

Planning Applications Committee Agenda



**1.30 pm Wednesday, 17 February 2021
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 23 December 2020 (Pages 5 - 12)
4. Introduction to Procedure by the Assistant Director, Law and Governance's Representative
5. Applications for Planning Permission and Other Consents under the Town and Country Planning Act and Associated Legislation (Pages 13 - 14)

- (a) 55 Neasham Road, Darlington (Pages 15 - 26)
 - (b) 20 Langholm Crescent, Darlington (Pages 27 - 38)
 - (c) Field at Copse Haven, Roundhill Road, Hurworth Moor, Darlington (Pages 39 - 52)
 - (d) Field at School Aycliffe Lane, School Aycliffe (Pages 53 - 60)
6. SUPPLEMENTARY ITEM(S) (if any) which in the opinion of the Chair of this Committee are of an urgent nature and can be discussed at this meeting
7. Questions

PART II

8. Notification of Appeals –

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

Mr Yousif Ameen-Ali has appealed against this Authority's decision to refuse permission for repairs and alterations to Claytons Yard, Darlington, DL1 1SH (20/00298/FUL)

RECOMMENDED – That the report be received.

PART III

EXCLUSION OF THE PUBLIC AND PRESS

9. 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.

10. Complaints Received and Being Considered Under the Council's Approved Code of Practice as of 5 February 2021 (Exclusion Paragraph No. 7) –
Report of Director of Economic Growth and Neighbourhood Services
(Pages 61 - 74)
11. 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
12. Questions



Luke Swinhoe
Assistant Director Law and Governance

Tuesday, 9 February 2021

Town Hall
Darlington.

Membership

Councillors Allen, Clarke, Cossins, Heslop, 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, 23 December 2020

PRESENT – Councillors Mrs D Jones (Chair), Allen, Clarke, Cossins, Heslop, Keir, Lee, Lister, Marshall, McCollom, Tait, Tostevin and Wallis

APOLOGIES – Councillors Johnson,

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)

PA61 DECLARATIONS OF INTEREST

There were no declarations of interest reported at the meeting.

PA62 TO APPROVE THE MINUTES OF THE MEETING OF THIS COMMITTEE HELD ON 25 NOVEMBER 2020

RESOLVED – That the Minutes of this Committee held on 25 November 2020 be approved as a correct record.

PA63 APPLICATIONS FOR PLANNING PERMISSION AND OTHER CONSENTS UNDER THE TOWN AND COUNTRY PLANNING ACT AND ASSOCIATED LEGISLATION

A3	Implementation Limit (Three Years) The development hereby permitted shall be commenced not later than the expiration of three years from the date of this permission. Reason - To accord with the provisions of Section 91(1) of the Town and Country Planning Act, 1990.
PL	The development hereby permitted shall be carried out in accordance with the approved plan(s) as detailed below, ^IN; Reason - To define the consent.

PA64 LAND OFF MIDDLETON ROAD, MIDDLETON ROAD, SADBERGE

20/00607/FUL – Application submitted under Section 73 of the Town and Country Planning Act 1990 for the variation of condition 2 (approved plans) and condition 16 (highways works) attached to planning permission 17/00358/FUL (Erection of 25 no. dwellings and provision of access from Middleton Road) dated 16 January 2018 to permit changes to remove footpath adjacent to Middleton Road and create

a private postal path.

(In making its decision, the Committee took into consideration the Planning Officer's report (previously circulated), two letters of objection received from residents, the objections of Sadberge Parish Council, the views of the Ward Councillor whom the Committee heard, and the responses to questions asked by Members of the Applicant's Agent, who was in attendance at the meeting).

RESOLVED – That Planning Permission be granted subject to the S106 agreement attached to 17/00358/FUL being reassigned to this permission, and to the following conditions:

1. PL (Accordance with Plans)
Site Location Plan
SITE-WD-01 Rev H Proposed site plan
SITE-WD-02 Rev H Proposed site plan
SITE-WD-10 Rev F Landscape proposals
SITE-WD-11 Rev E Hard Landscape proposals
SITE-WD-12 Rev H Elevation facing materials
SITE-WD-13 Rev D Bat and Bird Box Locations
2. Construction and demolition work (including deliveries) 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.

3. The external materials to be used in the carrying out of the development shall comply with those previously agreed and specified in the submitted application, unless otherwise agreed in writing by the Local Planning Authority.

REASON – In the interests of the visual amenities of the area and to preserve the character and appearance of the Sadberge Conservation Area.

4. Landscaping (Implementation)
5. Prior to the development hereby permitted being first occupied, or within such extended time as may be agreed in writing with the Local Planning Authority, the site shall be enclosed at all boundaries, except at the permitted point of access, in accordance with details to be submitted to, and approved in writing by, the Local Planning Authority. Thereafter the boundary treatment shall be in place prior to the occupation of the dwellings hereby approved.

REASON – In the interests of visual and residential amenity.

6. The development shall be completed fully in accordance with the previously approved Scheme of Affordable Housing in the document entitled 'Affordable Housing Statement: Discharge of condition 6 (17/00358/FUL) unless otherwise agreed in writing by the Local Planning Authority.

REASON – To comply with Council Housing Policy.

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order (2015) (or any order revoking or re-enacting that order with or without modification) no enlargement, improvement or other alteration of the dwellings hereby approved, including any additional buildings / structures within their curtilage, shall be carried out without the prior written consent of the Local Planning Authority to whom an application must be made.

REASON – In order not to prejudice the amenities of the adjoining properties and in order that the Local Planning Authority is able to exercise control over the future development of the site.

8. All parking, including garaging, car ports and hardstanding, shall be provided prior to the dwellings hereby approved being first occupied and thereafter they shall be retained permanently available for parking purposes and for no other purpose without the prior written consent of the Local Planning Authority.

REASON – To safeguard the amenities of the neighbourhood and to ensure the adequate provision of off-street parking accommodation to serve the dwellings.

9. The open car ports provided for dwellings 12 and 13 shall remain open parking spaces and no garage doors or gates shall be installed without the prior written consent of the Local Planning Authority to whom a planning application must be made.

REASON – To prevent blocking of the turning facility and to ensure the provision of adequate off-street parking to serve the dwellings.

10. Development shall be implemented in line with the drainage scheme contained within the submitted document entitled “Site wide engineering layout” dated “17/07/2020”. The drainage scheme shall ensure that foul flows discharge to the foul sewer at manhole 2601 and ensure that surface water discharges to the combined sewer at manhole 1502. The surface water discharge rate shall not exceed the available capacity of 5 l/sec that has been identified in this sewer. The final surface water discharge rate shall be agreed by the Lead Local Flood Authority.

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

11. The development shall be completed in accordance with the Scheme of Surface Water Drainage and Management set out in the following documents:

- Engineering layout drawing no. 20046-CK-XX-XX-DR-X-C-9004 Rev. C2
- Section 104 Agreement – public drainage layout drawing no. 20046-CK-XX-XX-DR-X-C-52104 Rev P4
- Private drainage drawing no. 20046-CK-XX-XX-DR-X-C-5211 Rev. C3

- Construction Programme (Sadberge Initial Draught) All Saints Construction

The buildings hereby approved shall not be brought into use until the approved Surface Water Drainage scheme has been implemented and the approved scheme shall be maintained in accordance with the Surface Water Management scheme for the lifetime of the development.

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

12. The development shall be completed in full compliance with the submitted Construction Management Plan (All Saints Construction; Decision 17/00358/FUL; Land off Middleton Road Sadberge Darlington) unless otherwise agreed in writing with the Local Planning Authority.

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

13. Precise details of the off-site highway works required to access the site and mitigate the development impact shall be submitted to, and approved in writing by, the Local Planning Authority prior to the first occupation of the dwellings hereby approved. The submitted details shall include formation of a new site access junction, a traffic calming feature to the entrance to the 30mph speed limit, resurfacing of Middleton Road to remove the coloured ripple print surface and resurfacing on the approaches to comply with the current skid resistance policy, and pedestrian crossing points. The development shall not be carried out otherwise than in complete accordance with the approved details, and the works shall be fully completed prior to the occupation of the first dwelling.

REASON – In the interests of highway safety.

14. Prior to the first occupation of the homes hereby approved, confirmation of the type of noise amelioration measures to be incorporated into the facades of the dwellings fronting onto Middleton Road must be submitted to, and approved in writing by, the Local Planning Authority. Details for the noise barrier must include construction materials, method of construction and its exact location on site. The submitted documents for the facades of the dwellings shall meet the requirements set out in Table 3 of the Noise report (ASC/SB/001) submitted in support of the application. The development shall not be carried out other than in complete accordance with the approved details.

REASON – In the interests of residential amenity.

15. Unless otherwise agreed in writing by the Local Planning Authority, the proposed development shall only be carried out in all respects in accordance with the recommendations and methods contained within the Extended phase 1 Habitat Survey 16-0592.01 (August 2016).

REASON – In the interests of ecology.

16. Notwithstanding the recommendations contained within the Extended Phase 1 Habitat Survey, the previously agreed habitat boxes shall be installed in accordance with Drawing No. SITE-WD-13 unless otherwise agreed in writing by the Local Planning Authority.

REASON – In the interests of Ecology.

17. The development shall be carried out in accordance with the previously approved programme of archaeological work (Land South of Prospect House, Middleton Road, Sadberge: Archaeological Watching Brief; Written Scheme of Investigation DS19.83 on behalf of All Saints Construction (Durham University; March 2019). The archaeological mitigation strategy shall be carried out in accordance with the approved details and timings.

REASON - To safeguard any Archaeological Interest in the site, and to comply with part 16 of the National Planning Policy Framework.

18. Prior to the development being beneficially occupied, a copy of any analysis, reporting, publication or archiving required as part of the mitigation strategy shall be deposited at the County Durham Historic Environment Record.

REASON - To comply with Paragraph 199 of the NPPF, which requires the developer to record and advance understanding of the significance of heritage assets, and to ensure information gathered becomes publicly accessible.

PA65 LAND TO THE REAR OF 21 BARMPTON LANE, DARLINGTON

20/00835/OUT – Outline application for the erection of 5 no. bungalows with all matters reserved except for means of access.

(NOTE: This item was withdrawn from the Agenda at the outset of the meeting).

PA66 35 CLEVELAND AVENUE, DARLINGTON

20/00955/FUL – Erection of outbuildings for work shed and summerhouse with linked covered seating area in rear garden.

(In making its decision, the Committee took into consideration the Planning Officer's report (previously circulated), and three letters of objection received from residents).

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

1. A3 Implementation Limit (Three Years)

The development hereby permitted shall be commenced not later than the expiration of three years from the date of this permission.

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 constructed in accordance with the external materials/finishes as set out in the application, unless otherwise agreed, in writing, with the Local Planning Authority.

REASON – To ensure that the external appearance of the development is of an appropriate design in accordance with Saved Policy H12 (Alterations and extensions to existing dwellings) of the Borough of Darlington Local Plan 1997 (Alterations 2001).

