



Planning Applications Committee Agenda

1.30 pm, Wednesday, 11 October 2023
Council Chamber, Town Hall, Darlington DL1 5QT

1. Introductions/Attendance at Meeting
2. Declarations of Interest
3. To Approve the Minutes of the Meeting of this Committee held on 6 September 2023 (Pages 5 - 10)
4. Introduction to Procedure by the Assistant Director, Law and Governance's Representative (Pages 11 - 12)
5. Applications for Planning Permission and Other Consents under the Town and Country Planning Act and Associated Legislation (Pages 13 - 14)
 - (a) 17B The Green, High Coniscliffe (Pages 15 - 22)
6. Objection to Tree Preservation Order Number 2023 No. 04 YMCA, Middleton Court, Middleton Road, Darlington, DL1 1SL – Report of the Chief Executive (Pages 23 - 28)
7. 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
8. Questions

PART II

9. Notification of Appeals –

The Chief Executive will report that :-

Mr Geoff Wood has appealed against this Authority's decision to refuse permission for erection of a 1.83m high timber fence to side and rear boundary at 2 Fox Close,

Hurworth Place, Darlington DL2 2HG (23/00311/FUL)

Recommended – That the report be received.

PART III

EXCLUSION OF THE PUBLIC AND PRESS

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

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

11. Complaints Received and Being Considered Under the Council's Approved Code of Practice as of 29th September 2023 (Exclusion Paragraph No. 7) – Report of the Chief Executive (Pages 29 - 38)

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

13. Questions



Luke Swinhoe
Assistant Director Law and Governance

Tuesday, 3 October 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, Democratic and Elections Officer, Operations Group, during normal office hours 8.30 a.m. to 4.45 p.m. Mondays to Thursdays and 8.30 a.m. to 4.15 p.m. Fridays E-Mail: paul.dalton@darlington.gov.uk or telephone 01325 405805

PLANNING APPLICATIONS COMMITTEE

Wednesday, 6 September 2023

PRESENT – Councillors Ali, Allen, Anderson, Haszeldine, Kane, Laing, Lawley, McCollom, Tostevin and Wallis.

APOLOGIES – Councillors Bartch, Cossins, Lee and Robinson.

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).

PA33 DECLARATIONS OF INTEREST

There were no declarations of interest reported at the meeting.

PA34 TO APPROVE THE MINUTES OF THE MEETING OF THIS COMMITTEE HELD ON 9 AUGUST 2023

RESOLVED – That, with the addition of the following ‘Note’ at Minute PA28,

‘During discussion on the Application, Councillor Durham, addressing the Committee in his capacity as Ward Councillor, requested that the biodiversity credits managed by Durham Wildlife Trust be ring-fenced for use by Brinkburn Nature Reserve. Members expressed agreement with this request, and the Applicant’s Agent also agreed that this would be undertaken.’

the Minutes of this Committee held on 9 August 2023 be approved as a correct record.

PA35 APPLICATIONS FOR PLANNING PERMISSION AND OTHER CONSENTS UNDER THE TOWN AND COUNTRY PLANNING ACT AND ASSOCIATED LEGISLATION

PA36 15 STATION TERRACE, MIDDLETON ST GEORGE

23/00637/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 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, an initial 58 letters of objection and 23 letters of representation received, a further three letters of objection and 14 letters of representation received, the views of Middleton St. George Parish Council, one further letter of support and one further letter of objection received subsequent to the publication of the Agenda for the

meeting, the views of the Applicant, and one Supporter, whom the Committee heard. Members were also notified that the Applicant had subsequently advised they would be willing to keep the maximum number of covers to be served at any time at 20, the figure already established in Condition 6.).

Members took the view that, if the number of covers that would be served at any one time did not change, then there would be no greater impact on parking, highway safety or residential amenity.

RESOLVED – That 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.

PA37 210 CONISCLIFFE ROAD, DARLINGTON

22/00432/FUL - 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).

(In making its decision, the Committee took into consideration the Planning Officer's report (previously circulated), the views of the Council's Highways Engineer, Senior Arborist and the Conservation Consultant, four letters of objection received in response to the original proposal, one further letter of objection received in relation to the latest amended plans, the views of the Applicant, the Applicant's Agent and one Objector, whom the Committee heard).

