

Planning Applications Committee Agenda



**1.30 pm Wednesday, 12 December 2018
Committee Room No. 2, Town Hall,
Darlington. DL1 5QT**

**Members of the Public are welcome to attend this
Meeting.**

1. Introductions/Attendance at Meetings
2. Declarations of Interest
3. To approve the Minutes of the meeting of this Committee held on 14 November 2018 (Pages 1 - 4)
4. Introduction to Procedure by the Assistant Director, Law and Governance's Representative
5. Applications for Planning Permission and Other Consents under the Town and Country Planning Act and Associated Legislation (Pages 5 - 42)
6. Tree Preservation Order 2018 (No. 6) - I Church Close, Middleton St. George – Report of Head of Planning Development and Environmental Health (Pages 43 - 46)
7. SUPPLEMENTARY ITEM(S) (if any) which in the opinion of the Chair of this Committee are of an urgent nature and can be discussed at this meeting
8. Questions

PART II

9. Notification of Decision on Appeals - The Director of Economic Growth and Neighbourhood Services will report that Inspectors, appointed by the Secretary of State for the Environment have :- –

(i) dismissed the appeal by Mr Allan Mitchell of Specialist Coatings Ltd against this Authority's decision to refuse permission for variation of condition 11 (Access) attached to planning permission 17/00582/FUL dated 23 October, 2017 (Conversion of Nunnery and Chapel into 10 dwellings and retention of existing gatehouse as a private dwelling with associated internal and external alterations. Demolition of ground floor lean to building, widen existing driveway to create new vehicular access off Carmel Road North, erection of timber stables, creation of parking areas, horse arena, 3G football pitch (for private use) and associated landscaping works) to permit vehicular and pedestrian access to and from the site onto Cardinal Gardens for the sole use from primary property (Dwelling No. 1) and for the erection of 2 No. brick piers and electronic solid timber gates at St Clare's Abbey, Carmel Road North, Darlington (Ref. No. 18/00241/FUL) (copy of Inspector's decision letter enclosed); and

(ii) dismissed the appeal by Mr Ward against this Authority's non-determination for outline planning permission for residential development of up to 14 dwellings with all matters reserved apart from access (resubmission) (additional and amended information received 31 May 2018) at Field at OSGR E424996 N514158, Low Coniscliffe, Darlington (Ref. No 18/00023/OUT) (copy of Inspectors decision letter enclosed).

RECOMMENDED – That the report be received.
(Pages 47 - 54)

PART III

EXCLUSION OF THE PUBLIC AND PRESS

10. To consider the Exclusion of the Public and Press –

RECOMMENDED - That, pursuant to Sections 100B(5) of the Local Government Act 1972, the public be excluded from the meeting during the consideration of the ensuing item on the grounds that it involves the likely disclosure of exempt information as defined in exclusion paragraph 7 of Part I of Schedule 12A of the Act

11. Complaints Received and Being Considered Under the Council's Approved Code of Practice as of 28 November 2018 –

Report of Director of Economic Growth and Neighbourhood Services
(Pages 55 - 60)

12. SUPPLEMENTARY ITEM(S) (IF ANY) which in the opinion of the Chair of this Committee are of an urgent nature and can be discussed at this meeting.

13. Questions



Luke Swinhoe
Assistant Director Law and Governance

Tuesday, 4 December 2018

Town Hall
Darlington.

Membership

Councillors Baldwin, Galletley, Heslop, Johnson, Kelley, Knowles, Lee, Lister, Lyonette, K Nicholson, Storr, C Taylor, J Taylor and Tostevin

If you need this information in a different language or format or you have any other queries on this agenda please contact Shirley Burton, Democratic Manager, Resources Group, during normal office hours 8.30 a.m. to 4.45 p.m. Mondays to Thursdays and 8.30 a.m. to 4.15 p.m. Fridays E-Mail: shirley.burton@darlington.gov.uk or telephone 01325 405998

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PLANNING APPLICATIONS COMMITTEE

Wednesday, 14 November 2018

PRESENT – Councillors Baldwin (Chair), Galletley, Heslop, Johnson, Kelley, Knowles, Lee, Lyonette, Storr, J Taylor and Tostevin

APOLOGIES – Councillors Lister and C Taylor,

ABSENT –

ALSO IN ATTENDANCE –

OFFICERS IN ATTENDANCE – Dave Coates (Head of Planning, Development and Environmental Health), Andrew Errington (Lawyer (Planning)), Arthur Howson (Engineer (Traffic Management)), Stephen Todd (Environmental Health Manager, Commercial) and Shirley Burton (Democratic Manager)

PA41 DECLARATIONS OF INTEREST

There were no declarations of interest reported at the meeting.

PA42 MINUTES

Submitted – The Minutes (previously circulated) of the meeting of this Committee held on 17 October 2018.

RESOLVED – That the Minutes be approved as a correct record.

NOTE - APPLICATIONS FOR PLANNING PERMISSION – The following standard conditions are referred to in those Minutes granting permission or consent:-

Code No.	Conditions
A3	Implementation Limit (Three Years) The development hereby permitted shall be commenced not later than the expiration of three years from the date of this permission. Reason - To accord with the provisions of Section 91(1) of the Town and Country Planning Act, 1990.
B4A	The materials used in the external surfaces of the extension hereby permitted shall match those used on the existing building. Reason - In the interests of maintaining the visual amenity of the development in accordance with the requirements of Policy H12 of the Borough of Darlington Local Plan 1997.

PA43. APPLICATION FOR PLANNING PERMISSION AND OTHER CONSENTS UNDER THE TOWN AND COUNTRY PLANNING ACT AND ASSOCIATED LEGISLATION

(1) Planning Permission Granted

18/00690/CU - Dirt Busters, 59a Yarm Road. Change of use storage/office area at rear of laundrette (Use Class Sui Generis) to nail bar/beauty salon (Use Class Sui Generis) and external alterations (description amended following receipt of e-mail dated 18 September 2018).

(In reaching its decision, the Committee took into consideration the Planning Officer's report (previously circulated) and the views of the applicant, whom Members heard).

RESOLVED – That planning permission be granted subject to the following conditions:

1. A3 Implementation Limit (3 years).
2. B4a (Materials).
3. No noise emitting fans, louvres, ducts or other external plant associated with this permission shall be installed until a scheme to reduce noise and vibration has been submitted and approved by the Local Planning Authority. REASON – In the interests of residential amenity.
Reason – In the interests of residential amenity.
4. Prior to the use hereby permitted commencing, a scheme shall be submitted to, and approved in writing by the local planning authority for the effective control of fumes and odours from the premises. The scheme shall be implemented prior to the use commencing.
Reason – In the interests of residential amenity.
5. The use hereby permitted shall not commence until details of the arrangements for storing of waste or refuse have been submitted to, and approved by, the local planning authority.
Reason – In the interests of amenity.
6. The hours of operation of the property should be limited to 09.00-18.00 Mon-Fri, 09.00 to 17:00 Saturdays and 10.00-16.00 Sundays and Bank Holidays.
Reason – In the interests of residential amenity.
7. The development hereby permitted shall be carried out in accordance with the approved plans, as detailed below:
 - Drg. No. – 59YR 20 08 18 – Proposed Elevations
 - Drg. No. – RKD/554/00 – Existing Layout**Reason** – To ensure the development is carried out in accordance with the planning permission.

(2) Planning Permission Refused

18/00866/CU - Castle Farm, Walworth Road, Walworth. Change Of Use Of Ground Floor Of Existing Domestic Garage To Commercial Kennels For Up To 8 Dogs (Use Class Sui Generis) And Creation Of Parking Area For 4 No. Vehicles and New Vehicular Access from Walworth Road (Re-submission).

(In reaching its decision, the Committee took into consideration the Planning Officer's report (previously circulated) and the views of two objectors and the applicant's agent, all of whom Members heard).

RESOLVED – That planning permission be refused for the following reason :-

having considered the document entitled 'Proposed Daytime Dog Boarding, Castle Farm, Walworth – Noise Impact Assessment' Revision B dated 17 September 2018, produced by Apex Acoustics and the information contained within the rebuttal letter dated 24 October 2018 by Apex Acoustics, the Local Planning Authority considers that the proposed commercial dog kennels, when operational, would generate unacceptable noise levels and would have an adverse impact on the amenities of the occupiers of the existing neighbouring residential properties. The proposal would be contrary to Policy CS16 (Protecting Environmental Resources, Human Health and Safety) of the Darlington Core Strategy Development Plan Document 2011 and the core principles of the National Planning Framework 2018.

PA44 TREE PRESERVATION (NO. 6) ORDER 2018 - 1 CHURCH CLOSE, MIDDLETON ST GEORGE

The Director of Economic Growth and Neighbourhood Services submitted a report (previously circulated) advising Members of an objection which had been received to the making of a Tree Preservation Order in the front garden of 1 Church Close, Middleton St George.

It was reported that, following the making of the order which had been placed on one Semi/mature Pine (*Pinus spp*), an objection had been received from the owners of 1 Church Close, Middleton St George.

RESOLVED - That consideration of the making of Tree Preservation (No.6) Order be deferred to enable a site visit to take place.

PA45 NOTIFICATION OF APPEALS -

The Director of Economic Growth and Neighbourhood Services reported that :

- (a) Ms Sharon Pearson-Turner had appealed against this Authority's decision to refuse consent for works to tree protected under Tree Preservation Order (No.9) Order 2008 – Felling of 1 No. Maple Tree (T2) at 10 Edinburgh Drive, Darlington (18/00676/TF);
- (b) Mr David Jowett had appealed against this Authority's non-determination for works to tree protected under Area Tree Preservation Order (no. 3) 1962 (A1) – Crown lift 1 No. Common Lime (*Tilla x europaea*) to up to 6m above ground level (suitable growthpoints) over No. 7 and No. 9 Compton Grove and reduction of branch plus tips to give 3.5 m height clearance over Staindrop Road (suitable growth points) at 7 Compton Grove, Darlington (18/00671/TF); and
- (c) Gladman Developments Ltd had appealed against this Authority's non-determination for outline application for the erection of up to 280 dwellings, 60 bed care home (Use Class C2) with community park and public open space, landscaping and sustainable drainage system (SuDS). All matters reserved except for 2 No. means of access points to be provided from Neasham Road (Revised Transport Assessment received 17 September 2018) at land off Neasham Road, Middleton St George, Darlington (18/00275/OUT).

RESOLVED - That the report be received.

PA46 TO CONSIDER THE EXCLUSION OF THE PUBLIC AND PRESS

RESOLVED - That, pursuant to Sections 100A(4) and (5) of the Local Government Act 1972, the public be excluded from the meeting during the consideration of the ensuing item on the grounds that it involves the likely disclosure of exempt information as defined in exclusion paragraph 7 of Part I of Schedule 12A to the Act.

PA47 COMPLAINTS RECEIVED AND BEING CONSIDERED UNDER THE COUNCIL'S APPROVED CODE OF PRACTICE AS OF 31 OCTOBER 2018 (EXCLUSION PARAGRAPH NO. 7)

Pursuant to Minute PA40/Oct/18, the Director of Economic Growth and Neighbourhood Services submitted a report (previously circulated) detailing breaches of planning regulations investigated by this Council, as at 31 October 2018.

RESOLVED - That the report be noted.

BOROUGH OF DARLINGTON

PLANNING APPLICATIONS COMMITTEE

Committee Date – 12 December 2018

SCHEDULE OF APPLICATIONS FOR CONSIDERATION

Background Papers used in compiling this Schedule:-

- 1) Letters and memoranda in reply to consultations.
- 2) Letters of objection and representation from the public.

