

Planning Applications Committee Agenda



**1.30 pm, Wednesday, 28 October 2020
via Microsoft Teams**

In accordance with Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020, this meeting will be held on a virtual basis. Members of the Public can view a live stream of the meeting at:

<https://www.darlington.gov.uk/livemeetings>

Due to the changes made surrounding meetings during the Coronavirus pandemic, please note the following changes to the Planning Protocol:

- a. That the Applicant may attend but will not be permitted to make a presentation to Committee, and just be there to answer questions.**
- b. That, following the publication of the Agenda/Reports, the Applicant and Supporters/Objectors may submit a statement in writing up to 1.30pm on the Tuesday prior to the meeting which will either be circulated to Committee Members or read out by the Planning Officer at the meeting. Any statements should be submitted to the Planning Services Team, Room 401, Town Hall, Feethams, Darlington, DL1 5QT.**
- c. That people may approach their Ward Members (who are allowed to attend the meeting) and request that they put their views to Committee.**

1. Introductions/Attendance at Meeting
2. Declarations of Interest
3. To Approve the Minutes of the Meeting of this Committee held on 30 September 2020 (Pages 1 - 8)
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 9 - 10)

(a) Vantage Point Site, Faverdale, Darlington (Pages 11 - 28)

(b) Prospect House, Middleton Road, Sadberge (Pages 29 - 38)

(c) Marchbank School, Barnes Road (Pages 39 - 44)

(d) The Mowden, Staindrop Road, Darlington (Pages 45 - 54)

6. SUPPLEMENTARY ITEM(S) (if any) which in the opinion of the Chair of this Committee are of an urgent nature and can be discussed at this meeting
7. Questions

PART III

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 16 October 2020 (Exclusion Paragraph No. 7) –
Report of Director of Economic Growth and Neighbourhood Services
(Pages 55 - 64)
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, 20 October 2020

Town Hall
Darlington.

Membership

Councillors Allen, Clarke, Cossins, Heslop, C L B Hughes, 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 Officer, Resources Group, during normal office hours 8.30 a.m. to 4.45 p.m. Mondays to Thursdays and 8.30 a.m. to 4.15 p.m. Fridays E-Mail: paul.dalton@darlington.gov.uk or telephone 01325 405805

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PLANNING APPLICATIONS COMMITTEE

Wednesday, 30 September 2020

PRESENT – Councillors Mrs D Jones (Chair), Allen, Clarke, Cossins, C L B Hughes, Johnson, Keir, Lee, Lister, Marshall, McCollom, Tait, Tostevin and Wallis

APOLOGIES – Councillor Heslop.

ALSO IN ATTENDANCE – Councillor Durham.

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).

PA36 DECLARATIONS OF INTEREST

There were no declarations of interest reported at the meeting.

PA37 TO APPROVE THE MINUTES OF THE MEETING OF THIS COMMITTEE HELD ON 2 SEPTEMBER 2020

RESOLVED – That the Minutes of this Committee held on 2 September 2020 be approved as a correct record.

PA38 APPLICATIONS FOR PLANNING PERMISSION AND OTHER CONSENTS UNDER THE TOWN AND COUNTRY PLANNING ACT AND ASSOCIATED LEGISLATION

A3	<p>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.</p> <p>Reason - To accord with the provisions of Section 91(1) of the Town and Country Planning Act, 1990.</p>
E2	<p>A landscaping scheme shall be submitted to, and approved in writing by, the Local Planning Authority prior to any works commencing and, upon approval of such schemes, it shall be fully implemented concurrently with the carrying out of the development, or within such extended period as may be agreed in writing by, the Local Planning Authority, and thereafter any trees or shrubs removed, dying, severely damaged or becoming seriously diseased shall be replaced, and the landscaping scheme maintained for a period of five years to the satisfaction of the Local Planning Authority.</p> <p>Reason - To ensure a satisfactory appearance of the site and in the interests of the visual amenities of the area.</p>

PA39 182 NORTHGATE, NORTH LODGE, DARLINGTON

20/00266/FUL – Conversion of building to provide 2 No. retail units (Use Class A1) and 24 No. apartments (Use Class C3) including demolition of delivery/goods bay to rear, erection of second floor extension incorporating mezzanine floor and pitched roof, creation of external amenity areas, cladding to elevations, bin storage, cycle provision, retail storage, access and delivery area and associated internal and external alterations.

(In consideration of this item, the Committee took into consideration the Planning Officer's report (previously circulated), the concerns of the Conservation Officer, five letters of objection, including one objection from the Friends of Stockton and Darlington Railway, one letter of support from the Campaign to Protect Rural England, and responses to questions asked by Members of the Applicant's Agent during the meeting.)

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

1. A3 Implementation Limit 3 Years
2. The development hereby permitted shall be carried out in accordance with the approved plan(s) as detailed below:

L019034 – 000 Location and Block Plan
L019034 – 100 Proposed ground floor plan
L019034 - 101 Proposed first floor plan
L019034 - 102 Proposed second floor plan
L019034 – 103 Proposed second floor mezzanine plan
L019034 – 104 Proposed Elevations and section
L019034 - 105 Proposed bin and cycle store
L0190354 – 106 Site Location Plan

REASON – To define the consent

3. All external materials, including rainwater goods and roof materials, shall be as specified in the drawings referenced in condition 2 of this approval, unless otherwise agreed, in writing, by the Local Planning Authority.

REASON – To ensure that the external materials are suitable for the conversion works proposed in the interests of their impact on heritage assets and the visual amenities of the locality.

4. Prior to the cladding of any of the external surfaces of the building hereby permitted, details of the cladding materials to be used including the colour finish shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details.

REASON – In the interest of visual amenity.

5. E2 Landscaping
6. The development shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2 of the National Planning Policy Framework or any future guidance that replaces it. The scheme shall include:
 - a) the numbers, type, tenure and location on the site of the affordable housing provision to be made, which shall consist of not less than 20% of housing units;
 - b) The timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
 - c) The arrangements for the transfer of the affordable housing to an affordable housing provider [or the management of the affordable housing] (if no RSL involved);
 - d) The arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
 - e) The occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

REASON – To comply with Council Housing Policy.

7. Prior to the occupation of the development hereby approved, details of boundary treatment to all flats with outdoor amenity space, including upper floors, shall be submitted to and approved in writing by, the Local Planning Authority. The agreed boundary treatment shall be in place prior to occupation of the development and shall be retained as such thereafter.

REASON – In the interests of visual and residential amenity.

8. No noise emitting fans, louvres, ducts or other external plant associated with this permission shall be installed until a scheme to reduce noise and vibration has been submitted and approved by the Local Planning Authority.

REASON – In the interests of residential amenity.

9. The opening hours of the retail unit(s) shall be limited to 07.00-22.00.

REASON – In the interests of residential amenity.

10. Times for deliveries and waste collections to the retail units shall be limited to 07.00-22.00.

REASON – In the interests of residential amenity.

11. Construction and demolition work shall not take place outside the hours of 08.00 - 18.00 Monday - Friday, 08.00 -14.00 Saturday with no working on a Sunday and Bank/Public Holidays without the prior written permission from the Local Planning Authority.

REASON – In the interests of residential amenity.

12. Prior to the commencement of the development, a site-specific Demolition and Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The plan shall include the following, unless the Local Planning Authority dispenses with any requirement[s] specifically and in writing:
 - a) Dust Assessment Report which assesses the dust emission magnitude, the sensitivity of the area, risk of impacts and details of the dust control measures to be put in place during the demolition and construction phases of the development. The Dust Assessment Report shall take account of the guidance contained within the Institute of Air Quality Management "Guidance on the assessment of dust from demolition and construction" February 2014.
 - 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. The development shall not be carried out otherwise in complete accordance with the approved Plan.

REASON – In the interests of residential amenity.

13. The mitigation measures/minimum façade sound insulation provisions (glazing performance, trickle vent performance, ventilation strategy) as detailed within Table 1 of the Noise impact assessment by Apex Acoustics dated 2 June 2020 (Reference: 7923.1 Revision B) shall be implemented in full prior to the first occupation of the apartments, and thereafter shall be retained and maintained for the life of the development. No changes to mitigation proposals shall be made without the prior written agreement of the Local Planning Authority.

REASON – In the interests of residential amenity.

14. Notwithstanding the mitigation measures outlined in the Noise impact assessment by Apex Acoustics dated 2 June 2020 (Report Number: 7923.1 Revision B), prior to installation precise details of the window glazing as well as any acoustic trickle vents to be installed as part of the development (including their acoustic performance) shall be submitted to and approved in writing by the Local Planning Authority.

REASON – In the interests of residential amenity.

15. The mitigation outlined in the Noise impact assessment by Apex Acoustics dated 2 June 2020 (Report Number: 7923.1 Revision B) in relation to the wall and floor construction (separating elements) between the retail units and residential apartments shall be implemented in full prior to the first occupation of the apartments. No changes to the proposals shall be made without the prior written agreement of the Local Planning Authority.

REASON – In the interests of residential amenity.

16. At the reasonable request of and/or following a complaint from residents of the proposed development to the Local Planning Authority, the applicant shall employ a suitably qualified acoustic consultant to carry out an assessment of noise from the retail units on the residential apartments. The sound insulation testing shall be in accordance with the methodology in BS EN ISO 16283-1:2014 (airborne sound insulation) and BS EN ISO 16283-2:2018 (impact sound insulation) and the scope and methodology to be used in the assessment shall be agreed in advance with the Local Planning Authority. The assessment shall demonstrate to the satisfaction of the Local Planning Authority compliance with NR17 inside the residential apartments. If this is not the case, suitable mitigation measures shall be submitted and agreed in writing with the Local Planning Authority including a timescale for implementation.

REASON – In the interests of residential amenity.

17. Notwithstanding the mitigation measures outlined in the Noise impact assessment by Apex Acoustics dated 2 June 2020 (Report Number: 7923.1 Revision B), prior to the installation of any mechanical ventilation strategy, precise details of the system(s) to be installed shall be submitted to and approved in writing by the Local Planning Authority. The details shall include an assessment of noise and overheating to determine an appropriate strategy with windows closed. It shall be shown to the satisfaction of the Local Planning Authority that the internal noise levels associated with any mechanical units and associated ductwork linked to the system, as well as when combined with other noise sources shall not exceed relevant guidance levels in living rooms and bedrooms. The assessment(s) shall be carried out taking into account the Association of Noise Consultants and Institute of Acoustics 'Acoustics Ventilation and Overheating: Residential Design Guide, January 2020, Version 1.1.' and any associated guidance. The system(s) shall be installed prior to the first occupation of the apartments and in accordance with approved plan and thereafter shall be retained and maintained for the life of the development.

REASON – In the interests of residential amenity.

