

**DARLINGTON BOROUGH COUNCIL**

**PLANNING APPLICATIONS COMMITTEE**

**COMMITTEE DATE: 6 July 2011**

**Page**

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<b>APPLICATION REF. NO:</b>	11/00299/FUL
<b>STATUTORY DECISION DATE:</b>	6 July 2011
<b>WARD/PARISH:</b>	PARKWEST
<b>LOCATION:</b>	Site of Former 59 Blackwell
<b>DESCRIPTION:</b>	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 (Resubmission) (amended plans received 3 June 2011 and 12 May 2011 and additional plans received 20 June 2011)
<b>APPLICANT:</b>	John Lees and Mike Gales

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**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 the section known as Plots 1 and 2 only which form the northern section. Planning permission (ref no 10/00040/FUL) has recently been granted for the erection of three contemporary designed houses on the southern section of the 2005 application site. [plots3,4,5]

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.

The foundations of the two dwellings have already been constructed on the site and further works have recently continued.

## **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

09/00908/FUL In February 2011 planning permission was REFUSED for a 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.

## **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  
E8 – Area of High Landscape Value  
E12 – Trees and Development  
E14 – Landscaping of Development  
E17 – Landscape Improvement  
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

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

CS2 – Achieving High Quality, Sustainable Design  
CS10 – New Housing Development  
CS14 – Promoting Local Character and Distinctiveness  
CS15 – Protecting and Enhancing Biodiversity and Geodiversity  
CS17 – Delivering a Multifunctional Green Infrastructure

CS16 – Protecting Environmental Resources, Human Health and Safety

CS19 – Improving Transport Infrastructure and Creating a Sustainable Transport Network

### **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 four letters of objection have been received and the concerns can be summarised as follows

- *It does not accord with the local design statement*
- *It is being built partly on Council land*
- *Construction has involved the destruction of protected woodland within the control of the local authority*
- *The street scene provided is highly inaccurate and misleading*
- *The structural certificate is invalid as it is based upon technical reports of which I am part owner and I have not given their consent for their use*
- *The development has clearly damaged the woodland beside it. They seem to have killed lots of trees by dumping many tons of waste onto the adjacent land with obvious disregard to the environment*
- *The foundations that have been built on Plots 1 and 2 do not have the benefit of planning permission*
- *The PPG14 certificate submitted with this application is the same certificate which was submitted with the previous unsuccessful application despite the fact that the design including roof details and ridge heights and therefore the loads have changed. We would question the assertion that they are meeting the requirements of PPG14. We would urge that the application be submitted with the new PPG14 certificates which provide the appropriate level of detail regarding their methodology*
- *It would appear that the new design still do not comply with the Council's New Development SPD. This is not particularly surprising given that the foundations have been constructed prior to applying for planning permission, leaving little scope for them to be amended in line with Darlington Council's own style guide*
- *It is not clear how this variation fits with the existing consent with regard to the existing landscaping and riverside management agreements.*

One of the objection letters gives a detailed planning history for the application site and the adjacent sites. The objection also states:

- *I notice that the roofs have been raised. The result of this is that both these proposed houses are significantly higher than was the case in the rejected application. This must mean that these houses are bigger than those that were turned down on grounds of excessive mass and scale. It is no justification to say that the raised roof line of the current application is consistent with the approved application (ref no 10/00040/FUL) as it is most likely that these houses will ever be built. This application should be rejected.*

Three letters of support have been submitted (two have been submitted by the same person) and they can be summarised as follows:

- *Mr Gales has verified that the previous geotechnical certification for the sites in question remain valid following amendments to earlier designs/submissions for which the certificates were prepared. I trust that the accuracy of any model used in the geotechnical analysis will be verified by Darlington Borough Council or building control authorities in consideration of conditions imposed by Darlington Borough Council and that continued validity will also be examined/confirmed if any alterations/amendments to designs have arisen or should arise subsequently in this or in adjacent applications in this part of Blackwell.*
- *I wish to record my full support for the planning application and I am satisfied that strict adherence to PPG14 and Annex 1 in particular has been maintained in this new application*
- *I wish to record my full support for the planning application*

**Natural England** has issued Standing Advice on the application

The **Environment Agency** has raised no comments on the application but they have verbally requested the imposition of 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** has raised no objections to the proposed development

**Northumbrian Water** has raised no objections to the proposed development

The **Council's Environmental Health Officer** has requested the imposition of a planning condition relating to contaminated land

The **Council's Highways Engineer** has raised no objections to the application subject to the imposition of planning conditions relating to visibility splays, paving on the verge of the public highway and appropriate materials for the driveway.

