

Planning Applications Committee Agenda



1.30 pm Wednesday, 10 July 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 Meetings of this Committee held on 5 June 2019 (Pages 1 - 24)
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
 - (a) Earlston, 181 Coniscliffe Road (Pages 25 - 38)
 - (b) 1 Gate Lane, Low Coniscliffe (Pages 39 - 44)
 - (c) 5B The Spinney, Middleton St George (Pages 45 - 52)
 - (d) Rosebank Nurseries, 1 Merrybent (Pages 53 - 66)
 - (e) 303 and 303A North Road (Pages 67 - 72)
 - (f) 10 Chester Grove (Pages 73 - 78)
 - (g) Garages and Garden to the Rear of 38 Langholm Crescent (Pages 79 - 90)
 - (h) 1 Church Close, Middleton St George (Pages 91 - 96)

6. 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
7. Questions

PART II

8. Notification of Decision on Appeals –

The Director of Economic Growth and Neighbourhood Services will report that the Inspectors appointed by the Secretary of State for the Environment have:-

Allowed the appeal by T L Shepherd and Son against this Authority's decision to refuse permission for the erection of an agricultural worker's dwelling, livestock barn and associated footpath diversion at White House Farm, Sadberge Road, Middleton St George DL2 1RL (17/01119/FUL) (Copy of Inspector's decision letter enclosed)

Dismissed the appeal by Mr Taylor against this Authority's decision to refuse permission for outline application for erection of 1 No. dwelling (with all matters reserved except for access) at land at Mill Lane, High Coniscliffe, Darlington DL2 2LJ (18/00742/OUT) (Copy of Inspector's decision letter enclosed)

Allowed the appeal by Mr Paul Gibson against this Authority's decision to refuse the application submitted under Section 73 of the Town and Country Planning Act 1990 (as amended) for the removal of conditions 2 (garages to be used incidental to the main dwelling) and 3 (living accommodation not be occupied, let, or otherwise disposed of as a separate dwelling) attached to planning permission 16/01128/FUL dated 19 December 2016 at The Annexe, Spa Wells, Low Dinsdale, Neasham, Darlington DL2 1PL (18/01064/FUL) (Copy of Inspector's decision letter enclosed)

Dismissed the appeal by Mr Jesbir Singh against this Authority's decision to refuse permission for 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 at 15 Belvedere Road, Darlington DL1 5EP (18/00376/FUL) (Copy of Inspector's decision letter enclosed)

Allowed the appeal by Mr Patrick Connors against this Authority's decision to refuse permission for outline application for erection of a dormer bungalow and double garage at Bridge View, Middleton Road, Sadberge, Darlington DL2 1RP (17/00848/OUT) (Copy of Inspector's decision letter enclosed)

Dismissed the appeal by Mr and Mrs Routledge against this Authority's decision to refuse 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 DL5 6PP

(18/00034/FUL) (Copy of Inspector's decision letter enclosed)

RECOMMENDED – That the report be received.

(Pages 97 - 128)

9. Notification of Appeals –

The Director of Economic Growth and Neighbourhood Services will report that:-

Mr and Mrs Ishtiaq Rehman have appealed against this Authority's decision to refuse permission for erection of a detached oak framed dwelling at Land Adjacent to Rowan House, Middleton Road, Sadberge, Darlington DL2 1RR (18/00807/FUL)

RECOMMENDED – That the report be received.

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 26 June 2019 (Exclusion Paragraph No. 7) –
Report of Director of Economic Growth and Neighbourhood Services
(Pages 129 - 138)
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, 2 July 2019

Town Hall
Darlington.

Membership

Councillors Allen, Baldwin, Clarke, Heslop, Howarth, Johnson, Mrs D Jones, Keir, Lee, Lister, Marshall, McCollom, Tait, Tostevin and Wallis

If you need this information in a different language or format or you have any other queries on this agenda please contact Paul Dalton, Elections 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: paul.dalton@darlington.gov.uk or telephone 01325 405805

PLANNING APPLICATIONS COMMITTEE

Wednesday, 5 June 2019

PRESENT – Councillors Allen, Baldwin, Clarke, Heslop, Howarth, Johnson, Mrs D Jones, Keir, Lee, Lister, Marshall, McCollom, Tait and Wallis.

APOLOGIES – Councillors Tostevin.

ALSO IN ATTENDANCE – Councillors Boddy, Crudass and Renton.

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

PA1 APPOINTMENT OF CHAIR

RESOLVED - That Councillor Mrs. Jones be appointed Chair of this Committee for the Municipal Year 2019/20.

PA2 APPOINTMENT OF VICE CHAIR

RESOLVED - That Councillor Keir be appointed Vice-Chair of this Committee for the Municipal Year 2019/20.

PA3 TO CONSIDER TIMES OF MEETINGS OF THIS COMMITTEE FOR THE MUNICIPAL YEAR 2019/20, ON THE DATES AS AGREED ON THE CALENDAR OF MEETINGS BY CABINET AT MINUTE C110/FEB/19

RESOLVED – That meetings of this Committee for the Municipal Year 2019/20, be held at 1.30 p.m. on the dates, as agreed on the calendar of meetings by Cabinet at Minute C110/Feb/19.

PA4 DECLARATIONS OF INTEREST

There were no declarations of interest reported at the meeting.

PA5 TO APPROVE THE MINUTES OF THE MEETING OF THIS COMMITTEE HELD ON 20 MARCH 2019

RESOLVED – (a) That Minute PA70/Mar/19 be amended so that Condition 12 read:

‘Notwithstanding the requirements of condition 11 above, the two Lime trees which form part of the Tree Group GD of the Darlington Borough Council Variation Order No. 1 2012 in respect of the County Borough of Darlington Tree Preservation No. 1 Order 1951 (adjacent to Plot 12 on Drawing Number MHD-519-ZZ-XX-D-A-9001 Rev P18 Site Plan as proposed and denoted as T19 and T20 on Drawing Number MHD-A519-ZZ-XX-D-A9002 Rev P5 Site Plan proposed tree removal) shall be retained and incorporated into the landscaping scheme for the approved development.

Reason – In the interests of the visual amenities of the area.

(b) Pursuant to the above amendment, that the Minutes of this Committee held on 20 March 2019 be approved as a correct record.

PA6 FIELD AT OSGR E425124 N514093, GATE LANE, LOW CONISCLIFFE

18/01151/FUL – Application submitted under Section 73 of the Town and Country Planning Act 1990 (as amended) for variation of condition 24 (Restriction of Permitted Development Rights); condition 35 (accordance with plans) and removal of condition 11 (visibility splays) of planning permission reference number 16/01231/FUL dated 22 February 2018 (residential development comprising of 37 No. detached dwellings (including seven affordable units) and associated access road, car parking and landscaping) to permit the substitution of house types and revisions to the layout, open space, vehicular access arrangements and landscaping scheme (amended plan received 14 February 2019).

Councillor Lee informed the Committee that Members of the Parish Council had been contacted by solicitors acting on behalf of the landowner, who had implied that legal action may be taken against any Parish Councillor who addressed the Committee. Councillor Lee then proceeded to read the letter received.

RESOLVED – That, to enable further legal guidance to be sought on the letter received by the Parish Council, and the implications thereof, consideration of this application be deferred to the Ordinary Meeting of the Planning Applications Committee taking place that afternoon.

PA7 SITE AT MOUNT PLEASANT FARM AND STAG HOUSE FARM, NEWTON LANE, DARLINGTON

19/00182/RM1 - Reserved matters relating to details of access, appearance, landscaping, layout and scale for residential development comprising 464 no dwellings at Stag House Farm (Phases 1 - 5) pursuant to outline planning permission reference number 15/00450/OUT dated 31 October 2018 comprising approximately 1200 dwellings, residential and link roads, public open space, landscaping and drainage works together with education and playing fields.

(In reaching its decision, the Committee took into consideration the Planning Officers report (previously circulated) and three letters of objection received).

RESOLVED – That Reserved Matters relating to access, appearance, landscaping, layout and scale be approved subject to the following conditions.

1. Notwithstanding the details shown on the approved plans, precise details of the tree species, number and locations within the landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority prior to the construction of the first dwelling. Upon approval of the scheme, it shall be 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. Thereafter any trees or shrubs removed, dying or 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 appearance of the site.

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

- i. West Park, Darlington- Site Location Plan WP-SL-001
- ii. Proposed Site Plan 3829-10-01 P17
- iii. Infrastructure Plan WPD-S38-001 K
- iv. Public Open Space Plan WPD-PO-001 K
- v. Management Company Plan WPD-MC-001 C
- vi. Site Layout Plan SK/01 AC
- vii. Phasing Plan PH/01 T
- viii. Phase 1 WPD-PH-001 Q
- ix. Phase 2 WPD-PH-002 Q
- x. Phase 4 WPD-PH-004 M
- xi. Tree Removal Plan WP-TRP-001 B
- xii. Road Geometry 16T802-118 T4
- xiii. Proposed Highways Parking Plan 3829-10-02 P9
- xiv. Highways GA Plan 17T2246-110 P3
- xv. Highways GA Plan 1 17T2246-111 P4
- xvi. Highways GA Plan 2 17T2246-112 P7
- xvii. Highways GA Plan 4 17T2246-113 P7
- xviii. Highways GA Plan Central 17T2246-114 P7
- xix. Northern Refuse Vehicle Swept Path Analysis 17T2146-100 P3
- xx. Central Large Arctic Vehicle Swept Path Analysis 17T2246-101 P2
- xxi. Central Bus Vehicle Swept Path Analysis 17T2246-102 P2
- xxii. Southern Refuse Vehicle Swept Path Analysis 17T2146-103 P2
- xxiii. Road Details 1 17T2246-115 P2
- xxiv. Road Details 2 17T2246-116 P1
- xxv. Road Details 3 17T2246-117 P2
- xxvi. Road Longsection Phase 1 17T2246-118 P2
- xxvii. Road Longsection Phase 2 & 4 17T2246-119 P6
- xxviii. Bus Stop Details Type 1 17T2246-120 P1
- xxix. Bus Stop Details Type 2 17T2246-121 P1
- xxx. Kerbing, Surfacing, Signage & Lining Details Overall 17T2246-123 P1
- xxxi. Kerbing, Surfacing, Signage & Lining Details Phase 1 17T2246-124
- xxxii. Kerbing, Surfacing, Signage & Lining Details Phase 2 17T2246-125 P1
- xxxiii. Kerbing, Surfacing, Signage & Lining Details Phase 4 17T2246-126 P1
- xxxiv. Kerbing, Surfacing, Signage & Lining Details Central Road 17T2246-127 P1
- xxxv. Link Road & Phase 4 Road 7 Longsections 17T2246-128 P4
- xxxvi. Tactile Paving Details 17T2246-129 P1
- xxxvii. West Park Parking Schedule REV B D
- xxxviii. Arundel Ground Floor Plan AR-WP-10 B
- xxxix. Arundel First Floor Plan AR-WP-20 A
- xl. Arundel Front Elevation AR-S-50 F
- xli. Arundel Rear Elevation AR-S-51 D

- xlii. Arundel Left Side Elevation AR-S-52 C
- xlili. Arundel Right Side Elevation AR-S-53 B
- xliv. Durham Ground Floor Plan DH-WP-10 B
- xlv. Durham First Floor Plan DH-WP-20
- xlvi. Durham Front Elevation DH-S-50 F
- xlvii. Durham Rear Elevation DH-S-51 E
- xlviii. Durham Right Side Elevation DH-S-52 E
- xliv. Durham Left Side Elevation DH-S-53 E
- i. Ely Ground Floor Plan EL-WP-10MT A
- ii. Ely Ground Floor Plan EL-WP-10SD
- iii. Ely First Floor Plan EL-WP-20
- liii. Ely Left Side Elevation Plan EL-S-53
- liv. Ely Front Elevation Plan EL-S-54MT B
- lv. Ely Front Elevation Plan EL-S-54SD
- lvi. Ely Rear Elevation Plan EL-S-55 A
- lvii. Ely Right Side Elevation Plan EL-S-56 B
- lviii. Lancaster Ground Floor Plan LA-WP-10 C
- lix. Lancaster First Floor Plan LA-WP-20 A
- lx. Lancaster Front Elevation LA-S-54 A
- lxi. Lancaster Rear Elevation LA-S-55 E
- lxii. Lancaster Right Side Elevation LA-S-56 A
- lxiii. Lancaster Elevation LA-S-57 B
- lxiv. Larch Ground Floor Plan LR-WP-10 C
- lxv. Larch First Floor Plan LR-WP-20 B
- lxvi. Larch Front Elevation LR-S-50 C
- lxvii. Larch Rear Elevation LR-S-51 A
- lxviii. Larch Right Side Elevation LR-S-52
- lxix. Larch Left Side Elevation LR-S-53
- lxx. Lichfield Ground Floor Plan LD-WP-10 B
- lxxi. Lichfield First Floor Plan LD-WP-20
- lxxii. Lichfield Front Elevation LD-S-50 D
- lxxiii. Lichfield Rear Elevation LD-S-51 E
- lxxiv. Lichfield Right Side Elevation LD-S-52 D
- lxxv. Lichfield Left Side Elevation LD-S-53 D
- lxxvi. Lincoln Ground Floor Plan LN-WP-10 B
- lxxvii. Lincoln First Floor Plan LN-WP-20
- lxxviii. Lincoln Front Elevation Plan LN-S-53 A
- lxxix. Lincoln Rear Elevation Plan LN-S-51 B
- lxxx. Lincoln Side Elevation Plan LN-S-52 A
- lxxxi. Norwich Ground Floor Plan NO-WP-10 D
- lxxxii. Norwich First Floor Plan NO-WP-20 A
- lxxxiii. Norwich Front Elevation Plan NO-S-51D
- lxxxiv. Norwich Rear Elevation Plan NO-S-55 E
- lxxxv. Norwich Side Elevation Plan NO-S-50 D
- lxxxvi. Peterborough Ground Floor Plan PT-WP-10 C
- lxxxvii. Peterborough First Floor Plan PT-WP-20
- lxxxviii. Peterborough Second Floor Plan PT-WP-25 B
- lxxxix. Peterborough Front Elevation Plan PT-S-50 F
- xc. Peterborough Rear Elevation Plan PT-S-51 E
- xc. Peterborough Side Elevation Plan PT-S-52 B
- xcii. Ripon Ground Floor Plan RI-WP-10 B

- xciii. Ripon First Floor Plan RI-WP-20 A
- xciv. Ripon Rear Elevation Plan RI-S-51 A
- xcv. Ripon Right Side Elevation Plan RI-S-53 A
- xcvi. Ripon Front Elevation Plan RI-S-54 D
- xcvii. Ripon Left Side Elevation Plan RI-S-55 A
- xcviii. Rochester Ground Floor Plan RO-WP-10 C
- xcix. Rochester First Floor Plan RO-WP-20
- c. Rochester Front Elevation Plan RO-S-50 F
- ci. Rochester Rear Elevation Plan RO-S-51 E
- cii. Rochester Right Side Elevation Plan RO-S-52 C
- ciii. Rochester Left Side Elevation Plan RO-S-53 C
- civ. Shrewsbury Ground Floor Plan SW-WP-10 C
- cv. Shrewsbury First Floor Plan SW-WP-20
- cvi. Shrewsbury Front Elevation Plan SW-S-50 E
- cvii. Shrewsbury Rear Elevation Plan SW-S-51 E
- cviii. Shrewsbury Right Side Elevation Plan SW-S-52 E
- cix. Shrewsbury Left Side Elevation Plan SW-S-53 E
- cx. Southwark Ground Floor Plan SK-WP-10 B
- cxii. Southwark First Floor Plan SK-WP-20
- cxiii. Southwark Rear Elevation SK-S-51 C
- cxiiii. Southwark Right Side Elevation SK-S-52A
- cxv. Southwark Left Side Elevation SK-S-53 C
- cxvi. Southwark Front Elevation SK-S-50 B
- cxvii. Westminster Ground Floor Plan WM-WP-10A
- cxviii. Westminster First Floor Plan WM-WP-20
- cxix. Westminster Front Elevation WM-S-60 A
- cxx. Westminster Rear Elevation WM-S-70 A
- cxxi. Westminster Left Side Elevation WM-S-80 A
- cxxii. Westminster Right Side Elevation WM-S-90 X
- cxxiii. Leicester Ground Floor Plan LE-WP-10 A
- cxxiiii. Leicester First Floor Plan LE-WP-20 B
- cxxv. Leicester Front Elevation LE-S-60 A
- cxxvi. Leicester Rear Elevation LE-S-70 A
- cxxvii. Leicester Left Side Elevation LE-S-80 A
- cxxviii. Leicester Right Side Elevation LE-S-90 A
- cxxix. Winchester Ground Floor Plan WIN-WP-10B
- cxxx. Winchester First Floor Plan WIN-WP-20 B
- cxxxi. Winchester Front Elevation Plan WIN-S-50 A
- cxxxii. Winchester Rear Elevation Plan WIN-S-51 B
- cxxxiii. Winchester Left Side Elevation Plan WIN-S-52 D
- cxxxiiii. Winchester Right Side Elevation Plan WIN-S-53
- cxxxv. Single Garage Design WP-GD-001
- cxxxvi. Twin Garage Design DRL-GD-002
- cxxxvii. Double Garage Design DRL-GD-001
- cxxxviii. Treble Garage Design WP-GD-004
- cxxxix. Treble Garage Design WP-GD-005
- cxl. Alderney – Planning – Detached BH_M_2016_H
- cxli. Derwent – Planning – Detached BH_M_2016_H
- cxlii. Kenley – Planning – Terrace mid BH_M_2016_H
- cxliii. Kenley – Planning – Terrace end BH_M_2016_H
- cxliiii. Maidstone - Planning - Terrace mid BH_M_2016_H

- cxliv. Maidstone – Planning – Terrace end BH_M_2016_H
- cxlv. Moresby – Planning – Terrace end BH_M_2016_H
- cxlvi. Moresby – Planning – Detached BH_M_2016_H
- cxlvii. Palmerston – Planning – Terrace mid BH_M_2016_H
- cxlviii. Palmerston – Planning – Terrace end BH_M_2016_H
- cxlix. Radleigh – Planning – Detached BH_M_2016_H
- cl. Windermere – Planning – Detached BH_M_2016_H
- cli. Chester – DET – Front Gable Central – Planning GDT_2016_CL
- clii. Lutterworth DET Central Planning GDT_2016_cl
- cliii. Double garage BLDG2H6
- cliv. Single garage
- clv. Proposed Boundaries Refuse Plan 3829-10-03 P11
- clvi. Proposed Materials Plan 3829-10-04 P9
- clvii. Site Layout Elevational Treatments WPD-MF-001 B
- clviii. Site Section WPD-SS-01 C
- clix. Material Finishes Mood Board WPD-MB-001
- clx. Phase 1- Estate Road 2
- clxi. Phase 1- Estate Road
- clxii. Phase 1- Shared Drive & SuDS Area 2
- clxiii. Phase 1- Shared Drive & SuDS Area
- clxiv. Phase 1- Site Entrance
- clxv. Phase 2- Estate Road 2
- clxvi. Phase 2- Estate Road
- clxvii. Phase 4 Bund Construction- Year 1
- clxviii. Phase 4 Bund Construction- Year 5
- clxix. Material Finishes Mood Board WPD-MB-001
- clxx. Site Layout SK/01 AD
- clxxi. Landscape Strategy 1106_100 B
- clxxii. Art Feature Type and Location 1106-SK01 A
- clxxiii. Landscape Management Plan 1106-R01
- clxxiv. Landscape Strategy- Whole Site 1106_101 E
- clxxv. Indicative Detail SuDS Bridge 1 1106-120 C
- clxxvi. Indicative Detail SuDS Bridge 2 1106-121
- clxxvii. Indicative Detail SuDS Bridge 3 East Elevation 1106-122
- clxxviii. Indicative Detail SuDS Bridge 3 West Elevation 1106-123
- clxxix. Site Section WPD-SS-01 C
- clxxx. Woven & Mesh Green Barrier Project Profile
- clxxxi. Woven & Timber or mesh 120 G CE Data Sheet

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

PA8 NOTIFICATION OF DECISION ON APPEALS

With the agreement of this Committee to the following items being considered at this meeting, the Director of Economic Growth and Neighbourhood Services reported that the Inspectors appointed by the Secretary of State for the Environment had:-

- a) Allowed the appeal by Mr Nimmo against this Authority's decision to refuse permission for Erection of detached garage at Creebeck House, Roundhill

Road Hurworth Moor (18/00765/FUL).

- b) Dismissed the appeal by Mr Charlton against this Authority's decision to refuse permission for a 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 (18/00333/FUL).
- c) Dismissed the appeal by Mr A & Mrs S Pearson-Turner against this Authority's decision to refuse permission for Works to a tree protected under Tree Preservation Order (No 9) 2008 – Felling of 1 No. Maple Tree (T2) at 10 Edinburgh Drive, DARLINGTON, DL3 8AW (18/00676/TF).
- d) Allowed the appeal by Ms Jessica Emmerson against this Authority's decision to refuse permission for Change Of Use Of Ground Floor Of Existing Domestic Garage To Commercial Kennels For Up To 8 Dogs (Use Class Sui Generis) And Creation Of Parking Area For 4 No. Vehicles and New Vehicular Access From Walworth Road (Re-submission) at Castle Farm, Walworth Road, WALWORTH (18/00866/CU).
- e) Dismissed the appeal by Mr John Mark Hinnigan against this Authority's decision to refuse permission for Erection of a detached garage at the front (retrospective) at 43 Staindrop Crescent, DARLINGTON, DL3 9AQ (18/01051/FUL).

RESOLVED – That the report be received.

NOTIFICATION OF APPEALS

The Director of Economic Growth and Neighbourhood Services reported that:-

- a) Homes by Carlton has appealed against this Authority's split decision to refuse permission for Approval of details reserved by Condition 10 part discharge (road condition survey), 11 (road safety audit) and 18 (assessment of trees for bat roosts) attached to outline planning permission 15/00976/OUT dated 1 July 2016 (Outline planning permission for residential development up to 200 dwellings including highway improvements, public open space at Land At Rear Of High Stell/Grendon Gardens, MIDDLETON ST GEORGE. (18/00959/CON).
- b) Mr Taylor has appealed against this Authority's decision to refuse permission for an Outline application for erection of 1 No. dwelling (with all matters reserved except for access), at Land OSGR E422805 N515303 Mill Lane, Mill Lane HIGH CONISCLIFFE. (18/00742/OUT).
- c) Hewitson Group has appealed against this Authority's decision to refuse permission for Erection of 4 No. detached dwellings with detached garages and associated landscaping, at Land Adjacent to 80 Merrybent DARLINGTON. (18/00856/FUL).

- d) Mr John Hinnigan has appealed against this Authority's decision to refuse permission for Erection of a detached garage at the front (retrospective), at 43 Staindrop Crescent, DARLINGTON DL3 9AQ. (18/01051/FUL).
- e) Mr & Mrs S & K Simpson has appealed against this Authority's decision to refuse permission for a Loft conversion with dormer window to side and erection of extension to rear with additional window within roof space, at 354 Coniscliffe Road DARLINGTON, DL3 8AG (18/00812/FUL).

RESOLVED – That the report be received.

PA9 TO CONSIDER THE EXCLUSION OF THE PUBLIC AND PRESS

RESOLVED – 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 to the Act.

PA10 COMPLAINTS RECEIVED AND BEING CONSIDERED UNDER THE COUNCIL'S APPROVED CODE OF PRACTICE AS OF 22 MAY 2019 (EXCLUSION PARAGRAPH NO. 7)

With the agreement of this Committee to the following items being considered at this meeting, and pursuant to Minute PA77/Mar/19, the Director of Economic Growth and Neighbourhood Services submitted a report (previously circulated) detailing breaches of planning regulations investigated by this Council, as at 22 May 2019.

RESOLVED – That the report be noted.

PLANNING APPLICATIONS COMMITTEE

Wednesday, 5 June 2019

PRESENT – Councillor Mrs. D. Jones (Chair), Councillors Allen, Clarke, Heslop, Howarth, Johnson, Keir, Lee, Lister, Marshall, McCollom, Tait and Wallis.

APOLOGIES – Councillors Baldwin and Tostevin.

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

PA12 DECLARATIONS OF INTEREST

There were no declarations of interest reported at the meeting.

PA13 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
CL1	<p>Prior to the commencement of the development and any site investigative works a Phase 1 Preliminary Risk Assessment shall be prepared by a "suitably competent person(s)" and submitted to and agreed in writing with the Local Planning Authority. The Phase 1 Preliminary Risk Assessment shall include a Site Inspection and a Conceptual Site Model (CSM) to identify and illustrate all potential contamination sources, pathways and receptors associated with the site and the surrounding environment.</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>
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</p>

	<p>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>
<p>CL3</p>	<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>
<p>CL4</p>	<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</p>

	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
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 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 and 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>

PA14 FIELD AT OSGR E425124 N514093, GATE LANE, LOW CONISCLIFFE

18/01151/FUL – Pursuant to Min PA6/JUN/19, the Committee considered an Application submitted under Section 73 of the Town and Country Planning Act 1990 (as amended) for variation of condition 24 (Restriction of Permitted Development Rights); condition 35 (accordance with plans) and removal of condition 11 (visibility splays) of planning permission reference number

16/01231/FUL dated 22 February 2018 (residential development comprising of 37 No. detached dwellings (including seven affordable units) and associated access road, car parking and landscaping) to permit the substitution of house types and revisions to the layout, open space, vehicular access arrangements and landscaping scheme (amended plan received 14 February 2019).

In light of the letter received by Parish Councillor Ellerton from the landowners' solicitor, and the subsequent deferral of proceedings, Members were advised of the opinion received by Counsel. During further discussion, the landowners' solicitor addressed this Committee and advised that he had been instructed to withdraw the letter for the purposes of the meeting.

(In reaching its decision, the Committee took into consideration the Planning Officer's report (previously circulated), 119 letters of objection received, a letter received from Maria Ferguson Planning Consultancy on behalf of the Low Coniscliffe and Merrybent Parish Council and the Low Coniscliffe Action Committee, a submission from the Campaign to Protect Rural England, and the views of the applicant, the applicant's agent, Parish Councillor Peter Ellerton and the Ward Councillor, whom Members heard).

Members also heard that, since the drafting of the report, the referendum in respect of the Low Coniscliffe and Merrybent Neighbourhood Plan took place on 23 May and the vote was in favour of the Neighbourhood Plan being made. A neighbourhood plan comes into force as part of the statutory development plan once it has been approved by the referendum. This site is not allocated for housing in the Neighbourhood Plan.

