

Planning Applications Committee Agenda



**1.30 pm Wednesday, 20 February 2019
Committee Room No. 2, Town Hall,
Darlington. DL1 5QT**

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

1. Introductions/Attendance at Meeting
2. Declarations of Interest
3. To approve the Minutes of the meeting of this Committee held on 23 January 2019 (Pages 1 - 14)
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 15 - 16)
 - (a) Mowden Hall, Staindrop Road, Darlington (Pages 17 - 48)
 - (b) 15 Belvedere Road, Darlington (Pages 49 - 56)
6. Tree Preservation Order No 6 2018 1 Church Close, Middleton St. George – Report of the Head of Planning and Environmental Health (Pages 57 - 64)
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 :-

Dismissed the appeal by Mr D Betteridge against this Authority's decision to refuse permission for demolition of existing garage and erection of detached bungalow, detached single garage and detached single garage for main dwelling at 8 Lazenby Close, DARLINGTON, DL3 9QE (Ref 18/00047/FUL) (copy of Inspector's decision letter enclosed)

RECOMMENDED – That the report be received.
(Pages 65 - 68)

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 6 February 2019 (Exclusion Paragraph No. 7) –
Report of Director of Economic Growth and Neighbourhood Services
(Pages 69 - 76)
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, 12 February 2019

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

This page is intentionally left blank

PLANNING APPLICATIONS COMMITTEE

Wednesday, 23 January 2019

PRESENT – Councillors Baldwin (Chair), Galletley, Heslop, Kelley, Lee, Lister, Lyonette, K Nicholson, Storr, C Taylor, J Taylor and Tostevin

APOLOGIES – Councillors Johnson and Knowles

ABSENT –

ALSO IN ATTENDANCE –

OFFICERS IN ATTENDANCE – Dave Coates (Head of Planning, Development and Environmental Health), Lisa Hutchinson (Principal Planning Officer), Paul Ibbertson (Traffic Manager), Arthur Howson (Engineer (Traffic Management)), Andrew Errington (Lawyer (Planning)) and Shirley Burton (Democratic Manager)

PA55 DECLARATIONS OF INTEREST

Councillor J Taylor declared an interest in Minutes PA57(1) (Ref No. 18/00905/FUL) and PA58 below; addressed the Committee and then left the meeting during the consideration of those items. There were no other declarations of interest reported at the meeting.

PA56 TO APPROVE THE MINUTES OF THE MEETING OF THIS COMMITTEE HELD ON 12 DECEMBER, 2018

Submitted – The Minutes (previously circulated) of the meeting of this Committee held on 12 December 2018.

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

PA57 APPLICATIONS FOR PLANNING PERMISSION AND OTHER CONSENTS UNDER THE TOWN AND COUNTRY PLANNING ACT AND ASSOCIATED LEGISLATION

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.
B4	Notwithstanding any description of the external materials in the submitted application, details of the external materials to be used in the carrying out of this permission (including samples) shall be submitted to, and approved by, the Local

	<p>Planning Authority in writing prior to the commencement of the development and the development shall not be carried out otherwise than in accordance with any such approved details.</p> <p>Reason - In order that the Local Planning Authority may be satisfied as to the details of the development in the interests of the visual amenity of the area.</p>
E2	<p>A landscaping scheme shall be submitted to, and approved in writing by, the Local Planning Authority prior to any works commencing and, upon approval of such schemes, it shall be fully implemented concurrently with the carrying out of the development, or within such extended period as may be agreed in writing by, the Local Planning Authority, and thereafter any trees or shrubs removed, dying, severely damaged or becoming seriously diseased shall be replaced, and the landscaping scheme maintained for a period of five years to the satisfaction of the Local Planning Authority.</p> <p>Reason - To ensure a satisfactory appearance of the site and in the interests of the visual amenities of the area.</p>
E3	<p>The submitted landscaping scheme shall be fully implemented concurrently with the carrying out of the development, or within such extended period which may be agreed in writing by, the Local Planning Authority and thereafter any trees or shrubs removed, dying, severely damaged or becoming seriously diseased shall be replaced, and the landscaping scheme maintained for a period of five years to the satisfaction of the Local Planning Authority.</p> <p>Reason - In the interests of the visual amenities of the area.</p>
CL2	<p>Prior to the commencement of the development and any site investigation works or at a time agreed in writing by the Local Planning Authority a Phase 2 Site Investigation Strategy (Sampling and Analysis Plan) shall be designed and documented by a "suitably competent person(s)" in accordance with published technical guidance (e.g. BS10175 and CLR11) and be submitted to and agreed in writing with the Local Planning Authority, unless the Local Planning Authority dispenses with the requirement specifically and in writing. The Phase 2 Site Investigation Strategy (Sampling and Analysis Plan) shall be sufficient to fully and effectively characterise and evaluate the nature and extent of any potential contamination sources, hazards and impacts. No alterations to the agreed Phase 2 Site Investigation Strategy or associated works shall be carried out without the prior written agreement of the Local Planning Authority.</p> <p>Reason - The site may be contaminated as a result of past or current uses and/or is within 250 metres of a site which has been landfilled and the Local Planning Authority wishes to ensure that the proposed development can be implemented and occupied with adequate regard to environmental and public protection.</p>

CL3	<p>Prior to the commencement of the development or at a time agreed in writing by the Local Planning Authority a Phase 2 Site Investigation works shall be conducted, supervised and documented by a "suitably competent person(s)" and carried out in accordance with the approved Phase 2 Site Investigation Strategy (Sampling and Analysis Plan). A Phase 2 Site Investigation and Risk Assessment Report prepared by a "suitably competent person(s)", in accordance with published technical guidance (e.g. BS10175 and CLR11) and shall be submitted to and agreed in writing with the Local Planning Authority unless the Local Planning Authority dispenses with the requirement specifically and in writing.</p> <p>Reason - The site may be contaminated as a result of past or current uses and/or is within 250 metres of a site which has been landfilled and the Local Planning Authority wishes to ensure that the proposed development can be implemented and occupied with adequate regard to environmental and public protection</p>
CL4	<p>Prior to the commencement of the development or at a time agreed in writing by the Local Planning Authority a Phase 3 Remediation and Verification Strategy shall be prepared by a "suitably competent person(s)" to address all human health and environmental risks associated with contamination identified in the Phase 2 Site Investigation and Risk Assessment. The Remediation and Verification Strategy which shall include an options appraisal and ensure that the site is suitable for its new use, and shall be submitted to and agreed in writing with the Local Planning Authority, unless the Local Planning Authority dispenses with the requirement specifically and in writing. No alterations to the Remediation and Verification Strategy or associated works shall be carried out without the prior written agreement of the Local Planning Authority.</p> <p>The Phase 3 Remediation and Verification works shall be conducted, supervised and documented by a "suitably competent person(s)" and in accordance with the approved Phase 3 Remediation and Verification Strategy.</p> <p>Reason - The site may be contaminated as a result of past or current uses and/or is within 250 metres of a site which has been landfilled and the Local Planning Authority wishes to ensure that the proposed development can be implemented and occupied with adequate regard to environmental and public protection</p>
CL5	<p>Any contamination not considered in the Phase 3 Remediation and Verification Strategy, but identified during subsequent construction/remediation works shall be subject to further risk assessment and remediation proposals agreed in writing with the Local Planning Authority and the development completed in accordance with any further</p>

	<p>agreed amended specification of works.</p> <p>Reason - The site may be contaminated as a result of past or current uses and/or is within 250 metres of a site which has been landfilled and the Local Planning Authority wishes to ensure that the proposed development can be implemented and occupied with adequate regard to environmental and public protection</p>
CL6	<p>A Phase 4 Verification and Completion Report shall be compiled and reported by a "suitably competent person(s)", documenting the purpose, objectives, investigation and risk assessment findings, remediation methodologies and validation results obtained to demonstrate the completeness and effectiveness of all approved remediation works conducted. The Phase 4 Verification and Completion Report shall be submitted and agreed in writing with the Local Planning Authority within 2-months of completion of the development unless the Local Planning Authority dispenses with the requirement specifically and in writing.</p> <p>The development site or agreed phase of development site, shall not be occupied until all of the approved investigation, risk assessment, remediation and verification requirements relevant to the site (or part thereof) have been completed, reported and approved in writing by the Local Planning Authority.</p> <p>Reason - The site may be contaminated as a result of past or current uses and/or is within 250 metres of a site which has been landfilled and the Local Planning Authority wishes to ensure that the proposed development can be implemented and occupied with adequate regard to environmental and public protection</p>
PL	<p>The development hereby permitted shall be carried out in accordance with the approved plan(s) as detailed below, ^N;</p> <p>Reason - To define the consent.</p>

(1) Planning Permission Granted

17/01195/OUT - Field at OSGR E435307 N513463 Yarm Road Middleton St George Darlington. Outline planning application for the erection of up to 330 residential dwellings with associated landscaping and engineering works, 3 retail units and provision of a new single form Primary School.

(In reaching its decision, the Committee took into consideration the Planning Officer's report (previously circulated) and the views of the applicant's agent and the objections of Middleton St George Parish Council, both of whom Members heard). It was reported that the previous holding objection of Highway's England had now been withdrawn.

RESOLVED – (a) That the Director of Economic Growth be authorised to negotiate an agreement under Section 106 of the Town and Country Planning Act 1990 within six months to secure planning obligations that are appropriate for the development

covering:

- i) strategic network improvements;
- ii) gifting of school site to the council for provision of a single form primary school in lieu of a financial education contribution;
- iii) sustainable transport contribution - payment of contribution to be made no later than on the occupation of the 50th dwelling; and
- iv) provision of one bus pass per dwelling for a minimum of two years.

(b) That upon satisfactory completion and signing of that agreement, planning permission be granted subject to the following conditions and reasons:

1. Approval of the following details ('the reserved matters) in respect of the development shall be obtained from the Local Planning Authority in writing before the development is commenced:

- a) layout
- b) scale
- c) appearance
- d) landscaping

The development shall not be carried other than in accordance with the approved plans. Application(s) for the reserved matters for any building/s or phase of development shall be made to the local planning authority before the expiration of eighteen months from the date of this permission.

Reason – To accord with the provisions of Section 92(1) of the Town and Country Planning Act 1990 and to ensure the speedy provision of this site for the approved development.

2. The development hereby permitted shall be begun either before the expiration of;
(a) three years from the date of this permission, or
(b) one year from the date of approval of the last of the reserved matters to be approved; whichever is the later.

3. PL (Accordance with plans)
Y81:1054.06 Revision D Developable areas
Y81.1054.05 Revision D Illustrative masterplan

4. E3 Landscaping (Implementation).

5. The development shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. 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. The scheme shall include:

- (a) the numbers, type, tenure and location on the site of the affordable housing provision to be made, which shall consist of not less than 20% of housing units;
- (b) The timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
- (c) The arrangements for the transfer of the affordable housing to an affordable housing provider [or the management of the affordable housing] (if no RSL involved);
- (d) The arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
- (e) 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.

Reason – To comply with Council Housing Policy

6. The development hereby approved shall not be commenced on site, until a scheme of 'Surface Water Drainage and Management' for the implementation, maintenance and management of the sustainable 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 including design water levels and finished floor levels demonstrating a suitable freeboard;
- 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;
- v. Management plan for the Surface Water Drainage Scheme.

The building hereby approved shall not be brought into use until the approved 'Surface Water Drainage' scheme has been implemented and the approved scheme shall be maintained in accordance with the Surface Water Management scheme for the lifetime of the development.

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.

7. 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 11th December 2017 and the following mitigation measures detailed in the FRA.

- Limiting the surface water run-off generated by the impermeable areas of the development up to and including the 100 year critical storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site. This will be achieved in accordance with section 10.6 and 10.7 stating a post development discharge limit of 224.3l/s (subject to condition below.
- Further, the applicant shall demonstrate that the existing positive drainage network is currently operable. Otherwise, the existing impermeable area shall be considered as greenfield for the pre-development run-off calculations.

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.

8. No dwellings should be occupied until the surface water management system for the development or any phase of the development is in place and fully operational. A maintenance plan detailing how the surface water management system will be maintained during the construction phase must also be submitted and approved in writing by the Local Planning Authority.

Reason – To reduce flood risk and ensure satisfactory long term maintenance for

- the lifetime of the development.
9. 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. Thereafter, the development shall not take place otherwise than in complete accordance with the approved details.
- Reason** – To prevent the increased risk of flooding from any sources in accordance with the NPPF.
10. Prior to the commencement of the development, a Demolition and Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The plans shall include the following:
- (a) Methods for controlling dust from the construction activities on site. These have already been outlined in the Miller Goodall Air Quality Assessment submitted with the application and should be incorporated into the CMP as part of the measures necessary to control dust on the site;
 - (b) Dust Assessment Report which assesses the dust emission magnitude, the sensitivity of the area, risk of impacts and details of the dust control measures to be put in place during the demolition and construction phases of the development. The Dust Assessment Report shall take account of the guidance contained within the Institute of Air Quality Management 'Guidance on the assessment of dust from demolition and construction' February 2014;
 - (c) Methods for controlling noise and vibration during the demolition and construction phase7. which shall take account of the guidance contained within BS5228 'Code of Practice for noise and vibration control on construction and open sites' 2009;
 - (d) Construction Traffic Routes, including parking areas for staff and visitors;
 - (e) Details of wheel washing;
 - (f) Road Maintenance;
 - (g) Warning signage;
 - (h) Details of parking for show homes.
- Reason** – In the interests of highway safety and residential amenity.
11. CL2 Phase 2 Site investigation Strategy
12. CL3 Phase 2 Investigation Works
13. CL4 Phase 3 Remeviation and Verification Strategy
14. CL5 Construction/Remediation Works
15. CL6 Phase 4 Verification and Completion Report
16. For each phase of development, prior to, or at the same time as any reserved matters application, relating to layout, scale, appearance and landscaping, a noise impact assessment and a scheme to protect any noise sensitive receptors from excessive noise, undertaken by a suitably qualified acoustic consultant shall be submitted to and approved in writing by, the Local Planning Authority. The scope of the report, including the relevant noise sources to be considered and noise sensitive receptors shall be agreed in advance with the Local Planning Authority. Any works which form part of a mitigation scheme outlined in the noise impact assessment shall be completed prior to any party of the development being first occupied or used, or within an alternative timescale to be agreed with the Local Planning Authority. This requirement can be dispensed with if it is demonstrated and agreed in writing with the Local Planning Authority that no adverse noise impacts will arise for each phase.
- Reason** – In the interests of residential amenity.
17. Construction and demolition work shall not take place outside the hours of 08:00-

18:00 Monday to Friday, 08:00-13:00 Saturday with no working on a Sunday and Bank/Public Holidays without the prior written permission from the Local Planning Authority.

Reason – In the interests of residential amenity.

18. No development shall be carried out unless and until vehicle swept path analysis has been undertaken to support the movement framework for emergency vehicles, refuse vehicles and buses, for the internal network and, where appropriate, in respect of the off-site highway proposals, details of which shall be submitted to, and approved by the Local Planning Authority.

