

# Planning Applications Committee Agenda



**1.30 pm Wednesday, 9 June 2021**  
**Sports Hall, Dolphin Centre, Horsemarket,**  
**Darlington, DL1 5RP.**

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

1. Introductions/Attendance at Meeting
2. Appointment of Chair for the Municipal Year 2021/2022
3. Appointment of Vice Chair for the Municipal Year 2021/2022
4. To consider the times of meetings of this Committee for the Municipal Year 2021 / 2022 on the dates agreed in the Calendar of Meetings by Cabinet at Minute C97/Feb/2021
5. Declarations of Interest
6. To Approve the Minutes of the Meeting of this Committee held on 14 April 2021 (Pages 5 - 14)
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 15 - 16)
  - (a) Platform 1. Darlington Road, Middleton St George (Pages 17 - 42)
  - (b) Agricultural Land and Crematorium, West Cemetery, Carmel Road North (Pages 43 - 54)
  - (c) Dene Head Farm, Coatham Lane, Coatham Mundeville (Pages 55 - 64)

- (d) 169 North Road (Pages 65 - 74)
- (e) 199 Geneva Road, Darlington (Pages 75 - 80)
- 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 Chief Executive will report that Inspectors, appointed by the Secretary of State for the Environment, have :-

Dismissed the appeal by Mr Yousif Ameen-Ali against this Authority's decision to refuse permission for roof repairs and facade remediation including blocking up existing openings at low level, installation of secure roller shutter doors and removal of damaged roof structure, at Clayton's Yard, Darlington, DL1 1SH (20/00298/FUL) (Copy of Inspector's decision letter enclosed)

Dismissed the appeal by Mr Mark Stratford against this Authority's decision to refuse permission for Horse chestnut - pruning to part of the west facing crown; pruning to lower branches as indicated on attached information at 1 Cedar Grove, Middleton St George, Darlington, DL2 1GA (20/00578/TF) (Copy of Inspector's decision letter enclosed)

**RECOMMENDED** – That the report be received.  
(Pages 81 - 88)

## **PART III**

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

### **12. 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.

- 13. Complaints Received and Being Considered Under the Council's Approved Code of Practice as of 28 May 2021 (Exclusion Paragraph No. 7) –  
Report of the Chief Executive  
(Pages 89 - 100)
- 14. 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
- 15. Questions



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

**Tuesday, 1 June 2021**

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

**Membership**

Councillors Allen, Clarke, Cossins, Heslop, Mrs D Jones, Laing, Lee, Lister, McCollom, Sowerby, 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

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**PLANNING APPLICATIONS COMMITTEE**

Wednesday, 14 April 2021

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

**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)

**PA88 DECLARATIONS OF INTEREST**

There were no declarations of interest reported at the meeting.

**PA89 TO APPROVE THE MINUTES OF THE MEETING OF THIS COMMITTEE HELD ON 17 MARCH 2021**

**RESOLVED** – That the Minutes of this Committee held on 17 March 2021 be approved as a correct record.

**PA90 APPLICATIONS FOR PLANNING PERMISSION AND OTHER CONSENTS UNDER THE TOWN AND COUNTRY PLANNING ACT AND ASSOCIATED LEGISLATION**

A1	<p>The approval of the Local Planning Authority shall be obtained with respect to the following reserved matters prior to the commencement of the development:-</p> <ul style="list-style-type: none"> <li>(a) access</li> <li>(b) appearance</li> <li>(c) landscaping</li> <li>(d) layout</li> <li>(e) scale</li> </ul> <p>Application for approval of reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.</p> <p><b>Reason</b> - To accord with the provisions of Section 92(1) of the Town and Country Planning Act 1990.</p>
A2	<p>The development shall be begun two years from the final approval of the matters referred to in condition [1] or, in the case of approval on different dates the final approval of the last such matter to be approved.</p> <p><b>Reason</b> - To accord with the provisions of Section 92[1] of the Town and Country Planning Act 1990.</p>
A3	Implementation Limit (Three Years)

	<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>
E3	<p>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 by, the Local Planning Authority and thereafter any trees or shrubs removed, dying, severely damaged or becoming seriously diseased shall be replaced, and the landscaping scheme maintained for a period of five years to the satisfaction of the Local Planning Authority.</p> <p><b>Reason -</b> In the interests of the visual amenities of the area.</p>
PL	<p>The development hereby permitted shall be carried out in accordance with the approved plan(s) as detailed below, ^IN;</p> <p><b>Reason:</b> To define the consent.</p>

## PA91 LAND TO THE REAR OF 21 BARMPTON LANE, DARLINGTON

**20/00835/OUT** – Outline application for the erection of 2 no. bungalows with all matters reserved except for means of access.

(In making its decision, the Committee took into consideration the Planning Officer's report (previously circulated), the Council's Ecology Advisor, five letters of objection received in relation to the original application, together with two further letters of objection received in relation to the amended application, and the responses to questions asked by Member of the Applicant's Agent, who was in attendance at the meeting).

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

1. A1 Outline (Reserved matters)
2. A2 Outline (Implementation Time)
3. PL (Accordance with Plan)
  - 19004/L01 Site Location Plan
  - 19004 F01BC Site access
  - JN2052-DWG-0001E Site access
4. E3 Landscaping (Implementation)

5. Prior to the commencement of the development precise details of the internal highways layout and site access 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 highway safety.

6. Prior to the commencement of the development, precise details of in curtilage vehicle parking and secure cycle parking / storage shall be submitted and approved in writing by the Local Planning Authority. The details shall include the number, location and dimensions of all parking spaces within the development and the number, location and specifications of all cycle parking / storage and thereafter the development shall not be carried out otherwise than in complete accordance with the approved details. All parking shall be made available prior to the occupation of the dwellings hereby approved.

**REASON** – In the interests of highway safety / to encourage more sustainable modes of transport.

7. No development shall be carried out unless and until vehicle swept path analysis has been undertaken to support the movement framework for refuse and service vehicles for the internal network and, where appropriate, in respect of the off-site highway proposals, details of which shall be submitted to and approved by the Local Planning Authority.

**REASON** – In the interests of highway safety.

8. Prior to the commencement of the development precise details of a bin storage facility and location shall be submitted and approved in writing by the Local Planning Authority. The development shall not be carried out otherwise than in accordance with the approved details and shall be in place prior to the occupation of any dwellings and shall be permanently retained thereafter.

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

9. Prior to the commencement of the development, a site-specific Demolition and Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The plan[s] shall include the following, unless the Local Planning Authority dispenses with any requirements specifically and in writing:
  - a. Dust Assessment Report which assesses the dust emission magnitude, the sensitivity of the area, risk of impacts and details of the dust control measures to be put in place during the demolition and construction phases of the development. The Dust Assessment Report shall take account of the guidance contained within the Institute of Air Quality Management “Guidance on the assessment of dust from demolition and construction” February 2014;

b. Methods for controlling noise and vibration during the demolition and construction phase and shall take account of the guidance contained within BS5228 "Code of Practice for noise and vibration control on construction and open sites" 2009.

c. Construction Traffic Routes, including parking areas for staff and visitors.

d. Details of wheel washing.

e. Road Maintenance.

f. Warning signage.

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

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

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

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

11. Prior to the occupation of the development hereby approved, details of boundary treatment shall be submitted to, and approved in writing by, the Local Planning Authority and thereafter the development shall be carried out in accordance with the approved details.

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

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

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

13. Development shall not commence until a detailed scheme for the disposal of foul and surface water from the development hereby approved has been submitted to and approved in writing by the Local Planning Authority in consultation with Northumbrian Water. Thereafter the development shall take place in accordance with the approved details.

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

14. Prior to the commencement of the development and any site investigation



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

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

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

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

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

dispenses with the requirement specifically and in writing.

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

17. 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.

18. The Phase 3 Remediation and Verification works shall be conducted, supervised and documented by a "suitably competent person(s)" and in accordance with the agreed Phase 3 Remediation and Verification Strategy. No alterations to the agreed Remediation and Verification Strategy or associated works shall be carried out without the prior written agreement of the Local Planning Authority.

A Phase 4 Verification and Completion Report shall be compiled and reported by a "suitably competent person(s)", documenting the purpose, objectives, investigation and risk assessment findings, remediation methodologies, validation results and post remediation monitoring carried out to demonstrate the completeness and effectiveness of all agreed remediation works conducted. The Phase 4 Verification and Completion Report shall be submitted and agreed in writing with the Local Planning Authority within 2-months of completion of the development or at a time agreed unless the Local Planning Authority dispenses with the requirement specifically and in writing.

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

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

19. The mitigation measures set out in the Ecological Impact Assessment prepared by Naturally Wild (PP-20-04 August 2020) shall be implemented in full. In addition, no development shall take place until precise details of a landscaping scheme to mitigate for the loss of habitat on the site and secure ecological net gain, and for the provision of bat roosting and bird nesting opportunities on the site have been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved scheme shall be implemented in full prior to first occupation of any of the dwellings on site and maintained for the lifetime of the development.

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

20. Prior to the commencement of the development, a detailed survey of trees / hedgerows to be affected by the development (both within the site and adjoining its boundary) shall be carried out. The survey shall include the identification of measures to protect existing retained trees in order to protect them from damage by compaction, severance and material spillage, in accordance with BS5837, and shall be submitted to, and approved in writing by, the Local Planning Authority. No demolition or site clearance shall be commenced until the agreed measures are in place and have been inspected by the Council's Arboricultural Officer. The approved measures shall remain in place through the carrying out of this planning permission. Notwithstanding the above approved specification, none of the following activities shall take place within the segregated protection zones in the area of the trees:

- a) The raising or lowering of levels in relation to existing ground levels;
- b) Cutting of roots, digging of trenches or removal of soil;
- c) Erection of temporary buildings, roads or carrying out of any engineering operations;
- d) Lighting of fires;
- e) Driving of vehicles or storage of materials and equipment;

**REASON** – To ensure a maximum level of protection in order to safeguard the well-being of the trees on the site and in the interest of the visual amenities of the area.

21. Prior to or at the same time as any Reserved Matters application, details of parking provision for No. 21 Barmpton Lane, shall be submitted to and approved in writing by, the Local Planning Authority. The parking shall be available prior to the occupation of the dwellings hereby approved and retained thereafter.

**REASON** – In the interests of highway safety.

22. Prior to the occupation of the dwellings hereby approved, the acoustic fence to the boundaries of the proposed access driveway adjoining 21 and 23A Barmpton Lane, and the bricking up of the ground floor window to the side elevation of 21 Barmpton Lane, as shown on the indicative site plan 19004 F01 E Rev D shall be in place and shall be retained as such thereafter.

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

**PA92 6 EVESHAM GROVE, HURWORTH**

**21/00199/FUL** – Removal of hedge and erection of 1.9m fence to rear of property (Retrospective Application).

(In making its decision, the Committee took into consideration the Planning Officer's report (previously circulated), three letters of objection received, and one further letter of objection received subsequent to the Agenda and Papers for the meeting being circulated).

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

1. Notwithstanding the details shown on the approved plan detailed below, the timber fencing shall remain dark oak in colour.

Photo & Fencing details No. AOL Mail (1) dated 17/02/2021

**REASON:** In order that the Local Planning Authority may be satisfied as to the details of the development and to ensure the development is carried out in accordance with the planning permission.

**PA93 UNIT 1, WEIR STREET**

**21/00128/CU** – Change of Use from storage and distribution (Use Class B8) to car showroom.

(In making its decision, the Committee took into consideration the Planning Officer's report (previously circulated), the views of the Council's Highways Engineer and Environmental Health Officer, three letters of objection received, and one further observation received subsequent to the Agenda and Papers for the meeting being circulated).

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

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

a. Drawing Number 20259.P001 – Existing Layout

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

3. The premises shall be used for car showroom purposes only and for no other purpose or purposes whatsoever without express planning consent of the local planning authority.

**REASON** – To enable the Council to maintain control over the use of the site to safeguard the character and amenities of the site and the neighbouring residential properties in the locality.

4. The use hereby permitted, including deliveries to and from the site, shall not be carried on outside the hours 0800 to 1800 Mondays to Friday; 1000 to 1600 Saturdays with no working on a Sunday or Bank Holiday

**REASON** - In order to safeguard the amenities of neighbouring residential properties.

5. The display or sale of vehicles and the carrying out of maintenance or any other works to any vehicle shall not take within or on the land and buildings edged blue on the submitted Site Location Plans – Drawing Numbers 20259.OS01 and 20259.OS02 Rev A.

**REASON** – To safeguard the amenities of neighbouring residential properties.

6. No plant, equipment or machinery shall be installed as part of the use hereby approved, at any time, without the prior written approval from the Local Planning Authority. Where plant, equipment or machinery is proposed, details shall be submitted in writing to the Local Planning Authority prior to its installation and must include the type of plant, equipment or machinery to be installed and the proposed locations, and if deemed necessary by the Local Planning Authority appropriate noise mitigation measures shall be implemented prior to the plant, equipment or machinery first becoming operational and thereafter shall be retained and maintained for the life of the use.

**REASON** - In order to safeguard the amenities of neighbouring residential properties.

## **PA94 NOTIFICATION OF APPEALS**

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

Mr Mark Stratford had appealed against this Authority's decision to refuse consent for works to 1 No. Horse Chestnut tree protected under Tree Preservation Order (No.7) 1980 - Pruning to part of west facing crown; pruning to lower branches at 1

Cedar Grove, Middleton St George, Darlington DL2 1GA (20/00578/TF)

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

**PA95 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.

**PA96 COMPLAINTS RECEIVED AND BEING CONSIDERED UNDER THE COUNCIL'S APPROVED CODE OF PRACTICE AS OF 1 APRIL 2021 (EXCLUSION PARAGRAPH NO. 7)**

Pursuant to Minute PA87/March/2021, the Director of Economic Growth and Neighbourhood Services submitted a report (previously circulated) detailing breaches of planning regulations investigated by this Council, as at 1 April 2021.

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

## **BOROUGH OF DARLINGTON**

### **PLANNING APPLICATIONS COMMITTEE**

**Committee Date – 9 June 2021**

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

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

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

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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>
Platform 1. Darlington Road, Middleton St George	21/00223/OUT
Agricultural Land and Crematorium, West Cemetery, Carmel Road North	21/00271/DC
Dene Head Farm, Coatham Lane, Coatham Mundeville	21/00115/FUL
169 North Road	21/00247/FUL
199 Geneva Road, Darlington	21/00319/FUL

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## DARLINGTON BOROUGH COUNCIL

### PLANNING APPLICATIONS COMMITTEE

**COMMITTEE DATE:** 9 June 2021

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<b>APPLICATION REF. NO:</b>	21/00223/OUT
<b>STATUTORY DECISION DATE:</b>	29 <sup>th</sup> April 2021 (Extension of time 10 <sup>th</sup> June 2021)
<b>WARD/PARISH:</b>	SADBERGE & MIDDLETON ST GEORGE
<b>LOCATION:</b>	Platform 1 Darlington Road MIDDLETON ST GEORGE DARLINGTON DL2 1JT
<b>DESCRIPTION:</b>	Outline application with details of access, appearance, layout, and scale (landscaping reserved for future consideration) for the conversion, partial demolition, and rear extension of public house (Sui Generis) to form convenience store (Use Class E) with car parking and associated works
<b>APPLICANT:</b>	PH Land & Developments

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

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#### APPLICATION AND SITE DESCRIPTION

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=QPASK8FPGKM00>

1. The application site measures some 0.24ha and consists of the Platform 1 public house building which is currently closed and grounds situated to the northern end of Middleton St George, and on the corner of Darlington Road and Sadberge Road. To the south and east of the site is public highway, to the west is existing housing and to the north is the route of the former Darlington and Stockton

Railway Line and Public Bridleway Low Dinsdale 18. The site is part of Historic England's *Stockton & Darlington Railway Heritage Action Zone*.

