



DARLINGTON

Borough Council

Planning Applications Committee Agenda

1.30 pm, Wednesday, 6 September 2023
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 9 August 2023 (Pages 5 - 24)
4. Introduction to Procedure by the Assistant Director, Law and Governance's Representative (Pages 25 - 26)
5. Applications for Planning Permission and Other Consents under the Town and Country Planning Act and Associated Legislation (Pages 27 - 28)
 - (a) 15 Station Terrace, Middleton St George (Pages 29 - 48)
 - (b) 210 Coniscliffe Road, Darlington (Pages 49 - 62)
 - (c) 2 Darlington Road, Heighington (Pages 63 - 72)
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 Vivid Outdoor Media Solutions (B) Limited against this Authority's decision to refuse consent for Display of 1 no. free standing internally illuminated LED digital advertisement display unit at Harrowgate Hill Working Mens Club, Salters Lane North, Darlington (23/00043/ADV) (copy of Inspector's decision enclosed).

Dismissed the appeal by Mr Nick Cooper against this Authority's decision to refuse permission for the Erection of porch to front elevation (23/00068/FUL) (copy of Inspector's decision enclosed)

RECOMMENDED – That the report be received.
(Pages 73 - 80)

PART III

EXCLUSION OF THE PUBLIC AND PRESS

9. To consider the Exclusion of the Public and Press –

RECOMMENDED - That, pursuant to Sections 100B(5) of the Local Government Act 1972, the public be excluded from the meeting during the consideration of the ensuing item on the grounds that it involves the likely disclosure of exempt information as defined in exclusion paragraph 7 of Part I of Schedule 12A of the Act.

10. Complaints Received and Being Considered Under the Council's Approved Code of Practice as of 25 August 2023 (Exclusion Paragraph No. 7) – Report of the Chief Executive (Pages 81 - 90)

11. SUPPLEMENTARY ITEM(S) (IF ANY) which in the opinion of the Chair of this Committee are of an urgent nature and can be discussed at this meeting

12. Questions



Luke Swinhoe
Assistant Director Law and Governance

Tuesday, 29 August 2023

Town Hall
Darlington.

Membership

Councillors Ali, Allen, Anderson, Bartch, Cossins, Haszeldine, Kane, Laing, Lawley, Lee, McCollom, Robinson, Tostevin and Wallis

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

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PLANNING APPLICATIONS COMMITTEE

Wednesday, 9 August 2023

PRESENT – Councillors Ali, Allen, Anderson, Bartch, Cossins, Haszeldine, Kane, Laing, Lee, McCollom, Tostevin and Wallis.

APOLOGIES – Councillors Lawley and Robinson,

ALSO IN ATTENDANCE – Councillors Beckett, Durham, Pease and Snedker.

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).

PA23 APPOINTMENT OF VICE CHAIR FOR THE MUNICIPAL YEAR 2023/2024

RESOLVED - That Councillor Ali be appointed Vice Chair of this Committee for the remainder of the Municipal Year 2023/24.

PA24 DECLARATIONS OF INTEREST

Councillor Tostevin declared a non-pecuniary interest in Minute PA27 below, as a social Member of Dinsdale Golf Club.

PA25 TO APPROVE THE MINUTES OF THE MEETING OF THIS COMMITTEE HELD ON 12 JULY 2023

RESOLVED – That the Minutes of this Committee held on 12 July 2023 be approved as a correct record.

PA26 APPLICATIONS FOR PLANNING PERMISSION AND OTHER CONSENTS UNDER THE TOWN AND COUNTRY PLANNING ACT AND ASSOCIATED LEGISLATION

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

PA27 DINSDALE GOLF CLUB, NEASHAM ROAD, MIDDLETON ST GEORGE

22/00875/FUL - Infilling of topographical depression with inert construction waste on land at 18th hole and formation of a bund around existing driving range (part retrospective) (Additional information received 28th February 2023 and 2nd March 2023).

(In making its decision, the Committee took into consideration the Planning Officer's report (previously circulated), the views of the Council's Highways Engineer, the Council's Environmental Health Officer, the Local Lead Flood Authority and the Environment Agency, 16 letters of objection received, 25 letters of support received, the objections of Neasham Parish Council and Middleton St. George Parish Council, and the views of the Applicant's Agent, whom the Committee heard).

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

1. A3 (Standard 3-year time limit)
2. PL (Accordance with Plan)
A01 P04 Site Location Plan
A05 P03 Driving range plan
A03 - P01 18th Hole Proposed
2245.01 REV A Biodiversity Enhancement Plan
3. Notwithstanding the details submitted with the plan A05 P03 (driving range) the height of the proposed bund shall not exceed 3 metres.

REASON – In the interests of the visual amenity of the locality.

4. All works must be carried out in strict accordance with the following approved document 'Driving Range Plan Proposed, Drawing Number A05, Rev P03, dated 12/06/2022 in relation to surface water management.

REASON – To ensure that the development does not increase the risk of surface water flooding.

5. No material other than inert material shall be deposited at the site.

REASON - Other waste materials raise environmental and amenity issues that would require consideration afresh.

6. No construction activities, including the use of plant and machinery, as well as deliveries to and from the site, shall take place outside the hours of 08.00-18.00 Monday to Friday, without the prior written permission of the Local Planning Authority.

REASON – In the interests of amenity.

7. No development or movement of materials to the development site must commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Construction of the permitted development must be undertaken in accordance with the approved plan. The Plan must include, but not be limited, to arrangements for the following in respect of each phase of the works:
 - i. details of any temporary construction access to the site including measures for

- removal following completion of construction works.
- ii. wheel and chassis underside washing facilities on the development site and where relevant the site material is to be sourced from, to ensure that mud and debris is not spread onto the adjacent public highway.
- iii. the parking of contractors' site operatives and visitor's vehicles.
- iv. areas for storage of plant and materials used in constructing the development clear of the highway.
- v. measures to manage the delivery of materials and plant to the site including routing and timing of deliveries and loading and unloading areas.
- vi. details of the routes to be used by HGV construction traffic and highway condition surveys on these routes.
- vii. protection of carriageway and footway users at all times during demolition and construction.
- viii. details of site working hours.
- ix. means of minimising dust emissions arising from construction activities on the site, including details of all dust suppression measures and the methods to monitor emissions of dust arising from the development.
- x. measures to control and monitor construction noise.
- xi. a detailed method statement and programme for the building works; and
- xii. contact details for the responsible person (site manager/office) who can be contacted in the event of any issue.

REASON – In the interest of public safety and amenity.

8. The landscaping scheme (drawing number 2245.01A.) shall be fully implemented concurrently with the carrying out of the development, or within such extended period as may be agreed in writing by the Local Planning Authority, and thereafter any trees or shrubs removed, dying, severely damaged or becoming seriously diseased shall be replaced and the landscaping scheme maintained for a period of five years to the satisfaction of the Local Planning Authority.

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

9. The development shall not be carried out otherwise than in accordance with the mitigation, compensation and enhancement measures set out in the submitted Ecological Impact Assessment 'Dinsdale Golf Club Darlington DSG-22-01 (Naturally Wild April 2022) unless otherwise agreed in writing by the Local Planning Authority.

REASON - To provide ecological protection and enhancement in accordance with the Conservation Regulations 2010, Wildlife & Countryside Act 1981, Policies ENV7 and ENV8 of the Darlington Local Plan 2016-2036.

(**NOTE:** Councillor Bartch was not present for consideration of this item.)

PA28 LAND AT THE ENTRANCE OF FAVERDALE INDUSTRIAL ESTATE, DARLINGTON

20/00852/FUL - Demolition of existing building and erection of six commercial units (464sqm; 1858sqm; 836sqm; 650sqm; 464sqm and 464sqm) three Drive Through

Restaurants (350sqm; 167sqm and 180sqm); one industrial unit (789sqm) and an EV Charging Station with associated access, parking, drainage and landscaping (Revised Description) (Amended and additional plans received 13 July 2021; Ground Contamination Risk Assessment received 15 July 2021; amended drainage design plan received 1 October 2021; additional retail information received 14 March 2022; additional Planning Policy Statement received 23 March 2022; Sequential Test Addendum received 5 July 2022; additional and amended plans and reports received 15 September 2022; Biodiversity Net Gain information received 16 and 21 September 2022; Tree Survey and Tree Constraints Plan received 4 October 2022; Drainage information received 6 October 2022).

(In making its decision, the Committee took into consideration the Planning Officer's report (previously circulated), the views of the Council's Public Rights of Way Officer, the Environmental Health Officer, the Environmental Health Manager (Commercial), the Travel Planning Officer, the Transport Policy Officer, the Highways Engineer, the Council's Ecology Consultant, the Lead Local Flood Authority, the Environment Agency, Northumbrian Water, National Highways and Northern Gas Networks.

The Committee also gave consideration to 16 letters of objection, 199 letters of support and 11 comments received in relation to the originally submitted application, and a further three letters of support and 21 letters of objection to a subsequently amended scheme. The Committee also took into consideration eight letters of objection, two letters of support and two comments received in relation to the further amended application, with one further objection received in relation to revised access arrangements. The views of the Applicant's Agent, one Objector and a Ward Councillor, whom the Committee heard, were also given due consideration.

In formulating a decision, Members reflected greatly on the retail impact of the scheme and were reassured that the impact on the shopping outlets in Cockerton, and the retail offer in the Town Centre, would not be as greatly affected as initially feared.)

RESOLVED – That (upon satisfactory completion and signing of 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 Travel Plan including a monitoring fee, a personalised Travel Advice fee and a Travel Plan Implementation bond equating to £47,250; and a financial contribution of £50,000 towards offsite highway improvement works to be identified in the Infrastructure Delivery Plan) Planning Permission be granted subject to the following conditions and reasons:

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

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

2. The development hereby permitted shall be carried out in accordance with the approved plans, as detailed below:
 - a) Drawing Number 1810 PL 102F – Proposed Site Layout
 - b) Drawing Number 20 147/006 Rev A – Wider Site Context

- c) Drawing Number 20 147/TK11 Rev A – Swept Path Analysis Max Legal Articulated Vehicle
- d) Drawing Number 1810 PL 120A – Proposed Ground Floor Plan Unit 3
- e) Drawing Number 1810 PL 121A – Proposed Roof Plan Unit 3
- f) Drawing Number 1810 PL 122A – Proposed Elevations 1 & 2 Unit 3
- g) Drawing Number 1810 PL 123 – Proposed Elevations 3 & 4 Unit 3
- h) Drawing Number 1810 PL 115A – Proposed Ground Floor Plan Unit 2
- i) Drawing Number 1810 PL 116A – Proposed Roof Plan Unit 2
- j) Drawing Number 1810 PL 117A – Proposed Elevations 1 & 2 Unit 2
- k) Drawing Number 1810 PL 118A – Proposed Elevations 3 & 4 Unit 2
- l) Drawing Number 1810 PL 125B – Proposed GA Floor Plan Unit 4
- m) Drawing Number 1810 PL 126B – Proposed GA Roof Plan Unit 4
- n) Drawing Number 1810 PL 127B – Proposed Elevations 1 & 2 Unit 4
- o) Drawing Number 1810 PL 126C – Proposed Elevations 3 & 4 Unit 4
- p) Drawing Number 1810 PL 145 – Proposed GA Floor Plan Unit 6
- q) Drawing Number 1810 PL 146 – Proposed Roof Plan Unit 6
- r) Drawing Number 1810 PL 147 – Proposed Elevations 1 & 2 Unit 6
- s) Drawing Number 1810 PL148 – Proposed Elevations 3 & 4 Unit 6
- t) Drawing Number 1810 PL 135 – Proposed GA Floor Plan Unit 5
- u) Drawing Number 1810 PL 136 – Proposed GA Roof Plan Unit 5
- v) Drawing Number 1810 PL 137 – Proposed GA Elevations Unit 5 Elevations 1 & 2
- w) Drawing Number 1810 PL 138 – Proposed GA Elevations Unit 5 Elevations 3 & 4
- x) Drawing Number 1810 PL 140 – Proposed Charging Station
- y) Drawing Number 1810 PL 110 – Proposed Ground Floor Plan Unit 1
- z) Drawing Number 1810 PL 111 – Proposed Floor Plan Unit 1
- aa) Drawing Number 1810 PL 112 – Proposed Elevations 1 & 2 Unit 1
- bb) Drawing Number 1810 PL 113 – Proposed Elevations 3 & 4 Unit 1
- cc) Drawing Number 1810 PL 100 – Site Location Plan

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

3. Units 4a, 4b, 4c, 4d and 4e hereby permitted and shown on Drawing Number 1810 PL 102F – Proposed Site Layout shall be used for the retailing of non food sales only in bulky comparison goods normally found in retail parks which are DIY home and garden improvements, car maintenance and accessories, building materials and builders' merchants goods furniture, carpets, electrical goods, garden items and such other trades as the Council may permit in writing and for no other purpose (including any other purpose in Class E of the Schedule to the Town and Country Planning (Use Classes) Order 1987 or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order)

REASON - In the interests of retail planning policy.

4. Units 3c hereby permitted and shown on Drawing Number 1810 PL 102F – Proposed Site Layout shall be used as a veterinary practice and for no other purpose (including any other purpose in Class E of the Schedule to the Town and Country Planning (Use Classes) Order 1987 or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order)

REASON - In the interests of retail planning policy.

5. Units 3b hereby permitted and shown on Drawing Number 1810 PL 102F – Proposed Site Layout shall be used as a tanning salon and for no other purpose (including any other purpose in Class E of the Schedule to the Town and Country Planning (Use Classes) Order 1987 or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order)

REASON - In the interests of retail planning policy

6. There shall be no internal sub-division of any unit hereby approved.

REASON - In the interests of retail planning policy

7. Prior to the first occupation of the development, a certificate confirming the agreement of an 'Off-Site Biodiversity Net Gain' or 'Offset' Provider to deliver a Biodiversity Offsetting Scheme totalling greater than 13.17 biodiversity units shall be submitted to and agreed in writing by the Local Planning Authority. The Biodiversity Offsetting Scheme which shall run for a period of not less than 30 years to be delivered by the 'Off-Site Biodiversity Net Gain Provider' or 'Offset' Provider should be located within the Darlington Borough Council administrative area or other location within the Tees Lowland Character Area, as defined by Natural England (that area recorded in DEFRA Magic Mapping, July 2022, and extending across Darlington, towards Richmond and Barnard Castle to the west and to the coast to the east, between Hartlepool and the northern edge of the North York Moors National Park) unless otherwise agreed in writing by the Local Planning Authority. The written approval of the Council shall not be issued before the certificate has been issued by the Off-Site Biodiversity Net Gain Provider or Offset Provider. The details of biodiversity enhancements, together with provision for future monitoring and reporting shall be documented by the Off-Site Biodiversity Net Gain Provider or Offset Provider and issued to the Council for their records.

REASON - To comply with Local Plan Policies ENV7 and ENV8.

