

**DARLINGTON BOROUGH COUNCIL**

**PLANNING APPLICATIONS COMMITTEE**

**COMMITTEE DATE: 3<sup>rd</sup> June 2015**

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<b>APPLICATION REF. NO:</b>	15/00237/FUL
<b>STATUTORY DECISION DATE:</b>	4 May 2015
<b>WARD/PARISH:</b>	HEIGHTINGTON AND CONISCLIFFE
<b>LOCATION:</b>	Land To The Rear Of 32 The Green, High Coniscliffe
<b>DESCRIPTION:</b>	Erection of 1 No. detached dwelling and 1 No. detached double garage with roof mounted solar panels to south elevation (Revised application) (amended and additional plans received 31 March 2015)
<b>APPLICANT:</b>	Richmond Properties NE Ltd

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**APPLICATION AND SITE DESCRIPTION**

The planning application site is located close to the junction of the A67 (which runs through the High Coniscliffe) and West Close/Ulnaby Lane. The village predominately consists of dwelling houses, primarily on the north side of the A67 but there is also a primary school, a public house (The Spotted Dog) and St Edwins Church and Church Hall within the settlement. The application site is within the High Coniscliffe Conservation Area and next to No 31 The Green, which is a Grade II listed building.

The site was formerly the Duke of Wellington Public House and the site has been incrementally developed for residential purposes by two separate planning permissions (see Planning History) to build two houses on the car park of the public house (Nos 36 and 37 The Green) and then the conversion of the public house itself to a dwelling (No 32 The Green). The application site is L shaped and located to the rear of the above properties. It consists of what remains of the beer garden/play area of the former Public House and an area of hard standing used for the parking of vehicles. The site is accessed off the A67 via a gated access between Nos 32 and 36 The Green.

The northern section of the L shape (former beer garden/play area) is grassed and enclosed by timber fencing on the south and west boundaries (1.8m high) and by stone walls on the north (1.65m high) and east (2.45m high) boundaries. The hardstanding area is open to the front but bounded to the east by the 2.45m high stone wall and to the south by a garden wall belonging to No 32 The Green. An access track runs alongside the northern boundary which leads to the rear garden of No 31 The Green. Domestic gardens form the east and west boundaries of the site and the parking areas for the three dwelling lie immediately to the south.

Whilst the grassed area of the application site appears to be used as a garden/play area by the occupiers of No 32 The Green, a Land Registry Plan shows that the site is not part of the domestic curtilage of that property.

The proposal involves the erection of a detached two storey six bed roomed dwelling (including a guest room/study on the ground floor) with amenity areas and a detached garage and vegetable garden. The timber fence that forms the southern boundary of the site would be removed to create an open frontage to the proposed dwelling. The dwelling would be constructed from a mix of red brown facing bricks with cream/butter milk render above and red – orange Redland roof tiles. The dwelling would be T shaped with bedrooms within the roof space of the wing of the dwelling that protrudes from the west elevation of the predominantly two storey element of the building. There would be dormer windows in the rear and front slopes of the wing to provide daylight into the bedrooms. The two storey element would have a bay window in the front gabled elevation and first floor Juliet balcony to the rear.

This is a revised submission (See Planning History) following officers having concerns over a previous submission in terms of its scale and impact upon neighbouring dwellings and the size of the detached garage.

## **PLANNING HISTORY**

The relevant planning history is:

14/00847/FUL A planning application for the erection of a dwelling and a detached double garage with first floor games and roof mounted solar panels to south elevation was WITHDRAWN in November 2014.

