

# Planning Applications Committee Agenda



**1.30 pm Wednesday, 22 July 2020  
via Microsoft Teams**

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

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

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

- a. That the Applicant may attend but will not be permitted to make a presentation to Committee, and just be there to answer questions.
- b. That, following the publication of the Agenda/Reports, the Applicant and Supporters/Objectors may submit a statement in writing up to 1.30pm on the Tuesday prior to the meeting, which will either be circulated to Committee Members or read out by the Planning Officer at the meeting. Any statements should be submitted to the Planning Services Team, Room 401, Town Hall, Feethams, Darlington, DL1 5QT, or via email to [planning@darlington.gov.uk](mailto:planning@darlington.gov.uk)
- 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. Appointment of Chair for the Municipal Year 2020/2021
3. Appointment of Vice-Chair for the Municipal Year 2020/2021
4. To consider the times of meetings of this Committee for the Municipal Year 2020 / 2021 on the dates agreed in the Calendar of Meetings by Cabinet at Minute C104/Feb/2020
5. Declarations of Interest

6. To approve the Minutes of the Meeting of this Committee held on 4 March 2020 (Pages 1 - 10)
7. Introduction to Procedure by the Assistant Director, Law and Governance's Representative
8. Applications for Planning Permission and Other Consents under the Town and Country Planning Act and Associated Legislation (Pages 11 - 12)
  - (a) Haughton Road Service Station (Pages 13 - 26)
  - (b) Devonport, Middleton One Row (Pages 27 - 38)
  - (c) Building adjacent to 16 Station Terrace, Middleton St George (Pages 39 - 50)
  - (d) William House Nursery, Old Presbytery, Barton Street (Pages 51 - 64)
9. 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
10. Questions

## **PART II**

### 11. Notification of Decision on Appeals –

The Director of Economic Growth and Neighbourhood Services will report that, Inspectors, appointed by the Secretary of State for the Environment, have :-

Dismissed the appeal by Mr Bahadin Mohammed against this Authority's decision to refuse permission to vary Condition No. 4 of 18/01166/CU which states that: The hot food takeaway hereby approved shall not be open to customers outside the hours of 1200 to 2100 Monday to Saturday and 1200 to 2000 on a Sunday at 303 and 303A North Road, Darlington (18/01166/CU) (Copy of Inspector's decision letter attached)

Dismissed the appeal by Mr Alan Agar against this Authority's decision to refuse permission for outline application for the erection of 1 no. detached dwelling house at 22 Westacres, Middleton St George, Darlington DL2 1LJ (18/01119/OUT) (Copy of Inspector's decision letter attached)

Dismissed the appeal by Mrs Lisa Bentley against this Authority's decision to refuse consent for works to trees protected under Tree Preservation Order (No 6) 2010 - Pollarding of 3 No. Yew Trees up to 6m above ground level at Friary Cottage, 7 Church Lane, Middleton St George, Darlington DL2 1DD (19/00351/TF) (Copy of Inspector's decision letter attached)

**RECOMMENDED – That the report be received.**  
(Pages 65 - 76)

## 12. Notification of Appeals –

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

Number One Bar and Coffee House have appealed against this Authority's decision to refuse permission/consent for the formation of an external terrace area incorporating the partial removal of existing roof covering and internal alterations at Number One, 1 Skinnergate, Darlington DL3 7NB (19/00291/FUL and 19/00292/LBC)

Ross Waistell has appealed against this Authority's decision to refuse consent for felling of 1 No. Sycamore Tree (T14) protected under Group (G29) Tree Preservation Order (No.1) 1951 at 47 Blackwell Lane, Darlington DL3 8QF (20/00022/TF)

Mr Stephen Sanderson has appealed against this Authority's decision to refuse permission for outline application for erection of 5 no. dwellings (with all matters reserved) at Land North West of New Lane, New Lane, Neasham, Darlington DL2 1QR (19/00834/OUT)

Mr Tim Wilks has appealed against this Authority's decision to refuse permission for residential development comprising 2 No. dwellings and 1 No. studio on the lower ground level and associated parking and communal storage area (Re-submission) at Land Adjacent to 31 Pendower Street, Darlington (19/00695/FUL)

Mr S Chivers has appealed against this Authority's decision to refuse permission for an outline application for residential development comprising up 9 No. dwellings with all matters reserved except for means of access at land at Cobby Castle Lane, Bishopton (19/01191/OUT)

RECOMMENDED – That the report be received.

### **PART III**

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

## 13. 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.

## 14. Complaints Received and Being Considered Under the Council's Approved Code of Practice as of 8 July 2020 (Exclusion Paragraph No. 7) – Report of Director of Economic Growth and Neighbourhood Services (Pages 77 - 86)

## 15. 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

16. Questions



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

**Tuesday, 14 July 2020**

**Town Hall**  
**Darlington.**

**Membership**

Councillors Allen, Clarke, Cossins, Heslop, C L B Hughes, Johnson, Mrs D Jones, Keir, Lee, Lister, Marshall, McCollom, Tait, Tostevin and Wallis.

If you need this information in a different language or format or you have any other queries on this Agenda, please contact Paul Dalton, Elections Officer, Resources Group, during normal office hours 8.30 a.m. to 4.45 p.m. Mondays to Thursdays and 8.30 a.m. to 4.15 p.m. Fridays. E-Mail: [paul.dalton@darlington.gov.uk](mailto:paul.dalton@darlington.gov.uk) or telephone 01325 405805

## PLANNING APPLICATIONS COMMITTEE

Wednesday, 4 March 2020

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

**APOLOGIES** – Councillors Heslop and Howarth.

**ABSENT** – Councillor Baldwin.

**ALSO IN ATTENDANCE** – Councillors Boddy and Dulston.

**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).

### PA71 DECLARATIONS OF INTEREST

There were no declarations of interest reported at the meeting.

**NOTE:** In introducing this item, the Chair invited the Assistant Director – Law and Governance’s Representative to address the Committee. The Assistant Director – Law and Governance’s Representative informed Members of concerns raised in another forum and advised that it was not unlawful for a Member to sit on different decision-making bodies.

The Assistant Director – Law and Governance’s Representative also provided the definitions of bias and predetermination, reminded Members that they must not approach planning decision-making with a closed mind and invited each Member in turn to reflect on their own position in terms of the decision-making before them.

### PA72 TO APPOINT A VICE CHAIR FOR THE REMAINDER OF THE MUNICIPAL YEAR 2019/20

**RESOLVED** - That Councillor Tostevin be appointed Vice-Chair of this Committee for the remainder of the Municipal Year 2019/20.

### PA73 TO APPROVE THE MINUTES OF THE MEETING OF THIS COMMITTEE HELD ON 5 FEBRUARY 2020

**RESOLVED** – That the Minutes of this Committee held on 5 February 2020 be approved as a correct record.

### PA74 APPLICATIONS FOR PLANNING PERMISSION AND OTHER CONSENTS UNDER THE TOWN AND COUNTRY PLANNING ACT AND ASSOCIATED LEGISLATION

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

A3	<p>Implementation Limit (Three Years)</p> <p>The development hereby permitted shall be commenced not later than the expiration of three years from the date of this permission.</p> <p><b>Reason</b> - To accord with the provisions of Section 91(1) of the Town and Country Planning Act, 1990.</p>
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**PA75 AGRICULTURAL LANE AND CREMATORIUM, WEST CEMETERY, CARMEL ROAD NORTH**

**19/01185/DC** - Refurbishment of existing crematorium including conversion of existing chapel to office space and erection of new chapel, car parking, external lighting, floral tribute area, garden of remembrance and burial grounds on agricultural land adjacent to cemetery.

Members were informed that the proposed burial ground (referenced above) had been removed from the application following an objection received from the Environment Agency. Upon removal of the burial ground from the application, the Environment Agency withdrew their objection to the application.

(In reaching its decision, the Committee took into consideration the Planning Officer's report (previously circulated), twenty objections received from local residents, one letter of representation, further comments received subsequent to the drafting of the Officer's report, a further objection received from the Darlington Green Party, and the views of the Applicant's Agent, two objectors, a Councillor and the Ward Councillor, whom the Committee heard).

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

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

**REASON** – To accord with the provisions of Section 91(1) of the Town and Country Planning Act 1990

2. The development hereby permitted shall be carried out in accordance with the approved plan(s) as detailed below:

(a) Proposed site plan, drawing number DC19002/A/020 P1 dated 18.12.2019

(b) Proposed site plan – crematorium, existing car parking and passing places, drawing number DC19002/A/021 P1 dated 18.12.2019

(c) Proposed site plan – chapel, drawing number DC19002/A/022 P1 dated 18.10.2019

(d) Proposed external works – fencing, drawing number DC19002/A/035 P1 dated 16.12.2019

- (e) Proposed external works – fencing details, drawing number DC19002/A/036 P1 dated 19.12.2019
- (f) Contractors compound and access plan - sheet 1 of 2, drawing number DC19002/A/040 P1 dated 29.11.2019
- (g) Contractors compound and access plan – sheet 2 of 2, drawing number DC19002/A/041 P1 dated 29.11.2019
- (h) Proposed ground floor plan – chapel, drawing number DC19002/A/101 P1 dated 28.10.2019
- (i) Proposed ground floor plan – crematorium, drawing number DC19002/A/120 P1 dated 03.12.2019
- (j) Proposed roof plan – crematorium, drawing number DC19002/A/130 P1 dated 16.12.2019
- (k) Proposed roof plan – chapel, drawing number DC19002/A/131 P1 dated 12.11.2019
- (l) Proposed elevations – crematorium, drawing number DC19002/A/220 P1 dated 10.12.19
- (m) Proposed chapel elevations, drawing number DC19002/A/221 P1 dated 28.10.2019
- (n) Proposed site sections – chapel, sheet 1 of 3, drawing number DC190002/A/320 P1 dated 19.12.2019
- (o) Proposed site sections – chapel, sheet 2 of 3, drawing number DC19002/A/321 P1 dated 19.12.2019
- (p) Proposed site sections – chapel, sheet 3 of 3, drawing number DC19002/A/322 P1 dated 19.12.2019
- (q) Landscape concept, drawing number BA9684LAN-C dated 18.12.2019 issue C
- (r) Landscape planting detail, drawing number BA9684LAN-D1 dated 18.12.2019 issue C
- (s) Outline drainage strategy – chapel, drawing number DC19002-APP-00-XX-DR-C-30001-S3 P06 dated 12.7.2019
- (t) Outline surfacing and level strategy, drawing number DC19002-APP-00-XX-DR-C-30002-S3 P05 dated 12.7.2019
- (u) External lighting and trenching layout sheet 1 of 2, drawing number DC19002/A/607 T1 dated February 2020

(v) External lighting and trenching layout sheet 2 of 2, drawing number DC19002/E/608 T1 dated February 2020

**REASON** – To define the consent

3. The development hereby permitted shall be constructed in accordance with the external materials/finishes as set out in the application and detailed on drawing numbers DC19002/A/220 P1 Proposed elevations – crematorium and DC19002/A/221 P1 Proposed chapel elevations.

**REASON** – To ensure that the external appearance of the development is an appropriate design and quality in accordance with Policy CS2.

4. The ecological enhancement and mitigation measures set out in the Barrett Environmental Ltd 'Preliminary Ecological: Plot 09/035, West Cemetery, Darlington' dated December 2019 and 'Bat Survey Report: Crematorium, West Cemetery, Darlington' dated October 2019 shall be implemented in full. In addition, no development of the new chapel building above damp proof course level shall take place until a scheme for the planting of an area of species rich grassland on land to the south of the proposed chapel has been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved scheme shall be implemented in full prior to the chapel first being brought into use.

**REASON** – To comply with Policy CS15.

5. The submitted landscaping scheme shall be fully implemented concurrently with the carrying out of the development, or within such extended period which may be agreed in writing, the Local Planning Authority. Thereafter any trees or shrubs removed, dying, severely damaged or becoming seriously diseased shall be replaced, and the landscaping scheme maintained for a period of five years to the satisfaction of the Local Planning Authority.

**REASON** – In the interests of the visual amenity of the area and to ensure compliance with Policy CS15.

6. Prior to any demolition or construction activities taking place on site, existing trees shall be protected in accordance with the details contained in the Barnes Associates Arboricultural Impact Assessment 'Expansion and Refurbishment of Crematorium and Chapel' dated 19.12.2019 and shown on drawing number BA9684TPP 'Tree Impacts' dated 18.10.2019. The tree protection measures shall remain in place in accordance with these details for the duration of the construction phase of the development hereby permitted.

**REASON** – To ensure a maximum level of protection in order to safeguard the wellbeing of the trees on site and in the interests of the visual amenities of the area.

7. The demolition and construction phase of the development hereby permitted shall be carried out in strict accordance with the measures set out in the 'West



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

8. Demolition and construction activities on the site shall not take place outside of the hours of 08.00 – 18.00 Monday to Friday and 08.00 – 14.00 on a Saturday. There shall be no working on a Sunday other than those activities set out in the Facultatieve Technologies 'Proposed Sunday Working Schedule' between the hours of 09.00 and 17.00.

**REASON** – In the interest of residential amenity

9. Prior to installation of the temporary stack associated with the replacement of the existing cremators, details of the stack, shall be submitted to and approved in writing by the Local Planning Authority. The temporary stack shall be removed following full installation and commissioning of the new cremators which shall thereafter be served by the existing stack.

**REASON** – In the interest of residential and visual amenity

10. Prior to the new chapel hereby permitted first being brought into use, a scheme to provide secure cycle parking on the site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the chapel shall not be brought into use until the approved details have been implemented in full and shall be retained for the lifetime of the development.

**REASON** – To encourage access to the site by sustainable modes of transport

11. Prior to the new chapel hereby permitted first being brought into use, details of a scheme to erect a 2.4 metre close boarded timber fence adjacent to the service road leading from the south of the existing maintenance building to the existing cemetery shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the chapel shall not be brought into use until the fence has been erected in accordance with the details as approved and shall be maintained for the lifetime of the development.

**REASON** – In the interests of visual and residential amenity

12. No development shall commence until a written scheme of investigation setting out a phased programme of archaeological work in accordance with 'Standards for All Archaeological Work in County Durham and Darlington' has been submitted to and approved in writing by the Local Planning Authority. The programme of archaeological work will then be carried out in accordance with the approved scheme of works.

**REASON** – To safeguard any archaeological interest in the site, and to comply with part 16 of the National Planning Policy Framework. A pre-commencement condition is required as the archaeological investigation/mitigation must be devised prior to the development being implemented

13. No part of an individual phase of the development as set out in the agreed programme of archaeological works shall be occupied until the post investigation assessment has been completed in accordance with the approved Written Scheme of Investigation. The provision made for analysis, publication and dissemination of results, and archive deposition, should be confirmed in writing to, and approved by, the Local Planning Authority.

**REASON** – To comply with paragraph 199 of the National Planning Policy Framework, which requires the developer to record and advance understanding of the significance of heritage assets, and to ensure information gathered becomes publicly accessible.

14. Development shall be implemented in line with the drainage scheme contained within the submitted document entitled ‘Outline Drainage Strategy – Chapel’ dated 2019-12-05. The drainage scheme shall ensure that foul and surface water flows discharge to the public sewerage network via the existing private on site drainage. The additional surface water generated from the new development element of the proposal shall not exceed 3.5l/sec

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

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

- I. Detailed design of the surface water management system
- II. A built program and timetable for the provision of the critical surface water drainage infrastructure
- III. A management plan detailing how surface water runoff from the site will be managed during the construction phase

Whilst the decision to discharge conditions laid out in the paragraph above is a technical one, residents who have been consulted to date shall have sight of the papers which inform any decision to discharge. Any meeting of professionals to consider the discharge shall have access to comments by residents on the success or otherwise of the flooding mitigation measures.

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

16. The development hereby permitted shall not commence until the remedial works highlighted in the Jet Aire Service GR8370 Darlington Crematorium report and accompanying drawing and mitigation measures highlighted in the Jet Air Services correspondence dated 13/02/2020 have been completed. The applicant must submit a programme for these works and the drainage system must be fully operational before works commence on the proposed

development.

