



DARLINGTON

Borough Council

Planning Applications Committee Agenda

1.30 pm, Wednesday, 16 February 2022

Council Chamber, Town Hall, Darlington. DL1 5QT

Members of the Public are welcome to attend this Meeting.

1. Introductions/Attendance at Meeting
2. Declarations of Interest
3. To Approve the Minutes of the Meeting of this Committee held on 19 January 2022
(Pages 5 - 12)
4. Introduction to Procedure by the Assistant Director, Law and Governance's
Representative (Pages 13 - 14)
5. Applications for Planning Permission and Other Consents under the Town and Country
Planning Act and Associated Legislation (Pages 15 - 16)
 - (a) Walworth Castle Birds Of Prey (Pages 17 - 36)
 - (b) 8 The Lanes (Pages 37 - 44)
6. SUPPLEMENTARY ITEM(S) (if any) which in the opinion of the Chair of this Committee are
of an urgent nature and can be discussed at this meeting
7. Questions

PART II

8. Notification of Decision on Appeals –

The Chief Executive will report that the Inspectors appointed by the Secretary of State for the Environment have: -

Dismissed the appeal by Mr Leigh Porter against this Authority's decision to refuse permission for the Change of Use from shop (Use Class E) to hot food takeaway (Sui Generis) including replacement aluminium shop front with roller shutter doors, alterations to windows/doors on rear side elevation, installation of extraction flue to rear and associated internal alterations (21/00505/FUL)
(Copy of Inspector's decision letter enclosed)

Allowed the appeal by Mrs Pauline Shannon against this Authority's decision to refuse permission for the retention of 2no. security shutters to the existing shop front (retrospective) at 65 - 67 North Gate, Darlington, Durham DL1 1TR (21/00649/FUL) (Copy of Inspector's decision letter enclosed)

Allowed the appeal by Mr Tom Smith against this Authority's decision to serve an enforcement notice which alleged the failure to comply with condition 4 of planning permission reference number 10/00059/FUL dated 19 November 2010. The Inspector also awards costs against the Council. (Copy of Inspector's decision letter enclosed)

Recommended – That the report be received
(Pages 45 - 64)

9. Notification of Appeals –

The Chief Executive will report that: -

Mr Paul Furness has appealed against this Authority's decision to refuse permission for the erection of a two storey side extension to west elevation, re-location of 1.8m high side boundary fence, widening of existing drive to create extra off-street parking and the erection of a detached summerhouse in the rear garden at 1 Hall View Grove, Darlington, DL3 9DN (21/00789/FUL)

Mr Paul Million has appealed against this Authority's decision to refuse permission for Change of Use from dwelling house (Use Class C3) to 8 person large HMO (sui-generis) with replacement windows and door, removal of chimney stack and associated internal works
at 12 Vane Terrace, Darlington, DL3 7AT (21/01217/FUL)

Mr George Murray has appealed against this Authority's decision to refuse permission for consent to carry out Works to 1 no. Willow tree(T1) protected under Tree Preservation Order (No.11) 2019 - crown reduce up to 2m and removal of deadwood at River View, Dinsdale Spa House, Church Lane, MIDDLETON ST GEORGE, DARLINGTON, DL2 1DJ (21/00303/TF)

Recommended – That the reports be received

PART III

EXCLUSION OF THE PUBLIC AND PRESS

10. 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.

11. Complaints Received and Being Considered Under the Council's Approved Code of Practice as of 4 February 2022 (Exclusion Paragraph No. 7) –
Report of the Chief Executive
(Pages 65 - 74)

12. 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

13. Questions



Luke Swinhoe
Assistant Director Law and Governance

Tuesday, 8 February 2022

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, Operations Group, during normal office hours 8.30 a.m. to 4.45 p.m. Mondays to Thursdays and 8.30 a.m. to 4.15 p.m. Fridays E-Mail: paul.dalton@darlington.gov.uk or telephone 01325 405805

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PLANNING APPLICATIONS COMMITTEE

Wednesday, 19 January 2022

PRESENT – Councillors Mrs D Jones (Chair), Allen, Clarke, Cossins, Heslop, Laing, Lee, McCollom, Tait and Tostevin

APOLOGIES – Councillors Lister, Sowerby 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)

PA75 DECLARATIONS OF INTEREST

There were no declarations of interest reported at the meeting.

PA76 TO APPROVE THE MINUTES OF THE MEETING OF THIS COMMITTEE HELD ON 24 NOVEMBER 2021

RESOLVED – That the Minutes of this Committee held on 24 November 2021, be approved as a correct record.

PA77 APPLICATIONS FOR PLANNING PERMISSION AND OTHER CONSENTS UNDER THE TOWN AND COUNTRY PLANNING ACT AND ASSOCIATED LEGISLATION

A3	<p>Implementation Limit (Three Years) The development hereby permitted shall be commenced not later than the expiration of three years from the date of this permission.</p> <p>Reason - To accord with the provisions of Section 91(1) of the Town and Country Planning Act, 1990.</p>
B4	<p>Notwithstanding any description of the external materials in the submitted application, details of the external materials to be used in the carrying out of this permission (including samples) shall be submitted to, and approved by, the Local Planning Authority in writing prior to the commencement of the development and the development shall not be carried out otherwise than in accordance with any such approved details.</p> <p>Reason - In order that the Local Planning Authority may be satisfied as to the details of the development in the interests of the visual amenity of the area.</p>
PL	<p>The development hereby permitted shall be carried out in accordance with the approved plan(s) as detailed below,</p> <p>Reason - To define the consent.</p>

PA78 24 WOODLAND TERRACE, DARLINGTON

21/00644/FUL – Erection of two storey rear extension and associated alterations to facilitate change of use from a former shop (Use Class E) to a dwelling (Use Class C3).

(In reaching its decision, the Committee took into consideration the Planning Officer's report (previously circulated), four letters of objection received, one letter of representation received, and the views of two objectors, whom the Committee heard).

RESOLVED – That Planning Permission be refused for the following reasons:

- (a) The development by way of its design and use of materials would adversely affect the existing character of the street contrary to Policy CS2 of the Darlington Core Strategy Development Plan Document, 2011.
- (b) The development would have an adverse impact on the amenity currently enjoyed by the adjacent and adjoining properties by reason of loss of light and outlook.

PA79 FORMER FARMERS CATTLE MARKET, CLIFTON ROAD, DARLINGTON

21/01244/DC - Construction of a temporary car park and associated works (additional tree works information received 8 December 2021, amended car park layout plans, additional heritage statement and response to consultation comments received 10 December 2021, further response to consultation comments received 17 December 2021 and amended flood risk assessment and drainage strategy received 23 December 2021).

(NOTE: This application was withdrawn from the Agenda at the meeting).

PA80 RESERVOIR (DISUSED), DARLINGTON ROAD, SADBERGE

21/00915/RM1 - Application for reserved matters approval relating to access, appearance, landscaping, layout and scale for the erection of 46 no. dwellings and associated works pursuant to planning permission 19/00339/OUT dated 06 Feb 2020 (Outline planning permission for redevelopment of former reservoir site for residential purposes of up to 46 dwellings with all matters reserved apart from access) (amended site plan and additional boundary treatment and hard surfacing details, site sections, landscape management scheme, drainage information and reservoir wall information received 9 December 2021, additional pumping station information received 10 December 2021 and amended landscape management scheme received 21 December 2021).

(In reaching its decision, the Committee took into consideration the Planning Officer's report (previously circulated), eight letters of objection originally received and a further three letters of objection received in response to re-consultation, the concerns of the Council's Conservation Officer, the points raised by Sadberge Parish Council, and the views of the Applicant's Agent, whom the Committee heard).

NOTE: In speaking to the application, the Applicant's Agent advised Members that the Applicant had agreed to pay £50,000 towards the cost of a play area in lieu of the previously agreed contribution towards bus services, with a new or varied Section 106 Agreement to be

drawn up.

RESOLVED – That details be approved subject to the following conditions:

1. The development hereby permitted shall be carried out in accordance with the approved plans and documents, as detailed below:
 - a) Proposed site plan, drawing number 692-003 Revision C, November 2020
 - b) Proposed boundary treatment and external hard landscaping, drawing number 692-004 Revision A, June 2021
 - c) Site sections, drawing number 692-PL006 Revision A, November 2021
 - d) Coniston GA Plans & Elevations, Drawing number 692 CO-01 Revision A, June 2021
 - e) Croft GA Plans & Elevations, Drawing number 692 CR-01 Revision A, June 2021
 - f) CT1 GA Plans & Elevations, Drawing number 692 CT101 Revision A, June 2021
 - g) CT2 (Brick) GA Plans & Elevations, Drawing number 692 CT2B01 Revision A, June 2021
 - h) CT2 (Render) GA Plans & Elevations, Drawing number 692 CT2R01 Revision A, June 2021
 - i) CT3 GA Plans & Elevations, Drawing number 692 CT301 Revision A, June 2021
 - j) Ergo 1 (Brick) GA Plans & Elevations, Drawing number 692 E1B01 Revision A, June 2021
 - k) Ergo 1 (Render) GA Plans & Elevations, Drawing number 692 E1R01 Revision A, June 2021
 - l) Ergo 2 GA Plans & Elevations, Drawing number 692 E201 Revision A, June 2021
 - m) Epsom GA Plans & Elevations, Drawing number 692 EP01 Revision A, June 2021
 - n) Type 1 GA Plans & Elevations, Drawing number 692 T101 Revision A, June 2021
 - o) Type 2 GA Plans & Elevations, Drawing number 692 T201 Revision A, June 2021
 - p) Type 3 GA Plans & Elevations, Drawing number 692 T301, June 2021
 - q) Amended 'Landscape Management Specification, Darlington Road, Sadberge for Homes by Carlton' prepared by Rosetta Landscape Design received 21 December 2021.

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

2. Details of a landscaping scheme shall be submitted to, and approved in writing by, the Local Planning Authority prior to the dwellings hereby approved being constructed above damp proof course level. Upon approval of the scheme, it shall be fully implemented concurrently with the carrying out of the development, or within such extended period as may be agreed in writing by the Local Planning Authority, and thereafter any trees or shrubs removed, dying, severely damaged or becoming seriously diseased shall be replaced, and the landscaping scheme maintained for a period of five years to the satisfaction of the Local Planning Authority.

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

21/00405/FUL - Erection of 2 no. detached dwellings (Additional information received 24th August & 13th October 2021).

(In reaching its decision, the Committee took into consideration the Planning Officer's report (previously circulated), two letters received, an objection from Middleton St. George Parish Council, the concerns of the Council's Conservation Officer, and the views of the Applicant's Agent, whom the Committee heard).

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

1. A3 Implementation Limit 3 years
2. PL (Accordance with Plan)
3. B4 External materials
4. A landscaping scheme, which shall include the type and location of replacement trees shall be submitted to, and approved in writing by, the Local Planning Authority prior to any works commencing and, upon approval of such schemes, it shall be fully implemented concurrently with the carrying out of the development, or within such extended period as may be agreed in writing by the Local Planning Authority, and thereafter any trees or shrubs removed, dying, severely damaged or becoming seriously diseased shall be replaced and the landscaping scheme maintained for a period of five years to the satisfaction of the Local Planning Authority.

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

5. The development shall be carried out in full accordance with the recommendations including the scheme to protect the existing trees to be retained, as set out in the Arboricultural Impact Assessment (C. Raw, April 2021) unless otherwise agreed in writing by the Local Planning Authority.

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

6. Prior to the commencement of the development hereby approved, details of measures (type and location) to secure biodiversity net gains, relating to enhancements and opportunities for birds and bats, shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, the agreed measures shall be fully implemented in the carrying out of the development and shall remain in place thereafter.

REASON – To comply with Core Strategy Policy CS15 (Protecting and Enhancing Biodiversity and Geodiversity) and to provide biodiversity net gains in accordance with the requirements of the National Planning Policy Framework.

7. The development shall be carried out in accordance with the recommendations set out in the Preliminary Ecological Appraisal (Land at Brake House, Middleton St George, OS Ecology Limited, April 2021) including detailed method statements undertaken by a qualified Ecologist, unless otherwise agreed in writing by the Local Planning Authority.