As discussed within the report, applications for planning permission must be determined in accordance with the development plan, unless material planning considerations indicate otherwise. It is important to note that, when assessing Section 73 applications, the previously granted planning permission is a significant material consideration, which impacts heavily on the assessment of the proposal. As the original permission had not yet expired, the applicant may proceed and complete the original approved scheme if they wish. As discussed within the report the changes proposed through the Section 73 application are considered to be minor but are improvements to the original scheme. For this reason (and for those set out within the report), it was considered that, on balance, the material considerations still indicate that the revised development is acceptable and is recommended for approval.

RESOLVED – That the Planning Permission be granted subject to the variation of the existing Section 106 Agreement within six months. To secure Planning obligations that are appropriate for the development covering:

- a) A financial contribution towards improving and maintaining walking routes, the wider Public Right of Way network and cycle paths within the vicinity of the application site.
- b) A financial contribution towards improving and maintaining open space/green infrastructure within the vicinity of the application site.
- c) A financial improvement to improve and maintain existing playing fields in the vicinity of the application site.

- d) Details of a private management company to maintain open space, the Public Right of Way and retained field boundaries.

AND THE FOLLOWING PLANNING CONDITIONS:

1. The development hereby permitted shall be commenced not later than 22 February 2020
REASON; Due to the planning application being submitted under Section 73 of the Town and Country Planning Act 1990 (as amended) and in the interests of achieving an improved rate of housing delivery in the Borough
2. No dwellings hereby approved shall be erected above damp proof course level until samples and details of the external materials to be used in the construction of those dwellings have been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details.
REASON: In the interests of visual amenity
3. Prior to the occupation of any unit, 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 provision will take the form of on-site provision (of not less than 20% of the housing units) in accordance with a scheme to be submitted and agreed in writing by the local planning authority. The scheme shall include:
 - a) The timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
 - b) A plan to show the location of the affordable 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 is involved);
 - d) The arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing;
 - 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;
 - f) The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2 of the National Planning Policy Framework or any future guidance that replaces it.

REASON: To comply with local development plan policy

4. 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;

- 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 construction Phase
- d) Details of adoption responsibilities;
- e) Management plan for the Surface Water Drainage scheme and any maintenance and funding arrangement;

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 CS16 and the National Planning Policy Framework.

5. The development permitted by this planning permission shall only be carried out in accordance with the Flood Risk Assessment (FRA) 2017 Reference: H76116/FRA/001 previously approved under planning permission reference number 16/01231/FUL dated 22 February 2019. 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 by limiting surface water discharge from the development to 13.6l/sec. 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. 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 during construction / development of the site
7. The development hereby approved should not be carried out otherwise than in complete accordance with the drainage scheme contained within the Drawing Number H76116-D-001 Rev C "Drainage Strategy" produced by JNP Group approved under planning permission reference number 16/01231/FUL dated 22 February 2019. The drainage scheme shall ensure that foul flows discharge into the foul sewer at manhole 0901 and ensure that surface water discharges to the existing watercourse
REASON: To prevent increased risk of flooding from any sources in accordance with the National Planning Policy Framework 2019

8. The development hereby approved shall be carried out in complete accordance with the Flood Risk Assessment dated June 2017 approved under planning permission reference number 16/01231/FUL dated 22 February 2019 and the following mitigation measures detailed within the Flood Risk Assessment and Drawing Number L015046-103 Rev C:
 - a) No dwellings shall be built within Flood Zones 2 or 3.

9. 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 other period as may subsequently be agreed, in writing, by the Local Planning Authority
REASON: To reduce the risk of flooding to the proposed development and future occupants.

10. The development permitted by this planning permission shall be carried out in accordance with the Flood Risk Assessment (FRA) approved under planning permission reference number 16/01231/FUL dated 22 February 2018 and the following mitigation measures detailed within the FRA and site plan drawing L05046-103:
 - 1) No dwellings shall be built within flood zones 2 or 3.

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.
REASON: To reduce the risk of flooding to the proposed development and future occupants.

11. No dwellings hereby approved shall be erected above damp proof course level until precise details of a bin storage facilities and location shall be submitted and approved in writing by the Local Planning Authority. The development shall not be carried out otherwise than in accordance with the approved details and shall be permanently retained thereafter.
REASON: in the interests of highway safety

12. Notwithstanding the details shown on the approved plans, precise details of the offsite highway works required to access the site and mitigate the development impact shall be submitted and approved, in writing, by the Local Planning Authority prior to the commencement of the development. The submitted details shall include widening of Gate Lane to 5.5m up to the new access junction, the provision of a new 2.0m wide footway along the frontage of the development on Gate Lane connecting into the surrounding infrastructure and the new site access junction. The development shall not be carried out otherwise than in complete accordance with the approved details.
REASON: In the interests of highway safety

13. No dwellings hereby approved shall be erected above damp proof course level until precise details of secure, covered cycle parking provision shall be

submitted to and approved in writing by the Local Planning Authority and the development shall not be carried out otherwise than in complete accordance with the approved details

REASON: In order to encourage the use of sustainable transport

14. The mitigation measures outlined in the Noise Impact Assessment produced by Environmental Noise Solutions Ltd dated 8 April 2016 (reference NIA/6572/16/6505 v1) approved under planning permission reference number 16/01231/FUL dated 22 February 2018 shall be fully implemented prior to the first occupation of the dwellings and thereafter shall be retained and maintained for the life of the development.

REASON: In the interests of the amenities of the occupiers of the development

15. Notwithstanding the mitigation measures outlined within the a Noise Impact Assessment produced by Environmental Noise Solutions Ltd and dated 8 April 2016 (reference NIA/6572/16/6505 v1) approved under planning permission reference number 16/01231/FUL dated 22 February 2018, precise details of the acoustic fence to be installed shall be submitted to and approved in writing by the Local Planning Authority prior to any dwellings hereby approved being erected above damp proof course level. The details shall include the specification and construction of the fence (i.e. density, height, design) and its location. The development shall not be carried out otherwise than in complete accordance with the approved details and the fence shall be fully installed prior to the first occupation of the dwellings, and thereafter shall be retained and maintained for the life of the development

REASON: In the interests of the amenities of the occupiers of the development

16. Notwithstanding the mitigation measures outlined within the Noise Impact Assessment produced by Environmental Noise Solutions Ltd and dated 8 April 2016 (reference NIA/6572/16/6505 v1 approved under planning permission reference number 16/01231/FUL dated 22 February 2018, precise details of the glazing specifications (including details on the $R_w + C_{tr}$ value) and acoustic trickle vents (including their acoustic performance) for all windows for habitable rooms on the road frontage elevation for dwellings within 20 metres of Coniscliffe Road shall be submitted to and approved in writing by the Local Planning Authority prior to any dwellings hereby approved being erected above damp proof course level. The development shall not be carried out otherwise than in complete accordance with the approved details and the measures shall be implemented prior to the first occupation of the dwellings, and thereafter shall be retained and maintained for the life of the development

REASON: In the interests of the amenities of the occupiers of the development

17. Prior to the commencement of the development, a Construction Management Plan shall be submitted and approved in writing by the Local Planning Authority. The plan shall include the following:

- a) 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 construction phase 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.
- b) Methods for controlling noise and vibration during the construction phase and shall take account of the guidance contained within BS5228 "Code of Practice for noise and vibration control on construction and open sites" 2009.
- c) Construction Traffic Routes, including parking areas for staff and visitors.
- d) Details of wheel washing.
- e) Road Maintenance.
- f) Warning signage.

The development shall not be carried out otherwise in complete accordance with the approved Plan

REASON: In the interests of residential amenity and highway safety

18. 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 interest of the residential amenity of the area

19. If piled foundations are proposed, prior to the commencement of the development details of the piling method including justification for its choice, means of monitoring vibration and groundwater risk assessment if necessary in accordance with recognised guidance shall be submitted and agreed in writing by the Local Planning Authority. The development shall not be carried out otherwise than in accordance with the approved details.
REASON: In the interest of the residential amenity of the area

20. Prior to the commencement of the development, a management plan for keeping Public Footpath No 6 The Parish of Low Coniscliffe available for public use during the construction phase of the development. The development shall not be carried out otherwise than in complete accordance with the approved plan.
REASON: To ensure that the Public Footpath continues to be accessible.

21. The proposed development (construction and post development) shall not

be carried out otherwise than in complete accordance with the recommendations set out in the document entitled "Preliminary Ecological Appraisal and Bat Survey Report. Land south of Coniscliffe Road, Low Coniscliffe" Version R2 dated 16 August 2016 and produced by Naturally Wild and approved under planning permission reference number 16/01231/FUL dated 22 February 2018 unless otherwise agreed in writing by the Local Planning Authority

REASON: In the interests of mitigating the impact of the development to protected and notable species

22. No dwellings hereby approved shall be erected above damp proof course level, an appropriate street lighting scheme for the development, including for the "Safe Route for School" route on the A67/Coniscliffe Road shall be submitted to and approved, in writing by the Local Planning Authority. The development shall not be carried out otherwise than in complete accordance with the approved details.

REASON: In the interests of highway and pedestrian safety

23. Notwithstanding condition 19 and the recommendations set out in the document entitled "Preliminary Ecological Appraisal and Bat Survey Report. Land south of Coniscliffe Road, Low Coniscliffe" Version R2 dated 16 August 2016 and produced by Naturally Wild and approved under planning permission reference number 16/01231/FUL dated 22 February 2018 the street lighting scheme for the site shall include an ecological lighting strategy to be submitted to and approved in writing by the Local Planning Authority. The strategy shall include details, location and level of luminance of the street lighting and external floodlighting on the dwellings in the vicinity of the retained central field boundary and the development shall not be carried out otherwise than in complete accordance with the approved details. No additional street lighting or external floodlighting to the dwellings shall be installed other than agreed without the prior consent of the Local Planning Authority

REASON: In the interests of protected species and their habitats

24. Notwithstanding the recommendations set out in the document entitled "Preliminary Ecological Appraisal and Bat Survey Report. Land south of Coniscliffe Road, Low Coniscliffe" Version R2 dated 16 August 2016 and produced by Naturally Wild and approved under planning permission reference number 16/01231/FUL dated 22 February 2018 a scheme for the installation of bat and bird boxes (within trees and integrated into dwellings) shall be submitted to and approved in writing by the Local Planning Authority prior to any dwellings hereby approved being erected above damp proof course level. The scheme shall include the type of bird boxes and location throughout the development and the development shall not be carried out otherwise than in complete accordance with the approved details
- REASON: In order to compensate for the loss of bird nesting opportunities due to the removal of sections of hedgerow and to enhance alternative bat foraging routes in the general ecological interests of the site.

25. 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 enlargement, improvement or other alteration of the dwellings on Plots 8, 9, 10, 23 and 24, including any additional structures/building within the curtilage of the site, 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 protect the central boundary hedge for ecological purposes

26. CL1 – Phase 1 Preliminary Risk Assessment
27. CL2 – Site Investigation Strategy
28. CL3 – Phase 2 Investigation Works
29. CL4 – Phase 3 Remediation and Verification Strategy
30. CL5 - Construction/Remediation Works
31. CL6 – Phase 4 Verification and Completion Report
32. 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:
 - a) Measures to ensure the preservation in situ, or the preservation by record, of archaeological features of identified importance
 - b) Methodologies for the recording and recovery of archaeological remains including artefacts and ecofacts
 - c) Post-fieldwork methodologies for assessment and analyses
 - d) Report content and arrangements for dissemination and publication proposals
 - e) Archive preparation and deposition with recognised depositories
 - f) 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
 - g) Monitoring arrangements, including the notification in writing to the County Durham Principal Archaeologist of the commencement of works and the opportunity to monitor such works
 - h) 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 paragraphs 197 & 199 of the National Planning Policy Framework 2019 because the site is of archaeological interest.

33. 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 paragraph 199 of the National Planning Policy Framework 2019, 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.

34. Prior to the commencement of the development hereby approved (including demolition work), details shall be submitted of a scheme to protect the existing trees shown on the submitted plans to be retained. The submitted details shall comprise generally the specification laid down within BS 5837 and shall include fencing of at least 2.3m high, consisting of a scaffolding frame braced to resist impacts, supported by a weldmesh wired to the uprights and horizontals to dissuade encroachment. The agreed scheme of protection shall be in place before the commencement of any work, including demolition operations. The Local Planning Authority shall be given notice of the completion of the protection works prior to the commencement of any work to allow an inspection of the measurements to ensure compliance with the approved scheme of protection. 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 the 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 that a maximum level of protection in order to safeguard the well being of the trees on the site and in the interests of the visual amenities of the area.

35. No dwellings hereby approved shall be erected above damp proof course level until 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.

REASON - To ensure a satisfactory appearance of the site and in the interests of the visual amenities of the area.

36. 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.

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

- a. SBA-4-16 – Planning Floor Plans SBA – 4
- b. SBA – 4 – 05 – 4 Elevations SBA - 4
- c. Gate Lane_000_XX_DR_A_003 Rev E Proposed Site Layout
- d. Gate Lane_000_XX_DR_A_004 Rev B Proposed Materials Layout
- e. Gate Lane_000_XX_DR_A_010 Rev A Proposed Boundary Treatments
- f. Gate Lane_000_XX_DR_A_035 Proposed Site Sections
- g. Gate Lane_000_XX_DR_A_060 Proposed Refuse Vehicle Tracking
- h. Gate Lane_000_XX_DR_A_061 Proposed Fire Tender Tracking
- i. Gate Lane_000_XX-DR_A_090 Rev B Proposed Management Plan
- j. DG-06 Rev A Double Garage Elevations
- k. DG-03 Rev C Double Garage Floor Plan
- l. 18-ST-11-1 Planning FF Plan Stewart
- m. 18-ST-11 Planning GF Plan Stewart
- n. 18-ST-06.02 Elevations - E02 Feature 1 Stewart
- o. 18-ST-06.03 Elevations- E03 Feature 2 Stewart
- p. 18-ST-06.13 Elevations – E03 Feature 2 Stewart
- q. 18-ST-06.12 Elevations – E02 Feature 1 Stewart
- r. 18-NA-GR-11 Planning Floor Plans Nasmyth Garden Room 18
- s. 18-NA-GR-06.02 Elevations – E02 Feature 1 Nasmyth Garden Room 18
- t. 18-NA-GR-06.03 Elevations - E03 Feature 2 Nasmyth Garden Room 18
- u. 18-MI-GR-11 Planning Floor Plans Mitchell Garden Room 18
- v. 18-MI-GR-06.02 Elevations – E02 Feature 1 Mitchell GR18
- w. 18-MI-GR-06.03 Elevations – E03 Feature 2 Mitchell GR18
- x. 18-LE-GR-11 Planning Floor Plans Leonardo & GR 18
- y. 18-LE-GR-06.02 Elevations – E02 Feature 1 Leonardo & GR 18
- z. 18-LE-GR-06.03 Elevations E03 Feature 2 Leonardo & GR 18
- aa. 18-LA-GR-11 Planning Floor Plans Lawrie Garden Room 18
- bb. 18-LA-GR-06.02 Elevations E02 Feature 1 Lawrie Garden Room 18
- cc. 18-LA-GR-06.03 Elevations E03 Feature 2 Lawrie Garden Room 18

- dd. 18-HU-GR-11 Planning Floor Plans Hutton Garden Room 18
- ee. 18-HU-GR-06.02 Elevations E02 Feature 1 Hutton Garden Room 18
- ff. 18-HU-GR-06.03 Elevations E03 Feature 2 Hutton Garden Room 18

REASON – For the avoidance of doubt and to ensure the development is carried out in accordance with the planning permission.

NOTE: That, subject to the Section 106 Agreement not being completed within the prescribed period without the written consent of the Council to extend this time, the minded to approve status of this permission shall be considered to be a refusal on the grounds that the application has failed to provide adequate mitigation measures to provide a satisfactory form of development in accordance with the requirements of Core Strategy Policy CS4 (Developer Contributions) without any further reference to the Planning Applications Committee.

PA15 LAND NORTH OF CONISCLIFFE ROAD

17/00632/OUTE - Outline planning application for the erection of up to 535 Dwellings, landscaping, ancillary works and wider highway mitigation measures with all matters reserved except access (Additional Phasing Plan and Noise Assessment and Amended Flood Risk Assessment and Masterplan received 8 November 2017; additional Archaeology Report received 7 February 2018; additional Transport Assessment Addendum and additional Arboricultural Report received 3 January 2019 and Environmental Statement received 11 January 2019)

Members were advised that Officers had received legal guidance in relation to proceeding with this application, and that Members were asked to defer consideration of this application to a future meeting of this Committee.

RESOLVED – That consideration of this application be deferred to a future meeting of the Planning Applications Committee.

PA16 LAND SOUTH OF STAINDROP ROAD

17/00636/OUTE - Outline planning permission for residential development of up to 985 dwellings (Use Class C3), convenience store with up to 400 sqm retail floor space (Use Class A1), a GP (Class D1), land for proposed primary school and early years school (Use Class D1) and sports pitches with associated parking, public open space, landscaping and sustainable draining system (SUDS) and vehicular access points from Staindrop Road with all matters reserved except means of vehicular access (amended Flood Risk Assessment received 7 September 2017, Minerals Report, Agricultural Land Report and Phasing Plan received 26 September 2017, 2 October 2017, 9 October 2017, Archaeology Report received 23 November 2018; Transport Assessment Addendum and Arboricultural Report received 3 January 2019 and Environmental Statement received 11 January 2019).

Members were advised that Officers had received legal guidance in relation to proceeding with this application, and that Members were asked to defer

consideration of this application to a future meeting of this Committee.

RESOLVED – That consideration of this application be deferred to a future meeting of the Planning Applications Committee.

PA17 LAND TO THE WEST & SOUTH OF STATION ROAD, MIDDLETON ST. GEORGE

16/00976/OUT - Outline application for the demolition of existing buildings and the erection of up to 260 residential dwellings (Use Class C3) and associated access, landscaping and engineering works with details of appearance, layout, landscape and scale reserved (Amended plans received 1st February 2019) (Additional information received 1st February 2019)

Members were advised that Officers had received legal guidance in relation to proceeding with this application, and that Members were asked to defer consideration of this application to a future meeting of this Committee.

RESOLVED – That consideration of this application be deferred to a future meeting of the Planning Applications Committee.

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DARLINGTON BOROUGH COUNCIL**PLANNING APPLICATIONS COMMITTEE****COMMITTEE DATE: 10th July 2019**

APPLICATION REF. NO:	19/00048/CU
STATUTORY DECISION DATE:	14 June 2019
WARD/PARISH:	PARK WEST
LOCATION:	Earlston, 181 Coniscliffe Road
DESCRIPTION:	Change of use from a specialist care facility (C2 Residential Institutions) into serviced office accommodation (B1 Business and D1 Non-Residential Institutions) (Amended plans received 13 March 2019)
APPLICANT:	Mr & Mrs Hall

APPLICATION AND SITE DESCRIPTION

The property, known as Earlston, is a large detached building within the West End Conservation Area. The building is accessed off Coniscliffe Road and there is a detached single storey garage/store and a bin store within an informal parking area at the front, which is enclosed by a brick wall and fence with timber gates at the access. The building is 2.5 storeys (with a room in the roof space) with two wings and a conservatory leading down onto quite extensive formal gardens at the rear. The building has disabled access ramps to the front and also to the rear.

There are trees within the frontage of the property which are covered by tree preservation orders, namely,

- Three Sycamore trees covered by Tree Preservation (No 3) Order 1961
- A Chestnut and a Lime covered by Tree Preservation (No 2) Order 2001

The building has previously been used as a home for the elderly and was last used as a specialist care facility providing 24 hour care for people with long term and enduring mental health problems. The building was operated by the County Durham & Darlington Priority Services NHS Trust and comprised twelve beds for people who needed long term mental care but could live safely in the community. The property also provided three respite care beds offering short term care for people who were experiencing temporary difficulties. The property was adapted over the years to cater for additional

residents and its capacity was increased to twenty with eighteen beds for people requiring long term care.

Following the closure of the facility in 2017, the building was declared surplus to requirements by the Trust as services were transferred to West Park and it was subsequently sold at auction.

This planning application is for the change of use of the premises from a specialist care facility (Use Class C2) to provide serviced office accommodation for a mix of B1 (Business) and D1 (Non Residential) uses. Class B1 uses include office uses and Class D1 includes uses such as clinics, health centre, physiotherapy.

The submitted floor plans show:

Ground floor

- Four rooms to be used for D1 purposes
- Four rooms to be used for B1 purposes
- Shared meeting room within the existing conservatory
- Break out area and kitchen/dining room

First Floor

- Six rooms to be used for B1 purposes

Second Floor (roof space)

- One room to be used for B1 purposes

The existing garage/store and bin store would be retained and 16 parking spaces would be provided within the forecourt. The existing entrance would be widened to 4.5m and a cycle shelter would be erected to the west of the main building alongside the shared boundary with No 185 Coniscliffe Road behind a fence and gate. There would be no external alterations to the premises.

The proposed operating hours would be 08:00 to 20:00 Monday to Friday; 08:00 to 18:00 on a Saturday with no working on Sundays and Bank Holidays.

The trees within the site would be unaffected by the proposed change of use and the associated works.

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

PLANNING HISTORY

The relevant planning entries are:

00/00511/PLU An application for a Certificate of Lawfulness (Proposed Use) to use the property for NHS patient use, 24 hour care for people with long term and enduring mental health problems was GRANTED in September 2000

01/00035/FUL Planning permission for alterations to double garage to form boiler house and single garage and insertion of additional window to east elevation (ground floor) was GRANTED in March 2001

RESULTS OF CONSULTATION AND PUBLICITY

Following the Council's publicity exercises relating to the original submission, five letters of objection; one letter of support and one comment were received:

The letters of objection can be summarised as follows:

- *Whilst the desire for some flexibility in the uses is understood, how the building is used in practice will result on potentially variable impacts on neighbouring properties particularly in relation to parking requirements for staff and visitors, the levels of visitor activity and the hours of use*
- *Parking bays 12 and 13 are based on a tandem arrangement which makes access problematic and bays 14, 15 and 16 have restricted access due to the retained ramped access to the front entrance of the building. Under the Guidance there needs to be more space between the bays to provide an acceptable and usable car park and to avoid intensification of use resulting in a detrimental effect on the residential area*
- *In terms of overall provision and appropriate level of parking provision should be 22 bays*
- *The cycle shed is directly outside our kitchen window (No 185 Coniscliffe Road). This is unacceptable due to the frequent disturbance due to its close proximity to our property*
- *The hours of operation are excessive, particularly late evening activity*
- *Security concerns of the gardens and that of neighbouring properties*
- *No reference to limitations on the use of the gardens (for example parties and entertaining)*
- *Underestimated parking requirements and risk of inconsiderate on street parking*
- *We are concerned about noise and other disturbance that this will/may create with regard to traffic movements, especially if gravel is laid*
- *Parking outside our properties (No 177 and 179 Coniscliffe Road) can be quite challenging due to the proximity of the bus stop and the quantity of traffic so we are concerned that there is no on street or overflow parking that would prevent us from parking close to our homes*
- *Smoking on or near the premises is a concern as smoke will travel onto neighbouring properties*
- *Light pollution and signage could affect the visual appeal of the area. Nos 177 and 179 Coniscliffe Road are very overlooked due to the height difference of this building, especially the eastern wing and if lights are left on in this part of the building overnight this does affect the quality of our lives*
- *Wildlife in the area will be affected by this proposal*
- *The cycle shelter will not be realistically used if parking bays 5 and 6 are in use*
- *The consequences of the parking layout will be an increased number of vehicles that would be parking on streets outside of the site and creating additional congestion*

- *The proposal does not comply with Core Strategy Policy CS2 as the proposals do not contain suitable parking*
- *The proposed change of use has to be considered against the character of the Conservation Area*
- *The site not being maintained should not be a material planning consideration*
- *Significant impact from traffic intensification to the character of the building and location and will harm the significance of the West End Conservation Area*
- *There is a surplus of office units in Darlington town centre and less weight should be given to the proposals benefit to the economy*

The letter of support states:

- *We have no objection to the proposals provided that the proposed operating hours specified on the application form are conditioned on any planning approval*

The comment states:

- *There is nothing in the documentation which refers to the upkeep and maintenance of the perimeter fences and trees within the property which adjoins several residential properties and which are the responsibility of the applicant/owner*

Following the submission of additional information submitted on behalf the applicant and revised ground floor layout plan to show the location of the D1 uses, the Council received two letters of objection which can be summarised as follows:

- *Our objections still stand as the changes proposed are minimal and in particular the issue of the parking has not been resolved. There is a high chance the end users of the scheme will opt to park outside rather than be boxed in, especially where visits to clients need to be made*
- *Whilst the previous use may have had an impact from shift changes, the peaks were likely limited. There was never an issue with parking as the car park was never full and there was never any disturbances from cars being parked on the road*
- *The proposed start and finish times will mean potentially cars arriving from 8am through to 9am when this road is extremely busy and then either the entire block is vacated at that time with cars leaving at once causing a significantly greater traffic impact than the current use or a steady stream of cars from 4:30pm*
- *There is no guarantee over how many cars will park on Coniscliffe Road and only in front of the application site. Due to the parking bays being marked and the likelihood of poor parking in the site, more people will have to park on the public highway*
- *The impact on access and egress to surrounding residents is an issue along with safety issues given Coniscliffe Road is a busy, main thoroughfare into the town centre*
- *There is no way of knowing what how the future users of the development will operate. The D1 uses increases the likelihood that appointments will be made*

outside of office hours. The hours of operation need to be limited in the interests of residential amenity

- *The suggestion that the existing boundary fence would protect the privacy of the neighbouring dwelling from the proposed cycle shed is simply not true. The shed will sit proud of the fence and overlook the properties kitchen window causing obvious disturbance to the occupants*

Consultee Responses

The **Council's Environmental Health Officer** has raised no objections

The **Council's Historic Asset Officer** has raised no objections

The **Council's Highways Engineer** has raised no objections and requested the imposition of a condition to ensure that the first one metre of the drive within the property is constructed in a sealed material to prevent loose materials from being pulled onto the highway

PLANNING POLICY BACKGROUND

The relevant local and national development plan policies are:

Borough of Darlington Local Plan 1997

E2 – Development Limits

E12 – Trees and Development

EP2 – Employment Areas

EP7 – Office/Business Park Development

EP11 – Central Area Development Sites

EP12 – Office Development Limits Elsewhere

Darlington Core Strategy Development Plan Document 2011

CS1 - Darlington's Sub-Regional Role and Locational Strategy

CS2 - Achieving High Quality Sustainable Design

CS5 – The Provision of Land for Employment Purposes

CS14 - Promoting Local Character and Distinctiveness

CS16 - Protecting Environmental Resources, Human Health and Safety

National Planning Policy Framework 2019

PLANNING ISSUES

The main issues to be considered are:

- Planning Policy
- Residential Amenity
- Impact on the Significance of the West End Conservation Area
- Highway Safety and Parking
- Impact on Trees

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) 2019 comprises up to date national planning policy and is a material consideration in planning decisions.

