

# Planning Applications Committee Agenda



**1.30 pm Wednesday, 7 August 2019  
Committee Room No. 2, Town Hall,  
Darlington. DL1 5QT**

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

1. Introductions/Attendance at Meeting
2. Declarations of Interest
3. To Approve the Minutes of the Meeting of this Committee held on 10 July 2019  
(Pages 1 - 12)
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) 41 Milbank Road (Pages 13 - 22)
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 Mr and Mrs Simpson against this Authority's decision to

refuse permission for 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) (Copy of Inspector's decision letter enclosed)

Dismissed the appeal by Mr John Airey (Hewiston Group) against this Authority's decision to refuse permission for the erection of 4 No. detached dwellings with detached garages and associated landscaping at Land Adjacent to 80 Merrybent, Darlington, DL2 2LE (18/00856/FUL) (Copy of Inspector's decision letter enclosed)

RECOMMENDED – That the report be received.  
(Pages 23 - 32)

9. Notification of Appeals –

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

Mrs Lisa Bentley has appealed against this Authority's decision to refuse permission to carry out works to trees protected under Tree Preservation Order (No 6) 2010 - Pollarding of 3 No. Yew Trees to up to 6m above ground level at Friary Cottage, 7 Church Lane, Middleton St George, Darlington, DL2 1DD

RECOMMENDED – That the report be received.  
(Pages 33 - 36)

### **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 24 July 2019 (Exclusion Paragraph No. 7) –  
Report of Director of Economic Growth and Neighbourhood Services  
(Pages 37 - 44)

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, 30 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](mailto:paul.dalton@darlington.gov.uk) or telephone 01325 405805

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## PLANNING APPLICATIONS COMMITTEE

Wednesday, 10 July 2019

**PRESENT** – Councillors Mrs D Jones (Chair), Allen, Heslop, Howarth, Johnson, Keir, Lee, Lister, McCollom, Tait and Tostevin.

**APOLOGIES** – Councillors Clarke, Marshall and Wallis.

**ABSENT** – Councillor Baldwin.

**ALSO IN ATTENDANCE** – Councillors Howell and Snedker.

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

### PA18 DECLARATIONS OF INTEREST

Councillor Johnson declared a non-pecuniary interest in Minute PA22 (19/00156/FUL) and left the meeting during consideration of the item. There were no other declarations of interest reported at the meeting.

### PA19 TO APPROVE THE MINUTES OF THE MEETINGS OF THIS COMMITTEE HELD ON 5 JUNE 2019

**RESOLVED** – That the Minutes of the meetings of this Committee held on 5th June 2019, be approved as correct records.

### PA20 APPLICATIONS FOR PLANNING PERMISSION AND OTHER CONSENTS UNDER THE TOWN AND COUNTRY PLANNING ACT AND ASSOCIATED LEGISLATION

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

Code No.	Conditions
A3	<p>Implementation Limit (Three Years)</p> <p>The development hereby permitted shall be commenced not later than the expiration of three years from the date of this permission.</p> <p><b>Reason</b> - To accord with the provisions of Section 91(1) of the Town and Country Planning Act, 1990.</p>

### PA21 EARLSTON, 181 CONISCLIFFE ROAD

**19/00048/CU** - 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).

(In reaching its decision, the Committee took into consideration the Planning

Officer's report (previously circulated), seven letters of objection received, one letter of support, one further comment received, a late submission from Mrs. S. Pickersgill (which was read to the Committee by the Head of Planning, Development and Environmental Health), the views of the Council's Highways Engineer, and the Applicant's Agent, whom Members heard).

RESOLVED – 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 2m 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.

## **PA22 1 GATE LANE, LOW CONISCLIFFE**

**19/00156/FUL** - Subdivision of existing dwelling to provide two dwellings and associated works.

(In reaching its decision, the Committee took into consideration the Planning Officer's report (previously circulated), the views of the Highway Engineer, three letters of objection received, and the views of the Low Coniscliffe and Merrybent Parish Council).

Members were informed that, whilst the application sat within the area of the recently approved Neighbourhood Plan, the application remained silent as it constituted a change of use, rather than a new build application.

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

1. A3 - Implementation Limit (Three Years).
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.

3. The four car parking spaces shown on drawing no. 18002-5 shall be used only for the parking of vehicles and remain available for such use for the lifetime of the development hereby permitted'.

**REASON** – To avoid traffic congestion through additional parking on the village street.

**NOTE:** Councillor Johnson left the meeting during consideration of the item.

## **PA23      5B THE SPINNEY, MIDDLETON ST GEORGE**

**19/00183/FUL** - 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.

(In reaching its decision, the Committee took into consideration the Planning Officer's report (previously circulated), the views of the Campaign for the Protection of Rural England, seven letters of objection received, the views of the Middleton St. George Parish Council, and the Applicant's Agent and the Chair of the Middleton St. George Parish Council, both of whom Members heard).

RESOLVED – 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.

**PA24 ROSEBANK NURSERIES, 1 MERRYBENT**



**19/00092/FUL** - 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)

(In reaching its decision, the Committee took into consideration the Planning Officer's report (previously circulated), four letters of objection received, and the objections of the Low Coniscliffe and Merrybent Parish Council).

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

1. 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.

2. 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.

3. 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

4. Prior to the development hereby approved being first occupied, a 3 metre 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/m<sup>2</sup> 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.

5. 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.

6. 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

7. 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.

8. 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.

9. 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 and 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.

10. 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

11. 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

12. 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 then in accordance with the approved Plan.

REASON: In the interests of residential amenity.

13. 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.

14. 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

15. 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.

## **PA25 303 AND 303A NORTH ROAD**

**18/01166/CU** - 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).

(In reaching its decision, the Committee took into consideration the Planning Officer's report (previously circulated), three letters of objection received, and the views of the Council's Environmental Health Officer, and the views or the Applicant's brother, who addressed the Committee on behalf of the Applicant).