REASON – To comply with Core Strategy Policy CS15 (Protecting and Enhancing Biodiversity and Geodiversity) and to provide biodiversity net gains in accordance with the requirements of the National Planning Policy Framework.

8. 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.

9. 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.

10. 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.

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

12. No construction activities, including the use of plant and machinery, as well as deliveries to and from the site, shall take place outside the hours of 08.00-18.00 Monday to Friday, 08.00-14.00 Saturday with no activities on Sunday or

Bank/Public Holidays without the prior written permission of the Local Planning Authority.

REASON – In the interests of residential amenity.

13. Prior to the occupation of the development, precise details of secure cycle parking and storage details shall be submitted and approved in writing by the Local Planning Authority. The details shall include the number, location and design of the cycle stands and the development shall not be carried out otherwise than in complete accordance with the approved details.

REASON – To provide adequate facilities to encourage the use of sustainable modes of transport.

14. 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.

15. 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. Thereafter the agreed boundary treatment shall be in place prior to the occupation of the development.

REASON – In the interests of visual and residential amenity.

PA82 CHILDHOOD OBESITY PLANNING OPTIONS IN RELATION TO HOT FOOD TAKEAWAYS

Pursuant to Minute HWBB4/Sept/2021 of the Health and Well-Being Board, this Committee received a copy of the presentation of the Public Health Principal, a Principal Planning Officer and a Policy Research Officer, outlining the findings of an investigation into childhood obesity planning options in relation to hot food takeaways.

RESOLVED – That the content of the presentation be noted.

PA83 NOTIFICATION OF DECISION ON APPEALS

The Chief Executive reported that, Inspectors, appointed by the Secretary of State for the Environment, had dismissed the appeal by Ms Barbara Dewing against this Authority's decision to refuse permission for the erection of 1 no. residential dwelling with car parking spaces and associated amenity space (20/01231/FUL).

RESOLVED – That the report be received.

PA84 NOTIFICATION OF APPEALS

The Chief Executive reported that: -

CGX have appealed against this Authority's decision to refuse permission for the installation of 2 no. external security roller shutters to existing shopfront (Retrospective) at 65- 67 Northgate, Darlington, Durham, DL1 1TR (21/00649/FUL)

RESOLVED - That the report be received.

PA85 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.

PA86 COMPLAINTS RECEIVED AND BEING CONSIDERED UNDER THE COUNCIL'S APPROVED CODE OF PRACTICE AS OF 7 JANUARY 2022 (EXCLUSION PARAGRAPH NO. 7)

Pursuant to Minute PA74/Nov/2021, the Chief Executive submitted a report (previously circulated) detailing breaches of planning regulations investigated by this Council, as at 7 January 2022.

RESOLVED - That the report be noted.

When the time comes for the application to be considered, the Chair will use the following running order:

[This order may be varied at the Chair's discretion, depending on the nature/complexity of the application. The Chair will endeavour, however, to ensure that the opportunity to make representations are made in a fair and balanced way.]

- Chair introduces agenda item;
- Officer explains and advises Members regarding the proposal;
- Applicant or agent may speak;
- Members may question applicant/agent;
- Up to 3 objectors may speak
- Members may question objectors;
- Up to 3 supporters may speak
- Members may question supporters;
- Parish Council representative may speak;
- Members may question Parish Council representative;
- Ward Councillor may speak;
- Officer summarises key planning issues;
- Members may question officers;
- Objectors have right to reply;
- Agent/Applicant has right to reply;
- Officer makes final comments;
- Members will debate the application before moving on to a decision;
- Chair announces the decision.

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BOROUGH OF DARLINGTON

PLANNING APPLICATIONS COMMITTEE

Committee Date – 16 February 2022

SCHEDULE OF APPLICATIONS FOR CONSIDERATION

Background Papers used in compiling this Schedule:-

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

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

Address/Site Location	Reference Number
Walworth Castle Birds Of Prey	20/00806/FUL
8 The Lanes	21/01241/FUL

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DARLINGTON BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 16th February 2022

APPLICATION REF. NO:	20/00806/FUL
STATUTORY DECISION DATE:	28 February 2022
WARD/PARISH:	Heighington And Coniscliffe
LOCATION:	Walworth Castle Birds Of Prey, Walworth Road WALWORTH, DARLINGTON, DL2 2LY
DESCRIPTION:	Demolition of existing outbuildings, and change of use of land for the siting of 6 no. holiday pods and associated landscaping (amended plans and documents received 18th November 2021)
APPLICANT:	Walworth Castle Hotel

RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS

Application documents including application forms, submitted plans, supporting technical information, consultations responses and representations received, and other background papers are available on the Darlington Borough Council website via the following link:

<https://publicaccess.darlington.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=Q82CFLFPLCD00>

APPLICATION AND SITE DESCRIPTION

1. The application site comprises land within the curtilage of Walworth Castle which is a Grade I listed building. The site is located to the rear (north east) of the main Castle and was last used as a former bird of prey display area, including a range of outbuildings, timber bird aviary and a display performance area. Immediately, to the east of the site lies a woodland area and a pond. The walls of the castle grounds abut the highway to the north and Walworth Castle Garden is located to the west which is now a private residential dwelling. The castle grounds extend to the south and south west. The Castle is set within managed lawn and gardens, with the car park and vehicular access roads that encircle the castle. To the west is Walworth Road which serves the site and connects Walworth with surrounding villages.

2. Planning permission (ref no 13/00082/FUL) was granted in April 2014 to use the application site as a falconry centre incorporating construction of fencing, pergola, office, shop and aviary buildings (description amended by additional plans received 15 March 2013)
3. The planning application was originally for the siting of six holiday lodges with associated landscaping. Historic England and the Council's Conservation Officer raised objections to the proposal in terms of the design of the lodges, the layout of the site, the lack of a comprehensive landscaping scheme and they considered that proposal would have an adverse impact upon the setting of the listed buildings.
4. Following discussions with officers, the applicant has redesigned the type of accommodation from lodges to pods and amended the layout and position of them within the site. The proposal also includes a more comprehensive landscaping scheme. Due to design copyright issues the applicant is unable to provide detailed plans of the proposed pods until a deposit is secured, but the intention is to use Shire Camping Pods which are a bespoke design and measure 7m x 3.2m x 2.7m. The pods are constructed from FSC grade structural, insulated panels and solid timber frames from sustainable forest resources. All window and door frames will also be constructed in timber and are double glazed ensuring thermal efficiency and low energy consumption.
5. As the application relates to change of use of the land, it is considered that a reasonable approach is to provide indicative dimensions and design details of the pods only at this stage. The siting of the pods can be fixed as per the submitted accompanying site layout plan and a planning condition can be imposed to secure their precise design details.
6. There are several heritage assets in the immediate vicinity of the application site including the Grade I Listed Castle to the south west, and the garden walls, gate piers and greenhouse to the west of the site (Grade II listed). The lodge, linking walls and gate piers, located just to the west of the main castle building, are also Grade II listed. Further afield and to the north of the site, is the deserted medieval village of Walworth which is a Scheduled Monument and North Farm is a Grade II listed building. The threshing barn and Ging Gang of Walworth Grange Farm can be found further to the east of the site. There are trees within the wider Castle grounds which are covered by tree preservation orders but no such trees within the application site.

MAIN PLANNING ISSUES

7. The main planning issues to be considered is whether the proposed development is acceptable in the following terms:
 - a) Planning Policy
 - b) General Siting and Design
 - c) Impact on Heritage Assets
 - d) Access, Parking Provision and Connectivity
 - e) Residential Amenity
 - f) Archaeology

- g) Land Contamination
- h) Ecology
- i) Drainage
- j) Accessibility

PLANNING POLICIES

8. The relevant local development plan policies are listed below:

Darlington Core Strategy Development Plan Document (2011)

- CS1: Darlington's Sub-Regional Role and Locational Strategy
- CS2: Achieving High Quality Sustainable Design
- CS6: Vibrant Cultural and Tourist Offer
- CS14: Promoting Local Character and Distinctiveness
- CS15: Protecting and Enhancing Biodiversity and Geodiversity
- CS16: Protecting Environmental Resources, Human Health and Safety
- CS17: Delivering a Multifunctional Green Infrastructure Network
- CS19: Improving Transport Infrastructure and Creating a Sustainable Transport Network

Saved Policies of the Local Plan (1997)

- E2: Development Limits
- E4: New Buildings in the Countryside
- E12: Trees and Development
- E14: Landscaping of Development

Emerging Local Plan

- SD1: Presumption in Favour of Sustainable Development
- SH1: Settlement Hierarchy
- DC1: Sustainable Design Principles and Climate Change
- DC2: Flood Risk & Water Management
- DC3: Health & Wellbeing
- DC4: Safeguarding Amenity
- H3: Development Limits
- H7: Residential Development in the Countryside
- E4: Economic Development in the Open Countryside
- ENV3: Local Landscape Character
- ENV4: Green and Blue Infrastructure
- ENV7: Biodiversity & Geodiversity & Development
- ENV8: Assessing a Development's Impact on Diversity
- IN1: Delivering a Sustainable Transport Network
- IN2: Improving Access and Accessibility
- IN3: Transport Assessments and Travel Plans
- IN4: Parking Provision including Electric Vehicle Charging

9. The National Planning Policy Framework 2021 is also relevant

RESULTS OF TECHNICAL CONSULTATION

10. The Council's Highways Engineer, Ecology Consultant, Conservation Officer and Environmental Health Officer have raised no objections to the principle of the development
11. Following the submission of the amended proposals, Historic England and the Durham County Council Archaeology Team raise no objections to the principle of the proposed development
12. Northumbrian Water and Northern Gas Networks have not objected to the planning application

RESULTS OF PUBLICITY AND NOTIFICATION

13. Objections letters to the original proposal were received from three households and the comments can be summarised as follows:
 - Potential for noise pollution
 - Potential for light pollution
 - Adverse impact on archaeological value of the site
 - Adverse impact on the ecological value of the site
 - The lodges will be highly visible
 - The lodge will have an adverse impact on the listed Castle
 - The lodges will overlook neighbouring properties
 - Insufficient landscaping to screen the lodges
 - Ecological Appraisal refers to the presence of Japanese Knotweed. Is this going to be managed or removed?
14. The Walworth Parish Meeting did not object to the proposed development but requested that the comments made by residents are taken into consideration
15. Following the submission of the amended proposals, the local planning authority carried out a new notification exercise with residents and the three objectors submitted further comments which can be summarised as follows:
 - The revised proposal is undoubtedly an improvement on the original scheme although it is a little concerning that no final idea of what the pods will look like is available
 - The more imaginative landscaping and replanting proposals also improve upon those in the original application but whilst the installation of the pods is designed to make a less intrusive and damaging impact on the integrity of the archaeological site on which they will stand, it is difficult to believe that they will make none at all, given the need to install water and sewage services and electric power.
 - Concerns remain over light pollution and noise pollution
 - We would like our original comments to stand please.

- Although the amended scheme is an improvement on the original proposal, I remain of the view that the scheme is inappropriate to the Grade 1 listed castle setting. It also poses a substantial risk to the peace and quiet and general character of the small village of Walworth, where it appears more than likely to subject various close neighbours to unwelcome light and noise pollution.

PLANNING ISSUES/ANALYSIS

a) Planning Policy

16. 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 (2021) supports the plan led system providing that planning decisions should be “genuinely plan-led” (NPPF para 15).
17. The planning application site is located within the countryside and beyond development limits defined by the Local Plan 1997. Paragraphs 84 and 85 of the National Planning Policy Framework 2021 set out the key principles for supporting a prosperous rural economy. It states that planning policies and decisions should enable the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings. Decisions should also support sustainable rural tourism and leisure developments which respect the character of the countryside. Paragraph 85 explains that decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport).
18. Saved policy E2 of the 1997 Local Plan states that small scale development beneficial to the rural economy will be permitted outside limits provided that unacceptable harm to the character and appearance of the rural area is avoided. Policy CS6 of the Core Strategy 2011 states that a sustainable, vibrant tourism and cultural sector will be promoted and enhanced for the benefit of the local economy, community and visitors by promoting appropriate nature and countryside-based tourism attractions which support visits to and enjoyment of the countryside
19. Under the emerging Local Plan, the site would remain outside of the development limits. Policy E4 of the emerging Local Plan supports the sustainable growth and expansion of all types of businesses located in the countryside subject to a number of criteria. New buildings should be well designed and wherever possible located physically well-related to existing rural settlements and/or existing buildings and building groups. The character, scale and design of all proposed new buildings must be appropriate to its open countryside surroundings and all proposals should be sensitive to their surroundings, provide satisfactory access from and not have an unacceptable impact on the local road network. Proposals must also not unacceptably affect amenity,

not prejudice any viable agricultural operations on an active farm unit, and not prejudice any planned community use.