## 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 dwellings 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 49 and 59 Blackwell.

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 applicant has confirmed that whilst the design of the dwellings has been revised, the Certificate remains valid due to the dwellings giving the same ground bearing pressure below the reinforced concrete raft foundation as the previous submission. All other details within the slope stability calculations remain unchanged by the revisions.

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 (with one in the roof space) 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 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.



The previous application (09/00908/FUL) for the erection of two dwellings was 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).”*

Following subsequent discussions with the Council, the design of the dwellings have been revised. The roof line is now broken into a more appropriate form. Whilst dominant, the projecting gable is now set into the roofline which is more in keeping with the character and appearance of the area. The simple pitch of the projecting gable is more sympathetic to the character of the area and this element, along with the lowered eaves line into which the gable penetrates helps to reduce the perceived height of the proposed dwellings from the street.

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 massing of the rear elevations have been broken up and also modified at basement levels to reduce the visual impact when viewed from the west.

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.

Overall, the design of the dwellings is considered to be an improvement on the previous submission and officers have no objections to the scheme in terms of its visual appearance, layout and impact upon the street scene or the Area of High Landscape Value. A suitable planning condition can be imposed to secure an appropriate landscaping scheme for the development to enhance the visual appearance of the site.

It is considered appropriate to impose a planning condition to remove permitted development rights for the dwellings to ensure the Local Planning Authority retains control over the development.

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.

The development would be constructed to accord with Sustainable Homes Rating 3 through the use of renewable energy, very high rates of insulation and specialist coatings to all glazed areas. This would comply with the requirements of the Council's Supplementary Planning Document – Design for New Development but it is considered appropriate to impose a planning condition to secure the submission of design statement to confirm that the rating level will be met.

It is considered that the revised design of the development has improved following discussions with officers and it accords with the relevant national and local planning policies and the Council's Supplementary Guidance Note – Design for New Development.

### **Residential Amenity**

There is 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 balcony areas to the rear. 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 dwellings on Plot 1 and 2 and the proposed dwelling on the nearest plot (Plot 3) of the development site to the south is different as the dwellings on Plots 1 and 2 do 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. The garden areas would be overlooked by both neighbouring dwellings and this relationship is also 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 Highways Engineer has requested conditions stating that boundary walls are set back to achieve a visibility of 2.4metres x 43metres; the section of the driveways adjacent to the highways are constructed in a bound material to prevent gravel from being transported onto the public highway and the verges with the public highway hard paved.

The applicant has submitted an amended site plan in accordance with the advice from the Council's Highways Engineer.

### **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 with this application. The submitted FRA states that the replacement dwellings 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. A River Modelling exercise has been carried out on behalf of the applicant and it concludes that the proposed development should have no impact on flood levels on the River Tees. As part of the consultation exercise with the Environment Agency on the previous submission they were satisfied that the retaining wall will not cause or exacerbate flooding elsewhere and they have verbally confirmed that 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 would be satisfactory.

Northumbrian Water is satisfied that the proposed development will not impact upon the water mains that are located within the locality and they have no objections to the scheme.

### **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.”*

Natural England has submitted Standing Advice to the Council but as this is an application to vary the 2005 permission the above conditions are still relevant and the imposition of similarly worded conditions should 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 it is considered appropriate to impose a planning condition to secure the submission of an Arboricultural Methods Assessment; an Arboricultural Method Statement and a Tree Protection Plan in order to protect any trees within the locality of the application site during the construction period.