**REASON** – To ensure that flood risk to the site and neighbouring sites is not increased as a result of this proposed development.

17. Prior to the chapel building hereby approved being constructed above damp proof course level, details of a wall to be constructed along the southern boundary of the application site and associated landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the wall and landscaping scheme shall be implemented in full in accordance with the approved details prior to the chapel first being brought into use.

**REASON** – In the interests of visual and residential amenity

**PA76 2 MILBANK ROAD, DARLINGTON**

**19/01075/FUL** - Conversion of existing dwelling house to provide 6 no. apartments, demolition of garage, potting shed and mono pitch roof structure to side elevation, widening of site entrance and associated parking.

(In reaching its decision, the Committee took into consideration the Planning Officer's report (previously circulated), the supportive views of the Campaign to Protect Rural England, three objections from residents, and the views of the Applicant, whom the Committee heard).

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

1. A3 (Implementation time limit).
2. Construction and demolition works shall not take place outside the hours of 08.00 – 18.00 Monday to Friday, 08.00 – 14.00 Saturday with no working on a Sunday and Bank/Public Holiday without the prior written permission from the Local Planning Authority.

**REASON** – In the interests of residential amenity.

3. The development shall be carried out in complete accordance with the approved plan(s) as detailed below:

Proposed Site Plan Number L019069-006  
Proposed Floor and Elevation Plan Numbers L019069-004 and L019069-005

Any material change to the approved plans will require a formal planning application to vary this condition and any non-material change to the plans will require the submission of details and the agreement in writing by the Local Planning Authority prior to any non-material change being made.

**REASON** - In order to ensure that the development is carried out in complete accordance with the approved plans and any material and non-material alterations to the scheme are properly considered

**PA77 27 CORPORATION ROAD, DARLINGTON**

**19/01162/ADV** - Display of 1 No. non illuminated free standing sign (retrospective application).

(In reaching its decision, the Committee took into consideration the Planning Officer's report (previously circulated), and five letters of objection to the original submission.

It was noted that subsequent to the original submission, which made an application for an illuminated sign, a further consultation exercise had been carried out by the Council, and that two of the objectors had withdrawn their comments. It was further noted that the comments in the three remaining objection letters all related to concerns over the sign being illuminated, which was no longer the case).

**RESOLVED** – That advertisement consent be granted subject to the following conditions:

1. The development hereby granted shall be carried out in accordance with the details contained within the email dated 12 February 2020 and the following approved plans
  - a) Drawing Number 19.137.01
  - b) Drawing Number 19.137.03

**REASON** - To ensure the development is carried out in accordance with the advertisement consent.

2. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.

**REASON** - To ensure that the development accords with the Town and Country Planning (Control of Advertisements) (England) Regulations 2007

3. No advertisement shall be sited so as to-
  - a) endanger persons using any highway, railway waterway, dock, harbour or aerodrome (civil or military);
  - b) obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air; or
  - c) hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle.

**REASON** - To ensure that the development accords with the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

4. Any advertisement or hoarding displayed, and any site used for the display of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.

**REASON** - To ensure that the development accords with the Town and Country Planning (Control of Advertisements) (England) Regulations 2007

5. Any structure or hoarding erected or used principally for the purposes of displaying advertisements shall be maintained in a condition that does not endanger the public.

**REASON** - To ensure that the development accords with the Town and Country Planning (Control of Advertisements) (England) Regulations 2007

6. Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity.

**REASON** - To ensure that the development accords with the Town and Country Planning (Control of Advertisements) (England) Regulations 2007

**PA78 41 CONYERS AVENUE, DARLINGTON**

**19/01150/FUL** - Erection of new boundary fence (Retrospective) (as amended by plan received 28/01/20).

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

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

1. The development hereby permitted shall be carried out in accordance with the approved plans, as detailed below within two months from the date of the planning committee (4 March 2020):

Site Plan and Detail Dwg. No. PR01/A dated Dec 2019

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

**PA79 1 SUSSEX WAY, DARLINGTON**

The Head of Planning Development and Environmental Health submitted a report (previously circulated) to advise Members of three objections received in respect of Tree Preservation Order (TPO) Number 2019 No. 12, which covers one semi

mature maple tree (*Acer spp*) growing on land to the side of 1 Sussex Way Darlington.

The submitted report stated that Tree Preservation Order (TPO) 2019 No. 12, had been made on 28 November 2019 on one semi mature maple tree (*Acer spp*) growing on land to the side of 1 Sussex Way Darlington, as a result of the occupier of 1 Sussex Way Darlington purchasing the land and proposing to enclose it and change the use from open space to private garden.

(In reaching its decision, the Committee took into consideration the report of the Head of Planning Development and Environmental Health, three objections received, the comments of the Council's Arboricultural Officer, and the views of an objector, whom the Committee heard).

**RESOLVED** – That the Tree Preservation Order (TPO) not be confirmed.

#### **PA80 NOTIFICATION OF DECISION ON APPEALS**

The Director of Economic Growth and Neighbourhood Services reported that the Inspectors appointed by the Secretary of State for the Environment had:

Dismissed the appeal by Enterpen Limited, SJS Potts Limited and Wooler Holdings Limited against this Authority's decision to refuse permission for the erection of 55 dwellings at Land East of Middleton Lane, Middleton Lane, Middleton St George DL2 1AD (18/01108/FUL)

Dismissed the appeal by Mr Paul Vickers, Enterpen Limited and SJS Potts Limited against this Authority's decision to refuse permission for the erection of 25 dwellings at Land At Newton Grange Farm, Sadberge, Darlington. (18/00994/FUL)

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

#### **PA81 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.

#### **PA82 COMPLAINTS RECEIVED AND BEING CONSIDERED UNDER THE COUNCIL'S APPROVED CODE OF PRACTICE AS OF 19 FEBRUARY 2020 (EXCLUSION PARAGRAPH NO. 7)**

Pursuant to Minute PA70/Feb/20, the Director of Economic Growth and Neighbourhood Services submitted a report (previously circulated) detailing breaches of planning regulations investigated by this Council, as at 19 February 2020.

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

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

Committee Date – 22 July 2020

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

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

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

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<b>Address/Site Location</b>	<b>Reference Number</b>
Haughton Road Service Station	19/00742/FUL
Devonport, Middleton One Row	20/00258/FUL
Building adjacent to 16 Station Terrace, Middleton St George	20/00104/FUL
William House Nursery, Old Presbytery, Barton Street	20/00267/FUL

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## DARLINGTON BOROUGH COUNCIL

### PLANNING APPLICATIONS COMMITTEE

**COMMITTEE DATE:** 22<sup>nd</sup> July 2020

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**APPLICATION REF. NO:** 19/00742/FUL

**STATUTORY DECISION DATE:** 3<sup>rd</sup> April 2020

**WARD/PARISH:** STEPHENSON

**LOCATION:** Haughton Road Service Station, Haughton Road, Darlington

**DESCRIPTION:** Demolition of existing buildings and erection of convenience store (Use Class A1) and replacement petrol filling station with forecourt canopy, petrol pumps and islands, vents, underground tanks, trolley park, enclosed car wash, air and water, plant and bin store areas and associated car parking and landscaping (Amended plans and information received 7<sup>th</sup> and 11<sup>th</sup> February 2020)

**APPLICANT:** James Hall & Company Limited

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

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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=PVM507FPGB300>

#### APPLICATION AND SITE DESCRIPTION

1. The application site, which measure some 0.28 hectares, comprises the former Haughton Road Service Station. It is located at the junction of Haughton Road and Barton Street on the corner of the roundabout with the B2769 and lies within a mixed commercial and residential area. To the western side of Barton Street is St James Church, a Grade II listed building.

2. The site currently consists of the former petrol filling station, a small convenience store with a former sandwich shop retail unit, together with a car repair garage and car wash bay. Car parking is located around the site and access is provided from Haughton Road. The site is currently vacant, and the workshop facilities have not been used for some years. It has been the subject of a number of complaints in recent times regarding its general appearance.
3. Planning permission is sought for the redevelopment of the site to provide the following:
  - Erection of a new petrol filling station canopy at a height of some 5.9 metres suspended over metal supporting columns located in the widest area of the site to allow maximum space for vehicle movements and using the existing, unchanged main vehicular access points from Haughton Road;
  - Installation of three new pump islands with the pumps available from both sides;
  - Installation of vent pipes and underground fuel tanks;
  - A separate car wash within a purpose-built enclosure to the southern boundary, together with a parking bay in which air and water facilities are provided for motorists;
  - A convenience store of 280 sqm net floorspace to be operated by SPAR positioned to the north west corner of the site adjacent to Barton Street with the main elevation of the building facing south east towards the main frontage adjacent to the roundabout. The building will provide an external cash machine facility;
  - Retention of existing signage;
  - Waste and recycling facilities screened from the forecourt by 2.2m high acoustic timber fencing;
  - An external plant area to house external air conditioning and chiller extraction screened from public views by 2.2m high acoustic timber fencing;
  - Car parking around the site boundaries;
  - 31 car parking spaces including three accessible spaces and three staff parking spaces;
  - Three cycle stands adjacent to the store entrance;
  - Low level boundary landscaping.
4. The supporting information states that the development will provide employment opportunities with up to 15 full time and 15 part time jobs envisaged in addition to construction jobs during the building phase.
5. The application proposes that the petrol filling station would be open 24 hours a day using a payment hatch facility with the convenience store to open between the hours of 06:00 and 23:00, 7 days a week including Sundays and Bank Holidays.

## **MAIN PLANNING ISSUES**

6. The site currently benefits from planning permission for the change of use of the existing buildings to provide a 277 sqm net retail store and recommissioned petrol filling station facilities (16/0476/FUL). This planning permission is extant and capable of implementation. The main issues for consideration are:
  - a) Principle of the development;
  - b) Impact on heritage assets;
  - c) Scale, design and appearance and impact on visual amenity;
  - d) Impact on residential amenity;
  - e) Land contamination;
  - f) Highway safety;
  - g) Impact on ecology
  - h) Anti-social behaviour,

## **PLANNING POLICIES**

6. Policy S21 permits the development of new petrol filling stations within the development limits provided that there will be no material adverse effect on residential amenities or highway safety.
7. Other Relevant Local Plan policies include those seeking to ensure that new development:
  - makes efficient use of land, buildings and resources, reflects the character of the local area, creates a safe and secure environment, and provides vehicular access and parking suitable for its use and location (CS2);
  - Protects, and where appropriate enhances the distinctive character of the borough's built, historic, natural and environmental townscapes (CS14);
  - Would not result in any net loss of existing biodiversity value (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);
  - Incorporate hard and soft landscaping which enhances the appearance of the development and its setting (E14);

## **RESULTS OF TECHNICAL CONSULTATION**

8. No objections in principle have been raised by the Council's Highways or Environmental Health Officer.

## **RESULTS OF PUBLICITY AND NOTIFICATION**

9. Four letters of objection have been received, raising the following concerns:
  - The application is not supported by a transport statement to assess the effect of the proposal on the local highway network;
  - No details as to how the proposal will meet adopted policies in respect of energy efficiency;
  - The application is not accompanied by a retail sequential impact assessment;

- The application is not accompanied by a lighting assessment;
- The application is not accompanied by a noise report;
- Potential overlooking into bedroom;
- Impact on amenity from lights shining into nearby properties;
- Noise impacts;
- 24-hour opening should not be permitted;
- Anti-social behaviour.

10. Two letters of support have been submitted, raising the following points:

- The site has been in a disused state for some time;
- The site is unsightly;
- Now that the through-about is in the process of being removed it makes more sense now to have a petrol filling station in this location;
- Improved safety, referring to a spate of muggings in the back lane due to lack of lighting that the garage used to provide;
- Residents of Central Park were promised a shop within walking distance of our estate and this was never delivered. Development needs to happen to fulfil that role.

## **PLANNING ISSUES/ANALYSIS**

### **(a) Principle of the development**

11. The site, which has been a petrol filling station since the early 1980's also benefits from a more recent planning permission for a 277 sqm convenience store and recommissioned petrol station facilities. The site is situated within the development limits and as such, subject to consideration of impacts on residential amenity and highway safety, the proposal does not conflict with Policy S21.

12. As the proposal involves the provision of retail facilities outside of an existing centre, as required by the National Planning Policy Framework, a Sequential Assessment was submitted in support of the application. The sequential assessment considers several alternative sites that could potentially accommodate a convenience store of the size proposed, within a five-minute drive time within or on the edge of existing centres (sequentially preferable sites). The assessment demonstrates that there are no suitable or available sequentially preferable sites that could accommodate a convenience store of the size proposed, notwithstanding the sites current use for retail store and Petrol Filling Station which is a material planning consideration.

### **(b) Impact on heritage assets**

13. St Marks Church, a Grade II Listed Building is situated some 17m from the site boundary. There is some separation between the existing building and the site boundary of some 5m. The new building would be situated closer to the site boundary and therefore closer to this listed building. However, given the position

of the new building, which would be set further back within the site, ground levels and design and scale of the building, existing features separating the site and the asset together with a more appropriate palette of external materials, the proposal would be considered to sustain the heritage significance of this existing building and its setting. Accordingly, the proposal does not conflict with Policy CS14.

### **(c) Scale, design and appearance and impact on visual amenity**

14. This vacant site and existing buildings are seen in the context of existing features and would represent an appropriate scale and massing and would not appear unduly out of character within the street scene.

15. The proposed convenience store adopts a contemporary form and appearance with a bespoke design to fit the site. The building is single storey and is 3.85 metres to the eaves and 8.55 metres to the top of the hipped pitch with an overhanging gabled roof which provides a main feature of the building and forms a covered canopy above the entrance of the store. A small glazed porch is also provided at the front entrance to retain heat and reduce energy consumption. The front elevation comprises a full height gable feature, glazed to provide visual interest with doors and windows finished in powder coated aluminium in grey. Roller shutters are proposed as an integral part of the building and finished in the same colour of the doors and window frames to provide unity. The side and rear elevations and the front south east elevation corner returns are proposed in red brick to reflect materials in the surrounding area and to contribute to improving the street scene by using traditional materials.

16. The building is an improvement to the existing in terms of design and detailing. Aside from the remainder of the physical elements of the scheme, including the canopy, pumps and jet wash facility, which are all subservient in scale to the main building and set in a forward position within the site as existing, the remaining elements of the scheme relate to improved site circulation and parking provision. The proposal includes some landscaping to the southern end of the site to provide some visual relief and to enhance its overall appearance. Whilst no specific information has been submitted regarding how the development meets relevant standards in terms of energy efficiency, officers are satisfied that this will be dealt with under the standards set out in the Building Regulations.

17. The site is currently boarded up and vacant and the proposal will result in significant benefits to its visual appearance and those of the locality in general. Overall, the proposal does not conflict with policy CS2 and CS14 in that it is acceptable in terms of its scale, design and appearance and its impact on the visual amenities of the street scene.

### **(d) Impact on residential amenity**

18. Although the site is situated on a busy road, there are residential dwellings nearby, and there is therefore the potential for noise and disturbance as a result

of the proposal. However, it should be noted that this is an existing commercial site, albeit currently not in operation, with an extant planning permission. This current proposal is considered to represent a more comprehensive redevelopment of the site, offering several improvements in terms of residential amenity.

19. The proposal involves increased separation distances between the nearest dwellings on Haughton Road and the convenience store. Parking along the eastern boundary of the site closest to Gobart Court would be allocated to staff only and there would therefore be less regular vehicular movement in this location. The proposal involves the removal of the garage repair unit to the eastern side of the site, and the relocation of the car wash to the front of the site, further away from the nearest dwellings to the east, set beside a parking bay within a landscaped area. One objection raised stated that there were concerns regarding overlooking into nearby properties however this is a single storey building which would not result in overlooking.

20. The main canopy and pumps would be in a similar position to the front of the site, which is the widest area of the site to allow maximum space for vehicle movements and utilising the existing main vehicle access points from Haughton Road.

21. The proposed opening hours for the shop are 6am until 11pm, 7 days a week. The petrol station would be open to use 24 hours a day using a payment hatch within the convenience store. The current site is unrestricted in terms of operating hours. Whilst there is the opportunity for customers to gather outside of the store at unsocial hours, there is already a permission in place as a fallback position and it is considered that the redevelopment and continued use of the site provides much greater benefits in terms of being able to manage any such occurrences through occupation of the site and allows any required actions to be put in place.

