

# Planning Applications Committee Agenda



**1.30 pm Wednesday, 4 December 2019  
Committee Room No. 2, Town Hall,  
Darlington. DL1 5QT**

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

1. Introductions/Attendance at Meeting
2. Declarations of Interest
3. To Approve the Minutes of the Meeting of this Committee held on 16 October 2019 (Pages 1 - 10)
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 11 - 12)
  - (a) Reservoir (Disused), Darlington Road, Sadberge (Pages 13 - 38)
  - (b) 27 Corporation Road, Darlington (19/00982/FUL) (Pages 39 - 48)
  - (c) 27 Corporation Road, Darlington (19/00981/FUL) (Pages 49 - 60)
  - (d) Land Adjacent to The Lodge, Dinsdale Spa House, Church Lane, Middleton St. George, Darlington (Pages 61 - 68)
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

## **EXCLUSION OF THE PUBLIC AND PRESS**

8. 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.

9. Complaints Received and Being Considered Under the Council's Approved Code of Practice as of 20 November 2019 (Exclusion Paragraph No. 7) –  
Report of Director of Economic Growth and Neighbourhood Services  
(Pages 69 - 76)
10. 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
11. Questions



**Luke Swinhoe**  
**Assistant Director Law and Governance**

**Tuesday, 26 November 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, 16 October 2019

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

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

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

**PA41 DECLARATIONS OF INTEREST**

There were no declarations of interest reported at the meeting.

**PA42 TO APPROVE THE MINUTES OF THE MEETINGS OF THIS COMMITTEE HELD ON 7 AUGUST 2019**

**RESOLVED** – That the Minutes of this Committee held on 7 August 2019 be approved as a correct record.

**PA43 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.
A5	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 18(1) of the Planning (Listed Building and Conservation Areas) Act 1990.
B4	Notwithstanding any description of the external materials in the submitted application, details of the external materials to be used in the carrying out of this permission (including samples) shall be submitted to, and approved by, the Local Planning Authority in writing prior to the commencement of the development and the development shall not be carried out otherwise than in accordance with any such approved

	details. <b>Reason</b> - In order that the Local Planning Authority may be satisfied as to the details of the development in the interests of the visual amenity of the area.
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## PA44 LAND AT NEWTON GRANGE FARM, SADBERGE

**18/00994/FUL** – Erection of 25 No. dwellings. (In reaching its decision, the Committee took into consideration the Planning Officer's report (previously circulated), six letters of objection, seven letters of representation in support of the application, the objections of Sadberge Parish Council, the concerns raised by the Council's Highways Officer and the Conservation Officer, the views of the Local Lead Flood Authority, the issues highlighted by the Council's Sustainable Transport Officer, and the views of the Applicant and a Supporter, whom the Committee heard).

It was reported that the Council's Senior Arboricultural Officer had identified a potential impact on trees within the site, and that the Architectural Liaison Officer raised a number of issues).

**RESOLVED** – 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.

**PA45 19A THE FRONT, MIDDLETON ONE ROW (19/00678/FUL)**

**19/00678/FUL** – 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)

(In reaching its decision, the Committee took into consideration the Planning Officer's report (previously circulated), three letters of objection, the objections raised by Middleton St. George Parish Council, and the views of the Applicant and an Objector, whom the Committee heard).

**RESOLVED** - 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.

4. The gates hereby approved shall remain open between the hours of 07:00 and 23:20 daily.

**REASON** – In the interest of free flow of traffic

**PA46 19A THE FRONT, MIDDLETON ONE ROW (19/00679/LBC)**

**19/00679/LBC** - 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).

(In reaching its decision, the Committee took into consideration the Planning Officer's report (previously circulated), one letter of objection, and the objection raised by Middleton St. George Parish Council).

**RESOLVED** – 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.

#### **PA47 ALLOTMENT GARDENS, GLEBE ROAD, DARLINGTON**

**19/00515/FUL** - Installation of mains connected portable toilet with timber pergola to provide screening (amended description and additional plan received 22/07/19).

(In reaching its decision, the Committee took into consideration the Planning Officer's report (previously circulated), three letters of objection and four letters in support of the application).

**RESOLVED** – 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.

#### **PA48 SOUTH VIEW, THE GREEN, GREAT BURDON**

**19/00727/FUL** - 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.

(In reaching its decision, the Committee took into consideration the Planning Officer's report (previously circulated), two letters of objection, the objection raised by the Parish Council, the views of the Council's Conservation Officer and the County Archaeologist).

**RESOLVED** – That Planning Permission be granted subject to the following conditions:

1. A3 - Implementation Limit (Three Years)
2. The development shall be carried out in complete accordance with the approved 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 position 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.

## **PA49 15 GARTHLANDS, HEIGHINGTON**

**15 Garthlands, Heighington** – The Head of Planning Development and Environmental Health submitted a report (previously circulated) to advise Members of an objection received in respect of Tree Preservation Order (TPO) 2019 No. 10, which covered one Mature Alder (*Alnus* spp) growing in the rear garden of 15 Garthlands, Heighington.

The submitted report stated that Tree Preservation Order (TPO) 2019 No. 10, had been made as a result of a planning application (ref. no. 19/00551/FUL) submitted to the local planning authority to demolish the existing bungalow at 15 Garthlands and erect a replacement dormer bungalow. It was reported that the application originally proposed to fell the Alder tree as part of the development proposals, but that 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.

(In reaching its decision, the Committee took into consideration the report of the Head of Planning Development and Environmental Health, objections received from the occupants of 15 Garthlands and from the occupants of the adjacent dwelling, 14 Garthlands, Heighington, a petition with seven signatories supporting the removal of the tree, the observations of the Council's Senior Arboricultural Officer, and the views of the Objector, whom the Committee heard).

The following Motion was moved by McCollom, and seconded by Councillor Allen:

‘That the TPO be confirmed without modification.’

The following Amendment to the Motion was moved by Councillor Tait, and seconded by Councillor Clarke:

‘That the TPO not be confirmed’

The Amendment was carried and thus became the Substantive Motion, and a vote was subsequently taken on the Substantive Motion.

**RESOLVED** – That the TPO not be confirmed.

## **PA50 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 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).
- (b) 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).
- (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 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).
- (d) 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).

- (e) 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.

- (f) 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).

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

#### **PA51 NOTIFICATION OF APPEALS**

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

Mr Alan Agar had 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).

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

#### **PA52 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.

#### **PA53 COMPLAINTS RECEIVED AND BEING CONSIDERED UNDER THE COUNCIL'S APPROVED CODE OF PRACTICE AS OF 25 SEPTEMBER 2019 (EXCLUSION PARAGRAPH NO. 7)**

Pursuant to Minute PA40/Aug/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 25 September 2019.

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

**BOROUGH OF DARLINGTON****PLANNING APPLICATIONS COMMITTEE**

Committee Date – 4 December 2019

**SCHEDULE OF APPLICATIONS FOR CONSIDERATION****Background Papers** used in compiling this Schedule:-

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

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

<b>Address/Site Location</b>	<b>Reference Number</b>
Reservoir (Disused), Darlington Road, Sadberge	19/00339/OUT
27 Corporation Road, Darlington	19/00982/FUL
27 Corporation Road, Darlington	19/00981/FUL
Land Adjacent to The Lodge, Dinsdale Spa House, Church Lane, Middleton St. George, Darlington	

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

**COMMITTEE DATE:** 4<sup>th</sup> December 2019

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<b>APPLICATION REF. NO:</b>	19/00339/OUT
<b>STATUTORY DECISION DATE:</b>	9 July 2019 (extension of time agreed)
<b>WARD/PARISH:</b>	SADBERGE AND MIDDLETON ST GEORGE
<b>LOCATION:</b>	Reservoir (Disused), Darlington Road, Sadberge
<b>DESCRIPTION:</b>	Outline planning permission for redevelopment of former reservoir site for residential purposes of up to 46 dwellings with all matters reserved apart from access (amended ecological appraisal received 23 May 2019 and additional Transport Technical Note received 19 June 2019)
<b>APPLICANT:</b>	Northumbrian Water Limited

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

This is an outline application for the development of a former reservoir site for residential purposes, with access being the only matter for consideration at this stage. The proposed development will be served by a new access at the western end of the site, off Darlington Road, from which an internal spine road will access the proposed dwellings.

Matters of appearance, landscaping, layout and scale would be reserved for later determination and as such no further detail of the proposed houses have been provided. All of these matters of detail will be the subject of a separate planning application. An illustrative layout submitted with the application indicates that the site could accommodate up to 46 new dwellings, including the provision of 20% affordable housing, as well as the provision of a wildlife and SuDS area. As the proposal will involve the redevelopment and reprofiling of the former reservoir site, indicative sections have also been provided with the application. These sections show that the reservoir basin would be removed and re-profiled, leaving the south and western embankments in situ. These matters would be dealt with at the reserved matters stage.

The site is currently owned and managed by Northumbrian Water Limited (NWL). The former reservoir has been redundant since approximately 1985 and is surplus to operational requirements. NWL retain some operational infrastructure located below ground within the western embankment and this part of the site is excluded from the developable area.

The site lies on the south-western edge of Sadberge, within the Sadberge Conservation Area. The site extends to approximately 1.74 hectares and comprises the reservoir, a concrete lined tank with brick walls surrounded by earth embankments on all sides, and a disused stone tower on the embankment to the south of the reservoir. The northern, southern and western embankments are covered with scrub and trees and bounded by hedges.

The site is bounded by existing residential properties at Beacon Grange Park to the east, by Darlington Road to the north and by open countryside to the south and west. The A66(T) is located approximately 100 metres to the south.

The following information has been submitted in support of the application:

- Planning Statement
- Parameter Plan
- Design and Access Statement
- Statement of Community Involvement
- Heritage Statement
- Transport Statement
- Phase 1 Ecological Assessment
- Noise Assessment
- Flood Risk and Drainage Assessment
- Phase 1 Desk Based Assessment
- Arboricultural Impact Assessment
- Illustrative Earthworks Assessment

**Application documents including plans, supporting documentation, 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.

In the opinion of the Local Planning Authority, 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 nature, size or location.

#### **PLANNING HISTORY**



97/00162/OUT – Outline application for residential development and open space. REFUSED on 7 July 1997 and DISMISSED on appeal 3 February 1998

04/00946/FUL – Demolition of reservoir and associated banking, grade site to reduce levels and seed. GRANTED 18 January 2006

## **RESULTS OF CONSULTATION AND PUBLICITY**

**Highway Engineer** – No objection subject to conditions. [see conditions 6,7,8,9]

**Conservation Officer** – Overall the proposal would have only a negligible or neutral impact on the heritage asset the significance of the Sadberge Conservation Area and so it would preserve its heritage asset significance by leaving it substantially unharmed rather than entirely unchanged. No objection to the proposed development.

**Environmental Health Officer** – Recommends that conditions be attached relating to noise, contaminated land, construction management plan and hours of construction.

**Ecology Officer** – Conditions required to secure mitigation measures set out in the Ecology Report together with the provision of bat and bird boxes on each property, the submission of a lighting strategy and the requirement to update surveys as appropriate.

**Sustainable Transport** – Request a sustainable transport contribution towards the Service 20. [see 106 requirements]

**Historic England** – Do not wish to comment on the application. The views of your specialist conservation and archaeological advisers should be sought.

**Highways England** – No objection

**Durham County Archaeology** – No objection

**Local Lead Flood Authority** – 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. A detailed design for the management of surface water runoff from the proposed development shall be secured by condition. [see condition 17,18]

**Northumbrian Water Limited** – Recommend conditional approval

**Police Architectural Liaison Officer** – No objection however the current layout appears too cramped without sufficient parking spaces for the number of properties proposed. This will lead to vehicles being left on pathways and neighbour disputes.

**CPRE** - Objects to the proposals and wishes to register its support for local residents and the Parish Council who also object. The proposed development, whilst 'brownfield' is outside the development limits, the site is not proposed for allocation in the emerging Local Plan and Darlington has a 5 year supply of housing land.