PA40 VANTAGE POINT SITE, FAVERDALE, DARLINGTON

18/00694/FUL – Erection of a 1,900sqm (GIA) supermarket (A1 use), 1,900 sqm (GIA) retail store (A1 use) and a 167sqm (GIA) and drive-thru unit (A1/A3 use) with associated parking for 263 cars, ancillary service and delivery areas, landscaping and new access (amended Planning Policy Statement and Retail Policy Statement

received 29 November 2018, additional Sequential Test document received 5 February 2019; additional Employment Land Viability Report received 30 April 2019;; amended plans received 31 May 2019; drainage information received 29 August 2019; additional Retail Impact Assessment received 26 September 2019 and Retail Assessment information received 14 May 2020 ; amended drainage information received 28 May 2020 and 8th July 2020).

(In consideration of this item, the Committee took into consideration the Planning Officer's report (previously circulated), seventeen letters of objection, the objections of Darlington Friends of the Earth and the Campaign to Protect Rural England, the objections of Bussey and Armstrong and Estill Cooper, letters of objection submitted on behalf of Hillesden Trust, and letters of objection from the Cooperative Group. The Committee also took into consideration eighty-five letters of support and heard that an additional forty-one letters of support had been received subsequent to the issue of the Agenda and Papers for this meeting. The Committee also heard the Ward Councillor, and the responses to questions asked by Members of the Applicant's Agent in attendance at the meeting.)

RESOLVED – Subject to conditions being submitted to, and agreed, by this Committee, and reasoning being outlined, Members of the Planning Applications Committee are minded to grant Planning Permission.

PA41 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 :-

Dismissed the appeal by Mr Tim Wilks against this Authority's decision to refuse permission for application for proposed residential development comprising 2 No dwellings and 1 No studio on the lower ground level and associated parking and communal storage area. at Land adjacent to 31 Pendower Street, Darlington DL3 6ND (19/00695/FUL)

Dismissed the appeal by Mr Pearson against this Authority's decision to refuse permission for application for proposed removal of roof covering and internal alterations to form external terrace at Number One Bar, 1 Skinnergate, Darlington (19/00291/FUL)

RESOLVED – That the report be received.

PA42 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.

PA43 COMPLAINTS RECEIVED AND BEING CONSIDERED UNDER THE COUNCIL'S APPROVED CODE OF PRACTICE AS OF 18 SEPTEMBER 2020 (EXCLUSION PARAGRAPH NO. 7)

Pursuant to Minute PA35/Sept/2020, the Director of Economic Growth and Neighbourhood Services submitted a report (previously circulated) detailing breaches of planning regulations investigated by this Council, as at 18 September 2020.

RESOLVED - That the report be noted.

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BOROUGH OF DARLINGTON

PLANNING APPLICATIONS COMMITTEE

Committee Date – 30th September 2020

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:-

Address/Site Location	Reference Number
Vantage Point Site, Faverdale, Darlington	18/00694/FUL
Prospect House, Middleton Road, Sadberge	20/00154/FUL
Marchbank School, Barnes Road	20/00664/TF
The Mowden, Staindrop Road, Darlington	20/00768/FUL

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DARLINGTON BOROUGH COUNCIL**PLANNING APPLICATIONS COMMITTEE****COMMITTEE DATE: 28 October 2020**

APPLICATION REF. NO:	18/00694/FUL
STATUTORY DECISION DATE:	30 March 2021
WARD/PARISH:	BRINKBURN AND FAVERDALE
LOCATION:	Former Vantage Point Site, Faverdale Faverdale Industrial Estate
DESCRIPTION:	Erection of a 1,900sqm (GIA) supermarket (A1 use), 1,900 sqm (GIA) retail store (A1 use) and a 167sqm (GIA) and drive-thru unit (A1/A3 use) with associated parking for 263 cars, ancillary service and delivery areas, landscaping and new access (amended Planning Policy Statement and Retail Policy Statement received 29 November 2018, additional Sequential Test document received 5 February 2019; additional Employment Land Viability Report received 30 April 2019;; amended plans received 31 May 2019; drainage information received 29 August 2019; additional Retail Impact Assessment received 26 September 2019 and Retail Assessment information received 14 May 2020 ; amended drainage information received 28 May 2020 and 8 th July 2020)
APPLICANT:	Hansteen Land Ltd

In line with Members instructions at Planning Committee on the 30th September 2020 where they were minded to Grant planning permission contrary to officer recommendation, set out below for Members approval is the reasons for granting planning permission and the associated conditions which should be attached to the permission. Reference is also made to the associated section 106 agreement to be signed by the applicants and the Council to secure certain financial contributions.

Application documents including application forms, submitted plans, supporting technical information, consultations responses and representations received,

and other background papers are available on the Darlington Borough Council website via the following link: <https://publicaccess.darlington.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=Q82CFLFPLC D00>

APPLICATION AND SITE DESCRIPTION

1. Members will recall that this planning application was considered at the Planning Applications Committee on 30th September 2020. The officers report recommended for that planning permission be refused for the following reason:
2. *In the opinion of the local planning authority, the planning application has failed to demonstrate that there would be no significant adverse impact on the viability and vitality of Cockerton District Centre. The local planning authority consider that the proposal is contrary to the National Planning Policy Framework 2019 (paragraphs 88 and 89) and Saved Policy S10 (Safeguarding the District and Local Centres) of the Borough of Darlington Local Plan 1997*
3. The application site measures 1.89 hectares on the south western edge of Faverdale Industrial Estate. The site is bound to the north, east and south by units and land that forms part of the Industrial Estate and residential dwellings on Faverdale Road to the west. A mature landscaped strip of trees and hedges separates the application site from the residential units. The application site is currently vacant.
4. This is a detailed planning application comprising:
 - a) A 1,900sqm (GIA) supermarket (A1 use) (Lidl)
 - b) A1,900 sqm (GIA) retail store (A1 use); (Home Bargains) and
 - c) A 167sqm (GIA) and drive-thru unit (A1/A3 use) (Starbucks)
5. The planning application states that the opening and delivery times for the three units will be:

Opening Times:

- Supermarket – 0800 to 2200 Monday to Saturday (including Bank Holidays) and 1000 to 1600 on Sundays
- Retail store – 0800 to 2200 Monday to Saturday (including Bank Holidays) and 1000 to 1600 on Sundays
- Drive Thru Unit – 24 hours a day, seven days a week

Delivery times

- Supermarket – 0600 to 2200 Monday to Saturday; 1000 to 1800 on Sundays and 0800 to 1800 on Bank Holidays
 - Retail Store - 0600 to 2200 Monday to Saturday; 1000 to 1800 on Sundays and 0800 to 1800 on Bank Holidays
6. Full details of the planning policies, results of consultation, analysis of the planning issues and the officer's recommendation are set out in the report to the previous meeting. Members of the Planning Applications Committee, having

considered the material planning considerations minded to approve the planning application with an instruction for officers to present application at the next available Planning Application Committee, with the recommended list of planning conditions.

7. At the Planning Applications Committee, Members debated the application at length, and it was clear from the discussions and the comments made that Members took into account the findings, conclusions and recommendation set out in the officer's report and presentation and any additional comments made at the Meeting.
8. Members fully considered the potential impact of the proposed development upon the town centre and the appropriate district centres, including West Park and especially, Cockerton District Centre. Members acknowledged that the potential harm of this proposal upon the District Centres carried weight in the decision making process but, in this instance, Members considered that there were other material planning considerations to be taken into account when determining this planning application such as there being no need to continue allocating the site for employment (B1/B2/B8) purposes as there is sufficient land within the Borough allocated for such purposes; the proposal would result in the reuse of a brownfield site with very limited likelihood of the land being used for other purposes due to the costs associated with remediating the site; job creation; the acceptability of the scheme in general development management terms; the level of support from residents. On balance, Members considered those material planning considerations outweighed the potential impact that the development may have on the viability and vitality of the Cockerton District Centre.
9. Members acknowledged that the proposal was contrary to planning policy but in accordance with S.38(6) of the Planning and Compulsory Purchase Act 2004) Members also considered that other material planning considerations, on balance, would allow them to support the proposal and they were minded to grant planning permission with an instruction for officers to present the application back to the Planning Applications Committee along with a suggested list of planning conditions.
10. As set out in the officer's report, if the planning application was to be approved, officers and the applicant have agreed the following Heads of Terms to be secured by a Section 106 Agreement:
 - a. A public transport contribution to improve the Faverdale Outbound stop with raised kerb and shelter and the Faverdale Inbound with a shelter. The obligation for this would be £15,440.
 - b. A sustainable transport contribution to improve and maintain footways and cycleways close the site including improvements to Faverdale Black Path and a potential shared use path continuing along Faverdale. The obligation would equate to £52,600

11. The planning conditions which are listed below are based on the information contained within the planning application; the comments made by consultees and statutory bodies and to ensure the development aligns with retail policy.

THE PUBLIC SECTOR EQUALITY DUTY

12. 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 proposed buildings will be designed to be accessible for all and the general layout has good footpaths links between the buildings and to the existing footpath network. The car parking provision includes disabled spaces in appropriate locations.

SECTION 17 OF THE CRIME AND DISORDER ACT 1998

13. 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

14. The application site is part of an area identified as employment land and therefore the proposed development is a departure from the local development plan. However, Planning law (S.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 the plan led system providing that planning decisions should be “genuinely plan-led” (NPPF para 15).
15. The officer’s report set out, in detail, the appropriate local development plan policies and the sequential and retail impact test requirements within in the National Planning Policy Framework 2019. The officer’s report advised that the site has been vacant for many years and that it is unlikely the site will be an attractive option for B1, B2 or B8 operators having taken into account the marketing history of the site submitted in support of the planning application, land contamination and viability issues and the loss of the site for employment purposes would meet list of exceptions set out in policy CS5 of the Core Strategy 2011.
16. The proposed development does not raise any development management concerns over matters such as highway safety; residential amenity flood risk, ecology, landscaping and trees etc and it would comply with the local development plan policies relating to such considerations (CS2, CS15, CS16 of the Core Strategy 2011 and saved policies E12 and E14 of the Local Plan 1997).