22. The proposal includes a service area to the store. Main store deliveries by HGV would be received during the hours of 0700-2300 and would be unloaded via the stores service entrance. The store would receive up to two deliveries a day by an articulated vehicle. Main deliveries to the store take approximately 30 minutes during which time the engine is switched off. Smaller deliveries of fresh produce such as bread, milk and newspapers, are made early and daily by small vans.

23. The Environmental Health team has been consulted on the proposed redevelopment of the site and has raised no objections subject to planning conditions to secure compliance with the submitted Construction Management Plan, together with submission and agreement of details of a scheme to protect adjacent premises against the transmission of airborne and impact sound, noise fume and dilution measures of any external plant and equipment, including the jet wash and the ventilation systems, prior to the commencement of the use. Also recommended is a condition to restrict hours of construction work in line with the standard condition, and restrict the use of the jet wash facility to

between 8:00 and 20:00 in the interests of amenity. Whilst there is no information regarding any external lighting proposed as part of the scheme, a planning condition is also recommended to secure submission and agreement of details of any external lighting prior to occupation, to ensure that this is appropriate in terms of its impact on the residential amenities of nearby occupiers.

24. 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.

#### **e) Land Contamination**

25. The application has been submitted together with a desktop study, site investigation report, additional site investigation report and a proposed remediation strategy prepared by Geo<sup>2</sup> contaminated land consulting engineers. These reports were originally authored in 2017 but are still relevant to the current application as nothing has changed in the interim period in relation to the site. These reports were originally submitted to discharge contamination conditions for the previous approval and the remediation strategy is considered acceptable. The Environmental Health Officer has recommended that standard conditions CL5 and CL6 are attached to any approval to make it a requirement to produce a verification report to demonstrate that the remediation strategy has been completed as planned. Subject to these conditions the proposal does not conflict with Policy CS16 in this regard.

#### **(f) Highway Safety**

26. Given the scale of the proposal, there would be no significant impact on traffic generation, and this has been demonstrated by a Transport Statement undertaken by PSA Design Limited (January 2020) with traffic consisting predominantly of pass by trips already on the network. As such, the proposal will not have a material impact on the operation of the local road network, especially when considering the previous use of the site and the more recent 2016 planning permission whereby the net floor area of the retail element differs by only 3 sqm.

27. The proposal includes 31 car parking spaces including three accessible spaces and three staff parking spaces, which is acceptable for the scale of development proposed. Also proposed are three cycle stands adjacent to the store entrance.

28. The new store is located to the rear corner of the site to provide safe access and egress for vehicles and pedestrians around the front of the store and the petrol filling station. The swept path route for service vehicles shown on the proposed site plan shows that service vehicles can be accommodated safely in forward gear for access and egress. Landscaping is proposed around the boundaries of the site but is designed to be low level to not impede visibility to and from the adopted highway.

29. The Highways Engineer has been consulted and has raised no objections to the proposed development subject to a planning condition to secure the removal of the existing access / vehicle crossing located on Barton Street. This is currently misused as drivers are using the filling station forecourt as a cut through. It is also difficult to exit the site out of this access at busy times and conflicts with the predominant vehicle movements through Barton Street. Details have been provided to show the removal of this access and reinstatement of the footpath and the Highways Engineer is satisfied with this subject to a requirement for this to be implemented in full prior to the occupation of the premises for trade. Subject to this condition, the proposal is acceptable in respect of highway safety and does not conflict with CS2 in this regard.

#### **(f) Impact on ecology**

30. An Ecological Survey and Assessment report, including a licensed bat survey, was undertaken by ERAP Consultant Ecologists in 2016 when the original redevelopment of the petrol filling station was proposed. The evaluation concluded that the site contained only common and widespread plant species. No habitats within the site were semi-natural or species-rich and no habitats within the site were examples of Priority Habitat. The evaluation also indicated that there were no bats present, or evidence of bats being present within the site and no features suitable for use by crevice dwelling species, such as common pipistrelle, or species which can roost in open roof voids, such as brown long-eared, were present in the building and the presence of roosting bats was discounted.

31. The report made several conclusions and recommendations, to include:

- Removal of buildings outside of the bird breeding season;
- Walkover survey by a qualified ecologist to demonstrate satisfactorily that no breeding birds, active nests, eggs or fledglings are present in the area to be cleared;
- If breeding birds are detected, the Ecologist will issue guidance in relation to the protection of nesting birds in conjunction with the scheduled works. This may involve cordoning off an area of the site until young birds have fledged;
- The installation of two houssparrow terrace nest boxes at the proposed redeveloped building.

32. In view of the passage of time since the evaluation was undertaken, a review was undertaken by the same consultant ecologist, and this concluded that as the site is reasonably unlikely to have changed in terms of the habitats present or its ecological value and that the building is reasonably unlikely to have improved in terms of its suitability for use by roosting bats, and is likely to remain unsuitable, in this instance, and given the habitats present within the site, its location within the wider landscape and the building's construction type and suitability for roosting bats, further surveys are not required and the recommendation and conclusions presented in the 2016 report remain valid and appropriate for the site.



33. Having regard to the above, and the enhancement of the site through landscaping and the inclusion of nest boxes, subject to planning conditions to secure compliance with the recommendations set out in the Ecology report, the proposal would not conflict with Policy CS15.

#### **(g) Anti-social behaviour**

34. Several concerns raised by objection relate to anti-social behaviour. As the site is currently vacant, there are also concerns raised regarding anti-social behaviour at present. It is considered that the redevelopment and continued use and management of the site will allow much greater supervision and control over any such occurrences should they happen in the future and there are other statutory controls available to deal with these. The SPAR will be utilising CCTV at the ATM to ensure the safety of its customers and there would also be staff on site 24 hours a day to ensure that any issues are dealt with appropriately. As such, notwithstanding the site already has a planning permission for this use, it is not considered that the granting of planning permission for the redevelopment of this site would raise significant issues in relation to crime and anti-social behaviour or render such incidents more likely.

### **CONCLUSION AND RECOMMENDATION**

35. The proposed development complies with the relevant policies in the development plan. Subject to the proposed conditions the development would be acceptable in respect of highway safety and residential and visual amenity and would not harm the setting of heritage assets. The proposal will provide improvements to a vacant site and the visual amenities of the locality by bringing it back into use and would provide valuable facilities to residents. It is therefore recommended that planning permission be granted subject to conditions.

### **PUBLIC SECTOR EQUALITY DUTY**

36. 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.

### **THAT PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:**

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

REASON – To accord with the provisions of Section 91(1) of the Town and Country Planning Act 1990

2. The development hereby permitted shall be carried out in accordance with the approved plan(s) as detailed below:

Loc1 Site Location Plan  
PL-12 Rev B Proposed Plans and Elevations  
PL-11 Rev H Proposed Site Plan and Sections  
PL-13 Rev A Jet Wash Enclosure  
Materials Schedule

REASON – To define the consent

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

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

4. The Phase 3 Remediation and Verification works shall be conducted, supervised and documented by a 'suitably competent person(s)' and in accordance with the agreed Phase 3 Remediation and Verification Strategy. No alterations to the agreed Remediation and Verification Strategy or associated works shall be carried out without the prior written agreement of the Local Planning Authority. A Phase 4 Verification and Completion Report shall be compiled and reported by a 'suitably competent person(s)' documenting the purpose, objectives, investigation and risk assessment findings, remediation methodologies, validation results and post remediation monitoring carried out to demonstrate the completeness and effectiveness of all agreed remediation works conducted. The Phase 4 Verification and Completion Report shall be submitted to and agreed in writing by the Local Planning Authority within 2 months of completion of the development or at a time agreed unless the Local Planning Authority dispenses with the requirement specifically and in writing.

The development site or agreed phase of development site, shall not be occupied until all of the approved investigation, risk assessment, remediation and verification requirements relevant to the site (or part thereof) have been completed, reported and approved in writing by the Local Planning Authority.

REASON – The site may be contaminated as a result of past or current uses and / or is within 250 metres of a site which has been landfilled. To ensure that

risks from land contamination to the future uses of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out without unacceptable risks to receptors, in accordance with the National Planning Policy Framework.

5. The development shall not be carried out otherwise than in complete accordance with the submitted Construction Management Plan (Demolition and Construction Method Statement, on behalf of James Hall and Company Limited, 26 June 2020) unless otherwise agreed in writing with the Local Planning Authority. Prior

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

6. Construction and demolition work shall not take place outside the hours of 08:00-18:00 Monday – Friday, 08:00-14:00 Saturday with no working on a Sunday and Bank / Public Holidays without the prior written permission of the Local Planning Authority.

REASON – In the interests of residential amenity.

7. The hours of operation of the jet wash and the car vac and any other equipment located on the forecourt shall be limited to 08:00-20:00.

REASON – In the interests of residential amenity.

8. Prior to the commencement of use, full particulars and details of a scheme to protect adjacent premises against the transmission of airborne and impact sound, noise, fume and dilution attenuation measures of any external plant and equipment, including the jet wash and ventilation systems, have been submitted to, and approved by, the Local Planning Authority and the development shall not be carried out otherwise than in accordance with any approval given.

REASON - In order that the Local Planning Authority may be satisfied as to the arrangements for preventing loss of amenity to neighbouring premises due to noise, fumes and smells.

9. The removal of the existing vehicular access onto Barton Street and the reinstatement of footways as shown on Drawing Number PL-11 Rev H shall be implemented in full prior to the Petrol Filling Station or convenience store opening for trade and remain as such thereafter.

REASON – In the interests of highway safety.

10. The landscaping scheme as shown in Drawing Number PL-11 Rev H shall be fully implemented concurrently with the carrying out of the development, or within such extended period as may be agreed in writing by the Local Planning Authority, and thereafter any trees or shrubs removed, dying, severely damaged or becoming seriously diseased shall be replaced and the landscaping scheme maintained for a period of five years to the satisfaction of the Local Planning Authority.

REASON – To ensure a satisfactory appearance of the site and in the interests of the visual amenities of the area.

11. The development shall not be carried out otherwise than in complete accordance with the mitigation recommendations set out in the Ecological Survey and Assessment (including a Licensed Bat Survey) (ERAP Limited, October 2016) unless otherwise agreed in writing by the Local Planning Authority.

REASON - To provide ecological protection and enhancement in accordance with the Conservation Regulations 2010, Wildlife & Countryside Act 1981, NPPF, Policy CS15 of the Core Strategy.

12. Details of any external lighting, to include a lighting impact assessment undertaken by an independent qualified assessor, shall be submitted to, and approved in writing by, the Local Planning Authority prior to the occupation of the buildings. Thereafter the external lighting shall be installed in complete accordance with the approved details and maintained as such thereafter.

REASON – In the interests of residential amenity.

13. Deliveries to the store shall not take place outside the hours of 7:00 and 23:00 unless otherwise agreed in writing by the Local Planning Authority.

REASON – In the interests of residential amenity.

## **INFORMATIVES**

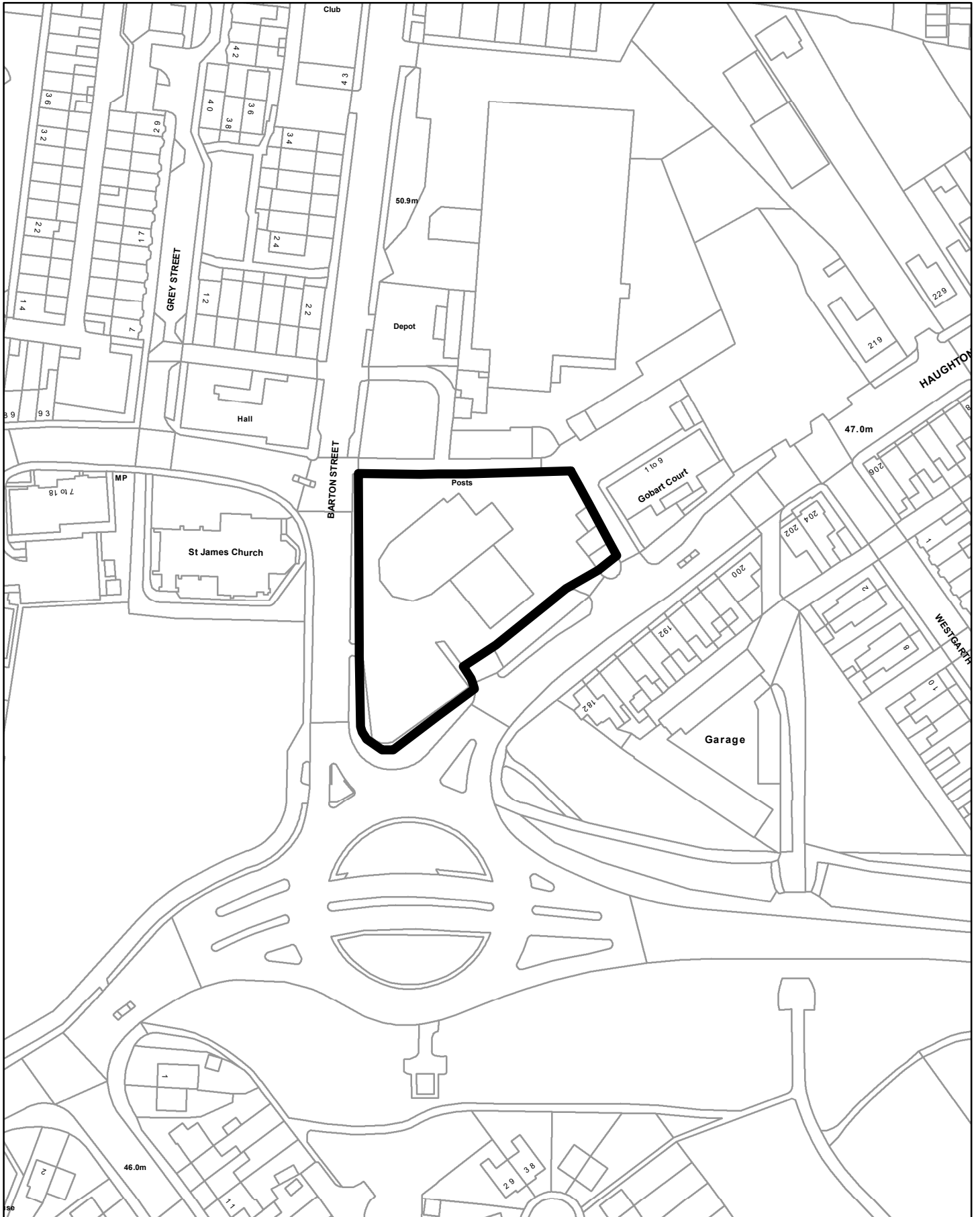
The applicant is reminded that the application hereby approved will be required to comply with the Environmental Permitting (England and Wales) Regulations 2010 (As amended). This will likely require the installation of Stage 2 Vapour Recovery Systems within the redevelopment.

The design and construction of the Petrol Filling Station must comply fully with the information detailed in the current document published by the Association for Petroleum and Explosives administration (APEA) and the Institute of Petroleum (IP) entitled 'Guidance for the Design, Construction, Modification and Maintenance of Petrol Filling Stations'.

Full details of the proposed installation should be provided to the Petroleum Officer at Darlington Borough Council for approval prior to any work being commenced.

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

The premises may also require a Premises Licence under the Licensing Act 2003 if they are to serve alcohol or open after 23:00 and if this is the case the applicant should contact the Licensing department for further advice.