The application site also formed part of the following planning approvals:

09/00878/FUL In April 2010 planning permission was GRANTED for the erection of two dwellings, detached garages and an access road

10/00558FUL In November 2010 planning permission was GRANTED for the conversion of the existing public house to form a dwelling house, including the erection of three roof dormer windows to the rear and pitched roof to rear extension

Although the following entry lies outside of the planning application site boundary it is adjacent and considered to be relevant:

14/00900/FUL In November 2014 planning permission was GRANTED for the demolition of the existing garage to the rear of No 32 The Green and the erection of a replacement detached double garage with associated alterations to garden walls

## **PLANNING POLICY BACKGROUND**

The following national and local development plan policies are relevant:

### **National Planning Policy Framework 2012**

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

E2 Development Limits

E4 New Buildings in the Countryside

H7 Areas of Housing Development Restraint  
H13 Backland Development

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

CS1 Darlington's Sub-Regional Role and Locational Strategy  
CS2 Achieving High Quality Sustainable Design  
CS3 Promoting Renewable Energy  
CS4 Developer Contributions  
CS11 Meeting Housing Needs  
CS14 Promoting Local Character and Distinctiveness  
CS15 Protecting and Enhancing Biodiversity and Geodiversity  
CS16 Protecting Environmental Resources, Human Health and Safety

### **Other Documents**

Design of New Development Supplementary Planning Document 2011  
Tees Valley Design Guide and Specification – Residential and Industrial Estates Development

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

Three letters of objection have been received. Two of the letters are identical and detailed and provide comments and criticism of the information that has been submitted to support the planning application. The concerns can be summarised as follows:

- *The site lies within the open countryside. Whilst the proposed garage is partially within the development boundary the remainder of the land is completely outside the boundary and in the open countryside. The proposal would not be a natural settlement boundary for the village as it is set far back from the current and original linear nature of the built up environment of the village.*
- *The site was officially part of the public house. However, since the change of use of the public house and its grounds into residential accommodation this negates the argument that it is still brownfield. It is our understanding that the site has reverted back to greenfield land outside the development limits of High Coniscliffe*
- *The site is referred to as a brownfield commercial site as it previously encompassed the beer garden and children's play area of the public house. However, since the pub has been a private dwelling for the past four years the use of this site has been maintained and used as a private garden. The developer refers to this as a windfall site suitable for infill housing however, it could be considered as "garden grabbing" a practice which has been discouraged since 2010. The proposal should be assessed on the basis of the site as a greenfield site*
- *The proposal is on a backland development/garden land of what is mainly a linear village. Most recent developments have been on commercial land such as Lawsons Court (a former garage) and also Nos 36 and 37 The Green which was the car park of the Public House.*
- *To expand the boundaries to allow the proposed property would indeed set a dangerous precedent to other developers. If the applicant suggests a change in settlement boundaries (rather than simply ignoring them as they currently are) then surely this application should be submitted upon such a change. The settlement boundaries are already adopted from the previous local plan and until new boundaries are drawn, there is no mistaking the fact that the huge majority of the site is within open countryside.*
- *If the Council approve the application now, with the settlement boundaries as they currently are, then they would be opening themselves to a huge flurry of applications for*

*single dwellings elsewhere in High Coniscliffe but also in other villages within the Borough. It would set a very dangerous precedent*

