

DARLINGTON BOROUGH COUNCIL**PLANNING APPLICATIONS COMMITTEE****COMMITTEE DATE: 8th March 2017****Page**

APPLICATION REF. NO: 16/01208/FUL

STATUTORY DECISION DATE: 13th January 2017

WARD/PARISH: SADBERGE AND MIDDLETON ST GEORGE

LOCATION: Mown Meadow 64 Middleton Lane Middleton St George Darlington

DESCRIPTION: Variation of condition 3 (approved plans) of planning permission 09/00836/FUL dated 24 August 2011 for the erection of 2 No. detached dwellings with associated car parking, access and landscaping works - to permit construction of an attached garage and garden room to each dwelling and improved front door location and amended location of internal boundary fence and parking

APPLICANT: Mr Atha

APPLICATION AND SITE DESCRIPTION

Members will recall that this application was deferred at the previous Planning Applications Committee (8th February 2017) to allow officers to visit the site to investigate the alleged loss of trees, which took place on the 22nd February 2017 and negotiate a satisfactory replacement landscaping scheme.

The application site is located on the western side of Middleton Lane and lies within the Middleton One Row Conservation Area within a predominantly residential area. The site is occupied by a large Victorian, three storey dwelling. A Grade II listed stone archway is situated close to the site of the dwelling.

Several mature and semi mature trees lie within the front garden of the property, some of which are protected by a Tree Preservation Order.

Planning permission was granted in August 2011 for the erection of 2 No. detached dwellings, to include parking, access and landscaping. A subsequent application to discharge pre-commencement planning conditions was approved. A Certificate of Lawfulness was approved in October 2014 which confirmed that works had commenced on site before the planning permission expired, which were deemed sufficient to constitute the commencement of the development. The planning permission therefore remains extant in perpetuity.

This application seeks some amendments to the original scheme to permit revised house types and amendments to the site layout consisting of the following:

- Construction of an attached garage to the side of each dwelling;
- Construction of a garden room to the rear of each dwelling;
- Relocation of front door from the side to the front of each dwelling;
- Replacement of dormer windows to front and rear with Velux roof lights;
- Creation of hipped roof to side of dwellings with Velux roof light;
- Relocation of internal boundary fence some 2.6m further west with resultant alterations to the position of the access road at this point;
- Relocation of parking to the north of the existing access road (nearer to the access to the site rather than near to the listed stone archway);

PLANNING HISTORY

In August 2011, planning permission was granted for the erection of two detached dwellings with associated car parking, access and landscaping works.

In September 2014, planning conditions relating to materials, landscaping, tree protection, window details, obscure glazing, foul drainage, surface water drainage and lighting scheme were discharged.

In October 2014, a Certification of Lawfulness was granted to confirm commencement of works on site before planning permission had lapsed.

PLANNING POLICY BACKGROUND

The relevant national and local development plan policies are:

National Planning Policy Framework 2012

Borough of Darlington Local Plan 1997

- E12 – Trees and Development
- E14 – Landscaping of Development

Darlington Core Strategy Development Plan Document 2011

- CS2 – Achieving High Quality, Sustainable Design
- CS14 – Promoting Local Character and Distinctiveness
- CS17 – Delivering a Multifunctional Green Infrastructure Network

Interim Planning Position Statement 2016

Other Documents

Design of New Development Supplementary Planning Document, July 2011

RESULTS OF CONSULTATION AND PUBLICITY

Letters were sent to occupiers of neighbouring properties advising of the proposal, site notices were displayed and a press advert was issued.