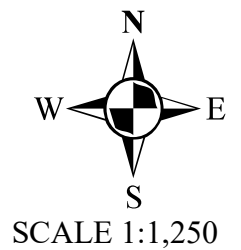


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**PLANNING REF No: 19/00742/FUL**

DARLINGTON BOROUGH COUNCIL

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

**COMMITTEE DATE: 22<sup>nd</sup> July 2020**

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**APPLICATION REF. NO:** 20/00258/FUL

**STATUTORY DECISION DATE:** 26<sup>th</sup> May 2020

**WARD/PARISH:** SADBERGE AND MIDDLETON ST GEORGE

**LOCATION:** DEVONPORT HOTEL 16-18 THE FRONT  
MIDDLETON ONE ROW DL2 1AS

**DESCRIPTION:** Change of use to form outdoor paved seating area to front and installation of ventilation/extraction equipment to side elevation (Part retrospective Application - outdoor paving area) (Additional Information received 24th June 2020)

**APPLICANT:** MR JONANTHAN HALL

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

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Application documents including application forms, submitted plans, supporting technical information, consultations responses and representations received, and other background papers are available on the Darlington Borough Council website via the following link: <https://publicaccess.darlington.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=Q82CFLFPLC D00>

**APPLICATION AND SITE DESCRIPTION**

1. The application site is The Devonport an existing pub and restaurant situated on The Front in Middleton One Row and within the Middleton One Row Conservation Area, within a predominantly residential area. Grade II listed Buildings are situated to the east and west (12-15, 19, 19A, 22 and 23 The Front). The facility in various guises has existed for many years.
2. Planning permission is sought for the change of use of an area to the front of the building to an outdoor seating area (retrospective) and for the installation of

ventilation and extraction equipment to the side elevation to replace the existing system. This consists of the following:

- Paved area within part of the informal parking area to the front of the premises to provide a more formalised and safer designated area for patrons to dine;
- Fully demountable wooden benches, planters and tables;
- Extraction / ventilation system to replace that currently in situ, to the side (eastern) boundary of the premises behind the existing timber fence.

## **MAIN PLANNING ISSUES**

3. Planning permission was granted in 2018 for the refurbishment of the premises which included a reduction in the number of bedrooms and the conversion of part of the Hotel (Oxford House) into a residential dwelling (18/00413/FUL). The refurbishment work has been completed however conditions relating to extraction / ventilation equipment details before installation have not yet been discharged and it is planned that the proposals contained within this application will be a significant improvement to the current system and vastly improve the amenity of surrounding residents. A separate application is currently pending consideration, for the conversion of Oxford House into apartments (19/01165/FUL). This application relates only to the outdoor seating area (retrospective) and the installation of new extraction / ventilation equipment, which would replace that currently in situ.
4. The main issues for consideration are:
  - a) Impact on heritage assets;
  - b) Scale, design and appearance and impact on visual amenity;
  - c) Impact on residential amenity;
  - d) Highway safety;
  - e) Anti-social behaviour
  - f) Other matters

## **PLANNING POLICIES**

5. Appropriate alterations to this existing business are acceptable in principle subject to other development management considerations set out in the development plan.
6. Relevant Local Plan policies include those seeking to ensure that new development:
  - makes efficient use of land, buildings and resources, reflects the character of the local area, creates a safe and secure environment, and provides vehicular access and parking suitable for its use and location (CS2);
  - Protects, and where appropriate enhances the distinctive character of the borough's built, historic, natural and environmental townscapes (CS14);



- protects and, where possible improves environmental resources whilst ensuring that there is no detrimental impact on the environment, general amenity, and the health and safety of the community (CS16);

## **RESULTS OF TECHNICAL CONSULTATION**

8. No objections in principle have been raised by the Council's Highway's Engineer and Environmental Health Officer. Some concerns have been raised by the Council's Conservation Officer regarding the impact of the proposal on the character and appearance of the Middleton One Row Conservation Area and on the setting of a Grade II Listed Building.

## **RESULTS OF PUBLICITY AND NOTIFICATION**

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

- Seating area generates another 50 covers and contributes to parking and highway safety issues on the Front;
- Impact on residential amenity (noise and odours) from both the seating area and the extraction system;
- There is currently a limit on deliveries beyond 8pm, so the use of the seating area should also be restricted to earlier than the licence which is 11pm (suggestion no later than 9pm);
- Lack of adequate parking;
- Increased parking has impacted on the visual amenities of the Conservation Area and the views of the Green have been significantly impacted;
- Adverse impact on the setting of nearby listed buildings;
- Not enough management systems in place to control the use of the outdoor seating area;
- Traffic assessments should be required before any decision is made;
- Outside seating area hinders access to public footpath;
- Reduced seating area would overcome concerns;
- Delivery vehicles block a private road / access impacting on neighbouring residents; Delivery vehicles could have been included within the Devonport curtilage if the outdoor seating area had not been constructed;
- Not enough information on the extraction / ventilation system;
- Equipment specified cannot cope with the airflow proposed;
- Not reliable information on background noise levels and report does not prove that the proposals will address noise issues; noise survey referred to is not provided;
- Timber fence does not shield the ducting from view;
- Report is not to British Standards;
- Report has not fully considered impact on the adjacent property;
- Report does not address concerns regarding control of odours;
- Should application be granted objector requests noise monitoring and serving of a stop notice should the noise levels be recorded above existing true background noise until such time as this can be achieved.

10. Middleton St George Parish Council has raised no objections to the proposed development but has made the following material planning considerations:

- Design is sensitive to the area
- Reports and incidents of disturbance from residents have been rare;
- Consideration could be given to restriction of hours of seating area;

## **PLANNING ISSUES/ANALYSIS**

### **(a) Impact on heritage assets**

12. The site is situated within the Middleton One Row Conservation Area with several Grade II listed buildings close to the site, the most directly related being No 15 The Front to the west and Deanery Cottage 19A The Front to the east.

13. The formalised area of hardstanding to create the outdoor seating provides an attractive area, improving on the former tarmac which was falling into disrepair and utilising high quality materials reflective of the area, enhancing the character and appearance of the Middleton One Row Conservation Area and sustaining the setting of nearby listed buildings.

14. The external ventilation / extraction system, whilst not attractive in appearance, would not be highly visible from public vantage points and would also be partially obscured by an existing timber fence and would not be considered to harm the overall significance of the Conservation Area. Whilst it could be readily viewed from 19A The Front to the west, it would not be considered to significantly harm the setting of this Grade II listed building or any other nearby heritage assets. Given the nature of the equipment and its appearance, the overall impact is minor adverse, however given its position, the overall benefits of providing adequate noise and odour mitigation for this existing premises, is considered to outweigh any harm identified.

15. The Conservation Officer has raised some concerns regarding the impact of the proposals on the character and appearance of the Middleton One Row Conservation Area and on the setting of the nearest listed building, however, for the reasons set out above, the proposal is not considered to conflict with Policy CS14 in this regard.

### **(b) Scale, design and appearance and impact on visual amenity**

14. Noting the consideration in terms of impact on designated heritage assets above, it is also considered that the impact of the proposals is acceptable in terms of its scale, design and appearance and impact on visual amenities. The outdoor seating area already constructed is an attractive addition to the premises, limited in scale and retaining some of the existing parking to the front of the building, improving on the previous broken tarmac surface and utilising high quality materials reflective of the area.

15. The extraction / ventilation equipment, whilst not attractive but rather an essential element of such a business, is in a discreet location to the side of the premises, partially obscured by existing timber fencing and not highly visible from public vantage points. Overall, the proposals are acceptable in respect of their scale, design and appearance and impact on the visual amenities of the locality such that they do not conflict with Policy CS14 or CS2 in this respect.

### **(c) Impact on residential amenity**

22. Objections have been raised regarding the noise and disturbance that the outdoor seating area causes, particularly during evening hours. It should be noted that this is an existing long-standing commercial premise and there has always been an element of outdoor accommodation for patrons, albeit on an informal basis. The introduction of a designated seating area is an attractive addition to any catering premises and the while business is food-focussed, there is not a high turnover of patrons attending only to consume alcohol. The presence of the more formalised area does provide the opportunity for improved management, safety for customers and less likelihood of customers standing outside of the area and disturbing residents and provides a clear demarcation of the areas of the site controlled under the Premises Licence. Whilst the objections are noted, there is no evidence of a pattern of incidents that would suggest that the area, the use of which is generally limited to the warmer and drier months of the year, cannot be controlled in a sensitive manner by the management of the premises, and co-exist alongside residential properties.

23. It is considered reasonable that the premises retain an outdoor seating area albeit in this more formalised manner. In light of the objections raised consideration has been given to recommending to members the imposition of a planning condition restricting the times that patrons can use the outdoor seating area, however such a condition would not meet the necessary tests set out in the National Planning Policy Framework in that such a condition would be difficult to enforce and can be dealt with by other powers, in this case the licensing regime and statutory nuisance legislation and would also not be considered reasonable. Under the terms of the current Premises licence, the outdoor seating area cannot be used after 11pm.

24. The applicant has confirmed that the premises are an 'early-doors' pub and restaurant with most customers arriving between 6pm and 8pm and the kitchen closing at 9pm, with the outdoor areas most likely to be used during these times. The management of the premises has systems in place including signs asking customers to leave quietly and respect the neighbours. It should also be noted that the smaller area to the front of the premises and the rear beer garden are areas outside of this planning application and therefore imposing a condition to restrict the time that the outdoor area can be used will only apply to the application site, the remainder of the outdoor areas being controlled under the Premises Licence, and therefore a breach of any condition could result in a patron having to move a matter of metres to comply with the condition, which would be unreasonable and very difficult to manage and would not achieve the aims of any such condition.

25. Consideration has also been given to recommending to members the imposition of a planning condition to restrict the numbers of patrons using the outdoor area at any one time, however again such a condition would not meet the necessary tests in the National Planning Policy Framework in that such a condition would be difficult to enforce and any effects of the use of the outdoor area, which is included in the premises license, can be dealt with under the licensing regime and statutory nuisance legislation at the appropriate time.

26. Due to the recent pandemic, the hotel has only recently re-opened for trade and like many businesses, it remains very difficult for it to operate in a profitable way. Taking account social distancing, the capacity for the internal areas has decreased significantly, which the applicant has confirmed has greatly impacted on viability. The outdoor areas, which are deemed to be safer are therefore critical to the ongoing viability of the hotel, a matter echoed more generally by the recent Business and Planning Bill. Overall, it is considered that on balance, taking into account the concerns of residents, that the proposal is acceptable in terms of its impact on amenity and can be adequately controlled by the Premises Licence. The Environmental Health Officer has raised no objections to this element of the proposal.

27. Information has been submitted in respect of the proposed ventilation / extraction system, which is intended to significantly improve on the current system in place to protect the amenity of residents. The Environmental Health Officer is satisfied that the information submitted demonstrates that a suitable system is achievable at the outlet point, subject to some minor amendments, which can be dealt with by a planning condition requiring submission and agreement of final details prior to installation. To ensure that this is put in place as quickly as possible, it is recommended that a planning condition be attached to require the system to be installed fully in accordance with those agreed details, within three months of the date of the permission.

27. 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.

#### **(d) Highway Safety**

23. The outdoor seating area extends forward into the tarmac surfaced area. This area is not part of the adopted highway network. The footpath running across the frontage of the Devonport and extending along the front is not adopted highway and therefore does not fall under the usual criteria the Local Authority would use to assess an areas suitability for a pavement café or seating area.

24. An objection has stated that there are 47 additional seats available, which includes the benches. The applicant has indicated that the previous area along the front of the hotel could seat 30 people, however this has been significantly reduced as it often led to an overflow across the footpath that runs in front of the

hotel, and which is why the current owners of the hotel introduced the new patio area, which provides additional space for customers and helps make the premises viable. The applicant also states that the beer garden to the rear of the hotel, has been reduced by about 50% owing to plans to convert the Oxford House side of the hotel into residential use. Overall there has been a net reduction in the number of available covers both internally and externally.

25. Demonstrating and defining additional traffic generation or parking requirements for the external seating area is not straightforward as the use of it will be seasonal and very weather dependent. However, it is considered that this is largely an additional facility for existing customers who may wish to make the most of good weather, and enjoy drinks outside pre/post dining.

26. Historically the business has operated with 280 covers, this was reduced by 40% in 2018 as part of the refurbishment undertaken by the current owner which resulted in a net reduction to 168 covers. Looking at a worst-case scenario and assuming an additional 47 seats this would increase the total to 215 covers which is still some 65 covers or 23% below how the business has operated in the past. However, it is reiterated that this does not necessarily demonstrate that additional numbers will be generated given the limitations of seasons and weather. Having considered the possibility of recommending a planning condition imposing a maximum number of seating to the external area, as discussed in the previous section of this report, in order to address parking demand, this may prove difficult if a demand for highway parking cannot be clearly demonstrated or evidenced.

27. Whilst traffic generation, road safety and parking concerns are raised in some objections it needs to be considered that these are largely existing problems associated with the bar and restaurant element of the Devonport which has become busier in recent times. Issues such as illegal parking within the bus stop have been reported and will be addressed by the Highways Authority as part of statutory duty of network management and maintenance, including addressing the bus stop marking which had become considerably deteriorated in recent times. This makes it more visible to drivers to discourage parking within it and enables enforcement by wardens.

28. The Highways team has recently undertaken a survey of traffic generation and parking along the front and will be reviewing current road markings and restrictions with a view to providing increased passing places. The Front does however benefit from not having many properties directly fronting the highway and is therefore generally available for visitor parking. Even considering the bus stop and inclusion of passing places it would be likely to yield space for approximately 60 cars. On-street parking is to be expected for pub/restaurants within historic villages and is strictly on a first come first served basis, no one has a right to park on the highway and the Highways Authority has powers to impose parking restrictions where problematic parking is demonstrated to pose road safety concerns or obstruction.

29. The peak trading hours of the Devonport will be outside of the peak hours of the highway network with restaurants typically being busiest on Friday/Saturday

evenings and Sunday lunchtime trade. This is well outside of the typical commuter/school run am/pm peaks Monday to Friday. Owing to the sociable nature of the business car sharing will be common between visitors who are largely family and friends. Use of taxis is also a significant factor in reducing parking demand particularly during busy weekend periods.

30. Police accident statistics show no recorded road traffic incidents associated with the near vicinity of the Devonport over the past 5-year period, indeed only one minor incident is recorded over the length of the Front and is due to a driver attempting to overtake cyclists when unsafe to do so. As such there is no pattern of accident or reason to suggest that highway safety concerns are evidenced.

31. Parking is still available next to the seating area and is unlikely to have reduced the yield of parking available as the area does not have defined parking bays. To use all the available area cars would be double parked or blocked in, and the Highways Engineer concludes that this does not have a significant impact on the amount of parking available. Visitors would be advised to reverse into a parking space and not onto the highway as recommended under the Highway Code. An issue with access to the private road is a civil matter and not one that the Highways Authority would have any jurisdiction over. Given that this is a retrospective application the Highways Engineer is not aware of any complaints arising which are directly related to the external seating area which has been in operation for some time.

32. Owing to space constraints within the site owned by the Devonport it is not possible to offer mitigation by creating additional in curtilage parking. Whilst it would always be desirable to request mitigation for any additional seating/traffic generation, the Devonport is historic and has traded as a pub/restaurant for a long period of time. It is not usually reasonable or practicable to apply current design guide standards which are largely aimed at new developments, to long established businesses especially those within historic locations. Instead the residual impact must be considered. In this instance the Highways Engineer does not consider that there is sufficient evidence to demonstrate a severe impact and thus warrant refusal under NPPF guidance, especially when considering that the business has operated with an additional 65 covers over the current number suggested by objectors, a number which the applicant indicates is much lower in practice. Any parking or neighbour disputes within the private road along The Front are not within the control of the Highway Authority.

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) Anti-social behaviour**

34. A number of concerns raised by objection relate to anti-social behaviour from patrons of the premises gathering outside, and that this takes place both inside and outside of the paved seating area, suggesting that as a result of the

seating area, the effect has been for smokers in particular, to move to an area outside of the boundary of the premises, closer to residential properties. Whilst there is no specific evidence of this aside from recent anecdotal evidence, this is a matter which cannot be controlled by the planning permission and could occur at any time in a public place.

35. Whilst it is noted that this is due to living close to a commercial premises, it is the responsibility of the management of the premises to ensure that any disturbance to local residents is controlled and kept to a minimum and if this does not happen, the licence can be reviewed at any time, and potentially revoked. It is therefore always in the best interests of the management to ensure that patrons have consideration for residents. It should be noted that this is an existing business and regardless of the seating area, there is always the possibility of patrons standing outside and it is not considered that the permission under consideration will exacerbate this to such an extent that planning permission should be refused. Discussions have taken place with the management of the premises who have agreed as a result of concerns raised, to move the smoking area to a different location on the site, to avoid the likelihood of people gathering close to residential properties.