The application site lies within a residential area, outside of the defined town centre and the central area office development limits, employment areas and office/business development areas which are identified in the Borough of Darlington Local Plan 1997 and the Darlington Core Strategy Development Plan Document 2011 as being acceptable locations for B1 uses, subject to meeting certain criteria.

The property has however been in non-residential use for a number of years and the continued non-residential use of the building would not be out of keeping with the existing character of this part of Coniscliffe Road, provided the proposed use does not unacceptably impact upon the amenities of neighbouring residential properties. This will be considered in more detail in the next section of the report. The site is on a main traffic route with good public transport links and it is unlikely that the building would be converted into residential use due to its size. Furthermore, the Council would prefer to have buildings in use, especially those located in conservation areas, to prevent their condition deteriorating and adversely affecting the street scene, the amenity of the area and the significance of the conservation area.

The planning application has been assessed in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and as such the principle of the change of use can be supported in planning policy terms, subject to consideration of the following matters of development management.

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 National Planning Policy Framework 2019.

The application site is within a residential area with existing dwellings bounding the east, south and west boundaries and there are properties on the opposite side of Coniscliffe Road (north).

The building has been used for non-residential purposes for many years and the last use provided 24 hour operational care which would have resulted in activities and vehicle movements throughout the day and on weekends, although the level of activity mentioned by the objectors has been noted. As a fallback position, the building could be used for a number of other uses within Class C2 of the 2015 Use Classes Order, and the Council would have no control over such matters of hours of operation, parking etc.

It is considered that the proposed operating hours of 08:00 to 20:00 Monday to Friday; 08:00 to 18:00 on a Saturday with no working on Sundays and Bank Holidays are not considered to be at antisocial times, or when residents would reasonably expect a degree of peace and quiet. The hours of operation will be secured by a planning condition which will create some betterment on the previous use in terms of protecting the amenities of the neighbouring dwellings.

As the proposal involves no external alterations, there would be no new openings inserted into the building that would increase the existing levels of overlooking any neighbouring dwellings. The two wings of the building that extend to the rear contain window openings within corridors that face onto the shared boundaries to the east and west and these existing corridors would remain as part of the new internal layout and therefore the views from these openings remain unchanged.

Officers consider that it is unreasonable to impose planning conditions relating to external lighting and the use of the rear garden as such conditions would not meet the legal tests for imposing planning conditions. There are other legislative powers available to the Council should complaints be received regarding noise and light pollution. Furthermore, the planning condition for controlling the hours of operation would cover the whole site and is considered to be an appropriate method for protecting the amenities of the area.

The existing car parking area is to the front of the building with no vehicular access down either side of the building. Whilst there will be activity in this parking area due to employees and visitors arriving and leaving during the course of the working day, the existing boundary treatments will provide some screening from such activity and it is envisaged that any noise generated will not be so adverse to justify a reason to recommend refusal for the planning application. The hours of operation condition would also impose control over the use of this part of the site.

The cycle shelter would be located alongside the west boundary of the site adjacent to No 185 Coniscliffe Road. The shelter would accommodate up to 10 cycles and would be constructed from clear plastic sheeting. The structure would measure 2.2m wide; 4.1m long with an overall height of 2.1m under a curved roof. The boundary with this neighbouring dwelling comprises a solid timber fence augmented by some vegetation. The kitchen window made reference to in the objections from the occupant of this dwelling can be partially seen above the fenceline. The cycle shelter would be set in 1.9m from the boundary line and it is considered that the structure and the activities associated with it would not create adverse amenity conditions for the neighbouring dwelling in terms of outlook and general disturbance.

The proposed change of use is considered acceptable in residential amenity terms subject to the imposition planning conditions relating to the hours of operation and to control the extent of D1 uses within the site, which would typically attract a greater number of visitors to the premises when compared to B1 office uses.

Impact on the Significance of the West End Conservation Area

In exercising the planning function with respect to Conservation Areas, special attention should be paid to the desirability of preserving or enhancing the character or appearance of that area under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. If harm is identified to the character or appearance of a conservation area, then the decision maker must give "*considerable importance and weight*" to that harm in line with 72 of the 1990 Act.

Core Strategy Policy CS14 (Promoting Local Character and Distinctiveness) seeks to protect the Borough's distinctive character by protecting buildings, their settings and features.

Paragraph 190 of the National Planning Policy Framework (NPPF) 2019 requires local planning authorities to identify and assess the particular significance of any heritage asset that may be affected by a proposal, including by development affecting the setting of a heritage asset. This must then be taken into account when considering the impact of a proposal on a heritage asset.

The NPPF recognises that heritage assets are an "irreplaceable resource and should be conserved in a manner appropriate to their significance" (Paragraph 184). Paragraph 192 notes that, in considering applications, account should be taken of "the desirability of sustaining and enhancing the significance of heritage assets". Paragraph 193 requires "great weight" to be given to an asset's conservation, irrespective of the extent of harm caused, and confirms that "the more important the asset, the greater the weight should be".

The proposal does not involve any external alterations to the building, the proposed cycle shelter would be located behind a fence and gate to the side of the building and the existing gated entrance which would be widened would result in a minimal alteration to the street frontage. The trees within the site would be retained. The Council's Historic Asset Officer has raised no objections to the proposed development.

The continued vacancy of the building could lead to the deterioration of the building and the site which is a position that the local planning authority would wish to avoid and, generally speaking, getting vacant buildings, in the Conservation Area, occupied with an appropriate use, is welcomed and to be encouraged.

Having considered the above and the comments from the Historic Assets Officer, Officers consider that the proposed development will "sustain" and "preserve" the significance of the West End Conservation Area and would accord with Policy CS14 of the Core strategy and paragraph 192 of the National Planning Policy Framework 2019.

Highway Safety and Parking

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 existing access would be widened to create a two way passage for vehicles exiting and entering the site and 16 parking spaces, including one disabled space, would be provided within the forecourt area. The site is located on a main public transport route, with a bus stop within 100m, and a shelter for 10 cycles is being provided.

The existing bin store which is within an acceptable walking distance from the highway would be retained. The existing dropped crossing is wide enough to serve the proposed 4.5m access, and therefore no works are needed with the highway.

The proposed parking/forecourt area is currently a gravel surface finish which will be retained so the first 1m of the in curtilage driveway should be constructed in a sealed material to prevent loose material being deposited in the highway and this would be secured by a planning condition.

The layout of some of the parking spaces is not ideal and whilst overspill parking is to be avoided, the site benefits from a wide frontage with sufficient space for four vehicles to park and Coniscliffe Road is wide enough to ensure that any vehicles parked on the highway do not impede the free flow of traffic. Neighbouring residential properties benefit from driveways with in-curtilage parking, as such on street parking associated with residential properties is currently minimal and a scenario where residents and office staff “compete” for parking is unlikely.

The amended ground floor plans have allocated four units that would be offered for D1 use, giving a total floor area of 58 sqm. The offices offered are smaller units on the ground floor frontage that are of such a limited scale as to only be able to accommodate one to one based services. Based on this arrangement the Council's Highways Engineer is satisfied that sufficient parking is provided to ensure there will not be a detrimental impact to the highway or the parking needs of neighbouring residential properties.

Disabled Access

Policy CS2 of the Core Strategy 2011 seeks to ensure that new development provides safe, convenient and attractive access for disabled persons. The existing access ramps to the front entrance and to the entrances on the single storey wings would be retained and there is provision for a disabled parking space. The D1 uses are all on the ground floor of the building making them accessible for disabled persons. The proposal will accord with this objective of Policy CS2.

Impact on Trees

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.

There are no proposals within the planning application to carry out any works to the trees within the site. The forecourt area is not being re-laid and marked out to show the formal parking spaces which will ensure that the trees and their root protection areas are not adversely affected by such works.

The vegetation and bushes that are located on the front boundary may be tidied up and/or removed which would not require any form of consent of the Council.

The applicant is aware that any proposals to carry out work to any of the trees within the site, apart from the removal of deadwood, will require the submission of appropriate applications in the future.

Other Matters

The future monitoring and up keep of the trees within the site would be the responsibility of the landowner and similarly maintenance of the boundary fencing would also be a matter for the owners of the said fencing whether that is the applicant or the occupants of the neighbouring dwellings.

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 use of the existing building for a mix of Class B2/D1 uses would not be fully compliant with relevant development plan policies, however in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, there are material planning considerations that would permit these policies to be set aside to allow the proposed change of use to be supported. The previous non-residential use of the property (Use Class C2) would allow the property to be used for any use falling within Class C2 (Residential Institutions) with no controls over such matters of hours of operations, parking numbers and this is given great weight in the planning balance.

The proposal would sustain the significance of the West End Conservation Area and, subject to the imposition of appropriate planning conditions, the proposed change of use would be acceptable in terms of highway safety and residential amenity.

RECOMMENDATION

THAT PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:

1. A3 - Implementation Limit (Three Years)
2. The use of the building and outdoor areas hereby permitted shall not be carried on outside the hours of 08:00 to 20:00 Monday to Friday; 08:00 to 18:00 on a Saturday with no working on Sundays and Bank Holidays.

REASON: In the interests of residential amenity

3. Notwithstanding the details shown on the approved plans, the first 1m of the drive within the property shall be constructed in a sealed material (i.e. not loose gravel) and the work shall be completed prior to the commencement of the use.

REASON: In order to prevent loose material being pulled into the public highway

4. The number and size of rooms within the building to be used for Class D1 (Non-residential purposes) purposes of the Town and Country Planning Use Classes Order 2015 or any Order revoking or re-anacting that Order, shall be as shown

on the approved plans and shall not increase or be revised without the prior consent of the local planning authority first being obtained

REASON: To enable the local planning authority to control the future usage of the building to safeguard parking requirements and in the interests of the amenity of the local area.

5. The development hereby permitted shall be carried out in accordance with the approved plans, as detailed below:
 - a) Drawing Number L018070-003 Rev A Proposed Ground Floor Plan
 - b) Drawing Number L018070-004 Proposed First and Second Floor Plans
 - c) Drawing Number L018070-007 Rev C Proposed Fourcourt Layout and Boundary Elevation
 - d) Drawing Number L018070-008 Proposed Cycle Shelter

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

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

Borough of Darlington Local Plan 1997

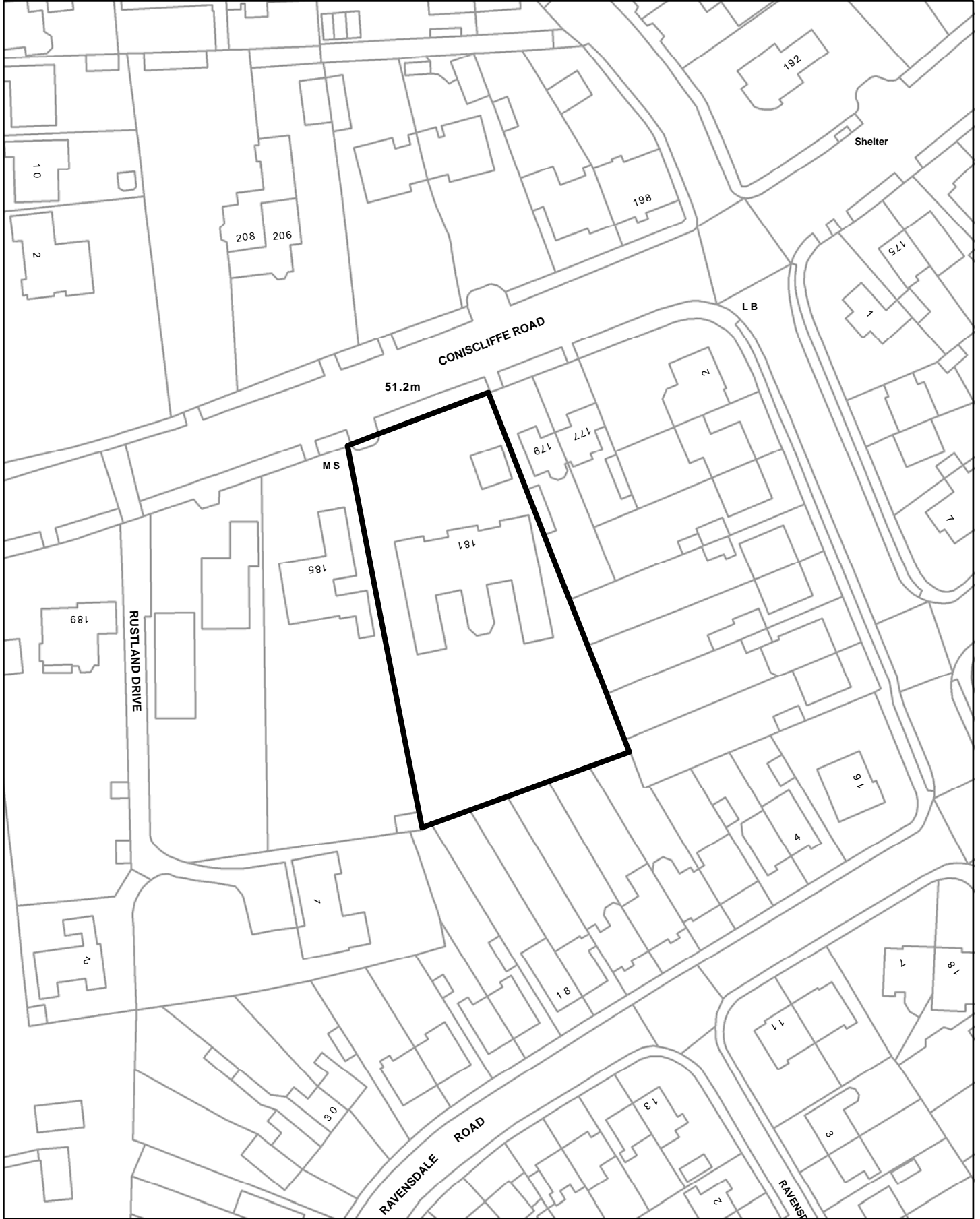
- E2 – Development Limits
- E12 – Trees and Development
- EP2 – Employment Areas
- EP7 – Office/Business Park Development
- EP11 – Central Area Development Sites
- EP12 – Office Development Limits Elsewhere

Darlington Core Strategy Development Plan Document 2011

- CS1 - Darlington's Sub-Regional Role and Locational Strategy
- CS2 - Achieving High Quality Sustainable Design
- CS5 – The Provision of Land for Employment Purposes
- CS14 - Promoting Local Character and Distinctiveness
- CS16 - Protecting Environmental Resources, Human Health and Safety

National Planning Policy Framework 2019

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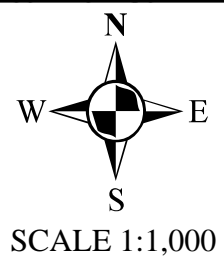


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PLANNING REF. No. 19/00048/CU

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DARLINGTON BOROUGH COUNCIL**PLANNING APPLICATIONS COMMITTEE****COMMITTEE DATE: 10TH July 2019**

APPLICATION REF.	19/00156/FUL
STATUTORY DECISION DATE:	14 th April 2019
WARD/PARISH:	HEIGHINGTON AND CONISCLIFFE
LOCATION:	1 Gate Lane Low Coniscliffe
DESCRIPTION:	Subdivision of existing dwelling to Provide two dwellings and associated works.
APPLICANT:	Mr I Tulloch.

APPLICATION AND SITE DESCRIPTION

The application site comprises a large cottage, previously extended, at the northern entrance to Low Coniscliffe. It adjoins number 3 Gate Lane which is on the corner of Box Lane. The extension is set back from the road and adjoins the rearmost part of the original cottage.

It is proposed to subdivide the property along the line of the extension to create two dwellings of three bedrooms each. The site will be subdivided lengthways with the garden area being divided with a 1.8 metre fence. Some external openings are to be amended but no new openings created. Four parking spaces are to be created to the front.

PLANNING HISTORY

02/00824/FUL - Approved 08.01.2003 Erection of two storey extension to side and rear of dwelling to provide garage and additional bedrooms (as amended by plans received 10 December 2002)

RESULTS OF CONSULTATION AND PUBLICITY

Highway Engineer - The division of the dwelling will create two three bed dwellings each having a parking requirement of two spaces. The proposed layout shows two spaces per dwelling which conform to the minimum dimensions of 6x3m per space. Whilst the tandem spaces are not the most convenient arrangement and therefore slightly increase the likely hood of overspill parking, the current design guide

standards are met and I do not see that the proposal will create a severe impact on the highway and thus warrant grounds for refusal.

Low Coniscliffe and Merrybent Parish Council – Objects to the proposals for the reasons given by local residents.

Letters were sent to occupiers of neighbouring properties advising of the proposal and a site notice was displayed.

Three letters were submitted objecting to the application. The following issues were raised :

- Existing car parking problems will be exacerbated with two dwellings
- Part of the existing property appears to be let out which causes on street car parking problems at a narrow part of the road.
- Appearance of the village spoilt by too much road parking.

PLANNING POLICY BACKGROUND

Borough of Darlington Local Plan 1997

Policy E2 – Development Limits

Policy H12 – Alterations and Extensions to Existing Dwellings.

Darlington Core Strategy Development Plan Document 2012

Policy CS10 – New Housing Development

PLANNING ISSUES

Planning Policy

The site lies within development limits for Low Coniscliffe and as such the creation of an additional dwelling in this location complies with the requirements of Saved Local Plan Policy E2 (Development Limits) and Policy CS10 (New Housing Development). The main issues for consideration relate to the following matters:

Highway Safety

Local residents have raised objections to the proposed sub division on grounds of increased problems of on street parking and consequent road safety issues. The Highway Engineer has advised that the proposal will create a parking requirement of four spaces, two per dwelling. The proposed layout shows two spaces per dwelling which conform to the minimum dimensions. While the tandem spaces may increase the likelihood of overspill parking, the current design guide standards are met. The proposal will not create a severe impact on the highway to warrant grounds for refusal.

Residential Amenity

The proposed sub division will not be likely to cause any material increase in disturbance to nearby residents, there being adequate vehicular access arrangements and sufficient private open space to the rear of the properties so that any impacts on local residents will be minimal. The external alterations proposed to the property relate to alterations to existing window and doors openings and as such will not give rise to any unacceptable issues of residential amenity. Appropriate standards of amenity can be achieved for the respective properties.

Impact on the Character and Visual Appearance of the Building and Surrounding Local Area

The proposed subdivision will have a limited impact on the character and appearance of the application property or that of the surrounding area. Although some external openings are to be altered, no new openings are proposed and as such the character and appearance of the property will be largely maintained.

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

There is no objection to the principle of the subdivision of this property as it lies within development limits for the village of Low Coniscliffe as defined by the proposals map accompanying the Borough of Darlington Local Plan 1997.

The main objections to this proposal relate to on street parking and road safety. As noted above the Highways Engineer does not have any concerns relating to the marginal increase in vehicular traffic that will result from the proposed development bearing in mind the on site parking arrangements and the low traffic levels existing in the locality. Any alterations to the property are minor in nature and appropriate standards of residential amenity can be achieved for both existing and proposed dwellings.

RECOMMENDATION

THAT PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:

1. A3
2. The development shall be carried out in complete accordance with the approved plan(s) as detailed below:

Site Plan No – 18002 - 5
Elevation Plan No – 18002 – 4
Floor Plan No - 18002 - 3

Any material change to the approved plans will require a formal planning application to vary this condition and any non-material change to the plans will require the submission of details and the agreement in writing by the Local Planning Authority prior to any non-material change being made.

REASON - In order to ensure that the development is carried out in complete accordance with the approved plans and any material and non-material alterations to the scheme are properly considered.

INFORMATIVE

Prior to the commencement of the development 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.

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

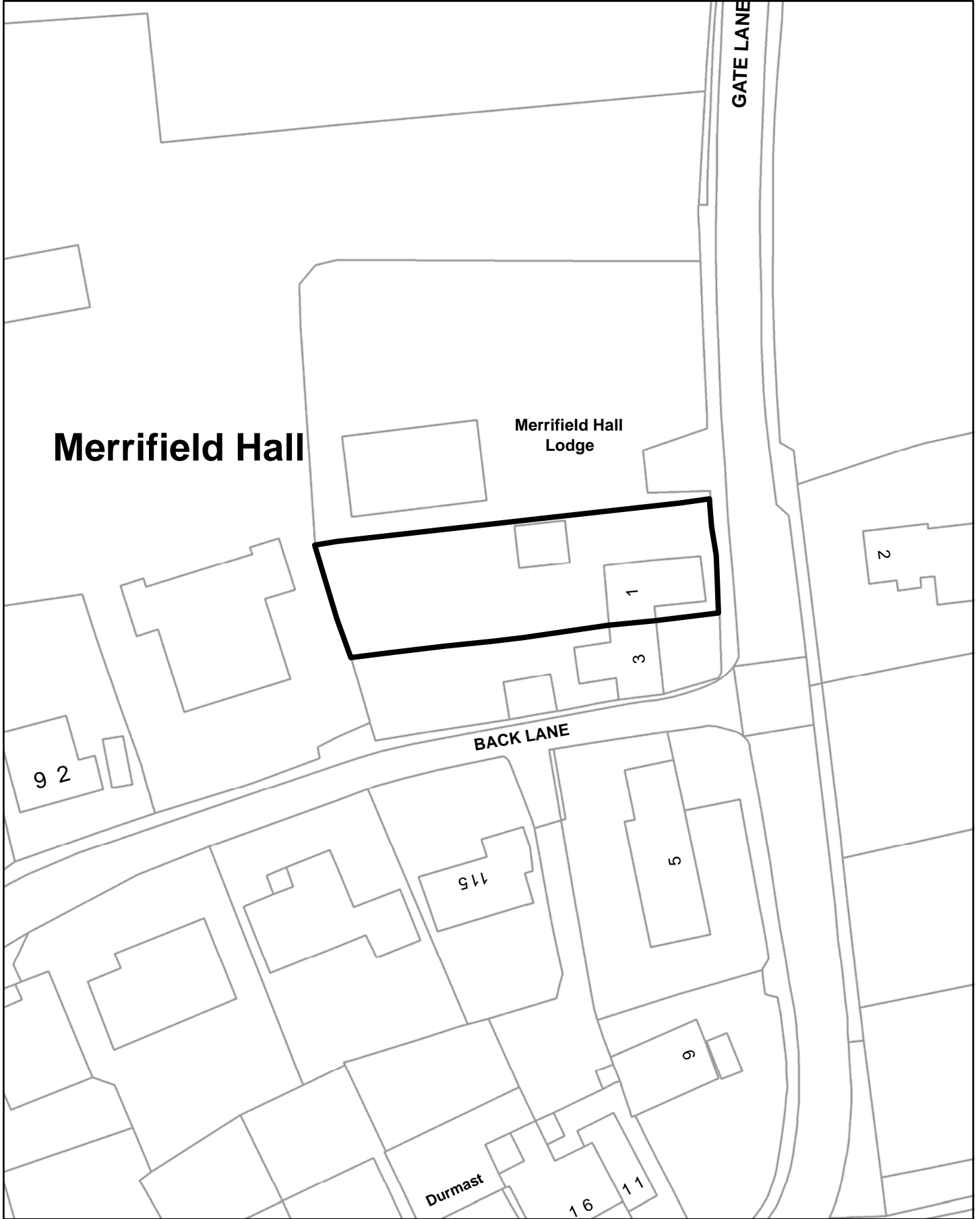
Borough of Darlington Local Plan 1997

Policy E2 – Development Limits

Policy H12 – Alterations and Extensions to Existing Dwellings.

Darlington Core Strategy Development Plan Document 2012

Policy CS10 – New Housing Development

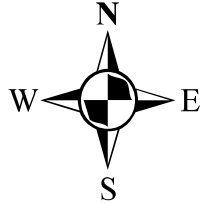


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PLANNING REF. No. 19/00156/FUL

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DARLINGTON BOROUGH COUNCIL
PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 10th July 2019

APPLICATION REF. NO: 19/00183/FUL

STATUTORY DECISION DATE: 22 April 2019

WARD/PARISH: SADBERGE AND MIDDLETON ST
GEORGE

LOCATION: 5B The Spinney, Middleton St George

DESCRIPTION: Application under Section 73 of the
Town and Country Planning Act 1990
for variation of condition no. 4 (approved
plans) attached to planning permission
16/00500/FUL to permit changes in design
and landscaping works.

APPLICANT: Mr J Boggan

APPLICATION AND SITE DESCRIPTION

The site comprises a 0.3 hectare paddock to the rear of a dwelling (5B The Spinney) which is accessed via a private drive off the Spinney which is located on the western edge of Oak Tree near Middleton St George.

Under Section 73 of the Town and Country Planning Act 1990 it is intended to vary the original planning permission by altering the design and siting of the two approved dwellings.

The design changes relate to the raising of the attached garage roofs of both properties from approximately 4 metres to 6.9 metres to create a further bedroom above and to install a dormer window with Juliette balcony in the rear elevation. It is also proposed to create a glazed feature over a double height entrance in the front elevation of both properties and to alter the size and position of a number of windows and doors within the property. The resiting involves the northern-most dwelling being relocated some 4 metres further back into the site.

There are a four trees protected by Tree Preservation Order No. 2 2019 adjacent to the eastern boundary of the site.

PLANNING HISTORY

16/00500/FUL – Erection of 2 no. detached dormer bungalows with attached double garages and driveway. APPROVED 1 August 2016.

18/00916/FUL - Erection of 3 No. detached dormer bungalows with attached double garages and driveway. REFUSED 05.12.2018

RESULTS OF CONSULTATION AND PUBLICITY

Middleton St George Parish Council – Objects to the proposals for the reasons given by local residents.

CPRE - Objects to the proposals for the reasons given by local residents

Letters were sent to occupiers of neighbouring properties advising of the proposal and a site notice was displayed.

Seven letters were submitted objecting to the application. The following issues were raised :

- Design of dwellings inappropriate
- Increase in traffic will be a problem from disturbance and road safety aspect.
- Disturbance to wildlife
- Loss of greenfield site
- Outside development limits
- Nearby trees will be damaged.
- Loss of privacy from overlooking
- Sewage pumping station may be overloaded
- Noise from railway may cause nuisance.