Index of applications contained in this Schedule are as follows:-

Page	Address/Site Location	Reference Number
7	Adjacent Oak Tree Pub, Oak Tree, MSF	18/00591/FUL
17	Durham Tees Valley Airport	18/00810/FUL
35	Studio Below 6A West Row, Sadberge	18/00784/CU

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DARLINGTON BOROUGH COUNCIL
PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 12 December 2018

APPLICATION REF. NO: 18/00591/FUL

STATUTORY DECISION DATE: 4 October 2018

WARD/PARISH: MIDDLETON ST GEORGE

LOCATION: Land adjacent Oak Tree Pub off Yarm Road
Middleton St George, Darlington

DESCRIPTION: Variation of condition 3 (Approved Plans) attached to planning permission 16/01256/FUL dated 19 June 2018 for residential development comprising 12 No. dwellings (Revised scheme) - to permit the substitution of house types and amended layout

APPLICANT: MANDALE HOMES

APPLICATION AND SITE DESCRIPTION

Planning permission was granted in June 2018 for the erection of 12 no. dwellings on land to the east of the Oak Tree Inn, Middleton St George (16/01256/FUL) subject to a Section 106 Agreement to secure financial contributions towards footpath improvements and the provision of a new bus stop adjacent to the development on Yarm Road. This permission has not been implemented but remains extant.

This is an application under Section 73 of the Town and Country Planning Act which seeks to vary condition 3 (approved plans) attached to planning permission 16/01256/FUL to permit the substitution of house types and minor changes to the layout. No other issues are being considered as these were approved under the extant permission 16/01256/FUL.

The application site is agricultural grassland and is located in Oak Tree which is a subsidiary settlement of Middleton St George about half a kilometre to the west of the village. It lies between Oak Tree Close and Yarm Road immediately to the east of the Oak Tree public house. The application site covers an area of some 0.4 hectares and would be accessed off Oak Tree Close via a short cul-de-sac.

One again, 12, 3-bedroomed dwellings are proposed including two affordable units within the revised layout. The previous scheme proposed 6 no. pairs of semi-detached, 3-bedroomed dwellings whereas the revised scheme proposes that the dwellings will all be detached. The general scale and configuration of the proposal remains largely unchanged with the dwellings sited in a very similar location to the approved scheme. Two different house types are proposed. Some of the properties will share a car parking courtyard with the remainder having private drives, as before.

PLANNING HISTORY

16/00059/FUL – 8 apartments and 12 dwellings – Refused permission August 2016 on grounds of density, design, lack of affordable housing provision and road safety issues. No appeal submitted.

16/01256/FUL - Erection of 12 dwellings, associated roads and landscaping – approved 19th June 2018 subject to Section 106 Agreement.

PLANNING POLICY BACKGROUND

The following policies of the development plan are relevant:

Borough of Darlington Local Plan 1997:

- E2 – Development Limits

Darlington Core Strategy Development Plan Document 2011:

- CS1 – Darlington’s Sub-Regional Role and Locational Strategy
- CS10 – New Housing Development
- CS11 – Meeting Housing Need

The National Planning Policy Framework 2018 is also relevant. The above policies are considered to be compliant with the National Planning Policy Framework.

RESULTS OF CONSULTATION AND PUBLICITY

Highway Engineer – The Highway Officer raises no objection to the proposal, subject to appropriate conditions being applied.

Environmental Health – No objections on grounds of contaminated land issues. Advises conditions on previous approval be re-imposed.

Sustainable Transport – The number of dwellings is below the trigger point for contributions towards an improved bus service. Contributions will be required via a S106 Agreement towards improved bus stop facilities, footpath and lighting improvements.

Durham Constabulary – No objections to the proposed layout.

Lead Flood Authority – No objections to the final submissions of the applicants relating to surface water run off subject to conditions being attached to any permission granted.

Northumbrian Water – Insufficient information provided relating to foul and surface water disposal – request condition attached relating to submission of final details as before.

Middleton St George Parish Council – Object for the following reasons:

- Design and density out of character with the surrounding developments
- Access onto Yarm Road dangerous.
- Access around Oak Tree Close a problem due to narrow nature of the private road.
- Not enough car parking for some dwellings. (Highways Engineer notes that the garages can be used as a parking place).
- Site not well connected to public transport.
- Drains in this area are privately owned.

Letters were sent to occupiers of neighbouring properties advising of the proposal and a site notice was displayed. 8 letters of objection have been received raising the following issues.

- Cramped design and density.
- Design out of keeping with other houses nearby – no variety.
- No mixture of house types.
- Insufficient parking on site No sustainable transport connections.
- Outside development limits so contrary to policy.
- Local school is full as are other facilities
- Additional traffic will cause road safety problems
- Noise from adjacent pub and nearby lorry depot will cause nuisance to new residents.
- Damage to local wildlife from loss of green space and trees etc.
- Not enough space in parking courtyard for refuse vehicles

PLANNING ISSUES

Planning law (S.38 (6) of the Planning and Compulsory Purchase 2004) requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework (2018) supports the plan led system providing that planning decisions should be “genuinely plan-led” (NPPF para 15).

The application site is outside of development limits and therefore the principle of residential development would be contrary to Saved Policy E2 (Development Limits) of the Darlington Local Plan 1997 and Policy CS1 (Darlington’s Sub-Regional Role and Locational Strategy) of the Core Strategy (2011). It should also be noted that the proposed scheme does not meet any of the criteria for permitted types of residential accommodation in the countryside as set out in saved policy H7 (Areas of Housing Development Restraint) of the Local Plan 1997.

Using the Government’s new standard method for assessing housing need, which is reinforced by the recently updated National Planning Policy Guidance, the Council considers that it can demonstrate a 48.9 year supply of deliverable housing land. The Council consider that deliverable sites sufficient to provide 5 years’ worth of housing against the local housing need figure have been identified and therefore the “tilted balance” in para 11 of the NPPF 2018 is not engaged. Saved policy E2 of the Borough of Darlington Local Plan 1997 and CS1 of the

Darlington Core Strategy Development Plan Document 2011 are not out of date and should be given substantial consideration. The principle of redeveloping the site for residential purposes would therefore be contrary to the local development plan.

As this application relates to a variation of a previous planning permission which is still extant there are no planning policy implications to be considered in this instance. Although the site lies outside of development limits and the Council can now demonstrate a five year supply of deliverable housing land, the principle of developing this site for residential purposes has already been established by way of the extant permission (16/01256/FUL) which is a material consideration which can be given significant weight in the determination of application.

Design and scale of the development

The density of the proposed development is around 30 dwellings per hectare, which whilst higher than the adjacent low density housing estate off Oak Tree Close, is well within what is considered acceptable in planning terms for a small estate of houses. The site plan shows many of the plots having reasonably sized rear gardens and most with spacious open frontages, similar to properties on Oak Tree Close.

Perusal of some of the existing dwellings in Oak Tree Close reveals that the design and scale of the proposed dwellings is similar to that of those dwellings – semi-detached houses with hipped gables coming forward at either end of the building, similar in fact to the earlier approved designs for this site. It is therefore considered that the proposed design of the new dwellings is appropriate for this particular locality. In view of the above therefore it is considered that the proposed variation of house types is acceptable and will not result in harm to the locality in terms of visual impact.

The Highway Engineer has considered the revised layout and has raised no highway objection, subject to a number of conditions. As the effect of a Section 73 application is to issue a new planning permission, all conditions imposed on the earlier approval will be re-imposed and it will be necessary to amend the original Section 106 Agreement, if Members are minded to approve the application.

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

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework (2018) supports the plan led system providing that planning decisions should be “genuinely plan-led” (NPPF para 15).

Although the site is located beyond the limits to development and the Council can now demonstrate in excess of a 5 year deliverable supply of housing land, in this instance the principle of developing this site for residential purposes has already been established by way of the extant permission (16/01256/FUL) which is a material consideration which can be given significant weight in the determination of application. The proposed changes to the house types and layout are minor in nature and are considered acceptable in this instance. The proposal does not result in any adverse impacts on highway safety, surface water drainage or on residential and visual amenity, with appropriate mitigation measures in place to be secured by planning conditions. Appropriate planning obligations have also been negotiated and would be secured by a Section 106 Agreement, to mitigate against the impacts of the development.

RECOMMENDATION

THAT PLANNING PERMISSION BE GRANTED SUBJECT TO THE COMPLETION OF A DEED OF VARIATION TO THE SECTION 106 AGREEMENT RELATING TO 16/01256/FUL WITHIN SIX MONTHS TO ENSURE THAT THE OBLIGATIONS CONTAINED THEREIN ATTACH TO THIS PERMISSION AND SUBJECT TO THE FOLLOWING PLANNING CONDITIONS:

1. The development hereby permitted shall be commenced not later than 18 months from the date of this permission.

REASON - To accord with the provisions of 92(2) of the Town and Country Planning Act 1990 and to ensure the speedy provision of the site for the approved development.

2. B4 (Materials)
3. PL00 (Accordance with approved plans)

Site layout plan 2018/OAK/100
House detail plans 2018/OAK/101 and 2018/OAK/102

4. E2 (Landscaping)
5. Prior to the occupation of any unit within the development, a scheme for the provision of affordable housing shall be submitted to and approved in writing by the local planning authority. The provision will take the form of on-site provision (of not less than 20% of the housing units) in accordance with a scheme to be submitted and agreed in writing by the local planning authority. The scheme for the development shall include:
 - (a) The timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
 - (b) The arrangements for the transfer of the affordable housing to an affordable housing provider (or the management of the affordable housing) (if no RSL is involved);
 - (c) The arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing;
 - (d) The occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced;

- (e) The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2 of the National Planning Policy Framework or any future guidance that replaces it.

REASON – To comply with Core Strategy Policy CS11.

6. Precise details of the off-site highway works required to access the site and mitigate the development impact shall be submitted and approved by the Local Planning Authority prior to the commencement of the development. The submitted details shall include widening of the existing footway along the north-south section of Oak Tree Close to 2.0m wide, the addition of a new footway along the frontage of the development on the east-west section of Oak Tree Close at 2.0m wide (measured between restraints) connecting into the surrounding infrastructure and the new site access junction and linking footways. The development shall not be carried out otherwise than in complete accordance with the approved details.

REASON – In the interests of highway safety

7. Prior to the commencement of the development, a Construction Management Plan shall be submitted and approved in writing by the Local Planning Authority. The Plan shall include details for wheel washing, a dust action plan, the proposed hours of construction, vehicle routes, road maintenance, and signage. The development shall not be carried out otherwise than in complete accordance with the approved detail.

REASON – In the interests of residential amenity.

8. Development shall not commence until a detailed scheme for the disposal of foul and surface water from the development hereby approved has been submitted to and approved in writing by the Local Planning Authority in consultation with Northumbrian Water and the Lead Local Flood Authority.

REASON – To prevent the increased risk of flooding from any sources in accordance with the NPPF.

9. The development hereby approved shall not be commenced on site, until a scheme for ‘the implementation, maintenance and management of a Sustainable Surface Water Drainage Scheme has first been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details, the scheme shall include but not be restricted to providing the following details:
- (a) Detailed design of the surface water management system;
 - (b) A build program and timetable for the provision of the critical surface water drainage infrastructure;
 - (c) A management plan detailing how surface water runoff from the site will be managed during the construction phase;
 - (d) Details of adoption responsibilities.

REASON: To ensure the site is developed in a manner that will not increase the risk of surface water flooding to site or surrounding area, in accordance with the guidance within Core Strategy Development Plan Policy CS10 and the National Planning Policy Framework.

10. The buildings hereby approved shall not be brought into use until:-

- (a) Requisite elements of the approved surface water management scheme for the development, or any phase of the development are in place and fully operational to serve said buildings;
- (b) A Management and maintenance plan of the approved Surface Water Drainage scheme has been submitted and approved in writing by the Local Planning Authority, this should include the funding arrangements and cover the lifetime of the development.

REASON: To reduce flood risk and ensure satisfactory long term maintenance are in place for the lifetime of the development.

SHOULD THE SECTION 106 AGREEMENT NOT BE COMPLETED WITHIN THIS PRESCRIBED PERIOD WITHOUT WRITTEN CONSENT OF THE COUNCIL TO EXTEND THIS TIME, THE MINDED TO APPROVE STATUS OF THE PERMISSION SHALL BE CONSIDERED TO BE A REFUSAL ON THE GROUNDS THAT THE APPLICATION HAS FAILED TO PROVIDE ADEQUATE MITIGATION MEASURES TO PROVIDE A SATISFACTORY FORM OF DEVELOPMENT IN ACCORDANCE WITH THE REQUIREMENTS OF CORE STRATEGY POLICY CS4 (DEVELOPER CONTRIBUTIONS) WITHOUT ANY FURTHER REFERENCE TO THE PLANNING APPLICATIONS COMMITTEE

INFORMATIVES

The Developer is required to submit detailed drawings of the proposed internal highway and off site highway works to be approved in writing by the Local Planning Authority and enter into a Section 278/38 agreement before commencement of the works on site. Contact must be made with the Assistant Director: Highways, Design and Projects (contact Mr S. Brannan 01325 406663) to discuss this matter.