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

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

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

2. The development hereby permitted shall be 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.

11. The work to the boundary wall hereby permitted shall be carried out in accordance with the details shown on drawing no. 0359-HOOT-XX-XX-DR-A 280 Revision P1 dated 26.04.2022 entitled 'Proposed Indicative Boundary Wall Detail'.

REASON - To ensure the development is carried out in accordance with the planning permission and to minimise impact on tree roots along the boundary with No. 1 Linden Avenue.

PA38 2 DARLINGTON ROAD, HEIGHINGTON

23/00236/TF - Felling of 1 no. Sycamore protected by Tree Preservation Order (No.8) 1995.

(In making its decision, the Committee took into consideration the Planning Officer's report (previously circulated), the objections of the Council's Senior Arboricultural Officer, two letters of representation in support of the application, the views of the Heighington Parish Council, and the views of the Applicant, whom the Committee heard).

RESOLVED – That consent be refused.

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).

PA39 NOTIFICATION OF DECISION ON APPEALS

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

Dismissed an 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).

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

RESOLVED – That the reports be received.

PA40 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.

PA41 COMPLAINTS RECEIVED AND BEING CONSIDERED UNDER THE COUNCIL'S APPROVED CODE OF PRACTICE AS OF 25 AUGUST 2023 (EXCLUSION PARAGRAPH NO. 7)

Pursuant to Minute PA32/Aug/2023, the Chief Executive submitted a report (previously circulated) detailing breaches of planning regulations investigated by this Council, as at 25 August 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 – 11 October 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
17B The Green, High Coniscliffe	23/00593/FUL

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DARLINGTON BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 11 October 2023

APPLICATION REF. NO:	23/00593/FUL
STATUTORY DECISION DATE:	13 October 2023
WARD/PARISH:	Heighington And Coniscliffe
LOCATION:	17B The Green, High Coniscliffe Darlington DL2 2LJ
DESCRIPTION:	Replacement of uPVC windows and door on front elevation (Retrospective Application)
APPLICANT:	Julie Gardner

RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS

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

<https://publicaccess.darlington.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RW6IPZFP0C200>

APPLICATION AND SITE DESCRIPTION

1. The planning application site is a dwelling within a row of three relatively modern houses, of no particular architectural merit, located on the north side of The Green (A67) in High Coniscliffe. The properties are Nos 17A, 17B and 17C The Green and they are within the High Coniscliffe Conservation Area. No 17B, which is the subject of this planning application, is located in the centre of the block.
2. This is a retrospective planning application for the insertion of three new UPVC windows and a UPVC door in the front elevation of the property.
3. Planning permission is not usually required for repair works, repainting, maintenance and minor improvement works to existing windows, or for the insertion of new windows and doors where they are of similar appearance to those used in the construction of the house.

4. In this instance, white UPVC windows and a black UPVC door in the front elevation of No 17B The Green have been replaced by anthracite grey UPVC windows and a pink UPVC door. The previous windows were multi paned with top opening features whilst the replacement windows are a mix of single pane (first floor) and single pane and top hung outward opening windows within the larger living room and bedroom openings. UPVC shutters which were decorative rather than functional features on either side of the windows have been removed along with a UPVC door surround with a projecting roof.
5. The replacement windows and doors are not of similar appearance to the previous windows and door and therefore this retrospective planning application has been submitted to regularise the works.

MAIN PLANNING ISSUES

6. The main planning issues to be considered here are whether the windows are acceptable in the following terms:
 - a) Impact on the Character and Appearance of the High Coniscliffe Conservation Area, the Dwelling and the general street scene

PLANNING POLICIES

7. The relevant local development plan policies are relevant along with the National Planning Policy Framework 2021:
 - DC1 - Sustainable Design Principles and Climate Change
 - ENV1 - Protecting, Enhancing and Promoting Darlington's Historic Environment

RESULTS OF PUBLICITY AND NOTIFICATION

8. Following the Council's notification and publicity exercises, four letters of objection and two letters of support have been received. The letters of objection can be summarised as follows:
 - *The village is in a conservation area and the black windows and pink door are not in keeping with the other houses in the village at all.*
 - *Other properties which have black windows are at the back of the properties and are not visible to the village*
 - *The window colour and style look completely different from all road facing properties in the village*
 - *The windows don't match the two houses either side*
 - *The houses built in the 2000s have windows in colour and style in keeping with the village and suitable for the conservation area*
 - *The priority should be to fully support and uphold the standards of the conservation area*
 - *The colour of the door installed does not blend with the traditional colours of the neighbouring properties*
 - *The windows bear no resemblance to the original design or colour of the previous windows*