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

Existing & Proposed Plan and Elevations of Garden Room/Storage Drawing No. 20258.P001 dated 16/09/2020
Proposed Block Plan Drawing No. 20258.OS03 dated 20/0/2020
Proposed Visuals Option F0002

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

4. The development hereby approved shall be used for purposes incidental to the enjoyment of the dwelling house known as No. 35 Cleveland Terrace only and shall not be used for any commercial purposes.

REASON - In the interests of residential amenity and to enable the Local Planning Authority to obtain control over the development.

PA67 NOTIFICATION OF APPEALS

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

Mr. Darren Cresser had appealed against this Authority's decision to refuse permission for erection of 1 no. dwelling at Land Adjacent to 39 Stockton Road, Darlington, DL1 2RX (20/00690/FUL).

RESOLVED – That the report be received

PA68 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.

PA69 COMPLAINTS RECEIVED AND BEING CONSIDERED UNDER THE COUNCIL'S APPROVED CODE OF PRACTICE AS OF 11 DECEMBER 2020 (EXCLUSION PARAGRAPH NO. 7)

Pursuant to Minute PA60/Nov/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 11 December 2020.

RESOLVED - That the report be noted.

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BOROUGH OF DARLINGTON**PLANNING APPLICATIONS COMMITTEE**

Committee Date – 17 February 2021

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
55 Neasham Road, Darlington	20/00963/FUL
20 Langholm Crescent, Darlington	20/01073/FUL
Field at Copse Haven, Roundhill Road, Hurworth Moor, Darlington	20/00910/CU
Field at School Aycliffe Lane, School Aycliffe	20/01150/FUL

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DARLINGTON BOROUGH COUNCIL
PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 17 February 2021

APPLICATION REF. NO: 20/00963/FUL

STATUTORY DECISION DATE: 14 December 2020 (Extension of time agreed until 19 February 2021)

WARD/PARISH: BANK TOP AND LASCELLES

LOCATION: K & S Peacock, 55 Neasham Road

DESCRIPTION: Change of use from off-licence (Use Class E) to a hot food takeaway (Sui Generis) with installation of extraction equipment including external flue to north elevation

APPLICANT: Mr Kuldip Singh

RECOMMENDATION: GRANT PERMISSION 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?keyVal=QIFU75FPGZB00&activeTab=summary>

APPLICATION AND SITE DESCRIPTION

1. The application site relates to a two storey terraced property that sits in an end-terrace position fronting onto Neasham Road to the west. The side elevation of the application property faces onto Brunton Street to the north. The property has previously been in use as an Off-Licence (Use Class E) at ground floor level with residential accommodation above. The surrounding area is predominantly residential in nature and the property is bound by residential properties on its adjoining southern side, on Brunton Street to the rear, and on Neasham Road to the north and west.
2. Neasham Road Local Centre is located on the opposite side of Neasham Road approximately 65m away to the south west of the site. There are a small number of

retail premises located within the vicinity of the application site along Neasham Road, many of which occupy end of terrace properties. Uses include a hairdresser, boutique clothing shop and a takeaway.

3. Access to the rear yard of the application property is via an entrance off Brunton Street. There is a pedestrian door also located off Brunton Street which leads to a first floor living space.
4. This application seeks permission for a change of use of the ground floor of the premises from an off-licence (Use Class E) to a hot food takeaway (Sui Generis) with the installation of extraction equipment including an external flue to the north elevation. No other external alterations are proposed. The hot food takeaway would operate between the hours of 11:00 to 21:00 Monday to Sunday, including Bank Holidays.
5. The first floor living accommodation would remain and some internal alterations are proposed to the ground floor including the addition of a serving counter and internal extraction equipment to facilitate the proposed use.

MAIN PLANNING ISSUES

6. Site History:
 - 83/00720/DM – Change of Use and Alterations to the Rear to Provide a Dinette/ Kitchen, Store, Preparation room and Toilet. Granted.
 - 88/00783/Misc. – Erection of an Extension to the Shop. Granted.
 - 16/00207/PA – Prior Approval of a change of use of part of a building from a mixed retail and residential use to a use falling within use class C3 (Dwellings). Application Withdrawn.
 - 19/00371/FUL – Installation of Replacement Shop Front including retention of existing shutters. Granted 2019.
7. The main planning issues to be considered are:
 - a) Visual Amenity
 - b) Residential Amenity
 - c) Highway Safety
 - d) Disabled Access
 - e) Other Matters

PLANNING POLICIES

8. The relevant Local Plan policies include those seeking to ensure the proposed development:

- a) Is located within development limits as set out within Policy E2 of the Saved Local Plan 1997
- b) Accords with Darlington's sub- regional role and locational Strategy set out within Policy CS1 of Darlington's Core Strategy (2011)
- c) Makes efficient use of land and existing buildings and reflect Darlington's distinctive, natural, and built characteristics that contribute to the character of the local area and its sense of place (CS2 of the Core Strategy).
- d) Provides vehicular access and parking suitable for its use and location (CS2 of the Core Strategy).
- e) Ensures safe, convenient, and attractive access for pedestrians, cyclists, public transport users and for disabled people (CS2 of the Core Strategy)
- f) Promotes individual shops, leisure uses and services and small neighbourhood clusters of them which meet day to day needs of nearby residents without the need to use a car will be protected (CS9 of the Core Strategy)
- g) Protects the general amenity and health and safety of the local community (CS16 of the Core Strategy)

RESULTS OF TECHNICAL CONSULTATION

9. The Council's Highway Engineer and Environmental Health Officer raise no objection, subject to conditions.
10. The Architectural Liaison Officer has been consulted on the application and has raised no objections.
11. Darlington Association on Disability advise that the provision of a temporary ramp is acceptable as a minimum form of provision.

RESULTS OF PUBLICITY AND NOTIFICATION

12. The application has been publicised by way of site notice and neighbour letters in accordance with Article 15(5)(a) of The Town and Country Planning (Development Management Procedure) (England) Order 2015.
- 13.4 Letters of objection have been received with the following concerns (Summarised):
 - *Town is overrun by takeaway shops*
 - *Don't need another place selling unhealthy food*
 - *The visual approach into Darlington Town Centre from most routes except the West end is becoming an eyesore of takeaway shops*
 - *The takeaway would lead to an increase in traffic and noise problems and raise concerns over possible smells coming from the takeaway*
 - *Would lead to an increase in litter*

- *Already a large number of fast food businesses nearby*
- *So much competition already in the area which leads to a struggle in business*
- *Not in favour of another hot food takeaway nearby to own fish shop*
- *There should not be so many hot food takeaways close to each other*

PLANNING ISSUES/ANALYSIS

(a) Visual Amenity

14. There are no external alterations to the premises other than the erection of an external flue on the gable wall fronting Brunton Street. While the proposed flue would be visible from this aspect, on this occasion it is modest in scale and height and will sit approximately mid-way between the eaves and ridge height of the property. It is not considered therefore that this would have an unacceptable impact upon the character and appearance of the application property or that of the surrounding area.

(b) Residential Amenity

15. Policy CS16 of the Core Strategy states that new development (which includes proposals to change the usage of a building) should ensure that there is no detrimental impact on the environment, general amenity and the health and safety of the community. Paragraph 180 of the National Planning Policy Framework, 2019 states that planning decisions should ensure that new development is appropriate for its location taking into account the likely effects of pollution on health, living conditions and the natural environment. In particular, decisions should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development and avoid noise giving rise to significant adverse impacts on health and quality of life.

16. The surrounding area is predominantly residential in character, including the first floor flat above, the adjoining property and other residential properties close by on Neasham Road and Brunton Street, interspersed with some commercial and retail units. Hot food takeaways have the potential to cause disturbance to neighbours due to noise generated by the comings and goings of customers and the operation of equipment to deal with fumes and smells. This can be particularly so at times when neighbours might have a reasonable expectation of a quieter environment.

17. These activities would not however be too dissimilar to the existing off-licence use. It should be noted that the premises are not currently subject to an hours of operation condition and so activities associated with the retail use of the premises could continue later into the evening than currently proposed. Following discussions with officers the hours of operation for the proposed hot food takeaway have been reduced to 11:00 to 21:00 Monday to Sundays, including Bank Holidays. A closing time of 23:00 was originally proposed.

18. These opening hours are consistent with other hot food takeaways elsewhere within the town, in close proximity to residential properties and in most instances on the end of a terrace of residential dwellings, including 87 Grainger Street (13/00958/CU),

15 Belvedere Road (19/00002/FUL), 155 Corporation Road (14/01163/FUL), 366 Yarm Road (16/00896/FUL) and 303 – 303A North Road (18/01166/CU). It is considered that the proposed hours are not at anti-social times, or when residents would reasonably expect a certain degree of peace and quiet. A condition restricting the opening hours to 11:00 to 21:00 Monday to Sundays, including Bank Holidays is therefore proposed.

19. The Council's Environmental Health Officer has raised no objection to the proposal subject to conditions to secure controls over methods of controlling fumes and odours, the storage of waste and refuse, the fitting of internal grease traps and the control of delivery hours to ensure the neighbouring properties are not unduly disturbed by the ground floor usage.
20. There is an existing waste bin in the forecourt of the premises which can be used by patrons of the premises and the bin is considered to be appropriate.
21. Durham Constabulary Architectural Liaison Officer has been consulted and has no objections to the proposal.
22. It is considered that by limiting the proposed hours of use and imposing appropriate planning conditions to control noise, fumes and odours which might be generated by the use, the proposed change of use would not materially harm the amenities of the neighbouring dwellings. The proposal, subject to appropriate conditions, would accord with Policy CS16 of the Core Strategy.

(d) Highway Safety

23. The property occupies an end-terrace location with a side elevation on Brunton Street. Parking is restricted in the nearby vicinity of the site, with "no parking" restrictions in place around the junction radii. Limited unrestricted parking is available on Brunton Street, although demand from residents is high as properties are reliant upon on street parking. Further parking is available after 6pm within areas otherwise restricted to resident permit holders during the hours of 8am-6pm. This would be available for both customer and residential use during evening opening times subject to availability on a first come first served basis.
24. Takeaway businesses typically operate with a higher turnover of short duration parking rather than requiring a significant amount of total parking at any one time. Customers may arrive to collect orders and be parked for 5 - 10minutes, however this may attract several trips per hour.
25. Many customers are likely to be pass by trips i.e. vehicles already travelling on Neasham Road or be visiting on foot from the nearby residential area. Most takeaways also offer a delivery service further reducing vehicle movements and parking demands over customer collection only. Whilst Neasham Road carries higher volumes of traffic during the daytime, this volume is vastly reduced in the evening (7pm onwards).

