

# Planning Applications Committee Agenda



**1.30 pm Wednesday, 16 October 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 7 August 2019 (Pages 1 - 4)
4. Introduction to Procedure by the Assistant Director, Law and Governance's Representative
5. Applications for Planning Permission and Other Consents under the Town and Country Planning Act and Associated Legislation (Pages 5 - 6)
  - (a) Land at Newton Grange Farm, Sadberge (Pages 7 - 30)
  - (b) 19A The Front, Middleton One Row (19/00678/FUL) (Pages 31 - 40)
  - (c) 19A The Front, Middleton One Row (19/00679/LBC) (Pages 41 - 48)
  - (d) Allotment Gardens, Glebe Road, Darlington (Pages 49 - 56)
  - (e) South View, The Green, Great Burdon (Pages 57 - 66)
  - (f) 15 Garthlands, Heighington (Pages 67 - 74)
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, Inspectors, appointed by the Secretary of State for the Environment, have:-

### **Land at Rear of High Stell, Middleton St George, Darlington DL2 1HS**

#### Appeal A

Allowed the appeal by Mr Craig Peterson (Homes by Carlton (MSTG1) Limited) against this Authority's split decision insofar as it relates to the road condition survey and the road safety audit in relation to The Greenway and Grendon Gardens submitted pursuant to conditions 10 and 11 attached to planning permission reference 15/00976/OUT granted on 1 July 2016, in accordance with application 18/00959/CON dated 15 October 2018 and the details submitted with it are approved at Land at Rear of High Stell, Middleton St George, Darlington (18/00959/CON) (Copy of Inspector's decision letter attached).

Dismissed the appeal by Mr Craig Peterson (Homes by Carlton (MSTG1) Limited) against this Authority's split decision insofar as it relates to Condition 18 (bat risk assessment) attached to planning permission reference 15/00976/OUT granted 1 July 2016 in accordance with application 18/00959/CON dated 15 October 2018 and the details submitted with it are refused at Land at Rear of High Stell, Middleton St George, Darlington. (18/00922/CON) (Copy of Inspector's decision letter attached)

#### Appeal B

Allowed the appeal by Mr Craig Peterson (Homes by Carlton (MSTG1) Limited) against this Authority's decision to refuse consent for approval of details reserved by Condition 2 (Phasing of Development and the Route of Construction Details) attached to attached to planning permission 17/01151/RM1 dated 14 March 2018 (Reserved matters relating to details of access, appearance, landscaping, layout and scale, for residential development of 198 no. dwellings pursuant to outline planning permission 15/00976/OUT dated 01 July 2016 (Amended access proposed, plans received 11 January 2018)) and Approval of details reserved by Condition 14 (Details of the Implementation, Maintenance And Management of the Sustainable Drainage Scheme) 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, Middleton St George, Darlington (18/00922/CON) (Copy of Inspector's decision letter attached)

#### Appeal C

Allowed the appeal by Mr Craig Peterson (Homes by Carlton (MSTG1) Limited) against this Authority's decision to refuse consent for approval of details reserved

by Condition 3 (Construction Management Plan) attached to attached to planning permission 17/01151/RM1 dated 14 March 2018 (Reserved matters relating to details of access, appearance, landscaping, layout and scale, for residential development of 198 no. dwellings pursuant to outline planning permission 15/00976/OUT dated 01 July 2016 (Amended access proposed, plans received 11 January 2018)) and Condition 9 (Construction Management Plan) attached to outline planning permission 15/00976/OUT at Land at Rear of High Stell, Middleton St George, Darlington (18/00921/CON) (Copy of Inspector's decision letter attached)

Award of costs against the Council in respect of the three appeals at High Stell Middleton St George, Darlington DL2 1HS. (Copy of Inspector's costs decision attached).

### **Gladman Developments Ltd Appeal**

The appeal by Gladman Developments Ltd for Land off Neasham Road, Middleton St George, Darlington has been withdrawn.

Partial award of costs against the appellant in respect of the withdrawn application at Land off Neasham Road, Middleton St George, Darlington (Copy of Inspector's costs decision attached).

Dismissed the appeal by Dr I Rehman against this Authority's decision to refuse permission for the erection of a detached oak framed dwelling at Land Adjacent to Rowan house, Middleton Road, Sadberge, Darlington (18/00807/FUL) (Copy of Inspector's decision letter attached)

RECOMMENDED – That the report be received.  
(Pages 75 - 92)

#### **9. Notification of Appeals –**

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

Mr Alan Agar has appealed against this Authority's decision to refuse permission for outline application for the erection of 1 no. detached dwellinghouse at 22 Westacres, Middleton St George Darlington DL2 1LJ (18/01119/OUT)

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 25th September 2019 (Exclusion Paragraph No. 7) – Report of Director of Economic Growth and Neighbourhood Services (Pages 93 - 100)
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, 8 October 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

## PLANNING APPLICATIONS COMMITTEE

Wednesday, 7 August 2019

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

**APOLOGIES** – Councillors Heslop, Lister and Wallis.

**OFFICERS IN ATTENDANCE** – Dave Coates (Head of Planning, Development and Environmental Health), Andrew Errington (Lawyer (Planning)), Lisa Hutchinson (Principal Planning Officer) and Shirley Burton (Democratic Manager).

### PA33 DECLARATIONS OF INTEREST

Councillor Allen declared a non-pecuniary interest in Minute PA36 (19/00199/FUL), addressed the meeting during consideration of the item, and left the meeting for the remaining discussion and the subsequent vote on the item.

Councillor Keir declared a non-pecuniary interest in PA36 (19/00199/FUL), and left the meeting during consideration of the item.

There were no further declarations of interest reported at the meeting.

### PA34 TO APPROVE THE MINUTES OF THE MEETING OF THIS COMMITTEE HELD ON 10 JULY 2019

**RESOLVED** – That the Minutes of this Committee held on 10 July 2019 be approved as a correct record.

### PA35 APPLICATIONS FOR PLANNING PERMISSION AND OTHER CONSENTS UNDER THE TOWN AND COUNTRY PLANNING ACT AND ASSOCIATED LEGISLATION

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

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

### PA36 41 MILBANK ROAD

**19/00199/FUL** – Erection of two storey and single storey rear extensions and erection of replacement detached garage (as amended by plans received 7 June 2019).

(In reaching its decision, the Committee took into consideration the Planning Officer's report (previously circulated), the objections received from the occupants of No. 3 Milbank Crescent, Darlington, and No. 39 Milbank Road, Darlington, to the original plans; objection letters received from the occupants of No. 1 Milbank Crescent, Darlington and No. 3 Milbank Crescent, Darlington, following the submission of amended plans; the objection letters received from the occupants of No. 1 Milbank Crescent, Darlington and No. 3 Milbank Crescent, Darlington, following the submission of further amended plans; and a subsequent objection received from the occupant of No. 4 Milbank Crescent, Darlington.

The Committee were also presented with representations from Councillors Holroyd and Snedker, College Ward Councillors, and heard the views of the Applicant, and three objectors).

RESOLVED – That 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.

NOTE: Councillors Allen and Keir left the meeting during consideration of the item.

## **PA37 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 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).
- (b) 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).

**RESOLVED** – That the report be received.

**PA38 NOTIFICATION OF APPEALS**

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

Mrs Lisa Bentley had 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.

**RESOLVED** – That the report be received.

**PA39 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.

**PA40 COMPLAINTS RECEIVED AND BEING CONSIDERED UNDER THE COUNCIL'S APPROVED CODE OF PRACTICE AS OF 24 JULY 2019 (EXCLUSION PARAGRAPH NO. 7)**

Pursuant to Minute PA32/Jul/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 24 July 2019.

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

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## **BOROUGH OF DARLINGTON**

### **PLANNING APPLICATIONS COMMITTEE**

**Committee Date – 16 October 2019**

### **SCHEDULE OF APPLICATIONS FOR CONSIDERATION**

**Background Papers used in compiling this Schedule:-**

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

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

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<b>Address/Site Location</b>	<b>Reference Number</b>
Land at Newton Grange Farm, Sadberge	18/00994/FUL
19A The Front, Middleton One Row	19/00678/FUL
19A The Front, Middleton One Row	19/00679/LBC
Allotment Gardens, Glebe Road, Darlington	19/00515/FUL
South View, The Green, Great Burden	19/00727/FUL
15 Garthlands, Heighington	

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<b>APPLICATION REF. NO:</b>	<b>18/00994/FUL</b>
<b>STATUTORY DECISION DATE:</b>	<b>30 June 2019</b>
<b>WARD/PARISH:</b>	<b>SADBERGE AND MIDDLETON ST GEORGE</b>
<b>LOCATION:</b>	<b>Land at Newton Grange Farm Sadberge Darlington</b>
<b>DESCRIPTION:</b>	<b>Erection of 25 No. dwellings</b>
<b>APPLICANT:</b>	<b>MR PAUL VICKERS</b>

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**APPLICATION AND SITE DESCRIPTION**

The application site, which measures some 1.3 ha in area is situated on the east side of Sadberge, to the north of Stockton Road. A play area and residential dwellings at Abbey Road are situated to the north and west and agricultural land is situated to the east. Stockton Road runs east-west to the south of the site, and beyond that to the south is agricultural land. The A66 is situated some 280m away to the east. The site is currently in agricultural use, managed as arable crop. The Sadberge Conservation Area boundary, which does not include the site, runs west on the north side of Stockton Road towards the village and south west towards Middleton Road. The site is within the setting of the Conservation Area. Several semi-mature trees and hedgerows bound the site. Ground levels fall from the existing housing in a south easterly direction towards the site. A small pond is situated close to the southern site boundary.

Planning permission is sought for the following:

- The erection of 25 No dwellings consisting of a mixture of three and four-bedroom, two storey house types all with private rear gardens and front drives;
- Access from a single point on Stockton Road;
- Associated landscaping including a SuDs basin to the south east of the site;
- A foul water pumping station to the north east corner of the site;
- A proposed Affordable Housing contribution of 10% which the application states will be secured via a S106 agreement, together with financial contributions towards off-site open and play space and education;

A Heritage Statement has been submitted with the application which assesses the impact of the proposals on the significance of the adjacent Sadberge Conservation Area.

**Application documents including Heritage statement, plans, consultation responses, representations received, and other background papers are available on the DBC website.**

### **Environmental Impact Assessment Requirements**

The Local Planning Authority has considered the proposal against the Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

It is the opinion of the Local Planning Authority, that the proposal is development for which an Environmental Impact Assessment is not required as the development would not be likely to have significant effects on the environment by virtue of factors such as its nature, size or location.

### **PLANNING HISTORY**

There is no planning history on the application site relevant to this application.

### **PLANNING POLICY BACKGROUND**

The following policies are relevant to consideration of the application:

#### **Darlington Core Strategy (2011)**

- CS2 – Achieving High Quality, Sustainable Design
- CS3 – Promoting Renewable Energy
- CS4 – Developer Contributions
- CS10 – New Housing Development
- CS11 – Meeting Housing Needs
- CS14 – Promoting Local Character and Distinctiveness
- CS15 – Protecting and Enhancing Biodiversity and Geodiversity
- CS16 – Protecting Environmental Resources, Human Health and Safety
- CS17 – Delivering a Multi-Functional Green Infrastructure Network
- CS19 – Improving Transport Infrastructure and Creating a Sustainable Transport Network

#### **Borough of Darlington Local Plan (1997, Alterations 2001)**

- E2 – Development Limits
- E14 – Landscaping of Development
- H7 – Areas of Housing Development Restraint

#### **Tees Valley Minerals and Waste Development Plan Documents**

Policy MWC4: Safeguarding of Minerals Resources from Sterilisation

#### **Planning Obligations Supplementary Planning Document (2013)**

#### **Design of New Development Supplementary Planning Document (2011)**

#### **National Planning Policy Framework (2019)**

## STATEMENT OF COMMUNITY INVOLVEMENT

The Council's Statement of Community Involvement (Part 2) (August 2018) (SCI) sets out when the Council expects developers to undertake pre-application community consultation. The proposed development falls into those instances where pre-application community consultation is required, being the provision of dwelling houses where there are 10 or more dwellings or on a site having an area of 0.5 hectares or more, and a significant development that conflicts with the policies in the development plan or government planning policy.

The SCI sets out what form the engagement could take, and requests that where pre-application community engagement has taken place, the applicant should include a statement with their planning application to detail what has been done, and how that has been reflected (or not) in the scheme. In this case, no pre-application community consultation has been undertaken.

## RESULTS OF CONSULTATION AND PUBLICITY

Six letters of objection have been received raising the following concerns:

- *The site is outside of development limits; Does not meet the requirements of the rural exception policy; Contrary to the policies of the development plan; The site was not included in the Council's 5-year housing statement;*
- *Once developed this countryside site would be lost forever; The benefits of greenspaces on our well-being has been raised by Friends of the Earth before in relation to the Local Plan and other developments and we are concerned and dismayed with this potential further loss;*
- *Fails to demonstrate how it would be beneficial to the village from an economic or social point of view;*
- *One of the proposed houses will overlook my property from windows on the first floor;*
- *Potential traffic congestion in the village (25 houses with potential for a further 50 cars in and out of the village daily); Will encourage car usage and is unsustainable;*
- *The proposed access onto Stockton Road would be hazardous, especially with the current speed limit of 60mph; It is questionable whether a reduction to 30 mph would be achievable;*
- *The land is not 'vacant land' it is farm land that has been farmed for many years;*
- *Would set a precedent to pave the way for further development also outside of the development limits;*
- *Sadberge needs to preserve its status as a rural village;*
- *During heavy rainfall Stockton Road near to the A66 and the proposed development does flood and there is concern that this may be exasperated by such a development; Will the SuDs drain into the pond? If so how likely is it to overflow onto the public highway; There has been sewer flooding around the Abbey Road area and there is a fear that this development may worsen the frequency and magnitude of such events with the proposed foul sewer connection; The surface water drainage to the site is in my view inadequate in that it proposes to drain into a non-existing ditch near the junction with the A66;*

*The area is known to flood quite frequently and the proposal will make this much worse; The position on the 36 inch water main is only approximate and should in my view be determined physically on site as it could dramatically affect the layout and number of houses achievable;*

- *Lack of facilities to serve the community let alone a growing community; The village is very poorly served by local bus services (three services Monday only); The nearest local rail station is almost 4km away with the nearest major rail station being approx. 6.5km away; The nearest bus stop is over 0.5km away from the proposed development; The developers offer of £30,000 towards the cost of supporting and improving the bus service seems rather light to sustain the bus service in the longer term given the apparent cost of operating the current meagre bus service; It is just over 8km to the nearest shops in Darlington Town Centre by car;*
- *Mention of a shop refers to the petrol station on the A66 – this poses a health and safety risk particularly for young children wishing to visit the shop as the route to the shop is along the A66 and then across a busy garage forecourt;*
- *The development would remove a hedgerow essential to preserve the current wildlife; The developers surveys seem to be lacking in terms of biodiversity outputs; Trees and hedgerows are to be removed but it is not clear if there are biodiversity losses or gains; A full environmental survey of the area including the pond is therefore required with mitigating measures to conserve any protected species; The provision of bird and bat boxes and landscaped areas for pollinators also appears to be lacking;*
- *Insufficient onsite survey of existing pond; I believe there are species of invertebrates around the existing pond some of which could be protected species;*
- *The proximity to the A66 could make such a development a target for criminals (car theft, burglaries, etc.) raising the crime rate in the area and driving up house and car insurance premiums for residents;*
- *Proposed housing is out of character with the village site and surrounding area;*

Seven letters of representation have been received, making the following points:

- *We need some development to bring in new people and keep our village alive and to support our coffee shop, pre-school and village activities; The extra housing is needed and will enhance the village by allowing it to thrive;*
- *A set of traffic lights in the village would go a long way to help that situation;*
- *The development includes affordable housing which would help young villagers get onto the housing ladder too;*
- *With the site being on the edge of the village it will cause minimal disruption during construction work;*
- *This is a piece of land that is awkward to work with large modern farm machinery;*
- *Over the years the village has lost several facilities – the two village pubs seem to be ticking over at present and will only do so along with the village hall if more residents support them;*
- *The surface water collection pond is a fine feature for the wildlife;*
- *There will only be a small section of hedgerow removed for the development;*

- *The houses look of good design and are to be constructed with quality materials, which will only enhance the character of the village;*

**Sadberge Parish Council** has objected to the proposals, raising the following concerns:

- *The proposed development would be outside the limits to development and it does not meet the requirements of the Rural Exceptions Policy;*
- *Sadberge is not a suitable location for sustainable development;*
- *Darlington Planning Strategies – including the Darlington Local Plan and the Core Strategy have consistently not included Sadberge as a suitable location for development;*
- *The proposed development would be contrary to the wishes of the Sadberge community, as expressed in the Sadberge Parish Plan;*

**Highways England** has been consulted and has raised no objections to the proposed development.

The Council's **Highways Officer** has been consulted and raised several issues regarding the proposed layout, however the applicant has chosen not to make any further amendments or submit any further information regarding this issue.

The Council's **Conservation Officer** was consulted and considers that there would be harm to the setting of the Conservation Sadberge Conservation Area and that this should be weighed against the public benefits of the proposal.

The **Local Lead Flood Authority** has been consulted and considers that the application contains sufficient information to satisfy officers that a surface water run-off solution can be achieved without increasing existing flood risk to the site or the surrounding area, however that a detailed design for the management of surface water run-off from the proposed development has not been provided and this should be required by planning condition should planning permission be granted.

**Northumbrian Water** has been consulted and has raised no objections subject to a planning condition to require the development to be implemented in accordance with the submitted Flood Risk and Drainage Assessment (October 2018).

The **Historic Environment Record Officer** has been consulted and has recommended that the site is evaluated by trial trenching, pre-determination, to test and confirm the geophysical survey results, to be carried out in line with an agreed Written Scheme of Investigation.

The Council's **Sustainable Transport Officer** has been consulted and considers that due to the location and poor accessibility of the site, a public transport contribution of £30,000 would be required to extend / increase the frequency of Service 20, which currently runs three journeys on a Monday only.

The **Ecology Officer** raised no objections to the proposed development subject to planning condition to require compliance with all recommendations / mitigation within

the Preliminary Ecological Appraisal, together with a requirement for a pre-development checking survey relating to the pond and an ecological method statement in relation to amphibians during the construction phase of the development.

The Council's **Environmental Health Officer** has raised no objections on contaminated land grounds subject to the standard contaminated land conditions. Also recommended would be a planning condition to secure submission and agreement of a Construction Management Plan, and a condition to control hours of construction work. A noise assessment was requested however the applicant has chosen not to submit this, or any additional information regarding this issue.

**Northern Gas Networks** has been consulted and has raised no objections to the proposed development.

The Council's **Senior Arboricultural Officer** has identified potential impact on trees within the site and recommended that should planning permission be approved, a planning condition be attached to secure a scheme for the protection of trees to be retained.