20. Proposals that demonstrate that they will directly and significantly contribute to the retention and / or development of local services, community facilities and infrastructure which make a location more sustainable will be supported and this is a material planning consideration for this proposal.
21. In addition, policy E4 states that, new caravan and chalet type accommodation should be sited and screened through topography and/or vegetation in order to minimise visual impact. The materials and colours of the chalets and associated site services and infrastructure should blend with its surroundings. All sites should have good access to the road and footpath network and will be subject to conditions to prevent the permanent occupancy of the site.
22. Overall, whilst the existing and emerging local development policy framework does encourage rural economic development to be located within settlement limits or closely related to them, national policy does recognise that sites may have to be found beyond settlement limits which is the case for this proposal. It is also recognised that the application site is not fully accessible by all means of transport as it is not within 400m of a bus stop.
23. The development would have an economic role in terms of providing potential employment opportunities for local people, although small scale, and supporting the future of the Castle as a hotel.
24. A planning condition can be imposed which restricts the occupation of the pods to holiday accommodation and not to be occupied as a person(s) sole or main place of residence, which would be unacceptable in planning policy terms in this location
25. This report sets out that the proposed development would not result in unacceptable harm to the surrounding heritage assets., the landscape, the character and appearance of the rural area, amenity, ecology and the local road network and would accord with both the existing and emerging local plan policies on such matters. Whilst it would be difficult to improve the accessibility and sustainability of the site by public transport it is an existing site with a hotel and there are material planning considerations to enable the local planning authority to support the proposal in accordance with S.38(6) of the Planning and Compulsory Purchase Act 2004

b) General Siting and Design

26. As stated, the proposal originally involved the siting of standard design holiday lodges in a fairly nondescript uniform layout which was unsympathetic to its rural surroundings or the setting of the heritage assets.
27. Whilst the pods are located in a position where they are not visually related to the Castle, in order to minimise its impact upon the Castle's setting, they would be visually

related to the existing properties which are located along Walworth Road (saved policy E4 of the Local Plan)

28. The pods have been positioned more appropriately within the site and an extensive landscaping scheme has been proposed which will help to integrate the pods into the surrounding area once fully established. The pods are set well within the boundaries of the site, which are stone walls and they would be screened from the north (Walworth Road) by the landscaping that is proposed to be planted on the boundaries. The landscaping scheme is acceptable, and no works are proposed to existing trees as part of this proposal. Arguably, the amended proposals are a visual improvement upon the structures and enclosures which formed its previous use.
29. It is considered that the amended proposals will not have an adverse impact upon the character and appearance of the general area and the scheme would accord with local development plan in this regard.

c) Impact on Heritage Assets

30. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a duty to treat a finding of harm to a listed building and its setting as a consideration to which the decision-maker must give considerable importance and weight when carrying out the balancing exercise and subsequent case law has stated that it is not open to the decision-maker merely to give the harm such weight as he thinks fit, in the exercise of his planning judgment.
31. In determining applications, local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and the desirability of new development making a positive contribution to local character and distinctiveness (para 197 of the National Planning Policy Framework 2021).
32. 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 (para 199 of the National Planning Policy Framework 2021).
33. 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 (Para 200 of the National Planning Policy Framework 2021) and 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 (Para 203 of the National Planning Policy Framework 2021).

34. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use (para 202 of the National Policy Framework 2021).
35. Local planning authorities should look for opportunities for new development within Conservation Areas and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably (para 206 of the National Planning Policy Framework 2021)
36. The site of Walworth Castle is of exceptional interest and forms one of only 2.5% of buildings listed at Grade I. The castle was constructed in C1600, and the design incorporated an earlier existing structure, and the existing structure will have been connected the Scheduled Deserted Medieval settlement to the north of the site. The building could be called a Manor House as much as a castle. There are several national examples where fortified castle and building were morphed and adapted into Stately homes.
37. A Heritage Statement has been submitted in support of the amended scheme which makes a good assessment of the history of the site and recognises the importance of the development of the site and its contribution to the Castle. Within this significance are the Listed Grade II Garden Walls, Gate Piers and Green House to the North of the Castle. To the west of the Castle is the Grade II Gate Lodge, linking wall and Gate Piers to the west of the Castle.
38. Looking at the historic maps regressions it is evident that the grounds to the north of the Castle have an interesting variation from the more natural landscaping to the more formalised planting including the wall gardens to the north. This also includes the historic water courses which form a part of the more natural landscaping. When looking at the setting of the Castle this area could readily be overlooked when considered its contribution to the setting and significance of the Castle, however given the development of the area it forms an important part of its setting.
39. The existing application site with the means of enclosure and vacant buildings, does to a degree have a negative impact to the setting of the Castle as it has seen some loss of the natural landscape of the site.
40. In their previous comments Historic England and the Council's Conservation Officer noted that the garden of Walworth Castle made a positive contribution to the character and appearance of the Grade I listed building and that the original proposal presented a too standard and basic layout to be placed in such a setting. This resulted in Historic England and the Conservation Officer objecting to that scheme

41. Both Historic England and the Conservation Officer have now advised that the amended layout and in particular the planting scheme presents a more attractive and interesting layout than that originally submitted. The move to a planted scheme would provide a more landscaped transition between the site and the grounds immediately around the Castle which is more reflective of how an English garden around a country house would be designed. Whilst there would be greater visibility between the Castle and the camping pods in the short term it is assumed that the landscaping would establish itself in time to screen the two areas. The sinuous form of the access track sets up an organic layout that allows an interesting interplay between pods and landscaping. This has much more interest than the static fan layout of lodges in the original submission.
42. The pods themselves are laid on the ground, rather than built into it. This reversibility suggests that when removed their long-lasting impact would be negligible.
43. Whilst it is noted that the precise details of the pod designs cannot be submitted at this stage, the Conservation Officer and Historic England both agree that considering the degree of screening, the strength of the layout and their size, they are content for that detail to be left to be secured by a planning condition.
44. Whilst the idea of camping pods is uncharacteristic in the immediate grounds of a country house, they could play a role in the viability of the business that helps support the conservation of this important heritage building. The revised landscaping and screening drawings demonstrate that this could be done in a way that minimises visual impact and adds interest. This would then contain any visual intrusion of the pods themselves, but when a subsequent application is submitted which provides the details of the pods, care should still be taken to ensure that they are of themselves visually interesting and suitable.
45. The pods and the landscaping proposals would not adversely impact upon the listed walls of the neighbouring Walworth Castle Garden which forms the shared western boundary of the application site nor the other heritage assets which are located within the wider local area.
46. In respect to planning policy both Historic England and the Council's Conservation Officer consider that the impact on the significance of Walworth Castle and the other heritage assets is a neutral one, in that the impact of the pods is mitigated by landscape design and balanced by the additional to the viability of the Castle's current use, which is a material planning consideration in the overall balance of determining this application. Should that use end then the pods would leave little in the way of a long-term impact. The proposed development would sustain the significance of the heritage assets in accordance with paragraph 197 of the NPPF 2021. The proposal would also satisfy the local development plan in this regard.

d) Access, Parking Provision and Connectivity

47. The proposal does not raise any issues in principle as traffic generation is not likely to exceed that of the previous use as a bird of prey centre. Access to the lodges and wider Walworth Castle site is via the long-established entrance on Walworth Road to the west, which has visibility appropriate to travelling speeds past the site entrance. A review of 5-year accident statistics, reveals that there have been 3 minor incidents recorded within 300m of the site entrance, none of these are directly associated with the entrance point or demonstrate a pattern of incident. As such it is concluded that there are no inherent road safety reasons to refuse access at this point.
48. The access enters into the grounds and the internal road splits, with one route leading directly to the front of the castle, and the other route leading to the left of the Castle and around the back to additional parking facilities and Castle grounds. This provides an existing direct access to the application site. As this is currently used by all servicing vehicles and is of a large scale it will be accessible by emergency vehicles including a fire appliance. The current Design Guide advises that an appliance should be able to get to within 45m of a dwelling entrance. The unit furthest from the gate is just within the limits of this requirement unless a gated opening of 3.1m or more is provided for emergency access.
49. Arrangements for refuse collection will need to be made internally, however the site is of sufficient size to allow such a vehicle to enter and exit the site in a forward gear.
50. The castle and hotel benefits from good levels of existing parking provision. It is not expected that the proposed 6no pods would result in significant traffic increase on the wider network, nor would it result in unsustainable pressure in terms of parking. Car parking for the lodges will be within the main hotel car park approximately 75m to the south west of the proposed site. Sufficient car parking is provided within the site, as such it is not expected that overspill parking will be a likely outcome.
51. The limited scale of the scheme, comprising just 6no holiday pods which is ancillary to the main hotel accommodation within the Castle, will not generate significant volume of vehicle movements that would justify refusal of the scheme on reasons of highway impact. The Council's Highways Engineer has raised no highway safety or parking provision objections to the proposed development, and it would accord with local development plan in this regard.
52. In terms of connectivity to the wider area, this development site is not accessible by bus as there are no bus stops within 400m of the site, therefore guests and visitors will not be able to access this site in a sustainable way. The main mode of transport to the site would be via a motor vehicle, as is the case for visitors to the Castle. Pedestrian access is to be taken from the infrastructure already in place at Walworth Castle. The development site is within an advisory cycle route, and in order to promote the use of cycles, cycle storage and parking should be provided for guests which can be secured by the use of a planning condition.

53. It is recognised that the site is not accessible by all means of transport, especially public transport. Whilst the local development policies encourage rural economic development to be located in sustainable locations, national policy does recognise that sites may have to be found beyond settlement limits which are not fully accessible and cannot be made so, which is the case for this proposal. It also has to be recognised that the pods are located within the grounds of an existing hotel and will form part of the additional accommodation offer within the site. The provision of cycle parking within the scheme will give the patrons access to cycle routes within the area of the application site such as Jersey Ice Cream Parlour approximately 0.6 miles away, an Organic Farm Shop and Café in Piercebridge approximately 3.0 miles away, Medieval Ulnaby Farm Shop and Café approximately 1.6 miles away, and the provision will help persuade holiday makers to choose alternative methods of travel once they are there.
54. It is considered that, whilst not fully accessible, there are other material planning considerations as set out above which enables the principle of this extension to the offer of holiday accommodation for the Hotel to be acceptable.

e) Residential Amenity

55. The application site was the location of a Birds of Prey enterprise which was open to visitors and therefore this part of the Hotel site will have previously generated noise and disturbance from such activities although it is recognised that any noise associated with the proposed use is not fully comparable with its previous use.
56. Whilst the details of the pods have yet to be agreed, it is considered that they are sited in locations which will not result in any adverse loss of privacy issues for the dwellings in the immediate locality.
57. The development is low scale and whilst it cannot be claimed that the proposal will not result in some noise and disturbance, it would be envisaged the hotel will operate a strict management programme which would deal with any adverse amenity issues caused by the occupants of the pods, for example, noise, barbeques, antisocial behaviour.
58. The details of any external lighting can be secured by the imposition of a planning condition.
59. Overall, it is considered that the proposed development will not have a significantly adverse impact on the amenities of the neighbouring properties to the north, east and west of the application site. The proposal would accord with local development plans in this regard.

f) Archaeology

60. The Durham County Council Archaeology Team has advised that the proposed type of accommodation will minimise ground-disturbing works which is welcomed in this area of high archaeological potential. As such, the Team has confirmed that pre-determination evaluation of the site will not be required but mitigation will be

necessary in the form of a watching brief to monitor the much more limited ground works. This can be secured through the use of appropriate planning conditions. The proposal would accord with the National Planning Policy Framework 2011 and the local development plan.