Reason – In the interests of highway safety.

19. Prior to the commencement of the development, precise details of car parking and secure cycle parking and storage details shall be submitted and approved in writing by the Local Planning Authority. The details shall include the number, location and design of the cycle stands and the development shall not be carried out otherwise than in complete accordance with the approved details.

Reason- In the interests of highway safety.

20. Precise details of the off-site highway works required to access the site and mitigate the development impact shall be submitted to and approved by the Local Planning Authority prior to the commencement of the development. The submitted details shall include dropped kerbs, footways to the development frontage to connect into the surrounding infrastructure, tactile paving, improvements to visibility splays, junctions, roundabout, bus stops traffic calming and signage/road markings. The development shall not be carried out otherwise than in complete accordance with the approved details.

Reason – In the interest of highway safety.

21. A Road Safety Audit shall be carried out for all of the works within the public highways and the scope of the Audit shall be agreed in writing with the Local Planning Authority. The development shall not be carried out unless in complete accordance with the approved Audit.

Reason – In the interest of highway safety.

22. Unless otherwise agreed in writing by the Local Planning Authority, no part of the development shall be occupied until a Travel Plan, to help reduce dependency on the use of the private car has been submitted to and approved in writing by the Local Planning Authority. The Travel Plan should include clear and unambiguous objectives and modal split targets, together with a time-bound programme of implementation, monitoring and regular review and improvement; Thereafter, the development shall not be carried out otherwise than in accordance with the terms of the approved Travel Plan.

Reason - To encourage the reduction of journeys made to and from the development by private motor vehicles by the promotion of more sustainable forms of transport.

23. Prior to the commencement of the development hereby approved, details of pedestrian links within the site to connect to existing surrounding infrastructure, to improve the permeability of the site, shall be submitted to, and approved in writing by, the Local Planning Authority.

Reason – To ensure a satisfactory form of development.

24. No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation that has been approved in writing by the Local Planning Authority. The scheme shall provide for:

- i) Measures to ensure the preservation in situ, or the preservation by record, of

- archaeological features of identified importance;
- ii) Methodologies for the recording and recovery of archaeological remains including artefacts and ecofacts;
- iii) Post-fieldwork methodologies for assessment and analyses;
- iv) Report content and arrangements for dissemination, and publication proposals;
- v) Archive preparation and deposition with recognised repositories;
- vi) A timetable of works in relation to the proposed development, including sufficient notification and allowance of time to ensure that the site work is undertaken and completed in accordance with the strategy;
- vii) Monitoring arrangements, including the notification in writing to the County Durham Principal Archaeologist of the commencement of archaeological works and the opportunity to monitor such works;
- viii) A list of all staff involved in the implementation of the strategy, including sub-contractors and specialists, their responsibilities and qualifications.

The archaeological mitigation strategy shall be carried out in accordance with the approved details and timings.

Reason – To comply with para 197 and 199 of the NPPF because the site is of archaeological interest.

25. Prior to the development being beneficially occupied, a copy of any analysis, reporting, publication or archiving required as part of the mitigation strategy shall be deposited at the County Durham Historic Environment Record.

Reason – To comply with para 199 of the NPPF, which requires the developer to record and advance understanding of the significance of a heritage asset to be lost, and to make this information as widely accessible to the public as possible.

26. Prior to the commencement of the development hereby permitted details of the proposed surface water and foul water drainage scheme shall be submitted to and approved in writing by the Local Planning Authority, in conjunction with Network Rail. Such a scheme shall be designed to ensure that all surface water and foul water drainage from the development area shall be directed away from Network Rail's retained land and structures into suitable drainage systems. Thereafter the development shall be carried out in accordance with the details as approved.

Reason – To ensure the safety, operational needs and integrity of the railway.

27. Notwithstanding any details of the proposed boundary treatment submitted as part of the application, details of trespass proof fence to be built adjacent to Network Rail's boundary, shall be submitted to and approved in writing by the Local Planning Authority, in conjunction with Network Rail, prior to the commencement of development. Thereafter the development shall be carried out in accordance with the details as approved.

Reason – To ensure the safety, operational needs and integrity of the railway.

28. Prior to the commencement of the development hereby permitted details of a scheme to prevent vehicular access from the development northwards underneath the railway structure shall be submitted to, and approved in writing by the Local Planning Authority, in conjunction with Network Rail. Thereafter the development shall be carried out in accordance with the details as approved.

Reason – To ensure the safety, operational needs and integrity of the railway.

29. In the event that external lighting is to be used either during the construction or operational phases of the development, details shall be submitted to and approved in writing by the Local Planning Authority, in conjunction with Network Rail prior to the commencement of development. Thereafter the development shall be carried out in accordance with the details as approved.

Reason – To ensure the safety, operational needs and integrity of the railway.

30. In the event that excavations/piling/buildings are to be located within 10 metres of the railway boundary a method statement shall be submitted to and approved in writing by the Local Planning Authority, in conjunction with Network Rail, prior to any works commencing on site. Thereafter the development shall be carried out in accordance with the details as approved.
Reason – To ensure the safety, operational needs and integrity of the railway.
31. Prior to the commencement of the development hereby permitted, details of the finished floor levels of the dwellings and gardens hereby approved in relation to existing ground levels shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be undertaken in accordance with the details as approved.
Reason – In the interest of visual and residential amenity.
32. The mitigation measures set out in the Ecological Impact Assessment prepared by Naturally Wild (SHA-17-06 September 2018) shall be implemented in full. In addition, no development shall take place until precise details of a landscaping scheme to mitigate for the loss of habitat on the site and for the provision of bat roosting and bird nesting opportunities on the site have been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved scheme shall be implemented in full prior to first occupation of any of the dwellings on site and maintained for the lifetime of the development.
Reason – To comply with Core Strategy Policy CS15 (Protecting and Enhancing Biodiversity and Geodiversity).
33. No tree or hedgerow removal or works to buildings shall take place within the bird breeding season (March to August inclusive) unless a bird nesting survey has first been undertaken and submitted to and approved in writing by the Local Planning Authority.
Reason – In the interest of nesting birds.
34. Prior to the commencement of the development a detailed survey of trees to be affected by the development (both within the site and adjoining its boundary) shall be carried out. The survey shall include the identification of measures to protect existing retained trees in order to protect them from damage by compaction, severance and material spillage, in accordance with BS5837, and shall be submitted to, and approved in writing by, the Local Planning Authority. No demolition or site clearance shall be commenced until the agreed measures are in place and have been inspected by the Council's Arboricultural Officer. The approved measures shall remain in place through the carrying out of this planning permission. Notwithstanding the above approved specification, none of the following activities shall take place within the segregated protection zones in the area of the trees:
- (a) The raising or lowering of levels in relation to existing ground levels;
 - (b) Cutting of roots, digging of trenches or removal of soil;
 - (c) Erection of temporary buildings, roads or carrying out of any engineering operations;
 - (d) Lighting of fires;
 - (e) Driving of vehicles or storage of materials and equipment;
- Reason** – To ensure a maximum level of protection in order to safeguard the well-being of the trees on the site and in the interest of the visual amenities of the area.
35. The retail floorspace shall comprise three self-contained units of 500 square metres gross each, and thereafter no amalgamation to larger units shall take place without the prior written approval of the Local Planning Authority, to whom a planning application must be made.

- Reason** – To ensure that the proposed retail units meet local needs.
36. The retail units hereby approved shall only be used for A1 (Shops), A2 (Financial and professional services) or A3 (Restaurants and Cafes) of the Town and Country Planning (Use Classes) Order 1987 (as amended) and for no other use without the prior written approval of the Local Planning Authority, to whom a planning application must be made.
- Reason** – To ensure that the proposed retail units meet local needs and to allow the Local Planning Authority to retain control over the uses within the site in the interests of residential amenity.
37. The use of the retail units hereby permitted shall not commence until details of the arrangements for the storing of waste or refuse have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the details as approved.
- Reason** – In the interest of residential amenity.
38. No development in connection with the retail units hereby approved shall take place until a Servicing Management Plan, which shall limit the size of service vehicles visiting the site and make and providing for the management of the car parking in connection with service vehicles has been submitted to and approved in writing by the Local Planning Authority. Thereafter all vehicle servicing shall take place in accordance with the approved Servicing Management Plan.
- Reason** – In the interest of highway safety.
39. No external plant, equipment or machinery shall be installed as part of the proposed retail units without the prior written approval of the Local Planning Authority. Where external plant, equipment or machinery is proposed details shall be submitted in writing to the Local Planning Authority prior to its installation and must include the type of plant, equipment or machinery to be installed and the proposed locations, and if deemed necessary by the Local Planning Authority, appropriate noise mitigation measures shall be implemented prior to the plant, equipment or machinery first becoming operational and thereafter shall be retained and maintained for the life of the development.
- Reason** – In the interest of residential amenity.
40. Deliveries to and the collection of waste from the retail units hereby permitted shall only permitted whilst the premises is open and in any event only between the hours of 07.00 and 19.00 Monday to Saturday and 10.00 and 18.00 on Sundays and Bank Holidays.
- Reason** – In the interest of residential amenity.
41. No development shall take place on the western section of the application site (to the west of Middleton Back Road) until the existing industrial/haulage uses have fully ceased operation.
- Reason** – In the interests of residential amenity and highway safety.
42. Prior to the commencement of any development on the western section of the application site (to the west Middleton Back Road) details of the footpath entrance from Chapel Street, including details of the timing of the works to implement the link, shall be submitted to, and approved, by the Local Planning Authority. Thereafter, the development shall be implemented fully in accordance with the approved details.
- Reason** - To achieve satisfactory pedestrian access provision in the interest of connectivity.

(c) That, should the Section 106 Agreement be not completed within six months but, in the Planning Officer's opinion, progress is being made towards completion, it be

delegated to the Planning Officer to extend the six month time limit.

(d) That, should the Section 106 Agreement be not completed within six months (or a further period extended by the Planning Officer under delegated power) and, in the opinion of the Officer, insufficient progress towards completion has been made, then the application be refused 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).

18/00905/FUL - 1 Sussex Way, Darlington. Change of use of open space to private garden and erection of a means of enclosure (as amended by plans received 14.11.18).

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

(NOTE - Councillor J Taylor left the table for the above item and, after speaking against the application, left the room, whilst the application was being discussed).

RESOLVED - That planning permission be granted on receipt of amended plans showing the fence reduced in height from two metres to one metre and subject to the following conditions:

A3 (Standard 3 year time limit)

1. The development hereby permitted shall be carried out in accordance with the approved plans, as detailed below:

- Drg. No. – Page 1 of 5 – Site Plan
- Drg. No. – Page 2 of 5 – Block Plan
- Drg. No. – Page 3 of 5 – Proposed Elevations
- Drg. No. – Page 4 of 5 – Proposed Elevations
- Drg. No. – Page 5 of 5 – Photographs and details of fencing

Reason – To ensure the development is carried out in accordance with the planning permission.

2. E3 (Landscaping scheme to be carried out concurrently with the development).

3. 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 enlargement, improvement or other alteration of the premises, including any additional structures/building within the curtilage of the site, and no fencing, walls or other means of enclosure shall be erected on the site without the prior consent of the Local Planning Authority, to whom a planning application must be made.

Reason – In order that the Local Planning Authority is able to exercise control over future development of the site, in the interest of visual amenity.

(2) Planning Permission Refused

18/01159/CON - Rear of Grendon Gardens and High Stell, Middleton St George. Discharge of condition 9 (submission of Construction Management Plan) of Outline

Planning Permission 15/00976/OUT – Residential Development for 198 dwellings.

(In reaching its decision, the Committee took into consideration the Planning Officer's report (previously circulated) and the views of the applicants agent, one objector and the objections of Middleton St George, all of whom Members heard).

RESOLVED – That planning permission be refused as, in the opinion of the Local Planning Authority, the noise, nuisance and disturbance arising to local residents as a result of the use of a single access to serve the approved development during the construction period and the resultants impact on their residential amenity would be unacceptable.

18/01160/CON - Rear of Grendon Gardens and High Stell, Middleton St George.
Discharge of condition 3 (submission of Construction Management Plan) of Reserved Matters Permission 17/01151/RM1 – Residential Development for 198 dwellings.

(In reaching its decision, the Committee took into consideration the Planning Officer's report (previously circulated) and the views of the applicants agent, one objector and the objections of Middleton St George, all of whom Members heard).

RESOLVED – That planning permission be refused as, in the opinion of the Local Planning Authority, the noise, nuisance and disturbance arising to local residents as a result of the use of a single access to serve the approved development during the construction period and the resultants impact on their residential amenity would be unacceptable.

PA58 TREE PRESERVATION ORDER NO 12 2018 1 SUSSEX WAY

The Director of Economic Growth and Neighbourhood Services submitted a report (previously circulated) advising Members of three objections which had been received to the making of a Tree Preservation Order in relation to one semi mature sycamore (Acer) growing on land to the side of 1 Sussex Way.

It was reported that the tree was in reasonable form and condition and had a high amenity value as it was highly visible from several viewpoints.

The submitted report outlined a summary of the objections which had been received to the making of the Order.

(NOTE - Councillor J Taylor left the table for the above item and, after speaking, left the room, whilst the item was being discussed).

RESOLVED – That the semi mature Sycamore Tree is in a reasonable form and condition with co-dominate stems with a slight inclusion and 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.

PA59 NOTIFICATION OF APPEALS - THE DIRECTOR OF ECONOMIC GROWTH AND NEIGHBOURHOOD SERVICES WILL REPORT THAT :-

(a) Mr J Singh had appealed against this Authority's decision to refuse permission

for change of use of ground floor of dwelling house (Use Class C3) to local convenience store (Use Class A1) with living accommodation above and erection of single storey rear extension to form part of shop and associated internal and external alterations (Revised Scheme) at 201 Greenbank Road, Darlington (Ref No. 18/00672/FUL).

(b) Mr and Mrs R Routledge had appealed against this Authority's decision to refuse planning permission for a residential development comprising of 5 No. dwellings (amended plans and additional information received 9 February 2018 and 16 May 2018) at Land to the Rear of East Green and Manor Court, Heighington (Ref No. 18/00034/FUL).

(c) Mr Saul Charlton had appealed against this Authority's decision to refuse permission for erection of a detached dwelling (additional site investigation and ecological survey received 14 June 2018, additional tree report received 19 June 2018, amended plans received 18 June 2018, further amended floor plans and elevations received 10 August 2018 and amended site plan received 14 September 2018) at Land at 14 Dibdale Road, Neasham (Ref No. 18/00333/FUL).

RESOLVED - That the report be received.

PA60 TO CONSIDER THE EXCLUSION OF THE PUBLIC AND PRESS

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.

PA61 COMPLAINTS RECEIVED AND BEING CONSIDERED UNDER THE COUNCIL'S APPROVED CODE OF PRACTICE AS OF 9 JANUARY 2019 (EXCLUSION PARAGRAPH NO. 7)

Pursuant to Minute PA54/Dec/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 9 January 2019.