The **Architectural Liaison Officer** has raised the following issues:

- *The crime risk for this proposed development could prove to be high because of its proximity to the arterial road which provides easy access for travelling criminals;*
- *The houses to the east of the site do not relate to the play space, they should front onto it making it a feature of the development rather than shutting it out and making it a dead space;*
- *The site does not connect well with the existing village, so amenity space will be important particularly for children playing with oversight from their parents;*
- *The boundary treatments should be close boarded fencing;*
- *The fencing for the plot divisions in the rear gardens should consist of 1.8m privacy screen of 3 metres and continued with 1500mm close boarded fencing topped with a 300mm trellis.*

## PLANNING ISSUES

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

- Policy position
- Impact on Designated Heritage Assets;
- Impact on non-designated Heritage Assets (Archaeology)
- Loss of agricultural land
- Impact on the character and appearance of the countryside and the village;
- Highway and Sustainable Transport issues;
- Surface Water and Flood Risk
- Land contamination;
- Noise
- Design and Layout;



- Residential Amenity;
- Ecology;
- Trees

## **Policy position**

Planning law 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) supports the plan led system providing that planning decisions should be genuinely plan led (NPPF para. 15).

### Five-year housing supply position

The Ministry for Housing Communities and Local Government have recently announced that councils should start using the government's new standard method for assessing housing need immediately when determining planning applications. National Planning Policy Guidance (NPPG) has also been updated to reflect this. Paragraph 30 of the NPPG states that housing requirement figures identified in strategic policies should be used as the starting point for calculating the five-year land supply figure for the first five years of the plan and where strategic housing policies are more than five years old but have been reviewed and are found not to need updating. In other circumstances the starting point for calculating the five-year land supply will be local housing need using the standard method.

Utilising the local housing need figure for Darlington (177 dwellings per annum) which factors in the latest 2014 household projections, as requested by the Government, the Council considers that as at February 2019 a 35.3-year supply of deliverable housing land can be demonstrated. This being the case, as Darlington Borough Council can demonstrate a five-year supply of housing land, relevant policies for the supply of housing should be considered up to date and the tilted balance in paragraph 11 of the NPPF is not engaged.

A 20% buffer has been applied to this figure due to previous under delivery. However, if considered against local housing need delivery has exceeded this figure.

The Council has produced a Five-Year Housing Land Supply Position Statement (January 2019) which sets out the housing land supply position for the period 1 April 2018 to 31 March 2023; when measured against the local housing need figure.

### Principle of the development

The aim of Policy E2 (Development Limits) of the Borough of Darlington Local Plan 1997 is to direct new development to within the development limits of the village and to safeguard the character and appearance of the countryside. The application site is located beyond the development limits of the village and therefore residential development would be contrary to saved Policy E2 (Development Limits) of the Borough of Darlington Local Plan (1997) and Policy CS1 (Darlington's Sub-Regional Role and Locational Strategy) of the Core Strategy (2011).

Sadberge is not identified as one of the larger service villages in the Core Strategy or the Interim Planning Position Statement. For this reason, the site has not been identified as a suitable location for housing development. This is a stance which is to be maintained in the emerging Local Plan. It is therefore considered that the site would be an unsustainable form of development which would be contrary to the development plan.

Officers are of the view that substantial weight can still be attached to Policy E2 (Development Limits) particularly when a five-year supply can be demonstrated, as the policy is consistent with the NPPF regarding several areas. It is important to note that the age of the policy is irrelevant to its consistency with the NPPF. Paragraph 20 of the NPPF requires decision-takers to make provision for 'conservation and enhancement of the natural, built and historic environment, including landscapes and green infrastructures'. Policy E2 is consistent with the NPPF to the extent that it seeks to prevent 'unacceptable harm to the character and appearance of the rural area'.

Policy E2 also seeks to direct development to the urban areas, which are likely to be more sustainable. It is therefore consistent with the core planning principle that "Significant development should be focused on locations which are or can be made sustainable..." (para 103 NPPF). E2 does not provide a blanket protection or impose a blanket ban of certain types of development. There are several exceptions to E2 which include rural exception residential development. As such, each case can be judged on its own merits according to whether it is an appropriate use in the countryside and whether the development has an unacceptable impact on the character and appearance of the rural area.

Settlement boundaries can be out of date where they were drawn to accommodate a level of growth up to a certain point. This may be the case if the sole purpose of drawing the settlement boundaries was to deliver a certain housing figure. This is not the case for the Local Plan as the limits were also drawn to protect the character and appearance of the countryside and to differentiate between the urban and rural area. As such saved Policy E2 (Development Limits) can be attributed substantial weight in the planning balance.

It is also the Council's view that policy CS1 (Darlington's Sub-Regional Role and Locational Strategy) has consistencies with the NPPF and can be given weight in the planning balance. The policy sets out the Council's locational strategy for new development, focusing on the main urban area and the larger service villages of Hurworth, Heighington and Middleton St George. This strategy is to be carried forward into the emerging Local Plan. This approach is consistent with the NPPF in focusing significant developments in locations which are or can be made sustainable. In the same regards as Policy E2, CS1 does not result in a blanket restriction on development in the countryside but does state the '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'.

Several recent appeal decisions for residential development support the Council's approach set out above.

It should also be noted that the proposed scheme does not meet any of the criteria for permitted types of residential accommodation in the countryside as set out in saved policy H7 of the Local Plan. However limited weight should be afforded to this policy as it is not fully consistent with the NPPF.

To conclude, it is considered that Policies E2 (Development Limits) and CS1 (Darlington's Sub-Regional Role and Locational Strategy) should be given substantial weight in the planning balance and the tilted balance outlined in paragraph 11 of the NPPF should not be engaged as a five-year supply of housing land can be demonstrated. This approach has been supported by a recent appeal decision. The application site is located beyond the development limits of the village and therefore residential development would be contrary to saved Policy E2 (Development Limits) of the Borough of Darlington Local Plan (1997) and Policy CS1 (Darlington's Sub-regional Role and Locational Strategy) of the Core Strategy (2011) and the development proposed is not of a type that will be permitted under Saved Policy H7 (Areas of Housing Development Restraint) and should be refused planning permission unless material considerations indicate otherwise.

### **Impact on Designated Heritage Assets**

Policy CS2 (Achieving High Quality, Sustainable Design) of the Core Strategy includes provision that new development should reflect and / 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.

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

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

As this proposal is situated within the setting of the Sadberge Conservation Area, the development must be considered against paragraphs 193-196 of the NPPF in terms of its impact on the significance of designated heritage assets.

This recommendation must also be mindful of the requirements to have special regard to the desirability of preserving or enhancing the character or appearance of the conservation area, as set out in statute. Notwithstanding the policy considerations set out earlier in this report, the consideration of this issue goes to the heart of the decision-making process.

A Heritage Statement prepared by Simpson & Brown (October 2018) was submitted in support of the application to assess the impact of the proposal on the significance of the Sadberge Conservation Area.

The Council's Conservation Officer was consulted and has made comments in the context of the core arguments set out in this document and these comments are reproduced below.

*Sadberge lies at a point where the Roman Road from Middleton One Row crosses a commanding east-west ridge and the steeply falling north green commands views over the open countryside. The Conservation Area includes the green and historic areas around the Church, the earthworks north of the village, and other open land necessary to safeguard the appearance of a ridge village in the landscape. The boundary of the Conservation Area was extended in 1999.*

*Sadberge Conservation Area does not have the benefit of a Conservation Area Character Appraisal. The site is located approximately 70 metres to the east of the Sadberge Village Conservation Area at their closest points. In contrast to what the Heritage Statement states, I consider the application site to be within the setting of Sadberge Conservation Area.*

*The Heritage Statement follows Historic England Guidance on the setting and development management of designated heritage assets in its guidance note 'Historic Environment Good Practice Advice in Planning, Note 3: The Setting of Heritage Assets (2015). It sets out a stepped approach to assessing the implications of development proposals to guide the assessment of setting.*

*The Heritage Statement states that the aesthetic values of the Sadberge Conservation Area are both design and fortuitous. The fortuitous values are concentrated at the core of the conservation area. It also says that other parts of the conservation area 'do not have equal aesthetic value, either design or fortuitous'. I do not necessarily agree with this. The open agricultural land around the built form of the village are necessary to safeguard the appearance of this ridge village in the landscape.*

*The Heritage Statement sets out how the nearest part of the Conservation Area to the application site is a triangular field at its south eastern corner. It states that 'this field has no value in itself but has been included to protect the setting of Sadberge Conservation Area'. I agree with the Heritage Statement that this land is part of the setting for the built elements of the conservation area, however it is also within the Conservation Area. The setting of the Conservation Area boundary is much wider, and not defined, however in my opinion the application site falls within this wider setting due to it adjoining a historic route to and from the village (Stockton Road).*

*The Heritage Statement states that this triangular field is important as part of the 'distant character of Sadberge' but plays a minimal part in protecting the heritage characteristic of Sadberge. The proximity between the application site and the corner of the Conservation Area should be given little concern in the opinion of the applicant.*

*However, in my opinion the open nature of the land closest to the application site does have heritage value as it forms part of the rural context of the village. Hence it was in the original Conservation Area boundary designated in 1972. The 1999 extension brought land to the west and north-west into the boundary to ensure more of the rural context of the village was not lost to development. The boundaries have not simply been drawn to include a buffer zone around the village.*

*The Heritage Statement states 'view towards Sadberge, in the context of the application site, generally from the south-east have little fortuitous value other than the interest qualities of the open countryside in agricultural use. The fortuitous value of the application site is as part of general countryside, but this is not a heritage value'. I disagree with this. In my opinion the open nature of the site, historically undeveloped on both sides of Stockton Road, adds to the approach to and from the Conservation Area and is therefore part of its setting. The land falls within the rural sloping landscape setting and therefore contributes to safeguarding the appearance of Sadberge ridge village in the landscape.*

*The site is not totally screened by the existing hedge, which is denser and taller in some sections. The tree screening ends at the point where the linear gardens of Abbey Road reach the road boundary, and from this point a natural hedgerow is in situ. This would not screen the proposed two storey properties. Particularly as a large section of hedgerow is proposed to be removed to form a vehicular access / visibility splay.*

*The Heritage Statement considers several views towards the site and the potential impact of the development. View 2 assesses the view along Stockton Road 'to be part of the heritage of the site as one of the five main roads which lead towards Sadberge'. It goes on to say that 'in the past the land use on either side of the road would have been different and the road itself is not exactly on its earlier alignment'. I disagree with this. The alignment of Stockton Road is the historic route. The boundary of the site is evident in the earliest O/S plan 1856-1865, as is the field boundary of the application site also evident with a beck marking the north edge. The agricultural use is intact.*

*The Heritage Statement goes on to say that the application site is not visible in view 2 due to the hedge to the north east of Stockton Road being well established – average height in this view of around 3-4 metres – which gives this hedge an intact screening quality. The Heritage Statement states that no part of the land within the application site is visible from view 2.*

*However, whilst the hedge might screen the site at present from view 2, the side elevations of two of the proposed dwellings (plot 1 and 25) are very close to the hedge line of this historic route, as shown on the historic plans, and would introduce built development up to the site boundary. The existing hedge is not tall enough to screen the proposed housing development of 25 plots. The development in particular would impact on the views from the path on the east side of Stockton Road.*

*In addition, building houses on the slope would affect the views when approaching the Conservation Area, which would impact on the historic landscape character and aesthetic interest of Sadberge, an attractive ridge village set amongst agricultural land.*

*The Heritage Statement acknowledges a minor impact on this view but considers this could be mitigated so the view along the road would be unaffected.*

*The scale and massing of the dwellings compared to the plot sizes, 25 large detached dwellings in comparatively small plots, is such that a high-density development is proposed for this site. What is proposed is an intense development, on what is currently an open rural site. Several materials are proposed, some of which are not characteristic of Sadberge, and this contrast would make the development more*

*prominent in the open landscape (house type 4 and 5). This exacerbates to urbanising impact.*

### Summary

*I agree with the Heritage Statement that the greatest fortuitous value is in the view northwards, out from the centre of Sadberge and the village greens and is concentrated at the core of the conservation area. In contrast, other parts of the conservation area do not have equal aesthetic value, either design or fortuitous. However, in my opinion, the setting and approach to the conservation area along Stockton Road does have some fortuitous aesthetic value.*

*Development on this site has the potential to cause harm to the setting of the heritage asset. Any new access proposed would impact on Stockton Road, one of the main access routes to and from the Conservation Area, by bringing a more urbanised feel to the existing lane with its hedgerows dotted with trees and agricultural land to the west which falls within the Conservation Area.*

*Section 72 of the Planning (Listed Buildings and Conservation Areas) 1990 emphasises the value of Conservation Areas in built heritage planning. In relation to the duties and powers of the LPA, it provides that 'with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area'.*

*The Heritage Statement finds that the proposals would be acceptable in national and local policy terms, when considered with 'mitigation measures'. The proposed mitigation would take the form of maintaining and managing tree screening on the south west boundary next to the road and planting a new screening hedge to the east boundary.*

*I do not consider tree planting sufficient to mitigate the impact, due to the site gradient and quantum and scale of development proposed. The field is steeply sloping in a northerly direction away from Stockton Road as one of the key gateway approaches to the Conservation Area. I do not agree with the conclusion of the Heritage Statement that mitigation would ensure any impact of the views towards the Sadberge Conservation Area are minimal.*

*However, I do accept that the harm to the setting of the Conservation Area would be 'less than substantial' to the significance of a designated heritage asset. Therefore, in accordance with the NPPF any harm should be weighed against the public benefits of the proposed. In accordance with the NPPF, an appropriate level of public benefit must be secured to offset the (less than substantial) harm caused to the heritage asset (Sadberge Conservation Area).*

Overall, having regard to the Conservation Officers response it is considered that the proposal would be harmful to the character and significance of Sadberge Conservation Area by developing a site which contributes to its setting. The application site helps maintain the setting of the conservation area and provides a visible link to the surrounding countryside which is integral to the area's character. The proposal does not sustain or enhance the conservation area, nor does it make a positive contribution

to its local character and distinctiveness. The proposal is therefore contrary to Policy CS14 (Promoting Local Character and Distinctiveness) of the Core Strategy and the NPPF. The applicant has not submitted any information on how the benefits of the proposal may outweigh the harm caused. Officers do not believe that the harm to the Conservation Area is outweighed by the public benefits of the proposal such as the provision of affordable housing (which in this case at 10% also falls short of the requirements of the Planning Obligations SPD), the provision of a bus service contribution and support for local services.

In addition, the proposed design and layout does not reflect and / or enhance the natural, built and historic characteristics that positively contribute to the character of the local area and its sense of place, nor has it been informed by the Revised Design of New Development SPD. The proposal is therefore considered to be contrary to Policy CS2 (Achieving High Quality, sustainable Design) of the Core Strategy.

### **Impact on non-designated Heritage Assets (Archaeology)**

Paragraph 197 of the NPPF requires the effect of an application on the significance of non-designated heritage assets to be considered in the determination of planning applications. It goes on to state that in weighing applications that directly or indirectly affect a non-designated heritage asset, a balanced judgement will be required having regard to the scale of any harm of loss and the significance of the heritage asset.

Paragraph 199 of the NPPF states that Local Planning Authorities should require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible. However, the ability to record evidence of our past should not be a factor in deciding whether such loss should be permitted.

A Geophysical Survey prepared by Archaeological Services Durham University (ASDU) was submitted in support of the application. The report shows some potential for archaeological features.

Durham County Archaeology Team has been consulted and has recommended that the site is evaluated by trial trenching and pre-determination to test and confirm the geophysical survey results, to be carried out in line with a Written Scheme of Investigation agreed with the Archaeology Team. The applicant has asked that this be dealt with by planning condition, should the application be approved, due to the Geophysical report assessing the risk of anything significant being discovered as very low, as has been the case on other sites.

### **Loss of agricultural land**

Paragraph 170 of the NPPF states that local planning authorities should consider the economic, and other, benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality. In cases where there is doubt about the quality of the land, the applicant would be asked to submit further information. In this case, the land the

subject of this application is moderate in terms of its agricultural land quality due to its position and constraints. A recent appeal decision has determined that the development of less than 20 hectares of land, is not significant in the context of paragraph 170 of the NPPF. In this context it is considered that the impact of the proposal on the loss of agricultural land is not significant.

### **Highway and Sustainable Transport issues**

A Highway and Transportation Report prepared by Alan Short Transport Consultancy (October 2018) was submitted in support of the application.

The Transport Statement refers to reducing the speed limit to 30mph however this has not been agreed following consultation with Durham Police who have confirmed that given the recorded 85<sup>th</sup> percentile speeds, and the layout not having an active frontage on Stockton Road, it is not considered that a 30mph speed limit would be appropriate or enforceable.

Consultation with Durham Police determined that a speed limit of 50mph was the lowest enforceable speed considered acceptable, and the visibility requirements for such a speed limit have now been demonstrated on plan. The 50mph zone should extend to a point 160m east of the access to fully include the proposed visibility splays. The existing 30mph zone at the village should remain unchanged, but on existing Sadberge, a new 5mph zone would extend for approximately 180m between the existing 30mph limit and the site access. The full extents of the visibility splays identify the full extents of vegetation clearance needed to achieve the minimum visibility required as well as visibility to the new 50mph speed limit signs. Full details of off-site highway works would be needed as part of a Section 278/38 agreement subject to planning approval being granted. The full details would need to include a footway fronting the site with pedestrian crossing facilities with tactile paving, resurfacing of the new junction in line with the Council's skid resistance policy and with full details of the proposed speed limit change signage and road markings.

The Highways Officer has indicated that the design does not comply with Appendix 5.5 in the Tees Valley Design Guidance for the category of access road (Local Access Road cat 4b) with centre line radii and stopping sight distances below requirements for adoptable criteria. The tight bend to the frontage of plot 22 is problematic as it falls short of forward visibility requirements and all land required for visibility must be included within adopted highway. The carriageway is also not to a recognised adoptable standard with a 90-degree corner service plots 3, 4 and 5.

Car parking numbers across the site generally accord with the Tees Valley Design Guidance for the type and size of dwellings proposed.

Some in curtilage parking spaces / driveways are below the minimum accepted standards and should be amended to be counted as parking provision. Driveways should be a minimum of 3 x 6m long from the rear of the adopted highway with tandem spaces being 3 x 12m. The maximum recommended width of a driveway access is 6m to match the width of a side by side driveway or double garage.

As a result, a request was made for the following:



- An increased radius to the carriageway and a design that rationalises the 90-degree bend demonstrating the required forward visibility;
- Amendments to parking spaces / driveways to ensure that they meet the minimum accepted standards.

The proposals have not been amended to accommodate the concerns raised, and the proposal cannot therefore currently be supported on highway grounds as several aspects of the internal layout fall short of accepted design standards. The proposal is considered to be contrary to the requirements of Policy CS2 (Achieving High Quality, Sustainable Design) and Policy CS19 (Improving Transport Infrastructure and Creating a Sustainable Transport Network) of the Darlington Core Strategy (2011).

The Sustainable Transport Officer has been consulted and has indicated that Sadberge does not have appropriate public transport provision (daytime bus service, every 30 minutes or better, or a rail station within 2km). The development does have access to a subsidised bus service, although the closest bus stops are 520m away at Church View / Middleton Road (based on 80% or more of the site). This is outside of the Council's 400m policy. From these bus stops only Service 20 is available, running three journeys on a Monday only. This is a subsidised service with secured funding until 2019. Another development, recently granted planning permission (17/00358/FUL, Land off Middleton Road, Sadberge) is contributing to extend this bus service for another two years. The current three journeys on a Monday provide residents with access to key services and the long-term aspiration is to increase the number of days / frequency Service 20 runs. As such a sustainable transport contribution should be sought to extend / increase the frequency of Service 20. The service currently costs £15k per year and due to the location of the site and poor accessibility to public transport, in this instance, should planning permission be granted, a contribution for a period of 2 years would be recommended.