2. Planning permission is sought for the conversion, partial demolition, and extension of the building to provide a convenience goods retail store. This would involve the following:
  - Removal of more recent extensions to the building;
  - Undertaking internal works to accommodate the conversion;
  - Erection of an extension to the rear of the building to provide a sales area and servicing floorspace;
  - The provision within the ground floor of the building of some 272sq.m of retail floor space (gross internal ground floor area including back of house and bakery 416 sq. m);
  - Customer access from the existing front door of the building;
  - Utilisation of the existing vehicular access;
  - Provision of a delivery and service area to the rear of the building accessed by a dedicated delivery bay which would also act as a screened area for external plant;
  - Reconfiguration of the existing car park to provide 17 parking spaces plus two disabled parking spaces;
  - Provision of landscaping to the rear of the car park to include interpretation boards and benches;
3. The first floor of the building would remain unchanged and would be ancillary to the main retail use of the building.
4. The application states that the store will provide a range of good quality and fresh convenience goods including fruit and vegetables, cold and cooked meats and fish and tinned goods, together with daily deliveries of bakery goods; The store will have a range of cooking products (including utensils) and will sell alcoholic and non-alcoholic drinks within its opening hours. The store will also have a takeaway coffee machine and sell (freshly delivered) sandwiches and snacks.
5. The application goes on to state that if the application is approved the store will be occupied by a well-known national food store retailer, confirmed to be Sainsbury's. The applicant's have indicated that the Council can therefore be assured that there is a commitment to the viable operation of the building as a facility for the local community into the foreseeable future. The application states that the form and nature of the store has been successfully run in numerous locations by the operator across the country and that they are confident that the format will benefit the residents of the village.
6. The application is submitted in outline with details of access, appearance, layout, and scale included within the application, with landscaping reserved for future consideration.

7. A Statement of Community Involvement has also been submitted taking into account the advice set out in the National Planning Policy Framework and the Revised Statement Of Community Involvement (2018) providing residents the opportunity to engage with the with the applicants representatives prior to submitting the planning application. There was both support and opposition to the development, however the main issues raised, which were the loss of the public house and the impact on existing retail provision, were addressed within the supporting information contained within the submitted application. The proposed development was reviewed in the context of all comments received.

## **MAIN PLANNING ISSUES**

8. The main issues for consideration are:
  - (a) Principle of the proposed development;
  - (b) Asset of Community Value;
  - (c) Impact on non-designated heritage assets;
  - (d) Impact on visual amenity;
  - (e) Impact on residential amenity;
  - (f) Impact on trees;
  - (g) Highway Safety;
  - (h) Sustainable Transport;
  - (i) Impact on Public Rights of Way;
  - (j) Anti-social behaviour;
  - (k) Other material planning considerations.

## **PLANNING POLICIES**

9. Relevant Local Plan policies include those seeking to ensure that new development:
  - Is located inside the development limits as defined by the Borough of Darlington Local Plan (E2 and CS1);
  - 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 the hierarchy of centres and safeguards and enhances the role of the district and local centres in providing food shopping and a range of other shops, leisure uses (including public houses and social clubs) and services to meet people's day-to-day needs in accessible locations; where outside of these locations development (CS9);
  - Protects, and where appropriate enhances the distinctive character of the borough's built, historic, natural, and environmental townscapes (CS14);
  - Ensures no net loss of existing biodiversity value by protecting and enhancing the priority habitats, biodiversity, and the geological network through the design of new development, including public spaces and landscaping (CS15);
  - protects and, where possible improves environmental resources whilst ensuring that there is no detrimental impact on the environment, general amenity, and the health and safety of the community (CS16);

- Takes full account of trees, woodlands, and hedgerows on and adjacent to the site and wherever possible avoids the need to remove trees and hedgerows and provide for their successful retention and protection during development (E12);
- Incorporates appropriate hard and soft landscaping which has regard to the setting of the development in its form, design, and plant species, and which enhances the appearance of the development and its setting (E14).

10. Also of limited weight, are the following emerging Local Plan policies:

- SH 1 – Settlement Hierarchy
- TC 4 – District and Local Centres
- TC 5 – Retail Impact Assessment Threshold
- ENV 1 – Protecting, Enhancing and Promoting Historic Environment
- ENV 2 - Stockton and Darlington Railway
- IN 10 – Supporting the Delivery of Community and Social Infrastructure

## **RESULTS OF TECHNICAL CONSULTATION**

11. No objections in principle have been raised by the Council's Highways, Environmental Health Officer, Public Rights Of Way Officer or Transport Policy Officer or the Historic Environment Record Officer subject to conditions. The Conservation Officer has objected to the proposal on the grounds of impact on non-designated Heritage Assets and the Heritage Action Zone.

## **RESULTS OF PUBLICITY AND NOTIFICATION**

12. Middleton St George Parish Council has objected to the proposal on the following grounds:

- Loss of the public house (there is a large amount of community support for this to be retained, and run as a community pub);
- the impact of the proposals on the non-designated heritage asset;
- Contrary to Middleton St George Neighbourhood Plan;
- Contrary to existing and emerging policy.

13. Friends of Darlington and Stockton Railway has objected to the proposal on the following grounds:

- Loss of public house;
- Conflict with local and national policy;
- Impact on heritage assets;
- Lack of detail in application;
- Retention of public house will ensure its enhancement as a heritage asset;
- Out-of-centre location and should be subject to the sequential test;
- Adverse impact on other shops within the village;
- Impact assessment should be undertaken.

14. Council for the Protection of Rural England (CPRE) has objected to the proposal on the following grounds:

- Development of site needs to be in accord with the Heritage significance of the area, the significance of the Stockton and Darlington Railway Heritage Action Zone and this non-designated heritage asset;
- Contrary to policy.

15. Campaign for Real Ale (CAMRA) has objected to the proposal on the following grounds:

- Loss of valuable community facility in the village;
- In recent years the public house has suffered a lack of proper investment and maintenance;
- Local community group have a viable proposal to buy and run the pub as a community asset;
- Pub in the village centre, Havelock Arms, concentrates on wet sales, and can offer none of the family, food, rail heritage and community benefits that can be provided at the application site.

16. Save The Fighting Cocks Community Group has objected to the proposal on the following grounds:

- Building has historic links to the Stockton and Darlington Railway and proposal would not retain its character; Impact on non-designated heritage assets;
- Heritage Statement is inadequate;
- Application does not address the nearby footpath and bridleway;
- There is a need for a public house;
- Contrary to local and national policy;
- The group formed last year, intend to offer to purchase the property which will be financed by a share issue to residents and others interested together with grants and loans. The proposal is viable and there are well-advanced plans to proceed;
- Building is an Asset of Community Value and this has not been addressed within the application;
- Village is already catered for with two other convenience stores;
- Impact on visual amenity;
- No details of proposed advertising on building;
- Plans not sufficiently detailed;
- Impact on residential amenity;
- Impact on highway safety;
- Claim of creation of jobs cannot be guaranteed;

17. At the time of writing, **149 letters of objection have been received**. The main issues raised relevant to this application are:

- Impact on other businesses within the village;

- Sufficient provision elsewhere in the village;
- Increased traffic;
- Highway safety;
- Noise;
- Air pollution;
- Loss of valued public house;
- No other pub venues that serve meals in the village;
- Proposal to make it a community pub will be more positive for the village;
- Supermarket will attract youths who will hang around the area and anti-social behaviour;
- Litter;
- Railway heritage history of the building will be lost;
- Impact on heritage assets;
- Local community group have a viable proposal to buy and run the pub as a community asset;
- Large chain store not needed;
- Impact on visual amenity;
- Impact on bridleway used by many residents;

18. At the time of writing, **138 letters of support have been received**. The main issues relevant to this application are:

- Another shop is needed with adequate parking;
- Other two convenience stores are not fit for purpose;
- Residents in this area of the village will benefit from a new convenience store;
- Benefit for people who don't drive;
- Will not impact on other shops within the village;
- Will bring jobs to the village;
- Proposal maintains character of building and a commitment to make more of its heritage;
- Public House never seemed to work and was not viable;
- Public House was noisy and created a fear of crime and anti-social behaviour;
- Building will become run down and derelict;
- Public House was rarely used and that contributed to its downfall, and there is no evidence to suggest it will be able to survive as a pub in the future; Delaying the inevitable;
- Building has become an eyesore over the years;
- Many examples of similar empty public houses being turned into successful convenience stores throughout the country;
- Would remain vacant for significant period if the use is not changed;
- Proposal is visually pleasing.

19. Several complaints have been received by residents on the grounds that a proportion of the letters of support have come from residents outside of the village. Several complaints have also been received that many households have duplicated objections (i.e. in some cases the same letter coming from each

member of a particular household). Whilst these concerns are noted, the planning system allows any member of the public or community group to comment on any planning application as planning operates in the public interest. The material planning issues raised in all responses, are considered, rather than the focus being on the number of letters submitted from each group.

## **PLANNING ISSUES/ANALYSIS**

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

20. Planning law (S.38(6) of the Planning and Compulsory Purchase Act 2004) requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework (2019) supports the plan led system providing that planning decisions should be “genuinely plan-led” (NPPF para 15).
21. Policy CS1 of the Core Strategy (2011) supports development, within development limits, that supports the vitality and viability of the Borough’s villages, their services, or the rural economy, particularly in the larger villages including Middleton St. George. This approach has been carried forward into the emerging Local Plan in which Policy SH 1 defines Middleton St. George as a Service Village. Service Villages should offer a range of services and facilities, such as convenience stores, that meet local needs. While the loss of the public house is regrettable, the development of a convenience store does comply with the broad objectives of Policy CS1 and emerging Policy SH 1.
22. Furthermore, Policy CS9 of the Core Strategy defines Middleton St. George as a local centre. The role of local centres is to provide food shopping and a range of other shops, leisure uses (including public houses and social clubs) and services to meet people’s day-to-day needs in accessible locations. While Middleton St. George does have a collection of shops/services based around the Square, it should also be noted that the Core Strategy does not define a geographical limit to the local centre of Middleton St George. Therefore, as the proposed convenience store is within the defined settlement limit of Middleton St. George, and is consistent with the function of the local centre, it is compliant Policy CS9 and is acceptable in principle.
23. Middleton St. George is not classified as district or local centre within the emerging Local Plan but, as previously mentioned, is classified as a service village. Therefore, as stated, the proposed development is acceptable in principle as it is within the development limits of a Service Village.
24. Policy CS9 states that proposed convenience stores within district and local centres should be limited to maximum individual sizes of around 400m<sup>2</sup> gross floorspace. The proposed development would have a sales area of the new store would be some 272m<sup>2</sup> and the gross internal ground floor area would be 416m<sup>2</sup> and as such complies with this policy requirement.

25. In principle, the conversion of the public house to a convenience store in this location is acceptable. The proposal accords with Policies CS1 and CS9 of the Core Strategy and policy E2 of the Local Plan.
26. Whilst there is no requirement to do so, the applicant has provided some information in terms of expected impact of the convenience store (in terms of its general trading characteristics) on other local stores, to assist in the determination of the application. This states the following:

*'The average turnover of local stores (figures from Mintel) is that they would generate approximately £9,732 per sq. m of net trading area per annum (at 2018 prices). So, on those assumptions proposed, the store would anticipate a turnover somewhere in the region of £2.8m per annum. The main role of the store would be what is termed 'top up' shopping. That is basically not the main or weekly shop but the more daily smaller scale purchases that are made throughout the week. The feedback forms received as part of the public consultation exercise frequently identified the proposed convenience store as an alternative to travelling to the Morrison's at Morton Park, the nearest 'big four' supermarket to Middleton St George. The Morrison's at Morton Park is in an out of centre location, notwithstanding, the Darlington Retail and Town Centre Study Update 2017 (Table 5) identified a convenience goods turnover for this store of £49.5m (adjusted to 2018 prices using Experian Retail Planner Briefing Note 17) and trading £12.2m above benchmark. Therefore – even if an impact assessment was required – the conclusion would be that a large proportion of the turnover which the proposed convenience store would generate would be drawn from an out of centre store performing above benchmark and that the residual trade draw generated by the proposed convenience store would be nowhere near affecting in impact terms the supermarkets in a defined centre such as Darlington or indeed any other centre'.*

*'The general catchment area of the store would normally be a five to ten-minute drive-time which, for practical purposes, would be Middleton St George and any adjacent villages. The number of households circulated leaflets in Middleton St George is currently around 2,200. With this number in mind and taking account of the additional housing proposed to be developed in Middleton St George through the Local Plan, the total population within the village itself will be ultimately somewhere between 5,500 and 6,000 people. The operator is satisfied that there is more than sufficient population within the village and the wider catchment area to sustain the viable running of the store now and in the future'.*

### **Loss of the public house**

27. Policy IN 10 of emerging local plan applies to this development since pubs are considered a community facility in the emerging local plan. However, it should be noted that as an emerging policy subject to multiple proposed major modifications only limited weight can yet be attributed to emerging Policy IN10.



28. In its current pre-modification condition emerging Policy IN10(B) states that the loss of any community facilities will only be permitted if it can be demonstrated that:

- i. There are sufficient other suitable alternative community facilities either within the neighbourhood or accessible nearby; or
- ii. The community facility is no longer needed; and
- iii. There is no management and funding resources within the local community or that could be generated by partial redevelopment that could sustain a facility that meets identified rural needs.

29. In this case, IN10(B)(i) applies rather than IN10(B)(ii) & (iii) since it can be demonstrated that there are sufficient other suitable alternative community facilities either within the neighbourhood or accessible nearby. Within Middleton St. George Neighbourhood Area there are at least two other public houses, including the Havelock Arms in Middleton St. George, and the Oak Tree in Oak Tree. There is also the Devonport in Middleton One Row which operates as a hotel with a pub/restaurant. Given this information it is considered that the loss of the Platform One public house is permissible under emerging Policy IN10 in its present form. However, it must be stressed that only limited weight can yet be attributed to emerging Policy IN10.

### **Emerging Middleton St. George Neighbourhood Plan**

30. Darlington Borough Council has received a proposed neighbourhood development plan, along with accompanying supporting information, from Middleton St. George Parish Council. The proposed neighbourhood development plan is currently undergoing a statutory check under Schedule 4B of the Town and Country Planning Act 1990 prior to, depending on the result of the statutory check, publicising the plan under Regulation 16 of the Neighbourhood Planning (General) Regulations 2012 with a view to then making the neighbourhood plan available for independent examination. At this stage of the neighbourhood planning process only limited weight can be given to the policies in the neighbourhood plan prior to the completion of the Regulation 16 consultation.

### **b) Asset of Community Value**

31. The Public House was listed as an Asset of Community Value (ACV) under provisions contained in the Localism Act 2011 in April 2020 having been nominated by Middleton St George Parish Council. It was listed on the basis that the pub was considered to further the social wellbeing and interests of the local community and it was realistic that the community use of the building could continue.

32. The impact of the building or land being nominated as an ACV is that it cannot then be disposed of (there are exceptions) without the passing of a moratorium period allowing community groups to bid for the asset, the purpose of the

legislation being to strengthen the ability of the local community to retain and protect a local asset that has social value.