PLANNING POLICY BACKGROUND

The following policies of the development plan were relevant to the original application :

Borough of Darlington Local Plan 1997:

- E2 – Development Limits

Darlington Core Strategy Development Plan Document 2011:

- CS1 – Darlington's Sub-Regional Role and Locational Strategy
- CS2 - Achieving High Quality, Sustainable Design
- CS10 – New Housing Development

PLANNING ISSUES

Planning Policy

The 2016 permission is extant and can be implemented before its expiry date in August 2019 subject to the discharge of conditions. In view of this the principle of development cannot be revisited. The main issues for consideration are whether the proposed alterations to the properties are acceptable in terms of their impact on visual and residential amenity and highway safety.

Residential Amenity

The design changes relate to the increase in the roof of the garages attached to the properties to provide an additional bedroom, the installation of a further dormer window and Juliette balcony in the rear elevation of the new bedroom and the installation of a glazed feature over the front door. Alterations to a number of windows and doors in the properties are also proposed. The resiting involves the northern-most dwelling being relocated some 4 metres further back into the site.

The application site is bounded by existing dwellings to the south and more distantly to the east and by a paddock to the north and west. As such the proposed changes to the height of the garage roof and the installation of the additional dormer window in the rear elevation will have little discernible impact on the amenities of surrounding residential properties in terms of loss of light, outlook or privacy due to overlooking. Similarly, the changes to the window and door arrangements, principally in the rear elevations, overlooking the paddock will have little discernible impact on residential amenity. The resiting of the northern most dwelling will have limited impact on the nearest dwellings to the east and will improve the separation distance between these properties.

Impact on the Character and Visual Appearance of the Building and Surrounding Local Area

The alterations to both the siting and design of the proposed dwellings are considered to be fairly minor in scale and in the context of the approved design for the dwellings. As such the proposed changes will have no significant impact on the character and appearance of the new dwellings, or that of the surrounding area given the relatively modern appearance of surrounding dwellings.

Highway Safety

There are no highway issues to consider here as the application relates only to alterations to siting and design.

Other Matters

Issues such as traffic generation, loss of open space and noise etc were dealt with under the original application and cannot be reconsidered as part of this application.

SECTION 17 OF THE CRIME AND DISORDER ACT 1998

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

CONCLUSION

This Section 73 application relates to the re siting and re design of two dwellings granted planning permission in 2016. As noted above, the changes are minor in nature and do not impact on either the amenities of nearby residents or the character of the locality in general. Local residents have raised other issues other than those of siting and design. These cannot be considered as part of this application; they were considered under the earlier 2016 application which was approved by the Planning Committee at that time. Bearing the above in mind therefore it is considered that planning permission can be granted for the proposed amendments.

RECOMMENDATION

THAT PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS :

1. This permission shall be commenced not later than 1st August 2019.

REASON – To accord with the provisions of Section 91(1) of the Town and Country Planning Act 1990.

2. The development shall be carried out in complete accordance with the approved plan(s) as detailed below:

Site Plan No – L017079-009
Elevation Plan No – L017079-006
Floor Plan No - L017079-005
Tree Protection Plan No - L017079-008

Any material change to the approved plans will require a formal planning application to vary this condition and any non-material change to the plans will require the submission of details and the agreement in writing by the Local Planning Authority prior to any non-material change being made.

REASON - In order to ensure that the development is carried out in complete accordance with the approved plans and any material and non-material alterations to the scheme are properly considered.

3. Prior to the construction of the dwellings reaching damp proof course level, details of the provision of bat roosting boxes within the design of the new dwellings shall be 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 and maintained for the lifetime of the development.

REASON – In the interests of the welfare of protected species.

4. Prior to the commencement of the development, a Construction Management Plan shall be submitted and approved in writing by the Local Planning Authority. The Plan shall include details for wheel washing, a dust action plan, the proposed hours of construction, vehicle routes, road maintenance, and signage. The

development shall not be carried out otherwise than in complete accordance with the approved details.

REASON – In the interests of highway safety and residential amenity

5. Prior to the construction of the dwellings reaching damp proof course level, details of the proposed boundary walls and hard landscaping shall be submitted to and approved in writing by the Local Planning Authority.

REASON – In the interests of visual amenity.

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

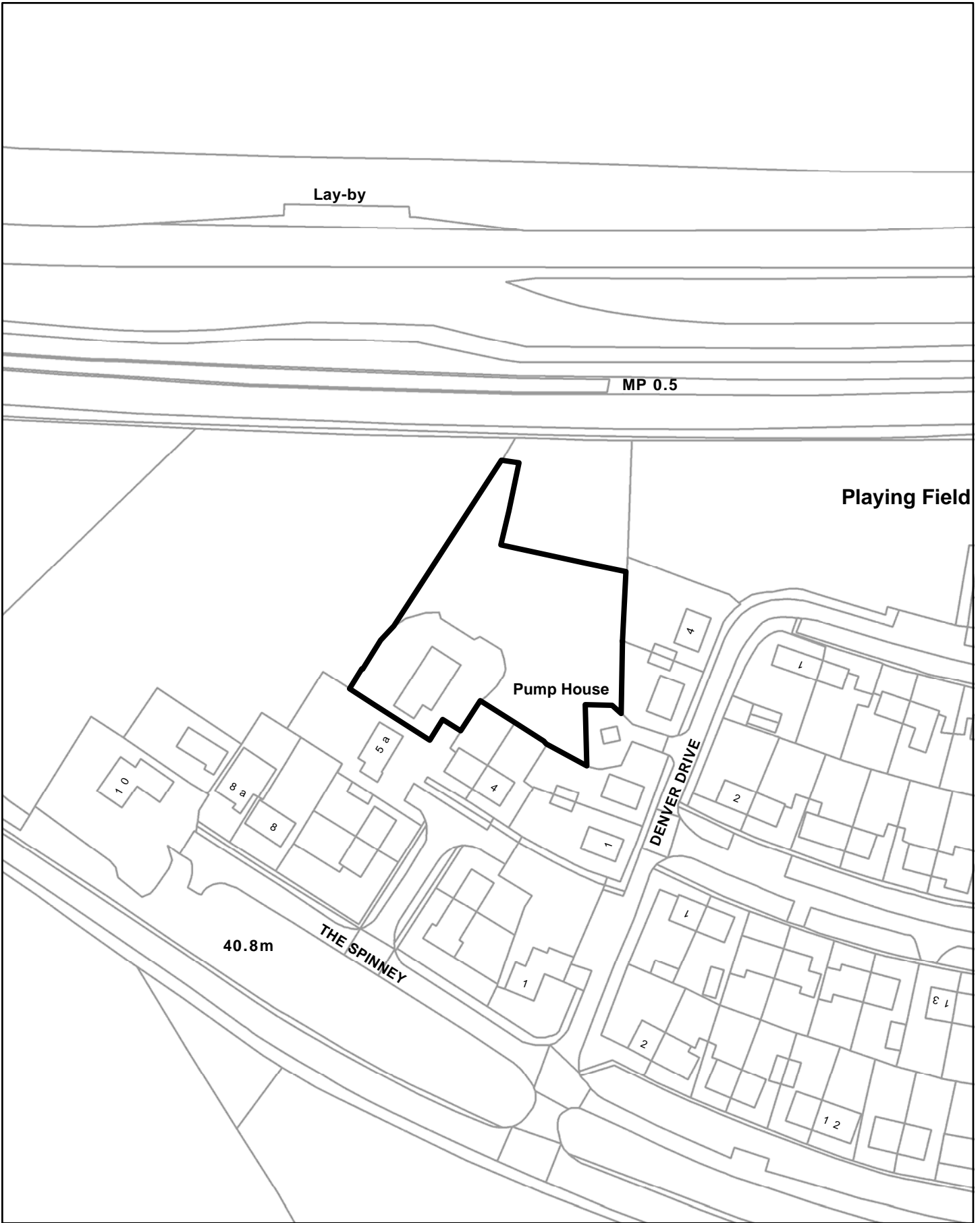
Borough of Darlington Local Plan 1997:

- E2 – Development Limits

Darlington Core Strategy Development Plan Document 2011:

- CS1 – Darlington’s Sub-Regional Role and Locational Strategy
- CS2 - Achieving High Quality, Sustainable Design
- CS10 – New Housing Development

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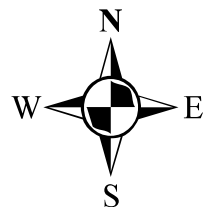


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PLANNING REF. No. 19/00183/FUL

DARLINGTON BOROUGH COUNCIL

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DARLINGTON BOROUGH COUNCIL
PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 10 July 2019

APPLICATION REF. NO:	19/00092/FUL
STATUTORY DECISION DATE:	14 June 2019
WARD/PARISH:	HEIGHINGTON AND CONISCLIFFE
LOCATION:	Rosebank Nurseries, 1 Merrybent
DESCRIPTION:	Application submitted under Section 73 of the Town and Country Planning Act 1990 for the variation of condition 15 (accordance with proposals) attached to planning permission 17/00789/FUL dated 12 December 2017 - to permit changes to garage and internal/external alterations to dwelling (Plot 1) (amended Site Location Plan received 10 May 2019)
APPLICANT:	Mr William Barton

APPLICATION AND SITE DESCRIPTION

The application site is part of a larger development site that has planning permission for the erection of three dwellings. Planning permission was first granted in October 2016 (16/00496/FUL) for the redevelopment of the former nursery site for the erection of three dwellings. A revised scheme was approved in December 2017 (17/00789/FUL) for revisions to the dwelling at Plot 1 and to erect a detached garage to the rear of this property.

Construction of the dwelling and garage at Plot 1 has not taken place in accordance with the approved plans and this is an application under Section 73 of the Town and Country Planning Act 1990 which seeks to vary condition 17 of the 2017 permission, that development be carried out in accordance with the approved plans, to regularise the following changes to the approved plans:

- The garage has been set in approximately 0.55m from the west boundary rather than being sited on the shared boundary with No 5 Merrybent;
- There are two roller doors inserted in the front elevation (east) of the garage rather than three;
- A door and new window have been inserted into the north elevation of the garage;

- A ground floor lounge window has been inserted in the south facing elevation of the dwelling;
- A first floor en-suite window has been inserted in the south facing elevation of the dwelling;
- The two, two storey bay windows on the rear elevation of the dwelling have been reduced to single storey bay windows;
- An first floor balcony in the rear elevation of the dwelling has been removed and the space has been infilled and replaced with a bathroom;
- Internal alterations to the dwelling.

An amended Site Plan has been submitted to revise the extent of the red line boundary so that it does not incorporate any part of the adopted public highway. Work has stopped pending consideration of the application.

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

PLANNING HISTORY

The relevant entries are:

16/00496/FUL In October 2016 planning permission was GRANTED for the redevelopment of former nursery site and erection of 3 No. dwellings

17/00789/FUL In December 2017 planning permission was GRANTED to permit the variation of condition 22 (accordance with proposals) attached to planning permission 16/00496/FUL to permit a variation of house type on plot 1 and erection of a detached garage (Additional Noise Assessment received 24 November 2017)

RESULTS OF CONSULTATION AND PUBLICITY

Following the Council's publicity exercises, four letters of objection have been received. Three of the objections are from persons who reside outside of Merrybent. However, the comments can be summarised as follows:

- *The plans don't show that the adjoining plot is higher than our land level (No 3 Merrybent) by estimated 1 metre which needs to be addressed. This is the reason why the height of the garage actually works out even higher with the result being that the garage has even more of a significant overbearance on our property.*
- *The original plans show only half of our rear boundary being taken up by the garage. However, developers started building the garage further in from the west boundary and yet kept the same dimensions meaning they take up more of our rear boundary. As a result, for us even more light is lost and is even more overbearance from the garage*
- *The most significant issue for the new house is the new windows in the south elevation that has appeared. These windows now overlook into our property leading to a loss of privacy and in future will have a significant impact after the*

hours of darkness with light levels coming from those windows and shining directly into rooms at the back of the property (children's bedrooms)

- *It is alarming that a garage of this size has been granted in a residential area. What conditions will be made to ensure noise pollution does not become a problem and to ensure this is used as a domestic garage?*
- *The garage is in the wrong location which is having a massive impact on the privacy, loss of light and mental health of the residents of Nos 1, 3 and 5 Merrybent*
- *The road leading to the development has been severely damaged by the developers partially due to the fact they have on two occasions cut through major electricity cables which necessitated the digging up of the road;*
- *The developers drive too fast down the narrow road leading to the development, which is a massive safety concern;*
- *The values of Nos 1, 3 and 5 Merrybent will be impacted and substantial potentially leaving the Council responsible for the devaluation and possibly subject to legal action for compensation*
- *It is obvious that the overbearing nature of this garage will have a significant negative affect on the surrounding properties;*
- *The developers have made a lot of changes to the garage and house which will have an impact on the privacy and loss of light to the neighbouring dwellings;*
- *The garage and window placement in the property directly behind No 3 Merrybent is overbearing and drastically impacts on the light and privacy of the back garden and rear face of No 3 Merrybent;*
- *The garage is hugely imposing and very large for the sole use of storing cars. I am unsure of the need for such a large domestic garage*
- *The work that has been conducted to the shared road access to install utilities and the repairs that have been done are unsatisfactory;*

The Low Coniscliffe and Merrybent Parish Council has objected on the following grounds:

- *The re-positioning of the garage from its original location is in appropriate as it will be overbearing to the adjoining neighbours property and it will be an intrusion into privacy and loss of light;*
- *The site plan outlined in red may have be in error as it shows the public road area within their total boundary ownership when the road is a public right of way (maintained at public expense)*

Consultee Responses

The **Councils Highways Engineer** has raised no objections

PLANNING POLICY BACKGROUND

The relevant planning policies are:

National Planning Policy Framework 2019

Borough of Darlington Local Plan 1997

E2 Development Limits

E4 New Buildings in the Countryside

- E14 Landscaping of Development
- H7 Areas of Housing Development Restraint

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 CS10 New Housing Development
- Policy CS14 Promoting Local Character and Distinctiveness
- Policy CS15 Protecting and Enhancing Biodiversity and Geodiversity
- Policy CS16 Protecting Environmental Resources, Human Health and Safety

Other Documents

Council's Supplementary Planning Document – Design for New Development

PLANNING ISSUES

The redevelopment of the larger site for residential purposes and the erection of a dwelling and garage on Plot 1 have been established by the previous planning permissions that have been granted on the site. As such the principle of development cannot be reconsidered. Officers consider that the proposed changes would not fundamentally alter the original planning permission and an application under Section 73 of the Act is appropriate in this instance. The main issues for consideration are therefore whether the changes to the approved plans, as set out at the beginning of this report, are acceptable having regard to the following matters:

- Residential Amenity
- Impact on the Visual Appearance and Character of the Area
- Highway Safety and Parking Matters
- Planning Conditions

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 National Planning Policy Framework, 2019.

Plot 1 is bounded to the north by a new dwelling currently under construction (Plot 2); to the east by the A1 (M); to the south by Nos 1 and 3 Merrybent; and to the west by No 5 Merrybent.

Nos 1 and 3 Merrybent are a pair of semi detached dwellings whose rear elevations and gardens face the application site. The rear gardens are approximately 9 metres in depth and the application site sits approximately 1 metre higher than these properties. The shared boundary to the north comprises a mix of close boarded fencing with sections of trellis work above and the external walls of a building that previously occupied part of the rear garden of No 3 Merrybent. A row of high leylandii trees within the application site are positioned to the rear of No 1 but they have been removed from the shared boundary with No 3 Merrybent.

No 5 Merrybent is a detached bungalow located to the south west of Plot 1 whose rear garden runs the full length of the wider development site. This boundary is formed with a fence and hedge and there is a large detached building to the rear of this property, adjacent to the site of the detached garage to the rear of Plot 1.

The footprint of the garage as built is in accordance with the approved plans, albeit it has been set in approximately 0.55 metres from the west boundary (adjacent to No. 5 Merrybent) rather than being sited on the boundary as approved. The garage has been constructed to eaves level, pending the outcome of the application, and the submitted plans show that the eaves and ridge heights of the garage will remain as per the approved plans: 2.73 metres to the eaves and 4.7 metres to the ridge.

The garage is directly to the rear of No 3 Merrybent and is sited approximately 1m off the shared boundary with this dwelling. As built, the garage is highly visible from the rear of this property and its rear garden, with approximately 1m of brick work above the fence line. The dual pitched roof, which slopes away from the shared boundary and has yet to be constructed, would also be visible. While there will be no change to the southern elevation of the garage when viewed from this property, the occupants of this property are concerned that the effect of repositioning the garage off the western boundary by 0.55 metres has resulted in it extending further along their rear boundary which they consider to have a greater overbearing impact upon the rear of their property which is exacerbated by the change in levels between the two properties.

Despite the repositioning of the garage from the western boundary it is not considered that the garage would be so imposing and overbearing when viewed from the garden and dining room/living room of No 3 Merrybent, when compared to the approved plans, to justify recommend refusal of planning permission on this basis.

The garage would not adversely affect the outlook from No 1 Merrybent due to the height of the boundary fencing between the two properties and due to the garage being offset from the common boundary. Similarly, the garage would not adversely affect No 5 Merrybent nor the dwelling that is currently under construction on Plot 2 due to the location and spatial relationship between the garage and these neighbouring dwellings.

A planning condition is recommended restricting the use of garage for purposes incidental to the enjoyment of the dwelling and not for any commercial or business activities.

The alterations to the dwelling, which include the insertion of new ground and first floor windows in the south elevation of the dwelling, alterations to existing window openings in the rear elevation and the omission of a rear balcony, do not raise any unacceptable issues of residential amenity. The new first floor window in the south elevation has been fitted with obscure glazing (en-suite bathroom window) and the separation distance between the dwelling at Plot 1 and Nos. 1 and 3 Merrybent would ensure that the ground floor window would not adversely affect the neighbouring dwellings taking into account the difference in ground levels, the presence of the boundary fencing and the current height and position of the leylandii trees to the rear of No 1 Merrybent, which obscure the side elevation of the dwelling from both properties.

Impact on the Visual Appearance and Character of the Area

Policy CS2 (Achieving High Quality, Sustainable Design) and CS14 (Promoting Local Character and Distinctiveness) 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 and also seeks to protect, and where appropriate enhance, the distinctive character of the Borough's built, historic, natural and environmental townscapes, landscapes and strong sense of place.

The amended design of the dwelling and garage remain in-keeping with the character and appearance of the other dwellings that form this small housing development on the edge of Merrybent.

The A67 which runs to the south of the site is slightly elevated above the application site at this point and as such the garage can be seen from this aspect. There are no views of the site from the A1 (M) due to mature trees and hedgerows along the motorway verge and embankment. However, it is considered that the proposed alterations to the approved development would not harm the character and appearance of the surrounding area.

Highway Safety and Parking Matters

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 accessed off the A67 via a private road. There will be sufficient in-curtilage parking provision for this four bedroom dwelling. The Highway Engineer has raised no objection to the development.

Planning Conditions

The planning conditions attached to the original planning permission need to be reattached to any new approval and this is reflected in the wording.

Other Matters

Members are advised that the potential impact that any development may have on the value of a neighbouring dwelling is not a material planning consideration in the determination of a planning application. The planning application cannot be refused on such grounds.

The concerns that have been raised over the use and condition of the private access road is a civil matter between the owner of the road and those that have a right of access over it and not a material planning consideration.

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 development has not been carried out in complete accordance with the approved plans but having taken into account the site context, its surroundings and relationship with the neighbouring dwellings, the proposed alterations to the approved plans are considered to be acceptable in terms of their impact on residential amenity, design and highway safety.

RECOMMENDATION

THAT PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:

1. The development hereby permitted shall be commenced not later than 20 October 2019.

REASON – Due to the planning application being submitted under Section 73 of the Town and Country Planning Act 1990 (as amended).

2. The garage/workshop hereby approved shall be used for purposes incidental to the enjoyment of the dwelling house only and shall not be used for any business or commercial activities

REASON: In the interests of residential amenity

3. The first floor window formed in the south facing elevation of the dwelling shall be obscure glazed and shall not be repaired or replaced other than with obscured glazing

REASON: In the interests of the residential amenity

4. The materials used in the external surfaces of the dwelling and garage hereby permitted shall be in complete accordance with the photographs/samples submitted with planning permission reference number 17/00789/FUL dated 12 December 2017 unless otherwise agreed in writing by the Local Planning Authority.

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

5. Prior to the development hereby approved being first occupied, a 3 meter high reflective acoustic barrier shall be constructed along the entire eastern site boundary and 20 meters along the northern boundary as shown on the approved Means of Enclosure plan. The barrier shall have a minimum surface density of 10kg/m² and form a continuous barrier with no gaps with the ground. Thereafter the barrier shall be retained and maintained for the life of the development

REASON: In the interests of residential amenity

6. The glazing specification for all windows associated with the development shall have a minimum acoustic performance value of 36dB (Rw + Ctr).

REASON: To safeguard the amenities of the future occupiers of the dwelling

7. The acoustic window ventilator specification for all windows associated with the development shall have a minimum acoustic performance value of 42dB (Dne,w)

REASON: To safeguard the amenities of the future occupiers of the dwelling

8. 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 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.

9. 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.

10. 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.

11. The development shall not be carried out otherwise than in complete accordance with the document entitled "Construction Management Plan" dated 12 June 2017 produced by ADG Architects and submitted with planning permission reference number 17/00789/FUL dated 12 December 2017 unless otherwise agreed in writing by the Local Planning Authority.

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

12. Notwithstanding condition 9, construction work, including deliveries to and the removal of material from the site, shall not take place outside the hours 08.00-18.00 Monday to Friday and 08.00-14.00 on a 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

13. If piled foundations are proposed, prior to the development commencing details of the piling method including justification for its choice, means of monitoring vibration and groundwater risk assessment if necessary in accordance with recognised guidance shall be submitted and agreed in writing by the Local Planning Authority. The development shall not be carried out otherwise than in accordance with the approved Plan

REASON: In the interests of residential amenity

14. The development, including the demolition works, shall not be carried out otherwise than in complete accordance with the mitigation/countermeasures outlined in the document entitled “Arboricultural Survey, Arboricultural Impact Assessment, Arboricultural Method Statement – Merrybent Nursery, Merrybent, Darlington. REF: ARB/AE/948” dated July 2016, produced by Elliot Consultancy Limited and submitted with planning permission reference number 17/00789/FUL dated 12 December 2017 unless otherwise agreed in writing by the Local Planning Authority.

REASON: To safeguard the life of trees in the interests of visual amenity

15. The development, including the demolition works, shall not be carried out otherwise than in complete accordance with the mitigation measures and recommendations outlined in Section F of the approved document entitled “Bat Risk Assessment – Merrybent Nursery. Report No 3” dated June 2016 and produced by E3 Ecology Limited and submitted with planning permission reference number 17/00789/FUL dated 12 December 2017 unless otherwise agreed in writing by the Local Planning Authority.

REASON: To preserve and enhance the biodiversity of the site and surrounding area

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

- a) Drawing Number 9-9 Rev A Proposed Garage Elevations
- b) Drawing Number 00-2 Elevations/Ground Floor Plan
- c) Drawing Number 00-3 First Floor Plan
- d) Drawing Number 21-1 Proposed Site Plan

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

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

National Planning Policy Framework 2019

Borough of Darlington Local Plan 1997

- E2 Development Limits
- E4 New Buildings in the Countryside
- E14 Landscaping of Development
- H7 Areas of Housing Development Restraint

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 CS10 New Housing Development
Policy CS14 Promoting Local Character and Distinctiveness
Policy CS15 Protecting and Enhancing Biodiversity and Geodiversity
Policy CS16 Protecting Environmental Resources, Human Health and Safety

Other Documents

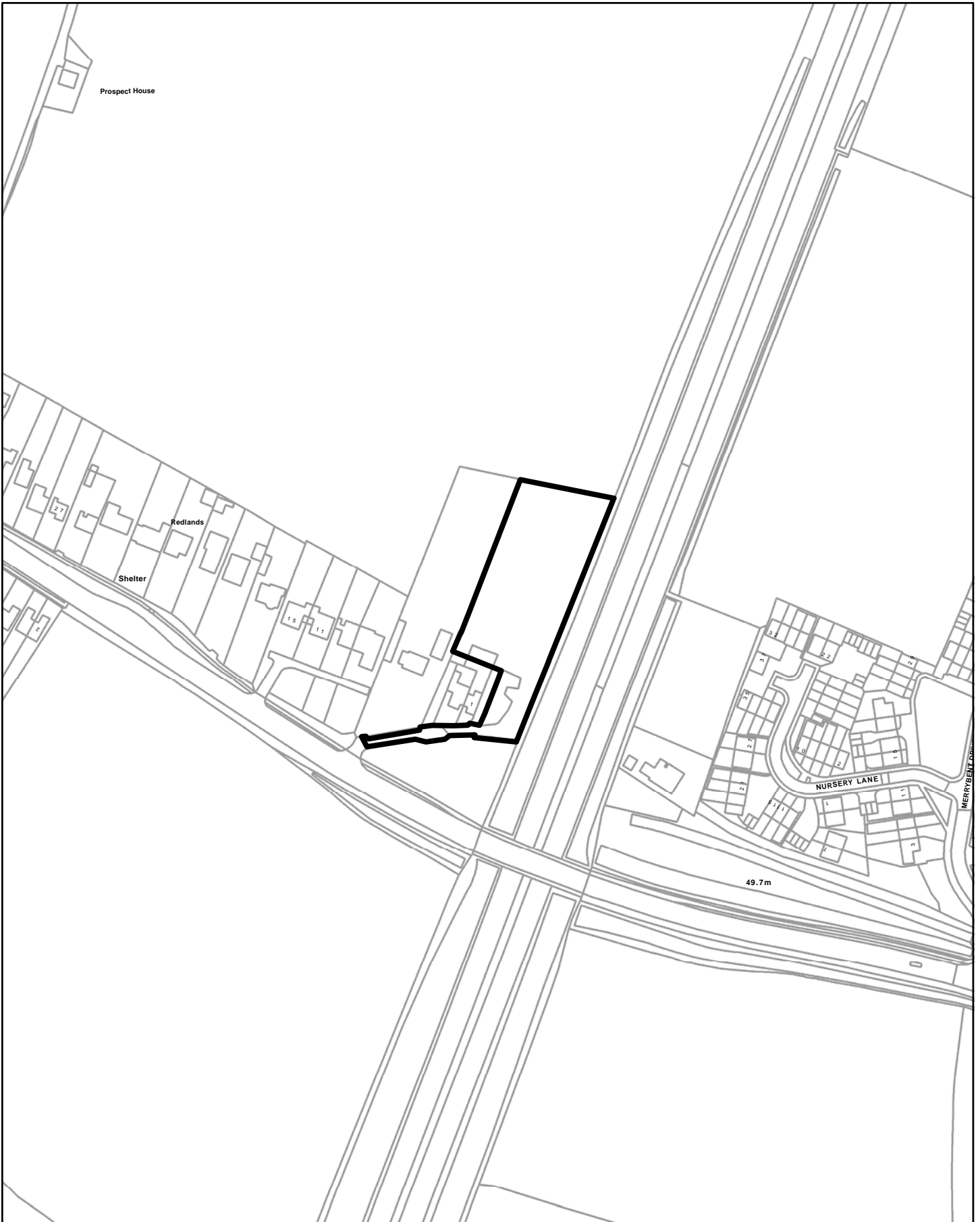
Council's Supplementary Planning Document – Design for New Development

INFORMATIVES

Highways

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.

