



DARLINGTON

Borough Council

Planning Applications Committee Agenda

1.30pm, Wednesday, 7 September 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 13 July 2022 (Pages 5 - 16)
4. Introduction to Procedure by the Assistant Director, Law and Governance's Representative (Pages 17 - 18)
5. Applications for Planning Permission and Other Consents under the Town and Country Planning Act and Associated Legislation (Pages 19 - 20)
 - (a) Land At Rear Of High Stell, Middleton St George, Darlington (22/00503/FUL) (Pages 21 - 38)
 - (b) Land At Rear Of High Stell, Middleton St George, Darlington (22/00501/CON) (Pages 39 - 44)
 - (c) 15 Hirst Grove, Darlington, DL1 4NX (Pages 45 - 54)
6. SUPPLEMENTARY ITEM(S) (if any) which in the opinion of the Chair of this Committee are of an urgent nature and can be discussed at this meeting

7. Questions

PART II

8. Notification of Decision on Appeals –

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

Dismissed the appeal by DACR Design against this Authority's decision to refuse permission for the Demolition of garage block (four garages) and construction of 1 No. two bed residential dwelling (Class C3) incorporating the existing two storey dovecote, and the creation of a courtyard/garden at 63 Woodland Road, Darlington, DL3 7BQ (20/01213/FUL) (Copy of Inspector's decision letter enclosed)

Dismissed the appeal by Mr William Gate against this Authority's decision to refuse permission for the change of use of land to Use Class B8 storage and/or distribution (noting this class includes open air storage) at Former Coal Depot Site Melland Street, DARLINGTON (21/00721/CU) (Copy of Inspector's decision letter enclosed)

Allowed the appeal by Mr Donald Jones against this Authority's decision to refuse consent for the felling of 1 no. pine tree (T1) protected under group Tree Preservation Order (No3) 1962 G1at 225 Carmel Road North, Darlington, DL3 9TF (21/00497/TF) (Copy of Inspector's decision letter enclosed)

Dismissed the appeal by CK Hutchison Networks (UK) Ltd against this Authority's decision to refuse prior approval for the installation of 5G telecoms equipment including 15m high slim-line Phase 8 H3G street pole c/w wrap around cabinet, 3 no. cabinets and ancillary work at Land Adjacent to Albert Hill Roundabout, Darlington DL1 1JL (21/01189/PA) (Copy of Inspector's decision letter enclosed)

RECOMMENDED – That the report be received.
(Pages 55 - 72)

9. Notification of Appeals –

The Chief Executive will report that:-

Mr Sharif Hunashi has appealed against this Authority's decision to refuse permission for Erection of 1.9 m fence to front and side, behind existing 65 cm wall at L51 Neville Road, Darlington, DL3 8HZ (22/00437/FUL)

Town & Country Advertising Limited has appealed against this Authority's decision to refuse permission for Display of 2 no. internally illuminated LED digital display sign boards at Land at Former Dainton Business Park, Yarm Road, DARLINGTON (22/00398/ADV)

Mr and Mrs Brunton have appealed against this Authority's decision to refuse permission

for Works to 1 no. Ash protected by Tree Preservation Order 1986 (No.4) - prune back over hanging branches to clear telephone wires and house at Garden Cottage, Low Middleton Hall, Low Middleton, Middleton St George, Darlington, DL2 21AX (22/00575/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 26 August 2022 (Exclusion Paragraph No. 7) –
Report of the Chief Executive
(Pages 73 - 80)

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, 30 August 2022

Town Hall
Darlington.

Membership

Councillors Allen, Bartch, Cossins, Heslop, C L B Hughes, Johnson, Mrs D Jones, Laing, Lee, Lister, McCollom, Sowerby and Tait

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

PLANNING APPLICATIONS COMMITTEE

Wednesday, 13 July 2022

PRESENT – Councillors Allen, Bartch, Cossins, Heslop, C L B Hughes, Johnson, Mrs D Jones, Laing, Lee, McCollom, Sowerby and Tait.

APOLOGIES – Councillor Lister.

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)

PA5 APPOINTMENT OF CHAIR FOR THE MUNICIPAL YEAR 2022/2023

RESOLVED - That Councillor Mrs. Jones be appointed Chair of this Committee for the Municipal Year 2022/23.

PA6 APPOINTMENT OF VICE CHAIR FOR THE MUNICIPAL YEAR 2022/2023

RESOLVED - That Councillor Laing be appointed Vice Chair of this Committee for the Municipal Year 2022/23.

PA7 TO CONSIDER THE TIMES OF MEETINGS OF THIS COMMITTEE FOR THE MUNICIPAL YEAR 2022/2023 ON THE DATES AGREED IN THE CALENDAR OF MEETINGS BY CABINET AT MINUTE C100/FEB/2022

RESOLVED – That meetings of this Committee for the Municipal Year 2022/23, be held at 1.30 p.m. on the dates, as agreed on the calendar of meetings by Cabinet at Minute C100/Feb/2022.

PA8 DECLARATIONS OF INTEREST

Councillor Laing declared a non-pecuniary interest in Minute PA11 below, in terms of her employment, and left the meeting during consideration of the item.

PA9 TO APPROVE THE MINUTES OF THE MEETING OF THIS COMMITTEE HELD ON 11 MAY 2022

RESOLVED – That the Minutes of this Committee held on 11 May 2022, be approved as a correct record.

PA10 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>
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PA11 FIVE ACRES, LIME LANE, BRAFFERTON

21/00753/FUL – Change of use of agricultural land to land to be used as community garden for post 16 yr school leavers with learning difficulties comprising of new vehicle access together with 1 no. day centre/barn with plant room, 3 no. polytunnels, raised walkways and decking, car parking, cycle storage, community and sensory gardens, animal areas with stable block and feed shed and other associated works (additional ecology information received 13 January 2022; amended Design and Access Statement; amended and additional plans received 16 March and 27 April 2022).

(In reaching its decision, the Committee took into consideration the Planning Officer's report (previously circulated), a total of 72 letters of support, a total of 4 letters of objection received, the advice provided by the Council's Transport Policy Officer, the views of the Architectural Liaison Officer from Durham Constabulary, and the views of the Applicant, the Applicant's Agent and one Supporter, whom the Committee heard).

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

1. A3 – Three Years (Implementation Limit)
2. The development hereby permitted shall be carried out in accordance with the approved plans, as detailed below:
 - (a) Drawing Number 21-010_X_SP (00) 01_XX Rev E Proposed Site Layout
 - (b) Drawing Number 21-010_X_GP (00) 03_XX Proposed Day Care Centre/Barn & Plant Plan & Elevations
 - (c) Drawing Number 21-010_X_GP (00) 04_XX Proposed Polytunnel Plans and Elevations
 - (d) Drawing Number 21-010_X_GP (00) 05_XX Proposed Stable Plan and Elevations
 - (e) Drawing Number 21-010_X_GP (00) 06_XX Proposed Feed Store Plan and Elevations
 - (f) Drawing Number 21-010_X_GP (00) 07_XX Rev A Proposed Raised Walkway
 - (g) Drawing Number 21-010_X_GP (00) 08_XX Rev A Proposed Livestock/Trespass Fencing

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

3. Prior to the commencement of the development, including demolition, a site specific Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority in consultation with Network Rail. The Plan shall include the following, unless the Local Planning Authority dispenses with any requirement[s] specifically and in writing:
 - (a) Hours of construction and deliveries
 - (b) Dust Assessment Report which assesses the dust emission magnitude, the sensitivity of the area, risk of impacts and details of the dust control measures to be put in place during the demolition and construction phases of the

development. The Dust Assessment Report shall take account of the guidance contained within the Institute of Air Quality Management "Guidance on the assessment of dust from demolition and construction" February 2014.

- (c) Methods for controlling noise and vibration during the demolition and construction phase and shall take account of the guidance contained within
 - a. BS5228 "Code of Practice for noise and vibration control on construction and open sites".
- (d) Construction Traffic Routes, including parking areas for staff and visitors.
- (e) Details of wheel washing.
- (f) Road Maintenance.
- (g) Warning signage.
- (h) Submission of evidence that consultation with the Asset Protection Project Manager at Network Rail has been carried out and a construction methodology has been agreed with Network Rail

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

REASON - In the interests of highway safety; amenity and railway line safety.

- 4. Prior to the commencement of the development, a detailed drainage strategy plan shall be submitted to and approved in writing by the Local Planning Authority . The strategy must also ensure that surface water flows away from the adjacent East Coast Main Line railway; with no ponding of water taking place adjacent to the boundary and any attenuation schemes within 30m of the railway boundary must be approved by Network Rail. There must be no connection to existing railway drainage assets without prior agreement of Network Rail. The development shall not be carried out otherwise than in complete accordance with the approved Plan.

REASON - In the interests of preventing flood risk and the safety of the East Coast Main Line railway.

- 5. The use hereby approved shall not operate outside the hours of Monday to Friday 0800 to 1800; Saturday 0900 to 1800 and Sundays and Bank Holidays 1000 to 1600 unless otherwise agreed in writing by the Local Planning Authority.

REASON - In the interests of the amenity of the area.

- 6. Prior to the commencement of the development hereby approved, a scheme to protect the existing trees shown within the submitted Arboricultural Impact Assessment to be retained shall be implemented on site. The scheme shall comprise generally the specification laid down within BS 5837 2012 and shall include fencing of at least 2.3m high, consisting of a scaffolding frame braced to resist impacts, supported by a weldmesh wired to the uprights and horizontals to dissuade encroachment. The fencing shall be erected along the root protection areas shown on Drawing Number Any0_Lime Lane_AIA.1DRAFT (Appendix 1 of the submitted Arboricultural Impact Assessment produced by Dendra). Notwithstanding the above approved specification, none of the following activities shall take place within the segregated protection zones in the area of the trees:

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

REASON - To ensure 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.

7. Prior to the commencement of the use, precise details for any external lighting scheme shall be submitted to and approved in writing by the Local Planning Authority. Any lighting scheme shall be carried out having full regard to Section 5.4.3 of the document entitled "Preliminary Ecological Appraisal of: Land to south of Lime Lane Brafferton Darlington" produced by Dendra Consulting Limited and dated April 2021 unless otherwise agreed in writing by the Local Planning Authority

REASON - In the interests of the visual appearance of the development and biodiversity of the site.

8. Prior to the commence of the use, precise details of the cycle parking and motor vehicle parking shall be submitted to and approved in writing by the Local Planning Authority. The details shall include the number and dimensions of vehicle parking spaces, the number and location of accessible parking spaces and details of cycle parking provision which accords with guidance contained within Cycle Infrastructure Design – Local Transport Note 1/20 dated July 2020. The agreed details shall be fully completed and available for use prior to the commencement of the use and retained thereafter for the lifetime of the development.

REASON - In the interest highway safety; securing accessible parking spaces and encouraging the use of sustainable modes of transport.

9. Notwithstanding the details shown on the approved plans and prior to the commencement of the use, precise details of the livestock/trespass fencing shall be submitted to and approved in writing by the Local Planning Authority. The details shall include the materials, colour scheme, depth of fence posts and confirmation that the fencing will not prevent access to land in the ownership of Network Rail and National Highways for maintenance purposes. The development shall not be carried out otherwise than in complete accordance with the approved plans and the fencing shall be erected prior to the commencement of the use and retained thereafter for the lifetime of the development.

REASON - In the interests of the safety of occupants of the site, to allow continued unrestricted access to adjacent landowners and in the interests of the visual appearance of the site and local area.

10. Notwithstanding the details shown on the approved plans and prior to the

commencement of the use, precise details of all other means of enclosure in and around the site shall be submitted to and approved in writing by the Local Planning Authority. The details shall include the location, design and materials, colour scheme, depth of fence posts. The development shall not be carried out otherwise than in complete accordance with the approved plans and the fencing shall be erected prior to the commencement of the use and retained thereafter for the lifetime of the development

REASON - In the interests of the visual appearance of the site and local area.

11. The development shall not be carried out otherwise than in approved accordance with the document entitled "Preliminary Ecological Appraisal of: Land to south of Lime Lane Brafferton Darlington" produced by Dendra Consulting Limited and dated April 2021 and the further information and guidance, including the "Biodiversity Metric 3:0 Lime Lane" spreadsheet also produced by Dendra Consulting Limited dated 13 January 2022 unless otherwise agreed in writing by the Local Planning Authority.

REASON - In the interests of the visual appearance of the development and biodiversity of the site.

12. Prior to the commencement of the development, precise details of a scheme for the storage and disposal of waste shall be submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out otherwise than in accordance with the approved details. The agreed scheme shall be fully implemented and available for use prior to the commencement of the use.