- *The proposal would have an adverse impact on the access of existing buildings and the road was not built for the purpose of extending the village onto backlands. The proposed dwelling will have to share access with three other properties.*
- *Usually in these situations there should be allowance for cars to be parked, which must be able to enter or leave the property in a forward gear requiring space for turning. The applicants propose 4 cars in this small area added to the 6 already using the area which will not be an adequate space for turning.*
- *A fire service vehicle should not have to reverse more than 20 metres from the end of an access road and turning facilities should be provided. From the main road in High Coniscliffe to the fence surrounding the plot is 45 metres. There is insufficient space at the rear to give the turning space required.*
- *The development will not be hidden as it is clearly visible from the neighbouring houses and visually impacts on the properties on Ullanby Lane and West View*
- *High Coniscliffe is not stagnant as in recent years 15 new residential developments have been added to the village consisting of 12 houses built at Lawsons Court, the converted pub and the two neighbouring dwellings on the former car park area. Many other properties in the village have been renovated and updated which equally inject momentum into the local housing market*
- *The proposal does not accord with the sustainable development principles of the National Planning Policy Framework 2012 and it does not accord with the policies within the Core Strategy 2011.*
- *The dwelling is out of character of the current village due to its size, scale and design*
- *The height of the dwelling will affect the views and amenity of neighbouring houses. The enjoyment of a view is a very important part of the residential amenity of our neighbouring property and its loss will therefore have an adverse impact on the residential amenity of our property*
- *Any constraints to our view are caused by our own garages and garden fencing and our pleasant, rural view would be completely blocked by the proposed building which is taller than the garage block.*
- *What provisions would be made for the impacts of neighbours during the construction phase of the development in terms of noise, parking, delivery vehicles etc.*
- *If the intention was for the plot to become a courtyard development then the plans for the development of all units on the site should have been taken into account. Especially the need for adequate parking, and the division of the area to the back of the properties better designed to take into consideration the number of vehicles that would be using the area*
- *If the new garage is built to the rear of No 32 they will be driving out into the narrow drive and would have trouble manoeuvring if there is a car parked on the rear parking space of NO 36. All new homes should have adequate parking facilities and this area was never designed for the amount of the vehicles that are now proposed and this can only have an impact on the parking in the village. There is currently no visitor parking for the existing three houses and building another will only exacerbate what is already a congested frontage on the main A67*
- *The proposal will introduce a new build unit too close to our dwelling and other dwellings surrounding the application site. This will result in an increased enclosure, overlooking issues and disturbance. The proposal will also have an adverse impact on the privacy currently enjoyed by the surrounding dwellings in general. The proposed*

*building is considered to be too large in scale and design and would cause significant adverse impact on the amenity of neighbouring dwellings in respect of outlook and privacy, especially Nos 36 and 37 The Green. The proposal does not accord with Saved Policy H13 of the Local Plan 1997, and other national and local development plan policies and it should be refused*

The third letter of objection can be summarised as follows:

- *It appears from the plans that this will be built beyond the boundary line of the village;*
- *My property (45 The Green) has a large garden and its own access too. When I purchased the property in 2014 it was on the deeds of the house that there was a line beyond which building was forbidden. If this is the case for me then surely this should apply to all village properties. While I would benefit from relaxing the boundaries, my concern is that this would set a precedent for future developers to take advantage not just in this village but surrounding villages too*
- *Parking in High Coniscliffe is very restricted with limited road side parking. Any further development will only exacerbate what is already an overly congested village*
- *The house I purchased had laid empty for a number of years and it will be completely refurbished over the next 3 to 4 months. Along with my house, there are a number of houses that have undergone major renovations. Couple these with the new development at Lawsons Court and the Duke of Wellington car park I find it hard to accept anyone would say high Coniscliffe may stagnate*

High Coniscliffe Parish Council has objected to the planning application for the following reasons:

- *The proposed building is dominant within the site*
- *The house is to be built outside the village envelope and will set a precedent which could lead to further applications beyond that envelope*
- *The increase in the number of vehicles using the present gated access will be increased with every likelihood that parking will overspill onto the A67. The parking on the main road has for many years been a problem*
- *The site of the former public house has been developed in stages, the conversion of the public house followed by the new build of houses on the former car park. At no time was it intimated that a further dwelling was being considered in the garden of the first application and it was therefore reasonable to presume that the land would form the garden of the converted public house*
- *The Parish Council request that every consideration be given to the comments made by the owners of the adjacent houses that overlook the site*

### **Consultee Responses**

Northern Powergrid has raised no objections

Northumbrian Water has raised no objections

Northern Gas Networks has raised no objections but commented that they have no gas mains in the area of the planning application site and the developers must investigate if there are any other gas pipes owned by other gas transporters

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

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

The Senior Fire Safety Officer from County Durham and Darlington Fire and Rescue Authority has raised no objections

### **PLANNING ISSUES**

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

Planning Policy

Impact upon the Significance of High Coniscliffe Conservation Area and adjacent Listed Building

General Design Matters

Highway and Parking Matters

Residential Amenity

Contaminated Land

Setting a Precedent

#### **Planning Policy**

The planning application site lies predominantly outside the development boundary for High Coniscliffe as identified by Saved Policy E2 of the Borough of Darlington Local Plan 1997. Policy E2 states that most new development will be located inside the development limits defined by the Proposals Map of the Local Plan. The reasoned justification to the policy explains that the limits to development are intended to maintain well defined settlement boundaries and safeguard the character and appearance of the countryside, and that outside development limits, development will be strictly controlled.