17. The proposed development met the sequential test, but the advice from the Council's retail consultant was that the proposal failed to conform to the requirements of the retail impact test of the National Planning Policy Framework 2019 and the vitality and viability of Cockerton District Centre could be harmed contrary to the NPPF and local development plan policy (saved Policy S10 of the Local Plan 1997). The planning application was recommended for refusal for that reason.
18. At the previous meeting of the Planning Application Committee, in accordance with S.38(6) of the Planning and Compulsory Purchase Act 2004, Members looked first at the retail impact test of the National Planning Policy Framework 2019 and local development plan policy (saved Policy S10 of the Local Plan 1997) and whether the vitality and viability of Cockerton District Centre could be harmed by the proposed development, taking into account the officer's report and recommendation. They then considered the following material considerations:
- a) Due to a limited demand for B1, B2 and B8 uses on the site, an oversupply of more suitable development sites elsewhere in the Borough and land contamination issues, it is highly unlikely the site would be developed for its current allocated employment use and will remain vacant unless the site is released for alternative use.
 - b) The development would result in the re-use of a brownfield site;
 - c) The proposed development would have economic benefits from job creation;
 - d) Additional retail facilities at the application site would result in some qualitative improvement in the local food retail offer;
 - e) A Lidl and Home Bargains trading in tandem would reduce some residents' need to travel further afield to source some main food shopping and day to day comparison goods;
 - f) There are no other sequentially preferable sites;
 - g) The development does not raise any development management concerns over matters such as highway safety; residential amenity flood risk, landscaping, trees, ecology etc
19. In the view of Members the material planning considerations detailed above were strong enough to indicate that a decision should be made contrary to the NPF and the local plan and were minded to decide, for this reason, that planning permission should be granted. An instruction was given to officers to present the application back to this meeting of the Planning Applications Committee along with a suggested list of planning conditions and obligations. The planning conditions, which have been agreed with the applicant, are therefore listed below for consideration.

THAT PLANNING PERMISSION BE GRANTED SUBJECT TO THE COMPLETION OF A SECTION 106 AGREEMENT WITHIN SIX MONTHS TO SECURE FINANCIAL CONTRIBUTIONS TOWARDS THE FOLLOWING:

- A public transport contribution to improve the Faverdale Outbound stop with raised kerb and shelter and the Faverdale Inbound with a shelter. The obligation for this would be £15,440.
- A sustainable transport contribution to improve and maintain footways and cycleways close the site including improvements to Faverdale Black Path and a potential shared use path continuing along Faverdale. The obligation would equate to £52,600

AND THE FOLLOWING PLANNING CONDITIONS:

1. The development hereby permitted shall be commenced not later than the expiration of three years from the date of this permission.
REASON - To accord with the provisions of Section 91(1) of the Town and Country Planning Act, 1990.
2. The development hereby permitted shall be carried out in accordance with the approved plans, as detailed below:

- a) XX-DR-A-91-1003 P4 - Site - Proposed - Lidl - ECO Store Type
- b) RF-DR-A-01-0002-S3-P4 - General Arrangement Plan - Roof – Lidl
- c) XX-DR-A-01-0001-S3-P4 - Proposed Ground Floor GA Plan – Lidl
- d) XX-DR-A-02-0001-S3-P4 - General Arrangement Elevations – Lidl
- e) XX- -DR-A-91-0002-S3-P30 - Proposed Site Plan - Home Bargains / Starbucks
- f) XX-DR-A-91-0008-S3-P4 - Site Location Plan
- g) XX-DR-A-91-0010-S3-P8 - Proposed Boundary Treatments
- h) XX-DR-A-91-0014-S3-P7 - Proposed Master Plan - Planning Issue
- i) RF-DR-A-01-0002-S3-P1 - General Arrangement Plan - Roof - Home Bargains
- j) XX-DR-A-01-0001-S3-P5 - Proposed Ground Floor GA Plan - Home Bargains
- k) XX-DR-A-02-0001-S3-P5 - GA Elevations - Home Bargains
- l) PML B1 00 DR A 0001 P3 – Starbucks Building
- m) 2043-100-P-001 – Proposed Access Arrangement onto Faverdale – General Arrangement
- n) LD(13)-ED-01 INFO 03 – Landscape Details Sheet 1
- o) LD(13)-ED-02 INFO 03 – Landscape Details Sheet 2
- p) XX-DR-A-91-0015-S3-P2 – Substation Layout

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

3. The units identified as 'Lidl' and 'Home Bargains' on Masterplan reference XX-DR-A-91-0014-S3-P7 shall be used for Class A1 retail and for no other purpose (including any other purpose within the same Use Class as identified by the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended), or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

REASON: In the interests of retail planning policy

4. The unit identified as 'Starbucks' on Masterplan reference XX-DR-A-91-0014-S3-P7 shall be used for Class A1/A3 purposes and for no other purpose (including any other purpose within the same Use Class as identified by the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended), or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

REASON: In the interests of retail planning policy

5. The unit identified as 'Lidl' on Masterplan reference XX-DR-A-91-0014-S3-P7 is limited in size to 1,900 square metres gross internal area of which no more than 1,256 square metres shall be used for net retail sales. Of this, not more than 1,005 square metres shall be used for convenience goods sales, and not more than 251 square metres shall be used for comparison good sales.

REASON: In the interests of retail planning policy

6. The unit identified as 'Home Bargains' on Masterplan reference XX-DR-A-91-0014-S3-P7 is limited in size to 1,858 square metres gross internal area of which no more than 1,486 square metres shall be used for net retail sales. Of this, not more than 669 square metres shall be used for convenience goods sales, and not more than 818 square metres shall be used for comparison good sales.

REASON: In the interests of retail planning policy

7. The unit identified as 'Starbucks' on Masterplan reference XX-DR-A-91-0014-S3-P7 is limited in size to 167 square metres gross internal area.

REASON: In the interests of retail planning policy

8. There shall be no internal sub-division of any unit hereby approved.

REASON: In the interests of retail planning policy

9. 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 restricted to Greenfield rates and implemented and thereafter managed and maintained in accordance with the approved details, the scheme shall include but not be restricted to providing the following details;

- a. Detailed design of the surface water management system for each phase of the development;
- b. A build program and timetable for the provision of the critical surface water drainage infrastructure;
- c. A management plan detailing how surface water runoff from the site will be managed during the construction phase;
- d. Details of adoption responsibilities.

REASON: To ensure the site is developed in a manner that will not increase the risk of surface water flooding to site or surrounding area, in accordance with the

guidance within Core Strategy Development Plan Policy CS10 and the National Planning Policy Framework.

10. The development permitted by this planning permission shall only be carried out in accordance with the approved FAVERDALE DEVELOPMENT Drainage Strategy and the following mitigation measures detailed within

- a) Total surface water discharge from the proposed development will not exceed 7.3l/sec
- b) Sufficient storage to contain the 1 in 100+40% cc will be accommodated in the car parking areas of Home Bargains and Lidl stores

The mitigation measures shall be fully implemented prior to the occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any period as may subsequently be agreed, in writing, by the local planning authority.

REASON: To prevent flooding by ensuring the satisfactory storage of / disposal of surface water from the site and to reduce the risk of flooding to the proposed development and future occupants.

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

- a) 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.
- b) A Management and maintenance plan of the approved Surface Water Drainage scheme has been submitted and approved in writing by the Local Planning Authority, this should include the funding arrangements and cover the lifetime of the development

REASON: To reduce flood risk and ensure satisfactory long term maintenance are in place for the lifetime of the development.

12. The unit identified as 'Lidl' on Masterplan reference XX-DR-A-91-0014-S3-P7 shall not operate outside the hours of 0800 to 2200 Monday to Saturday (including Bank Holidays) and 1000 to 1600 on Sundays unless otherwise agreed in writing by the Local Planning Authority

REASON: In the interests of safeguarding the amenity of the area

13. The unit identified as "Home Bargains' on Masterplan reference XX-DR-A-91-0014-S3-P7 shall not operate outside the hours of 0800 to 2200 Monday to Saturday (including Bank Holidays) and 1000 to 1600 on Sundays unless otherwise agreed in writing by the Local Planning Authority

REASON: In the interest of safeguarding the amenity of the area

14. Deliveries and waste collection to the unit identified as 'Lidl' on Masterplan reference XX-DR-A-91-0014-S3-P7 shall not take place outside the hours of

0600 to 2200 Monday to Saturday; 1000 to 1800 on Sundays and 0800 to 1800 on Bank Holidays

REASON: - In the interests of safeguarding the amenity of the area

15. Deliveries and waste collection to the unit identified as "Home Bargains" on Masterplan reference XX-DR-A-91-0014-S3-P7 shall not take place outside the hours of 0600 to 2200 Monday to Saturday; 1000 to 1800 on Sundays and 0800 to 1800 on Bank Holidays

REASON: - In the interests of safeguarding the amenity of the area

16. Prior to the commencement of the development and any site investigation works or at a time agreed in writing by the Local Planning Authority a Phase 2 Site Investigation Strategy (Sampling and Analysis Plan) shall be designed and documented by a "suitably competent person(s)" in accordance with published technical guidance (e.g. BS10175 and 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.

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

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

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

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

19. Any contamination not considered in the Phase 3 Remediation and Verification Strategy but identified during subsequent construction/remediation works shall be reported in writing within a reasonable timescale to the Local Planning Authority. The contamination shall be subject to further risk assessment and remediation proposals agreed in writing with the Local Planning Authority and the development completed in accordance with any further agreed amended specification of works.

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

20. The Phase 3 Remediation and Verification works shall be conducted, supervised and documented by a "suitably competent person(s)" and in accordance with the agreed Phase 3 Remediation and Verification Strategy. No alterations to the agreed Remediation and Verification Strategy or associated works shall be carried out without the prior written agreement of the Local Planning Authority. A Phase 4 Verification and Completion Report shall be compiled and reported by a "suitably competent person(s)", documenting the purpose, objectives, investigation and risk assessment findings, remediation methodologies, validation results and post remediation monitoring carried out to demonstrate the completeness and effectiveness of all agreed remediation works conducted. The Phase 4 Verification and Completion Report shall be submitted and agreed in writing with the Local Planning Authority within 2-months of completion of the development or at a time agreed unless the Local Planning Authority dispenses with the requirement specifically and in writing. The development site or agreed phase of development site, shall not be occupied until all of the approved investigation, risk assessment, remediation and verification requirements

relevant to the site (or part thereof) have been completed, reported and approved in writing by the Local Planning Authority.

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

21. No development approved by this planning permission shall commence until a remediation strategy to deal with the risks associated with contamination of the site has been submitted to, and approved in writing by, the Local Planning Authority. This strategy will include the following components:
- a. A preliminary risk assessment which has identified all previous uses;
 - potential contaminants associated with those uses;
 - a conceptual model of the site indicating sources, pathways and receptors; and potentially unacceptable risks arising from contamination at the site.
 - b. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
 - c. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
 - d. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the written consent of the local planning authority. The scheme shall be implemented as approved.

REASON: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution in line with paragraph 170 of the National Planning Policy Framework.

22. Prior to any part of the approved development being brought into use a verification report demonstrating the completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to, and approved in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met.

REASON: To ensure that the site does not pose any further risk to human health or the water environment by demonstrating that the requirements of the

approved verification plan have been met and that remediation of the site is complete. This is in line with paragraph 170 of the National Planning Policy Framework.

23. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be implemented as approved.
REASON: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site in line with paragraph 109 of the National Planning Policy Framework.
24. Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.
REASON: To prevent the creation of pathways for contaminants in made ground, soils and superficial geology to reach the underlying principal aquifer.
25. Prior to the commencement of the development, a Construction Management Plan shall be submitted and approved in writing by the Local Planning Authority. The plan shall include the following:
- a) Dust Assessment Report which assesses the dust emission magnitude, the sensitivity of the area, risk of impacts and details of the dust control measures to be put in place during the construction phase of the development. The Dust Assessment Report shall take account of the guidance contained within the Institute of Air Quality Management "Guidance on the assessment of dust from demolition and construction" February 2014. Methods for controlling noise and vibration during the construction phase and shall take account of the guidance contained within BS5228 "Code of Practice for noise and vibration control on construction and open sites" 2009.
 - b) Hours of construction (including internal works) and deliveries
 - c) Details of any security fencing to be erected during the construction phase
 - d) Construction Traffic Management Plan and Routes, including parking areas for staff and visitors.
 - e) Details of wheel washing.
 - f) Road Maintenance.
 - g) Warning signage.

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

REASON: In the interests of highway safety and safeguarding the amenity of the area

26. No noise emitting fans, louvres, ducts or any other external plant associated with this permission shall be installed on or within the curtilage of the units hereby approved until a scheme to reduce noise and vibration has been submitted to and approved by the Local Planning Authority. The development shall not be carried out otherwise than in complete accordance with the approved details

REASON: - In the interests of safeguarding the amenity of the area

27. Prior to occupation of each unit, a full lighting impact assessment for the lighting proposals, undertaken by an independent qualified assessor for the unit shall take place and be agreed in writing with the Local Planning Authority. This should include:

- a) A description of the proposed lighting units including height, type, angling and power output for all lighting
- b) Drawing(s)/contour plans showing the luminance levels both horizontal and vertical of the lighting scheme to demonstrate that no light falls into the curtilage of sensitive neighbouring properties;
- c) The Environmental Zone which the site falls within, in accordance with the Institution of Lighting Professionals Guidance on the Reduction of Obtrusive Light, to be agreed with the Local Planning Authority. The relevant light sensitive receptors to be used in the assessment to be agreed with the Local Planning Authority in advance of the assessment.
- d) Details of the Sky Glow Upward Light Ratio, Light Intrusion (into windows of relevant properties) and Luminaire Intensity.
- e) The limits for the relevant Environmental Zone relating to Sky Glow Upward Light Ratio, Light Trespass (into windows) and Luminaire Intensity, contained in Table 2 (Obtrusive Light
- f) Limitations for Exterior Lighting Installations) of the Institute of Lighting Professionals Guidance on the Reduction of Obtrusive Light shall not be exceeded.

REASON: In the interests of residential amenity and the visual appearance of the locality

28. The development shall not be carried out otherwise than in complete accordance with Section 7 – Mitigation of the document entitled “Faverdale Industrial Estate, Darlington. Noise Impact Assessment” Revision 02/Final dated 6 July 2018 and produced by Royal HaskoningHDV unless otherwise agreed in writing by the Local Planning Authority

REASON: In the interests of residential amenity and the visual appearance of the locality

29. The development shall not be carried out otherwise than in complete accordance with the document entitled “External Materials Schedule” Version 02 dated July 2018 and produced by Space Architects unless otherwise agreed in writing by the Local Planning Authority

REASON: In the interests of the visual appearance of the development

30. The development hereby approved shall not be carried out otherwise than in complete accordance with the biodiversity enhancements set out in Section 6.4 of the document entitled "Preliminary Ecological Appraisal. Faverdale, Darlington" dated June 2018 and produced by ITP Energised. The mitigation and enhancement work shall include the erection of boxes as set out below, in locations to be agreed by a suitably qualified ecologist but positioned to face outwards from the centre of the development:

- a) Drive Thru building: House Sparrow & Starling
- b) Supermarket building: Bat, Swift & House Sparrow or Starling
- c) Retail store: Tree Sparrow (multiple holes), Starling and Swift.

REASON: In the interests of biodiversity of the development

31. The lighting scheme to be approved under condition 27 must take account of any foraging and commuting behaviour of nocturnal mammals such as bats and the biodiverse greenspace to the north of the site. Lighting should be in line with the Institution of Lighting Professionals and Bat Conservation Trust Guidance Note 08/18: Bats and Artificial Lighting in the UK – Bats and the Built Environment Series (ILP and BCT, 2018), and lighting should be directed to where it is needed and in order to reduce light spillage

REASON: In the interests of biodiversity of the development

32. Site clearance shall only take place outside of bird nesting season unless under the supervision of a suitably qualified ecologist

REASON: In the interests of existing habitats on the site

33. Prior to the commencement of the development, precise details showing the offsite highway works including the creation of the site access junctions onto Faverdale, widening of Faverdale to incorporate improved pedestrian/cyclist facilities, potential relocated bus stops and revised signing, lining including Traffic Regulation Orders along Faverdale, and Keep Clear markings opposite Faverdale Road shall be submitted to and approved in writing by the Local Planning Authority.

REASON: In the interest of highway safety

34. Prior to the occupation of the first unit, a servicing and delivery schedule to control the operations on site shall be submitted to and approved, in writing by the Local Planning Authority. The details shall include but not limited to the maximum size/type of vehicle to be used (16.5m) its drop off location within the site and times of deliveries.

REASON: In the interest of highway safety

35. The development shall not be carried out otherwise than in complete accordance with the document entitled "Framework Travel Plan, Faverdale, Darlington" dated 6th July 2018 and produced by Fore unless otherwise agreed in writing by the Local Planning Authority

REASON: To encourage the use of sustainable modes of transport

INFORMATIVE

Highways

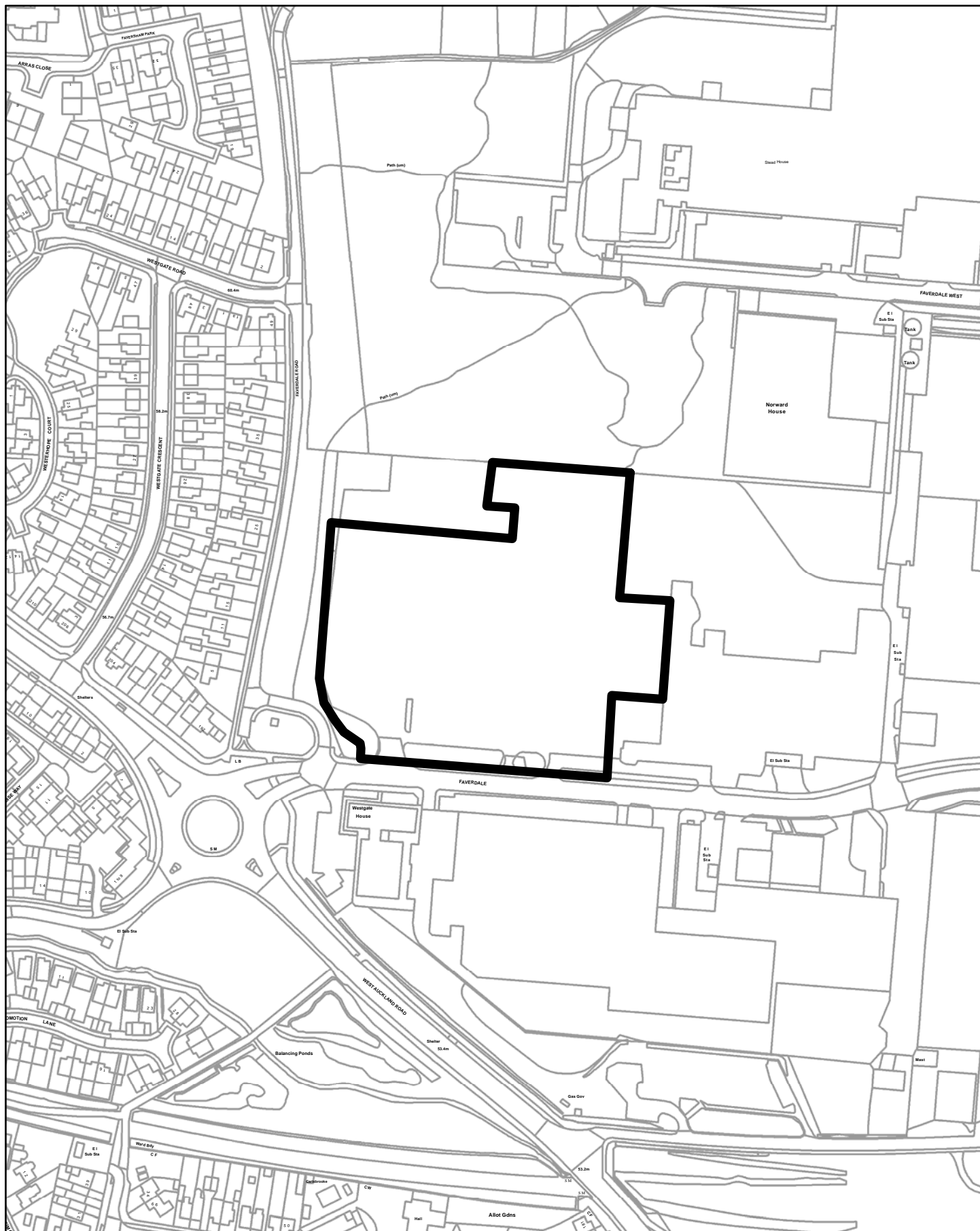
The applicant is advised that contact be made with the Assistant Director: Highways, Design and Projects (contact Mrs. P. McGuckin 01325 406651) to discuss naming and numbering of the development.

The Developer is required to submit detailed drawings of the proposed off site highway works including precise details showing the offsite highway works including the creation of the site access junctions onto Faverdale, widening of Faverdale to incorporate improved pedestrian/cyclist facilities, potential relocated bus stop and revised signing and lining including TROs along Faverdale and Keep Clear markings opposite Faverdale Road and enter into a Section 38/278 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.

SHOULD THE PLANNING OBLIGATIONS NOT BE SECURED WITHIN THE PRESCRIBED SIX MONTH PERIOD WITHOUT WRITTEN CONSENT OF THE COUNCIL TO EXTEND THIS TIME, THE MINDED TO APPROVE STATUS OF THE PERMISSION WOULD BE CONSIDERED TO BE A REFUSAL. THE REASON TO REFUSE THE PLANNING APPLICATION WOULD BE AS FOLLOWS:

1. The proposed development would be contrary to policy CS4 (Developer Contributions) of the Darlington Core Strategy Development Plan Document 2011 and Supplementary Guidance Note on Planning Obligations as adequate provision has not been made for public and sustainable transport improvements.