RESOLVED – 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.

## **PA26 10 CHESTER GROVE**

**19/00175/FUL** - Two storey side extension, single storey rear extension and front porch.

(In reaching its decision, the Committee took into consideration the Planning Officer's report (previously circulated), five letters of objection received, and the views of the Applicant's Agent and an Objector, both of whom Members heard).

RESOLVED - That planning permission be refused contrary to Officer recommendation for the following reason:-

1. The proposed two storey extension would have an overbearing impact on the neighbouring property at 6 Chester Grove contrary to Saved Policy H12 (Extensions and Alterations to Existing Dwellings) of the Borough of Darlington Local Plan, 1997 and the Revised Design of New Development Supplementary Planning Document, 2011.

## **PA27 GARAGES AND GARDEN TO THE REAR OF 38 LANGHOLM CRESCENT**

**19/00071/FUL** - Demolition of existing garages and erection of 2 No. detached double garages with associated means of enclosure.

(In reaching its decision, the Committee took into consideration the Planning Officer's report (previously circulated), three letters of objection received, one comment received, a petition signed by 18 signatories, and the views of the Applicant and the Applicant's Agent, both of whom Members heard).

RESOLVED - That 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.

## **PA28 1 CHURCH CLOSE, MIDDLETON ST GEORGE**

**19/00164/TF** - Felling of 1 No Pinus Sylvestris (Scots Pine) protected under Tree Preservation Order 2018 No. 6 (T1).

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

RESOLVED – 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.

## **PA29 NOTIFICATION OF DECISION ON APPEALS**

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 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).
- (b) 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).
- (c) 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).

- (d) 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).
- (e) 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).
- (f) 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).

RESOLVED – That the report be received.

### **PA30 NOTIFICATION OF APPEALS**

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

- (a) Mr and Mrs Ishtiaq Rehman had 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).

RESOLVED – That the report be received.

### **PA31 TO CONSIDER THE EXCLUSION OF THE PUBLIC AND PRESS**

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

### **PA32 COMPLAINTS RECEIVED AND BEING CONSIDERED UNDER THE COUNCIL'S APPROVED CODE OF PRACTICE AS OF 26 JUNE 2019 (EXCLUSION PARAGRAPH NO. 7)**

Pursuant to Minute PA10/Jun/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 26 June 2019.

**RESOLVED** - That the report be noted.



**DARLINGTON BOROUGH COUNCIL**  
**PLANNING APPLICATIONS COMMITTEE**

**COMMITTEE DATE: 7<sup>th</sup> August 2019**

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<b>APPLICATION REF. NO:</b>	19/00199/FUL
<b>STATUTORY DECISION DATE:</b>	16 August 2019
<b>WARD/PARISH:</b>	COLLEGE
<b>LOCATION:</b>	41 Milbank Road
<b>DESCRIPTION:</b>	Erection of two storey and single storey rear extensions and erection of replacement detached garage (as amended by plans received 7 June 2019)
<b>APPLICANT:</b>	Mr James Guyett

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**APPLICATION AND SITE DESCRIPTION**

The application property is a semi-detached dwelling located on the south side of Milbank Road close to its junction with Milbank Crescent. The property is surrounded by a mix of two storey dwellings on Milbank Road and single storey dormer bungalows on Milbank Crescent to the west. The West End Conservation Area boundary is located on the opposite side of Milbank Road although is unaffected by the proposals.

It is proposed to erect a part single, part two storey extension to the rear of the property to replace an existing single storey extension and to erect a detached garage to replace an existing garage alongside the western boundary fence. The proposed garage is to measure approximately 2.9 metres wide by 6 metres in length with a ridge height of 3 metres.

The proposed rear extension would be L shaped with the single storey element positioned on the shared eastern boundary with No 39 Milbank Road. The single storey extension would measure approximately 3 metres wide by 3 metres in length with an overall height of 3.2 metres under a flat roof with a lantern style roof light. The two-storey element of the extension measures 4.2 metres wide by 5 metres in length at ground floor, with the first floor element above being reduced to 3 metres in length. The two-storey element has a hipped roof with a height of 7.4 metres at its greatest point, with the single storey element below having a flat roof 3.2 metres in height. The extension would be constructed of facing brickwork with a slate roof, with the flat roofed elements of the extension having a GRP resin finish.

The application has been amended in the following ways in response to comments made by the local planning authority and objectors:

- The projection of the first floor extension has been reduced from 5m to 3m;
- A high level window in the west elevation of the first floor extension has been removed;
- The projection of the single storey extension has been reduced from 5m to 3m and “squared off”;
- The length of the proposed detached garage has been reduced from 8m to 6m;
- The proposed detached garage has been repositioned so that there is a 3m gap between the front of the garage and the rear extension.

## **PLANNING HISTORY**

None

## **RESULTS OF CONSULTATION AND PUBLICITY**

The occupants of No 3 Milbank Crescent and No 39 Milbank Road objected to the original plans. The comments can be summarised as follows:

- *We feel the extension will be overbearing when viewed from No 39 Milbank Road and would seriously cut down on the amount of late afternoon and evening sunlight that we currently benefit from;*
- *There are no other two storey extension in this part of Milbank Road and this would set a precedent which could change the whole character of the area*
- *Our back garden (No 3 Milbank Crescent) has a depth of barely 5m from the dining room kitchen door and window to the rear fence. The extension would block the aspect from the rear of our bungalow, the bedroom/office and dining/kitchen windows in particular;*
- *The extension would be oppressive dominant, overbearing and the overshadowing effect will clearly be harmful to the enjoyment of our bungalow and garden;*
- *Any sense of openness would be lost. Daylight would be reduced and the upper window in the side of the proposed extension would impair the privacy of our back garden*
- *If the garage at No 1 Milbank Crescent is built, then our sense of being tightly hemmed in by buildings would be further compounded;*
- *We object to the proposed garage being brought closer to the house, effectively closing the gap between buildings and yet again contributing cumulatively to the sense of being hemmed in;*
- *The first floor extension may be appropriate if the house was within a continuous row, but it is not. It is at the end of a row and our bungalow is at right angles to the house. Given the very restricted distances involved, we doubt that such an extension would be entertained if the two properties were back to back*