**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

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

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

**CONCLUSION**

The application site lies within development limits for the urban area and the Area of High Landscape Value identified in the development plan. 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 on the northern section of the development site and to receive retrospective planning permission for slope stabilisation works to the rear of the site.

The previous submission (ref no: 09/00908/FUL) was refused on design grounds and its impact upon the street scene and its wider surroundings including the Area of High Landscape Value. Subsequent discussions have taken place with officers and it is considered that the design of the dwellings has been greatly improved and the development accords with the relevant national and local policies.

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 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. 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.

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  
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**Darlington Core Strategy Development Plan Document**

CS2 – Achieving High Quality, Sustainable Design  
CS10 – New Housing Development  
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CS15 – Protecting and Enhancing Biodiversity and Geodiversity  
CS17 – Delivering a Multifunctional Green Infrastructure  
CS16 – Protecting Environmental Resources, Human Health and Safety  
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**Supporting Documents**

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

**RECOMMENDATION**

PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS

1. A3 – Implementation Limit (Three Years)
2. B4 – Details of Materials (Samplers)
3. J2 – Contaminated Land
4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order), no enlargement, improvement or other alteration of the dwellings, including any additional structures/building/fences/hardstanding area and footpaths within the red line boundary of the submitted Site Location Plan, shall be carried out without the prior consent of the Local Planning Authority, to whom a planning application must be made.  
REASON - In order not to prejudice the amenities of the adjoining properties and in order that the Local Planning Authority is able to exercise control over future development of the site. Also, development that encroaches on watercourses has a

potentially severe impact on their ecological value. Planning Policy Statement (PPS) 1 and 9 requires that planning decisions should prevent harm to biodiversity interests and should seek to enhance biodiversity where possible. PPS 9 stresses the importance of natural networks of linked habitat corridors to allow the movement of species between suitable habitats.

5. Prior to the development hereby permitted being first occupied, or within such extended time as may be agreed in writing with the Local Planning Authority, the site shall be enclosed, on all boundaries, except at the permitted point of access, in accordance with details to be submitted to, and approved in writing by, the Local Planning Authority.  
REASON - To safeguard the visual amenities of the locality and privacy of adjoining properties.
6. Notwithstanding the details contained in the drawings hereby approved the specification of all hard surfaces including footpaths and driveways shall be submitted to and approved by the Local Planning Authority. The details shall specify that they are constructed to be permeable surfaces and the section of the driveway adjacent to the public highway shall be constructed from bound material. The surfaces shall be constructed in accordance with these details and shall be maintained as such thereafter, unless otherwise agreed by the Local Planning Authority  
REASON In order to reduce the impact of this type of development on flooding and pollution of watercourses and to prevent materials being transported onto the public highway
7. Prior to the commencement of any works on site, a settlement facility for the removal of suspended solids from surface water run-off during construction works shall be provided in accordance with details previously submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be retained throughout the construction period.  
REASON – To prevent pollution of the water environment.
8. Should the regrading of the embankment require the importation of material, the details and specification of this material shall be assessed and agreed by the Local Planning Authority prior to it being brought onto the site.  
REASON – To ensure that contaminated material is not brought onto the site.
9. Prior to the commencement of the development a surface water drainage scheme for the site, where appropriate based on sustainable drainage principles, shall be submitted to and approved in writing by the Local Planning Authority. The details shall also include details of how the scheme shall be maintained and managed after completion, for the design life of the development. The development shall not be carried out otherwise in complete accordance with the approved details  
REASON: To prevent the increased risk of flooding, to improve and protect water quality, improve habitat and amenity, and ensure future maintenance of the surface water drainage system.
10. Prior to the commencement of the development, a scheme for the provision and management of a buffer zone alongside the River Tees shall be submitted to and agreed in writing by the Local Planning Authority. The buffer zone to be identified as land between the River Tees and existing gabion wall should be without structures, hardstanding, footpaths, fences and should not include domestic gardens or formal

landscaping. The buffer zone needs to be designed and managed to develop this natural character. The development shall not be carried out otherwise than in complete accordance with the approved scheme and any subsequent amendments shall be agreed in writing with the Local Planning Authority. The scheme shall include:

- 1) Plans showing the extent and layout of the buffer zone
- 2) Details of the planting scheme (for example, native species)
- 3) Details demonstrating how the buffer zone will be protected during development and management/maintained over the longer term.