An existing footpath on the Stockton Road would link the site with the village and ensure a safe walking route to the nearest bus stops. The pedestrian link to the south of the site is also acceptable.

The site is on an advisory cycle route so given the national speed limit applies outside of the village, this would suit confident cyclists only. The advisory routes link to traffic free paths west to Darlington and east to Long Newton. There is no requirement from the Design Guide to provide cycle parking for private houses, however this would be encouraged for the benefit of the development and to encourage sustainable transport overall. As such, a planning condition would be recommended, should planning permission be granted, for submission and agreement of details of secure cycle parking for each dwelling.

### **Surface Water and Flood Risk**

The proposed development is situated within Flood Zone 1. The Environment Agency's surface water flood maps highlight areas of the site as being at a low risk of surface water flooding.

A Flood Risk and Drainage Assessment undertaken by C.J Emm Limited (October 2018) was submitted in support of the application. This reviews available information to determine the sources of flooding that could affect the site and concludes that the proposed development is generally at low risk of flooding from all sources. A drainage strategy is presented showing how attenuation of runoff can be implemented to suit the constraints of the site and in line with a set of principles set out in the assessment.

Stockton Borough Council, who acts as the Council's technical advisors for SuDs as Local Lead Flood Authority (LLFA), has assessed the level of information submitted with this application and considers that the applicant has provided sufficient information to satisfy the Local Lead Flood Authority that a surface water runoff solution can be achieved without increasing existing flood risk to the site or the surrounding area. However, the applicant has not provided a detailed design for the management of surface water runoff from the proposed development, and it is recommended that further details to secure a satisfactory solution, including compliance with the Flood Risk Assessment, and to include a management and maintenance plan, should be secured by planning conditions should planning permission be granted. Northumbrian Water was also consulted and raised no objections subject to a similar condition to deal with disposal of foul and surface water to prevent the risk of flooding from any sources.

### **Land contamination**

A Phase 1 desktop study report prepared by Patrick Parsons (June 2018) was submitted with the application. The report identifies that the site does not have a history of industrial use and has historically been farmland. However, the pond feature in the southeast corner of the site has been significantly infilled with unknown materials (possibly a natural silting up process). The Council's Environmental Health Officer has been consulted and considers that given the sensitive end-use of the development it would be prudent to conduct a limited site investigation to confirm the results of the desk top study.

As such, it is recommended that should planning permission be granted, standard contamination conditions CL2-CL6 be attached to any approval. These deal with site investigation works, a remediation and verification strategy, Construction / remediation works and a Verification and Completion report.

### **Noise**

Despite requests, a Noise Assessment and Acoustic Design Statement was not submitted alongside the application. This is required in order to show how the layout of the development has been designed to minimise the impact of noise on the dwellings. Advice from the Council's Environmental Health Officer was that it would be preferable if dwellings fronted onto Stockton Road rather than being orientated so that their back gardens ran parallel with the road, therefore exposing the future residents to more traffic road noise. This was not considered in the proposed site layout with the gardens of Plots 1 and 25 running parallel with Stockton Road. This section of Stockton Road is prior to the introduction of the 30mph speed limit through Sadberge village and vehicles could still be travelling at or near 60mph and therefore making a considerable noise as they pass these dwellings.

In the absence of a Noise Assessment and Acoustic Design Statement, the application has not demonstrated that the noise levels in the proposed garden areas closest to Stockton Road are within suitable criteria for outdoor recreational space; whether mitigation measures are needed to establish a suitable acoustic environment in all plots across the site; or, whether an alternative layout which maximises the separation distance between the road and the dwellings would be required. Without the required information, the Environmental Health Officer would be unable to support the application. The proposal is considered to be contrary to Policy CS16 (Protecting Environmental Resources, Human Health and Safety) of the Darlington Core Strategy (2011) and paragraph 127 of the NPPF.

### **Design and Layout**

As identified above in terms of the impact of the proposal on the Sadberge Conservation Area, the proposed design and layout is not considered to reflect or enhance the character of the local area. The proposal consists of a layout that is inward looking (onto internal cul-de-sac roads), and the design of the dwellings does not reflect or relate well to the character of the area. To amplify this, the house types used are those used for another application from the same applicant, on a site in Middleton St George, also outside of development limits(18/01108/FUL) submitted at the same time and therefore it is apparent that the particularities of the site and surrounding area have not been given due consideration in the design of the development with the use of standard, generic house types.

Overall, the proposal is contrary to Policy CS2 (Achieving High Quality, Sustainable Design) and Policy CS14 (Promoting Local Character and Distinctiveness) of the Darlington Core Strategy (2011).

### **Residential Amenity**

The Council's Design of New Development SPD states that there should be 21m separation distance from elevations with habitable rooms facing other elevations with habitable rooms. It also states that there should be 12.5m from elevations with habitable rooms facing blank elevations.

The proposed layout in terms of its relationship with existing dwellings is considered acceptable in the context of the above and raises no significant issues.

However, internally, the proposed layout falls short in several respects, particularly in terms of distances from elevations with habitable rooms facing other elevations with habitable rooms (as set out in the Design of New Development SPD) and it is considered that it therefore fails to provide a satisfactory level of amenity for the occupiers of the proposed scheme.

Overall, it is considered that the proposal would have an unacceptable impact on the residential amenities of future occupiers by reason of the scale and siting of the dwellings, contrary to the requirements of Policy CS2 (Achieving High Quality, Sustainable Design) and the Design of New Development SPD.

A Construction Management Plan was not submitted with the application, to detail how the developer proposes to minimise the disruption that building works will inevitably have on the existing residents. As such, should planning permission be granted, the Council's Environmental Health Officer and Highways Officer have recommended that a planning condition be attached to any approval securing submission, agreement and compliance with a Construction Management Plan.

## **Ecology**

Policy CS15 (Protecting and Enhancing Biodiversity and Geodiversity) of the Core Strategy states that the protection, restoration, extension and management of the Borough's biodiversity and geological network will be delivered to help achieve the target level of priority habitats and species set out in the UK and Durham Biodiversity Action Plans by measures including by ensuring that new development would not result in any net loss of existing biodiversity value by protecting and enhancing the priority habitats, biodiversity features and the geological network through the design of new development, including public and private spaces and landscaping.

Saved Policy E21 (Wildlife Corridors) states that development which would materially harm the wildlife habitat value of linear features providing corridors within which wildlife can move and live, including the open land network within the urban area where it forms continuous corridors, rivers and streams, road and rail corridors, woodlands, hedgerows and green lanes will not be permitted. It goes on to state that harm will be assessed according to the impact of development on the value of the feature in terms of its continuity and ecological structure and diversity; and that the landscaping of new development within or adjacent to wildlife should, where appropriate, incorporate semi-natural habitats which contribute to maintaining the wildlife value of the corridor.

This is in general accord with paragraph 170 of the NPPF, which states that the planning system should contribute to and enhance the natural and local environment by; protecting and enhancing valued landscapes, geological conservation, interests and soils; and, recognising the wider benefits of ecosystems services; and, minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.

Paragraph 175 of the NPPF states that when determining planning applications, local planning authorities should apply a number of principles, including ; a) if significant harm to biodiversity from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or as a last resort compensated for, then planning permission should be refused; b) development resulting in loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and c) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.

A Preliminary Ecological Appraisal Report prepared by Penn Associates (June 2018) was submitted in support of the application. An extended Phase 1 habitat survey was undertaken with the aim of recording and mapping the type of semi-natural vegetation and wildlife habitat present. The site was confirmed as being primarily improved grassland, with a small pond towards its southern boundary, and hedgerows with trees. There was negligible roost potential for bats in the trees, but a high foraging and commuting risk on the site particularly along tree and hedge lines. There was a low risk of presence (foraging / breeding) with the site for Great Crested Newts. There was a confirmed presence of breeding birds (Linnet, Starling and Dunnock), a potential presence of invertebrates (Wall Butterfly record within 1km of the site) and small mammals (Hedgehog, Brown Hare and Harvest Mouse, all recorded locally).

The report considers that the most significant ecological impact identified is the loss of hedgerows along Stockton Road to enable site access to be constructed including sight lines for road vehicles. The hedgerows affected are confirmed to support breeding bird species (linnet) with the site providing associated feeding areas for these and other priority bird species (starling).

The report proposes biodiversity mitigation which it considers are broadly proportionate to the scale of impact predicted from the proposed development. These include protection of tree crowns and root zones in accordance with the British standard, retaining the existing point, retaining some existing habitats, planting locally appropriate trees, shrubs and herbaceous species in areas of communal greenspace, minimising hard surfacing and incorporating biodiversity design features into the new buildings. These are cited as a range of options only with no clear indication of which, if any, the applicant proposes. The report goes on to state that development of the site would result in a small but permanent net loss of green space which cannot be mitigated for and which could contribute to further declines in biodiversity in general. The report also recommends several habitat checking surveys which would be conditioned as a pre-commencement obligation.

The Council's Ecologist at the time was consulted and raised no objections at the time of consultation (December 2018) to the protected species surveys, subject to conditions requiring all of the mitigation options to be undertaken, and for the checking surveys (to include Habitat, breeding bird and Great Crested Newt and other amphibians).

Having regard to the contents of the report, and the comments from the Ecology Officer, it is considered that overall, the development will result in a net loss of biodiversity and does not strengthen ecological connectivity. The proposal does not demonstrate how this harm will be mitigated to provide and secure net gains for biodiversity for this site. Whilst it sets out several options for mitigation, it does not state which suite of measures would secure the net gain required or how the development as submitted, achieves the mitigation options listed. As a result, the proposal is contrary to Policy CS15 (Protecting and Enhancing Biodiversity and Geodiversity) of the Core Strategy and paragraph 175 of the NPPF.

## **Trees**

Saved Policy E12 (Trees and Development) of the Local Plan states that development proposals will be required to take full account of trees and hedgerows on and adjoining the site.

A Tree Survey undertaken by AJT Environmental Consultants (August 2018) was submitted in support of the application. The report assesses the species and condition of all trees to inform the proposed development and to allow appropriate mitigation to be implemented where necessary. In total five trees within the site were surveyed, with 12 trees offsite adjacent to the northern boundary, and three field boundary hedgerows.

The trees within the site range from approximately 25 to 40 years old and reflect the stages of development that have taken place within the site. The trees are located on or adjacent to the field boundary to the south of the site. A row of trees flanks the northern boundary outwith the site, with a play area and public open space with a path to the east and range from 25 to 75 years old with some younger saplings present. Most trees are surveyed as being in poor condition either due to growing conditions or lack of management with many light drawn and asymmetrical canopies.

As a collective whole, the trees on the boundaries of the site are of moderate amenity value, due to their combined effect of size, useful life expectancy and some importance of position in the landscape as viewed from a public vantage point. Individually, many are of poor form, small with short safe useful life expectancy and of limited value in the landscape as viewed from a public vantage point. Three trees are assessed as unsuitable for retention due to their condition and safe useful life expectancy. A large section of hedgerow would also need to be removed to accommodate the proposed access.

Overall the report concludes that the proposed development would not have a detrimental impact upon the trees and hedgerows to be retained, if the recommended mitigation works are undertaken to protect the trees and hedgerows from potential damage or harm during construction and safeguard their future survival. The report goes on to detail a Tree Protection Plan. Subject to appropriate planning conditions to secure adequate protection, the proposal is acceptable in respect of its impact on trees.

## **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.

## **THE PUBLIC-SECTOR EQUALITY DUTY**

In considering this application the Local Planning Authority has complied with Section 149 of the Equality Act 2010 which places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.

## CONCLUSION

The application site is located outside of the development limits and is contrary to Policy E2 (Development Limits) and H7 (Areas of Housing Development Restraint) of the Borough of Darlington Local Plan. In addition, the proposed development is considered to have a harmful impact on the character and appearance of the adjacent Sadberge Conservation Area, and the design and layout fails to have regard to the surrounding area, such that it would have a harmful impact on the character of the local area. The proposal would have an adverse impact on residential amenity, fails to demonstrate a satisfactory acoustic environment, fails to meet accepted highway design standards or demonstrate how the internal network will operate satisfactorily for all vehicles entering the site contrary to the policies set out in the Local Plan and the NPPF. The proposed development will result in an overall net loss of biodiversity and does not strengthen biodiversity and fails to demonstrate how this harm can be mitigated to secure net gains for biodiversity. There are no other material planning considerations to indicate that planning permission should be granted contrary to the development plan.

## RECOMMENDATION

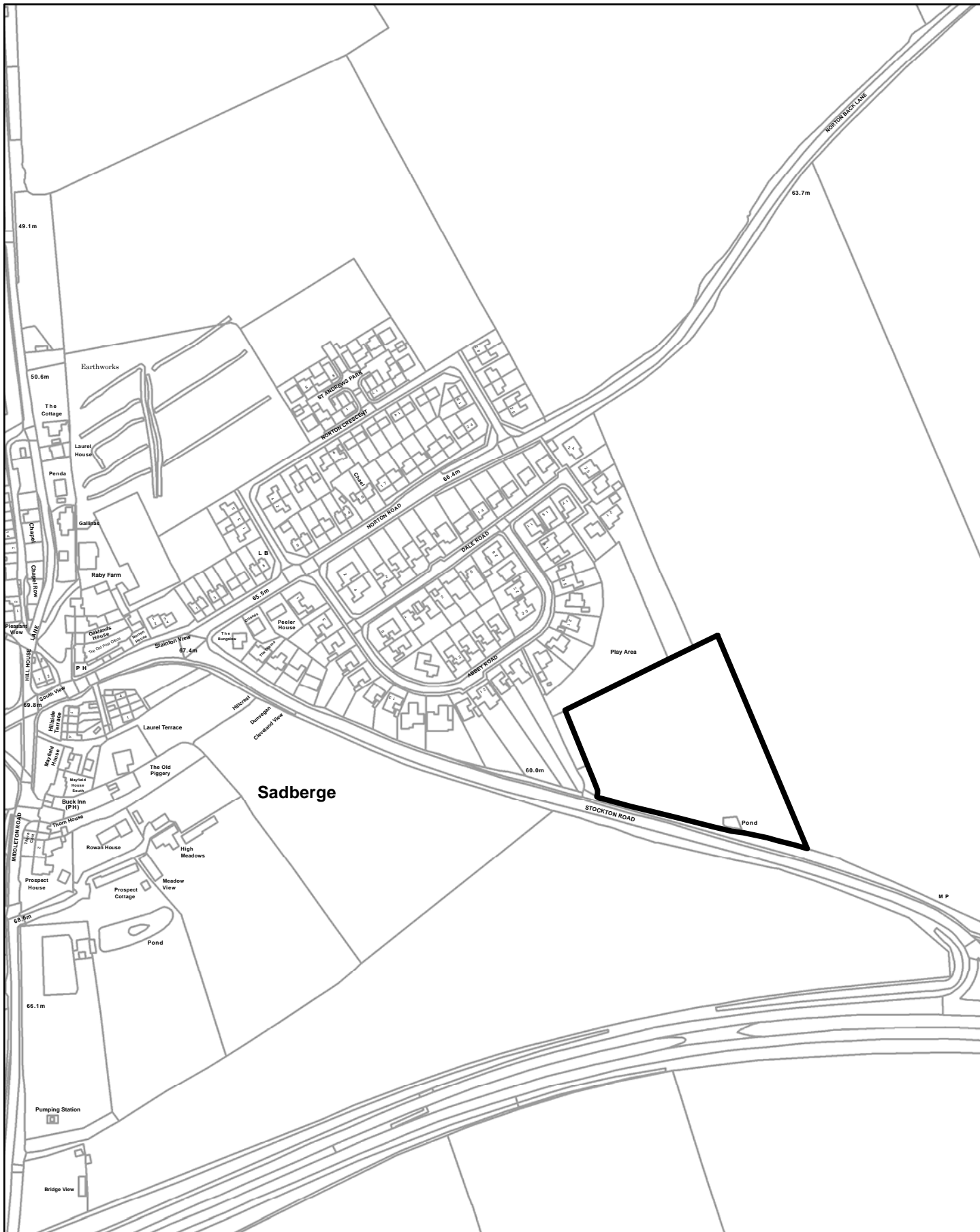
THAT PLANNING PERMISSION BE **REFUSED** FOR THE FOLLOWING REASONS:

1. The application site is located outside of the development limits as identified in the Borough of Darlington Local Plan 1997. The development limits are intended to maintain well defined settlement boundaries and safeguard the character and appearance of the countryside. The proposal is therefore considered to be contrary to Policy CS1 (Darlington's Sub-Regional Role and Locational Strategy) of the Darlington Core Strategy (2011), Saved Policy E2 (Development Limits) and Saved Policy H7 (Areas of Housing Development Restraint) of the Borough of Darlington Local Plan (1997).
2. The proposal would be harmful to the character and significance of the Sadberge Conservation Area by developing a site which contributes to its setting. The application site helps maintain the setting of the conservation area and provides a visible link to the surrounding countryside which is integral to the area's character. The proposal does not sustain or enhance the conservation area, nor does it make a positive contribution to its local character and distinctiveness. The proposal is therefore considered to be contrary Policy CS14 (Promoting Local Character and Distinctiveness) of the Darlington Core Strategy (2011) and Chapter 16 of the National Planning Policy Framework (2019). The Council does not believe that the harm to the Conservation Area is outweighed by the public benefits of the proposal.
3. The proposed design and layout does not reflect and / or enhance the natural, built and historic characteristics that positively contribute to the character of the local area and its sense of place, nor has it been informed by the Revised Design of New Development Supplementary Planning Document (2011). The proposal will cause harm to the character and appearance of the area and is contrary to policy CS2 (Achieving High Quality, Sustainable Design) and Policy CS14 (Promoting Local Character and Distinctiveness) of the Darlington Core Strategy (2011), would not contribute to or enhance the natural and local

environment by recognising the intrinsic beauty of the countryside (paragraph 170 of the National Planning Policy Framework (2019)) and is contrary to chapter 12 of the National Planning Policy Framework (2019).