## **Northern Gas Network – No objection**

### **Sadberge Parish Council – Objects for the following reasons:**

- The site is outside limits to development and would be contrary to E2 and CS1
- Sadberge is not a suitable location for sustainable development
- The Sadberge community does not want development of this scale in or near Sadberge
- The proposed development would not make a worthwhile contribution to the vitality and sustainability of Sadberge
- The proposed development would result in even more traffic passing through a village which is already experiencing problems due to traffic volumes.

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

- *The site is outside the village envelope.*
- *Sadberge has no bus service, no school, no shops and is not suitable for development. Building 46 houses will not bring these back.*
- *The old reservoir is a haven for wildlife*
- *The entrance to the estate will come out onto a 60mph road which isn't safe*
- *Darlington Road is already busy. 46 extra houses and 2 cars per household will mean the road is far busier and noisier. There is far too much traffic in the village. We do not want more noise and pollution.*
- *The removal of trees and bushes adjacent to the boundary with Beacon Grange Park would affect wildlife, including squirrels and bats and would result in new properties directly overlooking the gardens of Beacon Grange Park, intruding on our privacy.*

## **PLANNING POLICY BACKGROUND**

The following policies are relevant to consideration of the application:

### **Saved Policies of the Borough of Darlington Local, 1997**

E2 – Development Limits

E17 – Landscape Improvement

H7 – Areas of Housing Development Restraint

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

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

CS2 – Achieving High Quality, Sustainable Design

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

**Tees Valley Minerals and Waste Development Plan Documents**  
Policy MWC4: Safeguarding of Minerals Resources from Sterilisation

**Planning Obligations Supplementary Planning Document, 2013**

**Revised Design of New Development Supplementary Planning Document, 2011**

**National Planning Policy Framework, 2019**

## **PLANNING ISSUES**

The following issues are to be taken into consideration of the application:

- Planning Policy
- Impact on Designated Heritage Assets
- Impact on Visual and Residential Amenity
- Highway and Sustainable Transport Issues
- Surface Water Drainage
- Ecology
- Trees
- Land Contamination
- Developer Contributions
- Statement of Community Involvement

### **Planning Policy**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan **unless material considerations indicate otherwise**. The National Planning Policy Framework, 2019 supports a plan led system providing that planning decisions are 'genuinely plan-led' (para. 15).

### Five year housing land supply position

The NPPF and 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 the strategic housing policies are more than 5 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 uses the 2014 household projections, the Council considers that a 17 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 titled balance in paragraph 11 of the NPPF is not engaged.

A 5% buffer has been applied to the five year supply figure. The Council has produced a Five Year Housing Land Supply Position Statement (April 2019) which sets out the

housing land supply position for the period 1 April 2019 to 31 March 2024, when measured against the local housing need figure.

It is relevant to note that this housing supply includes a number of sites which are located beyond development limits but have been assessed and are considered as being suitable, sustainable and deliverable for housing development in the emerging Local Plan.

#### Principle of development

The aim of Saved Local Plan Policy E2 (Development Limits) is to direct new development to within development limits of the village and to safeguard the character and appearance of the countryside. The application site is located beyond the village development limits and therefore residential development would be contrary to Saved Local Plan Policy E2 and Core Strategy Policy CS1 (Darlington's Sub-Regional Role and Locational Strategy) which directs housing, outside of the main urban area, to within the development limits of the Borough's villages.

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 in the Core Strategy or the Interim Planning Position Statement. This stance is to be maintained in the emerging Local Plan. There are limited services and facilities in the village and a reduced bus service which runs through the village on a Monday only.

The Council is of the view that substantial weight can be attached to Saved Policy E2, particularly when a five-year supply can be demonstrated, as the policy is consistent with the NPPF with regard to a number of areas. Saved Policy E2 also seeks to direct development to the urban areas, which are likely to be more sustainable.

Policy E2 does not provide a blanket protection or impose a blanket ban of certain types of development. There are a number of exceptions to E2 which include rural exception residential development. As such, each case is able to 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 considered out of date when they have been drawn to accommodate a level of growth up to a certain point. This is not the case for the Darlington 1997 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 areas. As such Policy E2 can be attributed substantial weight in the planning balance.

Policy CS1 also has consistencies with the NPPF and so can be given weight in the planning balance. The policy sets out the Council's locational strategy for new development, focussing upon the main urban area, the larger service villages of Hurworth, Heighington and Middleton St George and within development limits of other villages within the Borough. This strategy is to be carried forward into the emerging Local Plan. This approach is consistent with the NPPF in focusing significant development in locations which are or can be made sustainable. In the same regard as

Policy E2, CS1 does not result in a blanket restriction on development in the countryside and exceptions are allowed to meet identified rural needs.

The Council's approach has been supported in a number of recent appeal decisions against the refusal of planning permission for residential development on sites beyond settlement limits in rural villages. The Inspectors gave weight to policies E2 and CS1 and the appeals were dismissed.

Saved Local Plan Policy H7 (Areas of Housing Development Restraint) permits certain types of residential development outside of development limits and sets out those circumstances where such development will be permitted. The Inspectors in considering the aforementioned appeals attached varying degrees of weight to Policy H7 insofar as they considered it to be consistent, or not, with paragraph 79 of the NPPF. Notwithstanding that, paragraph 79 of the NPPF advises that the development of isolated homes in the countryside should be prevented unless one of or more of the exceptional circumstances are met. The proposed scheme does not meet any of the exceptional circumstances set out in either Saved Policy H7 or paragraph 79 of the NPPF.

Policy MWC4 (Safeguarding of Minerals Resources from Sterilisation) of the Tees Valley Minerals and Waste DPD would apply to the site. The site is also designated by Saved Local Plan Policy E17 (Landscape Improvement) which states that opportunities will be sought for the improvement of areas of poor or degraded landscape character will be sought. The site is one of four sites identified across the Borough where the reclamation and restoration of the site will be sought. The proposed development would result in the restoration of a brownfield site and would comply with Saved Policy E17.

Policy CS2 (Achieving High Quality, Sustainable Design) and the NPPF promote the effective and efficient use of land. Paragraph 117 of the NPPF gives support for development on previously developed or 'brownfield' land. Paragraph 118(c) states that substantial weight should be given to the value of using suitable brownfield land within settlements for homes and other identified needs, and support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land. While the first sentence of paragraph 118(c) supports brownfield development within settlements only, the latter part however supports the development as it refers to support being given for opportunities to remediate degraded or derelict land. This is also consistent with Policy E17. Paragraph 118(d) is also relevant and requires decisions to 'promote and support the development of under-utilised land and buildings'.

#### Planning Balance

The site lies beyond the limits to development for Sadberge village and the residential redevelopment of the site would therefore be contrary to Saved Local Plan Policy E2 and Core Strategy Policy CS1. The proposal would also be contrary to Saved Policy H7 and paragraph 79 of the NPPF. The Council can also demonstrate a supply of housing land well in excess of 5 years. The development of a greenfield site outside of limits to development for residential purposes would therefore be unacceptable for these reasons.

In this instance, the application site is previously developed or 'brownfield land' being a disused former reservoir site. The NPPF is overall very supportive of brownfield development, development which makes efficient use of land and the remediation of degraded land. The proposal would also comply with Saved Local Plan Policy E17 and Core Strategy Policy CS2.

Officers are of the view that the benefits of making more efficient use of this redundant site outweigh the conflict with the spatial strategy in the adopted 1997 plan. As will be set out in the relevant sections of this report, there is limited harm arising from the proposed development including heritage and ecology issues and any technical matters can be dealt with by appropriate planning conditions. As such, this can be afforded significant weight in the planning balance and would allow this application to be set apart from a 'standard' application for a greenfield site outside the settlement boundary.

Officers have sought Counsel opinion which confirms that it would be legitimate for the policy presumption to be set aside in this instance in favour of the weightier factors relating to the considerable support for the application within the NPPF and within Saved Local Plan E17 and Core Strategy Policy CS2.

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

Core Strategy Policy CS2 (Achieving High Quality, Sustainable Design) includes provision that new development should reflect and/or enhance Darlington's distinctive natural, built and historic characteristics that positively contribute to the character of the local area and its sense of place. Policy CS14 (Promoting Local Character and Distinctiveness) states 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.

The NPPF requires that when considering the impact of development proposals on designated heritage assets, in this case the Sadberge Conservation Area, great weight should be given to the conservation of the asset's significance (para. 193). It also requires that if a heritage asset's significance is likely to be harmed by a development, including harm occurring to its setting, it is necessary to decide whether such works are necessary (para. 195) and justified (para. 194); whether such harm is substantial or insubstantial (paras. 195 and 196) and whether the amount of harm can be outweighed or offset by a matching amount of public benefits.

Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990 also gives similar protection to buildings and spaces that help establish the special character and appearance of conservation areas.

A Heritage Statement has been submitted with the application to assess the significance of the application site and the impact of the proposal on the significance of the Sadberge Conservation Area, which conforms to paragraph 189 of the NPPF.

The Council's Conservation Officer has commented on the application and these comments are reproduced below:

### *Heritage Assets Significance*

*The reservoir dates from 1885-89 and is a clay and earth bank construction within which sits a brick lined concrete water basin. There is a circular masonry pumping and monitoring tower positioned close to the southern edge, but this is the only above ground level physical feature on the site. The tall earth banks project noticeably above what is a predominantly open and expansive agricultural setting to the conservation area and have a dominating physical presence in south-westwards views out from the historic core of the conservation area, although this presence is partly moderated by the existence of perimeter trees and other tall vegetation. The stone tower does not have a major visual connection with the surrounding area due to the same trees along the southern and eastern edges of the site, and its heritage significance has been further reduced by 20<sup>th</sup> Century alterations.*

*The reservoir was part of a broad social improvement impetus in Victorian Britain to provide clean drinking water and better sanitation to meet the needs of rapidly growing industrial towns. In physical terms it has relatively modest heritage values, the stone water tower being the only upstanding feature of any design merit, and even this structure appears to have been modified in the later 20<sup>th</sup> Century.*

### *Impact of the Proposals*

*The proposal is to remove the reservoir basin and to re-profile a significant part of the site's introverted landform so that a housing development of up to 46 dwellinghouses can be created, while leaving the south and western embankments in situ. The landscape re-profiling would create a slight gradient rising to the south and in any subsequent reserved matters application it is recommended that section drawings with greater detail be provided to allow a judgement to be formed on whether any skyline impacts in views into the site from the south are sufficiently mitigated.*

*The proposal would undoubtedly impact on the historic form and perceived monumentality of the embanked reservoir, as it contributes to the special historic interest of the conservation area, but because its architectural interest is quite minor, the overall impact of the proposals would be only negligible or neutral.*

*In applying the statutory duties of the Planning (Listed Building and Conservation Areas) Act 1990, my advice is that overall the proposal would have only a negligible or neutral impact on the heritage asset significance of the Sadberge Conservation Area, and so it would preserve its heritage asset significance by leaving it substantially unharmed rather than entirely unchanged. **Therefore, offer no objection to the proposed development.***

In view of the Conservation Officer's comments it is considered that the proposed redevelopment of the site would, in principle, comply with the requirements of Policy CS14 (Promoting Local Character and Distinctiveness) and the National Planning Policy Framework. While it is acknowledged that this is an outline application, details of appearance, landscaping, layout and scale relating to the redevelopment site, and how these will impact upon the significance of the Sadberge Conservation Area will be assessed once more at the reserved matters stage.

### **Impact on Visual and Residential Amenity**

Policy CS14 (Promoting Local Character and Distinctiveness) of the Core Strategy seeks to protect, and where appropriate enhance, the distinctive character of the Borough's built, historic, natural and environmental townscapes, landscapes and strong sense of place. This includes protecting and enhancing the separation and the intrinsic qualities of the openness between settlements. The second part of Saved Local Plan Policy E2 (Development Limits) relates to the protection and character of the countryside and falls to be considered as part of the planning balance. The reasoned justification to this policy seeks to maintain well-defined settlement boundaries and safeguard the character and appearance of the countryside by strictly controlling development outside of development limits.