Following the submission of amended plans which reduced the projection of the first floor extension and the single storey extension along the shared boundary with No 39 Milbank Road, objection letters were received from the occupants of Nos 1 and 3 Milbank Crescent. The comments can be summarised as follows:

- *I would like to object to the plan on the basis of privacy to my home and blocking sunlight to my garden and bathroom. The extension will overlook our homes like a set of apartments;*
- *I would like consideration to be looked into the boundary of both properties as there is not much room on their drive.*
- *The amended plans make no material difference to our previous objection which we would still wish to stand;*
- *We maintain that any first floor extension would be overbearing in relation to our bungalow and small garden, contrary to Policy H12 of the Local Plan*
- *We are disappointed that no consideration has been given to our concern about the continuous accumulation of buildings along our boundaries. The visual impact of the garage needs to be reduced.*

Following the submission of an amended plan which “squared off” the single storey extension, objection letters were received from the occupants of Nos 1 and 3 Milbank Crescent. The comments can be summarised as follows:

- *We would stand by our objection. The mere size of the extension and the garage doesn't change the situation it would cause*
- *I am also concerned over how they plan to make the driveway big enough to fit a car down, as from looking at the plan they are coming onto our land*
- *The depth of the projection for the kitchen/diner should apply to our side too*
- *The impact of the ground floor extension would be more pronounced on our side as it would come directly in front of our rear habitable room windows and very short back garden*
- *We remain opposed to any first floor extension*
- *There are no two storey rear extensions within the row of ten houses comprising Nos 23 to 41 Milbank Road. Recent approvals relate to single storey extensions only*

The occupant of No 39 Milbank Road **WITHDREW** their previous objection to scheme following the “squaring off” of the single storey extension which is located alongside the shared boundary with their property.

Following the submission of the amended plan to reposition the proposed garage, a letter of objection was received from the occupant of No 3 Milbank Crescent and can be summarised as follows:

- *We note that the configuration of the kitchen extension has not been changed. This is discriminatory and unfair towards ourselves for the reasons given in previous letters. A projection of four metres right across would provide a floor area equivalent to that which is now proposed*
- *Given the problems with the narrow driveway and general traffic situation in Milbank Road, we thought that there might be interest in retaining space for vehicle turning*

- *From our standpoint of wanting to safeguard at least some of the open aspect from our property, we accept a minimum distance of 3m between the kitchen extension and front of the replacement garage*
- *Our major problem continues to be with the proposed upper storey extension. Why would a five metre extension be held in contravention of Policy H12 whereas a 3m extension may not?*
- *Whilst subject to a range of variables in the seasons, and the weather there can be no doubt that an extension of either form would eliminate early morning sunlight and reduce daylight to our property and that of our neighbour*
- *The question of whether the proposed extension is “overbearing” is a matter of perception and judgement. However, the wording in the policy “when viewed from the neighbouring properties” does imply that primary consideration will be given to the perception of those who actually live there or does the judgement solely depend on a one off site visit by a Council Officer?*

An objection from the occupant of No 4 Milbank Crescent has been received and the comments can be summarised as follows:

- *I thought at this point that I had run out of time to object but have spoken to my neighbour over the weekend and have been told that a decision has not yet been reached regarding this application. I would like to object to this planning application based on the fact that the two storey extension is an extremely large addition to the property. It is overbearing to No 3 Milbank Crescent and presents a real issue in cutting of the light to the back of this property. Had the garden at No 3 Milbank Crescent been of a normal length, this extension would not be so problematic but it is a short garden that the extension will cause huge problems to this property with the loss of light*

## **PLANNING POLICY BACKGROUND**

Saved Policy H12 (Alterations and Extensions to Existing Dwellings) of the Borough of Darlington Local Plan 1997 is relevant along with Planning Guidance Note 7 – Alterations and Extensions to Dwellings.

## **PLANNING ISSUES**

Saved Local Plan Policy H12 (Alterations and Extensions to Existing Dwellings) states that alterations and extensions to existing dwellings will be permitted where they are in keeping with the character, design and external appearance of the property and in keeping with the street scene and surrounding area. Such proposals are also required to maintain adequate daylight entering the principal rooms of nearby buildings; maintain adequate privacy in the rooms, gardens and other outdoor areas of nearby buildings and should not be overbearing when viewed from neighbouring properties. The proposal must maintain adequate parking or garaging and other external space with the curtilage. The policy is supported by Planning Guidance Note 7 – Alterations and Extensions to Existing Dwellings.

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

- Residential Amenity

- Impact on the Character and Appearance of the Surrounding Area
- Highway Safety and Parking Provision

### **Residential Amenity**

The application site is bound to the east, south and west by neighbouring dwellings, with the properties on the west boundary (Milbank Crescent) being single storey bungalows with shallow rear gardens. A total of 3 objections have been received from the occupants of 1 and 3 Milbank Crescent to the west of the application property and from 4 Milbank Crescent on the opposite side of the road, raising concerns regarding the impact of the proposed extensions on their properties and rear garden areas in terms of loss of light, outlook and privacy.