4. The proposed dwellings, by reason of their scale, and position in relation to each other would result in an adverse impact on the residential amenity of occupants of the proposed scheme and would therefore be contrary to Policy CS2 (Achieving High Quality, Sustainable Design) of the Darlington Core Strategy (2011) and the Revised Design of New Development Supplementary Planning Document (2011) and paragraph 127 of the National Planning Policy Framework (2019).
5. The proposed access and internal highway layout fails to meet accepted design standards in respect of, car parking / driveways and carriageway geometry and the application does not demonstrate that the internal network will operate satisfactorily for all expected vehicles entering the development. The proposed development would thereby have an adverse impact on highway safety and would therefore be contrary to Policy CS2 (Achieving High Quality Sustainable Design) and CS19 (Improving Transport Infrastructure and Creating a Sustainable Transport Network) of the Darlington Core Strategy (2011) and chapter 9 of the National Planning Policy Framework (2019).
6. The application has provided insufficient information to demonstrate that the noise levels in the proposed garden areas closest to Stockton Road are within suitable criteria for outdoor recreational space and whether mitigation measures are needed to establish a suitable acoustic environment in all plots across the site. The proposal is therefore contrary to Policy CS16 (Protecting Environmental Resources, Human Health and Safety) of the Darlington Core Strategy (2011) and paragraph 127 of the National Planning Policy Framework (2019)
7. The proposed development will result in an overall net loss of biodiversity and does not strengthen biodiversity and fails to demonstrate how this harm can be mitigated to secure net gains for biodiversity. The proposal is contrary to Policy CS15 (Protecting and Enhancing Biodiversity and Geodiversity) of the Darlington Core Strategy (2011) and paragraph 170 and 175 of the National Planning Policy Framework (2019).
8. In the Council's judgement, there are no other material considerations sufficient to indicate that planning permission should be granted contrary to the development plan.



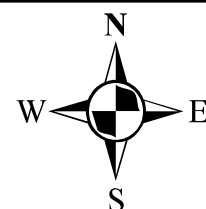


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**PLANNING REF No: 18/00994/FUL**

DARLINGTON BOROUGH COUNCIL

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**DARLINGTON BOROUGH COUNCIL****PLANNING APPLICATIONS COMMITTEE****COMMITTEE DATE: 16 October 2019****Page**

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<b>APPLICATION REF. NO:</b>	<b>19/00678/FUL</b>
<b>STATUTORY DECISION DATE:</b>	<b>16 September 2019</b>
<b>WARD/PARISH:</b>	<b>SADBERGE AND MIDDLETON ST GEORGE</b>
<b>LOCATION:</b>	<b>19A The Front Middleton One Row Darlington</b>
<b>DESCRIPTION:</b>	<b>Replacement of concrete driveway with heritage tumbled cobbled sets, installation of wrought iron handrails to steps leading to main entrance door and replacement of single pillar and wall with pair of brick pillars and timber double cross field gates (Additional information received 15th August 2019)</b>
<b>APPLICANT:</b>	<b>MR SIMON DAVISON</b>

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**APPLICATION AND SITE DESCRIPTION**

The application property is a Grade II listed end of terrace dwelling situated on The Front in Middleton One Row and within the Middleton One Row Conservation Area. To the west of the property is a shared access to the rear of the Devonport Public House and residential dwellings situated to the north, also serving as the access to the property itself.

Planning permission is sought for the following:

- The replacement of the driveway with heritage tumbled cobbled sets;
- The installation of wrought iron handrails at either side of the steps at the main entrance door at the side of the building;
- Replacement of single pillar and wall with a pair of brick pillars constructed of reclaimed brick and sandstone capping stones, and the erection of timber double cross field gates to the driveway entrance.

The supporting information submitted with the application states that the proposals are required to provide improvements to the safety of the shared driveway for the applicant's family and visitors to the property as well as users of the shared access in general. It states that the current configuration and materials of the driveway are past their best and need replacement. It states that the adjacent Devonport since its

refurbishment has brought an increase in the number of users of the access and that the proposal will increase the safety for children, pedestrians and vehicles.

A Heritage Statement has been submitted with the application which assesses the impact of the proposals on the significance of Heritage Assets.

A separate application for Listed Building Consent for the proposed works, has been submitted and is dealt with elsewhere on this agenda.

**Application documents including Heritage statement, plans, consultation responses, representations received, and other background papers are available on the DBC website.**

### **PLANNING HISTORY**

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

84/00215/DM – In May 1984 planning permission was granted for the erection of a porch to the side.

87/00578/LBC – In January 1988 Listed Building Consent was granted for the replacement of front door and surrounds.

07/00492/LBC – In September 2007 Listed Building Consent was granted for the replacement of a door and 6 No. windows to the side and rear elevations.

### **PLANNING POLICY BACKGROUND**

The following policies are relevant to consideration of the application:

#### **Darlington Core Strategy (2011)**

- 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)

### **RESULTS OF CONSULTATION AND PUBLICITY**

Three objections have been received and the main points raised are summarised below;

- *The area in question has a long-established right of access with the adjacent hotel (The Devonport);*
- *The applicant has allegedly been stopping / challenging vehicles legitimately using this access to the hotel and there is concern that the proposal is a device to restrict access to the alleyway, both giving the impression that it is not an access, and have heavy barrier, that would have to be moved for those wishing*

*to legitimately gain access to the established hotel car park, making access difficult;*

- *The resultant potential increased parking on the Front would impact on this important greenspace for the village;*
- *It will impact the Devonport which is a valuable social and economic amenity to the village;*
- *The gateposts, gate and solid wall come out on a footpath that passes the front and will obscure vision for cars coming to this point and pedestrians passing; This is a busy path for people coming to / from the hotel / pub and general pedestrian traffic and represents a safety hazard;*
- *There are three properties to the rear of the Devonport and 19A The Front. This is the only possible access for large vehicles, such as emergency services and refuse collection wagons for them;*
- *Would the proposed cobbles be robust enough to handle regular use and also heavy vehicles?*
- *This is currently a straight access road but is already a tight access. The proposed gate posts and gates would limit the entry access and width and put a dog-leg in, making it difficult for longer, larger vehicles to navigate. It is essential to have access for large vehicles;*
- *The proposed handrails to the edge of the steps would reduce the airspace for larger vehicles to pass, on what would already be more difficult to navigate, given the planned gateposts and gates resulting in the dog leg mentioned above.*

**Middleton St George Parish Council** has objected to the proposals, raising the following concerns:

- *Whilst the proposals include features which could be viewed as to enhance the appearance of the area, the Parish Council has serious concerns on issues which would constitute material grounds for objection and as such outweigh the proposed benefits;*
- *Fully support the concerns raised by residents, together with the information they supplied in their letters and comments;*
- *The gates being there would narrow the opening, making deliveries to the rear difficult, and would also discourage use of the customer and resident car parking to the rear; This in turn would cause customers to park on the roadside all along the Front, as they would have nowhere else to go;*
- *On popular evenings the number of cars parked can be considerable, and we would not want to see this because of the proposals in this application;*
- *The Devonport has a right of way through the cut; The applicant is seeking to establish the cut as his private driveway;*
- *The applicant wishes to restrict access with gates, which he confusingly states will only be closed (but not locked) after 2300 hours which is at odds with his argument that they are to stop anti-social behaviour emanating from the hotel which will be about to close at this time (if not already);*
- *The applicant states that the Devonport can easily use the opposite end way for their access to the rear but in practice this is a very narrow opening which is difficult for cars never mind any size of delivery vehicle; We would dispute the applicants statements that imply that this is an easy access, but in any even the*

*existence of an alternative does not mean that the Devonport should give up their right of way in front of 19A;*

- The applicant lays emphasis on improving the safety of the use of the way and claims that excessive speed is a factor; We understand that the Devonport have offered to pay for speed bumps and any other safety improvements to allay fears, but the applicant has refused to consider this as an option;*
- The application should be refused, and the applicant should be encouraged to work more closely with the Devonport management to come up with a solution to his fears around safety and unsociable behaviour.*

The Council's Highways Officer has been consulted and has raised no objections to the proposed development.

## **PLANNING ISSUES**

The issues for consideration are whether the proposed alterations are acceptable in the context of their impact on the significance of the application property, being a Grade II listed building and on the character and appearance of the Middleton One Row Conservation Area, and whether the proposal raises any issues in respect of highway safety or residential amenity.

### **Impact on Heritage Assets**

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that, when dealing with planning applications affecting listed buildings, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural interest which it possesses.

There is a general duty under section 72 of the Planning (Listed Building and Conservation Areas) Act 1990 to ensure that, in determining applications in Conservation Areas, special attention be paid to the desirability of preserving or enhancing the character or appearance of that area.

Paragraph 192 of the National Planning Policy Framework requires that local planning authorities should take account of the desirability of new development making a positive contribution to local character and distinctiveness. Paragraph 200 of the NPPF also requires that local planning authorities should look for opportunities for new development within Conservation Areas and within the setting of heritage assets to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset should be treated favourably.

Paragraph 196 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

Core Strategy Policy CS2 (Achieving High Quality, Sustainable Design) states that high quality, safe, sustainable and inclusive design will be promoted in all new developments. All development proposals should reflect and/or enhance Darlington's

distinctive nature, built and historic characteristics that positively contribute to the character of the local area and its sense of place.

Policy CS14 (Promoting Local Character and Distinctiveness) requires that the distinctive character of the Borough's townscapes, landscapes and strong sense of place will be protected and enhanced by protecting, enhancing and promoting the quality and integrity of the Borough's nationally significant built heritage (listed buildings) and buildings and their settings within Conservation Areas.

The proposed cobbled sets are appropriate in terms of proposed materials and appearance and would be an overall improvement to the current concrete driveway and does not harm the setting of this Grade II listed building or the character or appearance of the Middleton One Row Conservation Area. The proposed wrought iron handrails are appropriate in terms of materials and appearance and are an appropriate addition to this Grade II Listed Building and do not harm the character or appearance of the Middleton One Row Conservation Area. The proposed replacement pillars and timber double cross field gates are appropriate in terms of materials and appearance and are an appropriate addition to this Grade II Listed Building and do not harm the character or appearance of the Middleton One Row Conservation Area.

Collectively, the proposals do not harm the significance of heritage assets and are acceptable in terms of their design and appearance.

### **Highway Safety**

Several concerns have been raised regarding highway safety and the impact that the proposal would have both on customer parking and deliveries for the adjacent Devonport restaurant / public house.

The Highways Officer was consulted and confirms that as the gates and proposed entrance do not directly front adopted highway as the road directly to the front of the buildings is private, and the type of gate used would not adversely impact the safety of other drivers and pedestrians, and open inwards, the proposal raises no highway safety concerns. The Highways Officer has therefore raised no objections to the proposal.

In addition, the applicant has provided Vehicle Swept Path Analysis, undertaken by a qualified professional consultancy. The submitted vehicle tracking has been checked by the Council's Highways Officer and demonstrates that the site is accessible both before and on completion of the development proposal. It demonstrates that the additional of the gate makes no material difference to the width of the route.

It is noted that delivery vehicles are using the route to service the Devonport, together with customers, who may park to the rear of the Devonport, and the proposal allows these arrangements to continue and does not impact on the alternative access to the western side of the Devonport. It is acknowledged that the proposal introduces a slight inconvenience to users of the access in that drivers will be required to open the gate before entering, however in the absence of any highway safety concerns, this is not a reason to refuse planning permission.

### **Residential Amenity**

The proposal raises no issues in respect of its impact on the residential amenities of existing residents

**Other matters**

The issue of a restrictive covenant was raised by objectors. As confirmed in the National Planning Practice Guidance, (Paragraph 005), land ownership, including any restrictions that may be associated with land, is not a planning matter. This issue therefore cannot be considered in the determination of this planning application.

**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.

**THE PUBLIC-SECTOR EQUALITY DUTY**

In considering this application the Local Planning Authority has complied with Section 149 of the Equality Act 2010 which places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.

**CONCLUSION**

The proposed alterations are not considered to harm the setting of this Grade II listed building or the character and appearance of the Middleton One Row Conservation Area. The proposal does not give rise to highway safety concerns or impact on residential amenity. Subject to the conditions listed below, the proposal is considered to comply with Policies CS2 (Achieving High Quality, Sustainable Design) and CS14 (Promoting Local Character and Distinctiveness) of the Darlington Core Strategy (2011) and the requirements of the National Planning Policy Framework (2019).

**RECOMMENDATION**

THAT PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:

1. A3 Implementation Limit (3 years)
2. B4 Details of materials
3. The development hereby permitted shall be carried out in accordance with the approved plans as detailed below:

002-19-07-2019 Proposed alterations to front door steps to 19A The Front

003-19-07-2019 Proposed alterations to 19A The Front Driveway

004-19-07-2019 Proposed alterations to 19A The Front Driveway Entrance



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

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

**National Planning Policy Framework (2019)**

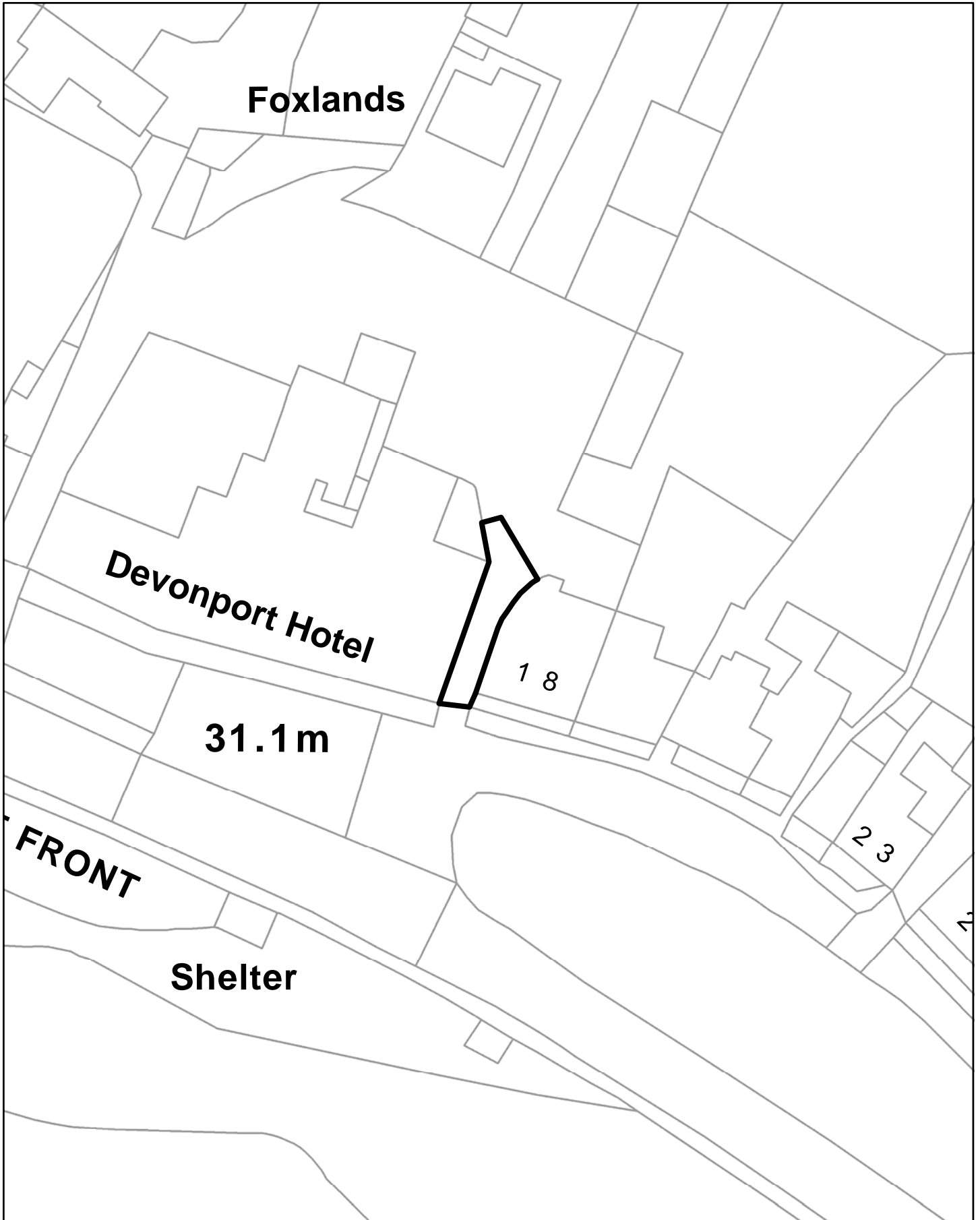
**Darlington Core Strategy (2011)**

CS2 – Achieving High Quality, Sustainable Design

CS14 – Promoting Local Character and Distinctiveness

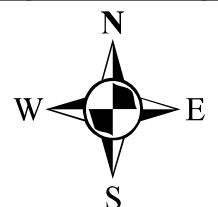
CS16 – Protecting Environmental Resources, Human Health and Safety

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**PLANNING REF No: 19/00678/FUL**



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## DARLINGTON BOROUGH COUNCIL

### PLANNING APPLICATIONS COMMITTEE

**COMMITTEE DATE: 16 October 2019**

**Page**

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<b>APPLICATION REF. NO:</b>	<b>19/00679/LBC</b>
<b>STATUTORY DECISION DATE:</b>	<b>16 September 2019</b>
<b>WARD/PARISH:</b>	<b>SADBERGE AND MIDDLETON ST GEORGE</b>
<b>LOCATION:</b>	<b>19A The Front Middleton One Row Darlington</b>
<b>DESCRIPTION:</b>	<b>Listed Building Consent for the replacement of concrete driveway with heritage tumbled cobbled sets, installation of wrought iron handrails to steps leading to main entrance door and replacement of single pillar and wall with pair of brick pillars and timber double cross field gates (Additional information received 15th August 2019)</b>
<b>APPLICANT:</b>	<b>MR SIMON DAVISON</b>

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#### **APPLICATION AND SITE DESCRIPTION**

The application property is a Grade II listed end of terrace dwelling situated on The Front in Middleton One Row and within the Middleton One Row Conservation Area. To the west of the property is a shared access to the rear of the Devonport Public House, and residential dwellings situated to the north, also serving as the access to the property itself.

Listed Building Consent is sought for the following:

- The replacement of the driveway with heritage tumbled cobbled sets;
- The installation of wrought iron handrails at either side of the steps at the main entrance door at the side of the building;
- Replacement of single pillar and wall with a pair of brick pillars constructed of reclaimed brick and sandstone capping stones, and the erection of timber double cross field gates to the driveway entrance.

A Heritage Statement has been submitted with the application which assesses the impact of the proposals on the significance of this Grade II listed building.

A separate application for planning permission for the proposed works, has been submitted and is dealt with elsewhere on this agenda.

**Application documents including Heritage statement, plans, consultation responses, representations received, and other background papers are available on the DBC website.**

## **PLANNING HISTORY**

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

84/00215/DM – In May 1984 planning permission was granted for the erection of a porch to the side.

87/00578/LBC – In January 1988 Listed Building Consent was granted for the replacement of front door and surrounds.

07/00492/LBC – In September 2007 Listed Building Consent was granted for the replacement of a door and 6 No. windows to the side and rear elevations.

## **PLANNING POLICY BACKGROUND**

The following policies are relevant to consideration of the application:

### **Darlington Core Strategy (2011)**

- CS2 – Achieving High Quality, Sustainable Design
- CS14 – Promoting Local Character and Distinctiveness.