REASON - In the interests of the amenity of the area.

13. Prior to the commencement of the use, a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority in consultation with Network Rail. The scheme shall have full regard to the document entitled "Preliminary Ecological Appraisal of: Land to south of Lime Lane Brafferton Darlington" produced by Dendra Consulting Limited and dated April 2021 and the further information and guidance, including the "Biodiversity Metric 3:0 Lime Lane" spreadsheet also produced by Dendra Consulting Limited dated 13 January 2022. Any planting and landscaping scheme should not impact on operational railway safety with any trees and shrubs planted adjacent to the boundary positioned a minimum distance greater than their height at maturity from the boundary and within no broad leaf deciduous species planted adjacent to the railway boundary. Any hedge planted adjacent to the railway boundary for screening purposes should be placed so that when fully grown, it does not damage the fencing, provide a means of scaling it or prevents Network Rail from maintaining its boundary fencing. The development should not be carried out otherwise than in complete accordance with the approved details.

REASON - In the interests of the visual appearance of the development, biodiversity net gain and the safety of the East Coast Main Line railway.

14. Prior to the commencement of the use a 30 Year Biodiversity and Landscape Management plan for the site shall be submitted to and approved in writing by the

Local Planning Authority. The development shall not be implemented otherwise than in complete accordance with the agreed Plan.

REASON - In the interests of the visual appearance of the development and biodiversity net gain.

15. The access and visibility work as shown on Drawing Number 21-010_X_SP (00)05_XX) (Proposed - Access & Visibility) must be fully completed prior to the commencement of the use and retained thereafter for the lifetime of the development.

REASON - In the interests of highway safety.

16. Notwithstanding the details shown on Drawing Number 21-010_X_SP(00)05_XX) (Proposed - Access & Visibility) the first 12m of the internal access road, measured back from the carriageway edge shall be formed in a sealed material and the access gates shall not open outward over the public highway.

REASON - In the interests of highway safety.

PA12 SAINSBURYS SUPERMARKET PLC, DARLINGTON ROAD, MIDDLETON ST. GEORGE, DARLINGTON, DL2 1JT

22/00397/FUL - Application submitted under Section 73 of the Town and Country Planning Act 1990 for the variation of condition 18 (delivery times) attached to outline permission 21/00223/OUT dated 10 June 2021 (Outline application with details of access, appearance, layout and scale (landscaping reserved for future consideration) for the conversion, partial demolition and rear extension of public house (Sui Generis) to form convenience store (Use Class E) with car parking and associated works) to permit an extension in the delivery time by one hour from 08.00-18.00 to 07.00-18.00 (Mon-Sun).

(In reaching its decision, the Committee took into consideration the Planning Officer's report (previously circulated), two letters of objection, the thoughts of the Ward Councillors, and the views of the Environmental Health Officer and Highways Engineer).

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

1. The development hereby approved shall be commenced not later than 23rd November 2023.

REASON - To accord with the provisions of Section 73 of the Town and Country Planning Act 1990.

2. The development hereby permitted shall be carried out in accordance with the approved plan(s) as detailed below:
 - 2165-P200 Rev E Site location plan
 - 2165-P204 Rev G Site Layout plan

- 2165-P206 Rev C Proposed elevations
- 2165-P205 Rev D Proposed Ground Floor Layout
- 2165-P207 Demolition Plan

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

3. The submitted landscaping scheme, agreed through application reference number 21/01130/RM1 (Drawing number S2 Rev B) dated 23rd November 2021 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.

4. The external materials (to include parapet detail) to be used in the carrying out of the development, shall be in accordance with those details submitted and approved within application reference 21/01129/CON dated 30th November 2021 as part amended by application 22/00141/NMA dated 14th March 2022, unless otherwise agreed in writing by the Local Planning Authority.

REASON - In the interests of visual amenity.

5. The archaeology work shall be carried out in accordance with the programme of archaeological work and the approved scheme of works set out in the submitted Written Scheme of Investigation and post investigation assessment ('Platform 1 Darlington Road Middleton St George Darlington, An Archaeological Written Scheme of Investigation' LS Archaeology (July 2021, amended November 2021)) approved under application reference number 21/01129/CON dated 30th November 2021, and ('Platform 1 Middleton St George: A Report on an Archaeological Watching Brief' (LS Archaeology March 2022)) approved under planning application reference number 22/00297/CON dated 25th May 2022 unless otherwise agreed in writing by the Local Planning Authority.

REASON - To safeguard any Archaeological Interest in the site, and to comply with part 16 of the National Planning Policy Framework. Required to be a pre-commencement condition as the archaeological investigation/mitigation must be devised prior to the development being implemented.

6. The development shall not be undertaken otherwise than in complete accordance with the approved Construction Management Plan ('Construction Management Plan: Proposed alteration to Platform 1 Darlington Road to form a convenience store' Rev. 1, (PH Land, October 2021)) approved under application reference number 21/01129/CON dated 30th November 2021, unless otherwise agreed in writing by the Local Planning Authority.

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

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

REASON - In the interests of residential amenity.

8. The development shall not be carried out otherwise than in complete accordance with the approved Tree Survey and Arboricultural Method Statement ('Platform 1 public house Middleton St George; Tree Survey and Arboricultural Method Statement for PH Land and Developments', (Enviroscope Consulting, September 2021)) approved under application reference number 21/01129/CON dated 30th November 2021, unless otherwise agreed in writing by the Local Planning Authority.

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

9. Prior to the occupation of the development hereby approved, details of the size, type, and location of the proposed interpretation panels, and details of the seating area shall be submitted to, and approved in writing by, the Local Planning Authority. These shall be in place prior to the occupation of the development hereby approved and shall be retained as such thereafter.

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

10. Prior to the occupation of the development hereby approved, two litter bins shall be provided (one to be situated to the seating area to the rear) in accordance with details to be submitted to, and approved in writing by, the Local Planning Authority and one in accordance with details already approved under planning permission reference number 22/00297/CON, part discharge of condition, dated 25th May 2022. The litter bins shall be in place prior to the occupation of the building and shall be retained thereafter.

REASON - In the interests of residential amenity.

11. The development shall not be carried out otherwise than in complete accordance with the terms of the approved Travel Plan ('Travel Plan; Sainsbury's supermarkets: Proposed convenience store Middleton St George' (Vectos, February 2022)) approved under planning permission reference number 22/00231/CON dated 24th March 2022, unless otherwise agreed in writing by the Local Planning Authority.

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

12. The external lighting shall be completed in accordance with the details approved under planning permission reference number 22/00249/CON (Luminaire Schedule

and Drawing reference 'Proposed Lighting Layout – DWG-01') dated 16th May 2022 and maintained as such thereafter, unless otherwise agreed in writing by the Local Planning Authority.

REASON - In the interests of residential amenity.

13. Cycle parking /storage shall be provided prior to the occupation of the development in accordance with details approved under planning permission reference number 22/00249/CON ('Cycle Hoop Plan', 'Sheffield Cycle Stand details' and 'details of staff cycle parking') dated 16th May 2022 and retained as such thereafter.

REASON - To encourage more sustainable modes of transport.

14. Two electric vehicle charging points shall be provided prior to the occupation of the development in accordance with details approved under planning permission reference number 22/00231/CON (Drawing ref. 'Proposed Car Charging - No. S3 Rev; Drawing ref. 'Wallpod Mounting Post: Ground Mounted Galvanised Steel – No. IEVFP0020 Rev -' ; and Catalogue extract with product details for 'WallPod:EV – Socket') dated 24th March 2022.

REASON - To make provision for sustainable means of transport

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

REASON - In the interests of residential amenity.

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

REASON - In the interests of residential amenity.

17. The external plant as approved under planning permission reference number 22/00297/CON (Drawing ref. 'Proposed Refrigeration Plant Layout - XA-0236-1841-AIR-ZZZ-00-DR-N-0555'; and Drawing ref. 'Proposed A/C & Ventilation Layout - XA-0236-1841-AIR-ZZZ-00-DR-M-0572') dated 25th May 2022 shall be installed fully in accord with the details approved prior to the commencement of the use and retained as such thereafter.

REASON - In the interests of residential amenity.

PA13 NOTIFICATION OF DECISION ON APPEALS

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

Dismissed the appeal by Mr George Murray against this Authority's decision to refuse consent for 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).

Dismissed the appeal by Mr Paul Furness against this Authority's decision to refuse consent for 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 (as amended by plans received 26.07.21 and 04.10.21) at 1 Hall View Grove, Darlington, DL3 9DN (21/00789/FUL).

Dismissed the appeal by R Cunningham against this Authority's decision to refuse consent for change of use of land to Gypsy/Traveller site including erection of 5 no. amenity buildings, siting of 5 no. mobile homes, 5 no. touring pitches with car parking, access road and associated works (amended plan received 17 December 2020) at Land Opposite Sovereign House, Neasham Road, Hurworth Moor, Darlington (20/00889/FUL).

Allowed the appeal by Mr Paul Million against this Authority's decision to refuse consent for Change of use from dwelling house (Class C3) to 8 person HMO (sui-generis) at 12 Vane Terrace, Darlington DL3 7AT in accordance with the terms of the application, Ref 21/01217/FUL, dated 4 October 2021, and the plans submitted with it, subject to the conditions set out in the attached schedule.

RESOLVED – That the report be received.

PA14 NOTIFICATION OF APPEALS

The Chief Executive reported that :-

CK Hutchison Networks (UK) Ltd has appealed against this Authority's decision to refuse permission for Prior Approval for the installation of 5G telecoms equipment including 15m high slim-line Phase 8 H3G street pole c/w wrap around cabinet, 3 no. cabinets and ancillary works at Land Adjacent To Albert Hill Roundabout, Darlington, DL1 1JL (21/01189/PA)

Ms Pamela Fletcher has appealed against this Authority's decision to refuse permission for Demolition of lean-to to existing dwelling, erection of 1 no. two bed single storey dwelling to front and demolition of existing garage to accommodate erection of 1 no. two bed single storey dwelling to rear, with associated parking and landscaping works at 87 Barmpton Lane, Darlington, DL1 3HG (20/01126/FUL)

RESOLVED – That the report be received.

PA15 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.

PA16 COMPLAINTS RECEIVED AND BEING CONSIDERED UNDER THE COUNCIL'S APPROVED CODE

OF PRACTICE AS OF 1 JULY 2022 (EXCLUSION PARAGRAPH NO. 7)

Pursuant to Minute PA113/May/2022, the Chief Executive submitted a report (previously circulated) detailing breaches of planning regulations investigated by this Council, as at 1 July 2022.

RESOLVED - That the report be noted.

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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 – 7th September 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
Land At Rear Of High Stell MIDDLETON ST GEORGE DARLINGTON	22/00503/FUL
Land At Rear Of High Stell MIDDLETON ST GEORGE DARLINGTON	22/00501/CON
15 Hirst Grove DARLINGTON DL1 4NX	22/00673/CU

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DARLINGTON BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 7 September 2022

APPLICATION REF. NO:	22/00503/FUL
STATUTORY DECISION DATE:	9 th August 2022
WARD/PARISH:	SADBERGE & MIDDLETON ST GEORGE
LOCATION:	Land At Rear Of High Stell MIDDLETON ST GEORGE DARLINGTON
DESCRIPTION:	Application submitted under Section 73 of the Town and Country Planning Act 1990 for the variation of condition 2 (phasing) attached to planning permission 17/01151/RM1 dated 14 March 2018 (Reserved matters relating to details of access, appearance, landscaping, layout, and scale, for residential development of 198 no. dwellings pursuant to outline planning permission 15/00976/OUT dated 01 July 2016) to remove reference to the house build trigger point
APPLICANT:	HOMES BY CARLTON LIMITED

RECOMMENDATION: GRANT SUBJECT TO A SECTION106 AGREEMENT (see details below)

APPLICATION AND SITE DESCRIPTION

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

<https://publicaccess.darlington.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=RBO484FPIGU00>

Background

1. The application site comprises 8.46 hectares of agricultural land on the west edge of Middleton St. George. The site boundary is formed by existing field boundaries defined by hedgerows and fencing. To the west, the site is bounded by residential properties in

Grendon Gardens and High Stell. To the north, the site is bounded by the Middleton St. George Water Park. The site is bounded by open countryside to the west and south comprising of open agricultural fields. There is an existing railway line approximately 160 metres from the southern boundary of the site.