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

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

**THE FOLLOWING POLICIES AND DOCUMENTS WERE TAKEN INTO ACCOUNT
IN CONSIDERATION OF THE APPLICATION:**

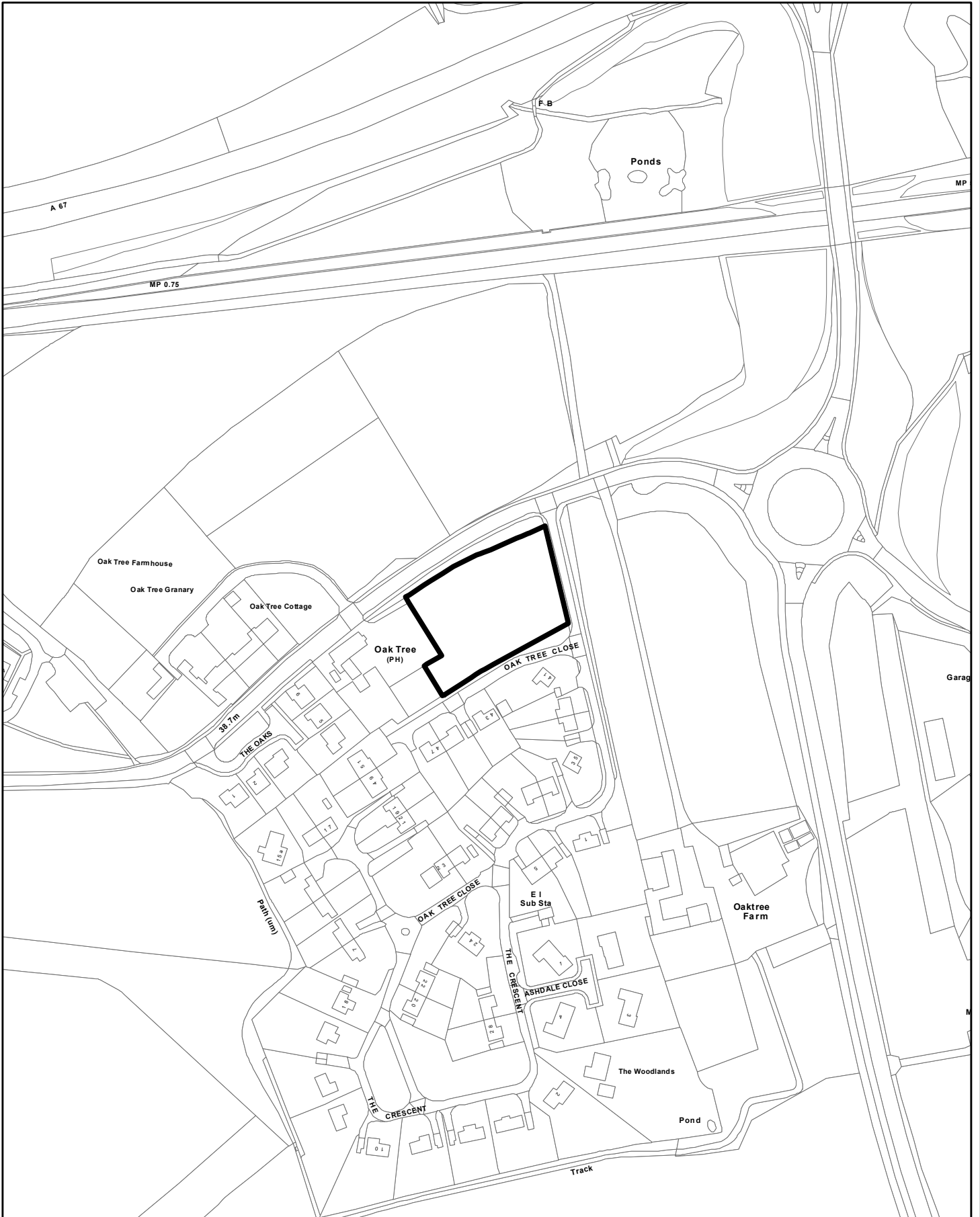
Borough of Darlington Local Plan 1997:

- E2 – Development Limits

Darlington Core Strategy Development Plan Document 2011:

- CS1 – Darlington’s Sub-Regional Role and Locational Strategy
- CS10 – New Housing Development
- CS11 – Meeting Housing Need

National Planning Policy Framework, 2018



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PLANNING REF. No. 18/00591/FUL

DARLINGTON BOROUGH COUNCIL

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DARLINGTON BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 12 December 2018

APPLICATION REF. NO: 18/00810/FUL

STATUTORY DECISION DATE: 27 September 2018

WARD/PARISH: SADBERGE AND MIDDLETON ST
GEORGE

LOCATION: Durham Tees Valley Airport

DESCRIPTION: Construction of 1.8km link road between Northside and Southside, erection of 2.8m high security fencing, and associated infrastructure; and improvements and alterations to the existing highway (resubmission of previously approved scheme) (additional drainage information received 27 September 2018)

APPLICANT: MS ANNA BENSKY

APPLICATION AND SITE DESCRIPTION

Planning permission is sought for the construction of a 1.8km link road between Northside and Southside at Durham Tees Valley Airport, the erection of a 2.8 metre high security fence along the length of the link road and associated infrastructure. Approximately 250 metres of the proposed link road is located within the Darlington Borough Council boundary (DBC) with the remainder of the road located with the Stockton Borough Council (SBC) boundary. It is also proposed to make improvements and alterations to the existing highway (within DBC boundary only) and for the change of use of agricultural land to ancillary operational airport land and for the reconfiguration of Plot 1 on the Southside Business Park to create an employment unit. Both of these elements are within the SBC boundary.

Planning permission was granted in November 2015 (Darlington Borough Council reference 15/00677/FUL and Stockton Borough Council 15/01625/FUL) for the proposed development which was extant at the time this application was submitted but has recently expired. The proposal remains unchanged from the 2015 permission and the agent has advised that the applicant intends to renew the permission by resubmitting the original plans and supporting reports, updated where appropriate, for consideration. A planning application was also submitted to Stockton Borough Council (18/02023/FUL) concurrently with this application and was determined under delegated powers on 1 November 2018.

The application site straddles the administrative boundary of both Darlington Borough Council (DBC) and Stockton Borough Council (SBC). The majority of the site lies within the SBC boundary including the site of the proposed employment unit and most of the link road. In accordance with the Planning Practice Guidance (PPG), identical planning applications have been submitted to each local authority. Consideration of this application will be limited to those elements which fall within the administrative boundary of Darlington Borough Council.

The application site (straddling both administrative boundaries) extends to approximately 12.5 ha in area and comprises three areas:

- The internal Airport access road and part of the adopted public highway. The site includes the entire width of the highway; and where widening is necessary, adjacent land is also included. This land is within the administrative boundary of DBC;
- An area of land at the end of the eastern end of the runway. This land comprises operational and agricultural land. The majority of this land is within the administrative boundary of SBC;
- An area of land to the south of the runway. This land comprises operational airfield equipment and the Southside development site. The land is entirely within the administrative boundary of SBC.

The new link road will be constructed around the eastern end of the runway to connect Northside and Southside. It will be finished to adoptable standards and will be suitable for cyclists. A new pedestrian access will also be provided alongside the new link road. The new link road will be bound by a 2.8m high security fence on the inner boundary to prevent access to the operational airport. The outer boundary will be demarked by stock proof fencing. No street lighting is proposed, except that which already has consent within the Southside Business Park. The new link road will begin on Northside. A new access will be provided into the Teesside Airport Railway station and the existing access road will be removed. The road will then extend to the south of the existing railway line and to the north of Taxiway B (maintaining the regulatory offset). This section of road has been carefully designed to ensure that a safe distance is maintained with the adjacent taxiway, but leaving sufficient land to construct the proposed railway siding (which is included within the Master Plan). This section will also include a surface water pumping station (with a parking space). This section of the road includes proposed works within both Stockton and Darlington Councils' administrative areas.

The new link road will then curve around the eastern end of the runway – alongside the boundary with the adjacent agricultural land. The road has been offset from the end of the runway to ensure the airfield safeguarding surfaces are not compromised and to ensure navigational aids are maintained. In any event, the road will be maintained as a clear way and will include two sets of traffic lights. Once the new road leaves the curved section it will access the Southside site and will intercept with the route of consented internal access road of the consented Southside Business Park.

The proposed development will relocate the fence line of the operational airport to the edge of the new highway which will be constructed in part across agricultural land which is not currently used as part of the Airport. This land will also include the compensatory habitat mitigation which will offset the loss of any species rich grassland. For completeness, the planning application also seeks consent for the change of use of this land to operational airport (sui generis).

The proposed link road and associated infrastructure is required to serve an extant planning permission for the development of Southside (within the SBC boundary). The application seeks permission for a first phase of building and would allow delivery of the remaining phases in accordance with the extant permission. The main difference between what is now proposed and what has planning permission is the route of the access. This application seeks permission for an alternative access around the eastern end of the runway. The majority of the route is within the current operational boundary of the Airport. A small part of it is currently in use as agricultural land.

The following information has been submitted with the application:

- Design and Access Statement
- Ecological Assessment (updated 2018)
- Flood Risk Assessment (updated 2018)
- Noise Assessment (updated 2018)
- Transport Assessment (updated 2018)
- Travel Plan
- Heritage Statement (updated 2018)
- Air Quality Assessment (updated 2018)
- Airport Safeguarding Report

A request was made on 8 August 2018 pursuant to Regulation 6 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 for the local planning authority's screening opinion on the matter of whether or not the development proposed is 'EIA' development within the meaning of the 2017 Regulations. This process has been undertaken and having taken into account the relevant criteria, the Local Planning Authority has determined once more that the proposal does not constitute EIA development.

The area surrounding the application site comprises the core facilities of the operational Airport, such as the passenger terminal, car parking, hangars, the aprons and the runway. In addition there are various buildings occupied by a mix of mainly employment uses including aviation related businesses and general employment uses. Alongside these is the International Fire Training Centre (IFTC) operated by SERCO and the Middleton St George Hospital which both occupy former RAF buildings. The wider area includes residential development to the north-west. The rest of the Airport is surrounded by open countryside, consisting of agricultural land and woodland. This land is subject to an extant planning consent for a new access road which would have provided access between the Southside development site and the A67.

PLANNING HISTORY

The application site has a length planning history, the most relevant of which is set out below:

04/01427/FULE – Extension and refurbishment of terminal building, development of cargo and maintenance building (Class B2 and B8), new and expanded airside apron including lighting, extension and reconfiguration of passenger and staff car parks and car hire facilities including lighting, access roads and fencing, construction of aircraft stands, airside hard standing and parallel taxiway including lighting, extension and reconfiguration of airport access road, pick up and set down areas including lighting, new bus stop and taxi stands, construction of new sewage treatment plant and associated pipework (part outline, part full application)

accompanied by Environmental Assessment. GRANTED SUBJECT TO S106 AGREEMENT 2 JANUARY 2008

04/01428/OUTE – Development of site to provide a business park comprising up to 18,600m² (Use Class B1), 4,200m² 100 bed hotel (Use Class C1) and 560m² public house/restaurant (Use Class A3) associated car parking and structural landscaping (outline application accompanied by Environmental Assessment). GRANTED 21 FEBRUARY 2007

08/00703/FUL – B1 office development comprising 11 no. units, car parking, access and associated landscaping. GRANTED SUBJECT TO S106 AGREEMENT 2 DECEMBER 2008

11/00787/FUL – Extension of time for implementation of planning permission 08/00703/FUL dated 2 December 2008 for B1 office development comprising 11 no. units, car parking, access and associated landscaping. WITHDRAWN 16 APRIL 2013

15/0677/FUL - Construction of 1.8km link road between Northside and Southside, erection of 2.8m high security fencing and associated infrastructure, and improvements and alterations to the existing highway (additional ecological information received 18 September 2015) GRANTED 4 NOVEMBER 2015

PLANNING POLICY BACKGROUND

The following policies are relevant to consideration of the application:

Borough of Darlington Local Plan 1997

Saved Policy EP9 (Teesside Airport Employment Land – North)
Saved Policy EP10 (Teesside Airport Employment Land – South)
Saved Policy T49 (Teesside Airport)

Darlington Core Strategy Development Plan Document 2011

Policy CS1 (Darlington's Sub-Regional Role and Locational Strategy)
Policy CS2 (Achieving High Quality, Sustainable Design)
Policy CS5 (The Provision of Land for Employment Purposes)
Policy CS14 (Promoting Local Character and Distinctiveness)
Policy CS15 (Protecting and Enhancing Biodiversity and Geodiversity)
Policy CS16 (Protecting Environmental Resources, Human Health and Safety)
Policy CS17 (Delivering a Multifunctional Green Infrastructure Network)

National Planning Policy Framework, 2018

RESULTS OF CONSULTATION AND PUBLICITY

Highway Engineer – Given the previous planning history of the site and the previously approved scheme do not foresee any fundamental issues with this application. The previous comments are still appropriate for this development. Additional minor works are required in the highway network and can be done subject to a S278 Agreement.