g) Land Contamination

61. A Preliminary Contamination Risk Assessment has been submitted with the planning application. The report identifies the former infilled ponds on the site, develops a conceptual model for the site and is recommending site investigation works to assess the extent and risks from the made ground used to backfill the former pond areas. Environmental Health accept this approach and has recommended the imposition of standard planning conditions relating to land contamination. The proposed development would comply with the local development plan in this regard.

h) Ecology

62. The site predominantly comprises amenity grassland, surrounded by scattered broadleaved trees, tall ruderals, stone wall and fencing. In addition, two disused wooden buildings, a stand of scattered scrub and hardstanding were also present within the southern extent of the site. The planning application has been supported by an Ecological Survey of the site and the assessment identifies habitat or potential for nesting birds, bats, badger and hedgehog. However, the assessment anticipates that the potential presence of birds, badger and hedgehog can be mitigated for by taking appropriate precautionary measures both prior to, and during, the construction phase of the development, such that no further survey works are considered necessary to inform the anticipated development proposals. The Survey recommends mitigation measures and potential ecological enhancements.
63. The Council's Ecology Consultant has advised that there are no ecological issues with this application. The tree and wall identified in the Survey with bat roost potential are to be undisturbed. Subject to the imposition of appropriate planning conditions, the proposed development would meet the biodiversity net gain requirements set out in the National Planning Policy Framework 2021 and it would accord with the local development plan.
64. In response to the objection relating to the presence of Japanese Knotweed, the Ecology survey state that the eastern bank of the pond adjacent to the eastern boundary of the application was dominated by Japanese knotweed which was approximately 60 m in length and within 5 m of the eastern boundary of the application site at its closest point. As the Japanese knotweed is separated from the application site by the pond and is within the wider Site ownership of the applicant, the survey makes no further recommendations on this matter.

i) Drainage

65. The proposal includes the use the existing septic tank system for foul sewage. Whilst a Flood Drainage Assessment Form has been submitted in support of the planning

application, the acceptability of this form of drainage would be considered in more detail by the Council's Building Control Team.

j) Accessibility

66. When the precise details of the pods are provided at a later stage, care will be taken to ensure that the accommodation is accessible for all in accordance with the local development plan.

THE PUBLIC SECTOR EQUALITY DUTY

67. 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. This matter is considered at paragraph 65.

SECTION 17 OF THE CRIME AND DISORDER ACT 1998

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

CONCLUSION AND RECOMMENDATION

69. The planning application is for the change of use of land and the siting of six holiday pods within the grounds of Walworth Castle, which operates as a hotel. It is recognised that the application site is not within a fully sustainable location as connectivity to public transport is poor but the proposal forms part of the existing hotel which provides accommodation in the countryside and sustainable links can be maximised by the inclusion of cycle parking provision within the scheme so that the users of the pods can fully utilise the existing cycle paths into the wider area, which is a material planning consideration.
70. The pods would be part of the holiday accommodation on offer by the hotel operator. The proposals have been significantly amended and improved following discussions with Historic England and the local planning authority. Whilst the designs of the pods would be secured by a planning condition, they will be well designed to reflect and be sympathetic to their surroundings and also screened through a comprehensive landscaping scheme to minimise visual impact on the local area and the setting of the heritage assets which accords with the general principles of the appropriate local development plan policies within the current and emerging local plan.
71. The proposed development has been redesigned so that its impact on the heritage assets is neutral and their historic significance would be sustained in accordance with the requirements of the National Planning Policy Framework 2021.

72. The proposal will help to generate some further income for the Castle and its upkeep which is welcomed, and the additional accommodation will increase economic growth within the countryside which are also material planning considerations for this scheme.
73. There are material planning considerations which enables this proposal to be supported in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and the recommendation is to approve subject to planning conditions.

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 D230.L.102 – Demolition Plans
 - b) Drawing Number D230.P.104 Rev C – Planting Plan
 - c) Drawing Number D230.L.103 Rev C – General Arrangement Plan

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

3. For the avoidance of doubt the planning permission hereby granted relates to the siting of 6 No. holiday pods only.

REASON: In the interests of the general amenity of the area and the setting of the surrounding heritage assets

4. Prior to the commencement of the development, precise details of the 6 No holiday pods shall be submitted to and approved in writing by the Local Planning Authority. The details shall include design, materials, dimensions, internal layout, colour schemes, and information on accessibility arrangements. The development shall not be carried out otherwise than in complete accordance with the approved details.

REASON: In the interests of the visual appearance and amenity of the local area and the setting of the surrounding heritage assets

5. Prior to the commencement of the development, precise details of a scheme for the positioning of bat boxes and bird boxes shall be submitted to and approved in writing by the Local Planning Authority. The details shall include the type of box and location within the application site. The development shall not be carried out otherwise than in complete accordance with the approved details.

REASON: In the interests of biodiversity and protecting habitats

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 the National Planning Policy Framework 2021.

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 the National Planning Policy Framework 2021, which requires the developer to record and advance understanding of the significance of heritage assets, and to ensure information gathered becomes publicly accessible

8. CL2 - Phase 2 Site Investigation Strategy
9. CL3 – Phase 2 Investigation Works
10. CL4 - Phase 3 Remediation and Verification Strategy
11. CL5 - Construction/Remediation works
12. CL6 - Phase 4 Verification and Completion Report
13. Prior to the occupation of the development, precise details of secure cycle parking shall be submitted to and approved in writing by the Local Planning Authority. The agreed details shall be in place prior to the first occupation of the development and shall be retained and available for use during its lifespan.

REASON: In the interests of encouraging the use of sustainable modes of transport

14. Prior to the occupation of the development, precise details of refuse storage shall be submitted to and approved in writing by the Local Planning Authority. The agreed details shall be in place prior to the first occupation of the development and shall be retained and available for use during its lifespan.

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

15. The accommodation hereby approved shall not be used for any purpose other than as holiday accommodation associated to the owners/operators of Walworth Castle and

shall not be occupied as a person(s) sole or main place of residence. Furthermore, the owners/operators of the site shall at all times maintain an up-to-date register of the names of all owners and occupiers of each individual holiday unit on the site together with the addresses of their main place(s) of residence and shall make this information available on request at all reasonable times to the Local Planning Authority.

REASON: To ensure that the approved holiday accommodation is not used for permanent residential occupation which would be unacceptable in this location.

16. The landscaping scheme shown on Drawing Number D230.P.104 Rev C 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.

REASON - In the interests of the visual amenities of the area.

17. In the event of the need to install external lighting, precise details of the lighting scheme shall first be submitted to and approved in writing by the Local Planning Authority. The details shall include a layout plan with beam orientation and schedule of equipment in the design (luminaire type, mounting height, aiming angles, and luminaire profiles) and shall detail any measures to be taken for the control of any glare or stray light arising from the operation of artificial lighting. The details shall be submitted prior to their installation and the development shall not be carried out otherwise than in accordance with the approved details. Changes to any element of the lighting scheme shall be submitted to, and approved in writing by, the Local Planning Authority prior to the changes taking place.

REASON: In the interests of the amenity of the surrounding area.

18. Notwithstanding Condition 17, any external lighting scheme shall also conform with the guidance set out in the submitted document entitled Preliminary Ecological Appraisal and Bat Roost Potential Survey Walworth Castle, Darlington" dated August 2020 and produced by Delta Simons.

REASON: In the interests of biodiversity and protecting habitats

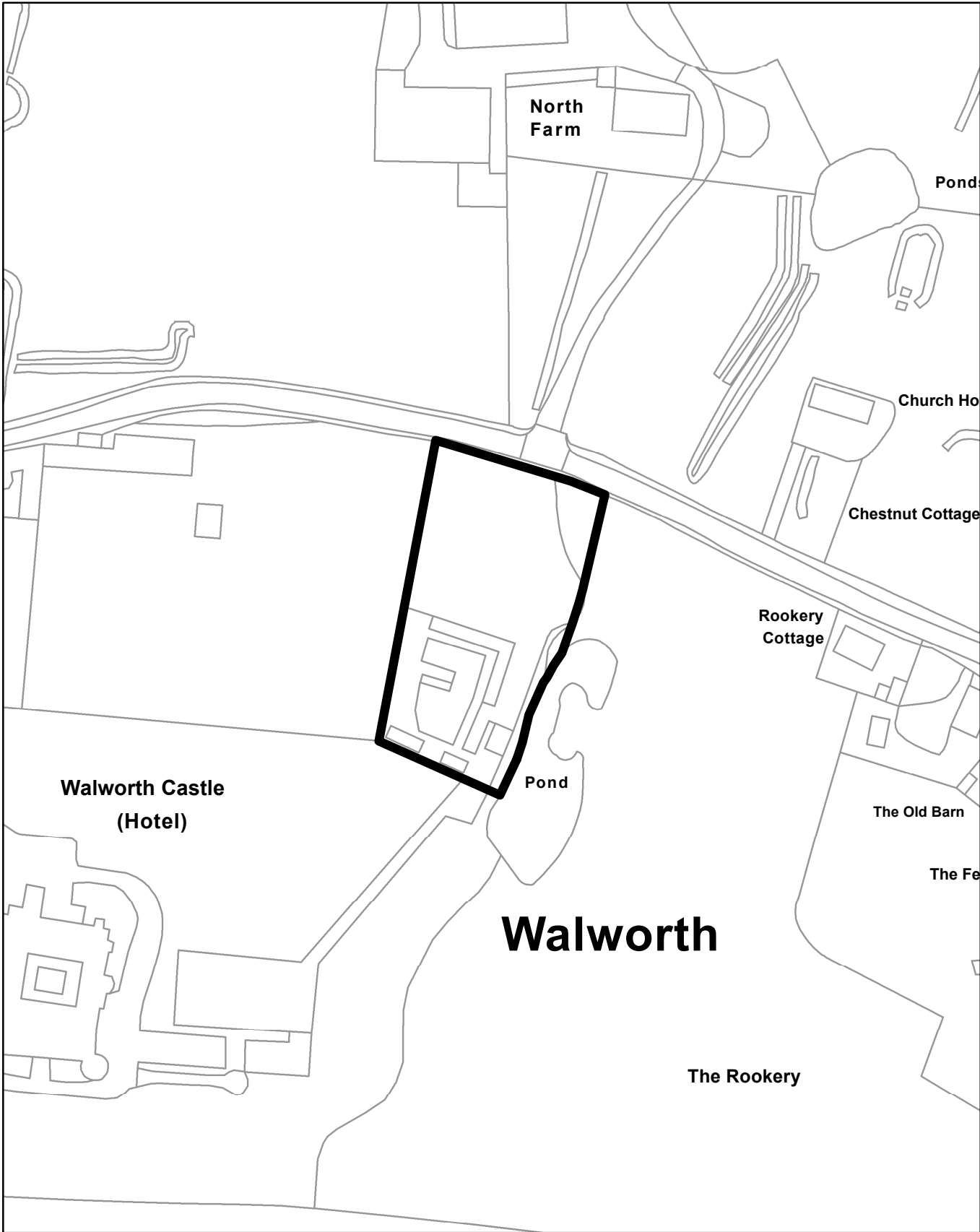
19. Should site clearance occur within the bird breeding season (March to late August), an experienced ecologist shall be required to check the site habitats immediately prior to works commencing to confirm that no nesting birds will be affected by the proposed development.

REASON: In the interests of biodiversity and protecting habitats

INFORMATIVES

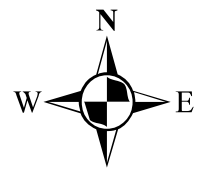
The Local Planning Authority may undertake periodic spot check monitoring of condition 4 which will require, from time to time, the completion of a formal questionnaire to confirm information from the register about the ownership and occupation of the accommodation to ensure that it is being occupied for holiday purposes only.