8. Prior to the commencement of the development except for investigative works, precise details of all required offsite highway works must be submitted to and approved in writing by the Local Planning Authority. Details shall include the proposed 'Ghost Island' Junction access to be designed in accordance with DMRB CD123. Details shall also include, footways and cycleway routes linking the development to existing infrastructure, crossing points, and associated signage and road markings. Details shall also include where appropriate' removal and reinstatement of existing access points, additional off-site parking restrictions, bus stop amendments and resurfacing works. The agreed works must be completed prior to occupation of the first unit, unless agreed otherwise in writing with the Local Planning Authority.

REASON - To ensure that the detailed design is appropriate, and that required infrastructure for safe access is delivered at the appropriate time, in the interests of

the safety and convenience of all highway users.

9. Prior to commencement of works on site, except for investigative works, an independent Stage 2 Road Safety Audit (RSA) carried out in accordance with GG119 - Road Safety Audits or any superseding regulations must be included in the submission and the design proposals must be amended in accordance with the recommendations of the submitted Safety Audit prior to the commencement of works on site.

REASON - In the interests of highway safety.

10. Prior to occupation of the first unit, and each additional unit thereafter, a servicing and delivery schedule to control operations on site shall be submitted to and approved in writing by the Local Planning Authority. Details shall include but are not limited to; the type and maximum size of vehicle to be used, access and turning routes, drop off location, times, and frequency of deliveries. Deliveries and servicing arrangements must thereafter be in accordance with the agreed plan.

REASON - In the interests of highway safety.

11. Prior to the commencement of the development, precise details of the retaining boundary walls shall be submitted to and agreed in writing by the Local Planning Authority. The details shall include the height and design of the wall and the materials and the development shall not be carried out otherwise than in complete accordance with the approved details

REASON – In the interest of the visual appearance of the development and surrounding area.

12. Prior to the commencement of the development including any demolition works, a site-specific Demolition and Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The plan shall include the following, unless the Local Planning Authority dispenses with any requirement[s] specifically and in writing:
 - a. Dust Assessment Report which assesses the dust emission magnitude, the sensitivity of the area, risk of impacts and details of the dust control measures to be put in place during the construction phase of the development. The Dust Assessment Report shall take account of the guidance contained within the Institute of Air Quality Management “Guidance on the assessment of dust from demolition and construction” February 2014.
 - b. Methods for controlling noise and vibration during the demolition and construction phase and shall take account of the guidance contained within BS5228 “Code of Practice for noise and vibration control on construction and open sites”.
 - c. Construction Traffic Routes (including plant and machinery), including parking areas for staff and visitors.

- d. Details of wheel washing.
- e. Details of site hoarding fencing (no less than 2m in height of a solid construction with no gaps or loose panels).
- f. Road Maintenance.
- g. Warning signage.
- h. Details of any temporary construction access to the site including measures for removal following completion of construction works.
- i. Areas for storage of plant and materials used in constructing the development clear of the highway.
- j. Details of the measures to be taken for the protection of trees; and
- k. Contact details for the responsible person (site manager/office) who can be contacted in the event of any issue.
- l. The development shall not be carried out otherwise in complete accordance with the approved Plan.

REASON - In the interests of the amenity of the area and highway safety.

13. Construction and demolition activities, including delivery of materials and external works in terms of fitting out the units, shall be limited to the hours of 08.00-18.00 weekdays, 08.00-13.30 on Saturdays and not at all on Sundays or Bank Holidays without prior consent of the Planning Authority

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

14. Notwithstanding the approved plans, no individual building shall be constructed above damp proof course until precise details of all external materials to be used in the construction of that building has been submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out otherwise than in complete accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

REASON - In the interest of the visual appearance of the development and surrounding area.

15. The development hereby permitted shall be constructed to BREEAM 'Very Good' standard or better unless otherwise agreed in writing by the Local Planning Authority

REASON - To comply with the requirements of Local Plan Policy DC1.

16. No building shall be constructed above damp proof course until precise details of the cycle parking and storage provision for both staff and visitors for that building has

been submitted to and approved in writing, by the Local Planning Authority. The parking provision shall accord with guidance contained within Cycle Infrastructure Design – Local Transport Note 1/20 July 2020 unless otherwise agreed in writing by the Local Planning Authority. The development shall not be carried out unless than in complete accordance with the approved details which shall be available for use prior to occupation and retained in situ for the lifetime of the development.

REASON - To encourage the use of sustainable modes of transport.

17. No building shall be constructed above damp proof course until a landscaping scheme, planting schedule and soft landscape specification has been submitted to, and approved in writing by, the Local Planning Authority and, upon approval of such schemes, it shall be fully implemented concurrently with the carrying out of the development, or within such extended period as may be agreed in writing by, the Local Planning Authority, and thereafter any trees or shrubs removed, dying, severely damaged or becoming seriously diseased shall be replaced, and the landscaping scheme maintained for a period of five years to the satisfaction of the Local Planning Authority.

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

18. Deliveries to the commercial and industrial premises hereby approved and collections of waste shall only take place between the hours of 07.00 – 21.00 Monday to Sunday unless otherwise agreed in writing by the Local Planning Authority.

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

19. Prior to occupation of the development as a whole or each unit, a full lighting impact assessment for the lighting proposals, undertaken by an independent qualified assessor shall take place and be agreed in writing with the Local Planning Authority. This should include:

- i. A description of the proposed lighting units including height, type, angling and power output for all lighting;
- ii. Drawing(s)/contour plans showing the luminance levels both horizontal and vertical of the lighting scheme to demonstrate that no light falls into the curtilage of sensitive neighbouring properties;
- iii. The Environmental Zone which the site falls within, in accordance with the Institution of Lighting Professionals Guidance on the Reduction of Obtrusive Light, to be agreed with the Local Planning Authority. The relevant light sensitive receptors to be used in the assessment to be agreed with the Local Planning Authority in advance of the assessment;
- iv. Details of the Sky Glow Upward Light Ratio, Light Intrusion (into windows of relevant properties) and Luminaire Intensity;

- v. The limits for the relevant Environmental Zone relating to Sky Glow Upward Light Ratio, Light Trespass (into windows) and Luminaire Intensity, contained in Table 2 (Obtrusive Light Limitations for Exterior Lighting Installations) of the Institute of Lighting Professionals Guidance on the Reduction of Obtrusive Light shall not be exceeded.

REASON - In the interests of residential amenity and the visual appearance of the locality.

20. If piling is to be carried out, it shall be of the augured type unless prior approval is obtained from the Planning Authority. If an alternative method of Piling is to be used, then a noise and vibration impact assessment for this is to be submitted to and approved in writing by the Local Planning Authority before the commencement of any works

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

21. No noise emitting fans, louvres, ducts or any other external plant associated with this permission shall be installed on the buildings, other than the industrial unit (see condition 22) until a scheme to reduce noise and vibration has been submitted and approved by the Local Planning Authority. The development shall not be carried out otherwise than in complete accordance with the approved details

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

22. No external plant, equipment or machinery shall be installed on the industrial unit associated with the proposed development without the prior written approval from the Local Planning Authority. Where external plant, equipment or machinery is proposed details shall be submitted in writing to the Local Planning Authority prior to its installation and must include the type of plant, equipment or machinery to be installed, operational details and the proposed locations. If deemed necessary by the Local Planning Authority appropriate noise mitigation measures shall be implemented prior to the plant, equipment or machinery first becoming operational and thereafter shall be retained, operated and maintained in accordance with the approval for the life of the development.

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

23. Prior to the commencement of the development and any further site investigative works a Phase 1 Preliminary Risk Assessment shall be prepared by a "suitably competent person(s)" and submitted to and agreed in writing with the Local Planning Authority. The Phase 1 Preliminary Risk Assessment shall include a Site Inspection and a Conceptual Site Model (CSM) to identify and illustrate all potential contamination sources, pathways and receptors associated with the site and the surrounding environment.

REASON - The site may be contaminated as a result of past or current uses and/or is within 250 metres of a site which has been landfilled. To ensure that risks from land contamination to the future uses of the land and neighbouring land are minimised,

together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out without unacceptable risks to receptors, in accordance with the National Planning Policy Framework.

24. Prior to the commencement of the development and any site investigation works or at a time agreed in writing by the Local Planning Authority a Phase 2 Site Investigation Strategy (Sampling and Analysis Plan) shall be designed and documented by a "suitably competent person(s)" in accordance with published technical guidance (e.g. BS10175 and CLR11) and be submitted to and agreed in writing with the Local Planning Authority, unless the Local Planning Authority dispenses with the requirement specifically and in writing. The Phase 2 Site Investigation Strategy (Sampling and Analysis Plan) shall be sufficient to fully and effectively characterise and evaluate the nature and extent of any potential contamination sources, hazards and impacts. No alterations to the agreed Phase 2 Site Investigation Strategy or associated works shall be carried out without the prior written agreement of the Local Planning Authority.

REASON - The site may be contaminated as a result of past or current uses and/or is within 250 metres of a site which has been landfilled and the Local Planning Authority wishes to ensure that the proposed development can be implemented and occupied with adequate regard to environmental and public protection.

25. Prior to the commencement of the development or at a time agreed in writing by the Local Planning Authority a Phase 2 Site Investigation works shall be conducted, supervised and documented by a "suitably competent person(s)" and carried out in accordance with the approved Phase 2 Site Investigation Strategy (Sampling and Analysis Plan). A Phase 2 Site Investigation and Risk Assessment Report prepared by a "suitably competent person(s)", in accordance with published technical guidance (e.g. BS10175 and CLR11) and shall be submitted to and agreed in writing with the Local Planning Authority unless the Local Planning Authority dispenses with the requirement specifically and in writing.

REASON - The site may be contaminated as a result of past or current uses and/or is within 250 metres of a site which has been landfilled and the Local Planning Authority wishes to ensure that the proposed development can be implemented and occupied with adequate regard to environmental and public protection

26. Prior to the commencement of the development or at a time agreed in writing by the Local Planning Authority a Phase 3 Remediation and Verification Strategy shall be prepared by a "suitably competent person(s)" to address all human health and environmental risks associated with contamination identified in the Phase 2 Site Investigation and Risk Assessment. The Remediation and Verification Strategy which shall include an options appraisal and ensure that the site is suitable for its new use and shall be submitted to and agreed in writing with the Local Planning Authority, unless the Local Planning Authority dispenses with the requirement specifically and in writing. No alterations to the Remediation and Verification Strategy or associated works shall be carried out without the prior written agreement of the Local Planning Authority. The Phase 3 Remediation and Verification works shall be conducted, supervised and documented by a "suitably competent person(s)" and in accordance

with the approved Phase 3 Remediation and Verification Strategy.

REASON - The site may be contaminated as a result of past or current uses and/or is within 250 metres of a site which has been landfilled and the Local Planning Authority wishes to ensure that the proposed development can be implemented and occupied with adequate regard to environmental and public protection

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

REASON - The site may be contaminated as a result of past or current uses and/or is within 250 metres of a site which has been landfilled and the Local Planning Authority wishes to ensure that the proposed development can be implemented and occupied with adequate regard to environmental and public protection.

28. A Phase 4 Verification and Completion Report shall be compiled and reported by a "suitably competent person(s)", documenting the purpose, objectives, investigation and risk assessment findings, remediation methodologies and validation results obtained to demonstrate the completeness and effectiveness of all approved remediation works conducted. The Phase 4 Verification and Completion Report shall be submitted and agreed in writing with the Local Planning Authority within 2-months of completion of the development unless the Local Planning Authority dispenses with the requirement specifically and in writing. The development site or agreed phase of development site, shall not be occupied until all of the approved investigation, risk assessment, remediation and verification requirements relevant to the site (or part thereof) have been completed, reported and approved in writing by the Local Planning Authority.

REASON - The site may be contaminated as a result of past or current uses and/or is within 250 metres of a site which has been landfilled and the Local Planning Authority wishes to ensure that the proposed development can be implemented and occupied with adequate regard to environmental and public protection.

29. The development hereby approved shall not be commenced on site, until a scheme for 'the implementation, maintenance and management of a Sustainable Surface Water Drainage Scheme has first been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details, the scheme shall include but not be restricted to providing the following details;

- a) Detailed design of the surface water management system;
- b) A build program and timetable for the provision of the critical surface water drainage infrastructure;
- c) A management plan detailing how surface water runoff from the site will be managed during the construction phase; Details of adoption responsibilities

REASON - To ensure the site is developed in a manner that will not increase the risk of surface water flooding to site or surrounding area, in accordance with the guidance within Policy DC2 of the Darlington Local Plan 2016 - 2036 and the National Planning Policy Framework.

30. The development permitted by this planning permission shall only be carried out in accordance with the approved Plan Drainage Drawing No 601-31, Revision P02 and Flood Risk Assessment (FRA) & Drainage Strategy dated September 2020 Project Ref 4499 and the following mitigation measures detailed within the FRA.

a. Total Discharge rate must not exceed 17l/sec

The mitigation measures shall be fully implemented prior to the occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any period as may subsequently be agreed, in writing, by the Local Planning Authority.

REASON - To prevent flooding by ensuring the satisfactory storage of / disposal of surface water from the site and to reduce the risk of flooding to the proposed development and future occupants.

31. The building hereby approved shall not be brought into use until: -

- a) Requisite elements of the approved surface water management scheme for the development, or any phase of the development are in place and fully operational to serve said building;
- b) A Management and maintenance plan of the approved Surface Water Drainage scheme has been submitted and approved in writing by the Local Planning Authority.

REASON - To reduce flood risk and ensure satisfactory long-term maintenance are in place for the lifetime of the development.

32. Prior to the commencement of the development, a detailed scheme for the disposal of foul water from the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority in consultation with Northumbrian Water and the Lead Local Flood Authority. Thereafter the development shall take place in accordance with the approved details.

REASON - To prevent the increased risk of flooding from any sources in accordance with the National Planning Policy Framework 2021.

33. Prior to the first occupation of the development hereby approved, a Framework Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. Subsequent multiple occupier Travel Plans shall be submitted to and approved in writing by the Local Planning Authority within three months of the occupations of the buildings. All Travel Plans shall be added to the ModeshiftStars Community / Modeshift Stars Business site and the Travel Plans shall be continued in

accordance with the details contained therein, including attaining Bronze Standard with 12 months of the commencement of the use unless otherwise agreed in writing by the Local Planning Authority.

REASON - To accord with the policy IN2 of the Local Plan and the Council's Travel Plan Guidance Note.

34. The electrical vehicle charging points as shown on the approved plans shall be in place and shall be operational prior to the first occupation of the development hereby approved and shall be maintained in accordance with approved details for the lifetime of the development.

REASON - To ensure provision of electric vehicle charging infrastructure in accordance with Local Plan Policy IN4.

35. The development hereby approved shall not be carried out otherwise than in complete accordance with the document entitled "Arboricultural Impact Assessment Plus Tree Survey – Land at Entrance of Faverdale Industrial Estate, Darlington" dated September 2022 and produced by Brooks Ecological unless otherwise agreed in writing by the Local Planning Authority.

REASON - In the interests of the visual appearance of the development.