26. The Council's Highways Officer has confirmed that there is no pattern of accident history, or particular road safety concern at this location, as no incidents are associated within near proximity of the Brunton Street/Neasham Road junction. Servicing and public access/parking at the premises would be required to take place from the public highway, however the highway impact to residents should be minimal over the extant permission, especially as this would potentially serve a large walking catchment area of customers.
27. Whilst the availability of parking in the nearby vicinity is limited, it is not considered that this application is likely to generate additional traffic over the current permitted use class and hence warrant grounds for refusal under NPPF guidance which requires that 'Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.' No highway objection is raised on this basis.

(e) Disabled Access

28. Policy CS2 of the Core Strategy states that all developments should provide safe, convenient, and attractive access for disabled people.
29. Darlington Association on Disability (DAD) have advised that disabled access to the premises should be provided not only to comply with Policy CS2 of the Core Strategy but to meet the standards of the Equality Act 2010.
30. DAD recommended that a permanent solution be found to provide full disabled access to the property which would involve relocating the entrance to the front elevation to allow a permanent ramp to be constructed across the forecourt. The applicant confirmed that with opening a new business they were not currently in a position to finance the external alterations and details of a portable ramp have been provided as an alternative, which will be available for customer use on request and assistance provided. The ramp would be removed when it was not in use.
31. In the circumstances, while this is not a permanent solution, it does provide a means for disabled customers to access the shop and DAD have advised they would expect the temporary portable ramp to be provided as a minimum to address the step up at the entrance of the takeaway.
32. As the entrance to the shop is located on a corner, any ramp would extend out over the highway to the front. Therefore, a condition is proposed to ensure the ramp is provided on request and assistance is provided, with the ramp to be removed immediately after use to ensure that the ramp does not result in a tripping hazard within the highway. Darlington Association on Disability have confirmed they would be satisfied with this.
33. The Council's Highways Engineer is also supportive of the use of a condition controlling the operation of the ramp but have also advised that the business should have 3rd party liability insurance to ensure responsibility over any tripping claims.

This is the subject of an informative, but lies outside of the remit of this planning application.

34. Overall, as the applicant has agreed to provide a temporary portable ramp which the operation of would be ensured by condition, it is considered the proposal will accord with Policy CS2 of the Core Strategy.

Other Matters

35. Some of the concerns raised by objectors relate to possible effects on business competition. However, members are advised that this is not a material planning consideration and cannot carry any weight in the determination of the planning application.
36. A number of objections have included concerns over the number of takeaways in the area. Concern is also expressed regarding the sale of 'unhealthy food' from the premises. There is currently no development plan policy which seeks to limit the number or location of takeaways within the Borough, rather each application is considered on its merits having regard to its impact on residential and visual amenity and highway safety. Obesity in an area has however been found to be a material consideration when deciding on applications for fast food outlets. There is not currently sufficient evidence to suggest that obesity is a significant issue in this part of the Borough such that the application could be refused on this basis.

PUBLIC SECTOR EQUALITY DUTY

37. 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.
38. Within paragraphs 28 – 34 of this report the measures taken to provide disabled access have been described in accordance with having regard to Section 149 of the Equality Act 2010.

CONCLUSION AND RECOMMENDATION

39. The application property has an existing use as an off-licence which is not currently subject to an hours of operation condition. It is not considered that activity levels associated with the proposed hot food takeaway would be too dissimilar from the existing off-license use and as a result the proposed use would not adversely impact upon the nearby living conditions of nearby residents subject to appropriate controls. As such it is considered appropriate to restrict opening hours to between 11-21:00 Monday to Sunday including bank holidays, to ensure that activity levels do not extend into the later evening which is consistent with other hot food takeaways in similar locations around the town. The Architectural Liaison Officer has not raised objection to the application and therefore there are no significant concerns relating to anti-social behaviour resulting from the proposed change of use. Neither the

Environmental Health Officer nor the Highways Engineer raise objection to the application and subject to appropriate conditions the proposal is considered to comply with Policy CS16 (Protecting Environmental Resources, Human Health and Safety) and Paragraph 180 of the NPPF 2019. The proposed flue is not considered to raise issues in terms of visual amenity in accordance with Policy CS2 (Achieving High Quality, Sustainable Design). A temporary portable ramp is to be provided on request providing disabled access to the premises in accordance with Policy CS2 of the Core Strategy.

THAT PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:

1. A3 Implementation Limit (Three Years)
2. The use hereby approved shall not operate outside the hours 11:00 – 21:00 Monday to Sunday including Bank Holidays only unless otherwise agreed in writing by the Local Planning Authority.

REASON: In the interests of residential amenity.

3. 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.

4. Prior to the installation of any air extraction equipment (including the external flue) exact details of the proposed installation including the manufacturers specified noise levels of the extraction system shall be submitted to and approved by the Local Planning Authority. The noise levels of the proposed extraction system shall meet the noise limits in the njd noise assessment dated October 2020 submitted in support of the application. The agreed extraction system shall be retained and maintained thereafter for the duration of the development.

No modifications to the approved scheme shall be undertaken without the prior approval of the Local Planning authority.

REASON: In the interests of residential amenity.

5. Prior to the hot food takeaway hereby permitted first being brought into use, details of fume extraction, including a full technical specification by a suitably qualified person, shall be submitted to, and agreed in writing to the Local Planning Authority. The scheme should specify the position of ventilation, fume, or flue outlet points; the type of filtration or fume treatment to be installed. The proposed fume extraction system shall meet the recommendations in the njd odour assessment dated October 2020, submitted in support of this application. The agreed fume extraction system shall be retained and maintained thereafter for the duration of the development.

No modifications to the approved scheme shall be undertaken without the prior approval of the Local Planning authority.

REASON: In the interests of residential amenity.

6. Drainage serving kitchens in commercial hot food premises should be fitted with a grease separator complying with BS EN 1825-1 and designed in accordance with BS EN 1825-2 or other effective means of grease removal.

REASON: In order to prevent flooding and pollution.

7. Details of refuse storage facilities shall be submitted to and approved in writing by the Local Planning Authority before the use hereby permitted commences and thereafter shall be retained for the lifetime of the development.

REASON: In the interests of amenity.

8. Deliveries to and collections from the site, including the loading and unloading associated with the use, shall take place between the hours of 8am to 6pm Monday to Saturday, with no deliveries on Sundays/Public Holidays.

REASON: In the interests of residential amenity.

9. For the duration of the approved use, a temporary portable ramp shall be provided and operated in accordance with the details submitted in email correspondence dated 9th December 2020.

REASON: To ensure that a disabled person can use the services that are provided within the building in accordance with Policy CS2 (Achieving High Quality Sustainable Design) of the Darlington Core Strategy Development Plan and to discourage hazards that could be caused by a ramp in the highway.

10. Prior to the commencement of the use, a sign shall be erected at the entrance of the premises informing any persons unable to enter the premises that a temporary portable ramp is available on request. This sign shall remain in situ unless otherwise agreed in writing by the Local Planning Authority.

REASON: To ensure that a disabled person can use the services that are provided within the building in accordance with Policy CS2 (Achieving High Quality Sustainable Design) of the Darlington Core Strategy Development Plan 2011.

11. PL (Approved plans condition)

- NDS20/CP1 - Plans as Proposed
- NDS20/CP2 – Elevations as Proposed
- NDS20/SL1 – Site Location Plan

- Agent Email detailing temporary portable ramp and its operation dated 9th December 2020

Informatives

Environmental Health

The Environmental Health Team enforces food safety and health and safety legislation at this premises and the applicant is advised to contact this department prior to the undertaking of any work to ensure that all legislative requirements are met.

You must register your food premises with your local authority. Please use the following link to do this: <https://register.food.gov.uk/new/darlington>

It is unclear from the information provided if there will be an adequate number of wash hand basins. The number of wash basins will depend upon the number of employees, size and layout of the premises and the activities being carried. You must ensure that wash basins are provided where high-risk or ready to eat foods are handled, at entrances to food handling areas etc. For further information please refer to the following link <https://www.food.gov.uk/business-guidance/setting-up-a-food-business>.

Licensing

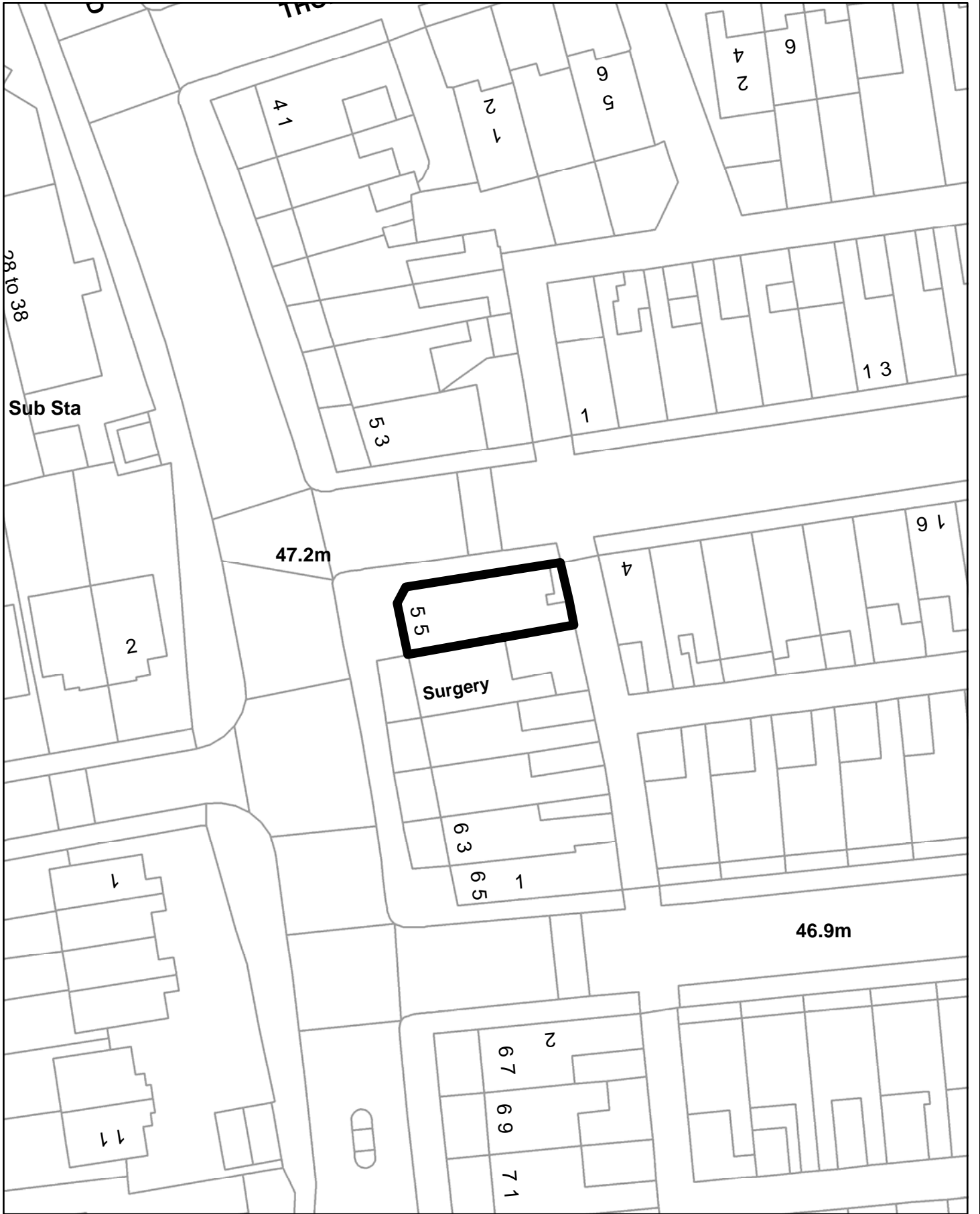
The premises may require a Premises Licence under Licensing Act 2003 if alcohol is to be served or is to open after 23.00 and if this is the case the applicant should contact the Licensing Department for further advice.