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Planning Ref No: 20/00806/FUL



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DARLINGTON BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 16th February 2022

APPLICATION REF. NO:	21/01241/FUL
STATUTORY DECISION DATE:	23 rd December 2021 (Extension of time agreed until 18 th February 2022)
WARD/PARISH:	PARK EAST
LOCATION:	8 The Lanes, DARLINGTON
DESCRIPTION:	Erection of two storey extension to side elevation and construction of open porch to front elevation
APPLICANT:	Mr & Mrs Shavit

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

Application documents including application forms, submitted plans, supporting technical information, consultations responses and representations received, and other background papers are available on the Darlington Borough Council website via the following link: <https://publicaccess.darlington.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=R1OFIIFPMD500>

APPLICATION AND SITE DESCRIPTION

1. The application property is a south facing detached two storey dwelling sited on the corner of The Lanes and Paddock Lane, to the south of the Skerne Park estate. The surrounding area is predominantly residential in character. Skerne Park Community Centre and football pitch are located to the north and west of the application site, with open space and the East Coast Mainline running to the east. Further housing is located to the south beyond which lies the A66(T).
2. The proposal involves building a two-storey side extension on the western elevation to provide a garage at ground floor with bedroom above and the construction of an open porch on the front elevation. The proposed integral garage will be accessed from a new driveway off Paddock Lane.

3. The proposed two storey extension will project 2.6m to the side of the original dwelling and will be 7.0m in length at ground floor level and 6.0m in length at first floor level, being set in from the front and rear elevations at first floor level. The roof will be dual pitched sloping from front to back and being set 90 degrees from the slope of the main roof. The eaves and ridge of the two-storey extension will be the same height as the eaves and ridge on the original dwelling. The height of the eaves of the front part of the extension (garage) will be 2.3m and the ridge 3.1m.

4. The proposal also includes the construction of an open porch on the front elevation. The porch will project 1.35m from the front of the dwelling and will be 2.3m wide. The eaves of the canopy will be at 2.2m and the ridge at 3.1m. The materials for the proposed extensions will be brickwork and tiles to match the existing dwelling.

MAIN PLANNING ISSUES

5. The main issues for consideration are:

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

PLANNING POLICIES

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

- Is in keeping with character, design and external appearance of the dwelling, street scene and surrounding area and that adequate privacy in rooms, gardens and other outdoor buildings is maintained (Saved Local Plan Policy H12)
- Promotes good design to create attractive and desirable places to live, work and invest and follows the design principles of the Design of New Development SPD (Emerging Local Plan Policy DC1)
- Is sited, designed and laid out to protect the amenity of existing uses of neighbouring land and buildings and the amenity of the intended users of the new development (Emerging Local Plan Policy DC4)

RESULTS OF TECHNICAL CONSULTATION

7. The Highway Officer raises no objection to the proposal.

RESULTS OF PUBLICITY AND NOTIFICATION

8. Four objections have been received.

The main points of objection were:

- Overbearing impact
- Visual impact
- Loss of light to property and garden
- Cast shadow over garden
- Drainage issues
- Existing 4 bed houses elsewhere on development to satisfy demand
- Cramped form of development
- Loss of privacy
- Garage not large enough to be used
- Impact on house value
- Property is rented out concern about future tenants

PLANNING ISSUES/ANALYSIS

(a) Impact on visual amenity

9. The proposed extension and open porch are not considered to be large in terms of their scale and footprint relative to the application property which itself is a fairly modest detached dwelling. In this instance the application property is situated within a larger than average plot on the corner of The Lanes and Paddock Lane surrounded by similar dwellings.

10. The two-storey extension has been designed with a pitched roof at a 90-degree angle from the main house roof. The first-floor element of the extension is to be set in from both ends, with a canopy over the garage to the front elevation. Although the property occupies a more prominent corner plot, it is set back from the street and in view of the design of the proposed two-storey side extension it will appear subservient to the main dwelling which will in turn limit its impact on the character and appearance of both the application property and surrounding area. Likewise, the proposed porch to the front elevation of is a scale and design that relates well to both the property and surrounding area.

11. Reference is made in one of the letters of objection to the proposed side extension resulting in a cramped form of development. The proposed extension will infill a gap to the side of the property between its gable end and the boundary fence that separates the application property with the rear garden of 24 Paddock Lane to the west. However, the extension is of a limited width, approximately 2.6 metres wide, and in view of the property's position set back on its plot behind the garage block that serves 24 and 25 Paddock Lane, and being of an appropriate design, the proposed extension is not considered to appear cramped or have an unacceptable impact on the streetscene.

(b) Impact on residential amenity

12. The property occupies a corner plot with a pair of semi-detached 2-storey dwellings to the west, 24 and 25 Paddock Lane, separated by a double garage block serving these properties. A pair of 3-storey semi-detached townhouses, 1 and 2 The Lanes, are located to the northwest of the application property. 24 Paddock Lane and 1 The Lanes share a boundary with the application property and would potentially be affected by the proposed side extension which is to be built up to the common boundaries with both properties.

13. In view of the separation distances from the rear of both properties to the proposed extension, the extension complies with the 45-degree code in respect of both properties. Outlook from the rear of 1 The Lanes towards the application property is already impacted by the garage which serves this property. As such the proposed side extension, which would be obliquely located to the southeast of this property, will not be unduly visible beyond the existing garage when viewed from the rear of this property. Although it will be more readily visible from the upper floors of this property and from the rear garden, in view of its oblique relationship to this property, it is not considered to have an unacceptable impact in terms of loss of light or outlook to this property or its garden area.

14. The proposed side extension will be built along the eastern boundary of the rear garden of 24 Paddock Lane to the west. While this will also be visible from the rear of the property and its garden area, given the size of the rear garden and the distance of the extension from the rear of the dwelling itself, the first floor of which is to be set in from both ends, it is similarly not considered to have an unacceptable impact in terms of loss of light or outlook to this property or its garden area.

15. A single window is proposed in the front elevation of the extension at first floor level. While this may allow some oblique overlooking westwards towards the rear gardens of 24 and 25 Paddock Lane, views from this window will largely be obscured by the existing double garage block. Given this oblique relationship it is not considered that the proposal would result in an unacceptable loss of privacy to neighbouring properties. No windows are proposed in either the north or west elevations to avoid direct views in to the rear gardens of neighbouring properties.

(c) Highway Safety

16. The two-storey side extension will increase the dwelling in size from 3 to 4 bedrooms, which in turn increases the recommended parking provision from 2 to 3 in curtilage spaces. The proposed extension includes an integral garage which will be accessed from a new driveway which fronts Paddock Lane. This creates an additional 2 no. parking spaces and as such adequate provision is demonstrated. On this basis the Highway Engineer raises no highway objection.

(d) Other matters

17. The impact of the proposed development on property values and concerns about prospective tenants have been raised by objection. Neither of these matters are material planning considerations that can be given weight in the determination of this planning application.

THE PUBLIC SECTOR EQUALITY DUTY

18. 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. There is no overt reason why the proposed development would prejudice anyone with the protected characteristics as described above.

CONCLUSION AND RECOMMENDATION

19. The development accords with relevant development plan policies in that it respects the character and appearance of the host property and relates well to the surrounding area. The development does not give rise to any unacceptable impacts of residential amenity or highway safety. Accordingly, it is recommended:

THAT PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS

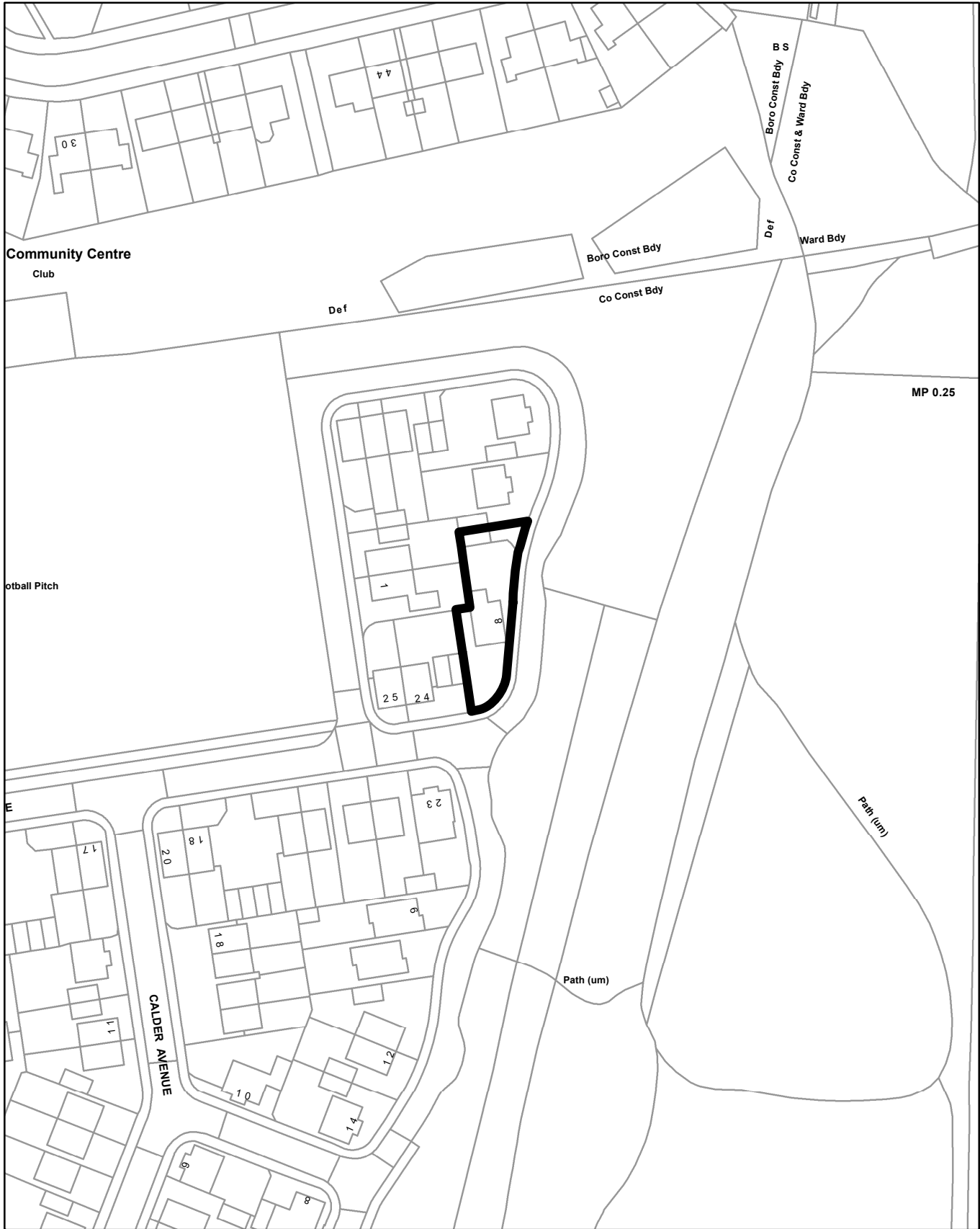
1. A3 Implementation Limit (3 years)
2. B4a (Materials)
3. The new vehicular access drive shall be provided prior to the extension to which it relates being occupied and thereafter it shall be retained permanently available for parking purposes and for no other purpose without the prior written permission of the Local Planning Authority.
REASON - To safeguard the residential amenities of the neighbourhood and to ensure the provision of adequate off-street parking accommodation to avoid the congestion of surrounding streets by parked vehicles.
4. The development hereby permitted shall be carried out in accordance with the approved plans, as detailed below:
 - EX01 – Existing Plans and Elevations
 - P01 – Proposed Plans and Elevations

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

INFORMATIVE

Section 184 Crossover

The applicant is advised that works are required within the public highway, to construct a new vehicle crossing; contact must be made with the Assistant Director: Highways, Design and Projects (contact Mrs Lisa Woods 01325 406702) to arrange for the works to be carried out or to obtain agreement under the Highways Act 1980 to execute the works

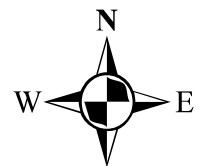


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Planning Ref No: 21/01241/FUL

DARLINGTON BOROUGH COUNCIL

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Appeal Decision

Site visit made on 11 January 2022

by Katherine Robbie BA (Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 January 2022

Appeal Ref: APP/N1350/W/21/3286024

309 North Road, Darlington, Durham DL1 2JR

- 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 Leigh Porter against the decision of Darlington Borough Council.
 - The application Ref 21/00505/FUL, dated 20 April 2021, was refused by notice dated 28 September 2021.
 - The development proposed is "change of use from A1 to A5".
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council have amended the description of the development to "Change of Use from shop (Use Class E) to hot food takeaway (sui generis) including replacement aluminium shop front with roller shutter doors, alterations to windows/doors on rear side elevation, installation of extraction flue to rear and associated internal alterations". I have determined the appeal on that basis as it better describes the proposal before me and reflects the current designation of the existing and proposed uses within the Town and Country Planning (Use Classes) Order 1987 (as amended)¹.

