



DARLINGTON

Borough Council

Planning Applications Committee Agenda

1.30pm, Wednesday, 10 April 2024

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 7 February 2024 (Pages 5 - 16)
4. Introduction to Procedure by the Assistant Director, Law and Governance's Representative (Pages 17 - 18)
5. Applications for Planning Permission and Other Consents under the Town and Country Planning Act and Associated Legislation (Pages 19 - 20)
 - (a) Power Play Snooker And Pool, Eldon Street (Pages 21 - 54)
 - (b) Garages To The Rear Of 63 Woodland Road, Vane Terrace (Pages 55 - 76)
 - (c) Land At Former 25 Gate Lane, Low Coniscliffe (Pages 77 - 94)
6. SUPPLEMENTARY ITEM(S) (if any) which in the opinion of the Chair of this Committee are of an urgent nature and can be discussed at this meeting
7. Questions

PART II

8. Notification of Decision on Appeals –

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

- (a) Dismissed the appeal by Mr Rod Farrow against this Authority's decision to refuse permission for the erection of 2 no. residential dwellings with associated access, hard standing and private amenity space (revised scheme) (Addendum to Noise Assessment received 19 December 2022; amended Planning Statement received 21 March 2023; Nutrient Calculator and Provisional Nutrient Certificate received 26th July 2023) at 42 Durham Road, Coatham Mundeville, Darlington DL1 3LZ (22/01271/FUL) (copy of Inspector's decision enclosed).
- (b) Allowed an appeal by Mr Robert Flannigan (Appeal A) and dismissed an appeal by Mr Mitchell Flannigan (Appeal B) against an enforcement notice issued by Darlington Borough Council in relation to the unauthorised stationing of four caravans for residential use at land on the northeast side of Neasham Road, Hurworth Moor, Darlington (copy of Inspector's decision enclosed)

Recommended – That the reports be received.
(Pages 95 - 120)

9. Notification of Appeals –

The Chief Executive will report that: -

- (a) Clear Channel UK has appealed against this Authority's decision to refuse permission for Display of 1 no. internally illuminated LED digital advertising display including the removal of 2 No. advertising displays at BP Service Station, High Northgate, Darlington, DL1 1UW (23/01024/ADV).
- (b) Ian Robert Hodgson has appealed against this Authority's decision to refuse permission for Felling of 1 no. Cypress tree protected under Tree Preservation Order (No.3) 1962 (T52) at 67 Milbank Court, Darlington, DL3 9PF (22/01281/TF).

Recommended – That the reports be received.

PART III

EXCLUSION OF THE PUBLIC AND PRESS

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

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

11. Complaints Received and Being Considered Under the Council's Approved Code of Practice as of 27 March 2024 (Exclusion Paragraph No. 7) – Report of the Chief Executive (Pages 121 - 130)
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, 2 April 2024

Town Hall
Darlington.

Membership

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

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

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PLANNING APPLICATIONS COMMITTEE

Wednesday, 7 February 2024

PRESENT – Councillors Cossins (The Mayor) and Haszeldine (Chair), Allen, Anderson, Bartch, Beckett, Kane, Laing, Lawley, McCollom and Tostevin.

APOLOGIES – Councillors Ali and Lee.

ABSENT – Councillor Robinson.

OFFICERS IN ATTENDANCE – Dave Coates (Head of Planning, Development and Environmental Health), Arthur Howson (Engineer (Traffic Management)), Andrew Errington (Lawyer (Planning)), Paul Dalton (Democratic and Elections Officer) and Olivia Hugill (Democratic Officer).

PA67 DECLARATIONS OF INTEREST

There were no declarations of interest reported at the meeting.

PA68 TO APPROVE THE MINUTES OF THE MEETING OF THIS COMMITTEE HELD ON 10 JANUARY 2024

RESOLVED – That the Minutes of this Committee held on 10 January 2024 be approved as a correct record.

PA69 APPLICATIONS FOR PLANNING PERMISSION AND OTHER CONSENTS UNDER THE TOWN AND COUNTRY PLANNING ACT AND ASSOCIATED LEGISLATION

A3	<p>Implementation Limit (Three Years) The development hereby permitted shall be commenced not later than the expiration of three years from the date of this permission.</p> <p>Reason - To accord with the provisions of Section 91(1) of the Town and Country Planning Act, 1990.</p>
E3	<p>The submitted landscaping scheme shall be fully implemented concurrently with the carrying out of the development, or within such extended period which may be agreed in writing by, the Local Planning Authority and thereafter any trees or shrubs removed, dying, severely damaged or becoming seriously diseased shall be replaced, and the landscaping scheme maintained for a period of five years to the satisfaction of the Local Planning Authority.</p> <p>Reason - In the interests of the visual amenities of the area.</p>
PL	<p>The development hereby permitted shall be carried out in accordance with the approved plan(s) as detailed below, ^IN;</p>

	Reason - To ensure the development is carried out in accordance with the planning permission.
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PA70 ROSE VILLA, TIMMYS LANE, HURWORTH DARLINGTON

23/00987/FUL - Demolition of the existing dwelling, barn, stables, outbuildings, and erection of 1 no. wheelchair accessible detached dwelling with supporting facilities together with a detached garden studio/store and parking provision (BNG Assessment and metric received 7th December 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, Public Rights of Way Officer, Ecology Officer, or Environmental Health Officer, four letters of objection, and the views of the Applicant and the Applicant's Agent, whom the Committee heard.)

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

1. A3 Implementation limit (3 years)
2. PL Accordance with plan

Site Location Plan

PL1001 Proposed site plan.

PL1003 Proposed roof plan.

PL2001 Proposed house elevations.

PL2002 Proposed courtyard elevations.

PL2003 Proposed Garden studio / store elevations.

SK1002 Proposed ground, first floor and garden studio plans.

1480-100 Landscape Strategy

LANDSCAPE AND MEANS OF ENCLOSURE

3. E3 Landscaping (Implementation)
4. The proposed boundary treatment as shown on the submitted plan (1480_100) shall be installed prior to the occupation of the dwelling hereby approved and shall be

retained as such thereafter.

REASON – In the interests of amenity.

CONSTRUCTION IMPACTS

5. Prior to the commencement of the development, a site-specific Demolition and Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The plans 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 demolition and construction phases of the development. The Dust Assessment Report shall take account of the guidance contained within the Institute of Air Quality Management “Guidance on the assessment of dust from demolition and construction” February 2014.
 - b) Methods for controlling noise and vibration during the demolition and construction phase and shall take account of the guidance contained within BS5228 “Code of Practice for noise and vibration control on construction and open sites”.
 - c) Construction Traffic Routes, including parking areas for staff and visitors.
 - d) Details of wheel washing.
 - e) Road Maintenance.
 - f) Warning signage.
 - g) Contact details for the responsible person (site manager/office) who can be contacted in the event of any issue.

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

REASON – In the interests of amenity and highway safety.

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

REASON – In the interests of amenity.

LAND CONTAMINATION

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

REASON - The site may be contaminated because 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.

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

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

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

REASON - The site may be contaminated because of past or current uses and/or is within 250

metres of a site which has been landfilled. To ensure that risks from land contamination to the future uses of the land and neighbouring land are minimised, together with those to controlled waters, property, and ecological systems, and to ensure that the development can be carried out without unacceptable risks to receptors, in accordance with the National Planning Policy Framework.

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

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

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

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

The development site or agreed phase of development site, shall not be occupied until all 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 because 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.

ECOLOGY

12. The development shall be carried out and operated in full accordance with the submitted Biodiversity Management and Monitoring Plan (BMMP) (OS Ecology, December 2023), 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.

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

13. The development shall not be carried out otherwise than in complete accordance with the recommendations set out within the Ecological Appraisal (Land off Timmy's Lane, Hurworth, OS Ecology, October 2023) unless otherwise agreed in writing by the Local Planning Authority.

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

TREES

14. The development shall not be carried out otherwise than in accordance with the recommendations and tree protection measures set out in the submitted 'Arboricultural Impact Assessment and Arboricultural Method Statement (Elliott Consultancy Limited, July 2023) unless otherwise agreed in writing by the Local Planning Authority.

REASON – To ensure a maximum level of protection to safeguard the wellbeing of the trees on the site and in the interests of the visual amenities of the area.

EV CHARGING POINT

15. Prior to the first occupation of the development hereby approved details of the type and location of an electrical socket suitable for charging an electric vehicle, shall be submitted to, and approved by the Local Planning Authority. Thereafter the development shall be undertaken in accordance with the approved details prior to the occupation of the dwelling and maintained as such thereafter.

REASON - To accord with Policy IN4 of the Local Plan.

PA71 PIERREMONT METHODIST CHURCH, VANCOUVER STREET

22/00797/OUT - Outline application with matters reserved except access, appearance, layout and scale for the demolition of former chapel and the erection of 8 no. dwellings (Phase 1 Desk Top Study received 31 March 2023; and amended plans received 5th September 2023; Nutrient Calculator and Provisional Nutrient Certificate received 14 December 2023).

(In making its decision, the Committee took into consideration the Planning Officer's report (previously circulated), the views of the Council's Transport Policy Officer, Environmental

Health Officer, Highways Engineer and Ecology Officer, the of North Gas Networks and Northumbrian Water, and the views of the Applicant's Agent, whom the Committee heard.)

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

1. The approval of the Local Planning Authority shall be obtained with respect to the following reserved matters prior to the commencement of the development:

a) Landscaping

Application for approval of reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.

REASON - To accord with the provisions of Section 92(1) of the Town and Country Planning Act 1990.

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

- a) Drawing Number L021098 012 REV E – Proposed Site Layout Plan
- b) Drawing Number L021098 014 REV B – Proposed Elevations and Cross Section
- c) Drawing Number L021098 017 REV B – Swept Path Analysis
- d) Drawing Number L021098 013 – Proposed Floor Plans
- e) Drawing Number L021098 010 – Site Location Plan and Block Plan.

REASON - For the avoidance of doubt.

3. The application(s) made pursuant to condition 1 shall not propose more than eight dwellings.

REASON - For the avoidance of doubt.

4. The development shall be begun two years from the final approval of the reserved matters referred to in condition (1) or, in the case of approval on different dates the final approval of the last such matter to be approved.

REASON - To accord with the provisions of Section 92(1) of the Town and Country Planning Act 1990.

5. Prior to the first occupation of the development hereby approved, a Final Nutrient Credit Certificate, signed by Natural England and the applicant, shall be submitted to the Local Planning Authority.

REASON - To ensure the development is nutrient neutral in accordance with the Conservation of Habitats and Species Regulations 2017.

6. Prior to the commencement of the development, a detailed scheme for the disposal of foul and surface water from the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority in consultation with Northumbrian

Water. Thereafter the development shall take place in accordance with the approved details.

REASON - To prevent the increased risk of flooding from any sources in accordance with the National Planning Policy Framework 2023.

7. Prior to the commencement of the development, including any demolition works and site clearance, a methodology for a Historic England-style Level 2 building record of the Church building shall be submitted to and approved in writing by the Local Planning Authority.

REASON - To comply with Policy ENV1 of the Darlington Local Plan and the National Planning Policy Framework 2023 because the building is a non-designated heritage asset.

8. No building shall be constructed above damp proof level until precise details of the external materials to be used in the carrying out of this permission have been submitted to, and approved by, the Local Planning Authority 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.

9. No development shall be constructed above damp proof course until precise details of secure cycle parking have been submitted to, and approved in writing by the Local Planning Authority. The cycle parking shall meet current guidance contained (Cycle Infrastructure Design - Local Transport Note 1/20 July 2020) and shall be implemented in accordance with the agreed details prior to the occupation of the dwellings and shall be retained as such thereafter.

REASON – To encourage the use of sustainable modes of transport to and from the development.

10. Prior to the first occupation of any building hereby permitted, a Statement shall have been submitted to and approved by the local planning authority detailing the measures necessary for providing broadband connectivity including ducts to each premises within the development hereby approved, unless otherwise agreed in writing by the local planning authority. The approved infrastructure shall be laid out in accordance with the agreed details at the same time as other services during the construction process and be available for use on the first occupation of each building unless otherwise agreed in writing by the local planning authority.

REASON - To ensure that the development is provided with high quality broadband services enhancing its attractiveness, in accordance with Policy IN8 of the Local Plan.

11. Prior to the development being occupied, a copy of any analysis, reporting, publication or archiving required as part of the mitigation/Building Recording strategy shall be deposited at the County Durham Historic Environment Record.

REASON - To comply with Policy ENV1 of the Darlington Local Plan and the National Planning

Policy Framework 2023 because the building is a non-designated heritage asset and therefore the developer is required to record and advance understanding of the significance of the heritage asset to be lost through demolition, and to make this information as widely accessible to the public as possible.

12. CL2 - Phase 2 Site Investigation Strategy

13. CL3 – Phase 2 Investigation Works

14. CL4 - Phase 3 Remediation and Verification Strategy

15. CL5 - Construction/Remediation works.

16. CL6 - Phase 4 Verification and Completion Report

17. The development hereby approved shall not be carried out other than in complete accordance with the submitted Construction Management Plan by Wardman Brown unless otherwise agreed in advance with the Local Planning Authority.

REASON – In the interests of residential amenity and highway safety

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

REASON – In the interests of residential amenity

19. Notwithstanding the Construction Management Plan and condition 17), prior to commencement of the development, the Developer shall enter into an agreement under Section 59 of The Highways Act 1980 with Darlington Borough Council, as the Highway Authority, to safeguard the Public Highway from damage caused by any construction activities or construction traffic serving the development hereby approved. Contact must be made with the Assistant Director: Highways, Design and Projects (contact Mr Steve Pryke 01325 406663) to discuss this matter.

REASON - In the interest of highway safety.

20. The electric vehicle charging points (minimum requirement of a single phase 13 amp socket) shown on the approved plans, shall be installed prior to the occupation of the dwellings and maintained as such thereafter.

REASON - To accord with Policy IN4 of the Local Plan.

21. The boundary fencing to the rear of the dwellings hereby approved shall be erected in complete accordance with the approved plans prior to first occupation of any dwelling and shall be maintained in accordance with the details as approved for the lifetime of the development. The fencing shall not be replaced or altered without the prior consent of the Local Planning Authority, to whom a planning application must be made.

REASON - In the interests of highway safety and visibility onto the rear lane.

22. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that Order), no enlargement, improvement or other alteration of the dwellings, including any additional structures/building within the curtilage of the site, shall be carried out without the prior consent of the Local Planning Authority, to whom a planning application must be made.

REASON – In order to ensure the provision of adequate off-street parking accommodation for each dwelling.

23. The development hereby approved shall comprise a minimum of 45% of all new dwellings meeting building regulations category M4(2) adaptable and accessible dwelling standards and a minimum of 9% meeting M4 (3 a or b) wheelchair user dwellings standard as detailed in the submitted “Planning Statement incl Heritage Impact Assessment” produced by ELG Planning dated 2022.

REASON – To ensure the development complies with policy H4 of the Darlington Local Plan 2016 – 2036.

24. The development hereby approved shall not be carried out otherwise than in complete accordance with the recommendations set out in the document entitled “Preliminary Ecological Appraisal “Low Impact” Ecological Impact Assessment” produced by All About Ecology and dated August 2022. However, should work on the site not commence by the end of May 2024, a further update survey for bats shall be carried out to investigate whether conditions onsite have changed. If new surveys are necessary, an updated survey report shall be submitted to the Local Planning Authority and the development shall not be carried out otherwise than in complete accordance with the updated survey.

REASON - In order to secure ecological enhancements for the development

25. No development shall be constructed above damp proof course, until precise details of ecological enhancements such as, but not limited to bat bricks, swift bricks have been submitted to and approved in writing by the Local Planning Authority. The details shall include the design, location and number of such features, together with a commitment to being installed under the instruction of an appropriately qualified ecological consultant. The development shall not be carried out otherwise than in complete accordance with the agreed details which shall be installed prior to the first occupation of the dwellings hereby approved.

REASON - In order to secure ecological enhancements for the development

PA72 NOTIFICATION OF APPEALS

The Chief Executive reported that Mr Kieran Meredith had appealed against this Authority’s decision to refuse permission for Application submitted under Section 73 of the Town and Country Planning Act 1990 for the variation of condition 2 (approved plans) and removal of condition 3 (garage/car parking) attached to planning permission 21/01226/FUL dated 12

December 2021(Erection of a two storey side extension to provide a garage/dining room with bedroom above) to permit the conversion of garage into habitable space, the replacement of the garage door with a window, and the provision of 1 no. additional car parking space to the front (amended description) at 32 Clowbeck Court, Darlington, DL3 0BB (23/00823/FUL).

RESOLVED – That the report be received.

PA73 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.

PA74 COMPLAINTS RECEIVED AND BEING CONSIDERED UNDER THE COUNCIL'S APPROVED CODE OF PRACTICE AS OF 26 JANUARY 2024 (EXCLUSION PARAGRAPH NO. 7)

Pursuant to Minute PA66/Jan/2024, the Chief Executive submitted a report (previously circulated) detailing breaches of planning regulations investigated by this Council, as at 26 January 2024.

RESOLVED - That the report be noted.

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

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

- Chair introduces Agenda item;
- Officer explains and advises Members regarding the proposal;
- Applicant or agent may speak (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 – 10 April 2024

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
Power Play Snooker And Pool, Eldon Street	23/00178/FUL
Garages To The Rear Of 63 Woodland Road Vane Terrace	23/00956/FUL
Land At Former 25 Gate Lane, Low Coniscliffe	22/00021/OUT

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DARLINGTON BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 10 April 2024

APPLICATION REF. NO:	23/00178/FUL
STATUTORY DECISION DATE:	12 th June 2023
WARD/PARISH:	NORTH ROAD
LOCATION:	Power Play Snooker and Pool Eldon Street DARLINGTON DL3 0NN
DESCRIPTION:	Demolition of 2 No. existing buildings and erection of 12 No. residential dwellings (4 No. 3 bed houses and 8 No. 2 bed houses) with parking provision (Bat report received 26th May 2023) (Nutrient Neutrality assessment / budget calculator received 9th October 2023) (Revised drainage strategy received 2nd February 2024)
APPLICANT:	NEPI INCREMENTUM LIMITED

RECOMMENDATION: THAT PLANNING PERMISSION BE GRANTED SUBJECT TO A 106 AGREEMENT (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=RQ4OGCFPIAU00>

APPLICATION AND SITE DESCRIPTION

1. The application site is situated on Eldon Street, to the north of the town and to the west of North Road. It comprises a vacant snooker and bingo hall, and small business premises formerly occupied by the Darlington Deaf Club and Deaf Innovation organisation. The building has had various uses since its opening in 1913. Initially constructed as The Essoldo Cinema, the building ceased being used as a cinema in 1962 and has since been used as a bingo club and more recently as a snooker and pool hall.