The reservoir is an incongruous and artificial feature in the landscape and is visible from a number of public vantage points. Mature tree, shrub and hedgerow planting around the site does however help assimilate it into the wider landscape. Planning permission was granted for the demolition of the reservoir and embankments and for the regrading of the site to reduce levels in 2006 (04/00946/FUL) although this was never implemented. Saved Local Plan Policy E17 (Landscape Improvement) also seeks opportunities for the improvement of areas of poor or degraded landscape character, and specifically identifies the reservoir site as one of four sites where reclamation and restoration will be sought.

While there would be no in principle objection to the removal of the former reservoir, the proposal will result in the extension of the built form of the village into the former reservoir site, albeit the details of the proposed development are not for consideration at this stage. The proposal must therefore be assessed in terms of its impact on the character and appearance of the area and that of the surrounding countryside which Policy CS14 and Saved Policy E2 seek to protect.

The reserved matters application will need to demonstrate through the design and layout of the proposed site, supported by sectional drawings, that skyline impacts in views of the site from the south are sufficiently mitigated. At this outline stage however it is considered that the impact of the development of this site from wider ranging views from the south west and from the A66 would be limited, retaining much of the form of the reservoir and embankments currently seen from this aspect.

The most significant impact would be from closer ranging views from Darlington Road to the north. The northern embankment would be removed almost in its entirety to allow access to the site, thereby opening up the site most considerably from this aspect, with the built form of the village clearly extending westwards into the open countryside. This impact must however be weighed against the benefits of removing this anomalous site from the conservation area and the reclamation of this degraded site which has been a long held aspiration of Saved Policy E17. As set out in the previous section of this report, the proposal will preserve the significance of the Sadberge Conservation Area. On balance therefore the proposal is considered to be acceptable in terms of its impact on the character and appearance of the countryside.



A noise impact report has been submitted with the application which considers the impact of road traffic noise from Darlington Road to the north and from the A66 to the south. The noise report recommends that in order to mitigate against the effects of road traffic noise the facades of homes facing directly onto Darlington Road and the A66 should be fitted with suitable glazing. The report has been considered by the Environmental Health Officer who agrees with the conclusions of the report and recommends that an appropriate planning condition be attached to secure these mitigation measures.

### **Highway and Sustainable Transport Issues**

This is an outline application with all matters reserved except access. It is proposed that the site will be accessed directly from Darlington Road via a new access to be created in the north west corner of the site. This road is subject to a 60mph speed limit and visibility splays at the entrance should be appropriate to the speed limit unless it can be demonstrated that actual travelling speeds are lower. Speed surveys have been undertaken along the frontage of the site which demonstrate that a lesser visibility splay, which can be achieved on the site, would be acceptable. Land falling within the visibility splay will need to be secured as adopted highway and included within the Section 38 agreement.

A reduced speed limit has been given consideration in the form of a 40mph buffer zone ahead of the site access. A 40mph can be supported by Durham Police if it is accompanied by gateway entrance features and additional signs/markings to reinforce the limit to drivers. The access arrangements with a 10m radii and footways will help make the junction more visible and an indicative gateway feature has been demonstrated on the plan, however this will require further progression as part of a reserved matters application and Section 278/38 agreement.

The proposed access junction shows a 10m junction radii and a swept path analysis drawing has been provided which shows the junction design can accommodate a 11.2m refuse vehicle. Footways are required on both side of the access junction to provide a crossing point for pedestrians heading out of the existing footway opposite. A dropped crossing and tactile paving are also required. A significant amount of earthworks will be required to ensure that the access road does not exceed a longitudinal gradient of 5%, however this will be considered at the reserved matters stage. The internal road layout will also be considered at the reserved matters stage.

A new footway will be provided along the frontage of the site and a separate pedestrian access will be provided to Darlington Road in the northern corner of the site. A new uncontrolled crossing point, with dropped kerbs and tactile paving, to connect to the existing footway on the northern side of Darlington Road is required to create a short and continuous pedestrian link between the site and Sadberge village. Details are to be secured by an appropriate planning condition

A Transport Statement (TS) has been submitted which considers the highways and transport issues associated with the proposed development. This has been considered by the the Council's Highway Engineer. The TS demonstrates that the maximum two-way traffic flow from the site is predicted to be 36 vehicles during both weekday AM and PM peak hours. On average, the impact of the traffic generated by the proposed

development equates to approximately 1 additional vehicle per two minutes in the AM/PM peak, which is not considered to be significant, such a level of vehicular traffic can be safely accommodated on the highway network without any detriment to existing road users.

There have been no recorded accidents within the last 5 years' data within the near vicinity of the new access junction to be constructed. While traffic flows will increase on the local road network the development will not have a material impact on road safety.

The site has access to a subsidised bus service and more than 80% of the site would be within 400m walking distance of a bus stop, the closest bus stop being on Darlington Road (Village Hall). However, from this stop only service 20 is available, running three journeys on a Monday only. The service is due to cease in 2021 due to lack of funding and a financial contribution of £46,800 would be sought to offer the village/proposed residents a sustainable option past 2021. The current 3 journeys on a Monday provide residents with access to key services and the long term aim will be to increase the number of days/frequencies of Service 20 through other development contributions along the route. Although the size of the development falls below the threshold for pump priming of new or extended local bus services as set out in the Planning Obligations SPD, in view of the unsustainable nature of the site the sustainable transport contribution of £46,800 would be used to contribute towards Service 20.

The site has good links to existing cycle links between the village and Darlington Town Centre. A condition requiring the submission of details for cycle parking for the proposed dwellings is attached.

### **Surface Water Drainage**

The application site is located within Flood Zone 1. A Flood Risk Assessment (FRA) has been submitted which 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 presented based on SuDS elements to ensure there will be no increase in peak surface water discharge rates as a result of the proposed development and that runoff can be sustainably managed and treated in accordance with planning policy and best practice.

Stockton Borough Council, acting as the Council's technical advisors for SuDS as Lead Local Flood Authority (LLFA), has assessed the level of information submitted and considers that the applicant has provided sufficient information to satisfy the LLFA that a surface water runoff solution can be achieved without increasing existing flood risk to the site or the surrounding area. A detailed design for the management of surface water runoff from the proposed development is however to be dealt with by appropriate planning conditions. Northumbrian Water has also been consulted on the application and raise no objection subject to a condition requiring the development to be carried out in accordance with the Flood Risk Assessment. On this basis the proposal is considered to comply with the requirements of Core Strategy Policy CS16 (Protecting Environmental Resources, Human Health and Safety).

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

Paragraph 170 of the NPPF advises that planning decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils; minimising impacts on and providing net gains for biodiversity; and remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land where appropriate.

An Ecological Assessment 'Sadberge Reservoir' has been prepared by Barrett Environmental Ltd and submitted with the application. The earth embankments surrounding the reservoir basin are vegetated with semi-improved neutral grassland and scrub. Habitats at the site are suitable for use by bats, breeding birds, brown hares, invertebrates and hedgehogs. There are no roosting opportunities for bats.

The assessment advises that the impacts on ecological features of interest at the site will primarily arise during the removal of vegetation and levelling of the north and east embankments. The project has however been designed to retain the ecologically most important area to the south and this is presented as the primary mitigation for the development. In order to protect the retained southern embankment from disturbance and interference, this area will be protected in the long term by the installation of fencing and dense planting of hawthorn and blackthorn along the south and west boundaries of the development.

To avoid impacts upon breeding birds it will be necessary to remove all vegetative covered from the working area outside the bird breeding season, which will be preceded by a thorough hand search of the site for hedgehogs. The provision of a SuDS facility in the north east corner of the site is regarded as a habitat enhancement.

An Arboricultural Impact Assessment submitted with the application advises that 24 individual trees, two hedgerows and two groups were surveyed. The majority of these trees require removal for development, mainly along the north and eastern boundaries of the site as a consequence of removing these embankments. The trees are predominantly low value (Category C) with the exception of one moderate value tree (Category B). It is not proposed to plant any trees in mitigation, rather the retention of the south and west embankments and the features within these areas will provide the wider ecological mitigation for the site.

Subject to conditions to secure the ecological mitigation measures, in addition to conditions limiting the removal of vegetation to outside the bird breeding and securing

bird nesting provision within the new development, and to provide protection of those trees and hedgerows to be retained on the site, the proposal is considered to comply with Policy CS15.

### **Land Contamination**

The application has been submitted with a Phase 1 site assessment which has considered historic maps of the site and the surrounding area to determine whether there is any history of industrial land use in the vicinity that would impact upon the proposed use of the site for residential purposes. The report has shown that prior to the construction of the reservoir around 1886 the site was agricultural land. The site remains relatively unchanged until 1985 when the reservoir was drained.

The site investigation has suggested that excavation spoil from the construction of the reservoir was used in the building of the earthen retaining wall of the structure. It is not anticipated that this material will have been contaminated however given that significant reprofiling of the site levels will take place before the homes are built it does not seem prudent to require this material to be tested in its current location when it could be buried at significant depths once the reprofiling of the site has been completed.

While it will be necessary for an intrusive site investigation to be undertaken to demonstrate that the site is suitable for the proposed use, as the Phase 1 report proposes, conditions are attached requiring this work to be done at an appropriate time in the construction period, to be first agreed in writing with the Local Planning Authority. This will enable the applicants to carry out the necessary works to reprofile the site and finalise the site levels before the site investigation and any necessary subsequent remediation is conducted.

Subject to these planning conditions proposal is considered to comply with the requirements of Core Strategy Policy CS16 (Protecting Environmental Resources, Human Health and Safety).

### **Developer Contributions**

The application is eligible for a number of developer contributions in line with the requirements of Policy CS4 (Developer Contributions) and the Planning Obligations SPD. Where a relevant determination is made which results in planning permission being granted for a development, a planning obligation may only constitute a reason for granting planning permission for the development if the obligation is:

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

A sustainable transport contribution of approximately £46,800 would be secured by Section 106 Agreement to contribute towards the continued running of bus service (No. 20) which is due to cease in 2021. This figure is calculated on the basis of the indicative mix of housing as set out in the outline application but would be subject to change depending on the final housing mix approved at the reserved matters stage (calculated using a calculation set out in the Planning Obligations SPD). A financial contribution of £15,000 is also sought for the improvement of the existing play area in

Sadberge., or the provision of an alternative one. In accordance with Policy CS4 and the SPD an affordable housing provision of 20% (10 dwellings based on the indicative layout) is also required.

### **Statement of Community Involvement**

A Statement of Community Involvement has been submitted with the application following a consultation exercise with residents in Sadberge Village Hall prior to the submission of the application. The event was attended by between 70 – 80 people and a total of 71 questionnaires were completed. The analysis outlined that respondents were mostly concerned about the lack of services available in Sadberge to accommodate additional housing and the additional volume of traffic entering the site. In response, the statement considers that existing services and facilities are available in Darlington and Middleton St George, as well as a number of services located within Sadberge Village which residential development on the site will help to sustain. The Transport Assessment submitted with the application confirms that the additional traffic generated through the development can be safely accommodated on the highway network.

### **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**

The site lies beyond the limits to development for Sadberge village and the residential redevelopment of the site would therefore be contrary to Saved Local Plan Policy E2 and Core Strategy Policy CS1. The proposal would also be contrary to Saved Policy H7 and paragraph 79 of the NPPF. The Council can also demonstrate a supply of housing land well in excess of 5 years. The development of a greenfield site outside of limits to development for residential purposes would therefore be unacceptable for these reasons.

In this instance, the application site is however previously developed or 'brownfield land' being a disused former reservoir site. The NPPF is overall very supportive of brownfield development, development which makes efficient use of land and the remediation of degraded land. The proposal would also comply with Saved Local Plan Policy E17 and Core Strategy Policy CS2.