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PLANNING REF. No. 19/00092/FUL

DARLINGTON BOROUGH COUNCIL

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DARLINGTON BOROUGH COUNCIL
PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 10th July 2019

APPLICATION REF.	18/01166/CU
STATUTORY DECISION DATE:	3 rd May 2019
WARD/PARISH:	NORTH Road
LOCATION:	303 and 303A North Road Darlington
DESCRIPTION:	Change of use of Cafe (Use Class A3) to Hot Food Takeaway (Use Class A5) erection of single storey extension incorporating wc and addition of external flue to the rear elevation and insertion of window window to first floor flat (side elevation)
APPLICANT:	Mr B Mohammed

APPLICATION AND SITE DESCRIPTION

This is one of a number of retail outlets located in this upper North Road location. The application property is a corner property located on the west side of North Road at the junction of Peabody Street, with a bus stop outside the frontage. The property is currently empty but was last used as a café and has a flat above.

The application proposes the change of use of the property from a café to a hot food takeaway. It is also proposed to erect a small ground floor extension to the rear of the property to accommodate a toilet and to erect an external flue in the rear elevation. A new first floor window is also proposed in the north gable end of the property to replace an existing first floor window in the rear elevation which will be obscured by the proposed flue.

The application form also proposes that a change in the opening hours of the takeaway from those approved in 2016 (16/01158/FUL) to 12:00 – 22:00 Monday to Thursday, 12:00 – 23:00 Fridays and Saturdays and 12:00 – 22.30 Sundays and Bank Holidays.

PLANNING HISTORY

Numerous applications to change the use and extend over the years, but the most relevant are set out below:

08/00014/FUL - Variation of condition 3 of Planning Permission 02/00599/CU (Change of use from computer shop (A.1 retail) to cafe/takeaway (Class A.3) opening hours 8 am – 6pm) to permit opening hours from 0800 - 2300 every day. REFUSED 08.02.2008

16/01158/FUL - Variation of condition 3 (opening hours 8.00 am - 6.00 pm Monday - Saturdays) of planning permission 02/00599/CU dated 27 August 2002 for change of use from Computer Shop (A1 Retail) to Cafe/Takeaway (Class A3) to permit opening hours of 0800 to 2100 Monday to Saturday and 0800 to 2000 on a Sunday (as amended by letter received 21 December 2016). GRANTED 14.02.2017

RESULTS OF CONSULTATION AND PUBLICITY

Highway Engineer – No highway objection

Environmental Health Officer – Further information (relating to the extraction system) has been provided by the applicant/Agent/Supplier and I am happy with what has been stated. As long as the system is installed as described I would not envisage any problems with regard to noise and odours. As is always the case the system must be managed and maintained on a regular basis to ensure the performance is maintained and this is a matter for the operator/landlord to agree upon. I don't currently have grounds to object as long as the extraction system is installed as agreed.

Letters were sent to occupiers of neighbouring properties advising of the proposal and a site notice was displayed.

Three letters were submitted objecting to the application. The following issues were raised :

- Increase in litter in the locality
- Increase in anti social behaviour
- Increased loss of car parking for local people
- No need for another take away
- Increased noise in the locality.

PLANNING POLICY BACKGROUND

Borough of Darlington Local Plan 1997

Policy E38 – Alterations to Business Premises

Policy S18 – Food and Drink Uses Outside Town Centre

Darlington Core Strategy Development Plan Document 2011

Policy CS2 – Achieving High Quality, Sustainable Design

Policy CS16 - Protecting Environmental Resources, Human Health and Safety

National Planning Policy Framework, 2019

PLANNING ISSUES

It is considered that the main issues relating to this application are the potential impacts on residential and visual amenity and highway safety.

Residential Amenity

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, 2019 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 main issues associated with hot food take aways and their impact on local residents relate to noise, fumes and anti social behaviour. The Environmental Health Officer has raised no objection to the proposed flue which will reduce and noise and odour emissions to acceptable levels, provided it is maintained in an appropriate manner. Any future problems would be addressed by the Environmental Health Officer under separate legislation.

Although the application property is one of a number of commercial properties in this part of North Road, those adjacent uses: a barbers shop, funeral directors and party shop are not typically open in the later evening. The surrounding area does have a predominantly residential character, with a first floor flat above the application property and the living conditions of the occupants of these properties could be adversely affected by additional activity associated with a hot food takeaway such as noise and disturbance from car engines, slamming of doors and people congregating and conversing if appropriate controls are not in place.

These activities would not however be too dissimilar from the existing café use and it is not considered that the proposed hot food takeaway use would generate significantly more litter or traffic than this use. The extant café permission is subject to a condition restricting opening hours to 08.00 – 21.00 Monday – Saturday and 08:00 – 20:00 on a Sunday. Notwithstanding the proposed request to extend the opening hours as set out previously in this report, in view of the predominantly residential character of the surrounding area it is not considered acceptable to extend the opening hours, and associated 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.

The current opening hours would be similar to the closing times of other hot food establishments at 87 Grainger Street (13/00958/CU), 15 Belvedere Road (19/00002/FUL), 155 Corporation Road (14/01163/FUL) and 366 Yarm Road (16/00896/FUL) which are all in residential areas, and in most instances on the end of a terrace of residential dwellings. A condition restricting opening hours to those approved as part of the 2016 permission is therefore attached once more.

The proposed rear extension is modest in nature and will be enclosed by the boundary wall adjacent to Peabody Street. The new window in the north gable end of the

property will look onto Peabody Street and North Road and as such neither alteration will impact on the amenities of adjacent residential properties.

Highway Safety

The Highway Engineer has studied the proposals, including the existing use, the proposed hours of opening and the existing numerous retail and service uses in the locality, and has concluded that the type and scale of traffic likely to be associated with the hot food take away use will not cause any material increase in car parking problems or road safety.

Impact on the Character and Visual Appearance of the Building and Surrounding Local Area

A new extraction flue is proposed to the side/rear of the property, which because of its location and limited height, just above gutter height, it will not be over intrusive visually in this locality. Similarly, the rear extension will largely be enclosed from views outside the site by the existing brick boundary walls surrounding the rear yard.

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 property benefits from an extant permission as a café (Use Class A3) with restriction on opening hours until 21:00 Monday – Saturday and 20:00 on a Sunday. It is not considered that activity levels associated with the proposed hot food takeaway use would be significantly differ from those associated with the café, and as a result the proposed use would not adversely impact upon the living conditions of nearby residents subject to appropriate controls. As such, it is considered appropriate to restrict opening hours to those currently approved to ensure that activity levels do not extend into the later evening which is consistent with other hot food takeaways in similar locations around the town. Neither the Environmental Health Officer nor the Highway Engineer raise an objection to the application and subject to appropriate conditions the proposal is considered to comply with Saved Policy S18 (Food and Drink Uses Outside the Town Centre), Policy CS16 (Protecting Environmental Resources, Human Health and Safety) and paragraph 180 of the NPPF, 2019. The proposed extension, flue and new window are similarly acceptable and comply with Saved Policy E38 (Alterations to Business Premises) and CS2 (Achieving High Quality, Sustainable Design).

RECOMMENDATION

THAT PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS :

1. A3
2. The development shall be carried out in complete accordance with the approved plan(s) as detailed below:

Elevation and Floor Plan No – 250119 Sheet 2

Any material change to the approved plans will require a formal planning application to vary this condition and any non-material change to the plans will require the submission of details and the agreement in writing by the Local Planning Authority prior to any non-material change being made.

REASON - In order to ensure that the development is carried out in complete accordance with the approved plans and any material and non-material alterations to the scheme are properly considered.

3. This permission shall relate to the additional details relating to the extraction system submitted by Eastern Catering Ltd on 11th March 2019.

REASON – In the interests of residential amenity.

4. The hot food takeaway hereby approved shall not be open to customers outside the hours of 1200 to 2100 Monday to Saturday and 1200 to 2000 on a Sunday.

REASON – In the interest of residential amenity

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

Borough of Darlington Local Plan 1997

Policy E38 – Alterations to Business Premises

Policy S18 – Food and Drink Uses Outside Town Centre

Darlington Core Strategy Development Plan Document 2012

CS2 - Achieving High Quality Sustainable Design

CS16 - Protecting Environmental Resources, Human Health and Safety

National Planning Policy Framework 2019

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DARLINGTON BOROUGH COUNCIL
PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 10th July 2019

APPLICATION REF. NO:	19/00175/FUL
STATUTORY DECISION DATE:	20 th April 2019
WARD/PARISH:	MOWDEN
LOCATION:	10 Chester Grove Darlington
DESCRIPTION:	Two storey side extension, single storey rear extension and front porch.
APPLICANT:	Mr and Mrs Brown.

APPLICATION AND SITE DESCRIPTION

This application relates to the erection of a two storey extension on the side of a detached house, together with a single storey wrap around extension to the rear and a new front porch.

The proposed two storey extension would be built above the existing attached garage to the north side of the application property. It would measure approximately 3 metres wide by 5.5 metres deep, under a hipped roof 6.7 metres in height at ridge level. The single storey extension would extend from the rear of the two storey extension above the garage and wrap around the rear elevation of the property. This extension would be set in from the northern boundary of the property to allow access from the garage and would project approximately 3.8 metres from the rear of the property, under a hipped roof 3.4 metres in height at its greatest point. A canopy would be constructed over the front of the garage and continue over the front door to create a porch. The extensions would be constructed of matching brick and tiles.

This is a revised plan following a request from the Planning Officer to reduce the scale of the extension, which originally proposed a two storey element along the full length of the side elevation.

The application property is located at the end of a cul de sac with its side elevation abutting the rear gardens of other properties nearby.

PLANNING HISTORY

There are no previous planning applications on this site.

RESULTS OF CONSULTATION AND PUBLICITY

Highway Engineer – No objections, there is sufficient on site car parking available.

Letters were sent to occupiers of neighbouring properties advising of the proposal and a site notice was displayed.

Five letters were submitted objecting to the application. The following issues were raised:

- Loss of natural light
- Extension too big, leading to loss of outlook
- Impact on enjoyment of garden area.
- Extension should be pulled back from boundary.

PLANNING POLICY BACKGROUND

The following policies are relevant to the application :

Borough of Darlington Local Plan 1997

Policy H12 – Alterations and Extensions to existing dwellings.

PLANNING ISSUES

The main issues to consider relate to residential amenity, visual impact and highway safety.

Residential Amenity

Saved Policy H12 of the Darlington Local Plan states that alterations and extensions to existing dwellings will be supported providing they (*inter alia*) are in keeping with the character of the existing property and street scene, and do not impact on neighbours amenities by overshadowing, loss of privacy or loss of natural light.

It is proposed to construct a two storey hipped roof side extension in place of an existing single storey garage, together with a single storey “wrap around” extension to the side and rear. A front porch is also proposed. The main impact on adjacent dwellings comes from the two storey element.

The main impacts will be upon the amenities of number 6 Chester Grove, with reduced impacts on other properties nearby. The proposed extension would abut the boundary of the rear garden of number 6 and be approximately 6 metres to the eaves with the hipped roof sloping away towards the main house ridge another 2 metres high. It is just over 4 metres wide. The proposal has been amended since first submitted to reduce the extent of the two storey extension to above the existing garage only.

Site inspection reveals that there will be impacts on the garden of number 6 (and other properties to a lesser extent) and the extension will be just over 9 metres from the rear elevation of number 6. A judgement has to be made as to whether the impacts are

sufficient to warrant refusing planning permission on grounds of loss of amenity to the occupiers of nearby dwellings and users of private garden space.

The garden to number 6 is south facing and therefore should receive above average amounts of natural light, particularly during the summer. However this is reduced somewhat by the existing house and garage of the applicant. Privacy should not be an issue as there are no side facing windows proposed for the extension.

It is considered that the impacts of the extension, in its amended form, on the outlook from the garden of number 6 are mitigated by the existing house and garage, the south facing aspect and the hipped roof design which has the effect of lowering the height of the north elevation of the proposed extension. There will be some loss of natural light to habitable rooms in the rear elevation of 6 Chester Grove, however in view of the above consideration it is not considered that this would be to such a degree so as to warrant refusal of the application on this basis.

The single storey wrap around extension will project approximately 4 metres from the rear of the property. The neighbouring property to the west, 12 Chester Grove, has a garage adjacent to the common boundary and as such the proposal complies with the 45-degree code in respect of this property. Similarly, the single storey element of the side extension will be set in approximately 1.15 metres from the common boundary with the properties to the east, 4 and 6 Chester Grove. This part of the extension will have a height to eaves of approximately 2.2 metres with a shallow pitched roof sloping away from these properties. As such, the single storey element of this part of the extension will have a minimal impact on the amenities of these properties and is considered to be acceptable.

Impact on the Character and Visual Appearance of the Building and Surrounding Local Area

The design of the two storey side extension, with a hipped roof and incorporating a set down and set back from the front of the property, is considered to be acceptable and will not detrimentally affect the character of either the main dwelling or the locality in general. The proposed side and rear extension similarly appear suitably subservient to the main dwelling and will have little impact on the surrounding area.

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

Consideration of house extensions, particularly of two storeys, often involves the balancing of the impacts of the proposal on the amenities of nearby residents, and the legitimate expectations of the applicants who wish to increase accommodation in their dwelling. It is considered that in this instance, whilst there will be impacts on the amenities of local residents, these have been reduced to an appropriate level by amending the application plans, and on balance the proposal is considered to comply with Saved Local PLam Policy H12 and is considered to be acceptable.

RECOMMENDATION

THAT PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS :

1. A3
2. The development shall be carried out in complete accordance with the approved plan(s) as detailed below:

Elevation and Floor Plan No – 18166.P002 D

Any material change to the approved plans will require a formal planning application to vary this condition and any non-material change to the plans will require the submission of details and the agreement in writing by the Local Planning Authority prior to any non-material change being made.

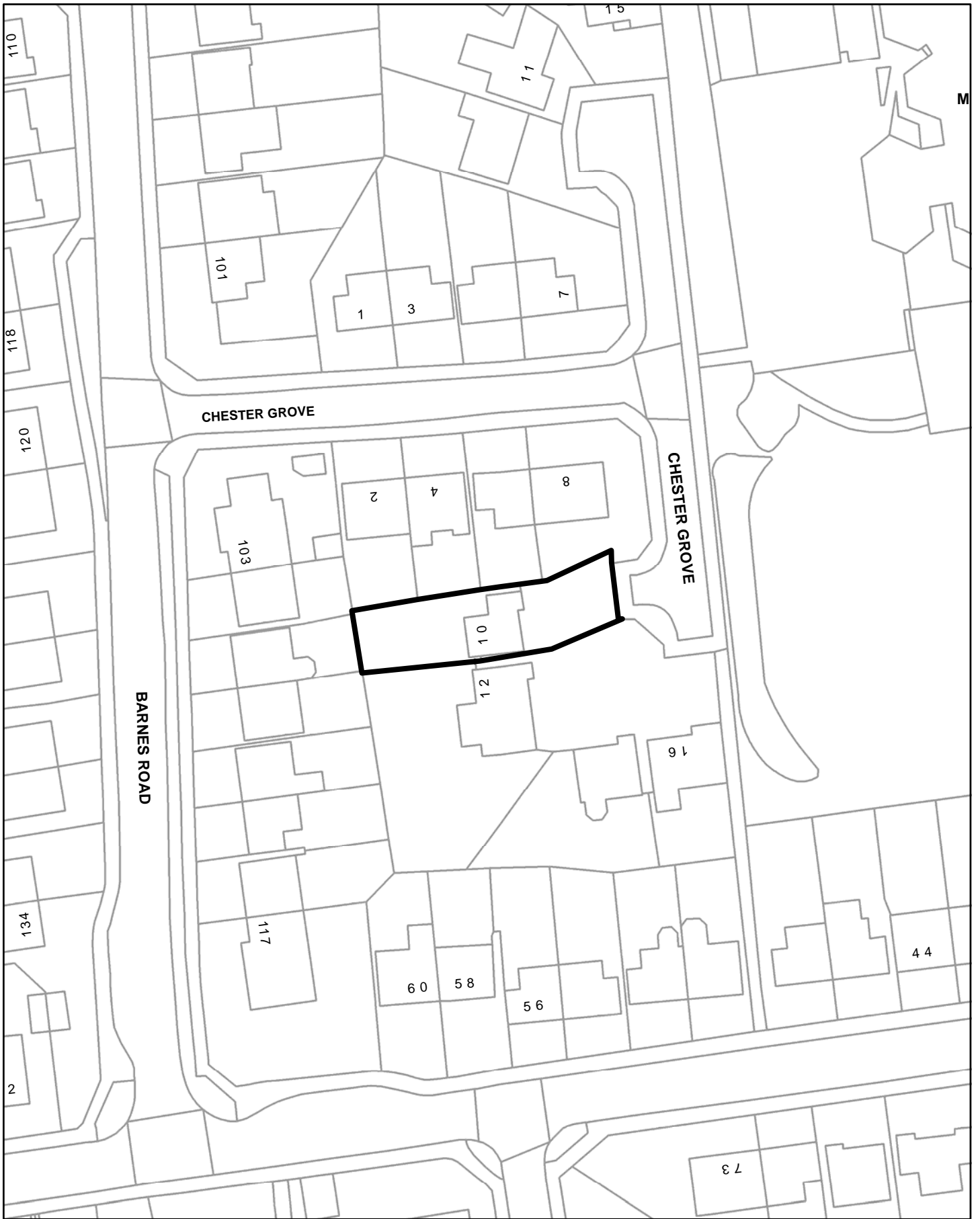
REASON - In order to ensure that the development is carried out in complete accordance with the approved plans and any material and non-material alterations to the scheme are properly considered.

3. B4A

THE FOLLOWING POLICY WAS TAKEN INTO ACCOUNT WHEN ARRIVING AT THIS DECISION:

Borough of Darlington Local Plan 1997

Policy H12 – Alterations and Extensions to existing dwellings.

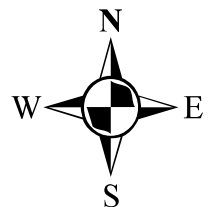


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PLANNING REF. No. 19/00175/FUL

DARLINGTON BOROUGH COUNCIL

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DARLINGTON BOROUGH COUNCIL**PLANNING APPLICATIONS COMMITTEE****COMMITTEE DATE: 10th July 2019**

APPLICATION REF. NO:	19/00071/FUL
STATUTORY DECISION DATE:	14 June 2019
WARD/PARISH:	COLLEGE
LOCATION:	Garages And Garden To Rear Of 38 Langholm Crescent
DESCRIPTION:	Demolition of existing garages and erection of 2 No. detached double garages with associated means of enclosure
APPLICANT:	Mr Antony Vassilounis

APPLICATION AND SITE DESCRIPTION

The application site forms part of an area of garaging and gardens located behind four blocks of terraced residential properties on Langholm Crescent, Fife Road, Uplands Road and Cleveland Terrace. The site forms part of a unique quadrant to the rear of the existing properties accessed by cobbled rear alleyways. The existing garages are of different ages and designs, predominately constructed in brick. Brick walls and fencing enclose the detached garden areas and the buildings in the quadrant are single storey.

The application site is a rectangular parcel of land located within the quadrangle comprising a triple garage to the south, which has fallen into disrepair, and a single pitched roof garage to the north with open land in between the two buildings. The site lies within the West End Conservation Area.

A number of planning applications have been submitted in recent years to redevelop the site for residential purposes which have been refused and dismissed on appeal. The most recent application (17/00945/FUL), to demolish the existing triple garage and to rebuild a single storey dwelling on the footprint, was refused in February 2018 and dismissed on appeal (APP/N1350/W/18/3198208) on the grounds that the introduction of a residential property would intensify the use of the quadrant and alter its character as an ancillary area serving the surrounding residential properties. The proposal would therefore cause harm to the significance of the West End Conservation Area.

It is proposed to demolish the existing garages and to erect a single storey double garage to the north, with a pedestrian access gate to the side, and a full width single

storey double garage to the south. The garages would measure 7.9m wide, 6.5m long with an overall height of 4.2m under a dual pitch roof (northern garages) and 8.7m wide; 6.5m long with an overall height of 4.2m under a dual pitch roof (southern garages). The garages would be constructed from Cheshire common bricks to match the existing garages and natural black slate roof tiles.

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

PLANNING HISTORY

The relevant planning entries are:

09/00669/FUL In December 2009 planning permission was GRANTED for the demolition of the existing garages and the erection of one single garage and one triple garage.

09/00797/CA In December 2009 conservation area consent was GRANTED for the demolition of the existing garages

15/01216/FUL In May 2016 planning permission was REFUSED for the demolition of the existing garages and the erection of a detached dwelling with a single storey garage to the rear. An appeal was DISMISSED in November 2016

17/00945/FUL In March 2018 planning permission was REFUSED for the demolition of an existing triple garage and erection of a single storey residential dwelling with parking area, new pedestrian access, street lighting and 1.8m high timber close boarded fencing and gates. An appeal was DISMISSED in September 2018

RESULTS OF CONSULTATION AND PUBLICITY

Following the Council's publicity exercises, the Local Planning Authority has received one comment, three letters of objection from two households and a petition.

The comment can be summarised as follows:

- *Ensure garage to only be used for domestic purposes*
- *Garages only to be built in materials to suit the surrounding conservation area*
- *Garden area remaining if and when garages built, to be used on as a domestic garden*

The objection letters can be summarised as follows:

- *It is assumed the applicant proposes to privately rent out the garages. Other than for commercial reasons we can see no benefit in an additional garage being erected. To allow a second garage on the north facing plot will serve only to increase the volume of traffic.*
- *Whilst it could be argued that the overall number of garages equals that of the old buildings, it is noted that the south facing triple garage would not conform to today's legal requirements and as such could not be utilised for the same*

number of vehicles. Any remedial work to brick the building in line with current guidelines would result in this plot only being allowed to house two and not three vehicles

- *There is a concern that should permission be granted for the garages, subsequent applications for a change of use to residential purposes will be submitted*
- *I object to this planning application because I think what is proposed will have significant impact on the character of this part of the West End Conservation Area.*
- *At present, the quadrangle is a mix of garages and gardens. If permission is given for two additional double garages, this will result in most of the quadrangle being enclosed by garages and will change the balance between green space and garages which creates the character of this unique piece of land. It will also change the look of the space, making it more 'industrial' and less green.*
- *The only green space will be the garden along the east side. This will significantly alter what was described by the planning inspectors who considered this applicant's last two appeals, as a 'quiet tranquil area' and 'a secluded haven 'with 'a pleasant traditional, organic and informal feel to it.'*
- *I appreciate that the applicant has applied to replace garaging for four vehicles, in the form of a triple and a single garage, with garaging for only four vehicles, but the footprint of the proposed new buildings is much greater than what is there at present. Only a small patch of green space will be left.*
- *The garages have not been in use for many years, and this has contributed to the tranquility of the area. We residents appreciate the quiet area behind our homes and I am concerned that this will be shattered if four additional vehicles make regular use of the garages and the back lanes. I am concerned it will be less safe for our children who play there. More traffic also has the potential to make it more difficult for those of us on the north side of the quadrangle to access our garages.*
- *In response to the previous applications, both Darlington's Heritage Officer and then the national Planning Officer indicated that anything other than a straight replacement of existing buildings, preserving the balance of open and built-upon land, would be unsuitable. Sadly, the current application seeks to increase that footprint substantially, and, at the same time, to isolate any remaining 'garden' area from the community whose lives it was meant to enhance*
- *The applicant's own heritage advocate for the previous plan conceded that this is 'not an area which has seen previous development' and is 'backland area which has a particular subservience to the surrounding buildings' – our houses - and which gives the quadrant its unique character. As the planning inspector pointed out, the buildings on the quadrant are subservient to the surrounding houses, those that adjoin the plot, the linkage which forms the character of the area. It is precisely because the area of land has developed in 'a piecemeal way', and always, until now, for the benefit and use of the families whose homes adjoin it, that it has the character and the charm, the 'pleasant traditional, organic and informal feel' that the national planning inspector recognised.*
- *The detachment of the garden plot from the applicant's residence causes us real disquiet. Firstly, because the proposed complete enclosure of the space invites further and even less suitable development in the future. And secondly and more immediately, because the construction of four large garages, some distance from*

the applicant's own residence, suggests that they are for business purposes only. Form some of the forty years we've lived here, a couple of the old garages on the site were rented out, but only to families living in the adjoining homes, reducing the parking congestion of the area (for some years Mr Wright, who owned the site, charged me a grand 50p a week to garage my own car). The Environmental Health Officer for Darlington recommends that this proposal should be subject to "a condition restricting the use of the garages for domestic purposes only and not for any business or commercial activities". The applicant has ample parking and garage space for domestic use much closer to home, and the proposal would not only be for inappropriate business use, but significantly increase the traffic in what the National Planning Inspector called "this secluded haven away from the busy town centre and the surrounding streets". I can't see how even this more modest but insensitive application might 'preserve', 'protect' or certainly 'enhance' one of 'Darlington's green spaces and areas of mature tree cover in the West End Conservation Area which remain in their historic locations'.