Environmental Health Officer – Given that only a very small proportion of the application is within the DBC boundary, no comments to make.

Transport Policy Officer – Recommend a minimum 3m shared use path to side of link road to enable employees/visitors to cycle safely to the development site. The route should be lit and connect to existing provision. Pleased to see cycle parking will be provided in the commercial development site. Future funding for bus subsidy would need to be secured through commercial development on the Southside by Stockton Council.

Ecology Officer – The original condition for habitat mitigation is still acceptable as it is.

Durham County Archaeology – No objection to the proposal within Darlington.

Environment Agency – No objection.

Lead Local Flood Authority – Recommend conditional approval.

Middleton St George Parish Council – Object to the application on the basis that the link road is the only access to 1.9 million sq ft of development and is totally inadequate for the task. All commercial traffic will be funnelled off the A67 via the only access to the Northside. This traffic will be forced to mix with residential traffic. This is a very poor piece of highway planning. The proposed road is squeezed tightly round the end of the runway that traffic has to be controlled by traffic lights to allow the safe take-off and landing of aircraft. This would be disruptive now, but will be more so if the whole 1.9 million sq ft is developed and the use of the airport increases. Consent should be refused on these grounds. A new access from the A67 would overcome all these objections.

Two letters of objection have been received which raise the following issues:

- *Avoiding a new junction on the A67 is welcome;*
- *The Southside development is designed for general industrial use and storage and distribution thereby creating local jobs which will encourage commuting rather than a move of home;*
- *This development should seek to formally close the current Teesside Airport railway station and provide a new rail station to serve the Southside Business Park and airport;*
- *The development will therefore need to fund journey time improvements between Darlington and Middlesbrough to offset any increase in journey times for existing rail customers between Darlington and Teesside when trains call at the new station;*
- *The proposed new link road is very close to the runway/operational aerodrome. Are the traffic lights sufficient to mitigate the risk of an unwanted incident i.e. should an aircraft overshoot the runway;*
- *It is noted that the landscaping proposals include grassland. Perhaps an area of well-drained poor low-nutrient soils could be incorporated into the landscape proposals for low lying nectar rich planting for pollinators;*
- *Agree with the comments of the Parish Council. Why isn't the original road plan used? The new 55 homes proposed by Esh (18/00972/FUL) will introduce a new junction off the entry roundabout. This would seem dangerous for HGV traffic.*

PLANNING ISSUES

Background to Application

The Southside Business Park has been a longstanding employment allocation within the adopted (and emerging) Development Plans for both Darlington and Stockton Borough Councils. There is an extant permission for 176,900 sq. m of warehousing and distribution floorspace on Southside, which includes a new link road to Southside from the A67. The current planning application relates only to the new link road and a B2/B8 unit to unlock the delivery of the Southside development, the latter being within the administrative boundary of Stockton Borough Council. Planning permission was first granted for the link road in November 2015 (Darlington Borough Council reference 15/00677/FUL and Stockton Borough Council 15/01625/FUL) and the resubmitted application to Stockton Borough Council 18/02023/FUL was approved in November 2018. The main issues for consideration are whether the proposed link road remains acceptable in principle and having consideration for other matters of development management.

Planning Policy

Planning law (S.38 (6) of the Planning and Compulsory Purchase 2004) requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework (2018) supports the plan led system providing that planning decisions should be “genuinely plan-led” (NPPF para 15).

Since the grant of planning permission in 2015, the planning policy context has not changed significantly. Saved Local Plan Policy EP10 (Teesside Airport Employment Plan – South) of the Borough of Darlington Local Plan 1997 states that land to the south of the main runway will be safeguarded for development which requires a location at or adjacent to an airport and which cannot be located to the north of the main runway within the vicinity of the airport terminal; and which forms part of a comprehensive scheme providing for access to, and the orderly development of, the whole of the area to the south of the main runway, together with land in the adjoining Local Authority area; and incorporates access arrangements which do not interfere with the operation of the airport; and provides for the character and appearance of the area of high landscape value to the south of the airport.

Core Strategy Policy CS1 (Darlington’s Sub-Regional Role and Locational Strategy) also identifies Durham Tees Valley Airport as a strategic location for airport relates employment uses throughout the plan period.

The recently published National Planning Policy Framework, July 2018 is underpinned by the purpose of achieving sustainable development, which at paragraph 8 comprises the realisation of the three overarching objectives which are interdependent and need to be pursued in mutually supportive ways, with opportunities taken to secure net gains across each of the different objectives. In relation to economic growth, the framework advises that *‘significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development’* (para. 80).

In relation to airport growth, the NPPF promotes a collaborative approach to secure sustainable development and suggests planning policies should: *‘recognise the importance of maintaining a national network of general aviation airfields, and their need to adapt and change over time*

– taking into account their economic value in serving business, leisure, training and emergency service needs, and the Government’s General Aviation Strategy’ (para. 104).

Given the above policy position it is considered that the principle of providing an alternative link road to serve an extant planning permission for employment development on the Southside site remains acceptable.

Visual Impact

Policy CS2 (Achieving High Quality, Sustainable Design) states that high quality, safe, sustainable design will be promoted in all new development, specifically reflecting or enhancing Darlington’s distinctive, natural, built and historic characteristics that positively contribute to the character of the local area and its sense of place. Policy CS14 (Promoting Local Character and Distinctiveness) requires that the distinctive character of the Borough’s built, historic, natural and environmental townscapes, landscapes and strong sense of place will be protected and, where appropriate, enhanced.

The proposed link road, security fencing and alterations to the existing highway have been designed, taking into account the constraints of the site and the surroundings. The alterations to the existing highway and proposed link road will take place within the existing visual envelope of the Airport and will respect the developed nature of the airport site, such that these elements of the proposal falling within the administrative boundary of Darlington Borough Council are not considered to have any unacceptable impact on the character and appearance of the surrounding area. The impact of the proposed employment unit and change of use of agricultural land falling outside of the Borough will be assessed by Stockton.

Aviation Safety

Aviation safety is an important material consideration in respect to the proposed development given its proximity to an operational airport. Development plan policies seek to safeguard DTVA’s airspace and maintain public safety. These issues have been assessed in full within the accompanying Aviation Safeguarding Report (URS, 2015). Policies in relation to Aviation Safety are unchanged since the granting of the existing permission and the proposed link road and employment unit remain of an appropriate design for the regulatory framework within which all international airports must operate (as regulated by the Civil Aviation Authority). It is therefore considered that the conclusions within the Aviation Safeguarding Report are still relevant.

Highway Matters

The application is supported by a full Transport Assessment (TA) which has been updated for this submission. The updated TA considers the proposed mixed-use Northside development for up to 350 dwellings, a 6,600 sq m local centre and hotel extension. Following review, the conclusions of the previous TA are still considered relevant and the traffic assessment is unchanged for this application.

The TA previously concluded that the impact of the proposed changes were acceptable as they can be accommodated at the relevant junctions (the estate road roundabout and the A67 roundabout) and that both junctions continue to operate within capacity. Details of the proposed capacity of the internal link road have also been provided within the TA and this is considered acceptable.

The traffic analyses provided and comparisons made with the extant consents have demonstrated that the proposed internal link road can accommodate the Southside consent and can therefore become the access route, replacing the new junction on the A67. It also demonstrates that the existing local highway network can accommodate the combined application and Northside proposals.

The proposed site sites within the wider DTVA Master Plan Area (AMPA) and as such has links to further pedestrian and cycle facilities on the wider highway network, including National Cycle Route 14. The existing AMPA bus service serves the local area towards Darlington, and also provides a bus/rail link with Dinsdale Rail Station. A new railway station is proposed within the AMPA which would be within easy walking distance of the site.

The Council's Highway Engineer raises no objection to the current application on the basis of the limited section of link road within the Borough and as it has been demonstrated that the generated traffic from the consented development can be accommodated on the adopted highway network. While the Transport Policy Officer has requested a number of sustainable transport improvement and contributions, these issues were addressed as part of the extant consent for the Southside development and it is not considered necessary to revisit these issues as part of the current proposals.

Ecology

An updated Ecological Appraisal of the land which is to form the route of the new link road has been undertaken and submitted with the application. Core Strategy Policy CS15 (Protecting and Enhancing Biodiversity and Geodiversity) seeks to ensure that new development would not result in any net loss of existing biodiversity value by protecting and enhancing the priority habitats, biodiversity features and the geological network through the design of new development.

The assessment has identified that the current proposal will result in the development of 2.03 ha of unimproved grassland which is of county ecology and nature conservation value. It is recognised that this impact is unavoidable in achieving an access which links Northside and Southside. As such, consideration has been given to a scheme to mitigate this loss. It is proposed to set aside land within the application site on which compensatory grassland habitats could be created. This would provide mitigation and as the land would be incorporated within the Airport boundary (within the Stockton Borough Council area) it could be managed as part of the wider areas of Airport grassland which already exist alongside the runway and taxiways.

Accordingly, this application includes an area of compensatory habitat on adjacent arable farmland. This land allows not only for like-for-like replacement of the impacted grassland but for an overall net increase in the grassland habitat, ensuring a gain in biodiversity. The detailed specification of the habitat mitigation is subject to a condition. The Ecology Officer has raised no objection subject to the proposed mitigation and controlling condition.

The assessment has also confirmed that there are no protected species on the site, in particular it has been established that there are no water bodies on or adjacent to the site which could be suitable for Great Crested Newts. On this basis and subject to the habitat mitigation condition, the proposal is considered to comply with the requirements of Policy CS15.

Flooding

As the site is located in Flood Zone 1 and is greater than 1 hectare the Environment Agency's Standing Advice requires that a Flood Risk Assessment be submitted with the application. A Flood Risk Assessment has been submitted with the application which explains that surface water runoff from the northern extent of the link road will drain to a new pumping station and will then be pumped to an existing outfall. Neither Northumbrian Water, the Environment Agency nor the Lead Local Flood Authority has raised an objection to the proposal, subject to appropriate planning conditions requiring the development to be carried out in accordance with the Flood Risk Assessment and requiring final details of an appropriate surface water drainage solution to be submitted to the Local Planning Authority for approval prior to the commencement of development.

Archaeology

Core Strategy Policy CS14 seeks to protect, enhance and promote the quality and integrity of Darlington's distinctive national or nationally significant built heritage and archaeology. Paragraph 197 of the National Planning Policy Framework states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining an application.

A Cultural Heritage Technical Note and Archaeological Monitoring Report have been submitted with the application. The note identifies that the site includes the levelled remains of former medieval ridge and furrow. The assessment however has explained that this feature is of low significance given that the remains are denuded and are set in the context of a modern airfield. Furthermore, wider geophysical surveys have not revealed any geophysical anomalies that could be archaeological in origin. The note also highlights that there are some surviving WWII remains within the application site and concludes that the development will protect the significance, setting and legibility of the surviving elements of the non-designated WWII remains.