- *The shape, colour, glass, colour of the windows and the brightly coloured door make the property look garish and tacky and not in keeping with the rest of the village*
- *Far from enhancing the property, it has made it more of an eyesore*

9. The letters of support can be summarised as follows:

- *There are some beautiful and historic properties in this village that stand out and shine for that reason. This particular property I believe is less than 50 years old, of modern fabrication, had uPVC windows, plastic shutters, added door furniture, columns etc. Some may now view the property as more authentic having more of a cottage look and feel*
- *I really don't see any reason as to why people would object against someone wanting to improve their windows and overall look of their home. Since the windows have been done the house looks a lot smarter and still has a homely cottage feel to it.*
- *I appreciate it is a conservation area, however people need to move with the times! It looks lovely*

10. High Coniscliffe Parish Council are of the opinion that the present replacement glazing of this property is not in keeping with that of the adjacent properties. The Parish Council have commented that this retrospective application should only be approved if it is acceptable to the appropriate officer of the council, bearing in mind that the village of High Coniscliffe is designated a conservation area

PLANNING ISSUES/ANALYSIS

a) Impact on the Character and Appearance of the High Coniscliffe Conservation Area, the Dwelling and the general street scene

11. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a duty to treat a finding of harm to a listed building and its setting as a consideration to which the decision-maker must give considerable importance and weight when carrying out the balancing exercise and subsequent case law has stated that it is not open to the decision-maker merely to give the harm such weight as he thinks fit, in the exercise of his planning judgment
12. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 asks that local planning authorities pay special attention to preserving or enhancing the character and appearance of conservation areas.
13. Policy ENV1 of the Local Plan states that when considering proposals affecting all designated heritage assets such as listed buildings and Conservation Areas great weight will be given to the asset's conservation. Proposals should conserve those elements which contribute to such asset's significance, including any contribution made by their setting in a manner appropriate to their significance irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm. Proposals resulting in less than substantial harm to designated heritage assets will be permitted only where this harm is clearly justified and outweighed by the public benefits of the proposal. Proposals resulting in substantial harm to or total loss of the significance of a designated heritage asset will only be permitted where this is necessary to achieve substantial public benefits that outweigh the harm or loss.

14. Any development affecting the setting of a listed building will be permitted if the proposal conserves or enhances either its significance and/or the contribution its setting makes to its significance.
15. In addition, proposals affecting a conservation area, involving the alteration, extension or change of use of a building or construction of any structure should preserve and enhance those elements identified in any conservation area appraisal as making a positive contribution to the significance of that area. Special attention should be given to:
 - a) existing architectural and historic character and associations by having regard to the positioning and grouping, form, scale, massing, detailing of development and the use of materials in its construction;
 - b) existing hard and soft landscaping features including areas of open space, trees, hedges, walls,
 - c) fences, watercourses and surfacing and the special character created by them; and
 - d) historic plot boundaries and layouts; and
 - e) the setting of the conservation area.
16. Policy ENV1 accords with the guidance contained within the National Planning Policy Framework 2021 on such matters.
17. Policy DC1 of the Local Plan seeks to ensure that new development reflects the local environment and responds positively to the local context, in terms of its scale, form, materials, colouring, fenestration and architectural detailing;
18. The Council have yet to produce a Character Appraisal for the High Coniscliffe Conservation Area, but it was designated in 1974. The Designation Report from 1974 states that High Coniscliffe is a pleasant example of a roadside village and it lies within well-defined limits marred only by some unsympathetic development at the west end. The report states that the village street is an almost continuous row of houses and it recognises that the houses range from the 18th century to the present, which nevertheless blends successfully despite the various styles and materials.
19. The Conservation Area is quite extensive and covers the main buildings in the village along with the riverbanks and the surrounding land to help maintain its character and setting in the landscape. The following properties within the Conservation Area are listed buildings:
 - No23 The Green – Grade II* listed building
 - Nos 24 & 25 The Green – Grade II listed building
 - No 31 The Green – Grade II listed building
 - The Old Vicarage, No 48 The Green – Grade II listed building
 - Valley House, No 49 The Green – Grade II listed building
 - St Edwins Church, The Green – Grade II* listed building
 - Mill House, Mill Lane – Grade II listed building