The petition has been signed by 18 signatories. The comment on the petition states:

- *For several years, the space has not been used and we are concerned that garaging for four vehicles would lead to significantly more traffic in the back lanes, create danger for our children who play there and disrupt the tranquillity that Planning Inspectors have commented on in two successive appeals.*
- *Currently there is a mixture of gardens and single storey garages on the site, and we consider that four additional sizable garages would significantly change the character of the conservation area. We are concerned that it would contribute to the erosion of the character of the area and its biodiversity values, leaving very little green space*
- *We ask that as well as taking account of the feelings of the residents of the area, the Council takes account of the advice by the Environmental Health Officer, that any development should be for domestic use only*
- *The quadrangle is unique, there is not such other site in Darlington and in our view its character should be preserved*

Consultee Responses

The Council's Environmental Health Officer has raised no objections and recommended the imposition of a planning condition to restrict the use of the garages to domestic use only and not for any business or commercial activities

The Council's Highways Engineer has raised no objections

The Council's Historic Asset Officer has raised no objections

PLANNING POLICY BACKGROUND

The relevant national and local development plan policies are:

Borough of Darlington Local Plan 1997

E2 – Development Limits

Darlington Core Strategy Development Plan Document 2011

CS1 - Darlington's Sub-Regional Role and Locational Strategy

CS2 - Achieving High Quality Sustainable Design
CS14 - Promoting Local Character and Distinctiveness
CS16 - Protecting Environmental Resources, Human Health and Safety

National Planning Policy Framework 2019

Other Documents

West End Conservation Area Character Appraisal
Tees Valley Design Guide and Specification – Residential and Industrial Estates
Development

PLANNING ISSUES

The main issues to be considered here are whether the proposal is acceptable in the following terms:

- Impact upon the Significance of the West End Conservation Area
- General Design Matters
- Residential Amenity
- Highway Safety and Parking

Impact upon the Significance of the West End Conservation Area

In exercising the planning function with respect to Conservation Areas, special attention should be paid to the desirability of preserving or enhancing the character or appearance of that area under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. If harm is identified to the character or appearance of a conservation area, then the decision maker must give “*considerable importance and weight*” to that harm in line with 72 of the 1990 Act.

Core Strategy Policy CS14 (Promoting Local Character and Distinctiveness) seeks to protect the Borough’s distinctive character by protecting buildings, their settings and features of historic and archaeological local importance in conservation areas.

The NPPF recognises that heritage assets are an “irreplaceable resource and should be conserved in a manner appropriate to their significance” (Paragraph 184). Paragraph 192 notes that, in considering applications, account should be taken of “the desirability of sustaining and enhancing the significance of heritage assets”. Paragraph 193 requires “great weight” to be given to an asset’s conservation, irrespective of the extent of harm caused, and confirms that “the more important the asset, the greater the weight should be”.

Any harm to the significance of a heritage asset requires clear and convincing justification under Paragraph 194. Where there is less than substantial harm to the significance of a designated heritage asset, Paragraph 196 requires the public benefits of the proposal, including securing the optimum viable use of the asset where appropriate, to be weighed against the harm. For substantial harm, there is a higher test set out under Paragraph 195 where consent should be refused unless it can be demonstrated that the harm is necessary to achieve substantial public benefits that outweigh that harm, or a range of tests are met. In weighing applications that affect non-designated heritage assets, Paragraph 197 requires a balanced judgement having regard to the scale of harm and the significance of the asset.

Paragraph 200 of the NPPF requires local planning authorities to look for opportunities for new development within conservation areas, and within the setting of heritage assets, to enhance or better reveal their significance.

The West End Conservation Area is an extensive area to the west of Darlington Town Centre and it has been designated for its high quality suburbs ranging from the mid eighteenth century to early twentieth centuries. The Conservation Area Character Appraisal which was adopted in March 2010 explains that this area developed due to the demand for middle class housing in Darlington from the 1860s onwards. The Cleveland Estate as landowner regulated the construction of dwellings resulting in a high quality development.

Within the diversity of built forms and layouts there is an underlying consistency in terms of materials and spatial quality. Development pressure on front and rear gardens, some of which are extensive, is highlighted by the Character Appraisal as potential intrusion or damage which if not controlled is a threat to the character of the Conservation Area. Pressure for built development, and for car parking, on open / garden space is beginning to be problematic and if this continues there may be further erosion to the character of the Conservation Area, and also to its rich biodiversity value.

The different styles of the buildings within this quadrant and their garage doors add to the character of the area. The Planning Inspector, in dismissing the most recent appeal for the site, acknowledged that the quadrant cannot be seen from the surrounding roads but it provides a quiet tranquil area which contributes to its character and communal value. The Inspector also considered that the existing street layout contributes to the historic significance of the site and the immediate locality, but considered that the proposed residential redevelopment of the site, would intensify the use of the quadrant and alter its character as an ancillary area serving the surrounding residential properties.

The four existing garages on the application site are of a traditional design, constructed of what appears to be Edwardian brick with a slate roof, typical of the area. They are of a domestic scale and would have been used for such purposes, albeit not for a number of years according to local residents, who have objected to the application. The land within the application site, between the two buildings, is currently vacant, slightly overgrown and untidy and is not used or laid out as a formal garden area.

The proposal involves the demolition of the existing garages and the erection of four replacement garages. The main differences between the proposal and the existing characteristics of the site are:

- There are two garages at either end of the application site rather one garage at the north end and three at the southern end;
- The footprint of the garages has increased in order to meet modern guidelines for a garage to be considered a parking space (internal dimensions 6m long x 3m wide).
- The two proposed garages at the north end of the site are of a different design and scale to the existing garage in this location (but they would match the design

of the other two proposed garages which are similar to the original building at the southern end)

- A decrease in the extent of open land within the site and between the buildings

The Council's Historic Asset Officer has raised no objection to the proposed development provided that the garages are constructed from appropriate materials (brick with a slate roof) to ensure a quality development in the Conservation Area. The materials that are being proposed are considered to be appropriate.

Having considered the significance of the West End Conservation Area, the characteristics of the application site, the comments made by the Council's Historic Asset Officer, and assessed the impact of the proposal, the proposed development will "sustain" and "preserve" the character and appearance of the Conservation Area and the proposed development would accord with the local development plan (Policy CS14 of the Core Strategy) and paragraph 192 of the National Planning Policy Framework 2019.

General Design Matters

CS2 (Achieving High Quality, Sustainable Design) also requires that high quality, safe, sustainable and inclusive design will be promoted in all new developments.

The scale of the proposed single storey buildings would be in keeping with the existing buildings within the quadrant and they would also be subservient to the residential dwellings that bound the application site. Their design and choice of materials are appropriate. The proposed garages are considered to be acceptable in general design terms.

Residential Amenity

Policy CS16 of the Core Strategy seeks to ensure that new 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 local community. This is echoed within the National Planning Policy Framework 2019.

The plots within the quadrant are domestic and ancillary to the residential properties which enclose them. One of the plots adjoining the application site is in use and maintained as a formal garden area. The buildings within the quadrant would appear to be used for the storage of vehicles and/or general storage purposes.

The quiet, secluded nature of the quadrant has been noted by Planning Inspectors and the Local Planning Authority when considering the previous applications for residential development on the application site.

It is acknowledged that the applicant does not reside in one of the streets surrounding the quadrant and so the plot is not ancillary to his dwelling and he may wish to rent out the garages or sell them, which is not a material planning consideration. However, it is considered appropriate to impose a planning condition to ensure that the garages and land can only be used for domestic purposes and not for business or commercial activities. No such planning restrictions exist on the existing buildings and land within

the site and therefore the imposition of such a condition provides a stricter safeguard over the future use of the site than the current position.

The proposal will be introducing four replacement garages for domestic purposes into a quadrant that contains existing garages also used for domestic purposes, thereby maintaining the character of the quadrant area as an ancillary area serving surrounding residential properties which was identified by the Inspector in dismissing the previous appeal.

The buildings would not be overbearing or imposing when viewed from the surrounding dwellings and they raise no loss of privacy or overlooking concerns. As a result, it is considered that the proposal is appropriate in this location and would not adversely harm the amenities of the neighbouring dwellings.

Highway Safety and Parking

Policy CS2 of the Core Strategy states that new development should provide vehicular access and parking suitable for its use and location, reflecting appropriate parking standards.

The rear alleyway currently allows access to the rear of the properties and the garages within the quadrant. The internal dimensions of the proposed garages would meet the guidelines with the Tees Valley Design Guide to ensure they are of sufficient size to be considered a parking space. It is considered that the proposal would not result in a significant increase in traffic generation and usage. The Council's Highways Engineer has raised no objections.

SECTION 17 OF THE CRIME AND DISORDER ACT 1998

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

CONCLUSION

The significance of the West End Conservation Area and the overall characteristics of this quadrant of land and buildings has been considered alongside the potential harm caused by the proposed development has been considered. In the opinion of Officers, the proposal would sustain the significance of the Conservation Area and it is acceptable in residential amenity and highway safety terms. The proposal would accord with local and national planning policy.

RECOMMENDATION

PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:

1. A3 - Implementation Limit (Three Years)

2. The garages and associated land within the application site shall be used for domestic storage purposes only and shall not be used for any business or commercial activities

REASON: In the interests of safeguarding the amenities of the neighbouring dwellings

3. The development hereby permitted shall be carried out in accordance with the approved plan and supporting information, as detailed below:
 - a. Drawing Number 18170/P002 Rev A Proposed Plan and Elevations
 - b. Email from Nick Vassilounis dated 6th April 2019

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

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

Borough of Darlington Local Plan 1997

E2 – Development Limits

Darlington Core Strategy Development Plan Document 2012

CS1 - Darlington's Sub-Regional Role and Locational Strategy

CS2 - Achieving High Quality Sustainable Design

CS14 - Promoting Local Character and Distinctiveness

CS16 - Protecting Environmental Resources, Human Health and Safety

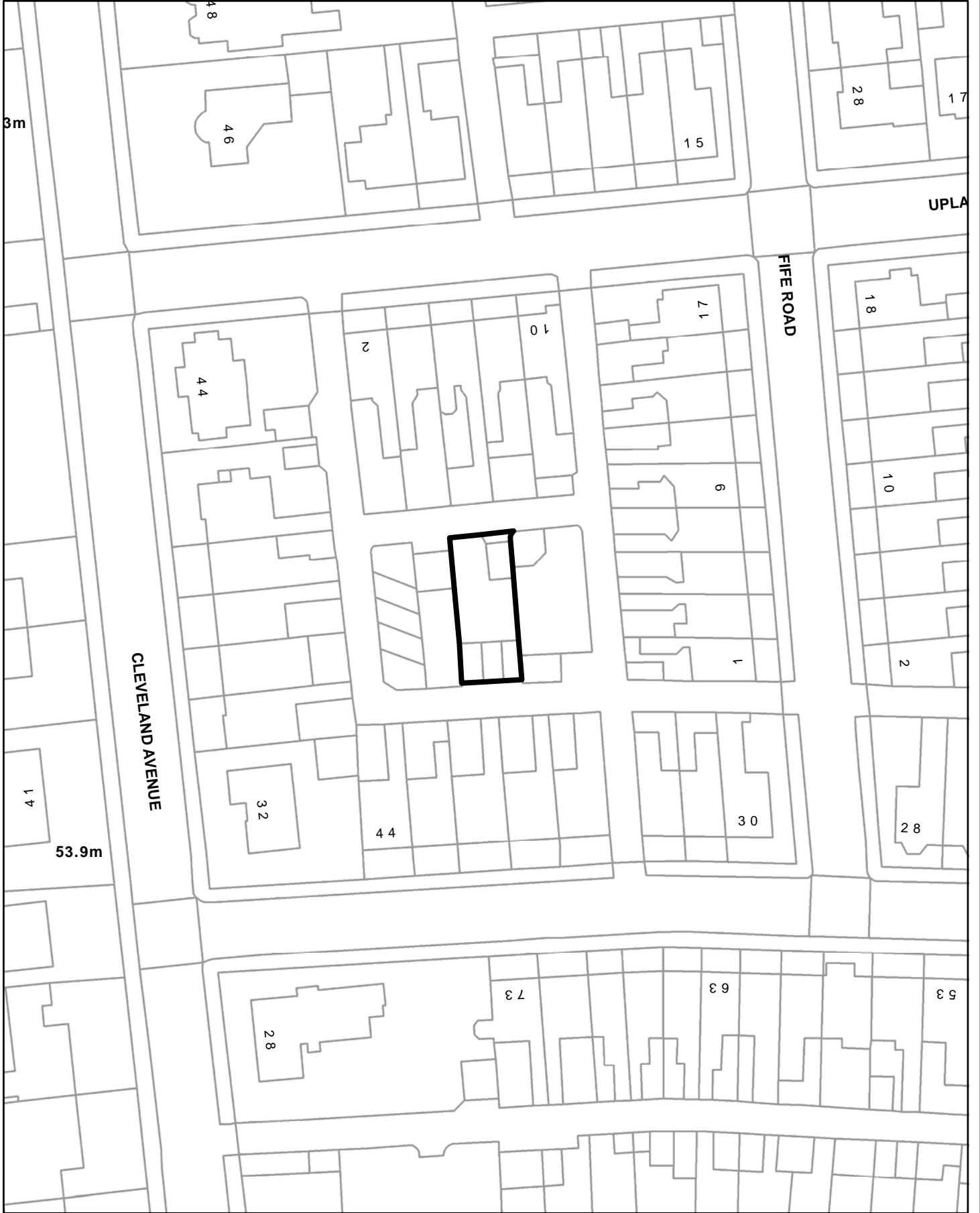
National Planning Policy Framework 2019

Other Documents

West End Conservation Area Character Appraisal

Tees Valley Design Guide and Specification – Residential and Industrial Estates Development

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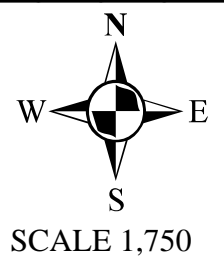


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PLANNING REF. No. 19/00071/FUL

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DARLINGTON BOROUGH COUNCIL
PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 10th July 2019

APPLICATION REF. NO:	19/00164/TF
STATUTORY DECISION DATE:	22 April 2019
WARD/PARISH:	SADBERGE AND MIDDLETON ST GEORGE
LOCATION:	1 Church Close, Middleton St George
DESCRIPTION:	Felling of 1 No Pinus Sylvestris (Scots Pine) protected under Tree Preservation Order 2018 No. 6 (T1)
APPLICANT:	Mr Gerald Marsh

APPLICATION AND SITE DESCRIPTION

This application seeks consent for the felling of a Scots Pine tree (*Pinus sylvestris*) protected by Tree Preservation Order 2018 No. 6 (T1) located in the front garden of the application property, 1 Church Close, Middleton St George and for the planting of a birch tree (*Betula utilis Jacquemontii*) in its place.

Members first considered a report following the receipt of an objection from the applicant regarding the placing of the Tree Preservation Order in November 2018. The report was deferred at that meeting to allow a site visit to take place. At the site visit it was agreed that the applicant would submit further details from a qualified arborist in support of the applicant's objection that the tree was not worthy of protection. That information was considered in a further report to Members in February 2019.

While Members agreed, on the basis of the advice contained in the arborist's report, that the tree was not worthy of protection they considered that the only way to secure the provision of a replacement tree was to confirm the order and to invite the applicant to submit an application to fell the tree. Members advised that the application must include details of a suitable replacement tree i.e. heavy standard of a species suitable to the location which would then become protected should the application be approved. Members also requested that this application be considered by the Planning Applications Committee.

The application property is a detached dwelling located on the north side of Church Close at its junction with Church Lane, within the Middleton One Row Conservation

Area. Two sycamore trees within the garden of the property are protected by the Darlington Rural District Council Tree Preservation Order 1964.

PLANNING HISTORY

The application property has a lengthy planning history, the most recent and relevant of which is set out below:

06/00033/TF – Application to prune a sycamore tree (T.5) included within the Darlington Rural District Council Tree Preservation Order 1964. GRANTED 6 March 2006

10/00647/TFC – Notification to carry out tree works in a designated conservation area – crown thinning to 1 no. pine tree and crown reduction to 1 no. ash tree. NO OBJECTION 2 November 2010

15/00247/TF – Works to mature sycamore tree (T6) protected under Tree Preservation Order (No. 1) 1964 – crown reduction of up to 20% or 2m together with crown thinning up to 25%. GRANTED 28 August 2015

18/00634/TFC – Notification to carry out works to trees in a designated conservation area – felling of 1 no. Pine Tree). OBJECTIONS RAISED 28 August 2018

RESULTS OF CONSULTATION AND PUBLICITY

Senior Arboricultural Officer – Recommends that a Birch (*Betula pendula Fastigiata*) containerised semi-mature tree would be a better option.

No comments received as a result of the consultation and publicity exercise

PLANNING POLICY BACKGROUND

Borough of Darlington Local Plan 1997
Saved Policy E13 (Tree Preservation Orders)

Darlington Core Strategy Development Plan Document 2011
Policy CS15 (Protecting and Enhancing Biodiversity and Geodiversity)

PLANNING ISSUES

Saved Local Plan Policy E13 (Tree Preservation Orders) states that when determining applications to fell or carry out other works to trees subject to tree preservation orders, the Council will take into account the health and stability of the trees, their likely future lifespan and their public amenity value. Core Strategy Policy CS15 (Protecting and Enhancing Biodiversity and Geodiversity) also seeks to protect and enhance healthy ancient woodland, mature trees, street trees, hedgerows and community forests.

Information submitted by the applicant in support of his objection to the placing of the Tree Preservation Order on the pine tree considered that the tree was not worthy of protection. The report advised that the tree would not reach its full lifespan as due to its bankside location the tree has a dominant and increasing lean, compacted roof damage

and would be highlight unsightly in the locality. The report also considered that to remove sufficient live matter to minimise stress on the root system and to reduce the top heavy nature of the tree, due to an oversized mid-canopy, may also be detrimental to the overall health of the tree.

This application has been submitted at the request of Members and proposes the felling of the Pine tree and the planting of a containerised semi-mature birch tree as a replacement. The replacement tree will secure the provision of a healthier specimen on the site and should Members be minded to approve the application then the Tree Preservation Order would be amended to cover the birch tree.

Subject to a planning condition to agree the exact location, species and size of the replacement tree, the proposal is considered to comply with the requirements of Saved Local Plan Policy E13 and Core Strategy Policy CS15 and is therefore considered to be acceptable.

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 felling of the Scots Pine tree (*Pinus sylvestris*) protected by Tree Preservation Order 2018 No. 6 (T1) in this instance is considered to be acceptable in view of the issues relating to the health and condition of the tree as detailed in the report and subject to a condition to secure the planting of a replacement tree which would then assume protection under the original Order.

RECOMMENDATION

THAT CONSENT BE GRANTED SUBJECT TO THE FOLLOWING CONDITION

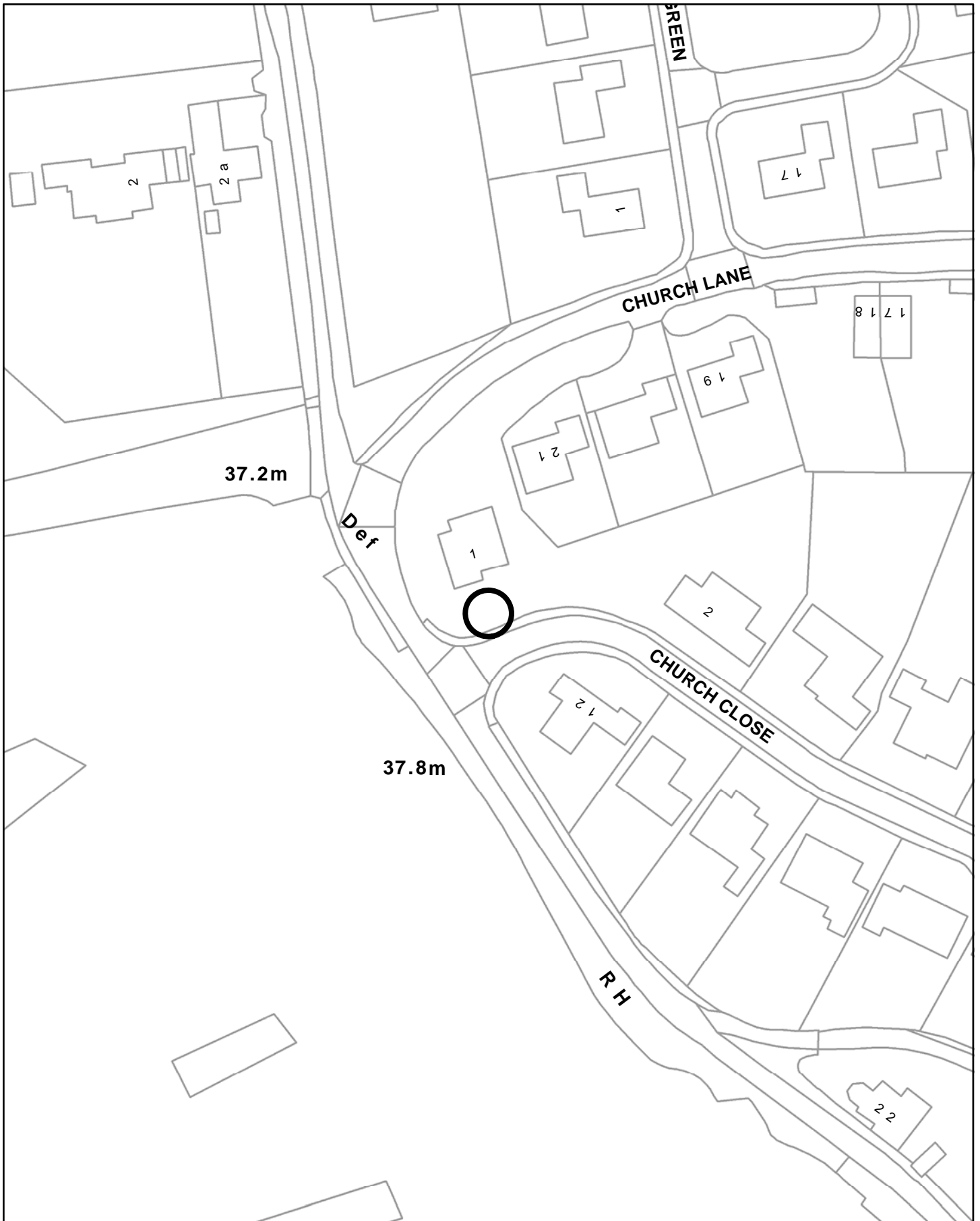
1. Not later than the next planting season immediately following this consent, a replacement Birch tree, the exact species, size and position of which shall first be agreed in writing by the Local Planning Authority, shall be planted by or under the supervision of a competent forester, to the like satisfaction, and such tree shall be deemed to be included in the preservation order under which this consent is given, as though it had originally been specified therein.

REASON – In the interests of visual amenity.

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

Borough of Darlington Local Plan 1997
Saved Policy E13 (Tree Preservation Orders)

Darlington Core Strategy Development Plan Document 2011
Policy CS15 (Protecting and Enhancing Biodiversity and Geodiversity)

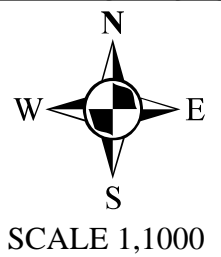


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PLANNING REF. No. 19/00164/TF

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Appeal Decision

Hearing held on 21 May 2019

Site visit made on 21 May 2019

by Alison Partington BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd June 2019

Appeal Ref: APP/N1350/W/18/3202281

White House Farm, Sadberge Road, Middleton St George DL2 1RL

- 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 T L Shepherd and Son against the decision of Darlington Borough Council.
 - The application Ref 17/01119/FUL, dated 29 November 2017, was refused by notice dated 19 April 2018.
 - The development proposed is an agricultural worker's dwelling, livestock barn and associated footpath diversion.
-

Decision

1. The appeal is allowed and planning permission is granted for an agricultural worker's dwelling, livestock barn and associated footpath diversion at White House Farm, Sadberge Road, Middleton St George DL2 1RL in accordance with the terms of the application, Ref 17/01119/FUL, dated 29 November 2017, subject to the conditions set out in Annex A.

Main Issue

2. The main issue in the appeal is whether, having regard to the development plan and the *National Planning Policy Framework* (the Framework) which seeks to avoid isolated new homes in the countryside, there is an essential need for a dwelling to accommodate a rural worker.

Reasons

3. It is proposed to build a new dwelling and livestock building at White House Farm, which lies in the open countryside between the villages of Sadberge and Middleton St George. At present there is a small livestock building on the site, together with the remains of the former farmhouse; another storage building on the site was destroyed in an arson attack last autumn and is yet to be replaced. The site is isolated from other built development.
4. The appellant company is a farming business operated by Mr C Shepherd, Mrs S Shepherd, and their son Mr M Shepherd. At present the business is run from Raby Farm, located in the centre of the village of Sadberge, and a short distance from White House Farm. It consists of a house and range of farm buildings. It is surrounded by housing and a Scheduled Ancient Monument, that prevent any expansion of the farmyard. Whilst arable farming takes place on the surrounding fields associated with both farms, the main part of the enterprise is an intensive pig rearing business. The pigs are brought into the

- farm at a young age and looked after for approximately 11 weeks before going onto other farms.
5. Whilst Raby Farm is tenanted, and has been farmed by The Shepherds for a number of generations, they own White House Farm, having purchased it in 2016. The existing livestock building at White House Farm is occasionally used for keeping some of the pigs as a short-term measure, but the absence of any dwelling on it, means that it is largely used only for storage. The appeal scheme would allow the expansion of the business, enabling them to double the number of pigs they care for at any one time to approximately 4,000, with around 2,000 being kept at each site.
 6. Policy CS1 of *Darlington Core Strategy (adopted May 2011)* (CS) states that outside the main urban areas and villages development should be limited to that required to meet identified rural needs. In addition, Policies E2 and H7 of the *Borough of Darlington Local Plan 1997 (adopted November 1997)* (DLP) also seek to limit new development and housing in the countryside unless, amongst other things, it is related to agricultural or forestry operations.
 7. Similarly, paragraph 79 of the Framework indicates that isolated new homes in the countryside should be avoided. However, it states that one of the few special circumstances for permitting such homes is to meet an essential need for a rural worker to live permanently at, or near, their place of work in the countryside. This is the only circumstance which is argued in this case.
 8. The Council has not raised any objections to the proposed livestock building. Moreover, it is not disputed that the proposed keeping of that number of young pigs at the farm would be more than a full-time job and would require someone to live on the site, or that the existing business is financially viable. Nothing I have seen or read would lead me to come to a different conclusion in regard to these matters. However, as the enterprise has not been established at this new location yet, the Council consider that temporary accommodation should be provided in the first instance, to ensure it is established and is sustainable in the long term.
 9. To help address the Council's concerns the appellant has provided a Unilateral Undertaking to control the phasing of the proposed development of the site. This would require the livestock building to be largely completed before work on the dwelling was commenced, and that the dwelling was not occupied until the livestock building was brought into use for housing livestock.
 10. I accept that when establishing a new agricultural business that has a functional need for a permanent presence on the site, it is common practice to initially only allow a temporary dwelling to be provided in order to ensure the enterprise is established and proves it is likely to endure in the long term.
 11. However, the proposal does not relate to the establishing of a new agricultural business, but the expansion of an existing one. Moreover, the expansion is not into a new area of agriculture but the growth of the existing pig rearing business, that cannot be accommodated on Raby Farm due to the physical constraints of that site. The current business has been established for a considerable length of time, and it is not disputed that the accounts show it to be a profitable business.