Policy CS1 of the Darlington Core Strategy Development Plan Document 2011 also refers to the limits to development and sets out the overall locational strategy for the development plan, in the form of a sequential approach, focussing growth on the main urban area and identified strategic locations to meet most of the overall development needs of the Borough. Land outside limits to development will be limited to that required to meet an identified rural need.

However, a recent planning appeal decision (12th January 2015) which allowed up to 250 new homes on a site on the northern edge of Middleton St George found that at this time, the Council cannot demonstrate a five year supply of suitable, available and deliverable housing land. This is because the Council does not have an up to date objective assessment of housing need (OAN), and without knowing this target, the Council cannot tell if all the sites it has identified are sufficient to provide a five year housing land supply in the housing market area, or not. In his decision letter, the Inspector who heard the appeal concluded that Policy CS10 of the Council's adopted Core Strategy (2011) is out of date as it relates to the supply of new housing, because the housing requirement in it is based on evidence from the now revoked Regional Spatial Strategy rather than the more recent requirement of national policy (NPPF, 2012), that it be based on the OAN. The Inspector's decision letter also makes it clear that the planning policies relating to the supply of housing land and those that prevent development adjacent to existing settlements in the adopted development plan (parts of Policies CS1 and CS10 of the Darlington LDF Core Strategy, and parts of saved Local Plan Policies E2 and H7) cannot be considered up to date.

As a result, Officers must consider the application against the NPPF, other relevant local development plan policies that remain in force following the aforementioned appeal decision and all other material planning considerations.

In terms of what can be considered a sustainable development the NPPF discusses three key dimensions of the planning system in determining the sustainability of a proposal, an environmental role, a social role and an economic role. So it is acknowledged that the sustainability of a proposal should not solely be determined by its location. The proposal must therefore be assessed against the three key sustainability factors, along with other material planning considerations to see whether this would justify a departure from adopted policy in accordance with the NPPF and the Town and Country Planning Compulsory Purchase Act 2004

#### *Environmental Role*

A proposal needs to demonstrate that it contributes to the protecting the natural, built and historic environment and, as part of this helps to improve biodiversity, uses natural resources, minimises waste and pollution and adapts to climate change. For the reasons explained below it is considered that the proposal would not harm the historic environment of High Coniscliffe and would sustain its significance. The proposed dwelling would be energy efficient by providing highly insulated walls, floor and roof to provide very high levels of thermal resistance throughout the building. The proposed construction will be in load bearing masonry walls which will provide mass to be used as a thermal store for the dwelling which would avoid undue variations in temperature during the course of the year. It would be constructed to meet Code for Sustainable Homes Rating 4.

The proposal includes the installation of solar voltaic panels on the roof of the detached garage which will provide electrical energy to the dwelling. The main source of heating and hot water will be generated by a ground source heat pump which would run during the daytime by the panels. The heat pump system is to be supplemented by a whole house ventilation system with heat recovery which will provide background ventilation and retain heat put into the house by other sources. This system will be supplemented by log burning stoves to the lounge and kitchen/dayroom. A grey water recycling system will be installed to minimise the use of mains water. The hard landscaping to be installed around the proposed dwelling will be constructed to SUDS permeable specifications.

#### *Social Role*

A development needs to contribute to a strong, vibrant and healthy community by providing the supply of housing required to meet the needs of present and future generations and be creating a high quality built environment with accessible local services and that support the community's health, social and cultural wellbeing. The proposal would redevelop an area of land last used as the outdoor beer garden of the former Duke of Wellington Public House and its reuse would be a sustainable use of the land and the proposed dwelling would add to the housing offer and choice that is currently available within the village.