#### **(f) Other matters**

36. The Parish Council has highlighted that part of the land to the front of the premises is under the ownership of the Parish Council who has granted permission to the applicant for the use of the land, which is reflected in the ownership certificates issued with the submitted planning application. This is noted however is not a material planning consideration in the decision-making process, and instead is a civil matter between parties.

### **CONCLUSION AND RECOMMENDATION**

37. The proposed development complies with the relevant policies in the development plan. Subject to the proposed conditions the development would be acceptable in respect of highway safety residential and visual amenity. It is not considered the development would harm the setting of heritage assets. The proposal will provide improvements to amenity by way of improved ventilation and extraction, which has been the subject of complaint. Furthermore the control of the outdoor seating area, which is currently subject to a 23:00 hours restriction, can be adequately dealt with by way of the current premises licence. It is therefore recommended that planning permission be granted subject to conditions.

### **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.

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

1. The development hereby permitted shall be carried out in accordance with the approved plan(s) as detailed below:

L019012 – 113 Rev A Site Location and Block Plan

L019012 – 114 External Seating Area

L019012 – 112 Elevation

REASON – To define the consent

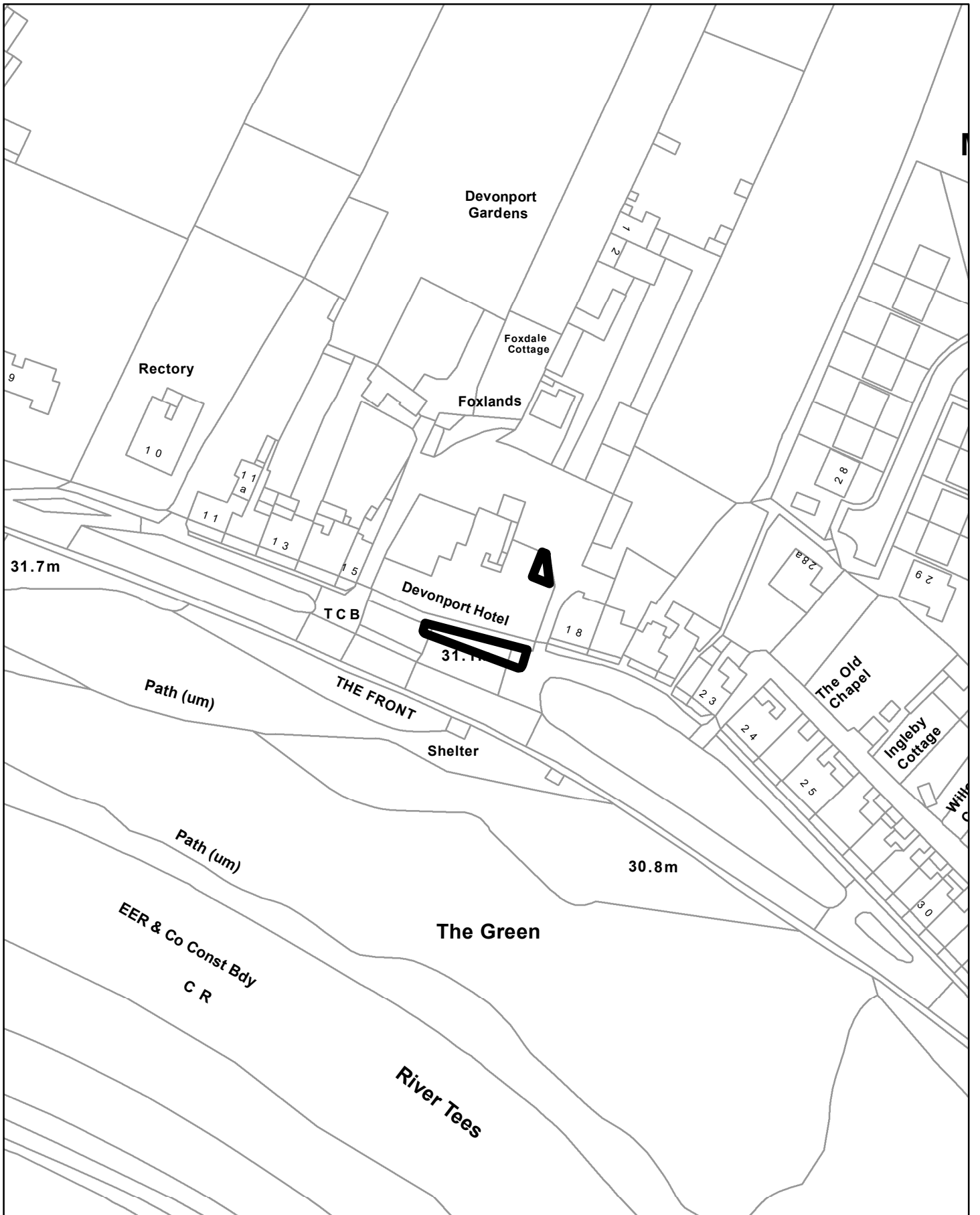
2. Prior to the installation of the ventilation / extraction equipment, full details of the final specifications and layout of the system, shall be submitted to, and approved in writing by, the Local Planning Authority. The development shall not be carried out otherwise than in complete accordance with the approved details.

REASON – In the interests of residential amenity.

3. The external ventilation / extraction equipment as agreed pursuant to condition 2 (above) shall be installed in full accordance with the manufacturer's instructions and fully operational within three months of the date of this planning permission and shall be maintained as such thereafter.

REASON – In the interests of residential amenity.





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**PLANNING REF No: 20/00258/FUL**

DARLINGTON BOROUGH COUNCIL

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**DARLINGTON BOROUGH COUNCIL****PLANNING APPLICATIONS COMMITTEE****COMMITTEE DATE: 22 July 2020**

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<b>APPLICATION REF. NO:</b>	20/00104/FUL
<b>STATUTORY DECISION DATE:</b>	31 July 2020
<b>WARD/PARISH:</b>	SADBERGE AND MIDDLETON ST GEORGE
<b>LOCATION:</b>	Building Adjoining 16 Station Terrace, Middleton St George
<b>DESCRIPTION:</b>	Change of Use from storage (Use Class B8) to shop (Use Class A1) including installation of new shop front, windows and doors
<b>APPLICANT:</b>	Mr Jahane Khoramy

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**RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS**

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**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=Q5H905FPINA00>**

**APPLICATION AND SITE DESCRIPTION**

1. The application property is located behind Station Road, Middleton St George, at its junction with Heathfield Park. It is a two-storey building used for storage purposes with 16 Station Terrace, a dwelling house, attached to its south and east elevations. The storage building and No 16 Station Terrace are detached from the properties on Station Road (west) and the dwellings on Heathfield Park (south). There is a lane between the building and the rear of the properties on Station Road.
2. The storage building has sliding doors on the front elevation and a doorway to the side (west) and there is an internal staircase leading to the first floor. The internal dimensions of the building measure 25.2m<sup>2</sup>. There is a forecourt to the front, but this land is not within the ownership of the applicant and is not included within the application.

3. The proposal involves the change of use of the building to a Class A1 (retail) use with the ground floor being used for retail purposes and the first floor remaining in storage use. The internal alterations involve repositioning the internal staircase from the western wall onto the southern wall and the inclusion of a ground floor wc. A new shopfront would replace the sliding doors on the front elevation and new windows and door would be placed into the west elevation.
4. There would be no designated parking spaces with the building.
5. The type of retail use is unknown at this stage as there is no identified end user, but the applicant has agreed to the imposition of a planning condition that would restrict the hours of opening to 0800 to 1700 Monday to Sunday.

## **MAIN PLANNING ISSUES**

6. There is no recent planning history for the storage building or 16 Station Terrace. The main issues to be considered are whether the proposal is acceptable in the following terms:
  - a) Planning Policy
  - b) Residential Amenity
  - c) Highway Safety
  - d) Impact upon the Visual Appearance of the Building
  - e) Disabled Access

## **PLANNING POLICIES**

7. Relevant Local Plan policies are those seeking to ensure that the proposed development
  - Is located within the development limits as defined by the Borough of Darlington Local Plan (saved policy E2 of the Local Plan and CS1 of the Core Strategy 2011)
  - Is classed as a "local Shop" of less than 100m<sup>2</sup> (Policy CS9 of the Core Strategy 2011)
  - Protects the general amenity and health and safety of the local community (CS16 of the Core Strategy 2011)
  - Provides vehicular access and parking suitable for its use and location (CS2 of the Core Strategy 2011)
  - Is within a sustainable location and accessible by various modes of transport, pedestrians and disabled persons (CS2 of the Core Strategy 2011)
  - Reflects or enhances Darlington's distinctive nature; creates a safe and secure environment (CS2 of the Core Strategy 2011)

## **RESULTS OF TECHNICAL CONSULTATION**

8. No objections in principle have been raised by the Council's Highways or Environmental Health Officer.

## **RESULTS OF PUBLICITY AND NOTIFICATION**

9. Twenty-three letters of objection have been received following the Council's publicity exercises. The concerns can be summarised as follows:

- *Noise, odours and litter*
- *Lack of parking for customers and deliveries*
- *Proposed hours of openings*
- *The junction with Heathfield Park gets very congested and dangerous with cars parked on both sides of the road*
- *There will be an increase in risk of accidents to residents, children and elderly*
- *The tarmaced area near to the building (next to gas building) is private property and not available for public use*
- *It is unclear what the shop will be, and it could be changed easily to other uses*
- *There are already several shops in the village*
- *This is a residential area and residents should expect a level of amenity concurrent with their property*
- *Parking could hinder refuse collection, emergency vehicles; delivery vehicles*
- *Visitors will park in Heathfield Park affecting access and exit from driveways*
- *The building has no formal access from the public highway as it would cross a busy footpath*
- *There have been collisions and near misses at the junction and additional parking for a shop will exacerbate the issue*
- *This is the only exit and entrance into Heathfield Park and all parents and children who walk to school must pass in front of the building*
- *The site is opposite a substation and when the gas Board are competing their maintenance routines, they park outside the station and narrow the road, and this will be made worse by people parking on the opposite side of the road*
- *The white lines painted by the Council have done nothing to alleviate the existing parking problems and are often ignored*
- *The gas station opposite is dangerous and if kids are attracted would pose a threat to safety*
- *There is no space for waste storage*
- *Cars will be parked on pavements*
- *The connecting wall with No 16 Station Terrace is a single brick construction and the ground floor toilet would be adjacent to the living/dining room of No 16. The stairs and first floor are attached to the main bedroom of No 16 and noise transmission could be an issue*
- *There is no mention of any noisy machinery for fridges; ventilation or air conditioning units*

- *It will attract antisocial behaviour*
- *Site is opposite a children's play area*
- *The forecourt is privately owned, and customers and staff will park directly outside No 16 Station Terrace*
- *The use will generate employees*
- *The lane will be used for parking of cars and block access for refuse lorries*
- *The use will be an invasion of privacy for No 16 Station Terrace as people will park and have a view into garden area and yard*
- *The development would be out of character with the existing dwelling and lose historic value to the community*
- *Conditions to secure future restrictions on the building would be required*

10. Middleton St George Parish Council support the residents in their objections to the planning application

11. Other matters that have been raised which are not material planning considerations relate to the applicant not consulting with residents about potential end users prior to applying and the lack of information submitted with the planning application.

## **PLANNING ISSUES/ANALYSIS**

### **a) Planning Policy**

12. The premises are located within the development limits for the village as defined by the Proposals Map of the Borough of Darlington Local Plan 1997.

13. Policy CS9 of the Core Strategy 2011 states that individual local shops which meet the day to day needs of the nearby residents without the need to use a car will be promoted. Proposed new shops will be limited to a maximum of 100 sqm gross floorspace unless a qualitative need to remedy a geographical deficiency in the distribution of food shopping can be demonstrated, in which case stores of up to 400sqm will be permitted.

14. The proposed store is significantly below the 100sqm threshold at 25.2sqm and therefore in general planning policy terms the proposed change of use is acceptable.

### **(b) Residential Amenity**

15. The application property is in a predominantly residential area, although the ground floor of 15 Station Terrace to the west is in use as a picture framer. The proposed retail use of the premises has the potential to impact upon the amenities of nearby residential properties in terms of noise, nuisance and disturbance arising from increased activity.

16. As the proposed retail use is unknown at this stage, the applicant has agreed to the imposition of planning conditions to secure the following:

- a) Hours of operation to be 0800 – 1700 Monday to Sunday
  - b) Details of any plant such as flues, refrigeration and air conditioning units, if they are required
  - c) Details of waste storage
17. The applicant has also agreed to the imposition of a planning condition which would restrict the use of the unit to Use Class A1 only. Planning permission would therefore be required for any future uses other than to another A1 use and would remove any permitted changes between Use Classes that are either currently allowed or may be allowed in the future should any further relaxation of planning control be introduced. Such a condition will ensure that the local planning authority retains control over the future use of the building to safeguard the amenities of nearby residential properties.
18. Building Control Officers have advised that the building has probably been constructed with 9inch walls which is very similar to standard construction between terraced dwellings. There would be no requirement under Building Regulations to apply further sound insulation between the unit and No 16 Station Terrace, but the applicant has agreed to the imposition of a planning condition to secure such measures in the interests of residential amenity. This should improve conditions for the occupant of No 16 Station Terrace.
19. The Council's Environmental Health Manager has no objections to the principle of the change of use provided that the above planning conditions are imposed on any approval.
20. The Durham Constabulary Architectural Liaison Officer has advised that the Police would welcome conditions to restrict the operating hours and the use of the building to Class A1 retail only.
21. It is considered that the size of the building will limit the scope of retailers that may be express an interest in operating from the unit and it will restrict the number of persons/customers that can visit the premises at any one time. The proposed planning conditions would also influence the potential occupants as they would have to operate in accordance with them. Any variation to these conditions, for example a change to the opening hours, would need to be the subject of a planning application for consideration by the local planning authority.
22. Whilst customers would be able to view the garden and yard area of No 16 Station Terrace when visiting the premises, this is currently possible by people walking past the building and by persons who operated the building in its current use. Furthermore, it is not envisaged that the retail unit would attract large numbers of customers due to its size. As such it is not considered that the proposed use would result in an unacceptable loss of privacy to this property.
23. The proposed retail use is considered acceptable subject to a number of planning conditions which are considered to ensure sufficient safeguards regarding the operation of the retail unit are in place to protect residential

amenity and which have been agreed with the applicant. The proposal would, in such circumstances accord with policy CS16 of the Core Strategy 2011.

### **(c) Highway Safety**

24. As the proposed end user is unknown at this moment, it is difficult to fully assess the likely traffic generation, however for a retail use with a floor area of 23 sqm, the Tees Valley Design Guide advises that one space should be provided with one additional parking space for staff.
25. Based on the reasonable presumption of the shop having a single member of staff/owner requiring space for a single car or van and one customer space being required, this only equates to there being a need for two parking spaces. The unit has no parking spaces designated to it and the forecourt at the front of the premises is not within the ownership of the applicant.
26. Having considered the proposal and the comments made by residents, the Council's Highways Engineer has advised that the lack of parking provision for two vehicles would not constitute a severe impact on the local highway.
27. With the applicant agreeing to opening hours of 08:00 – 17:00 Monday to Sunday, the highway network during the week is generally quieter at these times and on-street parking is less due to people being at work. It is acknowledged that the network may be busier and parking arrangements will change on a weekend, but again, it is considered the impact the unit may have on highway safety during the proposed opening times is not severe to justify a refusal of planning permission.
28. A review of the Police accident statistics over the last five years shows that there are no recorded incidents near the site or the junction with Station Road/Heathfield Park. As a result, there is no reason to suggest that there are fundamental road safety concerns at this location. Informal white line hatch marks are in place around the junction however these are primarily intended to guide passing motorists out past the vehicles in on-street parking laybys rather than protect sightlines out of the junction.
29. The objections refer to problematic parking at the Station Road/Heathfield Park junction. The Highways Authority do have the power to impose formal restrictions with double yellow lines following appropriate consultation exercises with the residents.
30. Residential developments of up to 300 dwellings may be served via a single access junction such as the access to Heathfield Park. This access currently serves approximately 90 dwellings and is therefore considered sufficiently robust to accommodate the minor intensification of use associated with this application.
31. The concerns raised by objectors have been considered alongside the advice from the Council's Highways Engineer and there is insufficient evidence to



demonstrate that there would be a severe impact on the highway to justify a refusal of planning permission. The proposal would be acceptable in highway terms and would accord with policy CS2 of the Core Strategy.