2. The building, the main body of which is no longer in use, is constructed of red brick with slate roofing tiles. Its footprint is rectangular, with a central projecting gable, inset panels, stepped eaves, and ground floor projections on the southern elevation providing entrance into the building.
3. The Site is located within a residential area and is bound on all sides by terraced housing. There are several other community buildings, including Rise Carr Sports and Social Club and Phoenix Centre further west on Eldon Street. To the north and northwest are North Park and North Cemetery. To the south lies the Morrisons supermarket and several commercial, industrial, and retail uses. Further various outlets are also based on North Road to the east and Whessoe Road to the south.
4. Pre-application discussions have identified that the building has architectural and historic merit. Whilst not listed, it is considered to have a degree of significance worthy of consideration as part of any planning application as a non-designated heritage asset.
5. The proposal is for the demolition of the existing buildings on the site and the construction of 12 No. residential dwellings. The homes include 4 No. 3-bed homes and 8no 2-bed homes. All new dwellings are proposed as affordable rent via a registered provider (North Star Housing Group). The development includes the following:
 - Dwellings to be in terraced form to reflect the predominant type of existing housing in the locality.
 - Dwellings would be two-storey in height and constructed with similar proportions to existing properties.
 - Buildings to front onto Eldon Street with outdoor spaces to the front and rear.
 - Buildings would be finished in facing brickwork with feature course beneath horizontal panel cladding and grey concrete slate roof tiles with terracotta colour concrete ridge tiles. Windows would be UPVC finished in grey, with composite doors finished in grey and set under a small canopy. A contrasting course of brickwork would add interest to the building, with central properties having window surrounds spanning the lower and upper floors.
 - Pedestrian access to be from Eldon Street.
 - Provision of 12 No. parking bays located at the rear of the properties and accessed via roller shutter doors.
 - EV charging provision to be provided via ducting to the rear parking spaces.
 - On street parking also available capable of providing an additional 10 No. parking spaces. In-curtilage parking spaces will have minimum dimensions of 5.5m x 2.7m, with a minimum 6m clearance onto Eldon Street North Back. The existing width of the back lane is to be widened to 6m along the entire northern site boundary, with this widened section to be tarmacked and finished with a pin kerb to tie into the extent of the existing adopted highway.
 - Cycle spaces to be provided for each dwelling in the form of secure storage sheds.
 - Each dwelling will have an allocated garden space to the front of the property. Shrubs and planting are proposed to be distributed around the site and lining paved pathways.

- Metal fencing is proposed to the front of properties at 1200mm in height to provide enclosure, with 1800mm masonry walls to the rear offering security and privacy to rear yards.
- Rear yards would be hard surfaced, providing parking for vehicles and cycles. A new dropped kerb line to the existing back lane would provide a service strip for vehicles to allow access to rear courtyards. Refuse Collection and Servicing.
- Household refuse storage to be provided within the rear yards, with refuse collection taking place from the roadside on the back lane, consistent with existing arrangements in the area.

MAIN PLANNING ISSUES

6. The relevant issues to be considered in the determination of this application are:
- (a) Principle of the proposed development
 - (b) Impact on non-designated heritage assets.
 - (c) Impact on visual and residential amenity.
 - (d) Highway safety and sustainable transport.
 - (e) Flooding and Drainage.
 - (f) Impact on ecology
 - (g) Nutrient Neutrality.
 - (h) Planning obligations
 - (i) Other matters

PLANNING POLICIES

7. The following policies are relevant in the determination of this application:

Local Plan (2022)

- SD1: Presumption in Favour of Sustainable Development
- SH1: Settlement Hierarchy
- DC1: Sustainable Design Principles and Climate Change
- DC2: Flood Risk & Water Management
- DC3: Health & Wellbeing
- DC4: Safeguarding Amenity
- H1: Housing Requirement
- H3: Development Limits
- H4: Housing Mix
- H5: Affordable Housing
- ENV1: Protecting, Enhancing and Promoting Darlington's Historic Environment
- ENV3: Local Landscape Character
- ENV5: Green Infrastructure Standards
- ENV7: Biodiversity & Geodiversity & Development
- ENV8: Assessing a Development's Impact on Biodiversity
- IN1: Delivering a Sustainable Transport Network
- IN2: Improving Access and Accessibility

IN3: Transport Assessments and Travel Plans
IN4: Parking Provision including Electric Vehicle Charging
IN6: Utilities Infrastructure
IN10: Supporting the Delivery of Community and Social Infrastructure

Tees Valley Minerals and Waste Development Plan Documents (2011)

Policy MWC4: Safeguarding of Minerals Resources from Sterilisation

Design of New Development SPD (2011)

Planning Obligations SPD (2013)

First Homes Policy Position Statement (2022)

RESULTS OF TECHNICAL CONSULTATION

8. No objections in principle have been raised by the Council's Highway Engineer, Transport Planning Officer and Environmental Health Officer or the Local Lead Flood Authority, subject to conditions. The Conservation officer has objected to the proposed development, and this is considered further within the report.

RESULTS OF PUBLICITY AND NOTIFICATION

9. Nine letters of objection have been received raising the following concerns :
- Highway safety concerns; lack of parking; volume of existing traffic.
 - Doctors' surgery already at capacity.
 - Already over-crowded and no more people needed in the area. There are empty properties in Eldon Street continuously.
 - Rise Carr Club is in worse condition and is empty, would be more suitable.
 - Lack of community space in the area.
 - Pollution during demolition (noise, dust, traffic, etc.).
 - Impact on amenity, noise.
 - Building should be re-purposed.
 - Will encroach on the privacy of Lansdowne Street residents.
 - Chip shop business will suffer (customers use the area at the front of the snooker hall as parking and this prevents disturbance to residents in the street).
 - Do not need anymore two bed houses as the local streets are full of these. Three bed adaptable homes would be better for the area.
 - Current roads / alleys not coping with the current levels of traffic and many repairs to the roads have been required.
 - The ward is deprived and has had no money spent on it during the last 30 years.
 - Snooker hall is a nice old building that has historically been, and should again, be a centre for the community.
10. A response from Darlington Association on Disability has been received raising the following point:

- It is disappointing to see that no provision has been made for a wheelchair user to get to and from the dwelling as a pedestrian.

PLANNING ISSUES/ANALYSIS

a) Principle of the proposed development

11. Policy H1 of the Local Plan sets a minimum housing requirement of 492 net additional dwellings per annum over the plan period to 2036. The proposal would be a small-scale windfall development which would contribute towards the achievement of this requirement.
12. The site is not designated for any particular use in the Local Plan. Policy H3 seeks to achieve the locational strategy for new development in the Borough by establishing development limits where development within will be acceptable subject to compliance with other relevant national and local policies. The site is located within the development limits of the main urban area; therefore, the proposal accords with policy H3.
13. The existing uses on the site are classed as community facilities as such policy IN10 applies. The policy sets out that the loss of any community facilities will only be permitted if it can be demonstrated that certain criteria is met. This includes that; i) there are sufficient alternative facilities nearby; or, ii) the facility is no longer needed; or, iii) there is no management and funding resources existing or that could be generated to sustain the facility; or iv) the community facility cannot be secured or sustained through the partial redevelopment of the site.
14. The applicant has put forward information explaining how the snooker hall has become unviable to run and provided financial running costs over recent months. Snooker teams have found alternative facilities at Cockerton Club, Salters Lane Golf Club, and the Grey Horse at Haughton. In the lead up to the closure of the facility opening hours were reduced and demand was limited. Alternative sources of income have also been explored. It was emphasised in the statement that there was not a significant level of use of the building (evident in reduced hours) and rising costs have contributed towards the business becoming unviable. Options have also been considered for the building's retention, involving a scheme of apartments whilst maintaining space for community use. It is set out that this approach would result in an unviable scheme, with the costs of conversion outweighing the financial return. Concerns are also raised with the quality of such a development.
15. It is considered that the loss of the snooker/bingo hall meets several of the criteria set out in IN10 (particularly criteria i, ii and iv) and it is acknowledged that the use is a business and therefore needs to be viable. There are no policy concerns with the loss of the snooker/bingo hall. Following relocation of Darlington Deaf Club premises, planning permission was granted in 2018 (17/01170/FUL) for change of use of the more modern flat roof building within the site, to storage and associated office space, for a Haberdashery business. In this context, the loss of that element of the community use, has been accepted

previously as a matter of principle. The applicant has advised that the Haberdashery business would be looking to relocate should planning permission be granted.

16. In summary, it is considered that the principle of residential development is acceptable on the site given that it is located within the development limits of the main urban area (H3). The application has also demonstrated compliance with criteria within policy IN10.

Housing Mix

17. Policy H4 of the Local Plan states that proposals for housing development will be encouraged to provide an appropriate mix of housing types, sizes and tenures which have regard to local needs as identified within the most up to date Strategic Housing Market Assessment or other relevant evidence. A suitable housing mix should also give consideration to a site's location, physical constraints, character, and surrounding context.
18. The Council's latest SHMA (2020) evidence suggests an overall housing mix of 6.5% - 1 Bed, 32% - 2 Bed, 50% - 3 Bed and 11.5% 4 Bed +. The proposal proposes a mix of two and three bed properties, which are shown as being in greater need in the SHMA.
19. The planning statement sets out that the tenure would be affordable rent and North Star Housing Group is identified as the registered provider who would manage the properties. Darlington Borough has a substantial need for affordable homes and detailed evidence is provided in the SHMA (2020). The assessment identifies a need of 233 affordable dwellings per annum over the plan period. The affordable need is broken down into 163 households unable to afford per annum and 70 aspiring to homeownership per annum. As such there is a greater demand for affordable rent. The scheme would assist in meeting those needs.
20. Policy H5 sets out the requirement that 20% of market led developments should be affordable in the North Road Ward with a tenure split of 50% affordable rent and 50% affordable home ownership. This is not applicable as the scheme is for 100% affordable housing. The NPPF states, where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the total number of homes to be available for home ownership. It goes on to state that exemptions to this include proposals which are exclusively for affordable housing.
21. The Written Ministerial Statement on First Homes outlines that where specific developments are exempt from delivering affordable home ownership products under paragraph 65 of the Framework, they shall also be exempt from the requirement to deliver First Homes. As such no First Homes will be required from the scheme.
22. Policy H4 requires proposals to provide 45% of all new dwellings to meet building regulations category M4(2) adaptable and accessible dwelling standards and 9% to meet M4 (3 a or b) wheelchair user dwellings standard. At this time the Council will only be requesting the M4(3) a, wheelchair adaptable standard. These requirements will assist in meeting the housing needs of older people and those with disabilities in the local area as identified in the SHMA (2020).

23. The original proposal involved one of the proposed homes being built to M4(3)(a) standard and the other 11 to M4(2) standard. However, since that time, North Star Housing Group have been in contact as the eventual owner and landlord of the homes, with some concerns around the requirement for adaptable homes to M4(3) in this case as policy H4 of the Local Plan states that regard should be had to the sites suitability and viability. In this instance the scheme is being brought forward as a fully affordable scheme by North Star and is based on an established financial model with funding from Homes England. The provision of an accessible unit renders this model unviable, and it is also questioned whether it is a suitable location for accessible units given their 2-storey design. Justification has been provided to set out the concerns of North Star.
24. The information submitted has been considered and, in this instance, it is considered that whilst the development will not be fully meeting the requirements of policy H4, with all dwellings to M4(2) standard and no M4(3) standard, they will be overproviding in terms of the former and meeting needs. This slight deviation from H4 also needs to be considered in the context of the wider benefits of the scheme in that all units are to be affordable rent. Overall, based on the justification provided by North Star, it is considered that there is a greater benefit in delivering the 12 affordable units to M4(2) standard and losing the M4(3) standard on one unit, than the delivery of the scheme not being possible due to viability concerns. In the context of this argument, the M4(2) standard should be required by planning condition.

b) Impact on non-designated heritage assets

25. It was highlighted by officers at pre-application stage that the snooker/bingo hall building has a degree of architectural and historic interest worthy of consideration in the assessment of any planning application relating to the site's redevelopment. The building is therefore considered to be a non-designated heritage asset.
26. Section D of policy ENV1 is relevant. It states that proposals which would remove or harm the significance of a non-designated heritage asset will only be permitted where the benefits are considered to outweigh the harm. Proposals should seek to avoid harm to those features, including setting, which contribute to the significance of a non-designated heritage asset, through measures such as good design. As the proposal involves the demolition of the buildings this balancing of benefit against harm should be conducted.
27. The NPPF (at paragraph 209) makes it clear that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. It goes on to state that "in weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset".
28. The Conservation officer was consulted and has objected to the proposed development on the basis that the building is of heritage significance, that the building should be converted, and that insufficient justification has been provided for its demolition.

29. In view of the building being considered a non-designated heritage asset, the application has been supported by a Heritage Statement prepared by a Conservation professional. It identifies that the building possesses historical, architectural, and communal interest, and that there are no other designated heritage assets affected by the proposed development. The assessment concludes that the overall significance of the building is low, however any significance would be lost through the building's demolition. The report states the following:

'The survival of the building and the dominance within the street provides the community with a tangible link to the past. However, this link is only with the building given the cessation of the community use. The empty building provides a negative connotation associated with reduced employment in the steel and mining industries, anti-social behaviour, and a degraded local environment. Whilst providing evidence of a past time, it is also having an adverse impact upon the current associations with that history. It is recognised that the Site has some heritage value as a community building with some architectural interest; and that the loss of the building will have a low level of harm. The level of harm needs to be weighed in the planning balance alongside proposals for redevelopment and the benefits this would bring'.

30. In terms of the policy requirement to demonstrate that the benefits outweigh the loss, the applicant has put forward some detailed information. This demonstrates that the applicant has fully explored the potential to retain the building for community use, either in whole or in part. Detailed information has been provided to demonstrate that the building is no longer viable (and the business has ceased trading), and no interest has been expressed in the redevelopment (or use) of the site by other parties. Competitive teams have since relocated and there is no longer considered to be a need for the building and its use within the community.
31. The applicant has concluded that there is no reasonable prospect of the building being brought into viable community use, with the demand for the facilities provided no longer there, and as a result the loss of the community facility is considered to comply with policy IN10 as considered above.
32. Consideration has been given to the conversion of the building, including proposals incorporating a community space for public use. It was concluded that this option was unviable not least due to the constraints of the building and the evidenced lack of need for the community space / the lack of a reasonable prospect of the building being retained for use by the community. In particular, the Heritage Impact Assessment confirmed the following:

'The applicant has considered the conversion of the building to apartments and plans demonstrate that the size of the building and particularly its depth are a considerable hinderance to a successful scheme, resulting in large rooms, rooms without windows and inevitably problems with fire escape routes, amenity, and other matters. The viability of a conversion scheme is also a concern as the costs of conversion, along with the problematic floor plan render the conversion unviable in this location which is dominated by small two-

storey terraced houses. The proposed scheme seeks to develop a row of 12 two-storey affordable terraced homes. The houses would be set behind small front gardens to mirror those to its west and be in line with the existing adjacent terrace. The rear yards extend to the lane, providing a new footpath within the site boundary for pedestrians, widening the lane at this point’.

‘It is our assertion that the building is unsuitable for conversion based on the depth of the floor plan and the associated costs of repair, reinstatement, and conversion. Whilst the re-use of the building could contribute to sustainable communities (either as a community building or some form of residential development), this is unlikely to result in economic vitality due to the lack of community need for such a building, and the awkward nature of the housing conversion which would result’.

‘The condition of the building is deteriorating through general wear and the effects of anti-social behaviour. Without ongoing financial investment in the repair of the building the condition will continue to decline. Mothballing the building is unrealistic when an alternative use has not been found. In the case of buildings, generally the risks of neglect and decay of heritage assets are best addressed through ensuring that they remain in active use that is consistent with their conservation. However, having no use or viable future prospect means that the risks of decay are further exemplified. The owner cannot justify large investments in repair given that a viable future has not been identified, they continue to keep the site secure and prevent further deterioration where possible’.

‘The loss of the building is considered to be a justifiable proposition, particularly when the immediate environment can be enhanced through provision of low-level housing to reflect local characteristics. This would alleviate problems with anti-social behaviour and would improve the communal experience moving through this area. Another building further west along Eldon Street has remained vacant for several years and is having an adverse effect on local amenity, which is a real concern for this Site if redevelopment does not progress quickly. The fallback position is a site which considerably declines. The loss of the building can in part be mitigated through building recording prior to demolition’.

33. The benefits derived from the Proposed Development centre on the fact that the application proposes a fully affordable scheme of 12 no. properties to be offered for rent at a discounted market value.
34. The proposed development would contribute towards meeting the need for affordable housing within Darlington and would contribute towards addressing the existing shortfall in properties available for social rent. The contribution being made holds significant weight in the overall planning balance and is considered to outweigh the harm derived through the demolition and loss of a building with limited architectural, historic, and social interest.
35. The National Planning Practice Guidance (NPPG) states that “public benefits may follow from many developments and could be anything that delivers economic, social, or environmental objectives as described in the National Planning Policy Framework (paragraph 8). Public benefits should flow from the proposed development. They should be

of a nature or scale to be of benefit to the public at large and not just be a private benefit. However, benefits do not always have to be visible or accessible to the public to be genuine public benefits. Within the submission it is apparent that, as well as the above benefit in terms of the provision of affordable housing, the development results in the following additional benefits:

- Removal of a building which attracts anti-social behaviour.
- Redevelopment of the Site will improve the appearance of the local area providing a strong street frontage.
- Development of a scale, design and use which is typical of the local housing stock.
- Provision of housing in a sustainable location and on a brownfield site.
- Widening of the rear lane to provide a footpath within the site boundary.
- Increased natural surveillance with the rear lane for security purposes.
- Removal of the unsightly metal security fencing.
- Provision of soft landscaping and biodiversity net-gain.
- Economic benefits from construction employment during the build phase.

36. Although the Proposed Development would result in the loss of a non-designated heritage asset; this loss is outweighed by the contribution towards meeting the need for affordable housing delivered through the site's redevelopment alongside the range of public benefits set out above.

37. The NPPF states that Local Planning Authorities should require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible. However, the ability to record evidence of our past should not be a factor in deciding whether such loss should be permitted. It is considered that building recording to level 2 should be secured by condition prior to commencement of works to demolish or strip out the building.