High Coniscliffe contains community facilities such as a Public House, the Church and Church Hall and the local primary school which are all within walking distance of the application site. The proposal would support these community facilities

#### *Economic Role*

Economic growth contributes to the building of a strong and competitive economy, which leads to prosperity. Development can create jobs both in the construction industry and in the building supply industry. These support sustainable economic development to deliver the homes that can be needed, which is important in times of economic austerity. The application site is available for redevelopment and at the present time there appears a shortage of housing construction in the Borough and in such circumstances the availability of any site that could contribute to house

building and economic development, in the short term, should attract some weight. There can be benefits to the local economy through increased expenditure in the form of wages and material purchases during the construction period. A number of jobs can be created for the duration of the development although it is acknowledged that not all of these would be based or recruited locally. Nevertheless, these economic benefits of the development can weigh in favour of the proposal in the sustainable balance and can contribute positively to the economic dimension of sustainability.

#### *Locational Matters*

The proposed site is on the edge of the development boundary and it cannot be considered as a rural countryside site due to its previous usage and that it is well enclosed and bounded by dwellings to the east, south and west. The site is separated from the open fields to the north by a high stone wall, a track that leads to the rear garden of the neighbouring property and a row of mature trees. The proposed dwelling would not be an isolated building as it is adjacent to and shares an access road with existing dwellings and it would be visually related to the neighbouring properties in accordance with Saved Policy E4 of the Local Plan.

Whilst High Coniscliffe does not contain any shops or services, the outskirts of Darlington are only 3 miles to the east of the village with the Town Centre being 4.6m away. There are bus stops on the A67 and there is a bus service directly between Darlington and High Coniscliffe.

Saved Policy H13 of the Local Plan deals with backland development which is development to the rear of existing houses. The policy states that such development will not be permitted where it unacceptably conflicts with:

- The free and safe flow of traffic
- The privacy and quiet enjoyment of neighbouring dwellings and gardens in general and of the dwellings which adjoin any proposed accessway
- The scale and character of the surrounding area

The proposal has been assessed in accordance with the NPPF in terms of how much weight should be given to other material planning considerations. On balance the aforementioned factors together with the visual and spatial relationship of the development with the existing built up area are considered to provide sufficient justification to recommend approval for this proposal in planning policy terms.

#### **Impact upon the Significance of High Coniscliffe Conservation Area and adjacent Listed Building**

There is no Character Appraisal for High Coniscliffe Conservation Area yet, but the following significance is described in the original report when the Conservation Area was designated on 7 February 1974. *Its significance lies in its rural, roadside village qualities, set high above the River Tees. The village green, church, rectory and a few other houses lie somewhat isolated on the south side, in a wedge of land between the road and the river. On the north side there is an almost continuous row of houses of all periods from the early eighteenth century to the present, most of which still benefit from long back gardens.*

The site this new dwelling is proposed for lies within the setting of Braemar Cottage, a Grade II Listed Building. The List for this building describes: *House. Late C18-early C19 with late C20 alterations. Roughcast and painted masonry. Pantiled roof and rendered brick chimney stack. 2 storeys, 3 bays. Central replaced door and 4-pane overlight in wood doorcase. Flanking*



*replaced casements in slightly-enlarged openings. 3 replaced sashes with projecting sills above. Low-pitched roof with coped left gable parapet and left end stack.*

The application site itself is not considered to contribute to the significance of the Conservation Area and therefore its loss to a residential use would not have a harmful impact upon the Conservation Area. The proposed dwelling and garage would not be highly visible from outside the wider development site apart from a restricted view through the access road off the A67 and from above the boundary wall and across the garden of No 39 The Green. In terms of the character of the area, there are other examples of buildings to the rear of dwellings on the north side of the village albeit not all necessarily in residential use. Planning permission has recently been granted to convert some outbuildings to the rear of No 23 The Green to two dwellings and historically 17D The Green and properties that form part of St Edwins Close are situated to the rear of dwellings that front The Green. This additional backland development consisting of one additional dwelling would not adversely affect the character of the Conservation Area.