33. Whilst ultimately this listing cannot prevent the owner selling the asset to whomever they want, at whatever price they want, it does offer an opportunity for community groups to make a bid for the asset in advance of any agreement to sell to a third party. The Council has no role in the sale of the property; the owner simply must notify the Council of its intention to sell and the Council must notify any interested group and publicise it in the locality. The Council must also notify the owner of any intentions to bid and any extensions to the moratorium period.
34. In accordance with the above requirements, the opportunity for proposals to be put forward for the viable operation of the public house and potential sale of the freehold, was given within a moratorium period that ended in November 2020. No proposals were put forward within the moratorium period and therefore the landowner is permitted to proceed with the sale of the building. The ACV process having been completed, this planning application should be considered and determined on the basis of the compliance with relevant development plan policies and other material planning considerations. In this regard, the absence of any interest being formally submitted within the moratorium period is a material consideration, demonstrating the lack of future viability of the existing building as a public house.
35. In addition to the above, within the supporting information for the planning application, the applicant has put forward some information on the difficulties experienced in running the Platform 1 as a viable pub operation and Enterprise Inns (who own the building) has decided that the pub will not re-open now that the Covid 19 restrictions have been lifted. The supporting information states that since 2008 there have been 14 tenancy agreements of the premises – with the last long-term agreement dated September 2018 being applied to be terminated only eight months later on viability grounds. There have been extensive attempts to market the building without success; poor sales figures and there is strong competition from other pubs in Middleton St George. There has thus been no stability and continuity in terms of the operation of the building even before Covid19.
36. The Government has produced non-statutory guidance of the Community Right to Bid. Paragraph 2.20 sets out that *'the fact that the site is listed may affect planning decisions – it is open to the Local Planning Authority to decide whether listing as an asset of community value is a material consideration if an application for change of use is submitted, considering all the circumstances of the case.'*
37. The above guidance identifies the primacy of planning policy in determining uses for a site. This appears to be directed at encouraging Local Authorities to consider the ACV process as part of an assessment of community buildings under local policies, which in this case is Policy CS9 (District and Local Centres and Local Shops and Services). The ACV listing is therefore a material

consideration to be taken into account alongside assessment of impact of the loss of the Public House in the context of Policy CS9.

38. Core Strategy Policy CS9 (District and Local Centres and Local Shops and Services) states that individual local shops, leisure uses (including public houses and social clubs) and services and small neighbourhood clusters of them which meet the day-to-day needs of nearby residents without the need to use a car will be protected and promoted. Paragraph 70 of the NPPF also seeks to guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs. As has been addressed above, the proposed change of use and loss of the existing facility is considered to comply with existing and emerging policy and it is not considered that the building being listed as an Asset of Community Value is sufficient to set aside the policy presumption in favour of the proposed development especially as the intended use would also provide a service to the local community.

**c) Impact on non-designated heritage assets;**

39. The historic Public House, well known as the Fighting Cocks, is identified on the Durham County Council Historic Environment Record as a non-designated heritage asset. As is noted in the submitted Heritage Statement the Pub is associated to the historic Stockton and Darlington Railway(S&DR) opened in 1825.
40. Non-designated heritage assets are buildings, monuments, sites, places, areas, or landscapes identified by plan-making bodies as having a degree of heritage significance meriting consideration in planning decisions, but which do not meet the criteria for designated heritage assets.
41. It is noted that the building has seen historic alteration and additions, however the phasing of development is evident, and the original plan form and development can still clearly be seen. Based upon archival details and submitted images, the building has retained a good amount of historic fabric and the plan form while having been changed has retained the quality of a 19<sup>th</sup> century Public House.
42. The site forms a part of the current Heritage Action Zone for the Stockton and Darlington Railway (S&DR). The project is focused on realising the significance and potential of the historic line and providing research and possible designations to better understand and recognised that significance. Works are currently being undertaken to assess the area including the site and associated land of the Fighting Cocks for designation as a Conservation Area. As part of this work, Historic England were approached regarding the potential for the building to become listed. They confirmed as part of this conversation that the building does not meet the criteria for listing.
43. The Heritage Statement submitted in support of the application confirms the connection between the building and the Stockton/Darlington railway line and its role as a place where people could buy tickets for the trains on the railway line. It

sets out that there is little within the building itself or on its exterior that is of heritage value in physical terms. There is however a wall to the rear of the building which was part of a coal depot used for the trains. With the recent designation of the Stockton/Darlington railway line route as a Heritage Action Zone (HAZ), the applicant and store operator were mindful of the need to comply with the Council's emerging policy for new development in the HAZ. This has resulted in the wall to the coal depot being retained and proposals being made for site interpretation boards both on the store (the elevation onto Sadberge Road) and close to the railway line (in the open area to the rear of the store).

44. Also proposed is a small seating area within the landscaped area to the rear of the store for those who would potentially be walking the line of the railway on the footpath. The applicant has suggested that the fact that the store will have its own take away coffee machine and sell sandwiches and snacks would give the opportunity for people to stop along the walk and buy refreshments from the store to provide a benefit to the local community.
45. The Council's Conservation Officer has objected to the proposal and considers that the proposals would have a harmful impact on the significance and character of the historic asset. The Conservation Officer also notes that he does not agree that the proposals would enhance the significance of the asset and that the proposals would have a harmful impact on the setting of the S&DR. While the building is a non-designated asset, with the connection to the S&DR he considers the building is of high significance. Whilst the Conservation Officer recognises that the building has been altered, he does consider that it has retained its plan form and there are details both internally and externally which shows its character. He also considers that the fundamental change of use would equally have a significant impact upon the significance of the building. The Fighting Cocks played an important part, as noted, in the provision of shelter, refreshment and hospitality for passengers and those attending the depot. It has been in continuous use since its inception retaining the strong historic tie. The Conservation Officer considers that the change of use would see this entirely removed and eroded.
46. These comments have been considered carefully and further discussions have been undertaken with the applicants Heritage Consultant. It should be noted that as the building is not listed (and it has been confirmed by Historic England that it is not worthy of being listed) the Local Planning Authority has no control over any internal alterations to the property. It should also be noted that, being an unlisted building, it is not the goal of either the Heritage Action Zone or its status as a non-designated heritage asset, for the building to retain its original use, its acceptability or otherwise in that context is a consideration against the policy context which is undertaken earlier in this report. Rather, the issue to be considered is whether the change of use being considered is being proposed in a sympathetic manner and also in terms of how it affects the relationship between the former public house and the railway.
47. Paragraph 197 of the NPPF states: *'The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly*

*affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.'*

48. The NPPF states that planning decisions should be based on the significance of the heritage asset, and that the level of detail supplied by an applicant should be proportionate to the importance of the asset and should be no more than sufficient to review the potential impact of the proposal upon the significance of that asset. This report fulfils this requirement by providing an assessment of the study site and the impact of proposed development upon it.
49. The report sets out the following:
- All architectural elements identified of interest will be retained in-situ;
  - The value of the buildings to the former route of the S&DR is not disputed;
  - The external elements of this currently vacant building will be retained and enhanced;
  - Signage will be sympathetic to the buildings historic character;
  - The extant stone wall of the former adjacent coal depot will be retained as this holds evidential value as to the functionality of the S&DR, and its retention provides a visual link between Platform 1 and the railway.
  - The applicant intends to provide outdoor seating for walkers, interpretation panels, and aims to become an important stopping point along the original route of the S&D, symbolic of Platform 1's original purpose.
  - Overall, the proposed change of use and internal alterations will result in the enhancement and re-use of this non-designated heritage asset.
50. The report concludes that the proposal will be commensurate with the significance of this non-designated Heritage Asset. It also concludes that the designation of a Heritage Action Zone in this area acknowledges the heritage significance of the study site in relation to the former S&DR. The applicant fully recognises this and is keen to retain and enhance the site's significance through the interpretation measures set out earlier in this section. Consequently, the report sets out that the proposed development complies with the requirements of the Planning (Listed Buildings and Conservation Areas) Act, the policy objectives of the NPPF, and local planning policy.
51. Overall, taking into account the above and acknowledging that as a non-designated heritage asset it does not have statutory/legislative protection, it does fall under national and local policy considerations. It is noted that in many objections that its importance to the railway is seen as globally significant however in this context, it does not have the status of a World Heritage Site. Several objections refer to the loss of character to the building internally however the building is not listed, and the LPA has no control over any internal alterations.
52. The NPPF requires Local Planning Authorities to consider the effect of an application on the significance of a non-designated Heritage Asset. In this case, the proposal is sympathetic to the character of the building, proposing minimal external changes, with additions that are clearly distinguishable from the original

building. Signage is proposed to be included in a sympathetic manner, and interpretation panels and a seating area is to be provided to reflect the original purpose of the building and its links to the S&DR and a landscaping scheme will enhance the setting of the building given its position within the Heritage Action Zone. Overall, the proposal is considered to be acceptable in respect of its impact on this non-designated heritage asset and the Heritage Action Zone, providing a range of benefits in respect of this vacant and neglected building, the main benefit in heritage terms being the retention of this non-designated heritage asset but also, and in accord with the aims of the HAZ, provision of landscaping, interpretation enhancements and facilities for users, symbolic of Platform 1's original purpose. The proposal complies with Policy CS14 in this respect.

53. Additionally, some weight can be given to policies in the emerging local plan. Emerging Policy ENV 1 states that proposals that would remove, harm, or undermine the significance of a non-designated heritage asset will only be permitted where the benefits are considered to outweigh the harm to the character of the local area. Proposals must protect and enhance the significance of a non-designated heritage asset, including its setting, through good design. Policy ENV2 of the emerging Local Plan should also be considered. It states that proposals which conserve and enhance elements which contribute to the significance of the Stockton and Darlington Railway, and its setting will be supported. In the context of the above, the proposal is considered to comply with these emerging policies.

### **Below Ground impacts**

54. An archaeological desk-based assessment has been submitted in support of the application. This has found that there is limited potential on the site for below ground archaeological remains, except for those relating to potential remains from the late nineteenth century workers cottages in the south west area of the site.
55. The Historic Environment Record Officer considers that overall, there is some potential for the works to impact below ground archaeological remains of the cottages and that whilst they are only of local significance, they are still of archaeological interest. Accordingly, a watching brief is recommended, which can be secured by planning condition requiring a Written Scheme of Investigation and subsequent recording / archiving. Subject to this, the Historic Environment Record Officer has raised no objections and the proposal accords with policy CS14 in this regard.

### **d) Impact on visual amenity**

56. Being a change of use, with the retention of the majority of the existing building, save the removal of some more recent additions to the building which are of no particular interest, the proposal involves the retention of the existing public house facades facing onto the public highway with a programme of repair and redecoration, and retains the character and architectural features of the building, including the retention of original doors and window openings. Also retained is

the existing stone wall of the former adjacent coal depot as this holds evidential value as to the functionality of the S&D, and its retention provides a visual link.

57. The proposal also involves an extension to the rear of the building to provide sales area and servicing floorspace. This would be of a more contemporary nature, of brick construction with a parapet detail, and in this respect, it is considered that this allows a clear distinction between the original building and this new addition, whilst being seen in the context of the existing building. Timber fencing would be included to the rear servicing area.
58. A landscaping scheme would be submitted as part of a later Reserved Matters application, however the proposal involves the retention of several existing trees, and an indicative scheme shows the planting of several replacement trees within the rear area that would house benches and interpretation boards.
59. Overall, the proposal involves the retention of this existing building, supplemented by a programme of repair and redecoration. The design of the scheme is sympathetic to the character of the building and the proposal will not impact unduly on the street scene in which the building is located. A landscaping scheme will further enhance the site and create an improved link to the nearby bridleway. Planning conditions are recommended to secure submission and agreement of external materials (to include the parapet detail) to the extension and subject to this, the proposal is considered acceptable in the context of policies CS2 and CS14.

**e) Impact on residential amenity**

60. The site sits adjacent to residential properties with Cheltenham Court and beyond that St George's Gate to the west, older properties on Sadberge Road to the east, and beyond that the recently constructed Storey Homes / Miller Homes site accessed from Sadberge Road and further to the south, properties along Harper Terrace, Station Terrace and Palm Tree Villas.
61. The application states that the opening hours of the store would be 7am to 11pm and the store would employ up to 20 people on a full and part time basis from the local area.
62. Deliveries to the store would be taken in the main delivery and servicing area, which would be situated to the rear of the sales area and accessed by a dedicated delivery access bay. The plant serving the store would be situated to the rear. This location would allow the servicing and plant to be screened by the proposed building to mitigate any noise impacts to residential properties.
63. Deliveries would take place within the opening hours numbering between four and six deliveries per day. The Environmental Health Officer considers that appropriate times for deliveries would be between 7am and 9pm and a condition is recommended to restrict deliveries to these hours to protect the amenity of nearby residential dwellings.

64. The applicant has had discussions with the Council's Environmental Health Officer, and it has been confirmed that emissions from the rear plant serving the store are likely to be acceptable. A planning condition is recommended to secure submission and agreement of specific details of external plant proposed, and for this to be installed prior to the use of the premises as a convenience store and maintained as such thereafter.
65. As lighting is proposed as part of the change of use, a planning condition is recommended to secure submission and agreement of the specifications and position of lighting prior to the first use of the building and to secure its retention in the approved manner.
66. Taking into account its permitted use as a public house, which could have customers late at night and patrons sitting outside of the property to eat and drink, subject to the above mitigation, the proposed impacts on nearby residential properties are considered to be acceptable.
67. If planning permission is granted, the applicant confirms that the work associated with the change of use is expected to take some six months to complete and the operator will likely take occupation within around nine months from the planning decision being made. It is recommended that a planning condition be attached to any permission to secure submission and agreement of a Construction Management Plan to ensure that any construction impacts are controlled and minimised.
68. Subject to the above controls, the proposed development is acceptable in respect of its impact on the residential amenities of nearby properties and accords with Policy CS16 in this regard.

**f) Impact on trees**

69. One semi-mature Ash tree, situated to the northern edge of the car park beside the existing pub garden, is proposed for removal together with several shrubs. A report from an independent Arboricultural Consultant was submitted in support of the application and this confirms that the tree is currently in a poor condition due to infection by ash dieback disease and is not worthy of retention.
70. The remaining early mature trees within the site, including a Sycamore, Pear and Leyland Cypress, would be retained. The report recommends that these trees are surveyed, and tree protection measures put in place during the construction period to ensure their retention and such details can be secured by planning condition.
71. The proposal involves the planting of several trees to the rear of the car park, and these are shown indicatively on the proposed site layout plan, the details of which would be the subject of a future reserved matters application to cover the overall landscaping scheme for the development.



72. Subject to the above, the proposal is considered acceptable in terms of its impact on trees and complies with Policy CS2, CS14, E12 and E14 in this regard.

**g) Highway Safety**

73. The site layout, which has been subject to some amendments seeking to address concerns raised by the Highways Engineer to the creation of a new access point, shows that the existing site access location is to be utilised; as it is optimally located, equidistant between Sadberge Rd and the junction of Cheltenham Court with 55m spacing being acceptable. The existing access point also benefits from the provision of dropped crossings and tactile paving which is of benefit to all highway users, particularly those with visual or mobility impairment.
74. The Highways Engineer considers that the store will mostly attract passby or diverted trips; in line with other food retail developments which generally generate very few 'new' trips on the local highway network.
75. A review of the past 5 years of recorded Police personal injury collisions reveals that there have been no recorded incidents at or within the vicinity of the site access, as such there is no reason to suggest that there are any inherent road safety concerns at this location, or that it is unsuitable for the proposed use.
76. The application proposes a reduction in parking over the current provision of 32 spaces which is reduced to 17 spaces (-15). Parking is however based on current Tees Valley Design Guide standards, which require 1 space per 30m sqm gross floor area. Based on a GFA of 416m this would equate to 14 spaces, with disabled parking being required in addition to non-accessible spaces.
77. Disabled accessible parking provision is conveniently located as close to the entrance as possible, and in accordance with the Tees valley Standard of 6%.
78. Vehicle swept path analysis has been provided to support the servicing requirements of the retail store. This demonstrates that the site is of sufficient size to enable an 11.9m articulated vehicle to enter and exit in a forward gear; and the agent has confirmed that this would be consistent with the size of vehicle delivering goods to the premises.
79. The Highways Engineer has indicated that the proposal should involve off-site highway works which will involve the adjacent footway and former bus-stop layby area being rationalized, and a kerbline should be extended from the existing footway located on Darlington Road and follow the line of the carriageway edge to extend along the side elevation of the site located on Sadberge Road. A footway should then extend across the frontage and onto Sadberge Rd to provide an improved pedestrian link towards the recent residential development to the north. Also recommended are further parking restrictions across the site, with double yellow lines extending across the site frontage and into Sadberge

Road in order to prevent parking on, or in close proximity to the site. The restrictions should also include no waiting.