2. As background, outline planning consent (15/00976/OUT) was granted in July 2016 for 'the erection of up to 200 dwellings including highway improvements, public open space, landscaping, and associated works. A Reserved Matters consent (17/01151/RM1) relating to details of access, appearance, landscaping, layout, and scale for the erection of 198 dwellings was subsequently granted in March 2018. The approved layout includes two accesses to the development, one via Grendon Gardens / The Greenway, and one via High Stell. The conditions attached to these permissions were subsequently discharged.
3. Several of these conditions (Outline Condition 9, Reserved Matters Condition 2, and Reserved Matters Condition 3) were allowed and part discharged at Appeal (Ref: 3223154, 3223155) in July 2019 in respect of the first 50 units occupied only utilising the approved access via Grendon Gardens/The Greenway. These conditions related to the Construction Management Plan and Phasing Plan. The appeal was lodged as the Council considered at the time that both accesses should be constructed at the commencement of the development in order to reduce the impact of construction traffic and later residential traffic on residents living in the locality. The proposal was instead for only the access from Grendon Gardens to be used initially, with the access off High Stell to be brought into use once the first 50 dwellings have been constructed on site. The inspector allowed the appeal in respect of the use of the Grendon Gardens access, with the provision of a second access not being required until the first 50 dwellings had been built out.
4. The inspector determining the appeal referred to the lack of objection from both the Environmental Health Officer and the Highways Engineer. The inspector was satisfied that the proposal would not be harmful to highway or pedestrian safety or living conditions, and allowed the appeals, awarding costs against the Council. The inspector made the following points:

'In March 2015 the Highway department consultation response in relation to application Ref 15/00041/OUT stated that it would be difficult to recommend refusal of the residential development based on generated traffic given the carriageway width and number of existing dwellings on Grendon Gardens and The Greenway but noted concerns about the impact of using one access on residential amenity' (para. 13).

'Having regard to the fact that no objections to the submitted information have been raised by the Council's Environmental Health department and to the Highway departments previous comments in relation to highway capacity together with the approval by the Council of application Ref 18/01215/CON for the same phasing, I consider that the details submitted are acceptable to discharge the highways related

conditions having particular regard to the living conditions of the occupiers of nearby residential properties' (para. 14).

'Subject to compliance with the submitted details, I am satisfied that the proposal is unlikely to be materially harmful to highway or pedestrian safety or to living conditions having regard to noise and air quality' (para. 21).

5. Since the adoption of the new Local Plan, it should be noted that the site is allocated for housing as an existing commitment.

Current proposals

6. The first phase of development (dwellings 1-50) is nearing completion. The submitted Construction Phase Health & Safety Plan and accompanying Delivery & Directions Instructions confirms that Phase 2 – 4 will continue to be developed by the same single developer, Homes by Carlton delivering approximately 30 dwellings per annum. The information submitted in support of the application states that the remaining phases (dwellings 51-198) will continue to utilise the existing access arrangement via The Greenway / Grendon Gardens, as used to deliver Phase 1. No second access via High Stell will be created due to constraining factors outside of the control of the applicant.

7. To enable this to occur, a variation of condition 2 of the reserved matters approval 17/01151/RM1, would be required. The condition states:

'Before development commences, a plan showing the phasing of development and the route of construction shall be submitted to and approved in writing by the Local Planning Authority. This will include details of the house build trigger point for the creation of the access point off High Stell.

REASON – In order that the Local Planning Authority can ensure that the development will be carried out in a manner that will minimise the impact of the construction of the development on local residents and minimise the impact of traffic generated by the new development on local residents.

8. The application seeks planning permission for the variation of the above condition, which will entirely remove the second sentence of the condition, which reads as follows:

'This plan will include details of the house build trigger point for the creation of the access point off High Stell'.

9. A further condition (3) of the approval requires submission and agreement of a Construction Management Plan, and one which relates to these later phases of the development, has been submitted to support the application.
10. All other elements of the scheme remain as approved, however the proposal has resulted in a small change to the area where the road would have connected to High

Stell on the eastern boundary of the site, which has been amended to include an area of landscaping, which results in an amended layout plan.

11. In summary, the developer is now unable to provide a second access. Therefore the purpose of this application is to agree to the removal of the house building trigger point to allow the remainder of construction to proceed through The Greenway / Grendon Gardens access on a site which has a detailed planning permission in place and is allocated for housing in the Local Plan. A Construction Management Plan has been submitted for consideration to demonstrate that construction can be acceptably managed for the remainder of the phases of the development. No technical objections have been raised from the Highways Engineer (subject to a Section 106 agreement) or the Environmental health Officer.

Legal position

12. Officers have sought opinion on the position from a leading planning QC. The advice received is summarised as follows:
 - An inspector dealt, on 30th July 2019, with appeals arising under both 00976 and 01151. It is apparent that the inspector considered that development, i.e., construction could proceed notwithstanding the fact that there would be but one access. The inspector was concerned with the first 50 units to be built.
 - Construction has been taking place for some time so an application can be considered in the light of practical experience;
 - In respect of the current application, in respect of the construction management plan...the inspector's comments impair the Council's ability to argue that, at the very least for construction purposes, two accesses are necessary. Putting the matter more broadly the inspector's comments impair the ability of the Council to secure two accesses to the development.
 - The consequence, as it appears, of the present application is that, if it were granted, the whole of the site would come to be developed without a second access point. This result would inevitably further support the proposition that a second access should not be required.
 - In those circumstances it is appropriate for the Council to accept an application under section 73 of the Town and Country Planning Act 1990. It would then be appropriate to deal with the application on its merits in terms of the removal of the house build trigger point and the submitted Construction Management Plan.
13. It should be noted that one additional application appears on this agenda, flowing from the same issue, 22/00501/CON seeking discharge of condition 9 of the original outline approval (construction management plan) as it relates to the later phases of the development.

Nutrient Neutrality

14. Natural England together with the Department for Levelling Up, Housing and Communities (DLUCH) announced on 16th March 2022 that the administrative area of Darlington Borough Council is now located within the catchment area of the Teesmouth and Cleveland Coast Special Protection Area. Under the Habitats Regulations, those planning authorities falling within the catchment area must carefully consider the nutrients impacts of any projects, including new development proposals, on habitat sites and whether those impacts may have an adverse effect on the integrity of the site that requires mitigation.
15. This impacts on all planning applications, both existing and proposed, which relate to primarily all types of overnight accommodation, such as new dwellings, care homes, student accommodation, holiday accommodation etc. and impacts all developments for one dwelling upwards. It also affects other applications where development may impact upon water quality, including those seeking to discharge planning conditions relating to foul and surface water drainage for a range of development proposals.
16. Having discussed the specifics of this proposal with Natural England, officers have arrived at a view that the proposed development does not fall within the scope of the above as it is an extant planning permission that has lawfully commenced, where all of the planning conditions have been discharged. It is therefore not appropriate to revisit the proposal in terms of nutrient neutrality.
17. Notwithstanding the above, the applicant has submitted a Nutrient Neutrality Calculator and accompanying written statement produced by Nutrient Neutral consultants. As a detailed planning permission is in place, this specifically deals with the differences between the existing approval and this new variation in terms of physical changes. It identifies that, with the removal of a small section of road associated with the new defunct second access, the overall budget for the proposed revision results in a net reduction of 0.10 kgN/yr. It can be concluded that there would be no adverse effect on the integrity of the conservation objectives of the Teesmouth and Cleveland Coast SPA/ Ramsar, either in isolation or in-combination.

MAIN PLANNING ISSUES

18. The main issues for consideration are:
 - (a) Principle of the development;
 - (b) Impact on visual amenity;
 - (c) Impact on residential amenity;
 - (d) Highway Safety;
 - (e) Developer Contributions.

PLANNING POLICIES

19. The site now forms a commitment in the Local Plan, being an extant planning permission (policy H2) and this application seeks variation of a condition on the reserved matters approval. This position is considered further below. The relevant policies in the determination of this application which change the development only in the context of the construction access arrangements with a small addition of landscaping in lieu of the High Stell connection are:

- The proposal reflects the local environment and creates an individual sense of place with distinctive character (DC1).
- The proposal provides suitable and safe vehicular access and suitable servicing and parking arrangements (policy DC1 and IN4) .
- The proposal is sited, designed, and laid out to protect the amenity of existing users of neighbouring land and buildings and the amenity of the intended users of the new development (policy DC4).

RESULTS OF TECHNICAL CONSULTATION

20. The Council's Highways Engineer and Environmental Health Officer have raised no objections.

RESULTS OF PUBLICITY AND NOTIFICATION

21. A total of 83 No. objections have been received from local residents, raising the following concerns:

- Impact on residential amenity; noise, vibration, dust and air pollution from final development and construction traffic;
- Highway safety, for road users, cyclists, and pedestrians; dangerous parking taking place; congestion; particularly at busy school times;
- Damage to road surface;
- Impact on ecology;
- Current infrastructure cannot cope with new development;
- Increase in crime;
- Developer not complying with construction management plan regarding delivery and construction times;
- Loss of green space;
- Proposed development does not comply with the Parish Plan;
- Work to provide the necessary utilities has caused major disruption to residents;
- Application should be halted to consider nutrient neutrality.

22. Middleton St George Parish Council has objected to the proposed development, raising the following concerns:

- The proposals remove the High Stell access point;
- The trigger point should be retained as originally intended to fairly distribute the traffic to the development;
- The original approved plans show two access points;
- Appeal inspector allowed appeal only in relation to the first 50 dwellings (and that future phases would be enabled when the second access was brought forward);
- To take all the development traffic from the entire 198 houses (all four phases) in addition to the all the construction traffic, would constitute a severe impact on residential amenity in terms of noise, dust, traffic safety hazards;
- Parish Council regularly receive complaints from residents regarding the development including the developer not adhering to agreed delivery / construction times;
- The proposal will cause damage to the already poor road surface of The Greenway / Grendon Gardens;
- The proposal will cause damage to the drainage system;
- Inadequate evidence to support application / discharge of conditions including inadequate road safety audit;
- Impact on highway safety; Pedestrian safety;
- Proposal will promote car use and is not sustainable development;
- Parish Council traffic surveys are evidence of traffic issues in the locality; cumulative impact of traffic from all developments should be taken into account.

23. CPRE Durham has objected to the development on the following grounds.

- Support the representations made by MSG Parish Council and concerns raised by residents;
- Impact on amenity / nuisance;
- Proposal could exacerbate existing problems identified.

PLANNING ISSUES/ANALYSIS

a) Principle of the proposed development

24. This variation relates to a condition that was attached to a reserved matters approval and relates only to the continued construction of the site with the implementation of only one of the previously approved accesses. The principle of the development of the site for housing (which is now a commitment in the Local Plan), therefore, is not at issue.
- 25. The wording of the condition referenced above, relating to the phasing of the site and the submitted construction management plan, which specifically referred to actions required on the completion of the 50th dwelling, will need to be reconsidered as due to constraints, the developer will not be implementing the second access from High Stell and is therefore only partially implementing the planning permission, which results in the remaining phases of construction (and access to the new dwellings) having to be accessed from The Greenway / Grendon Gardens. Any decision to refuse the variation of the condition, must be backed up by expert evidence, to**

support any potential appeal and to reduce the risk of any award of costs being made against the Council as it was in 2019.

26. The only other issues for consideration are any resultant physical changes to the scheme brought about through the omission of the second access (as referenced in paragraph 10 above and considered in section b below), and the acceptability or otherwise of the phasing plan / construction management plan submitted in terms of the construction phase of the development.

b) Impact on visual amenity

27. Whilst all other elements of the scheme remain as approved, the proposal has resulted in a small change to the area where the road would have connected to High Stell on the eastern boundary of the site, which has been amended to include an area of landscaping, which results in an amended layout plan. This minor change is considered acceptable in respect of its impact on the visual amenities of the locality and complies with policy DC1 in this regard.

c) Impact on residential amenity

28. The application has been submitted with a proposed Site Plan with Material Storage Compound Shown; a Construction Phase Health and Safety Plan prepared by Temple Safety Ltd which contains mitigation measures which would minimise the construction phase of the development for nearby residents; A Proposed Phasing Plan for the development; and Delivery and Directions Instructions for site vehicles.

29. In addition to reviewing the above, the Environmental Health Officer has also undertaken a site visit and noted that a large proportion of Phase 1 of the development has already been completed. The site compound and materials storage area are well away from Grendon Gardens/The Greenway, there is now a tarmacked road into the development (which will cut down on dust) and the site appears to have been connected to mains power meaning potentially noisy diesel generators are no longer required on site.