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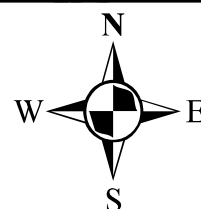


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PLANNING REF No: 18/00694/FUL

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DARLINGTON BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 30th September 2020

APPLICATION REF. NO:	20/00154/FUL
STATUTORY DECISION DATE:	11 th May 2020
WARD/PARISH:	SADBERGE AND MIDDLETON ST GEORGE
LOCATION:	Prospect House, Middleton Road, Sadberge
DESCRIPTION:	Demolition of existing conservatory and erection of two storey rear extension, erection of canopy over patio, alterations to rear porch roof and insertion of sun tube to main rear roof, demolition of outbuilding and erection of single storey annexe with mezzanine level (as amended by plans received 09.07.20)
APPLICANT:	Mr David Nicholson

RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS (see details below)

This report is being presented to this Committee following its removal from the 2nd September 2020 Planning Application Committee to, enable an Officer site visit to take place, which was not possible during the height of the Pandemic. A visit has now taken place observing strict social distancing with a protective mask being worn by the officer.

Application documents including application forms, submitted plans, supporting technical information, consultations responses and representations received, and other background papers are available on the Darlington Borough Council website via the following link: <https://publicaccess.darlington.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=Q696JUFPJH600>

APPLICATION AND SITE DESCRIPTION

1. The application property is a west facing end of terrace two storey dwelling set within a very large plot. The surrounding area is predominantly residential in character. The property lies within the Sadberge Conservation Area and is in close proximity to Thorn Cottage. Which is a Grade II Listed Building.
2. Planning permission is sought for the demolition of existing conservatory and erection of two storey rear extension, erection of canopy over patio, alterations to rear porch roof and insertion of sun tube to main rear roof, demolition of outbuilding and erection of single storey annexe with mezzanine level.
3. The annexe would be for the use and enjoyment of the property and would be occupied by the existing occupiers of the main house and their family only. The ground floor of the annex will provide kitchen, dining, lounge, office and storage. The bathroom will be via a dog-leg staircase to the mezzanine level.
4. The building would sit in the same position as the existing outbuilding but measuring 5.3m deep x 6.3m wide at the front and 7.9m wide at the rear. The proposed building will be set down 0.9m from the existing ground level to reduce the overall visual impact. The proposal will have a dual pitched roof with eaves at 3.4m and the ridge at 4.738m. This building will be no higher than the building situated to the rear of it. The proposal will have bifold doors and two Velux windows to the front.
5. The proposed extension to the rear will project 2.825m. The single storey element will infil between the existing building and the boundary wall with the first floor being set in from the boundary by 1.3m. The two storey will have a hipped roof with eaves at 4.49m and the ridge at 5.95m. The single storey will have a glazed and timber pitched roof which will extend to form a canopy over the patio.
6. The ground floor space will be used as a dining room with bi-fold doors opening out onto the patio. The first floor will be an enlargement of bedroom 4 and the sun tube is to allow natural light into the existing bathroom.
7. The materials for the proposals will be:
 - Two storey extension: Walls to be rendered white, Windows to be white UPVC, Doors to be Bi-fold doors coated aluminium and the roof to be pantile to match existing.
 - Annex: Walls to be reclaimed brick to match existing, Windows to be timber, Doors to be Bi-fold coated aluminium and the roof to be pantile to match existing, roof lights to be flush with the roof material.

MAIN PLANNING ISSUES

8. The main issues for consideration are:

- (a) Impact on Heritage Assets;
- (b) Impact on visual amenity;
- (c) Impact on residential amenity;
- (d) Impact on highway safety;
- (e) Impact on trees.

PLANNING POLICIES

9. Relevant Local Plan and National Planning Policy Framework policies include those seeking to ensure that new development: -

- Is in keeping with character, design and external appearance of the dwelling, street scene and surrounding area and that adequate privacy in rooms, gardens and other outdoor buildings is maintained (H12)
- Protect the Borough's distinctive character by protecting buildings, their settings and features and archaeological local importance in conservation areas (CS14)
- Should enhance, preserve make and make a positive contribution to the asset (Paragraph 200 NPPF)

RESULTS OF TECHNICAL CONSULTATION

10. **The Highway Officer** stated that the dwelling has sufficient parking within the curtilage to accommodate the parking need of the proposed development without detriment to the highway and raised no highway objection to the proposal.

11. **The Senior Arboricultural Officer** has stated that care will be needed when building materials and skip wagons are delivering to the site so as not to damage the Horse Chestnut tree. It is of paramount importance that the root area of the Horse Chestnut (*Aesculus hippocastanum*) is completely protected from damage by compaction, severance, or from material spillage. This will only be possible through the installation of protective fencing in accordance with BS5837 2012. It is recommended that this fencing is put into position prior to any further works on the site (demolition or development), and that the extent of this protection is inspected by a Council Officer prior to work commencing. This fencing should be at least 2m high and consist of galvanized tube, braced to resist impacts, supporting by a welded mesh wired to the uprights and horizontals to dissuade encroachment

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12. **The Parish Council** have objected to the proposal. Their objection states the new build annex with an increased footprint will impact on the village view as will the proposed two storey extension. The appearance of a ridge in the landscape of the village should be protected. Major reservations regarding the impact on neighbouring properties

13. The Conservation Officer stated that he would not consider that the proposal will have a significant impact to the Conservation Area or the neighbouring Listed Building.

14. A site notice was posted outside of the property.

RESULTS OF PUBLICITY AND NOTIFICATION

15. **Four** properties in Middleton Road were consulted in accordance with the regulations and 4 objections have been received. The main concerns are: height of the proposed annex; overlooking issues; fear that the annex will become a new separate dwelling; loss of light and restricting views.

PLANNING ISSUES/ANALYSIS

(a) Impact on Heritage Assets

16. The proposal extension and annex will be set to the rear of the more historic properties fronting onto Middleton Road. The proposed new annex will be set down and will be no higher than the outbuilding situated to the rear of the proposal. The two-storey extension and canopy at the rear would be largely hidden from the wider aspect due to existing buildings and the site boundary. There are therefore very limited views of the proposal.

17. Whilst the Conservation Officer has stated that it is a large addition to the rear of the property, he does not consider that this would have a significant impact to the Conservation Area. The rear of the property is not visible from any critical view or site lines, or wider angles. The annex would see the loss of the existing outbuilding and being replaced with a larger building. The existing outbuilding as noted appears to be of the first half to the mid-20th century its loss would not have a significant impact. Consideration however is required as it is attached to a listed section of wall. The removal of the structure would need to be carried out using hand tools only, no use of drills or cutting equipment or sledgehammers. Any works to this listed wall would require a separate application for Listed Building consent. The proposed annex has been slightly amended from the initial proposals moving it away from the Listed section of wall. The proposed materials are satisfactory.

18. Overall, the proposal is considered to have a neutral impact on the Sadberge Conservation Area, and due to the distance and the positioning, no impact on the setting of the nearby Grade II listed Thorn Cottage. The proposal is therefore considered to accord with policy CS14 in this respect.

(b) Impact on Visual Amenity

19. The proposed works are considered to be quite large in terms of its scale and footprint relative to the application property which itself is a modest detached two storey dwelling. In this instance the application property is situated within a large plot and is surrounded by similar dwellings.

20. The extension and annex have been designed to limit the impact of them on the character and appearance of both the application property and the surrounding area.

21. Due to the siting of the existing property and the positioning of the extension on the rear of the dwelling slightly contravenes the requirements of the 45-degree code. The ground floor will have no detrimental impact due to the positioning of an existing high boundary wall and the first floor will project 0.6m further than the 45-degree line due to being set off the boundary by 1.3m. This is considered acceptable as the nearest windows in the adjoining property serve a kitchen on the ground floor and a bathroom with obscure glazing on the first floor.

22. Due to the positioning of the windows, none should impact significantly on the neighbouring properties.

23. As considered above the proposed building is nestled within the site, and surrounded by other buildings and landform, such that it would not have a discernible impact on the visual amenities of the locality. Accordingly, the proposal does not conflict with policy CS2, CS14, E4, H7 or H12 in this regard.

(c) Impact on Residential Amenity

24. The demolition of existing conservatory and erection of two storey rear extension, erection of canopy over patio, alterations to rear porch roof and insertion of sun tube to main rear roof, demolition of outbuilding and erection of single storey annexe with mezzanine level (as amended by plans received 09.07.20) would be in keeping with the character of the property and would not, therefore, be harmful to visual amenity.

25. The proposal would not result in any significant detrimental impacts in terms of light, outlook and overlooking to neighbouring residential properties.

26. It is not considered that this proposal will impact significantly on the residential amenities of the adjacent properties to the extent that it would be justified refusing planning permission on these grounds.

(d) Highway Safety

27. The proposed development has sufficient parking within the curtilage to accommodate the parking need of the proposed development without detriment to the highway and raises no highway issues. The Highways Engineer has raised no objections. Accordingly, the proposal does not conflict with policy CS2 in this respect.

(e) Impact on Trees

28. There are no tree issues within this application.

29. The trees within the curtilage of the property are not protected by a Tree Preservation Order but they are within a Conservation Area.

30. The Council's Senior Arboricultural Officer has stated that care will be needed when building materials and skip wagons are delivering to the site so as not to damage the Horse Chestnut tree. It is of paramount importance that the root area of the Horse Chestnut (*Aesculus hippocastanum*) is completely protected from damage by compaction, severance, or from material spillage. This will only be possible through the installation of protective fencing in accordance with BS5837 2012. It is recommended that this fencing is put into position prior to any further works on the site (demolition or development), and that the extent of this protection is inspected by a Council Officer prior to work commencing. This fencing should be at least 2m high and consist of galvanized tube, braced to resist impacts, supporting by a welded mesh wired to the uprights and horizontals to dissuade encroachment.

THE PUBLIC SECTOR EQUALITY DUTY

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

CONCLUSION AND RECOMMENDATION

32. The development accords with relevant Local Plan policies in that it respects the character and appearance of the host property and relates well to the surrounding area. The development does not raise any issues that would not be capable of being dealt with by standard conditions.