It is considered that the proposed development would not harm the significance of the Conservation Area and would accord with the relevant requirements of the National Planning Policy Framework 2012.

Braemar Cottage has a long rear garden that runs alongside the east boundary of the application site. The two sites are separated by a substantial stone wall approximately 2.45m high. The proposed garage would be sited in close proximity to the shared boundary but the dwelling would be stepped in from the boundary by approximately 6.2m. The proposed garage would have an overall height of 5.7m under a dual pitched roof and whilst it will be visible above the stone wall it would not be such a dominant structure to impact upon the setting of the neighbouring listed building. The proposed dwelling is located an acceptable distance to also not harm the significance of the setting of the neighbouring heritage asset.

The garage would be sited approximately 30m from the actual listed building itself and the dwelling would be located further afield and therefore it is considered that the development would not harm the significance of the listed building and it would accord with the NPPF.

### **General Design Matters**

The previous proposal involved the erection of a garage which included a games room in the roof space with an overall height of 7.2m. The revised garage does not contain any internal upper floor space and the overall height has been reduced by 1.5m to 5.7m. The gable which projects from the front and rear of the dwelling has been repositioned as part of a redesign and its projection to the front has been reduced. The footprint of the dwelling and garage has been reduced and it would now cover approximately 163m<sup>2</sup> of the overall site which measures 550m<sup>2</sup> and therefore approximately 30% of the site is to be developed which is in accordance with guidance (60% coverage) within the Council's Supplementary Design Guide – Design for New Development.

The proposed dwelling and garage are considered to be well designed, of an appropriate scale and utilises appropriate materials. The development would not harm the character or appearance of the immediate locality or the wider street scene.

### **Highway and Parking Matters**

Having reviewed the previous planning applications that are relevant the following parking provisions were secured:

- *09/00878/FUL (Nos 36 and 37 The Green)*  
Whilst the approved drawings show these two properties having three bedrooms, the occupiers have confirmed that they each have four bedrooms. Each property has 2 car parking spaces.
- *10/00558/FUL (No 32 The Green)*  
This public house was converted to a 4 bed property and 4 car parking spaces are provided.
- *14/00900/FUL (No 32 The Green)*  
This application for a replacement garage to the rear of No 32 The Green amends the car parking arrangement for the dwelling but retains the same number of car parking spaces (4).

Following a site visit all properties, including the proposed dwelling, having parking spaces available to cater for three vehicles, which would accord with the Tees Valley Guidance, apart from No 36 which falls marginally short with having two spaces.

The proposed new dwelling has five bedrooms and a guest room/study and provides 4 in curtilage car parking spaces (a double garage with a forecourt area in front of the garage). This is an over provision by one space as a dwelling of this size only requires 3 spaces and therefore the additional parking space can be used by visitors to prevent an overspill of parking on the public highway. The garage and its forecourt do not impact upon the existing shared access road. The existing shared turning facility at the end of the private shared drive would be maintained at its current dimensions (approximately 5.5m x 8.1m) and again there would be no encroachment of the turning area by the new proposals.

The development is unlikely to generate a significant increase in traffic and it would be accessed via the existing access off the A67 which is a private shared drive. This drive is more than 3.7m wide along its length (widened at the junction mouth to allow two vehicles to pass). A shared drive of these dimensions would be suitable to serve up to five dwellings.

There are no highway objections to the proposed development.

The Senior Fire Safety Officer from County Durham and Darlington Fire and Rescue Authority considers that the entrance road would not prevent a fire appliance attending an incident at the proposed dwelling.