20. Council records cannot confirm the precise date as to when Nos 17A to 17C The Green were constructed but it is likely to be the early 1970s prior to the Conservation Area designation. The multipaned windows and door surrounds would have been an attempt to blend the design of the properties into their surroundings. All three dwellings are set back from the public footpath by front gardens enclosed by low stone walls (Nos 17A and 17B) or a low brick wall (No 17C).
21. The visual appearance of the terrace has been the subject of changes in recent years. For example, by 2009, No 17A The Green had replacement shutters installed and the doors of Nos 17A and 17B differed from the front door on No 17C. By 2011 the shutters on either side of the ground floor window at No 17C The Green had been removed and by 2021, the white UPVC door at No 17B The Green had been replaced by a black UPVC door. The front boundary walls differ in materials between the properties too. There hasn't been any uniformity between the appearance of the three dwellings for some time.
22. The terrace is a flush fronted block with no architectural detailing, unlike on some other more traditional and historic dwellings found elsewhere along the roadside. It is a later addition to the street scene with pastiche UPVC features to try and assimilate the properties into the street scene.
23. The design of the replacement windows does differ from the windows on Nos 17A and 17C The Green. Whilst there are limited examples of coloured frames along the street, the predominate colour is white frames. The pink door has replaced a black door but the curved transom window above the door has been retained.
24. All three dwellings now differ in terms of door colour and design and the design of the shutters are not the same, where retained. Two of the properties have retained the UPVC door surround and projecting roof.
25. In general street scene terms, it is not uncommon to find streets where dwellings have greatly different window and door designs and colours. As a result, the works are not considered to harm the general appearance or character of the street (policy DC1 of the Plan).
26. With regard to the impact of the replacement windows on the Conservation Area, the main consideration is whether the significance of the Area has been sustained, harmed or improved.
27. Nos 17A to 17C The Green have no architectural or historic design features which make a valuable contribution towards the significance of the Conservation Area. The features which have been removed are quite modern additions and were UPVC pastiche versions of traditional features. The properties are set back from the public footpath to the front and the front elevations have been the subject of previous alterations. The Conservation Area Designation report from 1974 recognised that there were different house styles and materials within the village at the time of the Conservation Area been designated, this particular block of houses adds little to the general visual quality of the area. This statement would remain the same with the replacement windows and door still blending in with the street scene and the Conservation Area despite the difference in materials and colour.

28. If the window designs and colours within the High Coniscliffe Conservation Area were considered to be such an important feature of the Village and made a valuable contribution to the character, appearance and significance of the Conservation Area, the Area would be subject to an Article 4 Direction. However, there is no Article 4 Direction for the High Coniscliffe Conservation Area. It is also not uncommon to find coloured UPVC window frames or windows of varying designs within Conservation Areas elsewhere within the Borough.
29. The listed buildings identified in paragraph 19 of this report are further north west and south from the application site. They are separated by other dwellings or on the opposite side of the A67 and their settings have not been harmed by the works that have been carried out to the front elevation of No 17B The Green.
30. It is considered that whilst the replacement windows are different in terms of their design and colour to the properties on either side and those elsewhere within the dwellings on the roadside frontage, they do not have such an adverse impact on the dwelling, the street scene in general terms or upon the significance of the Conservation Area. The setting of the listed buildings within the Conservation Area would not be harmed. The replacement windows would comply with the local development plan policy and the National Planning Policy Framework 2021.

THE PUBLIC SECTOR EQUALITY DUTY

31. 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.