30. Based on the site visit, background documents and the current situation in terms of the omission of the second access, the Environmental Health Officer has confirmed no objections to the proposed variation of condition. Whilst several objections cite issues regarding noise, disturbance, and disruption in terms of the first phase of the development, an element of this relates to the connection to existing services which is now complete. It is noted that some concerns relate to an apparent lack of accordance with the current CMP in terms of delivery and construction times, and this can be monitored to ensure that any lack of compliance is addressed with the developer. Accordingly, the proposal is considered to comply with policy DC4 in this regard.

31. In addition to the above considerations, it should be noted that the appeal decision cited at the beginning of the report, whilst not considering whether the two accesses

were necessary, makes it clear that the Council would struggle to make that argument on the grounds of amenity and safety. This appeal was allowed with costs awarded against the Council.

d) Highway safety

32. The submitted CMP follows the measures set out as part of the upheld Appeal considered by the Planning Inspectorate Decision (Ref: 3223152). The Highways Engineer has noted that the previously consented first phase of construction (50 dwellings) was initially refused at Committee, where elected Members considered that to construct 50 dwellings off one point of access would have an unacceptable impact on residential amenity. The subsequent appeal was upheld, where the Planning Inspectorate did not consider that there was sufficient harm to warrant refusal. It would therefore be difficult to justify refusal where further phased development is proposed, based on the previously accepted principles set out within the Construction Management Plan.
33. The first phase of development is now substantively completed, whilst the next phases will be delivered by the same developer, Homes by Carlton, at the same build out rate as Phase one (30 dwellings per annum). A further 148 dwellings are proposed across three phases, at approximately 50 dwelling per phase. Based on this phased approach it is not expected that daily vehicle movements associated with construction would exceed those already experienced by residents as part of phase one.
34. In light of the second High Stell access now being undeliverable additional predicted vehicle movements with Grendon Gardens will now be roughly double what was first anticipated. The Highways Engineer considers it reasonable that additional mitigation measures should be sought from the developer to ensure a safe highway environment and has therefore requested that a 20mph zone is implemented for the existing estate roads of Grendon Gardens/The Greenway. It is suggested that a 20mph 'gateway' feature is installed within the first 20-25m of the existing estate, with at least two additional traffic calming features to be installed before the entrance to the Middleton Waters development.
35. This has been discussed with the applicant who is keen to ensure that the Highway environment is safe for all users and has agreed to enter into a Section 106 agreement which would require a financial contribution to enable the delivery of the suggested mitigation, with the trigger point for payment to be agreed.
36. The existing construction phases will also delay the final adoption of the Middleton Waters internal estate roads, as the Highways Authority will not be willing to accept the maintenance duty of these roads prior to the completion of construction where roads and footways are expected to be damaged by additional phases of construction. This will need to be discussed further with the Highways Asset management Team, as to how the structural integrity of the newly constructed highways can be protected. The developer may be required to enter into a Section 59 Agreement to offer assurance

that they will be accountable for the cost of repairing any subsequent damage. This process is dealt with separately under Highways legislation.

Traffic Impact

37. SAJ Transport Consultants have been commissioned by the applicant to consider the impact of construction traffic accessing the development site beyond the completion of the 50th dwelling and up to the full build of the site for the consented 198 dwellings via a single point of access (Grendon Gardens). This follows the principle of the previously agreed construction management plan which was considered by the Planning Inspectorate with regard to the appeal for the construction of 50 dwellings. On this basis it would be difficult to object to the methodology set out once more given that it has been tested
38. It is also acknowledged within the SAJ Technical Report that as the site is built out, the trip generation associated with the proposed occupied properties will increase. Upon occupation of the final dwelling, The Greenway/Grendon Garden route will be used by the 198 properties on the site. This is addition to the existing 76 properties on The Greenway and Grendon Gardens, giving a total of 274 properties. The DBC design guidance confirms that a 5.5m wide road, which is the standard of The Greenway/Grendon Garden access route, is suitable to serve up to 300 properties. It is therefore difficult to demonstrate that this is an over intensification of use with regard to traffic generation, notwithstanding the basic assumption that the additional generated traffic would be previously have been distributed approximately 50/50 between Grendon gardens and High Stell.
39. The trip rates from the approved Transport Assessment for the outline application for the development have been used to quantify the level of trip generation associated with 198 dwellings. The trip generation for 198 dwellings is shown to be 164 two-way trips in the AM peak and 155 two-way trips in the PM peak, respectively. Bearing in mind that, approval is already granted for 50 dwellings most of which are now occupied by residents, this can be effectively netted off from proposed increase, giving a total additional traffic generation of 122 two-way trips in the AM peak and 115 two-way trips in the PM peak.
40. Whilst many residents clearly state that they have road safety concerns with the junction of The Greenway/Middleton Lane particularly with regard to possible pedestrian collision, the evidence presented by Police accident data, demonstrates that there have been no recorded personal injury collisions (PICS) within the most recent 5-year period (standard period of assessment). Indeed an extended 10-year search period taken from Crashmap.co.uk also demonstrates no PICS have occurred at the Greenway/Middleton Lane junction or the internal estate roads of Grendon Gardens.

Background to Capacity Assessment and Road Safety

41. The Nationally adopted Department for Transport guidance Manual For Streets (MfS) sets out good design practices for residential streets and developments and is therefore applicable to the development being considered. Our own local guidance, The Tees Valley Design Guide (TVDG) which we use to assess the requirements for new residential development, has principles broadly based on the MfS documents among other sources. Should applications be taken to appeal, Nationally recognised guidance as MfS, tends to be relied upon more heavily than local guidance, during decision making by the Planning Inspectorate.
42. In terms of link capacity of the access route, there is a section within MfS that summarises research data carried out on traffic flow and road safety for streets with direct frontage access, this states that; *“The relationship between traffic flow and road safety for streets with direct frontage access was researched for MfS. Data on recorded accidents and traffic flow for a total of 20 sites were obtained. All of the sites were similar in terms of land use (continuous houses with driveways), speed limit (30 mph) and geometry (single-carriageway roads with limited side road junctions). Traffic flows at the sites varied from some 600 vehicles per day to some 23,000 vehicles per day, with an average traffic flow of some 4,000 vehicles per day”.*
43. *“It was found that very few accidents occurred involving vehicles turning into and out of driveways, even on heavily trafficked roads. Links with direct frontage access can be designed for significantly higher traffic flows than have been used in the past, and there is good evidence to raise this figure to 10,000 vehicles per day. It could be increased further, and it is suggested that Local Authorities review their standards with reference to their own traffic flows and personal injury accident records. The research indicated that a link carrying this volume of traffic, with characteristics similar to those studied, would experience around one driveway-related accident every five years per kilometre. Fewer accidents would be expected on links where the speed of traffic is limited to 20mph or less, which should be the aim in residential areas. ”*
44. Prior to any additional development The Greenway had recorded traffic flows of around 600 vehicles per day and therefore is well below the average figure quoted in the above paragraphs. Even with the addition of the traffic from the new dwellings would still be below the average of 4000 vehicles per day as a target point. As stated previously, the accident rate on the immediate surrounding highway network is low and does not raise cause for concern.

Accident History and Road Safety

45. Whilst anecdotal evidence of frequent minor incidents or near misses are often quoted within objection letters, unfortunately this is not something which the Local Planning Authority can substantiate if challenged and is therefore difficult to add weight towards a recommendation of refusal on highway safety grounds. Whilst officially recorded Police data, may not include the most minor incidents, it is the only consistent approach to assessing road safety history. The Highways Engineer however agrees that the presence of parked vehicles at the junction is a legitimate road safety concern, and as

such it would be a recommendation to implement further parking restrictions, however this is something which would need to be undertaken by the Highways Authority and requires consultation with affected residents and businesses. This process is challengeable, and as such implementation can't be guaranteed where persons may be inequitably disadvantaged, for instance if a disability impact assessment is undertaken, considering how this would impact disabled residents, or customers using the pharmacy who have mobility impairment. The Highways Authority is looking into the feasibility of providing alternative offsite parking provision for these residents and customers, and as yet do not have such a site available.

46. An additional 148 dwellings are likely to prolong construction works and traffic for a further 5 years based on the current build-out rate of 30 dwellings per year. The public highway within the Grendon Gardens estate is already showing accelerated wear and tear from the first phase of the build and is unlikely to withstand this additional period of heavy traffic without significant maintenance intervention from the Highways Authority. As such the Highways Engineer has indicated that this places an unreasonable financial burden upon the Highways Authority, in maintaining a road which is not constructed to withstand the long-term HGV traffic. The Highways Engineer therefore recommends that appropriate mitigation is put in place regarding reconstruction of the road, and/or agreement for the developer to undertake repair to damaged. This was considered at outline stage and is covered by condition 10 of the outline permission (15/00976/OUT) which requires a condition survey (initial survey prior to phase one already discharged) and subsequent review in the latter stages of the development, with any identified damage caused by construction traffic to be rectified at the cost of the developer.
47. Whilst the above is a commitment of the outline planning permission, the Highways Engineer has also confirmed that the Highways team intend to deal with this matter under other legislation, namely Section 59 of the Highways Act which will require the developer to enter into an agreement with the Highway Authority to rectify any additional damage associated with construction vehicles. This matter will be pursued with the developer under this separate legislation.
48. Overall, based on current guidance and the evidence presented by the applicant it would be difficult to demonstrate the 'severe impact' required to warrant refusal on highway safety grounds, given that the total quantum of development is under the permitted upper limit of 300 dwellings via a single point of access, and that road widths meet both local and nationally recognised standards. The acceptability of construction via a single point of access has also been tested before the Planning Inspectorate, and as such there is no reason to conclude that if a further appeal was to be submitted a different outcome would be expected.
49. In view of the above considerations, and the appropriate controls in respect of financial contributions towards traffic calming measures, the road condition survey requirements set out in condition 10 of the outline permission and the ability of the Highways teams to deal with any damage to the carriageway under other legislation, the proposal is

considered to be acceptable on highway grounds and complies with policy IN4 in this regard.

e) Developer Contributions

50. Where a relevant determination is made which results in planning permission being granted for development, a planning obligation may only constitute a reason for granting planning permission for the development if the obligation is:

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development.

51. The Heads of Terms that have been agreed with the applicant are, as outlined in section d of this report:

- A financial contribution to allow delivery of mitigation in the form of traffic calming measures and a 20mph zone in (Grendon Gardens / The Greenway) (Approximately £85,000)

52. Overall, it is considered that these proposals meet the tests set out above, are necessary, directly related to the development, and fairly and reasonably related in scale and kind to the development.

CONCLUSION AND RECOMMENDATION

53. There are no objections to the proposals from the Highways Engineer in terms of highway and pedestrian safety subject to a Section 106 agreement), or the Environmental Health Officer in terms of the impact of the proposal on residential amenity. The site is an existing commitment in the Local Plan, to provide 198 dwellings. The proposal complies with the relevant policies in the local plan and is acceptable in terms of visual and residential amenity and highway safety. In considering the proposal, it is also noted that should permission not be granted, this will result in the Local Planning Authority preventing the development of the rest of the site, and the completion of an already commenced development on a site identified in the Local Plan, leaving an unsatisfactory environment for both existing residents and potential occupiers of phase one of the scheme. The position in terms of impact on amenity and safety as set out in this report, is informed by the Inspectors comments on these matters at appeal. The Local Planning Authority has no expert evidence to support a refusal of planning permission. Should planning permission be granted, the condition in relating to phasing and the construction management plan can be combined to refer to that submitted in support of this planning application, with the reference to the trigger point removed.

PUBLIC SECTOR EQUALITY DUTY

54. 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.