38. Subject to the above condition, the Proposed Development is therefore considered to be acceptable in accordance with Policy ENV1 of the Darlington Local Plan.

c) Impact on Visual and Residential Amenity

Design, Layout and appearance.

39. Policy DC1 requires that detailed design should respond positively to the local context, in terms of its scale, form, height, layout, materials, colouring, fenestration and architectural detailing. Eldon Street forms one of several rows of terraced properties arranged in grid-like form in the immediate locality. Terraces tend to be uniform in layout but have a varied range of styles and finishes.

40. The scale and proportions of the proposed dwellings are considered to reflect those within the local area. Eaves and ridge heights would be set slightly lower than existing terraces, thereby ensuring the new development does not appear imposing within the street scene.

The proposed terrace would feature detailing above doors and windows, properties within the centre of the terrace would have vertical cladding and detailing around ground and first floor windows. Materials, specific details of which would be required by planning condition, would be chosen to be consistent with those found nearby, and would include facing brickwork to ground floor with horizontal cladding above separated by a feature brick stretcher detail. Grey thin profile interlocking concrete tiles would be incorporated to the roof, which feature heavily in the area. At the request of officers, the applicant has provided amended plans which include GRP chimney features to the dwellings, to break up the roof line and to better reflect the roof scape elsewhere within the immediate locality.

41. Overall, the design and layout of the development is acceptable. The proposal incorporates features from existing properties, such as detailing around windows and doors, whilst introducing new features to provide the terrace with its own identity. Also incorporated is amenity space to the front with pedestrian access, reflecting the immediate row of terraces to the east and west.
42. The design of the dwellings incorporates energy efficiency measures with properties built to modern standards of construction. High-performance double-glazed windows and doors are proposed throughout, with approach to construction intended to result in the delivery of energy efficient homes.
43. Proposed landscaping, details of which would be required by planning condition, would help to soften the development and boundary treatment is considered appropriate to define boundaries, defensible space and provide privacy to plots. Overall, the proposal is considered to comply with the requirements of policy DC1 in this regard.

Residential Amenity General

44. The proposed terrace would have similar proportions to neighbouring buildings with eaves and ridge heights set slightly lower than existing two storey terraces. In terms of amenity, the layout would reflect existing patterns of development in the locality. Suitable separation distances are provided between existing dwellings and the new dwellings, which exceed those set out in the Design SPD (over 23 metres rear elevation to properties to the rear in Lansdowne Street) and the proposals provide an acceptable standard of privacy for existing and new residents. The proposal would provide suitable levels of outlook, sunlight and daylight between the new dwellings and existing properties and complies policy DC1 and DC4 in this regard.

Land contamination.

45. The application has been submitted with a Phase 1 Environmental Assessment dated January 2023 prepared by Roberts Environmental Ltd (Reference: 230101.R.001, Version 1.0) which considers the history of the site and surrounding area and potential contamination risks taking into account the proposed residential end use of the site. It includes the findings from a site walkover and derives a conceptual site model. The site historically comprised undeveloped agricultural land and was later shown to form part of some allotment gardens before buildings were developed on the site. Surrounding land

uses identified includes allotments gardens to the north of the site, as well as tanks, railway sidings and locomotive works to the south.

46. Potential sources of contamination are identified including from the anticipated presence of made ground given the developed nature of the site, as well as the potential presence of asbestos containing materials inside the building given its age, which is to be demolished.
47. Based on the Phase 1 and given areas of soft landscaping are proposed as part of the development, the Environmental Health Officer has recommended land contamination conditions CL2 – CL6 are attached to any permission granted. These conditions cover a Phase two site investigation strategy, Phase two site investigation works, Phase three remediation and verification strategy, and construction / remediation works. Subject to these conditions, the proposal is acceptable in terms of land contamination and complies with policy DC4 in this regard.

Demolition/Construction impacts

48. Given the site is in the middle of a residential area there is inevitably going to be some disturbance to existing residents as a result of the works. While the Environmental Health Officer has not objected to the application, they have recommended a Construction Management Plan submission / compliance condition to minimise potential disturbance.

d) Highway safety and sustainable transport

Access and sustainability.

49. The site is accessed directly via Eldon Street which consists of predominantly terraced dwellings which are reliant upon on street parking. The site frontage has existing bitmac footways, and street lighting and will enable direct primary access to each dwelling, with additional secondary access being available from the rear of the site, from adopted back lane known as Eldon Street North Back. The local highway network has good resilience, with many routes being available to access Eldon Street, both from the east via North Rd and via Whessoe Rd and Westmoreland Street from the west. Additional routes cross Eldon Street including Eldon Place, Derby St, and Cross St, with additional minor back lanes also adding local access points. As such any traffic generated is quickly diffused within the local highway network.
50. The site is in a sustainable location with good access to public transport. The nearest bus stops in relation to the site are located on Westmoreland Street to the south within proximity to the junction with Derby Street. The bus stops are within an approximate 80m walking distance of the site. Additional inbound and outbound services are available on North Rd to the east which are served by multiple bus services. The bus stops are within an approximate 350m walking distance of the site and have raised access kerbs. Eldon Street is partially classified as an advisory on road cycle route. To the east, connections can be made across the A167 North Road towards traffic free routes through Albert Hill and beyond towards Red Hall and Haughton. To the east, links through North Park are available

linking into further cycle routes west towards Faverdale and Cockerton areas of the town. The site therefore has good links to local cycle infrastructure.

51. The Highways Engineer has noted the comments raised by the Chairman of Darlington Association on Disability regarding the need to provide improved pedestrian access to the development. Eldon Street does not have dropped kerb provision and as such the inclusion of dwellings up to M4(2) standard raises the potential of a future mobility impaired resident having no accessible route to or from the adaptable dwelling or the wider development. As an absolute minimum the Highways Engineer has requested that dropped crossings are provided to provide an accessible route to bus stops and other amenities located on North Road. Unfortunately, the Council has a very limited budget available for such works, therefore a financial contribution of £6,000 is sought to deliver improvement to pedestrian infrastructure in the vicinity of the development (dropped crossings and tactile pavement to provide an accessible route within Eldon Street) in the interests of accessibility and highway safety. This would involve paired dropped crossings at four locations between the development and A167 North Rd. This is considered further elsewhere within this report.

Traffic Impact & Road Safety

52. Whilst the number of dwellings proposed falls below the generally recognised threshold of 50 or more dwellings which is the trigger point for submission of a formal Transport Statement or Assessment, SAJ Transport Consultants Ltd, have been commissioned by the applicant to assess any highways and transport related impacts associated with this planning application.
53. Whilst the scope of the submitted Transport Statement (TS) does not include detailed analysis of existing vehicle movements and parking demand which could occur under the existing use class of the site, it is accepted that the existing site could attract an occupier which generates significantly more vehicle movements than the 12 dwellings proposed without the requirement for a change of use planning application. Based on comparison of similar site locations where TRICs database trip rates have been presented it is likely that the 12 new dwellings would generate in the region of 5-7 two-way trips in the AM and PM peak hours. This equates to approximately one vehicle movement every 10 minutes within peak hours. It is therefore accepted that the trips generated from the proposed residential development can be accommodated on the local highway network without the requirement for additional junction capacity assessment or traffic impact mitigation works. It is also accepted that the generated trips could be 'netted off' potential extant uses of the building, most recently as a snooker and Pool venue, whilst the site has also operated as a bingo club, which would have presented greater peak hour vehicle movements.
54. The traffic associated with the proposed development is considered minimal, particularly when offset with the potential traffic generation associated with the extant permissions of the site. The proposed development does not therefore present a 'severe impact' on the operation of the local highway network as required to warrant a recommendation for refusal under NPPF guidance.

55. A review of the most recent 5-year period of recoded Police data shows that no personal injury collisions (PICs) have occurred within Eldon Street, with just one 'minor' incident being recorded at the junction of North Rd (A167) and Eldon Street. The PIC data does not indicate any existing highway safety patterns or concerns within the vicinity of the site or give cause to conclude that such incident would occur because of the proposed development.

Parking

56. Dedicated in curtilage parking is to be provide for each new dwelling at a rate of one space per unit. Access for vehicular parking is from the rear of the site via an adopted back lane known as Eldon Street North Back. The lane serves the rear of the existing properties on the northern side of Eldon Street and those located on the southern side of Lansdowne Street. The lane is approximately 4.8m in width. Several existing properties have direct access to the lane for vehicular parking, with several garages present with roller shutter doors.
57. In order for in curtilage parking to be used, it must be practical and convenient for occupiers. Whilst in curtilage parking via the frontage of dwellings would be preferable in that respect, this would be incongruous within the existing street scene, and effectively remove any capacity for on street parking across the site frontage. There are many examples of existing garages and parking spaces located off similar back lanes which operate without issue. The proposed in curtilage parking arrangements are improved over many more historic examples, with be improved access via roller shutters rather than gates, widening of the rear lane and ensuring that spaces are a practical size to accommodate most vehicles.
58. Local Plan Policy IN 4 requires that every new residential property which has a garage or dedicated parking space within its curtilage should include an electrical socket suitable for charging electric vehicles (minimal single phase 13-amp socket). As all dwelling have a dedicated in curtilage space, the provision of an electric vehicle charge point can easily be provided for each dwelling, the provision of which can be secured via a suitably worded condition.
59. Whilst the concerns and objections of nearby residents are noted, they are largely existing issues within Eldon Street, central of which, is that residents are reliant upon on street parking, which is a typical characteristic of terraced streets within the North Rd Ward. Whilst is not reasonable within the scope of this planning application to expect such existing issues to be addressed by the applicant, the scope of any mitigation required must be limited only to any additional impact demonstrated by the proposal. In this context, it is concluded that the application demonstrates sufficient parking to be in line with current design guide standards. With reference to the Councils own Ward profile data, North Road has levels of car ownership which are significantly lower than the national rate, with 43.7% of households not owning a car compared to an average of 26.8% in England and Wales.
60. Whilst the frontage of the site is available for parking, this will remain as the current arrangement, i.e. informally and on a first come first served basis. It will not be allocated or within formally marked bays. As such existing residents will still be able to make use of

available on street parking, subject to availability. The previous parking demand associated with the existing building would also be removed, as is any other more intensive use which could have been implemented under the current use Class E, which could include retail, gymnasiums or other leisure uses.

61. Given the historic nature of the rear lanes, the applicant would be advised that to deliver the required widening works to achieve a 6.0m wide running carriageway, significant works may be required to achieve a suitable line and level for the proposed bitmac widening and kerb edging. As such, the Highways Engineer has requested that a suitably worded Planning Condition is applied to any approval granted to show precise construction details of the widening and the extent of accommodation works required to the rear lane. The bitmac path/carriageway widening should be constructed to 480mm full carriageway construction and have a 25mm kerb face to be sufficiently robust for vehicular use.
62. No Construction Management Plan (CMP) has been provided at this time. This is acknowledged by the applicant within the TS, where the applicant intends to submit a site-specific plan once a principal contractor is appointed and the number of vehicles likely to be generated by the construction process is known, where vehicle movements generated by the construction process are likely to be associated with the delivery of plant and construction materials, as well as construction staff travelling to and from the site. A Construction and Demolition management Plan will be secured by a Planning Condition as also requested by the Environmental Health Officer to ensure that demolition and construction works do not have a detrimental impact on surrounding residents, both for on-site activities and transport arrangements for servicing the site.
63. Subject to the above, the Highways Engineer has raised no objections, and the proposal complies with policies DC1 and IN1-4 in this regard.

Sustainable transport

64. This development site has good public transport accessibility; in line with the SPD (supplementary planning document) and the Darlington Local Plan Policy IN2 it is within 400m of bus stops. There are bus stops on Westmoreland Street these being the Westmoreland Street/Derby Street bus stops that are served by the number 3A which operates every 30 minutes during the day with no evening service Monday to Saturday and no service during the day or evening on a Sunday. However, there are also bus stops on North Road, these being the North Road/Brougham Street bus stops which are served by multiple bus services, the most frequent being the number 5/5A which operates every 30 minutes during the day and every 60 minutes on an evening Monday to Saturday and every 60 minutes during the day and an evening on a Sunday. The site is also near North Road Railway Station which provides an hourly train service.
65. There are cycle routes within the area of the development site. It is welcomed to see that cycle parking has been considered for this development site; within the Design and Access Statement it states, *'Cycle spaces will be provided for each dwelling in the form of secure storage sheds, with larger sheds made available for the 3-bed properties.'* Cycle storage should be in line with the most recent cycle guidance issued (Cycle Infrastructure Design -

Local Transport Note 1/20 July 2020) it states that for long stay requirement for residential cycle parking should be 1 space per bedroom. It should be safe and secure, this can be achieved with storage within a garage or a lockable, appropriately sized shed/container. The full details of the cycle parking should be submitted and agreed via a suitably worded condition.

66. This development is subject to a sustainable transport contribution in line with the SPD. This will be based on £500 per 2 bedroomed dwelling, £750 per 3 bedroomed dwelling. The contribution would be used to improve the walking and cycling infrastructure in the surrounding area. This is considered further elsewhere within this report.
67. Subject to the above, the Transport Planning Officer has raised no objections to the proposed development.

e) Flooding and drainage

68. The site is brownfield land comprising of built development and areas of hardstanding providing parking for the associated former use of the building. The site is in Flood Zone 1 and is at a low risk of tidal and fluvial flooding. There are no overland flows affecting the site and flooding due to ground water is of low risk. There have been no records of sewer flooding in the area and flood risk from artificial sources is considered low. Therefore, in flood risk terms, the principle of residential development in this location accords with the National Planning Policy Framework 2021 and policy DC2 of the Local Plan.
69. The applicant has submitted a Flood Risk Assessment and drainage strategy alongside the application. The Local Lead Flood Authority has considered the information submitted and has confirmed that the applicant has provided sufficient information to satisfy the Authority that a surface water runoff solution can be achieved without increasing existing flood risk to the site or the surrounding area. However, the applicant has not provided a detailed design for the management of surface water runoff from the proposed development and this information should be secured by condition. Also recommended is a condition removing householder permitted development rights as the plots contain critical elements of surface water attenuation structures beneath ground. The surface finish proposal above attenuation is “permeable block paving” which is integral to the long-term drainage strategy.
70. Northumbrian Water were consulted on the proposals and have provided no response; however, the application demonstrates that the developer has been engaging with the organisation to ensure that the proposed discharge of surface water rates to the combined sewer are acceptable.
71. Subject to the above recommended conditions, the proposal complies with policy DC1 and DC2 of the Local Plan.

f) Impact on ecology

72. The site is brownfield land but would still be required to provide net gains for biodiversity in line with policy ENV7. The requirement for biodiversity net gains is reiterated in policy ENV8 of the Local Plan which also states that this should be demonstrated by using the Defra Biodiversity Metric. The policy sets out the assessment and mitigation process applicants are required to follow.
73. The application has been supported by an Ecological Appraisal, prepared by OS Ecology. This identifies that the building and wider site is of low ecological value. The main building within the site is of low suitability for bats and nesting birds, and that due to the nature of the site and immediate surroundings all other protected or notable species are considered absent.
74. The ecological appraisal does identify that the wider environment provides suitable foraging habitat for bats. Whilst there is no connectivity between the site and these areas of habitat, the presence of roosting bats cannot be discounted, and the appraisal recommends that further survey work be undertaken to confirm the presence/absence of roosts. As such, a Bat Survey was submitted. This concluded that habitat on the site and within the immediate surroundings are of low to negligible value to foraging / commuting bats, it comprises of dense residential development with small yards, though higher quality habitat is present within 100m of the site.
75. The Ecological Appraisal and bat survey have set out a series of recommendations in terms of avoidance, mitigation, and compensation. It is recommended that a planning condition is attached to secure compliance with these.
76. The biodiversity net gain assessment submitted sets out that the site has no biodiversity value at present and the development will deliver a net gain in biodiversity units through the delivery of the landscaping proposed as part of the development. Further details of the precise landscaping proposals, which should be informed by the recommendations within the submitted Ecological Appraisal, can be secured by condition. Subject to accordance with such a condition, the proposed development would deliver net gains in biodiversity and would be in accordance with policies ENV7 and ENV8 of the Local Plan.

g) Nutrient Neutrality

77. The application site is located within the River Tees Catchment Area and is therefore subject to the guidance issued by Natural England on the 16th of March 2022 in respect of the unfavourable condition of the Teesmouth and Cleveland Coast Special Protection Area (SPA), Ramsar Site and associated Sites of Special Scientific Interest.
78. The Teesmouth and Cleveland Coast protected area is a wetland habitat comprising an area of complex of coastal habitats centred on the Tees estuary and include habitats such as sandflats, mudflats, rocky foreshore, saltmarsh, sand dunes, wet grassland, and freshwater lagoons. These habitats support internationally important populations of breeding and nonbreeding waterbirds including but not limited to breeding Little Tern (A195), passage Sandwich Tern (A191), wintering Red Knot (A143), Redshank (A162) and Ringed Plover

(A136) as well as a significant assemblage of wintering waterbirds and high density of benthic invertebrates.

79. The Conservation objectives for the SPA are to ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the aims of the Wild Birds Directive, by maintaining or restoring;
- The extent and distribution of the habitats of the qualifying features
 - The structure and function of the habitats of the qualifying features
 - The supporting processes on which the habitats of the qualifying features rely.
 - The population of each of the qualifying features, and,
 - The distribution of the qualifying features within the site.
 -
80. The Natural England Teesmouth and Cleveland Coast Special Protection Area/Ramsar Evidence Pack August 2022 (TIN204) confirms that this protected area is currently in an unfavourable condition due to nutrient enrichment, which includes pollution from nitrates, including Nitrogen.
81. Regulation 63 of the Conservation of Habitats and Species Regulations (2017) requires Darlington Borough Council (as the Competent Authority) prior to giving permission for any plan/project that is likely to have a significant effect on a European site (either alone or in combination with other plans/projects) to undertake an appropriate assessment of the implications of the plan/project for that site in view of that site's conservation objectives.
82. Regulation 75 of the Conservation of Habitats and Species Regulations (2017) also states that it is a condition of any planning permission granted by a general development order made on or after 30th November 2017, that development which is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and is not directly connected with or necessary to the management of the site, must not be begun until the developer has received written notification of the approval of the local planning authority.