Durham County Archaeology has raised no objection to the application. Stockton Borough Council has also confirmed that as the site has previously been subject to a Cultural Heritage Assessment and Archaeological Monitoring of Geotechnical Investigations, which demonstrated that the site was of low archaeological potential, Tees Archaeology (who are leading on the application) require no further assessment as the applicant has fulfilled the requirements of the NPPF with regard to heritage assets.

Noise and Air Quality

A Noise Assessment of the proposed development has been undertaken and has considered how noise from the proposed development will affect the existing environment, and how future noise from the Airport (including its Master Plan proposals) and local road traffic affects sensitive receptors within the proposed development. In particular, regard has been given to the implications of the link road and employment unit on the proposed residential uses on Northside which are set out in the Master Plan. It must be noted however that the future proposals set out in the Master Plan are not subject of this application.

The noise assessment has acknowledged that the forecast road traffic from Southside will be significant. However, these flows will not occur initially and will relate to delivery of the entire development in the Master Plan (which are not subject of this application) and the proposed

development only includes the first phase of the wider Southside development. In any case, it is clear that the new link road, which will divert traffic past the proposed residential development (as set out in the Master Plan) on Northside, will not prejudice the achievement of all necessary internal and outdoor noise standards to ensure the amenity of future occupiers.

An Air Quality Assessment of the proposed development has been undertaken and assesses the effects of increased traffic on the local roads resulting from the proposed development and the proposed mixed use development on Northside (as set out in the Master Plan). The assessment has also considered the impacts to new residential properties arising from emissions from the Airport.

The operational impacts of increased traffic emissions arising from the additional traffic on local roads due to the proposed developments have been assessed. The impacts of local traffic and airport sources on the air quality for future occupiers of the proposed development have been shown to be acceptable at the worst-case locations assessed, with concentrations being well below the air quality objectives.

The Environmental Health Officer has considered the submitted information and raises no objection to the submitted information.

Land Contamination

The Council's Environmental Health Officer has advised that as the majority of the proposed link road appears to reuse existing hardstanding/paved roadways the likelihood of construction workers or future users coming into contact with underlying soils is low and as such there are no particular contamination concerns regarding the proposed link road development.

SECTION 17 OF THE CRIME AND DISORDER ACT 1998

The proposed development has 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. The proposed development does not give rise to crime and disorder issues.

CONCLUSION

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework (2018) supports the plan led system providing that planning decisions should be "genuinely plan-led" (NPPF para 15).

This is the resubmission of a previously approved scheme (15/00677/FUL). There has been no significant change in planning policy since the determination of the previous application, acknowledging that the National Planning Policy Framework has recently been reissued. Technical reports have been updated where necessary and the proposal remains acceptable in terms of visual impact and highway safety, subject to appropriate conditions relating to surface water drainage, construction activities and ecological mitigation. Some of these conditions are by necessity pre-commencement conditions and the agent has confirmed his agreement to the use of these conditions. The proposal is therefore considered to comply with development plan policies and the National Planning Policy Framework.

RECOMMENDATION

THAT PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:

1. A3 (Standard 3 year time limit)
2. PL00
 - (a) General Arrangement, drawing number DTVA01-ARP-HW-01-DR-CH-00001 Issue 4;
 - (b) Typical Fencing Details, drawing number DTVA01-ARP-HW-03-DR-CH-000002 Issue 0;
 - (c) Proposed Highway Widening, drawing number DTVA01-ARP-HW-01-DR-CH000002 Issue 1;
3. No construction/building works or deliveries shall be carried out except between the hours of 0800 and 1800 hours on Mondays to Fridays and between 0900 and 1300 hours on Saturdays. There shall be no construction activity including demolition on Sundays or on Bank Holidays.

REASON – To ensure that the development does not prejudice the enjoyment of neighbouring occupiers or their properties.

4. The development hereby approved shall not be commenced on site, until a scheme for the implementation, maintenance and management of a sustainable surface water drainage scheme has first been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details, the scheme shall include but not be restricted to providing the following details:
 - (i) Detailed design of the surface water management system;
 - (ii) A build program and timetable for the provision of the critical surface water drainage infrastructure;
 - (iii) A management plan detailing how surface water runoff from the site will be managed during the construction phase;
 - (iv) Details of adoption responsibilities

REASON – To ensure the site is developed in a manner that will not increase the risk of surface water flooding to site or surrounding area, in accordance with the guidance within Core Strategy Development Plan Policy CS10 and the National Planning Policy Framework.

5. The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) and Drainage Strategy dated August 2018 and the following mitigation measures detailed within the FRA:
 - (i) Discharge limited to 3.8 l/s/ha
 - (ii) Discharge location is existing outfall no. 4

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

REASON – To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site and to reduce the risk of flooding to the proposed development and future occupants.

6. The building hereby approved shall not be brought into use until:
 - (i) Requisite elements of the approved surface water management scheme for the development, or any phase of the development are in place and fully operational to serve said building;
 - (ii) A management and maintenance plan of the approved Surface Water Drainage scheme has been submitted and approved in writing by the Local Planning Authority, this should include the funding arrangements and cover the lifetime of the development.

REASON – To reduce flood risk and ensure satisfactory long term maintenance are in pace for the lifetime of the development.

7. A Construction Management Plan shall be submitted to and agreed in writing by the Local Planning Authority prior to the commencement of development to agree the routing of all HGV movements associated with the construction phases and to effectively control dust emissions from the site works, this shall address earth moving activities, control and treatment of stock piles, parking for use during construction and measures to protect any existing footpaths and verges, vehicle movements, wheel cleansing, sheeting of vehicles, offside dust/odour monitoring and communication with local residents.

REASON – In the interests of the occupiers of adjacent and nearby premises and highway safety.

8. Prior to the commencement of development a scheme for the ground preparation works consisting of soil stripping of arable topsoil to reduce nutrient levels, drainage works to ensure a free draining soil (except in agreed areas which may provide wetland habitat in the non-turf trans located areas) for the receptor site to ensure the success of grassland habitat creation shall be submitted to and approved in writing by the Local Planning Authority. Such a scheme shall include:
 - (i) The precise delineation and location of the area to be a minimum of 3.67ha which shall include turf translocation of the 2.03 ha to be lost from situ and additional creation of 1.64ha through green hay and seed planting;
 - (ii) Details of the timing for the delivery and works (to ensure breeding birds are not affected) of the long-term maintenance and management of the site which shall include for the duration of the establishment of the receptor site and the subsequent remediation/maintenance, management and monitoring of the receptor site for the lifetime of the development.

The development shall be carried out in accordance with the approved details to the reasonable satisfaction of the Local Planning Authority.

REASON – To ensure the identified ecological impact of the proposed development is appropriately mitigated.

INFORMATIVES

HIGHWAYS MATTERS

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

NETWORK RAIL MATTERS

Drainage

All surface and foul water arising from the proposed works must be collected and diverted away from Network Rail property. In the absence of detailed plans all soakaways must be located so as to discharge away from the railway infrastructure. The following points need to be addressed:

1. There should be no increase to average or peak flows of surface water run off leading towards Network Rail assets, including earthworks, bridges and culverts.
2. All surface water run-off and sewage effluent should be handled in accordance with Local Council and Water Company regulations.
3. Attenuation should be included as necessary to protect the existing surface water drainage systems from any increase in average or peak loadings due to normal and extreme rainfall events.
4. Attenuation ponds, next to the railway, should be designed by a competent specialist engineer and should include adequate storm capacity and overflow arrangements such that there is no risk of flooding of the adjacent railway line during either normal or exceptional rainfall events. It is expected that the preparation and implementation of a surface water drainage strategy addressing the above points will be conditioned as part of any approval.

Services

We would expect services to be routed away from the railway and not to cross it.

Fail Safe Use of Crane and Plant

All operations, including the use of cranes or other mechanical plant working adjacent to Network Rail's property, must at all times be carried out in a "fail safe" manner such that in the event of mishandling, collapse or failure, no materials or plant are capable of falling within 3.0m of the nearest rail of the adjacent railway line, or where the railway is electrified, within 3.0m of overhead electrical equipment or supports.

Excavations/Earthworks

All excavations/ earthworks carried out in the vicinity of Network Rail property/ structures must be designed and executed such that no interference with the integrity of that property/ structure can occur. If temporary works compounds are to be located adjacent to the operational railway, these should be included in a method statement for approval by Network Rail. Prior to commencement of works, full details of excavations and earthworks to be carried out near the railway undertaker's boundary fence should be submitted for the approval of the Local Planning Authority acting in consultation with the railway undertaker and the works shall only be carried out in accordance with the approved details. Where development may affect the railway, consultation with the Asset Protection Project Manager should be undertaken. Network Rail will not accept any liability for any settlement, disturbance or damage caused to any development by failure of the railway infrastructure nor for any noise or vibration arising from the normal use and/or maintenance of the operational railway. No right of support is given or can be claimed from Network Rails infrastructure or railway land.

Security of Mutual Boundary

Security of the railway boundary will need to be maintained at all times. If the works require temporary or permanent alterations to the mutual boundary the applicant must contact Network Rail's Asset Protection Project Manager.

Armco Safety Barriers

An Armco or similar barrier should be located in positions where vehicles may be in a position to drive into or roll onto the railway or damage the lineside fencing. Network Rail's existing fencing / wall must not be removed or damaged. Given the considerable number of vehicle movements likely provision should be made at each turning area/roadway/car parking area adjacent to the railway.

Method Statements/Fail Safe/Possessions

Method statements may require to be submitted to Network Rail's Asset Protection Project Manager at the below address for approval prior to works commencing on site. This should include an outline of the proposed method of construction, risk assessment in relation to the railway and construction traffic management plan. Where appropriate an asset protection agreement will have to be entered into. Where any works cannot be carried out in a "fail-safe" manner, it will be necessary to restrict those works to periods when the railway is closed to rail traffic i.e. "possession" which must be booked via Network Rail's Asset Protection Project Manager and are subject to a minimum prior notice period for booking of 20 weeks. Generally if excavations/piling/buildings are to be located within 10m of the railway boundary a method statement should be submitted for NR approval.

OPE

Once planning permission has been granted and at least six weeks prior to works commencing on site the Asset Protection Project Manager (OPE) MUST be contacted, contact details as below. The OPE will require to see any method statements/drawings relating to any excavation, drainage, demolition, lighting and building work or any works to be carried out on site that may affect the safety, operation, integrity and access to the railway.

Vibro-impact Machinery

Where vibro-compaction machinery is to be used in development, details of the use of such machinery and a method statement should be submitted for the approval of the Local Planning Authority acting in consultation with the railway undertaker prior to the commencement of works and the works shall only be carried out in accordance with the approved method statement

Encroachment

The developer/applicant must ensure that their proposal, both during construction, and after completion of works on site, does not affect the safety, operation or integrity of the operational railway, Network Rail and its infrastructure or undermine or damage or adversely affect any railway land and structures. There must be no physical encroachment of the proposal onto Network Rail land, no over-sailing into Network Rail air-space and no encroachment of foundations onto Network Rail land and soil. There must be no physical encroachment of any foundations onto Network Rail land. Any future maintenance must be conducted solely within the applicant's land ownership. Should the applicant require access to Network Rail land then must seek approval from the Network Rail Asset Protection Team. Any unauthorised access to Network Rail land or air-space is an act of trespass and we would remind the council that this is a criminal offence (s55 British Transport Commission Act 1949). Should the applicant be granted access to Network Rail land then they will be liable for all costs incurred in facilitating the proposal.