RECOMMENDATION

55. THAT THE HEAD OF PLANNING DEVELOPMENT AND ENVIRONMENTAL HEALTH BE AUTHORISED TO NEGOTIATE AN AGREEMENT UNDER SECTION 106 OF THE TOWN AND COUNTRY PLANNING ACT 1990 WITHIN SIX MONTHS TO SECURE PLANNING OBLIGATIONS THAT ARE APPROPRIATE FOR THE DEVELOPMENT COVERING:

- A financial contribution to allow delivery of mitigation in the form of traffic calming measures and a 20mph zone in (Grendon Gardens / The Greenway) (Approximately £85,000)

56. AND FOLLOWING THE COMPLETION OF THE ABOVE AGREEMENT, THAT PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING PLANNING CONDITIONS:

1. The development shall be carried out in complete accordance with the approved plans as detailed below:

House types
The Abbey
The Amble
The Ascot
The Brocklehurst
The Chestnut
The Croft
The Damson
The Eleanor
The Epsom
The Fairfax
The Galloway
The Hamilton
The Juniper
010 Rev L Site layout / phasing plan

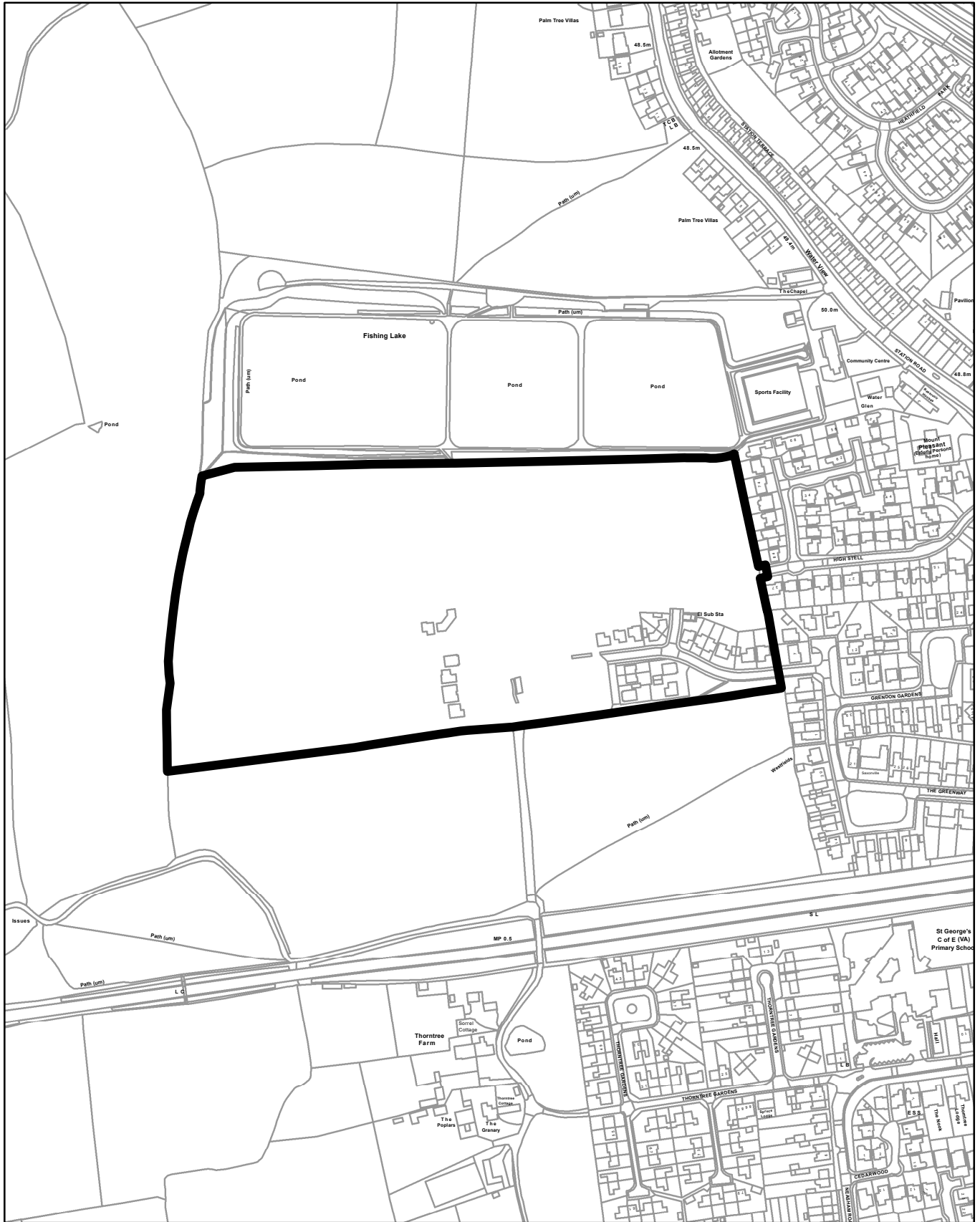
Any material change to the approved plans will require a formal planning application to vary the condition and any non-material change to the plans will require the submission of details and the agreement in writing by the Local Planning Authority prior to any non-material change being made.

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

2. The development shall be carried out in complete accordance with the submitted phasing / site plan and Construction Phase Health and Safety Plan prepared by Temple Safety Ltd and Delivery Directions and instructions prepared by Homes by Carlton unless otherwise agreed in writing by the Local Planning Authority.

REASON – In order that the Local Planning Authority can ensure that the development will be carried out in a manner that will minimise the impact of construction of the development on local residents.

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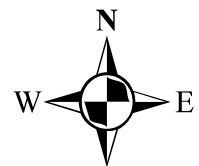


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Planning Ref No: 22/00503/FUL

DARLINGTON BOROUGH COUNCIL

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DARLINGTON BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 7 September 2022

APPLICATION REF. NO:	22/00501/CON
STATUTORY DECISION DATE:	5 th July 2022
WARD/PARISH:	SADBERGE & MIDDLETON ST GEORGE
LOCATION:	Land At Rear Of High Stell MIDDLETON ST GEORGE DARLINGTON
DESCRIPTION:	Part Approval of condition 9 (CMP) attached to planning permission 15/00976/OUT dated 01 July 2016 (Outline planning permission for residential development up to 200 dwellings including highway improvements, public open space, landscaping, and associated works)
APPLICANT:	HOMES BY CARLTON LIMITED

RECOMMENDATION: APPROVE (see details below)

APPLICATION AND SITE DESCRIPTION

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

<https://publicaccess.darlington.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=RBNYMKFPIGM00>

1. This application relates to the same site as dealt with elsewhere on the agenda under planning application reference number 21/00503/FUL and flowing from the proposed variation of the condition in relation to the phasing plan, seeks permission to discharge the planning condition relating to the Construction Management Plan to ensure that all requirements of the suite of approvals are met in carrying out the development. This condition was attached to the original outline permission (15/00976/OUT). As set out in the above report, this condition was partially discharged by appeal in July 2019, as it

related to the first 50 dwellings. As 22/00503/FUL seeks to vary the condition requiring a trigger point for delivery of the second access road, this requires a fresh Construction Management Plan for the remaining phases of the development.

2. The first phase of development (dwellings 1-50) is nearing completion. The submitted Construction Phase Health & Safety Plan and accompanying Delivery & Directions Instructions confirms that Phase 2 – 4 will continue to be developed by the same single developer, Homes by Carlton delivering approximately 30 dwellings per annum. The information submitted in support of the application states that the remaining phases (dwellings 51-198) will continue to utilise the existing access arrangement via The Greenway / Grendon Gardens, as used to deliver Phase 1. No second access via High Stell would be created due to constraining factors outside of the control of the applicant.

MAIN PLANNING ISSUES

3. The main issues for consideration are:
 - (a) Impact on residential amenity;
 - (b) Highway Safety;

PLANNING POLICIES

4. The site now forms a commitment in the Local Plan, being an extant planning permission (policy H2) and this application seeks discharge of a condition of the original outline approval to bring details in line with the application dealt elsewhere on this agenda under planning permission reference number 22/00503/FUL. Relevant policies are those that deal with residential amenity and highway safety as set out below.
 - The proposal provides suitable and safe vehicular access and suitable servicing and parking arrangements (policy DC1 and IN4) .
 - The proposal is sited, designed, and laid out to protect the amenity of existing users of neighbouring land and buildings and the amenity of the intended users of the new development (policy DC4).

RESULTS OF TECHNICAL CONSULTATION

5. The Council's Highways Engineer and Environmental Health Officer have raised no objections to the proposed discharge of condition.

RESULTS OF PUBLICITY AND NOTIFICATION

6. A total of 22 No. objections have been received from local residents raising the following concerns:
 - Highway safety issues / traffic congestion / pedestrian safety;

- Dangerous parking taking place;
 - Insufficient infrastructure; deterioration of roads since the development commenced;
 - Route through The Greenway and Grendon Gardens not sufficient for entire development;
 - Proposal affected by nutrient neutrality;
 - Developer does not comply with agreed delivery / construction times;
 - Impact on residential amenity;
 - Protected species in area;
 - Inadequate consultation;
7. Middleton St George Parish Council has objected to the proposed development, raising the following concerns:
- The proposals remove the High Stell access point;
 - The trigger point should be retained as originally intended to fairly distribute the traffic to the development;
 - The original approved plans show two access points;
 - Appeal inspector allowed appeal only in relation to the first 50 dwellings (and that future phases would be enabled when the second access was brought forward);
 - To take all the development traffic from the entire 198 houses (all four phases) in addition to the all the construction traffic, would constitute a severe impact on residential amenity in terms of noise, dust, traffic safety hazards;
 - Parish Council regularly receive complaints from residents regarding the development including the developer not adhering to agreed delivery / construction times;
 - The proposal will cause damage to the road surface of The Greenway / Grendon Gardens;
 - The proposal will cause damage to the drainage system;
 - Inadequate evidence to support application / discharge of conditions including inadequate road safety audit;
 - Impact on highway safety;
 - Proposal will promote car use and is not sustainable development;
 - Parish Council traffic surveys are evidence of traffic issues in the locality; cumulative impact of traffic from all developments should be taken into account;

PLANNING ISSUES/ANALYSIS

a) Impact on residential amenity

8. The application has been submitted with a proposed Site Plan with Material Storage Compound Shown; a Construction Phase Health and Safety Plan prepared by Temple Safety Ltd which contains mitigation measures which would minimise the construction phase of the development for nearby residents; A Proposed Phasing Plan for the development; and Delivery and Directions Instructions for site vehicles.
9. In addition to reviewing the above, the Environmental Health Officer has also undertaken a site visit and noted that a large proportion of Phase 1 of the development

has already been completed. The site compound and materials storage area are well away from Grendon Gardens/The Greenway, there is now a tarmacked road into the development (which will cut down on dust) and the site appears to have been connected to mains power meaning potentially noisy diesel generators are no longer required on site.

10. Based on the site visit, background documents and the current situation in terms of the omission of the second access, the Environmental Health Officer has confirmed no objections to the proposed discharge of condition. Whilst several objections cite issues regarding noise, disturbance, and disruption in terms of the first phase of the development, an element of this relates to the connection to existing services which is now complete. It is noted that some concerns relate to an apparent lack of accordance with the current CMP in terms of delivery and construction times, and this can be monitored to ensure that any lack of compliance is addressed with the developer. Accordingly, the Environmental Health Officer has raised no objections to the proposed discharge of condition.

b) Highway safety

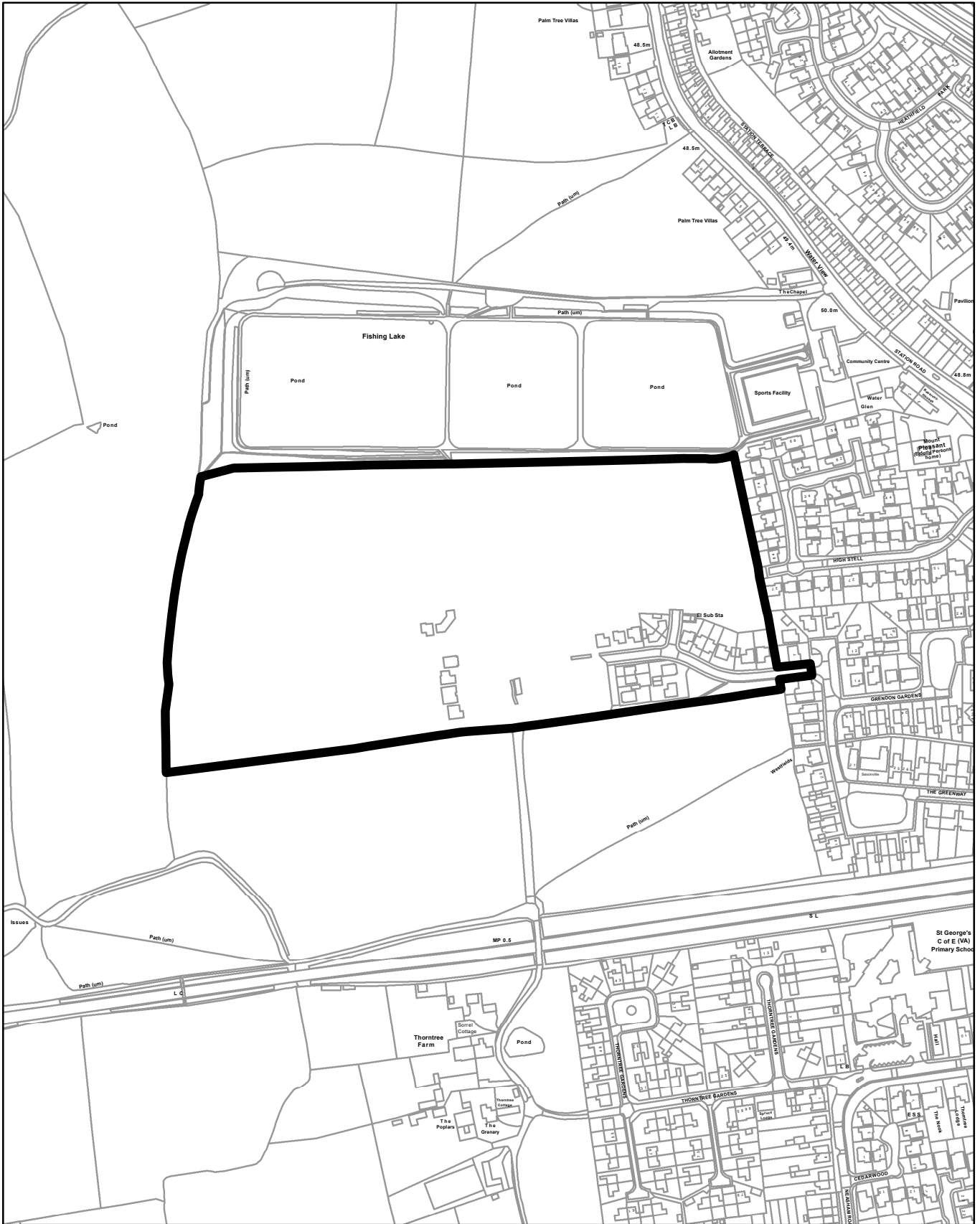
11. The submitted CMP follows the measures set out as part of the upheld Appeal considered by the Planning Inspectorate Decision (Ref: 3223152). The first phase of development is now substantively completed, whilst the next phases will be delivered by the same developer, Homes by Carlton, at the same build out rate as Phase 1 (30 dwellings per annum). A further 148 dwellings are proposed across three phases, at approximately 50 dwelling per phase. Based on this phased approach it is not expected that daily vehicle movements associated with construction would exceed those already experienced by residents as part of phase 1 and the Council's Highways Engineer raises no objections to the discharge of the condition.