The scheme has been amended since first submitted; specifically, the reduction in the projection of the first floor extension from 5 metres to 3 metres; the repositioning of the garage to leave a 3 metre gap between the garage and the extension and alterations to the single storey extension to alleviate the impact on these properties. As a result of amendments to the scheme, an objection from the occupants of the adjoining property to the east, 39 Milbank Road, was withdrawn. The main issue is whether the proposed extensions in their amended form would be acceptable in terms of their impact on the amenities of the surrounding neighbouring properties.

#### *Impact on 39 Milbank Road*

This property adjoins the application property to its eastern side. It is a two storey dwelling and it has recently been extended to the rear with a contemporary style single storey flat roofed extension. The shared boundary between the two properties comprises a timber fence and a section of vegetation. The existing single storey extension at the rear of 41 Milbank Road is clearly visible above the existing fence line between the two properties.

Part of the single storey extension would project 3 metres along this common boundary. Being L shaped, the 5 metre projection at ground floor with the 3 metre extension above would be set in approximately 3.2 metres from the common boundary. As a result the proposed extensions comply with the 45-degree code at both ground and first floor level.

The new extension erected to the rear of 39 Milbank Road has large glazed walls facing west towards the application site and south facing down their own garden. While the proposed extensions would be clearly visible from inside this extension and from the outdoor areas, and the outlook from this property will change, in view of the amendments to the scheme it is not considered that outlook would be so adversely affected so as to warrant refusal of planning permission on such grounds.

The rear garden of this dwelling is already overlooked from existing first floor windows to the rear of the application property and the extent of overlooking would not be adversely increased by the proposed development. As such, the proposed extensions would not have been overbearing or dominant when viewed from this dwelling and it is considered to be acceptable in residential amenity terms.

### *Impact on 1 and 3 Milbank Crescent*

These properties are a pair of semi-detached dormer bungalows located on the corner of Milbank Road and Milbank Crescent. Both have small single storey off-shoots to the rear and 3 Milbank Crescent has a dormer extension in the rear roofslope. The gardens to the rear of these properties extends to approximately 7.5 metres and 5 metres when measured from the single storey off-shoots. The properties are separated from the application property by close boarded fences above which the upper section of the existing single storey extension to the rear of 41 Milbank Road can be seen from the rear of both properties. Both properties have windows serving habitable rooms in the rear elevations, although the windows in the dormer extension to the rear of 3 Milbank Crescent are all obscure glazed. There are rooflights in the rear of 1 Milbank Crescent.

A new kitchen window is to be inserted in the west elevation of the proposed extension although any overlooking will be mitigated by the existing boundary fencing. An enlarged bathroom window is to be created at first floor level however this is to be obscure glazed, controlled by planning condition, which will prevent any unacceptable overlooking of these properties.

The main impact on these properties will be from the proposed first floor element of the extension, which would be sited approximately 2.7 metres from the shared boundary. The proposed replacement garage will also be visible from the rear of 3 Milbank Crescent. The ground floor element of the extension, which would project approximately 5 metres adjacent to this shared boundary, will be partially visible above the existing fence line although this is not considered to adversely affect the amenities of these properties in terms of loss of light or outlook.

The proposed first floor extension, having a 3 metre projection with a low, hipped roof would still allow for an acceptable outlook from the rear of these properties and their garden area and would not have such an overbearing impact upon these properties to affect the amenities of the occupants to such an extent so as to warrant refusal of planning permission. Being set in from the shared boundary and located to the east of these properties will further reduce the impact of the extension on these properties in terms of loss of light and outlook.

The proposed garage would be sited alongside the shared boundary fence with 3 Milbank Crescent and would be approximately 0.7 metres higher than the existing garage incorporating a dual pitched roof. The garage has been reduced in length and resited further back into the garden to increase the gap between the rear of the extension thereby limiting the cumulative impact of the proposed extensions on this property. The modest increase in height and the proposed dual pitched roof sloping away from the shared boundary will reduce its visual impact. The proposed garage will not therefore adversely impact upon the amenities of 3 Milbank Crescent.

### *Other Neighbouring Dwellings*

There are two other bungalows on Milbank Crescent (Nos 5 and 7) and a dwelling on Dale Road (No 6) to the south that share the boundary with the application site. It is considered that these properties would not be adversely affected by the proposed developments due to the separation distances and the indirect orientation between the

properties. The occupants of these properties have not submitted on comments on the application.

#### *No 4 Milbank Crescent*

This property is a semi detached dwelling on the opposite side of Milbank Crescent to the application site. The property itself would not be adversely affected by the proposed development and the occupant has raised concerns over the impact of the extensions on No 3 Milbank Crescent, which have been considered above.

#### **Visual Appearance and Impact upon the Character of the Area**

The area immediately surrounding the application site is characterised by two storey semi-detached dwellings on Milbank Road and dormer bungalows on Milbank Crescent. When considering the harm of the extension upon the visual appearance and character of the area, the design and scale of the proposal is a factor along with how visible the proposal will be from any public vantage points.

The first floor extension has a hipped roof which matches the design of the roof of the main dwelling and the ridge line is set well below the ridge of the main dwelling. The ground floor element has a flat roof and is of a more contemporary design, similar to an extension at the rear of No 39 Milbank Road. There are other examples of detached garages to the rear of the dwellings in the surrounding area of a scale and design similar to that proposed, which is considered to be acceptable within a relatively large rear garden. Both the extension and garage are to be constructed of materials to match the main dwelling.

The main view of the proposal from a public vantage point is a restricted one from Milbank Road between No 41 Milbank Road and No 1 Milbank Crescent (over its garage and garden fence) where the side elevation of the first floor extension would be visible. There would not be any significant views from Milbank Crescent above the neighbouring bungalows. Having considered these factors, against the fact that there are no other such extensions in the area, the proposed extension and garage would not adversely affect the character or visual appearance of the surrounding area and the street scene. The granting of this application would not set to an unwanted precedent of other neighbouring dwellings being extended in a similar way, subject to site context, the relationship with neighbouring dwellings, parking requirements and each application being considered on its individual merits.