#### **(d) Impact upon the Visual Appearance of the Building**

32. The proposal would involve the insertion of a shop front within the front elevation of the building and new windows in existing openings to the front and side. The building is not a listed building nor located within a Conservation Area, but it does retain some character and order to safeguard its appearance and character, appropriate planning condition can be imposed which requests the precise details and materials of the shopfront and window and door frames. This will ensure that the development accords with Policy CS2 of the Core Strategy.

#### **(e) Disabled Access**

33. The submitted plans show the inclusion of an accessible toilet and a mobility staircase which has a shallower pitch and therefore easier to negotiate than a normal staircase. The local planning authority would ensure that any new shop front includes a level access into the building. A planning condition can be imposed to ensure that the wc and staircase are both implemented prior to the commencement of the use. It is considered that the proposed development would accord with policy CS2 of the Core Strategy.

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

34. 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 measures that have been put in place to eliminate discrimination have been considered at paragraph 33

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

35. 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**

36. Whilst limited information has been provided within the planning application, it remains possible to consider the appropriateness of the proposed change of use to a retail use and for the local planning authority to impose planning conditions to protect the amenity of the local area and the neighbouring properties. Having

considered the proposal and the comments that have been received from residents, the proposed change of use of this small unit is acceptable subject to the imposition of planning conditions and the application would accord with the appropriate development plan policies.

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

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

REASON – To accord with the provisions of Section 91(1) of the Town and Country Planning Act 1990

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

- a) Drawing Number 2002 – 02 Proposed Plan
- b) Drawing Number 2002 – 03 Site Location Plan

REASON – To define the consent

3. The internal staircase and accessible wc shown on the approved plan (drawing number 2002 – 02) shall be installed prior to the commencement of the use hereby permitted unless otherwise agreed in writing by the local planning authority and shall be retained for lifetime of the development.

REASON – To ensure that the development is suitable for disabled persons

4. Notwithstanding the details shown on the approved plans, precise details of the new shop front and external alterations to the building shall be submitted to and approved in writing by the local planning authority prior to the commencement of the development. The details shall include materials, colour scheme, disabled access arrangements and the development shall not be carried out otherwise than in complete accordance with the approved details.

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

5. Prior to the commencement of the development, a sound insulation scheme to be used between the building and No 16 Station Terrace, Middleton St George shall be submitted to and approved in writing by the local planning authority. The development shall not be carried out otherwise than in complete accordance with the approved details and the agreed scheme shall be carried out prior to the commencement of the use hereby permitted.

REASON: To safeguard the amenities of the neighbouring dwelling

6. Prior to the commencement of the use, precise details for the storage and disposal of waste shall be submitted to and approved in writing by the local

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

REASON – In the interests of the amenity of the area

7. The use hereby approved shall not operate outside the hours of 0800 – 1700 Monday to Sunday unless otherwise agreed in writing by the local planning authority

REASON – In the interests of the amenity of the local area

8. The premises shall be used for Class A1 (shop) purposes only and for no other purpose set out within the schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) or any Order revoking or re-enacting that Order.

REASON - The Local Planning Authority is satisfied that the use hereby approved would not result in detriment to neighbouring properties but would wish to control future changes of use in the interests of amenity and highway safety

9. In the event of the need to install any fans, louvres, ducts or other external plant associated with the use, precise details shall be submitted to and approved in writing by the Local Planning Authority prior to such equipment being installed. The development shall not be carried out otherwise than in complete accordance with the approved details and any identified noise mitigation measures shall be implemented prior to the use being brought into operation

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

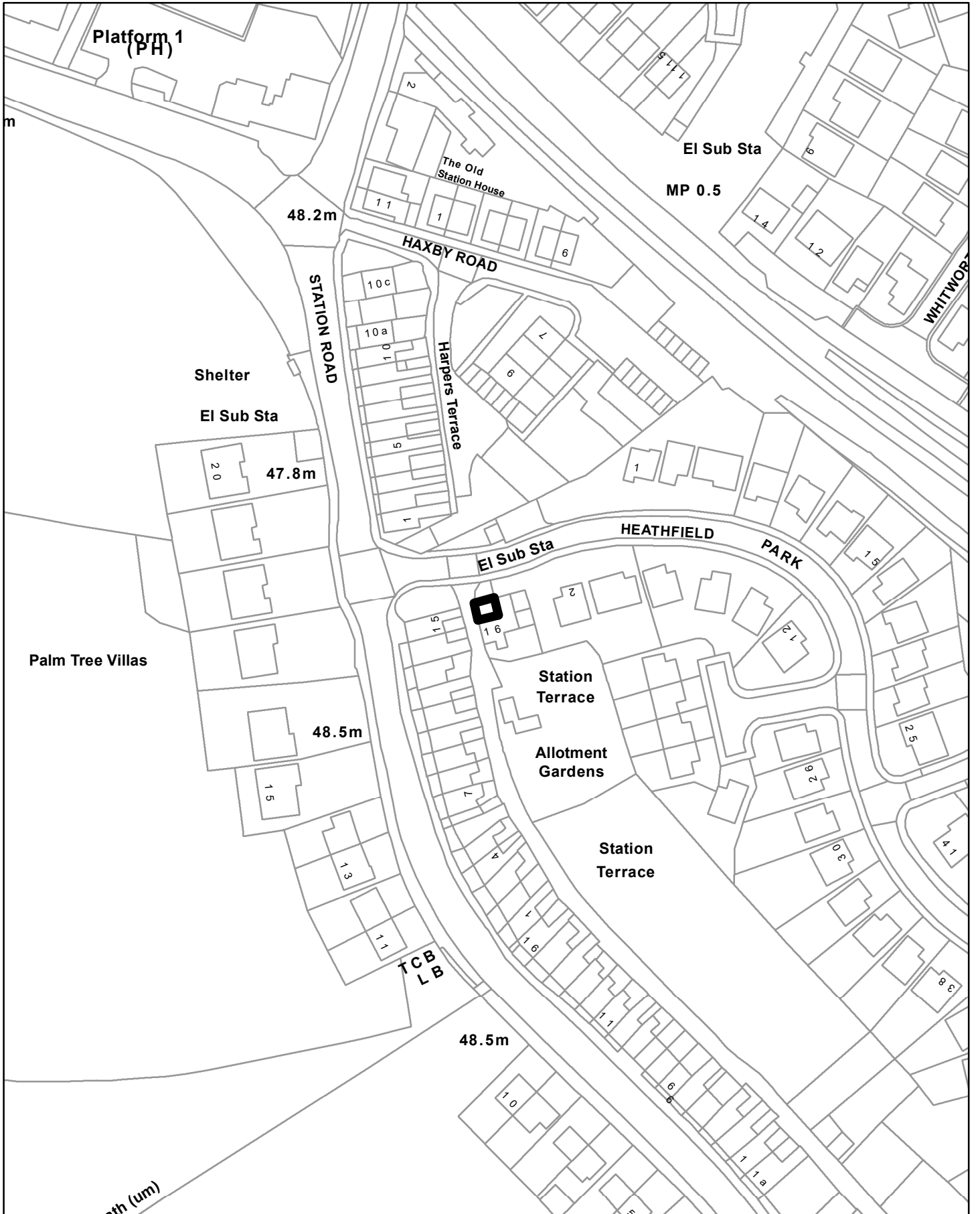
10. In the event of the need to install any fans, louvres, ducts or other external plant associated with the use, a scheme shall be submitted to, and approved in writing by the Local Planning Authority for the effective control of fumes and odours from the premises prior to such equipment being installed. The agreed scheme shall be implemented prior to the use being brought in operation

REASON: In the interests of the amenity of the locality

## **INFORMATIVES**

This Environmental Health Team enforces 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.

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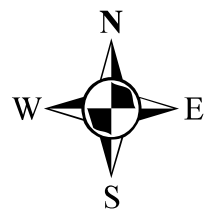


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## DARLINGTON BOROUGH COUNCIL

## PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 22 July 2020

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<b>APPLICATION REF. NO:</b>	20/00267/FUL
<b>STATUTORY DECISION DATE:</b>	31 July 2020
<b>WARD/PARISH:</b>	Stephenson
<b>LOCATION:</b>	William House Nursery, The Old Presbytery Barton Street
<b>DESCRIPTION:</b>	Conversion of children's nursery (Use Class D1) to 9 No. self-contained residential apartments (Use Class C3) with alterations to windows and doors, including the insertion of first floor window in the north elevation; alterations to ground floor windows in the east elevation and new window and door to west elevation. Enlargement of existing bin store; creation of private amenity spaces and cycle stores (as amended by plans received 14 May 2020)
<b>APPLICANT:</b>	Mr and Mrs Boulton

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**RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS**

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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=Q87WIUFPLKD00>

**APPLICATION AND SITE DESCRIPTION**

1. William House is located on the corner of Nestfield Street/Barton Street and a housing development known as Church Grove to the north. Gurney Pease School and playing fields are located to the east of the site and the School Chapel, St William and St Frances De Sales Roman Catholic Church, which is a

Grade II listed building, lies to the south on the opposite side of Nestfield Street. The application property is the former Presbytery to the Church.

2. The two storey building was last used as an 86 place children's day nursery that has been closed since the coronavirus pandemic.
3. The proposal is for a change of use and conversion of the nursery to nine self-contained apartments. The apartments are a mix of one and two bed units with three of the units having private amenity space. Two dedicated parking spaces would be provided to the rear of the building by the reconfiguration of the boundary walls. A cycle store would be created, and the existing bin store would be extended. The external alterations to the building would comprise:

*North Elevation*

- Removal of an overhanging canopy at ground floor level and changes to a first floor window to a larger living room window.

*Eastern Elevation*

- The removal of the overhanging canopy
- An existing doorway is to be blocked up and two bathroom windows are to be altered

*Western elevation.*

- Insertion of a new door and first floor bathroom window

*South Elevation*

- No alterations are being proposed

*Bin store*

- The existing bin store at the rear of the premises would be extended to cater for the additional refuse bins. The enlargement would involve the removal of an ornamental tree and the bins would be enclosed by timber fencing, similar to the existing arrangement

*Car Parking*

- An existing boundary wall which was erected to extend the play area to the rear of the building would be removed and realigned with the existing boundary wall in order to create two dedicated parking spaces and to create access to an area for cycle parking within the rear yard.

## **MAIN PLANNING ISSUES**

4. The building was converted to a nursery in the early 1990s (90/00026/CU and 92/00209/FUL). The nursery was subsequently extended by a first floor extension (97/00632/FUL) and by a two storey extension (10/00178/FUL). The boundary walls were altered to enable an extension to the playground area and to reduce the size of existing bin store (11/00748/FUL). The main issues relevant to this application are whether the proposal is acceptable in the following terms:



- a) Planning Policy
- b) Residential Amenity
- c) Highway Safety and Parking Provision
- d) Impact on Heritage Assets
- e) General Design and Impact on the Appearance and Character of the Area
- f) Disabled Access
- g) Contaminated Land
- h) Other Matters

## **PLANNING POLICIES**

5. The site lies within the development limits for the urban area as defined by the Proposals Map of the Borough of Darlington Local Plan 1997 and therefore the principle of the residential use is acceptable (saved policy E2 of the Local Plan and CS2 of the Core Strategy 2011). Local development plan policies relevant to this application are those which consider:
  - The effect on residential amenity, the free and safe flow of traffic, the scale and character of the area and provision of adequate parking and amenity space (saved policy H18 of the Local Plan)
  - The general amenity and health and safety of the local community (CS16 of the Core Strategy 2011)
  - Vehicular access and parking provision suitable for its use and location (CS2 of the Core Strategy 2011)
  - Is within a sustainable location and accessible by various modes of transport, pedestrians and disabled persons (CS2 of the Core Strategy 2011)
  - Darlington's distinctive built characteristics that positively contribute to the character of the local area and its sense of place (CS2 of the Core Strategy 2011)
  - Protection, enhancement and promotion of the quality and integrity of Darlington's distinctive designated national or nationally significant built heritage and archaeology including buildings, their settings and features of historic and archaeological local importance in conservation areas. (CS14 of the Core Strategy)
6. The National Planning Policy Framework 2019 provides guidance on assessing the impact of new development on the setting of heritage assets, such as listed buildings.

## **RESULTS OF TECHNICAL CONSULTATION**

7. There are no objections to the principal of the change of use from the Council's Highways Engineer, Environmental Health Officer, Conservation Officer or Transport Policy Officer. Their comments are considered in detail in the relevant sections of this report.

## RESULTS OF PUBLICITY AND NOTIFICATION

8. Three letters of objection were received in connection with the original submission and the comments were as follows:
- *This wonderful nursery had taken care of children for generations before it was forced to close due to the unprecedented social distancing measures. Please do not allow this application to take advantage of such an unfortunate situation. Instead, the nursery should be supported to reopen once the pandemic has passed.*
  - *Gate access in Church Grove only used at present as Fire Exit. Flats will mean continuous use of gate. There will also be more traffic, and additional parking issues in Church Grove.*
  - *Additional "bin storage"? Does this mean once again attempt to steal parking spaces at entrance to Church Grove will be made? There will be no reduction of traffic, there will be more long term parking, possibly causing hazard and obstruction to residents exiting.*
  - *Balcony meaning houses overlooked.*
  - *The building is Grade 2 listed*
  - *They want to change the complete building with more cars blocking up the area.*
9. Following the submission of the amended plans, two further letters of objection have been received and the comments are as follows:
- *The plan shows five parking spaces to the side of Church Grove. As residents, we have three of those bays for visitor parking.*
  - *Will those spaces be re-sized to enable the new building to increase their bin storage?*
  - *Will visitor parking will be available throughout the build? During a building extension a few years ago, the bays were blocked off and it led to many residents being blocked in plus lots of congestion in street, cars were parked on paths, restricting the entrance into Church Grove.*
  - *If parking is created on Barton Street, I believe this could be incredibly hazardous as cars from the Church Grove residents would have to pull out into on-coming traffic.*
  - *Parking spaces belonging to Church Grove residents; These are within the deeds of selected properties and they have a covenant on them. Another property legally cannot take these for their own use to incorporate into their 'needed' parking spaces.*
  - *The renovation needed will be extensive and create issues accessing the street, it's a small entrance people need to be able come and go to work.*
  - *Preserve an historically significant building, not create flats*
  - *Too many developments locally, its chaos*

## PLANNING ISSUES/ANALYSIS

### a) Residential Amenity

10. The proposal has been amended to remove a first floor Juliet balcony in the north elevation which has been replaced with a standard window. The existing windows, which would become habitable windows, would not overlook any neighbouring dwellings or their private amenity areas. The new ground floor entrance and first floor bathroom window in the west elevation would not impact on any neighbouring dwellings as this elevation fronts onto playing fields. The four main entrances into the building are all located away from neighbouring dwellings and they should not be adversely disturbed by the comings and goings of the occupants and visitors. There will be more activity at the building on an evening than the previous use as a nursery however not to such an extent that is uncommon in a residential area or would adversely impact upon the living conditions of nearby residential properties.
11. The proposals will create new bedrooms adjacent to Barton Street which is subject to a 30mph speed limit. There is also a bus stop on the opposite side of Barton Street to the development. Road traffic noise on Barton Street is likely to cause an exceedance of recommended internal noise levels without some form of enhanced glazing in the windows on this façade. No noise assessment has been submitted with the application, however in order to ensure that suitable internal noise levels can be achieved within the development the Environmental Health Officer has recommended that a planning condition can be imposed.
12. The proposal would therefore accord with saved policy H18 of the Local Plan and CS16 of the Core Strategy 2011

**b) Highway Safety and Parking Provision**

13. The Tees Valley Design Guide advises that flatted developments should generally have parking provision of 1.5 spaces per unit, which gives a theoretical requirement of 13.5 spaces for this proposed use.
14. The nursery has no dedicated in curtilage parking bays. There are three bays to the rear of the building, accessed off Church Grove, and whilst they are within the same ownership as the nursery, they are subject to a separate legal agreement which ensures those three bays are used as part of the parking provision for the Church Grove housing development.
15. Two new parking spaces are to be provided adjacent to these existing parking bays on Church Grove to serve the development. The plans show that Private Parking signs and bollards would be used to ensure that these new parking bays are used for the occupants of William House and not used as additional parking for the Church Grove development, but this would be managed and enforced by the owners.
16. The proposed in curtilage parking provision would largely address the needs of the single bedroom apartments with additional parking being available on Nestfield Street. An additional six on-street car parking spaces could generally

by accommodated without issue as Nestfield Street no longer provides a through route or has other dwellings directly fronting it.