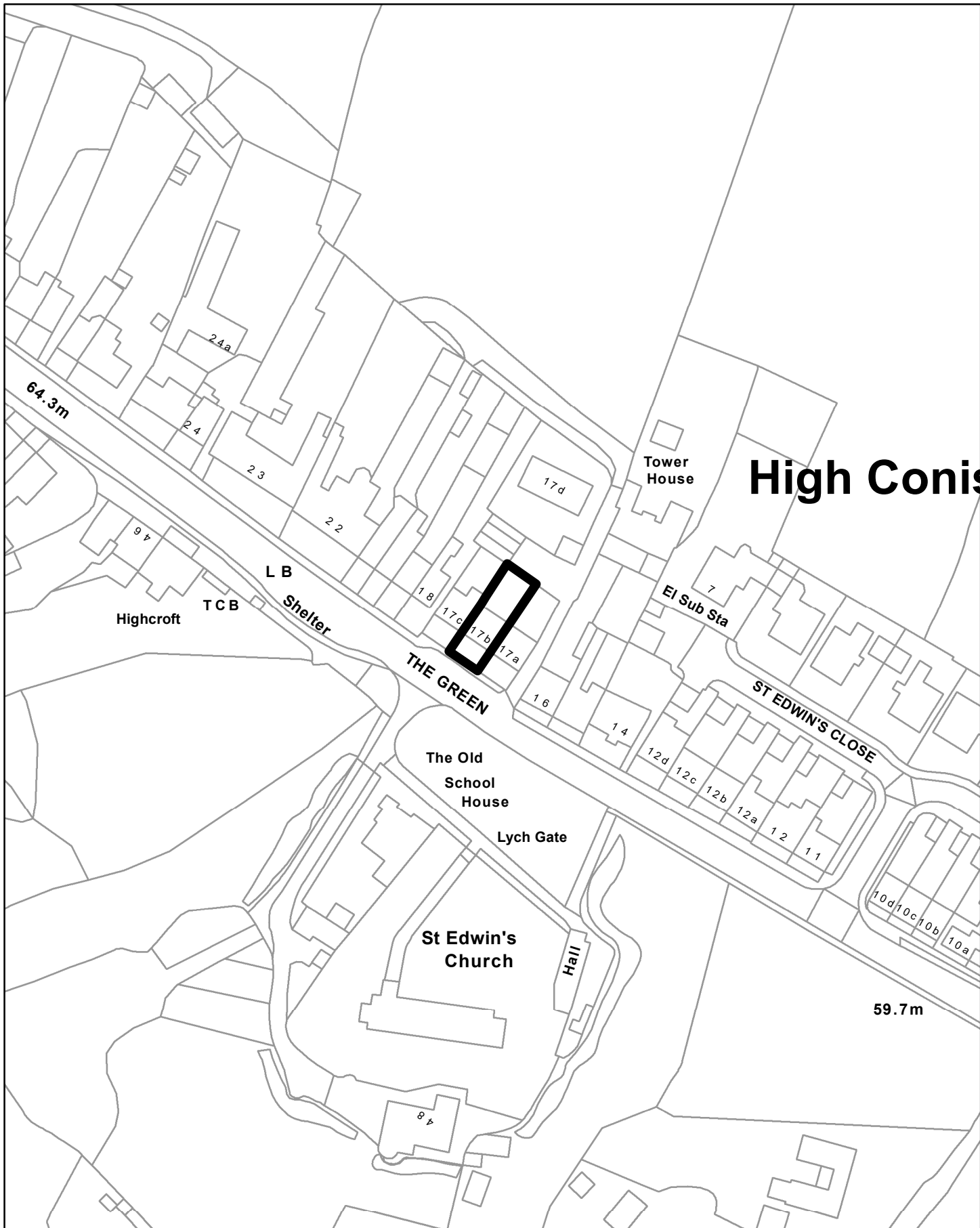
SECTION 17 OF THE CRIME AND DISORDER ACT 1998

32. 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

33. The replacement windows would sustain the significance of the High Coniscliffe Conservation Area and would not harm the setting of any listed buildings within the Area in accordance with policy ENV1 of the Local Plan and the National Planning Policy Framework 2021. They do not adversely harm the general appearance and character of the dwelling or the other dwellings within the roadside frontage (Policy DC1 of the Local Plan) and the planning application is recommended for approval.

THAT PLANNING PERMISSION BE GRANTED

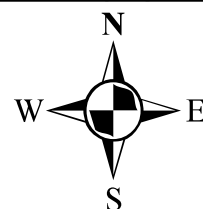


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DARLINGTON BOROUGH COUNCIL

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PLANNING APPLICATIONS COMMITTEE
11 OCTOBER 2023

OBJECTION TO TREE PRESERVATION ORDER NUMBER 2023 NO. 04
YMCA, MIDDLETON COURT, MIDDLETON ROAD, DARLINGTON, DL1 1SL

SUMMARY REPORT

Purpose of the Report

1. To advise members that an objection has been received in respect of Tree Preservation Order Number 2023 No. 04. The objection relates to this order which covers one early/mature Sycamore Tree, which is growing close to the northern boundary of the site.