Trees/Shrubs/Landscaping

Where trees/shrubs are to be planted adjacent to the railway boundary these shrubs should be positioned at a minimum distance greater than their predicted mature height from the boundary. Certain broad leaf deciduous species should not be planted adjacent to the railway boundary. We would wish to be involved in the approval of any landscaping scheme adjacent to the railway. Where landscaping is proposed as part of an application adjacent to the railway it will be necessary for details of the landscaping to be known and approved to ensure it does not impact upon the railway infrastructure. Any hedge planted adjacent to Network Rail's boundary fencing for screening purposes should be so placed that when fully grown it does not damage the fencing or provide a means of scaling it. No hedge should prevent Network Rail from maintaining its boundary fencing. Lists of trees that are permitted and those that are not permitted are provided below and these should be added to any tree planting conditions:

Acceptable:

Birch (*Betula*), Crab Apple (*Malus Sylvestris*), Field Maple (*Acer Campestre*), Bird Cherry (*Prunus Padus*), Wild Pear (*Pyrus Communis*), Fir Trees – Pines (*Pinus*), Hawthorne (*Crataegus*), Mountain Ash – Whitebeams (*Sorbus*), False Acacia (*Robinia*), Willow Shrubs (*Shrubby Salix*), Thuja Plicatata "Zebrina"

Not Acceptable:

Acer (*Acer pseudoplatanus*), Aspen – Poplar (*Populus*), Small-leaved Lime (*Tilia Cordata*), Sycamore – Norway Maple (*Acer*), Horse Chestnut (*Aesculus Hippocastanum*), Sweet Chestnut (*Castanea Sativa*), Ash (*Fraxinus excelsior*), Black poplar (*Populus nigra* var, *betulifolia*), Lombardy Poplar (*Populus nigra* var, *italica*), Large-leaved lime (*Tilia platyphyllos*), Common lime (*Tilia x europea*)

A comprehensive list of permitted tree species is available upon request.

Lighting

Where new lighting is to be erected adjacent to the operational railway the potential for train drivers to be dazzled must be eliminated. In addition the location and colour of lights must not give rise to the potential for confusion with the signalling arrangements on the railway. Detail of any external lighting should be provided as a condition if not already indicated on the application.

Access to Railway

All roads, paths or ways providing access to any part of the railway undertaker's land shall be kept open at all times during and after the development.

Network Rail is required to recover all reasonable costs associated with facilitating these works.

The method statement will need to be agreed with:

Asset Protection Project Manager
Network Rail (London North Eastern)
Floor 2A
George Stephenson House
Toft Green
York
Y01 6JT

Email: assetprotectionneem@networkrail.co.uk

THE FOLLOWING POLICIES AND DOCUMENTS WERE TAKEN INTO ACCOUNT IN CONSIDERATION OF THE APPLICATION:

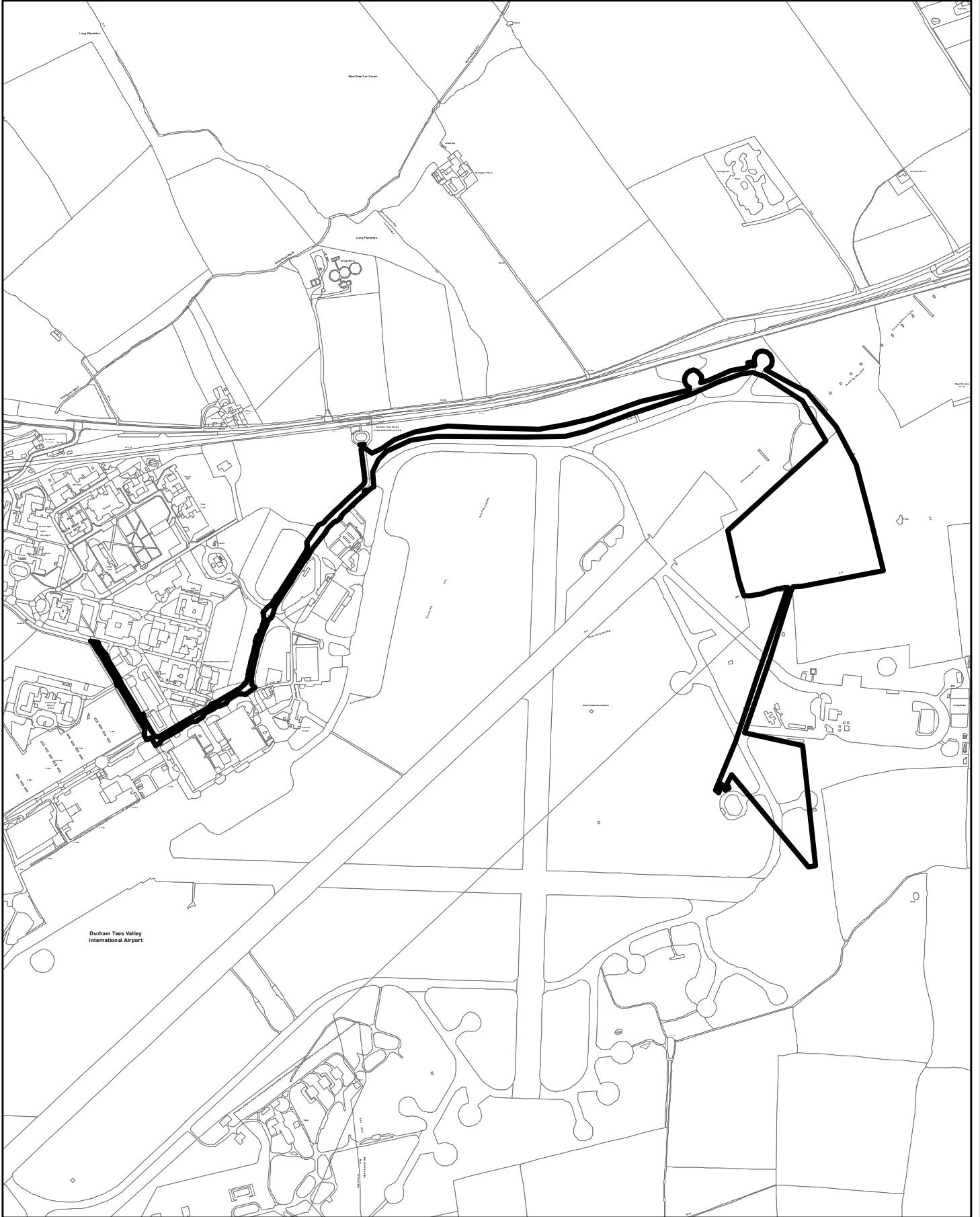
Borough of Darlington Local Plan 1997

Saved Policy EP9 (Teesside Airport Employment Land – North)
Saved Policy EP10 (Teesside Airport Employment Land – South)
Saved Policy T49 (Teesside Airport)

Darlington Core Strategy Development Plan Document 2011

Policy CS1 (Darlington's Sub-Regional Role and Locational Strategy)
Policy CS2 (Achieving High Quality, Sustainable Design)
Policy CS5 (The Provision of Land for Employment Purposes)
Policy CS14 (Promoting Local Character and Distinctiveness)
Policy CS15 (Protecting and Enhancing Biodiversity and Geodiversity)
Policy CS16 (Protecting Environmental Resources, Human Health and Safety)
Policy CS17 (Delivering a Multifunctional Green Infrastructure Network)

National Planning Policy Framework, 2018

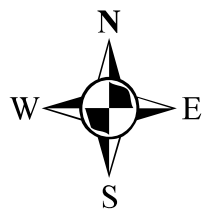


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PLANNING REF. No. 18/00810/FUL

DARLINGTON BOROUGH COUNCIL

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DARLINGTON BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 12 December 2018

APPLICATION REF. NO: 18/00784/FUL

STATUTORY DECISION DATE: 7 November 2018

WARD/PARISH: SADBERGE AND MIDDLETON ST GEORGE

LOCATION: Studio below 6A West Row, Sadberge

DESCRIPTION: Change of use from writing studio to 1 No. bedroom dwelling including association of 1 No. separate garage accessed from Church Lane

APPLICANT: MR THOMAS O'NEILL

APPLICATION AND SITE DESCRIPTION

Planning permission is sought for the change of use of part of the ground floor of the building to a 1 no. bedroom dwelling. The building was last used as a writing studio for which planning permission was granted in 2005 (05/00965/CU) subject to a personal permission such that when the applicant at the time disposed of the property the use reverted back to a garage to serve 5 West Row. The ownership certificate completed with the application indicates that the applicant is the owner of the building and as such its current authorised use is that of a garage.

Externally, the existing garage extends to approximately 2.9 metres wide by 7 metres deep and it is proposed to insulate the walls internally and to subdivide the space to provide a bedroom, kitchenette and shower room. The garage is served by an existing window and door in the west elevation which remain from its writing studio use and by a window in the east elevation. External alterations would be limited to enlarging an existing high level window in the south gable end elevation to serve the proposed kitchenette. A Heritage Statement has been submitted which considers the impact of the proposed alterations on the significance of the Sadberge Conservation Area and St Andrew's Church.

The application also proposes that an existing garage on Church Lane, approximately 80 metres to the east of the application property, would be available to serve the proposed dwelling. There is an area of grassed verge to the front and side of the property however it is not otherwise served by any formal curtilage space.

The application property is a white rendered building which adjoins the southern end of West Row with a small two-storey link building, located at its junction with Beacon Grange Park. St Andrew's Church, a Grade II listed building, is situated to the east on the opposite side of West Row, within the Sadberge Conservation Area. The surrounding area is predominantly residential in character. The building currently comprises two garages and the former writing studio, now garage, at ground floor with a residential flat above. The other two garages and flat above are in separate ownership to the application property.

PLANNING HISTORY

05/00965/CU – Change of use of garage unit to writing studio. GRANTED 23 November 2005

PLANNING POLICY BACKGROUND

The following policies are relevant to consideration of the application:

Saved Policies of the Darlington Local Plan 1997

- E2 – Development Limits

Darlington Core Strategy Development Plan Document 2011

- CS1 – Darlington’s Sub-Regional Role and Locational Strategy
- CS2 – Achieving High Quality, Sustainable Design
- CS14 – Promoting Local Character and Distinctiveness

National Planning Policy Framework, 2018

RESULTS OF CONSULTATION AND PUBLICITY

Highways Engineer – The garage is remote from the dwelling and therefore unlikely to be used for parking a car. It is also unlikely to conform to the minimum internal dimensions to be considered as a parking space. Given the size of the dwelling it is unlikely to be used as a family home or generate problematic overspill parking, however concerns would be principally the convenience of any future occupant with regard to parking and access.

Conservation Officer – The formation of a compact independent dwelling unit would bring with it activities and demands for use of the building and outdoor amenity space, with consequent impact on the character and appearance of the conservation area which is considered to be detrimental. These issues regarding intensification would also have an incremental, detrimental effect on the setting of the nearby listed church.

Environmental Health Officer – New residential dwellings have to ensure that separating walls and floors and partition walls are required to meet sound insulation values which are covered by Building Regulations (Part E). Any future occupants may be more bothered by impact noise from the existing dwelling above rather than the other way round. It may be considered that the impact of a residential dwelling might have less than an impact in terms of noise than a garage where people may be included to carry out noisier activities.

Northumbrian Water Limited – No comments to make.

Sadberge Parish Council – Objects to the proposed change of use as when permission was granted for the change of use of the garage to a writing studio it was stipulated that if the studio stopped being used as a writing studio it would revert to being a garage.

One letter of representation has been received which raises the following issues:

- *Understand the owner of the first floor property has no objection to the proposed change of use. Request DBC to approve the change of use which in a small way would increase the income of DBC and the Parish Council;*
- *The proposed change of use involves no change to the exterior;*
- *The proposed use would be appropriate in a residential area and would provide affordable housing in the village.*

Three letters of objection have been received which raise the following issues:

- *The studio should revert back to a garage once it is no longer being used as a studio;*
- *Parking has now become a problem at the junction of West Row and Beacon Grange Park and returning the studio to a garage would help the problem;*
- *The size of the studio means the accommodation would be very cramped and would not be in keeping with the other properties in the area;*
- *Object to the idea of any larger or more windows to the side of the property as they would allow direct viewing into our kitchen;*
- *Any changes to the external appearance need to be carefully considered as the property is in a Conservation Area;*
- *Concerned that should the change of use be granted then alterations to the property that do not need planning permission will take place;*
- *The garage on Church Row is some distance from the property which may be used for overnight parking but is unlikely to be used during the day when the owner will park on West Row or Beacon Grange Park;*
- *The application property is below my apartment, 6a West Row, predominantly below the bedroom;*
- *Concerned about noise transmission which would reduce my privacy;*
- *The proposal would change the character of the area which is predominantly houses not flats.*

PLANNING ISSUES

The main issues to be taken into account in consideration of this planning application are:

- Planning Policy
- Impact on Significance of Heritage Assets
- Residential Amenity
- Highway Safety

Planning Policy

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) comprises up to date national planning policy and is a material consideration in planning decisions.