Officers are of the view that the benefits of making more efficient use of this redundant site outweigh the conflict with the spatial strategy in the adopted plan. There is limited harm arising from the proposed development including heritage and ecology issues, and various technical matters can be dealt with by appropriate planning conditions. As such, this can be afforded significant weight in the planning balance and would allow this application to be set apart from a 'standard' application for a greenfield site outside the settlement boundary.

Officers have sought Counsel opinion which confirms that it would be legitimate for the policy presumption to be set aside in this instance in favour of the weightier factors relating to the considerable support for the application within the NPPF and within Saved Local Plan E17 and Core Strategy Policy CS2, with particular regard for the potential of development of Brownfield land.

## **RECOMMENDATION**

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

- (a) Sustainable Transport Contribution of £46,800 towards the Service 20 bus service
- (b) A contribution of £15,000 towards the improvement/provision of play equipment within Sadberge village.

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

THAT UPON SATISFACTORY COMPLETION AND SIGNING OF THAT AGREEMENT, PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS AND REASONS:

1. Approval of the following details (the reserved matters) in respect of the development shall be obtained from the Local Planning Authority in writing before the development is commenced:
  - a) Layout
  - b) Scale
  - c) Appearance
  - d) Landscaping

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

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

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

REASON - To accord with the provisions of Section 92(1) of the Town and Country Planning Act 1990.

3. PL00 (Approved Plans)
  - (a) Proposed Parameters Plan, drawing number 200-04, Revision 03
4. The development shall not begin until a scheme for the provision of affordable housing on the site as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2 of the National Planning Policy Framework or any future guidance that replaces it. The scheme shall include:
  - a) the numbers, type, tenure and location on the site of the affordable housing provision to be made, which shall consist of not less than 20% of housing units;
  - b) The timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
  - c) The arrangements for the transfer of the affordable housing to an affordable housing provider [or the management of the affordable housing] (if no RSL involved);
  - d) The arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
  - e) The occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

REASON – To comply with Council Housing Policy

5. 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 implemented in accordance with the approved details.

REASON – In the interest of visual amenity.

6. Prior to the commencement of development hereby permitted, details of the following shall be submitted to and approved in writing by the Local Planning Authority:
  - a) Internal highways layout and site access junction;
  - b) Provision of a new footway along the frontage of the site and associated crossings on Darlington Road;
  - c) In-curtilage car parking, to include the number, location and dimensions of all driveways and garages;
  - d) Secure cycle parking and storage, to include the number, location and design of cycle stands;
  - e) Swept path analysis to support the movement framework for emergency vehicles, refuse and service vehicles for the internal network and, where appropriate, in respect of the off-site highway proposals.

Thereafter the development shall be carried out in accordance with the details as approved and shall be maintained for the lifetime of the development.

REASON – In the interest of highway safety

7. Prior to the commencement of the development, a Demolition and Construction Management Plan shall be submitted and approved in writing by the Local Planning Authority. The plan shall include the following:
  - a) Dust Assessment Report which assess the dust emission magnitude, the sensitivity of the area, risk of impacts and details of the dust control measures to be put in place during the demolition and construction phases of the development. The Dust Assessment Report shall take account of the guidance contained within the Air Quality Management 'Guidance on the assessment of dust from demolition and construction' February 2014.
  - b) Methods for controlling noise and vibration during the demolition and construction phase and shall take account of the guidance contained within BS5228 'Code of Practice for noise and vibration control on construction and open sites' 2009.
  - c) Construction Traffic Routes, including contractors' compound location and parking areas for staff and visitors;
  - d) Details of wheel washing
  - e) Road Maintenance
  - f) Warning signage

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

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



8. Prior to the commencement of development hereby permitted a road condition survey of the adopted highway shall be undertaken, the requirements of which shall first be agreed in writing by the Local Planning Authority. The survey shall ensure that no further damage is caused to the adopted highway as a result of the construction phase of the development.

REASON – In the interest of highway safety

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

REASON – In the interest of highway safety

10. Habitable rooms in the facades of properties fronting onto Darlington Road and along the southern boundary of the site backing onto the A66 shall be fitted with suitable acoustic ventilation systems and glazing which meets or exceeds the requirements set out in the Wardell Armstrong noise report (ref. NT13535001) submitted with the application. The exact specification of the acoustic mitigation measures shall be agreed in writing with the Local Planning Authority prior to any of the dwellings hereby approved being erected about the damp proof course level. The agreed measures shall be implemented in full prior to first occupation of the dwellings hereby approved and shall be maintained thereafter for the lifetime of the development.

REASON – To protect occupants of the proposed dwellings from excessive road traffic noise.

11. At a time agreed in writing by the Local Planning Authority, a Phase 2 Site Investigation (Sampling and Analysis Plan) shall be designed and documented by a suitably competent person(s) in accordance with the published technical guidance (e.g. BS10175 and Land Contamination: Risk Management LCRM)) and be submitted to and agreed in writing with the Local Planning Authority, unless the Local Planning Authority dispenses with the requirement specifically and in writing. The Phase 2 Site Investigation Strategy (Sampling and Analysis Plan) shall be sufficient to fully and effectively characterise and evaluate the nature and extent of any potential contamination and assess pollutant linkages. No alterations to the agreed Phase 2 Site Investigation Strategy or associated works shall be carried out without the prior written agreement of the Local Planning Authority.

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

12. At a time agreed in writing by the Local Planning Authority, a Phase 2 Site Investigation works shall be conducted, supervised and documented by a suitably competent person(s) and carried out in accordance with the approved Phase 2 Site Investigation Strategy (Sampling and Analysis Plan). A Phase 2 Site Investigation and Risk Assessment Report prepared by a suitably competent person(s) in accordance with published technical guidance (e.g. BS10175 and CLR11) and shall be submitted to and agreed in writing by the Local Planning Authority unless the Local Planning Authority dispenses with the requirement specifically and in writing.

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

13. At a time agreed in writing by the Local Planning Authority, a Phase 3 Remediation and Verification Strategy shall be prepared by a suitably competent person(s) to address all human health and environmental risks associated with contamination identified in the Phase 2 Site Investigation and Risk Assessment. The Remediation and Verification Strategy which shall include an options appraisal and ensure that the site is suitable for its new use and no unacceptable risks remain, shall be submitted to and agreed in writing with the Local Planning Authority, unless the Local Planning Authority dispenses with the requirement specifically and in writing.

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

14. CL5 (Unexpected contamination)

15. CL6 (Phase 4 Verification and Completion Report)

16. The development hereby approved shall not be commenced on site until a scheme for the implementation, maintenance and management of a Sustainable Surface Water Drainage Scheme has first been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details, the scheme shall include but not be restricted to providing the following details:

- i. Detailed design of the surface water management system;

- ii. A build programme and timetable for the provision of a critical surface water drainage infrastructure;
- iii. A management plan detailing how surface water runoff from the site will be managed during the construction phase;
- iv. Details of adoption responsibilities

REASON – To ensure the site is developed in a manner that will not increase the risk of surface water flooding to the site or surrounding area, in accordance with the guidance within Core Strategy Development Plan Policy CS16 and the National Planning Policy Framework.

17. The building hereby approved shall not be brought into use until:

- i. Requisite elements of the approved surface water management scheme for the development, or any phase of the development are in place and fully operational to serve said building
- ii. The drawings of all SuDS features have been submitted and approved in writing by the Local Planning Authority, the drawings should highlight all site levels, including the 30 year and 100 year+cc flood levels and confirmation of storage capacity
- iii. A management and maintenance plan of the approved Surface Water Drainage scheme has been submitted and approved in writing by the Local Planning Authority, this should include the funding arrangements and cover the lifetime of the development.

REASON – To reduce flood risk and ensure satisfactory long term maintenance area in place for the lifetime of the development

18. Development shall be implemented in line with the drainage scheme contained within the submitted document entitled 'Flood Risk Assessment' dated March 2019. The drainage scheme shall ensure that foul flows discharge to the foul sewer at manhole 9801 and ensure that surface water discharges to the 225mm surface water sewer downstream of manhole 3705. The surface water discharge rate shall not exceed the available capacity of 10.0 l/sec that has been identified in this sewer. The final surface water discharge rate shall be agreed by the Lead Local Flood Authority.

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

19. The ecological enhancement and mitigation measures set out in the Barrett Environmental Ltd 'Sadberge Reservoir Ecological Appraisal' dated April 2019 shall be implemented in full. In addition, no development shall take place until precise details of a scheme for the provision of bird and bat nesting opportunities on the site, has been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved scheme shall be implemented in full prior to first occupation of any of the dwellings on the site.

REASON – To comply with Core Strategy Policy CS15 (Protecting and Enhancing Biodiversity and Geodiversity).

20. No vegetation removal shall take place within the bird breeding season (March to September inclusive) unless a bird nesting survey has first been undertaken and submitted to and approved in writing by the Local Planning Authority.

REASON – In the interest of nesting birds.

21. E11 (Tree Protection)

22. Prior to the commencement of the development hereby permitted, details of the finished floor levels of the dwellings and gardens hereby approved in relation to existing ground levels shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be undertaken in accordance with the details as approved.

REASON – In the interest of visual and residential amenity.

## **INFORMATIVES**

### **Highways**

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

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

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

The applicant is advised that contact be made with the Assistant Director – Highways, Design and Engineering (contact Mr C Easby 01325 406707) to discuss the amended speed limits and introduction of Traffic Regulation Orders in connection with a 20mph zone within the development.

### **Contaminated Land**

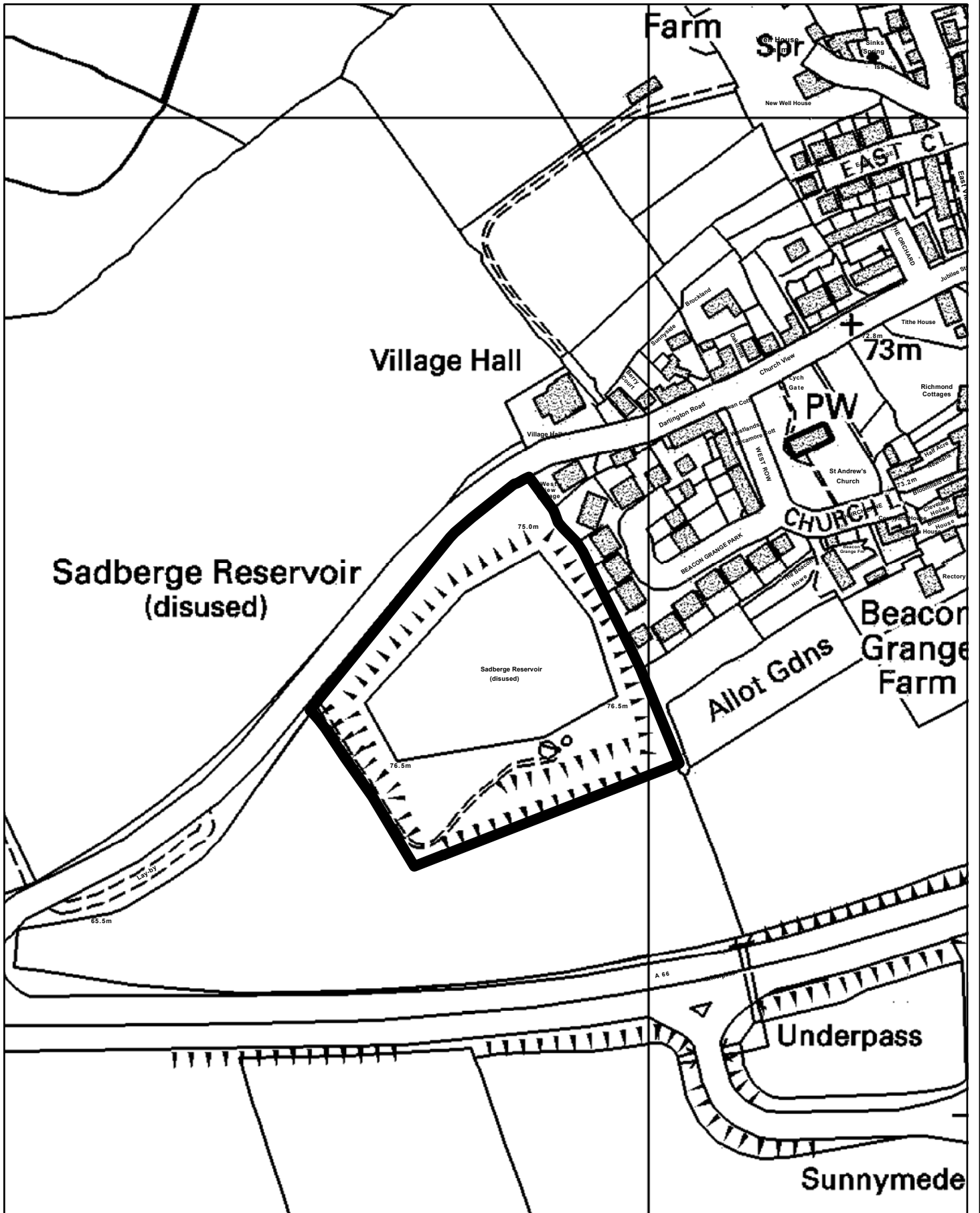
Conducting the site investigation once the site has been reprofiled may create delays in the building process and this is something which a developer will need to be aware of and factor into any construction plans. It is necessary to conduct the site investigation after the reprofiling of the site because of the extensive nature of the works required to get the site to desired level. Conducting soil sampling of the earthen bund walls prior to

the reprofiling of the site would not be representative of the ground conditions of the finished site.