CONCLUSION AND RECOMMENDATION

12. The proposed details are considered acceptable in terms of residential amenity and highway safety.

PUBLIC SECTOR EQUALITY DUTY

13. 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.
14. Accordingly it is recommended **THAT DISCHARGE OF CONDITION 9 OF 15/00967/OUT (as it relates to Phase 2 -4) BE APPROVED.**



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Planning Ref No: 22/00501/CON

DARLINGTON BOROUGH COUNCIL

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DARLINGTON BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 7 September 2022

APPLICATION REF. NO:	22/00673/CU
STATUTORY DECISION DATE:	22 nd August 2022
WARD/PARISH:	EASTBOURNE
LOCATION:	15 Hirst Grove DARLINGTON DL1 4NX
DESCRIPTION:	Change of use from single dwelling (use class C3) to holiday lets/serviced accommodation for short and long term let (use class C1)
APPLICANT:	MS SHONA KINNIE

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=documents&keyVal=RDM4WGFPOBM00>

1. The application site consists of a two-storey residential dwelling situated on the west side of a small residential cul-de-sac to the east of the urban area, accessed from Harris Street to the south. To the north, south and west are neighbouring residential properties, and to the east is the public highway.
2. Planning permission is sought for the change of use of the property from a single dwelling house (Use Class C3) to holiday lets / serviced accommodation (Use Class C1) to be used all year round. The use is intended to cover the applicant's chosen business model, which is to cater for a) holiday lets for singles, couples, and families (maximum of six people); or b) serviced accommodation for both short and long term let (maximum of six people).
3. This is a retrospective planning application, and the applicant started trading on 22nd November 2021 on the basis that some Local Planning Authorities do not consider short

term let to be a material change of use (the assessment of need for planning permission is a matter of fact and degree to be considered on a case-by-case basis). During this period there has been over 45 bookings. The property is advertised on 'Booking.com' and 'Airbnb' as 'entire household' serviced which means that only one single booking is taken at any one time (whether this be, for example, for a couple or family, or for a small group of contractors booking together). One of the main reasons for this approach is to allow easier management of the use.

4. The application states that most guests arrive between 4 and 7pm. There is always a possibility that a guest may request an earlier arrival time, and this has occurred twice in the trading time since November 2021, in which cases guests have arrived at 3pm.
5. The external footprint and structure have not changed. Internal cosmetic changes (which do not require planning permission) include; reclassifying the second reception room as a bedroom (which gives a total of three bedrooms) and including an ensuite to an existing upstairs bedroom.

MAIN PLANNING ISSUES

6. The main issues for consideration are:

- (a) Impact on residential amenity
- (b) Highway safety
- (c) Other matters

PLANNING POLICIES

7. The site is not allocated for any particular use. The site is within the development limits and therefore the proposed use is in compliance with the settlement hierarchy as set out in Policy SH1 and Policy E4, which states that tourist accommodation should be situated within the development limits. Other relevant planning policies in the determination of this application seek to ensure that:
 - New development protects the amenity of neighbouring users and must be acceptable in terms of noise and disturbance (DC4)
 - The proposal provides suitable and safe vehicular access and suitable servicing and parking arrangements (DC1 and IN4).

RESULTS OF TECHNICAL CONSULTATION

8. The Council's Environmental Health Officer and Highways Engineer have raised no objections to the proposal.

RESULTS OF PUBLICITY AND NOTIFICATION

9. A total of seven letters of objection have been received from local residents which raise the following concerns:
 - Impact on residential amenity; Incidents of noise and disturbance;
 - Size of property not conducive to accommodating up to six individuals;
 - Impact on highway safety / parking issues; Lack of access for emergency vehicles; Parking on grass verges;
 - Concern that holiday and commercial visitors would have little concern for the surrounding community; Refuse bins placed in unsightly position;
10. One objection is on the grounds that the use commenced before planning permission was applied for. Whilst this is unfortunate, this is not a material planning consideration and the application must be considered on its planning merits.

PLANNING ISSUES/ANALYSIS

(a) Impact on residential amenity

11. As stated above, the property is within a quiet cul-de-sac within a residential environment and therefore consideration should be given to the impact on the proposed use on the living conditions of nearby residents. It is noted that this is to some extent governed by the management of the property and the willingness of the occupants to comply with the house rules. This compliance is in the interests of both the host and the occupiers as booking sites tend to be self-regulating in terms of the occupants who are allowed to stay based on their conduct in previous properties. The applicant has confirmed that the house rules, as set out on the booking sites, state that no parties are permitted at the property, as well as no pets and no smoking, and that failure to abide by the rules will lead to guests being asked to immediately vacate the property. The applicant, who lives nearby has indicated that they have acted on any issues immediately in previous circumstances, and this is borne out by several reviews from residents available on the booking sites. Nevertheless, several concerns have been raised by residents in respect of the impact of the proposal on amenity and the need to complain when issues occur.
12. The Environmental Health Officer has reviewed the Council's records and has confirmed that a noise complaint was received in March 2022 alleging that this property was being used as an Airbnb and there was noise from a party taking place. This was deemed a one-off event as no other complaints of this nature have been received or pursued by the complainant. The Environmental Health Officer indicates that if planning permission is granted and events of this nature take place the Environmental Health Service can investigate using specific legislation and therefore it would be unreasonable and unnecessary to impose a planning condition relating to this matter.
13. Whilst the concerns raised by objection are noted, in respect of any lack of concern that occupants may have for surrounding neighbours and the local environment than residents who live there all year round, it cannot be assumed that the occupants

conduct will have a negative impact, and this is not based on clear evidence. Once a guest has checked into the property, they are free to come and go in the same way that a resident of a dwelling can. Whether a guest is using the accommodation to visit the area for leisure/holiday purposes or as accommodation when working in the area (indications are from the booking sites that many of the guests have been visiting the area for holidays or events), the net effect of this is that the property will usually be empty for significant periods while the guests are visiting local attractions or working, with the property being used as a base. This is a very similar situation to that of a regular dwelling house where the residents go out to work during the day and/or for leisure on a weekend.

14. The applicant advertises the property to let on an 'entire household' basis. This means that only one booking is taken at any one time, which could be a family or a group of guests who are working in the area. The benefit of the business model that the applicant favours is that this allows better control over the impacts of the change of use, and an element of ownership from the guests in terms of their conduct whilst on the property. The benefit is also that the property is not let out on a room basis or house share to individuals who would not be residing as a household, a scenario which may result in less shared trips and more comings and goings. Any residents are restricted to six in total. The above is more akin to a residential dwelling than if the property were let on an individual room basis, which takes the use more towards a small HMO (House in Multiple Occupation). Whilst the concerns from residents regarding the capacity of the dwelling are noted, as the property has three bedrooms, it is reasonably possible that six residents could reside on in the property at any one time.
15. The help to control the impacts of the property, the applicant has agreed to a planning condition which would require that the property would continue to be let on a single booking (or 'entire household') basis up to a maximum of six residents at any one time. To assist in monitoring of this, a planning condition is also recommended to require a register of bookings to be maintained and made available to the Local Planning Authority on request.
16. It should be noted that the fallback position of the applicant is to use the property as a small HMO, which would not require planning permission, and would likely have much more significant impacts than the more intensively managed short lets proposed. A small HMO is a dwelling occupied by up to six unrelated individuals sharing basic facilities.
17. This fallback position is an important material consideration to which weight can be attached in consideration of the application. Should the application be refused on the grounds of residential amenity or highway safety, the applicant would have a strong fallback position in that they could proceed with the change of use of the property from a single dwelling to a small HMO, over which the local planning authority would have less control regarding the management of bookings and associated impacts which the suggested conditions seek to achieve in the case of the current proposal.

18. Arrangements for refuse and waste are considered to be satisfactory for the use proposed.
19. Based on the above consideration, the recommended planning conditions, and no objections from the Environmental Health Officer, it is considered that the proposal would comply with policy DC4 in this regard.

(b) Highway safety

20. Limited off-site parking is available at the property, which could accommodate two cars. Whilst this does not meet modern design standards with regards to in-curtilage space dimensions, this is common to neighbouring properties and there is little scope to offer betterment given the site constraints.
21. The Highways Engineer notes that the above constraints are an existing problem, and this would remain so if the building was to be used as a domestic dwelling. The view of the Highways Engineer is that the proposal does not create increased parking demand over that of a dwelling and it would therefore be difficult to substantiate a refusal on highway grounds, particularly in the context of the proposed condition set out in section (a) of this report and within the recommendation. As set out above, it is also noted that the dwelling could be used as a HMO for up to six persons under permitted development and this could present a worse scenario in terms of both comings and goings and parking requirements. Overall, the Highways Engineer has raised no objections and the proposal is considered to comply with policies DC1 and IN4 in this regard.

(c) Other matters

22. Natural England together with the Department for Levelling Up, Housing and Communities (DLUCH) announced on 16th March 2022 that the administrative area of Darlington Borough Council is now located within the catchment area of the Teesmouth and Cleveland Coast Special Protection Area. Under the Habitats Regulations, those planning authorities falling within the catchment area must carefully consider the nutrients impacts of any projects, including new development proposals, on habitat sites and whether those impacts may have an adverse effect on the integrity of the site that requires mitigation.
23. This impacts on all planning applications, both existing and proposed, which relate to primarily all types of overnight accommodation, such as new dwellings, care homes, student accommodation, holiday accommodation etc. and impacts all developments for one dwelling upwards. It also affects other applications where development may impact upon water quality, including those seeking to discharge planning conditions relating to foul and surface water drainage for a range of development proposals.

24. The local planning authority has arrived at a view that the proposed development would not be within scope for the following reasons and can therefore be determined without the need for any further mitigation:

- a) Based on the information submitted, the limited size and the dwelling and the recommended condition regarding bookings, the proposed use would not create any more additional overnight accommodation and therefore no more nutrient load than a residential dwelling.

THE PUBLIC SECTOR EQUALITY DUTY

25. 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. Disabled access to the premises has been considered in paragraph 19 of this report and the impact of the proposal on childhood obesity is set out in paragraphs 20 and 21.

CONCLUSION AND RECOMMENDATION

26. The proposed change of use does not raise any significant highway safety or residential amenity issues and subject to the conditions recommended accords with policies DC1, DC4 and IN4 in this regard.

THAT PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:

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

Site Location Plan
Appendix 3A Layout Plan

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

3. The property shall only be let as a single booking at any one time (also known as 'entire household let') with a maximum of six residents per booking, unless otherwise agreed in writing by the Local Planning Authority.