Four letters of objection were received and the main points raised are summarised below:

- *The original application lapsed years ago and this should therefore be considered to be a new application and not an amendment; A lot has changed in 9 years;*
- *This is a Conservation Area and the more that is developed on the site the more detrimental it will be to the Conservation Area;*
- *A development of large detached houses does not act to 'maintain or enhance' the appearance of the area;*
- *The revised plans brings the properties very close to the boundaries and neighbours lines and again increases the overall footprint and size of the properties for the original application (with Affordable Housing) to detached and now large executive detached properties; Will result in significant loss of light and privacy;*
- *Extensions would result in the loss of substantial garden area and cumulative effect would erode the character of this part of the conservation area to its detriment;*
- *Properties would appear higher than those in the immediate area which are either two storeys or two and a half storeys high and should therefore have obscured windows to the upper floors to prevent our property being overlooked;*
- *I believe the developers are continuing with disregard to the council requests or the impact on residents and it is clear they believe they can design and implement whatever they like with no consultation, engagement or comeback;*
- *The current planning disregards the earlier covenants on social / affordable housing and this move just further drives to executive properties with limited market and appeal;*
- *Similar houses built in Middleton Lane some years ago took several years to sell and with the more challenging economic environment now as well as other developments with large houses in Middleton St George, I see no market or need to further extend these properties and don't believe this should be supported from an overall housing stock perspective;*
- *Middleton Lane is already busy, with direct drive access and expanding the properties will lead to high occupancy and more vehicles; Access on Middleton and Station Road is also challenging;*
- *If approved, I would then expect the developer to look for further additions given the recent history;*
- *They are currently building and leaving debris all over Middleton Lane, parking vehicles, blocking pavements, forcing pedestrians and children onto the road; Clearly a lack of respect for residents;*
- *Detrimental impact on trees and hedges and natural habitats;*
- *Inadequate landscaping and loss of trees;*
- *Potential damage to listed Arches on this site;*

Consultee Responses

The Council's **Highway Officer** has raised no objections to the proposal.

Middleton St George Parish Council has raised no objections to the proposal.

The **Conservation Officer** has raised no objections to the proposal.

The **Arboricultural Officer** has raised no objections to the proposal.

PLANNING ISSUES

The main issues to be taken into consideration are:

- Principle of development
- Impact on Heritage Assets
- Design and Appearance
- Impact on residential amenity
- Trees
- Highway issues

Principle of development

The application relates to the variation of an existing planning application for two dwellings on the site, which was lawfully commenced before it time-expired, resulting in the granting of a Lawful Development Certificate. The planning permission is therefore valid and is the fall back position. The principle of the development therefore, is already established, as the developer is free to implement the extant planning permission.

A number of objections have raised the issue of the loss of previously agreed affordable housing on this site through the previous scheme. The extant planning permission included no affordable housing provision within the scheme. However, that application was granted subject to a Section 106 agreement, which will secure the provision of an element of affordable housing if the existing, dwelling (64 Middleton Lane) were to be converted into four apartments in the future. Two of the units in any future conversion would be offered as an affordable housing contribution. If planning permission is granted for this variation, the developer will need to enter into a Deed of Variation of this agreement to ensure that the obligations relate to both the second and first applications so that they remain in force regardless of which scheme is implemented.

Impact on Heritage assets

Policy CS14 (Promoting Local Character and Distinctiveness) of the Core Strategy indicates that the distinctive character of the Borough's built, historic, natural and environmental townscapes, landscapes and strong sense of place will, amongst other things, be protected by protecting and enhancing the separation and intrinsic qualities of the openness between settlements.

This is in general accord with the core planning principles of the NPPF as they relate to conserving heritage assets in a manner appropriate to their significance, contributing to conserving and enhancing the natural environment and seeking high quality design.

As this proposal is situated with the Middleton One Row Conservation Area, and within the site of a Grade II Listed Building, the development must be considered against paragraph 131-134 of the NPPF in terms of its impact on the significance of designated heritage assets.

This recommendation must also be mindful of the requirements to have special regard to the desirability of preserving the setting of a listed building and the desirability of preserving or enhancing the character or appearance of the conservation area, as set out in statute. The consideration of this issue goes to the heart of the decision making process.

Paragraph 131 of the NPPF covers new development impacting on heritage assets (such as listed buildings and conservation areas) and states that Local Planning Authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and, the desirability of new development making a positive contribution to local character and distinctiveness.