80. Whilst the above recommendations are noted, the proposal involves the change of use of an existing community facility and it is not considered reasonable or necessary that the above measures take place to allow its change of use to another community facility. The existing arrangement is considered to function in terms of its access to the building and its links to the wider village. This matter of course could be reviewed should planning permission be granted and an unforeseen issue develops.

81. In the context of the above the proposal complies with Policy CS2 in this regard.

#### **h) Sustainable Transport**

82. This development site has public transport accessibility; in line with the SPD (supplementary planning document) it is within 400m of bus stops, these being the Sadberge Road bus stops which are served by the number 12 which operates every 60 minutes during the day with no evening service Monday to Saturday and no service during the day or evening on a Sunday.

83. The Transport policy Officer has been consulted and has requested Electric Vehicle Charge Points and cycle parking be included and planning conditions are recommended to secure submission and agreement of details of these, and their provision before the store opens for business.

84. In addition, whilst the Sustainable Transport team have requested a Sustainable Transport contribution in line with the formula set out in the Planning Obligations, Supplementary Planning Document calculated by number of car parking spaces, this is not considered to be a reasonable position for this change of use of an existing building with existing parking provision. Planning obligations assist in mitigating the impact of unacceptable development to make it acceptable in planning terms. Planning obligations may only constitute a reason for granting planning permission if they meet the tests that they are necessary to make the development acceptable in planning terms. As this is an existing car park, rather than new provision, the contribution is not considered reasonable or necessary in this instance.

85. The Transport Policy Officer has indicated that a Travel Plan should be requested to demonstrate how this site will seek to maximise sustainable travel and minimise vehicular travel and a planning condition is recommended to secure this. Subject to the above conditions, the proposal complies with Policy CS2 in this regard.

#### **i) Impact on Public Rights of Way**

86. Public Bridleway Low Dinsdale 18 abuts the northern boundary of the site which is used by cyclists, horse-riders and pedestrians. The Public Rights of Way Officer has been consulted and has confirmed that the proposed seating area

and information board in close proximity to the bridleway would be a welcome provision. The definitive map and statement specify an available bridleway width of 3m, so any furniture erected must not encroach on to the bridleway, and a 3m available width must be maintained. Providing the bridleway is kept safe and free from obstruction during and after construction the Public Rights of Way Officer has raised no objections and accordingly the proposal complies with Policy CS2 in this regard.

**j) Anti-social behaviour**

87. Several objections have raised the issue about increase in numbers of young people gathering around the premises as a result of the proposal and the potential for anti-social behaviour and litter as a result of this. As the site is currently vacant, this may also be a concern 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.
88. There is no evidence to suggest that the use of the building as a convenience store as opposed to a public house, will lead directly to an increase in the above. In addition, 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. Litter bins are available in the general locality however a planning condition is recommended for the provision of two litter bins, one to be located close to the seating area to the rear.
89. The National Security Services Manager from Sainsbury's has set out what the company intend to do in respect of security and anti-social behaviour. Should planning permission be Granted. It has been confirmed that;
- All stores have ample CCTV coverage across the store to deter and detect risk;
  - The entry and exit together with the car park, will be covered by CCTV;
  - All new stores receive staff body worn cameras so that they can be utilised to provide a clear deterrent and used as evidence should an incident occur.
90. With regards to anti-social behaviour risks, Sainsbury's has also confirmed the following support will be in place:
- Each zone has a crime response manager that investigates anti-social behaviour and works with the local police and council to deal with the issue;
  - There is a Police and Partnerships Manager who has direct links into the relevant police forces and has a proven track record of mitigating risk;
  - Dependent on the nature of the store, it may be decided to have specific guarding hours.

### **k) Other material planning considerations**

91. The applicant has put forward several other material planning considerations, in addition to the planning issues addressed above, these are as follows:

- Economic benefits in terms of creation of jobs;
- Provision of a wider range of convenience goods products locally for existing and future residents of Middleton St George;
- Local jobs created for the temporary construction period.

92. The above material planning considerations weigh in favour of the development.

### **CONCLUSION AND RECOMMENDATION**

93. 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 its impact on non-designated heritage assets, highway safety and residential and visual amenity with no impact on the nearby public right of way. Landscaping would be considered at Reserved Matters stage. It is therefore recommended that planning permission be granted subject to conditions.

### **PUBLIC SECTOR EQUALITY DUTY**

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

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

95. 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.

96. Accordingly it is recommended **THAT OUTLINE PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:**

1. A1 Outline (Reserved matters)
2. A2 Outline (Implementation Time)
3. PL (Accordance with Plan)

2165-P200 Rev E Site location plan  
2165-P204 Rev G Site Layout plan  
2165-P206 Rev C Proposed elevations  
2165-P205 Rev D Proposed ground Floor Layout  
2165-P207 Demolition Plan

4. E3 Landscaping (Implementation)
5. Prior to any works above damp-proof course, details of the external materials (to include parapet detail) to be used in the carrying out of the development, shall be submitted to, and approved in writing by, the Local Planning Authority. The development shall not be carried out otherwise than in accordance with the approved details.

REASON – In the interests of visual amenity.

6. No development shall commence until a written scheme of investigation setting out a 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. Required to be a pre-commencement condition as the archaeological investigation/mitigation must be devised prior to the development being implemented.

7. The development shall not 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 NPPF, which requires the developer to record and advance understanding of the significance of heritage assets, and to ensure information gathered becomes publicly accessible.

8. Prior to the commencement of the development, a site-specific Demolition and Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The plan[s] shall include the following, unless the Local Planning Authority dispenses with any requirements specifically and in writing:
  - a. Dust Assessment Report which assesses the dust emission magnitude, the sensitivity of the area, risk of impacts and details of the dust control measures to be put in place during the demolition and construction phases of the development. The Dust Assessment Report shall take account of the guidance contained within the Institute of Air Quality Management

“Guidance on the assessment of dust from demolition and construction”  
February 2014;

- b. Methods for controlling noise and vibration during the demolition and construction phase and shall take account of the guidance contained within BS5228 “Code of Practice for noise and vibration control on construction and open sites” 2009.
- c. Construction Traffic Routes, including parking areas for staff and visitors.
- d. Details of wheel washing.
- e. Road Maintenance.
- f. Warning signage.

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

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

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

REASON – In the interests of residential amenity.

- 10. Prior to the commencement of the development, a detailed survey of trees to be affected by the development (both within the site and adjoining its boundary) shall be carried out. The survey shall include the identification of measures to protect existing retained trees in order to protect them from damage by compaction, severance and material spillage, in accordance with BS5837, and shall be submitted to, and approved in writing by, the Local Planning Authority. No demolition or site clearance shall be commenced until the agreed measures are in place and have been inspected by the Council’s Arboricultural Officer. The approved measures shall remain in place through the carrying out of this planning permission. Notwithstanding the above approved specification, none of the following activities shall take place within the segregated protection zones in the area of the trees:
  - a) The raising or lowering of levels in relation to existing ground levels;
  - b) Cutting of roots, digging of trenches or removal of soil;
  - c) Erection of temporary buildings, roads or carrying out of any engineering operations;
  - d) Lighting of fires;
  - e) Driving of vehicles or storage of materials and equipment;

REASON – To ensure a maximum level of protection in order to safeguard the well-being of the trees on the site and in the interest of the visual amenities of the area.

- 11. Prior to the occupation of the development hereby approved, details of the size, type, and location of the proposed interpretation panels, and details of the seating area shall be submitted to, and approved in writing by, the Local

Planning Authority. These shall be in place prior to the occupation of the development hereby approved and shall be retained as such thereafter.

REASON - To recognise the significance of the site to the Stockton and Darlington Railway in line with the aims and objectives of the Heritage Action Zone.

12. Prior to the occupation of the development hereby approved, two litter bins shall be provided (one to be situated to the seating area to the rear) in accordance with details to be submitted to, and approved in writing by, the Local Planning Authority. The litter bins shall be in place prior to the occupation of the building and shall be retained thereafter.

REASON – In the interests of residential amenity.

13. Unless otherwise agreed in writing by the Local Planning Authority, no part of the development shall be occupied until a Travel Plan, to help reduce dependency on the use of the private car has been submitted to and approved in writing by the Local Planning Authority. The Travel Plan should include clear and unambiguous objectives and modal split targets, together with a time-bound programme of implementation, monitoring and regular review and improvement; Thereafter, the development shall not be carried out otherwise than in accordance with the terms of the approved Travel Plan.

REASON - To encourage the reduction of journeys made to and from the development by private motor vehicles by the promotion of more sustainable forms of transport.

14. 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 building. 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.

15. Prior to the occupation of the development, precise details of secure cycle parking / storage shall be submitted and approved in writing by the Local Planning Authority. The details shall include the number, location, and specifications of all cycle parking / storage and thereafter the development shall not be carried out otherwise than in complete accordance with the approved details. All parking shall be made available prior to the occupation of the dwellings hereby approved and retained as such thereafter.

REASON – To encourage more sustainable modes of transport.

16. Prior to the operation of the convenience store 2 no. electric vehicle charging points shall be provided on site in accordance with details to be submitted to and approved in writing, prior to the occupation of the development.

REASON - To make provision for sustainable means of transport

17. The opening hours of the premises shall be restricted to between 07:00 and 23:00 unless otherwise approved in writing by the Local Planning Authority.

REASON – In the interests of residential amenity.

18. Deliveries to the site shall be at the service access bay to the rear of the property and shall not take place outside of the hours of 07:00 and 21:00 Monday to Sunday unless otherwise agreed in writing by the Local Planning Authority.

REASON – In the interests of residential amenity.

19. Prior to the commencement of use, full particulars and details of any external plant and equipment, shall be submitted to, and approved in writing by, the Local Planning Authority. The development shall be undertaken fully in accordance with the approved details prior to the commencement of the use and shall be retained as such thereafter.

REASON - In the interests of residential amenity.

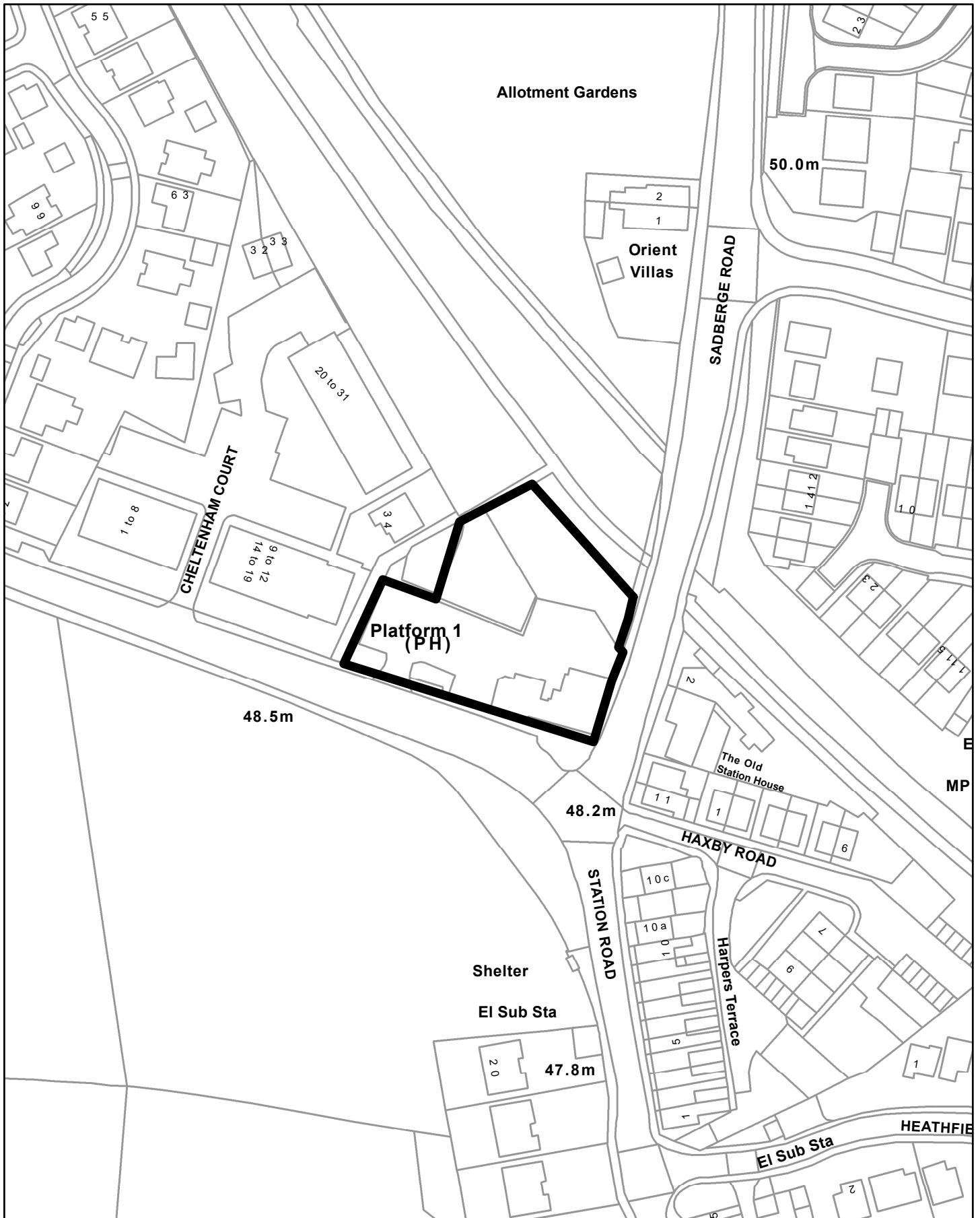
## **INFORMATIVES**

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

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

The adjacent bridleway must be kept safe and free from obstruction during and after construction.



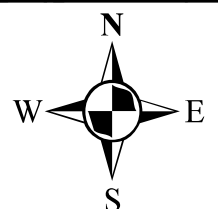


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**PLANNING REF No: 21/00223/OUT**

DARLINGTON BOROUGH COUNCIL

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

**COMMITTEE DATE: 9 June 2021**

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<b>APPLICATION REF. NO:</b>	21/00271/DC
<b>STATUTORY DECISION DATE:</b>	8 July 2021
<b>WARD/PARISH:</b>	HUMMERSKNOTT
<b>LOCATION:</b>	Agricultural Land and Crematorium, West Cemetery, Carmel Road North, Darlington
<b>DESCRIPTION:</b>	Application submitted under Section 73 of the Town and Country Planning Act 1990 for the variation of condition 14 (drainage) attached to planning permission 19/01185/DC dated 9 March 2020 (refurbishment of existing crematorium including conversion of existing chapel to office space and erection of new chapel, car parking, external lighting, floral tribute area and garden of remembrance on agricultural land) to allow an increased discharge rate of 5 l/sec rather than 3.5 l/sec
<b>APPLICANT:</b>	Mr Dave Winstanley

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**RECOMMENDATION: GRANT PERMISSION 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=QPYON3FP0C800>.

## **APPLICATION AND SITE DESCRIPTION**

1. Members considered an planning application, 19/01185/DC, for development in connection with proposals to upgrade and enhance existing chapel and crematorium facilities at West Cemetery in March 2020. The application proposed the refurbishment of the existing crematorium to office space and the erection of a

new chapel, car parking, external lighting, floral tribute area and garden of remembrance on agricultural land to the west of the existing cemetery. **Members resolved to grant planning permission** subject to a number of a number of conditions which covered a range of matters including ecology, landscaping and tree protection, archaeology and drainage.