RESOLVED – That the report be noted.

BOROUGH OF DARLINGTON

PLANNING APPLICATIONS COMMITTEE

Committee Date – 20 February 2019

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
17	Mowden Hall, Staindrop Road, DARLINGTON	18/00989/FUL
49	15 Belvedere Road, DARLINGTON	19/00002/FUL

This page is intentionally left blank

DARLINGTON BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 20 February 2019

APPLICATION REF. NO:	18/00989/FUL
STATUTORY DECISION DATE:	28 th February 2019
WARD/PARISH:	MOWDEN
LOCATION:	Mowden Hall, Staindrop Road
DESCRIPTION:	Proposed residential development consisting of 30 residential units (Additional Geotechnical Report and Phase 1 Ground Investigation Report received 6 and 11 December 2018; amended and additional plans and information received 17 December 2018, 7 January 2019, 10 January 2019, 11 January 2019, 16 January 2019 and 17 January 2019)
APPLICANT:	Galliford Try Partnership North

APPLICATION AND SITE DESCRIPTION

The application site (approx. 2ha) was formerly occupied by the Department of Education (DfE) prior to their relocation to Bishopsgate House to the rear of the Town Hall. Since the relocation, the large office building on the site has been demolished and a large area of the site has been cleared and hardcored over. The site is accessed from the north east corner off High Green/Staindrop Road and there is a separate pedestrian access to the south east of the site off Mowden Hall Drive. The site is currently owned by Homes England.

The site is located within a predominately residential area. Mowden Hall to the south of the site is a Grade II listed building occupied by Marchbank Free School and the remains of a former garden wall within the site is a curtilage listed building.

There are trees within the site which are covered by a Tree Preservation Order dated 1951. The Council carried out a review of the trees at the Mowden Hall site which were protected by the 1951 Order which resulted in the removal of some trees from the Order and the addition of further trees that were considered worthy of protection. The Order was varied accordingly in March 2012.

The proposal involves the redevelopment of the site for residential purposes comprising 30 dwellings. The dwellings are all two storey properties and the mix is:

- 18 three bedroom dwellings;
- 12 four bedroom dwellings.

The existing vehicular access off High Green/Staindrop Road and the areas of green space either side of the internal road would be retained with the road upgraded to adoptable standards. This would form the only vehicular access to the site. A pedestrian/cycle access would be created off Mowden Hall Drive with a link from the existing highway to the new development running through an area of open space and a SUDs basin in the south east corner of the site.

The proposal does involve the removal of trees within the site along with a new landscaping scheme, which would be maintained by a private management company.

The majority of the site and the rear gardens of the dwellings would be enclosed by 1.8m high close boarded fencing with 1.8m high brick screen walls positioned in locations alongside the internal road system.

The dwellings would be constructed from two varieties of red facing bricks, concrete interlocking roof tiles (slate grey), grey UPVC windows and rainwater goods soffits, fascias and verge boards.

Affordable Housing

The proposed development would not include any affordable units within the site but the applicant has agreed that an offsite financial contribution would be made to provide affordable units elsewhere within the Borough.

Section 106 Agreement

The applicant has agreed to enter into a Section 106 Agreement to secure financial contributions towards the following:

- Offsite affordable housing (£369,000)
- Sustainable Transport (£25,500)
- Sport & Recreation including 10 year maintenance (£8,988)
- An open space management and maintenance plan

Statement of Community Involvement

A “drop in” session for local residents was held in July 2018 at Mowden Junior Primary School and a Statement of Community Involvement has been submitted in support of the planning application. This document sets out the issues raised by local residents (for example, impact on listed building, loss of trees, highway safety matters) and the applicant’s response to these. In terms of layout the main change has been the omission of three storey dwellings within the site. This exercise was carried out in accordance with the Council’s adopted guidance on such matters.

Application documents including Planning Statement, Design and Access statement, plans, consultation responses, representations received and other background papers are available on the DBC website.

Environmental Impact Assessment Requirements

The Local Planning Authority has considered the proposal against the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. The development would not meet the thresholds within the Regulations that require the Local Planning Authority to offer a screening opinion for the proposal.

PLANNING HISTORY

The most relevant entry is:

16/00816/DD In August 2018 the local planning authority considered that the prior approval of the authority was NOT REQUIRED for the demolition of the existing office building

RESULTS OF CONSULTATION AND PUBLICITY

Following the publicity exercises by the Local Planning Authority four objections were received to the original proposal. The comments can be summarised as follows:

- *Whilst we support the scheme, we are very concerned that such a large number of protected trees are to be removed. In particular the Black Pine and Giant Redwood which have enhanced the skyline for many years and now must make way for SUDs and housing*
- *We live at 31 Hallview Grove and behind us the land rises significantly. The proposed development has a row of houses in direct line with our house and garden but at a much greater height and the houses built closest to us are three storey. The new houses will tower above us and we will be very significantly affected by loss of light into the garden and the rear of our property. If the houses were much lower, it would reduce the impact*
- *The land between our gardens (Hall View Grove) and the proposed development would be maintained by a management company but we are not confident how this land will be cared for or used*
- *There are two tall Scots Pine trees situated on the boundary line at the end of Mowden Hall Drive. I strongly object to the proposal of removing these trees as they make a significant natural statement and they are well away from the SUDs basin. The trees are both enjoyed by the local population and birds and animals alike.*
- *The view from the front of our property (No 5 Mowden Hall Drive) is looking directly at a brick wall boundary line and I would like to know what is proposed for this area as this opens into Mowden Hall Drive. I feel the area would still benefit from some form of permanent architectural structure to force people to use the pathway into the estate rather than walk over this area*

Darlington Friends of the Earth also commented on the planning application as follows:

- *Darlington Friends of the Earth welcomes the landscaping proposals including the provision of bird and bat boxes, grassland and wildflower area. The idea of a*

bug hotel being provided is also welcome. Perhaps an area of well drained poor low-nutrient soils for low lying nectar rich planting for our pollinators could be incorporated into the landscape proposals in addition to the wildflower area. The wild flower area is particularly important as a good number of butterflies are recorded around this area including Purple Hairstreak, an oak loving speciality.

- That said FoE are concerned that there is no provision for affordable homes and with the Traffic Assessment findings. This concludes that this development will have no impact on the highway network. Whilst the area enjoys a frequent bus service, (weekdays, circa every 20 mins) the nearest rail station is just over 2.5 miles away. The main roads towards the rail stations and town centre are very busy and not conducive to cycling. It is the nature of this development, 3, 4 and 5 bedroom dwellings that will encourage car usage and will exacerbate existing traffic congestion and degrade air quality further particularly at peak commuter times along the B6279, B6280 and along the A68 in the Cockerton area.*
- Further, FoE are concerned that the application shows the loss of sixteen individual mature trees and seven groups of trees plus a partial loss of another tree group. FoE would therefore like confirmation of the exact number of trees to be removed. I am sure the Council and the Developer is keen to avoid another Blackwell scenario in terms of tree loss here.*
- It could be argued that this development in isolation may have only a small impact on the existing public highway in terms of volume and that it is other new housing and retail developments in the area e.g. at Staindrop, Coniscliffe and West Park, that if they come to fruition, will drive transport and infrastructure interventions to address any gaps. FoE would therefore like the Council to produce traffic modelling for the whole picture rather than site by site development.*
- FoE recognises a need for jobs and housing. Given the small scale of this development and the fact it is seeking to redevelop a largely brownfield site in the borough and the yield of houses is slightly less than originally proposed, FoE supports this development.*

Following the submission of amended plans, two further letters of objection have been received and the comments can be summarised as follows;

- We are the Secretary to the Company that owns the flats at Nos 101 – 179 Staindrop Road and No 1 to 40 High Green. Our objections are based on the vast increase in traffic (30 homes mean at least 60 vehicles and probably at least 150 passes of vehicles on average through our site every day.*
- The amended site plans have outlined part of Noreast Mowden Housing Society land as their own. The land, water, drains are all privately owned. The plans need to be changed*
- The development should consider putting traffic from Mowden Hall Drive*
- No services should be taken by the applicant from the existing supplies of Noreast Mowden Housing Society without obtaining full permission*
- A covenant should be applied to the properties restricting the use of vehicles to and from the dwellings*
- I have major concerns regarding the potentially significant amount of additional traffic that this area cannot simply facilitate. The roads are already congested and the additional homes would only impact on this further. I also have concerns*

that the area is simply unable to facilitate the demand to general local services. It would be nice to see a community area that could be enjoyed by the local residents within the area as an alternative to seeing homes being built all across town

The occupants of No 31 Hall View Grove have withdrawn their original objection to the planning application following the submission of the amended plans. The comments are:

- *The amended plans show that plots 12 and 13 on the original plans, which were three storeys have been replaced by a single two storey Cottingham House type on Plot 12. Although we will still be affected by some loss of light, we appreciate that the amended plan goes some way to addressing our concerns and therefore we are prepared to withdraw our objection*

Consultee Responses

The **Council's Sustainable Transport Officer** has raised no objections to the planning application and has advised that a sustainable transport planning obligation should be sought from the development

Following the submission of a landscaping plan and associated amended plans, the **Council's Ecology Officer** has raised no objections to the proposed development subject to the imposition of appropriate planning conditions to secure the submitted ecological features and improvements

Following the submission of the amended plans, **the Council's Highways Engineer** has raised no objections to the proposed development subject to imposition of appropriate planning condition relating to offsite highway works

The **Council's Senior Arboricultural Officer** has recommended the retention of five trees that are marked for removal to facilitate the erection of a dwelling and the creation of the SUDs basin. These comments will be considered in more detail further in this report. It is recommended that, if the application is approved, all trees to be retained need to be protected by fencing.

The **Council's Historic Assets Officer** has advised that the layout of the proposed scheme could be improved in order to mitigate the impact of the development on the setting of the Grade II listed Mowden Hall. However, if the application was to be approved, a number of conditions relating to repair works to the retained garden wall, the choice of materials and the removal of permitted development rights on the dwellings are recommended. The comments will be considered in more detail further in this report.

The **Council's Environmental Health Officer** has raised no objections and has requested the imposition of planning conditions relating to contaminated land, a Construction Management Plan and hours of construction and deliveries

The **Local Lead Flood Authority** has not objected to the planning applications and have requested the imposition of appropriate planning conditions

Northern Gas Networks has raised no objections to the planning application

Northumbrian Water has raised no objections

Northern Powergrid has raised no objections

PLANNING POLICY BACKGROUND

The relevant local and national development plan policies are:

Borough of Darlington Local Plan 1997

E2 - Development Limits

E3 – Protection of Open Land

E12 -Trees and Development

E14 - Landscaping of Development

T8 - Access to Main Roads

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 CS4 - Developer Contributions

Policy CS10 - New Housing Development

Policy CS11 - Meeting Housing Needs

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 CS19 - Improving Transport Infrastructure and Creating a Sustainable Transport Network

National Planning Policy Framework 2018

Other Documents

Design of New Development Supplementary Planning Document 2011

Supplementary Planning Document on Planning Obligations 2013

Interim Planning Position Statement 2016

PLANNING ISSUES

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

- Planning Policy
- Design and layout and Impact on the Character and Appearance of the Area
- Impact on the Setting of Heritage Assets
- Surface water and flood risk
- Impact on Trees and Landscaping Scheme
- Residential Amenity
- Highway and sustainable transport issues
- Land contamination
- Ecology

- Affordable Housing
- Developer Contributions
- Delivery

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 Council can demonstrate a five year supply of deliverable housing sites and therefore the local development policies that relate to the supply of housing can be considered up to date and carry significant weight in the determination process of the planning application.

Saved Policy E2 of the Local Plan 1997 states that most new development will be located inside development limits. Policy CS1 of the Core Strategy states that new development will be concentrated on sustainable locations within the main urban area, where there is actual or potential good accessibility for everybody.

The application site is located within the development limits as identified by the Proposals Map of the Local Plan.

The site is allocated as Open Land within the Proposals Map accompanying the Borough of Darlington Local Plan. Saved Policy E3 states that in considering proposals to develop any area of open land within the urban area, the Council will seek to maintain the usefulness and enhance the appearance and nature conservation interest of the open land system as a whole. Permission will not be granted for development which inflicts material net harm on the visual relief afforded by the system in built-up areas; the character and appearance of the locality through loss of openness and greenery; facilities for sport and formal recreation; the internal continuity of the system; or areas recognised for their nature conservation or wildlife interest.

The site was previously occupied by a large office building with associated car parking and hard standing areas with very limited areas of greenspace other than on either side of the internal road and the areas with tree planting. The site is currently cleared. Whilst the proposed development will result in the loss of some existing trees, the existing areas of green space would be retained and new areas would be created along with additional tree planting and a SUDs basin. The development would incorporate ecological enhancements within the built fabric of the new dwellings and this privately owned site would become available for public use. It is considered that the proposed development would accord with saved policy E3 of the Local Plan.

Being located within the main urban area of the town, the scheme is considered to constitute sustainable development. As such the principle of residential development on this site is considered acceptable subject to consideration of appropriate national and local planning policies, as set out in the NPPF and the development plan.

Design and Layout and Impact on the Character and Appearance of the Area

Policy CS2 (Achieving High Quality, Sustainable Design) of the Core Strategy includes provision that new development should reflect or enhance Darlington's distinctive nature; create a safe and secure environment; create safe, attractive, functional and integrated outdoor spaces that complement the built form; and relate well to the Borough's green infrastructure network.

The site is within a predominately residential area comprising a mix of detached and semi detached two storey dwellings and bungalows. High Green, to the north of the site, is a group of two storey flatted buildings. The site is somewhat isolated from the wider surrounding area.

The layout utilises the existing vehicular access off High Green/Staindrop Road and a footpath/cycleway via an existing access off Mowden Hall Drive. The existing tree lined avenue along the vehicular access would be retained with the open space retained as amenity space. The dwellings have been positioned to back onto the boundary of the site and the mature tree planting areas that are to be retained. An internal access road would run through the centre of the site and provides the dwellings with an acceptable rear aspect and private amenity space. Each dwelling would have amenity space to the frontages. The dwellings on the western section of the site have been positioned to respect the location and the setting of a former garden wall of Mowden Hall, which is curtilage listed, and the dwellings on the southern boundary have been positioned sympathetically to the setting of Mowden Hall, which is a Grade II listed building, to allow views of this building to be retained wherever possible. The dwellings on the eastern section are orientated to face the open space, SUDs basin and footpath link from Mowden Hall Drive in order to enhance the open feel of this area, to create a sense of place and to provide natural surveillance and create visual connectivity with the existing dwellings on the neighbouring street. This is considered to be an important feature of the overall design and layout of this proposal which contributes to a sense of place. Parking will be provided by a mix of detached and attached garages, integral garages and driveways.

The dwellings are all detached and the proposal has been revised to include 2 storey dwellings. The dwellings would be constructed from a palette of brick types to add some variety to the development, with slate grey roof tiles. The design of the dwellings will include brick soldier window heads and brick sills and some will have brick chimneys, to create visual interest. The doors, windows, soffits and fascias and rainwater goods would be anthracite grey. A detailed landscaping scheme has been submitted in support of the planning application.