The framework goes on to explain that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the assets conservation. The more important the asset, the greater the weight should be. Paragraph 133 sets out the requirement to consider whether a proposed development will lead to substantial harm, or total loss of a designated heritage asset, in which case planning permission should be refused unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss.

Paragraph 134 indicates that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed, as a separate exercise, against the public benefits of the proposal, including securing its optimum viable use.

Given the minor changes proposed, and their position within the site, the proposal would have no impact on the Middleton One Row Conservation Area or the setting of the 13th Century Grade II arched doorways within the garden of Mown Meadows. The Conservation Officer has been consulted and has raised no objections to the proposal subject to ensuring that no additional trees are removed from the site. Tree cover and green space, including in private gardens, are important to the overall character and appearance of the Middleton One Row Conservation Area.

Design and Appearance

The minor changes to the appearance of the dwellings, and the addition of the garage and garden room extensions, are considered acceptable.

Impact on residential amenity

A number of matters raised by objection relate to the impact of the proposal on the residential amenity of neighbouring residential properties in respect of loss of light, outlook and privacy, as well as bringing the housing closer to the boundary. The proposed changes to the scheme are predominantly at ground floor level and are not considered to impact significantly on the residential amenity of neighbouring residential properties. It is recommended that a planning condition is placed on any approval to secure obscured glazing to the additional Velux roof lights to be inserted on the roof planes that would face onto neighbouring properties or their garden areas (north and south) and for these to be non-opening unless the opening part of the windows are 1.7m above floor level.

Trees

The proposal will not affect the trees on the site currently. However, a number of trees, which were to be retained as part of the planning permission, were recently removed from the site. Officers visited the site and advised the contractors working on the site, together with the developer, of the breach of planning control. The developer has since been working with the Council to ensure that any changes to the approved scheme are subject to approval. The most visually prominent trees to the front of the site, which are subject to a Tree Preservation Order, have however been retained. Should planning permission be approved, it is recommended that the conditions attached to the extant permission, be repeated in respect of the measures to be put in place to protect trees to be retained, and that compliance with this is monitored.

A separate application for works to the Yew tree to the entrance of the site, which is subject to a Tree Preservation Order, under planning application reference number 16/01225/TF, is dealt with in a separate report, also to be considered by members.

Highway issues

The changes to the original application would have no impact on access or traffic generation to the site. The Highways Officer has been consulted and considers that the parking within the site is acceptable and raises no objections.

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 is subject to an extant permission for two dwelling houses with associated car parking, access and landscaping works. The principle of the development is already established. The proposed changes are considered to be of an acceptable scale, design and appearance and would not impact on the significance of designated Heritage Assets. The proposed changes would not impact on highway safety. The proposal will not impact on trees within the site. The proposals are considered to be acceptable in terms of their impact on residential amenity. It is therefore recommended that planning permission is granted subject to the completion of a deed of variation of the Section 106 Agreement attached to the extant permission (09/00836/FUL) together with the inclusion of planning conditions included on the extant planning permission to include an additional planning condition relating to the obscured glazing of the additional roof lights.

RECOMMENDATION

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

THAT UPON SATISFACTORY COMPLETION AND SIGNING OF THAT AGREEMENT, PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:

1. The conditions attached to and specified on the notice of planning permission number 09/00836/FUL are reiterated and are still in force insofar as the same have not already been discharged to the satisfaction of the Local Planning Authority.

REASON - Not all the conditions attached to the said planning permission have yet been discharged and this condition is imposed on this present permission in order that it shall be clear to the applicant that the all conditions are still in force and have to be complied with.

2. Notwithstanding anything shown on the submitted drawings the velux windows formed in the elevations of the dwellings overlooking no's 63 and 65 Middleton Lane shall be of an obscure level of glazing to be agreed in writing with the Local Planning Authority prior to the commencement of the development and shall be non-opening unless the parts of the window which can be opened are more than 1.7m above the floor of the room in which the window is installed.

REASON – To prevent overlooking of the nearby premises.