2. Condition 14 of that permission, was attached at the request of Northumbrian Water and requires that the development of the new chapel, access and car parking to be built on agricultural land to the west of the cemetery is implemented in line with the drainage strategy submitted with the planning application and restricts additional surface water flows generated from the new development element of the proposal (development on agricultural land) to 3.5 l/sec. This is a compliance condition and does not require the submission of any further details for approval. The wording of the condition is set out below:

*Development shall be implemented in line with the drainage strategy contained within the submitted documents 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 3.5 l/sec.*

3. The outline drainage strategy and Flood Risk Assessment submitted with the original application set out how surface water run off from roofs and hardscaping on this part of the site will be dealt with. The drainage strategy is based on a sustainable drainage system in the form of a below ground attenuation tank beneath the proposed car park fitted with a hydrobrake, with a pumping station located at the southern end of the site to regulate flows to ensure the required run off rate into the existing sewer on Salutation Road to the south. Although the approved drainage strategy was designed to achieve a run off rate of 5 l/sec, at the time the application was considered NWL considered it necessary to restrict the run off rate to 3.5 l/sec. **This is the sole area of consideration within this application based on revised technical advice from NWL**
4. This planning application has been submitted under Section 73 of the Town and Country Planning Act 1990 (as amended) to vary the wording of condition 14 to allow an increased discharge rate from the new development from 3.5l/sec to 5 l/sec, following further discussions with the agent and Northumbrian Water. The principle of the outline drainage strategy itself will not change, however the proposed increase in the discharge rate does require an application to formally vary this condition.
5. No other changes to the approved scheme are proposed as part of this application. Other drainage conditions required the submission of further information for approval including a sustainable surface water drainage scheme for the site as a whole (15) and the submission of a programme of remedial works and mitigation measures relating to the existing drainage system within the cemetery itself (16). This application does not propose any changes to these

conditions which are to be considered alongside other relevant conditions as part of the associated discharge of condition application, 20/00952/CON.

## SECTION 73 APPLICATION PROCESS

6. Section 73 of the Town and Country Planning Act 1990 (as amended) relates to applications for planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted. Planning Practice Guidance states that an application can be made under Section 73 of the Town and Country Planning Act 1990 to vary or remove conditions associated with a planning permission. Applications cannot be made under Section 73 to extend the time limit within which a development must be started and where an application under Section 73 is granted the effect is the issue of a new planning permission, sitting alongside the original permission, which remains intact and unamended. A decision notice describing the new permission should be issued, setting out all of the conditions related to it. To assist with clarity, decision notices for the grant of planning permission under Section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged.

## ENVIRONMENTAL IMPACT ASSESSMENT REQUIREMENTS

7. The Local Planning Authority has considered the proposal against the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. In the opinion of the Local Planning Authority, the proposal is development for which an Environmental Impact Assessment **is not required** as the development would not be likely to have significant effects on the environment by virtue of factors such as nature, size or location.

## MAIN PLANNING ISSUES

8. An application under Section 73 is an application for planning permission and therefore Section 38(6) of the Planning and Compulsory Purchase Act 2004, which requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise, is relevant. The National Planning Policy Framework (NPPF) comprises up to date national planning policy and is a material consideration in planning decisions.
9. However, since the application only proposes to amend the wording of condition 14, seeking an increase in the discharge rate for additional surface water flows arising from the new development, and as the proposal in all other respects remains unchanged from that considered by Members in March 2020, with no subsequent change in either local or national planning policy since this time, consideration of the application will be limited to the acceptability or otherwise of the proposed variation of condition 14, having regard to the technical advice of Northumbrian Water, together with relevant national and local planning policy concerning flood risk as set out in the Planning Policies section of this report and

considered in detail in the main body of the report. It is not necessary to revisit the principle of development or re-assess any other aspects of the proposal.

## **PLANNING POLICIES**

10. Relevant planning policies include those seeking to ensure that new development:

- 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 (Policy CS16)
- Does not increase flood risk elsewhere and where appropriate is supported by a site-specific flood risk assessment (NPPF, para. 163)

## **RESULTS OF TECHNICAL CONSULTATION**

11. No objection in principle has been raised by the Council's Environmental Health Officer and Highway Engineer. Durham County Archaeology, Northern Powergrid and Northumbrian Water similarly raise no objection. The Gardens Trust do not wish to comment on the application.

## **RESULTS OF PUBLICITY AND NOTIFICATION**

12. Four letters of objection have been received from local residents which raise the following issues:

- Cannot find reassurance that these proposals will not add to the existing drainage issues.
- No published inspection regime for the drainage to ensure that it meets the needs of the development and affected residents not and in the future
- The proposed increased discharge rate only relates to the new chapel area. The remaining land has not yet been subject to the same degree of scrutiny, surface water will therefore remain an issue unless it is remedied at the same time
- The chapel development has been prioritised at the expense of residents' interests
- Concerned about the level of flooding along the whole length of the north side of Salutation Road, no progress seems to have been made to resolve the problems we face
- Lack of information about the source of the water and why it is not flowing away
- Insufficient information to support clear run into the designated public sewer on Saluation Road
- Residents may be impacts by surface water flooding near the outlet of West Cemetery's drainage network into the NWL public sewer
- Public drainage/sewerage networks in this area have limited capacity and tolerances should not be exceeded by private new developments
- Privacy for residents and future users of the cemetery must be taken into account now.

## **PLANNING ISSUES/ANALYSIS**

### **(a) Flood Risk and Drainage**

13. Condition 14 concerns drainage associated with the proposed new chapel, car park and access roads, on agricultural land to the west of the cemetery. The condition, which was attached at the request of Northumbrian Water (NWL), requires that this part of the development is carried out in accordance with the outline drainage strategy submitted with the application. On the basis of the information submitted with the original planning application, NWL advised that while it was satisfied with the drainage strategy, it was necessary to restrict additional surface water generated from the new development and entering the public sewerage network to a discharge rate of 3.5 l/sec. with excess flows attenuated on site.
14. Further discussions between the agent and NWL have taken place following determination of the application in March 2020, through NWL's formal pre-planning enquiry service. As a result of this, Northumbrian Water has confirmed there is now sufficient capacity in their system to accept additional restricted surface water flow of 5 l/sec to discharge into the existing sewer on Salutation Road from the new chapel/access/parking rather than the 3.5 l/sec as originally proposed. Accordingly, NWL raise no objection to this application to increase the discharge rate.
15. Conditions 15 and 16 of the original planning permission, requiring the submission of a sustainable surface water drainage scheme for the site as a whole (15) and the submission of a programme of remedial works and mitigation measures relating to the existing drainage system within the cemetery itself (16) remain to be discharged. While these details have been submitted this information is currently with technical consultees for consideration. Consultation on this information has also take place with nearby residents, as Members requested, and those technical consultees will be made aware of the comments raised before this application is determined. Consideration of the issue of increasing the discharge rate does not however affect the determination of these outstanding conditions.

### **(b) Other Matters**

16. One matter raised by objection relates to privacy between the proposed chapel and the properties on Salutation Road to the south. This will require the relevant condition (17) to be discharged at the appropriate time but is not a matter for this application.

## **CONCLUSION AND RECOMMENDATION**

17. The proposed variation of condition 14 is a technical matter relating to an increase in discharge rates for additional surface water flows in connection with the approved outline drainage strategy following further discussions between the

agent and Northumbrian Water, who have confirmed their acceptance of the proposal by way of a consultation response to this application. No other changes to the approved scheme are proposed as part of this application and it is not considered necessary to revisit the principle of development or re-assess any other aspects of the proposal. As this is an application under Section 73 of the Town and Country Planning Act 1990, it is also necessary to repeat the relevant conditions from the original planning permission for clarity. Accordingly, it is recommended that:

**PURSUANT TO REGULATION 3 OF THE TOWN AND COUNTRY PLANNING  
GENERAL REGULATIONS 1992, PLANNING PERMISSION BE GRANTED  
SUBJECT TO THE FOLLOWING CONDITIONS**

1. The development hereby permitted shall be commenced not later than 9 March 2023.

REASON – To accord with the provisions of Section 73 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 Appraisal: 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 burial ground 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 Cemetery Crematorium Construction Management Plan Revision 1' dated December 2019.

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 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 surface water drainage scheme has first been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. The scheme shall include but not be restricted to providing the following details:
  - I. Detailed design of the surface water management system;
  - II. A 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

While 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 meetings 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 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 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



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**PLANNING REF No: 21/00271/DC**

DARLINGTON BOROUGH COUNCIL

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**DARLINGTON BOROUGH COUNCIL****PLANNING APPLICATIONS COMMITTEE****COMMITTEE DATE: 9<sup>th</sup> June 2021**

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<b>APPLICATION REF. NO:</b>	21/00115/FUL
<b>STATUTORY DECISION DATE:</b>	24.03.2021 (Extension of Time until 10.06.2021)
<b>WARD/PARISH:</b>	HEIGHINGTON AND CONISCLIFFE
<b>LOCATION:</b>	Dene Head Farm, Coatham Lane, Coatham Mundeville
<b>DESCRIPTION:</b>	Removal of hedgerow and erection of approx. 1.6m high boundary fencing with access gates, construction of hardstanding for horse arena viewing area and erection of approx. 3m high privacy fencing to side/rear (Retrospective Application)
<b>APPLICANT:</b>	Mr Simon Middleton

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**RECOMMENDATION: GRANT PLANNING PERMISSION 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=QNY1M6FP0C800>

**APPLICATION AND SITE DESCRIPTION**

1. The application site relates to a group of farm/livery buildings known as Dene Head Farm, Coatham Mundeville located to the west of the East Coast Mainline Railway, the A1(M) and the A167. The site is accessed from a private road, which is coincident with Bridleway No. 8 in the Parish of Coatham Mundeville. Dene Head Farm comprises several farm buildings, stables, and a horse arena with floodlighting for which planning permission was granted in 1999 (19/00038/FUL) located to the south of the access road and bridleway. There is another building and a hardstanding/parking area for the livery business located to the north of the access

and bridleway. The surrounding area is rural in nature. Neighbouring properties, Clova House Farm and Daltamie are located further along the track, to the north west of the application site. There are other properties including The Oaks and Whiley Hill Farm which are located to the north of the application site.

2. This retrospective planning application seeks permission for the removal of a hedgerow measuring a total of 46m and the erection of 1.6m high boundary timber fence with access gates measuring a total length of 61m located on the southern side of the access track and bridleway. The area to the south of the new fence has been hard surfaced to create a viewing area for the arena, which can also be used for access to and maintenance of the riding arena and floodlights. The fencing also encloses a section of guttering located to the south of the access lane and to the east of the viewing area. A 3m high privacy fence has also been erected to the side and rear of the yard area adjacent to the horse arena.
3. The application also proposes a package of compensatory planting to mitigate against the loss of the hedgerow. It is proposed to plant a new hedgerow approximately 90-110m in length to enclose an area of new wildflower meadow, with an area of approximately 1265m<sup>2</sup>, on land in the applicant's ownership to the south of the riding area. The proposed hedge includes common hedge plants of Quickthorn, Blackthorn and three different tree species of Field Maple, Hazel and Crab Apple.

## **MAIN PLANNING ISSUES**

### **4. Site History:**

97/00177/AG Application for prior approval for the erection of a general purpose agricultural building. Planning Permission Not Required. 09.06.1997.

99/00038/FUL Erection of stables and change of use of field to all weather exercise area. Granted with Conditions. 19.04.1999.

04/00054/AG Application for prior approval for the erection of a general purpose agricultural building. Planning Permission Not Required. 10.02.2004.

04/01386/AG Application for prior approval for the erection of a general purpose agricultural building. Approved. 06.01.2005.

13/00114/AG Prior approval for the erection of a lean to building extension (Agricultural Determination). Planning Permission Not Required. 26.03.2013.

13/00115/AG Prior approval for the erection of a lean to extension (Agricultural Determination). Planning Permission Not Required. 26.03.2013.

15/00727/AG Prior approval for the erection of open sided storage building (Agricultural Determination). Planning Permission Not Required. 03.09.2015.



17/00503/AG Prior approval for erection of agricultural building to store farm machinery (Agricultural Determination). Planning Permission Not Required. 28.06.2017.

19/01098/FUL Erection of an agricultural barn for the storage of hay/straw and machinery (Retrospective). Granted. 10.01.2020.

5. The main planning issues to be considered are:

- a) Planning Policy
- b) Visual Amenity
- c) Ecology
- d) Impact on Trees
- e) Highway Safety
- f) Other Matters

## **PLANNING POLICIES**

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

- a) Will meet the criteria for development located outside of defined development limits set out within Policy E2 of the Saved Local Plan 1997
- b) Is wherever possible located with and visually related to existing buildings (Policy E4 of the Saved Local Plan 1997)
- c) Takes into account trees, woodlands and hedgerows adjacent to the site and avoids the need to remove trees and hedgerows and provide for their successful retention during development, where removal is unavoidable any required landscaping works should be so designed as to compensate on or off the development site, for the loss of amenity to the area (Policy E12 of the Saved Local Plan 1997)
- d) Contribute to maintaining the wildlife value of the corridor (Policy E21 of the Saved Local Plan 1997)
- e) Will not detract from the character and appearance of the locality or from the amenity enjoyed by residents or people using the area for other recreational activities and would not be harmful to wildlife (Policy R15 of the Saved Local Plan 1997)
- f) Will accord with Darlington's sub- regional role and locational Strategy set out within Policy CS1 of Darlington's Core Strategy (2011)
- g) Makes efficient use of land and existing buildings and reflect Darlington's distinctive, natural, and built characteristics that contribute to the character of the local area and its sense of place (CS2 of the Core Strategy).

- h) Provides vehicular access and parking suitable for its use and location (CS2 of the Core Strategy).
- i) Would not result in any net loss of existing biodiversity value by protecting and enhancing priority habitats, biodiversity features and would protect and enhance healthy ancient woodland, mature trees, and hedgerows (Policy CS15: Protecting and Enhancing Biodiversity and Geodiversity)
- j) Protects and where possible improves environmental resources whilst ensuring there is no detrimental impact on the environment, general amenity and health and safety of the local community (CS16 of the Core Strategy)

## RESULTS OF TECHNICAL CONSULTATION

- 7. The Council's Highway Engineer has been consulted on the application and has raised no objection in principle to the proposal.
- 8. The Council's Public Rights of Way Officer has been consulted on the application and has raised no objections providing that the bridleway (bridleway Coatham Mundeville 8) which runs alongside the length of the site retains a width of 6-8ft and remains open, safe and accessible to legitimate users.
- 9. The Council's Ecology adviser has been consulted and advises that a compensatory hedge of significantly greater length and with standard trees should be provided.
- 10. The Council's Arboricultural Officer has been consulted on the proposals and has raised no objections.