National Planning Policy Framework (2019)

## **RESULTS OF CONSULTATION AND PUBLICITY**

One objection has been received and the main points raised are summarised below;

- *The area in question has a long-established right of access with the adjacent hotel (The Devonport);*
- *The applicant has allegedly been stopping / challenging vehicles legitimately using this access to the hotel and there is concern that the proposal is a device to restrict access to the alleyway, both giving the impression that it is not an access, and have heavy barrier, that would have to be moved for those wishing to legitimately gain access to the established hotel car park, making access difficult;*
- *The resultant potential increased parking on the Front would impact on this important greenspace for the village;*
- *It will impact the Devonport which is a valuable social and economic amenity to the village;*
- *The gateposts, gate and solid wall come out on a footpath that passes the front and will obscure vision for cars coming to this point and pedestrians passing; This is a busy path for people coming to / from the hotel / pub and general pedestrian traffic and represents a safety hazard;*

- *There are three properties to the rear of the Devonport and 19A The Front. This is the only possible access for large vehicles, such as emergency services and refuse collection wagons for them;*
- *Would the proposed cobbles be robust enough to handle regular use and also heavy vehicles?*
- *This is currently a straight access road but is already a tight access. The proposed gate posts and gates would limit the entry access and width and put a dog-leg in, making it difficult for longer, larger vehicles to navigate. It is essential to have access for large vehicles;*
- *The proposed handrails to the edge of the steps would reduce the airspace for larger vehicles to pass, on what would already be more difficult to navigate, given the planned gateposts and gates resulting in the dog leg mentioned above.*

**Middleton St George Parish Council** has objected to the proposals, raising the following concerns:

- *Whilst the proposals include features which could be viewed as to enhance the appearance of the area, the Parish Council has serious concerns on issues which would constitute material grounds for objection and as such outweigh the proposed benefits;*
- *Fully support the concerns raised by residents, together with the information they supplied in their letters and comments;*
- *The gates being there would narrow the opening, making deliveries to the rear difficult, and would also discourage use of the customer and resident car parking to the rear; This in turn would cause customers to park on the roadside all along the Front, as they would have nowhere else to go;*
- *On popular evenings the number of cars parked can be considerable, and we would not want to see this because of the proposals in this application;*
- *The Devonport has a right of way through the cut; The applicant is seeking to establish the cut as his private driveway;*
- *The applicant wishes to restrict access with gates, which he confusingly states will only be closed (but not locked) after 2300 hours which is at odds with his argument that they are to stop anti-social behaviour emanating from the hotel which will be about to close at this time (if not already);*
- *The applicant states that the Devonport can easily use the opposite end way for their access to the rear but in practice this is a very narrow opening which is difficult for cars never mind any size of delivery vehicle; We would dispute the applicants statements that imply that this is an easy access, but in any even the existence of an alternative does not mean that the Devonport should give up their right of way in front of 19A;*
- *The applicant lays emphasis on improving the safety of the use of the way and claims that excessive speed is a factor; We understand that the Devonport have offered to pay for speed bumps and any other safety improvements to allay fears, but the applicant has refused to consider this as an option;*
- *The application should be refused, and the applicant should be encouraged to work more closely with the Devonport management to come up with a solution to his fears around safety and unsociable behaviour.*

## PLANNING ISSUES

The issues for consideration are whether the proposed alterations are acceptable in the context of their impact on the significance of the application property, being a Grade II listed building.

Section 16 (2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on the Local Planning Authority that, in considering whether to grant listed building consent for any works, special regard shall be had to the desirability of preserving the building or its setting of any features of special architectural or historic interest which it possesses.

Paragraph 192 of the National Planning Policy Framework requires that local planning authorities should take account of the desirability of new development making a positive contribution to local character and distinctiveness. Paragraph 200 of the NPPF also requires that local planning authorities should look for opportunities for new development within Conservation Areas and within the setting of heritage assets to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset should be treated favourably.

Paragraph 196 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

Core Strategy Policy CS2 (Achieving High Quality, Sustainable Design) states that high quality, safe, sustainable and inclusive design will be promoted in all new developments. All development proposals should reflect and/or enhance Darlington's distinctive nature, built and historic characteristics that positively contribute to the character of the local area and its sense of place.

Policy CS14 (Promoting Local Character and Distinctiveness) requires that the distinctive character of the Borough's townscapes, landscapes and strong sense of place will be protected and enhanced by protecting, enhancing and promoting the quality and integrity of the Borough's nationally significant built heritage (listed buildings) and buildings and their settings within Conservation Areas.

The proposed cobbled sets are appropriate in terms of material and appearance and would be an overall improvement to the current concrete driveway. The proposed wrought iron handrails are appropriate in terms of material and appearance and are an appropriate addition to this Grade II Listed Building. The proposed replacement pillars and timber double cross field gates are appropriate in terms of materials and appearance and are an appropriate addition to this Grade II Listed Building.

Collectively, the proposals do not harm the significance of the Listed Building and are acceptable in terms of their design and appearance.



**Other matters**

The other matters raised regarding the proposed gates, and the safety of the access are not relevant in the determination of this Listed Building application.

**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.

**THE PUBLIC-SECTOR EQUALITY DUTY**

In considering this application the Local Planning Authority has complied with Section 149 of the Equality Act 2010 which places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.

**CONCLUSION**

The proposed alterations are not considered to harm the significance of this Grade II listed building. Subject to the conditions listed below, the proposal is considered to comply with Policies CS2 (Achieving High Quality, Sustainable Design) and CS14 (Promoting Local Character and Distinctiveness) of the Darlington Core Strategy Development Plan Document 2011 and the requirements of the National Planning Policy Framework 2012 (NPPF).

**RECOMMENDATION**

THAT LISTED BUILDING CONSENT BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:

1. A5 (Standard 3-year time limit – listed building consent)
2. B4 Details of materials
3. The development hereby permitted shall be carried out in accordance with the approved plans as detailed below:

002-19-07-2019 Proposed alterations to front door steps to 19A The Front

003-19-07-2019 Proposed alterations to 19A The Front Driveway

004-19-07-2019 Proposed alterations to 19A The Front Driveway Entrance

REASON – To ensure the development is carried out in accordance with the Listed Building Consent.

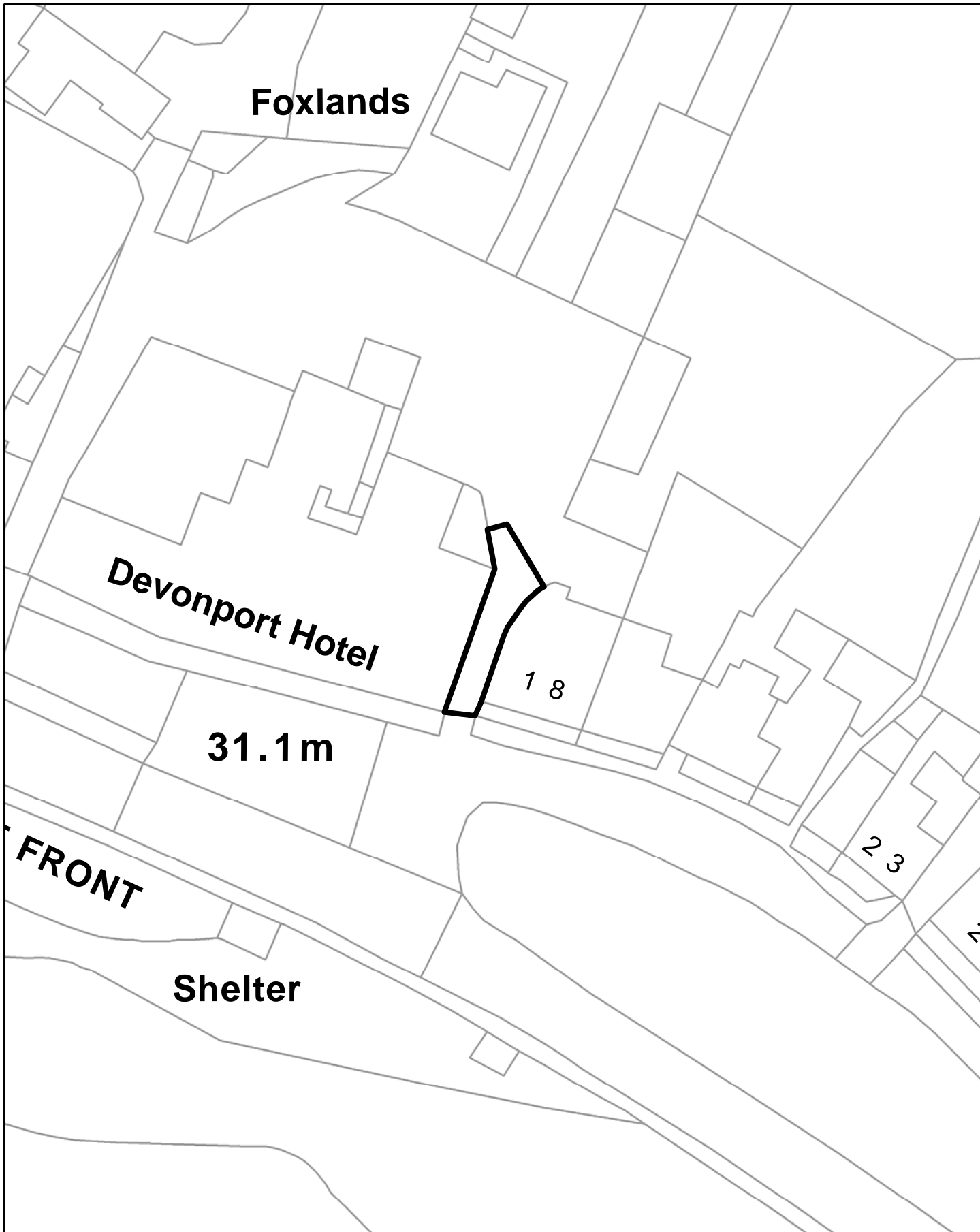
**THE FOLLOWING POLICIES AND DOCUMENTS WERE TAKEN INTO ACCOUNT IN CONSIDERATION OF THE APPLICATION:**

**National Planning Policy Framework (2019)**

**Darlington Core Strategy (2011)**

CS2 – Achieving High Quality, Sustainable Design

CS14 – Promoting Local Character and Distinctiveness.

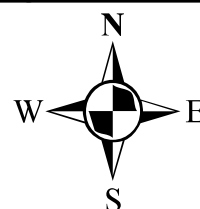


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**PLANNING REF No: 19/00679/LBC**

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**DARLINGTON BOROUGH COUNCIL****PLANNING APPLICATIONS COMMITTEE****COMMITTEE DATE: 16<sup>th</sup> October 2019**

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<b>APPLICATION REF.</b>	19/00515/FUL
<b>STATUTORY DECISION DATE:</b>	1 <sup>st</sup> AUGUST 2019
<b>WARD/PARISH:</b>	HARROWGATE HILL
<b>LOCATION:</b>	Allotment Garderns, Glebe Road, Darlington
<b>DESCRIPTION:</b>	Installation of mains connected portable toilet with timber pergola to provide screening (amended description and additional plan received 22/07/19)
<b>APPLICANT:</b>	Glebe Road Allotment Association

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**APPLICATION AND SITE DESCRIPTION**

The application site comprises of existing allotment gardens accessed off Glebe Road to the north of Darlington. The site is surrounded by residential properties to the south and east, which are separated from the site by a variety of boundary treatments, and by open countryside to the north and west.

Planning permission is sought to site a portable toilet building with a cold water sink in the southern corner of the application site. The toilet is to be sited between and existing container building and timber shed. The portable toilet is to be connected to the existing sewage system and does not require a mains power supply. It is to measure approximately 2.33m (H), 1.22m (W) and 1.2m (D) and in response to concerns regarding the visual impact of the toilet building it is to be screened by a 2.4 metre high timber pergola.

If is for the use of allotment holders only and not for members of the general public.

**PLANNING HISTORY**

No previous planning history.

**RESULTS OF CONSULTATION AND PUBLICITY**

Letters were sent to occupiers of neighbouring properties advising of the proposal.

**Three letters** were submitted objecting to the application before the description was amended to 'Installation of mains connected portable toilet' and the plan received detailing the timber pergola which will provide screening . However, the comments can be summarised as follows:-

- *Close proximity to residential properties on Poppy Close*
- *Strong wind blows from the direction of the allotments, object to the likelihood of unpleasant smells from the portable toilet being blown into my garden and property*
- *wind speeds are considerable due to open fields raises issues in regards to the stability of the toilet*
- *Object to looking out of my house and seeing a toilet at the rear of my house*
- *Object to viewing a portable toilet from my windows and every time I leave my property*
- *Proposal is for a portaloo why is sewage access necessary, will sewage access involve excavations on Poppy Close*
- *Allotments are located on a large site with two of the boundaries not near residential properties, the toilet would be better located in the opposite corner away from residential properties*
- *More suitable location on site away from residents*
- *Large site area, two of the boundaries are not near residential properties, moving the location of the toilet to the opposite corner of the site away from residential housing would not impact people living nearby*

**Four letters** were submitted supporting the application, the comments can be summarised as follows:-

- Mains connected therefore no smells
- Unit will not be visible from outside the allotment site as it will be hidden by tall hedging, wood panelling and planting
- Toilet needs to be in this location due to closeness to existing sewer connection
- On site toilet is a necessity for tenants who do not live close to site and for tenants ranging in age from young to old and for those who have learning disabilities
- The Links (Day Service for Adults with Learning Disabilities) attendees currently have to walk to the Gateway Hall on Salters Lane supported by staff to use the toilet facilities which restricts some attendees from using the project which disrupts the session
- Cleanliness will be maintained by allotment users
- To have the toilet on site will open opportunities to involve more people in their local community which will build confidence, skills and social connections
- There will be no smell as the toilet is going to be connected to the mains sewer by an authorised contractor therefore there will be no smell wherever the toilet is located
- A pergola will be erected surrounding the toilet which will have flowers growing up over the top making the toilet enclosure more pleasing to the eye and in keeping with the surrounding area
- No toilet facilities on site is far from ideal for female allotment holders as well as men

- One allotment plot is managed by an adult assisted care home, they would be able to spend more time at the allotment during the day.
- Live on the other side of Darlington (approx. 15/20 minutes away), not ideal to make a round trip just to go to the toilet
- Other allotment sites within the town have toilet facilities
- Invaluable to allotments tenants, especially the elderly who have time to spend long periods of time there
- Proposal needs to be passed for allotment tenants who have weak bladders

The Council's **Environmental Health Officer** has raised no objections to the proposal as odours are not expected to be a problem due to the specification of the proposed toilet, provided that the toilet is maintained.

**Northumbrian Water** will work with the applicant to establish assests on site (trunk main and two sewers) to ensure proposed structure will not built over or close to their apparatus.

The Council's **Estates Department** have raised no objections from a mangament point of view as the proposed screening will disguise the proposed toilet and no 'nuisance' will be created as long as the screening remains in place.

## **PLANNING POLICY BACKGROUND**

### **Borough of Darlington Local Plan 1997**

Saved Policy E3 – Protection of Open Land

### **Darlington Core Strategy Development Plan Document 2011**

Policy CS2 – Achieving High Quality, Sustainable Design

Policy CS16 – Protecting Environmental Resources, Human Health and Safety

## **PLANNING ISSUES**

The main issues relevant to consideration of this application are considered to be the impact of the proposal on the visual and residential amenity of the surrounding area.

### **Impact on the Character and Appearance of the Surrounding Area**

The site is allocated as Open Land within the proposals map accompanying the Borough of Darlington Local Plan. Saved Policy E3 (Protection of Open Land) states that in considering propoals to develop any aras of open land within the urban development limit, the Council will seek to maintain the usefulness and ehance the appearance and nature conservation interest of the open land system as a whole. In particular, permission will not be granted for development which inflicts material net harm on the visual relief afforded by the system in built-up areas; or on the character and appearance of the locality through loss of openness and greenery.

Core Strategy Policy CS2 states that high quality, safe, sustainable and inclusive design will be promoted in all new developments.

The proposed toilet will be sited between an existing shipping container and timber shed in the southern corner of the site. In this location, the siting of a modest building,

surrounded by existing buildings, on the periphery of the allotment site, the proposal will not have an impact on the open land network and as such complies with the requirements of Saved Policy E3.

From views outside of the site the proposed toilet would be screened by residential development on Poppy Close to the east, and on Maple Road and Birch Road to the south. The proposal is therefore considered to comply with Policy CS2 in this regard.

### **Impact on Residential Amenity**

The proposed toilet would be sited in the southern corner of the allotment site in close proximity to residential properties to the south and east. The toilet would be approximately 20 metres from the nearest property to the south and 16 metres from the nearest property to the east. Concerns have been expressed regarding the visibility of the toilet from the adjacent residential properties and odour.

Saved Policy CS16 (Protecting Environmental Resources, Human Health and Safety) states that new development should ensure that proposals will have no detrimental impact on the environment or the general amenity and health and safety of the community.

The proposed toilet would be sited on the opposite side of the garden fences to the rear of 24 and 26 Maple Road, to the south, approximately 20 metres from the rear of these properties. The existing steel container and proposed toilet would be sited adjacent to a 1.6 metre high timber fence enclosing a driveway and parking area to 31 Poppy Close to the east.

The allotment site is set much lower than the residential development and the existing shipping container and timber shed are the same height as the existing fencing and are further screened by shrubbery and hedgerow. In response to concerns about the toilet being visible from outside of the allotment site, the plans have been amended to include a 2.4 metre high timber pergola screen. The proposed toilet will become more visible in the winter time when the surrounding shrubbery and hedgerow dies back, however, the toilet will still be screened by the existing timber fencing, the shipping container and the timber shed and will not be unduly visible in the immediate locality. Nor would it have an unacceptable impact upon the amenities of neighbours in terms of loss of light, outlook or privacy.

The applicant has advised that it is not possible to site the toilet in an alternative location on the site as it is to be connected to an existing sewerage connection located in the south east corner of the site. The allotment committed have chosen to have a mains connected toilet rather than a compostable toilet because of the odours and other problems they might cause.

The Environmental Health Officer has confirmed that as the toilet will be connected to the main sewerage system, 'odours' will not be a problem provided the toilet is maintained. The proposal is therefore considered to comply with Policy CS16 in this regard.

### **THE PUBLIC SECTOR EQUALITY DUTY**



In considering this application the Local Planning Authority has complied with Section 149 of the Equality Act 2010 which places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.

## **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**

Whilst acknowledging that the immediate neighbouring properties are in close proximity, the toilet will be screened by the storage container, timber fencing, hedgerow and planting which runs along the eastern boundary. The Environmental Health Officer has raised no objection due to the specification of the proposed toilet, provided that the toilet is maintained. As such the toilet is not considered to have an unacceptable impact on the visual and residential amenity of the surrounding and thereby complies with Saved Local Plan Policy E3 and Core Strategy Policies CS2 and CS16.

## **RECOMMENDATION**

THAT PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS :

1. A3 (Standard 3 year time limit)
2. The development shall be carried out in complete accordance with the approved plan(s) as detailed below:

Portaloo Installation Floor Plan Drawing Ref. Plan 1A dated 9 July 2019  
Portaloo Installation Elevation Plan Drawing Ref. Plan 1B dated 9 July 2019  
Portaloo Installation Elevations inc. Pergola Plan Drawing Ref. GRAA dated 19 July 2019

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

3. The timber screening shall remain in place and shall be maintained in accordance with approved plans for the lifetime of the development hereby approved.

REASON - To protect the amenities of the neighbouring residential properties.