The application property is situated within the development limits for Sadberge village. As such the principle of converting the building to residential use would accord with Saved Policy E2 (Development Limits) of the Borough of Darlington Local Plan, 1997 and Policy CS1 (Darlington's Sub-Regional Role and Locational Strategy) of the Darlington Core Strategy Development Plan Document, 2011, subject to consideration of the following issues:

Impact on the Significance of Heritage Assets

Core Strategy Policy CS14 (Promoting Local Character and Distinctiveness) seeks to protect, enhance and promote the quality and integrity of Darlington's built heritage including buildings, their settings and features of historic importance in Conservation Areas. The NPPF also requires new development within the setting of heritage assets to enhance or better reveal their significance.

The application property is located within the Sadberge Conservation Area and also within the setting of St Andrew's Church, a Grade II listed building. External alterations to the property are limited to the replacement of an existing high level window in the front (east facing) elevation with a larger window of a size and style consistent with the existing windows elsewhere in the property. A Heritage Statement submitted with the application acknowledges that this proposed change will have no significant impact on heritage assets. The Council's Conservation Officer has expressed concern regarding the impact incremental changes to the exterior of the building associated with the proposed use i.e. parking will have on the character of the Sadberge Conservation Area and on the setting of the Grade II listed St Andrew's Church opposite.

In this instance the proposed external alterations are considered minimal in the context of the application property and that of the surrounding area and as such it is not considered that this change will have a detrimental impact on the character and appearance of the Conservation Area or upon the setting of St Andrew's Church. A condition requiring the removal of permitted development rights from the property would ensure that control would be retained over any future alteration of the building and its curtilage thereby limiting any potential impact on heritage assets.

While there is no formal parking area associated with the proposed dwelling there may be some parking of vehicles on the road frontage or verge to the side of the property associated with the proposed use. The issue of parking associated with the dwelling will be considered elsewhere in this report, however any additional activity associated with the use of this building as a dwelling will have a limited impact on the character and appearance of the surrounding area given the small-scale nature of the proposal.

Due to the small-scale nature of the proposal and the limited alterations proposed it is not considered that the proposal will have any harmful impact on the significance of the Sadberge Conservation Area or the setting of St Andrew's Church. The proposal therefore complies with Policy CS14 and the NPPF in this regard.

Residential Amenity

The proposal would form a small 1 bedroom dwelling comprising an open plan kitchen/bedroom with a small shower room formed off the kitchen. There is no parking outdoor amenity space associated with the proposed unit with the exception of an open grassed area to the front and side.

An objection has been received from the occupant of the flat above regarding the potential for disturbance from noise transmission from the proposed unit. The application has been considered by the Environmental Health Officer who advises that the property would need comply with the Building Regulations, Part E of which requires separating walls and floors to meet sound insulation values. The continued use of the building as a garage without any sound insulation could also potentially produce more noise to the property above.

A further objection has been received regarding the potential for overlooking from the enlarged kitchen window in the side elevation into the property opposite. There will be a distance of approximately 14.5 metres between the side gable of the application property and the nearest dwelling at 1 Beacon Grange Park, separated by the estate road. At this distance it is not considered that the enlarged window will result in an unacceptable loss of privacy to the front of this property which has an open aspect onto Beacon Grange Park itself.

On this basis, the creation of an additional unit of accommodation within an existing residential area will not give rise to any unacceptable impact on residential amenity.

Highway Safety

There is no off-site parking provision at the application property. While West Row is narrow with limited opportunity for off-street parking although is not restricted by double yellow lines. Some properties have created off-street curtilage spaces to the front of the properties. There is unrestricted on-street parking in Beacon Grange Park where these properties have off-street parking. The applicant has a garage on Church Lane, approximately 80 metres to the east of the application site that would be made available to serve the property.

The Highway Engineer has advised that the garage is remote from the dwelling and therefore unlikely to be used for parking a car. It is also unlikely to conform to the minimum internal dimensions of 3m x 6m to be considered as a parking space. While the garage could be secured by a Section 106 Agreement requiring it to be made available to serve the property this would not ensure its use as a parking space and as such this is not considered to be reasonable in this instance. The Highway Engineer acknowledges that in view of the small size of the dwelling it is unlikely to be used as a family home or generate problematic overspill parking so as to warrant refusal of the application on this basis.

SECTION 17 OF THE CRIME AND DISORDER ACT 1998

The proposed development has 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. The proposed development does not give rise to crime and disorder issues.

CONCLUSION

The principle of the change of use of this property from a garage to a dwelling in this location is acceptable in the context of Saved Local Policy E2 and Core Strategy Policy CS1. Alterations to the property are minimal and as such the proposal will have a limited impact upon the character and appearance of the Sadberge Conservation Area and the setting of St Andrew's Church, a Grade II listed building. The proposal does not give rise to any issues of residential amenity and in view of its small-scale nature will not impact adversely on highway safety. A condition removing permitted development rights is attached to ensure that control is retained over the character and appearance of the building. The proposal is therefore considered to comply with Core Strategy Policies CS2 and CS14 and the NPPF.

RECOMMENDATION

THAT PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:

1. A3 (Standard 3 year time limit)
2. PL00 (approved plans condition)
 - (a) Proposed floor plan, drawing no. 7, dated 22.8.18
 - (b) Proposed south west elevation, drawing no. 9, dated 22.8.18
 - (c) Proposed north east elevation, drawing no. 10, dated 22.8.18
 - (d) Proposed south east elevation, drawing no. 11, dated 22.8.18
3. C5 (removal of PD rights)
4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order) no fencing, walls or other means of enclosure shall be erected without the prior written consent of the Local Planning Authority to whom a planning application must be made.

REASON – In the interest of visual amenity

THE FOLLOWING POLICIES AND DOCUMENTS WERE TAKEN INTO ACCOUNT IN CONSIDERATION OF THE APPLICATION:

Saved Policies of the Darlington Local Plan 1997

- E2 – Development Limits

Darlington Core Strategy Development Plan Document 2011

- CS1 – Darlington’s Sub-Regional Role and Locational Strategy
- CS2 – Achieving High Quality, Sustainable Design
- CS14 – Promoting Local Character and Distinctiveness

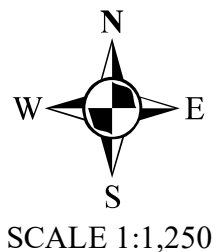
National Planning Policy Framework, 2018



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PLANNING REF. No. 18/00784/CU

DARLINGTON BOROUGH COUNCIL



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DARLINGTON BOROUGH COUNCIL

PLANNING COMMITTEE – 12 DECEMBER 2018

REPORT OF HEAD OF PLANNING DEVELOPMENT AND ENVIRONMENTAL HEALTH TO AN OBJECTION TO TREE PRESERVATION ORDER 2018 NO 6 1 CHURCH CLOSE MIDDLETON ST GEORGE

This application was deferred at the 14th November 2018 Committee Meeting to enable a site visit to take place on Friday 7th December 2018. The report below is identical to the one that Members have already considered at that meeting.

1.0 Purpose of Report

- 1.1 To advise members that an objection has been received in respect of Tree Preservation Order Number 2018 No 6. The objection relates to this order which covers one Semi/mature Pine (Pinus spp) growing in the front garden of 1 Church Close Middleton St George.

2.0 Recommendation

- 2.1 That members confirm the TPO without modification

3.0 Background

- 3.1 Tree Preservation Order 2018 No 6 was made on 9 August 2018 on one Semi/mature Pine Tree in the front garden of 1 Church Lane Middleton St George.
- 3.2 This Tree Preservation Order was made as a result of the occupier of 1 Church Close Middleton St George making an application to fell it. New Orders are only placed on healthy trees that are regarded as having a significant degree of public amenity.
- 3.3 An objection has been received from G Marsh, the owner of 1 Church Close Middleton St George in respect of the order being placed on the Semi/mature Pine Tree in the front garden of their property. No other objections have been received.
- 3.4 T1 is a semi/mature specimen in good form and condition with no visible structural weaknesses. The tree is highly visible and of high amenity value to the area and is also a good example of its species. The
- 3.5 The Tree Preservation Order was based on the following grounds :-

This Tree Preservation Order has been made as the tree included in the Order makes a valuable contribution to the amenity of the area. The tree appears to be healthy and in good condition and is a highly visible feature in the area.

The TPO is appropriate in the general interests of public amenity and in accordance with the Town and Country Planning Act (1990), Town and Country (Trees) Regulations 1999 and the Office of the Deputy Prime Minister's guidance to fulfil a statutory duty.

4.0 Summary of Objector's Comments

- No inspection by a qualified person from the agency wishing to protect the tree, has been made to understand the overall condition of the specimen and its potential for longer term safety (the property is surrounded by high hedging and has a gated access meaning the occupier would need to have been contacted to gain access).
- It would not detract from the overall amenity value of the area to fell this particular tree as:
 - It is oversized in conjunction with the volume of other trees in the locale is far from creating value to a domestic setting.
 - There is already in excess of 31 trees of varying scale within a 35 metre (114ft) radius of this particular tree and my home is situated amongst them all.
 - The canopy of this tree, in conjunction with a very large sycamore located at No 2 Church Close without maintenance, is serving to close off natural light from my dwelling and street light provision.
- This particular specimen is not native of this particular region and thus has a lower amenity value.
- The tree presents a significant encumbrance to health and safety to the premises and its occupants; from its poor ground setting, its overall growth pattern (as per the application to fell), its proximity to the main dwelling (approximately 5 metres/16ft) and its significant debris fall to walkway areas which are not supportive of the elderly resident.

5.0 Conclusion

The Semi/mature Pine Tree, is in good form and condition with no visible structural weaknesses. There appears to be no reason why the tree cannot add to the amenity value of the wider community for many years to come as it matures which justifies its protection.

Dave Coates
Head of Planning Development & Environmental Health



TREE PRESERVATION ORDER (No. 6) ORDER 2018

1 Church Close
 Middleton St. George
 Darlington
 DL2 1DT

Scale 1:1,000
 Date 09/08/2018
 Drawn PB
 Drg. No. TP/2018/6



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Appeal Decision

Site visit made on 29 October 2018

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 November 2018

Appeal Ref: APP/N1350/W/18/3207165

St Clare's Abbey, Carmel Road North, Darlington DL3 8RH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Allan Mitchell of Specialist Coatings Ltd against the decision of Darlington Borough Council.
 - The application Ref 18/00241/FUL, dated 21 March 2018, was refused by notice dated 1 June 2018.
 - The application sought planning permission for Conversion of Nunnery and Chapel into 10 No. dwellings and retention of existing gatehouse as private dwelling with associated internal and external alterations. Demolition of ground floor lean to building, widen existing driveway to create new vehicular access off Carmel Road North, erection of timber stables, creation of parking areas, horse arena, 3G football pitch (for private use) and associated landscaping works (amended description)(amended plans and additional information received 14 September 2017) without complying with a condition attached to planning permission Ref 17/00582/FUL, dated 23 October 2017.
 - The condition in dispute is No 11 which states that: Notwithstanding the details on the approved plans, the gated access on the northern boundary of the site onto Cardinal Gardens shall not be used for vehicular or pedestrian access to and from the site unless otherwise agreed in writing by the Local Planning Authority.
 - The reason given for the condition is: In the interests of residential amenity.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of the development provided on the planning application form has been replaced by an amended version on the decision notice and in subsequent appeal documents. I consider that subsequent description to be usefully more representative of the proposal in that it reflects that the application and subsequent appeal relate to a planning condition. I have proceeded to determine this appeal on that basis.
3. A revised version of the National Planning Policy Framework (the Framework) has been published since the appeal was lodged. Both main parties have had the opportunity to comment on any relevant implications for the appeal. I have had regard to the Framework in reaching my decision.

Main Issue

4. The main issue is whether the condition is reasonable or necessary in the interests of the living conditions of residents of Cardinal Gardens with particular reference to noise, disturbance and security.