The existing gateposts and gatehouse at the site entrance from High Green/Staindrop Road will be demolished. New gateposts will be built designed to match the existing and using facing bricks to match the new houses and re-using existing coping stones. The existing gates and railings on Mowden Hall Drive will be removed and the opening will be bricked up to match existing to create a new footpath cycleway link. The precise details for the new entrance features at both accesses will be secured by a planning condition.

In view of the above considerations, the redevelopment of the site for residential purposes would not harm the character of this existing residential area. The layout of the development and the design of the dwellings proposed would generally accord with the guidance found within the Council's adopted Supplementary Planning Document – Design for New Development (Character Zone 4 – Outer Suburbs) and Policy CS2 of the Core Strategy.

Impact on the Setting of Heritage Assets

Paragraph 192 of the National Planning Policy Framework 2018 (the NPPF) states that in determining planning applications local planning authority should take account of, amongst other matters, the desirability of new development making a positive contribution to local character and distinctiveness.

The NPPF (para 194) states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, (or from development within its setting), should require clear and convincing justification.

NPPF (para 200) continues that 'local planning authorities should look for opportunities for new development ... within the setting of heritage assets to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset should be treated favourably'.

Policy CS14 of the Core Strategy 2011 is also promotes the need to protect, enhance and promote the character and local distinctiveness of the Borough, including listed buildings and their setting.

Mowden Hall is a large, red brick Victorian former house and it is a Grade II listed building. The Hall is located immediately to the south of the application site and it is currently occupied by Marchbank School. A section of garden wall is located in the south west section of the site. This is a remnant of the Hall 19th century walled garden and it is a curtilage listed structure.

The proposed development has the potential to effect the setting of the Hall and the wall and therefore the significance of these heritage assets.

The significance of the Hall derives to a large degree from the illustrative and associative historical value of the 19th century building and its history. Constructed in red brick and terracottas, the Hall is in a distinct Victorian Gothic style, and there is a high degree of aesthetic value in the fabric and architectural detail of the asset. The later uses of the building, including by the Department for Education and currently as Marchbank School, has added greatly to its communal value.

Mowden Hall remains physically a large irregular structure of two storeys, with attic levels, constructed in strong red brick with dressings of moulded brick and terracotta to its exterior elevations. The scale, materials and surfaces of the building contribute vastly to the experience of the designated heritage asset. The curtilage listed garden wall is constructed of red brick in English garden wall bond with a double brick cornice capped with moulded sandstone flags.

The proposed development is to be sited on the former gardens, landscaped grounds and driveway of the Hall. The setting of the Hall has greatly altered and been impacted upon by the previous large office building, its associated hard standing and parking areas and also the existing neighbouring dwellings. The Hall has subsequently gained prominence as a consequence of the office building being demolished and the site clearance. Several key views of the Hall from within the immediate vicinity have been restored and this proposal has been seen as an opportunity to retain views and deliver a high quality and unique scheme within the immediate setting of the listed building.

The Listed Buildings and Conservation Areas Act 1990 contains a statutory duty to pay special attention/regard to the desirability of preserving or enhancing listed buildings and their settings.

The dwellings have incorporated some design features which reference the listed building. These are referenced as projecting single course at mid-level a simple reference to ornate mid-level detail on Mowden Hall, a sloping soffit which references the sharp, angular detailing of the Hall's eaves detail, and window heads comprising a brick soldier course and sloped window sill constructed of bricks to reference the sloping sills of the Hall. The Council's Historic Assets Officer has advised that these design features are acceptable.

Having considered the proposed development, the Council's Historic Assets Officer advised that the layout of the scheme could be improved in order to re-establish and subsequently retain historic views of the Hall that had previously been impeded by the previous large office building. This would result in reducing the overall number of dwellings, the removal or repositioning of any three storey properties, the relocation and reorientation of dwellings and amending the highway layout.

In response to the Historic Assets Officer's concerns regarding the layout of the proposed development, it is considered that the proposed layout will allow for a number of views of the upper sections of the Hall from the open space/SuDs basin at the Mowden Hall Drive entrance and through gaps between the detached dwellings and over single storey garages. The omission of three storey dwellings from the proposal and the diminutive scale of the two storey dwellings in comparison to the imposing scale of the Hall itself will allow views towards the historic entrance of the Hall, the tiled roof, ridge stacks, gable dormers, brick banding and sunflower decoration, large windows of the building which would help to maintain its significance over the development as public pass through the development. The use of detached dwellings rather than semi detached or terraced properties allows for views of the Hall from across the site.

Views of the listed building would be available from a number of points within the site, albeit it predominately of the upper levels of the building, however these views would still enable the historical, architectural and visual significance of the listed building to be acknowledged and appreciated.

The layout has also been designed to have a positive relationship with the open space/SuDs basin to create a frontage onto this area with natural surveillance and to

create a welcoming approach from Mowden Hall Drive. Redesigning this element of the layout to create wider views of the Hall would have a negative impact in general design terms and it is considered that the proposal strikes a balance between good design principles and the setting of the heritage asset.

Whilst the applicant has agreed to replace the only three storey dwelling in the north west corner of the site with a two storey dwelling on both residential amenity grounds and in the interests of safeguarding the setting Hall and the garden wall any further reductions in the overall number of dwellings within the site (which would be required to accord with advice from the Council's Heritage Asset Officer) would have an impact on the viability of the scheme and the ability for the site to be developed.

The retained garden wall would become part of the domestic curtilage of the dwelling on Plot 12. This does not raise any concerns from a heritage perspective, and the developer will need to ensure that potential purchasers are aware of the status of the wall and their future responsibilities and the need for obtaining listed building consent for any alterations, maintenance and repairs.

Following the submission of amended plans and further discussions with officers and the Heritage Asset Officer, the applicant has agreed to the use of anthracite grey UPVC windows, rainwater goods, soffits and verge boards (instead of white) throughout the development, the use of two facing bricks to add some variety to the appearance of the scheme, and the imposition of a planning condition which removes permitted development rights for alterations and extension to the dwellings and for structures within their curtilages.

The palette of materials proposed are similar to a recently constructed housing scheme off Haughton Road, Darlington where new dwellings sit comfortably alongside, and within the setting of, a Grade II listed former engine shed. The use of dark grey frames and rainwater goods will complement the proposed use of red bricks, which also be sympathetic to the Hall.

Whilst the Council's Historic Assets Officer remains of the opinion that the layout of the proposal could be improved to maximise views and the significance of the Hall, it is acknowledged that further amendments could have viability repercussions and that the overall extent of the harm on the setting of the Hall by the new development is less when compared to impact that the previous large office block and associated hard standing areas would have had on the heritage asset.

Overall officers consider that proposed development would cause "less than substantial harm" and in accordance with the NPPF (para 196) there are public benefits to this scheme that would outweigh the less than substantial harm. These public benefits include this previously isolated, private site becoming publicly accessible (resulting in the ability to see the Hall from new viewpoints); the creation of additional open space within the area; the reuse of a vacant site in a residential area; the contribution of the site to the Council's five years supply of deliverable housing sites and the planning obligations towards affordable housing, sport provision and offsite footway improvements.

Surface Water and Flood Risk

Policy CS16 (Protecting Environmental Resources, Human Health and Safety) of the Core Strategy states that new development will be focussed on areas of low flood risk (Flood Zone 1) and it should comply with national planning guidance and statutory environmental quality standards relating to risk from surface water runoff, groundwater and sewer flooding.

Environment Agency flood maps show that the whole site is located within Flood Zone 1. Surface water from the site would be discharged to the existing NWL network in Mowden Hall Drive with restricted flow rates. A SUDS basin will be provided to the east of the site to provide on site attenuation for surface water flows arising from the proposed development and provide an element of treatment for the site. Some porous driveways where possible along with the basin will treat surface water runoff prior to discharge from the site. Foul water flows from the site will discharge to the existing public foul sewer located within Mowden Hall Drive.

The Lead Local Flood Authority and Northumbrian Water raise no objection to the principle of the scheme for the disposal of surface and foul water drainage and the SUDs basin subject to a number of planning conditions to secure precise details of the schemes.

The creation of the basin will require the removal of three protected trees and this will be considered in more detail below.

Impact on Trees and Landscaping Proposals

Policy E12 (Trees and Development) of the Local Plan seeks to ensure that new development takes full account of trees and hedgerows on and adjacent to the development site. The layout and design of the development should wherever possible avoid the need to remove trees and hedgerows and to provide their successful retention and protection during development.

In 2012 a review of the trees protected by the County Borough of Darlington Tree Preservation (No 1) Order 1961 was carried out by the Council which identified that the situation on the ground with regard to the trees protected under the Order had substantially changed. This resulted in the removal of some of the trees from the Order and the addition of further trees to the Order that were considered worthy of protection. The Order was formally varied in March 2012.

This Order covers the whole of the Mowden Hall, including the application site, and also trees within the High Green flatted development.

The Order shows that there are 8 individual trees and 5 groups of trees (containing 55 individual trees) within the application site which are protected.

An Arboricultural Impact Statement submitted with the application states that 16 individual trees and 7 tree groups plus a section of one further group would be removed in order to facilitate the proposed development. This would equate to approximately 85 trees of varying quality, size and diameter being removed. Thirteen of the trees which are highlighted for removal are protected as by the Tree Preservation Order.

The main area of tree loss would be a belt of moderate value trees which stood between an area of car parking and the former office building. This group of trees has a dense understorey of smaller trees with a few individuals with a 350mm diameter. Whilst some of the trees within this area are covered by the Order (eight), the group as a whole is considered to be of moderate value (Category B) and they are not highly visible from outside of the site. The trees in this area would be removed to facilitate the dwellings on Plots 25 to 30.

Three protected trees, a Yew, Redwood and Sycamore, located in close proximity to the Mowden Hall Drive access would be removed to facilitate the creation of the SUDs basin. The Council's Senior Arboricultural Officer has advised that the trees are still worthy of protection and should, ideally, be retained. The SUDs basin has been located in this part of the site as it is the lowest point and as close as possible to the discharge point, which is on Mowden Hall Drive. The Lead Local Flood Authority has advised that it would be very difficult to construct the SUDs basin without removing the three trees or causing damage to the roots, if they were retained or the basin slightly repositioned further north.

Two protected Lime trees in the south west corner of the site are shown as being removed. These trees are identified as being of moderate quality (Class B) and the Council's Arboricultural Officer has also advised that these trees should ideally be retained. The trees are located alongside the former garden wall and their roots could be impacting upon the wall. The trees are highlighted for removal due to their position in relation to the dwelling on Plot 12. There is a concern that the canopies would grow up against the property and contribute to the shading of the garden area.

A few small groups of trees and small individual trees of low value would be removed to facilitate the development due to their location within or close to proposed driveways. Some self set trees along the entrance drive would be removed. The Senior Arboricultural Officer has raised no objection to the removal of these remaining trees which are not highly visible from outside of the site and/or not worthy of protection due to their condition and form.

The trees around the perimeter of the site are largely unaffected by the proposal and would provide good screening of and from the development. Hedging around the perimeter would be retained but reduced and maintained to a suitable height, approximately between 2 and 3 metres.

All the Category A trees (four) within the site would be retained.

A condition requiring that all trees to be retained on site are protected throughout the construction phase is attached. A landscaping plan for the proposed development the planting of new trees throughout the development and within or on the edge of the SUDs basin and open space at the Mowden Hall Drive entrance.

In view of the number of trees on this site it would be difficult to develop the site without the loss of some trees. While the majority of trees to be removed are not protected, the removal of a number of protected trees (13 in total) is required to facilitate the

development. While the removal of protected trees is never ideal in this instance it is considered that, on balance, there are circumstances which would warrant the removal of these trees, including those trees five the Council's Arboricultural Officer has expressed concern about, in order to bring about the benefits arising from the proposed development. These benefits include the provision of an area of open space to be created around the SUDS basin in the south eastern corner of the site, publicly accessible from a new footway/cycleway off Mowden Hall Drive which in turn will allow new public viewpoints of the listed building and the re-use of a vacant site within a residential area.

A comprehensive landscaping scheme is also proposed, which includes tree and shrub planting, hedge planting, species rich grass mix and wildflowers within the development and most notably around the SUDs basin. The species of shrubs and trees has been amended in response to comments made by the Senior Arboricultural Officer and will also include larger containerised species. A condition requiring the implementation of the landscaping scheme concurrently with the development is attached. A landscape management plan and maintenance schedule has been submitted with the application with the open space being transferred to a private management company. The mechanisms of this will be secured by the Section 106 Agreement.

In view of the above considerations it is considered that the proposed development is, on balance, acceptable and that the loss of a number of protected trees can be outweighed by a number of public benefits arising from the proposed development, the securing of a comprehensive landscaping scheme by planning condition and the management and maintenance of the area of open space to be secured by Section 106 Agreement.

Residential Amenity

Policy CS16 (Protecting Environmental Resources, Human Health and Safety) of the Core Strategy seeks to ensure that new developments do not harm the general amenity and health and safety of the local community which echoes one of the core principles of the NPPF (2018) which seeks to create places with a high standard of amenity for existing and future users (para 127). The Council's Design of New Development Supplementary Planning Document (Design SPD) sets out the recommended proximity distances between new and existing dwellings. The proposed dwellings meet the required proximity distances between 2 storey dwellings.

The site sits on higher ground level than the dwellings that bound the site to the north, east and west. At certain parts the existing ground level of the site is 3m to 4m higher but it is well screened by mature trees and hedges that would primarily be retained. The site falls from a high point centrally located on the southern boundary to the east, west and north. It falls steeply along the northern boundary with the lowest point at the north east corner where it is accessed off High Green.

Some regrading of ground levels is proposed to facilitate the proposal. This regrading will both lower and increase the existing ground levels of certain sections of the site, for example, the ground level would increase by approximately 1m on the western and northern boundary before it slopes down to the rear gardens of the existing properties. Despite the proposed regrading works however the new houses would still accord with

the necessary proximity distance requirements when measured from the existing dwellings to prevent unacceptable loss of privacy in terms of overlooking and loss of light and outlook. The existing vegetation and trees along the site boundaries, which will be generally retained, with the neighbouring dwellings will provide a visual screen to the development, although some upper levels of the dwellings may be visible over or through the boundary treatment. The proposed dwellings would not appear overbearing or dominant when viewed from outside of the site.

The proposal has been amended to omit a pair of three storey dwellings in the south west corner of the site. Whilst these properties would have met the proximity distance requirements set out in the Design SPD, the applicant has agreed to substitute these dwellings with one two storey dwelling. As a result an objection from the occupant of the neighbouring dwelling has been withdrawn.

A Construction Management Plan has been submitted with the planning application, which is considered to be acceptable in general amenity terms. Compliance with this plan is to be secured by a planning condition to minimise the impact of the construction phase of the development on surrounding residential properties.