Third Party Insurance

The Council's Highways department has advised that the business should have 3rd party liability insurance in respect of the portable access ramp that will extend over the public highway.

Signage

The applicant is advised that any new signage on the building may require the submission of a separate planning application for advertisement consent.

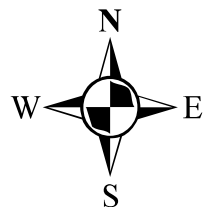


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PLANNING REF No: 20/00963/FUL

DARLINGTON BOROUGH COUNCIL

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DARLINGTON BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 17 February 2021

APPLICATION REF. NO:	20/01073/FUL
STATUTORY DECISION DATE:	15 th January 2021
WARD/PARISH:	COLLEGE
LOCATION:	20 Langholm Crescent Darlington DL3 7ST
DESCRIPTION:	Demolition of existing conservatory and boiler room, erection of single storey extension to side and rear, replacement of existing porch with garden room, addition of mezzanine floor, alterations to windows, erection of carport, creation of new vehicular access including addition of timber gates and dropped kerb and associated internal alterations and removal of 1 No. Pear Tree (as amended by plans received 08/01/2021, amended heritage statement and Arboricultural Impact Assessment/Tree Survey received 15/01/2021)
APPLICANT:	Jacqueline Phillips

RECOMMENDATION: GRANT PERMISSION 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/simpleSearchResults.do?action=firstPage>

APPLICATION AND SITE DESCRIPTION

1. The application property is a single storey dwelling on the corner of Langholm Crescent and Swinburn Road. The property sits within a large plot and currently has two pedestrian access points from Langholm Crescent and vehicular access from the back lane to the north of the property. The property is located within the West End Conservation Area.

2. The building sits on the site of the former Cleveland Dairy and is in a prominent position surrounded by mature trees and hedgerow. It is largely unchanged and retains several decorative features.
3. Langholm Crescent is predominately made up of late two storey Victorian Terraces, whilst properties on Swinburne Road are larger three storey terraced properties.
4. Planning permission is sought to alter and enlarge the existing dwelling, the proposal includes: -
 - Demolition of the uPVC conservatory
 - Demolish the porch and replace with a garden room with painted brickwork to match existing
 - Put back the existing detailed window in the left-hand side bay on the front elevation
 - Form new front doorway within existing window on front elevation
 - Extend to the back and side to create an open plan kitchen and dining area plus an additional bedroom and en-suite
 - Addition of a metal framed car port with polycarbonate roof to the rear
 - Formation of vehicular access onto Langholm Crescent.
5. The garden room will have glazing to three sides will be approximately 3.5m in length and 5.8m wide and will sit under a dual pitch roof with a maximum height of approximately 4.5m.
6. The wraparound extension will project approximately 3.3m from the side elevation and 4m from the rear extension. It will have rendered external walls with a dual pitch roof made from matching slate tiles and will have a maximum height of approximately 4.6m

MAIN PLANNING ISSUES

7. The main issues for consideration are: -
 - a) Impact on the character and appearance of the property and West End Conservation Area
 - b) Impact on residential amenity
 - c) Impact on Highway Safety and Parking
 - d) Impact on trees

PLANNING POLICIES

8. Relevant Local Plan policies include those seeking to ensure that new development:
 - Is in keeping with the character, design and external appearance of the property and in keeping with the street scene and surrounding area, maintains adequate daylight entering the principal rooms of nearby buildings; maintains adequate privacy in the rooms, gardens and other outdoor areas of nearby buildings and is not overbearing when viewed from neighbouring properties.

Adequate parking or garaging and other external space with the curtilage must be maintained or provided (Saved Policy H12 of the Borough of Darlington Local Plan 1997)

- 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 (Core Strategy policy CS2).
- Protect the Borough's distinctive character by protecting buildings, their settings and features and archaeological local importance in conservation areas (Core Strategy Policy CS14)
- Will provide for the successful retention and protection of trees within the development area (saved Policy E12 of the Borough of Darlington Local Plan 1997).

RESULTS OF TECHNICAL CONSULTATION

9. The Council's Conservation Officer is broadly supportive to the principle of enlarging the existing dwelling but has concerns regarding the scale and choice of materials and the impact the creation of the new vehicular access will have on the heritage assets. The Council's Highways Engineer has no objections to the proposal whilst the Senior Arborist has asked for protection measures to put in place to protect the roots of the trees close to the proposed driveway.

RESULTS OF PUBLICITY AND NOTIFICATION

10. Fourteen letters of objection have been received which raise the following concerns:

- Impact on character and appearance of West End Conservation Area
- Impact on Highway Safety and Parking
- Impact/removal of trees
- Proposal is not sympathetic to or in keeping with the Conservation Area
- New access is not needed as adequate rear access is available into the site
- New access would be better off Swinburne Road, straighter road and less impact on residents
- Impact on Residential Amenity
- **Non-material planning issues**
Introduction of Resident Parking Scheme
Negative impact financially
- One letter of objection has been withdrawn; concerns have been addressed following the amendments and discussions with the new owner.

11. One letter in support of the application states:

- House is detached, with a large perimeter fence, the addition of the driveway would not be offensive and would allow the applicant's cars to parked off street.

PLANNING ISSUES/ANALYSIS

(a) Impact on the character and appearance of the property and West End Conservation Area

12. The site is within the West End Conservation Area. Historic OS maps from 1896 show the building as part of the former Cleveland dairy. However, by 1912 the dairy was demolished.
13. The existing building while breaking from the uniform pattern of the terraces has merit of its own. While the building has been subjected to alterations it has retained some of its character.
14. Following consultation with of the Conservation Officer, the scheme has been amended as set out below
 - The garden room has been pushed back from along the prominent south-east location to enable an original window to be retained and re-designed so that the proportion and scale is more appropriate to the original building. The use of a catslide roof and the detailing of the eaves are a positive enhancement and more in keeping than the modern stone porch it replaces.
 - Rooflights on the north west elevation have been reduced in height and are will longer visible from the street and will little impact on the character of the conservation area.
 - Style, design and proportion of the new main entrance on the south west elevation has been re-designed to be more in keeping with the original property with similar fenestration detail
 - Chimney stacks will be retained as they currently exist.
 - The existing painted brickwork of the property will remain unchanged and the proposed garden room will be constructed of painted brickwork. Whilst the extensions to the side and rear which are less visible will be painted render to show the historic development of the property.
 - Timber access gates into the property will match the existing vertical boarded timber fence and will be set back into the site.
 - Drive length has been reduced into the site with a small parking and turning area to reduce the impact on surrounding trees. Historic precedence with access to the site shown on the 1898 mapping.
15. As set out in the National Planning Policy Framework 2019 (Para 192), new development should make a positive contribution to the character and distinctiveness of the Conservation Area. Whilst the Planning (Listed Buildings and Conservation Areas) Act Section 72 states that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the area.

16. It is acknowledged that former access to the site from Langholm Crescent is shown on the 1898 mapping, the re-introduction of an access point as part of this development is therefore on balance considered to be acceptable.
17. The proposed extensions will be visible above the existing timber fencing; however, it will not be overly prominent being screened by mature trees and hedges within the site. The dwelling is set back into the site by approximately 17m from the southern boundary, 21m from the eastern boundary, 11m from the western boundary and 15m from the northern boundary. It is considered that the alterations to the dwelling would therefore have a neutral impact on the building and the conservation area.
18. Notwithstanding this, a condition is proposed which require details of the fenestration to be submitted to, and approved by, the Local Planning Authority prior to the commencement of the development.
19. It is considered that the proposal in its amended form preserves the significance of the conservation area.
20. The proposal is therefore considered to accord with Policy CS14. The proposal is also considered to be acceptable in terms of its relationship with and impact on the application property, in view of its siting, design and use of sympathetic materials. Saved Policy H12 is also satisfied in this regard.
21. It is also worth noting, both the driveway and the vehicular access could be installed without the need of planning permission. Planning permission is only required for alterations to the existing timber fence by the addition of the timber gates. The existing timber fence has no merit or interesting design features and will need replacing in future as it is leaning into the public footpath. The insertion of the gates when viewed directly from the front have been designed to blend in with the existing fencing.

(b) Impact on Residential Amenity

22. The application site is bounded by to the east by 18 Langholm Crescent and to the north by 2A Swinburn Road.
23. Concerns have been raised regarding the impact on residential amenity in that the property is set higher than the terraced properties on Langholm Crescent and that the glare from headlights from vehicles entering and leaving the site will be an issue. The property is set in approximately 17m from Langholm Crescent and would not raise any residential amenity issues regarding loss of light, outlook or privacy.
24. The proposals would raise not residential amenity issues regarding No. 18 Langholm Crescent given the adequate separation distance of approximately 21m.
25. The property most likely to be affected by the proposal is No. 2A Swinburne Road, however the extension to be built on the north west elevation is single storey, the pitch roof will be rake away from the boundary, and the extension will be set in approximately 0.8m from the boundary. The detached garage of No. 2A is along the

shared boundary and this together with the high hedge will provide adequate screening and it is not considered that the side extension would have an unacceptable overbearing impact on or result in any significant loss of light or outlook to this property.

c) Impact on Highway Safety and Parking

26. Whilst objections have been made from residents the Highways Engineer does not agree with the principle that vehicle access should be refused in order to enable unrestricted parking across the frontage of dwellings. There is no 'right' as such to park upon the highway, and it is the Highway Authorities' duty to maintain free passage of the highway. It is therefore in the best interests of all highway users to enable off street parking where possible. It is worth noting that planning permission is not required for the dropped kerb and vehicular access, planning permission is only required for alterations to the existing timber fence.

27. Whilst the existing property does have some in-curtilage parking located to the rear, it is not conveniently located, being behind a roller shutter door and located off a rear lane with limited visibility. Where parking is not practical or convenient it is unlikely to be used by residents and more likely to lead to on-street parking. The new access and driveway provide a practical means of access and has sufficient space for vehicles to enter and exit in a forward gear.