Summary

2. Tree Preservation Order 2023 No. 04 was made on 14 April 2023 and protects one early/mature Sycamore Tree growing along the northern boundary of the YMCA, Middleton Court on Middleton Road in Darlington, under powers derived from section 198(1) of the Town and Country Planning Act 1990. The Tree Preservation Order was made due to the possibility that the tree may be removed if not protected. In the opinion of the Local Planning Authority, it is considered expedient to protect the tree by the making of a Tree Preservation Order as due to its reasonable form and condition; that it is visible from a public place and contributes significantly to the visual amenity of the surrounding residential area.
3. An objection has been received from Janine Browne, CEO for Tees Valley YMCA.

Recommendation

4. It is recommended that Members confirm the TPO without modification.

Ian Williams
Chief Executive

Background Papers

No background papers were used in the preparation of this report.

S17 Crime and Disorder	This report has no implications for crime and disorder
Health and Wellbeing	There are no Health and Wellbeing issues
Carbon Impact and Climate Change	There is no impact in this report
Diversity	There are no diversity issues
Wards Affected	Park East
Groups Affected	Not applicable

Budget and Policy Framework	This report does not represent a change to the budget and policy framework
Key Decision	This is not a key decision
Urgent Decision	This is not an urgent decision
Council Plan	No significant implications
Efficiency	No significant implications
Impact on Looked After Children and Care Leavers	This report has no impact on Looked After Children or Care Leavers

MAIN REPORT

Legal and Procedural Background

5. The power to make a Tree Preservation Order is derived from section 198(1) of the Town and Country Planning Act 1990: -

If it appears to a local planning authority that it is expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area, they may for that purpose make an order with respect to such trees, groups of trees or woodlands as may be specified in the order.

“Amenity’ and ‘Expediency”

6. Residents can request that a Local Planning Authority (LPA) consider the making of a TPO on a tree. However, the LPA must follow Government Guidance, see extracts below:-

Amenity

‘Amenity’ is not defined in law, so authorities need to exercise judgment when deciding whether it is within their powers to make an Order. Orders should be used to protect selected trees and woodlands if their removal would have a significant negative impact on the local environment and its enjoyment by the public. Before authorities make or confirm an Order, they should be able to show that protection would bring a reasonable degree of public benefit in the present or future.

What might a local authority consider when assessing amenity value?

When considering whether trees should be protected by an Order, authorities are advised to develop ways of assessing the amenity value of trees in a structured and consistent way, considering the following criteria:

Visibility

The extent to which the trees or woodlands can be seen by the public will inform the authority’s assessment of whether the impact on the local environment is significant. The trees, or at least part of them, should normally be visible from a public place, such as a road or footpath, or accessible by the public.

Individual; collective and wider impact

Public visibility alone will not be sufficient to warrant an Order. The authority is advised to also assess the particular importance of an individual tree, of groups of trees or of woodlands by reference to its or their characteristics including:

- *size and form.*
- *future potential as an amenity.*
- *rarity, cultural or historic value.*
- *contribution to, and relationship with, the landscape; and*
- *contribution to the character or appearance of a conservation area.*

Expediency

Although some trees or woodlands may merit protection on amenity grounds it may not be expedient to make them the subject of an Order. For example, it is unlikely to be necessary to make an Order in respect of trees which are under good arboricultural or silvicultural management.

It may be expedient to make an Order if the authority believes there is a risk of trees being felled, pruned or damaged in ways which would have a significant impact on the amenity of the area. But it is not necessary for there to be immediate risk for there to be a need to protect trees. In some cases, the authority may believe that certain trees are at risk as a result of development pressures and may consider, where this is in the interests of amenity, that it is expedient to make an Order. Authorities can also consider other sources of risks to trees with significant amenity value. For example, changes in property ownership and intentions to fell trees are not always known in advance, so it may sometimes be appropriate to proactively make Orders as a precaution.

7. The process to be followed in making orders is laid down in the Town and Country Planning (Tree Preservation) (England) Regulations 2012.
8. Where a Tree Preservation Order is made, it has immediate provisional effect to protect the tree. This provisional effect will last for six months, or until the Order is confirmed by the planning authority, whichever is the sooner. If the Order is not confirmed within this time period, the Order will fall away.
9. Once the Order has been made, it is served, together with a Notice, on all persons with an interest in the land affected by the Order. The Notice will state the reasons that the Order has been made and will contain information about how objections or representations may be made in relation to the Order.
10. Where an objection is made to the Order then the Planning Applications Committee must consider any such objections and representations and must decide whether or not to confirm the Tree Preservation Order, and, if so, should that be with or without modifications.