### **Surface Water Drainage**

Surface water discharges from this site shall be flow regulated to ensure that flooding problems elsewhere in the catchment area are not exacerbated. The area of the site to be developed in 1.71ha not 2.8ha therefore the discharge rates from the site will be restricted to 7l/sec with sufficient storage within the system to accommodate a 1 in 30 year storm. The design shall also ensure that storm water resulting from a 1 in 100 year event plus climate change surcharging the drainage system can be stored on site without risk to people or property and without overflowing into drains or watercourse. Full Micro Drainage design files (mdx files) including the catchment plan and 3D topographical survey must be submitted for approval. The flow path of flood waters exiting the site as a result of a rainfall event exceeding the 1 in 100 year event plus climate change should also be provided.

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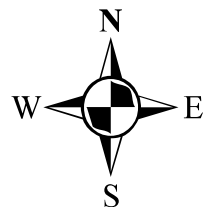


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**PLANNING REF No: 19/00339/OUT**

DARLINGTON BOROUGH COUNCIL

Page 37



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**DARLINGTON BOROUGH COUNCIL****PLANNING APPLICATIONS COMMITTEE****COMMITTEE DATE: 4<sup>th</sup> December 2019**

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<b>APPLICATION REF. NO:</b>	19/00982/FUL
<b>STATUTORY DECISION DATE:</b>	18 <sup>th</sup> December 2019
<b>WARD/PARISH:</b>	NORTHGATE
<b>LOCATION:</b>	27 Corporation Road
<b>DESCRIPTION:</b>	Erection of canopy to front elevation; the installation of four condensing units on the flat roof; installation of roller shutters (Part Retrospective) (amended plans and additional information received 14 November 2019 and 20 November 2019)
<b>APPLICANT:</b>	Mr Namiq Hama Raouf

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**APPLICATION AND SITE DESCRIPTION**

The application site is a single and 1.5 storey building close to the junction of Corporation Road and Northgate. The building had previously been used as a motor vehicle repair premises and showroom until planning permission was granted in November 2017 (See Planning History) to change its use to a Class A1 retail unit for the sale of animal feed. The animal feed business has recently vacated the unit and it is currently empty. The premises has two flat roofed sections (high and low) with an open forecourt at the front for the parking of approximately 10 cars.

The site is bound by residential terraced dwellings to the north (on the opposite side of Corporation Road); offices/snooker hall to the east; the ASE Club to the south and No 29 Corporation Road to the west, a former NHS building which has planning permission to be converted to seven flats and appears to have been implemented. The wider area includes the retail and commercial units on Northgate (east), the Navy Club on Corporation Road/Northgate junction (North east); St Georges Hall on Elmfield Street which is a building converted to bedsits for vulnerable people (south west) and the continuation of residential dwellings on Corporation Road (west).

The premises are located within the Northgate Conservation Area.

This application is seeking planning permission for external alterations to the building to facilitate its proposed use as a general store (Class A1). The premises are already in

Class A1 use and therefore no change of use of the premises is involved or can be considered as part of the determination of this application.

The application involves the proposed erection of a cantilevered canopy across approximately  $\frac{3}{4}$  of the frontage of the building and the installation of four condenser units of the lower flat roof, which are already in situ. This is therefore a part retrospective planning application.

The front elevation of the building has previously been clad in steel sheeting and roller shutters have been added over the window and door openings. It would appear that the cladding was added to the front elevation over four years ago and therefore it is now immune for any enforcement action. However, this planning application is an opportunity to regularise the roller shutters and these also form part of the application.

A separate planning application (ref no 19/00981/FUL) submitted under Section 73 of the Town and Country Planning Act 1990 to revise the planning conditions attached to planning permission 17/00878/CU which relate to the hours of deliveries and operation is also on this agenda for consideration.

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

#### **PLANNING HISTORY**

The relevant entries are:

17/00878/CU In November 2017 planning permission was GRANTED for the change of Use from Vehicle repair/showroom (Use Class Sui Generis) to Animal feed Sales (Use Class A1)

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

Following the Council's publicity exercises, four letters of objection have been received and the comments which relate to the proposed development can be summarised as follows:

- *The erection of a canopy to the front elevation is not in accordance with the Conservation Area status of this address*
- *There have already been recent contraventions of the Conservation Area status at this address namely, the corrugated façade to the front of the building, window shutter and refrigeration units on top of the building. Therefore, the erection of a canopy to the front elevation is not in accordance with the conservation of this area*
- *I think this is an unsuitable site for a convenience store as it will inevitably generate a large increase in cars and deliveries exacerbating current problems. The site is 100 yards or so from the very busy junction with A167 on a bus route, which currently has a build-up of traffic exiting Corporation Road and about 50 yards west of the site are junctions to Elmfield Street and opposite to Mowden Street. More traffic will exacerbate traffic issues*

### **Consultee Responses**

The **Council's Environmental Health Manager** has raised no objection to the development

### **PLANNING POLICY BACKGROUND**

The relevant national and local development plan policies are:

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

E38 – Alterations to Business Premises

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

CS2 Achieving High Quality Sustainable Development

CS14 Promoting Local Character and Distinctiveness

CS16 Promoting Environmental Resources, Human Health and Safety

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

#### **Other Documents**

Northgate Conservation Area Character Appraisal

### **PLANNING ISSUES**

The main issues to be considered are whether the works are acceptable in the following terms:

- Impact upon the Northgate Conservation Area
- Impact upon the Appearance and Character of the Street Scene
- Residential Amenity

#### **Impact upon the Northgate Conservation Area**

The application site is located within the Northgate Conservation Area. The property has previously been the subject of some external alterations, namely the erection of steel cladding on the front elevation and the installation of roller shutters and housing over existing door and window openings. This is an opportunity to regularise the roller shutters but as the cladding was installed over four years ago those works would be immune from enforcement action.

The proposed canopy would measure 18.7m long with a projection of 2m from the front elevation over the forecourt. The overall height of the canopy would be 3.8m with 2.6m of headroom when measured from the ground level. The canopy would be cantilevered and constructed from Grey Plastisol sheeting to match the existing cladding on the building. The canopy would be located over the customer entrance and four double windows and it would provide a visual screen across the roller shutter boxes above the openings.

Four condensing units have been erected on the lower part of the flat roof.

Policy CS14 of the Darlington Core Strategy Development Plan 2011 requires that *“The distinctive qualities of the Borough's built and natural townscapes and landscapes will be*

*protected and, where appropriate, enhanced to positively contribute to the character of the Borough to promote a strong sense of place”.*

In accordance with the statutory duties set out in the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA), special regard must be paid to the desirability of preserving any features of special architectural or historic interest of buildings and spaces that help establish the special character and appearance of conservation areas.

The National Planning Policy Framework 2019 (NPPF) states that in determining planning applications, local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets, including conservation areas (Para 192)

The NPPF 2019 requires that when considering the impact of development proposals on designated heritage assets such as conservation areas great weight should be given to the conservation of the asset’s significance (para 193).

The NPPF 2019 also requires that if a heritage asset’s significance is likely to be harmed by a development, including harm occurring to its setting, it is necessary to decide whether such works are necessary (para 195) and justified (para 194); whether such harm is substantial or insubstantial paras 195 & 196); and whether the amount of harm can be outweighed or offset by a matching amount of public benefits.

The Northgate Conservation Area extends approximately 800m northwards along Northgate as far as the Darlington to Bishop Auckland branch railway. The Area includes the North Road Station group of buildings at the northern end, Northgate and High Northgate forming the spine of the eastern edge and North Lodge Park to the south.

The Northgate Conservation Area Character Appraisal makes no specific reference to the application site and/or whether the existing building makes a valuable contribution to the visual appearance or character of the Area. The property is a single and 1.5 storey building set behind the “building line” of the more substantial neighbouring buildings (Nos 29 Corporation Road and the Durham Tees Valley Probation Trust building). The property is a brick built building that has had some external alterations carried out to the front elevation over the years and it does not contain any features of historic or architectural interest. The existing building does not make a valuable contribution towards the significance of the Conservation Area.

The introduction of a canopy to the building would make a moderate improvement to the front elevation as it would provide a visual “break” within the flush and plain frontage of the building and it would screen the housing of the roller shutters over the four window openings and customer entrance.

The condenser units are partially visible from the main highway to the front of the property, but they are set against the 1.5 storey section of the building and back from the edge of single storey section of the building.

It is likely that the cladding has been erected on the front elevation for over four years with the roller shutters being a more recent addition. Officers are not aware of any complaints being received when these alterations were being made to the premises, but the alterations are acceptable.

Having considered the cumulative impact of the external works to the building, the significance of the Conservation Area would be sustained in accordance with the NPPF, policy CS14 of the Core Strategy and the Planning (Listed Buildings and Conservation Areas) Act 1990

### **Impact upon the Appearance and Character of the Street Scene**

Saved Policy E38 of the Local Plan states that alterations to business premises will be permitted if there would be no material adverse effect on the character and appearance of the building or the street scene.

The erection of the canopy will result in a moderate improvement to the building by providing a visual break and feature within a nondescript frontage and it would screen the housing of the roller shutters. The condensing units are not significant additions to the visual appearance of the building and therefore it is considered that the proposed works and those that have already been carried out would not have an adverse material impact on the character of the building, which is remains in commercial use, or its appearance. The development would not have an adverse impact on wider street scene.

### **Residential Amenity**

Policy CS16 of the Core Strategy seeks to ensure that new developments do not harm the general amenity and health and safety of the local community which echoes one of the core principles of the NPPF (2019).

The external alterations to the building would not have an adverse impact on the neighbouring dwellings in terms of outlook, loss of privacy or overbearingness due to nature and design of the works and the proximity distance between the site and the dwellings on the opposite side of Corporation Road.

The manufacturers details and information on the noise levels relating to the condenser units have been submitted and the Council's Environmental Health Manager has raised no objections on this basis.

The development would therefore comply with policy CS16 of the Core Strategy.

### **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. The works would not result in any discrimination between persons who share a relevant protected characteristic and any persons who do not.

## **SECTION 17 OF THE CRIME AND DISORDER ACT 1998**

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

## **CONCLUSION**

The existing unit is currently in Class A1 (retail) use. The applicant for this application wishes to operate a convenience store from the premises which can occur without the need for planning permission. This planning permission relates to external alterations to the building which are considered to sustain the significance of the Northgate Conservation Area in accordance with the NPPF and local development plan policy. The external alterations are considered to be acceptable in general design and street scene terms and would not harm the amenities of the neighbouring properties.