17. While there would be a theoretical shortfall in the number of on-site parking spaces to serve the proposed development, traffic generation associated with the proposed use would be significantly lower than the previous nursery use with staff parking requirements and peak hour pickup and drop-offs being much higher than the proposed use, as such the proposal offers betterment both in terms of parking provision and a lowered demand.
18. The site is in a sustainable location and well served by public transport. The site is within 400m to St Williams RC Church bus stop, which is served by the number 3A, a half hourly service. The site is also on an advisory cycle route and has good connections to the traffic free infrastructure on Haughton Road and the wider cycle network. The building is within walking distance of the town centre and small shops on Haughton Road within the wider Albert Hill area. Car ownership and parking demand is generally lower for single bed apartments particularly in sustainable locations and where alternative modes of travel are available.
19. Should overspill parking become problematic on the junction of Church Grove/Barton Street, it is within the Highways Authority's powers to impose further parking restrictions, although this was never considered necessary under the current use which attracted significantly higher traffic generation and parking demand.
20. Five cycle lockers are to be provided within the rear yard accessed off Church Grove. Whilst the lockers are to be accessed adjacent to a parking bay which may restrict some access when the bay is in use, there is very limited scope to locate the lockers elsewhere and the gate has been located centrally and opens inwards to maintain a route between parked cars.
21. Police accident records confirm that there are no recorded incidents in the vicinity of the site and there is no reason to conclude that there are any inherent road safety concerns at this location.
22. Bin storage is provided and is in a convenient location for presenting for the Council's roadside collection service.
23. Having considered the advice from the Council's Highways Engineer and Transport Policy Officer, the proposed development is acceptable in highway safety terms and encourages the use of alternative means of transport from a site which is in a sustainable location. The proposal would comply with Policy CS2 of the Core Strategy 2011.

**c) Impact on Heritage Assets**

24. William House was the former Presbytery to the Grade II listed Church of St William of York and St Francis de Sales on the opposite side of Nestfield Street.

The two buildings were in the same ownership until the 1990s, but the Presbytery is not considered to be curtilage listed. The proposed change of use and the associated alterations would not harm the setting of the adjacent listed building.

25. William House, whilst quite extensively altered in the past, does have merit both, historically and architecturally as the core fabric and character of the original building has been retained. The most attractive elevation fronts onto Nestfield Street (south) and this frontage would remain unchanged. The removal of an existing canopy would improve the appearance of the northern and eastern elevations and the existing doors and windows to be altered in the same elevations are within the more recent extensions rather than the original building.
26. The Conservation Officer has no objection in principle to the proposed change of use. The majority of the alterations are to the north and east elevations being more recent extensions to the former Presbytery building, however several amendments have been suggested to limit the impact of the proposed alterations. The applicant has considered these proposed revisions: the installation of a rooflight instead of a window in the west elevation, the design of the door on the west elevation and to enclose the bin store with a brick wall, and advises that the inclusion of a rooflight would require significant alterations to the roof and the internal ceiling structure, the proposed new door has been designed to match the existing door on the Barton Street elevation and to allow natural light into the lobby and the bin store is already enclosed by a timber fence and the proposal is an extension and continuation to this area.
27. On the basis of these considerations and the limited extent of alterations, Officers consider the proposed external alterations to facilitate the change of use would not adversely harm the setting of the adjacent listed building and the proposal would accord with policy CS14 of the Core Strategy 2011 and the National Planning Policy Framework 2019.

**d) General Design and Impact on the Appearance and Character of the Area**

28. The building has been the subject of several extensions (1997 and 2010). The external alterations that are being proposed to the building are quite minimal, cosmetic changes and mainly to the sections that are later additions (other than the door and window in the west elevation) and they would not harm the general character and appearance of the building or the wider street scene. The creation of the parking spaces and the extension to the bin store are acceptable in design terms.
29. The change of use of a nursery building into a residential use within an existing residential area is acceptable and would not harm the character of the area.
30. The proposal would accord with policy CS2 of the Core Strategy 2011

### **e) Disabled Access**

31. The existing access ramp at the front entrance (Nestfield Street) would be retained and an internal lift would be provided. Six of the nine flats would be accessible for wheelchair users, however three of the ground floor flats, which would be accessed separately off Barton Street and Nestfield Street respectively, would not be accessible by wheelchair but they could cater for elderly, ambulant disabled persons and visually impaired. They are unable to be made fully accessible for wheelchair users due to the differences in height between the internal floors and the external footways and not being able to place an external ramp on a public footway
32. It is accepted that not every apartment will be fully accessible, however six out of the nine apartments will be and on this basis the proposal is considered to comply with Policy CS2.

### **f) Contaminated Land**

33. The application contains proposals for private amenity areas for some of the ground floor flats with direct access to outside space. This area is currently used to provide outdoor space associated with the children's nursery. It appears that prior to this, the area was used as a garden that formed part of the Presbytery and before that it was agricultural land. For these reasons, the Council's Environmental Health Officer has advised that the application can proceed without the imposition of any contaminated land conditions. The application would accord with CS16 of the Core Strategy 2011

### **g) Other Matters**

34. The proposal will result in the closure of an existing private children's nursery; however, the loss of this facility is not a material planning consideration. There are no planning policies which would seek to retain the nursery as a community facility. The Council's Education Section has also advised that the closure of a private day nursery would be outside of their control and that Darlington Local Authority's 2019-20 Childcare Sufficiency Assessment showed that pre Covid-19, there were sufficient pre-school places in the Borough. The closure of this premises would not result in any pre-school place demand being unmet, but this is being closely monitored. The Families' Information Service would work with parents, signposting to alternative provision with childminders and nurseries in the area for those families affected.

## **THE PUBLIC SECTOR EQUALITY DUTY**

35. 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. Making the building accessible for disabled persons and the elderly has been

considered in paragraphs 31 and 32 and the loss of the building as a nursery and the ability of children being able to attend this nursery is considered in paragraph 34.

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

36. 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**

37. The principle of the proposed use is acceptable in residential amenity terms and the external alterations would not harm the character and appearance of the building, the street scene or the setting of the adjacent listed building. The proposal includes an element of in curtilage parking, however there is sufficient off street parking available and the site is within a sustainable location accessible to bus stops, cycle routes and local facilities. Cycle parking is proposed to encourage alternative modes of transport. The building has been made accessible for disabled persons and the elderly where possible. The proposed change of use would accord with the local development plan and the National Planning Policy Framework 2019.

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

1. A3 – Implementation Limit (Three Years)
2. Notwithstanding any description of the external materials in the submitted application, details of the doors, windows and brick work to be used in the carrying out of this permission shall be submitted to, and approved by, the Local Planning Authority in writing prior to the commencement of the development and the development shall not be carried out otherwise than in accordance with any such approved details.  
REASON - In order that the Local Planning Authority may be satisfied as to the details of the development in the interests of the visual amenity of the area.
3. Prior to the commencement of the development, a Construction Management Plan shall be submitted to and approved by the Local Planning Authority. The Plan shall include hours of construction and deliveries, construction traffic routes, material storage areas and measures to ensure the three existing parking bays are always kept available for use during the construction phase. The development shall not be carried out otherwise than in complete accordance with the approved Plan  
REASON: In in the interests of highway safety and residential amenity

4. Prior to the occupation of the first dwelling hereby approved, a scheme for the protection of the residential accommodation from excessive road traffic noise shall be submitted to and approved by the Local Planning Authority. Such a scheme shall be shown to be adequate because the applicant must provide an acoustic report which contains measurements of the current noise levels in the area. The scheme shall include details of sound attenuation methods to be used and shall achieve noise levels of less than 35 dB(A) LAeq(16 hour) in living rooms, less than 30 dB(A) LAeq(8 hour) in bedrooms, less than 55 dB(A) LAeq in garden areas and individual noise events shall not exceed 45 dB LAFmax in bedrooms. Any works which form a part of such a scheme shall be completed in accordance with the approved scheme and prior to any part of the development being first occupied or used.

REASON: To safeguard the amenities of the future occupants of the building

5. Notwithstanding the details shown on the approved plans, the works required under Section 184 of the Highways Act 1980 (the dropped crossing for the parking bays) shall be completed prior to the occupation of the first unit, unless otherwise agreed in writing by the Local Planning Authority

REASON: In the interests of highway safety

6. Notwithstanding the details shown on the approved plans, the cycle stores shall be installed and be available for use prior to the occupation of the first unit unless otherwise agreed in writing by the Local Planning Authority. The stores shall remain in situ and available for use thereafter.

REASON: To encourage the use of sustainable modes of transport

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

- a) Drawing Number L019068-006 Rev C - Ground Floor Plan as Proposed
- b) Drawing Number L019068-007 Rev B - First Floor Plan as Proposed
- c) Drawing Number L019068-008 Rev B - Elevations as Proposed - Sheet 1 of 2
- d) Drawing Number L019068-009 Rev A - Elevations as Proposed - Sheet 2 of 2

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

## **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 :

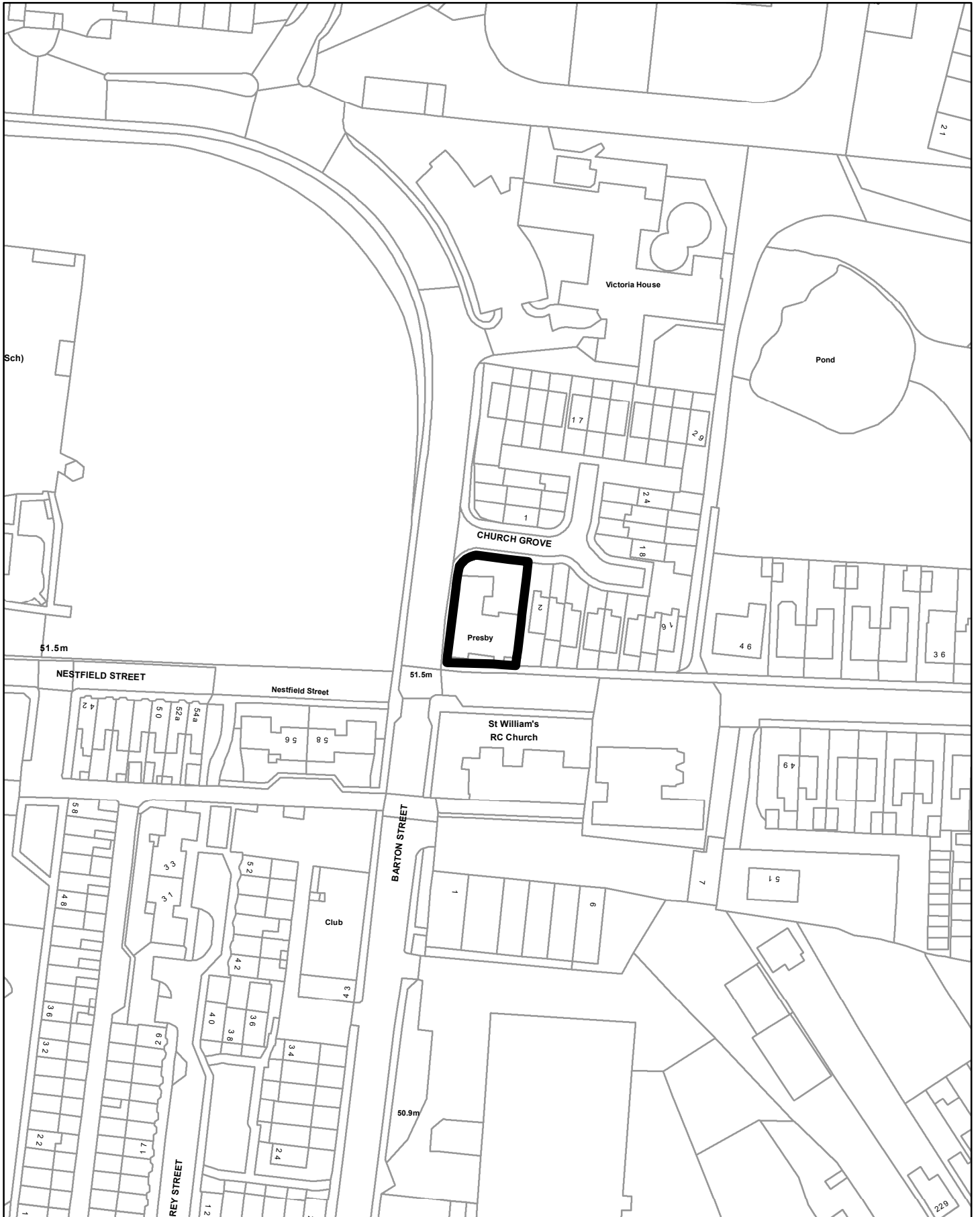
Highways, Design and Projects (contact Mrs Lisa Woods 01325 406702) to arrange for the works to be carried out or to obtain agreement under the Highways Act 1980 to execute the works.



**Street Naming**

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

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**PLANNING REF No: 20/00267/FUL**

DARLINGTON BOROUGH COUNCIL

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## Appeal Decision

Site visit made on 10 February 2020

**by E Symmons BSc (Hons), MSc**

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

**Decision date: 27 February 2020**

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### **Appeal Ref: APP/N1350/W/19/3236059**

### **303 & 303A North Road, Darlington DL1 2JR**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
  - The appeal is made by Mr Bahadin Mohammed against the decision of Darlington Borough Council.
  - The application Ref 18/01166/CU, dated 28 January 2019, was approved on 12 July 2019 and planning permission was granted subject to conditions.
  - The development permitted is a change of use (use class 3) to hot food takeaway (use class A5), erection of single storey extension and addition of external flue to the rear elevation and insertion of window to first floor flat on side gable end.
  - The condition in dispute is No 4 which states that: The hot food takeaway hereby approved shall not be open to customers outside the hours of 1200 to 2100 Monday to Saturday and 1200 to 2000 on a Sunday.
  - The reason given for the condition is: in the interests of residential amenity.
- 

### **Decision**

1. The appeal is dismissed.

### **Main Issue**

2. The main issue is the effect of varying the condition on the living conditions of neighbouring occupiers.

### **Reasons**

3. The appeal property is a hot food takeaway within a two storey terrace of shops with flats above. To the rear there are dwellings lining both sides of Peabody Street and China Street and their rear elevations and outdoor areas sit behind the appeal property. Due to the proximity of residential dwellings, occupiers will currently be aware of noise and disturbance from this and other businesses on North Road.
4. During my site visit I observed that along North Road there are many other businesses at street level which had dwellings above. Within the same block as the appeal property is a barber shop and funeral parlour and in the adjacent block to the north there is another barber; a pharmacy; a butcher and a convenience store. I have not been given any information regarding the business hours of the adjacent funeral business or barber but in all likelihood, these do not take place late into the evening.
5. Due to the similarity in the types of business, the change of use from café to hot food takeaway was not considered by the Council to lead to a significantly greater noise and disturbance to neighbouring occupiers. To ensure this, the

condition which is the subject of this appeal limited the closing time of the hot food takeaway to 2100 hours Monday to Saturday and 2000 hours on Sunday, reflecting those which were previously in place.