36. The development hereby approved shall not be carried out otherwise than in complete accordance with the document entitled "Preliminary Ecological Appraisal Report – Faverdale Darlington" dated March 2021 and produced by Brooks Ecological unless otherwise agreed in writing by the Local Planning Authority.

REASON - In the interests of the visual appearance of the development.

(Should the 106 Agreement not be completed within this prescribed period without written consent of the Council to extend this time, the minded to approve status of the permission shall be considered to be a refusal on the grounds that the application has failed to provide adequate mitigation measures to provide a satisfactory form of development in accordance with the requirements of Darlington Local Plan 2016-2036, without any further reference to the Planning Committee.)

(**NOTE:** Councillor Bartch was not present for consideration of this item.)

PA29 15 STATION TERRACE, MIDDLETON ST GEORGE

23/00367/FUL - Application submitted under Section 73 of the Town & Country Planning Act 1990 for the variation of condition 2 (opening hours) and 4 (outdoor seating), and removal of condition 6 (no. of covers) attached to planning permission 21/00922/FUL dated 29 Oct 2021 to permit a change in opening hours on Thurs, Fri and Sat from 8am-6pm to 8am-9pm to allow up to 2 late openings per month, to allow the installation of 4 no. picnic benches in front forecourt with alterations to car-parking and to permit an increase in the number of covers from 20 to 30 (description amended following receipt of amended application form and supporting statement on 20th June 2023).

(In considering the application, the Committee took into consideration the Planning Officer's report (previously circulated), the views of the Environmental Health Officer and the Council's Highway Engineer, 40 letters of objection received, 22 letters of support received, a further 18 letters of objection to the subsequently amended proposal, and one letter of representation in support of the amended proposal, the views of Middleton St. George Parish Council, and the views of the Applicant, three Objectors, two Supporters and a Ward Councillor, whom the Committee heard).

Members considered the application and discussed the concerns raised in relation to the increase in covers and the resultant car-parking issues, and weighed these concerns up against similar businesses within the village.

RESOLVED – That consideration of the Application be deferred to a future meeting of this Committee (6 September 2023).

(**NOTE:** During the course of discussion a vote was taken on whether Planning Permission should be refused, in line with the Officer recommendation, however this was lost, and a Motion to defer the application to a future meeting was agreed, in order to allow for appropriate conditions to be drafted and presented to Members and for the matter to be considered at that time and a decision to be made).

PA30 LAND TO SOUTH OF LONG PASTURE FARM, LITTLE STAINTON, STOCKTON ON TEES

22/01329/FUL - Proposed ground mounted solar farm consisting of the Installation of 49.9MW solar photovoltaic array/solar farm with associated infrastructure (additional health impact assessment and battery safety management plan received 20th January 2022, response to Northern Gas objection received 9th February 2023, Written Scheme of Investigation received 16th March 2023, Trial Trench Evaluation report received 28th June 2023 and amended Trial Trench Evaluation report received 20th July 2023).

(In making its decision, the Committee took into consideration the Planning Officer's report (previously circulated), the views of the Council's Highways Engineer, the Environmental Health Officer, Arboricultural Officer, Climate Change Officer, the Lead Local Flood Authority, the Council's Conservation Adviser, the Council's Ecology Adviser, the Council's Rights of Way Officer, Northumbrian Water, the Environment Agency, Teesside Airport, Northern Gas Network, the Health and Safety Executive, Stockton Borough Council, the recommendations of the Durham County Council Archaeology, five letters of objection received, four letters of representation received, the objections of Sadberge Parish Council, the objections of Bishopston Parish Council, the objections of East and West Newbiggin Parish Meeting, and the views of the Applicant, whom the Committee heard).

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

1. The development hereby approved shall be commenced not later than 7 years from the date of this permission.

REASON – In order to comply with the provisions of Section 91(1)(b) of the Town and Country Planning Act, 1990.

2. The permission hereby granted is for the development to be retained for a period of not more than 40 years from the date when electricity is first exported to the electricity grid (First Export Date) or in the event that electricity is not exported to the electricity grid from the date that works first commenced on site. Written confirmation of the First Export Date shall be submitted to the Local Planning Authority within one month of the First Export Date. The site shall be decommissioned and all buildings, structures and infrastructure works hereby approved shall be removed and the land restored to its former condition in accordance with details to be submitted to and approved by the Local Planning Authority in writing. The approved details shall then be implemented in full within 6 months of approval of those details.

REASON - The proposed development has a limited lifetime and when that point is reached the land should be restored to its previous character and appearance and to productive agricultural use.

3. In the event that the solar farm is inoperative for a period of 6 months or longer, a scheme for the restoration of the site, including the removal of all buildings, structures and infrastructure works, dismantling and removal of all elements, shall be submitted to and approved in writing by the Local Planning Authority not later than 12 months following the last export of electricity from the site. The approved details shall then be implemented in full within 6 months of approval of those details or such other period as may be approved in writing by the Local Planning Authority.

REASON - The proposed development has a limited lifetime and when that point is reached the land should be restored to its previous character and appearance and to productive agricultural use.

4. The development hereby approved shall be carried out in accordance with the following plans and documents:

- (a) Development area plan, drawing number 4449-PUB-028, dated 15.12.2022
- (b) Indicative site layout, drawing number 4449_DR_P_0003, dated 24.08.2022
- (c) Landscape mitigation plan, drawing number 4449_DR_P_0004, dated 17.08.2022
- (d) Typical PV panel section, drawing number 4449_DR_P_0005, dated 17.08.2022
- (e) Inverter/transformer, drawing number 4449_DR_P_0006, dated 17.08.2022
- (f) Security fencing and CCTV, drawing number 4449_DR_P_0007, dated 17.08.2022
- (g) Security gate, drawing number 4449_DR_P_0008, dated 17.08.2022
- (h) Access track cross-section, drawing number 4449_DR_P_0009, dated 17.08.2022
- (i) Container storage unit, drawing number 4449_DR_P_0010, dated 17.08.2022
- (j) Substation compound, drawing number 4449_DR_P_0011, dated 17.08.2022
- (k) Indicative temporary construction compound, drawing number 4449_DR_P_0012, dated 17.08.2022
- (l) BESS battery unit elevations, drawing number 4449_DR_P_0013, dated 17.08.2022
- (m) BESS PCS unit elevations, drawing number 4449_DR_P_0014, dated 17.08.2022

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

5. Prior to the commencement of the development hereby permitted a final biodiversity management plan shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out and operated in full accordance with the measures contained within the final biodiversity management plan, including provision for future monitoring, reporting and any necessary amendment of management measures, or such other alternative measures which may subsequently be approved in writing by the Local Planning Authority for the lifetime of the development hereby approved.

REASON – To ensure that any impacts on biodiversity and ecology are mitigated and that appropriate enhancement works, and biodiversity net gain are secured.

6. Prior to the commencement of the development precise details of the colours and finishes for all buildings, fixed plant and machinery shall be agreed in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the details as approved.

REASON – In the interest of visual amenity

7. Prior to the commencement of the development hereby approved (including demolition work, details shall be submitted of a scheme to protect those existing trees to be retained as part of the development. The submitted details shall comprise generally the specification laid down within BS 5837 and where necessary 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 encroachments. The agreed scheme of protection shall be in place before the commencement of any work, including demolition operations. The Local Planning Authority shall be given notice of the completion of protection works prior to the commencement of any of the work to allow an inspection of the measures to ensure compliance with the approved scheme of protection. 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 a maximum level of protection in order to safeguard the well-being of the trees on site and in the interests of the visual amenities of the area.

8. No development shall commence until full details of soft landscaping has been submitted to and approved in writing by the Local Planning Authority. This will be a detailed planting plan and specification of works indicating soil depths, plant species, numbers, densities, locations, inter relationship of plants, stock size and type, grass, and planting methods including construction techniques for tree pits in hard surfacing

and root barriers. All works shall be in accordance with the approved plans. All existing or proposed utility services that may influence proposed tree planting shall be indicated on the planting plan. The scheme shall be completed in the first planting season following commencement of the development and completed to the satisfaction of the Local Planning Authority.

REASON – To ensure a high quality planting scheme is provided in the interests of visual amenity which contributes positively to local character and enhanced biodiversity.

9. Prior to the commencement of the development, a Construction Management Plan (CMP) shall be submitted and approved in writing by the Local Planning Authority. The Plan shall include a dust action plan, the proposed hours of construction, vehicle and pedestrian routes, type and frequency of construction/staff vehicles, road maintenance, and signage, wheel washing plant, methodology of vehicle movements between the compound and various site accesses, details of operation of banksmen and on-site parking arrangements. The development shall not be carried out otherwise than in complete accordance with the approved details.

REASON – In the interests of highway safety.

10. Prior to the commencement of the development, precise detail of works to the site accesses (Norton Back Lane) shall be submitted to and approved in writing. Details shall include visibility splays, swept path analysis, details of cut off drainage to prevent the discharge of surface water onto the highway, location of gates, and turning facilities for the long-term operation of the site. The first 12m of each access/internal road shall be constructed in a sealed material (i.e., not loose gravel).

REASON – In the interests of highway safety.

11. Prior to the solar farm hereby approved becoming operational details of the following shall be submitted to and approved in writing by the Local Planning Authority:

- The materials to be used to form any access tracks crossing rights of way within the site to ensure this does not present a trip hazard;
- A signage scheme to warn pedestrians and drivers of the presence of any access points crossing the rights of way within the site

Thereafter the access tracks shall be formed in accordance with the approved details and the approved signage shall be in place prior to the first operation of the solar farm and shall be maintained for the lifetime of the development.

REASON – In the interest of the safety of users of the rights of way network.

12. No construction or demolition activities, including the use of plant and machinery, as well as deliveries to and from the site, shall take place outside the hours of 08:00 – 18:00 Monday to Friday, 08:00 – 14:00 Saturday with no activities on a Sunday or Bank/Public Holidays without the prior written permission of the Local Planning Authority.

REASON – In the interest of residential amenity.

13. Prior to the solar farm hereby approved becoming operational details of a 3m high acoustic barrier around the BESS units designed to limit the transmission of sound from the BESS shall be submitted to and approved in writing by the Local Planning Authority. The approved barrier must be installed prior to the solar farm becoming operational and must be retained and maintained thereafter for the lifetime of the development.

REASON – In the interest of residential amenity.

14. The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment, Long Pasture Solar Farm dated October 2022.

REASON – To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site and to reduce the risk of flooding to the proposed development and future occupants.

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

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

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

REASON – To comply with paragraph 205 of the NPPF which required the developer to record and advance understanding of the significance of heritage assets, and to ensure information gathered becomes publicly accessible.

PA31 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.

PA32 COMPLAINTS RECEIVED AND BEING CONSIDERED UNDER THE COUNCIL'S APPROVED CODE OF PRACTICE AS OF 28 JULY 2023 (EXCLUSION PARAGRAPH NO. 7)

Pursuant to Minute PA22/Jul/2023, the Chief Executive submitted a report (previously circulated) detailing breaches of planning regulations investigated by this Council, as at 28 July 2023.

RESOLVED - That the report be noted.

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

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

- Chair introduces Agenda item;
- Officer explains and advises Members regarding the proposal;
- Applicant or agent may speak (to a maximum of **five** minutes);
- Members may question applicant/agent;
- Up to **three** objectors may speak (to a maximum of **five** minutes each);
- Members may question objectors;
- Up to **three** supporters may speak (to a maximum of **five** minutes each);
- Members may question supporters;
- Parish Council representative may speak (to a maximum of five minutes);
- Members may question Parish Council representative;
- Ward Councillor may speak (to a maximum of five minutes);
- 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 – 6 September 2023

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
15 Station Terrace, Middleton St George	23/00367/FUL
210 Coniscliffe Road, Darlington	22/00432/FUL
2 Darlington Road, Heighington	23/00236/TF

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DARLINGTON BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 6 September 2023

APPLICATION REF. NO:	23/00637/FUL
STATUTORY DECISION DATE:	14 th June 2023
WARD/PARISH:	SADBERGE AND MIDDLETON ST GEORGE
LOCATION:	15 Station Terrace, Middleton St George
DESCRIPTION:	Application submitted under Section 73 of the Town & Country Planning Act 1990 for the variation of condition 2 (opening hours) and 4 (outdoor seating), and removal of condition 6 (no. of covers) attached to planning permission 21/00922/FUL dated 29 Oct 2021 to permit a change in opening hours on Thurs, Fri and Sat from 8am-6pm to 8am-9pm to allow up to 2 late openings per month, to allow the installation of 4 no. picnic benches in front forecourt with alterations to car-parking and to permit an increase in the number of covers from 20 to 30 (description amended following receipt of amended application form and supporting statement on 20th June 2023)
APPLICANT:	Mrs Shalona Kaneen, MJ's Cake Café

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=RSXWUWFPLGB00>

APPLICATION AND SITE DESCRIPTION

1. Members will recall that this planning application was considered at the Planning Applications Committee on 9th August 2023. The officer report recommended that the application be refused, taking into account relevant planning policies, the views of consultees, and all material considerations, including the views of objectors and those in

support of the application. Members of the Planning Applications Committee, having considered the report, deferred making a decision on the planning application and instructed officers to present the application at the next available Planning Applications Committee, with a list of suggested planning conditions, for their consideration. Although the application was deferred to allow officers to prepare a list of suggested conditions, Members have not yet made a formal decision on the application.

2. A copy of the original report is appended to this update so that members have all the information available to make an informed decision on the application.
3. The planning application relates to an existing café/shop known as 'MJ's Cake Café' located at 15 Station Terrace, Middleton St George, on the corner of Station Road and Heathfield Park at the northern end of the village. Planning permission was granted in October 2021 (21/00922/FUL) for the change of use of the property to a shop/café at both ground and first floor (Use Class E) with associated internal and external alterations and was granted subject to a number of conditions which seek to control certain operations at the premises to safeguard the amenities of surrounding residential properties and to ensure the safety of users of the adjacent highway.
4. This application, submitted under Section 73 of the Town and Country Planning Act 1990, seeks to vary some of these conditions, as follows:
 - (i) Condition 2 (opening hours) to permit extended opening hours until 9pm on a Thursday, Friday and Saturday evening to allow either a maximum of 2 late openings per calendar month or a total of 24 late openings per year
 - (ii) Condition 4 (outdoor seating) to permit the retention of 4 no. picnic benches which have been located on the forecourt area to the north of the property
 - (iii) Condition 6 (no. of covers) to allow an increase in the maximum number of covers to be served at the premises at any one time from 20 no. to 30 no.

MAIN PLANNING ISSUES

5. The officer report set out the main issues to be considered in the following terms:
 - (a) Parking and Highway Safety
 - (b) Residential Amenity

PLANNING POLICIES

6. Relevant Local Plan policies include those seeing to ensure that new development:
 - Provides suitable and safe vehicular access and suitable servicing and parking arrangements (Policies DC1 and IN4)
 - 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. Development relating to the use of land and buildings, including

traffic movements and hours of operation will be supported where it is suitably located and is acceptable in terms of noise and disturbance, lighting, vibration, emissions and commercial waste (Policy DC4)

RESULTS OF TECHNICAL CONSULTATION

7. The officer report advised that there are no objections from the Council's Environmental Health Officer. The Council's Highway Engineer recommends the application be refused.