THAT PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:

1. A3 Implementation Limit (3 years)
2. The development hereby permitted shall be constructed in accordance with the external materials/finishes as set out in the email received 19 August 2020 from the Agent.
REASON – To ensure that the external appearance of the development is of an appropriate design and quality in accordance with Saved Local Plan Policy H12 and Policy CS2

3. The development hereby approved shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as Prospect House, Middleton Road, Sadberge and shall not be independently occupied.
REASON – To ensure that the additional accommodation is not severed from the main dwelling to provide a self-contained dwelling unit, which would be contrary to the development plan, and in order that the Local Planning Authority is able to exercise control over the future development of the site.
4. The removal of the outbuilding would need to be carried out using hand tools only, no use of drills or cutting equipment or lumb or sledgehammers.
REASON – To protect the listed wall from any damage which might occur whilst carrying out the development hereby permitted.
5. No additional flank windows or other glazed openings shall be formed in any of the walls of the extension or annex hereby approved without the prior written consent of the Local Planning Authority.
REASON - To protect the amenities of the neighbouring residential property against increased overlooking with resultant loss of privacy.
6. No demolition, site clearance or building operations shall be commenced until fencing of a height of not less than 2 metres has been erected around the trees, adjacent to the site. The distance of the fence from the trunk of each tree on the perimeter of the group shall be whichever is the greater distance of the following:-
 - a. five metres from the base of the tree; or
 - b. the area described by the limit of the spread of the branches of the tree.Such fencing is to be maintained during the course of the development to the satisfaction of the Local Planning Authority.
REASON - To enable the Local Planning Authority to ensure the retention of the trees on the site and their protection from damage, in the interests of visual amenity.
7. Tree Protection (During development)
None of the following activities shall be carried out under the canopy spread of any trees or within a minimum of five metres of the trunks whichever is the greater, except with the consent in writing of the Local Planning Authority: -
 - (i) the raising or lowering of levels in relation to the existing ground level;
 - (ii) cutting of roots, digging of trenches, removal of soil;
 - (iii) the construction of buildings, roads or the carrying out of other engineering operations;
 - (iv) the lighting of fires;
 - (v) driving vehicles over the area below the spread of the branches of the tree; and
 - (vi) the storing of materials or equipment.REASON - To ensure that a maximum level of protection in order to safeguard the wellbeing of the trees on the site and in the interests of the visual amenities of the area.
8. The development hereby permitted shall be carried out in accordance with the approved plans, as detailed below:

8069 (-9) 1 - Existing Site and Location Plan
8069 (21) 2 - Rev B – Proposed Elevations
8069 (-9) 3 - Rev A – Proposed Roof Plan

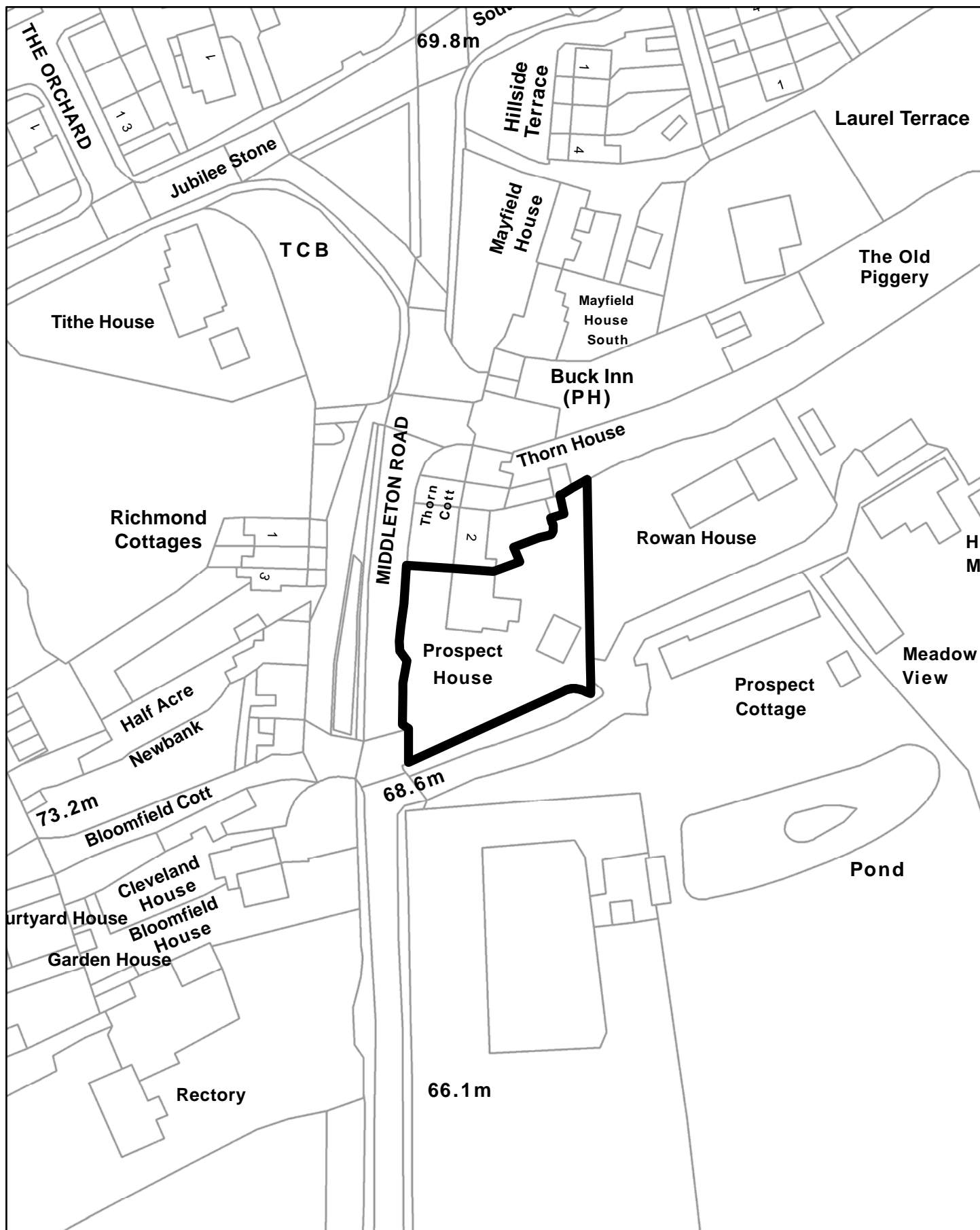
8069 (00) 4 - Rev A – Proposed Ground Floor Layout Plan and Tree Plan
8069 (00) 5 - Rev A – Proposed First Floor Layout Plan
8069 (00) 6 - Rev B – Proposed Roof Plan (larger Scale)

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

INFORMATIVES

Notwithstanding the above report the applicants' attention is drawn to the fact that the wall to rear of the property is curtilage Listed and not in their ownership. A report has been submitted with the application which sets out a methodology for undertaking foundation work in the vicinity of this wall and attached building.

Extreme care should be taken when undertaking work in this area to avoid damage to this Listed Structure.

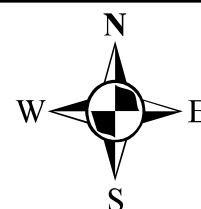


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DARLINGTON BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 28th October 2020

APPLICATION REF. NO:	20/00664/TF
STATUTORY DECISION DATE:	25th September 2020
WARD/PARISH:	MOWDEN
LOCATION:	Marchbank School Barnes Road Darlington
DESCRIPTION:	Works to various trees protected under Tree Preservation Order (No 1) 1951 in accordance with arborists report (as amended by arborists report received 14.10.20).
APPLICANT:	Mr Paul Hacking

RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS

Application documents including application forms, submitted plans, supporting technical information, consultations responses and representations received, and other background papers are available on the Darlington Borough Council website via the following link: <https://publicaccess.darlington.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=Q696JUFPJH600>

APPLICATION AND SITE DESCRIPTION:

1. The trees the subject of this application are located within the grounds of Marchbank School and overhang part of the southern edge of the adjacent housing site, the former Mowden Hall site, which is currently being developed by Linden Homes under planning permission 18/00989/FUL. The trees are protected by Tree Preservation Order (No. 1) 1951.
2. It is proposed to crown raise a total of 4 trees overhanging plots 13 – 15 to allow more light into the rear garden areas of these properties, as follows:
 - Plot 13, Tree 41 – Wellingtonia, crown raise to a height of approx. 7m;
 - Plot 14, Trees B & C – Western Red Cedars, Crown raise to approx. 7m;
 - Plot 15, Tree A – Sycamore, Crown raise to approx. 6m in height;

3. The extent of this work is detailed in the accompanying Arborist's report. Additional works to trees adjacent to the western boundary of the housing site have been omitted from the application in response to the Senior Arboricultural Officer's comments.

MAIN PLANNING ISSUES:

4. The main considerations with the application are: -
 - a) Effect on Protected Trees
 - b) Amenity Values of The Trees
 - c) Impact on The Local Environment

PLANNING POLICIES:

5. Relevant development plan policies are those seeking to ensure that works to protected trees consider: -
 - The health and stability of the trees, their future likely lifespan and their public amenity value (saved Local Plan Policy E13).
 - Protect and enhance healthy ancient woodland, mature trees, street trees (Policy CS15).

RESULTS OF TECHNICAL CONSULTATION:

6. The Senior Arboricultural Officer was consulted on the original proposal and the elements that could not supported have been removed from this application.
7. The amended proposal incorporated the Senior Arboricultural Officer's recommendations and therefore the Officer recommends that authorisation be granted these woks.

RESULTS OF PUBLICITY AND NOTIFICATION:

8. Three letters of objection have been received in response to the original proposal which raise the following issues:
 - The architects for the housing development should have planned the layout to allow sufficient light into the gardens;
 - Understand that it is the intention of the developers of the housing site to remove the trees permanently;
 - Loss of privacy between proposed houses and existing properties surrounding the site
 - These trees should not be cut back just to provide more light into their gardens when the sun is in the west because when the sun is south, they have no shade;
 - Branches should only be removed from the side facing the new houses;

- As the developers were not allowed to remove the trees, they are now hoping to achieve similar results by crown raising and cutting branches off most trees neighbouring the new estate;

PLANNING ISSUES/ANALYSIS:

9. The determining issues in this application are the impact the proposal will have on the health and stability of the trees and the visual amenity value the trees provide to the application property and the wider locality.
10. The proposed crown raising of the 4 no. trees, as detailed in the Arborist's report, will involve the removal of a number of lower branches, including some deadwood (which can be removed without consent), to allow light into the rear garden of the adjacent properties. The work can be done without significantly altering the shape of the canopies of these trees and as such the overall form of these trees will be retained. The proposed pruning work will allow more light to the rear of these properties without impacting upon the health and stability of these trees and will retain their public amenity value, in accordance with Saved Local Plan Policy E13.
11. The comments of objectors regarding loss of privacy as a result of the proposed pruning works are noted however works to trees along the western boundary adjacent to properties on Hall View Grove and Edgecombe Grove have been omitted from the application. The proposed works to the 4 no. trees will not result in any loss of privacy between the school and those properties on Plots 13 – 15.