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

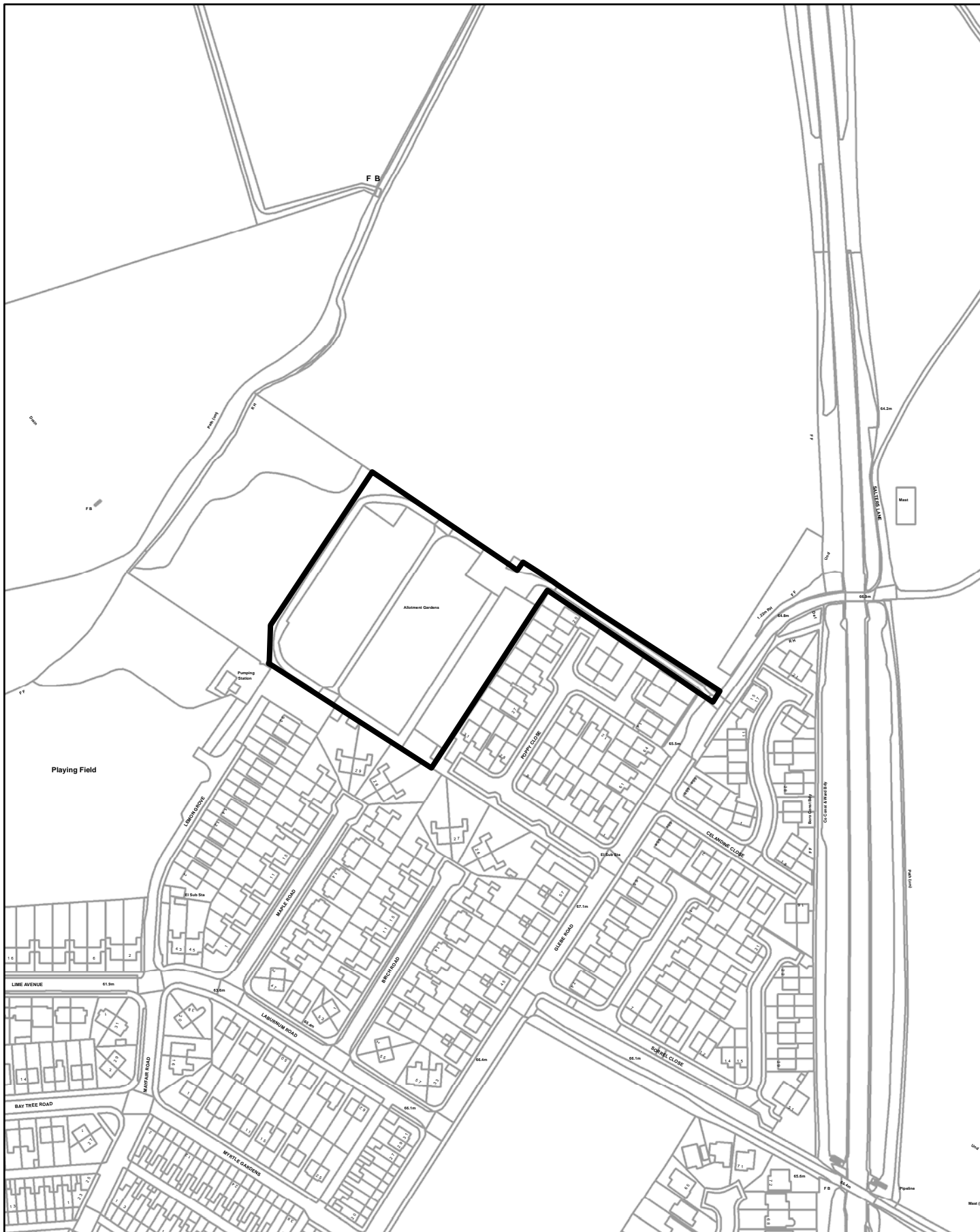
**Borough of Darlington Local Plan 1997**

Policy E3 – Protection of Open Land

**Darlington Core Strategy Development Plan Document 2012**

CS2 - Achieving High Quality Sustainable Design

CS16 - Protecting Environmental Resources, Human Health and Safety

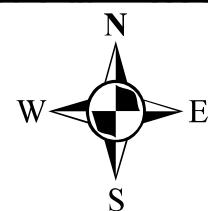


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**PLANNING REF No: 19/00515/FUL**

DARLINGTON BOROUGH COUNCIL

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

**COMMITTEE DATE: 16<sup>th</sup> October 2019**

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<b>APPLICATION REF. NO:</b>	19/00727/FUL
<b>STATUTORY DECISION DATE:</b>	26 <sup>th</sup> September 2019
<b>WARD/PARISH:</b>	GREAT BURDON
<b>LOCATION:</b>	South View, The Green, Great Burdon.
<b>DESCRIPTION:</b>	Rear and single storey side extension along with erection of two storey front extension with single storey porch and property facades to be a mix of render, brick and timber cladding.
<b>APPLICANT:</b>	Mr Willis

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**APPLICATION AND SITE DESCRIPTION**

The application site lies off the main A1150 which runs towards the A66, set back off The Green in its own grounds. The property is a modern mid 1970s house of no particular architectural merit, but lies adjacent a Grade II Listed Building known as Blacksmiths Cottage to the east. Other dwellings nearby are of a variety of designs and styles and are described within the submitted Heritage Statement.

The proposal is for a single storey extension to the side and rear of the property with a mixture of velux windows, bi-fold door and windows, creating a link to the gardens and surrounding area, this would not be visible to the public. This extension, together with an existing lean-to extension to the rear of the property, is to have a render finish. Planning permission was granted in 2017 (17/00943/FUL) and 2018 (18/00957/FUL) for the erection of a single storey extension, of a similar scale to that now proposed. This application proposed changes to the fenestration details and material finish of the extension.

It is also proposed to erect two shallow, two-storey gable fronted extensions to the front of the property linked by a lean-to porch over the front door. These extensions are to be constructed of brick. The plans have been amended, in response to the Conservation Officer's concerns, to omit the cladding of the first floor of the property above the proposed porch with timber. This will be retained as brick with a smaller arched window installed.

**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:

74/00131/DM Granted 23.10.1974 Proposed single storey dwelling (outline).

74/00658/DM Refused 19.03.1975 Erection of two detached bungalows at the rear.

75/00729/MISC Granted 21.01.1976 Erection of an extension to form additional bedroom area

79/00357/MISC Granted 20.06.1979 Erection of a first floor balcony at the front.

07/01005/FUL Refused 03.06.2008 Demolition of existing dwelling and erection of 3 No. houses and 2 No.bungalows with link garages

17/00943/FUL Granted 13.12.2017 Erection of single storey extension to side elevation and addition of pitched roof to existing detached double garage incorporating storage area in roof space.

18/00957/FUL Granted 17.12.2018 Erection of single storey extension to side elevation and addition of pitched roof to existing detached double garage.

## **RESULTS OF CONSULTATION AND PUBLICITY**

Following the Council's publicity exercises relating to the original submission, two letters of objection were received:

The letters of objection can be summarised as follows:

- Property will impact on nearby Listed Building
- Dwelling will be out of context with other buildings nearby
- Extension too large

## **Consultee Responses**

The **Parish Council** Object to design of the front elevation changes.

The **Council's Conservation Officer** has commented as follows :

The proposal seeks to remodel what is a quite mediocre and lacklustre building form and principle elevation through the introduction of a new elevational treatment that will introduce a pair of storied bays, which will project slightly forward from the current building line and flank and entrance bay with a lean-to entrance porch. The scheme will also

introduce a single storey wing, recessed well back on the western end. The new frontage will have a more forceful physical massing but one with a slightly more elegant vertical and horizontal balance to its front. I am not convinced that the use vertical boarding above the porch in the recessed bay is contextually appropriate and I would wish to encourage the removal of the large rooflights proposed for the front roof pitch of the extension, given that such features are not prevalent in the adjacent building groups that front the village green.

I support the broad principle of the proposal but would request that design mitigation be employed to reduce the impact of the proposal on the setting of the listed building, so that it would more clearly meet the NPPF Paragraph 190 requirement “to avoid or minimise any conflict between the heritage asset’s conservation and any aspect of the proposal.

The **Council’s Highways Engineer** has raised no objections.

The **County Archaeologist** Comments : As the works are in the historic core of Great Burdon, there is the potential for archaeological remains to be disturbed. As the footprint of the development is relatively small, I would advise that a watching brief would allow any disturbed remains to be recorded. This can be secured with conditions.

## **PLANNING POLICY BACKGROUND**

The relevant local and national development plan policies are:

### **Borough of Darlington Local Plan 1997**

Saved Policy H12 – Alterations and Extensions to existing Dwellings

### **Darlington Core Strategy Development Plan Policy 2011**

Policy CS14 – Promoting Local Character and Distinctiveness

### **National Planning Policy Framework 2019**

## **PLANNING ISSUES**

The main issues to be considered are:

- Impact on designated and non-designated heritage assets and locality in general.
- Impact on residential amenity.

### **Impact on Designated and Non-Designated Heritage Assets and Locality in General**

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires local planning authorities to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses.

Paragraph 196 of the NPPF requires the public benefits of the proposal, including securing the optimum viable use of the asset where appropriate, to be weighed against the harm caused, in this instance by the extension and alteration of an adjacent dwelling.

The main impact of the proposal on the adjacent listed building would be from the extensions and alterations to the front of the property. The proposed side extension would largely be screened from public view by existing trees on the boundary of the application site and also by the adjacent properties to the west, 9 and 10 Foxhill Lodge, which sits forward of the side of the application property. Planning permission has already been granted for the erection of an extension of a similar scale in this location and in view of these mitigating factors it is not considered that the proposed changes to the fenestration and materials would have a significant impact on the character and appearance of the surrounding area or upon the setting of the adjacent Grade II listed building.

The proposed extensions to the front comprise two shallow, approximately 0.75 metre deep, extensions linked with a single storey porch extension. In the context of the application property, which is a modern 1970s dwelling, these extensions are considered to be acceptable.

The setting of Blacksmith's Cottage consists of open space of The Green to the front and a series of neighbouring properties that form a linear row either side. This group has a stepped building line and a wide variety of building forms and types, so that there are no shared characteristic that defines the setting of the listed building.

The Conservation Officer raises no objection to the proposals providing some minor changes are made to the front elevation. Amended plans have been submitted omitting the timber boarding at first floor level above the porch, however the rooflights have been retained on the single storey extension as it will not be visible from public viewpoints as described previously.

Following on from the above, bearing in mind the variety of dwelling designs in the locality, particularly immediately to the west, it is considered that the changes proposed to the existing mid 1970s dwelling are not out of context with either the existing building or the immediate surroundings. The scale of the extensions are similarly not considered to be excessive and do not dominate the existing dwelling or locality in general.

On the basis of these amended plans it is considered that the proposed scheme would preserve the setting of the adjacent Grade II listed building. The impact of the proposal on the significance of the Listed Building is less than substantial and there will be public benefits in the form of the improved appearance of the application dwelling that are considered to outweigh any such substantial harm. The proposal is therefore considered to comply with Policy CS14 and the NPPF in this regard.

Durham County Archaeology has commented on the application and advised that as the works are in the historic core of Great Burdon, there is the potential for archaeological remains to be disturbed. As the footprint of the development is relatively small, a watching brief would allow any disturbed remains to be recorded. This is to be secured by



appropriate planning conditions to ensure compliance with paragraphs 197 and 199 of the NPPF.

### **Impact on residential amenity**

As described above, the single storey rear/side extension is largely hidden from view by a close boarded timber fence and existing trees on the common boundary and separated from Foxhill Lodge flats to the south by approximately 17 metres. The proposed extensions and alterations to the front of the property will have little discernible impact on the amenities of adjacent residential properties in view of their shallow projection and separation from these properties. The proposed is considered to comply with Saved Policy H12 in this regard.

### **THE PUBLIC SECTOR EQUALITY DUTY**

In considering this application the Local Planning Authority has complied with Section 149 of the Equality Act 2010 which places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.

### **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.

### **RECOMMENDATION**

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 plans as detailed below:
  - (a) Proposed Elevations, drawing number BR02 Rev. A
  - (b) Proposed Ground Floor Plan, drawing number SV02
  - (c) Proposed First Floor Plan, drawing number BR07

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. No development 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 the development have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

REASON – In the interests of visual amenity and the setting of the adjacent Grade II listed building.

4. No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation that has been approved in writing by the Local Planning Authority. The Scheme shall provide for:
  - i. Measures to ensure the preservation in situ, or the preservation by record, of archaeological features of identified importance.
  - ii. Methodologies for the recording and recovery of archaeological remains including artefacts and ecofacts.
  - iii. Post-fieldwork methodologies for assessment and analyses.
  - iv. Report content and arrangements for dissemination, and publication proposals.
  - v. Archive preparation and disposition with recognised repositories.
  - vi. A timetable of works in relation to the proposed development, including sufficient notification and allowance of time to ensure that the site work is undertaken and completed in accordance with the strategy.
  - vii. Monitoring arrangements, including the notification in writing by the County Durham Principal Archaeologist of the commencement of archaeological works and the opportunity to monitor such works.
  - viii. A list of all staff involved in the implementation of the strategy, including sub-contractors and specialists, their responsibilities and qualifications.

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

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

5. 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 NPPF which ensures information gathered becomes publicly accessible.

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

**Borough of Darlington Local Plan 1997**

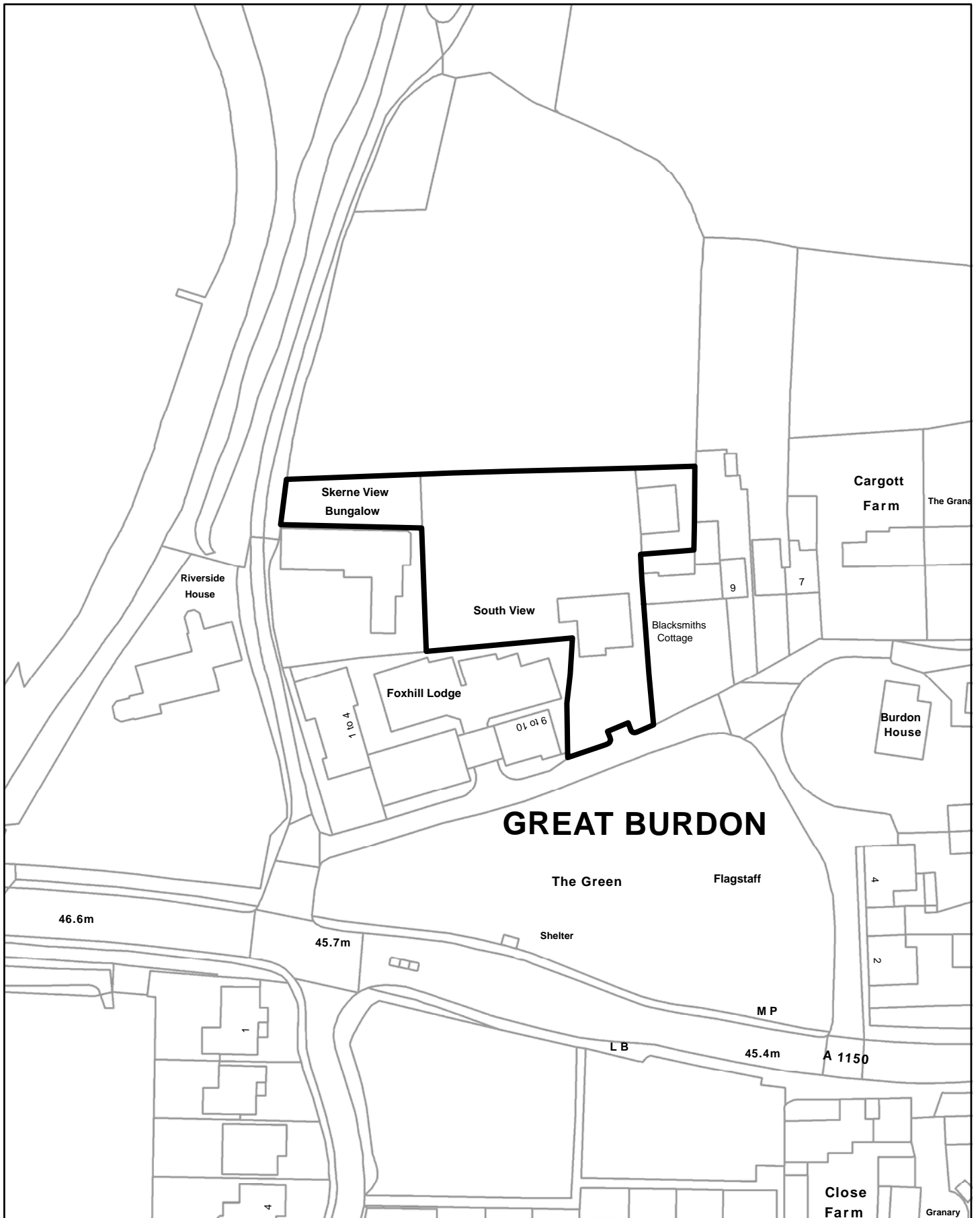
Policy H12 – Alterations and Extensions to existing Dwellings

**Darlington Core Strategy Development Plan Policy 2011**

Policy CS14 – Promoting Local Character and Distinctiveness

**National Planning Policy Framework 2019**

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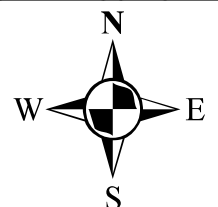


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**PLANNING REF No: 19/00727/FUL**

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## **DARLINGTON BOROUGH COUNCIL**

### **PLANNING COMMITTEE – 16 OCTOBER 2019**

#### **REPORT OF HEAD OF PLANNING DEVELOPMENT AND ENVIRONMENTAL HEALTH TO OBJECTION TO TREE PRESERVATION ORDER 2019 NO 10 15 GARTHLANDS, HEIGHINGTON, DARLINGTON**

#### **1. Purpose of Report**

- 1.1 To advise members that an objection has been received in respect of Tree Preservation Order Number 2019 No 10. The objection relates to this Order which covers one Mature Alder (*Alnus* spp) growing in the rear garden of 15 Garthlands, Heighington.

#### **2. Legal and Procedural Background**

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

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

#### **‘Amenity’ and ‘Expediency’**

Extracts from Government Guidance:-

#### ***Amenity***

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

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

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

#### ***Visibility***

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

### ***Individual, collective and wider impact***

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

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

### ***Expediency***

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

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

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

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

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

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

### **3. Decision to Make the Tree Preservation Order**



- 3.1 Tree Preservation Order 2019 No 10 was made on 23 July 2019 on one mature Alder Tree in the rear garden of 15 Garthlands, Heighington.
- 3.2 This Tree Preservation Order was made as a result of a planning application (ref no 19/00551/FUL) being submitted to the local planning authority to demolish the existing bungalow at 15 Garthlands and to erect a replacement dormer bungalow. The application originally proposed to fell the Alder tree as part of the development proposals.
- 3.3 The planning application was subsequently amended to retain the Alder tree and an Arboricultural Impact Assessment (AIA) was submitted which confirmed that the Alder tree would not be adversely affected by the new dwelling subject to measures being put in place to protect the tree during the course of the development.
- 3.4 The AIA submitted in support of the application identifies the Alder tree as a Category B tree under BS 5837 which is a tree of moderate quality with an estimated remaining life expectancy of at least 20 years.
- 3.5 The planning application was approved on 11 September 2019 subject to the following planning condition:

*The development hereby approved, including demolition works, shall not be carried out otherwise than in complete accordance with the mitigation measures contained within the document entitled ""Arboricultural Assessment - 15 Garthlands, Heighington Village, Newton Aycliffe, DL5 6RE" dated August 2019 and produced by Dendra Consulting Ltd unless otherwise agreed in writing by the Local Planning Authority.*

*REASON: In the interests of the visual amenity of the surrounding area.*

- 3.6 Objections to the Tree Preservation Order have been received from the occupants of 15 Garthlands and from the occupants of the adjacent dwelling, 14 Garthlands, Heighington in respect of the order being placed on the mature Alder Tree in the rear garden of No 15 Garthlands.
- 3.7 The letter of objection from the owners of 15 Garthlands has been accompanied by a petition supporting the removal of the tree. The petition has seven signatories.
- 3.8 No 15 Garthlands is outside of, but on the edge of the Heighington Conservation Area. The property and the tree are visible from within the Conservation Area.
- 3.9 The Tree Preservation Order was based on the following grounds:

*The mature Alder tree is on reasonable form and condition and is highly visible from public vantage points surrounding the site. The tree significantly contributes to the visual appearance of the local landscape.*

The TPO is appropriate in the general interests of public amenity and in accordance with the Town and Country Planning Act (1990), Town and Country Planning (Tree Preservation) (England) Regulations 2012 and the Office of the Deputy Prime Minister's guidance to fulfil a statutory duty.

