Feethams site is therefore 37.40mAOD.

In order to ensure that the site was outside Flood Zone 3, the developer has carried out some initial land raising. The land raising ranges between 36.18 to 37.93AOD with the mean value being 37.10mAOD which accords with the 1 in 100 year flood level for Feethams. The whole of the site will be raised to 37.10mAOD and the finished floor levels will be at 37.40mAOD. As a result the site is no longer within Flood Zone 3 and is still within Zone 2, as per the original approved development.

The Environment Agency considers that that the proposed development will be acceptable and they have raised no objections to the scheme subject to the imposition of appropriate conditions relating to flood mitigation measures and land/ground water contamination.

Northumbrian Water assesses the impact of the proposed development on their assets and assesses the capacity with their network to accommodate and treat the anticipated flows arising from the development. Northumbrian Water has raised no objections to the scheme provided that the development is carried out in accordance with the details for surface water discharge that were submitted by Dunelm Homes to discharge the relevant condition attached to the original approval. However, as the scheme is different to the extant permission it is considered appropriate to impose a condition requesting details of a scheme for the disposal of foul and surface water so that it is relevant to the latest proposal.

An agreement has been reached between Dunelm Homes and Northumbrian Water to ensure that a main foul sewer is fully protected.

### **Contaminated Land**

The original planning application was granted planning permission, subject to a condition relating to land contamination. Dunelm Homes have already part discharged the condition but need to fulfil the final parts of the condition which involve the submission of a validation report and the need to assess any unexpected contamination identified during the construction process. The final parts of the condition cannot be fulfilled until later within the construction phase.

**Impact upon Trees**

The extant planning permission was granted subject to conditions which related to a landscaping scheme for the site, the submission of arboricultural assessments for the scheme and to secure appropriate tree protection measures to be erected during the construction phase.

Dunelm Homes have submitted details to discharge the conditions and they have been accepted. Persimmon Homes have submitted a further landscaping plan, which can be secured by a planning condition and it is considered appropriate to re-impose the condition relating to the tree protection measures. Persimmon Homes would comply with the requirements of the arboricultural details that were submitted by Dunelm Homes showing the construction methods for the cycleway/footway on the eastern boundary and the car parking areas

**Wildlife Matters**

The extant planning permission was granted subject to conditions that the development was carried out in accordance with mitigation measures contained within a protected species report submitted in 2009 and that a 10metre buffer zone for otters shall be created on the riverside boundary.

Dunelm Homes submitted details of a Method Statement for the protection of Otters during construction works and the details of the buffer zone. Natural England was consulted on the details and they were considered to be acceptable and the conditions were discharged. The revised proposal also incorporates the 10m buffer zone and Persimmon Homes would comply with details of the species report and the details that were submitted to discharge the aforementioned condition.

**Planning Obligations**

The 2009 submission was granted planning permission, subject to a Section 106 Agreement to secure a number of planning obligations relating to affordable housing, the provision and maintenance of play equipment, off site play space, highway works and the maintenance of any on site open space. Dunelm Homes have fulfilled the Agreement requirements in relation to highway works in order to allow them to commence on site.

The reduction in housing numbers and mix has resulted in revisions to the planning obligations that would be secured by a new Section 106 Agreement.

Policy CS11 of the Core Strategy requires that up to 30% of housing on the site of 15 or more dwellings are affordable units. However the Planning Obligations SPD requires that in the current economic climate that up to 20% should be affordable housing. The applicant are requesting 15% (12 units within the flatted development) which is below the requirement but given the size of the development and the impact it is expected to generate on a range of other community infrastructure in the locality, on balance, it is considered that with the package of the other infrastructure listed below, the proposed level of affordable housing is reasonable and appropriate.