Information has been supplied on the noise emissions for the condensing units that have been erected on the roof of the building and they would not give rise to conditions that are prejudicial to the amenities of the neighbouring dwellings.

## **RECOMMENDATION**

**PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS**

1. A3 – Implementation Limit (Three Years)
2. The four condenser units that have been installed on the premises shall fully comply with the manufacturer details and specifications supplied by J & E Hall on 14 November 2019 and 20 November 2019. The units shall be maintained in accordance with the specifications thereafter

REASON - In the interests of the amenity of the area

3. The development hereby permitted shall be carried out in accordance with the approved plans, as detailed below:
  - a. Drawing Number 02A Proposed Roof Plan of Canopy
  - b. Drawing Number 06 Proposed Ground Floor
  - c. Drawing Number 07 Proposed Part Roof Plan

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

## **INFORMATIVES**

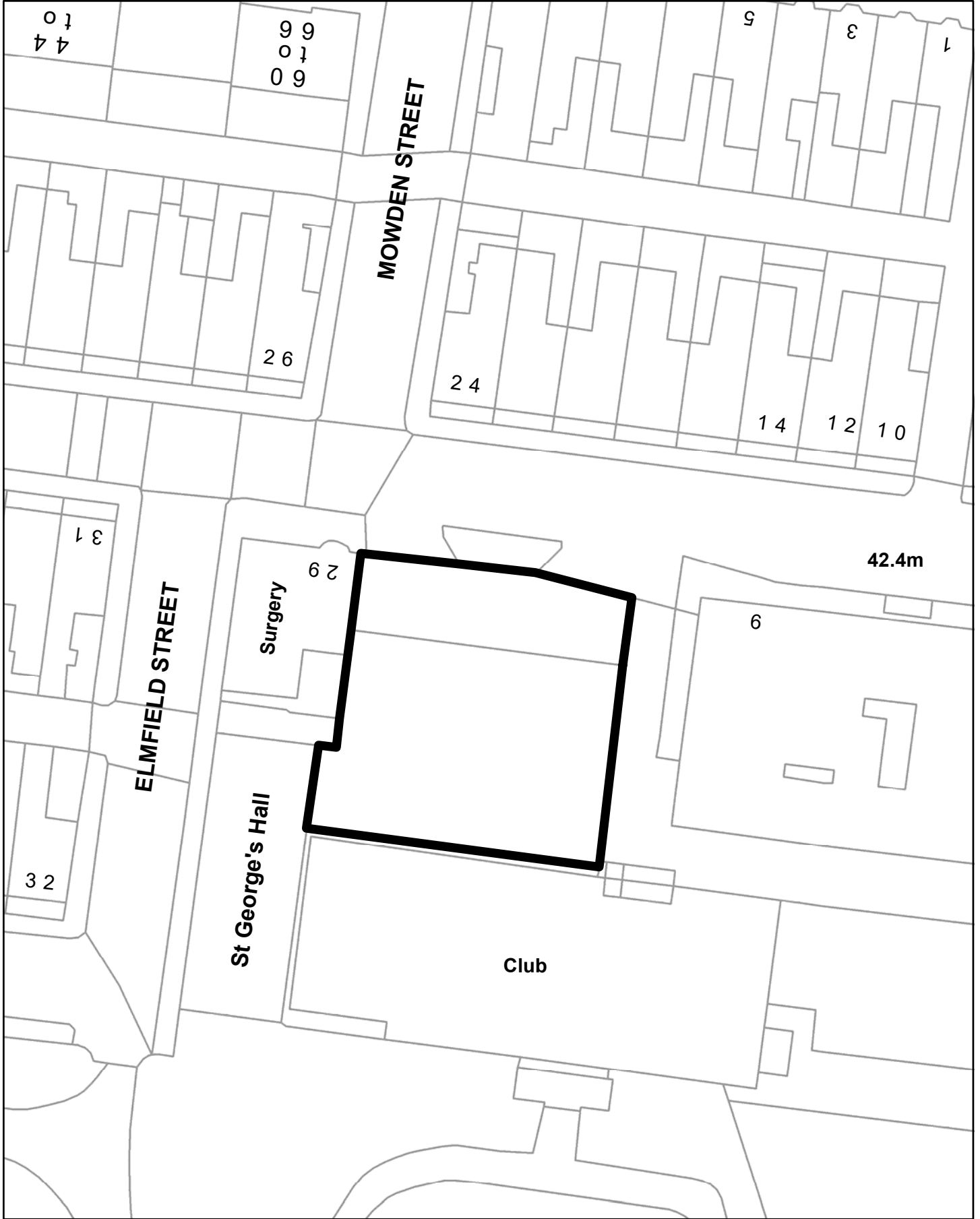
The applicant is advised that the granting of the application does not remove the need to comply with the requirements of the Sunday Trading Act 1994

The applicant is advised that the Council's Environmental Health Section enforces Food Safety and Health and Safety legislation at this premises and the applicant is advised to contact Environmental Health prior to the undertaking of any work to ensure that all legislative requirements are met.

The applicant is advised that the premises may also require a Premises Licence under Licensing Act 2003 if they are to serve alcohol and if this is the case the applicant should contact the Licensing Department for further advice.

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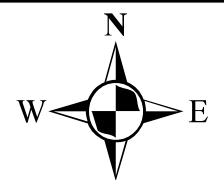


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**PLANNING REF No: 19/00982/FUL**

DARLINGTON BOROUGH COUNCIL

Page 47



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**DARLINGTON BOROUGH COUNCIL****PLANNING APPLICATIONS COMMITTEE****COMMITTEE DATE: 4<sup>th</sup> December 2019**

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<b>APPLICATION REF. NO:</b>	19/00981/FUL
<b>STATUTORY DECISION DATE:</b>	13 December 2019
<b>WARD/PARISH:</b>	NORTHGATE
<b>LOCATION:</b>	27 Corporation Road
<b>DESCRIPTION:</b>	Application submitted under Section 73 of the Town and Country Planning Act 1990 for the variation of condition 2 (open hours and deliveries) attached to planning permission 17/00878/CU dated 07 November 2017 - to permit changes to deliveries 08.00am - 17.50pm Monday to Friday and 08.00am - 16.00pm Saturday, with no deliveries on Sundays or Bank Holidays and to permit change to opening hours to 07.30am - 21.00pm Monday to Saturday, and 08.00am - 21.00pm Sunday and Bank Holidays (amended description)
<b>APPLICANT:</b>	Mr Namiq Hama Raouf

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**APPLICATION AND SITE DESCRIPTION**

The application site is a single and 1.5 storey building close to the junction of Corporation Road and Northgate. The building had previously been used as a motor vehicle repair premises and showroom until planning permission was granted in November 2017 (See Planning History) to change its use to a Class A1 retail unit for the sale of animal feed. The animal feed business has recently vacated the unit and it is currently empty. The premises has two flat roofed sections (high and low) with an open forecourt at front for the parking of approximately 10 cars.

The site is bound by residential terraced dwellings to the north (on the opposite side of Corporation Road); offices/snooker hall to the east; the ASE Club to the south and No 29 Corporation Road to the west, a former NHS building, which has planning permission to be converted to seven flats and appears to have been implemented. The wider area includes the retail and commercial units on Northgate (east), the Navy Club on Corporation Road/Northgate junction (North east); St Georges Hall on Elmfield

Street which is a building converted to bedsits for vulnerable people (south west) and the continuation of residential dwellings on Corporation Road (west).

The premises are located within the Northgate Conservation Area.

When planning permission (ref no: 17/00878/CU) was granted for the animal feed store, it was subject to the following condition:

- *The use hereby permitted and its associated deliveries shall not take place outside the hours of 0900 - 1730 Monday to Friday and 0900 - 1600 on Saturdays with no opening or deliveries on Sundays and Bank Holidays.*

The above planning condition was based on the hours of operation and deliveries that were included within the application and met the operational requirements of that operator.

The applicant wishes to use the existing building as a convenience store and as the premises already fall within Class A1 (retail) no change of use of the property is involved. This planning application is seeking approval to extend the hours of deliveries and the hours of use to those set below

#### **Hours of Delivery**

- *08.00am - 17.50pm Monday to Friday and 08.00am - 16.00pm Saturday, with no deliveries on Sundays or Bank Holidays*

#### **Hours of Use**

- *07:30am - 21.00pm Monday to Saturday, and 08.00am - 21.00pm Sunday and Bank Holidays.*

Following the submission of comments from local residents, the applicant requested that the hours of opening be restricted to 21:00 Monday to Sunday, including Bank Holidays and the application has been amended accordingly.

A separate planning application (ref no 19/00982/FUL) has been submitted for external alterations to the premises and is also attached to this Agenda.

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

#### **PLANNING HISTORY**

The relevant entries are:

17/00878/CU In November 2017 planning permission was GRANTED for the change of Use from Vehicle repair/showroom (Use Class Sui Generis) to Animal feed Sales (Use Class A1)

## RESULTS OF CONSULTATION AND PUBLICITY

Following the Council's publicity exercises, six letters of objection have been received and the comments can be summarised as follows:

- *It is noisy enough with the pub etc without added deliveries until at least 9 at night, every day of the week, I live directly opposite, and it would affect me and my sleep for work and only day off with noisy deliveries;*
- *This will be detrimental to the amenity of the surrounding residents because of increased noise from the number of vehicles stopping and slamming doors. This building is surrounded by homes.*
- *Light from the building during all waking hours will also be intrusive for people living here*
- *Increase in noise and light affecting the amenity of the surrounding residents and interfering with their rest and enjoyment of their home*
- *This does not take into account that people may work shift or unsocial hours and increased activity of the type being applied for will interrupt proper rest;*
- *There are high density homes in the immediate vicinity and could also be affected in a similar way*
- *There is a local shopping area nearby at the other end of Corporation Road and the town centre shopping area is nearby*
- *Another retail shopping site is not needed*
- *The location will inevitably attract many vehicles from outside the area making short stops. So much coming and going, especially after working hours will increase nuisance to residents*
- *There are already parking problems in this area for residents especially outside working hours so extending the hours will increase this;*
- *My objections are based on noise and parking issues*
- *Resident's Permits have already become necessary. In summer, when residents might often have their windows open, it is already difficult to sleep because of traffic noise. Cars and lorries manoeuvring in an out will further spoil the quiet enjoyment of the residents*
- *An alcohol licence should not be granted. There are already two clubs serving alcohol within yards of the address. This is an area which requires improvement and further easy access to alcohol is inappropriate.*
- *This will have a huge impact due to increased noise levels from customers entering and leaving the premises along with then "hanging outside" talking and passing the time of day and even antisocial behaviour*
- *There will also be constant stream of cars coming and going from the car park which can apparently hold 10 cars however I am not convinced this capacity can be achieved without some vehicles being blocked in by others which again could cause issues.*
- *The carpark and shop entrance are only a few metres from my front door and living room so noise from customers and vehicles is a factor and also car headlights will shine directly into my living room.*
- *The other issue will be customers who will park up but wait in their cars with the engine running*

- *People park on the double yellow line which is on place across the whole block of houses opposite the site. This is a regular event and creates a narrowing of the road, which is a very busy road and bus route as well as a route to the hospital for emergency vehicles. This creates a pinch point which stops the flow of traffic*
- *People also regularly park in the bus stop causing further obstruction*
- *Another problem is pavement parking as this means less abled people in wheelchairs and motorised chairs along with families who have buggies and prams have to cross the road to get around the obstruction and then cross back over again. This becomes a greater risk when there are cars parked on the double yellow lines. I am aware that opening hours will not have any effect on whether people park on yellow lines and pavements however the chances of customers dropping into the shop and parking on the double yellow lines is dramatically increased*
- *If the opening hours are extended then my concern is the risk of an incident occurring is greatly increased, especially in winter time due to the dark and also, by the law of averages, the more often the traffic flow is compromised by illegal parking, the greater the risk of an incident happening will become*
- *There is insufficient parking for a retail unit as Residents Permits have already become necessary*
- *In the interests of improving the profile of this area of Northgate and North Road, I do not think more sales of alcohol are required or desirable*
- *If the forecourt has vehicles parked in front, the delivery vehicles will only be able to unload on the road, which has double yellow lines and outside people's homes*
- *I imagine people wandering between the snooker hall and the shop after a few drinks not realising the noise that they are making;*
- *I am concerned about an increase in anti-social behaviour and I have contacted the Police on occasions due to anti-social behaviour in the Road and am concerned that this will be increased and may involve damage to property, including resident's cars*
- *There is limited parking on the front of the site and cannot see how many people will be able to park without this impacting on residents. This will result in an overflow of people parking outside houses or in spaces allocated for residents*
- *There has already been a reduction in space available and has resulted in resident permits being required, at a cost to people living in their houses. It is unfair if this will then be further compromised at times when wardens are not available to check on people parked properly*
- *The road is a bus route and an increase in traffic parking in the road is highly likely to compromise the buses route and will result in a bottle neck*