THE PUBLIC SECTOR EQUALITY DUTY

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

CONCLUSION AND RECOMMENDATION:

13. In view of the above considerations, the proposed works are considered to be acceptable and the proposal is considered to comply with Saved Local Plan Policy E13 and Core Strategy Policy CS15. Accordingly, it is recommended that:

PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:

1. The pruning works hereby permitted shall be undertaken within two years of the date of this permission.

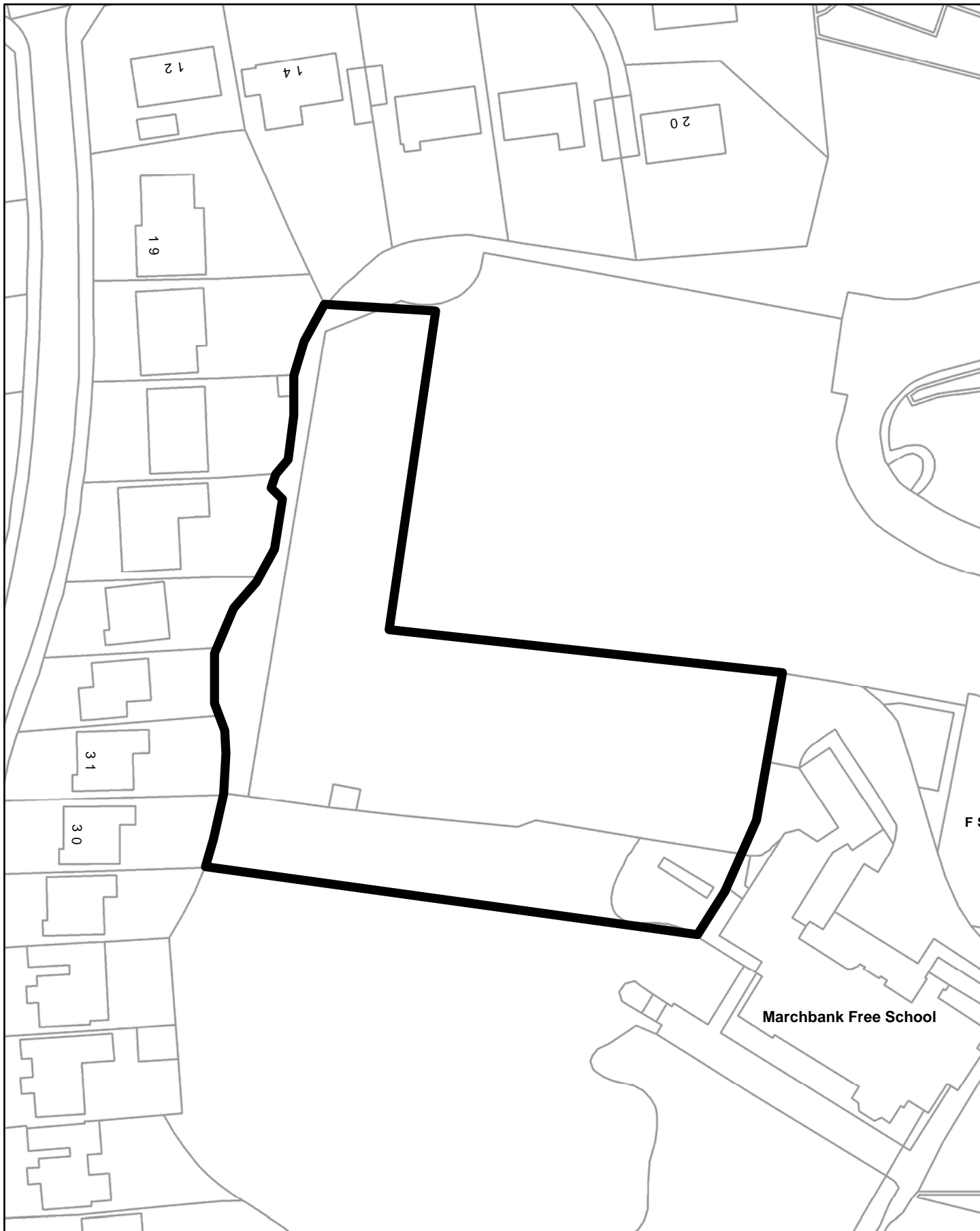
REASON - To accord with the provisions of The Town & Country Planning (Tree Preservation) (England) Regulations 2012

2. The pruning works hereby permitted shall be carried out in accordance with the details specified in the submitted tree report entitled 'Mowden Hall, Darlington – TPO Works Schedule (Amended)' by The Environment Partnership.

REASON – To safeguard the health of the trees

3. All pruning works to trees shall be carried out to BS Specification 3998 (as amended) and are to be carried out by a qualified and insured arborist.

REASON - To safeguard the health of the trees



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DARLINGTON BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 28th October 2020

APPLICATION REF. NO:	20/00768/FUL
STATUTORY DECISION DATE:	4 th November 2020
WARD/PARISH:	MOWDEN
LOCATION:	The Mowden Staindrop Road DARLINGTON
DESCRIPTION:	Erection of canopy over existing external seating area to front elevation
APPLICANT:	MR SIMON LEADBETTER

RECOMMENDATION: GRANT PLANNING PERMISSON SUBJECT TO CONDITIONS (see details below)

Application documents including application forms, submitted plans, supporting technical information, consultations responses and representations received, and other background papers are available on the Darlington Borough Council website via the following link: <https://publicaccess.darlington.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=QFQB45FPM4D00>

APPLICATION AND SITE DESCRIPTION

1. The application site is the Mowden Public House and associated land consisting of a car park and external seating area, situated on the south side of Staindrop Road on the edge of the Mowden estate. To the west are residential properties on Boundary view and to the east is Barnes Road.
2. Planning permission is sought for the erection of a canopy over an existing external seating area to the front of the public house. The canopy would be constructed of timber, stained grey to match the existing colour scheme, with a central dual pitch section, approximately 5.3 metres in height, to match the existing pitch and height of the pitched roof over the main entrance doors. Symmetrical shallow mono-pitched areas, approximately 3.7 metres in height and reducing to 3.1 metres in height, would adjoin the central section to both sides. To the roof would be lightweight synthetic slate effect roof tiles. The overall covered area would project some 16.1m from the front elevation with a

width of some 13m, sitting in a central position to the northern façade of the building. Outdoor grade string lighting would be applied to the underside of the canopy with heat lamps fixed to the underside of the rafters.

MAIN PLANNING ISSUES

3. The main issues for consideration are:

- a) Impact on visual amenity;
- b) Impact on residential amenity;
- c) Highway safety;
- d) Other matters

PLANNING POLICIES

4. Appropriate alterations to this existing business are acceptable in principle subject to other development management considerations set out in the development plan.

5. Relevant Local Plan policies include those seeking to ensure that new development:

- makes efficient use of land, buildings and resources, reflects the character of the local area, creates a safe and secure environment, and provides vehicular access and parking suitable for its use and location (CS2);
- Protects, and where appropriate enhances the distinctive character of the borough's built, historic, natural and environmental townscapes (CS14);
- protects and, where possible improves environmental resources whilst ensuring that there is no detrimental impact on the environment, general amenity, and the health and safety of the community (CS16);

RESULTS OF TECHNICAL CONSULTATION

6. No objections in principle have been raised by the Council's Highway's Engineer and Environmental Health Officer.

RESULTS OF PUBLICITY AND NOTIFICATION

7. Three letters of objection have been received, raising the following concerns.

- Noise impacts;
- Negative impact on quality of life;
- Increased traffic;
- Reduction of light to home and restriction of outlook;
- Existing problem with odours from drains;
- May block view of oncoming traffic when leaving driveway;
- Not in keeping with local area;
- Air pollution;
- Would be better placed on alternative side of the building;

- Increased rubbish accumulation;

8. Ten letters of support have been received raising the following points:

- Business has always been considerate to neighbours;
- Takes all appropriate steps to minimise noise; functions that take place always end at the correct time;
- Covered area will provide welcome social space for patrons at a difficult time;
- Essential to the continued existence of the pub;
- Important part of the local community;
- COVID has had a major impact on the business and this investment will help to keep it going and obey social distancing rules to prevent spread of COVID;
- Attractive design;
- Will provide a tidier, cleaner look to the current outdoor area and enhance the area;

PLANNING ISSUES/ANALYSIS

(a) Impact on visual amenity

9. The proposed canopy structure would be situated in a central position to the front of this spacious site. It would be seen in the context of the existing building and would be appropriate in terms of its scale, design and appearance. At a wider level, due to the spacious nature of this part of Staindrop Road with Barnes Road to the eastern side and the forward sitting buildings of Boundary View to the west, together with its position and scale within the enclosed site itself, it would not appear as a discordant feature within the street scene. Accordingly, the proposal is acceptable in respect of its impact on the visual amenities of the locality both at site level and at the wider street level such that it does not conflict with Policy CS14 or CS2 in this respect.

(b) Impact on residential amenity

10. The applicant runs a food-focussed destination 'early-doors' business which also serves alcohol to those not dining, with the split around 60/40 in favour of food. The outdoor seating area has in the past been used for outdoor drinking, however more recent times have necessitated its use for outdoor dining due to the on-going pandemic and the current restrictions in place. A temporary marquee was recently erected to allow for the business to provide a covid-safe and weather-proof environment to its customers, whilst awaiting the outcome of the current planning application. The new canopy would cover 6-8 tables to allow customers to dine outdoors whilst adhering to the current rules regarding social distancing.
11. Objections have been raised regarding the noise and disturbance that the development would cause, particularly during evening hours. It should be noted that this is an existing long-standing commercial premises and there is currently an area of external seating for patrons, albeit limited in use to a degree by the more inclement weather conditions at particular times of the year.