Population Growth and Average Occupancy Rate:

83. During the introduction of Nutrient Neutrality into the River Tees catchment in March 2022. Natural England's guidance recommends that, as a starting point, local planning authorities should consider using the average national occupancy rate of 2.4 persons per dwelling as calculated by the Office for National Statistics (ONS). A standard calculator produced by Natural England works off such an assumption.
84. On behalf of the Tees Catchment, Stockton on Tees Borough Council commissioned ORS to consider the weight to be placed on that assumption and prepare a local evidence-based review of the relationship between population growth and provision of new homes within the river Tees catchment to ensure that a suitable robust and evidence-based approach can be taken.

85. Based on local evidence, ORS concluded that the resident population living in the Tees Catchment increased by 24,800 persons over the intercensal period 2011 to 2021, and the housing stock increased by 41,000 dwellings, equivalent to an average gain of 0.60 persons per dwelling across the area. Allowing for natural population change and a reduction of residents living in communal accommodation this increased the average to 0.71 persons per dwelling.
86. Justification is given by ORS that within the Tees catchment, many of the people occupying new homes would have already been residents living within the local area and would therefore not have added to the number of people living in the area. Had these new homes not been provided, it is unlikely that this would have had any material impact on the natural population change – there would still have been broadly the same number of births and deaths recorded over the decade.
87. However, despite the internal migration within the Tees catchment, it is also acknowledged that there is variation between each authority and therefore an individual figure will be adopted by each of the various Tees Catchment Authorities.

Local population growth in Darlington

88. In determining the figure to be used to assess population growth arising from new dwellings with Darlington Borough, the Local Planning Authority has been mindful of the requirement of the Habitat Regulations and the need to employ a precautionary approach to ensure that the methodology taken is both reasonable and would prevent an impact on the SPA.
89. Although it is noted that within the 2011-2021 baseline period each new dwelling within Darlington yielded an average of 0.64 persons per dwelling, applying a sensitivity test of +10% would increase that growth to a figure of 0.77 (figures 7 and 8 of the ORS report) which is less precautionary than the adopted Local Plan's gain over the Plan period of 0.98 persons per dwelling.
90. The research shows that for the Borough if we used the baseline period of 2011-2021 it would show an increase of 0.64, whilst the highest 5-year average would show an increase of 1.1 per dwelling. Due to the recent accelerated growth, which was partly down to a period of constraint, suggests the highest 5-year average is not a resilient figure and a more appropriate approach would be to use the recently adopted annual housing requirement as indicated in the Local Plan which indicates an gain of 0.98 persons per dwelling.
91. Consequently, rather than simply apply a 10% buffer to the average population growth, Darlington Borough Council have in line with the Habitat Regulations opted to follow a precautionary approach (which will be subject to future reviews) and have resolved to use the figure of 0.98 persons per dwelling derived from the 'adopted annual housing requirement' in the Darlington Borough Local Plan with a 10% buffer applied.

92. It is considered that such as approach gives a robust evidenced based approach and that a local population growth figure of 1.1 persons per dwelling for Darlington is more appropriate than Natural England's 'starting point' of 2.4 persons per new dwelling.

Screening assessment

93. The Screening Assessment requires the Local Planning Authority as the Competent Authority to consider and conclude whether the potential for significant effects to the Teesmouth and Cleveland Coast SPA/Ramsar designated features can be excluded for this planning application. If they cannot, the LPA must make an Appropriate Assessment (AA) of the implications of the development for that site, in consideration of the affected sites conservation objectives.
94. The information required to enable the LPA to undertake the screening assessment and where necessary appropriate assessment is provided by the applicant's submitted Nutrient Budget Calculator (11th October 2023), Revised Nutrient Assessment and Provisional Credit Certificate.
95. This information provided by the applicant is considered sufficient to enable the Local Planning Authority as the Competent Authority to fully consider the impacts of the development proposal on Teesmouth and Cleveland Coast SPA/Ramsar.
96. The submitted nutrient budget calculator (11th October 2023) demonstrates that the proposals will increase the nitrogen arising from the development and consequently it cannot be ruled out at the screening stage that this development will not have a likely significant effect on the Teesmouth and Cleveland Coast SPA/Ramsar. An appropriate assessment needs to be undertaken. Mitigation measures cannot be considered at the Screening Stage but should be considered as part of an Appropriate Assessment.

Appropriate Assessment

97. The applicant has used Natural England's Nutrient Budget Calculator tool for the river Tees catchment to establish a nutrient budget for the proposal. Following consideration, the assumptions and inputs used by the applicant within this updated calculator are satisfactory and are an accurate reflection of the site and its location. This proposal for 12 dwellings would increase the total annual nitrogen load arising by 19.57kg per year.
98. As a nitrogen surplus would arise, the applicant has accepted that mitigation would be necessary to avoid likely significant effects. Informed by the Nutrient Budget Calculator Tool the applicant proposes to mitigate this nitrogen surplus by purchasing 19.57 credits from the Natural England Tees Catchment credit scheme which is equivalent to the surplus nitrogen of 19.57kg that needs to be mitigated. The applicant has provided a countersigned provisional credit certificate obtained from Natural England which is sufficient evidence for this form of mitigation to be considered robust and achievable and appropriately located within the Tees catchment. A pre-occupation condition will be required to ensure that the required and necessary mitigation is secured and in place. This should set out that prior to

the occupation of the proposed dwellings the final signed credit certificate needs to be provided to the Local Planning Authority demonstrating that the credits have been purchased and the necessary mitigation secured.

99. The Competent Authority considers this a form of mitigation in keeping with Natural England guidance.

Appropriate Assessment Conclusion

100. This assessment has found that the proposed mitigation measures would adequately mitigate the effects of the proposal and ensure the proposed development will not result in an increase in nitrogen reaching the Teesmouth and Cleveland Coast SPA. So, it can be concluded that the proposal will not adversely affect the integrity of the Teesmouth and Cleveland Coast SPA and meets the relevant Habitat Regulations, subject to condition as set out above.
101. Prior to issuing a decision on this application in accordance with regulation 63 of the Conservation of Habitats and Species Regulations (2017) Natural England must be consulted on this Screening and Appropriate Assessment. A response must then be received from Natural England confirming they have no objection to the proposed development provided that all mitigation measures are appropriately secured in any planning permission. This has been received and therefore officers are able to conclude that the proposal will not adversely affect the integrity of the Teesmouth and Cleveland Coast SPA and meets the relevant Habitat Regulations, subject to appropriate planning condition as set out above.

h) Planning obligations

102. The application triggers a requirement for developer contributions in line with the requirements of the Darlington Local Plan 2016 – 2036 and the Planning Obligations SPD.
103. Where a relevant determination is made which results in planning permission being granted for development, a planning obligation may only constitute a reason for granting planning permission for the development if the obligation is:
- a. Necessary to make the development acceptable in planning terms.
 - b. Directly related to the development; and
 - c. Fairly and reasonably related in scale and kind to the development .
104. In this instance the following planning obligations have been agreed with the applicant:
- A developer contribution of £6,000.00 is sought, to deliver improvements to pedestrian infrastructure in the vicinity of the development (dropped crossings and tactile pavement to provide an accessible route within Eldon Street) in the interests of accessibility and highway safety.
 - A sustainable transport contribution in line with the SPD. This will be based on £500 per 2 bedrooed dwelling, £750 per 3 bedrooed dwelling.

105. It should be noted that the intention was to secure the affordable housing in perpetuity through a section 106 agreement. North Star has advised that stipulating 100% affordable within the section 106 will impact on the grant from Homes England as the view taken will be that if the site could only come forward for affordable the land would be cheaper, hence a grant is no longer required. They have, therefore, requested that there is no requirement within the section 106 for the scheme to be affordable in perpetuity, albeit the proposals clearly relate to an affordable housing scheme. It has been agreed in this instance that the affordable housing scheme can be secured by condition which will include a requirement to demonstrate the arrangements to ensure that the affordable housing is affordable for both first and subsequent occupiers (this is the standard affordable housing condition requiring submission and agreement of the affordable housing scheme). It is considered that the above condition is required as the provision of affordable housing has been given weight in the planning balance within this recommendation.
106. Policy ENV5 sets out that in areas of open space deficiency (identified in the Planning Obligations SPD or equivalent) schemes between 11 and 19 dwellings will be required to make a financial contribution towards the improvement of off-site green infrastructure in the local area, calculated using the referenced formula. This should be equivalent to the additional need generated by the development and where this would deliver greater benefits to the wider community than on-site provision. The site is near North Park and well served by amenity open space which is of a good quality. It is therefore considered that a contribution towards open space provision is not required on this occasion.
107. The above were considered with reference to the Planning Obligations SPD and in close liaison with internal consultees. Overall, it is considered that these proposals meet the tests set out above, are necessary, directly related to the development, and fairly and reasonably related in scale and kind to the development.

i) Other matters

108. The site is in a gypsum (deep) safeguarding area protected by policy MWC4 of the Tees Valley Minerals & Waste DPD Core Strategy (2011). The policy sets out the circumstances when non-mineral development will be permitted in these mineral safeguarding areas and should be considered. Given the size of the site and location within the main urban area extraction is unlikely to be appropriate. Extraction prior to development would also potentially result in the site being unsuitable for residential. Much of the southwestern part of the borough is covered by this designation and therefore a significant area would remain.

THE PUBLIC SECTOR EQUALITY DUTY

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

CONCLUSION

110. In summary, the principle of development of this site is acceptable in this location. The proposed development complies with the relevant policies in the development plan and has an acceptable impact on heritage assets with the loss of this non-designated heritage asset outweighed by the provision of affordable housing in the local area. Subject to the proposed conditions the development would be acceptable in respect of highway safety, ecology, flood risk and drainage and residential and visual amenity.

RECOMMENDATION

THE DIRECT OF ECONOMIC GROWTH BE AUTHORISED TO NEGOTIATE AN AGREEMENT UNDER SECTION 106 OF THE TOWN AND COUNTRY PLANNING ACT 1990 WITHIN SIX MONTHS TO SECURE PLANNING OBLIGATIONS THAT ARE APPROPRIATE FOR THE DEVELOPMENT COVERING:

- i) Highways contribution (improvements to pedestrian infrastructure in Eldon Street) £6000 (to be costed)
- ii) Sustainable transport contribution in line with the SPD. This will be based on £500 per 2 bedroomed dwelling, £750 per 3 bedroomed dwelling.

*Triggers for payment to be agreed.

THAT UPON SATISFACTORY COMPLETION AND SIGNING OF THAT AGREEMENT, PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS AND REASONS:

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.

GENERAL

1. A3 (Standard 3-year time limit)

APPROVED PLANS

2. PL (Accordance with Plans)

Site location Plan

4017-HMH-DD-2B4P-DR-A-1010-P02_2B4PHOUSE Revised 2B4P House Plan

4017-HMH-DD-3B5P-DR-A-1020-P02_3B5PHOUSE Revised 3B5P House Plan

4017-HMH-DD-SBXX-DR-A-1041-P04_Rear Elevation Street scene

4017-HMH-DD-SPXX-DR-A-1001-P07_ Revised Proposed site plan

4017-HMH-DD_B1XX-DR-A-1040-P06 Revised Street elevations and block plan

MATERIALS

3. B4 External Materials

AFFORDABLE HOUSING

4. The development shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2 of the National Planning Policy Framework or any future guidance that replaces it. The scheme shall include:
 - a) the numbers, type, and tenure of the affordable housing provision to be made.
 - b) The arrangements for the transfer of the affordable housing to an affordable housing provider [or the management of the affordable housing] (if no RSL involved);
 - d) The arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
 - e) The occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

REASON – The provision of affordable housing within the scheme was given significant weight in the planning balance. To comply with Council housing policy.

HERITAGE IMPACTS

5. The buildings shall not be demolished until an appropriate programme of historic building recording (level 2) and analysis has been secured and implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority. The development shall be carried out in strict accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning.

REASON - To ensure that an appropriate record is made of the historic building fabric that will be affected by the development.

NUTRIENT NEUTRALITY

6. Prior to the first occupation of the development, a Final Nutrient Credit Certificate, signed by Natural England and the applicant, shall be submitted to the Local Planning Authority.

REASON - To ensure the development is nutrient neutral in accordance with the Conservation of Habitats and Species Regulations 2017

M4(2) STANDARD

7. The dwellings hereby approved shall fully meet building regulations category M4(2) adaptable and accessible dwelling standards.

REASON – To ensure the development complies with policy H4 of the Darlington Local Plan 2016 – 2036

EV CHARGING POINTS

8. Prior to the first occupation of the development hereby approved details of the type and location of an electrical socket suitable for charging electric vehicles for each property with a dedicated garage or parking space, shall be submitted to and approved by the Local Planning Authority. Thereafter the development shall be undertaken in accordance with the approved details prior to the occupation of the dwellings and maintained as such thereafter.

REASON - To accord with Policy IN4 of the Local Plan.

LAND CONTAMINATION

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

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

10. Prior to the commencement of each phase of the development (excluding site preparation and demolition) or at a time agreed in writing by the Local Planning Authority a Phase 2 Site Investigation works shall be conducted, supervised and documented by a "suitably competent person(s)" and carried out in accordance with the approved Phase 2 Site Investigation Strategy (Sampling and Analysis Plan). A Phase 2 Site Investigation and

Risk Assessment Report prepared by a "suitably competent person(s)", in accordance with published technical guidance (e.g. BS10175 and Land Contamination: Risk Management (LCRM)) and shall be submitted to and agreed in writing with the Local Planning Authority unless the Local Planning Authority dispenses with the requirement specifically and in writing.

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

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

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

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

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

13. The Phase 3 Remediation and Verification works shall be conducted, supervised, and documented by a "suitably competent person(s)" and in accordance with the agreed

Phase 3 Remediation and Verification Strategy. No alterations to the agreed Remediation and Verification Strategy or associated works shall be carried out without the prior written agreement of the Local Planning Authority.

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

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

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

CONSTRUCTION IMPACTS

14. Prior to the commencement of the development, a site-specific Demolition and Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The plans shall include the following, unless the Local Planning Authority dispenses with any requirements specifically and in writing:
 - a) Dust Assessment Report which assesses the dust emission magnitude, the sensitivity of the area, risk of impacts and details of the dust control measures to be put in place during the demolition and construction phases of the development. The Dust Assessment Report shall take account of the guidance contained within the Institute of Air Quality Management "Guidance on the assessment of dust from demolition and construction" February 2014.
 - b) Methods for controlling noise and vibration during the demolition and construction phase and shall take account of the guidance contained within BS5228 "Code of Practice for noise and vibration control on construction and open sites".
 - c) Construction Traffic Routes, including parking areas for staff and visitors.
 - d) Details of wheel washing.
 - e) Road Maintenance.
 - f) Warning signage.

- g) Contact details for the responsible person (site manager/office) who can be contacted in the event of any issue.

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

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

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

REASON – In the interests of amenity.

HIGHWAYS

16. Except for investigative works, no excavation or other groundworks or the depositing of material on site in connection with the construction of any road or any structure or apparatus which will lie beneath the road must take place on any phase of the road construction works, until full detailed engineering drawings of all aspects of roads which affect or form part of the highway network, and a programme for delivery of such works have been submitted to and approved in writing by the Local Planning Authority.

The development must only be carried out in compliance with the approved engineering drawings and programme of delivery.

REASON - To secure an appropriate form of vehicular and pedestrian access is constructed to an adoptable standard in the interests of highway safety and the amenity and convenience of all highway users.

17. No part of the development to which this permission relates must be brought into use until offsite access works are completed and any internal carriageway and any footway or footpath from which it gains access is constructed to binder course macadam level or block paved (as approved) and kerbed and connected to the existing highway network with any street lighting installed and in operation.

REASON - To ensure safe and appropriate access and egress to the premises, in the interests of highway safety and the convenience of all highway users.

18. No part of the development shall be brought into use until the access, parking, maneuvering, and turning areas for all users within the development, have been constructed in accordance with the details approved in writing by the Local Planning

Authority. Once created these areas must be maintained clear of any obstruction and retained for their intended purpose at all times.

REASON - To provide for adequate and satisfactory provision of off-street accommodation for vehicles in the interest of safety and the general amenity of the development.

TRANSPORT POLICY

19. Prior to the first occupation of the development hereby approved, details of secure cycle parking shall be submitted to, and approved in writing by the Local Planning Authority. The cycle parking shall be implemented in accordance with the agreed details prior to the occupation of the dwellings and shall be retained as such thereafter.

REASON – To encourage the use of sustainable modes of transport to and from the development.

FLOODING AND DRAINAGE

20. 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.

- Detailed design of the surface water management system.
- A build program and timetable for the provision of the critical surface water drainage infrastructure.
- A management plan detailing how surface water runoff from the site will be managed during the construction phase;
- A Section 104 adoption agreement entered into before construction.
- Amended Flood Risk Assessment (FRA) & Drainage Strategy

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 Policy DC2 of the Darlington Borough Local Plan 2016-2036 and the National Planning Policy Framework 2021.

21. The development permitted by this planning permission shall only be carried out in accordance with an amended and approved Flood Risk Assessment (FRA) & Drainage Strategy and the following mitigation measures detailed within the FRA.

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order) no enlargement, improvement or other alteration of the premises, including any additional structures/building within the curtilage of the site or alterations or removal

of the permeable block paving shall be carried out without the prior consent of the Local Planning Authority, to whom a planning application must be made.

REASON - The plots contain critical elements of surface water attenuation structures beneath ground. The surface finish proposal above attenuation is “permeable block paving” which is integral to the long-term drainage strategy.

22. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order) no enlargement, improvement or other alteration of the premises, including any additional structures/building within the curtilage of the site or alterations or removal of the permeable block paving shall be carried out without the prior consent of the Local Planning Authority, to whom a planning application must be made.

REASON - The plots contain critical elements of surface water attenuation structures beneath ground. The surface finish proposal above attenuation is “permeable block paving” which is integral to the long-term drainage strategy.

23. 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.

24. The buildings hereby approved shall not be brought into use until: -

- 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.
- A Management and maintenance plan of the approved Surface Water Drainage scheme has been submitted and approved in writing by the Local Planning Authority, this should include the funding arrangements and cover the lifetime of the development.

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

LANDSCAPE AND MEANS OF ENCLOSURE

25. A landscaping scheme shall be submitted to, and approved in writing by, the Local Planning Authority prior to any works commencing (excluding demolition and site access work) 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 and to achieve Biodiversity Net Gain.

26. The boundary treatment for each dwelling as specified on the submitted drawing (4017-HMH-DD-SPXX-DR-A-1001-P07_) shall be in place prior to the occupation of the dwellings hereby approved.