28. A review of Police accident statistics demonstrates that there have been no recorded incidents in the last 5 years and as such there is no evidence base to support perceived safety concerns regarding traffic on Langholm Crescent.

29. The first 5m of the internal driveway are constructed in a sealed material to prevent material being dragged onto the highway, with the entrance gates being positioned back from the highway to enable a car to park off the highway without overhanging the footway prior to opening and closing.

d) Impact on trees

30. Trees within the site are protected by virtue of being in the West End Conservation area and any works to these trees will require formal planning consent.

31. One Pear tree in close proximity to the south elevation is in poor condition and it appears that several of the buttress roots are decayed. (T1624) the tree is in decline, is not worthy of further protection and the Senior Arborist has no objections to the tree being felled as part of the proposal.

32. The submitted Arboricultural report states that trees within the site are in a reasonable state of health, with mature specimens of high amenity value visible from the adjacent highway and surrounding properties. The report says that some trees will require crown lifting. Any works to crown lift or to cut back branches to trees within the site will require separate planning consent.

33. The report further states that to minimise any impact on the roots of four trees (T1, T2, T3 & T1620) the proposed driveway should be of a wholly permeable surface, rather than the sealed material requested by the Highways Engineer and that it should be constructed using a no dig method such as 'The Use of a Cellular confinement Systems Near Trees' (2020).
34. The Senior Arborist has indicated that the application may be to the detriment of the trees, to those either side of the proposed driveway. To ensure that the trees are adequately protected during the development a no dig construction method would be used.
35. In addition, it would be prudent to require that a method statement on how the driveway will be constructed, before any work commences. This will be secured by planning condition.
36. Whist it is acknowledged that the proposed driveway will have some impact on the tree roots of four trees, appropriate tree root protections measures will be secured by planning condition.

THE PUBLIC SECTOR EQUALITY DUTY

37. 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

38. The proposed extensions alterations and the vehicular access are considered to be acceptable in terms of its scale, design and use of materials and as such does not unacceptably impact upon the character and appearance of the application property or the surrounding area, which is within the West End Conservation Area. The proposed extension is not considered to have an unacceptable impact upon the amenities of neighbouring properties in terms of loss of light or outlook. The proposal therefore complies with Saved Local Plan Policy H12 and Core Strategy Policy CS14 and would have a neutral impact on the Conservation area

THAT PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:

1. A3 Implementation Limit (Three Years)

The development hereby permitted shall be commenced not later than the expiration of three years from the date of this permission.

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 constructed in accordance with the external materials/finishes as set out in the application, unless otherwise agreed, in writing, with the Local Planning Authority.

REASON – To ensure that the external appearance of the development is of an appropriate design in accordance with Saved Policy H12 (Alterations and extensions to existing dwellings) of the Borough of Darlington Local Plan 1997 (Alterations 2001).

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

Proposed Site Plan Drawing No. 0103 Revision P2 Dated 06/11/2020
Proposed Ground Floor Plan Drawing No. 0202 Revision P5 dated 06/11/2020
Proposed First Floor Plan Drawing No. 0203 Revision P3 Dated 06/11/2020
Proposed Elevations Sheet 1 Drawing No. 0303 Rev P5 dated 06/11/2020
Proposed Elevations Sheet 2 Drawing No. 0304 Rev P5 dated 06/11/2020
Comparison South-East Elevation Drawing No. 0305 Rev P1 dated 06/11/2020

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

4. Notwithstanding details shown within the submitted Tree Survey & Arboricultural Impact Assessment dated 14/01/2021 and undertaken by We Care Tree Care Arboricultural Services, a method statement detailing the construction methods of the proposed driveway and specific tree protection for the four trees affected by the proposal will be submitted to and agreed in writing with the Local Planning Authority, prior to work commencing on the proposed driveway.

REASON – To safeguard the life of the trees within the site in the interests of visual amenity.

5. Notwithstanding the details shown on the approved plans, samples of fenestration details shall be submitted to, and approved by, the Local Planning Authority prior to the commencement of the development, and the development shall not be carried out otherwise than in accordance with any such approval.

REASON: In order that the Local Planning Authority may be satisfied as to the details of the development.

INFORMATIVES

Section 184 Crossover

- The applicant is advised that works are required within the public highway, to construct a new vehicle crossing and contact must be made with the Assistant Director : Highways, Design and Projects (contact Mrs Lisa Woods 01325

406702) to arrange for the works to be carried out or to obtain agreement under the Highways Act 1980 to execute the works.

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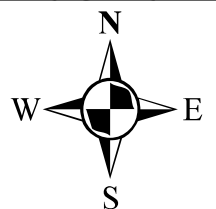


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PLANNING REF No: 20/01073/FUL

DARLINGTON BOROUGH COUNCIL

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DARLINGTON BOROUGH COUNCIL
PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 17th February 2021

APPLICATION REF. NO: 20/00910/CU

STATUTORY DECISION DATE: 9th December 2020 (EOT 19th February 2021)

WARD/PARISH: HURWORTH

LOCATION: Field at Copse Haven Roundhill Road
Hurworth Moor DARLINGTON
DL2 1QD

DESCRIPTION: Change of Use from private field to commercial
dog exercise area

APPLICANT: MISS FIONA LENNOX

**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=QHKUZMFPG BT00>

APPLICATION AND SITE DESCRIPTION

1. The application site is former agricultural land associated with an existing dwelling, situated on the east side of Roundhill Road, Hurworth. The site sits close to a complex of converted barns, which now consist of three dwellings, with the original Roundhill Farm farmhouse, situated to the south.
2. The applicant's dwelling is situated to the southern extent of the complex of converted barns and the applicant also owns the application site, which is to the south east of the dwelling. The site shares a boundary with both Roundhill Farmhouse, and land associated with the dwelling to the north, Meadowbrooke, as well as sharing a boundary with other land under the control of the applicant immediately adjacent to their residential curtilage.

3. The field, the subject of this application, is rectangular in shape, and the land, and that adjoining it is gently undulating with a gentle slope downwards in an easterly direction and upwards in a northerly direction. To the far east of the site and running north / south is Cree Beck. The site is enclosed at all boundaries by a mixture of post and rail timber fencing and thick hedgerows. An area to the far east of the site is categorised as being within Flood Zones 2 and 3 of the Environment Agency's Flood Risk Maps.
4. Planning permission is sought for the change of use of the land to a commercial dog exercise area, to include the following:
 - Space for three cars to be parked within the private land of the applicant where customers can park and have direct access to the field;
 - A maximum of three owners to be permitted to use the field at any one time, each with one to three dogs (three maximum);
 - The option for booking a slot for exclusive use where the customer does not want to be around any other dogs or people;
 - The provision of some temporary obstacles for the dogs to the eastern portion of the field as and when required, such as hoops to jump through, dog slalom poles, etc as well as the provision of toys for customers to use such as ball throwers and frisbees.
5. The supporting information states that there would be an online booking system in place for booking a half hour or hour slot in advance and customers could not just turn up without having made a booking. Although water would be supplied, dog owners would be fully responsible for their dogs during the time on the park. Owners would be asked to leave the premises as tidy as they find it and waste bags, and a bin would be provided to assist with this. Daily checking of boundary treatments and the cleanliness of the field would take place.
6. The supporting information states that the aim of the dog park is to have safe and secure place for owners to take dogs to:
 - be off lead and have a good run around in a safe environment;
 - not have issues with other dogs or people as it can be booked for the exclusive/sole use of one customer (especially important at the moment due to Covid-19);
 - do some dog training;
 - practice agility;
 - socialise dogs in a fun environment.
7. This is particularly beneficial for dogs that:
 - Are not good at recall when off the lead and so would not be able to exercise without the safety provided in an enclosed, managed space;
 - Do not like being around other dogs (exclusive use available);
 - Do not like being around other people (exclusive use available);

- Don't have access to a safe place to run off lead;
 - Have owners that perhaps have a disability or can't walk very far but know their dogs are exercising in a safe place;
 - Need socialising.
8. A proposed management plan has been provided and this will be discussed in the following sections of this report.

MAIN PLANNING ISSUES

9. The main issues for consideration are:
- a) Principle of the proposed development.
 - b) Impact on residential amenity.
 - c) Impact on visual amenity.
 - d) Highway safety.
 - e) Flooding and Drainage.
 - f) Impact on wildlife.
 - g) Safety and security.

PLANNING POLICIES

10. Relevant Local Plan policies include those seeking to ensure that new development:
- Is located within development limits, other than where the proposal relates to an agricultural or forestry need, for small-scale development beneficial to the rural economy or the needs of rural communities, and for countryside-related sports or recreation activities, provided such development does not have unacceptable harm to the character or appearance of the rural area (E2);
 - 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);
 - Ensures no net loss of existing biodiversity value by protecting and enhancing the priority habitats, biodiversity and the geological network through the design of new development, including public spaces and landscaping (CS15);
 - 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

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

RESULTS OF PUBLICITY AND NOTIFICATION

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

- Poor access / highway safety issues.
- There have been accidents / incidents with vehicles on Roundhill Road.
- Due to the narrow width of driveway and electric gates, a situation could arise where vehicles are required to wait and / or back up to the public highway.
- Impact on residential amenity.
- Pets escaping from nearby properties have been killed on Roundhill Road.
- Lack of security and fear of crime.
- There are other such facilities nearby and this one is not needed.
- Impact on wildlife.
- How will waste be stored and disposed of?
- Inadequate boundary treatment.
- Field prone to flooding / poor drainage.

13. One additional letter has been received from a neighbouring resident (Roundhill Farm), raising the following issues:

- The field directly adjoins ours with just a simple low-level fence. This may need to be altered to ensure containment of dogs.
- We were led to believe all activity would be at the bottom of the site away from our property, but this is unclear from application.
- There is a gate at the lower end of the field (eastern) which is ours and cannot be used for access.

PLANNING ISSUES/ANALYSIS

(a) Principle of the proposed development

14. Saved Local Plan Policy E2 (Development Limits) requires most new development to be located within development limits, other than that for which there is an agricultural or forestry related need, for small-scale development beneficial to the rural economy or the needs of rural communities, or for countryside related sports or recreational activities, provided such development does not have an unacceptable harm to the character and appearance of the rural area. Paragraph 83 of the National Planning Policy Framework (NPPF) echoes much of this advice, supporting sustainable new development in rural areas.

15. It is considered that the proposed use is acceptable in principle in the context of the above policy, within this open countryside location. It is acknowledged that the site is not accessible by a range of transport modes, and that most of the users of the facility will travel to the site by private car. The nature of the proposed use is one however, where an isolated location is often required, away from the urban area, to ensure that the dogs and owners making use of this facility, can exercise their dogs in an open but safe environment without coming

into contact with other dogs and people, and this is often what makes such a facility attractive to its users.