### **Residential Amenity**

The proximity distance guidelines between existing and proposed dwellings are contained with the Council's adopted Supplementary Planning Document – Design for New Development. The guidelines state that there should be a minimum distance of 21m between habitable rooms and 12.5m between habitable rooms and non habitable rooms (or blank gable ends). These distances have been adopted to ensure the amenities of the neighbouring properties are not affected from loss of privacy and overlooking. The proposal would fully comply with these guidelines when measured from the rear elevations of Nos 32, 36 and 37 The Green and from the front elevations of the properties on West Close. Nos 38 and 39 The Green are located to the west of the site but they would directly overlook the proposed garage rather than directly across the dwelling and the relationship between these properties and the dwelling would be acceptable.

The previous submission had the gabled projection running along the western boundary with No 39 The Green which was considered to have an overbearing impact upon this property and its garden. The revised proposal has reconfigured the projection so that the narrower wing faces the west boundary and it is set further away from the fence line which will make the building more acceptable in terms of its scale when viewed from this neighbouring property. There are no habitable room openings in the west elevation of the proposed dwelling.

Whilst the projecting gables are now on the east side of the building, the bulk of the building is approximately 7.5m away from the 2.45m high stone wall that forms the boundary with Braemar Cottage. The scale of the garden room on the east elevation has been reduced and the upper level window openings within the roof space would be for the bathroom, which would not raise any amenity issues.

It is considered that the proposed dwelling and garage would not be overbearing or a dominant building when viewed from the neighbouring dwellings and their outdoor areas due to its revised size, scale and design. There are windows in the east elevation of the garage but they would be screened by the height of the stone wall

One of the objectors concerns relates to the impact that the dwelling would have on views from their properties but the loss of a private view is not a material planning consideration.

The existing garage blocks to the rear of the dwellings that front The Green would provide an acceptable screen between their amenity areas and proposed dwelling and therefore no significant views into those areas would arise due to the new development.

The accessway between Nos 32 and No 36 is currently used as a vehicular access and it is considered that the use of the drive by the additional vehicles would not raise any significant amenity issues.

The proposal could include the use of a ground source heat pump which would be located within the property. Such equipment is very quiet and creates no more noise than other household white goods.

Planning conditions would be imposed to restrict the hours of construction and deliveries and if in the event of an Air Source Heat pump being used in the design of the dwelling (which can have more noise emissions than a ground source heat pump) details of the pump must be submitted to the Local Planning Authority.

### **Contaminated Land**

A Screening Assessment does not highlight any significant contamination issues at the site and this is confirmed by Environmental Health records. However as the site was connected to a commercial use, it is considered appropriate to impose a planning condition that to deal any suspected contaminated materials being found during the construction phase of the development.

The Design and Access report states that the development will probably include for the removal of existing topsoil from the site because there will not be anywhere to store it. It is also indicated that topsoil will subsequently need to be imported onto the site. Any imported soils for use in garden or landscaped areas will need to be tested to ensure that they are free from significant contamination and that they are suitable for use and this can be dealt with by a planning condition.

**Setting a Precedent**

Court and appeal decisions have established that it is legitimate for Planning Authorities to give weight to the possibility of creating an undesirable precedent when considering whether to grant permission. However, it is not enough for Local Planning Authorities to have a general anxiety that their decisions may be used in the future to justify other proposals. There has to be evidence that there is a real likelihood that similar applications would be submitted and no such evidence has been provided. The site remains outside the limits for development, and it is clear that the Local Planning Authority would consider any other proposals on their individual merits and Officers are not convinced that a grant of planning permission for this development would set an unwanted precedent for future applications for further residential development within this site and in the wider countryside.

**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 proposal is contrary to local development plan policy as the site lies outside of the limits of development. However, a recent appeal decision makes it clear that the planning policies relating to the supply of housing land and those that prevent development adjacent to existing settlements in the adopted development plan cannot be considered up to date and therefore the planning application must be assessed against the NPPF, the Town and Country Planning Compulsory Purchase Act 2004 and the relevant saved and current local development plan policies in terms of how much weight should be given to other material planning considerations.