RESULTS OF PUBLICITY AND NOTIFICATION

8. The officer report confirmed that overall 58 letters of objection and 23 letters of representation had been received over the course of the consideration of the planning application, in response to the initial consultation on the planning application and a further period of reconsultation. Following the publication of the officer report, a further 3 letters of objection and 14 letters of representation have been received. Middleton St George Parish Council advise that they generally support the application.

PLANNING ISSUES/ANALYSIS

9. The officer report highlighted that the application seeks to vary conditions attached to the original planning permission relating to opening hours, outdoor seating and a restriction on the number of covers. These conditions were considered necessary to enable the business to operate without unacceptable impact on the amenities of the surrounding area in terms of parking and residential amenity.
10. Any request to vary or remove these conditions must be considered in this context having regard to the requirements set out in Local Plan policies DC1 and IN4 relating to parking, and DC4 relating to amenity.
11. On assessment of the proposal against these planning policies and taking account of the comments of the Council's Highway Engineer and Environmental Health Officer, the report sets out that the proposed variation of the conditions would lead to an intensification of use of the existing business, resulting in an increase in parking requirements associated with the business that cannot be adequately mitigated for on site or accommodated safely on the public highway surrounding the site where there is an existing and acknowledged parking problem. This would be contrary to Local Plan Policies DC1 and IN4.
12. The report also sets out that on balance, the proposal would be unlikely to give rise to unacceptable impacts to the amenities of nearby residential properties and the report sets out there would be no unacceptable conflict with Policy DC4. However this, together with the support for the business, would not be sufficient to set aside concerns relating to a shortfall in parking and resultant impacts on the safe operation of the public highway and the expeditious movement of traffic.

13. At the Planning Applications Committee, Members debated the application at length. Members considered the issues being faced by the applicant and the business and heard from the Council's Highway Engineer regarding the potential impact of the proposal on parking within the village.
14. Having done so, Members agreed to defer the planning application and instructed officers to present the application at the next available Planning Applications Committee, with a list of suggested conditions for Members' consideration. Although the application was deferred to allow officers to prepare a list of suggested conditions, the Committee has not yet made a formal decision on the application.
15. Since the last meeting the applicant has advised they would be willing to keep the maximum number of covers to be served at any time at 20 as currently set out in condition 6. Members may wish to take this into account in their further consideration of the application.
16. Should Members decide that the concerns regarding the impact of the proposal on parking within the vicinity of the site could be set aside, having regard for Section 38(6) of the Planning and Compulsory Purchase Act 2004, officers suggest that the following conditions would be appropriate:

PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:

1. The use hereby approved shall not open outside the hours of 08:00 – 18:00 Monday to Saturday and 10:00 – 16:00 Sundays and Bank Holidays, with the exception of a maximum of 2 no. late night openings per calendar month on either a Thursday, Friday or Saturday evening where the premises shall close not later than 21:00. The applicant shall retain a record of all late night openings which shall be made available to the Local Planning Authority upon request.

REASON – In the interests of residential amenity

2. Outdoor seating and parking on the forecourt area to the north of the application site shall be provided in accordance with the details shown on drawing number 21.149.PD 06G 'Proposed Ground Floor Plan'. Notwithstanding details of the cycle parking shown on this drawing, the cycle parking shall be repositioned to a location on the forecourt that shall first be agreed in writing by the Local Planning Authority within 2 months of the date of this decision.

REASON – In the interests of highway safety and to encourage access to the premises by sustainable modes of transport

3. The number of covers to be provided shall be limited to 20 covers at any one time.

REASON – In the interests of highway safety and residential amenity

4. The development hereby permitted shall be carried out in accordance with the approved plans as detailed below:
 - (a) Site location plan
 - (b) First floor proposed, drawing number 21.149 PD 07A
 - (c) Front and rear elevations proposed, drawing number 21.149 PD 08A
 - (d) Gable elevation proposed, drawing number 21.149 PD 09A
 - (e) Proposed section and return boundary, drawing number 21.149 PD 10A

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

INFORMATIVES

The applicant is advised that any new advertisement at the premises, including the proposed mural depicted on drawing number 21.149 PD 09A, may require the submission of an application for advertisement consent

THE PUBLIC SECTOR EQUALITY DUTY

17. In considering this application the Local Planning Authority has complied with Section 149 of the Equality Act 2010 which places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it. There is no overt reason why the proposed development would prejudice anyone with the protected characteristics as described above.

RECOMMENDATION

For the reasons set out in the appended report, officer recommendation remains:

THAT PLANNING PERMISSION BE REFUSED FOR THE FOLLOWING REASON:

1. The proposed variation to conditions 2, 4 and 6 of planning permission 21/00922/FUL to extend opening hours, permit the siting of 4 no. picnic benches, and an increase in the number of covers to be served at the premises represents an intensification of use of the existing business, resulting in an increase in parking requirements at the premises which cannot be provided for on the site or safely within the surrounding streets. The proposal would therefore be contrary to Policies DC1 (Sustainable Design Principles and Climate Change) and IN4 (Parking Provision including Electric Vehicle Charging) of the Darlington Local Plan (2016 – 2036) which require that new development, including change of use, provides safe and secure space for vehicle parking and servicing.

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DARLINGTON BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 9 August 2023

APPLICATION REF. NO: 23/00367/FUL

STATUTORY DECISION DATE: 14th June 2023

WARD/PARISH: SADBERGE AND MIDDLETON ST GEORGE

LOCATION: 15 Station Terrace, Middleton St George

DESCRIPTION: Application submitted under Section 73 of the Town & Country Planning Act 1990 for the variation of condition 2 (opening hours) and 4 (outdoor seating), and removal of condition 6 (no. of covers) attached to planning permission 21/00922/FUL dated 29 Oct 2021 to permit a change in opening hours on Thurs, Fri and Sat from 8am-6pm to 8am-9pm to allow up to 2 late openings per month, to allow the installation of 4 no. picnic benches in front forecourt with alterations to car-parking and to permit an increase in the number of covers from 20 to 30 (description amended following receipt of amended application form and supporting statement on 20th June 2023)

APPLICANT: Mrs Shalona Kaneen, MJ's Cake Café

RECOMMENDATION: REFUSE PLANNING PERMISSION (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=RSXWUWFPLGB00>

APPLICATION AND SITE DESCRIPTION

1. The application property is a two-storey end of terrace property located on the corner of Station Road and Heathfield Park at the northern end of Middleton St George, which currently operates as 'MJ's Cake Café'. The surrounding area is predominantly residential in character, with some commercial properties close by. These include Sainsbury's Local approximately 120 metres to the north, and a former storage building attached to 16 Station Terrace, immediately to the rear (east) of the application property which has permission to be used as a shop.
2. The application property formerly comprised a ground floor shop (Use Class E) with living accommodation above. Planning permission was granted in October 2021 (21/00922/FUL) for the change of use of the property to a shop/café at both ground and first floor (Use Class E) with associated internal and external alterations and was granted subject to a number of conditions which seek to control certain operations at the premises to safeguard the amenities of surrounding residential properties and to ensure the safety of users of the adjacent highway.
3. This is an application submitted under Section 73 of the Town and Country Planning Act 1990 which seeks to vary conditions 2 (opening hours), 4 (no outside seating) and 6 (number of covers). The application originally sought to vary the wording of condition 2 (opening hours) to permit later opening every Thursday, Friday and Saturday evening and to remove condition 6 (number of covers) in its entirety to allow the retention of the external seating and an unlimited number of covers to be served. The application has subsequently been amended to seek to address concerns raised during the course of the application. The changes being sought are set out below:

4. Condition 2 of the permission states:

The use hereby approved shall not be open outside the hours of 08:00 – 18:00 Monday to Saturday and 10:00 – 16:00 Sundays and Bank Holidays unless otherwise agreed in writing by the Local Planning Authority.

REASON – In the interest of residential amenity

5. The application seeks permission to amend the wording of condition 2 to extend the opening hours on a Thursday, Friday and Saturday evening from 8am - 6pm to 8am - 9pm to allow either a maximum of 2 late openings per calendar month or a total of 24 late openings per year. The applicant advises that the café would be used on these occasions for the holding of craft-related activities such as a cake decorating, macrame, painting, and charity evenings, to create another revenue stream for the business. The classes would be run by herself or local artists and teachers, with no more than 10 participants. The classes would run from 6pm – 8pm with an additional hour for cleaning up after the classes.
6. Condition 4 of the permission states:

Outdoor seating will not be permitted within the forecourt area located to the north of the application site as shown on plan drawing 21.149 PD 06B (amended ground floor plan

proposed) hereby submitted. The forecourt area shall be for the use of vehicle and cycle parking only.

REASON – To ensure additional seating is not provided without mitigating an increased parking shortfall in the interests of residential amenity

7. Four picnic benches have been placed on the forecourt area without the benefit of planning permission and in contravention of condition 4. The application seeks permission for the variation of this condition to allow the retention of these benches in this location to be used by customers who would prefer to sit outside, particularly during warmer months. The revised site plan shows the location of these benches on the forecourt area to the north of the property, and also shows the retention of existing cycle parking and the addition of an extra car parking space, increasing the number of parking spaces available at the premises from 2 no. to 3 no.

8. Condition 6 of the permission states:

The number of covers to be provided shall be limited to 20 covers at any one time.

REASON – In the interest of protecting residential amenity

9. The application seeks permission to vary the wording of this condition to increase the number of covers to 30 to allow for the use of the picnic benches on the forecourt area outside in addition to existing tables within the café.

MAIN PLANNING ISSUES

10. It is important to note that the applicant's fallback position is the existing permission which allows the use of the premises as a café subject to those conditions set out in planning permission 21/00922/FUL. The use of the premises as a café is not therefore a matter for reconsideration as part of this application. The only issues for consideration in the determination of this application are whether the proposed variations to conditions 2, 4 and 6 as set out are acceptable in terms of their impact on:

- (a) Parking and Highway Safety
- (b) Residential Amenity

PLANNING POLICIES

11. Relevant Local Plan policies include those seeing to ensure that new development:
- Provides suitable and safe vehicular access and suitable servicing and parking arrangements (Policies DC1 and IN4)
 - 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. Development relating to the use of land and buildings, including traffic movements and hours of operation will be supported where it is

suitably located and is acceptable in terms of noise and disturbance, lighting, vibration, emissions and commercial waste (Policy DC4)

RESULTS OF TECHNICAL CONSULTATION

12. The Environmental Health Officer raises no objection. The Council's Highway Engineer recommends the application be refused.

RESULTS OF PUBLICITY AND NOTIFICATION

13. A total of 40 letters of objection were received in response to the original proposal, raising the following concerns:
 - Significant issue with congestion at the junction of Heathfield Park/Station Terrace which will get worse when the beauty shop opens next door
 - Exit from Heathfield Park is a dangerous junction as cars come round the corner at speed. Difficult to see when cars are parked in front of the shop
 - Inconsiderate and sometimes dangerous parking causes issues with visibility at the junction and blocking of residents' drives and accesses
 - Outdoor seating is already being used without permission
 - Will increase in opening hours result in request for alcohol license?
 - Cars parking on the pavement on Heathfield Park close to the junction, unable to get wheelchair/pram access with pedestrians having to walk in the road
 - Tables will draw a people to congregate when the shop has closed causing anti-social behaviour
 - Many customers park on double yellow lines outside the café and on both sides of the road
 - Extended hours and outside seating would likely exacerbate the problems
 - No changes should be considered without a solution to the current parking and congestion issues
 - Café impacts upon family members' health and well-being due to noise, cooking smells and disturbance and increasing opening hours will affect them greatly
 - Support new business in the community but new proposals will add more problems to an existing problem and should not be approved at expense of residents
 - Conditions were put in place on the original application and should be withheld
 - Traffic and parking problems will increase when business directly next door to MJs Café on Heathfield Park opens. This business has no parking
 - Would welcome study of parking/traffic during the café's current operating hours before the application is processed any further
 - Difficult for residents and visitors to park in Heathfield Park
 - Residents parking permits should be introduced
 - The full estate of Heathfield Park should have been consulted
 - The café causes noise disturbance to me in my home which adjoins the property due to the adjoining wall being of single brick construction, causing emotional

stress. As the property was previously a shop the applicant was not required to install soundproofing downstairs. Extension to these hours would only make things worse

- Noise and disturbance already starts before 0800 and ends after 1800
- Before the picnic benches were put in place the area was used to park extra cars, enabling 5 cars to be parked instead of the 3 proposed
- If the kitchen cannot cope with more than 20 covers then why take the chance of exceeding this?
- Evening classes could be held in the village community centre
- trouble parking my car outside my home
- Since the café opened have been disturbed by the banging of car doors by people arriving and leaving the area in front of my house visiting café.
- Events and classes already held at the café without the need for further opening hours
- Use causes noise pollution, car doors banging, engines idling
- Object to the removal of the street light which now illuminates the area near to the outdoor seating area as opposed to the entrance to the back lane

14. A total of 22 letters of representation were received raising the following issues in support of the original proposal:

- Successful business with positive reputation in the village
- Huge benefit socially for the community of all age groups
- Extension to opening hours and outside seating will allow business to flourish further and allow additional customer access
- With businesses closing in the area this will help them survive in an already hard time
- Classes are a good idea, opportunity to meet local, like-minded people
- Having lived in the village many years, parking around this junction has already been busy with people parking too close to the junction, even before the café opened
- Need to support local people opening small businesses to improve our area and facilities
- Precisely what the village needs, engagement, inclusion and progressiveness
- Longer hours would be perfect for workers
- Outside seating good for young families, cyclists, dog walkers and others who do not always want to sit inside, especially during warmer weather
- Would provide accessible seating for disabled people
- Entrepreneurship should be encouraged and celebrated
- Limitations of kitchen factored into application and parking implications considered and solution presented
- Why would parking be an issue when the housing estate off Grendon Gardens has been approved with a single access creating much more traffic than the café

15. Following reconsultation on the amended proposal a further 18 letters of objection were received which raise the following additional concerns:
- The proposed amendments to the application do not address previous objections
 - People continue to use the pavement seating despite it not having permission
 - On occasion have had verbal abuse from people parking on the corner when challenged
 - Why would seating be allowed on a busy road junction with parking next to families sat on benches and traffic idling at the junction? Should be refused on health and safety grounds
 - Saturday and Sunday afternoons are reasonably quiet most weeks, with very few customers after 2pm. Could classes be held then?
 - Special events can still be held within the current opening hours originally approved
 - How will the maximum capacity of 10 attendees at events be policed?
 - Concern about the use of craft materials where food is being prepared and served
 - Safety barrier required around seating area if permission granted
 - Revised number of covers does not make sense as 4 outside tables seating 4 per table is 16 not 10
16. A total of 1 further letter of representation was received which raises the following issues in support of the amended proposal:
- Following the restoration of the building it now looks 100% better than it did.
 - Café is not noisy and seating area will be an asset
17. Middleton St George Parish Council advise that they generally support the application but ask that Darlington Borough Council liaise with the Police to enforce current waiting/parking restrictions.