REASON – In the interests of visual and residential amenity

ECOLOGY

27. The development shall not be carried out otherwise than in complete accordance with the recommendations set out within the Ecological Appraisal (Land off Eldon Street, Darlington, OS Ecology, May 2023) unless otherwise agreed in writing by the Local Planning Authority.

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

INFORMATIVES

Other Permissions required from the Local Highway Authority

Applicants are reminded that in addition to securing planning permission, other permissions may be required from Darlington Borough Council acting as Local Highway Authority. These additional permissions can include but are not limited to: Agreements under Sections 278, 38, and 184 of the Highways Act 1980; permissions through New Roads and Street works Act 1991 and Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996 (as amended and including all instruments, orders, plans, regulations, and directions).

Further information on these matters can be obtained from the Local Highway Authority. Other permissions may also be required from third parties. It is the applicant's responsibility to ensure all necessary permissions are in place prior to commencement of works.

The Developer is required to submit detailed drawings of the proposed off-site highway works to be approved in writing by the Local Planning Authority and enter into a Section 184/278 agreement before commencement of the works on site. Contact must be made with the Assistant Director: Highways, Design and Projects (contact Mr Steve Pryke 01325 406663) to discuss this matter.

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

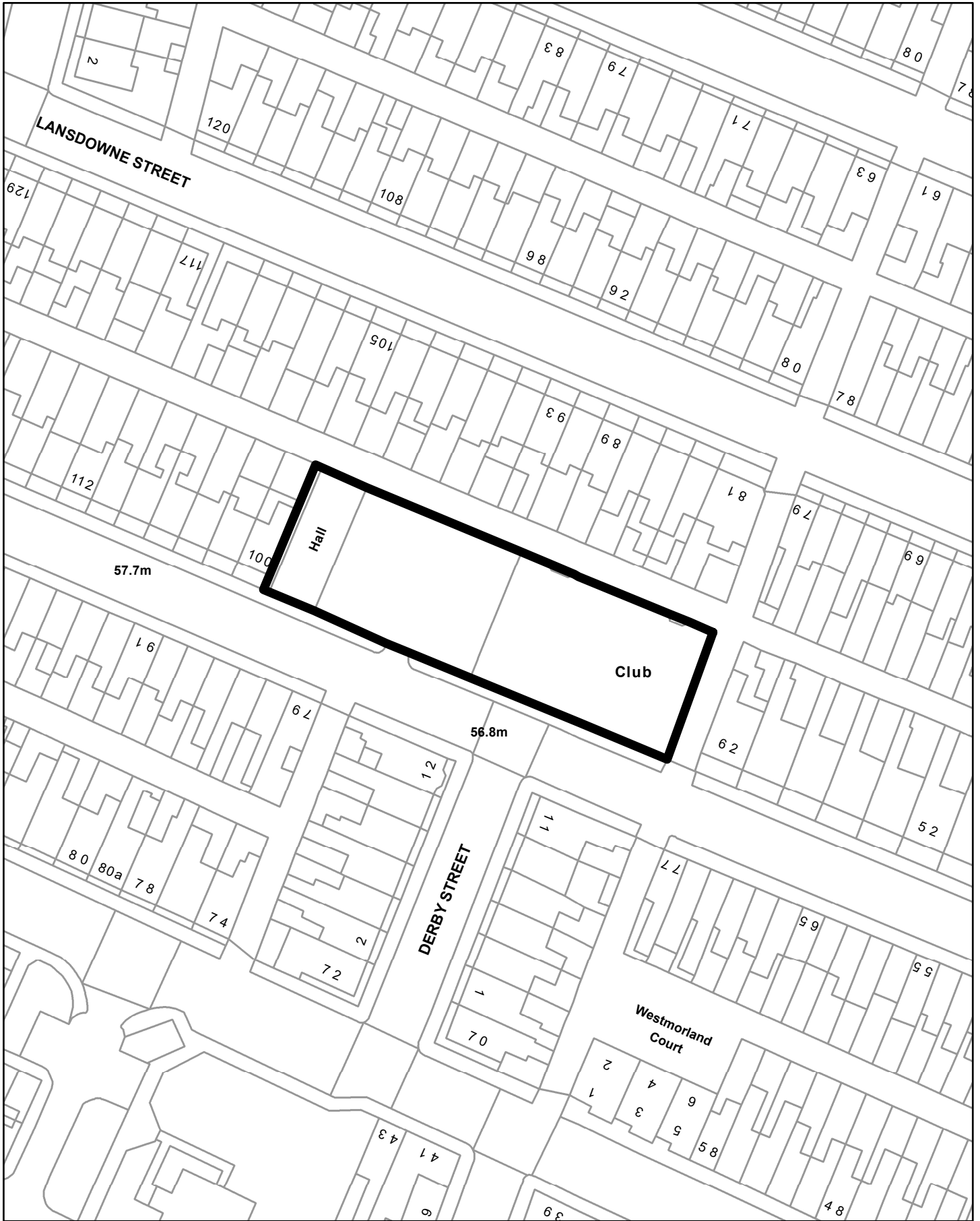
Local Lead Flood Authority

Surface water discharges from this site shall be flow regulated to ensure that flooding problems elsewhere in the catchment are not exacerbated. Sufficient storage within the system to accommodate a 1 in 30-year storm. The design shall also ensure that storm water resulting from a 1 in 100 year event plus climate change surcharging the drainage system can be stored on site without risk to people or property and without overflowing into drains or watercourse. Full Micro Drainage design files (mdx files) including the catchment plan and 3D topographical survey must be submitted for approval.

The developer will need to provide a detailed program including timetable for the construction of the main surface water drainage infrastructure.

The updated guidance states the new allowances for climate change now require both +20% scenario and a +40% scenario. Therefore, new surface water drainage scheme designed within the Flood Risk Assessment/Drainage Strategies require at least three sets of calculations.

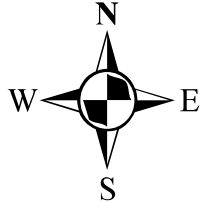
1. 1 in 30-year event.
 2. 1 in 100 years plus 20% climate change.
 3. 1 in 100 years plus 40% climate change.
- Drainage systems can be designed to include a 20% allowance for climate change.
 - A sensitivity test against the 40% allowance is required to ensure that the additional runoff is wholly contained within the site and there is no increase in the rate of runoff discharged from the site. It must be demonstrated that there are no implications to people from the increased flood hazard (volume between 20% and 40% allowance). It is crucial that the additional runoff from the 40% is contained within the site and does not contribute to an increased flood risk to people/property/critical infrastructure/third parties elsewhere.
 - If the flows cannot be contained within the site without increasing risk to properties or main infrastructure a 40% allowance must be provided.
 - The Councils flood risk team are not aware of any previous flooding of the site; however, this does not mean that the site has never been subject to previous flooding.
 - Sewers for Adoption has been replaced by “Design and Construction Guidance for foul and surface water sewers offered for adoption under the Code for adoption agreements for water and sewerage companies operating wholly or mainly in England (“the Code”) (DCG) Version 2.1 25 May 2021.



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Planning Ref No: 23/00178/FUL

DARLINGTON BOROUGH COUNCIL



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DARLINGTON BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 10 April 2024

APPLICATION REF. NO:	23/00956/FUL
STATUTORY DECISION DATE:	17 April 2024
WARD/PARISH:	College
LOCATION:	Garages To The Rear Of 63 Woodland Road Vane Terrace
DESCRIPTION:	Demolition of garage block (four garages) and construction of 1 no. two bed residential dwelling (Use Class C3) incorporating the existing two storey dovecote and the creation of a courtyard/garden, together with the provision of a footpath for pedestrian access and installation of street lighting (additional information received 9 February 2024; Nutrient Calculator and Provisional Nutrient Certificate received 15 February 2024; Bat and Bird Breeding Survey received 29 February 2024)
APPLICANT:	Mr Andrew Wise

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=S1JSGBFPFWK00>

APPLICATION AND SITE DESCRIPTION

1. The application site is part a quadrant of land and group of buildings to the rear of Woodland Road and Vane Terrace comprising a two storey dovecote and eight single storey garages accessed off Woodland Road South Back Lane which is a lane with a scoria block surface. The site is located to the south of Nos 57 to 91 Woodland Road which is a terrace of properties comprising single dwellings, flats, a Guest House (within the ownership of the applicant) and offices. The properties on Vane Terrace are located

to the east with the garden of No 6 Vane Terrace running along the south boundary of the application site. Trinity Mews, to the west, is a modern flatted development separated from the site by a lane with a high solid brick boundary wall. There are some former Coach houses on Woodland Road South Back Lane which are in residential use (flatted and a single dwelling) with pedestrian access directly onto that lane. The site is located within the West End Conservation Area.

2. Planning permission (ref no 20/01213/FUL) has been previously refused to demolish the garage block and to build a two-bed dwelling on the application site. While the principle of development was considered to be acceptable, the application was refused for the following sole reason:

Due to the lack of a safe, lit footpath on Woodland Road South Back Lane linking from the existing footpath network to the proposed dwelling, the development does not provide appropriate permeability and connectivity for pedestrians and people with mobility issues contrary to Policy IN1 (Delivering a Sustainable Transport Network) and Policy IN2 (Improving Access and Accessibility) of the Darlington Borough Local Plan (2016 – 2036)

3. A subsequent planning appeal was dismissed in July 2022. The Planning Inspector found that it had not been demonstrated that the appeal scheme would create appropriate access to the site, with particular regards to pedestrians and people with mobility issues. The Planning Inspector agreed that the scheme was contrary to policies IN1 and IN2 of the Darlington Borough Local Plan.
4. This application is a resubmission for the demolition of the garage block (four garages) and the construction of 1 no. two bed residential dwelling (Use Class C3) incorporating the existing two storey dovecote and the creation of a courtyard/garden. The amendment to the previously submitted application is that this proposal now involves the provision of a lit footpath for pedestrian access along the length of Woodland Road South Back Lane onto Vane Terrace. Two of the garages in the block opposite the dovecote building would be retained and used for the parking of vehicles associated with the proposed dwelling.

MAIN PLANNING ISSUES

5. The main issues to be considered here is whether the proposed development is acceptable in the following terms:
 - a) Planning Policy
 - b) Impact on the General Character and Appearance of the Surrounding Area
 - c) Impact on Heritage Assets
 - d) Residential Amenity
 - e) Highway Safety, Parking Provision and Accessibility
 - f) Land Contamination
 - g) Ecology
 - h) Flood Risk and Drainage

i) Nutrient Neutrality

PLANNING POLICIES

6. The local development plan policies which are relevant to the planning application are:

Darlington Local Plan (2022)

SD1: Presumption in Favour of Sustainable Development
SH1: Settlement Hierarchy
DC1: Sustainable Design Principles and Climate Change
DC2: Flood Risk & Water Management
DC3: Health & Wellbeing
DC4: Safeguarding Amenity
H3: Development Limits
H4: Housing Mix
ENV1: Protecting, Enhancing and Promoting Darlington's Historic Environment
ENV3: Local Landscape Character
ENV4: Green and Blue Infrastructure
ENV7: Biodiversity and Development
ENV8: Assessing a Development's Impact on Biodiversity
IN1: Delivering a Sustainable Transport Network
IN2: Improving Access and Accessibility
IN4: Parking Provision including Electric Vehicle Charging
IN6: Utilities Infrastructure

Other relevant Documents

National Planning Policy Framework 2021
Supplementary Planning Document – Design for New Development
West End Conservation Area Character Appraisal

RESULTS OF TECHNICAL CONSULTATION

7. The Council's Street Lighting Engineer, Environmental Health Officer, Highways Engineer and Ecology Officer have raised no objections to the proposed development subject to appropriate planning conditions being imposed.
8. Natural England has no objections subject to planning conditions being imposed to secure nutrient neutrality mitigation.
9. Northern Gas Networks has no objections to this proposal.

RESULTS OF PUBLICITY AND NOTIFICATION

10. Six letters of objection have been received from five households following the Council's notification and publicity exercises. The comments can be summarised as follows:
- *The proposed building will have a detrimental effect on the area and destroy a local landmark and the character of the alley.*
 - *The development will overlook houses and gardens on Vane Terrace*

- *The lane is only wide enough for a van/refuge truck so any footpath would be used as part of a road by vans, refuse trucks etc.*
- *The construction of the footpath could damage the foundation of the boundary wall of No 4 Vane Terrace*
- *The construction of the footpath would interfere with the damp proof course of No 4 Vane Terrace*
- *No 4 Vane Terrace has three access gates onto Woodland Road South Back alley. Two of the three entrances are level with the alley and so any increase in height for a footpath would cause access problems and potential flooding into the property.*
- *A safe means of vehicle crossing over any footpath would need to be considered.*
- *Vehicles will be travelling in very close proximity to the properties on Woodland Road South which have main access doors directly onto the lane.*
- *It is not suitable to install a footpath in this location.*
- *Any new footpath would be frequently driven over causing a potential danger to pedestrians using the path, damage to the path over time and the footpath curb would cause damage to cars.*
- *The scheme would result in a reduction of garage and parking spaces for No 63 Woodland Road, which is a Guest House from seven spaces to one.*
- *There is a very limited loading and turning area for the properties and no safe turning location for vehicles visiting the property.*
- *Increased traffic will increase the risk of damage to No Vane Terrace*
- *There will be high levels of noise which is already a problem in the area.*
- *Street lighting will cause light pollution.*
- *The occupant of No 4 Vane Terrace has a right of access over the garage forecourt area and vehicle access rights into their garage at the rear. When a car enters or exits the garage, a car would be within close proximity of the new dwellings front door which is unsafe.*
- *The development would directly overlook garages, gardens and windows of neighbouring properties.*
- *The development will have an adverse impact on conservation area.*
- *There will be an increase in traffic, and it will not be possible to put bins out in the lane on collection days.*
- *The development will impact on light into neighbouring dwellings.*
- *Vehicles will have to reverse out onto Vane Terrace. The road is over congested, and car parked cause blind spots and would be very dangerous to have to reverse out.*
- *The scheme will cause extra congestion and parking problems.*
- *At present when meeting another vehicle in the lane head on, one vehicle has to either pull into the garages (acting as a passing place) or one has to reverse backwards out onto Vane Terrace. Adding a path and the new property to this scenario would mean that the only option would be the more dangerous one which is reversing out onto Vane Terrace.*
- *At the planning appeal, the applicant's consultants advised that the 'the provision of a footway and street lighting along Woodland Road South Back would be of detriment to the operation of the carriageway and its users'.*

- *Object to the destruction of the dovecote building and degrading of conservation area.*
- *The garage provides parking for guests and the development will remove four parking spaces pushing those vehicles to an already very busy street.*
- *The area doesn't have a demand for this type of development. There is an overpopulation of the area as many properties have been converted to flats and HMOs.*
- *Extra strain on utilities, water, waste and drainage*
- *The path will push vehicles dangerously close to access gates and garage accesses that face onto the alley.*
- *Light pollution from street lighting*

PLANNING ISSUES/ANALYSIS

a) Planning Policy

11. Planning law (S.38(6) of the Planning and Compulsory Purchase Act 2004) requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework (2023) supports the plan led system providing that planning decisions should be “genuinely plan-led” (NPPF para 15).
12. The application site is within the limits of development for the urban area as identified by the Policies Map of the Darlington Borough Local Plan (2016 – 2036). Development within the limits identified on the Policies Map will be acceptable in principle subject to compliance with other relevant national and local policies (policy H3).
13. In order to comply with policy H4 of the Local Plan, a planning condition has been imposed to ensure the proposed dwelling meets Category 2 requirements (accessible and adaptable dwellings) of Building Regulations Approved Document M: Volume 1 (Access to and use of dwellings). This will ensure that the development provides quality living environments for the occupants both now and in the future.

b) Impact on the General Character and Appearance of the Surrounding Area

14. The general character of the area is predominately residential with some non-residential uses within the terrace of properties to the north on Woodland Road. The properties are a mix of two and 2.5 storeys buildings with the more recent and modern flatted development to the west comprising three storey blocks. There are former Coach house buildings to the rear of Nos 59 to 61 Woodland Road which have been converted to residential uses and they are directly accessed off Woodland Road South Back Lane.
15. As the proposal involves the conversion and extension of an existing building into a residential use within an existing residential area, the proposed development would not harm the existing character of the local area. The loss of the garages in parking terms is considered in paragraphs 53 and 54 of this report.

16. The design of the building was amended during the course of the determination of planning application 21/01213/FUL and the proposed scheme is the same as previously submitted. The garages to the side of the dovecote would be replaced by a two-storey side extension to this retained feature, with the first floor accommodation being within the roof space, served by sky lights.
17. The Council's adopted Supplementary Planning Document - Design for New Development advises that new two storey development would generally be accepted in this Town Centre Outer Ring Character Zone, subject to site context and so the principle of the proposed development would accord with the SPD.
18. The existing flat roofed garage block does not make any valuable visual contribution to the immediate local area or to the wider street scene, from where they are not highly visible, and their loss would not raise any concerns in general design and street scene terms.
19. The design of the proposed development reflects the local environment and responds positively to the local context, in terms of its scale, form, height and layout. The proposal includes private amenity space enclosed by a high brick wall, the design of the new build extension is sympathetic to the dovecote, and the external alterations to the dovecote itself are acceptable.
20. Planning conditions would be used to secure appropriate materials and fenestration and security measures.
21. It is considered that the proposed development is acceptable in general design terms and would not significantly harm the character and appearance of the local area and would comply with policy DC1 of the Local Plan.

c) Impact on Heritage Assets

22. The application site is within the West End Conservation Area. The existing dovecote would not be categorised as a non designated heritage asset, but it is of interest in context of the local area. The existing garages do not make any valuable contribution to the significance of the Conservation Area.
23. 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.
24. Policy ENV 1 of the Local Plan states that when considering proposals affecting all designated heritage assets such as 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.