It is considered that the proposed extension and garage would not harm the visual appearance or character of the existing dwelling and the wider local area and it would accord with saved policy H12 of the Local Plan and Planning Guidance Note 7.

#### **Highway Safety and Parking Provision**

The existing property is a three-bed dwelling and it would remain a three bed dwelling, once extended. As such the existing parking provision at the property meets current standards and would be unaffected by the proposals. No objections have been raised by the Council's Highways Engineer on this basis.

#### **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 consideration of householder proposals, particularly of two storey extensions, 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 Plan Policy H12 and is considered to be acceptable.

## **RECOMMENDATION**

PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:

1. A3 – Implementation Limit (Three Years)
2. The first floor en-suite window and bathroom window within the west elevation of the dwelling shall be obscure glazed and shall not be repaired and replaced other than with obscured glazing

REASON: To prevent overlooking of neighbouring dwellings in the interest of residential amenity

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

a) Drawing Number 2019/077/F1 Rev D dated June 2019

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

**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

### **Other Documents**

Planning Guidance Note 7 – Alterations and Extensions to Dwellings



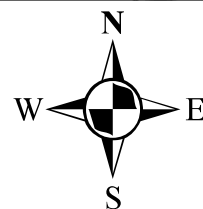


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**PLANNING REF. No. 19/00199/FUL**

DARLINGTON BOROUGH COUNCIL

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## Appeal Decision

Site visit made on 23 May 2019

**By R Jones BA(Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 1<sup>st</sup> July 2019**

**Appeal Ref: APP/N1350/D/19/3225529**

**354 Coniscliffe Road, Darlington DL3 8AG**

- 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 and Mrs Simpson against the decision of Darlington Borough Council.
- The application Ref 18/00812/FUL, dated 31 August 2018, was refused by notice dated 20 February 2019.
- The development proposed is rear extension and creation of room in roofspace.

### Decision

1. The appeal is allowed and planning permission is granted for rear extension and creation of room in roofspace at 354 Coniscliffe Road, Darlington DL3 8AG in accordance with the terms of the application, Ref 18/00812/FUL, dated 31 August 2018, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing No 18784-01A (Existing Layout); Drawing No 18784-02C (Proposed Plans); Drawing No 18784-03D (Proposed Elevations); and Drawing No 18784-04B (Site Plans).
  - 3) The external surfaces of the extension hereby permitted shall match those used in the construction of the existing building

### Main Issues

2. The main issues are the effect of the proposed development on i) the living conditions of 352 Coniscliffe Road, with regards loss of natural light and ii) the character of 352 and 354 Coniscliffe Road, as a pair of bungalows.

### Reasons

#### *Living conditions*

3. The appeal site comprises of 354 Coniscliffe Road (No 354), which forms one of a pair of semi-detached bungalows with 352 Coniscliffe Road (No 352). The proposal is to extend the bungalow to the rear over ground floor with dormer windows to the rear and side to accommodate two bedrooms and a bathroom in the roof space.

4. The extension to the rear is stepped. In part, it would be very close to the common boundary with No 352 extending around 4.8m from the existing elevation into an existing enclosed yard. I saw from my site visit that there is a high close boarded timber fence on the boundary alongside a mature hedge in the garden of No 352. The proposed extension would extend above the fence by around 1.1m up to the existing eaves of the roof.
5. There is a ground floor window on the rear elevation to No 352 and an area of decking close to the boundary. The rear of the bungalow is north facing and would therefore benefit from natural light for the majority of the day. Whilst the rear extension would be in breach of the 45 degree line guidance, given the orientation of the bungalow and height of the existing fence and hedge, the loss of natural light would not be to such an extent to cause harm to the living conditions of the occupiers of No 352.
6. Consequently, I find the proposal would comply with Policy H12 of the Borough of Darlington Local Plan (1997) because it maintains adequate daylight to the principal rooms of neighbours.

### *Character*

7. No 354 and 352 are an attractive pair of semi-detached bungalows fronting Coniscliffe Road that are broadly symmetrical in appearance with gable projections and a hipped roof. The proposal is, in part, for a dormer window extension to the side roof slope which would continue the ridge line of the existing roof.
8. Although the dormer would be visible from the street, it has been set behind the existing chimney stack, well back from the front elevation on the rear half of the roof. This would reduce its prominence and the dormer would only become clearly visible outside 356 Coniscliffe Road, which is next door. From this location, the symmetry of the pair of semi-detached bungalows cannot be seen and as such the extension would not unbalance the composition.
9. I saw from my site visit that views of the front elevation of both bungalows are largely obscured by a substantial tree in the grass verge between the footpath and the road. Given this, and its location on the roof slope, the dormer would not be visually dominant and would be a sympathetic extension to the existing bungalow.
10. I therefore find there would be no harm to the character of the pair of bungalows and the proposals would be consistent with LP Policy H12 because they are in keeping with the character, design and external appearance of the property.

### **Conditions**

11. I have had regard to the conditions that have been suggested by the Council. In addition to a condition imposing the standard time limit upon the permission, in order to provide certainty regarding what has been granted planning permission, it is necessary to attach a condition specifying approved drawings. It is also necessary to attach a condition requiring that the development be constructed using materials that match the existing dwelling to ensure that the extension integrates well.