Main Issue

3. The main issue is the effect of the development on the living conditions of neighbouring residents with particular regard to noise and disturbance.

Reasons

4. The appeal site is located within a short terrace of commercial premises on North Road which forms a main arterial route into Darlington. The appeal site lies within a small group of retail and other commercial uses centred around the junction of North Road with Thompson Street. There is a flat above the appeal premises and above other commercial premises within the terrace.
5. There are semi-detached residential properties on North Road opposite. To the rear, terraced houses on Ruby Street and Peabody Street have rear yards and rear elevations close to the elevation of the appeal premises where the proposed flue would be located. The general character of North Road is one of residential properties punctuated by small areas of commercial uses. There are

¹ Amended by The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 which came into force on 1 September 2020

- two other hot food takeaways in proximity to the appeal premises at 303 and 318 North Road.
6. Noise generated by the use within the property itself is likely to be experienced by the occupiers of the flat above and noise and vibration from the flue is likely to adversely affect not only this flat but the adjacent one as well. Noise and general disturbance generated from the comings and goings of customers to the hot food takeaway would be likely to include noise from car engines, car doors slamming, people talking and possibly congregating in groups on the footway outside and also would be likely to arise from staff legitimately engaged in activities such as clearing away and locking up the premises at closing time which would all impact on occupiers of the properties both above and in the wider locality.
 7. The proposed flue on the rear elevation is of a commercial specification and has the potential to create unacceptable levels of mechanical noise and vibration. The Council considers that the level of insulation required to mitigate the effects of the flue for the flat directly above the appeal premises together with the proximity of it to a first-floor window in the adjacent flat would lead to unacceptable levels of noise and disturbance to the occupiers of both these properties. I have not been provided with any evidence to the contrary and I have no reason to disagree. There is no evidence to suggest that any such noise could be adequately attenuated and given the relationship between the flue and the adjacent first-floor window it would not be reasonable to leave the acceptability of any such measures to be approved by way of a planning condition.
 8. Noise from customers, staff and the flue identified above would all arise close to residential properties. This would be more intrusive during the evening when background noise levels would be lower. It is likely that the ambient noise level will decrease as the evening progresses as business use and traffic levels also decrease. Even though the appeal site is located on a main arterial route into the town, residents would have a reasonable expectation that their living environment would be quieter in the evening. Moreover, any noise and disturbance linked to the other hot food takeaways nearby would be added to and magnified.
 9. There may be some disturbance already experienced by residents in the vicinity of the appeal site from other hot food takeaways in the area. However, these would not likely cause unacceptable levels of noise and disturbance to the flat directly above the appeal premises and the others within the terrace especially with respect to the flue and extraction equipment. I note that the appellant would be willing to accept a condition to restrict the opening hours of the premises to 2100 hours in line with other hot food takeaways in the area, however this would not overcome or outweigh the harm that I have found in this respect and on other matters.
 10. For these reasons, I find that the proposal would cause harm to the living conditions of the occupiers of nearby residential properties, it would therefore conflict with policy CS16 of the Darlington Local Development Framework Core Strategy (2011) which seeks, amongst other matters, to ensure that new development causes no detrimental impact on the environment, general amenity and the health and safety of the community. The proposal would also be contrary to paragraph 130 of the National Planning Policy Framework which

seeks to ensure that new development provides a high standard of amenity for existing and future users.

Other Matters

11. The appellant has drawn my attention to a number of other hot food takeaways on North Road which have been granted planning permission in recent months. I do not have the details of these cases before me and do not know the details surrounding the granting of these permissions. Therefore, I cannot be certain that there are any direct comparisons between these and the proposal before me that would weigh in its favour. In any event I have considered this appeal on its own merits.
12. I acknowledge that the butcher's shop which previously occupied the premises cooked their own pies and bakery products and there was previously an extractor fan located in the window at the rear of the premises. However, the activity and the extraction employed were materially different from that which is now proposed and does not outweigh the harm that I have found.

Conclusion

13. For the reasons given above, having considered the development plan as a whole and all relevant material considerations, I conclude that the appeal should be dismissed.

Katherine Robbie

INSPECTOR

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Appeal Decision

Site visit made on 5 January 2022

by **G Robbie BA(Hons) BPI MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 27 January 2022

Appeal Ref: **APP/N1350/Z/21/3285121** **65 - 67 North Gate, Darlington, Durham DL1 1TR**

- 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 Mrs Pauline Shannon (Waklin t/a CGX) against the decision of Darlington Borough Council.
- The application Ref 21/00649/FUL, dated 27 May 2021, was refused by notice dated 22 July 2021.
- The development is described as '*retrospective planning application to retain 2no. security shutters to the existing shop front*'.

Decision

1. The appeal is allowed and planning permission is granted for the retention of 2no. security shutters to the existing shop front at 65 - 67 North Gate, Darlington, Durham DL1 1TR in accordance with the terms of the application, Ref 21/00649/FUL, dated 27 May 2021, subject to the following condition:
 - 1) The development hereby approved shall be retained in accordance with the details shown on the following approved plans: site location plan; Drwg No: 21.145 01 and Drwg No: 21.145 02.

Preliminary Matters

2. It is clear that the application was submitted retrospectively and that the security shutters in question were already in situ. I am satisfied that this is the basis upon which the Council considered the application and so too therefore shall I.

Main Issue

3. The main issue is the effect of the retention of the security shutters on the character and appearance of the appeal property and the surrounding area.

Reasons

4. The appeal premises is located at the ground floor of a mid-20th century building on North Gate, towards the northern edge of the town centre and a short distance from the Town Centre Conservation Area (the CA). The existing shopfront is somewhat unusual in that whilst the stallriser forms a flat lower frontage, whilst the glazing units above are heavily articulated, essentially forming a central chamfered bay with external recesses to either side. The shop front is heavily recessed underneath projecting first and second floors.
5. The security shutters and all mountings, housing and runners are externally mounted. Both Darlington Local Plan (DLP) policy E38 and the 'Shopfront

Security' Planning Guidance Note (PGN) express the approach to security shutters in terms of preferences; integral elements will be preferred, open lattice types will be preferred in conservation areas, preferable if shutters mounted behind the window glazing and box housings must be mounted discretely within the fascia.

6. The heavily articulated glazed frontage appears, in this instance, to complicate the installation of internally mounted shutters. Whilst I acknowledge that the housing is not mounted behind the fascia either, the protruding and visually heavy concrete canopy is the dominant feature of the shopfront.
7. The shutters and their housing lie heavily recessed underneath the projecting upper floors such that the usual visual impact of projecting shutter housing is lost within the dark and shaded recess beneath. Nor, because of this heavy recess, are the shutter units particularly intrusive when closed. They are not perforated, grille or lattice type shutters as the PGN prefers in conservation areas, and DLP policy E38 more widely, but in the particular circumstances of this property I am satisfied that the shutters do not have a materially harmful, negative or adverse impact on the visual appearance of the appeal premises or the surrounding area.
8. The shopfront is wide, and the unit is located at the northern entrance to North Gate and the town centre. However, whilst visible and in a busy location within the town centre, the particular circumstances of the building and its shopfront, particularly the projecting upper floors, heavily recessed and articulated shopfront and location of the shutter housing, are such that the appeal scheme does not result in a material adverse effect on the character or appearance of 65 – 67 North Gate, nor to the North Gate streetscene. There is no conflict with DLP policy E38, or a material conflict with the PGN, as a consequence.
9. Although the Council note the position of the appeal property relative to the CA boundary, no specific harm to the setting of the CA is cited. I am satisfied in any event that, in relation to the setting of the CA and its special character and appearance, the particular circumstances of the appeal property are such that there would be no harm to the CA's setting.

Conditions

10. I have considered the Council's suggested conditions in light of the National Planning Policy Framework and Planning Practice Guidance. As the application was submitted retrospectively it is neither appropriate nor necessary to impose a commencement time limit condition. With regard to a plans condition, I have revised the wording so as to reflect the retrospective nature of the application.

Conclusion

11. For the reasons set out, and having considered all other matters raised, I conclude that the appeal should be allowed.

G Robbie

INSPECTOR



Appeal Decision

Date of Hearing 26 July 2021 (Virtual) and 19 August 2021

Site visit made on 19 August 2021

by Grahame Kean B.A. (Hons) Solicitor HCA

an Inspector appointed by the Secretary of State

Decision date: 27 January 2022

Appeal APP/N1350/C/21/3266271

Little Beck, Burma Road, Darlington, Co Durham DL2 1QH

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Tom Smith against an enforcement notice issued by Darlington Borough Council.
- The notice was issued on 7 December 2020.
- The breach of planning control alleged in the notice is failure to comply with condition 4 of a planning permission Ref 10/00059/FUL granted on 19 November 2010.
- The development to which the permission relates is the provision of a private gypsy site to provide pitches for 2 residential caravans and 2 touring caravans and other matters. The condition in question is:

Condition 4: The residential use hereby permitted shall be restricted to the stationing of no more than 4 caravans at any one time (of which no more than 2 shall be a static or mobile home). This permission only permits the static caravans to be occupied for residential purposes.
- The reason given for imposing condition 4 was in the interests of the character and visual amenities of the area.
- The notice alleges: in breach of planning permission reference 10/00059/FUL (won on appeal APP/N1350/A/11/2153105):
 - 1) The unauthorised stationing on the Land of 2 additional touring caravans and associated vehicles with a view to residential occupation, in breach of condition 4 of the planning permission;
 - 2) The erection of commercial sized timber dog kennels on the Land, in breach of [condition [9] of] [the approved site details in] the planning permission [sic];
 - 3) The use of the Land for the storage and dismantling of scrap vehicles, in breach of [condition [9] of] [the approved site details in] the planning permission [sic].
- The requirements of the notice are:

Step 1 - Remove from the Land all unauthorised static caravans, touring caravans and associated vehicles.

Step 2 - Dismantle and remove from the Land the unauthorised commercial sized dog kennels.

Step 3 - Remove from the Land any scrap vehicles, vehicle parts and associated machinery and equipment.

Step 4 - Reinstate the Land to its original condition immediately before the breach of planning control took place including, without prejudice to the generality of this requirement the removal of any rubbish and debris in connection with this unauthorised development to ensure that the site is set back to grass and otherwise is complete in complete accordance with plans and details of planning permission 10/00059/FUL.
- The period for compliance with the requirements is:

Step 1 – One week after this notice takes effect.

Steps 2-4 – Four weeks after this notice takes effect.

- The appeal is proceeding on the grounds set out in section 174(2)(a)(b)(c)(d) (f) and (g) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is allowed following correction of the enforcement notice and a certificate of lawful use or development is issued in the terms set out below in the Formal Decision.

Application for Costs

1. An application for costs was made by the appellant against the Council. This application is the subject of a separate Decision.

Preliminary matters

2. The hearing was held over two days, a virtual session to consider policy matters, and a session at the Council offices which considered policy matters further and other factual issues including the circumstances of the appellant.
3. I had been advised by the appellant's agent that any discussion of matters of personal circumstances and gypsy status would require the appellant to be present. That was also my view and a face-to-face session was arranged in a Covid-safe environment, in accordance with procedures for such events in cases such as gypsy and traveller appeals, where the physical presence of witnesses is often desirable or necessary.
4. The appellant was not present when the hearing resumed on Day 2, and I adjourned to enable the agent to speak further with him, as a result of which he was able to be present after a further short adjournment. I am satisfied that the Council was made aware of the appellant's vulnerable condition as an adult with serious health issues before the hearing. I took care to ensure the appellant was comfortable giving evidence. After the hearing a Council officer who attended expressed disquiet, suggesting that I was biased in favour of the appellant. I am satisfied that I was scrupulous in my impartiality.