25. Proposals resulting in substantial harm to or total loss of the significance of a designated heritage asset (or an archaeological site of national importance) will only be permitted where this is necessary to achieve substantial public benefits that outweigh the harm or loss, or all of the following apply:
 - a. the nature of the heritage assets prevents all reasonable uses of the site.
 - b. no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation.
 - c. conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and
 - d. the harm or loss is outweighed by the benefit of bringing the site back in to use.
26. 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; and
 - b) character created by them; and historic plot boundaries and layouts; and
 - c) the setting of the conservation area.
27. Policy ENV1 of the Local Plan is consistent with the requirements set out in the National Planning Policy Framework 2023.
28. The planning application has been supported by a detailed Heritage Statement which advises that the Dovecote is of late 19th century construction with historic maps showing an adjoining glasshouse, where the current garages are located. The glasshouse appears to remain in situ until the latter half of the 20th century when they are replaced by the existing garages. The Dovecote may have originally been a communal Dovecote as there are no records available or evidence suggesting otherwise. The Statement acknowledges that there are few examples of such Dovecotes remaining in Darlington.
29. The proposals are for a single, two bedroom property, incorporating the Dovecote into the development along with a private walled garden area. The design works with the current form of the Dovecote and also looks to take cues from the immediate area.
30. The works to the Dovecote are appropriate, making use of existing openings, for example, on the eastern elevation an existing opening would be fitted with a sliding

sash window and to the ground floor, the door opening is to be reused with the attached window being slightly reduced in size and a simple window fitted.

31. The design of the proposed extension to the Dovecote is acceptable and sympathetic to the character and appearance of the buildings in the immediate area. To the ground floor on the east elevation there are a pair of sliding sash windows proposed with curved segmental window heads which is a nice detail, and these windows would be curved to match the window openings and remove a small infill panel, which would have had a poor visual impact. The rooflights in the roof plane reflect the historic character of the area.
32. The south elevation shows the use of the a-symmetric roof. There is proposed a large set of opening doors to the ground floor and a single sash to the first floor which do not raise any concerns in heritage terms. The existing openings in the west elevation are to be reused and this a reasonable approach with the only other opening in this elevation being the placement of a small single roof light.
33. The development will be of brick construction and planning conditions will be imposed to ensure that materials match the brick of the existing Dovecote (as much as possible),
34. As stated above, there would be a need to create a lit footpath with a smooth bitmac surface along the lane in order for the development to comply with other local development plan policies. The footpath would be located down a lane which retains its scoria block surface and, it is envisaged that the footpath would result in the partial loss of the blocks. The impact of the creation of the new footpath within the lane would need to be weighed against the benefit that the footpath would have on providing safe and convenient access for pedestrians and people with mobility issues. There have been other approvals recently granted for residential development, elsewhere within the West End Conservation Area, which has involved the need to create a footpath in existing cobbled lanes and it is considered that the principle of a footpath in this location can be supported on heritage grounds. Only a small section of the lane would be resurfaced to create the footway and the lane is not highly visible in the street scene except at the point of access, due to the presence of boundary walls and buildings in either side.
35. The Dovecote, which is the element of the building of most heritage interest would be retained and the alterations to it, including the extension, are considered to be acceptable. There are no objections to the removal of the existing garages and the proposal would bring this building back into a use that is compatible with the surrounding area. The footway would result in the loss of a small section of scoria blocks within the lane, but overall, it is considered that the significance of the Conservation Area would be sustained and not harmed resulting in the application being compliant with Policy ENV1 of the Local Plan and the National Planning Policy Framework 2023.

d) Residential Amenity

36. The existing garages are quite well screened from the neighbouring dwellings due to existing boundary walls and their limited scale, but the two-storey dovecote is visible when viewed from the rear of the properties and buildings on Woodland Road, Vane Terrace and Trinity Mews.
37. The proposed development will result in the garages being replaced by a two storey extension with the first floor accommodation being primarily within the roof space. As a result of the increase in height of the proposed development (primarily the introduction of the pitched roof); the new dwelling would be a more visible addition within the local area. However, it is considered that the impact of the development on the outlook from the neighbouring dwellings would not be so adverse to recommend refusal on such grounds. The main increase in the overall bulk of the building is the addition of the roof and the proximity distance between the building and the neighbouring dwellings and their gardens is sufficient to ensure the building would not have an unacceptable and overbearing visual impact. The planning system is not necessarily intended to protect an outlook that a resident may enjoy at a particular point in time but to maintain an outlook that meets acceptable standards of amenity, and it is considered that the proposed development would maintain an acceptable standard of amenity when viewed from neighbouring properties.
38. The habitable windows within the dwelling are primarily at ground floor level and would not raise any unacceptable levels of overlooking or be highly visible. There is a bedroom window at first floor level on the south facing elevation, but this would be fitted with obscure glazing (which can be secured by a planning condition). It is not envisaged that views from the rooflights and the bedroom window in the dovecote will lead to unacceptable levels of overlooking due to a mix of the proximity distances (in excess of 21m) between habitable windows and their lack of direct views across properties.
39. The flatted development on Trinity Mews to the west of the site would not be adversely affected on amenity grounds.
40. The garages which would be opposite the new dwelling and do not form part of the planning application are in domestic use rather than commercial use and it is considered that the amenities of the future occupants of the dwelling would not be adversely harmed by any activities that may take place from the garages.
41. There would be ample room to store domestic wheelie bins in the garden/courtyard area of the proposed dwelling which is accessible immediately from the kitchen of the proposed dwelling and this would remove the need for any bins to be stored outside the garden other than on collection days.
42. A Demolition and Construction Management Plan would be secured by a planning condition.

43. As stated above, there would be a need to create a lit footpath along the lane in order for the development to comply with other local development plan policies. There could be two street lights positioned alongside the boundary of No 4 Vane Terrace and application has been supported by a Lighting Report. The street lighting would conform to the Council's Street Lighting Column Specification and the level of illumination would not raise any amenity concerns. The Council's Environmental Health Officer has not raised any light pollution concerns.
44. Overall, it is considered that the proposed development would not have an adverse impact on the amenity of existing dwellings and would accord with Policies DC3 and DC4 of the Local Plan.

e) Highway Safety, Parking Provision and Accessibility

45. The proposed dwelling is to be accessed via an existing back lane located off Vane Terrace known as Woodland Road South Back. Presently the access is used by both pedestrians and vehicular traffic with a scoria block surface devoid of footway provision.
46. The site is in a sustainable location with good access to local shops services and amenities, including the town centre. There are bus stops, with frequent services, located within 150m walking distance of the application site on Woodland Road (policy IN2) and it also has nearby links to the town's existing cycleway infrastructure.
47. The need for a development to have good and safe connectivity for pedestrians and people with mobility issues is a requirement set out in policies IN1 and IN2 of the Local Plan and has been supported at planning appeal. The need for a development to include a footpath and lighting within scoria back lanes has been highlighted as part of previous approvals given elsewhere within the Borough including:
- 06/00584/FUL - Buildings to The Rear Of 33 & 35 Larchfield Street
 - 07/00623/FUL - Garages and Adjoining Land Fife Road - Cleveland Avenue Back Street
 - 16/01036/FUL - Land at Rear 37 Larchfield Street
 - 17/00220/OUT - Land Off Montrose Street
 - 17/00945/FUL - Garages and Garden to Rear Of 38 Langholm Crescent
48. The inclusion of the footway within this proposal follows the previous refusal and appeal decision where the Planning Inspector upheld that the Council's reason for refusal was reasonable and that a footway is a necessity for a safe and accessible route to a residential dwelling. In the appeal decision, the Planning Inspector stated:
- "The use of this unlit back lane as the only access to the appeal property, in the absence of any appropriate provision for pedestrians, would inevitably lead to conflict between pedestrians and vehicles. I therefore find that it has not been demonstrated that the appeal scheme would create appropriate access to the site, with particular regards to pedestrians and people with mobility issues. Thus, the appeal scheme is contrary to Policies IN1 and IN2 of the Darlington Borough Local Plan."*

49. The means of introducing a safe access for the occupants and visitors of a new residential development has evolved and improved over time as the requirements of pedestrians, cyclists, and persons with visual or mobility impairment have become prioritised over the use of private motor vehicles. This is reflected in the Council's Public Sector Equality Duty, as well as the Local Plan. Leaving the lane in its existing condition is not appropriate as people do have different access requirements and that for some persons having an equitable means of access requires the provision of a smooth, level, and legible route which is safe and lit. The local planning authority must consider the requirements of future users and that the needs of individuals may change over time, where a scoria block surface would not be easily accessible for persons with visual impairment or mobility issues.
50. The applicant is required to construct a 1.2m wide footway with street lighting. The footway would be located on the southern side of Woodland Road South Back, which gives the best route for the intended purposes of serving the proposed dwelling. It is not primarily intended as an improved means of access to existing properties, whose access arrangements would remain unchanged. The public highway would not be narrowed, as it remains adopted highway "wall to wall". The required footway would only need to be 1.2m wide, constructed with a minimal 25mm kerb upstand to enable occasional overrunning by vehicles and with a smooth bitmac surface. The required footway would be designed to enable overrun via heavy duty construction designed to withstand the wheel loading of vehicles without incurring damage to the pavement. The 25mm kerb upstand enables two-way vehicle movements when required. As a result, reversing onto Vane Terrace would not be required over and above any existing levels as the effective carriageway width would remain unchanged.
51. Regarding the footway affecting the ability of emergency services vehicles or refuse vehicles to access the lane and the development, the provision of a footway would establish a dedicated pedestrian route but with a driver's understanding that a pedestrian has a right of way. Footways are driven over on innumerable occasions for driveway access for instance, with drivers understanding that they must give way to pedestrians when crossing a footway. This is clear within the Highway Code guidance and not a matter of ambiguity, furthermore, examples of the well-established precedent for the provision of such footways have been demonstrated and the Local Highway Authority are able to review accident data for numerous sites, with no recorded incidents of pedestrian injury or vehicle collision being demonstrable.
52. Furthermore, the provision of street lighting makes pedestrians visible to approaching drivers. Manual for Streets (MFS) and the Tees Valley Design Guide advise that a carriageway width of 3.1m is the minimum width for access by a fire appliance, and as a minimum width of 3.3m is maintained, then there is no reasonable evidence to suggest that such a vehicle would need to mount the kerb to gain access. A width of 3.7m is required to operate at the scene of a fire. As the highway boundary remains unchanged at 4.5m-4.7m (wall to wall) the Local Highway Authority does not consider that a

footway with a 25mm high kerb would prevent access and operation at the scene of an incident

53. Four of the existing block of eight garages are to be demolished to enable the construction of the new dwelling. How the garages are currently used is perhaps the most pertinent way to define any loss of parking, given that they are not in curtilage parking directly linked to residential dwellings. As part of the planning application, the applicant has advised:

The application site currently comprises of two garage blocks (containing 4 garages each) and the existing Dovecote. Seven of these garages are in the ownership of the adjacent Balmoral Guest House, the owner of which is the applicant for the current application. These garages however are surplus to requirement of the guest house, with parking available for guests within the curtilage of the guest house itself. The garages are therefore rented out and utilised for storage purposes, and not for parking. The proposed loss of these garages will therefore not result in a loss of parking, which would negatively impact the local area.

54. There is no obligation that the existing garages must be used for parking. As with many garages, owners and occupiers may choose to use a garage for purposes other than the keeping a vehicle, be it for storage or hobbies etc. Where garages are not conveniently located and easy to access, they are less likely to be used for parking purposes. The retained garages would however be conveniently located for occupiers of the new dwelling being located within the curtilage. Having considered the information provided within the planning application, the garages are largely a loss of storage space, and as such have little impact on parking provision in the local area. The parking requirements of the new dwelling are fully met, which as a two-bed dwelling, is required to have two in curtilage parking spaces to meet current design guidance. A planning condition has been imposed to ensure that the garages are retained for the lifetime of the development.
55. The front door of the development would be protected from vehicle movements via a small enclosed private amenity and whilst the garden gate would open directly onto the forecourt area, this is not unlike access arrangements found directly onto lanes or forecourts elsewhere.
56. Works within the public highway require consent and approval under from the Local Highway Authority separate to any planning approval. In this case, approval is needed under Section 278 of the Highways Act 1980 to obtain Technical Approval and consent for works within the public highway. Works may be undertaken by a suitably approved private contractor or directly by Council on behalf of the applicant, which is the more usual option for similar schemes which have been previously implemented.
57. Whilst a reasonably detailed drawing of the proposed footway has been submitted in support of the planning application, it is annotated and caveated as being "for information only". Whilst the plan provides sufficient information for planning purposes

to show that it is possible to incorporate a footway onto the lane, full technical approval will still be required, but the basic form and extents of the footway is however unlikely to change significantly from those shown on the plan.

58. Since the previous application was determined, planning permission for a new vehicular access has been granted to the rear of No 4 Vane Terrace (22/00513/FUL) directly onto Woodland Road South Back Lane. Work has commenced on creating this access, but it has yet to be completed. There is however no reason to conclude that this access and the proposed footway are a cause of conflict or highway safety risk. The required footway works are entirely within the public highway and there is no requirement to change the threshold level of any gates/access points given the minimal 25mm upstand of the kerb face and the exiting cross fall of the highway which drains towards the central channel. Likewise, no consent for works within the highway are given or implied as part of the above approval with approved drawings explicitly stating that no works are proposed within the public highway. The gates and wall opening are therefore required to meet the existing line and level of the highway which is unlikely to require any change other than to relay any localised sinking or movement back to design levels.
59. The concerns raised by nearby residents regarding the footway are acknowledged and have been taken into consideration, but it is important to consider the context of both adopted Local Plan policy and the Inspector's comments in dismissing the recent appeal. The scheme now includes a lit footway and the Council's Highways Engineer has advised that a footway can be designed that is acceptable in highway safety terms resulting in the revised scheme being compliant with policies IN1 and IN2 of the Local Plan.
60. The garages to be retained would also be used for the storage of bicycles and also provide an electrical charging socket point to ensure the development complies with policy IN4 of the Local Plan.

f) Land Contamination

61. The application has been supported by a Land Contamination Screening Assessment and site photographs which has been considered by Environmental Health and based on the details of the proposal which includes a courtyard as the only external amenity space (hardstanding), there are no land contamination concerns or issues. The submitted Screening Assessment states that none of the buildings are constructed of suspected asbestos containing materials. However, if the garages to be demolished do contain asbestos (i.e., the roof for example), this will need to be managed appropriately and should be referred to in any Demolition and Construction Management Plan. The scheme accords with policy DC1 of the Local Plan in this regard.

g) Ecology

62. A bat and breeding bird survey was conducted in February 2024 which confirmed the garage structures were negligible to bats and breeding birds, and due to one feature at the ridge tiles, the dovecot structure was confirmed as having low suitability for bats and breeding birds. In normal circumstances a low suitability building would be required

to have a minimum of one bat activity survey. However due to the presence of only one feature, undertaking one survey is in proportionate and as such, it is accepted that using good working practices for the removal of tiles and roof will be sufficient. It is recommended that an ecologist provides a Toolbox Talk and Method Statement regarding the removal of ridge tiles and roofing, to ensure that contractors adhere to best working practices prior to such works being undertaken and this can be secured by a planning condition. Where a bat or bats are uncovered by the removal of the roof, all works in that area would need to cease immediately and a suitably qualified ecologist must be contacted by the developer for advice.

63. Due to the lack of habitats (excluding buildings and hardstanding) being within the boundaries of the proposed development, there is no requirement to undertake a Biodiversity Net Gain assessment utilising the DEFRA Metric. Notwithstanding this, in line with the policies ENV7 and ENV8 of the Local Plan, development will be expected to minimise the impact on and provide net gains for biodiversity. In this case, the most appropriate method of enhancement to increase biodiversity is to install a minimum of two integrated bat features to the newly proposed dwelling. The bat features should be away from any floodlights or other similar bright lighting and be placed a minimum of 4m from ground level. Further enhancement could be the provision of integrated swift boxes to the northern aspect of the property to assist in increasing breeding swift populations. It is also recommended that any landscaping should incorporate native and/or wildlife friendly ornamental species. These measures can be secured by planning conditions.

h) Flood Risk and Drainage

64. The planning application site within Flood Zone 1 and surface and foul water would be disposed via the existing mains sewer (Policy DC2).

i) Nutrient Neutrality

65. The application site is located within the River Tees Catchment Area and is therefore subject to the guidance issued by Natural England on the 16th of March 2022 in respect of the unfavourable condition of the Teesmouth and Cleveland Coast Special Protection Area (SPA), Ramsar Site and associated Sites of Special Scientific Interest. The Natural England Teesmouth and Cleveland Coast Special Protection Area/Ramsar Evidence Pack August 2022 (TIN204) confirms that this protected area is currently in an unfavourable condition due to nutrient enrichment, which includes pollution from nitrates, including Nitrogen.

66. Regulation 63 of the Conservation of Habitats and Species Regulations (2017) requires Darlington Borough Council (as the Competent Authority) prior to giving permission for any plan/project that is likely to have a significant effect on a European site (either alone or in combination with other plans/projects) to undertake an appropriate assessment of the implications of the plan/project for that site in view of that site's conservation objectives.

67. Regulation 75 of the Conservation of Habitats and Species Regulations (2017) states that it is a condition of any planning permission granted by a general development order made on or after 30th November 2017, that development which is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and is not directly connected with or necessary to the management of the site, must not be begun until the developer has received written notification of the approval of the local planning authority
68. The Screening Assessment requires the Local Planning Authority as the Competent Authority to consider and conclude whether the potential for likely significant effects to the Teesmouth and Cleveland Coast SPA/Ramsar designated features can be excluded for this planning application. If they cannot, the Local Planning Authority must make an Appropriate Assessment (AA) of the implications of the development for that site, in consideration of the affected sites conservation objectives.
69. The information required to enable the Local Planning Authority to undertake the screening assessment and where necessary, and appropriate assessment is provided by the applicant's submitted Nutrient Budget Calculator, Nutrient Statement and Provisional Credit Certificate. This information provided by the applicant is considered sufficient to enable the Local Planning Authority as the Competent Authority to fully consider the impacts of the development proposal on Teesmouth and Cleveland Coast SPA/Ramsar.
70. The submitted nutrient budget calculator demonstrates that the proposals will increase the nitrogen arising from the development and consequently it cannot be ruled out at the screening stage that this development will not have a likely significant effect on the Teesmouth and Cleveland Coast SPA/Ramsar.
71. The applicant has used Natural England's Nutrient Budget Calculator tool for the River Tees catchment to establish a nutrient budget for the proposal. Following consideration, the assumptions and inputs used by the applicant within this calculator are satisfactory and are an accurate reflection of the site and its location. This proposal for one dwelling would increase the total annual nitrogen load arising by 1.56kg per year.
72. As a nitrogen surplus would arise, the applicant has accepted that mitigation would be necessary in order to avoid likely significant effects. Informed by the Nutrient Budget Calculator Tool, the applicant proposes to mitigate this nitrogen surplus by purchasing 1.56 credits from the Natural England Tees Catchment credit scheme which is equivalent to the surplus nitrogen of 1.56kg that needs to be mitigated. The applicant has provided a countersigned provisional credit certificate obtained from Natural England which is sufficient evidence for this form of mitigation to be considered robust and achievable and appropriately located within the Tees catchment. A pre-occupation condition has been imposed to ensure that the required and necessary mitigation is secured and in place.