## **Conclusion**

12. For the above reasons and having regard to all other matters raised I conclude that the appeal should be allowed.

*R. Jones*

INSPECTOR

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## Appeal Decision

Site visit made on 17 June 2019

**by Graeme Robbie BA(Hons) BPI MRTPI**

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

**Decision date: 11 July 2019**

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**Appeal Ref: APP/N1350/W/19/3224050**

**Land adjacent to 80 Merrybent, Darlington DL2 2LE**

- 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 John Airey (Hewitson Group) against the decision of Darlington Borough Council.
  - The application Ref 18/00856/FUL, dated 12 September 2018, was refused by notice dated 6 November 2018.
  - The development proposed is 4no. new build houses with detached garages and associated landscaping.
- 

### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The development plan comprises the saved policies of the Borough of Darlington Local Plan (1997 – DLP) and the Darlington Core Strategy Development Plan Document (2011 – DPD). Reference has been made by both parties to the emerging Darlington Draft Local Plan (2018) and the Low Coniscliffe & Merrybent Parish Neighbourhood Plan Submission (2018). However, with regard to the latter two I have no further evidence before me to indicate that these documents and their policies have been adopted or confirmed, or indeed have been subject to consultation. I give their provisions limited weight at this time and I have determined the appeal accordingly.
3. I have adopted the development site address given on the Council's decision notice and the appellant's appeal form in the banner heading above in the interests of consistency.

### Main Issue

4. The main issue is whether the appeal site is an appropriate location for the proposed development, having particular regard to the development plan and other material considerations and the effect of the proposal on the character and appearance of the surrounding area.

### Reasons

5. The development limits for Merrybent are drawn tightly around existing dwellings to such an extent that the often lengthy rear gardens of properties on both sides of the A67 are specifically excluded. The same applies to No. 80 in respect of the wider garden areas to the rear and side; the latter being land that forms the appeal site.

6. DPD policy CS1 sets out the Council's locational strategy, setting out a broad hierarchy of settlements and encouraging development in accessible locations. Together with DLP saved policy E2, which identifies Merrybent as a settlement, DPD policy CS1 supports proposals that would support the vitality and viability of villages, the services therein or the rural economy more widely. Beyond the development limits for those settlements, development will be limited to that required to meet identified rural needs.
7. DLP policies E2 and H7 set out the circumstances in which new housing will be permitted outside development limits, and thereby in the countryside. Both of these policies are underpinned by the Council's desire to safeguard the character of the countryside and villages within it. Although the development plan is now of some age, considerably so in the DLP's case, the policy approach set out therein is broadly consistent with the Framework in terms of seeking to promote sustainable patterns of development in rural areas, supporting local services and facilities and to reflect the character and qualities of the District's villages and countryside.
8. Merrybent is a broadly linear settlement. Frontage housing extends broadly equally along both north and south sides of the A67, albeit that the easterly and westerly extents of the settlement's built-form tends to be offset from one side of the road to the other. Thus, on the northern side of the A67 housing extends further eastwards than it does on the southern side. Conversely, the settlement's built form extends further westwards on the southern side of the A67 than it does on the northern side.
9. The appeal site and the house at No. 80 are located at the western end of the settlement on the southern side of the main road. By virtue of the offset extremities of built development from north to south sides of the A67 noted above, the appeal site and property are already some way beyond the westerly extent of housing on the northern side of the road.
10. Thus, although the proposal would perpetuate the prevailing built form in extending along the road in a linear manner it would extend it significantly further westwards into the rolling, open countryside that surrounds Merrybent. Whilst this would be particularly noticeable in the context of the general absence of built development opposite the site, its stark incongruity would be highlighted by the long approach views towards Merrybent from the west. From this aspect, the substantial flank elevation of the end property within the development would be clearly seen above intervening, but generally low-level, roadside and field hedges and trees.
11. Moreover, the split-level nature of the proposed dwellings bridging the fall from the higher northern portion of the site to the lower southern portion, would exacerbate the already significant scale, bulk and massing of the end property's flank. I accept that No. 80 is already seen in longer approach views to Merrybent from the west. However, it is more effectively screened and softened by existing vegetation, whilst its more modest proportions are less strident than those of what are proposed in this instance.
12. More significantly, the nature of the site, and particularly its ground levels, would mean that the proposal would appear as a strident and incongruous addition at the edge of and just beyond, the existing settlement. The existing, extensive and sprawling area of land associated with No. 80 provides a pleasing and discrete transition from the surrounding open countryside to the



residential context of Merrybent itself. Although screened in part from closer views by the roadside vegetation, the existing house at No. 80 is clearly visible in longer views from the western approach to Merrybent. So too, because of these open views from the west, would the split-level flank elevation of the end building be a harsh and prominent feature at the entrance to Merrybent.

13. Indeed, the falling ground levels and the split-level design of the houses would result in incongruously large and bulky buildings, not just from the western approach, but also from the south looking back towards the village. Here, from a path along the banks of the River Tees, the visible height and bulk of the rear elevations, exaggerated by the additional storey facilitated by the sharp drop in levels across the site from front to rear, would be of a scale and nature out of character with the prevailing rural character of Merrybent.
14. The proposed addition of four houses beyond the western extent of Merrybent would further extend the already strung out 'ribbon' form of the village further westwards. That it would do so in an incongruous manner resulting in an obtrusive and excessively bulky flank elevation of the end property that would be visible from distance on approach to Merrybent would create an unnecessarily harsh transition from the settlement to the open countryside. Despite Merrybent's position on a slight ridge above the River Wear, the well landscaped rear gardens give it a soft edge in keeping with the nature of the surrounding countryside. Notwithstanding the mature tree towards the middle of the site's southern boundary, the substantial rear elevations of the dwellings, would be excessively out of scale and out of keeping with the more discrete setting of existing dwellings on the settlement's southern side.
15. The appeal site lies beyond, but directly adjoining, Merrybent's development limit. The proposal cannot therefore be said to result in isolated dwellings in the open countryside. However, there are no services or facilities in Merrybent and, given the proximity of the settlement to Darlington, residents are unlikely to access anywhere other than Darlington for services and facilities. I saw that although the pedestrian links to Darlington were paved and illuminated, a lengthy walk would be required to reach Darlington and this would act as a significant discouragement to such a mode of access.
16. Reference has been made to public houses at High and Low Coniscliffe both being within walking distance. That may be so but both would be accessed on foot by walks of some distance alongside a busy A-road. Nor does it appear that either settlement provides a broader range of services or facilities. I am advised of the presence of a bus service providing a link to Darlington, and indeed I saw bus stops within Merrybent, but I have no evidence before me regarding the frequency or extent of any such service. Thus, I concur with the Council's suggestion that residents would be heavily reliant on private vehicles to access the services and facilities present in Darlington, providing little or no support to those in surrounding villages.
17. For all of the above reasons, the proposal would unacceptably harm the character, appearance and rural setting of Merrybent and the surrounding area. Nor do I consider the appeal site to be an appropriate location for new housing development, and it has not been demonstrated that the proposal would meet an identified rural need or the exceptions provided by DLP saved policies E2 and H7. The proposal would thus be in conflict with DPD policy CS1 and saved DLP policies E2 and H7. These policies seek to support proposals that would