PLANNING ISSUES/ANALYSIS

18. The application seeks to vary conditions attached to the original permission relating to opening hours, outdoor seating and a restriction on the number of covers. These conditions were considered necessary to enable the business to operate without unacceptable impact on the amenities of the surrounding area in terms of parking and residential amenity. Any request to vary or remove these conditions must therefore be considered in this context.
- (a) Parking and Highway Safety**
19. A shortfall in parking provision at the premises to meet the requirements of the Tees Valley Design Guide was acknowledged then planning permission was granted for the change of use of the property in 2021. On balance however it was considered that the benefits of the proposal, which would bring an existing business back into use, outweighed these concerns. This was subject to the provision of 2 no. parking spaces and

cycle parking on the forecourt to the north of the café, and a condition that this land was not to be used for the siting of any outdoor seating, together with a further condition limiting the number of covers to be served to 20, in order to ensure that additional seating is not provided without mitigating an increased parking shortfall.

20. The proposed uplift in covers (from 20 to 30) represents a 50% increase in the existing condition, with further capacity added in the form of the external seating. The Tees Valley Design Guide standard requires 1 space per 2 no. covers for customer parking. On this basis an additional 5 no. spaces would be required to mitigate this uplift. While the submitted site plan indicates an additional parking space can be provided, bringing the overall total of parking spaces to 3, this still represents a significant shortfall particularly given the existing under provision of parking.
21. While use of the external seating area would be somewhat seasonal, it would nevertheless be likely to result in an increase in parking demand in an area where there are existing parking problems, particularly around the Station Road/Heathfield Park junction, close to the application site. While this is an area wide issue, and not solely attributable to the application property, the business has nevertheless been the subject of complaints regarding inconsiderate and unlawful parking since opening. It is also a matter that has attracted significant objection from nearby residents during the course of the application. The Local Highways Authority has implemented parking restrictions (double yellow lines) in the vicinity of this junction since the business opened in an effort to address problematic parking and to maintain safe visibility splays.
22. The additional parking requirement cannot be met on site and there are no facilities in the locality such as pay and display car parking that could be used. This would therefore result in further displacement of vehicles onto the surrounding highway. While additional parking restrictions could be considered, this is likely to move the problem elsewhere onto the public highway, where there is already high demand for on-street parking from residents of properties on Station Terrace with no off-street parking, and visitors to properties on Heathfield Park.
23. Other committed development within the village is currently under construction where additional traffic is yet to fully hit the local highway network. The nearby Station Road development to the north of the site opposite the Sainsbury's Local store, whilst undetermined, is a Local Plan allocation and therefore also likely to be delivered within the Local Plan period. This all contributes to additional vehicle movements on Station Road further increasing conflict should problematic parking still occur when the Council has a duty to maintain the safe operation of the public highway and the expeditious movement of traffic.
24. While in isolation, the proposed extension of opening hours as outlined, to permit 2 late openings per calendar month would be unlikely to result in significant parking demand, when considered cumulatively with the other changes proposed, this would add to the problems previously highlighted by generating additional demand into the evening when people are at home and residential parking demand is at its highest.

25. In view of these considerations, the proposed changes to conditions 2, 4 and 6, as outlined would represent an intensification of use of the existing business, resulting in an increase in parking requirements at the premises which cannot be provided for either on the site or safely within the surrounding streets. Local Plan Policies DC1 and IN4 require that new development, including change of use, provides safe and secure space for vehicle parking and servicing and the proposal would therefore be contrary to these policies. The Council's Highway Engineer recommends that the application be refused on this basis.

(b) Residential Amenity

26. The forecourt area to the north of the application property is located on the junction of Station Road and Heathfield Park with the benches located towards the front of the site to allow for the remaining land to be used for the parking of vehicles and cycles. Given that there is some distance from the seating area to the nearest residential properties, separated by the road, it is not considered that the use of this area, within the current permitted hours of opening, would be likely to give rise to any unacceptable issues of noise, nuisance and disturbance to nearby residents.
27. The proposal to extend the opening hours on Thursday, Friday and Saturday evenings from 8am – 6pm to 8am – 9pm, to permit 2 late openings per calendar month, for the holding of craft-related activities as outlined, would extend activities associated with café later into the evening when residents can reasonably expect a degree of peace and quiet. This has the potential to impact upon the amenities of the nearest residential properties, including the adjoining property at 14 Station Terrace to the south and at 16 Station Terrace to the rear (east), as well as the wider residential area.
28. There have been some instances where commercial uses adjoining residential properties i.e. hot food takeaways have been granted planning permission to open until 9pm. Recent appeal decisions have established that on some occasions 9pm is a reasonable cut off time for commercial activities after which background noise levels would be lower and residents would be more likely to be resting or sleeping. However each application must be assessed on its own merits, taking into account the amenity currently enjoyed by closely related residential properties and the degree to which the proposed change of use will adversely impact the living environment of residents.
29. The application property is located in a predominantly residential area with an adjoining residential property to its southern side and another in close proximity to the rear, with other residential properties beyond. There is a small commercial enterprise to the rear and the Sainsbury's Local store approximately 120 metres to the north, however the predominant character of the area is residential.
30. Plans approved under the previous permission show that soundproofing was to be installed on the party wall between the application property and the adjoining property at 14 Station Terrace. No soundproofing was proposed at ground floor level due to the

existing commercial use of the property. The issues of noise, nuisance and disturbance from the application property have been raised during the course of the application and while the use of the property is not for consideration as part of this application, these issues are material to the consideration of proposals to extend the opening hours of the property. The Council's Environmental Health Manager has raised no objection to the proposal. It has been confirmed that a noise complaint was received while works were being undertaken to the property in 2021 prior to it opening. A further noise complaint was received in June 2022 once the café was open however this was subsequently withdrawn, and no further complaints have been received.

31. The extension of the opening hours until 9pm every Thursday, Friday and Saturday evening is unlikely to be acceptable in this predominantly residential area given the close relationship of the property to adjoining and closely related residential properties, and the impact this would have on the amenities of these properties in terms of activity at the premises, the comings and goings of customers etc on a regular basis each week.
32. It is proposed however that these later openings would only occur on two occasions per calendar month, as a means of providing an additional revenue stream for the business. Given the infrequency of the proposed later openings as a means of supporting a local business, on balance it is not considered that the later use of the cafe on this basis would adversely impact on the amenities of nearby residents. The proposal would therefore accord with the requirements of Policy DC4 insofar as it relates to impacts on residential amenity.

(c) Other matters

33. Several objections relate to the siting and use of the benches without planning permission and before the application has been determined. The applicant has been advised that the benches are not to be used until the outcome of the application is known. There have been occasions during this time when complaints have been received that the benches have been in use and the Enforcement team have responded quickly to these and reaffirmed that the benches are not to be used. Should the application be refused then the benches will need to be removed and it is hoped that this will be by agreement rather than the need for formal enforcement action.
34. Further objections raise issues in respect of the potential for the benches to encourage people to congregate when the shop is closed leading to anti-social behaviour. Whilst this is noted, there is no evidence to suggest that this will be the case leading directly to an increase in anti-social behaviour. This can be adequately dealt with by other powers and through the management of the premises.
35. A number of objections also relate to the extent of consultation undertaken in connection with the planning application, specifically that this should have included all residents of Heathfield Park. A total of 56 consultation letters were sent to those properties closest to the site. A site notice was also displayed on the site. Following the amendment of the application, reconsultation letters were sent to notify those people

who had previously commented on the application and a further site notice was displayed on the site notifying of these changes. The consultation exercise associated with the application is however considered proportionate in terms of the number and spread of letters and site notices posted upon receipt and at reconsultation stage.

36. There is considerable support for the application, and the important role the business plays as a community facility within the village, as set out in paragraphs 16 and 18 of the report. Furthermore, the applicant advises that this would create a further revenue stream for the business. While this is noted, in the balance of considerations, the impacts of the proposal relating to increased demand for parking and the inability for this to be safely accommodated either on the site or on the public highway surrounding the site, as set out in the report, are considered to outweigh the economic or public benefits of the proposal in this instance.

THE PUBLIC SECTOR EQUALITY DUTY

37. In considering this application the Local Planning Authority has complied with Section 149 of the Equality Act 2010 which places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it. There is no overt reason why the proposed development would prejudice anyone with the protected characteristics as described above.

CONCLUSION AND RECOMMENDATION

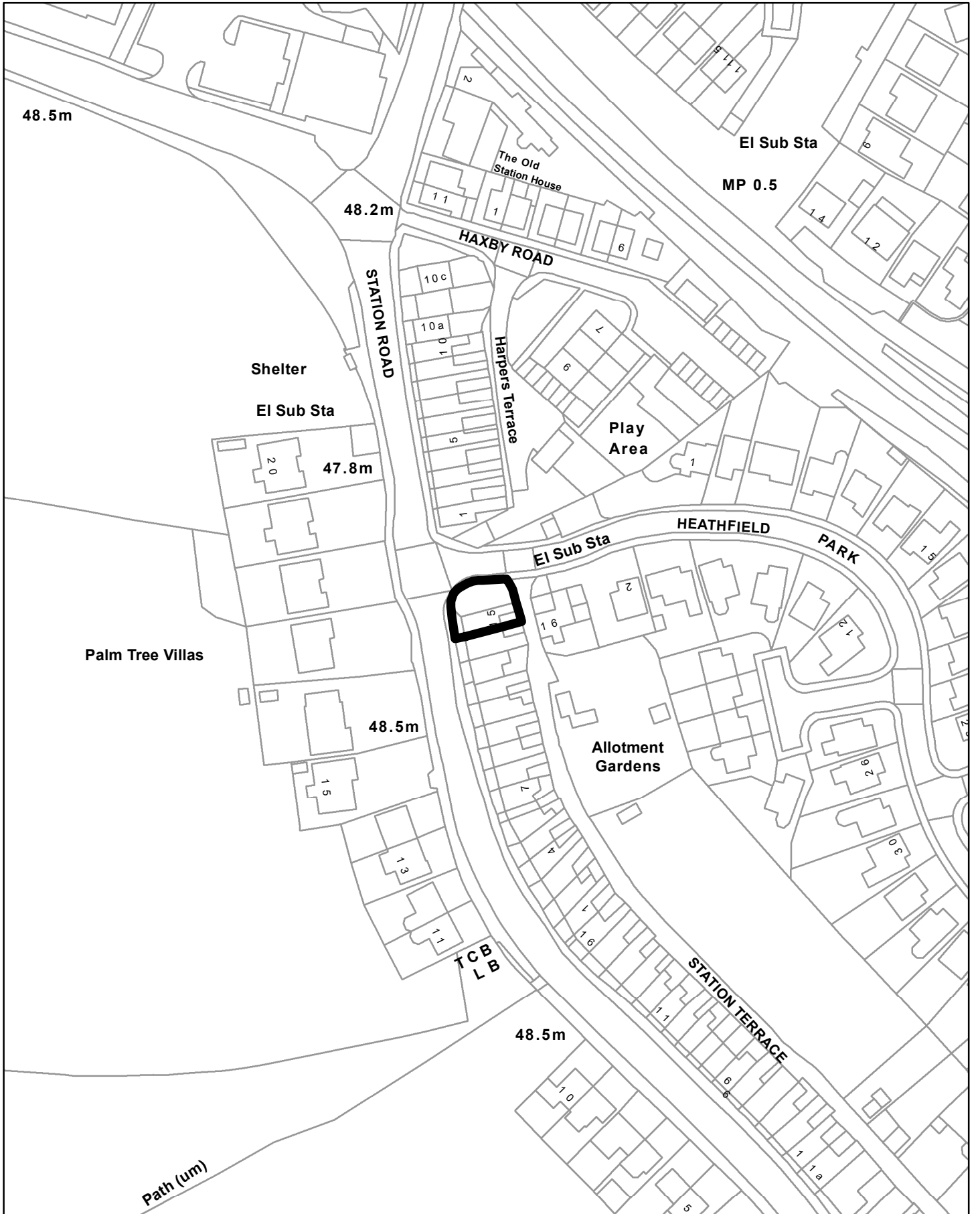
38. The proposed variation of conditions would lead to an intensification of use of the existing business, resulting in an increase in parking requirements associated with the business that cannot be adequately mitigated for on site or accommodated safely on the public highway surrounding the site where there is an existing and acknowledged parking problem. On balance, the proposal would be unlikely to give rise to unacceptable impacts to the amenities of nearby residential properties. However this, together with the support for the business, would not be sufficient to set aside concerns relating to a shortfall in parking and resultant impacts on the safe operation of the public highway and the expeditious movement of traffic. While the proposal would not, on balance, be contrary to the requirements of Policy DC4 relating to residential amenity, it would be contrary to Policies DC1 and IN4, and accordingly it is recommended:

THAT PLANNING PERMISSION BE REFUSED FOR THE FOLLOWING REASON:

1. The proposed variation to conditions 2, 4 and 6 of planning permission 21/00922/FUL to extend opening hours, permit the siting of 4 no. picnic benches, and an increase in the number of covers to be served at the premises represents an intensification of use of the existing business, resulting in an increase in parking requirements at the premises which cannot be provided for on the site or safely within the surrounding streets. The proposal would therefore be contrary to Policies DC1 (Sustainable Design Principles and

Climate Change) and IN4 (Parking Provision including Electric Vehicle Charging) of the Darlington Local Plan (2016 – 2036) which require that new development, including change of use, provides safe and secure space for vehicle parking and servicing.