In accordance with the Planning Obligations SPD a development of this size and type in the South West locality of the Borough will generate a need for contributions toward the following, as well as the aforementioned affordable housing provision

1. £67,758 towards the provision of children's play facilities at the South Park
2. £67,758 towards primary School places in the locality

3. £45,199 towards improving sports facilities in the locality

### **Other Matters**

With regard to the comments made by Latimer Hinks Solicitors on behalf of the Darlington Cricket Club, Officers have been advised that there was a clause in the Transfer Document between the Club and Dunelm Homes that essentially requires any proposed development to afford necessary and appropriate protection against any damage which may be suffered by any such buildings as a consequence of the playing cricket or other sports on the retained pitch.

The extant planning permission was granted subject to a condition requesting the submission of means of enclosure details to be used to prevent cricket balls from the cricket pitch entering the application site. The details that were submitted to discharge the condition show the erection of 1.8m high fencing and 6m high posts with netting in between being erected around the edge of the cricket pitch. Officers have been advised that the height of the netting was specified by the Cricket Club in the Transfer Document. The removal of the post and netting by any persons in the future would be a breach of the planning condition.

Also, the proposed three storey dwellings that are facing the cricket pitch boundary replace the four storey retirement flats that form part of the extant planning permission. They have been positioned outside of a 10m radii "no build zone" which was specified by the Cricket Club to take account of the usage of the pitch.

The extant permission and the proposed development have been designed to take into account the usage of the cricket pitch and it is not considered appropriate to impose the planning condition requested by Latimer Hinks Solicitors on behalf of the Cricket Club.

### **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 redevelopment of the application site for residential purposes has been established by the extant planning permission submitted in 2009 and approved in 2011, once the Section 106 Agreement had been signed. Following the issuing of the planning permission and the discharging of the pre-commencement planning conditions, development has commenced on site by Dunelm Homes.

Persimmon Homes and Dunelm Homes have reached an agreement that the development site will be purchased by Persimmon Homes subject to this revised planning application being granted and they would carry out the remainder of the development site in accordance with the details that were submitted by Dunelm Homes to discharge the conditions attached to the extant planning permission and any new conditions that are imposed on this new proposal.

The design and layout of the development accords with the relevant policies in the local development plan and adopted guidance. The development respects the amenity and general character of the area and it is considered to sustain the significance of the adjacent Conservation Areas and the Listed Polam Lane bridge. The application is not considered to raise any issues in

relation to car parking provision, highway safety or crime prevention. The proposal is considered to be acceptable and there is a need to enter into a Section 106 Agreement to secure the relevant planning obligations. The proposal accords with the relevant national and local development policies.

### **RECOMMENDATION**

**THAT THE DIRECTOR OF ECONOMIC GROWTH BE AUTHORISED TO NEGOTIATE UNDER SECTION 106 OF THE TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED) TO SECURE THE FOLLOWING:**

- 15% of affordable housing accommodation within the development
- A commuted sum to provide children's play facilities at the South Park
- A commuted sum to provide primary school places in the locality
- A commuted sum to improve sports facilities in the locality

**AND THAT PLANNING PERMISSION THEN BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS**

1. A3 – Implementation Limit (Three Years)
2. B4 – Details of Materials (Samples)
3. The development hereby permitted shall only be carried out in accordance with the Flood Risk Assessment and the following mitigation measures detailed within the Assessment
  - (a) Identification and provision of safe routes(s) into and out of the site to an appropriate safe haven;
  - (b) Finished Floor levels are set no lower than 37.4m above Ordnance Datum (AOD);
  - (c) Access roads and driveways be set no lower than 37.1m AOD.

The mitigation measures shall be fully implemented prior to the occupation of the dwellings and subsequently in accordance with the timings/phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed in writing with the Local Planning Authority

**REASON:** To ensure safe access and egress to and from the site, to reduce the risk of flooding to the proposed development and future occupants and to ensure safe access and exit from the site in extreme flood events