#### *Consultee Responses*

The **Council's Highways Engineer** has raised no objections

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

The **Durham Constabulary Architectural Liaison Officer** has raised no objections

#### **PLANNING POLICY BACKGROUND**

The relevant national and local development plan policies are:

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

CS2 Achieving High Quality Sustainable Development

CS16 Promoting Environmental Resources, Human Health and Safety

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

#### **PLANNING ISSUES**

As stated above, the use of the premises as a convenience store would not require planning permission as the previous and proposed uses both fall within Class A1 (retail) of the Town and Country Planning (Use Classes) Order. A convenience store could operate from the premises without the need for any further approval from the local planning authority if it operated within the hours approved under planning permission reference number 17/00878/CU. The main issues to be considered here is whether the revised hours of deliveries and operation would be acceptable in the following terms:

- Residential Amenity
- Highway Safety and Parking Provision

#### **Residential Amenity**

Policy CS16 of the Core Strategy seeks to ensure that new developments do not harm the general amenity and health and safety of the local community which echoes one of the core principles of the NPPF (2019).

The hours of opening and deliveries that are currently in force at the premises were purely based on the operational requirements of that operator and to prevent any activities associated with the use taking place at inappropriate hours of the day and evening.

Since the submission of the application, the applicant has reduced the proposed closing time for the unit from 21:30 to 21:00 in response to some of the concerns that have been received by the local planning authority.

Whilst the application is seeking permission to operate between 08:00 and 21:00 on a Sunday, the premises will be subject to the requirements of the Sunday Trading Act 1994 which restricts the hours of opening on a Sunday to a total of 6 hours and it could not open at all on a Christmas Day or Easter Sunday. The applicant could choose any six hours on a Sunday which would be a matter for the Licensing Section. The proposed condition would enable the applicant to operate for six hours between 08:00 to 21:00. The unit would have an internal bin store area for the storage of waste and refuse.

The closest residential properties are the terraced dwellings opposite the application site; No 29 Corporation Road which is a two storey building that has been converted to flats and St George's Hall, which is a flatted development for vulnerable people, both of which share the western boundary of the application site. There are residential properties further afield to the west. Northgate, which is primarily in commercial and retail use lies to the east.

No 27 Corporation Road is accessed from both Corporation Road and Elmfield Street and St George's Hall is via Elmfield Street. The blank gable wall of No 27 Corporation Road forms the western boundary of the forecourt to the front of the application premises.

It is acknowledged that commercial uses (shops/takeaways etc) within residential areas can result in noise and disturbance from car engines, car audio systems, slamming of doors, the "comings and goings" of customers; noise from delivery vehicles and operations and people congregating outside the premises. As a result, it is necessary to impose a planning condition that limits the hours of opening and deliveries to protect the living conditions of local residents and to prevent such noisy activities taking place outside of the antisocial hours.

The opening times for the unit would not be dissimilar to other retail "local" shops within residential areas throughout the Borough and the Council's Environmental Health Manager has advised that very few complaints are received about their operation other than occasionally from deliveries of newspapers and milk at very early hours (for example, before the shop opens) which would not be the situation at this unit.

When previously considering planning applications for a change of use of a property to a shop or a takeaway or for extending the hours of operation of a commercial property in a residential area, Officers and Members of the Planning Applications Committee have considered 21:00 to be an appropriate closing time as any noise generated by the above would not be occurring at an antisocial time or when residents would reasonably expect a degree of peace and quiet. This has also been supported on appeal on a number of occasions.

It is not unreasonable to consider that Sundays and Bank Holidays are particularly sensitive days of the week necessitating earlier closing times than on any other day of the week, subject, in this case, to the applicant complying with the requirements of the Sunday Trading Act 1994.

The 21:00 closing time would be a continuation of this consistent approach by the local planning authority when considering similar planning applications elsewhere in the Borough.

Deliveries into the premises would take place via an existing entrance in the side elevation of the building via a cobbled lane which runs along the eastern boundary of the site. A planning condition can be imposed to ensure that all deliveries occur at the premises via this entrance which would reduce the impact of any disturbances on the neighbouring dwellings. The deliveries would also take place whilst the store is open rather than prior to and/or after the operational hours.

It is acknowledged that vehicles entering and leaving the site with headlights on during the evening hours may cause an issue for the dwellings opposite the site, but officers do not consider that this disturbance would be so significant to justify a recommendation to refuse the planning application.



The following material considerations can be taken into account in this instance: the site is in close proximity to existing commercial uses on Northgate that already generate some activity during the day and on an evening; the entrance to the store is behind the front entrance of the flats within No 27 Corporation Road; the gable wall of No 27 Corporation Road which forms the boundary of the forecourt does not contain any openings; existing road traffic along Corporation Road will generate background noise in the area; the front entrance into the store would be approximately 23m from the front elevations of the dwellings on the opposite side of the road; the vacant unit will be brought back into use creating a small number of jobs and providing a service primarily to the local community.

The Durham Constabulary Architectural Liaison Officer has advised that the Police would have no objections to the proposed hours of operation from an anti-social behaviour perspective.

Having considered the site context, the comments made by local residents and the consistent approach taken by the local planning authority and Planning inspectors on similar planning applications elsewhere, the proposed variation to the hours of deliveries and opening considered to be acceptable in amenity terms.

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

Policy CS2 of the Core Strategy 2011 seeks to ensure that proposals provide vehicular access and parking suitable for its use and location.

The unit has a forecourt at the front which is accessed directly off Corporation Road and can accommodate 10 spaces. Deliveries to the unit would occur via an existing access of a lane that runs alongside the building.

The dwellings in the local area are terraced properties with very few having any in-curtilage parking and residents will rely upon on-street parking.

The use of the building from an animal food store to a convenience store is likely to generate increased turnover of short duration vehicular trips. However, the parking provision on the site is broadly in accordance with current design standards for a Class A1 retail use.

The eastern end of Corporation Road has parking restrictions near to the application site which should help ensure overspill parking is not problematic. The site will attract many customers on foot and those who do arrive by car will be parked for a short duration enabling a high turnover of customers to park within the car park spaces. The Council's Highways Engineer has advised that police accident records do not show any pattern of incidents at or near to the application site and he has advised that the planning application should not be recommended for refusal on highway safety grounds.

Sufficient parking restrictions are already in place and no further measures are envisaged to be necessary at this time, but this can be the subject of further review in the future should parking become cause for regular complaints.

The Council's Highways Engineer has raised no objections.

### **Other Matters**

It is likely that any new signage for the premises will require the submission of a separate application for advertisement consent and one of the considerations for such an application is the impact of the proposal on the amenity (both visual and residential) of the local area.

The potential sale of alcohol from the premises would not be a material planning consideration and would be a matter for the Council's Licensing Section, should a licence be applied for.

### **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.

Whilst the proposed use of the unit as a store does not require planning permission, the building would retain the level entrance into the premises and the car park can be safely accessed by pedestrians and disabled persons.

The unit has space to provide ten off street parking spaces, which are currently not available for use and this will help to alleviate some on street parking pressure and the existing problems of people parking on pavements causing obstructions for elderly persons, people in wheelchairs or with push chairs.

Whilst it is acknowledged that people in the local area have different working hours, it is considered that the proposed hours of deliveries and opening are not unreasonable in an area that has a mix of residential and commercial properties.

### **SECTION 17 OF THE CRIME AND DISORDER ACT 1998**

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

### **CONCLUSION**

The existing unit is currently in Class A1 (retail) use. Planning permission was granted for the retail usage subject to planning conditions which restricted the hours of operation and deliveries based on the operational requirements of the previous occupant. The applicant for this application wishes to operate a convenience store from the premises which can occur without the need for planning permission, but they wish to extend the hours of operation and delivery.

The hours of opening have been amended at the request of the applicant in response to the comments made by the local residents and the revised closing time is consistent with other planning permissions and appeal decisions for commercial uses within residential areas elsewhere in the Borough. Overall, it is considered that the proposed hours of deliveries and opening are acceptable in amenity terms.

It is considered that the parking provision within the site is acceptable for the retail unit and will help to alleviate existing on street parking issues.

The proposal is considered to accord with appropriate national and local development plan policy.

### **RECOMMENDATION**

PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:

1. No deliveries shall occur outside the hours of 08.00am - 17.50pm Monday to Friday and 08.00am - 16.00pm Saturday, with no deliveries on Sundays or Bank Holidays  
REASON: In the interest of the amenity of the local area
2. All deliveries to the premises shall take place via the entrance in the east elevation of the building  
REASON: In the interest of the amenity of the local area
3. The premises shall not operate outside the hours of 07:30am - 21.00pm Monday to Saturday and 08.00am - 21.00pm Sunday and Bank Holidays.  
REASON: In the interest of the amenity of the local area

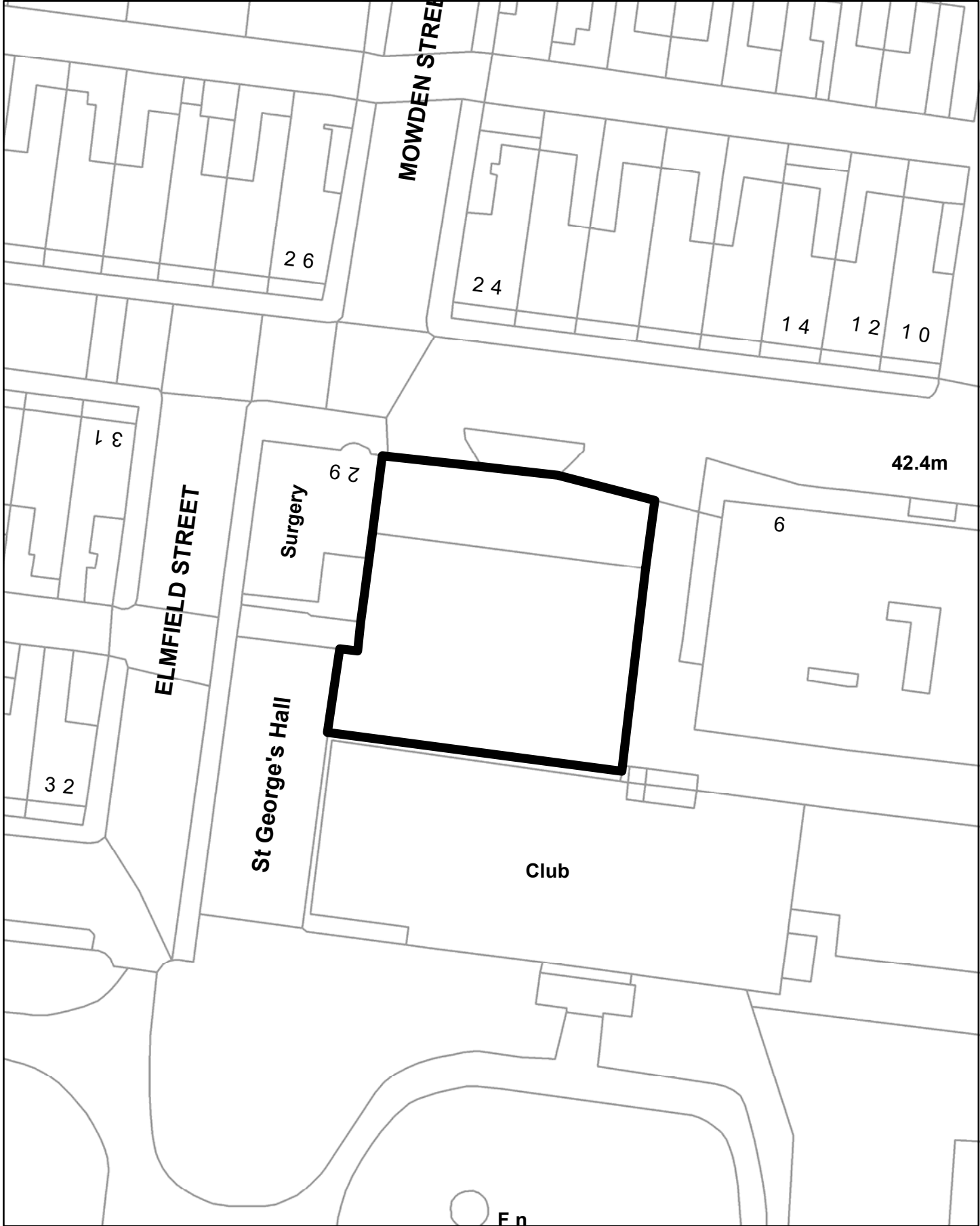
### **INFORMATIVES**

The applicant is advised that the granting of the application does not remove the need to comply with the requirements of the Sunday Trading Act 1994

The applicant is advised that the Council's Environmental Health Section enforces Food Safety and Health and Safety legislation at this premises and the applicant is advised to contact Environmental Health prior to the undertaking of any work to ensure that all legislative requirements are met.