6. The Council state that they seek to limit the opening hours of hot food takeaways to 2100 hours within residential areas. Several examples of similar consented planning applications which have set this limit have been cited in support of this view. Concern has been raised by both the Council and local residents that extended opening hours would give rise to additional noise and disturbance late into the evening. It is likely that this would take the form of customer and vehicle movements; raised voices; car doors shutting and staff activity in rear areas.
7. The appellant contends that the examples provided by the Council are not comparable with the appeal property which is further away from neighbouring residential properties than the examples listed. However, each application must be considered within its own context and although this business may be well separated from the dwellings on the opposite side of North Road, there is a residential dwelling immediately above the premises. It is likely that these occupiers, in addition to others in surrounding dwellings within this block, would be affected by increased noise and disturbance present during extended opening hours.
8. The appellant has provided a list of seven other local businesses which have later closing times ranging from 2200 to 2300 hours. However, there is no evidence regarding the planning history of these businesses or whether these hours represent the lawful planning position. It is also suggested that ambient noise levels at the appeal site are greater in comparison with other sites where businesses have later opening hours. This has not been confirmed with any technical evidence however, even if this was the case, it is likely that the ambient noise level will decrease as the evening progresses as business use and traffic levels also decrease. This is likely to coincide with the period when the extended hours would come into effect.
9. To gauge the likely level of activity which would be associated with the appeal business, a survey of two nearby takeaways, Leung Kee Chinese Takeaway on a Friday night and Jazz's Fish Bar on a Saturday night, were carried out by the appellant. This recorded pedestrian and vehicle movements between 2100 and 2300. As can be seen from these figures, although numbers of visits in each fifteen minute period were low, the survey did show regular customer movements on foot, by car and of delivery vehicles throughout the two hour period. It is difficult to draw comparisons between these and appeal business as there is no assessment of the businesses' relative popularity and vitality. Further uncertainty is added due to the limited number of survey days; the size of the sample and the lack of information about weather conditions or other factors which could affect customer levels.
10. The appellant goes on to conclude from this data that the expected low levels of use during the hours of 2100 till 2300, would lead to less chance of anti-social behaviour. It would not however, be possible to ensure this, and just one or two noisy customers could cause disturbance. Additionally, and on a purely commercial basis, it would be in the interests of the business to increase levels of use within all opening hours.

11. It is reasonable for residents to expect peace and quiet, particularly as the evening progresses when more people are asleep and when noise and disturbance becomes more noticeable. Moreover, any noise and disturbance linked to the other businesses nearby which may open later, would be added to and magnified. Due to the proximity of residential properties to the appeal site, extended opening hours would increase the period within which occupiers of adjacent and nearby residential properties would be subject to noise and disturbance and this would impact and harm their living conditions. I therefore consider that the condition which restricts the opening hours of this business is justified.
12. The harm which would be caused by varying the condition and extending the opening hours of the business would conflict with Policy CS16 of Darlington Local Development Framework Core Strategy 2011. This policy seeks that development does not have a detrimental effect upon the environment, general amenity and the health and safety of the community.
13. For the reasons stated above, the appeal is dismissed.

*E Symmons*

INSPECTOR

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## Appeal Decision

Site visit made on 29 January 2020

**by William Walton BA MSc Dip Env Law LLM CPE BVC MRTPI**

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

**Decision date: 03 April 2020**

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**Appeal Ref: APP/N1350/W/19/3235961**

**22 Westacres, Middleton St George DL2 1LJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr Alan Agar against the decision of Darlington Borough Council.
  - The application Ref 18/01119/OUT, dated 29 November 2018, was refused by notice dated 3 June 2019.
  - The development proposed is a 2-bedroom detached dwelling with off-street parking for 2 vehicles.
- 

### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The application is in outline with details submitted for access and scale while matters concerning appearance, landscaping and layout are reserved for later determination.

### Main Issues

3. The main issues are the effect of the development proposal:
  - On the character and appearance of the area;
  - On the trees to the rear of the appeal property; and
  - On the living conditions of occupants of No 10 Westacres.

### Reasons

#### *Character and appearance*

4. The appeal site comprises a single storey L-shaped dwelling with a garage, front garden and back garden in an established residential area in the village of Middleton St George near Darlington. Westacres contains single and 2-storey detached dwellings with gardens to the front. 10 Westacres, a 2-storey detached dwelling, sits adjacent to the appeal property at a slightly lower level. Directly to the rear of the appeal property is the back garden of 9 Thorntree Villas which sits within Middleton One Row Conservation Area. A number of large, mature trees subject to a Tree Preservation Order (TPO) are within the garden of No 9 and close to the boundary of the appeal property. In addition, there is also quite a large tree close to the boundary of the appeal site within the front garden of No 10.

5. The development proposal comprises a 2-storey residential dwelling together with parking to the front and a garden to the rear. Whilst siting is amongst the matters reserved for future consideration the indicative material in support of the appeal shows the appellant's intention to locate the proposed house within the existing garden of No 22 and close to No 10. I have assessed the appeal with this in mind, in particular given that the options for siting a dwelling within the appeal site appear to be limited to this location in broad terms.
6. The proposal would project slightly forward of No 10 but not quite as far forward as No 22. To the front of the property would be a driveway capable of accommodating 2 vehicles. The gap between the side of the appeal dwelling and No 22 would be very narrow.
7. I was provided with a list of dwellings, together with their internal floor areas and the number of bedrooms, that are being built in the village by 2 housebuilders. I note that some have a floor area of around 60% that of the proposed dwelling. However, these developments have a different context to the proposal before me. Furthermore, although I was provided with links to the web sites containing details of the properties being marketed, I did not have any information concerning their planning histories. Consequently, I attach very little weight to this submission.
8. According to the indicative plans the ridge line would be no higher than No 10's. Nevertheless, given the relatively restricted size of the plot I consider that a 2-storey dwelling would look cramped and out of place. It would be very close to No 22 and close to No 10.
9. For the above reasons I find that the proposed development would harm the character and appearance of the area. It would therefore conflict with Policy CS2 of the Darlington Core Strategy 2011 (CS) which seeks to protect the character and appearance of the local area and its sense of place. In addition, it would fail to comply with advice set out in Paragraph 127 of the National Planning Policy Framework (the Framework) that the design of new development should be of a high quality that protects the character and appearance of the local area.

#### *Neighbouring trees*

10. The large trees within the grounds of No 9 Thorntree Villas form an impressive green backdrop to No 22 and the neighbouring dwellings when viewed from Westcares and so contribute positively to the character and appearance of the area. The Arboricultural Method Statement (AMS) submitted on behalf of the appellant identifies 3 trees within the grounds of No 9 (Nos 6, 7 and 8) as being subject to a TPO and close to the boundary of the appeal site. The AMS sets out guidance for tree protection during the construction phase of the proposed dwelling.
11. During my site visit I noted that at least 2 of the large trees within the grounds of No 9 appeared to overhang the area that would be incorporated into the rear garden of the proposed dwelling. Because of the limited amount of garden space within the proposed development it is likely that this overhang would impinge on the living conditions of future occupants. Consequently, I believe that there would be a significant likelihood of applications from future occupants to the Council to have the branches of the relevant trees lopped. Although the Council could seek to resist such proposals, I consider that given

the effect on light this might be difficult to sustain in practice. Such lopping would be likely to cause harm to the character and appearance of the area.

12. An unprotected tree in the front garden of No 10 Westacres contributes positively to the character and appearance of the neighbourhood by virtue of its size, shape and location. The root protection area would partially overlap with the indicative driveway. The use of a no-dig methodology for the construction of the driveway as recommended in the AMS would protect the roots and thus ensure retention of the tree. However, this approach would require the level of the driveway to be raised resulting in what I consider to be an unacceptable change in height over a short distance.
13. I note that the development would require the removal of 2 small trees and 2 hedgerows from the garden of No 22. However, I do not consider that they contribute significantly to the street scene and thus their removal would not cause harm to the character and appearance of the area.
14. For the reasons set out above I find that the development proposal would be likely to cause harm to the protected trees overhanging the rear of the appeal property to the detriment of the character and appearance of the area. This would fail to accord with Policies CS14 and CS16 of the CS and Policy E16 of the Borough of Darlington Local Plan 1997 which, respectively, require that new development protects natural resources, tree canopies and takes full account of trees on and adjacent to the site.

#### *Living conditions*

15. The indicative plans for the proposed dwelling show that it would project forward of the front of No 10 by around 2-3 metres. According to the indicative floor plans for the proposed development there would be no side windows at ground floor or first floor level overlooking the front garden of No 10. Moreover, there would be no principal windows facing each other.
16. By virtue of the sun's orientation there would also be no loss of light to No 10 except in the evenings at the height of summer. However, there would be a large expanse of bare wall almost immediately adjacent to the shared boundary. This would create an overbearing impression that would harm the living conditions of the occupants of No 10.
17. The floor plans indicate that there would be a large window at the rear of the first floor of the proposed dwelling. This would look over the rear garden of No 10. Although there is some foliage along the boundary to provide screening, I nevertheless find that because of the proximity the proposed development would cause a loss of privacy to the occupants of No 10 when using their back garden.
18. With regard to living conditions I have found no conflict with any development plan policies cited by the Council in its Decision Notice. Nevertheless, I find that by virtue of its effect on No 10 the proposed development would fail to accord with the advice set out in Paragraph 127 of the Framework that new development protects the living conditions of current and future occupants of neighbouring properties.

### **Other Matters**

19. The appellant has contended that some local residents have engaged in a co-ordinated strategy to encourage others to submit objections to the application with the result that many have made similar points. Members of the public do have a right to co-ordinate their representations to an application as they see fit. However, for the avoidance of doubt, my decision has been based upon planning considerations and not upon the number of representations submitted.
20. One objector has contended that there is a restrictive covenant preventing development of the site for an additional dwelling. I was not presented with a copy of this document and, in any event, it is not a planning consideration.
21. I have considered the contents of the Contaminated Land Risk Assessment and note the conclusion that, on the evidence collected, there are no plausible pollutant linkages nor any significant uncertainties. This is a neutral factor that neither supports nor detracts from the proposal.
22. The commitment by the appellant to use local builders in the construction of the proposal is also noted. However, I attach little weight to this matter given the harm that I have identified.
23. Finally, I note that the appellant advances personal reasons in support of the proposal. I am sympathetic to his desires to construct a home with lower energy costs and to secure an income from the existing property to fund his retirement and possible social care. Nevertheless, I consider that he could secure these objectives by building elsewhere without causing the harm that I have identified above. Consequently, I give very little weight to these submissions.

### **Conclusion**

24. For the reasons set out above the appeal is dismissed.

*William Walton*

INSPECTOR



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## Appeal Decision

Site visit made on 11 June 2020

**by E Symmons BSc (Hons) MSc MArborA**

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

**Decision date: 01/07/2020**

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**Appeal Ref: APP/TPO/N1350/7525**

**7 Friary Cottage, Church Lane, Middleton-St-George, Darlington, Durham  
DL21 1DD**

- The appeal is made under regulation 19 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 against a refusal to grant consent to undertake work to trees protected by a Tree Preservation Order.
  - The appeal is made by Mrs Lisa Bentley against the decision of Darlington Borough Council.
  - The application Ref: 19/00351, dated 9 April 2019, was refused by notice dated 24 June 2019.
  - The work proposed is to pollard three yew (no's 1-3) by approximately 5-6 metres and fell one conifer (no 4).
  - The relevant Tree Preservation Order (TPO) is Darlington Borough Council Tree Preservation Order No.5 2010 (within the grounds of 7 & 8 Church Lane, Middleton St George, Darlington), which was confirmed on 1 July 2010.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The original application sought permission to fell a conifer tree and pollard three yew trees. The conifer has not formed part of the Council's decision or the appellant's appeal. My deliberations are therefore focussed on the three yew trees.

### Main Issues

3. The main issues are the effect of pollarding three yew trees on the character and appearance of Middleton-One-Row Conservation Area, and whether the reasons given for the work justify that course of action.

### Reasons

#### *Character and appearance*

4. The appeal site is within Middleton-One-Row Conservation Area (CA). This period residential property is typical of others in the vicinity comprising large residential dwellings in substantial plots. The property is surrounded by mature and statuesque trees with a mixture and variety of both coniferous and deciduous species. This creates a rich sylvan setting to the property and is an integral part of the character of this part of the CA.

5. Amongst the trees to the front of the property are the three yew trees. These trees can be seen from Church Lane and although they have been subject to poor pruning in the past, they have recovered well and are an integral part of the mature tree cover in the front garden. Their presence adds considerably to the character and setting of the property and of the CA in general and they will be of particular value in the winter months when the deciduous trees lose their leaves. Pollarding these trees by removal of the top 5-6 metres would remove a large part of their canopies, damage their shape and form and have a detrimental effect upon their appearance. This in turn would harm the character and appearance of the CA. Consequently, any arguments to prune the trees must be convincing. It is to this justification which I now turn.

*Justification*

6. A series of photographs have been submitted in support of this appeal. Photograph No 1 shows a large branch which is stated to have recently come off one of the yew trees, but it is not clear which of the trees the photograph is showing. During my site visit I did see one large branch snagged within the canopy of tree 1, but otherwise, there was not a large amount of dead wood within the tree canopies. Branches die from time to time for a variety of reasons and no arboricultural evidence has been provided regarding the cause of this branch failure or whether there are structural features present on any of the trees in the group which give cause for concern. Generally, regular removal of dead wood, which does not require permission, ensures that this does not pose a threat.
7. Photograph No 2 is titled 'badly maintained tree' but no detail has been included defining the issues of concern. Although the tree has been crown-raised in the past with large limbs removed, it makes a positive contribution to the group within the garden and CA. Pollarding the tree will not improve its appearance and may compromise its future health and vitality.
8. The Council's arborist has made an inspection of the trees and considers the them to have reasonable form and condition and no substantive arboricultural evidence to the contrary has been submitted. During my site visit I did notice that soil levels around tree No 3 have recently been altered with roots exposed, cut and damaged. It is not clear when this took place but at the time of my site visit, the tree did not appear to be in decline. Other than this, the condition of the trees appeared good. Regarding the form of the trees, this reflects previous pruning, but they still retain good visual amenity value within the CA.
9. Photographs No 3 and 4 show examples of other conifers which have been 'topped' and severely reduced. No supporting information has been provided regarding where these trees grow, or the reasons behind their pruning. It is suggested that these images provide an example of how the trees may recover from having a 5-6m height reduction. However, the trees shown in the photographs no longer have a natural form and shape and rather than persuading me that similar pruning would benefit the yew trees', these photographs demonstrate that topping conifers is detrimental to their visual amenity value.
10. I have also considered issues of general nuisance associated with the trees including fouling to the driveway/cars by pigeon droppings and blockage of guttering by debris resulting in water damage to the property. I have no doubt that bird droppings and debris from the trees fall on cars and surfaces and this

may create a maintenance inconvenience, including the need to clean more frequently. It is also likely that even if these trees were pollarded, the issue of bird droppings from roosting birds would remain. From my experience, barriers such as canopies can be constructed to protect cars from debris and bird droppings. Installation of gutter or drain leaf-guard covers can alleviate problems associated with blockage from leaf drop. These problems are natural phenomena which go hand in hand with living in an area which is defined by mature trees and which provide an attractive place to live.

11. The pollarding of these trees would be at odds with Saved Policy E13 of the Borough of Darlington Local Plan 1997 which requires the condition and visual amenity value of TPO trees to be considered within determination of TPO applications. It would also conflict with Policy CS15 of the Darlington Core Strategy Development Plan Document 2011 which seeks to protect mature trees and biodiversity.
12. Furthermore, the lack of substantive evidence to demonstrate that these trees are unsafe or in poor condition provide inadequate justification for their pollarding.

### **Conclusion**

13. With any application to prune protected trees, a balancing exercise needs to be undertaken. The essential need for the works applied for must be weighed against the resultant loss to the visual amenity of the area. Pollarding these trees would harm the character and appearance of the CA. Insufficient justification for this course of action has been demonstrated.
14. For the reasons stated above, the appeal is dismissed.

*E Symmons*

INSPECTOR

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