It is not anticipated that there will be any noise issues associated with the operations of Marchbank School. The plant room for the School is within the basement areas and the external space most likely used for play and outside teaching is to the front of the School, the furthest point from the housing development.

The proposed development is considered to be acceptable in residential amenity terms and would accord with Policy CS16 and the NPPF in this regard.

Highways and Sustainable Transport Issues

Policy CS2 (Achieving High Quality Sustainable Design) of the Core Strategy seeks to ensure that new developments provide vehicular access and parking provision that is suitable for its use and location reflecting the standards set out in the Tees Valley Design Guide and Specification.

The site is within 400m walking distance of a bus stop. Frequent service 3 is available on Barnes Road which runs a half hourly service Monday to Saturday and an hourly service on evenings and Sundays. Service 16 is also available running hourly Monday to Saturday, with no evening or Sunday service.

Although the overall scale of this development falls below the threshold for a Transport Statement (TS) one has been submitted in support of this application. The TS concludes that the development would generate a maximum of 16 two-way vehicular movements during the AM/PM peak hours, which equates to one vehicle movement roughly every four minutes. The trip rates used in the calculation are generally in the correct order of magnitude for this type of development. The analysis concluded that the highway network is able to support the additional vehicle movements for the proposed development, so as not to be detrimental to highway safety of road users. As a result, no mitigation measures are required. The development does not result in an unacceptable impact on highway safety or a residual cumulative impact on the road network that is severe.

The previous office use of the site (11,643m² GFA) would have generated a significantly higher rate of vehicle trips. In order to estimate the vehicular trips associated with the previous use, the TRICS database was used which can be summarised as follows: the AM peak (08:00 -09:00) would generate 185 trips, with the PM peak (17:00-18:00) generating 174 trips. This demonstrates that the proposed residential development will generate roughly 10% of the vehicular traffic associated with the previous office block (It is acknowledged that the majority of traffic generation from the office development would have been during office hours rather than on an evening)

An accident study has also been provided as part of the assessment which shows that there are no road safety concerns with regard to accident history in the immediate vicinity of this proposal. An updated check of Police accident statistics confirms that no collisions have been recorded on the surrounding roads within the last 5 years.

For vehicle access it is proposed to make use of the existing internal private access road directly off High Green/Staindrop Road and it has been demonstrated that the existing road has suitable geometry to serve the magnitude of development.

The Council's Highways Engineer has advised that satisfactory details of the internal road layout have been submitted including a widened 2.0m footway along the existing site access road.

In order for the proposed development to be adopted under a Section 38 agreement the private access road will also need to become adopted highway, as adopted highway (ie the new estate) cannot be accessed via a private road. As the construction makeup of the road is not known at this stage it will be necessary to demonstrate to the Highway Authority's satisfaction that the road is of sufficient robustness to have appropriate longevity to serve the development and not become a future maintenance liability. Given the age of the road it is likely to be well into its expected design life; as such it should be expected that partial or full reconstruction would be needed in order for the road to be considered adoptable. Carriageway drainage will also be required to conform to modern design standards along with a street lighting design and a 2.0m footway on at least one side (which has been shown on the amended plans). The access road will also carry all construction traffic during the build phase; this is highly likely to have a detrimental impact on its condition, therefore reconstruction may be needed afterwards.

The carriageway of High Green is adopted highway, but the adjacent footway is privately owned and as such cannot be considered a guaranteed means of pedestrian access from this part of the site. Whilst pedestrians may still use the High Green entrance (and historically Mowden Hall office workers would have done so) an alternative means of pedestrian and cycle access has been made via Mowden Hall Drive connecting the development to existing footway infrastructure. Minor improvement works are required at the turning head to form a complete footway link into the new residential development, as a small section of new footway with dropped crossings and tactile paving can be done as part of a Section 278 agreement.

Discussions between the applicant and the Highways Authority are ongoing regarding the extent of Section 38 and 278 works required.

Turning facilities at the end of the internal highways are of sufficient size to accommodate refuse and servicing vehicles. Swept path analysis has also demonstrated that the internal network will operate satisfactorily for the expected vehicles entering the housing estate and that the minor junction improvements works at the site access are able to accommodate the largest expected servicing and delivery vehicles, this include an 11.2m long refuse vehicle. Car parking across the site generally accords with the Tees Valley Design Guidance for the type and size of dwellings proposed.

The Construction Management Plan confirms that construction traffic will access and egress the site by the High Green/Staindrop Road access and not from Mowden Hall Drive. This is considered to be acceptable in highway safety terms and compliance would be secured by a planning condition.

A sustainable transport contribution of £25,500 has been agreed, to be secured by Section 106 Agreement, for improvements to pedestrian facilities on Staindrop Road.

The proposed development is in a sustainable location, would not give rise to any unacceptable impact on the local highway network and would accord with Policy CS2 of the Core Strategy.

Land contamination

The planning application has been supported by a number of Ground Investigation reports and assessments which have been considered by the Environmental Health Officer. The Environmental Health Officer has requested the imposition of a number of planning conditions to ensure a means of control over the works. Whilst the information submitted covers some of the requirements of the conditions, the conditions are still necessary as gas monitoring of the site is ongoing and there may be further remediation works required depending on the findings of these investigations.

Ecology

Policy CS15 (Protecting and Enhancing Biodiversity and Geodiversity) of the Core Strategy states that the protection, restoration, extension and management of the Borough's biodiversity and geological network will be delivered to help achieve the target level of priority habitats and species set out in the UK and Durham Biodiversity Action Plans by measures including by ensuring 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, including public and private spaces and landscaping.

The site comprises amenity grassland, plantation woodland, bare ground, areas of hard standing and trees. The site does not benefit from any wildlife designations and there are no statutory designated sites within 1km of the site boundaries.

The Ecological Assessment submitted with the application confirms that there are no desk top records of great crested newts, common toad, common frog, smooth newt,

reptiles, badgers but the trees on site have value for nesting birds. Whilst there are desktop records of water vole, otter and bats in the wider area there are no records within the site boundary. A daytime assessment of the site concluded that the trees on site have a negligible potential to support roosting bats as they lacked potential roosting features.

The Ecological Assessment concludes that appropriate tree protection measures will be required throughout the site; there are no protected plant species within the site boundary; there are no suitable waterbodies within 500m of the site to support breeding amphibians and the site does not provide suitable habitats for such species; the site does not provide suitable habitats for reptiles. The site does offer suitable habitat for badger setts and a possible disused badger sett has been identified on site but there was no further evidence of badgers recorded on site. There are some areas of shrub and trees that may provide nesting opportunities for birds but there are no suitable habitats for otter or water voles. The site is considered to have features of moderate value for commuting and foraging bats to the south and there is a higher value to the north. Recent surveys on the site concluded that the trees on the site are all considered to be of low value to roosting bats.

The Assessment makes recommendations, including:

- The use of protective fencing around trees to create Construction Exclusion Zones;
- All vegetation clearance and demolition of buildings avoids bird nesting season (March to August) otherwise nesting bird checks need carried out by an experienced ecologist;
- Several trees identified as having value for roosting bats are not due to be impacted by the development. Any trees to be removed, which have a low value for bats must undergo a soft fell under supervision to ensure no bats are affected;
- A pre-commencement check for badgers will be required;
- The installation do bird boxes and bat boxes in the development;
- The use of a “bug hotel” mounted on a wall or tree in the vicinity of new of existing shrub planting

A plan has been submitted to show the location of 8 bat boxes/bricks and 7 bird boxes, all integrally provided in the buildings, and the bug hotel.

Subject to a planning condition to secure the recommendations of the Ecology Assessment, the landscaping scheme and the ecological mitigation measures the Council’s Ecology Officer raises no objections to the proposed development.

Affordable Housing

Under the provisions of CS4 of the Core Strategy and the Planning Obligations Supplementary Planning Document (SPD), 20% of the overall development should include affordable units. Following discussions with the applicant, it has been acknowledged that in this location, having affordable housing on site may not be deliverable and achievable without impacting on the viability of the scheme and the need for affordable units in this area is not particularly high. As a result, the applicant

has agreed to make an offsite contribution, based on the formula with the SPD, which would equate to £369,000. This would contribute towards the provision and/or improvement of affordable housing elsewhere within the Borough. This contribution would be secured by the Section 106 Agreement.

Developer Contributions

Where a relevant determination is made which results in planning permission being granted for development, a planning obligation may only constitute a reason for granting planning permission for the development if the obligation is:

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development.

The Heads of Terms that have been agreed with the applicant are:

- Offsite affordable housing (£369,000)
- Sustainable Transport (£25,500). This contribution would be to improve pedestrian facilities on Staindrop Road, in the vicinity of the site
- Sport & Recreation including 10 year maintenance (£8,988). This contribution would be towards improving and maintaining the new sport pitches on Staindrop Road
- An open space management and maintenance plan

Overall, it is considered that these proposals meet the tests set out above, are necessary, directly related to the development, and fairly and reasonably related in scale and kind to the development.

Delivery

To ensure the Council maintains a five-year supply of housing land and to progress to the delivery of dwellings within a short time frame, a condition is recommended which sets a short time scale for the implementation of the application. A period of 18 months is considered appropriate.

Other Matters

In response to the comments from the Management Company for the flatted development to the north which queried the extent of the red line boundary of the planning application site and land and services ownership, the appropriate plans have been amended so that the red line boundary does not extend onto the public highway.

Comments have been submitted on behalf of Marchbank School seeking clarification as to how the proposed development will impact upon their utility services, drainage etc. These comments have been responded to directly by the applicant and have been satisfactorily resolved.

Should permission be granted, the applicant would seek to commence with S278 and S38 highway works within and outside the site (High Green) as early as possible and prior to the need to submit information to discharge any planning conditions. As a result, a number of the planning conditions that would normally require the submission of

contaminated land drainage details prior to the commencement of the development have been reworded, with the agreement of the appropriate Officers and statutory undertakers.

SECTION 17 OF THE CRIME AND DISORDER ACT 1998

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

CONCLUSION

The application site lies within the development limits for the urban area and in a sustainable location. The layout of the scheme has been amended to ensure that the amenities of existing dwellings are not adversely affected and the proposal raises no highway safety concerns. Ecological enhancements have been secured and the landscaping of the site, which includes tree planting is acceptable and suitable for this location.

The layout and design of the dwellings within the proposed development are acceptable and would accord with the Council's general design guidance.

The comments from the Senior Arboricultural Officer has been considered. Whilst trees, including protected trees, will be felled to facilitate the development, such works have been kept to a minimum and whilst the need to remove any tree is unfortunate it is considered that there are exceptional mitigating circumstances to justify the works and this site would be difficult to develop without impacting on the existing trees. A landscaping scheme for the site does include replacement planting of appropriate tree species which, over time, will mitigate the losses.

The comments from the Historic Assets Officer on the impact of the development upon the setting of the listed Mowden Hall and former garden wall, which is to be integrated in the site, has been considered along with other good design practices and viability concerns. It is considered that whilst there will be some impact it is less than substantial harm and there are public benefits to this development that would outweigh the harm.

When all material planning considerations have been taken into account the new dwellings and the layout of the scheme is acceptable and a recommendation to approve can be made in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, local development plan policies and the NPPF 2018.

RECOMMENDATION

THE DIRECTOR OF ECONOMIC GROWTH BE AUTHORISED TO NEGOTIATE AN AGREEMENT UNDER SECTION 106 OF THE TOWN AND COUNTRY PLANNING ACT 1990 WITHIN SIX MONTHS TO SECURE PLANNING OBLIGATIONS THAT ARE APPROPRIATE FOR THE DEVELOPMENT COVERING:

- Offsite affordable housing (£369,000)

- Sustainable transport contribution to improve pedestrian facilities on Staindrop Road, in the vicinity of the site (£25,500)
- Sport & Recreation including 10 year maintenance contribution for improving and maintaining the new sport pitches on Staindrop Road (£8,988)
- An open space management and maintenance plan

AND THE FOLLOWING PLANNING CONDITIONS:

General

1. The development hereby permitted shall be commenced not later than 18 months from the date of this permission
REASON; In the interests of achieving an improved rate of housing delivery in the Borough

Materials

2. The development hereby approved shall not be carried out otherwise than in complete accordance with the document entitled External Finishes Schedule – Document Number E037-GTPN-XX-XX-SC-W-XX-001 and Drawing Number MHD-519-ZZ-XX-D-A-9009 Rev P1 “Proposed Brick Finishes Plan” unless otherwise agreed in writing by the Local Planning Authority.
REASON: In the interests of visual appearance of the development and to safeguard the setting of the Grade II Listed Building (Mowden Hall)

Enclosures

3. No dwellings hereby approved shall be erected above damp proof course until precise details of the new enclosures at Mowden Hall Drive and High Green entrances shall be submitted to and approved, in writing, by the local planning authority. The details shall include the design, location and choice of materials for the new enclosures and the development shall not be carried out otherwise than in complete accordance with the approved details.

REASON: In the interests of the visual appearance of the development and the surrounding area

Flood Risk and Drainage

4. The development hereby approved shall not commence on site other than those works shown Drawing Number P17-542-3E-00-XX-DR-C-0003- Rev P1 Section 38 & 278 “Enabling Works Extents” 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 CS16 and the National Planning Policy Framework

- 5. The development permitted by this planning permission shall only be carried out in accordance with the document entitled “Mowden Hall, Darlington. Flood Risk and Drainage Impact Assessment for Galliford Try Partnership North” produced by F Benrley-Gold and dated December 2018 and the following mitigation measures detailed within the FRA
 - a) Attenuate runoff to the greenfield runoff rate of 5l/s
 - b) Discharge location to be NWL surface water sewer

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 buildings hereby approved shall not be brought into use until:-
 - 1) 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;
 - 2) 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.

Trees

7. The development hereby approved shall not be carried out otherwise than in complete accordance with the document entitled “Arboricultural Method Statement (Version 3)” dated January 2019 and produced by The Environment Partnership unless otherwise agreed in writing by the Local Planning Authority

REASON: In the interests of the visual appearance of the development and surrounding area

8. The development hereby approved shall not be carried out otherwise than in complete accordance with the document entitled “Arboricultural Impact Assessment (Version 3)” dated January 2019 and produced by The Environment Partnership unless otherwise agreed in writing by the Local Planning Authority

REASON: In the interests of the visual appearance of the development and surrounding area

Amenity

9. The development hereby approved shall not be carried out otherwise than in complete accordance with the document entitled “Mowden Hall, Darlington, Site Management Methodology” dated December 2018 and produced by Galliford Try Partnerships and Drawing Number SITE SETUP—01 Site Set Up and Traffic Management Plan unless otherwise agreed in writing by the Local Planning Authority

REASON: In the interests of the residential amenity and highway safety.

10. Notwithstanding the information in the Site Management Methodology document by Galliford Try dated December 2018, construction work, including the use of plant and machinery (including generators) as well as deliveries to and the removal of material from the site, shall not take place outside the hours of 08.00 - 18.00 Monday - Friday, 08.00 -14.00 Saturday with no working on a Sunday and Bank/Public Holidays without the prior written approval from the Local Planning Authority.