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

4. The owners/operators of the accommodation shall maintain an up-to-date register of the details of all bookings made and shall make this information available at all reasonable times to the Local Planning Authority.

REASON - To allow records to be made available to assist in any monitoring of condition (3) of this planning permission).

INFORMATIVES

Advice for the applicant

In the documentation that has been provided reference has been made to a fire risk assessment – if the applicant has not already done so it is strongly recommended that consultation is made with the local fire safety officer to help reduce the risk of fire and to ensure the property complies with the Regulatory Reform (Fire Safety) Order 2005.

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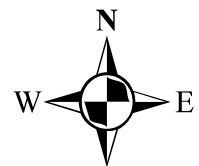


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Planning Ref No: 22/00673/CU

DARLINGTON BOROUGH COUNCIL

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SCALE 1:1250

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Appeal Decision

Site visit made on 23 June 2022

by Mr M Brooker DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 July 2022

Appeal Ref: APP/N1350/W/22/3295999

63 Woodland Road, Darlington, DL3 7BQ

- 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 DACR DESIGN against the decision of Darlington Borough Council.
 - The application Ref 20/01213/FUL, dated 14 December 2020, was refused by notice dated 22 February 2022.
 - The development proposed is described as the "Demolition of garage block (four garages) and construction of 1 No. two bed residential dwelling (Class C3) incorporating the existing two storey dovecote, and the creation of a courtyard/garden."
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I note that in the course of determining the application the proposals were altered and the description was changed, with the agreement of the parties, reflecting the changes to the proposed development in particular the reduction from 2 dwellings to 1.

Main Issues

3. The main issue is whether or not the appeal scheme creates appropriate access to the site, with particular regards to pedestrians and people with mobility issues.

Reasons

4. Policies IN1 and IN2 of the Darlington Borough Local Plan are relevant to the appeal scheme and are referred to in the Decision Notice. The policies require, amongst other matters, that new development provides permeability and connectivity for pedestrians, is well connected with each other and with existing transport networks and to provide suitable access and facilities particularly for people with mobility issues.
5. The appeal site is located in a rear lane, referred to as Woodland Road South Back on the submitted site location plan. The site is accessed along a narrow and unlit cobbled lane, without the benefit of a footpath, that also provides access to a number of other properties.

6. It is not at dispute between the parties that the site in close proximity to public transport and a range of service and facilities. However, future residents of the appeal scheme would have no option but to travel along Woodland Road South Back to join with the wider transport network to access the services and facilities.
7. The appellant has identified a number of issues regarding the Council's preferred option of providing a footpath, lit by streetlights, along Woodland Road South Back to the appeal site. Nonetheless, the appellants alternative of the use of Woodland Road South Back as a shared surface would result in pedestrians, cyclists and vehicles sharing an unlit section of carriageway.
8. I have no substantive evidence before me to suggest that the lighting on Vane Terrace in combination with the proposed porchway light at the proposed dwelling would adequately illuminate the highway for the varied users.
9. Both parties have referred to examples of developments where footpaths are provided and are absent. I do not find that the examples provided are determinative in this instance.
10. The use of this unlit back lane as the only access to the appeal property, in the absence of any appropriate provision for pedestrians, would inevitably lead to conflict between pedestrians and vehicles.
11. I therefore find that it has not been demonstrated that the appeal scheme would create appropriate access to the site, with particular regards to pedestrians and people with mobility issues. Thus, the appeal scheme is contrary to Policies IN1 and IN2 of the Darlington Borough Local Plan.

Other Matters

12. The appeal scheme consists of an additional residential dwelling and as such has the potential, either alone or in combination with other development in the area, to result in the deterioration of water quality to due additional nitrogen input from wastewater discharge and thus have a significant effect on the environmentally sensitive Teesmouth and Cleveland Coast Special Protection Area.
13. The Habitats Regulations require that permission may only be granted after having ascertained that the development will not affect the integrity of the habitats site.
14. The appellants, while acknowledging the issue, refer to the fact that the application was determined prior the issue being raised by Natural England and that this should be given significant weight in the determination of the appeal.
15. Be that as it may, no measures have been put forward by the appellant to mitigate the effects of the proposed development nor has it been indicated that they are prepared to undertake the necessary assessment or other detailed work necessary to resolve this matter.
16. In any event, there are other reasons why this appeal should not succeed and the outcome of any such assessment would not change my findings in respect to the main issue.

Conclusion

17. For the reasons given above I conclude that the appeal should be dismissed.

Mr M Brooker

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: 15th July 2022

Appeal Ref: APP/N1350/W/21/3283373

Former (Bank Top) Coal Depot Site (Land adjacent to train lines), Melland Street (far eastern end), Darlington DL1 1SF

- 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 William Gate against the decision of Darlington Borough Council.
 - The application Ref 21/00721/CU, dated 16 June 2021, was refused by notice dated 2 September 2021.
 - The development proposed is change of use of land to Use Class B8 storage and/or distribution (noting this class includes open air storage).
-

Decision

1. The appeal is dismissed.

Applications for costs

2. An application for an award of costs was made by Mr William Gate against the Darlington Borough Council. This application is the subject of a separate Decision.

Preliminary Matters

3. Since the submission of the appeal, the Darlington Local Plan (DLP) February 2022 has been adopted. The Council has confirmed that the Borough of Darlington Local Plan 1997 and the Darlington Borough Core Strategy 2011, which are cited in the Council's putative reasons for refusal, no longer form part of the development plan and I make no further reference to them in my decision. The Council has also provided comment upon DLP policies and their relationship with the policies of the former development plan as referred to in the reasons for refusal. I have taken the comments of both parties into account in respect of this matter, and I have determined the appeal accordingly.
4. From the submissions of both parties, it seems that the appeal site's planning history is uncertain and largely undocumented even if it is broadly agreed that the site has been used as a coal storage yard and depot. However, the details of that use, including when it was last used as such, are unclear. Nevertheless, the appellant's position is that this provides a strong basis for considering that there is a 'fallback' position.
5. However, whilst I have carefully considered the submissions of both parties in this respect, the level of detail submitted is limited to the extent that it is not possible for me to conclude that there is a real (or greater than theoretical) prospect of that 'fallback' position being implemented. Nor is it for me, under a

section 78 appeal, to determine whether or not that use has subsisted, has been abandoned or what the lawful use of the site might be. To that end, it is open to the appellant to apply for a determination under sections 191/192 of the Act and my determination of this appeal under s78 does not affect the issuing of a determination under s191/192, regardless of the outcome of this appeal. I have determined the appeal accordingly, on its merits and on the basis of the evidence made available to me.

Main Issues

6. The main issues are the effects of the proposed upon:
 - Highway and pedestrian safety; and
 - The character and appearance of the surrounding area.

Reasons

Highway and pedestrian safety

7. Melland Street is a relatively narrow road leading to Melland Court and serving a number of residential properties on the way. Notwithstanding the nearby commercial presence of buildings and businesses which front on to Parkgate, and which in turn back on to Melland Street, Melland Street is nevertheless predominantly residential in its character.
8. The road terminates at a narrow point on an incline leading to the appeal site. The site itself is broadly level across its extent and is set above both Melland Street and Parkgate but below the adjacent East Coast Main Line (ECML) railway. The site's interior is largely hidden from view from Melland Street but is visible from elevated positions on the ECML and from North Eastern Terrace on the opposite side of Parkgate.
9. The site's previous use is uncertain, although it seems likely from the submissions of both parties that it has been used as a coal storage depot in the past. However, it is also clear from submissions that the site has not been used, regularly or otherwise, for an extended period of time. Other than access to the appeal site itself, Melland Street does not appear to provide direct or regular access to the commercial sites and premises which front Parkgate. Both the prevailing character of Melland Street, and the nature of the street itself, is essentially residential; residential in terms of its character, its appearance, its width and the layout of parking along it.
10. Notwithstanding the site's relative proximity to commercial uses and a busy road, the accessing of the site for deliveries and collections in connection with a storage and distribution yard would be incongruous in the current context of the street and its usage. Houses are closely set relative to the road and the entrance into Melland Street is tight and restricted in part by on-street parking.
11. Changes in the nature or levels of use associated with a storage and distribution use when compared with the site's current usage would be likely to present a noticeable change in the nature and level of use of the road. Moreover, although uncertain given the lack of detail regarding the exact nature of the proposed storage and distribution use, it is likely that the nature of the vehicles using the road would also be subject to change. Whilst I accept that this may vary within a range between large heavy goods vehicles to

smaller light commercial vehicles, a reliance on Melland Street for such vehicles to access and leave the site would be at odds with the street's prevailing and essential character.

12. The dearth of detail regarding the nature of the use also translates to the site's proposed layout. It is noted that the appellant states that ground will not be broken within the site. This suggests flexibility in how the site might be laid out for storage purposes and the nature of that storage. I accept that the scope of storage operations possible within the proposed broad use class brings with it implied levels of flexibility. However, the Council are correct to be concerned that that flexibility, likely to also extend to access, manoeuvring and parking within the site, suggests that these arrangements may well be fluid and the implications for the surrounding highway network uncertain. Given the predominantly residential nature of that highway network, that fear is well-founded and the nature and layout of Melland Street does not in my judgement lend itself to being able to cope with a likely level of flexibility (uncertainty). Thus, manoeuvring, turning and waiting vehicles would all have the potential to disrupt the operation of Melland Street which is predominantly residential.
13. Nor, within the broad context of uncertainty surrounding the proposal, has it been demonstrated that the proposal could be safely accessed by pedestrians, notwithstanding its central location within Darlington. The existing footways along Melland Street terminate short of the appeal site and, given the uncertainties around the internal layout of the site and some level of assurance that adequate turning and manoeuvring provision could be provided and thereafter maintained, resulting conflict may be likely.
14. The existing parking patterns and parking restrictions of Melland Street may well act as a form of natural traffic calming. However, such 'natural' methods of traffic calming, should they arise, are only likely to calm traffic to a limited degree, beyond which their combination with an uncertain, but likely altered, pattern and nature of usage would not be conducive to highway or pedestrian safety.
15. In these respects, I share the Council's concerns regarding the absence of details regarding the anticipated intensity and nature of use and the nature of vehicles likely to access the site. Without more than just vague indications of how the site may operate, I am not persuaded that highway and pedestrian safety would not be compromised. Nor am I persuaded that conditions could mitigate potential impacts in terms of vehicle movements and provisions within the site given the concerns regarding the absence of detail set out above.
16. As such, the proposal fails to demonstrate that highway and pedestrian safety would not be harmfully and materially compromised, contrary to DLP policies DC1, DC4, E2, IN1 and IN4. For the reasons set out in the preliminary matters, above, the weight that I give to the appellant's argument regarding a potential 'fallback' position is very limited and does not persuade me against the harm I have identified.
17. Nor do I give weight to previously approved but long since lapsed schemes¹ for the residential redevelopment of the appeal site. As residential developments, the nature of the traffic generation associated with them may well have been more akin to those of existing residential properties on Melland Street, even if

¹ LPA Ref Nos: 05/01181/FUL (withdrawn), 06/00668/FUL (approved) and 07/0117/FUL (approved)

the number of units proposed in those schemes was not insubstantial based upon the description of the number of units. However, no details of those permissions have been provided to me beyond a very brief description of the proposals. Nor should too much be read into the quantum of development and the effects of traffic generation, given the site's location relative to the town centre and the railway station. In any event, those schemes and the circumstances in which they were considered, are now of some considerable age and provide neither a comparable basis nor a counter-point argument to justify the current proposal.

Character and appearance

18. The appeal site lies directly adjacent to, and below, the elevated tracks of the ECML. It also shares a partial boundary with a commercial car repair garage. The presence of the railway-line and the commercial building provide a degree of context for the proposed storage use of the appeal site.
19. The site itself stands slightly apart from those residential properties. Furthermore, the site's substantial brick boundary wall and the undergrowth on the embankment up to it afford the interior of the site a degree of screening from these residential streets and properties. Suitably worded conditions could limit the height of storage, whether it be open or covered, so as to limit the extent to which a storage use would be experienced from those residential streets.
20. However, despite the nearby presence of commercial buildings adjacent to Melland Street, they do not appear to presently be accessed from it, whereas access to the appeal site, along Melland Street, would be through an area predominantly residential in character. Thus, a potential escalation in the use of this residential street by commercial vehicles of uncertain size and uncertain frequencies would alter the character of the street in terms of patterns of usage, and also in terms of the noise and disturbance, in a predominantly residential context, arising from those patterns. In the absence of compelling evidence to the contrary, it has not been adequately demonstrated that the proposed use would not cause harm to the living conditions of residents of Melland Street and the streets leading off it, and thus their residential character, through changing patterns of usage and access to the site and the nature of vehicles accessing the appeal site.
21. For these reasons, the proposal would be in conflict with the aims and provisions of DLP policies DC1, DC4, E2 and IN4. Together these policies seek to ensure that new development protects the character of existing areas through, amongst other things, the compatibility of the nature of the proposed use with the character of surrounding areas and the access thereto. For the reasons I have set out, the proposal fails to demonstrate that it would achieve these aims and provisions. Nor, for the reasons set out in the preliminary matters, above, can the weight that I give to the appellant's argument regarding a potential 'fallback' position be any more than very limited and does not persuade me against the harm I have identified.