Decision to make the Tree Preservation Order

11. This Tree Preservation Order was made as a result of a request from the residents of Middleton Street to the Local Planning Authority to protect a number of trees along the northern boundary of the site on an area of land between a car park and a brick boundary wall.
12. Darlington Borough Council's Senior Arborist inspected the trees, prior to the making of the order and within the group are early mature Rowans which whilst in reasonable condition are in poor form having been suppressed by the nearby Cotoneaster trees which are also in poor form. There are also two Sycamore trees within the group one of which is in reasonable condition and form, whilst the one to the rear is in reasonable condition and poor form. Prunus trees within this group are in reasonable condition and poor form, whilst an easterly clump is made up of Laurel, Buddleia, and Cotoneaster trees and all of the trees are in close proximity to the boundary wall.

13. The Senior Arborist did not recommend that all of the trees be protected by a Group TPO given their close proximity to each other and for the reasons given above.
14. However, the Council's arborist did recommend that one Sycamore Tree, which is approximately 6m in height was deemed to be worthy of protection and Tree Preservation Order 2023 No. 04 was made on 14 April 2023; to protect the early/mature Sycamore Tree given that public benefit will occur due to the tree's intrinsic beauty and the reasonable contribution it makes to the surrounding landscape.
15. The Tree Preservation Order was based on the following grounds:

"YMCA wanted to fell a number of trees within site".

16. The TPO is appropriate in the general interests of public amenity and in accordance with the Town and Country Planning Act (1990), Town and Country Planning (Tree Preservation) (England) Regulations 2012 and the Office of the Deputy Prime Minister's guidance to fulfil a statutory duty.

Summary of Objectors' Comments

17. One objection has been received in response to this order from the CEO of Tees Valley YMCA and the comments are summarised below:
 - (a) The Sycamore tree is to the rear of properties on Middleton Street and is within a group of six trees. It is not highly visible and does not contribute to the amenity given the area where the tree is situated is next to a car park on land which is an eyesore, and which is subject to fly tipping and dog fouling.
 - (b) The tree is causing damage to the foundation of a shared boundary wall which is over 20 feet high, and the YMCA is a charity which cannot afford to replace or maintain the wall.
 - (c) The tree is a 50-year-old Sycamore, not an 800-year-old Oak tree and is therefore not worthy of protection for the above reasons and we would ask that the order not to be made.

Response to Objector's Comments

18. In response to the objector's comments, the Council's Senior Arboricultural Officer has responded with the following comments below:-
 - (a) The Sycamore tree is in reasonable form and condition; is visible from a public place and public benefit will occur due to the tree's intrinsic beauty and the contribution it makes to the surrounding landscape, which will increase once the surrounding trees have been removed
 - (b) No evidence has been submitted from a structural engineer which supports the YMCA's claims that the tree is causing damage to the railway party wall
 - (c) Any tree can be protected by the making of a TPO order if a reasonable degree of public benefit would accrue as per government guidelines.

Consideration of Objections To TPO

19. As stated above the grounds for making a TPO is *'that it is expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area.'*
20. Therefore, objections to the TPO should be considered on this basis. The issues to consider are:
 - (a) Would the removal of the tree have a significant negative impact on the local environment and its enjoyment by the public?
 - (b) Will the confirmation of the TPO bring a reasonable degree of public benefit in the present or the future?
 - (c) Is it expedient for the tree to be protected, i.e., is there a risk of the tree being felled, pruned or damaged in ways which would have a significant impact on the amenity of the area?
 - (d) Is the tree dead, dying or dangerous? It would not be appropriate for the Authority make a TPO in these circumstances. By dangerous the test should be is the tree itself hazardous or unsafe.

Conclusion

21. The early/mature Sycamore Tree is in reasonable form and condition; is visible from a public place; and makes a significant contribution to the landscape.
22. Having considered the comments from the objector and the advice from the Council's Senior Arboricultural Officer, there is no reason why the tree cannot continue to add to the amenity value of the wider community for many years to come which justifies its protection.
23. It is also important to note that, if the Order is confirmed, this would not preclude future maintenance works to the tree. Should any works need to be carried out to the tree for safety reasons, or for any other reason, such as damage to property, an application can be made to the local planning authority to carry out works to the protected tree.
24. Consequently, it is considered expedient to protect the tree by the making of a Tree Preservation Order.

Recommendation

25. That Members confirm the TPO without modification.

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

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