## RESULTS OF PUBLICITY AND NOTIFICATION

- 11. The application has been publicised by way of site notice and neighbour letters in accordance with Article 15(5)(a) of The Town and Country Planning (Development Management Procedure) (England) Order 2015.
- 12. 4 objections have been received with responses summarised below:
  - *Works carried out without permission*
  - *Hedge was in good condition*
  - *Hedge was over 30 years old*
  - *Hedge should be replanted*
  - *New viewing area is closer to Coatham Lane than previous hedge*
  - *Fence abuts onto lane, removing safe passing area for horse riders, pedestrians, cyclists, larger farm vehicles etc.*
  - *Narrowing of lane makes it difficult for vehicles to pass safely*
  - *Impact on appearance of area*
  - *Gates opening outwards could cause a hazard*
  - *Concern over placing of stones along grass verge causing a safety hazard*

- *There is no need for the viewing area and concerns over potential increase in capacity for liveries within the site.*
- *Concerns over caterpillar species being a protected species.*

## **PLANNING ISSUES/ANALYSIS**

### **(a) Planning Policy**

13. The proposal is located outside of defined development limits set out within Policy E2 of the Saved Local Plan 1997. It is set out within this policy that development for countryside related sports or recreational activities will be permitted outside them provided that unacceptable harm to the character and appearance of the rural area is avoided. It is considered the proposed fencing and horse arena would be located and visually related to existing buildings and would not detract from the overall character of the area in accordance with Policy E2 and E4 of the Saved Local Plan 1997. It is further considered that the proposal for a horse viewing area and associated fencing would not detract from the character and appearance of the locality as there is already the presence of the horse arena and rural buildings in the immediate area.
14. It has been confirmed that there is no intention to expand the capacity of the horse arena, for which planning permission was granted in 1999 (99/00038/FUL). Rather the viewing area has been created to provide a safe area for people to observe riders within the arena. Notwithstanding this information the proposed horse viewing area and associated fencing are not considered to detract from the character and appearance of the locality given the context in which it is located, against the backdrop of existing horse-related development and is therefore considered to be in accordance with R15 of the Saved Local Plan.
15. The applicant advises that the existing hedge was been removed due to a caterpillar infestation and vehicle collisions with the hedge resulting in decay and a deteriorating condition of parts of the hedge in its overall length. The applicant advised that the hedge has not been reinstated in this location due to the likelihood of the hedge suffering the same infestation resulting in a poor quality hedge. Therefore, based on this information, the decision was taken to erect the viewing arena and fence as an alternative use of the space. A compensatory hedge and wildflower meadow are to be planted to the east and south of the application site. Hedgerows over 30 years old can be deemed to be classified as important based on criteria relating to the value of the hedgerow from an archaeological, historical, landscape or wildlife perspective. However due to the poor condition of the existing hedge and likelihood of the infestation returning if the hedge were to be reinstated it is considered that the compensatory hedge and wildflower meadow would be suitable mitigation for the loss of the hedge in accordance with policies E12 and E21 of the Saved Local Plan 1997.
16. Overall, the proposed horse viewing area and fencing is considered to be acceptable in principle in terms of planning policy.

### **(b) Visual Amenity**

17. The proposed horse area and fencing is located adjacent to the existing buildings and riding arena at Dene Head Farm. The fencing is of a modest height and the materials used are not considered to detract from the character and appearance of the wider area. The viewing area and fencing is closely located and related to the existing use and buildings within the application site and therefore is considered not to harm or detract from the overall character and nature of the area in accordance with E4 and R15 of the Saved Local Plan 1997.
18. Whilst it is acknowledged that the loss of the existing hedge and the erection of the hedge will create a different appearance on the south side of the access track there is hedging located on the northern side of the track and in the wider area. With the growth of the compensatory hedging and wildflower meadow, it is not considered that the overall character and appearance of the area would be materially altered.

### **(c) Ecology**

19. Under the Hedgerow Regulations 1997 where a hedge is over 30 years old it can be deemed to be classified as important based on criteria relating to the value of the hedgerow from an archaeological, historical, landscape or wildlife perspective. It is acknowledged that the application is retrospective, and permission should have been sought prior to the works being carried out. An application should have included justification for the removal of the hedge and therefore it has been requested likewise as part of the retrospective application for evidence proving the condition of the hedge and whether or not it could be reinstated in the same location.
20. The existing hedge that has been removed has been removed after a caterpillar infestation and vehicles colliding with the hedge. These events have caused irreversible damage to sections of the hedge where it could not be rectified to a healthy condition, as set out by the applicant. The applicant has provided spray records to show the treating of the hedge since 2015. A neighbouring property has evidently had similar caterpillar infestations to their hedge. Furthermore, the applicant has advised that below ground drainage pipes and an electrical connection have been installed beneath the viewing area which would make the reinstatement of a hedge in this location more difficult. Based on the justification for the loss of the hedge and the proposed compensatory measures in the form of a 90-110m hedge and wildflower meadow with a further two standard trees on land to the south and east of the riding arena, on balance the loss of the hedge in this instance is accepted.
21. It is set out in Policy E12 of the Saved Local Plan that where removal is unavoidable any required landscaping works should be so designed as to compensate on or off the development site. It is considered that the proposed compensatory measures would offset the loss of the hedge and would maintain the ecological and wildlife value of the area in accordance with Policy E21 of the Saved Local Plan and CS15 of the Core Strategy.
22. The Council's Ecologist has been consulted on the proposals and has set out that there would be expected to be a compensatory hedge of a significantly greater length with some standard trees provided. As there is proposed to be a hedge of significantly greater length and a further wildflower meadow of a larger area than the hedge and

grassed area lost it is considered that this would suitably mitigate against the loss of the hedge from an ecological and biodiversity perspective. The applicant has also agreed to erect two standard trees, as requested by the Council's Ecology advisor.

#### **(d) Impact on Trees**

23. The Council's Arboricultural Officer has been consulted on the application and has raised no objections. It is considered that any loss of trees will be suitably mitigated against by the growth of the compensatory hedging and wildflower meadow including two standard trees in accordance with Policy E12 of the Saved Local Plan.

#### **(e) Highway Safety**

24. The Council's Highways Engineer has been consulted on the proposals and has set out that the application site is not located next to the adopted highway and as such any complaints regarding obstruction or parking associated with the site would not be under the control of the Highways Authority.

25. The Council's Public Rights of Way Officer has also been consulted on the proposals and advises that the bridleway is required to be have a width of between 1.8m and 2.4m.

26. It is acknowledged that the new fence is located further forward than the removed hedge however, there is a gap between the fencing enclosing the viewing arena and the access track, where a grass verge is to be reinstated. The bridleway is of sufficient width at approximately 3m between kerbs and 3.7m between fencing according to plans submitted. Therefore, it is considered that the width of the bridleway meets the standard requirements set out by the Public Rights of Way Officer. Any further access or highway issues are private matters.

27. There have been concerns set out by nearby residents that the gates open outwards rather than inwards, the Council's Public Rights of Way Officer has set out that this is not considered to be a major issue providing the gates are not left open for prolonged periods of time. The applicant has confirmed that the gates for the platform access will always be shut immediately after access has been gained to the viewing area.

28. Therefore, overall, it is considered the proposal is acceptable in terms of highway safety.

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

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

#### **CONCLUSION AND RECOMMENDATION**

30. The proposals for the erection of fencing and hardstanding for a horse arena viewing area are considered to be acceptable in planning policy terms as the proposals will be located and visually related to the existing character of the area and would therefore not result in a harmful impact on the character and appearance of the surrounding area in terms of visual amenity in accordance with Policies E4 and R15 of the Saved Local Plan 1997.
31. It is acknowledged that approval for the removal of the hedge should have been sought under the Hedgerow Regulations 1997. In view of the information provided by the applicant regarding the condition of the hedge prior to its removal and the proposed compensatory hedgerow and wildflower meadow planting and the planting of 2 no. standard trees as set out in the report, it is considered that the loss of ecological and biodiversity value associated with the loss of the hedge in this instance can be off set and suitably mitigated by the proposed compensatory measures. A condition requiring the implementation of these measures within an agreed timescale is therefore proposed to secure these measures. The proposal does not give rise to any unacceptable issues relating to the use of the bridleway or highway safety given that the adjacent access road is not adopted. In this instance it is considered that the proposals comply with Saved Policies E12 and E21 of the Borough of Darlington Local Plan, 1997 and Policy CS15 of the Core Strategy, 2011.
32. Accordingly, it is recommended **THAT PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:**

1. Notwithstanding any details of the proposed compensatory hedgerow shown on drawing 1 of 3, Rev. A 'Proposed Plans', 2 no. standards trees shall be planted within the hedgerow of a species and in a location that shall first be agreed in writing with the Local Planning Authority.

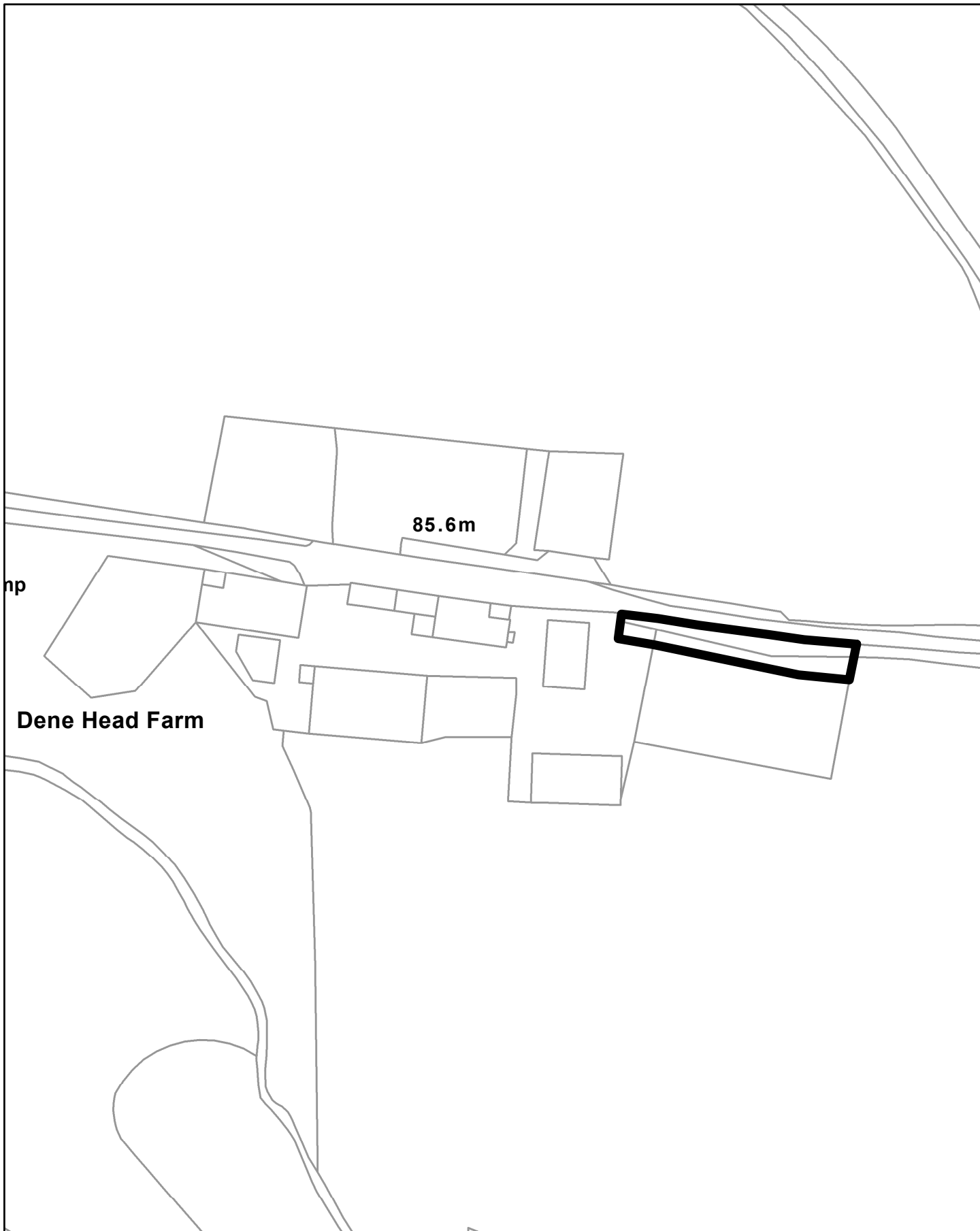
REASON – In the interest of biodiversity and to comply with Core Strategy Policy CS15.

2. The compensatory hedgerow and wildflower meadow as shown on drawing 1 of 3 Rev A, including the planting of 2 no. standard trees as referred to in condition 1 of this permission, shall be fully implemented within 2 years from the date of this permission. Any trees, hedgerow plants or wildflower meadow planting removed, dying, severely damaged or becoming seriously diseased shall be replaced, and the landscaping scheme shall be maintained for the lifetime of the development hereby permitted.

REASON: To ensure that the compensatory works as approved by this permission are carried out in a timely manner in the interests of ecology and biodiversity.

3. PL

- Site Location Plan
- 1 of 3 Rev A – Proposed Plans
- 3 of 3 Rev A – Proposed Fencing Plans and Elevations

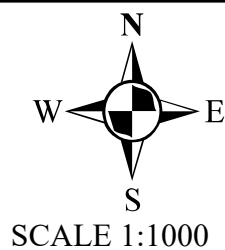


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**PLANNING REF No: 21/00115/FUL**

DARLINGTON BOROUGH COUNCIL

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

**COMMITTEE DATE: 9 June 2021**

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<b>APPLICATION REF. NO:</b>	21/00247/FUL
<b>STATUTORY DECISION DATE:</b>	5 <sup>th</sup> May 2021
<b>WARD/PARISH:</b>	NORTH ROAD
<b>LOCATION:</b>	169 North Road
<b>DESCRIPTION:</b>	Change of use from Estate Agents (Use Class E) to Hot Food Takeaway (Sui Generis) with the installation of extraction flue to rear elevation and associated internal works (Amended Plans showing removal of shop front alterations submitted 23rd March 2021)
<b>APPLICANT:</b>	Mr Mohamed Irshad Mohamed Shafee

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**RECOMMENDATION: REFUSE PLANNING PERMISSION (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?keyVal=QPR2LUFPH3S00&activeTab=summary>

**APPLICATION AND SITE DESCRIPTION**

1. This application site relates to a two storey mid terraced property on the west side of North Road where the ground floor is currently in use as an estate agent with a first Floor Flat, 169A North Road located above. Lansdowne Street is located to the north of the site with Eldon Street located to the south. There is an alleyway to the rear of the application site separating the site from dwellings located within Mellor Court to the rear. There is a convenience shop with a residential flat above located on the corner of North Road and Lansdowne Street which adjoins the application premises to the north. No. 165 North Road, a residential property, adjoins the application property to the south and there are further residential properties located along this street to the south. The area is predominantly residential in character with commercial uses interspersed within the locality.

2. Planning permission is sought for the change of use of the ground floor of the property to a takeaway (sui generis) with the installation of an extraction flue to the rear elevation and associated internal works.
3. The proposed opening hours for the takeaway are Monday to Saturday 11:00am – 9:00pm, Closed Sundays and Bank Holidays 11:00am – 7:00pm. The applicant has advised the opening hours are not final and there is willingness to alter times to suit the Local Planning Authority.
4. The type of food planned to be served by the takeaway consists of unprocessed grilled food which will be freshly made, it is explained as being a healthier alternative to the usual types of takeaway e.g. Pizza/Chinese/Kebabs.

## **MAIN PLANNING ISSUES**

### **5. Site History:**

15/00665/CU - Change of use from Launderette (Sui Generis) to Estate Agency (A2) Financial and professional services, demolition of outbuildings to rear and creation of 5 No. parking spaces and insertion of entrance door to give access to first floor flat. GWC. 13.08.2015.

### **6. The main planning issues to be considered are:**

- a) Visual Amenity
- b) Residential Amenity
- c) Highway Safety
- d) Other Matters

## **PLANNING POLICIES**

### **7. The relevant Local Plan policies include those seeking to ensure the proposed development:**

- a) Has no material adverse effect on the character and appearance of the building, or the streetscene in which the building is located (E38)
- b) Will accord with Darlington's sub- regional role and locational Strategy set out within Policy CS1 of Darlington's Core Strategy (2011)
- c) Makes efficient use of land and existing buildings and reflect Darlington's distinctive, natural, and built characteristics that contribute to the character of the local area and its sense of place (CS2 of the Core Strategy).
- d) Provides vehicular access and parking suitable for its use and location (CS2 of the Core Strategy).