Other Matters

22. I note the uncertainty regarding the exact nature of the proposed storage and potential concerns regarding implications arising from the site's proximity to the ECML. Whilst it would be difficult to concisely, accurately and reasonably

frame conditions to control the nature of the storage use, as I have found harm in respect of the main issues set out above, I have not considered this matter further.

23. The proposal would re-use an area of currently vacant land which carries some weight in favour of the proposal, albeit limited as a consequence of the harm that I have identified above. The site is also reasonably well-located, close to the town centre and to the railway station. However, and setting aside the broad nature of storage possible within use class B8, the sustainability benefits of the proposal being located close to the main-line passenger railway station are not clearly explained, and I give this matter limited weight as a consequence.

Conclusion

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

G Robbie

INSPECTOR

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Appeal Decision

Site visit made on 12 July 2022

by Diane Cragg DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 July 2022

Appeal Ref: APP/TPO/N1350/8746
225 Carmel Road North, Darlington DL3 9TF

- The appeal is made under regulation 19 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 against a refusal to grant consent to undertake work to trees protected by a Tree Preservation Order.
 - The appeal is made by Mr Donald Jones against the decision of Darlington Borough Council.
 - The application Ref: 21/00497/TF dated 1 May 2021 was refused by notice dated 5 August 2021.
 - The work proposed is: Fell Austrian Pine tree in Group G1.
 - The relevant Tree Preservation Order (TPO) is The County Borough of Darlington Tree Preservation (No 3) Order, 1962 which was confirmed on 6 July 1962.
-

Decision

1. The appeal is allowed, and consent is granted to fell one Austrian pine tree in Group G1, protected under the County Borough of Darlington Tree Preservation (No 3) Order, 1962 in accordance with the terms of the application Ref: 21/00497/TF dated 1 May 2021, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than two years from the date of this decision.
 - 2) Prior to undertaking the permitted works, a scheme for planting a replacement Austrian Pine tree, to be planted during the first planting season (October – March) following the permitted works, shall be submitted to and approved in writing by the local planning authority. The submitted details are to include the location of the proposed replacement tree, and its proposed height and girth at planting. The replacement tree shall be supplied in accordance with BS 3936-1: 1992 Nursery Stock - Specification for trees and shrubs (or an equivalent British Standard if replaced), BS 8545: 2014 Trees from nursery to independence in the landscape – Recommendations, and the National Plant Specification. The local planning authority shall be notified two weeks in advance of replacement tree planting.
 - 3) If within a period of five years from the date of planting, the replacement tree, (or any tree planted in replacement for it), is removed, uprooted, destroyed or dies, or becomes in the opinion of the local planning authority, seriously damaged or defective, a tree of the same species and size as that originally planted shall be planted in the same place.
 - 4) All tree work shall be carried out in accordance with British Standard BS 3998: Tree work: Recommendations (or an equivalent British Standard if replaced).

Preliminary Matters

2. The Council formally adopted the Darlington Borough Local Plan 2016-2036 (February 2022) (DLP) during the appeal process. Both main parties have had the opportunity to comment on the implications of the relevant policies in the DLP for the appeal. I am satisfied that no interested party has been prejudiced by this approach.
3. In accordance with the Planning Practice Guidance, while I have taken account of the policies that the Council considers to be relevant in the DLP, these have not been decisive in my determination of this appeal.

Main Issues

4. The main issues are the effect of felling the Austrian Pine tree on the character and appearance of the area and whether sufficient justification for the proposed felling has been given.

Reasons

Character and appearance

5. The large mature Austrian pine tree is located on a slightly raised area in the side garden of 225 Carmel Road North (No 225). The evidence before me estimates the tree to be 80 years old, some 7.5 metres from the corner of the house with a top height of 22 metres. The tree has a canopy spread of 14 metres to the south and 2.5 metres to the north. The tree is one of a group of Austrian pines within the side garden.
6. The group of pine trees with their clear trunks and stature provide a striking contrast with the other mature trees and shrubbery in the border to the front of No 225. The appeal tree together with others in the group forward of the house, are prominent from the street because of their size and form. Nevertheless, there are a substantial number of mature trees along the Carmel Road North frontage that provide a mature and attractive setting for the dwellings and add considerably to the local environment.
7. Whilst the appeal tree makes a positive contribution to the group and the street, due to the variety, maturity and height of other trees within the street scene, I conclude that the appeal tree makes a moderate contribution to the overall character and appearance of the area. Even so, it is a tree which plays a valued part in the group TPO. The reasons to justify the felling of the tree must therefore outweigh that harm.

Reasons for felling

8. I observed at my site visit that the tree leans considerably towards No 225. Much of the canopy, which is limited to roughly the top third of the tree, sits above the house roof and there are signs that the roof has been damaged. Although I cannot be certain that the tree is the cause of the roof damage, if the tree, or any limb from it falls, it will most likely fall on to the roof of the house.
9. Whilst the evidence submitted by the appellant is relatively limited, the appellant has lived in the property for 22 years and is the custodian of several such trees. The appellant has monitored the tree over an extended period and has sought professional advice. The appellant considers that the lean of the

tree towards the house has increased¹, the monitoring wire that previously monitored the lean of the tree has snapped and the tree has an extensive area of canopy directly over the house roof. The Council acknowledges that the tree is leaning but indicates that the tree is in reasonable condition and further monitoring could be undertaken. The Council considers that there is no evidence that the tree has heaved within the ground, but this is contrary to the tree report and the appellant's assessment.

10. Although the ground level adjacent to the tree is uneven and the land drops away considerably to the north, there is nothing before me to indicate that adjacent building works are the cause of the increased lean of the tree, and I saw no evidence of heave at my site visit. Even so, I recognise the concern of the appellant regarding the movement of the tree in adverse weather conditions, particularly where such a large part of the canopy is above the roof.
11. The crown spread of the tree is mostly on the south and west, and the tree crown is considerably weighted towards this side and overhangs the house roof. Consideration could be given to pruning the tree to reduce the weight of the crown in the direction it is leaning and to provide clearance of the roof. However, extensive pruning would be needed to provide sufficient roof clearance and the form of the tree, and its appearance would be significantly undermined by the removal of a large part of the tree crown. The tree could continue to be monitored as the Council suggests, but this would leave the roof vulnerable to damage.
12. Although not determinative, the Council cites conflict with Policy ENV4 of the DLP which amongst other matters seeks to enhance visual amenity, biodiversity and landscape. The removal of the tree would conflict with this policy, nevertheless, seeking a replacement tree would in time add to the landscape and visual amenity of the area.
13. Moreover, the other pine trees in the group appear to be of a similar age and the removal of the pine would allow a replacement to be planted which would provide continuity of tree cover when the other trees decline.
14. With any application to fell a protected tree a balancing exercise needs to be carried out. The need for the proposed felling must be weighed against the resultant loss to the amenity of the area. In the normal course of events there would be a strong presumption against the removal of a protected tree. In this case the proximity of the pine tree to No 225, and the effect of the potential failure of the tree or limbs falling from it on to the house is compelling. Therefore, overall, I find that sufficient justification has been provided to fell the tree and the moderate amenity value of the tree is outweighed.

Conditions

15. The appellant has suggested replacing the tree with a European beech, but the Council proposes a replacement pine. The stature of the Austrian pine tree replicated along the side boundary is part of the character of the group and a replacement Austrian pine is warranted. I have imposed a condition requiring a replacement tree. I have also imposed a condition requiring a further

¹ as evidence by appendix 2 of the appellant's tree survey (Simply Tree Care dated 23.05.2021)

replacement in the event of failure, and that all works are carried out according to best practice.

Conclusion

16. For the reasons given above, I conclude that the removal of the Austrian pine tree is justified. Therefore, the appeal is allowed subject to conditions.

Diane Cragg

INSPECTOR



Appeal Decision

Site visit made on 26 July 2022

by **C Megginson BA(hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 23rd August 2022

Appeal Ref: APP/N1350/W/22/3298389

Albert Hill, Off Roundabout, Darlington DL1 1JL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by CK Hutchison Networks (UK) Ltd against the decision of Darlington Borough Council.
 - The application Ref 21/01189/PA, dated 13 October 2021, was refused by notice dated 2 December 2021.
 - The development proposed is describes as a 5G telecoms installation: 15 metre high 'slim line' Phase 8 H3G street pole c/w wrap around cabinet and 3no. cabinets with ancillary works– to be coloured grey.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO 2015), under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) require the local planning authority to assess the proposed development solely on the basis of its siting and appearance, taking into account any representations received. My determination of this appeal has been made on the same basis.
3. The decision notice for the application that is the subject of this appeal refers to the Darlington Core Strategy (2011). Subsequent to the submission of this appeal, the Darlington Local Plan was adopted in February 2022. This document replaces the Core Strategy policies and therefore the above policies have been superseded. Both parties have had a chance to comment on this and where received these have been taken into account.
4. The principle of development is established by the GPDO 2015 and the provisions of Schedule 2, Part 16, Class A of the GPDO 2015 do not require regard be had to the development plan. I have had regard to the policies of the Darlington Local Plan (2022) (the Local Plan) and the National Planning Policy Framework (the Framework) only in so far as they are a material consideration relevant to matters of siting and appearance.

Main Issues

5. The main issues are the effect of the siting and appearance of the proposed installation on the character and appearance of the area. If any harm would

occur, whether this is outweighed by the need for the installation to be sited as proposed having regard to the potential availability of alternative sites.

Reasons

6. The appeal site is an area of grassed open space, to the south of Albert Hill Roundabout. Vertical structures including streetlights up to approximately 8m high are common in the street scene; however, these have regularity in height, spacing and siting. Adjacent to the appeal site to the are two storey residential properties, which overlook the site.
7. Whilst the proposed monopole has been lowered from a previously proposed height of 20m, it would be significantly greater than the existing vertical structures already present and would be greater in thickness and a noticeably different shape. Despite a similar grey colour, this would appear alien and unexpected in such a context and would interrupt the regular rhythm of spacing between the existing streetlights. Other vertical structures in the area include traffic lights and 'totem' style advertisement associated with the petrol filling station and supermarket, however, these are significantly smaller in scale than the proposal.
8. There are a number of trees and shrubs adjacent to the appeal site and along the surrounding streets which may provide some screening when in full leaf, nevertheless, the prominent roadside position would remain highly visible from the surrounding residential area. The three and four storey flatted developments noted by the appellant are situated at some distance away from the appeal site, across the roundabout, and therefore do not form part of the immediate context within which the proposal will be viewed. The proposal would stand out as an incongruous feature, would add to the visual clutter and would cause harm to the character and appearance of the area, visible from both long and short range views around and beyond the roundabout.
9. Insofar as they are a material consideration, the proposal would be contrary to the aims of Policy IN7 of the Local Plan, which seek to minimise the impact on visual amenity as well as the Framework's policies for achieving well-designed places. Consequently, I consider that the siting and appearance of the proposal would unacceptably harm the character and appearance of the area.
10. Paragraph 115 of the Framework states that the number of communications masts and the sites for such installations should be kept to a minimum consistent with the needs of consumers, the efficient operation of the network and providing reasonable capacity for future expansion. It encourages the use of existing masts. The appellant has investigated alternative sites as required by paragraph 117 of the Framework and discounted them, in summary, due to lack of available space and visibility issues. Based on the submitted evidence, I am not convinced that all potential alternative sites have been fully explored or sufficient detailed justification provided to support the discounting of these sites.
11. I appreciate that the search area for the proposed development is constrained, nevertheless, I am not convinced that less harmful alternatives have been properly explored. I attach significant weight to the benefits that the roll out of 5G coverage would provide. However, these matters are not sufficient to outweigh the effect of the proposed installation on the character and appearance of the area.

Other Matters

12. Reference has been made to various social and economic benefits, but these have not been taken into account in considering the matters of siting and appearance.

Conclusion

13. For the reasons given above, I conclude that the appeal should be dismissed.

C Megginson

INSPECTOR

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