16. Taking the above into account, paragraph 103 of the NPPF advises that although plans and decisions should ensure development that generates significant movement are located where the need to travel will be minimised, and the use of sustainable travel modes can be maximised, this needs to take account of policies elsewhere in the framework, particularly in rural areas. Whilst concerns regarding the sustainability of the proposal in terms of its location are noted, the small-scale nature of the proposed use is such that the use is unlikely to generate the significant movement to which the NPPF refers.

(b) Impact on residential amenity

17. The application site shares boundaries with two other properties. The first boundary, to the west, is that shared with Roundhill Farm farmhouse. The access gate to the field is close to this boundary and the main element of activity at any one time will be the maximum of three owners accessing the field. Thereafter, the main exercise area is beyond this, and whilst access is throughout the entire field, exercise and activities would be focussed towards the central / eastern portion of the field. The second boundary, to the north, is shared with the occupier of the northern element of the barn conversion, known as Meadowbrooke. The access to the site also immediately bounds the flank wall of the westernmost element of the barn conversion known as Waterside and also runs adjacent to the northern boundary of the curtilage surrounding Roundhill Farm farmhouse.
18. The occupier of Roundhill Farm farmhouse, who has their own private outdoor dog accommodation near to the field has not objected but considers that additional fencing is required along this common boundary. Whilst the existing post and rail fence, which has been extended upwards is considered to be sufficient at present for the applicant's own dogs, and the neighbouring dogs, it is considered that the additional activity in this location, albeit limited, would justify some more robust boundary treatment and the applicant has indicated a willingness to provide this. This would also assist in reducing any overlooking from dog owners into the private garden of Roundhill Farm farmhouse, which although not significant, would be over and above what would be expected in a private residential garden.
19. The field to the north of the application site is owned by the occupiers of the northern extent of the barn conversion complex, Meadowbrooke and separated by a post and rail fence. It is considered that whilst Meadowbrooke's dwelling and residential curtilage is significantly separated from the application site (in excess of 140m from the eastern end of the application site where the dwelling can be seen within the distance), and whilst the proposed business plan limits the number of dogs / owners, the increased activity would justify the need for more robust boundary treatment along this boundary, which again the applicant has indicated a willingness to provide. It is recommended that details of the proposed boundary treatment be required by planning condition should planning

permission be granted. Subject to this, it is not considered that the impacts on both of these neighbouring occupiers in terms of any loss of privacy or residential amenity would be at such a level as to justify refusal of planning permission on these grounds. It should be noted that the thick hedgerows to the southern and eastern boundaries would remain in situ.

20. Parking would take place within the applicant's own land, directly adjacent to the field, and would be extended from an area of hardstanding with the use of grasscrete or similar to provide a natural surface. It is recommended that the specific details of the surface be required by planning condition should planning permission be granted. It is not envisaged that the parking of up to three additional cars within the applicants own land, which is separated from the neighbouring properties, would give rise to significant levels of noise or disturbance for the neighbouring occupiers due to the location of the proposed parking, but also the site layout in relation to the neighbouring dwellings.
21. Access would be taken via the existing driveway, which as stated above, lies adjacent to the flank wall of the Waterside. Whilst the residents of Waterside have objected to the proposal on the grounds of the potential for noise and disturbance resulting from the vehicular movements along the driveway, it is considered unlikely that this will be significant. The driveway is narrow, and vehicles will be moving at a slow speed, and whilst there would be more activity than there is presently, and in the context of existing traffic noise from Roundhill Road, any increased activity would not be so significant as to justify refusing planning permission on these grounds given the controls suggested by the applicant as considered below.
22. The application has been submitted with a Noise Management Plan and a Business Case which details how the applicant envisages the business being run and how noise from barking dogs using the facility will be controlled. The applicant has set out several terms and conditions which users of the dog exercise area will have to abide by. This includes owners/customers of dogs that excessively and continually bark whilst around other dogs having to book a sole use session and for dogs that continue to bark, them being asked to leave. Contact details are also provided in relation to making a complaint.
23. The Environmental Health Officer has been consulted and considers that the approach set out in the Noise Management Plan and Business Case is reasonable in terms of dealing with potential noise problems associated with barking dogs using the facility. Whilst the Environmental Health Officer does not consider this should be controlled by planning condition, as expecting the Local Planning Authority to monitor compliance with the terms and conditions would not be feasible, planning conditions are recommended to secure the following:
 - That the use can only operate between the hours of 08:00-18:00 Monday to Sunday (including Bank and Public Holidays).
 - That there must be no kennelling of dogs overnight on the application site.

24. The ability of the business to operate in a manner which does not impact on the amenity of the nearby properties is, to a large extent dependent on the ability of the applicant to manage it effectively. The applicant and their family, through the supporting information and apparent from the site visit, are experienced dog owners and whilst it is clear from the supporting information that individual owners will be responsible for their dogs, a plan has been submitted which seeks to ensure that the scale of the proposal is controlled, but also that any unforeseen impacts arising can be quickly and effectively dealt with. As these controls are specific to the applicant, in this instance it is considered appropriate to limit any permission to the applicant, acknowledging that the use and management of the site by another person could give rise to an unacceptable impact on the residential amenities of neighbouring residents and a potential intensification of use.
25. In view of the limits placed on the nature of the use being proposed, and the potential for increased activity and potential disturbance should the use be intensified, it is also recommended that a planning condition be attached to any approval limiting the use to up to three customers at any one time, each with a maximum of three dogs, as proposed by the applicant.
26. Subject to these conditions, the proposal would have an acceptable impact on the living conditions of neighbouring occupiers and would comply with policy CS2 and CS16 in this regard.

(c) Impact on visual amenity

27. The proposal would have very limited visual impact, being largely the use of the field, rather than any permanent structure within it, and therefore the overall visual impact would be limited to any temporary obstacles and toys provided for the dogs, and the boundary treatment. It is likely that the boundary treatment, to provide a degree of privacy, would be more solid than the existing post and rail fences. This would not however adversely impact the visual amenities of the locality, at either a site level or within the wider context, to a significant degree due to the site being well shielded by buildings and not being highly visible within the wider landscape due to both landform and natural features such as existing trees and hedgerows, particularly those on the eastern and southern boundaries. A planning condition is recommended to restrict the erection of any other temporary structures on the site associated with the proposed use, that would ordinarily be permitted development, without a planning application first being submitted.
28. Overall, the proposals are acceptable in respect of their impact on the visual amenities of the locality such that they do not conflict with Policy CS14 or CS2 in this respect.

(d) Highway Safety

29. The facility will be accessed via an existing residential gated access located off Roundhill Road. Whilst this has visibility in each direction of less than the

recommended standard of 215m appropriate to a 60mph road, it is not practicable to improve this owing to the vertical and horizontal alignment of the adjacent highway. It is also expected that 85th %ile speeds will be significantly below 60mph. Police accident records show that there have been no recorded incidents in the past 5-year period. As such there is no reason to conclude that the access is fundamentally unsafe or unable to support the minor intensification of use expected with this application.

30. The supporting information offers explanation of how the facility will operate and be managed. The application states, *“There is space for 3 cars, over and above our own cars, in my gated driveway/garden for customers to park and have direct access to the field. The field is well away from the road. There is room to turn on the driveway so customers would not require reversing out of the driveway onto Roundhill Road. There will be a website with an online system for booking a half hour or hour slot in advance. Customers will have to book in advance and cannot just turn up. 3 owners maximum at one time can book and they can bring 1-3 dogs max each unless they book an exclusive/sole use session.”*
31. The above would suggest that approximately 3 vehicles per hour would be a maximum number expected. The existing gates are set back from the highway for cars to pull fully off the highway in the interests of highway safety. As such, the Highway Engineer has raised no objections to the proposed development.
32. Whilst objectors have cited accidents within the last five years, and have disputed the response from the Council’s Highways Engineer, the Highways Engineer has responded as follows:

‘The standard assessment period for looking at accident statistics is a rolling 5-year period. There is one ‘Serious’ recorded accident dated 28/05/2015 which is approximately 180m from the site access, as it is not directly attributable to the site access, i.e. not within the visibility splays of the site access, and outside of a rolling 5 year period I do not consider this to be justification for refusal or consistent with the industry standard of assessment.

The objection states that there has been an accident at a nearby location three weeks ago. Obviously, accident records are not updated and uploaded straight away, I believe that this is done on a three-monthly basis, and only where there is a personal injury collision (PIC). Damage to property is not included within statistics. Obviously, the cause is not known as of yet but, should it be evident that drink driving was a factor again this is not an engineering reason for refusal as it does not demonstrate an inherent problem with the local highway.

The minor incident dated 02/10/2019 is located approximately 600m from the site and again cannot be attributed to any fundamental issue with the highway at proximity to the site access. Given that within the past 5 years there is only one recorded minor incident, this does not demonstrate a significant road safety concern, or a sound reason for refusal, such as a pattern of accident attributable to a particular junction or blind crest etc.

Whilst many residents have anecdotal evidence of accidents when objecting to planning applications, and no doubt correctly, it is difficult to evidence as a ground for refusal or to apply a consistent approach to. As such Police PICs and Crash map which is derived from Police records is the only way to apply a consistent approach.

The issues of speeding and traffic generation were looked at extensively as part of the Roundhill Road major housing application and ultimately considered acceptable with the mitigation measures agreed, as such I do not wish to repeat this. When considering visibility from existing access points it is common for visibility splays not to meet DMRB standards, again the first point to look at is accident history, in this case this does not give cause for concern. A bend within a high-speed road also has the effect of reducing 85th percentile speed. In this case visibility suitable for 50mph traveling speed is (one step below).

The methodology used by the objector for traffic generation is not something I can really comment on "800 vehicles per month" I Highway terms traffic generation is assessed in terms of peak hour trips. I.e. 3 per hour, which does not demonstrate a severe impact'.

33. Overall, and taking the above into account, 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.

(e) Flooding and Drainage

34. The Cree Beck runs along the eastern boundary of the site and whilst an area along this side of the site is categorised as being within Flood Zones 2 and 3, the Environment Agency has confirmed that there is no evidence of historic flooding taking place in that area. The applicant has submitted a simple Flood Risk Assessment which sets out the sources of flood risk, the level of risk for the proposed use, and mitigation measures. This is in line with advice from the Environment Agency in that assessments should be proportionate to the degree of risk.
35. Whilst neither the Environment Agency, nor the applicant has any record of flooding from this source, the nature of the use, which proposes no operational development on the field, is such that any flooding in the future will limit its use and the applicant will need to put measures in place to overcome such issues as they currently do in terms of the use of the land for exercising their own dogs. This includes the cancellation of appointments should flooding occur, and taking care to monitor any local flooding incidents, particularly during adverse weather conditions. Within the levels of vulnerability, amenity open, space, nature conservation and biodiversity and outdoor sports and recreation are considered by the Environment Agency to be 'water compatible' so the use of the field as a dog exercise area does not conflict with Policy CS16 in this respect.