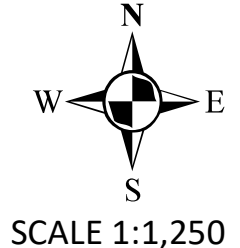
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Planning Ref No: 23/00367/FUL

DARLINGTON BOROUGH COUNCIL



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DARLINGTON BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 6 September 2023

APPLICATION REF. NO:	22/00432/FUL
STATUTORY DECISION DATE:	8 th July 2022 Extension of Time Agreement 11 th September 2023
WARD/PARISH:	Park West
LOCATION:	210 Coniscliffe Road Darlington DL3 8PU
DESCRIPTION:	Erection of retaining wall to existing boundary wall to protect TPO Trees. Construction of garage with habitable space above to side of house, erection of single storey extension to rear and infill extension to existing conservatory and removal of steps. Conversion of attic back into habitable space including alterations to roof and reinstatement of windows to attic gables. Alterations to windows including replacing single glazed windows with double glazed upvc sash windows and installation of roof lights (additional Ecology Report received 16/06/2022 and Structural Condition Inspection Report received 11/07/2022) (as amended by plans received 27/04/2023, 19/07/2023 and 25/07/2023) and including tree works identified in Arboricultural Method and Impact Statements (Rev B) including Tree Protection Plan (received 19/07/2023)
APPLICANT:	Mr Paul Barras

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=RAQO16FPHJM00>

APPLICATION AND SITE DESCRIPTION

1. The application property known as 'Stonehouse' is a large, detached, two-storey Victorian property with a basement and large attic space and which has been extended by the addition of a large timber conservatory on the west elevation. The property is located on the north side of Coniscliffe Road and whilst it is not listed, it is within a primarily residential area within the West End Conservation Area.
2. Trees along the front of this property and No. 1 Linden Avenue are protected by Tree Preservation Order No. 1961 No. 3B (Group 2) which also includes one single tree (T4), a Sequoia tree which is within the front garden of No. 210 and by virtue of being in a conservation area.
3. Since the application was first submitted an additional Tree Preservation Order (TPO) has been placed on thirteen trees within the curtilage of the application property and which are now protected by, Order No. 2022 No. 9 (Group 1).
4. A TPO has also been placed on a number of trees within the curtilage of No. 1 Linden Avenue which are along the shared boundary. Nineteen trees are protected within Group 1 and one single Mature Redwood, numbered T1 (Order No. 2022 No. 10) and both of these orders have been confirmed.
5. Planning permission is sought for a number of elements including: -
 - a) Erection of concrete retaining wall with coping stones to existing boundary wall with screw pile foundations to protect TPO'd trees and which will support the existing eastern boundary wall, and which is to be incorporated into new side extension
 - b) Erection of double garage extension to side elevation with habitable playroom space. This structure will be built from sandstone brick blocks to match the existing dwelling; with a timber effect garage door and with a matching slate roof with decorative white timber fascia to the front elevation to match a similar fascia on the front elevation of the existing house. This structure is to have three conservation rooflights on the east elevation which are to have opaque glazing and be non-opening.
 - c) Erection of a single storey flat roof parapet extension to the rear with large skylights to provide a dining room with double-glazed aluminium bi-fold doors which will give external access into the property and a separate storage area.
 - d) Conversion of attic into habitable space.
 - e) Conversion of basement to form utility and workshop with altered access steps
 - f) Enlargement of existing conservatory by infilling gap up to boundary wall with No. 29.
 - g) Existing windows to be replaced with double glazed upvc framed windows white in colour
 - h) Addition of conservation skylight to north roof slope
 - i) Existing windows on north, south and west elevations to be replaced with double-glazed upvc framed sash windows, white in colour
 - j) Infilling of two cellar windows

- k) Existing pebble dash render on rear elevation to be painted (colour to be confirmed)
6. The proposal has been amended to accommodate the following changes:-
- a) Erection of a concrete retaining wall
 - b) Changes to size and location of rooflights on rear extension
 - c) Changes in design of side extension.
 - d) Existing and additional windows to be replaced with double glazed UPVC framed sash windows, white in colour rather than timber
 - e) Proposed rooflights/skylights to be Conservation type
 - f) Guttering to be made from cast iron, black in colour rather than UPVC
 - g) Pebble dash render on rear elevation to be painted rather than re-rendered
 - h) Proposed wall of infill extension to conservatory to be made from solid brickwork rather than being glazed
 - i) Removal of first floor window on rear elevation.
7. An additional Ecology Report and Structural Condition Inspection Report have been submitted in support of the application, together with an amended Heritage Statement and Arboricultural Method and Impact Statements and Tree Protection Plan.

MAIN PLANNING ISSUES

8. The main planning issues to be considered are whether the proposed development is acceptable in the following terms:
- a) Impact on Visual Amenity and the West End Conservation Area
 - b) Impact on Residential Amenity
 - c) Highway Safety and Parking Provision
 - d) Impact on Trees
 - e) Impact on Ecology
 - f) Other Matters

PLANNING POLICIES

9. The relevant planning policies are as follows:

Darlington Local Plan

DC1: Sustainable Design Principles and Climate Change

DC4: Safeguarding Amenity

ENV1: Protecting, Enhancing and Promoting Darlington's Historic Environment

ENV 4: Green & Blue Infrastructure

IN4: Parking Provision including Electric Charging Points

Also, relevant

Supplementary Planning Document – Design for New Development

RESULTS OF TECHNICAL CONSULTATION

10. The Council's Highways Engineer, Senior Arborist and the Conservation Consultant have raised no objections to the amended proposal.

RESULTS OF PUBLICITY AND NOTIFICATION

11. A total of **four letters of objection** were received in response to the original proposal raising the following concerns:-

- *Impact of development including the addition of the car port and the two-storey side extension will affect character of both the application property and the adjacent property, both of which have retained their original character*
- *Impact on Wildlife (Birds and Bats) and should approval be given any works should take place out of bird nesting season*
- *Impact on Protected Trees which include Category A trees*
- *Proposal should not be extended up to the boundary to reduce impact on trees and wildlife*
- *Flats to the north of the property do not have any outside space and benefit from the trees and established wildlife in the application property*
- *Proposal would remove rear access to garden which would present a risk to neighbouring properties and residents if there was a fire*
- *Demolition of garage should be done with great care*
- *Construction or demolition should not take place outside of the hours 9-6 Mondays to Fridays, 8-4 Saturdays with no work taking place on Sundays or Bank/Public Holidays*

12. **One further letter of objection** was received in regard to the latest amended plans, further comments were received from one of the original objectors and one objector subsequently withdrew their comments, making four in total:-

- *Methodology contained within Ecology Report submitted by Naturally Wild Consultants Limited is questionable and not accurate*
- *More detailed Ecology Report should be commissioned to better assess Impact on wildlife population including bats and bird surveys and which may lead to more biodiversity net gain being required*
- *Accuracy of tree root systems contained in the submitted Arboricultural Report given that it is based on desktop and ground level inspections*
- *Potential damage to protected tree roots by piling and other methods used to create the foundations which will shorten the life of the trees*
- *The proposal would result in a loss of space between the two villas resulting in an awkward building to plot relationship which would have an impact on the heritage asset with no public benefit and would not accord with Paragraphs 201 and 202 of the National Planning Policy Framework*

PLANNING ISSUES/ANALYSIS

a) Impact on Visual Amenity and the West End Conservation Area

13. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that Local Planning Authorities pay special attention to preserving or enhancing the character and appearance of conservation areas.
14. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance (para 199 of the National Planning Policy Framework 2021).
15. The property is located in a large garden and is set back from the street frontage being well screened by mature trees and vegetation which restricts views of the property. The property has undergone modifications in the past.
16. The applicant's statement also sets out that the proposal would re-instate some of the historic features which have been lost including reintroducing the attic windows and attic stairs.
17. The statement concludes that the proposals would not have a negative impact on the Conservation Area as the character and historic interest would be preserved, given that the garden, trees and vegetation which surround the property would remain. And that the new build, two-storey extension against the east elevation, would be a sympathetic design change and would not be detrimental to the property.
18. Comments from Darlington Borough Council's Conservation Consultant outlines that the property lies to the far western edge of the Conservation Area (CA) which is characterised by a mix of semi-detached and detached traditional properties, with many having been upgraded and extended. The character of this particular part of the CA, is very much one of large, detached properties set in substantial mature grounds, with the character of Coniscliffe Road changing to one of a more modern suburban character to the west of the site.
19. The dwelling was once a larger dwelling with the former extension now being a separate dwelling and the property is heavily screened from Coniscliffe Road by a significant number of mature trees. And that the tree cover in this area undoubtedly contributes to the character and significance of the immediate site and that of the wider conservation area.

20. Whilst the design of the rear extension is a modern contrast to the main house, there are no objections to this element as there will be no resulting impacts on the character of the Conservation Area given that it will not be visible from the public footpath to the front of the property.
21. On balance the external changes to the existing dwelling are considered to be acceptable. The proposal will therefore comply with policy ENV1.

b) Impact on Residential Amenity

22. The application dwelling is joined to No. 29 Pine Grove along its northern elevation and is bounded by No. 230 Coniscliffe Road to the west. No's 1 and 3 Linden Avenue are to the east and to the north is a parking area/garages for a block of flats known as Linden Lodge and garages which serve properties on Knoll Avenue.
23. The enlargement of the conservatory would bring the structure closer to No. 29 Pine Grove and the structure would be visible above the boundary wall given its elevated position. However, there would be no loss or privacy given that the amended design has a solid brick wall facing onto the property.
24. The single storey rear extension will not raise any amenity issues given that it will be screened by the existing high means of enclosure. Nor will the two-storey side extension, which whilst being built up to the eastern boundary with No. 1 Linden Avenue will be screened by a high brick wall which is re-enforced by mature trees on the side of No. 1 Linden Avenue which are protected and cannot be pruned without formal planning consent.
25. Overall, it is considered that the proposed development would not have an unacceptable impact upon the amenities of the existing properties in the locality and would accord with policy DC4 of the Local Plan in this regard.

c) Highway Safety & Parking Provision

26. The Council's Highways Engineer has raised no objections to the amended proposal given that there is a significant amount of in-curtilage parking and manoeuvring space will be retained within the site which enables vehicles to enter and exit the site in a forward gear.
27. In response to concerns raised that the proposed side extension would remove vehicular access to the garden which would present a risk to neighbouring properties and residents if there was a fire. Darlington Borough Council's design guide requires a fire appliance to be able to get to within 45m of a dwelling entrance and the front entrance of this property is approximately 30m away.

28. The proposal would accord therefore accord with policies DC1 and IN4 of the Local Plan

d) Impact on trees

29. As previously stated, a large number of trees within the curtilage of this property are protected by Tree Preservation Orders and by virtue of being in conservation area, as are a number of trees within the curtilage of No. 1 Linden Avenue which is along the shared boundary.
30. An amended Arboricultural Impact Assessment has been submitted by AllAboutTrees (Rev B) following site surveys taken in January and December 2022 by Tim Archment which sets out that the boundary wall on the east flank is deteriorating and requires stabilising before a complete failure. And that this wall retains the ground of the adjacent property which contains multiple trees (numbers 4 and 26-37).
31. The report sets out that a number of methods have been explored to stabilize the wall with the most suitable option being a reinforced concrete wall on a concrete base with screw piles. This foundation has been designed to both accommodate the stabilising works to the wall and to act as a proposed foundation for the proposed side extension, eliminating the requirements for any further works adjacent to the site boundary.
32. A Structural Condition Inspection Report has been submitted by JC Consulting which provides evidence that the retaining wall, north of the stonework abutments close to the neighbouring garage structure at No. 1 Linden Avenue has a noticeable lean and that there are several trees growing within close proximity to the wall (eleven in total) with the most significant being a Coast Dawn Redwood which is approximately 5m from the face of the wall (as earlier stated, this tree is now protected by a Tree Preservation Order).
33. The structural survey recommends that that the wall be demolished as no remedial action could be taken and that trees/vegetation is removed which is inadvertently stabilizing the wall.
34. Darlington Borough Council's Principal Engineer has acknowledged that the wall has seen significantly lateral displacement towards 210 Coniscliffe Road which has been partly caused by the surcharge from the retained ground to the east within No. 1 Linden Avenue but to a greater degree by the presence of large trees and has confirmed that the wall cannot stay as it is.
35. A structural survey plan has been submitted which shows that a proposed reinforced concrete retaining wall will butt up to the existing wall and will be supported on a concrete base with screw piles to minimise impact on tree roots.
36. The pile foundations have been designed to minimise root damage and Darlington Borough Council's Senior Arborist considers this to be a satisfactory solution.

37. To facilitate the proposed development work is required to a number of trees which are protected by Tree Preservation Orders or by virtue of being in a conservation area.
38. Four Yew trees (T31, T32, T35 & T36), which are located within the curtilage of 1 Linden Avenue are protected by TPO 2022 No. 10 Group. These trees are on the periphery to the west of the property and are also to be pruned to facilitate the proposed development. However, the east side of the Yew trees crowns are not visible from a public place. These trees are to be reduced to create a 0.5m clearance from the wall and roof of the proposed development and the trees will be crown lifted to between 2m and 3m in height when measured from the ground level at 1 Linden Avenue.
39. Darlington Borough Council's Senior Arborist has recommended that authorization be granted for the works detailed above to facilitate the proposed development and a separate planning application is not required given that the tree works have been considered as part of this application.
40. Overall and on balance, both the proposed tree works, and the development would accord with policy DC1 and ENV4 of the Local Plan.

e) Impact on Ecology

41. Compensation methods are outlined in the submitted Ecology Assessment in that bird boxes could be installed in the new building or nearby trees to compensate for the loss of suitable nesting habitat and the Ecology Officer has requested that prior to the commencement of the development, details of the proposed nest boxes should be submitted to and approved in writing by the Local Planning Authority and that said nest boxes should remain in situ for the lifetime of the development.
42. With regard to concerns raised that any works being carried out, out of bird nesting season should approval be given which is from March to August (inclusive), nesting birds have legal protection under the Wildlife and Countryside Act 1981, and an informative shall be added to the decision notice in this regard should approval be given.
43. The proposal would accord with Policy DC1 and ENV4.

THE PUBLIC SECTOR EQUALITY DUTY

44. In considering this application the Local Planning Authority has complied with Section 149 of the Equality Act 2010 which places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it. The existing reception area on the ground floor of the two-storey extension is accessible via an existing ramp at the main entrance and this arrangement would remain unaffected by the proposed development.

SECTION 17 OF THE CRIME AND DISORDER ACT 1998

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

CONCLUSION AND RECOMMENDATION

46. The proposed development, will sustain the significance of the West End Conservation Area. The proposal does not give rise to any issues of residential amenity ecology affect on trees or highway safety. The proposal would therefore accord with policies DC1, ENV 1, ENV 4, DC4 and IN4 of the Darlington Local Plan 2016-2036 and the requirements of the NPPF 2021

it is recommended that:

PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS

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

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

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

REASON - In the interests of maintaining the visual amenity of the development in accordance with the requirements of Policy DC1 of the Darlington Borough Local Plan 2016-2036.

3. Notwithstanding any description of the external materials in the submitted application (Condition 2), details of the external materials used to repair/replace the conservatory together with the colour of the paint for the pebbledash render on the rear elevation and the style of the 'Victorian' front door shall be submitted to, and approved by, the Local Planning Authority in writing prior to the commencement of the development and the development shall not be carried out otherwise than in accordance with any such approved details.

REASON - In order that the Local Planning Authority may be satisfied as to the details of the development in the interests of the visual amenity of the area.