contribute to the vitality and viability of villages, the services therein and the rural economy more widely in accessible locations. As such, the proposal would also be in conflict with the Framework in respect of rural housing and promotion of sustainable transport patterns.

18. There is no one single or distinctive style, character or appearance to dwellings within Merrybent whilst the scale of those buildings is equally varied on both sides of the road through Merrybent. There is broad agreement between the main parties that there is no architectural uniformity to the settlement and, having viewed the site and its surroundings and walked along the road through Merrybent, that is something with which I agree.
19. In this context, the mix of contemporary design and crisp materials would not appear out of place with the varied character and appearance of the existing houses within the rest of the village. Nor, when considered as part of the street frontage, would the scale of the detached dwellings appear incongruous.
20. However, these factors do not overcome the significant harm that would arise from the scale and bulk of the dwellings when viewed from the south and west. The site's, and more generally Merrybent's, location on the shoulder of a rise in landform exaggerates the scale and incongruous nature of the proposal from these aspects, whilst the proposal would result in a distinct and unwelcome extension of the village further westwards. Whilst I accept that the appeal site has a domestic residential appearance, it is discrete and does not undermine the rural setting of Merrybent or the nature of the land around it. Thus, for these reasons, the proposal would fail to safeguard the rural character and appearance of Merrybent and the land around it, contrary to DPD policy CS1 and DLP policies E2 and H7.

### **Other Matters**

21. The appellant has noted a number of matters to which the Council do not object by reason of agreement, imposition of appropriate planning conditions or by not being set out in the two stated reasons for refusal. I have no compelling evidence before me that would give me reason to reach a different conclusion in these respects and such factors weigh modestly in support of the proposal.

### *The Planning Balance*

22. The development plan is now of some age. Paragraph 11 of the Framework advocates a presumption in favour of sustainable development. For decision taking, the relevant approach is set out at bulletpoints (c) and (d) of paragraph 11. I am satisfied that the policies referred to in the Council's refusal reasons may reasonably be referred to as those 'most important' for determining the application. The circumstances in which these may be considered to be out-of-date are set out at footnote 7 of the Framework.
23. Both parties have submitted considerable amounts of evidence reviewing the deliverability of sites to support their respective stances and there remains significant disagreement between the parties as to the extent of the housing land supply upon which the Council can rely. From the evidence before me it is clear that there is significant variation over a relatively short time period in the

Council's housing supply figures<sup>1</sup>. Having a deliverable 5 year supply of housing land is not a maxima. The Framework maintains the Government's objective of significantly boosting the supply of homes. The proposal would contribute towards that objective, however modestly four dwellings would contribute towards the Council's overall housing land supply figures.

24. However, the various, and varying, housing supply figures have not been subject to public examination, whilst the Council's methodology in calculating the wildly varying figures is not before me within the scope of a section 78 appeal. The Housing Delivery Test<sup>2</sup> indicates that the Council's approach to delivering houses is providing sufficient delivery. Even if I were to conclude that the Council were unable to demonstrate a deliverable 5-year housing land supply, or that it would fall below 5 years imminently, on the basis of the appellant's argument of a rapid downward trend, the adverse impacts arising from the proposal in terms of its impact on the character and appearance of Merrybent and the surrounding countryside would significantly and demonstrably outweigh the limited social and economic benefits that would arise from a small scale development of the nature proposed in this instance.
25. I have noted that there are other factors, including matters relating to the effect of the proposal upon living conditions, access, parking and highways matters, servicing of the site, ecological, ground contamination, flood risk and drainage which are not contested. These weigh modestly in support of the proposal but for the reasons set out the presumption in favour of sustainable development set out at paragraph 11 of the Framework does not therefore apply in this instance.

### **Conclusion**

26. For the reasons set out, and having considered all other matters, I conclude that the appeal should be dismissed.

*Graeme Robbie*

INSPECTOR

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<sup>1</sup> Appendices 1 to 3 of the Appellant's Statement of Case - Darlington Borough Council 'Five Year Housing Land Supply Position Statement' January, February and April 2019

<sup>2</sup> 182% - Housing Delivery Test: 2018 measurement - February 2019

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3A Eagle Wing  
Temple Quay House  
2 The Square  
Bristol  
BS1 6PN

Direct Line: 0303 444 5075  
Customer Services: 0303 444 5000  
e-mail: [Environment.appeals@planninginspectorate.gov.uk](mailto:Environment.appeals@planninginspectorate.gov.uk)

Sir/ Madam  
Darlington Borough Council

Your Ref: 19/00351/TF

Our Ref: APP/TPO/N1350/7525

Sent via email to:  
[planning.enquiries@darlington.gov.uk](mailto:planning.enquiries@darlington.gov.uk)

Date: 26/07/2019

Dear Sir/ Madam

**THE TOWN AND COUNTRY PLANNING (TREE PRESERVATION) (ENGLAND)  
REGULATIONS 2012, SI No. 605  
APPLICATION FOR CONSENT TO CARRY OUT WORKS TO PROTECTED TREES  
APPELLANT: Mrs Lisa Bentley  
SITE AT: Friary Cottage, 7 Church Lane, Middleton- St- George, Darlington, DL2  
1DD**

We have received the above-cited appeal against your decision on an application to carry out work on a tree protected by a tree preservation order. The appellant will have sent a copy of the notice of appeal to you.