4. Prior to the commencement of the development, a scheme to minimise energy consumption shall be submitted to and agreed in writing by the Local Planning Authority and the development shall not be carried out otherwise than in complete accordance with the approved details  
**REASON:** In the interests of sustainable development
5. Prior to the commencement of the development a scheme for the protection of the residential accommodation from commercial noise from the nearby premises and traffic noise shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include predicted levels at residential properties, and a BS 4212 assessment and include details of any sound attenuation methods to be used. The scheme shall

achieve internal noise levels of less than 35 dB(A) Laeq in living rooms, less than 30 dB(A) Laeq in bedrooms, less than 55 dB(A) Laeq in gardens and individual noise events not to exceed 45 dB LAFmax in bedrooms. Any works, which form part of the scheme, shall be completed in accordance with the approved scheme and prior to any part of the housing development being first occupied or used

REASON: In order to protect the future occupiers of the development from any commercial noise and road traffic noise

6. Prior to the commencement of the development, a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Plan shall include a Dust Action Plan, methods for controlling noise and vibration during the construction phase, construction traffic routes; details for wheel washing, road maintenance, warning signage. The development shall not be carried out otherwise than in complete accordance with the approved Plan

REASON: In the interests of residential amenity and highway safety

7. Construction, demolition and delivery activities at the site shall be restricted to between 0800 to 1800 hours Monday to Friday, 0800 to 1400 Saturday and no working/demolition or deliveries shall take place on Sundays and Bank Holidays

REASON: In the interests of residential amenity

8. The development hereby approved shall be carried out in complete accordance with Drawing Number FFG-003 entitled "Proposed Landscaping Plan" dated 26 April 2012 and produced by Persimmon Homes (Teesside) Limited unless otherwise agreed in writing by the Local Planning Authority. The submitted landscaping scheme shall be fully implemented concurrently with the carrying out of the development or within such extended time period which may be agreed in writing by the Local Planning Authority and thereafter any trees or shrubs removed, dying, severely damaged or becoming diseased shall be replaced and the landscaping maintained for a period of five years to the satisfaction of the Local Planning Authority

REASON: In the interests of the visual appearance of the development

9. The development hereby permitted shall not commence until a scheme to deal with contamination of land and/or groundwater, including soil contamination, ground/surface water contamination, landfill gas, leachates and stability as appropriate, has been submitted to and agreed in writing with the Local Planning Authority. The scheme shall include all of the following measures unless the Local Planning Authority dispenses with any such requirement specifically and in writing:-

- (a) A Phase 1 Preliminary Risk Assessment, carried out by competent person(s), to identify and evaluate all potential sources and impacts on land and/or groundwater contamination relevant to the site shall be submitted to and agreed in writing with the Local Planning Authority prior to the commencement of the development.

- (b) A Phase 2 Site Investigation and Risk Assessment shall be carried out by competent person(s) to fully and effectively characterise the nature and extent of any land and/or groundwater contamination and its implications. The site investigation shall not be commenced until:

- (i) A Phase 1 Preliminary Risk Assessment and has been completed and agreed in writing with the Local Planning Authority.
- (ii) The requirements of the Local Planning Authority for site investigations have been fully established; and
- (iii) The extent and methodology of the site investigation and risk assessment have been agreed in writing with the Local Planning Authority.

The Phase 2 Site Investigation and Risk Assessment Report shall be submitted to and agreed in writing with the Local Planning Authority prior to the commencement of the development.

(c) A Phase 3 Remediation Statement for the remediation of land and/or groundwater contamination affecting the site determined through risk assessment shall be submitted to and agreed in writing with the Local Planning Authority prior to the commencement of the development. The works specified in the Phase 3 Remediation Statement shall be implemented and completed in accordance with the agreed Remediation Statement by competent person(s), no alterations to the Remediation Statement or associated remediation works shall be carried out without the prior written agreement of the Local Planning Authority.

(d) A completion report (Phase 4 Validation Report) confirming the objectives, methods, results and effectiveness of all remediation works shall be submitted to and agreed in writing with the Local Planning Authority within 2 months of completion of the development.

(e) Any contamination not considered in the Phase 3 Remediation Statement but identified during the construction/remediation works shall be subject to further risk assessment and remediation proposals agreed in writing with the Local Planning Authority and the development completed in accordance with any further agreed amended specification of works.