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

- Proposed Site Plan Drawing No. 200 Revision P4 dated 26/06/2023
- Proposed Basement Floor Plan Drawing No. 210 Revision P4 dated 26/06/2023
- Proposed Ground Floor Plan Drawing No. 212 Revision P5 dated 26/06/2023
- Proposed First Floor Plan Drawing No. 213 Revision P4 dated 26/06/2023
- Proposed Attic Plan Drawing No. 214 Revision P4 dated 26/06/2023
- Proposed Roof Plan Drawing No. 215 Revision P4 dated 26/06/2023
- Proposed South (Front) Elevation Drawing No. 240 Revision P5 dated 26/06/2023
- Proposed West Elevation Drawing No. 241 Revision P5 dated 26/06/2023
- Proposed North Elevation Drawing No. 242 Revision P4 dated 26/06/2023
- Proposed East Elevation Drawing No. 243 Revision P5 dated 25/07/2023
- Proposed East Sectional Elevation Drawing No. 244 Revision P4 dated 26/06/2023
- Proposed North Sectional Elevation Drawing No. 245 Revision P4 dated 26/06/2023
- Proposed West Sectional Elevation Drawing No. 246 Revision P4 dated 26/06/2023
- Proposed South Sectional Elevation Drawing No. 247 Revision P4 dated 26/06/2023

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

5. Notwithstanding details approved in Conditions 2 above, the three conservation rooflights formed in the east elevation of the proposed side extension shall remain non-opening and made from opaque glazing in perpetuity and shall not be repaired or replaced other than with opaque glazing.

REASON - In the interests of maintaining the residential amenity.

6. The development hereby approved shall not be carried out otherwise than in complete accordance with the submitted Arboricultural Impact Assessment (Revision B) and the Arboricultural Method Statement (Revision B) and the Tree Protection Plan detailed below submitted by AllAboutTrees:-

- Arboricultural Impact Assessment Tree Protection Plan (TPP Rev B) dated 19/07/2023

REASON – In the interest of the visual appearance of the development and to protect trees within the site.

7. No demolition, site clearance or building operations shall be commenced until 2m high fencing consisting of galvanized tube, braced to resist impacts and supporting by a welded

mesh wired to the uprights and horizontals to dissuade encroachment has been erected around the root protection area,

REASON – To safeguard the life of the trees within and adjacent to the site by protecting them from damage.

8. (E9) None of the following activities shall be carried out under the canopy spread of any trees or within a minimum of five metres of the trunks whichever is the greater, except with the consent in writing of the Local Planning Authority :-

- (i) the raising or lowering of levels in relation to the existing ground level;
- (ii) cutting of roots, digging of trenches, removal of soil;
- (iii) the construction of buildings, roads or the carrying out of other engineering operations;
- (iv) the lighting of fires;
- (v) driving vehicles over the area below the spread of the branches of the tree; and
- (vi) the storing of materials or equipment.

REASON - In the interests of the visual amenities of the area and to safeguard the wellbeing of the tree(s) on the site.

9. The development shall not be carried out otherwise than in complete accordance with the methodology set out in the submitted Ecological Impact Assessment submitted by Naturally Wild (HOO-21-09 dated August 2021) unless otherwise agreed in writing by the Local Planning Authority.

REASON – To accord with the Wildlife & Countryside Act 1981

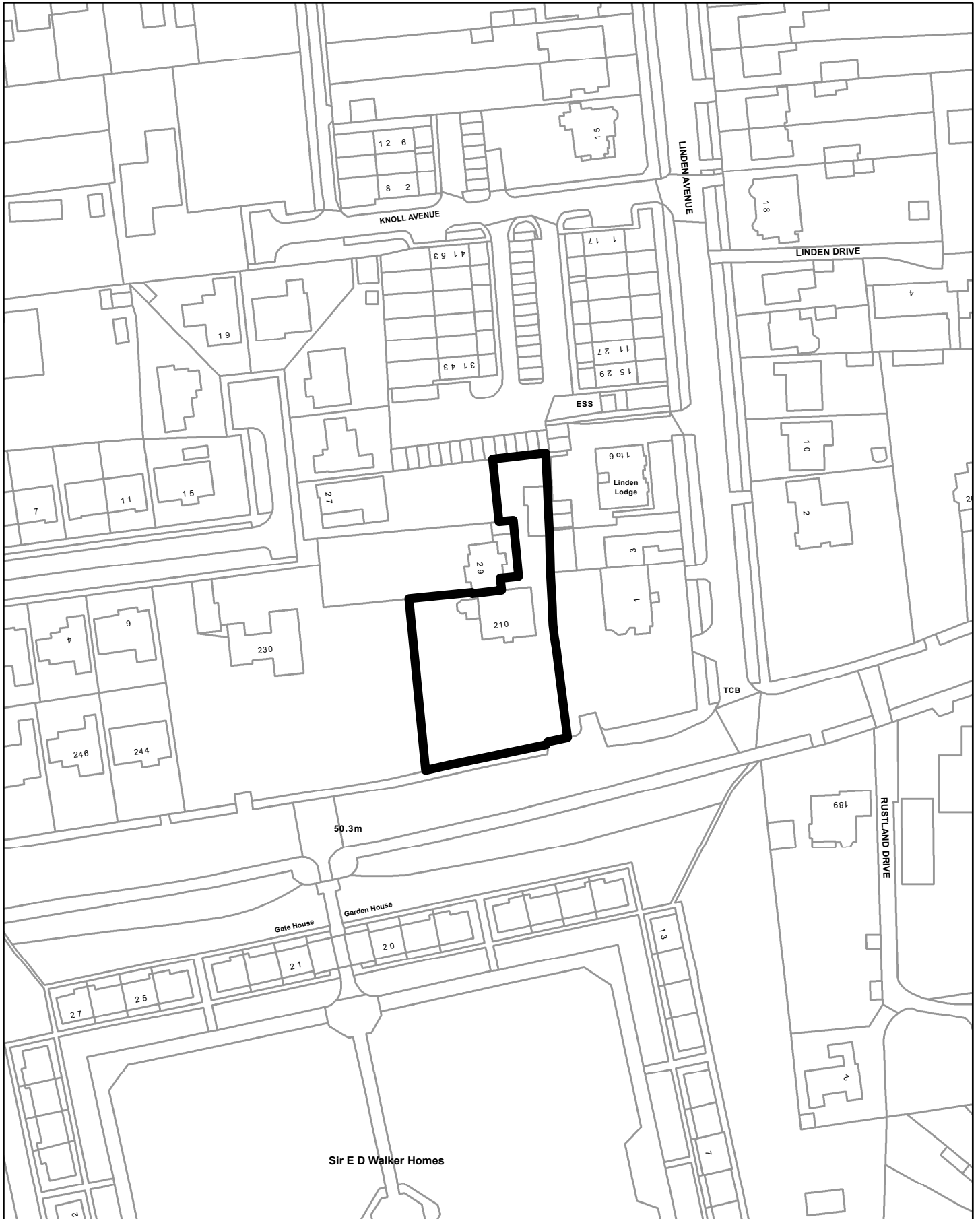
10. Prior to the commencement of the development, details of the proposed nest boxes should be submitted to and approved in writing by the Local Planning Authority and said nest boxes should remain in situ for the lifetime of the development.

REASON – To accord with the submitted Ecological Impact Assessment detailed in Condition 9.

INFORMATIVES

- The applicant is advised that the granting of planning permission does not negate the need to fulfil the requirements of the Party Wall etc, Act 1996.
- Nesting birds have legal protection under the Wildlife and Countryside Act 1981, and it is up to the applicant's ecologist advisor to ensure that no offence is committed under this wildlife legislation.

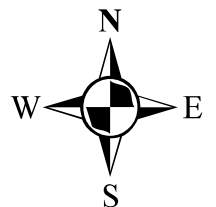
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Planning Ref No: 22/00432/FUL

DARLINGTON BOROUGH COUNCIL



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DARLINGTON BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 06 September 2023

APPLICATION REF. NO:	23/00236/TF.
STATUTORY DECISION DATE:	15 th August 2023.
WARD/PARISH:	HEIGHINGTON AND CONISCLIFFE; HEIGHINGTON PARISH COUNCIL.
LOCATION:	2 Darlington Road; Heighington.
DESCRIPTION:	Felling of 1 no. Sycamore protected by Tree Preservation Order (No.8) 1995.
APPLICANT:	Mr. Keith McAllister.

RECOMMENDATION: REFUSE PERMISSION (*see details below*).

Application documents including application forms; submitted plans; supporting technical information; consultations responses and representations received; and other background papers are available on the Darlington Borough Council website via the following link:- <https://publicaccess.darlington.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RQVYS6FP0BM00>

APPLICATION AND SITE DESCRIPTION:

Description Of The Site And Surrounding Area.

1. The Sycamore Tree (*identified as T.1 in the TPO Schedule*); that is the subject of this application is located within the grounds of the application site, 2 Darlington Road; Heighington.
2. The Tree stands in the front garden of no. 2 Darlington Road a detached dwelling; located adjacent to the main road leading into the village. The Sycamore is a mature specimen and has an imposing presence within the street scene. The immediate area surrounding the application site is seen in conjunction with other nearby mature trees; providing a green setting to the entrance to the village. As such, the tree forms an important part of the wider landscape setting of the area; contributing as a strong element to the local skyline giving the Sycamore substantial public amenity value.

3. The tree is not situated within a designated Conservation Area; however the tree is clearly seen adjacent the Heighington Conservation Area.

4. There are no further TPO trees on site.

Proposal.

5. The application seeks consent to conduct the following works:-

Description of Works.

7. The applicant has provided a brief description of the proposed works and the reasons for the works which can be summarised up as follows: -

“The proposed felling is required due to defects within the boundaries and landscaping in the location of the Sycamore Tree.”

RELEVANT PLANNING HISTORY:

8. There is no relevant planning history for the site.

MAIN PLANNING ISSUES:

9. The main planning issues relevant to this application are:-

- Amenity value of the tree.
- Impact on the local environment.

PLANNING POLICIES:

The application must be considered in the context of Part VIII of the Town & Country Planning Act and The Town & Country Planning (Tree Preservation)(England) Regulation 2012, the National Planning Policy Framework (NPPF) (2021) and Tree Preservation Orders: A Guide to the Law and Good Practice and the National Planning Practice Guidance.

RESULTS OF TECHNICAL CONSULTATION:

11. The councils Senior Arboricultural Officer has *objected* to the planning application in raising the following points: -

a. It is recommended that authorisation be *refused* to remove the tree; as there are no visible signs that the co-dominate stems have an inclusion and that it is split; the Ivy is still in situ over the co-dominate stems.

- I disagree that the tree is too large for its location as there are many trees in similar locations. There are thousands of trees which are in closer proximity to dwellings.
- Damage to buildings due to vegetation-linked subsidence is far less frequent than is often commonly believed. However; occasionally difficulties can occur when inadequate foundations are placed on a shrinkable clay soil; adjacent to the roots of vegetation. It is then; usually in periods of extended drought that effects can be noted of movement in a building's foundations
- Leaves and birds nesting in trees is a natural occurrence; to remove a tree due to leaf fall and bird dropping is poor arboreal practise as this would set a dangerous precedent if it were undertaken for that reason. Clearing fallen leaves is up to the owner.
- The wall adjacent to the tree should be reconstructed to allow movement of the tree.
- The tree is highly visible from a public place and as such contributes significantly to the landscape adjacent to the Conservation area.
- The structural report is not from a Structural Engineer.

RESULTS OF PUBLICITY AND NOTIFICATION:

12. Occupiers of neighbouring properties were advised of the proposal by way of letter and a site notice has been displayed.

13. Two letters of representation have been received in *support* of the application which are summarised below.

- The tree is exceptionally large and could potentially cause structural damage.
- Seeds from the tree scatter into the garden and take root as well as gathering on the sloping drive which in wet weather becomes slippery and dangerous.

15. Heighington Parish Council have been consulted and are in *support* of this application.

PLANNING ISSUES/ANALYSIS (*Planning Considerations*):

16. The determining issues in this application are the affect that the proposed works would have on the amenity value of the area and whether sufficient justification has been provided for its felling in the light of its protected status.

18. The councils Senior Arboricultural Officer has conducted a visual inspection of the tree; and following the conclusion of the inspection it was concluded that:-

a. The mature Sycamore (<i>Acer psuedoplatanus</i>) appeared to be in reasonable condition and good form at the time pf the inspection. The tree has co-dominate stems and Ivy has created a visible constraint to this area. The bark has been damaged on the trees stem; allegedly when the Ivy was severed and as such chainsaw cuts are visible. Also, bolts have entered the trees trunk seemingly to secure the fence.
--

b. The tree makes a significant contribution to public visual amenity.
--

c. the proposed works are <i>not justified</i> as the applicant has not shown any evidence to suggest conclusively that the trees structural integrity has been compromised, the tree is still highly visible, and is an important feature as you enter and leave Heighington.
--

19. The applicant has provided a Structural Report into the perceived defects to the boundaries and landscaping within the location of the Sycamore Tree (T.1); the main issues of which are: -

- Cracking to the stone boundary wall adjacent to the tree.
- Cracking to the timber post to the timber fence adjacent to the tree.
- Cracking to the surrounding hard landscaped surfaces.

20. The primary purpose of the Structural Report was to assess the impact that the Sycamore Tree was having upon the boundaries and landscaping of the site and also to the application property and the adjacent highway.

21. In addition to the Structural Report the applicant has also provided a Tree Report. The Tree Report focused mainly on the overall structural condition of the tree and the subsequent need to fell the tree rather than the perceived issues with the tree roots and the damage that the trees roots are allegedly causing to the retaining boundaries and landscaping .

22. The Structural Report; implies that the defects to the boundaries and landscaping have occurred due to pressure caused by the root action of the tree. However, the structural report failed to provide any substantial evidence to suggest that this is the case. The submitted Structural Report focused more on the distance the tree was from the main house; the trees age and declining its condition.

23. It should be noted that the Structural Report was commissioned by a building consultancy and not by a structural engineer and as such the report made no reference to an alternative solution to alleviate the perceived defects to the boundaries and landscaping rather than felling a healthy tree which is statutorily protected.

24. **Key Issues:** -

- Impact upon visual amenity (*the effect of the proposed felling of a protected tree upon the character and appearance of the area*).

- Whether sufficient justification has been demonstrated for the works (*felling*).

Impact upon the amenity of the area.

(Amenity value of the Sycamore Tree and the likely effect of its removal).

25. The tree has a preservation order placed upon it in accordance with The Town and Country Planning (Tree Preservation) (England) Regulation 2012.

27. It is the subject of a Tree Preservation Order and is therefore considered to have a prominent level of amenity value. The work as proposed has been assessed by the councils Senior Arboricultural Officer.

28. The Tree; can be seen from a distance within both Darlington Road and surrounding streets. This makes the tree a landmark feature within the street scene and provides a significant contribution to the character of the Conservation Area therefore the reasons to justify the proposed felling need to be compelling. The Sycamore Tree (T.1); is a large tree in a reasonable condition and in the council's opinion the area's amenity would be harmed by the tree's removal.

29. The felling of the Sycamore Tree (T.1); would create a large void on the eastern side of the site close to its entrance; and as such any replacement tree would take many years to reach the same stature and level of visual amenity value as of the existing specimen. As such, replacement planting would not be sufficient to mitigate the harm that would arise to the character and appearance of the Conservation Area from its removal.

30. Therefore in the opinion of the Local Planning Authority the proposal to fell the tree is unacceptable due to its amenity value. Furthermore, the tree is healthy and in a reasonable condition and the unjustified loss of the tree would have a negative impact on the visual amenity of the area.