REASON: In the interests of residential amenity

Highways

11. No dwellings hereby approved shall be erected above damp proof course level until precise details of the works within the public highway on High Green and Mowden Hall Drive have been submitted to and approved in writing by the Local Planning Authority. The details shall include dropped kerbs, footways, tactile paving, and additional signage and road markings. The development shall not be

carried out otherwise than in accordance with the approved details unless agreed in writing by the Local Planning Authority

REASON: In the interests of highway safety

Landscape and Ecology

12. The submitted landscaping scheme, as shown on Drawing Number N771-ONE-ZZ-XX-DR-L-0201 Rev PO7 shall be fully implemented concurrently with the carrying out of the development, or within such extended period which may be agreed in writing by, the Local Planning Authority and thereafter any trees or shrubs removed, dying, severely damaged or becoming seriously diseased shall be replaced, and the landscaping scheme maintained for a period of five years to the satisfaction of the Local Planning Authority.

REASON - In the interests of the visual amenities of the area.

13. The development hereby approved shall not be carried out otherwise than in complete accordance with the details contained within the document "Mowden. Landscape Management Plan" produced by One Environments Limited dated October 2018 unless otherwise agreed in writing by the Local Planning Authority

REASON: In the interests of the visual appearance and enhancing the ecological nature of the site and the surrounding area

14. The development shall not be carried out otherwise than in complete accordance with the recommendations contained within the document entitled "Mowden Hall. Darlington. Ecological Assessment" produced by the Environment Partnership dated July 2018 unless otherwise agreed in writing by the Local Planning Authority

REASON: In the interest of enhancing the ecological nature of the development

15. The development hereby approved shall not be carried out otherwise than in complete accordance with the ecological mitigation measures (location of bird and bat boxes) shown on Drawing Number MHD-519-ZZ-XX-D-A-9001 Rev P18 "Site Plan as Proposed" unless otherwise agreed in writing by the Local Planning Authority. Thereafter the bird and bat boxes as approved shall be maintained on site for the lifetime of the development.

REASON: In the interest of enhancing the ecological nature of the development

Heritage Asset Matters

16. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-

enacting that Order), no development within Schedule 2, Part 1, Classes A, B, D, E, G, H of that Order shall be carried out without the prior consent of the Local Planning Authority, to whom a planning application must be made.

REASON - In order to safeguard the significance of Mowden Hall which is a Grade II listed building

Contaminated Land

17. The development hereby approved shall not commence on site other than those works shown Drawing Number P17-542-3E-00-XX-DR-C-0003- Rev P1 Section 38 & 278 "Enabling Works Extents" until a Phase 2 Site Investigation works has been conducted, supervised and documented by a "suitably competent person(s)". A Phase 2 Site Investigation and Risk Assessment Report prepared by a "suitably competent person(s)", in accordance with published technical guidance (e.g. BS10175 and CLR11) and shall be submitted to and agreed in writing with the Local Planning Authority unless the Local Planning Authority dispenses with the requirement specifically and in writing.

REASON - The site may be contaminated as a result of past or current uses and/or is within 250 metres of a site which has been landfilled. To ensure that risks from land contamination to the future uses of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out without unacceptable risks to receptors, in accordance with the National Planning Policy Framework.

18. The development hereby approved shall not commence on site other than those works shown Drawing Number P17-542-3E-00-XX-DR-C-0003- Rev P1 Section 38 & 278 "Enabling Works Extents" until a Phase 3 Remediation and Verification Strategy has been prepared by a "suitably competent person(s)" to address all human health and environmental risks associated with contamination identified in the Phase 2 Site Investigation and Risk Assessment. The Remediation and Verification Strategy which shall include an options appraisal and ensure that the site is suitable for its new use and no unacceptable risks remain, shall be submitted to and agreed in writing with the Local Planning Authority, unless the Local Planning Authority dispenses with the requirement specifically and in writing.

REASON - The site may be contaminated as a result of past or current uses and/or is within 250 metres of a site which has been landfilled. To ensure that risks from land contamination to the future uses of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out without unacceptable risks to receptors, in accordance with the National Planning Policy Framework.

19. Any contamination not considered in the Phase 3 Remediation and Verification Strategy, but identified during subsequent construction/remediation works shall be reported in writing within a reasonable timescale to the Local Planning

Authority. The contamination shall be subject to further risk assessment and remediation proposals agreed in writing with the Local Planning Authority and the development completed in accordance with any further agreed amended specification of works.

REASON - The site may be contaminated as a result of past or current uses and/or is within 250 metres of a site which has been landfilled. To ensure that risks from land contamination to the future uses of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out without unacceptable risks to receptors, in accordance with the National Planning Policy Framework.

20. The Phase 3 Remediation and Verification works shall be conducted, supervised and documented by a "suitably competent person(s)" and in accordance with the agreed Phase 3 Remediation and Verification Strategy. No alterations to the agreed Remediation and Verification Strategy or associated works shall be carried out without the prior written agreement of the Local Planning Authority. A Phase 4 Verification and Completion Report shall be compiled and reported by a "suitably competent person(s)", documenting the purpose, objectives, investigation and risk assessment findings, remediation methodologies, validation results and post remediation monitoring carried out to demonstrate the completeness and effectiveness of all agreed remediation works conducted. The Phase 4 Verification and Completion Report shall be submitted and agreed in writing with the Local Planning Authority within 2-months of completion of the development or at a time agreed unless the Local Planning Authority dispenses with the requirement specifically and in writing.

The development site or agreed phase of development site, shall not be occupied until all of the approved investigation, risk assessment, remediation and verification requirements relevant to the site (or part thereof) have been completed, reported and approved in writing by the Local Planning Authority.

REASON - The site may be contaminated as a result of past or current uses and/or is within 250 metres of a site which has been landfilled. To ensure that risks from land contamination to the future uses of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out without unacceptable risks to receptors, in accordance with the National Planning Policy Framework.

21. The development hereby permitted shall be carried out in accordance with the approved plans, as detailed below:

- a. Drawing Number N771-ONE-ZZ-XX-DR-L-0201 Rev PO7 Landscape Proposals
- b. Drawing Number MHD-519-HT7-XX-DR-A-2001 Rev P2 Proposed House Type Cottingham

- c. Drawing Number MHD-519-HT4-XX-DR-A-2001 Rev P6 Proposed House Type Mountford
- d. Drawing Number MHD-519-HT3-XX-DR-A 2001 Rev P7 Proposed House Type 1001
- e. Drawing Number MHD-519-HT1-XX-DR-A 2001 Rev P5 Proposed House Type 304
- f. Drawing Number MHD-519-HT5-XX-DR-A 2001 Rev P6 Proposed House Type Goodridge
- g. Drawing Number MHD-519-HT6-XX-DR-A-2001 Rev P6 Proposed House Type Mylne
- h. Drawing Number P17-542-3E-00-XX-DR-C-2000 - Rev P1 Proposed Levels Sheet 1 of 2
- i. Drawing Number P17-542-3E-00-XX-DR-C-2001- Rev P2 Proposed Levels Sheet 2 of 2
- j. Drawing Number D7167.001 Tree Constraints Plan Existing
- k. Drawing Number SITE SETUP—01 Site Set Up and Traffic Management Plan
- l. Drawing Number P17-524-3E-00-XX-DR-C-1000 Rev P2 Proposed Drainage Layout
- m. Drawing Number MHD- A519-ZZ-XX-D-A9002 Rev P5 Site Plan Proposed Tree Removal
- n. Drawing Number MHD-519-ZZ-XX-D-A 9004 Rev P5 Proposed Boundary Treatment
- o. Drawing Number MHD-519-ZZ-XX-D-A-9006 Rev P5 Site Sections as Proposed
- p. Drawing Number MHD-519-ZZ-XX-D-A-9001 Rev P18 Site Plan as Proposed
- q. Drawing Number P17-542-3E-00-XX-DR-C-0001 Rev P1 Flood Flow Routes Plan
- r. Drawing Number P17-542-3E-00-XX-DR-C-0002 Rev P1 Drainage Maintenance Plan
- s. Drawing Number MHD-519-ZZ-XX-D-A-9003 Rev P2 Site Location Plan
- t. Drawing Number MHD-519-ZZ-XX-D-A- 9009 Rev P1 Proposed Brick Finishes
- u. Drawing Number MHD-519-ZZ-XX-D-A-9010 Management Company Site Layout
- v. Drawing Number P17-542-3E-00-XX-DR-C-0003- Rev P1 Section 38 & 278 Enabling Works Extents

REASON – To ensure the development is carried out in accordance with the planning permission.

SHOULD THE 106 AGREEMENT NOT BE COMPLETED WITHIN THE PRESCRIBED PERIOD WITHOUT THE WRITTEN CONSENT OF THE COUNCIL TO EXTEND THIS TIME (THE DECISION AS TO WHETHER OR NOT TIME IS TO BE EXTENDED IS DELEGATED TO OFFICERS), THE PERMISSION SHALL BE REFUSED WITHOUT ANY FURTHER REFERENCE TO THE PLANNING COMMITTEE 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). THE REASON TO REFUSE THE PLANNING APPLICATION WOULD BE AS FOLLOWS:

The proposed development would be contrary to policy CS4 (Developer Contributions) of the Darlington Core Strategy Development Plan Document 2011 as adequate provision has not been made for affordable housing, improving and enhancing walking routes in the vicinity of the application site; and sports provision and improvements in the vicinity of the site in order to mitigate the impact of the proposed development.

INFORMATIVES

Listed Building

- The applicant is advised that any alterations, repairs and maintenance works to the former garden wall, which is a curtilage listed structure, and located adjacent to the dwelling on Plot 12 may require listed building consent. Contact must be made with the local planning authority to discuss such works.

Highways

- Prior to the commencement of the development, the Contractor should contact Assistant Director: Highways, Design and Projects (contact Mr Steve Pryke 01325 406664) to discuss the requirements of a road condition survey covering the existing adopted highway on High Green to ensure no further damage is caused to the highway as a result of the construction of the development.
- The Developer is required to submit detailed drawings of the proposed internal highway and offsite 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 Steve Pryke 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 highways and any proposed amendments to the existing lighting 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 applicant is advised that contact be made with the Assistant Director: Highways, Design and Engineering (contact Mr C Easby 01325 406707) to discuss the introduction of Traffic regulation Orders in connection to a 20mph zone and revised road markings on Staindrop Road.

Environmental Health

- Due to the size and scale of the development it maybe, that instead of a Phase 1 Preliminary Risk Assessment the completion of the Screening Assessment contained within the YALPAG "Development of Land Affected by Contamination" Technical Guidance for Developers, Landowners and Consultants may suffice to meet the requirements of the land contamination planning condition. Please contact the Council's Environmental Health Section for further advice.
- The YALPAG Technical Guidance for Developers, Landowners and Consultants on Development of Land Affected by Contamination, Verification Requirements for Gas Protection Systems and Verification Requirements for Cover Systems provides further advice and information to assist in complying with the requirements of the land contamination planning conditions. The guidance can be found on the Council's website at the following link:

<http://www.darlington.gov.uk/contlandplanningguidance>

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

Borough of Darlington Local Plan 1997

E2 - Development Limits
E3 – Protection of Open Land
E12 -Trees and Development
E14 - Landscaping of Development
T8 - Access to Main Roads

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 CS4 - Developer Contributions
Policy CS10 - New Housing Development
Policy CS11 - Meeting Housing Needs
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 CS19 - Improving Transport Infrastructure and Creating a Sustainable Transport Network

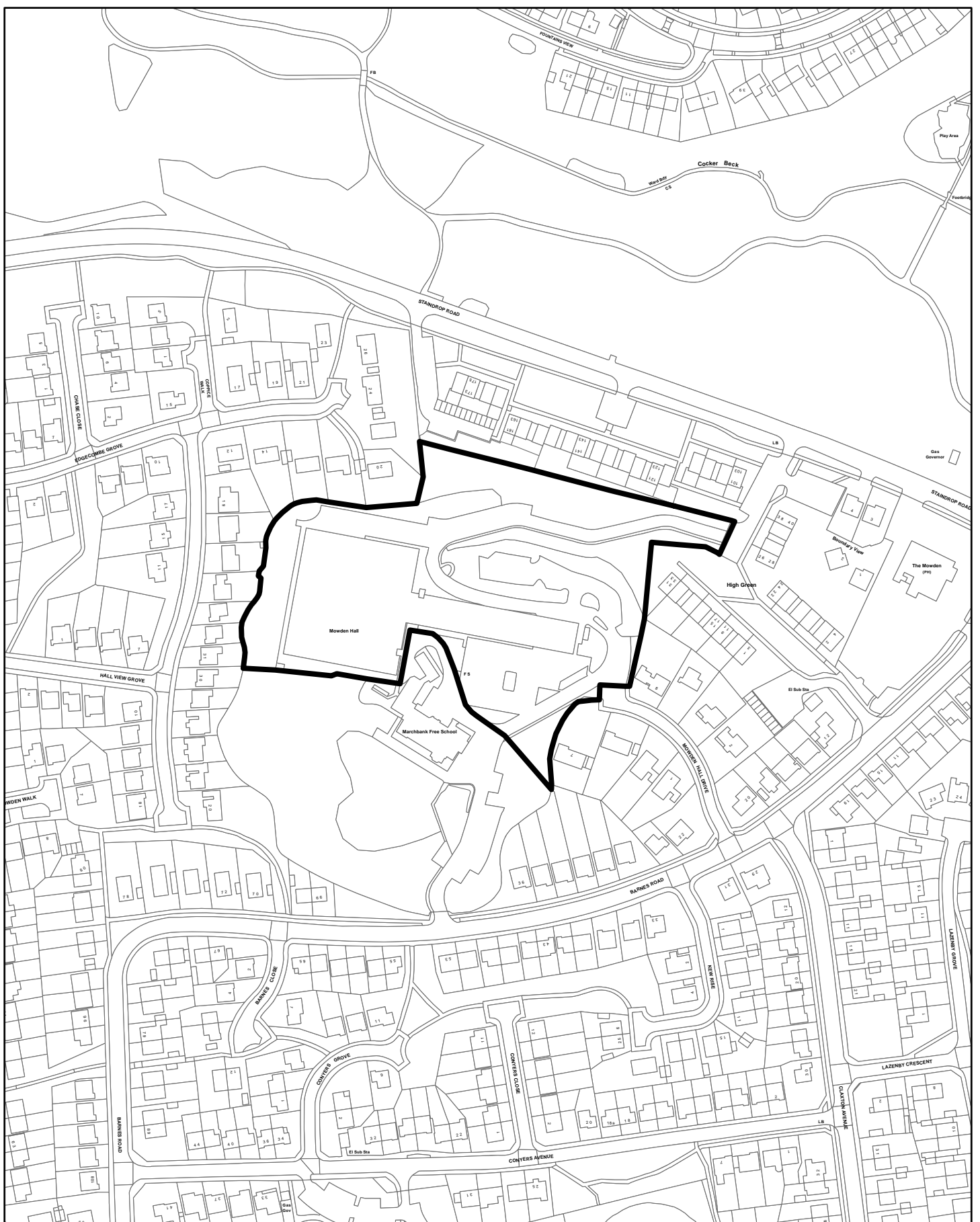
National Planning Policy Framework 2018

Other Documents

Design of New Development Supplementary Planning Document 2011

Supplementary Planning Document on Planning Obligations 2013

Interim Planning Position Statement 2016

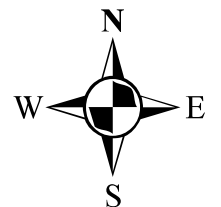


© Crown copyright. All Rights Reserved. Licence Number 100023728. 2019

PLANNING REF. No. 18/00989/FUL

DARLINGTON BOROUGH COUNCIL

Page 47



SCALE 1:2,500

This page is intentionally left blank

DARLINGTON BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 20 February 2019

APPLICATION REF. NO:	19/00002/FUL
STATUTORY DECISION DATE:	28 February 2019
WARD/PARISH:	PARK EAST
LOCATION:	15 Belvedere Road
DESCRIPTION:	Variation of condition 7 (Opening Hours) of planning permission 14/00563/FUL allowed on appeal APP/N1350/A/14/2228133 dated 23 January 2015 (Change of use from shop (Use Class A1) to hot food takeaway (A5) and external alterations) to permit change of opening hours from 12.00 - 19.00 on Sundays and Bank Holidays to 11.30 - 21.00 (Revised submission)
APPLICANT:	MR JESBIR SINGH

APPLICATION AND SITE DESCRIPTION

Planning permission was granted on appeal (APP/N1350/A/14/2228133) in January 2015 for the change of use of a shop to a hot food takeaway, with a number of internal alterations. Condition 7 of that permission restricted the opening hours of the takeaway to 11:30 to 21:00 Mondays to Saturdays and to 12:00 to 19:00 on Sundays and Bank Holidays. This application seeks to vary condition 7 to permit opening hours from 11:30 to 21:00 on Sundays and Bank Holidays to bring the opening hours in line with the approved Monday to Saturday opening hours. No changes are proposed to the opening hours on the remaining days of the week.