(f) Impact on wildlife

36. One objection raised is the impact on wildlife, and within that, the objector has cited the impact on a family of deer who frequent the area, along with other wildlife. Whilst this is noted, the applicant currently uses the field to exercise their own dogs, and without planning permission, the field could legitimately be used for the keeping of livestock. As the proposed use would be limited both in terms of scale and hours of operation, but also in terms of the lack of physical change to the site, it is not considered that this would have a significant impact on wildlife also using and passing through the field and surrounding fields, at different times of the day. The proposal is therefore not in conflict with policy CS15.

(g) Safety and Security

37. A number of issues raised by objection relate to potential for security issues and the proposal potentially compromising the safety of residents as a result of strangers roaming nearby fields. Whilst this is noted, this would be a managed facility with customers paying to access a specific area of land, and whilst the responsibility of supervision of dogs lies with the individual owners, this will be assisted with the provision of more robust fencing such that it is unlikely that a customer would trespass onto adjacent land. The applicant lives close by the site and has a clear management policy which sets out the procedure for any issues or complaints and there is no evidence to suggest that safety or security issues would arise as a direct result of the proposal.

PUBLIC SECTOR EQUALITY DUTY

38. 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

39. On balance, the circumstances of the proposed use and its requirement for an open countryside location outweigh the concerns regarding the sustainability of the use in this location. On the basis of the information provided within the submitted application it is considered that the proposed use is unlikely to have an unacceptable impact on the amenities of surrounding properties, however in this instance, a personal permission is considered appropriate to ensure that the use of the site is managed in accordance with the submitted information. Subject to the planning conditions set out, there will be no unacceptable impact on the character or appearance of the surrounding area. The proposed development complies with the relevant policies in the development plan. 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:

Site Location Plan
Plan No 1: Site Layout Plan

REASON – To define the consent

3. This permission shall be personal to Miss Fiona Lennox and family only and shall not enure for the benefit of the land. In the event of their vacating the premises the use shall revert to the use for agricultural purposes.

REASON - In granting this permission the Local Planning Authority has had regard to the special circumstances of the case and wishes to have the opportunity of exercising control over subsequent use in the event of Miss Fiona Lennox and family vacating the premises.

4. The use hereby permitted, shall operate from the site only between the hours of 08:00-18:00 Monday to Sunday (including Bank and Public Holidays).

REASON – In the interests of residential amenity.

5. The number of appointments or clients visiting the site shall be restricted to no more than three appointments at any one time with no more than three dogs present per client at the same time during the permitted hours of operation.

REASON – In the interests of residential amenity.

6. There shall be no kennelling of dogs overnight on the application site.

REASON - In the interests of residential amenity.

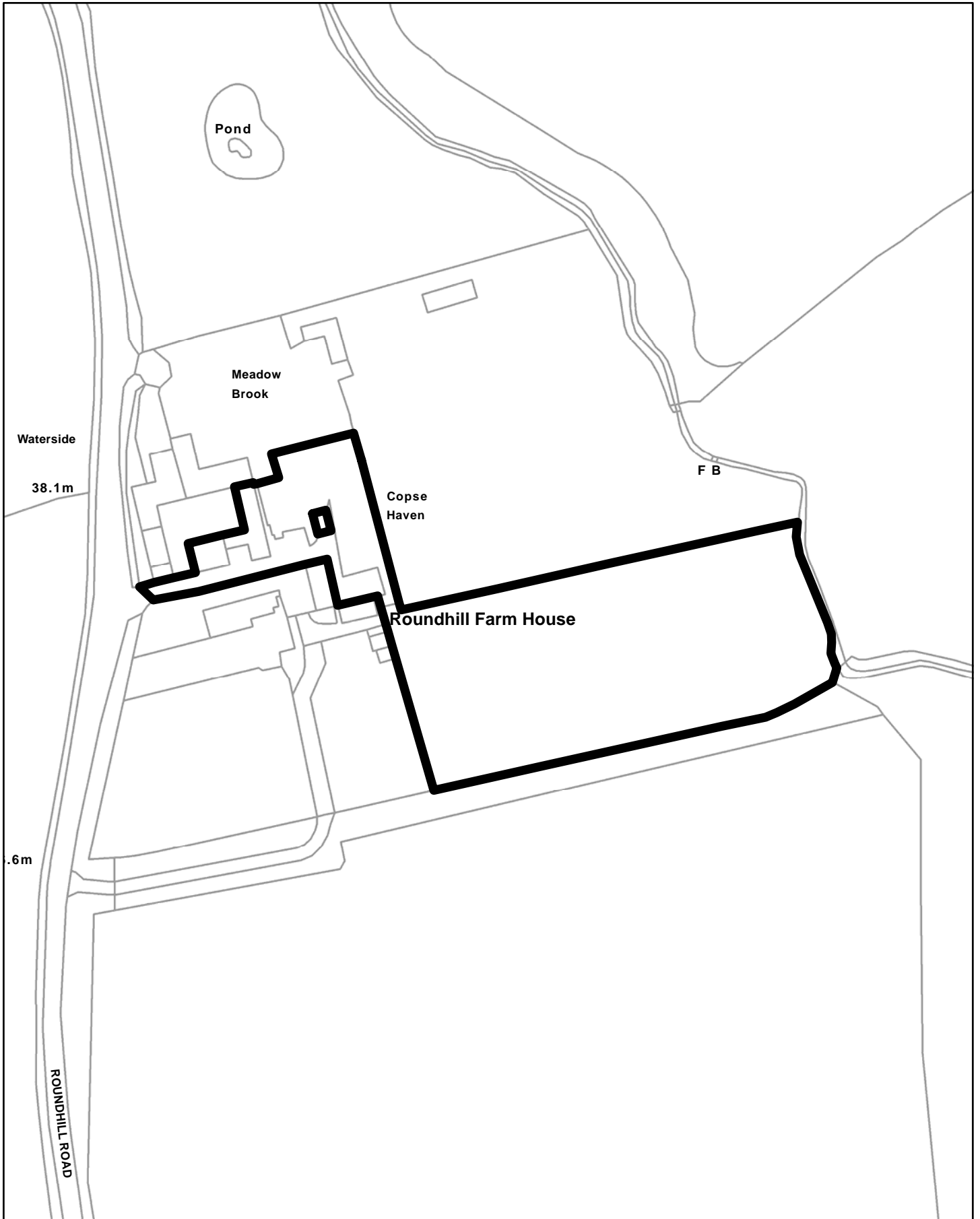
7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that order), no development within Schedule 2, Part 4, Classes A to B of that order shall take place without the prior written consent of the Local Planning Authority.

REASON – In the interests of visual and residential amenity.

8. Prior to the commencement of the proposed use, details of the following shall be submitted to, and approved in writing by, the Local Planning Authority.
 - a) Boundary treatment.
 - b) Surface treatment for customer parking.

Thereafter the development shall be carried out in full accordance with the approved details, prior to the use commencing and shall be maintained as such thereafter.

REASON - In the interests of visual and residential amenity.

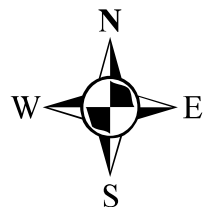


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PLANNING REF No: 20/00910/CU

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DARLINGTON BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 17th February 2021

APPLICATION REF. NO: 20/01150/FUL

STATUTORY DECISION DATE: 26 February 2020

WARD/PARISH: Heighington And Coniscliffe

LOCATION: Field at OSGR E425853 N523351, School Aycliffe Lane, SCHOOL AYCLIFFE

DESCRIPTION: Modification of Section 106 Agreement attached to planning permission 17/00283/FUL dated 16 December 2017 (Proposed residential development consisting of 101 dwellings with associated parking, access and landscaping) to vary the tenure of 5 no. affordable units from shared ownership to affordable rented units and modify the chargee duty clause (Additional Information received 21 December 2020)

APPLICANT: Livin Housing Limited

RECOMMENDATION: THAT NO OBJECTIONS BE RAISED TO THE MODIFICATION OF THE SECTION 106 AGREEMENT ATTACHED TO PLANNING PERMISSION REFERENCE NUMBER 17/00283/FUL

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=Q82CFLFPLCD00>

APPLICATION AND SITE DESCRIPTION

1. Planning permission (reference number 17/00283/FUL) for 101 dwellings at the application site was granted by the Planning Applications Committee in December 2017 subject to planning conditions and a Section 106 Agreement. The housing development is currently under construction and is nearing completion.

2. The development includes the provision of 20 affordable units which meets the guidance set out within the Council’s adopted Supplementary Planning Document – Planning Obligations which states that housing developments should include up to 20% affordable dwellings.
3. The approved site layout plans confirmed that the affordable units would be on Plots 9, 10, 14, 15, 16, 17, 25, 26, 27, 28, 56, 57, 58, 79, 80, 81, 86, 87, 93 and 94. The approved plans included the house types and confirmed that the affordable housing would comprise of 10, 2 bed dwellings and 10, 3 bed dwellings. However, the type and tenure of the affordable dwellings were not known at the time of the planning application being determined and therefore the matter was to be secured as part of the Section 106 Agreement, which is common practice.
4. Under the provision of the Section 106 Agreement, the affordable units were to be ten intermediate affordable dwellings in the form of shared ownership housing units and ten rented affordable units. Clauses were inserted into the Agreement which stated that the intermediate affordable dwellings and the rented affordable dwellings shall remain in perpetuity unless otherwise agreed in writing by the Council.
5. Further clauses were inserted into the Section 106 Agreement which stated that no development shall commence on site until it has been agreed in writing with the Council which of the dwellings within the development would be the affordable units and what the tenure for the dwellings would be.
6. In accordance with the clauses in the Section 106 Agreement, the applicant contacted the Council in January 2018 with a letter and a Schedule detailing the locations of the affordable rent and affordable shared ownership units. The Schedule below was agreed by the Council:

Affordable Rent	Affordable Shared Ownership
Plot 56	Plot 9
Plot 57	Plot 10
Plot 58	Plot 14
Plot 79	Plot 15
Plot 80	Plot 16
Plot 81	Plot 17
Plot 86	Plot 25
Plot 87	Plot 26
Plot 93	Plot 27
Plot 94	Plot 28

7. This application, “a deed of variation”, has been submitted by the applicant, who has acquired all 20 affordable units on the site, to modify the Section 106 Agreement so that the tenure of the dwellings on Plots 16, 25, 26, 27, 28, is revised from shared ownership units to affordable rent units.