It is considered that the position of the site in relation to the existing built environment along with the high quality design and the environmental and sustainable objectives of the scheme provide the Council with justification to accept justify a departure from adopted policy in accordance with national planning guidance. The proposed development, subject to appropriate planning conditions, will not adversely affect the significance of the relevant heritage assets, the amenity and general character of the area, the amenities of the neighbouring properties and the highway network.

**RECOMMENDATION**

**PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS**

- 1) A3 – Implementation Limit (Three Years)
- 2) B4 – Details of Materials
- 3) In the event that suspected contaminated material is found at any time when carrying out the approved development (this includes any sample test results which may be obtained), it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken, in accordance with best practice guidance, the details of which are to be agreed in writing with the Local Planning Authority. Where remediation is shown to be necessary a remediation scheme must be

prepared and submitted to the Local Planning Authority for approval in writing. Following completion of measures identified in the approved remediation scheme, a verification report must be prepared to show that the remediation has been undertaken to a satisfactory standard, which is subject to the approval in writing by the Local Planning Authority.

REASON: The Local Planning Authority wishes to ensure that the development proposed can be implemented and occupied with adequate regard for environmental and public safety

- 4) All imported soils to be used in garden or landscaped areas shall comply with, and be tested in accordance with the requirements of the current version of the document entitled Verification Requirements for Cover Systems- Technical Guidance for Developers, Landowners and Consultants, published by the Yorkshire and Humberside Pollution Advisory Council (YAHPAC) (Available on the Darlington Borough Council web site). Information shall be provided to the Local Planning Authority in writing to show compliance with the requirements of the YAHPAC guidance and the site shall not be used for residential purposes until the Local Planning Authority has accepted and approved the submitted information in writing. The Generic Assessment Criteria to be used in the assessment shall be agreed in writing with the Local Planning Authority prior to any testing being undertaken.

REASON: The Local Planning Authority wishes to ensure that the development proposed can be implemented and with adequate regard for environmental and public safety

- 5) In the event that an Air Source Heat Pump is proposed as part of the development, prior to its installation and use, a noise impact assessment shall be undertaken by a suitably experienced and qualified noise consultant who considers the impact on neighbouring residential properties, in accordance with BS4142:2014. The Rating level(as specified in BS 4142:2014) of noise from any such equipment shall be shown to be at least 5 dB below the background noise level, which would need to be measured by a noise consultant at appropriate times of day/night and the level agreed with the Local Planning Authority. Details of any noise mitigation measures which are shown by the noise impact assessment to be necessary to meet the specified noise limit shall be submitted to, and agreed in writing by the Local Planning Authority. Thereafter, the identified noise mitigation measures shall be implemented and retained.

REASON: In the interests of residential amenity

- 6) No construction activities (which could produce noise emissions outside the site boundary) and associated deliveries shall take place outside the hours of 8.00am to 6.00pm, Monday to Friday, 8.00am to 1.00pm on Saturdays, with no working on Sundays or Public Holidays

REASON: In the interests of residential amenity

- 7) Restriction of PD Rights (Residential)

- 8) The garage hereby approved shall be used for purposes incidental to the enjoyment of the approved dwelling house only and for no other purposes unless agreed in writing by the Local Planning Authority

REASON: In the interests of residential amenity

- 9) B5 – Detailed Drawings (Accordance with Plan)

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

**National Planning Policy Framework 2012**

**Borough of Darlington Local Plan 1997**

- E2 Development Limits
- E4 New Buildings in the Countryside
- H7 Areas of Housing Development Restraint
- H13 Backland Development

**Darlington Core Strategy Development Plan Document 2011**

- CS1 Darlington's Sub-Regional Role and Locational Strategy
- CS2 Achieving High Quality Sustainable Design
- CS3 Promoting Renewable Energy
- CS4 Developer Contributions
- CS11 Meeting Housing Needs
- CS14 Promoting Local Character and Distinctiveness
- CS15 Protecting and Enhancing Biodiversity and Geodiversity
- CS16 Protecting Environmental Resources, Human Health and Safety

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

**Highways**

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.