Background

5. The appeal site includes Littlebeck, a private gypsy site at the junction of Neasham Road and Burma Road, in a small settlement, Skipbridge, between Darlington and Hurworth on Tees/Neasham. The area was generally degraded land and the site is said to have been part of the circulation and storage system around the quarry and brickworks. The northern part of the land was reinstated by the Smith family following the grant of the 2010 planning permission as referred to in the notice.
6. In correspondence with the appellant's agent the Council confirmed that the pre-action letter sent to the appellant's brother dated 18 September 2021 did relate to development the subject of this appeal but not to the southern part of the site, which by then had been sold to third parties.
7. A temporary stop notice was served in respect of the whole of the site, on the appellant's brother and the third parties on 20 October 2020 and a separate enforcement notice was issued on 7 December 2020 relating only to that part owned by the third parties. However this is the subject of a separate appeal.
8. The 2010 permission does not make clear how many or what caravans are allocated per pitch or delineate fixed boundaries. "Pitch" in the Planning Policy

for Traveller Sites 2015, means a pitch on a “gypsy and traveller” site. This is commonly understood to mean a space occupied by a single family within such a site, usually accommodating more than one residential caravan or mobile home. Therefore a pitch is normally understood to comprise an area large enough for one household to occupy with enough space for two caravans. Taking into account the application details, I am satisfied that the correct interpretation of the 2010 permission is that it permits two pitches.

Procedural matters

Dog kennels and storage and dismantling of vehicles

9. The appellant’s agent explained, which was not disputed, that the existing structure on the site had been converted into 4 to 5 kennels and the dogs were pets and not for commercial use.
10. At the hearing it became apparent that there was no substantive evidence to justify the allegations made in the notice, not only concerning the dog kennels but also the allegations related to storage and dismantling of scrap vehicles. The Council conceded that they could be omitted from the notice. Since the notice is being quashed there is no need formally to amend its requirements or the periods for compliance, however items 2) and 3) of the allegation should be deleted and I will vary the notice accordingly.

Allegation of vague wording

11. The appellant claimed the notice was invalid due to the vague wording in the allegation (“*with a view to*”) in describing the alleged breach “*the unauthorised stationing on the land of two additional touring caravans with a view to residential occupation, in breach of condition 4 of the planning permission*”. It was also alleged that it was incorrect to state that the planning permission at issue was “*won on appeal*”.
12. I disagree that the notice is invalid but agree that it should be amended for clarification. The application form dated 29 April 2010 was for a “*Private Gypsy Site for two pitches...*”. Planning permission 10/00059/FUL dated 18 November 2010 (the 2010 permission) was granted for:

“*Provision of a private gypsy site to provide pitches for 2 residential caravans and 2 touring caravans, alterations to access, provision of utility building, timber fencing and field shelter, and use of land for equestrian purposes (retrospective application) (amended location plan received 1 October 2010) at Proposed private Gypsy Site.*”
13. Condition 4 states:

“*The residential use hereby permitted shall be restricted to the stationing of no more than 4 caravans at any one time (of which no more than 2 shall be a static or mobile home). This permission only permits the static caravans to be occupied for residential purposes.*”
14. The Council acknowledged that the wording in the allegation “(*won on appeal APP/N1350/A/11/2153105*)” was incorrect in as much as the appeal decision referred to, dated 20 September 2011, only varied the 2010 permission by deleting condition 5 so as to render the permission permanent.

15. The 2010 permission had approved the creation of two pitches. One, in the northern part of the site, was occupied by the appellant's brother and his family and the other, immediately to the south, occupied by the appellant's parents. It was common ground that at the time of the notice the appellant residentially occupied an additional pitch to the south of the others, by siting two touring vans, one that was lived in and the other for domestic storage.
16. It is also agreed that the target of the notice is the creation of the additional third pitch on the existing gypsy caravan site. This would be a breach of condition 4. At the site inspection the current position of the additional pitch was agreed between the parties and marked on a copy of the notice which I propose to substitute for the original plan attached to the notice.
17. So, taking into account the above matters, the notice should be corrected under s176(a) and the said amendment made to the plan. I will amend point 1) in the notice to clarify that the breach of condition consists of the siting an additional third pitch within an existing Gypsy caravan site, comprising two additional touring caravans occupied for residential purposes and associated vehicles in the area marked X on the attached plan.

Ground (b) – that the matters alleged in the notice have not taken place

1. As described there was no substantive evidence to justify the allegations made in the notice concerning the dog kennels and the storage and dismantling of scrap vehicles. It was agreed the allegations could be omitted from the notice.
2. The appeal on this ground succeeds to this limited extent but, having regard to other matters agreed between the parties and the notice as corrected, it is clear that the alleged breach of condition as to the residential occupation of an additional pitch by the appellant, has occurred as a matter of fact.

Ground (c) – that the matters alleged do not constitute a breach of planning control

3. On this ground the appellant must demonstrate on the balance of probability that the matters as alleged in the notice are not a breach of planning control. It is said on the appellant's behalf that the appeal site had been used as 3 separate pitches for a period in excess of ten years, however that is a matter to be considered on ground (d).
4. I do not find on the balance of probability that it has been shown that the breach of condition alleged in the notice as corrected has not occurred. The appeal on ground (c) does not succeed.

Ground (d) – that it is too late to take enforcement action

5. In an appeal on this ground, to be immune from enforcement action the appellant must show on the balance of probability that what is alleged in the notice occurred ten years prior to the issue of the notice and that the use has been continuous before that date for a full ten-year period. In other words the use of the appeal site for residential occupation of a third pitch should be demonstrated to have been carried on continuously for the period of ten years from 7 December 2010.
6. Guidance as to what is expected in order to establish a lawful use is set out in the Planning Practice Guidance. It advises that the appellant's evidence should

- not be rejected simply because it is not corroborated. If there is no evidence to contradict their version of events, or make it less than probable, and their evidence is sufficiently precise and unambiguous, it should be accepted. This approach was endorsed in *Ravensdale Limited v SSCLG [2016] EWHC 2374 (Admin)* in the context of an appeal on ground (d).
7. The Council, via its Head of Planning, did not accept that it could be inferred from the statements as more likely than not that, irrespective of where he may have lived on the site or in what accommodation, the appellant had lived there for a continuous period of ten years. I disagree for the following reasons.
 8. The appellant claims that there were 3 pitches on the appeal site used by the Smith family since November 2009, occupied by respectively: (1) the appellant's parents; (2) the appellant's brother and sister-in-law and their 3 children; and (3) the appellant and his family. It is undisputed that when they first moved on to the site the appellant's eldest son moved with him and, later, his youngest son. All his 4 children are now over 18 and he is visited regularly by them and his 2 sons often stay with him.
 9. Completed signed and dated statements were submitted from: the appellant; the appellant's agent who has been involved with the appellant's extended family for several years; the appellant's brother; the appellant's mother; the appellant's sister-in-law; and the appellant's father, the head of this extended Romani Gypsy family.
 10. The statements were later converted to statutory declarations and submitted at Day 2 of the hearing. They refer to the appeal site as Littlebeck. The Council queried whether this accurately referred to the appeal site but could not suggest another location to which it might have referred. I am satisfied through questioning the appellant and from what I have read, that the deponents, in using the term Littlebeck, mean to refer to the appeal site. The Council offered no evidence to suggest that the appellant lived elsewhere than on the appeal site during the ten years prior to its issuing the enforcement notice.
 11. The declarations are reasonably detailed and the Council has not provided contradictory evidence of its own. From these declarations, coupled with my questioning of the appellant, his brother and his father, and my reading of the other documents and statements, I find it is probable that the following events occurred.
 12. The appellant and his brother bought the appeal site prior to its occupation. It was first occupied by members of the extended family in the autumn of 2009. It is likely that the parents moved onto the site first, in October 2009 whilst the appellant and his brother were away working in Germany and elsewhere. The appellant and his brother were working abroad whilst their father instigated the planning application the subject of this appeal. That was formally made to the Council on 29 April 2010. The agent was instructed in November or December 2009 by the appellant's father on behalf of the two brothers, to submit an application for two pitches. It was originally intended that the parents would stay temporarily to provide site security when the brothers were away and to assist in caring for younger members of the wider family. It is probable in my view that the appellant, in accordance with his and the other declarations, had also moved onto the site by the end of autumn 2009 or at any rate by the end of that year.

13. The appellant states he has chosen to live in small tourers but is unclear as to which ones or where or when. His brother attests to the fact that the appellant has had several small caravans which *"have taken up various positions within the family site including the position at the present time."* His father states that the appellant *"wished to have his own little area but as close to us as he could"*. In reply to my questions, the appellant told me that initially he had only one tourer on the site, it fell into disrepair, so he bought another and used it to live in and used the old caravan for storage, mainly toys for his grandchildren. Because of what he perceived to be the trouble that the enforcement notice had caused, he had most recently removed the storage van from the site and it was temporarily sited on a friend's land.
14. The agent is adamant that there were three pitches from the outset. I appreciate the exact configuration of the vans may have occasionally changed over the years, but I questioned the agent as to how exactly he knew there were three pitches from the outset. He consulted his diary and told me that he remembered going to the site on 19 November 2010 and met with the appellant, his brother and his father, and saw at that time that the arrangement of the caravans was as shown in the Geoinvestigate plan.
15. The Geoinvestigate plan, dated 23 January 2012 was supplied in connection with the contaminated land conditions on the 2010 permission. It shows that at the date of the plan there were (among other things) three wheeled caravans in a fenced-off area, said to be then occupied by the appellant. This area is distinct from the pitches occupied by the appellant's parents and by his brother's family. The plan provides some documentary evidence of the third pitch apart from what is asserted in the statements. The agent told me that the disposition of pitches represented in the plan reflected his understanding of how they were from the outset, ie when the appellant first occupied the site. I note that one of the vans so marked on the plan is in the area corresponding to where the appellant's vans are currently located and the other two are just behind, in the space now occupied by dog kennels.
16. The agent, who has been professionally qualified as a planner for several years and represents the RTPi in a regional capacity, told me that he had queried why three pitches should not have been applied for, but states he was told by the appellant's parents at the time of the application that there was no point in applying for three because they were only going to be there for a couple of years. He is clear in his statutory declaration that he has *"been aware that there have been three pitches on that land occupied by the family since our involvement in the application in 2009."* He does not attest to occupation of any specific accommodation by the appellant from 2009, stating that the types of caravans have changed but the occupation of the appeal site by the three families in separate pitches had not.
17. The Council has not contradicted this evidence. The statements give no detail as to the exact location of the additional pitch but there is nothing to suggest accommodation was shared between the appellant and the wider family members. I offered the Council the opportunity through me to ask further questions of the appellant or family members present but this was declined.
18. I find it to be likely that although the exact location of the pitch occupied residentially by the appellant may have altered within the site as a whole, it

- was nevertheless at all times a space exclusively occupied by him and his immediate family within the site and set apart from the existing two pitches.
19. Two aerial images are supplied but are of limited assistance. One image is dated 15 April 2014 and shows two structures in a location consistent with the location of the alleged third pitch marked on the 2012 Geoinvestigate plan but it is impossible to confirm what they are. The second, dated 27 May 2018, shows what could be the appellant's tourer vans although at that date they are further south, over the grassed area designated in the 2010 permission.
 20. Apart from the allegation relating to the storage and dismantling of scrap vehicles which has been withdrawn, the Council did not contest the statement that the vehicles that exist on site relate to the general domestic use of the site. It was not disputed that the appellant has a pickup truck that he uses as a personal vehicle which he also uses to pull his caravan on whilst travelling. Nor was it disputed that the restoration of two "near vintage" trucks (now moved on) was not a commercial enterprise but done during pandemic restrictions as a domestic activity within an existing gypsy/traveller site.
 21. Overall the evidence in my opinion demonstrates on the balance of probabilities that the appellant has occupied the appeal site residentially within his own separate pitch on a gypsy caravan site continuously for a period of ten years before enforcement action was taken. It is likely that the pitch consisted of siting two touring caravans and associated vehicles in the general area marked X on the enforcement notice as corrected.
 22. Consequently the appeal succeeds on this ground and the enforcement notice will be quashed.