8. Overall, the revised affordable housing tenure within the scheme would be 15 affordable rent units and 5 shared ownership units. There would be no external alterations to the dwellings in those Plots as a result of this proposed change of tenure and occupation.
9. It has recently been confirmed that the dwelling on Plot 25 has already been occupied as an affordable rent unit and continues to do so. This is not in accordance with the previously agreed Schedule but if this deed of variation is approved, the issues surrounding its tenure and occupation would be officially rectified.
10. As a further aside, the dwelling on Plot 79 has been occupied as a shared ownership unit (contrary to the Schedule) but this will revert to an affordable rent unit which accords with the agreed Schedule.
11. Ward Hadaway, who are acting on behalf of the applicant, has submitted some additional information in support of this application about the marketing strategy for the shared ownership units.
12. The applicant commenced their marketing of the shared ownership units in March 2019, prior to the handover of the units, and continued with that marketing up until July 2020. The units were advertised on RightMove, the Help to Buy website, and Livin's own website.
13. There was initially a good level of interest in the site and the first 5 shared ownership units were sold by November 2019. However, interest has significantly dropped off, in respect of the 2 bedroomed properties (Plots 16, 27, 28).

MAIN PLANNING ISSUES

14. The main planning consideration for this submission is whether the proposed development, with the revised affordable housing tenure, meets the Council's policy on affordable housing. It must be stressed that the form of tenure for the affordable element is not a reason to turn down this request. Furthermore, the introduction of a higher proportion of rented homes within the affordable homes could be argued to improve the affordable offer on the site.

PLANNING POLICIES

15. The relevant planning policy is CS4 of the Darlington Core Strategy Development Plan Document 2011 which seeks to ensure that new developments include affordable housing provision and Supplementary Planning Document – Planning Obligations which advises that the requirement is 20% of the overall housing numbers within a scheme.

RESULTS OF TECHNICAL CONSULTATION

16. Not applicable

RESULTS OF PUBLICITY AND NOTIFICATION

17. Four letters of objection have been received following the Council's publicity exercise. The comments can be summarised as follows:

- *Whilst I appreciate that the homeowner is looking to change this tenure due to the current climate and potential residents struggling to obtain mortgages this is not a reason why residents on the estate should be faced with changes in their living arrangements and future stability, wellbeing and happiness;*
- *We bought our house in the express knowledge that the affordable houses on this family estate would have the tenure of 'Shared Ownership'. If I had known that these properties would have the tenure of Affordable Rented Units, I would NEVER have bought a house on this street*
- *Our concern with the tenure changing to Affordable Rented Units is that the residents may potentially rent the properties on short term arrangements.*
- *There is no assurance that previous problematic individuals will not be placed into these properties. I am concerned that levels of Anti Social Behaviour may rise from people renting these properties which would impact on the wellbeing and safety of current residents who may also incur potential financial penalties*
- *We would encourage Livin Properties to have a little more patience and to revisit their marketing strategy to be able to offer shared ownership to people who have dreams of owning their own property.*
- *This does not seem fair, ethical or transparent. It feels like we have been lied to when purchasing our property, which we have spent a lot of money on.*
- *We love this estate and the concept of shared ownership, which is a fantastic way for young people and young families to get on the property ladder which we want to be a part of and support. The research we have done nationally shows that people residing in shared ownership properties have pride in their homes because they too have a financial investment in them.*
- *We believe that Livin Homes should provide a more in-depth reason why they consider a need for modification to the original plan. It is hoped that financial considerations are not the reason for Livin to set aside their desire to build a strong and balanced community*
- *Livin believes in enabling strong communities. They know that strong communities are economically, socially and environmentally balanced. They also know that communities can suffer from a range of complex social problems if that balance is lacking. They believe that communities should be listened to and their voices heard. We do not believe Livin has applied these tenets to its decision to change the tenure of five of its housing stock from affordable shared ownership to affordable rental units.*
- *I am in full support of shared ownership as a scheme to encourage longer-term home ownership, however, a change to short term leasing tenure substantially alters the potential community at the Oaklands*
- *I am concerned that a change in tenure for the proposed properties will substantially alter the nature of any long-term community*

18. The four contributors were consulted on the submission of the additional marketing information referred to above, and no further objections or comments have been received.

PLANNING ISSUES/ANALYSIS

19. The relevant legal test is set out within section 106A (6) of the Town and Country Planning Act 1990 which is whether the obligations still serves a useful planning purpose. If they do not, they should be discharged, but if they do still serve a useful planning purpose but could serve that purpose equally well subject to the modifications that are proposed then it should take effect subject to those modifications.
20. It is clear that the Section 106 obligation does not in fact require the intermediate units and the affordable rented units to be secured in perpetuity as the clauses expressly allow them to be changed if agreed to by the Council. The clauses have been drafted for precisely the circumstances outlined above where the market economy changes dramatically such that the housing needs might be better met by a different profile of tenure mix and house types.
21. The number and location of the affordable units within the housing development and the house types within the affected Plots would not be altered by the proposed revision to the tenure mix. The proposal would not conflict with the decision that was made by the Members of the Planning Applications Committee in December 2017.
22. The definition of affordable housing within the National Planning Policy Framework 2019, includes affordable housing for rent and housing provided for sale that provides a route to ownership for those who could not achieve home ownership through the market, which includes shared ownership. As a result, the proposed mix of housing tenure throughout the development would remain compliant with the NPPF.
23. The Council's Housing Team has advised that shared ownership units in the North, in general, is currently struggling and housing associations are generally looking to convert such units to either Rent to Buy or affordable housing to rent. There is also a demand for rented accommodation in Darlington.
24. It is clear from the additional information submitted on behalf of the applicant in support of the planning application that appropriate and extensive marketing exercises have been undertaken but without success and as a result, the planning obligations no longer serve any useful purpose. Whilst the comments and concerns that have been raised by the objectors are acknowledged, having the dwellings remain as shared ownership units, when there is limited likelihood of them being occupied as such, would result in the units remaining empty which could lead to antisocial behaviour and street scene problems in the future and such a position would prevent the units from meeting the needs of other persons whose needs are not currently met by the market. These are needs that would

be much better and more effectively met if the tenure of the units allowed them to be let for an affordable rent.

25. The proposed amendments to the tenure would better serve the planning purpose of delivering affordable housing and the applicant believes that if the modification is agreed the dwellings would be occupied within 8 weeks of the deed of variation being completed.

THE 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. The proposed revision to the tenure mix would broaden the scope of persons that would be able to occupy the units and help to meet the demand for rental accommodation in the Borough.

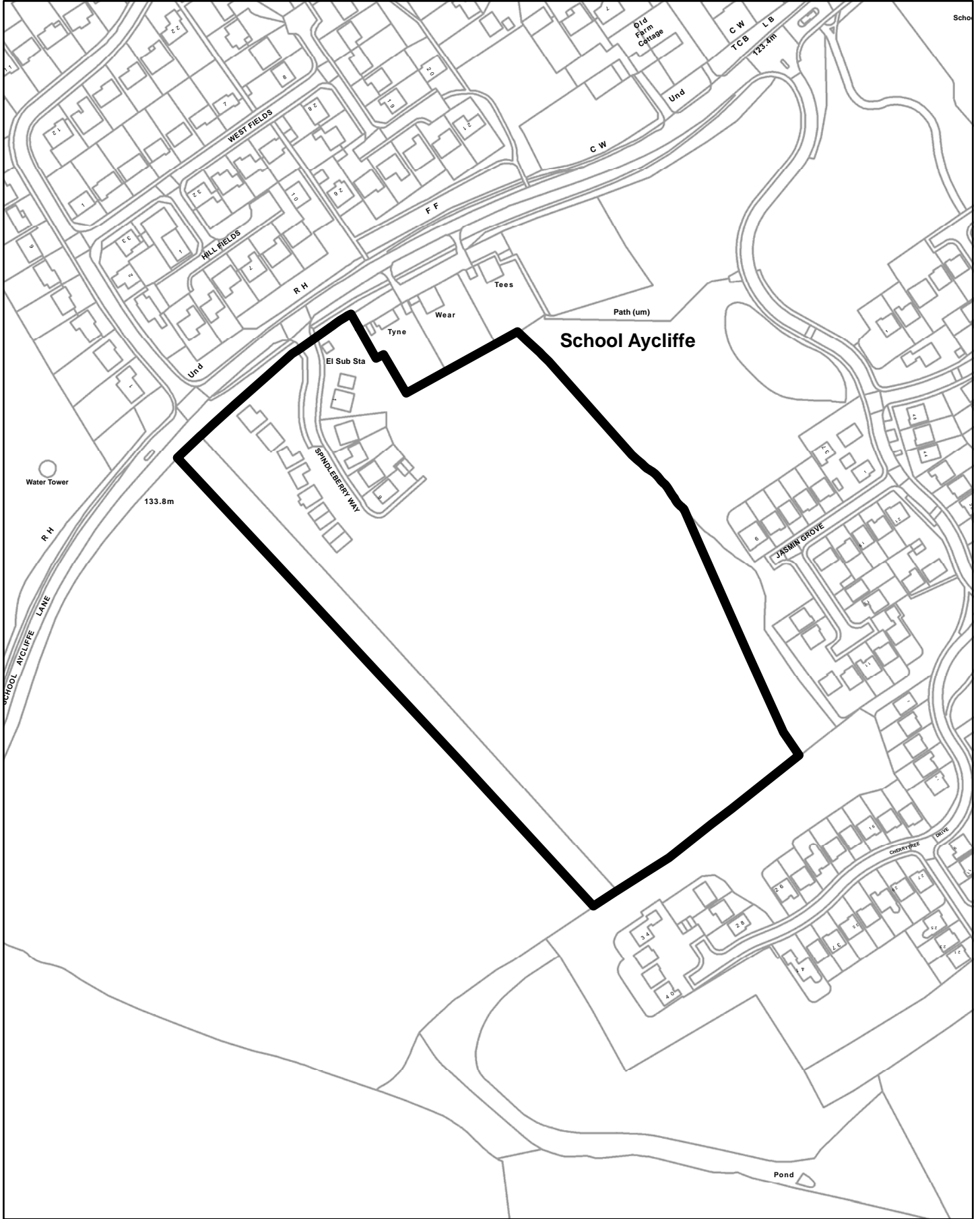
SECTION 17 OF THE CRIME AND DISORDER ACT 1998

27. 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 AND RECOMMENDATION

28. It is evident that despite an extensive marketing regime, five of the shared ownership units remain unoccupied and evidence presented by the applicant suggests that in the current economic climate they will remain empty. As a result, the existing clause in the Section 106 Agreement has no planning purpose. However, the proposed modification to the Agreement will serve the planning purpose of providing affordable units in accordance with the decision made by the Members of the Planning Applications Committee in 2017 and local and national planning policy guidance. The change in tenure would also provide an opportunity to allow for a broader affordable offer. The concerns that have been raised by the objectors would not outweigh the benefit of the units being occupied and the development meeting its requirement to provide 20% affordable housing units.

THAT NO OBJECTIONS BE RAISED TO THE MODIFICATION OF THE SECTION 106 AGREEMENT ATTACHED TO PLANNING PERMISSION REFERENCE NUMBER 17/00283/FUL

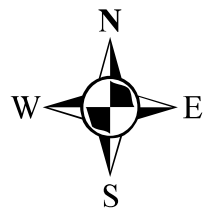


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