**REASON:** Development that encroaches on watercourses has a potentially severe impact on their ecological value. Planning Policy Statement (PPS) 1 and 9 requires that planning decisions should prevent harm to biodiversity interests and should seek to enhance biodiversity where possible. PPS 9 stresses the importance of natural networks of linked habitat corridors to allow the movement of species between suitable habitats. The buffer zone condition will ensure protection of the habitat corridor to allow the movement of species along the watercourse

11. 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 unless otherwise agreed with the Local Planning Authority in consultation with Natural England

**REASON:** To ensure that any potential for roosting bats is safeguarded

12. 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.

**REASON:** In the interests of visual amenity

13. Notwithstanding the details shown on the approved plans, precise details of planting proposals shall be submitted to and agreed by the Local Planning Authority prior to the buildings being occupied. Any trees or shrubs removed, dying, severely damaged or becoming seriously diseased within five years of planting shall be replaced by trees of similar size and species to those originally approved and planted.

**REASON -** To ensure a satisfactory appearance of the site and to improve the visual amenities of the locality.

14. An Arboricultural Methods Assessment; an Arboricultural Method Statement and a Tree Protection Plan shall be submitted to and agreed by the Local Planning Authority prior to the commencement of the development and the development shall not be carried out otherwise than in complete accordance with the approved details

**REASON:** To enable the Local Planning Authority to ensure the retention of the maximum number of trees on and around the site and their protection from damage, in the interests of visual amenity.

15. Prior to the commencement of the construction of the development a design statement, to secure at least Code for Sustainable Homes Rating 3 for the development shall be submitted to and approved by the Local Planning Authority. The development shall not be carried out otherwise in accordance with the approved details.

**REASON -:** In order that the Local Planning Authority are satisfied as to the details of the development and to ensure that the development is carried out in a sustainable

manner in accordance with the Darlington Core Strategy Development Plan Document and the Supplementary Planning Document 2009 – Design for New Development

16. B5 – Detailed Drawings (Accordance with Approved Plan)

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

The application site lies within development limits for the urban area and the Area of High Landscape Value identified in the development plan. 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 on the northern section of the development site and to receive retrospective planning permission for slope stabilisation works to the rear of the site.

The previous submission (ref no: 09/00908/FUL) was refused on design grounds and its impact upon the street scene and its wider surroundings including the Area of High Landscape Value. Subsequent discussions have taken place with officers and it is considered that the design of the dwellings has been greatly improved and the development accords with the relevant national and local policies.

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 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 Guidance14 – 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.

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  
E8 – Area of High Landscape Value  
E12 – Trees and Development  
E14 – Landscaping of Development  
E17 – Landscape Improvement  
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

**Darlington Core Strategy Development Plan Document**

CS2 – Achieving High Quality, Sustainable Design  
CS10 – New Housing Development  
CS14 – Promoting Local Character and Distinctiveness  
CS15 – Protecting and Enhancing Biodiversity and Geodiversity  
CS17 – Delivering a Multifunctional Green Infrastructure  
CS16 – Protecting Environmental Resources, Human Health and Safety  
CS19 – Improving Transport Infrastructure and Creating a Sustainable Transport Network

**Supporting Documents**

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

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

The applicant is advised that works are required within the public highway, to construct new footway on site frontage new vehicle crossings, and contact must be made with the Assistant Director : Highways and Engineering (contact Mr.A.Ward 01325 388743) to arrange for the works to be carried out or to obtain authority under Sec.184 of the Highways Act 1980 to execute the works.

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

**Northumbrian Water**

Prior to the commencement of the development the applicant is advised to contact the Area Distribution Technician for Northumbrian Water (Customer Contact Centre – 0845 7171100) to visit the site and mark the exact position of the Northumbrian Water infrastructure in the locality