Disposal of the appeal

23. Due to the numerical limitations on caravans in the description of the caravan site approved in the 2010 permission, it would be contradictory to vary condition 4 to purport to allow a greater maximum number of permitted caravans. I briefly explored whether the allegation might be altered to a material change of use rather than a breach of condition but neither party considers a material change of use has occurred; rather the use has intensified contrary to condition 4. I agree with the Council that it would not be good practice to use the powers available to me in this way unless I were satisfied on the evidence, which I am not, that such a material change of use had occurred.
24. Section 177(1)(b) permits the discharge of a condition on the determination of an appeal under s174. The power is not limited to consideration on ground (a) and can include the substitution of another condition or limitation for it, whether more or less onerous. Nevertheless I would still be unable to change the nominal details of the development previously approved which is limited to four caravans.
25. Also, the Council could be said to be disadvantaged in being unable to pursue an eventual breach of condition on matters unrelated to the appellant's position. It would have to evaluate on a case-by-case basis whether a material change in the use of the site had occurred over and above the permitted use. The reason given for imposing condition 4 was in the interests of the character and visual amenities of the area and it serves a proper planning purpose to be

- able to assess planning harm to those interests without there necessarily being a material change in the use of the land. On balance I consider it expedient for the condition to continue to subsist.
26. The Council maintained that contaminated land conditions on the 2010 permission had not been complied with but, despite no enforcement action ever being taken in this regard, it seeks in this appeal to impose more onerous conditions than currently subsist in relation to that matter, on any eventual permission that might be granted. There may be intrinsic merit in the Council's new conditions but in the interests of natural justice I will not make a decision that would put the appellant in a worse position than if there were no appeal.
27. Moreover, where an appeal succeeds on the basis that new conditions should be imposed, it would be necessary to grant permission under s177(5) and s177(1)(a), discharge the condition that is subject to the notice under s177(1)(b) and impose the new conditions on the original permission under s177(4). The Council's proposals would disadvantage the rest of the Smith family who are quite entitled to occupy the site under the extant permission.
28. Generally, if an appeal succeeds on ground (d) the development will be lawful in accordance with s191(2) and (3), and the planning merits will not need to be considered. That is the course I propose to adopt here.
29. However I do have discretion under s177(1)(c) of the Act to issue a lawful development certificate (LDC) on the determination of an enforcement notice appeal under s174, specifying that on the date the appeal was made any matter constituting a failure to comply with a condition or limitation subject to which planning permission was granted was lawful. Normally the LDC process is intended to be administered primarily by local planning authorities.
30. However in cases related to caravan sites, success on ground (d) alone is not equivalent to a grant of planning permission or a LDC for the purposes of a site licence under the Caravan Sites and Control of Development Act 1960. Therefore an LDC will be granted under s177(1)(c) for the existing use so that the appellant can obtain a site licence or vary the terms of an existing licence.
31. The LDC does not have the effect of discharging condition 4, which thus remains in force. The LDC provides protection against planning enforcement action only for as long as the current breach continues, although it is of course open to the appellant to apply to the Council separately for planning permission to retain the third pitch in a form which may be considered appropriate.

Conclusion

32. From the evidence at the hearing I conclude that the allegation in the notice of 7 December 2020 is incorrect, in that it wrongly includes reference to dog kennels and storage and dismantling of vehicles and fails accurately to describe the matters constituting the breach of planning control. The plan attached to the enforcement notice should be corrected for clarity to show the position of the third pitch within the caravan site. I shall correct the allegation in the notice and the extent of the land affected thereby to reflect these matters.
33. As to the appeal on ground (d) I am satisfied on the evidence that the breach of condition 4 in the 2010 Permission had been ongoing for a continuous period in excess of ten years and the appeal on this ground should succeed in respect of those matters which, following the correction of the enforcement notice, are

stated in it as constituting the breach of planning control. In view of the success on legal grounds, the appeal under the various grounds as set out in section 174(2) of the 1990 Act as amended and the application for planning permission deemed to have been made under section 177(5) of the 1990 Act as amended do not fall to be considered.

34. Furthermore, I conclude that it is appropriate in the circumstances of this case, to exercise the power available to me under s177(1)(c) of the 1990 Act as amended, to issue a certificate of lawful use or development under s191 of the 1990 Act as substituted by s10 and paragraph 24(1)(b) of Schedule 7 to the Planning and Compensation Act 1991.

Formal Decision

35. It is directed that the enforcement notice in the allegations of breaches of planning control, be corrected as follows:

- Delete "(won on appeal APP/N1350/A/11/2153105)"
- Delete Point 1) and substitute: "the unauthorised stationing on the Land of an additional third pitch within the existing Gypsy caravan site, comprising two additional touring caravans occupied for residential purposes and associated vehicles in the area marked X on the attached plan."
- Delete Points 2) and 3).

36. It is further directed that the plan attached to this decision be substituted for the plan attached to the enforcement notice

37. Subject to these directions, the appeal is allowed and the enforcement notice is quashed.

38. Attached to this decision is a certificate of lawful use or development, issued in accordance with the powers under section 177(1)(c) of the 1990 Act as amended, in respect of the failure to comply with condition 4 attached to planning permission Ref 10/00059/FUL dated 18 November 2010, together with a plan and a note as to the effect and extent of the certificate.

Grahame Kean

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr D Stovell (snr) MRTPI	Agent, North East Regional Representative, RTPI
Mr B Stovell	Agent
Mr T Smith	Appellant
Mr Thomas Smith (snr)	Appellant's father
Mrs L Smith	Appellant's mother
Mr G Smith	Appellant's brother

FOR THE LOCAL PLANNING AUTHORITY:

Mr Coates	Head of Planning
Ms Williams	Planning Officer
Dr Werres	Garden Community Officer
Mr Conyard	Monitoring and Compliance Officer

INTERESTED PERSONS

Mr Allen	Local resident
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Additional documents submitted at the hearing:

Day 1

CD1-1	Geoinvestigate plan
CD1-2	Application form 29.4.2010
CD1-3	Revised list of conditions
CD1-4	Photographs of appeal site and adjoining sites with ongoing appeals
CD1-5	Walking and cycling distances (PPG13)
CD1-6	Statutory declarations of D Stovell; T Smith; T Smith snr; L Smith; G Smith; N Smith
CD1-7	Plan to show the site and nearby sites
CD1-8	Email 17.8.2021 recording parties' discussion on need/supply figures

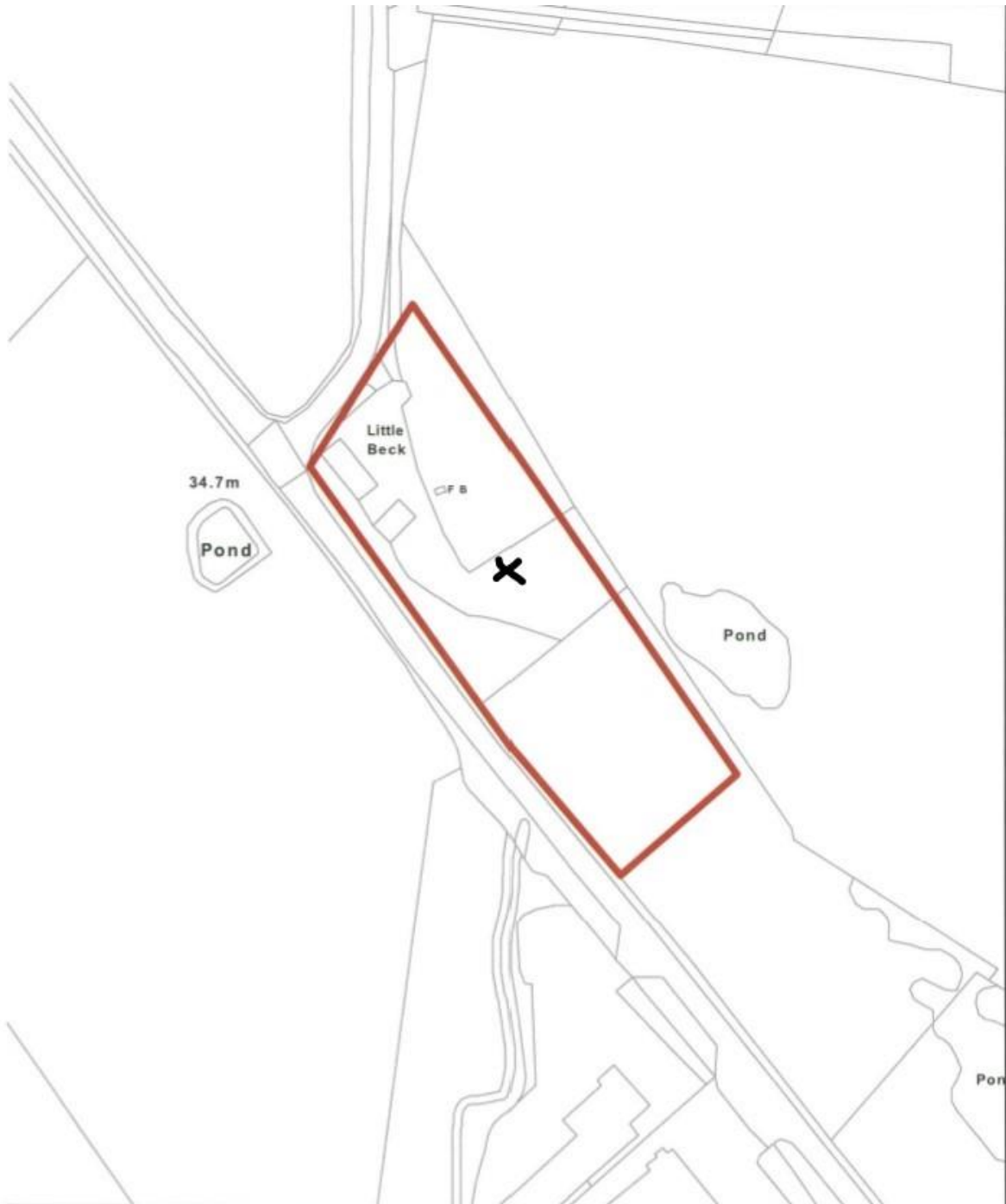
Day 2

CD2-1-10	Documents submitted by Council relative to need/supply figures
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Post hearing: Application and other documents concerning traveller sites.

Annex

Plan substituted for plan attached to the enforcement notice of 7 December 2020.



Enforcement Notice

Little Beck
Burma Road
Darlington
DL2 1QH



Plan produced by
Economic Growth & Neighbourhood Resources

Scale: 1:1,250
Date: 30/11/2020
Drawn: PB





Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT: SECTION 191 (as amended by section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND) ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 7 December 2020 the use described in the First Schedule hereto, in respect of the land specified in the Second Schedule hereto and edged in red on the plan attached to this certificate, was lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reasons:

The use was lawful because:

- a) No enforcement action could be taken in respect of it because the time for taking enforcement action had expired in that a breach of condition 4 attached to Planning Permission Ref 10/00059/FUL dated 18 November 2010 has subsisted for a period in excess of ten years (s171B(3)), and there is nothing to show that the use was subsequently superseded or abandoned.
- b) The use does not constitute a contravention of the requirements of any enforcement notice in force.

Signed

Grahame Kean

Inspector

Date: 27 January 2022

Appeal Ref: APP/N1350/C/21/3266271

First Schedule

Use of the Land for the stationing on the Land of an additional third pitch within the existing Gypsy caravan site, comprising two additional touring caravans occupied for residential purposes and associated vehicles in the area marked X on the attached plan

Second Schedule

Land at Little Beck, Burma Road, Darlington, Co Durham DL2 1QH

NOTES

1. This certificate is issued solely for the purpose of section 191 of the Town and Country Planning Act 1990 (as amended).
2. It certifies that the use described in the First Schedule taking place on the land specified in the Second Schedule was lawful on the certified date and, thus, was not liable to enforcement action, under section 172 of the 1990 Act, on that date.
3. This certificate applies only to the extent of the use described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.

Plan

This is the plan referred to in Lawful Development Certificate dated:

by Grahame Kean B.A. (Hons), PgCert CIPFA, Solicitor HCA

Land at Little Beck, Burma Road, Darlington, Co Durham DL2 1QH

Appeal ref: APP/N1350/C/21/3266271

Scale: Not to Scale



Enforcement Notice

Little Beck
Burma Road
Darlington
DL2 1QH



Plan produced by
Economic Growth & Neighbourhood Resources

Scale: 1:1,250
Date: 30/11/2020
Drawn: PB



By virtue of paragraph(s) 7 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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