#### 4. **Summary of Objectors' Comments**

##### 4.1 Comments in response to the placing of the Order:

- This tree has been a constant source of concern to us ever since we moved into the adjacent property some 23 years ago. The main trunk of the tree is less than four metres from our building, and we can only hope that its main roots are not damaging (or about to damage) our building foundations
- Your inspection found the tree to be “in a healthy condition” but I can assure you that its leaves and catkins fall from the tree all year round and we are continually cleaning these deposits from our lawn and garden in addition to our gutters and roof. In fact, after strong winds we also pick up small broken off branches. We can only think that this is because this type of tree is normally found beside streams and rivers and so its present location is too dry
- Your Order states that this tree “makes a significant contribution to the visual amenity of the locality” but fails to note that within about ten metres of this tree there are several very large full grown trees that can be seen from many public places in and around the area. Surely this one tree is not going to significantly detract from “the visual amenity of the locality”.
- The tree is both a danger and a nuisance around the two properties concerned. We can only hope that common sense will prevail and that this Order is withdrawn which will then allow the tree in question to be removed.
- We fully understand the current climate regarding the loss of woodland and the need to plant more trees in order to improve the environment. However, this one tree is not in the right place and so the situation needs to be addressed.
- The tree significantly detracts from the visual amenity of our home (15 Garthlands) and that of our neighbours. It blocks our view of the surrounding countryside. In terms of overall visual amenity value, the trees located in the boundary between Nos 12 and 14 Garthlands and Torval satisfy that need. Surely as residents in the immediate vicinity, our opinion should carry extra weight
- The tree overhangs No 14 Garthlands. It is close to both our property and the adjacent property (No1 South View). We have already found one windfall branch of approximately 2m. We are all concerned given the more extreme weather that we now experience, that a large branch will become detached during a gale and cause significant damage to property or person. Its trunk is 9m away from our property and only 4m away from No 14 Garthlands
- Common Alder typically live for 60 years. The tree location and information from our neighbours lead us to believe that this tree is over 50 years old. This being the case, it is likely to deteriorate, the tree does not appear to be thriving. We understand it should be ideally located near wetland and our neighbour tells us the leaves are continually shedding into his garden. Furthermore, it is approximately 12m high when given its age, it should exceed 30 m

- The main drain for Heighington Village runs through our garden. Northumbrian Water recommend trees of this size should be planted at least 6m away from the drain. Because Alder's drink a lot of water, this has the potential to increase the risk to the drain.

## **5. Response to Objector's Comments**

5.1 In response to the above comments the Council's Senior Arboricultural Officer has advised as follows:

- The local planning authority has not been presented with any evidence by the owner of No 15 Garthlands or the occupant of the adjacent dwelling (No 14) to show that the tree is causing any structural damage to No 14 Garthlands.
- The loss of leaves, catkins and small branches are a natural occurrence of a tree and it is not a justification to support its removal. Alder trees are a moderate water demanding tree and this is only a significant issue if there is clay in the area.
- The tree is approximately 12m tall and it is highly visible above the roofline of No 15 Garthlands and its immediate neighbouring dwellings, which are single storey bungalows. The tree is also visible from the north (South View), which is within the Heighington Conservation Area. The tree would remain highly visible over the proposed new dwelling, which is a dormer bungalow, for the site. It is acknowledged that there are other trees in and around the area of the site and in proximity of the Alder tree but it remains a fact that the Alder tree itself makes a valuable contribution to the visual appearance of the street and the wider local area. The protection of the tree remains desirable in the interests of amenity and as such it is considered expedient to protect the tree by the making of a Tree Preservation Order.
- There are many trees, which are covered by a preservation order, that overhang structures, land and dwellings and it is normal for trees to lose branches in extreme weather conditions. However, this is not considered to be a justification to remove such trees.
- The Council's Senior Arboricultural Officer is not aware of an Alder tree to exceed 30m in height and it is not uncommon for trees in built up areas to be in close proximity to services. If the tree was causing any problems to drains or had the potential to do so, it is considered that Northumbrian Water would have sought its removal.
- The AIA submitted in support of the application identifies the Alder tree as a Category B tree under BS 5837 which is a tree of moderate quality with an estimated remaining life expectancy of at least 20 years.
- The tree has an important position in the landscape and the tree is in reasonable form and condition. There are no visible structural weaknesses within the tree and so the tree is not considered to be a danger at this time. The Council's Senior Arboricultural Officer does not agree that the tree will deteriorate within the next few years. Should the tree go into decline within the next 5 to 10 years there will be an

opportunity to revisit the tree within this time but the benefit of the tree in terms of its amenity value will have been retained for this time.

5.2 For these reasons, the tree is worthy of protection.

## 6. **Consideration of Objections to TPO**

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

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

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

## 7. **Conclusion**

The mature Alder Tree (*Alnus* spp) is in reasonable form and condition with no visible structural weaknesses. Having considered the comments from the occupant of the adjoining dwelling and the advice from the Council's Senior Arboricultural Officer, there appears to be no reason why the tree cannot continue to add to the amenity value of the wider community for many years to come which justifies its protection. The tree was in imminent danger of being felled due to the submission of a planning application (ref no 19/00551/FUL) for the erection of a replacement dwelling, however an Arboricultural Impact Assessment (AIA) submitted in support of the application shows that the development could proceed without the need to remove the tree nor cause any damage during the demolition and construction phases. The AIA submitted with the application considered the tree to be a Category B tree. It is considered expedient to protect the tree by the making of a Tree Preservation Order as the loss of the tree would have a detrimental impact on the amenity of the area.

## 8. **Recommendation**

That Members confirm the TPO without modification

**Dave Coates**  
**Head of Planning Development & Environmental Health**



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### Appeal Decisions

Site visit made on 9 July 2019

**by Beverley Wilders BA (Hons) PgDurp MRTPI**

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

**Decision date: 30<sup>th</sup> July 2019**

#### **Appeal A Ref: APP/N1350/W/19/3223152**

##### **Land at rear of High Stell, Middleton St George, Darlington DL2 1HS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
- The appeal is made by Mr Craig Peterson (Homes by Carlton (MSTG1) Limited) against the decision of Darlington Borough Council.
- The application Ref 18/00959/CON, dated 15 October 2018, sought approval of details pursuant to conditions No 10, 11 and 18 of a planning permission Ref 15/00976/OUT, granted on 1 July 2016.
- The application was refused by notice dated 13 November 2018.
- The development proposed is outline planning permission for residential development up to 200 dwellings including highway improvements, public open space, landscaping and associated works (Revised application).
- The details for which approval is sought are:
  - Condition 10 – road condition survey
  - Condition 11 – road safety audit
  - Condition 18 – bat risk assessment

#### **Appeal B Ref: APP/N1350/W/19/3223154**

##### **Land at rear of High Stell, Middleton St George, Darlington DL2 1HS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
- The appeal is made by Mr Craig Peterson (Homes by Carlton (MSTG1) Limited) against the decision of Darlington Borough Council.
- The application Ref 18/00922/CON, dated 28 September 2018, sought approval of details pursuant to condition No 2 of a planning permission Ref 17/01151/RM1, granted on 14 March 2018 and condition No 14 of a planning permission Ref 15/00976/OUT, granted on 1 July 2016.
- The application was refused by notice dated 13 November 2018.
- The developments proposed are reserved matters relating to details of access, appearance, landscaping, layout and scale, for residential development of 198 no. dwellings pursuant to outline planning permission 15/00976/OUT dated 01 July 2016 (amended access proposed, plans received 11 January 2018) and outline planning permission for residential development up to 200 dwellings including highway improvements, public open space, landscaping and associated works (Revised application).
- The details for which approval is sought are:
  - Condition 2 of 17/01151/RM1 – phasing of development
  - Condition 14 of 15/00976/OUT – sustainable drainage scheme

**Appeal C Ref: APP/N1350/W/19/3223155**

**Land at rear of High Stell, Middleton St George, Darlington DL2 1HS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
  - The appeal is made by Mr Craig Peterson (Homes by Carlton (MSTG1) Limited) against the decision of Darlington Borough Council.
  - The application Ref 18/00921/CON, dated 21 September 2018, sought approval of details pursuant to condition No 3 of a planning permission Ref 17/01151/RM1, granted on 14 March 2018 and condition No 9 of a planning permission Ref 15/00976/OUT, granted on 1 July 2016.
  - The application was refused by notice dated 13 November 2018.
  - The developments proposed reserved matters relating to details of access, appearance, landscaping, layout and scale, for residential development of 198 no. dwellings pursuant to outline planning permission 15/00976/OUT dated 01 July 2016 (amended access proposed, plans received 11 January 2018) and outline planning permission for residential development up to 200 dwellings including highway improvements, public open space, landscaping and associated works (Revised application).
  - The details for which approval is sought are:
  - Condition 3 of 17/01151/RM1 and Condition 9 of 15/00976/OUT – construction management plan
- 

**Decisions**

**Appeal A**

1. The appeal is allowed insofar as it relates to the road condition survey and the road safety audit in relation to The Greenway and Grendon Gardens, submitted pursuant to conditions 10 and 11 attached to planning permission reference 15/00976/OUT granted on 1 July 2016, in accordance with application 18/00959/CON, dated 15 October 2018 and the details submitted with it are approved.
2. The appeal is dismissed insofar as it relates to condition 18 attached to planning permission reference 15/00976/OUT granted on 1 July 2016, in accordance with application 18/00959/CON, dated 15 October 2018 and the details submitted with it are refused.

**Appeal B**

3. The appeal is allowed and the phasing of development and the sustainable drainage scheme, submitted pursuant to condition 2 attached to planning permission reference 17/01151/RM1, granted on 14 March 2018 and condition 14 attached to planning permission reference 15/00976/OUT granted on 1 July 2016, in accordance with application 18/00922/CON, dated 28 September 2018 and the details submitted with it are approved.

**Appeal C**

4. The appeal is allowed and the construction management plan, submitted pursuant to condition 9 attached to planning permission reference 15/00976/OUT granted on 1 July 2016 and condition 3 attached to planning permission reference 17/01151/RM1, granted on 14 March 2018, in accordance with application 18/00921/CON, dated 21 September 2018 and the details submitted with it are approved.



## **Applications for costs**

5. Applications for costs were made by Mr Craig Peterson (Homes by Carlton (MSTG1) Limited) against Darlington Borough Council. These applications are the subject of a separate Decision.

## **Background and Main Issues**

6. Outline planning permission was granted for a residential development at the site in July 2016 (Ref 15/00976/OUT) with reserved matters relating to details of access, appearance, landscaping, layout and scale being approved in March 2018 (Ref 17/01151/RM1). Both permissions are subject to a number of conditions requiring additional details to be approved by the Council. It appears from the evidence that details in relation to a number of conditions have been approved by the Council since the permissions were granted, including condition 2 of 17/01151/RM1 which relates to the phasing of the development and the route of construction (Ref 18/01215/CON).
7. Two access points are proposed to serve the development, one off Grendon Gardens and one off High Stell, with both being accessed via residential estates. A previous application for a residential development on the site with only one access off Grendon Gardens was refused in July 2015, partly due to the traffic impacts on local residents (Ref 15/00041/OUT). It appears that the Council's concerns in relation to all three applications the subject of these appeals relate to the fact that only the access off Grendon Gardens is proposed to be used initially, with the access off High Stell proposed to be brought into use once the first 50 dwellings have been constructed on site. The Council states that both accesses are required to be created at the commencement of development in order to reduce the impact of construction traffic and later residential traffic on residents living in the locality. No reference is made on the decision notices to the conditions not relating to the use of the accesses, though the decision notice for 18/00959/CON (Appeal A) states that approval of details is partly refused but does not state what details, if any, are formally approved. The decision notice for 18/00922/CON (Appeal B) makes no reference to condition 14 of 15/00976/OUT despite details in relation to this condition being submitted as part of the application.
8. Having regard to the background to the applications and to the imposition of the conditions, I consider that the main issues are:
  - whether the details submitted in relation to conditions 9, 10 and 11 of 15/00976/OUT and conditions 2 and 3 of 17/01151/RM1 are acceptable having particular regard to the living conditions of the occupiers of nearby residential properties (Appeals A, B & C);
  - whether the details submitted in relation to condition 18 of 15/00976/OUT are acceptable having regard to protected species (Appeal A);
  - whether the details submitted in relation to condition 14 of 15/00976/OUT are acceptable having regard to the interests of promoting sustainable development (Appeal B).

## Reasons

### Appeals A, B & C

*Conditions 9, 10 & 11 of 15/00976/OUT and conditions 2 and 3 of 17/01151/RM1*

9. It appears from the submissions that the appellant intends to create and use one access point off Grendon Gardens for the first phase of the development and to not form the second access off High Stell until such time that 50 dwellings have been constructed. The details submitted to discharge the conditions relating to phasing, construction management plan, road condition and road safety consequently reflect this.
10. Though the Council state that Planning Committee Members expected two accesses to be provided and that these are required at the beginning of the development, this is not explicitly stated within either the outline or reserved matters permissions. Moreover, the wording of condition 2 of 17/01151/RM1 requiring details of the house build trigger point for the creation of the access off High Stell appears to imply that the High Stell access would not be created at the beginning of the development.
11. Following the refusal of the applications the subject of these appeals, in January 2019 the Council formally approved the discharge of condition 2 of 17/01151/RM1 relating to the phasing of the development and route of construction (Ref 18/01215/CON). The decision notice refers to the approved details being "your communication dated 17 December 2018", though I do not appear to have been provided with a copy of the information submitted to discharge this condition. The appellant states that two of the documents approved under application Ref 18/01215/CON (Revised Phase 1 Traffic Management Plan & Revised Phase 1 Traffic Management Plan Drawing Rev C) form core documents associated with the submitted Construction Management Plan refused under application references 18/01159/CON and 11/01160/CON. This has not been disputed by the Council. These approved documents relate to Phase 1 of the development and show a single access point off Grendon Gardens with no access off High Stell.
12. The Council's Highway and Environmental Health departments were consulted on the discharge of condition applications and I have been provided with a copy of their responses. No objections are raised to the submitted details by the Environmental Health department having regard to dust and noise mitigation associated with Phase 1 of the development, though some concerns were raised about whether approval of the details might set a precedent for the remainder of the development.
13. Whilst the Highway department noted that previous concerns regarding access primarily related to residential amenity, the Councils' Highway Engineer also noted that two accesses would resolve practical issues relating to any conflict of large vehicles trying to pass each other on narrow residential streets. For that reason, amendments were sought to the submitted Construction Management Plan. In March 2015 the Highway department consultation response in relation to application Ref 15/00041/OUT stated that it would be difficult to recommend refusal of the residential development based on generated traffic given the carriageway width and number of existing dwellings

on Grendon Gardens and The Greenway but noted concerns about the impact of using one access on residential amenity.

14. Notwithstanding the concerns raised by the Council and the Parish Council regarding the proposed access arrangements, having regard to the fact that no objections to the submitted information have been raised by the Council's Environmental Health department and to the Highway departments previous comments in relation to highway capacity together with the approval by the Council of application Ref 18/01215/CON for the same phasing, I consider that the details submitted are acceptable to discharge the highways related conditions having particular regard to the living conditions of the occupiers of nearby residential properties. However, condition 10 of 15/00976/OUT is only partly discharged as no road condition survey of High Stell has been carried out as required by the condition.

### **Appeal A**

#### *Condition 18 of 15/00976/OUT*

15. Condition 18 of 15/00976/OUT requires an assessment of trees on the site for bat roosts within one month of the planned commencements of works. An Updated Bat Risk Assessment dated October 2018 was submitted with the discharge of conditions application reference 18/00959/CON and provides details in relation to a survey carried out 10 October 2018. Although the Council's Ecology Officer considered the submitted assessment to be adequate, the particular wording of the condition means that the assessment carried out in October 2018 no longer satisfies the requirements of the condition in that it was carried out some time ago and not within one month of the planned commencement of works. Consequently, the details submitted are not acceptable having regard to protected species.

### **Appeal B**

#### *Condition 14 of 15/00976/OUT*

16. Condition 14 of 15/00976/OUT requires details of a sustainable drainage system to be submitted. A SUDS Management Plan (Rev A) was submitted with the discharge of conditions application reference 18/00922/CON. At the time of determining the application, the Parish Council commented that the submissions appeared to be incomplete and the Council stated that as no comments had been received from the Local Flood Authority then this condition could not be discharged. No further comments have been received during the course of the appeal from the Council in response to the appellant's submissions.
17. The fact that the Council has not received a consultation response from the Local Flood Authority is not a sufficient reason in itself to refuse to grant approval for the submitted details relating to sustainable drainage. Whilst I note the comments made by the Parish Council in relation to the submitted details and request for a signed agreement, no such agreement is required by the condition and in the absence of any substantive evidence from the Council or others questioning the content of the submitted SUDS Management Plan, I am satisfied that the details submitted are acceptable having regard to the interests of promoting sustainable development.

## **Other Matters**

18. In reaching my decisions I have had regard to the representations made by the Parish Council and interested parties, including reference to legal judgements and appeal decisions.
19. As planning permission has already been granted for the development of the site for housing, any comments made in relation to the principle of the development are not relevant in relation to these appeals which relate solely to the discharge of conditions.
20. I note that the development and the various applications have generated a significant amount of interest locally with a number of concerns having been raised. Though I have had regard to the concerns raised regarding access, for the reasons stated above, it appears to me that it was always the intention that the development would be phased and indeed it seems that condition 2 of 17/01151/RM1 relating to the phasing of the development and route of construction has already been approved by the Council under application reference 18/01215/CON (January 2019).
21. Subject to compliance with the submitted details, I am satisfied that the proposal is unlikely to be materially harmful to highway or pedestrian safety or to living conditions having regard to noise and air quality.
22. Works affecting public rights of way will need to be subject to separate applications under different legislation.