REASON - The environmental setting of the development site is considered sensitive with regard to the risk that any land contamination that may be present at the site may pose to controlled waters receptors. This is because the site is underlain by the Magnesium Limestone which is a Principle Aquifer, the site is also bound to the east by the River Skerne

10. Prior to the commencement of the development, a detailed scheme for the disposal of foul and surface water from the development shall be submitted to and approved in writing by the Local Planning Authority in consultation with Northumbrian Water. The development shall not be carried out otherwise than in complete accordance with the approved details

REASON: To prevent the increased risk of flooding from any sources in accordance with the requirements of the National Planning Policy Framework 2012

11. Prior to the commencement of the development, precise details of secure cycle parking and storage details shall be submitted and approved in writing by the Local Planning Authority. The details shall include the number, location and design of the cycle stands



and the development shall not be carried out otherwise than in complete accordance with the approved details

REASON: To ensure that the development has satisfactory secure cycle parking provision

12. If piling is to take place on site, details of the piling method including justification for its choice, means of monitoring vibration and groundwater risk assessment if necessary, in accordance with recognised guidance shall be submitted to and agreed in writing by the Local Planning Authority. The development shall not be carried out otherwise than in complete accordance with the agreed piling method

REASON: In the interests of residential amenity

13. Prior to the commencement of the development hereby approved (including demolition work), a scheme to protect the existing trees shown on the submitted plans to be retained shall be erected on site. The scheme 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 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.

14. Prior to the completion of the development hereby approved, or in such time as may be agreed in writing with the Local Planning Authority, details shall be submitted of a scheme of historical interpretation which links the development site to its previous occupation of the site by Darlington Football Club. The agreed scheme shall be provided on site and maintained in the approved manner.

REASON: The application site has had a long association with Darlington Football Club dating from the late 19th century and it is considered appropriate to provide, on site, interpretive or other information or physical features that illustrates that long-standing historical connection.

15. B5 – Detailed Drawings (Accordance with Plan)

**THE FOLLOWING POLICIES AND DOCUMENTS WERE TAKEN INTO ACCOUNT WHEN ARRIVING AT THIS DECISION:**

**National Planning Policy Document 2012**

**Borough of Darlington Local Plan 1997**

- E2 Development Limits
- E3 Protection of Open Land
- E12 Trees and Development

**Darlington Core Strategy Development Plan Document 2011**

- CS2 Achieving High Quality Sustainable Development
- CS3 Promoting Renewable Energy
- CS4 Developer Contributions
- CS10 New Housing Development
- CS11 Meeting New Housing Needs
- CS14 Promoting Local Character and Distinctiveness
- CS15 Protecting and Enhancing Biodiversity and Geodiversity
- CS17 Delivering a Multifunctional Green Infrastructure
- CS19 Improving Transport Infrastructure and Creating a Sustainable Transport Network

**Other Documents**

- Supplementary Planning Document – Design for New Development
- Supplementary Planning Document – Planning Obligations

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

The Developer is required to submit detailed drawings of the proposed off site highway works to be approved in writing by the Local Planning Authority and enter into a Section 38 agreement before commencement of the works on site. Contact must be made with the Assistant Director: Highways, Design and Projects (contact Mr S. Brannan 01325 406663) to discuss this matter.

The applicant is advised that contact be made with the Assistant Director: Highways, Design and Projects (contact Ms. P. Goodwill 01325 406651) to discuss naming and numbering of the development.

An appropriate street lighting scheme and design to cover the proposed amendments should be submitted and approved in writing by the Local Planning Authority. Contact must be made with the Assistant Director: Highways, Design and Projects (contact Mr P. Brownbridge 01325 406652) to discuss this matter.

The applicant is advised that contact be made with the Assistant Director: Highways, Design and Engineering (contact Mrs. B. Bowles 01325 406708) to discuss the introduction of 20mph zones, Residents parking scheme and introduction of Traffic regulation Orders.