Reasons

5. This appeal relates to a scheme involving the conversion of a nunnery and chapel into a number of dwellings. More specifically, the appeal proposal would enable a vehicular access for one of the dwellings within the scheme to be created from the adjacent highway of Cardinal Gardens.
6. I saw that the highway of Cardinal Gardens leads through a predominantly residential area, and includes a cul-de-sac which terminates adjacent to the proposed access. The head of this cul-de-sac has a quiet suburban character, with a number of dwellings which look onto the highway in close proximity to the proposed access.
7. The traffic movements associated with a typical dwelling would be unlikely to significantly affect the living conditions of residents of the cul-de-sac. However, this appeal relates to a development which is of a substantially greater scale than a typical dwelling. The host dwelling includes a significant number of bedrooms as well as stables, a horse arena and a 3G football pitch. The access would not only be used by residents of the dwelling, but would also include visitors as well as servicing and delivery vehicles. The extent and form of traffic and pedestrian movements associated with the proposal would therefore be commensurately greater than a typical dwelling.
8. In this respect, I consider that the sources of noise and disturbance identified by the Council are well-founded; including the engines of vehicles paused at the gates, the gates opening/closing, and noise from people waiting at the access. The comings and goings associated with a dwelling of this scale of use would therefore lead to undue noise and disturbance from vehicles and pedestrians using the access, with resultant harm to the living conditions of residents of the properties at the head of the cul-de-sac.
9. The appellant contends that there would be no dwell time for vehicles as the gates at the entrance would be operated remotely. However, visitors or service vehicles accessing the premises would most likely not have access to the remote operation of the gates, leading to vehicles and pedestrians waiting at the entrance.
10. I am also mindful that the proposed access would be used in association with a residential dwelling. Movements to and from the site are therefore likely to be highest in the evenings and at weekends, when residents of the cul-de-sac should be able to expect a reasonable level of peace and quiet.
11. In respect of the wider extent of Cardinal Gardens, I saw that this provided access to a significant number and variety of properties and was relatively well trafficked. Within that context, the traffic movements associated with the proposal would be unlikely to lead to undue harm to the wider area. However, this does not lead me to a different conclusion in respect to the harm that would arise to the living conditions of residents at the head of the cul-de-sac.

12. I note the comments of the Council's Highways Engineer that the proposal would only be likely to lead to an additional 3 cars at peak hours. However, based on the evidence before me I consider that this does not fully reflect the nature of the comings and goings from the site and the resulting disturbance to residents in this sensitive location.
13. Concern has been expressed in respect of the effect on security in the area as a result of varying the condition. In this regard, the Framework states that crime and disorder, and the fear of crime, should not undermine the quality of life or community cohesion and resilience. However, the proposed entrance would be gated and the evidence provided by the appellant suggests that access would be controlled so that there would be no unsupervised public access to the site. Moreover, no substantive evidence has been provided to me as to why the entrance from Cardinal Gardens would be any less secure than the approved entrance within the application site. On the basis of what I have seen and read, the matter of security does not weigh against this proposal.
14. Notwithstanding my comments in relation to security, I conclude that removing or varying the disputed condition to allow vehicular and pedestrian access from Cardinal Gardens would lead to unacceptable harm to the living conditions of nearby residents as a result of noise and disturbance. The condition therefore complies with saved Policy CS16 of the Darlington Core Strategy 2011 which seeks to ensure that new development does not lead to a detrimental impact on the general amenity of the community. The Condition also complies with the Framework in respect of the use of planning conditions as well as creating places with a high standard of amenity for existing and future users of land and buildings.
15. I am mindful of the wish of the appellant to provide a secure and private access. However, I note that access for the dwelling is proposed as part of the wider development of the site. The benefits identified by the appellant in respect of the access from Cardinal Gardens would not outweigh the harm that would arise to existing residents.
16. For the reasons given above, and taking account of all material planning considerations, I conclude that the disputed condition is reasonable and necessary and that the appeal should be dismissed.

David Cross

INSPECTOR



Appeal Decision

Site visit made on 29 October 2018

by **David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22 November 2018

Appeal Ref: APP/N1350/W/18/3207197

Land at Gate Lane, Low Coniscliffe, Darlington DL2 2NG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Mr Ward against Darlington Borough Council.
 - The application Ref 18/00023/OUT, is dated 10 January 2017.
 - The development proposed is described on the appeal form as "Outline Planning Permission For Residential Development Of Up To 14 Dwellings With All Matters Reserved Apart From Access (Resubmission) (Additional And Amended Information Received 31 May 2018)".
-

Decision

1. The appeal is dismissed and outline planning permission is refused.

Procedural Matters

2. The application was submitted in outline with all matters reserved for future consideration. However, I note that the main parties agreed to include access as a matter to be considered as part of the outline application. I have proceeded to determine this appeal on that basis.
3. The description of the development provided on the planning application form has been replaced by a fuller version on the appeal form and in subsequent appeal documents. I consider that subsequent description to be more accurate and comprehensive and I have therefore used it within this decision.
4. A revised version of the National Planning Policy Framework (the Framework) has been published since the appeal was lodged. Both main parties have had the opportunity to comment on any relevant implications for the appeal. I have had regard to the Framework in reaching my decision.
5. The Council has confirmed that the Low Coniscliffe and Merrybent Parish Neighbourhood Plan Submission Draft 2018 (NP) has been submitted. However, the NP has yet to reach the post-examination stage.

Main Issue

6. The appeal was submitted following the Council's failure to give notice of its decision within the prescribed period. The Council has provided an appeal statement including a recommended reason for refusal which refers to concerns

that the proposal would be contrary to development plan policies and the effect of the development on the character and appearance of the village and the area.

7. Accordingly, I identify that the main issue in this appeal is whether the site would be a suitable location for residential development with regards to local and national planning policy as well as the character and appearance of Low Coniscliffe and the surrounding area.

Reasons

Planning Policy

8. The appellant has questioned the weight which can be given to the policies of the development plan, in respect of the status of the Council's Housing Land Supply (HLS) as well as specific policies due to their age and compliance with the Framework.
9. In respect of HLS, the Council states that it has a substantial supply of deliverable housing land¹. The appellant has questioned the identified supply and in particular whether the sites which contribute to the supply are deliverable. Whilst the onus may be on the Council to provide clear evidence in respect of identified sites, I also note that the appellant has not provided substantive evidence to contradict the Council's evidence in relation to HLS and in particular whether this would fall below a 5 year HLS with or without a buffer. Therefore, based on the evidence before me, I conclude that the Council is in a position to identify a HLS in excess of 5 years. Paragraph 11(d) of the Framework is therefore not triggered in respect of HLS.
10. The appeal site is located outside of the limits of development as defined by the Council's Local Plan 1997 (LP). The appellant has questioned the weight to be given to the development limit, for reasons including the age of the LP and the evidence on which it was based. I also note that the Council has granted planning permissions for suitable residential development beyond development limits in order to ensure a 5 year HLS. Notwithstanding that, development limits remain a valid approach to directing development to suitable locations whilst controlling the outer spread of settlements, even if they have had to be relaxed in some cases. On the basis that I have found that the underlying objectives of the development limit are still valid, it should be given at least moderate weight and is not out of date in respect of this appeal.
11. Policy E2 of the LP sets out the types of development which will be accepted beyond development limits, and refers to small scale development beneficial to the needs of rural communities, including some forms of housing. Rather than representing a blanket restriction on sustainable residential development, I consider that Policy E2 broadly reflects the aims of the Framework, including the approach to the provision of rural housing as well as the assessment of character and appearance. On that basis, I give Policy E2 substantial weight in my consideration of this appeal.
12. With regards to Policy CS1 of the Core Strategy 2011 (CS) the appellant refers to the approach of the policy to meeting identified rural needs. However, this approach is not fundamentally at odds with the policies of the Framework, and the aims of Policy CS1 represent an appropriate locational strategy in that it

¹ Darlington Borough Council, Five Year Housing Land Supply Position Statement, October 2018

directs development to the most sustainable locations. When applied as part of the development plan as a whole, including Policy E2 of the LP, Policy CS1 is part of an appropriate policy approach to assessing development proposals and as such I give it substantial weight.

13. I therefore conclude that due to its location beyond the limits of development as defined by the LP, the proposed development would be contrary to Saved Policy E2 of the LP and Policy CS1 of the CS. These Policies are broadly consistent with the Framework in respect of achieving sustainable development whilst delivering a sufficient supply of homes.
14. The Council's decision also refers to Policy H7 of the LP which relates to the types of residential development which will be permitted outside the development limits. However, this policy does not reflect the Framework in respect of promoting sustainable rural development, and I therefore give Policy H7 limited weight. The proposal would also be located outside of the settlement boundary as shown on the NP Policies Map and would be contrary to Policy LCM 11 of the NP. However, I give the policies of the NP limited weight as it has not yet been through the formal examination stage. The conflicts with Policy H7 of the LP and with the NP are therefore not determinative matters in this appeal.

Character and Appearance

15. The appeal site consists of an open field at the entrance to the village. The site is in a prominent position and is readily visible from the entrance road to the village leading from the A67. Due to this prominent location, the site makes an important contribution to the countryside setting of the village as well as its distinctly separate character from the A67 and built development adjacent to it.
16. Although matters including layout, landscaping and appearance are reserved for future determination, I consider that the residential development of the site would be apparent as the intrusion of built development onto this field, with subsequent harm to the rural setting of the village. The proposed low density of the scheme and the potential to retain or enhance landscaping would not mitigate the harm arising from the encroachment of built development into the countryside setting of the village. The proposal would also be likely to affect the rural character of the field boundary adjacent to the road due to the need to provide access and visibility splays, which would further detract from the green countryside character of the route into the village.
17. The appellant has referred to planning permission granted for residential development on a site on the opposite side of Gate Lane to the appeal site, which is also outside the development limits. However, the Council has confirmed that at the time of determining that proposal it could not demonstrate a 5 years supply of deliverable housing sites. The proposal opposite was therefore assessed under the 'tilted balance' of the previous version of the Framework. In that case, the Council recognised that the proposal would change the character and appearance of the area but it considered that those impacts would not significantly and demonstrably outweigh the benefits. The policy context at the time of that application was therefore materially different to the appeal before me.
18. Nevertheless, I acknowledge that the development on the opposite side of Gate Lane will change the character of the approach to Low Coniscliffe as well as the

countryside around the village. However, this will increase the importance of the contribution of the appeal site to the character and setting of the village. Even with potential landscaping, the residential development on both sides of the road would be apparent, with subsequent visual harm to the green countryside character of the access route to the village and the degree of separation between the village and the A67. Therefore, whilst planning permission may have been granted for residential development on a site on the opposite side of the road, the appeal proposal would lead to undue cumulative visual impact from development at the entrance to the village.

19. I conclude that the proposal would harm the character and appearance of the village and the area, particularly due to the effect on the countryside character of a prominent site at the entrance to the village. The proposal would therefore be contrary to Policy CS2 of the CS which requires development to positively contribute to the character of the local area and its sense of place. The proposal would also be contrary to the Framework in respect of achieving well-designed places as well as conserving and enhancing the natural environment.

Other Matters

20. I am mindful of the benefits of the proposal. The development would add to the supply and mix of housing in the area in support of the Government's objective of significantly boosting the supply of homes. However, given the healthy housing land supply identified by the Council this does not weigh significantly in favour of the proposal. Whilst the development would have good access to services in Darlington, this can be said of many sites in close proximity to the town. Future residents of the dwellings would contribute to the support of services in the area, although given the limited scale of facilities in the village this contribution would be of a commensurately limited effect. The construction of the development would generate economic benefits through employment and other investment, albeit for a limited period of time. I give these benefits limited weight.
21. The appellant has referred to a previous planning application for the appeal site², which was refused for reasons including access and insufficient information on archaeology, ecology and drainage. The appellant emphasises that this previous refusal did not refer to the principle of development or character and appearance. However, this previous decision does not fetter the Council in identifying issues in respect of future applications. Furthermore, I note that the Council states that it did not express acceptance of the principle of residential development when considering this previous proposal. I acknowledge the frustration expressed by the appellant in respect of the scope of the Council's decision on the previous application, but this does not lead me to a different conclusion in respect of this appeal which I have determined on its individual merits.

Conclusion

22. For the reasons given above, and taking account of all material planning considerations, I conclude that the appeal should be dismissed.

David Cross INSPECTOR

² Application ref: 16/00575/OUT

By virtue of paragraph(s) 7 of Part 1 of Schedule 12A of the Local Government Act 1972.

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