12. Whilst I accept that the enterprise would be on a different site, given the pigs are kept within buildings the entire time, the location of the building is unlikely to make any significant difference to the success or otherwise of the business, especially as they would continue to be cared for in the same way, and by the same people, who are clearly very experienced stockmen. As such, I consider the risk to the business of expanding on a new site is minimal.
13. The financial assessment put forward by the appellant's Farm Business Consultant and agronomist, which takes into account the costs of the new livestock building and dwelling, projects that the expansion of the business would significantly increase profitability. The business has continued for many years, and I see no reason to doubt its continued viability, even if the expansion is taking place on a new site.
14. Furthermore, in order to meet the required animal welfare standards the fitting out of the livestock building would make it far more expensive than an agricultural building that would only be used for storage purposes. It would therefore represent a considerable investment by the business. Thus, although the Unilateral Undertaking does not control the number of animals to be kept in the building, or ensure its continued use for this purpose once the dwelling is occupied, it would not make economic sense to use it other than for its intended purpose and in the long term. It is also clear that the business that supplies the piglets to the enterprise, has the capability to supply additional animals to them and is more than willing to do so.
15. Bringing these points together, taking account of the particular circumstances of this case, and the control over the phasing of the development provided by the Unilateral Undertaking, I consider that the expansion of this existing farming enterprise to White House Farm would require a full time worker to be present on the site at most times, and that this farming need is likely to be sustained in the long term. As such, I am satisfied that an essential need for a new dwelling in the countryside has been established. Accordingly, there would be no conflict with Policy CS1 of the CS, Policies E2 and H7 of the DLP or paragraph 79 of the Framework outlined above.

Other Matters

16. The proposal would require the diversion of existing footpaths that currently run through the farmyard. A plan showing the proposed diversion which has been discussed with, and is supported by, the relevant Council Officer, was submitted as part of the appellant's documentation. This would be subject of a Diversion Order under separate legislation. A condition can be used to ensure that the diversion takes place before any development is commenced.

Conclusion and Conditions

17. For the reasons set out above, I conclude the appeal should be allowed.
18. Although the Council suggested a shorter implementation period of one year, I have imposed the standard condition, as time is required to enable the necessary work required to divert the footpaths. In addition, to provide certainty it is necessary to define the plans with which the scheme should accord. In the interests of the character and appearance of the area conditions are required to control the external appearance of the dwelling and any necessary means of enclosure, although as the materials for the dwelling have

already been specified on the plans, I consider that the submission of further details and samples to the Council is not necessary. The rural location means an agricultural occupancy condition is necessary to comply with national and local policy.

19. In order to ensure the maintenance of the footpath network, a pre-commencement condition is required to ensure the diversion of the footpath takes place in advance of any development and to ensure that adequate provision for users of the footpath is maintained during the construction period. In accordance with Section 100ZA of the Town and Country Planning Act 1990, the wording of this pre-commencement condition was agreed by the appellant in writing. Given the size of the development, and its remote location, I do not consider the other details suggested by the Council to be included in the Construction Management Plan are necessary.
20. The Planning Practice Guidance indicates that permitted development rights should only be removed in exceptional circumstances. In the absence of any specific justification, and as there would be limited visibility of the dwelling, I am not persuaded that it is necessary to remove the rights suggested by the Council.

Alison Partington

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Steve Barker	Prism Planning
Chris Shepherd	Appellant
Michael Shepherd	Appellant
Robert Sullivan	GSC Grays

FOR THE LOCAL PLANNING AUTHORITY:

Emma Williams	Darlington Borough Council
Dave Coates	Darlington Borough Council

DOCUMENTS SUBMITTED AT THE HEARING

1. Photographs of various instances of criminal damage at White House Farm submitted by the appellant.

Annex A

Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan; Existing Site Plan Drawing P3456/02; Existing Site Plan showing footpath Drawing P3456/05; Proposed Floor Plans and Elevations Drawing P3456/01; Proposed Site Plan Drawing P3456/03; Proposed Agricultural Building Drawing No 1; and Proposed Agricultural Building Drawing No 2.
- 3) The development shall be carried out using those materials specified on the approved plan Drawing P3456/01.
- 4) No development above ground level shall commence until details of any walls, fencing or other means of enclosure have been submitted to, and approved in writing by the local planning authority. The means of enclosure shall be erected in accordance with the approved details, prior to any part of the development being brought into use.
- 5) The occupation of the dwelling shall be limited to a person solely or mainly working, or last working, in the locality in agriculture or in forestry, or a widow or widower or surviving civil partner of such a person, and to any resident dependants.
- 6) No development shall take place until the necessary footpath Diversion Order has been confirmed and implemented, and a construction management plan has been submitted to, and approved in writing by, the local planning authority. The plan shall include details of how a safe and accessible route will be maintained for users of the footpaths during the construction period.



Appeal Decision

Site visit made on 13 May 2019

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

an Inspector appointed by the Secretary of State

Decision date: 5 June 2019

Appeal Ref: APP/N1350/W/19/3223783

Land Adjacent to Mill Lane, High Coniscliffe, Darlington DL2 2LJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Taylor against the decision of Darlington Borough Council.
 - The application Ref 18/00742/OUT, dated 15 August 2018, was refused by notice dated 27 November 2018.
 - The development proposed is erection of one dwelling.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The application was submitted in outline with all matters reserved for future consideration. However, I note that the appellant and the Council state that all matters were reserved except for access. I have proceeded to determine this appeal on that basis.

Main Issues

3. The main issues in this appeal are whether the site would be a suitable location for residential development with regards to:
 - Local and national planning policy; and
 - The character and appearance of the area, with due regard to designated heritage assets.

Reasons

Planning Policy

4. The appeal site is located outside of the limits of development as defined by the Council's Local Plan 1997 (LP). The appellant has questioned the weight to be given to the development limits, for reasons including the granting of planning permissions for residential development elsewhere beyond development limits in order to ensure a 5 year Housing Land Supply (HLS). However, development limits remain a valid approach to directing development to suitable locations whilst controlling the outer spread of settlements, even if they have had to be relaxed in some cases.

5. The appellant has also questioned the status of the Council's HLS. Whilst he acknowledges that the Council is able to demonstrate a 5-year HLS in accordance with paragraph 11 of the National Planning Policy Framework (the Framework), he questions the identified supply and in particular whether some of the sites which contribute to the supply are deliverable. Whilst the onus may be on the Council to provide clear evidence in respect of identified sites, I also note that the appellant has not provided substantive evidence to contradict the Council's evidence in relation to the HLS.
6. On the basis that I have found that the underlying objectives of the development limit are still valid and in the light of the HLS, the development limits should be given at least moderate weight in my consideration of this appeal. I am also mindful of the results of the Government's Housing Delivery Test published in February 2019 which indicates that the total number of homes delivered has been above the total requirement for the last three years, resulting in no change to the housing position for the Council.
7. Policy CS1 of the Core Strategy 2011 (CS) requires that outside the limits to development, development will be limited to that required to meet identified rural needs. Policy E2 of the LP sets out the types of development which will be accepted beyond development limits, and refers to small scale development beneficial to the needs of rural communities, including some forms of housing. These policies broadly reflect the aims of the Framework with regards to the location of housing where it will enhance or maintain the vitality of rural communities.
8. I acknowledge that future residents of the proposal would support services in High Coniscliffe and nearby villages, however the level of support from a single dwelling would be limited. Due to its location adjacent to the village the proposed dwelling would not be isolated and may also provide good access to services in the village and wider area. That said, these matters would apply to many sites on the edge of this village and do not represent an overriding justification for the construction of the proposal beyond the defined development limits.
9. I therefore conclude that due to its location beyond the limits of development as defined by the LP, the proposed development would be contrary to Saved Policy E2 of the LP and Policy CS1 of the CS. These Policies are broadly consistent with the Framework in respect of achieving sustainable development whilst delivering a sufficient supply of homes.

Character and Appearance

10. High Coniscliffe has a generally linear pattern extending along the A67. Whilst there are some examples of backland development behind the road frontage within the village, including along Mill Lane, these do not detract from the compact and generally linear form of the settlement.
11. The appeal site is located adjacent to Mill Lane, which runs from the main road leading through the village and into the countryside beyond. The lane leads to Mill House, which is an attractive building with an extensive garden. Whilst a wall leading along the lane provides a visual connection between Mill House and the village, I saw that this building has a freestanding character beyond the built extent of the settlement.

12. The appeal site consists of an overgrown but undeveloped plot of land. Although there are houses adjacent to the length of Mill Lane leading to the appeal site, these reflect the built extent of the wider settlement. Within this context, the proposal would appear as the encroachment of built development beyond the village boundary and into the surrounding countryside. This harm would be exacerbated by the proposed entrance to the site, which would disrupt the stone boundary wall leading to Mill House and emphasise the extent of built development along the lane. The development would be apparent in views along Mill Lane as well as from the car park of the nearby public house.
13. Mill House is a Grade II listed building. The significance of this property is summarised by the list description and its significance is derived from its historic function as well as the detached rural character of this attractive building from the built up area of the village. The stone boundary wall is not included within the listing description, but I saw it plays an important role in visually linking Mill House to the settlement. Whilst the stone boundary wall and extensive garden of Mill House provide a visual link to the village, they do not negate the distinctly detached nature of the building. For the reasons stated previously, the encroachment of development along the lane would diminish this detached character and would therefore harm the setting of the listed building.
14. The site is located within the High Coniscliffe Conservation Area (CA), which includes much of the settlement and its rural setting. Based on what I have seen and read, the inclusion of large domestic gardens and fields to the north of the settlement makes an important contribution to the character and appearance of the CA and the appreciation of the development of the village and its relationship with the surrounding countryside. The proposal would result in the projection of built development beyond the prevailing extent of development along the northern edge of the settlement, thereby harming the appreciation of the built form of the settlement and its rural setting, with consequent harm to the character and appearance of the CA.
15. I acknowledge that the application has been submitted in outline. The appellant contends that the materials, appearance and the design of the dwelling and access could be determined as reserved matters. However, whilst that may be the case, I am not persuaded that these would address my concerns in respect of the encroachment of built development beyond the village and the effect on designated heritage assets. The Council also considers that insufficient information has been submitted to enable the assessment of the impact on designated heritage assets. However, based on what I have seen and read, I conclude that sufficient information has been provided to determine that the proposal would be harmful in that regard.
16. Reference has been made to the overgrown nature of the site and that there is no visual connection between the site and the listed building. However, I saw that the extent of vegetation on the site emphasises its undeveloped character, which would be negated by the introduction of built development. I have had regard to the Rossett Green Lane Appeal Decision¹ provided by the appellant, although I note this refers to "...an already evident urban form..." which would not apply to the appeal proposal which is clearly outside of the built envelope of the village. In any event, I have not been provided with full details of the

¹ Appeal ref APP/E2734/W/17/3177793

Rossett Green Lane proposal and so cannot be certain that the circumstances are the same as the appeal before me, which I have determined on its particular merits.

17. Whilst the harm to the Listed Building and the CA would be less than substantial, I attach great weight to the conservation of these designated heritage assets in accordance with the Framework. I am mindful of the public benefits of the proposal, including the contribution to the supply and mix of housing in the area and the support of services. However, the benefits arising from a single dwelling would be limited and would not outweigh the great weight to be given to the harm to designated heritage assets.
18. Drawing the above together, I conclude that the proposal would be harmful to the character and appearance of the area and to designated heritage assets. The proposal would therefore conflict with Policies CS2 and CS14 of the CS which seek to secure high quality design and promote local character and distinctiveness, including protecting built heritage. The proposal would also be contrary to the Framework with regards to achieving well-design places and conserving and enhancing the historic environment.

Conclusion

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

David Cross

INSPECTOR



Appeal Decision

Site visit made on 17 April 2019

by Mr M Brooker DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 June 2019

Appeal Ref: APP/N1350/W/19/3220816

The Annexe, Spa Wells, Low Dinsdale, Neasham, Darlington DL2 1PL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Paul Gibson against the decision of Darlington Borough Council.
 - The application Ref 18/01064/FUL, dated 16 November 2018, was refused by notice dated 7 January 2019.
 - The application sought planning permission for variation of condition 9 (approved plans) of planning permission 15/00014/FUL dated 5 August 2015 for demolition of existing garage and replacement erection of residential annex comprising garage to ground floor with guest room accommodation above; and erection of storage barn – to permit insertion of 4 No. dormer windows (2 No. each side elevation), alteration to roof on west elevation, window changes, balcony and double doors (retrospective application) without complying with conditions attached to planning permission Ref 16/01128/FUL, dated 19 December 2016.
 - The conditions in dispute are Nos 2 and 3 which state that: (2) the garages hereby approved shall be used for purposes incidental to the enjoyment of the main family dwelling only, currently known as Spa Wells, and for no other purposes, including any commercial purposes, unless otherwise agreed in writing by the Local Planning Authority and, (3) the living accommodation above the garages for which permission is hereby granted shall not be occupied, let or otherwise disposed of as a separate dwelling but shall be used only for purposes ancillary to the use of the main family dwelling, currently known as Spa Wells.
 - The reasons given for the conditions are: (2) in the interests of the amenity of the locality and (3) the development is lies outside the limits of development as defined by the Borough of Darlington Local Plan 1997.
-

Decision

1. The appeal is allowed and planning permission is granted for variation of condition 9 (approved plans) of planning permission 15/00014/FUL dated 5 August 2015 for demolition of existing garage and replacement erection of residential annex comprising garage to ground floor with guest room accommodation above; and erection of storage barn – to permit insertion of 4 No. dormer windows (2 No. each side elevation), alteration to roof on west elevation, window changes, balcony and double doors (retrospective application) without complying with conditions attached to planning permission Ref 16/01128/FUL, dated 19 December 2016 at The Annexe, Spa Wells, Low Dinsdale, Neasham, Darlington DL2 1PL in accordance with the terms of the application, Ref 18/01064/FUL, dated 16 November 2018, and the plans submitted with it, subject to the following condition:

- 1) The garage hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as The Annex.

Main Issue and procedural matters

2. The development to which the original planning permission relates, specifically the residential annex comprising a garage to the ground floor, has been constructed. The appellant wishes to remove conditions controlling the link between The Annex and Spa Wells and restricting the use of the garage to uses ancillary to Spa Wells. The main issues are:
 - whether or not condition No3 is necessary to protect the character and appearance of the countryside and whether the site would be a suitable location for housing, having regard to access to services and facilities; and,
 - whether or not condition No.2 is necessary to protect the living conditions of the occupiers of neighbouring properties.

Reasons

Condition No.3

3. The proposal relates to an existing residential annexe and large ground floor garage near to the host dwelling, Spa Wells. It is physically detached from the main dwelling and has its own independent entrance.
4. Policy CS1 of the Darlington Core Strategy (CS) sets out a hierarchy of locations for development. Development is focused on the urban areas where services and facilities are accessible. The Council has also directed me to Saved Policy E2 of the Darlington Local Plan (LP) that defines the development limits. The policy seeks to restrict development outside of the settlement limits unless allowed by a specific exception, to protect the character and appearance of the countryside. The proposed development is not covered by any of the exceptions.
5. The appeal site is situated in a rural location next to an existing dwelling and barn but is outside the defined development limits. However, because the proposal relates to an existing building and as such the proposed deletion of the disputed conditions would not impact on the character and appearance of the countryside.
6. The future occupants of the proposed dwelling would be largely reliant on the use of the private car to access most everyday services and facilities. However, I am also mindful that the building can currently be used as a residential annexe and the occupiers of the annexe would be likely to be reliant on private modes of transport. Whilst the use of the building as an independent dwelling may result in an intensification in its use and further reliance on the private car, the existing residential use of the annexe is nonetheless a factor that I have taken into account.
7. The National Planning Policy Framework (2019) (the Framework) is relevant to the appeal proposal. Paragraph 79 of the Framework states that planning policies and decisions should avoid development of isolated homes in the

countryside unless one or more of a number of circumstances apply. One such circumstance is that of where *'the development would involve the subdivision of an existing residential dwelling'*. I find that this advice indicates support for the proposal which involves the subdivision of an existing residential property in a rural area.

8. In accordance with S38(6) of the Planning and Compensation Act 2004 development which conflicts with the development plan should be refused unless other material considerations indicate otherwise. While the proposed development does not accord with policy CS1 of the CS and Saved Policy E2 of the LP, I find that as a result of the absence of harm to the character and appearance of countryside and acknowledging the existing residential use of the appeal property and the advice contained within the Framework, in these circumstances these material considerations outweigh the conflict with the LP and the appeal site would be an appropriate location for housing. As such the condition is not necessary.

Condition No.2

9. The disputed condition ties the garage to use that is ancillary to the main dwelling, Spa Wells. The Council has stated that the reason for this relates to the objection from a neighbour and as a result of the large size of the garage creating the potential for it to be used for commercial purposes.
10. I observed at the site visit that the three-bay ground floor garage is indeed of a considerable size but also that the appeal site is in a rural location. The residential properties in close proximity to the garage are The Annex and Spa Wells.
11. As a result of the size and proximity of the garage to the residential dwellings, I find that the use of the garage for purposes other than that ancillary to a residential use would have a significant detrimental impact on the living conditions of the occupiers of those closest properties.
12. Furthermore, with the deletion of condition No.3, it is not necessary to link the garage to Spa Wells. However, I find it necessary to control the use of the garage and to link the use to the closest residential unit. An appropriately worded condition can restrict the garage in a use that is ancillary to The Annex.
13. Therefore, I find that it is not necessary to retain the disputed condition, but it is necessary to impose a new condition linking the garage to The Annex to protect the living conditions of the occupiers of nearby properties in accordance with saved Policy E2, that amongst other matters seeks to protect the living conditions of residents. Both parties have been consulted with regards this condition and raised no objection.

Conditions

14. For the reasons detailed above, I find it is necessary to impose an appropriately worded condition to ensure the garage can only be used for purposes that are ancillary to the residential use of the closest residential unit, The Annex. The Council and Appellant were consulted in respect of the condition and no objections were raised. The Council sought a strengthening of the condition, to specifically prevent the use of the garage for business and commercial activities. However, given the separation of the garage from other residential dwellings I do not find that such an additional restriction is necessary.

15. In responding to the appeal, the Council suggested a condition be imposed restricting external plant and machinery at the garage. As a result of the separation of the annex and garage from other residential properties I find this condition unnecessary in addition to the condition controlling the use of the garage referred to previously.
16. I have reviewed the conditions originally attached to the original planning permission and I find that it is not necessary to reimpose those conditions here because the conditions have been discharged and the development has already been carried out.

Other matters

17. Representations from a local resident made in respect of the application refers to a number of matters, including assertions that a business is operating from Spa Wells in breach of a planning permission and that there are covenants preventing business operations. Covenants are a matter that is not within my jurisdiction and alleged breaches of planning permission are not a matter that can be dealt within in the consideration of this appeal.

Conclusion

18. For the reasons given above I conclude that the appeal should be allowed.

Mark Brooker

INSPECTOR



Appeal Decision

Site visit made on 17 April 2019

by Mr M Brooker DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 June 2019

Appeal Ref: APP/N1350/W/19/3220234

15 Belvedere Road, Darlington DL1 5EP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Jesbir Singh against the decision of Darlington Borough Council.
 - The application Ref 18/00376/FUL, dated 1 May 2018, was refused by notice dated 15 October 2018.
 - The application sought planning permission for the change of use from shop to A5 hot food takeaway and rebuild of shop front and extractor duct. Reapplication with noise & odour filters and additional information without complying with a condition attached to planning permission Ref APP/N1350/A/14/2228133, dated 23 January 2015.
 - The condition in dispute is No 7 which states that: The use shall hereby permitted shall not be open to customers outside the following times: 11:30 – 21:00 Mondays to Saturdays and 12:00 – 19:00 on Sundays and Bank holidays.
 - The reason given for the condition is: the interests of safeguarding the living conditions of neighbouring occupiers.
-

Decision

1. The appeal is dismissed.

Back Ground and Main Issue

2. The variation to the condition sought by the Appellant would allow the premises to open to customers for an additional hour, until 22:00, Friday to Saturday, all other opening times would remain the same.
3. The main issue is the effect of the proposed later opening hours on the living conditions of the occupiers of neighbouring properties with particular regards to noise and disturbance.

Reasons

4. The appeal site occupies a two storey end of terrace corner property in a predominantly residential area comprising terraced housing with no off street car parking.
5. At the time of my site visit, which took place in the afternoon of a weekday, the area surrounding the appeal site was quiet with little in the way of pedestrian or vehicular activity. At the site visit, I noted a limited number of other evening or late night uses in the wider area and none in the immediate vicinity of the

- appeal property. Accordingly, I would expect activity in the area to be at least as quiet into the evening.
6. The comings and goings of customers to the hot food takeaway would be likely to result in noise from car engines, in-car audio systems, car doors slamming, though I note that the appellant has identified that the premises serves local customers rather than passing trade, there would in any event be noise and disturbance from people talking and possibly congregating in groups on the footway outside. Noise would also be likely to arise from staff legitimately engaged in activities such as clearing away and locking up the premises at closing time.
 7. The noise from customers and staff identified above would arise in very close proximity to neighbouring residential properties. 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 have a reasonable expectation that their living environment would be quieter in the late evening.
 8. In support of the appeal the Appellant has made reference to the opening times of other similar premises in the local area and while they may operate beyond the hours permitted at the appeal premises, I have not been provided with details of the planning history of these premises or of their relationship with neighbouring residential properties. I therefore give these matters little weight. In any event, I must determine the appeal on its own merits and have done so.
 9. I conclude that a condition limiting the hours that the appeal premises can open is necessary in the interests of protecting the living conditions of neighbouring residents with particular regard to noise, disturbance and odours. I further conclude that the hours imposed on the original planning permission are reasonable and accord with the amenity protection aims of Policy CS16 of the Darlington Local Development Framework Core Strategy and paragraph 180 of the National Planning Policy Framework.

Conclusion

10. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

Mark Brooker

INSPECTOR



Appeal Decision

Hearing Held on 29 May 2019

Site visit made on 29 May 2019

by **Andrew McGlone BSc MCD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 24 June 2019

Appeal Ref: APP/N1350/W/18/3208188

Bridge View, Middleton Road, Sadberge DL2 1RP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Patrick Connors against the decision of Darlington Borough Council.
 - The application Ref 17/00848/OUT, dated 11 September 2017, was refused by notice dated 6 February 2018.
 - The development proposed is described as "To property known as Bridge View, Sadberge. Proposed dormer bungalow with 4/5 bedrooms and double garage, approximate position as shown on the location plan. Construction would be traditional with facing brickwork walls and clay pantile roof all to the approval of the planning department and building control department."
-

Decision

1. The appeal is allowed and outline planning permission is granted for the erection of dormer bungalow and double garage at Bridge View, Middleton Road, Sadberge DL2 1RP in accordance with the terms of the application, Ref 17/00848/OUT, dated 11 September 2017, subject to the conditions in the attached schedule.

Procedural Matters

2. The application was submitted in outline with all matters reserved for future consideration. An indicative site plan has been submitted, which has formed part of my consideration of the appeal.
3. The description of development in the heading has been taken from the planning application form. Part E of the appeal form states that this description of development has not changed, even though a different description has been entered. This broadly reflects the description stated on the decision notice. Despite the description of development set out above, the main parties agreed at the Hearing that the appellant's appeal form better reflects the scheme that is before me and that which the Council considered. Hence, I have considered the scheme on the basis of the following description of development in my formal decision: "*Erection of dormer bungalow and double garage.*"

Main Issues

4. The main issues are: (i) whether the appeal site is a suitable location for the proposed development, having regard to its proximity to key services and public transport connections; and (ii) whether there are any material considerations that weigh in favour of the development.

Reasons

Background and approach

5. The site is located on the eastern side of Middleton Road. Hedgerows and fencing enclose the site, while the raised embankment of the A66 is to the south. Opposite the site and to the north and east is open countryside. A stable building is in the north-east corner of the site, while a driveway leads from Middleton Road into a yard area. There is a brick-built amenity building along the site's north-western boundary. A single chalet is to the rear of the site. A grassed paddock is between the chalet and the road.
6. The site has a planning history which includes multiple appeal decisions. The most recent granted planning permission for '*the change of use of land to a mixed use for the keeping of horses and as a residential caravan site for one gypsy family with two caravans, including laying of hardstanding and erection of utility building*' in August 2013¹ ('the 2013 appeal decision'). This planning permission was granted based on the specific circumstances presented which included the need for gypsy and traveller pitches in the Borough.
7. Evidence submitted as part of the appeal explains that the proposed dwelling would be occupied by the current occupants of the site, the appellant and his family. There is no dispute in the case presented to me by the main parties about the gypsy status of the appellant having regard to the definition set out in Planning Policy for Traveller Sites (PPTS). From the evidence before me, I see no reason to disagree with the main parties. That said, the PPTS applies to development proposals for traveller sites as it is designed to address the specific accommodation needs of travellers. It does not apply to proposals for new houses. Consequently, even though the respective schemes relate to the same site, there are distinct differences in how each case should be considered. Given the type of accommodation proposed, I have determined the appeal having regard to the relevant policies in the development plan and the National Planning Policy Framework (the Framework).

Planning policy

8. Among other documents, the Council's reason for refusing planning permission refers to the Interim Planning Position Statement (IPPS). At the Hearing, the Council confirmed that section 7 and Table 3 were the relevant parts of the IPPS that I should have regard to, and that the IPPS does not form part of the development plan. The Council have used the IPPS as guidance pending the adoption of the Darlington Borough Draft Local Plan June 2018 (emerging plan). Whilst the Council is working towards submitting the emerging plan for Examination, and it is their intention for emerging plan Policy H7 to replace section 7 and Table 3 of the IPPS, this is still some time away as they have yet to issue their preferred options.
9. In addition to IPPS, which is a relevant consideration in this case, the Council rely upon emerging plan policies H3, H7 and H9. Even if I were to accept the Council's view that these policies are consistent with the Framework, the current stage of the emerging plan means that it is unclear whether there will or will not be any objections to these policies. Thus, for the time being, they carry little weight. These reasons and weight also apply to the emerging Policies Map.