73. The proposed mitigation measures would adequately mitigate the effects of the proposal and ensure the proposed development will not result in an increase in nitrogen reaching the Teesmouth and Cleveland Coast SPA. It can be concluded that the proposal will not adversely affect the integrity of the Teesmouth and Cleveland Coast SPA and meets the relevant Habitat Regulations, subject to conditions.
74. In accordance with Regulation 63 of the Conservation of Habitats and Species Regulations (2017) Natural England have been consulted and they have no objections subject to appropriate mitigation measures being secured by planning conditions

THE PUBLIC SECTOR EQUALITY DUTY

75. 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 building would be constructed to meet Category 2 requirements of Building Regulations and the proposed footway has been included to ensure the development has safe access for persons with mobility issues (policy IN2 of the Local Plan)

SECTION 17 OF THE CRIME AND DISORDER ACT 1998

76. 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

77. Planning permission was previously refused to extend and convert this existing building as that development did not provide appropriate permeability and connectivity for pedestrians and people with mobility issues contrary local plan policy. The Council's decision was upheld at appeal. This application is for the exact same development proposal but a lit footway with a bitmac surface leading from the development site to Vane Terrace has now been included which is considered to be acceptable in highway and pedestrian safety terms. The works would require consent from the Local Highway Authority under Section 278 of the Highways Act 1980 to obtain Technical Approval and consent for works within the public highway.
78. The proposed development, including the creation of the footway, is considered to be acceptable in amenity terms, general design terms and will not harm the significance of the West End Conservation Area. Ecological enhancements can be secured by planning conditions and the applicant has purchased the appropriate amount of credits from the Natural England Tees Catchment credit scheme to mitigate the impact of the development upon the Teesmouth and Cleveland Coast SPA.

THAT PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS

1. A3 – Implementation Limit (Three Years)
2. The development hereby permitted shall be carried out in accordance with the approved plans and documents, as detailed below:
 - a) Drawing Number 21-33/P002C Proposed Plans & Elevations
 - b) Drawing Number 21-33/P-LP – Location Plan

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

3. Prior to the first occupation of the development hereby approved, a Final Nutrient Credit Certificate, signed by Natural England and the applicant, shall be submitted to the Local Planning Authority

REASON: To ensure the development is nutrient neutral in accordance with the Conservation of Habitats and Species Regulations 2017

4. A lit footway, as shown indicatively on drawing 23066-LE-00-01-DR-D-0001P02, shall be constructed, completed and available for use prior to the first occupation of the dwelling hereby approved.

REASON: To ensure that the dwelling has appropriate access, with particular regards to pedestrians and people with mobility issues in accordance with policies IN1 and IN2 of the Darlington Borough Local Plan.

5. Prior to any demolition works and the commencement of the development, a site specific Demolition and Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The plan[s] shall include the following, unless the Local Planning Authority dispenses with any 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 demolition and construction phases of the development. The Dust Assessment Report shall take account of the guidance contained within the Institute of Air Quality Management “Guidance on the assessment of dust from demolition and construction” February 2014.
 - b. Methods for controlling noise and vibration during the demolition and construction phase and shall take account of the guidance contained within BS5228 “Code of Practice for noise and vibration control on construction and open sites”.
 - c. Construction Traffic Routes, including parking areas for staff and visitors.
 - d. Details of wheel washing.
 - e. Road Maintenance.

f. Warning signage.

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

REASON: In the interests of residential amenity and highway safety

6. Prior to the removal of any ridge tiles and roofing on the existing building, a Toolbox Talk and Method Statement provided by an ecologist shall be submitted to and approved in writing by the Local Planning Authority. The development must not be carried out otherwise than in complete accordance with the approved Statement.

REASON: In the interests of biodiversity and to protect habitats and protected species

7. Should a bat or bats be uncovered by the removal of the roof of the existing buildings, all works in that area must cease immediately and the developer must contact a suitably qualified ecologist for advice in consultation with the local planning authority.

REASON: In the interests of biodiversity and to protect habitats and protected species

8. No building shall be constructed above damp proof course level until details of a scheme of ecological enhancements have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include a minimum of two bat features and two bird nesting features (either or both swift and house sparrow features), and the details shall include, but not be limited to, plans to show the location of the integrated features. The development shall not be carried out otherwise than in complete accordance with the approved details which shall be retained in situ for the lifetime of the development.

REASON: To ensure the development complies with policies ENV7 and ENV8 of the Darlington Local Plan 2016 – 2036

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

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

10. No building shall be constructed above damp proof course level until details of the external materials to be used in the carrying out of this permission have been submitted to, and approved by, the Local Planning Authority. The details shall include bricks, roof

tiles, cills and headers, windows, doors, rainwater goods, railings, gates, brick bond, rooflights and the development shall not be carried out otherwise than in complete accordance with the 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 and the West End Conservation Area

11. No building shall be constructed above damp proof course until precise details of cycle parking have been submitted to and approved in writing by the local planning authority. The agreed parking provision shall be made available for use prior to the occupation of the development and retained in situ for the lifetime of the development.

REASON: In order to encourage the use of sustainable modes of transport

12. No building shall be constructed above damp proof course until precise details of refuse storage and disposal have been submitted to and approved in writing by the local planning authority. The agreed scheme shall be made available for use prior to the occupation of the development and retained in situ for the lifetime of the development.

REASON: In order to prevent the storage of refuse in the public highway and in the interests of the amenity of the area

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

REASON: In the interests of residential amenity

14. The two garages shown within the land edged in red on Drawing Number 21-33/P-LP – Location Plan shall be retained permanently and made available for parking purposes associated with the dwelling hereby approved only and shall not be used for any other purpose without the prior written permission of the Local Planning Authority.

REASON: To ensure that the development retains appropriate parking provision on the interests of highway safety

15. An electrical socket suitable for the charging of electric vehicles shall be installed into each of the retained garages prior to the first occupation of the dwelling. The sockets shall be, a minimum, single phase 13 amp socket and shall be retained in situ for the lifetime of the development.

REASON: To ensure the development complies with Policy IN4 of the Darlington Local Plan 2016 - 2036

16. The first floor bedroom window formed in the south elevation of the dwelling hereby approved shall be obscure glazed and shall not be repaired or replaced other than with obscured glazing.

REASON - To prevent overlooking of the neighbouring dwelling.

17. All repointing, repair or rebuilding works to the Dovecote and the construction of the new dwelling hereby approved shall be undertaken using lime mortar only.

REASON: In order to safeguard the visual appearance and character of this building of local historic interest and the West End Conservation Area

18. The dwelling hereby approved shall meet Category 2 requirements (accessible and adaptable dwellings) of Building Regulations Approved Document M: Volume 1 (Access to and use of dwellings) unless otherwise agreed in writing by the Local Planning Authority

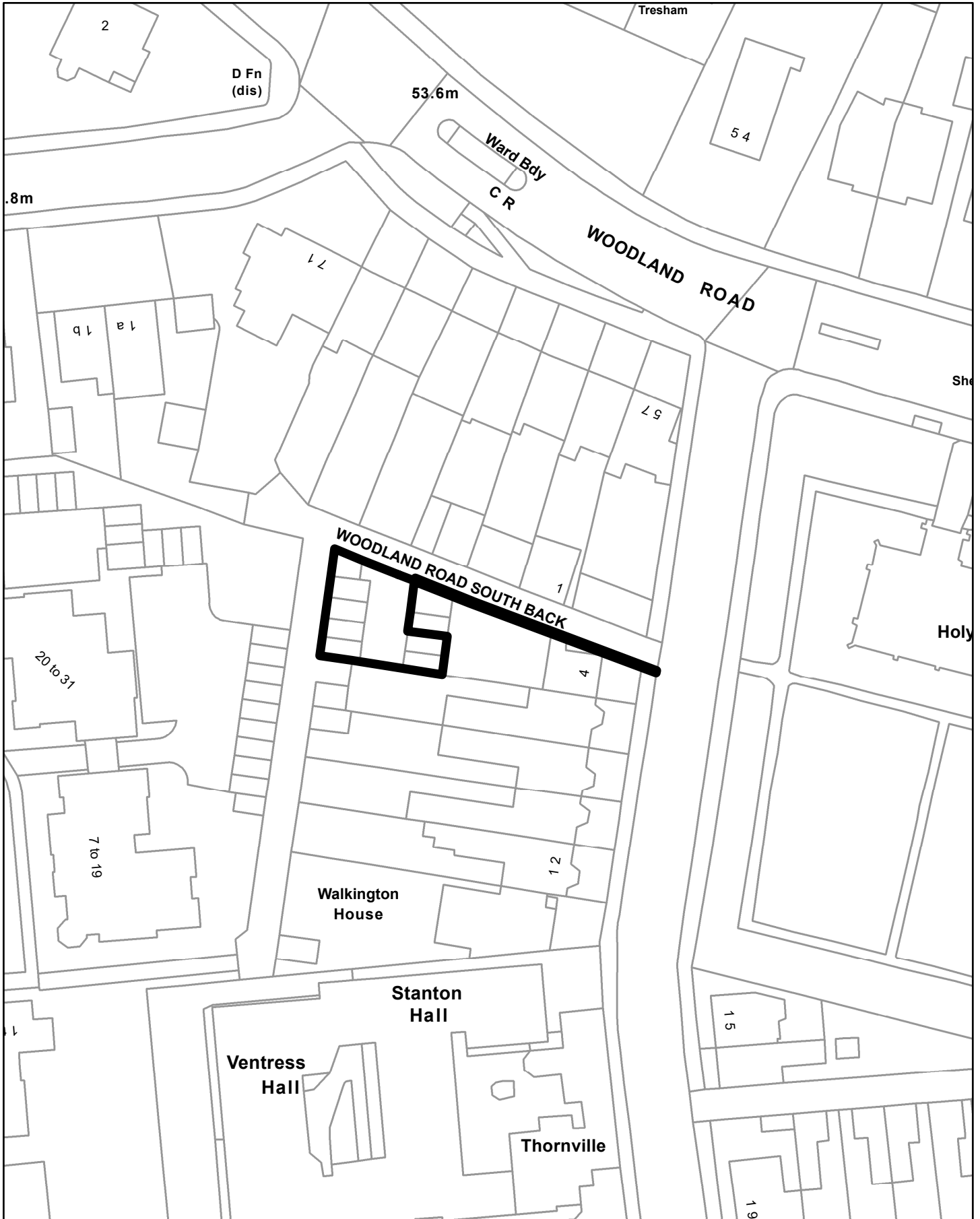
REASON: To ensure the development complies with Policy H4 of the Darlington Local Plan 2016 - 2036

INFORMATIVES

Highways

The Developer is required to submit detailed drawings of the proposed off-site highway works to be approved in writing by the Local Planning Authority and enter into an agreement under Section 278 of the Highways Act 1980, before commencement of the works on site. Contact must be made with the Assistant Director: Highways, Design and Projects (contact Mr Steve Pryke 01325 406663) to discuss this matter.

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

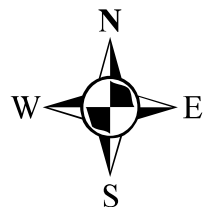


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DARLINGTON BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 10 April 2024

APPLICATION REF. NO:	22/00021/OUT
STATUTORY DECISION DATE:	17 April 2024
WARD/PARISH:	Heighington And Coniscliffe
LOCATION:	Land At Former 25 Gate Lane Low Coniscliffe
DESCRIPTION:	Outline application with all matters reserved for the erection of 3 no. dwellings (Provisional Nutrient Certificate received 22 September 2023; additional Nutrient Statement and amended Nutrient Calculator received 17 October 2023; Provisional Nutrient Certificate received 3 January 2024)
APPLICANT:	Mr Paul Million

RECOMMENDATION: GRANT OUTLINE PLANNING 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=R5I0BNFPITE00>

APPLICATION AND SITE DESCRIPTION

1. Planning permission (ref no 08/00706/FUL) was granted in November 2008 for the demolition of an existing bungalow on the application site and for the erection of a replacement dwelling with associated access arrangements. The existing bungalow has been demolished but the site has not been redeveloped as per the planning permission and it is currently a vacant, overgrown site in the centre of the village of Low Coniscliffe. The front stone boundary wall has been removed giving the site an open frontage.
2. Outline planning permission has been granted to redevelop the site for one dwelling (ref no 22/00119/OUT) and also for two dwellings (ref no: 22/00020/OUT). These

planning applications were submitted by the applicant for 22/00021/OUT and determined under delegated powers as no objections to redeveloping the site with one or two dwellings were received from residents.

3. This third submission is an outline planning application with all matters (access, appearance, landscaping, layout, scale) reserved for future consideration for the erection of three dwellings on the site. The planning application has been supported by an Indicative Massing plan and an Indicative Site Plan to show how three dwellings can be positioned within the site. The three dwellings would be in the form of a terrace with an overall height to match the dwellings on either side. Whilst no precise details have been provided at this stage, access to the site would be from Gate Lane. The submitted plans show that there is an easement along the eastern boundary for a water main which cannot be built over.

MAIN PLANNING ISSUES

4. The main planning issue to be considered is whether the principle of redeveloping the site for three dwellings is acceptable having taken account of the following matters:
 - a. Planning Policy
 - b. Highway Safety, Parking Provision and Sustainable Transport
 - c. Amenity
 - d. Impact on the Character and Appearance of the Local Area
 - e. Landscaping
 - f. Housing Mix
 - g. Ecology
 - h. Land Contamination
 - i. Flood Risk and Drainage
 - j. Nutrient Neutrality

PLANNING POLICIES

5. The local development plan policies which are relevant to the planning application are:

Darlington Local Plan (2022)

SD1: Presumption in Favour of Sustainable Development

SH1: Settlement Hierarchy

DC1: Sustainable Design Principles and Climate Change

DC2: Flood Risk & Water Management

DC3: Health & Wellbeing

DC4: Safeguarding Amenity

H1: Housing Requirement

H3: Development Limits

H4: Housing Mix

ENV3: Local Landscape Character

ENV4: Green and Blue Infrastructure

ENV7: Biodiversity and Development

ENV8: Assessing a Development's Impact on Biodiversity

IN1: Delivering a Sustainable Transport Network
IN2: Improving Access and Accessibility
IN4: Parking Provision including Electric Vehicle Charging
IN6: Utilities Infrastructure

Tees Valley Minerals and Waste Development Plan Documents (2011)

Policy MWC4: Safeguarding of Minerals Resources from Sterilisation

Low Coniscliffe & Merrybent Parish Neighbourhood Plan 2018-36 (made 2019)

Policy LCM: 1 Landscape
Policy LCM 2: Tranquillity
Policy LCM 5: Biodiversity
Policy LCM 8: Design
Policy LCM 11: General location of new development
Policy LCM 12: Housing
Policy LCM 18: Transport and New Developments

Other relevant Documents

Design of New Development SPD (2011)
National Planning Policy Framework (2021)

RESULTS OF TECHNICAL CONSULTATION

6. The Council's Highways Engineer, Ecology consultant, Environmental Health Officer, Transport Policy Officer have raised no objections to the principle of the development.
7. Northern Gas Networks have raised no objections to the planning application.
8. Natural England have raised no objections to the planning application.

RESULTS OF PUBLICITY AND NOTIFICATION

9. Following the Council's publicity and notification exercises, three letters of objection have been received and the comments can be summarised as follows:
 - *The car parking that would need to be contained within the site would overwhelm the site and would have to go the road side frontage of the houses which would look like a car park which is not in keeping with the surrounding properties.*
 - *The plans don't show how the site will be enclosed.*
 - *I am unsure of the site is contaminated.*
 - *Developing the site for three dwellings would not be in keeping with the village as the site was previously a single dwelling (dormer bungalow)*
 - *The development would crowd out the adjoining dwellings and overwhelm the bungalows behind*
 - *The three dwellings will be extremely close to existing properties.*
 - *Insufficient information on appearance, quality and technical details*
 - *Any housing must be constructed in accordance with policies contained within the Low Coniscliffe and Merrybent Neighbourhood Plan*

10. Low Coniscliffe and Merrybent Parish Council have confirmed that as the principle of three dwellings on the site is not contrary to the LC&M Neighbourhood Plan (Policy LCM12), they have no objection to the principle of the development. However, the Parish Council has requested that the subsequent Reserved Matters Applications must contain sufficient detail to guarantee the proposal would meet the requirements of the relevant development plan policy. Particular concern is that the design of the development must respect and reinforce local character and distinctiveness; that it provides an appropriate level of off-street parking; respects and establishes building lines, reinstates river stone walling to the frontage of the build; and ensures the development will not prejudice the amenity of future occupiers or that of adjacent properties.

PLANNING ISSUES/ANALYSIS

a) Planning Policy

11. Planning law (S.38(6) of the Planning and Compulsory Purchase Act 2004) requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework (2021) supports the plan led system providing that planning decisions should be “genuinely plan-led” (NPPF para 15).
12. Policy H1 of the Local Plan sets a minimum housing requirement of 492 net additional dwellings per annum over the plan period to 2036. It also includes a neighbourhood area housing requirement of 962 homes over the plan period for Low Coniscliffe and Merrybent Ward/Parish. This is not in addition to the figure which has been established for the borough, it reflects the combined yield of the allocations and commitments (identified in the Local Plan) within the neighbourhood area. The proposal would be a small scale windfall development which would contribute towards the achievement of these requirements.
13. Policy H3 of the Local Plan seeks to achieve the locational strategy for new development in the Borough by establishing development limits where development within will be acceptable subject to compliance with other relevant national and local policies. The site is located within the development limits of Low Coniscliffe and therefore, the proposal accords with policy H3.
14. The site is also within the development limits identified by the Low Coniscliffe and Merrybent Neighbourhood Plan and therefore, the proposal accords with policy LCM11 of the Plan which states that the focus of new development across the Parish should be within the settlement boundaries of the villages (Low Coniscliffe and Merrybent).
15. The Low Coniscliffe & Merrybent Neighbourhood Plan allocates the site for housing (policy LCM12). The site is referenced as “Central Low Coniscliffe” and has an indicative yield of three dwellings meaning that the principle of redeveloping the site for three dwellings is compliant with the Neighbourhood Plan as well as the Darlington Local Plan.