I am the case officer for the appeal and can be reached using the telephone number, email address and postal address at the top of this letter. When contacting me please quote the above reference.

You will note that the appellant has opted for the fast track procedure. We will assume that your Council is happy to proceed via the fast track procedure **unless** you indicate otherwise.

Please carefully read through the questionnaire found at the end of this letter and then complete the form and return it to me, together with copies of the documents cited on it, as soon as possible, preferably **within 2 weeks** of this letter. Please ensure that you send a copy of the completed questionnaire and associated documents to the appellant or their agent. If you have reason to believe that the appeal is invalid e.g. it has been submitted out of time or the appellant is not the person who made the application, ignore the questionnaire and simply provide the relevant information bringing your observations to our attention.

If the appellant has not seen any particular associated document that you provide with the questionnaire (such as an officer's report which may have informed your decision) then they will be given an opportunity to comment on it if they so wish.

Under the fast-track procedure we **cannot** accept any new reports or comments prepared after the decision was issued. Inspectors are only able to consider the information provided with the original application and that which informed your decision. This means councils have no right of reply to the matters raised on appeal.

Alternatively, if your Council wishes to be heard please let me know by email to the address above and we will send you a copy of the hearing questionnaire.

Once I have received the questionnaire and associated documents I will undertake a final validation of the file. On receipt of the completed questionnaire and associated documents I will check the file for completeness. If everything is in order and an accompanied site visit is required, we will contact you and the appellant, and where appropriate, the owner of the tree(s) to give notice of the Inspector's site visit.

If you are able to resolve this dispute with the appellant at any time during the appeal process before the site visit, please let me know. This would enable the withdrawal of the appeal and a consequent saving of time and public resources.

Finally, information on the awards of costs, which is applicable to appeals proceeding by way of a hearing, inquiry and the fast-track procedure, may be accessed through the Government's "*Planning Practice Guidance*" website:

<http://planningguidance.communities.gov.uk/blog/guidance/appeals/the-award-of-costs-general/>

This guidance is also being brought to the attention of the appellant.

Yours sincerely

Imoegn Marr

Environment Appeals

**THE TOWN AND COUNTRY PLANNING (TREE PRESERVATION) (ENGLAND)  
REGULATIONS 2012, SI No. 605**

**TREE PRESERVATION ORDER APPEAL QUESTIONNAIRE**

This appeal is being processed under the Fast Track regulations. Please complete this questionnaire and aim to return it to the Planning Inspectorate by 14 days from today. Please send a copy of this form to the Appellant/Appellant's Agent.

**1. Details of the Appeal**

Appellant's name and address:	<b>Mrs Lisa Bentley Friary Cottage 7 Church Lane Middleton- St- George Darlington DL2 1DD</b>
Agent's name and address:	
Details of appeal:	<b>Refusal Pollarding 3 x Yew Trees</b>
Pins reference:	<b>APP/TPO/N1350/7525</b>

**2. Background information**

(a) Is the appeal tree/ are the appeal trees located in a Conservation Area?			
Yes	<input type="checkbox"/>	Name of CA:	<input type="text"/>
No	<input type="checkbox"/>		
(b) Is the appeal site subject to a separate live planning application or appeal to the Secretary of State?			
Yes	<input type="checkbox"/>	Planning Application Ref	<input type="text"/>
No	<input type="checkbox"/>		
(c) Is the site readily accessible for close inspection from public land, a public footpath, the roadside or is/are the tree(s) in a front garden?			
Yes	<input type="checkbox"/>	Please give details	<input type="text"/>
No	<input type="checkbox"/>	Please give details	<input type="text"/>

**Copies of the following are enclosed:**

Item	Yes	No	Already submitted
(d) The application for consent including all enclosures	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(e) Your decision on the application	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(f) The tree preservation order (TPO)- including the map and schedule	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(g) A plan/map of the location of the relevant TPO tree(s)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

(h) <b>The <u>actual</u> confirmation of the Order.</b> <i><b>This is a mandatory requirement. If the TPO has not yet been confirmed, you should advise us of the anticipated date of confirmation. We cannot proceed with the case until the TPO is confirmed.</b></i>			
(i) If you are unable to supply the actual confirmation what evidence are you sending us? You should be aware that we may decide the appeal is invalid if we are not satisfied sufficient proof has been submitted.			
(j) An up-to-date A4 plan of the area showing the appeal site, tree(s) near the centre and major roads at 1:1250 or 1:1000 scale or similar			
(k) A designated plan of the Conservation Area showing the site marked (if applicable)			
(l) The council officers or committee's report on the application (if any)			
(m) Third party representations			

### 3. Conditions

**It is important that you set out any conditions you would like the Inspector to impose if allowing the appeal in part or in full, particularly with regard to replanting if the appellant is seeking consent to fell.**

### 4. Copy to appellant

Please tick this box to confirm **a copy of this questionnaire and background papers** have been sent to the appellant ☐

Name:		Date:	
Signature:		Tel:	



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

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