¹ Appeal Decision Ref: APP/N1350/A/13/2193221

Location

10. The site is outside the defined settlement limits for Sadberge and is therefore within the open countryside. Saved Policy E2 of The Borough of Darlington Local Plan (Local Plan) and Policy CS1 of the Darlington Local Development Framework Core Strategy (CS) seek to concentrate new development within the development limits, but they do not prohibit development outside of them either. CS Policy CS1 explains that for sites outside the limits to development of the main urban area and the villages, development will be limited to that required to meet identified rural needs. CS Policy CS10 seeks to direct and deliver new housing development across the borough in accordance with the locational strategy in CS Policy CS1.
11. The proposal is not for agricultural or forestry operations, having regard to saved Local Plan Policy E2. However, the appeal scheme is small-scale and the appellant says that it would be beneficial to the needs of rural communities. Saved Local Plan Policy H7 deals with housing in the countryside and outlines instances when new residential development will be permitted. Many of these broadly reflect the circumstances listed in Framework paragraph 79. The proposal would not accord with any of the criteria listed in saved Local Plan Policy H7, but the policy is not consistent with the Framework as it is more restrictive than Framework paragraph 79 which requires consideration of whether the development of a dwelling in the countryside would or would not be isolated. The term 'isolated' is not defined by the Framework, or used by policies in the Local Plan or the CS. The Courts² have held that isolated should be given its ordinary meaning: 'far away from other places, buildings or people; remote'. Thus, I attach limited weight to saved Local Plan Policy H7. While 'isolated' is used in emerging plan Policy H7 this policy carries little weight.
12. Middleton Road has a footpath along its western side. The road is lit and passes underneath the A66 to the south. A slip road provides access to the west-bound lane of the A66. The footpath leads from the site into the centre of Sadberge where there are few services and community facilities³ apart from two public houses, a church, a village hall and a limited bus service. The proposal would help maintain the vitality of these and the rural community which would, in a limited manner, be beneficial to the rural economy. The site is around 300 metres from the nearest bus stop on Middleton Road. Service 20 runs from this stop, with three journeys to Darlington every Monday. Monies from a section 106 agreement relating to a scheme⁴ for 25 no. dwellings to the north of the site were secured towards service 20. The Council explained to me that they are currently considering an application to discharge the planning conditions imposed on this planning permission. While the appellant suggested that development has commenced, there is no evidence that this is the case. In any event, the planning permission is extant up until 15 July 2019.
13. There are a greater range of facilities and services at Whinfield, which is around two miles from the site to the west. Here, there is a supermarket, a primary school and a doctor's surgery. I understand that the appellant's four children attend the primary school, with private transport used to drop off and pick up the children. The children will either go onto secondary school or be

² Braintree DC v SSCLG, Greyread Ltd and Granville Developments Ltd [2017] EWHC 2743 (Admin); [2018] EWCA Civ 610

³ Table 3, IPPS

⁴ Council Ref: 17/00358/FUL

home schooled. I was informed that there is a school bus service. This provides an alternative mode of travel to and from school. I note that the appellant and his family are happy living in the area and wish to remain here as it also allows them to keep their horses at the site. There is no suggestion that the family have not integrated into the local community.

14. While the site is outside of the village envelope, it is adjacent to Sadberge and despite the limited range of facilities and services nearby, there are a greater range of facilities and services not too far away. The A66 provides direct access to Darlington Town Centre. The site would have appropriate access and is in a fairly sustainable location for schools, shops, employment opportunities and other local facilities and services. This view is consistent with that expressed by the Council in their consideration of the scheme for 25 no. dwellings next to the site, which is also outside the development limits. I therefore consider that the site is not far away from other places, buildings or people; remote. As the proposal would not result in the creation of a new isolated dwelling in the countryside it is not necessary for me to consider whether any of the circumstances listed in Framework paragraph 79 apply. Notwithstanding this, the appellant accepted at the Hearing that saved Local Plan Policy H10 does not apply to the appeal scheme as it is not affordable housing development.
15. Sadberge is characterised by a variety of building forms and styles. Built form outside of the development limits alongside the road broadly reflects this variety, albeit development is set within a more spacious rural context next to open fields. Details proposed as part of any reserved matters scheme could, together with a planning condition to secure details of materials, ensure that the proposed dwelling is of a suitable design for the site and the area.
16. The proposal creates tension with the Council's locational strategy for new housing development. Although saved Local Plan Policy H7 carries limited weight, I conclude that the proposal would not accord with this policy. However, the proposal would use a previously developed site and I conclude that this conflict is outweighed by the scheme's compliance with CS policies CS1, CS2, CS10, and CS14, saved Local Plan Policy E2, the IPPS and Framework paragraph 79. Jointly, these seek, among other things, to: avoid the development of new isolated homes in the countryside; and ensure that sites have appropriate access and are in a sustainable location for schools, shops, employment opportunities and other facilities and services.

Other considerations

17. Planning policies must account for different groups in the community, including travellers. However, a five-year supply of deliverable sites for travellers as defined by the PPTS should be assessed separately, in line with the policy in the PPTS. I heard evidence at the Hearing about the pitches identified in Table 2 of the Darlington Borough Council Gypsy and Traveller Accommodation Assessment Update 2017 and whether they satisfy the definition of 'deliverable', and form part of the Council's five-year supply. The Council disputed the appellant's point, but the evidence is inconclusive either way.
18. The proposal would relate to an existing traveller site with planning permission. Thus, the PPTS in this regard, is a relevant consideration. The appellant says that the proposal would not change the number of gypsy and traveller pitches in the Borough. The appellant and his family intend to live in the proposed dwelling, and their status has been accepted. To maintain the status quo, a planning condition restricting the occupation of the site to gypsies and

travellers is suggested by the appellant.

19. Even though such a condition was imposed on the 2013 appeal decision, the scheme before me seeks planning permission for a dormer bungalow and not a traveller site. Thus, imposing an occupancy condition would not be 'relevant to the development permitted'. Also, it would not be 'reasonable' to tie the bungalow's occupation to gypsies and travellers as many have an aversion to living in bricks and mortar accommodation. For the site to continue to meet the needs of travellers as defined in the PPTS the bungalow would have to be removed and the site restored to a site for caravans after the appellant and his family ceased living in the accommodation. This would be unreasonable. Even though there is no requirement for the appellant and his family to live in a caravan provided they maintain their nomadic way of life, the proposed condition would not satisfy the tests set out in Framework paragraph 55. Given that planning permission runs with the land, the proposed dwelling could, aside to the appellant's intentions, potentially be occupied by anyone.
20. In short, the appellant's points about development plan policies being out-of-date insofar as addressing the housing needs of gypsies and travellers who fall outside of the PPTS definition; and a five-year supply of deliverable sites for travellers do not matter as the proposal is for housing irrespective of who the occupants maybe. The proposal would result in the loss of a single pitch in the Borough. Part a) of emerging plan Policy H9 seeks to safeguard existing large gypsy and traveller sites. Whether the distinction between large sites and other sites remains once the emerging plan is adopted remains to be seen, but the proposal would contradict the thrust of CS Policy CS13 and emerging plan Policy H9 which seek to address the accommodation needs of gypsy and travellers. Thus, the loss of the existing pitch weighs against the proposal.
21. Despite my findings about deliverable traveller sites, there is no dispute between the main parties that the Council can demonstrate a five-year supply of deliverable housing sites concerning other housing types and tenures.
22. The family currently all live within the chalet on the site. The appellant explained to me that: two of his son's share a bedroom; his youngest son shares his mother and father's bed; and his daughter sleeps in the living room which is converted each night into her bedroom. Due to issues of damp, the family use a shower separate to the chalet. These arrangements are not ideal, but some of the issues could be addressed by replacing the existing 12-year-old unit. However, the lack of separate bedrooms for the appellant's sons and daughter will become a more pressing issue in years to come. A well-insulated dwelling could provide an improved living environment for the family given the site's location near to the A66. The Council did not dispute these matters, and whilst they would go some way to improving the family's living arrangements in the context of this case, they carry very little weight given that a planning condition imposed on a planning permission for the erection of a permanent building will scarcely ever be justified based solely on the grounds of an individual's personal circumstances. The alternative scenario presented by the appellant if I were to dismiss the appeal would be to seek planning permission for another mobile home which could have a greater effect on the character and appearance of the area compared to a well-designed dwelling.

Conditions

23. I have had regard to the Council's list of suggested planning conditions, and the comments provided by the appellant and the Council at the Hearing. After

the Hearing, the appellant provided their written agreement to the pre-commencement condition concerning materials, which is necessary in the interests of the character and appearance of the area.

24. A plans condition is necessary in the interests of certainty. As the main parties agreed at the Hearing, a specific condition about boundary treatments or other means of enclosure is not necessary. Instead, I have imposed an amended version of the reserved matters condition so that such details are provided with the reserved matters application. Given the site's location near to the A66, I have imposed a condition, in the interests of the occupants living conditions, to secure details of the glazing specification and ventilation system to be used.
25. A condition restricting the occupation of the site to gypsies and travellers would not satisfy the tests of Framework paragraph 55 for the reasons stated earlier. Having regard to the Planning Practice Guidance⁵, there is no justification for the Council's suggested blanket removal of permitted development rights. I do not agree with the Council's view expressed at the Hearing that a restriction of Classes A, B and C amount to the exceptional circumstances necessary to justify such a condition as despite the site's location, such restrictions are not needed to make the development acceptable in planning terms.

Planning Balance and Conclusion

26. In accordance with s38(6) of the Planning and Compulsory Purchase Act 2004 development which conflicts with the development plan should be refused unless material considerations indicate otherwise. The proposal would be in the open countryside, and conflict would arise with saved Local Plan Policy H7. However, this policy carries limited weight for the reasons explained. The site would be adjacent to Sadberge, not isolated and the proposed bungalow would make use of a previously developed site that benefits from planning permission as a residential caravan site for one gypsy family with two caravans. As such, the proposal accords with CS policies CS1, CS2, CS10, and CS14, saved Local Plan Policy E2, the IPPS and Framework paragraph 79.
27. The proposal would result in the loss of an existing traveller pitch which weighs against the scheme. But, on the other hand, the proposal would contribute to the supply of housing in the Borough and help the Council maintain a five-year supply. The proposal would also help maintain the vitality of the rural community and offer limited benefits to the rural economy. There is also no reason why the proposed dwelling could not be suitably designed to respond to the character and appearance of the area. Overall, this case is finely balanced, but the social, economic and environmental benefits associated with the proposed development lead me to the conclusion that these outweigh the conflict with the development plan.
28. For the reasons set out above, I conclude that the appeal should be allowed.

Andrew McGlone

INSPECTOR

⁵ Planning Practice Guidance, Paragraph: 017 Reference ID: 21a-017-20140306

SCHEDULE OF CONDITIONS

- 1) Details of the access, appearance, landscaping (including details of any walls, fencing or other means of enclosure and when they will be erected), layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved. Application for approval of the reserved matters shall be made to the Local Planning Authority not later than 3 years from the date of this permission.
- 2) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved, or, in the case of approval on different dates, the final approval of the last such matter to be approved.
- 3) The development hereby permitted shall be carried out in accordance with the following approved plan: site location plan 1:500 and site location plan 1:1250.
- 4) Details including samples of the external materials of the dwelling hereby permitted to be used in the carrying out of this permission shall be submitted to, and approved by, the Local Planning Authority in writing prior to the commencement of the development. The development shall be carried out in accordance with the approved details.
- 5) Prior to the first occupation of the dwelling hereby permitted full details of the glazing specification and ventilation system to be used in the dwelling hereby permitted shall be submitted to and approved by the Local Planning Authority. The approved details shall comply with the noise amelioration measures set out in the LA Environmental Noise Assessment Report No. PC/BV/001.

END OF SCHEDULE

APPEARANCES

FOR THE APPELLANT:

Philip Brown
Patrick Connors

Philip Brown Associates
Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Jochen Werres
Emma Williams

Darlington Borough Council
Darlington Borough Council

INTERESTED PERSONS:

Councillor Brian Jones

Darlington Borough Council

DOCUMENTS

- 1 Approved Site Layout Plan relating to the 2013 appeal decision
- 2 Attendance sheet



Appeal Decision

Hearing Held on 23 May 2019

Site visit made on 23 May 2019

by Y Wright BSc(Hons) DipTP MSc DMS MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 25 June 2019

Appeal Ref: APP/N1350/W/18/3216060

**Land to the rear of East Green and Manor Court, Heighington, Co Durham
DL5 6PP**

- 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 & Mrs Routledge against the decision of Darlington Borough Council.
 - The application Ref 18/00034/FUL, dated 16 January 2018, was refused by notice dated 30 July 2018.
 - The development proposed is construction of 5 dwellings.
-

Decision

1. The appeal is dismissed.

Procedural matters

2. The site address in the heading above is different to that set out in the original planning application form. I confirmed with the main parties at the hearing that the above address more accurately reflects the site location.
3. Since the determination of the planning application the National Planning Policy Framework (the Framework) has been revised (February 2019). At the hearing I gave the main parties the opportunity to comment on this.
4. A dated and signed planning obligation in the form of a unilateral agreement was submitted prior to the hearing pursuant to section 106 of the Town and Country Planning Act 1990. I consider this planning obligation later within my decision.
5. An agreed statement of common ground has been submitted which sets out the development plan policies that are relevant to the proposal and the matters of agreement and disagreement between the two main parties. Whilst the reasons for refusal only refer to one saved policy in the Borough of Darlington Local Plan 1997 (LP) and two policies within the Darlington Core Strategy Development Plan Document 2011 (CS), both main parties refer to other policies being relevant. These were discussed during the hearing and I have taken them into account. Whilst I recognise that saved LP Policy E2 is based on an out of date strategy, it nevertheless still forms part of the development plan and may be accorded appropriate weight where justified. I acknowledge the different positions of the main parties on this policy, later in my decision.

Main Issues

6. I consider the main issues are:
- the effect of the proposal on the character and appearance of the area;
 - the effect of the proposal on the character or appearance of the conservation area and on the setting of nearby listed buildings; and
 - whether there are any other material considerations which would justify the development being determined other than in accordance with the development plan.

Reasons

Character and appearance

7. The site consists of a broadly triangular area of land located at the eastern edge of Heighington village. It is currently grazed by sheep and forms part of a larger open field. The site, along with the rest of the village, has an elevated hilltop position above the surrounding countryside. It offers expansive views of the wider rural landscape, due to this elevated position.
8. At my site visit I saw that the character of the site is distinctly open and rural when compared to the adjacent residential development which is experienced when walking down the access track to the field gate. Despite its relatively small size, the site makes an important contribution to the form and character of the surrounding countryside and appears as an integral part of it. It provides a well-defined rural edge to the settlement in this location, being distinctly separated from the adjacent built form to the north and west by the prominent stone walls. The site does not visually or physically form part of the existing built settlement.
9. In my view, the introduction of built form within the site would adversely harm its existing openness and pastoral nature, eroding its contribution to the rural character and appearance of the surrounding area. The size, scale, location and bespoke design of the buildings, together with the retention of existing trees and hedgerows, provision of additional landscaping and stone wall repairs, would not mitigate this material harm. The resultant encroachment of development into the countryside would not be in keeping with the existing character and appearance of the area.
10. I recognise that there would be limited views of the development from within the village and only glimpsed views from the adjacent public footpath and nearby bypass. However walkers and road users would still experience a degree of change in their outlook with the reduction of open countryside views and its replacement with buildings, albeit that this would be limited.
11. Based on the above, I conclude overall that the proposed development would result in adverse impacts to the character and appearance of the area. This would be contrary to CS Policy CS2 which seeks development that reflects and/or enhances the distinctive natural, built and historic characteristics that positively contribute to the character of the local area and its sense of place. The proposal would also conflict with the Framework which seeks to achieve well-designed places which are sympathetic to local character and history.

Conservation area and listed buildings

12. The appeal site lies within the Heighington Conservation Area (CA) and immediately adjacent to and within the setting of listed buildings. As such I must give special regard to both the desirability of preserving or enhancing the character or appearance of the conservation area, and preserving the listed buildings or their settings or any features of special architectural or historic interest which they possess, in accordance with the statutory duties set out in the Planning (Listed Buildings and Conservation Areas) Act 1990. Both duties are reflected in the Framework which identifies that '*great weight*' should be given to an asset's conservation. I first turn to assess the effect of the proposal on the conservation area.
13. The Council's Heighington Conservation Area Character Appraisal (2019) (the Appraisal) sets out the defining historic and architectural characteristics of the CA. This includes its classic squared village shape with large central village green, back lane and fields beyond and its range of buildings predominantly dating from around the 18th century, though there are some earlier examples. The conservation area is spatially significant. It's open countryside setting contributes to this significance and it is strongly influenced by its elevated hilltop position.
14. The simple built character within the area includes distinctive plot layouts and low density. Modest architectural characteristics contribute to unity in housing design and appearance. Historic outbuildings and boundary walls add critical integrity to building groups. The village is encircled by open countryside and there are '*long green views*'. The Appraisal defines the appeal site and some of the open fields to the south east of the village as making a high contribution to the special interest of the CA. These fields protect the setting of the hillside village from this direction. I note that the CA boundary has recently been extended in 2019 to incorporate further open fields to the south, reflecting their importance to the village.
15. Being undeveloped, the appeal site forms a green and pleasant open pastoral space which connects to and provides views of the wider rural landscape beyond. It is an integral part of the open countryside setting within the CA. Whilst the proposed scheme would be low density and of an acceptable scale and design, its location in an elevated position within an open field on the edge of the built settlement, would not reflect its important contribution to the special interest of the CA.
16. It has been suggested that the proposed development would fill in the square form of the village in this location. However the appeal site has historically remained undeveloped and there is no evidence that there was any intention for the back lane to totally encircle the village in this locality, particularly considering the more challenging topography. Furthermore, reducing the agricultural use of the field would harm the existing historic context and functional connection.
17. Whilst the appeal site is small in size, it nonetheless forms an important part of the open field pattern in this locality. The proposed development would not keep this part of the field open, permanently altering its character and historic value to the CA, reducing its contribution to the special interest identified. This would harm the significance of the CA.

18. I acknowledge that the Council has allowed development¹ on other open fields surrounding the village. However these permissions were granted at a time when the Council accepted that it was unable to demonstrate a 5 year supply of deliverable housing sites (5YHLS) and was prior to the publication of updated national planning policy. These schemes were therefore considered under a different policy framework. Particular reference has been made to permitted residential development on land off Beech Crescent to the north of the appeal site (Council reference 16/00820/FUL) as this is within the CA boundary. Nevertheless the Appraisal clearly identifies this land as having '*some contribution to special interest*' unlike the appeal site which makes a '*high contribution*'. For this and other identified reasons it is not directly comparable to the appeal site. Neither are the other sites. In any case each proposal must be determined on its own planning merits.
19. I therefore conclude that the development would fail to preserve or enhance the character and appearance of the Heighington Conservation Area. In considering the defining characteristics of the CA when taken as a whole, it is my view that this harm would be less than substantial, which carries great weight.
20. The development would also be contrary to CS Policy CS14 which includes seeking development that protects and, where appropriate, enhances the distinctive local built, natural and historic landscapes local character and distinctiveness. I now consider the effect of the proposal on nearby listed buildings.
21. The site lies within the setting of several Grade II listed buildings. As set out in the statement of common ground, it is agreed between the main parties that there would be no harm to the setting of Trafalgar House, Manor House or Manor House Farm. Within its evidence, the Council also refers to the effect of the proposal on Eldon House and its other garden buildings, though these are not referenced within the reason for refusal.
22. Nonetheless, I have had special regard to the statutory duty to pay special attention to the desirability of preserving the setting of these listed buildings. In this respect, due to the level of existing screening and presence of intervening built development, I am satisfied that the development would preserve this interest for these listed buildings. I therefore confine my consideration in this regard to the effect of the proposal on the significance of the boundary walls and gazebo at Eldon House (all Grade II). Whilst the gazebo is also not specifically referred to in the Council's reasons for refusal, it does form an integral part of the boundary walls and is visible from within the site. Both main parties have referred to the gazebo within their evidence.
23. In this location, the boundary walls and integral gazebo define the visual, functional and historic boundary between the built form of the village, particularly the extensive residential private gardens of Elsdon House, and the open rural fields beyond. These fields, including the appeal site, form a distinct undeveloped open and spacious rural setting which positively contributes to the significance of these assets.
24. Other than the construction of the modern bypass around the eastern side of the village, this rural setting has remained undeveloped over the years. The

¹ Council references: 16/00820/FUL, 18/00191/OUT and 18/00035/FUL

rural nature of the setting therefore contributes particularly strongly to the significance of the assets.

25. On my site visit I saw that the listed walls have been altered to some extent in the past and are partially obscured by existing mature trees and overgrown vegetation. Nevertheless they are still visible in parts and the open, spacious setting provides an important historic context for the structures and allows them to be appreciated. The gazebo includes an original window facing east which directly overlooks the appeal site and the surrounding countryside. The rural views from this window were clearly meant to be seen.
26. Whilst the trees to the front of this window filter some views, the rural setting in this location makes an important contribution to how the assets are experienced and appreciated, particularly in visual and historical terms. In my view, taking the above into account I consider the appeal site, as part of the immediate setting of the assets, has limited capacity to accommodate change without harming significance or the ability to appreciate these assets.
27. I acknowledge that the scheme would be low density, with an agricultural layout, scale and design that would reflect farm-type buildings. Even so, it would still introduce built development, of a residential form, including associated domestic and garden paraphernalia, into the site, in close proximity to the heritage assets. This change in character would alter the immediate setting of the listed buildings, harming its historic, functional and visual contribution.
28. Overall, taking the above factors into account, I conclude that the development would fail to preserve the settings of these listed buildings and therefore their significance. In my view, this harm would be less than substantial, which carries great weight. The development would also be contrary to CS Policy CS14.
29. In considering the planning balance required by paragraph 196 of the Framework it is necessary to consider the public benefits of the scheme against the less than substantial harm to the significance of the heritage assets I have identified.

Consideration of public benefits

30. The development would be in an accessible location and the proposed five dwellings, including three affordable single storey properties would, in my view, make a small contribution to the supply of housing in the Borough.
31. The economic benefits would be limited, as construction jobs and local building trades and services would be supported for only a short, temporary period. Future occupants of the properties would make a small contribution to local shops, services and community facilities within the area.
32. The provision of additional landscaping and the retention of existing trees and hedgerows would predominantly be necessary to provide for the future occupiers of the development and to mitigate for any harm and therefore would not constitute public benefits. There would be some very minor benefits for biodiversity from the additional native tree planting and landscaping.
33. Overall, I consider that the above public benefits would collectively be rather limited. In the context of paragraph 196 of the Framework and taking account

of the weight I have attached to the public benefits I have identified, I conclude overall that they do not outweigh the great weight I attach to the less than substantial harm to the significance of the conservation area and listed buildings.

Other material considerations

34. There is a dispute between the main parties over whether the Council can demonstrate a 5 year housing land supply (5YHLS). Whilst the Council has published several different 5YHLS position statements recently in response to other appeals, it is inevitable that the land supply position at any given time will change as new site delivery information becomes available, developments are completed, and new planning permissions are granted.
35. Furthermore whilst the appellants have queried the deliverability of some of the sites within the 5YHLS, the Council confirmed during the hearings that even if such sites and emerging allocations are removed from the Council's land supply assessment, a 5YHLS can still be demonstrated. On this basis, the sites would all have planning permission. I have no substantive evidence to indicate that these sites are undeliverable. Therefore for the purposes of this appeal I consider the Council can demonstrate a 5YHLS. Consequently policies for the supply of housing are not out-of-date and paragraph 11 (d) of the Framework does not apply in this instance.
36. There is also a dispute over the weight to be attached to LP Policy E2 which defines the settlement limits and states that most new development will be located within these limits, unless it meets the criteria listed. These development limits have not been superseded and therefore still form part of the development plan.
37. However, in order to deliver the required housing needs for the borough, development beyond these limits is necessary. Indeed the Council agrees that this is the case. Nevertheless, this does not mean that every development proposed beyond these limits would be acceptable. Furthermore, whilst the extent of the development limits for some settlements may not be up to date, the policy is broadly consistent with the Framework which seeks sustainable development in rural areas.
38. The appeal site is outside the development limits for Heighington. On this basis, I conclude that the proposal would conflict with LP Policy E2. It would also be contrary to CS Policy CS1 which sets out the Council's locational development strategy and is also broadly consistent with the Framework.
39. I have already set out and considered the suggested benefits of the proposal and identified those that are of public benefit. I do not repeat them again here, but as they collectively are limited in scale, they carry only minor weight.
40. Taking the above into account, I conclude that these material considerations would not justify the development being determined other than in accordance with the development plan.

Other matters

41. I have carefully considered other concerns raised by local residents on matters including access, traffic, pedestrian safety, living conditions for neighbouring

residents and the capacity of water and sewerage services to cope with the additional development.

42. The evidence before me demonstrates that the access would be acceptable, and the traffic generated by the development would not be materially adverse on highway and pedestrian safety. In this regard I note that the Highway Authority does not object to the proposal, subject to the imposition of suitable conditions. The local utility company has also not raised any concerns on drainage and sewerage capacity. In addition other relevant matters could be adequately dealt with by conditions.
43. However whilst I find no harm in relation to these matters the resultant neutral effect weighs neither for nor against the proposal.

The Planning Balance

44. The duty in section 38(6) of The Planning and Compulsory Purchase Act 2004 enshrines in statute the primacy of the development plan. As an essential component of the 'plan-led' system, it is also reiterated in the Framework. The Framework is of course a material consideration to which substantial weight should be attached.
45. I have determined above that the proposed development would result in material harm to the character and appearance of the area, would fail to preserve the settings of the adjacent listed buildings and would fail to preserve or enhance the character and appearance of the Heighington Conservation Area.
46. In considering the material considerations I have found that, for the purposes of this appeal, the Council can demonstrate a 5YHLS. Even if I were to conclude there was a shortfall in the 5YHLS, the adverse impacts I have identified against the main issues would significantly and demonstrably outweigh the identified benefits, when assessed against the policies of the Framework as a whole. On this basis the presumption in favour of sustainable development would not apply in this case.
47. Other material considerations do not outweigh the conflict I have identified with the development plan policies. Other matters result in a neutral effect and therefore do not weigh in the balance.

Conclusion

48. For the reasons given above, and having considered all matters raised, I conclude that the appeal should be dismissed.

Y Wright

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Steve Barker, Managing Director, Prism Planning

Mrs Clare Booth, Heritage Consultant, ELG Planning

Mr Rod Hepplewhite, Director, Prism Planning

Mr Chris Brown, Architect, Wardman Brown

Miss Ellie Drozdowska, Prism Planning

FOR THE LOCAL PLANNING AUTHORITY:

Mr Andrew Harker, Planning Officer, Darlington Borough Council

Mrs Fiona McCall, Planning Policy Officer, Darlington Borough Council

DOCUMENT SUBMITTED AT THE HEARING:

- 1 Five year housing site delivery 2020-2024 plan

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