- e) Protects and where possible improves environmental resources whilst ensuring there is no detrimental impact on the environment, general amenity and health and safety of the local community (CS16 of the Core Strategy)

## RESULTS OF TECHNICAL CONSULTATION

8. The Council's Highway Engineer raises no objection in principle.
9. The Council's Environmental Health Department recommends that planning permission be refused based on the noise levels of the proposed extraction equipment and its impact on the amenity of neighbouring properties.
10. The Police Architectural Liaison Officer has requested that opening hours are capped at 23:00 for closure. If the applicant is wanting to open beyond 23:00 hours they would need to submit a licence application.

## RESULTS OF PUBLICITY AND NOTIFICATION

11. The application has been publicised by way of site notice and neighbour letters.
12. **13 letters of objection** have been received with the following concerns (summarised):
  - *Parking – blocking access to front and rear of properties, impact on volume of parking nearby, not using parking to rear and parking on front, parking on pavements*
  - *Road Safety concerns*
  - *Volume of fast food outlets/hot food takeaways in area impacting people's health and contributing to obesity issues*
  - *Litter/ vermin increase*
  - *Concerns over increased comings and goings causing disturbance and anti-social behaviour, vandalism*
  - *Noise impacting neighbouring amenity*
  - *Odour impacting neighbouring amenity*
  - *Previous application 204a North Road rejected*
13. **15 Letters of support** have been received which are summarised below:
  - *Creates good opportunities for businesses*
  - *Provides more job opportunities*
  - *Small businesses are essential to small communities' economy*
  - *There are more healthy choices at fast food restaurant*
  - *Affordable way to enjoy new food*
  - *Support local independent businesses*
  - *No harm to local residents*
  - *Support new food businesses nearby*
  - *Will fill empty shops*

- *Will help people to eat healthy and maintain healthy lifestyle*
- *Will bring benefits to local community*

## **PLANNING ISSUES/ANALYSIS**

### **(a) Visual Amenity**

14. There are no external alterations to the premises other than the erection of an extraction flue to the rear of the property adjacent to No. 165. North Road and to the rear of the first floor flat, 169A North Road, above the proposed takeaway. The proposed flue is a 500mm diameter stainless steel duct that will protrude through the roof of a single storey addition to the rear of the property, terminating approximately 0.4 metres beneath the main ridge line of the property. The flue will be visible to the rear of the site, although will not be visible from North Road to the front of the property. This is considered to be acceptable in respect of its overall visual impact on the appearance of the site and locality. Overall based on the information provided, the proposal would have an acceptable impact on the visual amenities of the locality and does not conflict with Policy CS2 and E38 in this regard.

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

15. Policy CS16 of the Core Strategy states that new development (which includes proposals to change the usage of a building) should ensure that there is no detrimental impact on the environment, general amenity and the health and safety of the community.
16. The existing ground floor use is an Estate agent (Use Class E) which is commercial in nature was mainly in operation during daylight hours and one that has operated alongside residential properties without causing any known amenity issues.
17. The proposed use typically will do a lot of its trade during less social hours, the suggested proposed hours for the business have been set out as 11:00 am – 21:00pm Monday – Saturday. These would be the opening hours and do not include preparation and clearing up which tends to take place before the business opens and after closing time, which in themselves could cause some noise and disturbance.
18. The property is attached to No.165 North Road and 173A North Road either side with the flat 196A North Road above, with residential properties located beyond the highway to the front. Residential properties are also located nearby, to the rear within Mellor Court, Lansdowne Street and Eldon Street. The main issues associated with hot food takeaways and their impact on local residents relate to noise, fumes, and anti-social behaviour. The Environmental Health Officer has raised objections to the proposed extraction fan for use with the extraction equipment and flue which is necessary to reduce noise and odour emissions to acceptable levels, provided it is maintained in an appropriate manner. Due to the proximity of the extraction equipment and flue to nearby sensitive receptors, those adjoining properties and the flat above, it is considered that the proposed extraction

system will have a detrimental impact on the amenities of these properties in terms of noise, nuisance and disturbance.

19. Information provided with the application has shown that a 45 Maxfan Compac will be used with the extraction equipment and the noise levels would be 56dB(A) at 1.5 metres. The use of a CDA silencer with this product will reduce the noise by 10-13dB(A) however this does not take into account noise from vibration. The extraction and flue equipment proposed is located to the rear of the application property. The rear gardens of neighbouring properties including No.165 North Road as well as the flat above the premises are located in close proximity to the proposed equipment and it is considered that it will create noise and odour impacts on the adjacent residents, including during the summer months when using the gardens and windows are open, which would be unacceptable.
20. It is further considered that the general comings and goings cannot suitably be controlled and would likely cause disturbance at otherwise quieter times. Whilst it is acknowledged that North Road is a busy road, the concerns regarding direct impact of the proposal on more closely related properties still applies.
21. It is further acknowledged that there is a convenience store adjoining the application site to north that opens later into the evening, however it is considered that a takeaway use would have additional sound and odour impacts from the extraction equipment affecting adjoining residential dwellings as well as attracting comings and goings from vehicles to the front and rear.
22. Whilst the proposal does not intend facilities for consumption of food on the premises, some customers may congregate outside the shop which could also cause some annoyance and disturbance to residents. Such facilities tend to generate a high level of car-borne trade with customers aiming to park as closely as possible to the outlet, often regardless of any parking restrictions and may be prepared to park inconsiderately.
23. Delivery drivers may also park outside the store, sometimes with engines running whilst waiting for deliveries to be loaded onto their vehicles. Takeaway businesses typically operate with a high turnover of short duration parking rather than requiring a significant amount of total parking at any one time. Customers may arrive for collecting orders and be parked for 5 - 10 minutes, however, this may attract several trips per hour. As such the parking and vehicle movements within the opening hours are a residential amenity consideration particularly during evenings. It is expected that there will also be periods before and after opening hours where there will clearly be activity, and this will be apparent for the most closely related properties. Furthermore, it is acknowledged that there is the intention to have a click and collect system for some customers to arrange to pick up orders from the rear parking area, whilst this may help to provide some control of the comings and goings, customers will still be free to access the front of the shop throughout the full opening hours with the potential to disturb neighbouring properties at less social times.
24. Whilst the most closely related properties are on and adjacent to a busy road, residents enjoy a reasonable level of amenity at present in the evening hours when

traffic movements decrease, and the impacts described above will have a materially negative impact on this. There have been instances where the council have approved takeaway uses adjoining residential properties with a closing time of 21:00, however this application has been assessed on its own merits, taking into account the amenity currently enjoyed by closely related residential properties and the degree to which the proposed change of use will adversely impact the living environment of residents.

25. No objections have been raised by Highways, however objections have been raised by Environmental Health regarding impacts on neighbouring amenity therefore it is considered that such a business in such close proximity to residential dwellings would lead to a materially adverse impact on the living environment of neighbouring residents which could not be wholly overcome by planning conditions and so would conflict with the aims of the Core Strategy Policy CS16.

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

26. The premises have most recently operated as an estate agent business with typical daytime opening hours advertised from 9:30am until 5:30pm. The proposed opening hours are from 11:00am until 09:00pm Monday- Saturday.
27. The supporting information refers to 4 in curtilage parking spaces being provided to the rear of the premises. Given that the parking area is located to the rear of the site, it is expected that this is more useful for staff parking as it is not conveniently located for customers, or obvious that off street parking is available.
28. Takeaway businesses typically operate with a high turnover of short duration parking rather than requiring a significant amount of total parking at any one time. Customers may arrive for collecting orders for 5 - 10 mins, however this may attract several trips per hour. The proposal does not clearly demonstrate a severe highways impact over the existing use or other comparable nearby businesses which would generate similar levels of trips and parking demand. Other nearby businesses operate within a typical 9-5 working day such as the signs shop and barbers. This will generally free up on street parking where customer demand is reduced from 5pm onwards.
29. Many customers are likely to be pass by trips whereby vehicles are already travelling on North Road or to be visiting on foot from the nearby residential area. Most takeaways also offer delivery service further reducing vehicle movements and parking demands over customer collection only. Whilst it is accepted that north road carried high volumes of traffic during the daytime, this volume is vastly reduced in the evening (7pm onwards) to around 500 vehicles per hour from am/pm peaks of 1800 vehicles. A review of police accident records confirms there is no particular pattern of accident history or road safety concern at this location, with recorded incidents being consistent with the urban A167 North Road corridor.
30. The building benefits from having a frontage on North Road with unrestricted parking and is located close to Lansdowne Street which also has uncontrolled parking. The Eldon Street junction has parking restrictions to protect the nearby

controlled crossing points and maintain junction visibility. Additional double yellow lines could be placed around the Lansdowne Street junction to address any future parking issues and protect visibility should the need arise. Further parking is available within a dedicated bay on the opposite side of North Road.

31. Whilst residents who are reliant upon on-street parking would mostly prefer to park vehicles outside of their homes for reasons of surveillance and convenience, this is not a right and all parking within the highway is on a first come first served basis. Further parking is available directly opposite and within a dedicated parking bay. As such the highways Engineer is satisfied that enough parking is available within the highway within a reasonable distance of the premises and raises no objections on highways grounds, subject to a planning condition to require submission and agreement of details of waste storage provision within the site. Accordingly, the proposal is not considered to conflict with Policy CS2 in this regard.

#### **(e) Other Matters**

32. Several objections raise issues in respect of a potential increase in anti-social behaviour. Whilst this is noted, there is no evidence to suggest that the proposed use will lead directly to an increase in anti-social behaviour, and this can be adequately dealt with by other powers and through the management of the premises
33. Other objections raise the issue of increase in litter and vermin. This is noted, however there is no evidence to suggest that this would be the case and therefore this determination cannot account for the behaviour of individuals, and again this can be dealt with by other powers and through the management of the premises.
34. It is acknowledged there is support for local businesses, however in assessing the proposals it is considered that the adverse impacts on neighbouring amenity outweigh the economic and public benefits of the proposed hot food takeaway in this instance.
35. Several objections have included concerns over the number of takeaways in the area. Concern is also expressed regarding the sale of 'unhealthy food' from the premises. There is currently no development plan policy which seeks to limit the number or location of takeaways within the Borough, rather each application is considered on its merits having regard to its impact on residential and visual amenity and highway safety, and any other material planning considerations. Obesity in an area has however been found to be a material consideration when deciding on applications for fast food outlets.
36. The Council's Public Health department has been consulted on the application in relation to child obesity levels within the North Road Ward. The most recent figures from 2018 show that obesity levels in primary school children in Reception and Year 6, although not statistically different to national figures for England as a whole, is not the worst in the Borough. North Road is in the 2<sup>nd</sup> Highest quintile for obesity levels for children in Year 6 and is in the middle quintile for obesity levels amongst children in Reception year. The wards with the highest rates of obesity in school children in reception and Year 6 are Bank Top & Lascelles, Eastbourne, and Stephenson.

37. Notwithstanding these figures, in the absence of any development plan policy relating to hot food takeaways within the Borough and their impact on the health and wellbeing of an area, particularly in areas of high obesity, limited weight can be attached to this as a material consideration in the determination of this application.

## **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. The impact of the proposed use on childhood obesity levels has been assessed in paragraphs 34 – 36 above.

## **CONCLUSION AND RECOMMENDATION**

39. The proposed use would have a materially adverse impact on the living environment of neighbouring residents which could not be overcome by planning conditions and so would conflict with Policy CS16 (Protecting Environmental Resources, Human Health and Safety) of the Core Strategy 2011 and the National Planning Policy Framework 2019. There are not considered to be any other material planning considerations that would outweigh the concerns raised and therefore, it is considered that planning permission should be refused. In taking this decision the Local Planning Authority has had regard to the benefits of the continued use of the building.

40. Accordingly, it is recommended **THAT PLANNING PERMISSION BE REFUSED FOR THE FOLLOWING REASON:**

1. The proposed use would have a materially adverse impact on the living environment of neighbouring residents as a result of the proposed flue and extraction equipment and the noise levels produced and from the comings and goings of customers later into the evening which could not be overcome by planning conditions. The proposal would therefore conflict with Policy CS16 (Protecting Environmental Resources, Human Health and Safety) of the Core Strategy (2011) and the National Planning Policy Framework (2019).



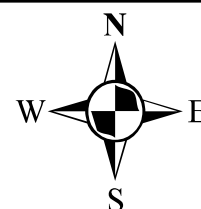


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**PLANNING REF No: 21/00247/FUL**

DARLINGTON BOROUGH COUNCIL

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**DARLINGTON BOROUGH COUNCIL****PLANNING APPLICATIONS COMMITTEE****COMMITTEE DATE: 09<sup>th</sup> June 2021**

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<b>APPLICATION REF. NO:</b>	21/00319/FUL
<b>STATUTORY DECISION DATE:</b>	17 <sup>th</sup> May 2021.
<b>WARD/PARISH:</b>	EASTBOURNE.
<b>LOCATION:</b>	199 Geneva Road.
<b>DESCRIPTION:</b>	Change of use of land from open space to enclosed garden and car parking area including erection of 1.8m boundary fence
<b>APPLICANT:</b>	Mr. Anthony Boyce.

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**RECOMMENDATION: GRANT PERMISSION 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=Q82CFLFPLCD00>

**APPLICATION AND SITE DESCRIPTION:**

1. The application site comprises an area of hardstanding situated to the rear of no. 199 Geneva Road. The land is accessed via an entrance off Geneva Road and forms part of a larger area of informal communal parking for properties on Geneva Road, Burnside Road to the east and Westminster Road to the south. A Land Registry search has revealed that this land is in the ownership of the applicant and was purchased from Darlington Borough Council with the house under the Right to Buy Scheme in 1983.
2. This is a part retrospective application for the change of use from open space to form part of the applicant's garden incorporating a car parking area and to be enclosed by a 1.8-metre-high boundary fence. Work has commenced in the form of the sinking of posts for the fence. The remainder of the work, if approved, involves the removal of a section of the existing hardstanding (tarmac) and the laying down of turf followed by the erection of the boundary fence. A pair of access gates would be included in

the north eastern boundary to allow access to the parking area, providing 2 no. spaces for the applicant's use.

### **MAIN PLANNING ISSUES:**

3. The main planning issues with the application are: -

- a. Impact on Visual and Residential Amenity
- d. Highway Safety
- c. Land Ownership

### **PLANNING POLICIES:**

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

- a) Is in keeping with character, design and external appearance of the dwelling, street scene and surrounding area and that adequate privacy in rooms, gardens and other outdoor buildings is maintained (H12).
- b) Provides vehicular access and parking suitable for its use and location (CS2)

### **RESULTS OF TECHNICAL CONSULTATION:**

5. The Council's Highways Engineer has raised no highway objection to the application.

### **RESULTS OF PUBLICITY AND NOTIFICATION:**

6. The application has been publicised by way of neighbour letters.

7. A total of eight objections have been received and the comments can be summarised as follows:

- *The proposal will block rear access to my property, garage, and garden.*
- *Loss of parking spaces as can't park at front of property*
- *It will block access for delivery lorries for the local businesses. DBC unable to collect refuse.*
- *The applicant started work before application was applied for and was stopped by council and is a total disrespect for local authority and surrounding properties/ residents.*

### **PLANNING ISSUES/ANALYSIS:**

#### **(a) Impact on Visual and Residential Amenity**

8. Nos. 33 to 27 Westminster Road directly opposite the application site, are screened by their existing rear boundary fences and therefore do not overlook the application site at ground floor level. Similarly, the properties either side of the application site, nos. 201 & 197 Geneva Road, are enclosed by rear boundary fences which will largely screen the proposal from this aspect. It is therefore considered that the

enclosure of this area of land and the erection of a 1.8-metre-high fence will not adversely impact on the amenity of neighbouring properties in terms of loss of light, outlook, or privacy. Being located to the rear of the property neither the proposed change of use of the land or its enclosure with a 1.8 metre high fence will have a discernible impact on the character and appearance of the surrounding area which is characterised by dwellings with enclosed long rear gardens. The proposal therefore complies with Saved Local Plan Policy H12 and CS2.