## **Conclusions**

23. For the reasons given above and having regard to all matters raised, I conclude that Appeals B and C are allowed and that Appeal A is allowed insofar as it relates to conditions 10 and 11 and is dismissed insofar as it relates to condition 18 of 15/00976/OUT.

*Beverley Wilders*

INSPECTOR



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## Costs Decisions

Site visit made on 9 July 2019

**by Beverley Wilders BA (Hons) PgDurt MRTPI**

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

**Decision date: 30<sup>th</sup> July 2019**

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### **Costs application in relation to Appeal Ref: APP/N1350/W/19/3223152 (Appeal A)**

#### **Land at rear of High Stell, Middleton St George, Darlington DL2 1HS**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mr Craig Peterson (Homes by Carlton (MSTG1) Limited) for a full award of costs against Darlington Borough Council.
  - The appeal was against the refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
- 

### **Costs application in relation to Appeal Ref: APP/N1350/W/19/3223154 (Appeal B)**

#### **Land at rear of High Stell, Middleton St George, Darlington DL2 1HS**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mr Craig Peterson (Homes by Carlton (MSTG1) Limited) for a full award of costs against Darlington Borough Council.
  - The appeal was against the refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
- 

### **Costs application in relation to Appeal Ref: APP/N1350/W/19/3223155 (Appeal C)**

#### **Land at rear of High Stell, Middleton St George, Darlington DL2 1HS**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mr Craig Peterson (Homes by Carlton (MSTG1) Limited) for a full award of costs against Darlington Borough Council.
  - The appeal was against the refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
- 

## **Decisions**

1. The applications for awards of costs are allowed in the terms set out below.

## **Reasons**

2. Paragraph 030 of the National Planning Practice Guidance (NPPG) advises that costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.

3. Paragraphs 046 to 049 set out the circumstances when the behaviour of a local planning authority might lead to an award of costs. These can either be procedural, relating to the appeal process or substantive, relating to the planning merits of the appeal. Examples of unreasonable behaviour by a local planning authority includes preventing or delaying development which should clearly be permitted; failure to produce evidence to substantiate each reason for refusal at appeal; vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis; not determining similar cases in a consistent manner and refusing to approve reserved matters when the objections relate to issues that should already have been considered at outline stage.
4. The appellant's case is essentially that in refusing the applications for the same sole reason relating to the proposed accesses, the Council failed to properly assess the applications and sought to exceed its powers in insisting that the development proceed with two access points rather than one for the first phase as was always intended and as approved by discharge of condition application 18/01215/CON. In addition, the appellant states that the Council's decisions run contrary to pre-application planning advice and to responses received from the Council's Environmental Health and Highway departments who raised no objections to the submitted details. Finally, the Council's refusal of the details pursuant to condition 14 of 15/00976/OUT due to a lack of a response from the Local Flood Authority and refusal of details relating to condition 18 of the same permission notwithstanding no objection from the Council's Ecologist, was unreasonable.
5. As can be seen from my decisions, I have allowed the appeals in relation to Appeals B and C and have partially allowed Appeal A insofar as it relates to the highway related conditions (10 and 11). From the evidence before me, it seems that the phasing of development and the use of the Grendon Gardens access only for the first phase of the development was approved by the Council in January 2019 under application reference 18/01215/CON. It also appears that no objections were raised by the Council's Environmental Health department in respect of the proposed phasing arrangements and the associated construction management plan insofar as it relates to the first phase of development. The evidence also shows that there were no highway capacity objections to the use of the Grendon Gardens access and no substantive highway or pedestrian safety objections to the submitted details with the Highway department acknowledging that in considering the discharge of the conditions, the primary concern related to living conditions.
6. The Council did not submit an appeal statement in response to the appellant's evidence and has not submitted any evidence to dispute the appellant's claim that the phasing of development has now been approved. Although the appeals were submitted after the Council approved the phasing details under application reference 18/01215/CON, in any event it appears from the evidence that the reserved matters permission acknowledged and accepted that the development would be phased and following discussion with Officers that the phasing details proposed would be acceptable.
7. Whilst Officer advice is not binding, in refusing the applications the Council must produce evidence to substantiate each reason for refusal at appeal. Having regard to the Council's Report submitted with the appeal and to the fact that no appeal statement was submitted by the Council, I do not consider that



the Council has produced sufficient evidence to substantiate the reasons for refusal as they relate to access concerns. In addition, no evidence has been produced to substantiate the refusal of details in relation to conditions 14 and 18 of 15/00976/OUT, with details submitted in relation to condition 18 being refused despite apparently being acceptable to the Council. Although I reach a different conclusion to the Council in respect of condition 18, this does not alter the fact that had the Council approved the submitted details pursuant to that condition, the appellant would not have had to appeal its decision in that respect.

8. Though it is clear that there have been ongoing concerns in relation to the proposed access arrangements for the approved development, I see nothing before me to suggest that approval of the submitted details would alter the fact that two accesses were approved and are proposed to serve the residential development. Under these circumstances I find that the Council's refusal of the details submitted to be unreasonable.
9. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has been demonstrated. For this reason, and having regard to all matters raised, awards of costs are justified.

### **Costs Order**

10. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Darlington Borough Council shall pay to Mr Craig Peterson (Homes by Carlton (MSTG1) Limited), the costs of the appeal proceedings described in the headings of these decisions; such costs to be assessed in the Senior Courts Costs Office if not agreed.
11. The applicant is now invited to submit to Darlington Borough Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

*Beverley Wilders*

INSPECTOR

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# The Planning Inspectorate

3/B Eagle Wing  
Temple Quay House  
2 The Square  
Bristol, BS1 6PN

Direct Line: 0303 444 5601  
Customer Services: 0303 444 5000

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Emma Williams  
Economic Growth  
Darlington Borough Council  
Rm 401, Town Hall  
Darlington  
County Durham  
DL1 5QT

Your Ref:  
Our Ref: APP/N1350/W/18/3212132  
Date: 2 August 2019

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Dear Madam

**LOCAL GOVERNMENT ACT 1972 - SECTION 250(5)  
TOWN AND COUNTRY PLANNING ACT 1990 - SECTIONS 78 AND 322  
LAND OFF NEASHAM ROAD, MIDDLETON ST GEORGE, DARLINGTON: APPEAL BY  
GLADMAN DEVELOPMENTS LTD: APPLICATION FOR COSTS**

1. I am directed by the Secretary of State for Housing, Communities and Local Government to refer to the Planning Inspectorate's correspondence of 12 March 2019 confirming the withdrawal of the above appeal. The appeal was against the Council's failure to give notice of its decision within the statutory period for the application outline planning permission for the erection of up to 280 dwellings, 60 bed care home (Use Class C2) with community park and public open space, landscaping and sustainable drainage system (SuDS). All matters reserved except for means of two vehicular access points to be provided from Neasham Road, on land described above.

2. This letter deals with your Council's application for an award of costs against the appellants, made in correspondence of 8 and 29 April 2019. Gladman Developments Ltd responded on in correspondence of 23 April 2019. As these representations have been disclosed to the parties it is not proposed to summarise them in any detail. They have been carefully considered.

## Summary of decision

3. The formal decision and costs order are set out in paragraphs 14 and 15 below. The application succeeds to the extent that a partial award of costs is being made against the appellants.

## Basis for determining the costs application

4. In planning appeals, the parties are normally expected to meet their own expenses irrespective of the outcome. Costs are only awarded on the grounds of "unreasonable" behaviour, resulting in any wasted or unnecessary expense. The application for costs has been considered by reference to the Planning Practice Guidance on awards of costs (as

published on the Gov.uk website under "Appeals"), the appeal papers, the correspondence on costs and all the relevant circumstances.

## **Reasons for the decision**

5. All the available evidence has been carefully considered. The decisive issue is whether or not the appellants acted unreasonably by withdrawing the appeal when they did, causing the Council to incur wasted or unnecessary expense in preparing to resist it at the cancelled Inquiry. The guidance in paragraph 054 of the guidance is particularly relevant. The sequence of events leading to the submission and subsequent withdrawal of the appeal has been carefully examined.

6. The appeal was received by the Inspectorate on 20 September 2018. The Inspectorate's letter of 11 October 2018 informed the parties that the appeal would be dealt with by the Inquiry procedure. The letter to the appellants warned of the risk of costs being awarded if an appeal is withdrawn without good reason and directed them to the costs guidance which could be found on GOV.UK. The parties were notified on 5 November 2018 that an Inquiry had been arranged to take place on 8 May 2019. The Council's statement was received by the Inspectorate on 22 November 2018. The Council's supplementary statement of case was received on 25 January 2019. The appeal was withdrawn on 12 March 2019.

## **Conclusions**

7. Paragraph 054 of the PPG warns that, if an appeal is withdrawn without any material change in the planning authority's case or any other material change in circumstances, relevant to the planning issues arising on the appeal, appellants are at risk of an award of costs against them if there are no other exceptional circumstances and the claiming party can show that they have incurred quantifiable wasted expense as a result. The Secretary of State has to decide whether the appellants had good reason for the withdrawal due to a material change in circumstances relevant to the planning issues arising on the appeal, or whether there are any other exceptional circumstances.

8. In this case, the appeal was withdrawn some 6 months after it was submitted. The appellants' decision to withdraw the appeal when they did, needed to be weighed against the risk of an award of costs. This risk was brought to the appellants' attention, in procedural correspondence from the Inspectorate. The view is taken that the appellants would, or should, have been aware that by withdrawing the appeal when they did the other parties in the appeal would have incurred costs in preparing to resist it at the cancelled Inquiry.

9. It appears from the evidence that the appellants decided to withdraw the appeal after they received the Council's supplementary statement of case, which included 8 putative reasons for refusal. They contend that they reviewed their case as a result, which entailed seeking the views of consultants and Counsel. They also assert that since the appeal was submitted, the Council issued a further land supply assessment and a revised National Planning Policy Framework (NPPF) was issued. It is understandable that in appeals against the Council's failure to make a decision, that it is difficult for appellants to make their case until they have seen the Council's putative reasons for refusal. However, in this case, although the Council did not submit those reasons until their supplementary statement of 25 January 2019, the Secretary of State takes the view that it was clear from the original statement what their concerns were. The statement identifies the relevant issues of concern and the relevant development plan and core strategy policies. Therefore, it is reasonable to expect the appellants to have reviewed their case and to seek the necessary advice from that point, rather than wait until the Council had submitted a supplementary statement.

10. The Secretary of State considers the Council's original statement amounted to a material change of circumstances and he would not have considered it unreasonable behaviour for the appellants to have withdrawn the appeal after receipt of it. He does not consider the Council's supplementary statement amounted such a material change of circumstances for the reasons explained above.

11. The appellants also refer to the Council issuing a further housing land supply assessment and the issue of the revised NPPF in February 2019 as reasons for withdrawing the appeal. However, they have not explained precisely what it was about either of these publications that caused them to reach the conclusion their chances of success on appeal had diminished, such that the appeal should be withdrawn.

12. The overall conclusion reached is that the Secretary of State takes the view that the Council's original statement of 22 November 2018, which was sent to the appellants by e-mail on that date, amounted to a material change of circumstances in relation to the planning issues arising on the appeal to justify the appellants' decision to review their case and to withdraw the appeal. However, he is not satisfied the appellants withdrew the appeal promptly. This amounts to unreasonable behaviour, which caused the Council to incur wasted or unnecessary expense in preparing to resist the appeal at the cancelled Inquiry in accordance with the set timetable. An award of costs will be made accordingly.

13. As to the extent of the award, the view is taken that two weeks after receipt of the Council's statement is a reasonable period of time for the appellants to have reviewed their case and sought the advice they considered necessary. It is therefore considered that a partial award of costs from 6 December 2018 (inclusive) is justified.

## **FORMAL DECISION**

14. For these reasons, it is concluded that a partial award of costs against the appellants, on grounds of "unreasonable" behaviour resulting in wasted or unnecessary expense, is justified in the particular circumstances.

## **COSTS ORDER**

15. Accordingly, the Secretary of State for Housing, Communities and Local Government, in exercise of his powers under section 250(5) of the Local Government Act 1972, and sections 78 and 322 of the Town and Country Planning Act 1990 and all other powers enabling him in that behalf, **HEREBY ORDERS** that Gladman Developments Ltd shall pay to Darlington Borough Council their costs incurred in the appeal process; limited to those costs incurred from 6 December 2018 (inclusive); such costs to be assessed in the Senior Courts Costs Office if not agreed.

16. The Council are now invited to submit to Mr Stuart Carvel of Gladman Developments Ltd, details of those costs with a view to reaching agreement on the amount. A copy of this letter has been sent to him.

Yours faithfully

*K McEntee*

KEN McENTEE  
Authorised by the Secretary of State  
to sign in that behalf

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## Appeal Decision

Site visit made on 24 July 2019

**by Mr M Brooker DipTP MRTPI**

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

**Decision date: 17 September 2019**

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**Appeal Ref: APP/N1350/W/19/3228048**

**Rowan House, Middleton Road, Sadberge, Darlington DL2 1RR**

- 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 Dr & Dr I. Rehman against the decision of Darlington Borough Council.
  - The application Ref 18/00807/FUL, dated 30 August 2018, was refused by notice dated 6 March 2019.
  - The development proposed is described as the erection of a detached Oak framed dwelling.
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### Decision

1. The appeal is dismissed

### Main Issue

2. The main issues are:
  - i. Whether the appeal site is in a suitable location for new residential development with regard to local and national planning policy for the delivery of housing, and
  - ii. the effect of the proposed development on the character and appearance of the area including the Sadberge Conservation Area (SCA).

### Reasons

#### *Suitability of the site for residential development*

3. The appeal site is in an elevated and prominent position, albeit set back from Middleton Road, on the outskirts of Sadberge. The site is accessed via a narrow lane that also serves a number of other residential properties and consists of a grassed garden area situated to the east of the host property and is bound by established tall hedges. To the south there are a number of buildings including the residential property, High Meadows. At my site visit I observed that to the east there is an agricultural field that separates the older part of Sadberge from a more modern housing estate and to the north, construction is underway of a small residential scheme, details of which have been provided by the appellant.
4. Saved Policy E2 of the Borough of Darlington Local Plan November 1997 (incorporating Adopted Alterations September 2001) (the 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

- entirely prohibit development outside of them. The policy explains that for sites outside the limits to development of the main urban area and villages, development will be limited to that required to meet identified rural needs.
5. The proposal is not for agricultural or forestry operations, having regard to saved Local Plan Policy E2 and while the appeal scheme is small-scale I have no substantive evidence before me that it would be beneficial to the needs of rural communities. As such, the proposed development does not meet the exceptions allowed by Local Plan saved Policy E2 or CS Policy CS1.
  6. There is a dispute between the parties over the weight to be attached to Local Plan Policy E2. The appellant has referred to numerous developments outside of the development limits that have been granted consent. Nonetheless the policy is broadly consistent with the Framework in so far as it seeks sustainable development in rural areas.
  7. The appellant has questioned the status of the Council's housing land supply (HLS), in particular whether some of the sites which would 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. On balance, I therefore find that on the basis of the evidence before me, I conclude that the Council can demonstrate a HLS of at least 5 years.
  8. On the basis that I have found that the underlying objectives of the development limits are still valid and in the light of my conclusion regarding the HLS, I conclude that the development limits should be given moderate weight in my consideration of this appeal.
  9. The Council's decision notice also refers to saved policy H7 of the Local Plan which restricts development outside of the development limits with certain exceptions, 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. Its ordinary meaning is 'far away from other places, buildings or people; remote'. Thus, I attach limited weight to saved Local Plan Policy H7.
  10. I observed at my site visit that the appeal site forms part of the garden area of the host dwelling and relates well to the existing dwellings, and development currently underway, on neighbouring sites. As such, the proposed dwelling would not be isolated and I observed at my site visit that the site of the proposed development appears as part of the village when viewed from the surrounding roads.
  11. Furthermore, I acknowledge that in accordance with paragraph 78 of the Framework, future residents of the proposed dwelling would support both the limited services in Sadberge and services in nearby settlements. However, because the proposed development relates to a single dwelling this benefit would be very limited and I afford this consideration only limited weight.
  12. The appeal site is outside the development limits for Sadberge. On this basis, I conclude that the proposal would conflict with saved Local Plan Policy E2, it

would also be contrary to saved Local Plan Policy H7 and CS Policy CS1 in so far as they relate to the location of development.

### *Character and appearance*

13. The SCA includes, and its significance lies in, the historic core of the village set around a village green and road junction on a notable ridge above surrounding farmland.
14. I observed at my site visit that the site of the proposed development, while in a prominent position, appears as part of the village when viewed from the surrounding roads.
15. The village as a whole and the immediate surroundings of the appeal site include a variety of dwelling types, styles and sizes. While, the appellant states that the proposed dwelling is of a bespoke design, I have little substantive evidence before me to show that the dwelling has been designed with any reference to the surrounding dwellings and materials found elsewhere in the SCA.
16. The proposed dwelling is of a considerable size and scale, detailed by the Council officer as being approximately 7.37 metres high and of a significant width. While the site is bound by tall mature hedges the proposed building would be considerably taller and as such will be visible to the wider area as a appear as a prominent and incongruous feature.
17. I am statutorily required<sup>1</sup> to pay special attention to the desirability of preserving or enhancing the character or appearance of the SCA. The Framework advises that where a proposal would cause less than substantial harm to the significance of a designated heritage asset this harm should be weighed against the public benefits of the proposal<sup>2</sup>. Any harm should require clear and convincing justification<sup>3</sup>.
18. The proposed development would cause less than substantial harm to the significance of the SCA as a whole as it relates to a single property within the wider SCA.
19. Therefore, by virtue of the considerable size and scale of the proposed dwelling it would appear as a prominent and incongruous feature on the edge of the village and would result in significant harm to the character and appearance of the area.

### **Other Matters**

20. I acknowledge the appellant's frustration after receiving positive pre-application advice from the Council prior to submitting the proposals. Whilst this is unfortunate, pre-application advice is not binding.
21. As detailed previously, the access road to the site is narrow and serves a number of other properties. Objectors to the proposed development have raised concerns that the access road is not suitable for the additional property. However, the Local Highway Authority has not objected to the proposal and while the access road is narrow it appears to be adequate for the number of

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<sup>1</sup> Section 72(1) - Planning (Listed Buildings and Conservation Areas) Act 1990

<sup>2</sup> Paragraph 196 – National Planning Policy Framework

<sup>3</sup> Paragraph 193 – National Planning Policy Framework

dwellings that it would serve. Therefore, on the basis of the evidence before me I agree.

### **Planning Balance and Conclusions**

22. I have found significant harm to the character and appearance of the surrounding area, less than significant harm to the SCA and a conflict with the Development Plan with regards the location of the site outside of the development limits. There are positive factors in the planning balance in respect of the relationship of the site to Sadberge with associated support for the local services and facilities of that and nearby settlements. The proposed development would also contribute to the housing supply, albeit to a very limited extent.
23. However, having weighed all those matters in the balance I conclude that the adverse impacts, that in respect of the Conservation Area I am required to give great weight to, of the proposed development would significantly and demonstrably outweigh the benefits such that the proposal does not represent sustainable development. Thus, I conclude that the development would fail to accord with the Framework as well as the Development Plan.
24. For the reasons set out above the appeal is dismissed.

*Mark Brooker*

INSPECTOR



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

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