Whether sufficient justification has been provided for the proposed felling.

(Whether the felling is justified in the circumstances of this application);

32. The Local Planning Authority is required to consider the public benefit of proposed works to protected tree(s); and whether the reasons given for its removal justify this course of action.

33. the applicant has indicated that the roots of the tree are perceived to be causing damage to the boundaries and landscaping of the property.

34 It should be noted however that they can often become degraded over time due to their cosmetic nature whether trees are present or not. Consequently, they require periodical maintenance or restructure.

35. However notwithstanding the above; the applicant has provided a Structural Report, but the report concentrated more on the distance the tree was from the main house and the risk of it failing rather than focusing on the perceived damage as caused by the tree's roots.

36. No alternatives to the felling of the Sycamore have been provided.

37. After considering all the above; it is felt that there is no justification to fell the Sycamore Tree as in the councils opinion it would be possible to accommodate both the tree and repair the wall using appropriate engineering techniques.

42. In dealing with an application to fell protected tree(s); a balancing exercise needs to be undertaken. The justification for the felling must be weighed against the resultant loss to the amenity of the area.

43. In this case the felling of the tree would have a demonstrably harmful effect on the visual amenity of the area; and the points put forward to justify its removal fall short of outweighing the harm that would be caused.

Conclusion

44. Based on the councils Senior Arboricultural Officer's assessment the tree is considered to be a healthy reasonable specimen. It is not considered that the reasons given to support the felling are sufficient to justify its removal. Many of the issues raised could be dealt with by property maintenance or repair.

PUBLIC SECTOR EQUALITY DUTY:

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

SECTION 17 OF THE CRIME AND DISORDER ACT 1998:

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

RECOMMENDATION:

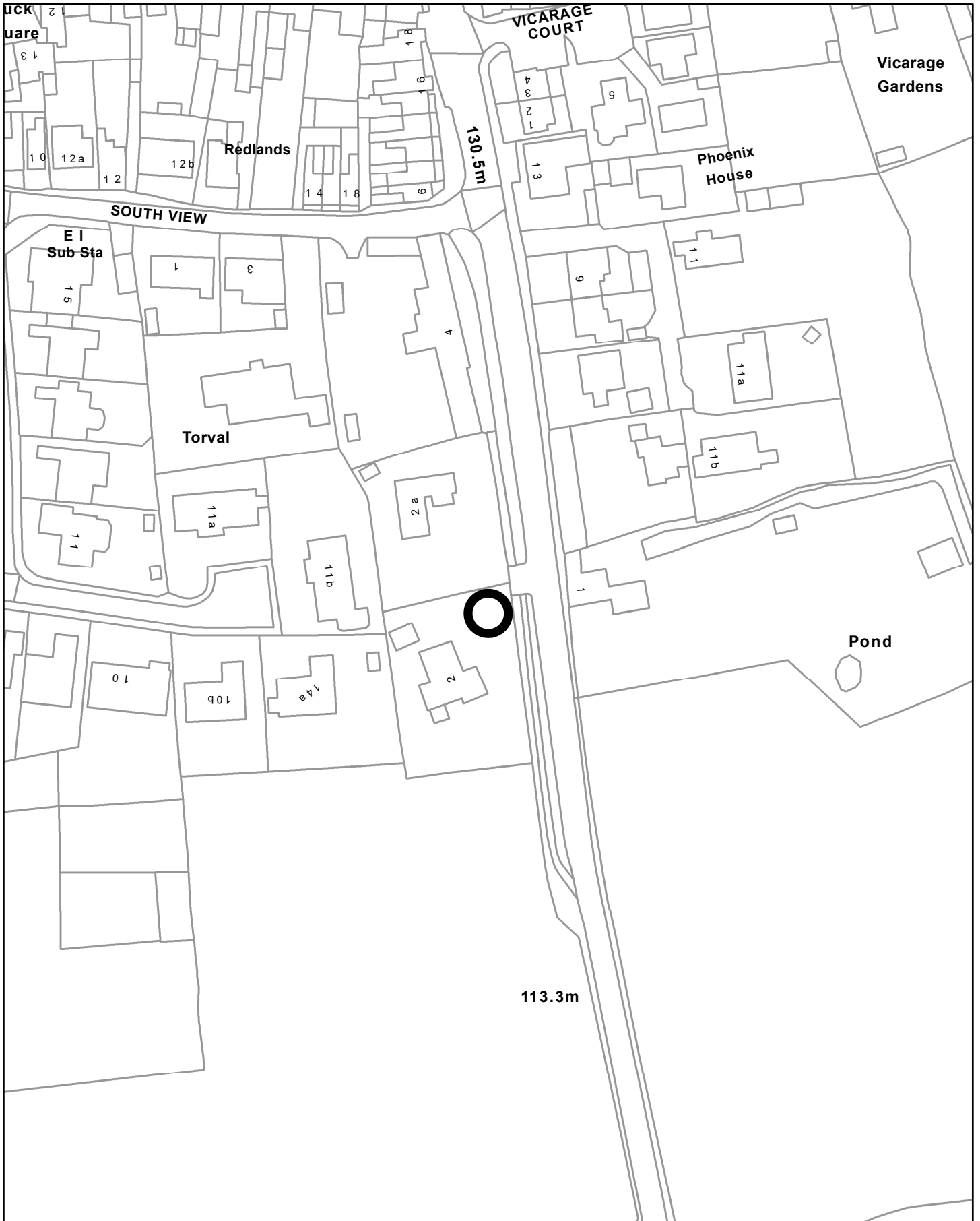
49. To **REFUSE** consent.

REASON:-

In the opinion of the Local Planning Authority the Sycamore Tree (T.1) is considered to be in reasonable form and condition and is highly valuable tree in the street scene, contributing to the

visual amenities of the area. The proposed felling has not been adequately justified; and alternatives have not been adequately explored. It's removal would therefore be contrary to Part VIII of the Town & Country Planning Act and The Town & Country Planning (Tree Preservation)(England) Regulation 2012; the National Planning Policy Framework (NPPF) (2021) and Tree Preservation Orders and Planning Practice Guidance (PPG).

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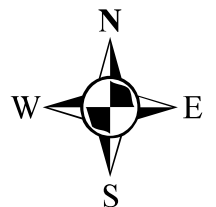


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Planning Ref No: 23/00236/TF

DARLINGTON BOROUGH COUNCIL

Page 71



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DARLINGTON BOROUGH COUNCIL

APPEAL AGAINST REFUSAL FOR PLANNING PERMISSION

APPLICATION REF. NO:	23/00043/ADV,
APPEAL REF. NO:	Appeal Ref: APP/N1350/Z/23/3321039
LOCATION:	Harrowgate Sports and Social Club, Salters Lane North, Darlington DL1 3DT
DESCRIPTION:	The advertisement proposed is the erection and display of a freestanding 48-sheet advertisement.
APPLICANT:	Vivid Outdoor Media Solutions (B) Limited

PLANNING OFFICER: Christina McAlpine

KEY POINTS TO NOTE:

- Its size and location results in a prominent and visually intrusive feature.
- Level of illumination not acceptable due to size and location. Existing street lighting does not overcome this concern.
- Controlling the illumination is not sufficient, signage would still appear out of character during evening hours or poor weather.
- Using the signage for public information or emergency messages, not considered a benefit that outweighs identified harm.
- Limited evidence to suggest advertisement would encourage economic growth. But this could be achieved by advertisements elsewhere in the borough, where visual harm would not occur.
- In conclusion, the advertisement would harm the visual amenity of the area and be contrary to local planning policies DC1 and DC4. Its urban location does not justify the harm the proposed advertisement would create and thus contrary to NPPF too.

REASON(S) FOR REFUSAL:

In the opinion of the Local Planning Authority, the proposed freestanding digital advertisement is considered an unnecessary form of advertising which by virtue of its scale, illumination and location is considered to form a large and incongruous feature within the street scene to the detriment of the character and appearance of this urban area. The proposal is therefore contrary to Local Policies DC1 and DC4 of the Darlington Local Plan (2016-2036) and paragraph 136 of the National Planning Policy Framework 2021.

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Appeal Decision

Site visit made on 8 August 2023

by **L Clark BA(HONS) DIPTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 18 August 2023

Appeal Ref: APP/N1350/Z/23/3321039

Harrowgate Sports and Social Club, Salters Lane North, Darlington

DL1 3DT

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
 - The appeal is made by Vivid Outdoor Media Solutions (B) Limited against the decision of Darlington Borough Council.
 - The application Ref 23/00043/ADV, dated 10 January 2023, was refused by notice dated 2 March 2023.
 - The advertisement proposed is the erection and display of a freestanding 48-sheet advertisement.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed advertisement on the visual amenity of the area with particular regards to its scale, illumination and location.

Reasons

3. The appeal site is a large predominantly two storey detached building set within an extensive plot currently occupied by Harrowgate Sports and Social Club. The building is set back from Salters Lane North by an area of lawn. The general area is a residential suburban location characterised by two storey semi-detached and detached dwellings. Directly opposite the site is an area of open space screened by trees.
4. The openness of the appeal site's frontage, the tree lined boundary of the open space opposite and the surrounding predominantly residential area is generally free from clutter and commercial advertisements. This provides an attractive vista along Salters Lane North.
5. Although the advertisement would not face towards any residential dwellings it would be viewed in the context of the street scene, sitting forward of the host property and above the tall boundary wall. Its size and location would result in a prominent and visually intrusive feature within the street scene, which would be significantly at odds with the established character and appearance of the area. Whilst I noted street lighting in the locality, the illumination of the advertisement would be more obvious given the size of the advertisement, which would contribute to its prominence. Even noting that the level of illumination could be controlled and the presence of streetlighting, I find that

the illumination particularly in the evening and in poor weather would appear as an alien feature in the street scene.

6. Given the above, I conclude that the proposed advertisement would be harmful to the visual amenity of the area. In accordance with the Regulations, I have taken into account the provisions of the development plan so far as they are relevant. Policy DC1 of the Darlington Local Plan 2016-2036 seeks to ensure that development reflects the local environment, with Policy DC4 seeking to ensure that new development is sited, designed and laid out to protect amenity. Given my conclusions there would be conflict with these policies.

Other Matters

7. I note the appellant's claim that the advertisement could be utilised for public information or emergency messages, but have not been presented with substantive evidence regarding how this would be controlled. This matter does not outweigh the identified harm.
8. The National Planning Policy Framework is clear that the quality and character of places can suffer when advertisements are poorly sited and designed. That is the case in this appeal and its urban location does not justify a harmful advertisement.
9. I note the suggestion that advertisements encourage economic growth, but limited evidence has been submitted to quantify such a benefit. In any event such a benefit could be accrued by advertisements located elsewhere where harm to visual amenity would not occur. This does not alter the conclusions I have reached.

Conclusion

10. For the reasons given above, and having had regards to all other matters raised, I conclude that the appeal should be dismissed.

L Clark

INSPECTOR

DARLINGTON BOROUGH COUNCIL

APPEAL AGAINST REFUSAL FOR PLANNING PERMISSION

APPLICATION REF. NO:	23/00068/FUL
APPEAL REF. NO:	Appeal Ref: APP/N1350/D/23/3321983
LOCATION:	37 Leach Grove DARLINGTON DL3 0TW
DESCRIPTION:	Erection of porch to front elevation (re-submission)
APPLICANT:	Mr Nick Cooper

ASSISTANT PLANNING OFFICER: PATRICIA BASTON

BRIEF SUMMARY:

The main issue is the effect of the proposed development on the character and appearance of the existing building and surrounding area, with particular regards to the design, location and materials.

KEY POINTS TO NOTE:

- Appeal property is located on the periphery of a modern housing estate on a corner plot which is set forward of the building line created by its immediate neighbours and benefits from a greater separation between the plots by virtue of its double garage
- The proposed porch would be set centrally within the front elevation and would result in a large forward projection which would differ significantly from the front of nearby properties by reason of its scale, height, and enclosed design resulting in an incongruent and unduly prominent feature to the front elevation
- Proposed materials do not respond positively to the local context

REASON(S) FOR REFUSAL:

The proposed development, by reason of its design and location would disrupt the appearance of the application property and the wider street scene, given its unduly large scale and use of unacceptable materials. Furthermore, the incongruous feature would have a harmful visual impact and would be detrimental to the existing visual amenities and character of the area and would therefore be contrary to policy DC1 of the Darlington Local Plan 2016-2036.

APPEAL DISMISSED

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Appeal Decision

Site visit made on 8 August 2023

by **L Clark BA(HONS) DIPTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22 August 2023

Appeal Ref: APP/N1350/D/23/3321983

37 Leach Grove, Darlington DL3 0TW

- 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 Nick Cooper against the decision of Darlington Borough Council.
 - The application Ref 23/00068/FUL, dated 19 January 2023, was refused by notice dated 27 February 2023.
 - The development proposed is a front porch.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on the character and appearance of the existing building and surrounding area, with particular regards to the design, location and materials.

Reasons

3. The appeal property is located on the periphery of a modern housing estate. It is set within a corner plot, set forward of the building line created by its immediate neighbours and benefits from a greater separation between plots than nearby development by virtue of its double garage. The estate is characterised predominantly by two storey semi-detached and detached residential dwellings, with canopies over the front doors, varying in design.
4. The porch would be set centrally within the front elevation and would result in a large forward projection. It would differ significantly from the treatment of the front of nearby properties because of its scale, height and enclosed design, and would result in an incongruent and unduly prominent feature to the front elevation of the host property.
5. Furthermore, whilst I acknowledge that there are differences in terms of brick pattern and materials between the appeal property and its immediate neighbours and that oak would weather; these differences do not persuade me that the host property is markedly different to warrant the use of alternative materials to those found upon it. As such I consider the materials fail to respond positively to the local context.
6. I conclude that the porch would cause harm to the character and appearance of both the host property and wider area, contrary to the design principles of Policy DC1 of the Darlington Local Plan 2016-2036 which seeks, amongst other matters for development to respond positively to the local context in terms of

scale, form, height and materials. There would also be conflict with the National Planning Policy Framework, which seeks, amongst other matters for development to be sympathetic to local character.

Other Matters

7. Whilst it is submitted that examples of this type of structure are found within Darlington on similar house types, no examples have been provided. Furthermore, the presence of examples elsewhere does not provide justification for harmful development.
8. With regards to the appellant's claim that the porch would allow for enhanced views across the neighbouring open space which could act as a deterrent to anti-social behaviour, I have not been presented with substantive evidence regarding any existing anti-social behaviour. I note the suggestion that the porch would assist with the energy efficiency of the building, but this has not been substantiated. These matters carry limited weight and do not alter those conclusions that I have reached.

Conclusion

9. For the reasons set out above, and having had regard to all other matters raised, the proposal conflicts with the development plan taken as a whole. There are no other considerations which indicate that the decision should be made other than in accordance with the development plan. I conclude that the appeal should be dismissed.

L Clark

INSPECTOR

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

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