## **(b) Highway Safety**

13. The access road and informal parking area to the rear of the application site is not adopted highway being privately owned and maintained and as such the Highway Authority has no powers over parking/obstruction or the enclosure of the road or duty to maintain it. The ownership certification submitted with the planning application has been completed to reflect this position. While the application site forming part of this informal parking area has been used in this way for several years it has been in the same ownership as 199 Geneva Road since 1983. Given that this area is not adopted highway, the Highway Engineer has advised that he would have no reasonable ground to object to the application.
14. It is recognised that the change of use and enclosure of this land will result in the net loss of 4 no. car parking spaces with some impact to residents and businesses on Geneva Road, Burnside Road and Westminster Road, where few properties have in-curtilage parking and the carriageway is not sufficiently wide enough to accommodate on-street parking on both side of the road. The displacement of these 4 no. parking spaces on to the surrounding streets is not considered to result in any significant impact on highway safety to warrant refusal of the application.
15. Some objection letters seem to indicate that the applicant intends to extend the fence line over the rear lane and thus block access to properties, garages, and the turning area at the end. The applicant has confirmed that it is not their intention to block access along the rear lane/road. The applicant intends to stop the fence in line with the attached neighbour's fence to maintain access to properties, garages, and the turning area at the norther end of the access lane/road.

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

16. 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 development does not raise any issues that would raise discrimination between persons who share a relevant protected characteristic and persons who do not share it.

## **CONCLUSION AND RECOMMENDATION:**

17. The proposed change of use of the land and erection of a 1.8-metre-high timber fence would not give rise to any issues of visual or residential amenity. While the proposal will result in the loss of 4 no. parking spaces, this area is not adopted highway and has been used informally for access, parking and turning purposes for several years. These parking spaces can be accommodated on surrounding streets without significantly impacting upon highway safety and the proposal therefore complies with Saved Local Plan Policy H12 (Extensions and Alterations to Existing Dwellings) and Core Strategy Policy CS2 (Achieving High Quality, Sustainable Design).

**ACCORDINGLY, IT IS RECOMMENDED THAT PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS: -**

**1. A3 Implementation Limit (Three Years)**

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

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

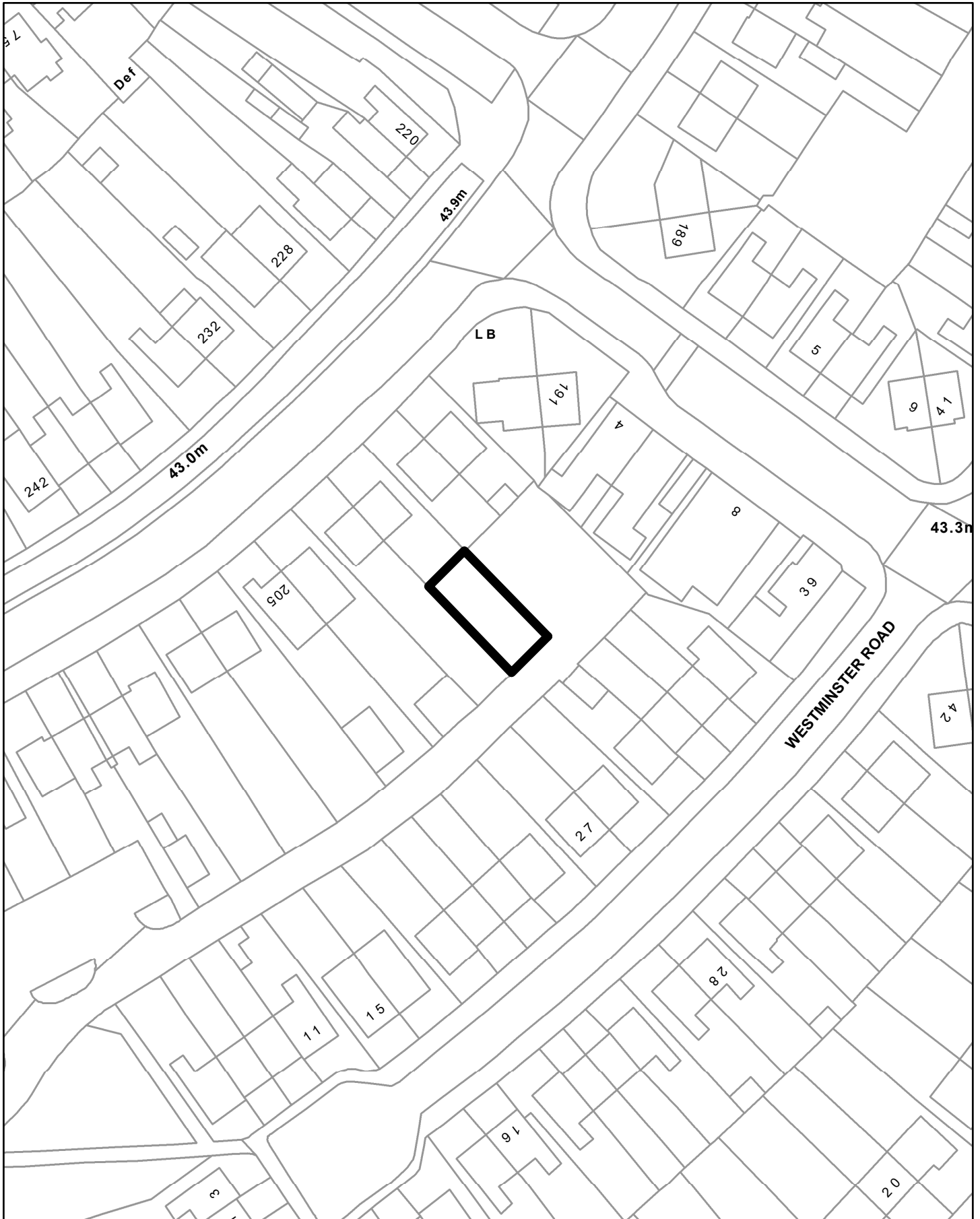
2. The development hereby permitted shall be constructed in accordance with the materials as set out in the application, unless otherwise agreed, in writing, with the Local Planning Authority.

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

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

Drawing Number - 21-001/ 02/ A - Existing And Proposed Site Plan & Details

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

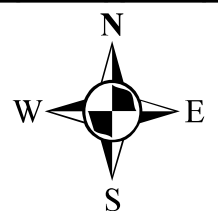


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**PLANNING REF No: 21/00319/FUL**

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## Appeal Decision

Site visit made on 23 March 2021 by Ifeanyi Chukwujekwu BSc MSc MIEMA CEnv AssocRTPI

**Decision by Chris Preston BA (Hons) BPI MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 13 May 2021**

**Appeal Ref: APP/N1350/W/20/3264185**

**Clayton's Yard, Tannery Yard, Darlington DL1 1SH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Yousif Ameen-Ali against the decision of Darlington Borough Council.
- The application Ref 20/00298/FUL, dated 20 April 2020, was refused by notice dated 26 October 2020.
- The development proposed is roof repairs and facade remediation including blocking up existing openings at low level, installation of secure roller shutter doors and removal of damaged roof structure.

### Decision

1. The appeal is dismissed.

### Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

### Main Issue

3. The appeal site is located within the Parkgate Conservation Area (the 'CA'). The main issue is the effect the proposal would have on the character and appearance of the building and whether the proposal would preserve or enhance the character or appearance of the CA.

### Reasons for the Recommendation

4. The appeal property is a linear group of 19<sup>th</sup> century buildings located in a secluded yard behind buildings on Borough Road and car parks on Brunswick Street. It can be accessed via Tannery Yard off B6280 Parkgate or via a doorway and access between nos. 15 and 17 Borough Road. The building is constructed with red brick with wooden windows and doors, and pantile roof. Much of the roof has lost its original material and is covered by corrugated metal roofing, and window openings at the upper floor have been infilled with concrete blocks.
5. This group of buildings known as the Tannery buildings is referenced in the Parkgate Conservation Area Character Appraisal (2015), and is a historic preserve of industrial tanning activities in the area. The form and appearance

of the building retains evidence of its industrial past, including the position and scale of the door and window openings, the irregularity of which adds to the character of the building. The retained cobble stones in the yard and the alignment of the structure clearly indicate the historic street pattern.

Consequently, although the building appears to be in poor repair, it retains a large amount of historic character and contributes significantly to the historic character of the CA.

6. The introduction of 5 openings with roller shutter doors and 2 personnel access doorways and the blocking up of the remaining openings would alter the façade of the building and introduce a modern element to its character which would pay little regard to the historical context. As noted, the existing openings vary in size and position, with traditional loading bay doors on the upper floors and various openings at random intervals adding to the historic character of the building. In contrast the five, regularly spaced, double height, doors would be uncharacteristically large and uniform.
7. This change would be noticeable from the car park at the corner of Brunswick Street and St Cuthberts Way, and even via the entrance on Borough Road. The increased dimension of the openings as well as the insertion of large roller shutters would be entirely out of character with the property and would detract from the historic interest and introduce an overtly modern feature. Accordingly, the scheme would not be sympathetic to or reflect the built and historic characteristic of the building which positively contributes to the character of the CA. It would be visually harmful to the visual appearance and character of the building and would cause harm to the character of the CA.
8. The appellant has referred to the Darlington Hippodrome (formerly the Civic Theatre) which is a Grade II listed building and contend that similar changes to that proposed at the appeal property have been carried out at the Hippodrome. My observation is that the rehabilitation of this building has still managed to reference the earlier building in materials and in choice of window shape on the main façade. The Parkgate Conservation Area Character Appraisal also states that this building though listed is of less architectural and historic interest<sup>1</sup>.
9. Paragraph 193 of the National Planning Policy Framework (the Framework) states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Framework paragraph 194 states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.
10. The harm would be less than substantial, on account of the fact that the proposal would only affect part of the character of the CA and would not alter the built form or the townscape. Nevertheless, taking account of the statutory duty to have special regard to enhancing or preserving the character and appearance of a Conservation Area, importance and weight must be attached to the harm identified.

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<sup>1</sup> See page 25

11. The public benefit that could be derived from use of the currently neglected property would not outweigh the harm that would be caused by the proposal. There is no evidence to show that the property cannot be put to the same use by using materials which reflect the character of the property and retaining the existing openings which reflect the history of the building.
12. Taking all the above points together, I find that the proposal would be visually harmful to the character and appearance of the appeal property and would not preserve the character or appearance of the CA. Accordingly, it would conflict with the aims and objectives to the National Planning Policy Framework and Policies CS2 and CS14 of the Darlington Local Development Framework Core Strategy (2011) which seek amongst other things to ensure that proposed development reflects the built and historic characteristics that positively contribute to the character of the local area and its sense of place and protects and enhances buildings and features that reflect Darlington's industrial heritage which contribute to the local character and distinctiveness.

### **Conclusion and Recommendation**

13. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

*Ifeanyi Chukwujekwu*

APPEALS PLANNING OFFICER

### **Inspector's Decision**

14. I have considered all the submitted evidence and the Appeal Planning Officer's report, and on that basis, I agree that the appeal should be dismissed.

*Chris Preston*

INSPECTOR

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## Appeal Decision

Site visit made on 19 April 2021

**by Simon McGinnety MSc BSc (hons) M.Arbor.A**

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

**Decision date: 13 May 2021**

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### **Appeal Ref: APP/TPO/N1350/8123**

#### **1 Cedar Grove, Middleton-St-George, Darlington, Durham DL2 1GA**

- 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 a tree protected by a Tree Preservation Order (TPO).
  - The appeal is made by Mr Mark Stratford against the decision of Darlington Borough Council.
  - The application Ref: 20/00578/TF, dated 10 July 2020 was refused by notice dated 11 September 2020.
  - The work proposed is: Horse chestnut - pruning to part of the west facing crown; pruning to lower branches as indicated on attached information.
  - The relevant TPO is The Borough of Darlington Tree Preservation (No. 7) Order 1980 Middleton Lane, Middleton St. George, which was confirmed on 22 April 1981.
- 

### **Decision**

1. The appeal is dismissed.

### **Preliminary matters**

2. The description of the proposed works in the banner heading above refers to 'attached information'. This is in the form of a photograph of the tree showing the location of proposed pruning works. I have considered the appeal having regard to this.
3. The Council's decision notice cites conflict with policies of the development plan. However, the development plan is not decisive in TPO appeals and, as such, I have not considered this matter further.

### **Main issues**

4. The main issues are: the effect of the proposed tree works on the character and appearance of the Middleton One Row Conservation Area (MORCA); and whether sufficient justification has been demonstrated for the proposed works.

### **Reasons**

#### *Character and appearance*

5. The tree, a large and mature specimen, is growing along the front boundary of the front garden of 1 Cedar Grove, a contemporary dwelling which fronts onto Middleton Lane. No 1 is located within the MORCA. The tree is one of a group of trees growing along the front boundary of this property and the front boundary of the adjacent property, 61 Middleton Lane. The tree is visible from public

vantage points along both Cedar Grove and Middleton Lane. It appears to be in good condition with an attractive shape and form and is a prominent feature of the street scene. This is notwithstanding that tree appears to have been subject to some minor pruning works in the past, is somewhat suppressed by neighbouring trees and has a crown bias over the front garden of No 1 as a result. There are numerous other trees growing in the locality, many of which are mature. These, along with the appeal tree, afford the MORCA a verdant and mature landscape quality and contribute positively to its character and appearance.

6. The pruning works would reduce the canopy size of the tree by a marked degree. This would have an adverse impact on the attractive shape and form of the tree and the visual amenity it provides. In addition, whilst the markings on the photograph are a useful indication of the proposed works, this alone, without a detailed written specification of works, is of insufficient clarity, in my view, to ensure that any qualified arborist would be able to determine the precise extent and position of the cuts. Accordingly, the proposed works would give rise to considerable harm to the character and appearance of the MORCA. Given that, any reasons given to justify the proposed works need to be convincing. It is to those reasons, the second main issue, to which I now turn.

#### *Justification for the proposed works*

7. The appellant puts forward that the tree is starting to reduce the amount of light to the front of the house and that it is too large for its position. It is unclear to me whether the concern is in respect of sunlight or daylight. However, the tree maintains a generous distance from the house and is thus unlikely to have a harmful effect on the level of daylight reaching the front windows of the property. Given its location broadly to the east of the house and having regard to the east to west path of the sun, any shading caused by the tree is likely to be limited to morning hours only and, given this, in combination with the distance of the tree from the house, not to an unacceptable degree. Moreover, the pruning of lateral growth only would be unlikely to have a material impact on shading levels. Furthermore, it is not uncommon, in leafy residential areas, for large trees to cause some shading impacts to property. Given these factors, I do not consider that the tree has a detrimental impact on light levels to the front of the appellant's house and is not of an excessive size for its position.
8. The appellant refers to a recent consent<sup>1</sup> to lift the crown of the tree on the side of No 61 to 3 metres. Nonetheless, the full details of this consent have not been provided and the work consented under that application is not helpfully comparable to the greater extent of works under consideration in this appeal. In addition, each case should be considered on its own merits.

#### **Conclusion**

9. With any application for works to a protected tree, a balancing exercise needs to be undertaken. The essential need for the works applied for must be weighed against the resultant loss to the amenity of the area. In this case, the proposed works would result in considerable harm to the character and appearance of the MORCA and, in my judgement, insufficient justification has been demonstrated for the proposed works.

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<sup>1</sup> Cited as Council Ref: 20/00205/TF

10. Accordingly, for the reasons set out above and having considered all matters raised, I conclude that the appeal should be dismissed.

*Simon McGinnety*

INSPECTOR

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of the Local Government Act 1972.

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