12. The presence of the proposed canopy, which does not cover the entire existing outdoor seating area, provides an opportunity for improved management, safety for customers and the more consistent use of the outdoor area for dining. Whilst the objections are noted, there is no evidence of a pattern of incidents that would suggest that the area cannot continue to be controlled in a sensitive manner by the management of the premises and co-exist alongside residential properties. It is however recommended that a planning condition be included to secure the removal of the temporary marquee within one month of the erection of the new canopy to ensure that activity is not increased in this area by the use of both the temporary marquee and the new canopy.
13. In light of the objections raised consideration has been given to recommending to Members the imposition of a planning condition restricting the times that patrons can use the outdoor seating area beneath the canopy until 22:00 hours, which was recommended by the Environmental Health Officer, and restricting any use of amplified music / sound outside of the premises. Such conditions would not however meet the necessary tests set out in the National Planning Policy Framework in that they would be difficult to enforce and can be dealt with by other powers, in this case the licensing regime and statutory nuisance legislation.
14. It should also be noted that the proposed canopy, which is the subject of this application, covers only part of the existing outdoor area to the front of the premises. The remainder of the external area is outside of the scope of this planning application and therefore the restrictions borne by such conditions would only apply to the area beneath the canopy, the remainder of the outdoor areas being controlled under the Premises Licence. A breach of such a planning condition could result, for example, in a patron having to move a matter of metres to comply with the condition, which would be unreasonable and difficult to enforce and would not achieve the aims of any such condition.
15. Under the terms of the current Premises Licence, the outdoor seating area cannot be used after midnight and this would continue to be the case with the addition of the canopy, so would not alter the current situation. It is also noted that the business is clearly limited to much stricter hours during the on-going pandemic and the current Tier 2 lockdown within the Tees Valley. The Environmental Health team have to date received no noise complaints regarding this premises and the use of this existing external seating area. It is however noted that the proposal is for a permanent canopy which will be in place after the current restrictions are lifted and therefore the area would continue to be used in line with the current Premises Licence after this time.
16. It is considered that the use of a large canopy such as that proposed, could assist in some reduction of noise coming from the existing outdoor seating area, especially to the nearest residential dwelling at 3 Boundary View, which has its day-to-day living accommodation at first floor level. However, the Environmental Health Officer has also recommended a planning condition to secure the submission and agreement of details of an acoustic fence of no less than 2

metres in height, along the western boundary of the site, adjacent to Boundary View. This is considered to be appropriate both in terms of noise reduction and in terms of its visual impacts.

17. The application makes reference to security floodlighting, and the Environmental Health Officer has also recommended a planning condition to require this to be directed, and if necessary screened, so that no light falls within the curtilage of neighbouring properties or onto the public highway in order to protect residents from any light spillage from the security lighting. However, this relates to existing security floodlighting on the site, not related to the proposed canopy, and therefore in this case, such a condition would not be directly related to the development so as to meet the tests set out in the National Planning Policy Framework.
18. Objections also refer to the impacts on amenity caused by the physical presence of the structure in terms of its height, restriction of outlook and loss of light. Due to the distance between the proposal and existing residential properties, the canopy will be approximately 18 metres away from the common boundary with 3 Boundary View to the west at its nearest point. The nearest part of the canopy would be one of the monopitched additions either side of the central dual-pitched section, which would be approximately 3.1 metres in height at this nearest point. It is not considered therefore that the physical presence of the structure would impact significantly on the residential amenities of nearby occupiers in terms of loss of light or outlook and the proposal is therefore considered to be acceptable in this respect.
19. Due to the recent pandemic, the business has only recently re-opened for trade and like many businesses, it remains very difficult for it to operate in a profitable way. Taking account of social distancing, the capacity for the internal areas has decreased. The outdoor areas, which are deemed to be safer, are therefore critical to the ongoing viability of the business, a matter echoed more generally by the recent Business and Planning Bill. The concerns of residents are acknowledged however the proposed canopy does not give rise to any unacceptable impact on light or outlook to these properties and any issues regarding the continued use of the external seating area can be adequately controlled by the Premises Licence and statutory nuisance legislation. The Environmental Health Officer has raised no objections to the principle of the proposal.
20. Subject to conditions to control the details and implementation of the acoustic fence, the proposal would not have an unacceptable impact on the living conditions of neighbouring occupiers and would comply with policy CS2 and CS16 in this regard.

(c) Highway Safety

21. The proposal does not impact on the current parking arrangements for the premises, which retains a substantial amount of in-curtilage parking provision. The Highways Engineer has raised no objection to the development on highway

safety grounds. The proposal is therefore considered acceptable and does not conflict with Policy CS2 in this regard.

(d) Other matters

22. One issue raised by objection relates to anti-social behaviour from patrons of the premises gathering outside, suggesting that as a result of the canopy, this will be more likely. Whilst there is no specific evidence of this, this is a matter which cannot be controlled by the planning permission and could occur at any time in a public place, and not as a direct result of the proposed weather canopy.
23. It is the responsibility of the management of the premises to ensure that any disturbance to residents is controlled and kept to a minimum and if this does not happen, the licence can be reviewed at any time, and potentially revoked. It is therefore always in the best interests of the management to ensure that patrons have consideration for residents. It should be noted that this is an existing business and regardless of the seating area, there is always the possibility of patrons standing outside and it is not considered that the permission under consideration, for a canopy to cover an existing external seating area, will exacerbate this to such an extent that planning permission should be refused. The Environmental Health Officer has provided some general advice, contained in the Informative at the end of the report, in terms of how such impacts can be managed.
24. Several objections have referred to a legal covenant on the properties of Boundary View, relating to a right of access across an area of land within the boundary of the site, specifically to its easternmost extent. This area is outside of the area that the proposed canopy relates, but within the area that the current external area occupies. This is a civil matter between parties that cannot be dealt with as part of this planning application. As advised in the National Planning Practice Guidance (NPPG) Land ownership, including any restrictions that may be associated with land, is not a planning matter. An appropriate legal professional will be able to provide further advice to interested parties regarding this matter if necessary.
25. Several objections also refer to increased litter as a result of this proposal. Whilst increased litter is capable of being a material planning consideration, there is no evidence of a current litter problem at the site and it is not considered that there is sufficient correlation between the introduction of the canopy in relation to an existing use, and the increased likelihood of litter such that this could be considered a reason for refusal. Bins are provided within the site for the use of customers.

PUBLIC SECTOR EQUALITY DUTY

26. In considering this application the Local Planning Authority has complied with Section 149 of the Equality Act 2010 which places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to

eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.

CONCLUSION AND RECOMMENDATION

27. The proposed development complies with the relevant policies in the development plan. Subject to the proposed conditions the development would be acceptable in respect of residential amenity. The proposal is acceptable in terms of its impact on the visual amenities of the locality and does not impact on highway safety. It is therefore recommended that:

PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:

1. A3 Implementation Limit (3 years)
2. The development hereby permitted shall be carried out in accordance with the approved plan(s) as detailed below:

1920-011-001(A1) Rev A Existing and Proposed layout, elevations and site plan

REASON – To define the consent

3. An acoustic barrier/fence with a minimum height of two metres shall be installed along the side boundary between the Mowden and 3 Boundary View. Specifications of this barrier/fence shall be submitted to and agreed in writing by the Local Planning Authority prior to the use of the canopy hereby approved. The erection of the barrier / fence shall thereafter be undertaken prior to the use of the canopy in accordance with the agreed scheme and shall be retained and maintained thereafter.

REASON – To minimise any adverse effect upon the neighbouring residents from noise pollution.

4. Within one month of the erection of the canopy, the existing temporary marquee shall be removed from the site.

REASON – In the interests of residential amenity.

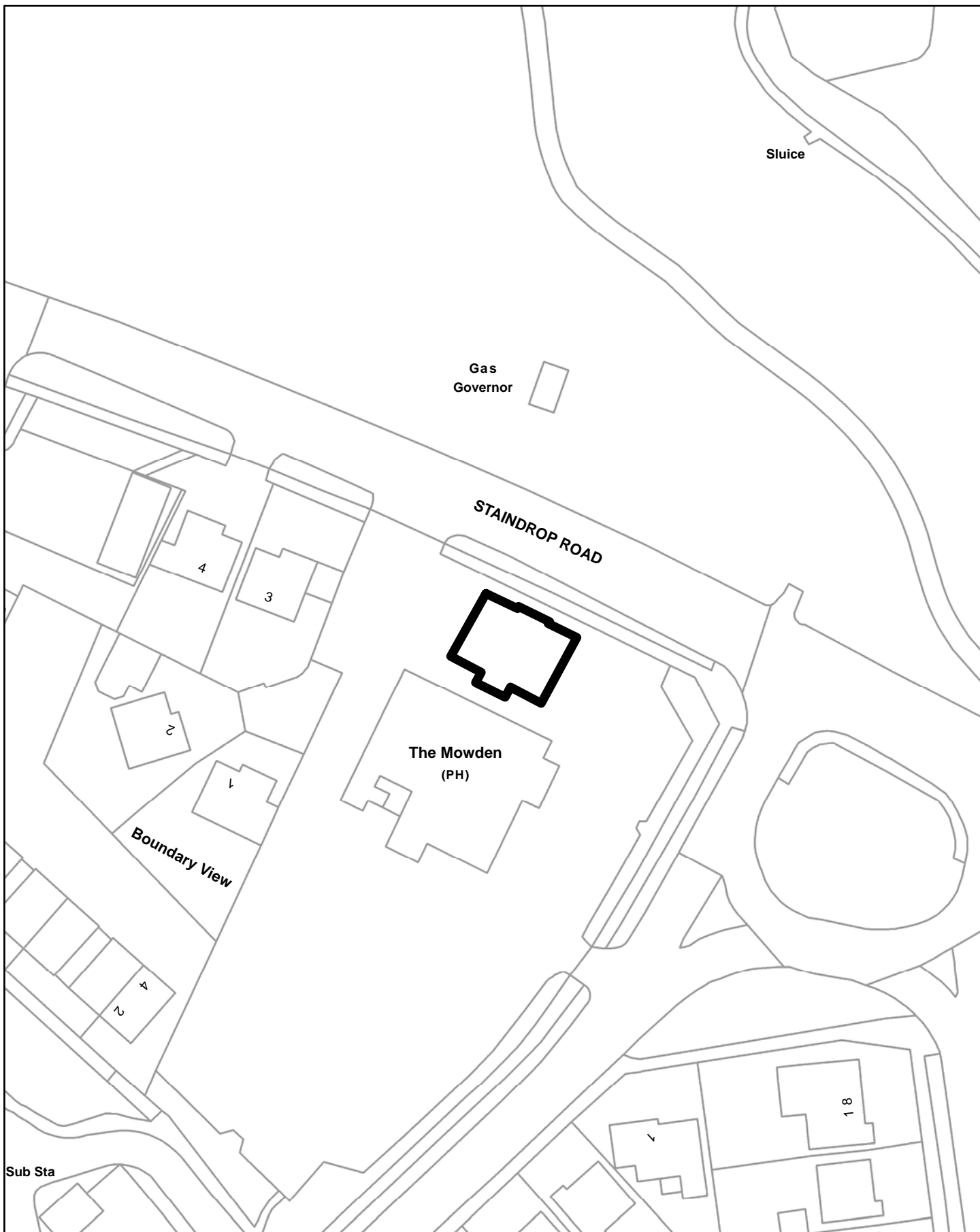
INFORMATIVES

Advice for the applicant from the Environmental Health Officer

To further minimise noise disturbances to residential properties the applicant may want to consider the following:

- Attach rubber feet to chairs and tables,

- Signs should be put up at exits and in beer gardens asking users to be considerate of local residents,
- Also consider restricting or supervising the number of people using these areas, or discourage their use after dark by providing minimal lighting and removing seating and heating,
- Discourage loitering or even offer to phone for taxis,
- Place signs at exits asking customers to leave quietly or even relay a similar message through the public address system.



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