The applicant is advised that the premises may also require a Premises Licence under Licensing Act 2003 if they are to serve alcohol and if this is the case the applicant should contact the Licensing Department for further advice.

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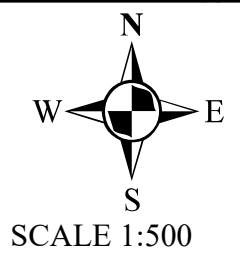


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**PLANNING REF No: 19/00981/FUL**

DARLINGTON BOROUGH COUNCIL

Page 59



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## DARLINGTON BOROUGH COUNCIL

### PLANNING COMMITTEE – 4 DECEMBER 2019

#### REPORT OF HEAD OF PLANNING DEVELOPMENT AND ENVIRONMENTAL HEALTH TO LAND ADJACENT TO THE LODGE, DINSDALE SPA HOUSE, CHURCH LANE, MIDDLETON ST. GEORGE, 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 11. The objections relates to this Order which covers one Mature Willow Tree (*Salix* spp) growing on land adjacent to The Lodge, Dinsdale Spa, Church Lane, Middleton St. George.

#### 2. Legal and Procedural Background

- 2.1 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 11 was made on the 25 September 2019 on one mature Willow Tree on land adjacent to The Lodge, Dinsdale Spa House, Church Lane, Middleton St. George.
- 3.2 This Tree Preservation Order was made as a result of a request to the Local Planning Authority as the tree was thought to be at risk of being felled.
- 3.3 The mature willow tree is located to the south of a small group of properties located at Dinsdale Spa, to the north of the River Tees. Footpath No. 10 in the parish of Low Dinsdale passes immediately to the south of these properties with the willow tree being high prominent in view from this aspect.
- 3.4 Objections to the Tree Preservation Order have been received from three directors of Dinsdale Spa (Management) Limited (Woodview, Kingfisher House and The Octogan, in respect of the order being placed on the mature Willow Tree. The Directors who represent The Lodge and River View are in support of the Tree Preservation Order.
- 3.5 The Willow Tree is not protected by virtue of being in a conservation area.
- 3.6 The Tree Preservation Order was based on the following grounds:

*The mature Willow tree is in reasonable form and condition, it has small crossing branches and minimal deadwood within the crown. A low scaffold limb protrudes approx.0.5m from the trunk of the tree. The tree is highly visible from public right of way (footpath No. 10 parish of Low Dinsdale). 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:
  - The willow tree was planted approx. 30 years ago by a previous resident, unfortunately it is in close proximity to the septic tank and underground drainage of the property. Since then the tree has developed into a feature that is appreciated by all the residents, but is nevertheless subject to regular sympathetic maintenance to both preserve its character and avoid nuisance to any of the residents. Placing a Tree Preservation Order will place an unnecessary administrative burden on the Management Company and the Council as maintenance works would require formal planning application being submitted to the LPA.
  - The tree has never been under threat of being cut down.

- The tree is not currently under any threat of being cut down.
- The tree would only be felled if it started to cause damage to the adjacent septic tanks or drains in which case we understand the TPO would be removed to allow the avoidance to damage. Roots from the Willow tree have in the past caused blockages to the drains and pipework leading to the properties requiring urgent repairs to be undertaken.
- If tree roots penetrate the septic tank, raw untreated sewage could be discharged into the River Tees, having to apply for planning consent would cause an unnecessary delay to any urgent work required.
- The Willow tree encroaches over both public and permissive footpaths along the banks of the River Tees and also the residents' patio area. If limbs were to unexpectedly snap off then there would be potential danger to both the general public and residents of Dinsdale Spa.
- The view of the Willow Tree is impeded from public view by vehicles, camper vans and other large vehicles parked in the resident's car park. The approach along the Teesdale Way is also obscured by several trees.
- Any matters relating to the shared grounds of Dinsdale Spa would normally be discussed by all Directors of Dinsdale Spa (Management) Limited. This TPO was submitted without any due consultation with the Management Company and therefore the request for a TPO was not agreed by every Director of the Management Company.

## **5. Summary of Representations**

### 5.1 Representation is response to the placing of the Order.

- The willow tree greatly enhances the whole aspect of the front of the property and has been a main feature of the property for over 30 years which needs to continue in the future as a benefit to both the residents and public alike. The tree makes a significant contribution to the visual amenity of the locality.
- The tree roots are currently supporting the river bank and we are extremely concerned that if the tree was removed there would be a severe risk of subsidence affecting the structure of The Lodge and River View.

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

### 6.1 In response to the Objector's Comments the Council's Senior Arboricultural Officer has advised as follows:-

- The tree is approx. 18m in height and is highly visible from a number of vantage points, it has a low scaffold limb which is integral to the shape of the crown and therefore makes a valuable contribution to the visual appearance of the locality. The protection of the tree remains desirable in the interests of amenity and as such is considered expedient to protect the tree by the making of a Tree

### Preservation Order.

- The LPA if it believes it is appropriate can impose a time limit of approved works (of say, two years) on the duration of the planning consent which would allow the tree to be regularly maintained and therefore reduce the need for subsequent planning applications and the administrative burden.
- If in future the tree roots are found to be causing damage to the drains and underground pipework then the Management Company could then seek the tree's removal.
- There are many trees covered by tree preservation order which overhang public rights of way and it is a natural occurrence for trees to lose small branches. It is also normal for trees to lose larger branches in extreme weather conditions. However, this is not considered justification as to not placing an order on the tree.
- 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
- For these reasons, the tree is worthy of protection.

## 7. **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.

## 8. **Conclusion**

The mature Willow Tree (*Salix spp*) is in reasonable form and condition with small crossing branches and minimal deadwood within the crown. A low scaffold limb protrudes approx. 0.5m from the trunk of the tree.

Having considered the comments from the Directors of the Management Company

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 is not within a conservation area and without the protection of a tree preservation order could be felled without the need for formal planning consent.

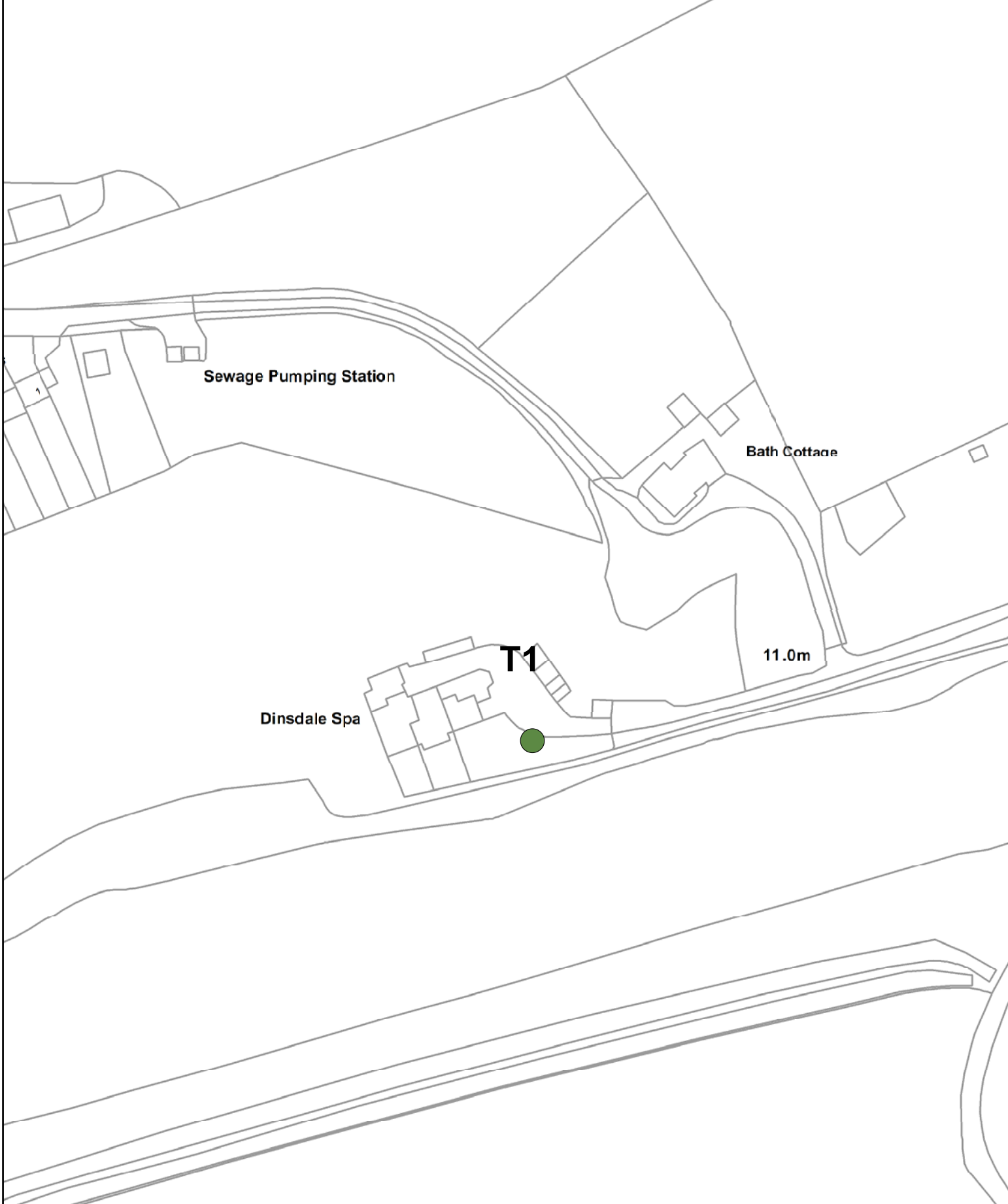
It is considered expedient to protect the tree by the making of a Tree Preservation Order as the loss of the tree would have a detrimental impact on the amenity of the area.

**9. Recommendation**

That Members confirm the TPO without modification

**Dave Coates**

**Head of Planning Development & Environmental Health**



**TREE PRESERVATION ORDER (No. 11) ORDER 2019**

Land Adjacent To The Lodge  
Dinsdale Spa House  
Church Lane  
MIDDLETON ST GEORGE  
DARLINGTON DL2 1DJ

Scale 1:1,250  
Date 12/09/2019  
Drawn PB  
Drg. No. TP/2019/11



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