The application property is a two-storey end of terraced property located on the corner of Belvedere Road and Leafield Road with a first floor flat above. The surrounding area is predominantly residential in character, with the adjoining property to the south side being a dwelling.

PLANNING HISTORY

14/00300/CU – Change of use from shop to hot food takeaway (Use Class A5) and external alterations including new shopfront to front and side, insertion of ground floor side window and extractor flue pipe to side elevation. REFUSED 19 MAY 2014

14/00563/FUL – Change of use from shop (Use Class A1) to hot food takeaway (Use Class A5) and external alterations including new shopfront to front and side, insertion of ground floor side window and extractor flue pipe to side elevation (resubmission).

REFUSED 4 SEPTEMBER 2014 and ALLOWED ON APPEAL
(APP/N1350/A/14/2228133) 23 JANUARY 2015

16/00387/FUL – Variation of condition 7 (opening hours) of planning permission
14/00563/FUL allowed on appeal APP/N1350/A/14/2228133 dated 23 January 2015 to
permit opening hours from 11:30 – 22:30 Monday – Saturdays and 11:30 – 22:00 on
Sundays and Bank Holidays. REFUSED 7 JULY 2018 and APPEAL
(APP/N1350/W/16/3166100) DISMISSED 16 MARCH 2017

16/00642/FUL – Installation of extractor flue to the rear. REFUSED 10 AUGUST 2016
and APPEAL (APP/N1350/W/16/16/3163121) DISMISSED 24 FEBRUARY 2017

18/00718/FUL – Installation of extractor fan and flue with acoustic jacket (retrospective).
APPROVED 5 OCTOBER 2018

18/00376FUL - Variation of condition 7 (Opening Hours) of planning permission
14/00563/FUL allowed on appeal APP/N1350/A/14/2228133 dated 23 January 2015
(Change of use from shop (Use Class A1) to hot food takeaway (A5) and external
alterations) to permit opening hours from 11.30 - 22.00 Friday and Saturday and 12.00 -
21.00 on Sundays and Bank Holidays. REFUSED 15 OCTOBER 2018 APPEAL
LODGED

PLANNING POLICY BACKGROUND

The following policies are relevant to consideration of the application:

Darlington Core Strategy Development Plan Document 2011

- CS16 – Protecting Environmental Resources, Human Health and Safety

National Planning Policy Framework, 2018

RESULTS OF CONSULTATION AND PUBLICITY

Highway Engineer – No highway objection

Environmental Health Officer – No objections

Durham Constabulary Architectural Liaison Officer – No comment

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

- *Permission was only granted for a hot food takeaway on the basis of the hours agreed;*
- *The applicant has applied numerous times over 4 years to try and extend the hours;*

- *Do not want a hot food takeaway 4 doors away from our property but permission was granted on the basis of the opening hours;*
- *Do not want to hear the noise of car doors opening, shutting and music playing in cars on a Sunday night or on bank holidays;*
- *It will be open late at a time when people are relaxing and watching television;*
- *This is a residential area and it should be kept that way*

PLANNING ISSUES

The principle of the use of the premises as a hot food takeaway has already been established by way of the previous appeal decision, subject to a condition restricting the hours of opening to limit the impact of the use on the amenities of nearby residential properties. The main issue for consideration is therefore whether the proposed increase in opening hours on Sundays and Bank Holidays from 12:00 to 19:00 to 11.30 to 21:00 would have an unacceptable impact on the amenities of nearby residential properties in terms of noise, nuisance and disturbance. The effect of the proposed increase in opening hours would be to bring the opening hours on these days in line with the rest of the week.

Core Strategy Policy CS16 (Protecting Environmental Resources, Human Health and Safety) states that development should protect and, where possible, improve environmental resources, whilst ensuring there is no detrimental impact on the environment, general amenity and the health and safety of the community. Paragraph 180 of the National Planning Policy Framework, 2018 states that planning decisions should ensure that new development is appropriate for its location taking into account the likely effects of pollution on health, living conditions and the natural environment. In particular, decisions should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development and avoid noise giving rise to significant adverse impacts on health and quality of life.

The site has a lengthy planning and appeal history which are also material considerations in the determination of this application. In considering the impact of the proposed hot food takeaway use on the living conditions of neighbouring residents in the 2015 appeal (APP/N1350/A/14/2228133) the Inspector considered that the resulting noise and disturbance from car engines, car audio systems, slamming of doors and people conversing would be too dissimilar from the activities associated with the previous retail use, or that the use would generate significantly more litter or traffic than this use. In imposing an hours of operation condition, the Inspector also concluded that these times were not considered to be at antisocial times, or when residents would reasonably expect a degree of peace and quiet. The Inspector also considered there was scope to install an effective form of extraction that would not harm the living conditions of neighbouring occupiers by reason of noise caused through its operation or cooking smells.

An application in 2016 (16/00387/FUL) to vary condition 7 to extend the opening hours to 11:30 – 22:30 Monday to Saturdays and 11:30 – 22:00 Sundays and Bank Holidays was refused on the grounds that the proposed extended opening hours would be likely to result in the generation of noise, disturbance and odours detrimental to the amenities of local residents.

In dismissing the subsequent appeal (APP/N1350/W/16/3166100) the Inspector was of the opinion that noise from customers, staff and equipment would arise in very close proximity to neighbouring residential properties and this would be more intrusive during the late evening when background noise levels would be lower and residents would be more likely to be resting or sleeping. Due to the predominantly residential nature of the surrounding area, residents would also have a reasonable expectation that their living environment would be quieter in the late evening. The Inspector therefore concluded that a condition limiting the hours of opening was necessary in the interests of protecting the living conditions of neighbouring residents with regard to noise, disturbance and odours and that the hours imposed on the original planning permission were reasonable and accorded with the amenity protection aims of Policy CS16 and the NPPF at the time.

A recent application (18/00376/FUL) sought permission to extend the opening hours to 11:30 to 22:00 on Friday and Saturday evenings only (Monday to Thursday evenings would remain unchanged) and to 12:00 to 21:00 on Sundays and Bank Holidays. The application was refused on the basis that although the takeaway would be open for an additional hour on Friday and Saturday evenings only, in a predominantly residential area there is no expectation that activity levels or background noise levels would be higher on a Friday and Saturday evening compared to other evenings during the week, such that noise, nuisance and disturbance arising from the extended opening hours would have a markedly reduced impact on residential amenity levels. The extended opening hours on Friday and Saturday evenings would extend activity levels into the later evening at a time when residents are likely to be resting and sleeping and would have a reasonable expectation that their living environment would be quieter, a position that has been defended on appeal on a number of occasions. The application was refused on this basis.

By the same token however the extension of the opening hours on Sundays and Bank Holidays to 21:00 would be consistent with other evenings in the week. While the most recent appeal to extend opening hours to 22:00 on these days was dismissed, this was on the basis that activity levels would extend into the 'later evening', i.e. beyond 21:00. In dismissing the previous appeals neither Inspector specifically identified Sundays or Bank Holidays as being particularly sensitive days of the week necessitating earlier closing hours than on any other evening of the week. The Environmental Health Officer and the Policy Architectural Liaison Officer both raise no objection to the proposed extension of the opening hours on Sundays and Bank Holidays. The Highway Engineer has raised no highway objection. The earlier opening of the premises at 11:30 on these days, as opposed to 12:00, would not give rise to any issues of residential amenity.

While there has been previous concerns regarding noise generated by the extractor flue to the rear of the premises, which has been the result of noise complaints, the applicant has worked with the Environmental Health Manager and Planning Enforcement Officer to address the issues of noise and odour arising from the flue and has undertaken remedial work to the flue to reposition it away from the neighbouring property, to fit it with an acoustic jacket and to paint it black. These alterations were regularised by a recent planning application (18/00718/FUL).

On this basis the proposal, to extend the opening hours to 11:30 to 21:00 on Sundays and Bank Holidays, in line with the other days of the week is considered to comply with Policy CS16 and the NPPF.

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 proposed extension of the opening hours to 11:30 to 21:00 on Sundays and Bank Holidays would bring the opening hours on these days in line with the approved opening hours for the other days of the week. This would ensure that activity levels do not extend into the later evening at a time when residents are likely to be resting and sleeping and would have a reasonable expectation that their living environment would be quieter. The proposal is therefore considered to comply with Policy CS16 and the NPPF, 2018 in this regard.

RECOMMENDATION

THAT PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITION:

1. The use hereby permitted shall not be open to customers outside of the following times:

11:30 – 21:00 Mondays to Sundays

REASON – In the interests of residential amenity.

2. The disabled access to the premises shall be maintained in accordance with the details approved under planning reference number 14/00563/CON dated 22 August 2016 for the lifetime of the development hereby approved.

REASON – To ensure that the premises remain fully accessible in accordance with Policy CS2 (Achieving High Quality, Sustainable Design) of the Darlington Core Strategy Development Plan Document, 2011 and the Equalities Act 2010.

3. The storage of refuse and waste associated with the use of the premises hereby permitted shall be maintained in accordance with the details approved under planning reference number 14/00563/CON dated 22 August 2016 for the lifetime of the development hereby approved.

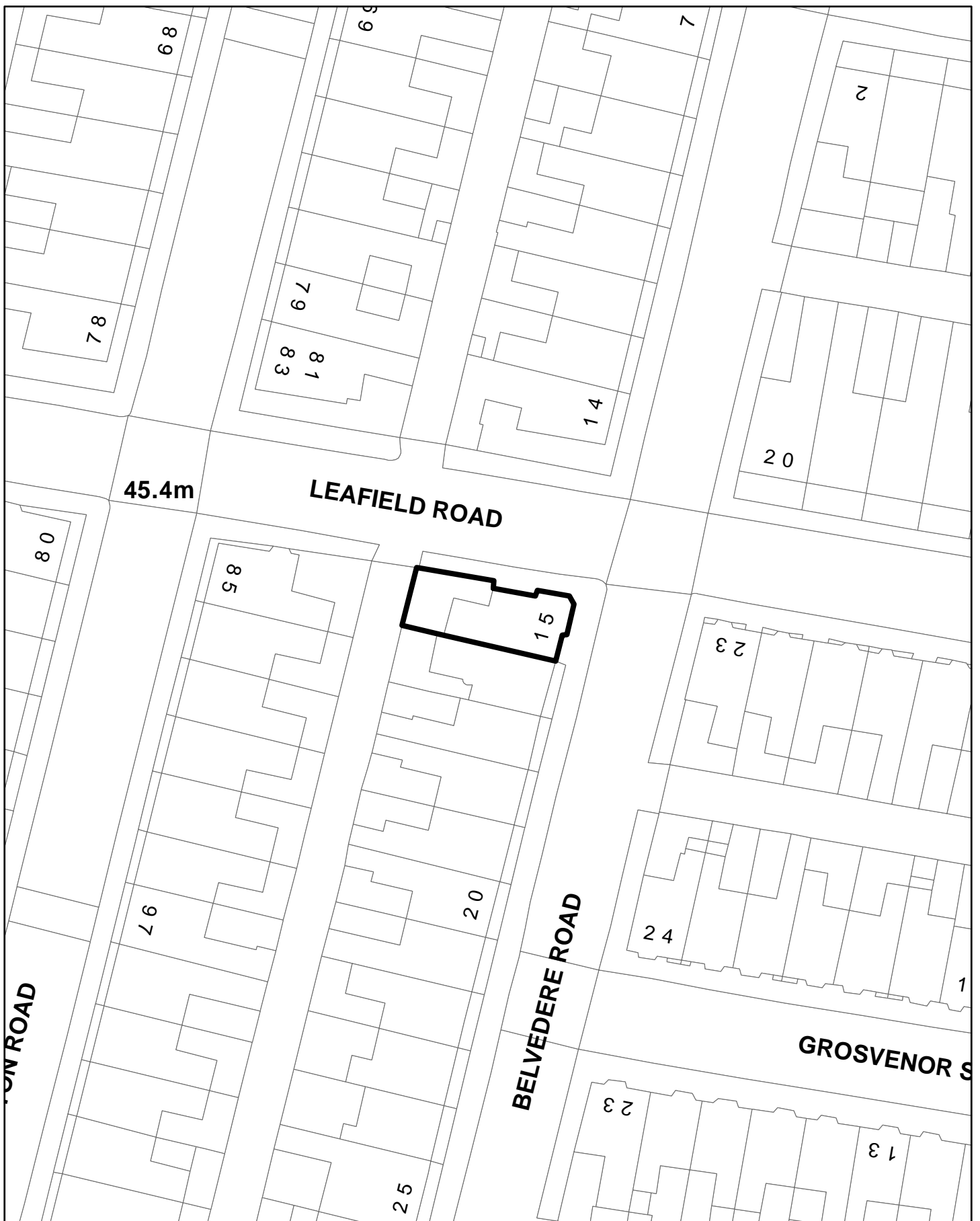
REASON – In the interest of general amenity.

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

Darlington Core Strategy Development Plan Document 2011

- CS16 – Protecting Environmental Resources, Human Health and Safety

National Planning Policy Framework, 2018

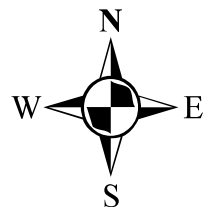


© Crown copyright. All Rights Reserved. Licence Number 100023728. 2019

PLANNING REF. No. 19/00002/FUL

DARLINGTON BOROUGH COUNCIL

Page 55



SCALE 1:500

This page is intentionally left blank

DARLINGTON BOROUGH COUNCIL

PLANNING COMMITTEE – 20 FEBRUARY 2019

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

1. 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.
- 1.2 This application was considered by the Planning Applications Committee on 14 November 2018 and was deferred for a site visit. The site visit was carried out on 7 December 2018 and at the site visit it was agreed that the applicant would submit further details from a suitably qualified arborist. This further information is set out in section 4.2 below.

2. Legal and Procedural Background

The power to make a tree preservation order is derived from section 198(1) of the Town and Country Planning Act 1990:-

If it appears to a local planning authority that it is expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area, they may for that purpose make an order with respect to such trees, groups of trees or woodlands as may be specified in the order.

‘Amenity’ and ‘Expediency’

Extracts from Government Guidance:-

Amenity

‘Amenity’ is not defined in law, so authorities need to exercise judgment when deciding whether it is within their powers to make an Order. Orders should be used to protect selected trees and woodlands if their removal would have a significant negative impact on the local environment and its enjoyment by the public. Before authorities make or confirm an Order they should be able to show that protection would bring a reasonable degree of public benefit in the present or future.

What might a local authority take into account when assessing amenity value?

When considering whether trees should be protected by an Order, authorities are advised to develop ways of assessing the amenity value of trees in a structured and consistent way, taking into account the following criteria:

Visibility

The extent to which the trees or woodlands can be seen by the public will inform the authority's assessment of whether the impact on the local environment is significant. The trees, or at least part of them, should normally be visible from a public place, such as a road or footpath, or accessible by the public.

Individual, collective and wider impact

Public visibility alone will not be sufficient to warrant an Order. The authority is advised to also assess the particular importance of an individual tree, of groups of trees or of woodlands by reference to its or their characteristics including:

- *size and form;*
- *future potential as an amenity;*
- *rarity, cultural or historic value;*
- *contribution to, and relationship with, the landscape; and*
- *contribution to the character or appearance of a conservation area.*

Expediency

Although some trees or woodlands may merit protection on amenity grounds it may not be expedient to make them the subject of an Order. For example, it is unlikely to be necessary to make an Order in respect of trees which are under good arboricultural or silvicultural management.

It may be expedient to make an Order if the authority believes there is a risk of trees being felled, pruned or damaged in ways which would have a significant impact on the amenity of the area. But it is not necessary for there to be immediate risk for there to be a need to protect trees. In some cases the authority may believe that certain trees are at risk as a result of development pressures and may consider, where this is in the interests of amenity, that it is expedient to make an Order. Authorities can also consider other sources of risks to trees with significant amenity value. For example, changes in property ownership and intentions to fell trees are not always known in advance, so it may sometimes be appropriate to proactively make Orders as a precaution.

The process to be followed in making orders is laid down in The Town and Country Planning (Tree Preservation) (England) Regulations 2012.

Where a Tree Preservation Order is made, it has immediate provisional effect to protect the tree. This provisional effect will last for six months, or until the Order is confirmed by the planning authority, whichever is the sooner. If the Order is not confirmed within this time period, the Order will fall away.

Once the Order has been made, it is served, together with a Notice, on all persons with an interest in the land affected by the Order. The Notice will state the reasons that the Order has been made and will contain information about how objections or representations may be made in relation to the Order.

Where an objection is made to the Order then the Planning Applications Committee must consider any such objections and representations and must decide whether or not to confirm the Tree Preservation Order, and, if so, should that be with or without modifications.

3. Decision to Make the Tree Preservation Order

- 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 the tree. 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 his 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 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. Summary of Objectors' Comments

- 4.1 Comments in response to the placing of the Order:
- 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.

4.2 Following the site visit on 7 December 2018 the applicant has provided the following additional information in support of his objection that the tree is not worthy of protection:

- The nature of this trees growth to gain best sunlight in order to photosynthesis, its location on a bank side and it being overcast by other significant neighbouring fauna has ensured that it has developed with a dominant lean away from its undermined root system and an oversized mid canopy.
- The root system will have been subject to significant compaction over its lifetime
- Compaction reduces oxygen levels in the soil causing root death and thus further erosion of the soil encapsulating that root system leaving parts of it exposed to open air.
- Given that 90% of a tree's root system is located within the first 12-18 inches of soil and there is a significant amount of soil missing from the lower side of the tree, it is highly likely that severe damage has already taken place and begun taking its toll on the life expectancy of the tree.
- Any root disturbance to pre-existing trees will be detrimental to them and such disturbances may take anywhere from 5-10 years to become fully visible.
- The high density of the tree makes it extremely heavy and with the lean already present there is a very intense stress factor on the lower side of the root system to maintain the trees upright orientation.
- The greatly increased likelihood of damage to the lower high tension side of the root system, the topography and tree positioning together with increased mid canopy ensure that works be carried forthwith to alleviate and reduce the current stress levels on the tree.
- British Standard Arboricultural working recommendations, would suggest removal of 20-30% of live matter to promote the longer term health of the tree.
- However in this particular instance this would not provide the desired full continuance benefit as it still leaves the tree with a dominant and increasing lean, compacted root damage and would be highly unsightly within the locale, also in removing sufficient live mater to minimise stress on the questionable root system and reduce the top heavy see-saw effect may be detrimental to the overall health of the tree.
- Other aspects to consider when assessing the trees overall contribution would be the detrimental effects on light and potential of unnecessary damage and injury to property or life.

- The tree provides significant light deprivation to the windows of two bedrooms of the building it sits in front of, it is in very close proximity (within 5 metres) to and sits much higher above the lower level accommodation.
- The proximity to the building with such a dominant specimen is simply daunting and highly stressful for any owner as should the tree fail the disturbance to the property side including the retaining wall could be extremely expensive and possible life changing.
- The damage caused from the actual impact of the tree coming down could shut the road, destroy the street lamp, potentially causing extensive damage to neighbouring property including vehicles etc.
- The trees removal would benefit the street lighting as it currently encompasses the lamp immediately outside the property which is emphasised by the fact that poor pruning works to the canopy around the lamp have already been conducted by the Local Authority.
- Therefore the recommendation would be felling the tree and replacement planting of a more suitable species (possibly container grown oak).
- If felling was deemed not to be a considered option, the a 30% reduction to canopy would be a minimum requirement to reduce the risk and provide increased longevity of the tree.

5. Response to Objector's Comments

- 5.1 The additional information provided by the applicant has been considered by the Council's Senior Arboricultural Officer who has responded as follows:
- 5.2 It has been suggested that the tree's location on a bankside and being influenced by neighbouring fauna (a tree) have ensured that it has developed a dominant lean away from its undermined root system. The tree is also considered to have an oversized canopy. The report also suggests that the tree's roots have been affected by compaction of soil reducing oxygen levels to its root system.
- 5.3 Many trees are protected and overshadowed by larger trees. This is not justification for their removal. Compaction of soil is a major issue in general terms, not just on development sites. The tree does not appear to be stressed and the removal of 20 – 30% of the tree is therefore not justified. Furthermore, this may allow disease to enter the tree from pruning works.
- 5.4 The tree has been in place for a number of years and as such its impact on the property in terms of light reduction to bedrooms will have been an issue for some time. This situation is unlikely to have significantly worsened in recent times to warrant the removal of the tree.
- 5.5 The protection of the tree remains desirable in the interests of amenity and as such it is considered expedient to protect the tree by the making of a Tree Preservation Order. The tree has a useful life expectancy of in excess of 40 years and has an important position in the landscape. The form of the tree is good and although there have been occasions of adverse weather in recent years it is not apparent that this tree has been damaged in high winds. The tree does not appear to have any structural weaknesses and the Scots Pine (*Pinus sylvestris*) not *Prunus Sylvestria* as identified in the tree report is native to Britain.

- 5.6 Should the tree go into decline within the next 5 to 10 years there will be an opportunity to revisit the tree works within this time but the benefit of the tree in terms of its amenity value will have been retained for this time.
- 5.7 For these reasons, and for those reasons set out in section 3.3 above, it is still considered that the tree remains worthy of protection and no works are considered necessary at this time.

6. Consideration of Objections to TPO

As stated above the ground for making a TPO is '*that it is expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area.*'

Therefore, objections to the TPO should be considered on this basis. The questions to consider are:-

1. Would the removal of the tree have a significant negative impact on the local environment and its enjoyment by the public?
2. Is it expedient for the tree to be protected, i.e. is there a risk of the tree being felled, pruned or damaged in ways which would have a significant impact on the amenity of the area?
3. Is the tree dead, dying or dangerous? It would not be appropriate for the Authority to make a TPO in these circumstances. By dangerous the test should be is the tree itself hazardous or unsafe.

7. Conclusion

The Semi/mature Pine Tree (*Pinus sylvestris*) is in good form and condition with no visible structural weaknesses. Having considered the additional information provided by the applicant, 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. Although the tree is not in imminent danger of being felled, following an application to fell the tree it is considered expedient to protect the tree by the making of a Tree Preservation Order as the loss of the tree would have a detrimental impact on the amenity of the area.

8. Recommendation

That members confirm the TPO without modification

Dave Coates
Head of Planning Development & Environmental Health



TREE PRESERVATION ORDER (No. 6) ORDER 2018

1 Church Close
 Middleton St. George
 Darlington
 DL2 1DT

© Crown copyright and database rights 2015 Ordnance Survey 0100023728 PB
 You are not permitted to copy, sub-license, distribute or sell any of this data to third parties in any form.

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



This page is intentionally left blank

Appeal Decision

Site visit made on 19 December 2018

by **S J Lee BA(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 23rd January 2019

Appeal Ref: APP/N1350/W/18/3209330

Land south of 8 Lazenby Close, Darlington DL3 9QE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr D Betteridge against the decision of Darlington Borough Council.
 - The application Ref 18/00047/FUL, dated 16 January 2018, was refused by notice dated 4 May 2018.
 - The development proposed is construction of detached bungalow with rooms in roof with detached single garage and detached single garage for host dwelling.
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr D Betteridge against Darlington Borough Council. This application is the subject of a separate Decision.

Preliminary matter

3. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.

Main issue

4. The main issue is the effect of the development on the living conditions of future occupants, with particular regard to privacy.

Reasons

5. The appeal relates to the garden of a semi-detached bungalow located at the end of a residential cul-de-sac of similar dwellings. The development would result in a new detached dormer bungalow in the garden, along with a detached garage. The existing detached garage for No 8 would be removed and replaced in a different location.
6. The main parties have both indicated that the development would be within the guidelines for distances between dwellings. However, no details of these guidelines, or their status, have been provided. In any event, it is necessary to

take the individual circumstances of the site and its surroundings into account in assessing the impacts of the development.

7. The Council's decision notice refers to a cramped form of development. Notwithstanding the effect of this on local character, I concur with their view that the squeezing of the dwelling into a relatively constrained space with housing on all four sides, would inevitably lead to feelings of confinement and enclosure. The rear elevation of the development would be closer to the rear boundary than No 8. It would also have a prominent central projection that would include a substantial amount of glazing. This would leave a relatively narrow area of rear garden which would be overlooked from the upper floor windows of 55, 57 and 59 Claxton Avenue.
8. Some degree of overlooking is to be expected in a residential area. However, people sitting out in the confined space, which would be discernibly narrower than the garden of the existing bungalow, would be likely to feel any perceived loss of privacy more acutely than might presently be the case. As well as in the garden, I also consider that users of the 'sun room' could feel particularly exposed, especially as there would be opportunities to view down or across into the space from three sides. The boundary treatment is unlikely to provide sufficient mitigation to address this concern.
9. The rear roof slope would contain two rooflights. I am also concerned that there would be a strong perception of being overlooked within these rooms, particularly from No 57 which is directly in line with the proposed dwelling. As the only source of any outlook, I do not consider the use of obscured glazing would be appropriate. Consequently, the enjoyment of these rooms would be tangibly diminished to the detriment of the occupiers' living conditions.
10. As a result of the somewhat constrained nature of the site and from being surrounded by housing on all four sides, I am concerned that future occupants would feel an overt and unwelcome sense of confinement and loss of privacy from being overlooked. This would be particularly the case in the rear garden, sun room and first floor bedroom areas. On balance, I consider there to be a significant risk of material harm to the living conditions of any future residents.
11. The Council's decision notice refers to conflict with Darlington Core Strategy (2011) Policy CS2 – Achieving High Quality, Sustainable Design. While ensuring a satisfactory living environment is arguably part of achieving high quality design, the policy itself does not mention this factor specifically. Nonetheless, the National Planning Policy Framework makes it clear in paragraph 127f that development should create a high standard of amenity for future users. The development would therefore conflict with national policy in this regard.

Other matters

12. Notwithstanding its reference to a 'cramped' form of development and conflict with Policy CS2 on design, the Council's reason for refusal makes no specific reference to harm to the character and appearance of the area. There has been a significant amount of objection to the siting and appearance of the dwelling from interested parties. As I am dismissing the appeal for other reasons, it is not necessary for me to consider this issue in any more detail. However, even if I were to accept the Council and appellant's position, a lack of harm is a neutral factor that would weigh neither for nor against the

development. As such, it would not alter my overall conclusion about the acceptability of the proposal. The same applies to factors relating to access and the effect on the living conditions of neighbours.

13. The appellant's concerns over the way the Council determined the application has no bearing on my decision. While I understand there may be some frustration that pre-application advice was positive, this is usually given without prejudice. In addition, the Council is permitted to change their views on a proposal as it is being considered. In any event, I have considered the appeal on its own merits; based on the evidence before me and my own observations of the area.
14. The appellant has drawn my attention to another development on Bushel Hill Court which he considers relevant to this appeal. I do not have all the details of this permission and thus cannot conclude with any certainty that the two cases are directly comparable. Interested parties have also highlighted some potential material differences between the proposals. As such, this example does not lead me to alter my overall conclusion.
15. There is a suggestion in the evidence that the development is intended to be occupied by the appellant's daughter. While I understand the desire for the appellant to provide accommodation for family members, personal circumstances such as this rarely outweigh general planning concerns. I must also consider the long-term implications of the development. I do not accept that the concept of 'buyer beware' is a valid reason to allow a form of development that could result in harm.

Conclusion

16. For the reasons given above, I conclude that the appeal should be dismissed.

S J Lee

INSPECTOR

Faint, illegible text covering the majority of the page, possibly bleed-through from the reverse side.

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

Document is Restricted

This page is intentionally left blank

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

Document is Restricted

This page is intentionally left blank