16. *Tees Valley Minerals and Waste Development Plan Documents (2011)*

The site is located in a limestone (shallow) safeguarding area protected by policy MWC4 of the Tees Valley Minerals & Waste DPD Core Strategy (2011). The policy sets out the circumstances when non-mineral development will be permitted in these mineral safeguarding areas. The site is small, and it is considered that extraction may not be viable or appropriate given the size of the application site and proximity to residential dwellings. Much of the north western part of the borough is covered by this designation and this site would not result in a significant loss to the overall potential area for mineral extraction.

b) Highway Safety, Parking Provision and Sustainable Transport

17. The construction of three additional dwellings is considered acceptable in general highway terms as any additional vehicle movements are considered to be minimal and can be accommodated on the local highway network without the requirement for further traffic impact assessment or mitigation measures. Based on TRICs figures applied to similar locations, the expected traffic generation would be an additional 2No. two-way trips in the AM/PM peak hours, or one additional vehicle movement per half hour, which would fall well short of the threshold to demonstrate a 'severe impact' required to justify refusal based on National Planning Policy Framework (2023) guidance.
18. A review of the past 5 years of recorded police accident data reveals that there are no recorded personal injury collisions (PICS) within Gate Lane or the junction with the A67 Coniscliffe Road, or that the traffic generation associated with the additional dwellings would have any material impact upon road safety.
19. As this is an outline application with all Matters Reserved for future consideration, access arrangements and parking provision will be secured by suitably worded planning conditions. The precise location of the vehicle access point(s) for the dwellings is not determined at this stage, however there is no objection, in principle, with taking access from Gate Lane, as there were two historic access locations on the site frontage and the final site layout will dictate what amendments are needed. All works within the public highway require the prior approval and consent of the Highways Authority with a Section 184 Agreement required to create new or amended access point(s).
20. Matters that would need to be considered at Reserved Matters stage involve the height of any new boundary treatments adjacent to the public highway, the materials for the in curtilage driveways and ensuring the number and dimensions of any in curtilage parking provision meets the requirements set out in the Tees Valley Design Guide.
21. This application site has good access to public transport; in line with Policy IN2 of the Local Plan as it is within 400m of bus stops on Coniscliffe Road/Gate Lane. The site is also located close to the cycling network as there are various cycle routes close by that connect to the wider cycle network. There are no details submitted in support of the planning application showing any cycle parking at the proposed properties so this would be secured by a planning condition. The cycle parking should be safe and secure and in

line with the most recent cycle guidance issued (Cycle Infrastructure Design - Local Transport Note 1/20 July 2020), which states that there should be 1 cycle space per bedroom for residential developments.

22. A planning condition has been imposed to secure appropriate provision of EV charging points for the development.
23. The Council's Highways Engineer and Transport Policy Officer have raised no objections to the principle of the planning application.
24. Based on the information submitted in support of the planning application, any future Reserved Matters submission for three dwellings on the site will be capable of complying with policies DC1, IN2 and IN4 of the Local Plan and LCM12 and LCM18 of the Neighbourhood Plan, subject to the imposition of appropriate planning conditions

c) Amenity

25. The application site is immediately bound to the north, east and west by existing dwellings and to the south by dwellings on the opposite side of Gate Lane. There is a close boarded fence and high hedge along the northern boundary with Nos 97 and 99 Back Lane and the gable elevations and stone garden walls of Nos 23 and 27 Gate Lane form the east and west boundaries of the site. The Gate Lane frontage is open as the stone boundary wall has been removed.
26. The Indicative Site Plan submitted in support of the application shows that it would be possible to have a 21m separation distance between the proposed dwellings and Nos 97 and 99 Back Lane to the north which will meet the minimum privacy distance guidance set out in the Council's Design SPD. These dwellings are semi detached bungalows separated from the application site by a timber fence and a high hedge. The high hedge to the rear of No 99 Back Lane provides a significant screen between that property and the application site. It is acknowledged that the outlook from No 97 Gate Lane will change as the application site is currently an open clear site.
27. The Indicative Massing plan submitted in support of the application shows that the heights of the new dwellings could match the height of Nos 23 and 27 Gate Lane. The planning system is not necessarily intended to protect an outlook that a resident may enjoy at a particular point in time but to maintain an outlook that meets acceptable standards of amenity. Whilst precise details of the scale of the new development would be the subject of future Reserved Matters submissions, it is shown that any proposed development would maintain an acceptable standard of amenity when viewed from the rear and also from the opposite side of Gate Lane. Further landscaping can be planted on this shared boundary to provide further screening, if necessary, and it is important to acknowledge that a dwelling, albeit a bungalow, was previously on the site.
28. There are two window openings (ground and first floor) in the side elevation of No 23 Gate Lane (east) and a ground floor opening in the side elevation of No 27 Gate Lane (west) which are positioned on the shared boundary line, and all look across the

application site. The Indicative Site Plan shows that the terrace could be sited 6m from No 23 Gate Lane and 2m from the side elevation of No 27 Gate Lane. It is not clear if these neighbouring windows are to habitable rooms. Whilst any form of development will have an impact on the outlook these openings, if they are habitable rooms, it is considered that the impact would not be so adverse, having taken into consideration that a dwelling, albeit a bungalow, would have previously been located on the site impacting on views from the same windows and the site was previously a domestic garden.

29. The site has been vacant now for many years and has been the subject to a number of requests to the local planning authority for the landowner to keep the area tidy. The redevelopment proposals will improve the overall amenity of the street scene and the wider village, subject to the final designs and layout etc being acceptable and compliant with the development plan and neighbourhood plan policies relating to protecting amenity.
30. A condition has been imposed to secure the submission of a Construction Management Plan due to the number of dwellings being proposed and the location of the site in a residential area.
31. Based on the information submitted in support of the planning application, any future Reserved Matters submission for three dwellings on the site will be capable of complying with policies DC4 of the Local Plan and LCM2 and LCM 8 of the Neighbourhood Plan

d) Impact on the Character and Appearance of the Local Area

32. There is a mix of terraced, detached and semi detached dwellings in the village varying in terms of age, design, size and materials. The application site is located between Nos 23 and 27 Gate Lane which are traditional style properties constructed from stone and render with stone walls around the front gardens.
33. Matters of appearance, layout and scale are reserved for future consideration, but the Indicative Massing and Site Plans show that the three dwellings can be satisfactorily sited within the application site giving each dwelling appropriate amenity space to both the front and rear to match the building line and the general appearance, character and layout of the wider street scene.
34. The guidance contained within the Council's Design SPD indicates that developments of between one and 2.5 storeys would be acceptable within Low Coniscliffe having also taken into account the general character and appearance of the local area. The Design SPD also provides guidance on appropriate materials which will be a matter of consideration for future Reserved Matters submissions.
35. It is considered that, in principle, the erection of three dwellings with appropriate boundary treatments would not have an adverse impact on the character or appearance of the local area subject to meeting the relevant development plan and neighbourhood plan policies and appropriate conditions.

36. Based on the information submitted in support of this planning application, any future Reserved Matters submission will be capable of complying with policies DC1 and ENV3 of the Local Plan and LCM1, LCM8, LCM12 of the Neighbourhood Plan

e) Landscaping

37. Whilst landscaping proposals for the site are reserved for future consideration, there will be opportunities to secure an acceptable planting scheme in the interests of residential amenity, visual appearance of the street scene and biodiversity.

38. Based on the information submitted in support of the planning application, any future Reserved Matters submission will be capable of complying with policies DC1, ENV3, ENV4, ENV7, ENV8 of the Local Plan and LCM12 of the Neighbourhood Plan

f) Housing Mix

39. Policy H4 of the Local Plan sets out requirements for accessible, adaptable and wheelchair user dwellings for new residential development to ensure homes provide quality living environments for residents both now and in the future. It requires proposals to provide 45% of all new dwellings to meet building regulations category M4(2) adaptable and accessible dwelling standards and 9% to meet M4 (3 a or b) wheelchair user dwellings standard. Given that the application is small scale, it is considered that it would be unreasonable to request that the M4(3) requirement is met but the M4(2) requirement should be adhered to and can be secured by a planning condition.

g) Ecology

40. A planning condition has been recommended to ensure the proposed development includes biodiversity gains such as a good landscaping scheme and built in bat and bird boxes as recommended by the Council's ecology consultant. The proposed development would comply with policies EN7 and EN8 of the Local Plan and LCM5 of the Neighbourhood Plan

h) Land Contamination

41. Whilst a screening assessment has been submitted in support of the planning application, there is likely to be made ground on site due to the former presence of a building (bungalow) and hence the site is not greenfield. The screening assessment contains no detailed photographs and Council records also show there is a diesel tank in close proximity to the site. Due to the sensitive end use and as the layout is indicative there also remains the possibility of a garden being situated in the location of the former bungalow. The Council's Environmental Health Manager has advised that the full range of land contamination conditions are attached to any planning approval along with the Informative set out below. This will enable a final decision as to what is required to be made as part of a future Reserved Matters application. The proposed development would accord with policy DC 1 of the Local Plan in this regard.

i) Flood Risk and Drainage

42. The site is within Flood Zone 1 with a low risk of flooding with surface and foul water disposed via main sewer. The proposed development would accord with policy DC2 of the Local Plan

j) Nutrient Neutrality

43. The application site is located within the River Tees Catchment Area and is therefore subject to the guidance issued by Natural England on the 16th of March 2022 in respect of the unfavourable condition of the Teesmouth and Cleveland Coast Special Protection Area (SPA), Ramsar Site and associated Sites of Special Scientific Interest. The Natural England Teesmouth and Cleveland Coast Special Protection Area/Ramsar Evidence Pack August 2022 (TIN204) confirms that this protected area is currently in an unfavourable condition due to nutrient enrichment, which includes pollution from nitrates, including Nitrogen.
44. Regulation 63 of the Conservation of Habitats and Species Regulations (2017) requires Darlington Borough Council (as the Competent Authority) prior to giving permission for any plan/project that is likely to have a significant effect on a European site (either alone or in combination with other plans/projects) to undertake an appropriate assessment of the implications of the plan/project for that site in view of that site's conservation objectives.
45. Regulation 75 of the Conservation of Habitats and Species Regulations (2017) states that it is a condition of any planning permission granted by a general development order made on or after 30th November 2017, that development which is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and is not directly connected with or necessary to the management of the site, must not be begun until the developer has received written notification of the approval of the local planning authority
46. The Screening Assessment requires the Local Planning Authority as the Competent Authority to consider and conclude whether the potential for likely significant effects to the Teesmouth and Cleveland Coast SPA/Ramsar designated features can be excluded for this planning application. If they cannot, the Local Planning Authority must make an Appropriate Assessment (AA) of the implications of the development for that site, in consideration of the affected sites conservation objectives.
47. The information required to enable the Local Planning Authority to undertake the Screening Assessment and where necessary, and Appropriate Assessment is provided by the applicant's submitted Nutrient Budget Calculator, Nutrient Statement and Provisional Credit Certificate. This information provided by the applicant is considered sufficient to enable the Local Planning Authority as the Competent Authority to fully consider the impacts of the development proposal on Teesmouth and Cleveland Coast SPA/Ramsar.
48. The submitted nutrient budget calculator demonstrates that the proposals will increase the nitrogen arising from the development and consequently it cannot be ruled out at

the screening stage that this development will not have a likely significant effect on the Teesmouth and Cleveland Coast SPA/Ramsar.

49. The applicant has used Natural England's Nutrient Budget Calculator tool for the River Tees catchment to establish a nutrient budget for the proposal. Following consideration, the assumptions and inputs used by the applicant within this updated calculator are satisfactory and are an accurate reflection of the site and its location. This proposal for three dwellings would increase the total annual nitrogen load arising by 4.6 kg per year.
50. This figure was arrived at by incorporating increased water efficiency measures to reduce the water usage per person per day to 105 litres rather than 120 litres as set out in the Nutrient Budget calculator. Sufficient evidence has been provided by the applicant within their Nutrient Neutrality Statement to demonstrate this is achievable with examples of the fittings that can be used to achieve this derived from the Governments Code for Sustainable Homes (2010) Appendix A. A condition has been applied to ensure that the water efficiency measures including the appropriate fittings are installed within each dwelling prior to their occupation to ensure the daily water usage per person per day does not exceed 105 litres.
51. As a nitrogen surplus would arise, the applicant has accepted that mitigation would be necessary in order to avoid likely significant effects. Informed by the Nutrient Budget Calculator Tool the applicant proposes to mitigate this nitrogen surplus by purchasing 4.6 credits from the Natural England Tees Catchment credit scheme which is equivalent to the surplus nitrogen of 4.6kg that needs to be mitigated.
52. The applicant has provided a countersigned provisional credit certificate obtained from Natural England which is sufficient evidence for this form of mitigation to be considered robust and achievable and appropriately located within the Tees catchment. A preoccupation condition has been imposed to ensure that the required and necessary mitigation is secured and in place. The Council as Competent Authority considers this a form of mitigation in keeping with Natural England guidance.
53. The proposed mitigation measures would adequately mitigate the effects of the proposal and ensure the proposed development will not result in an increase in nitrogen reaching the Teesmouth and Cleveland Coast SPA. So, it can be concluded that the proposal will not adversely affect the integrity of the Teesmouth and Cleveland Coast SPA and meets the relevant Habitat Regulations, subject to the conditions.
54. In accordance with Regulation 63 of the Conservation of Habitats and Species Regulations (2017) Natural England have been consulted and they have no objections subject to appropriate mitigation measures being secured by planning conditions

THE PUBLIC SECTOR EQUALITY DUTY

55. 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. As this is an outline planning application, no details on the design and layout of the dwellings have been provided at this stage. However, when Reserved Matters applications are submitted, the new dwellings will be expected to meet the requirements of Building Regulations and Policy IN2 of the Local Plan in this regard

SECTION 17 OF THE CRIME AND DISORDER ACT 1998

56. 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

57. Outline planning permission has already been granted for two separate schemes to redevelop the application site with one and two dwellings respectively. This is a third outline application for the erection of three dwellings on a vacant site within the centre of the village which was previously occupied by a bungalow. The principle of a scheme for three dwellings is supported by the Darlington Local Plan (2016 – 2036) and the Low Coniscliffe and Merrybent Neighbourhood Plan as the site is within the development limits identified by both Plans and Policy LM10 of the Neighbourhood Plan stipulates three dwellings as the maximum number of properties that would be acceptable on the site.
58. Whilst all matters are reserved for future consideration, the Indicative Massing and Site Plans submitted in support of the planning application show that three dwellings can be positioned within the site without having an adverse impact on residential amenity. The dwellings can be designed so that they would not have an adverse impact on the character and appearance of the street scene having had consideration to site context and the Council's adopted Design SPD. It is not envisaged that the proposal will raise any highway safety concerns and appropriate planning conditions can be imposed which will ensure that the Reserved Matters submissions will accord with the local development plan and the Neighbourhood Plan in terms parking, landscaping, ecology enhancements. The applicant has purchased the appropriate amount of credits from the Natural England Tees Catchment credit scheme to mitigate the impact of the development upon the Teesmouth and Cleveland Coast SPA
59. Should this application be approved, the developer would then have an option as to which scheme (one, two or three dwellings) would progress to the Reserved Matters stage. Any Reserved Matters application would be subject to consultations with residents, consultees and the Parish Council.

THAT OUTLINE PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS

1. A1 - Outline (Reserved Matters)
2. A2 - Outline (Implementation Time)
3. The development hereby permitted shall be carried out in accordance with the approved plans, as detailed below.

a. Drawing Number Site – A001 Location Plan

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

4. The planning application made in pursuance of condition 1 shall not propose more than three dwellings.

REASON: For the avoidance of doubt

5. Notwithstanding the details contained within the Nutrient Neutrality Statement dated 10 July 2023 submitted in support of the planning application, precise details of the water efficiency measures to ensure the daily water usage per person per day does not exceed 105 litres shall be submitted to and approved in writing by the Local Planning Authority, prior to the commencement of the development. The details shall include details of the appropriate permanent fittings and they shall be installed within each dwelling prior to their occupation and retained in place for the lifetime of the development.

REASON: To ensure the development is nutrient neutral in accordance with the Conservation of Habitats and Species Regulations 2017

6. Prior to the first occupation of the development hereby approved, a Final Nutrient Credit Certificate, signed by Natural England and the applicant, shall be submitted to the Local Planning Authority

REASON: To ensure the development is nutrient neutral in accordance with the Conservation of Habitats and Species Regulations 2017

7. The planning application made in pursuance of condition 1 shall be made for dwellings which are a maximum 2.5 storeys in height

REASON: In the interests of the visual appearance of the street scene, residential amenity and to accord with the Council's adopted Supplementary Planning Document: Design for New Development (2011)

- 8 The planning application made in in pursuance of condition 1 shall include, but not be limited to, the following details:
- a) Cycle parking provision for the dwellings (one cycle space per bedroom).
 - b) Electric Vehicle Charging provision for each dwelling (one single phase 13 amp socket).
 - c) Precise details of all boundary treatments for the site.
 - d) Precise materials for in- curtilage driveways including a sealed material for the first 3.0m measured from the highway boundary.
 - e) Precise details of in curtilage parking including the number, location and dimensions of each space.
 - f) Details of refuse and recycling storage
 - g) Details of any external lighting
 - h) Precise details of proposals for biodiversity net gain (landscaping/bat and bird boxes) measures
 - i) Precise details of vehicle access including dropped kerbs, pavement crossings and where appropriate removal of redundant crossing points and reinstatement of footways.

REASON: in order to ensure a satisfactory form of development which accords with the Darlington Local Plan (2016 – 2036) and the Low Coniscliffe and Merrybent Neighbourhood Plan

- 9 The planning application made in in pursuance of condition 1 shall be for dwellings which comply with Category 2 requirements (accessible and adaptable dwellings) of Building Regulations Approved Document M: Volume 1(Access to and use of dwellings). The planning application shall include details as to how the requirements will be met and the development shall not be carried out otherwise than in complete accordance with the approved details.

REASON: In order to comply with policy H4 (Housing Mix) of the Darlington Local Plan 2016 – 2036

- 10 CL1 - Phase 1 Preliminary Risk Assessment
- 11 CL2 - Phase 2 Site Investigation Strategy
- 12 CL3 – Phase 2 Investigation Works
- 13 CL4 - Phase 3 Remediation and Verification Strategy
- 14 CL5 - Construction/Remediation works.
- 15 CL6 - Phase 4 Verification and Completion Report

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

REASON – In the interests of residential amenity

17. Prior to the commencement of the development, a site-specific Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The plan shall include the following, unless the Local Planning Authority dispenses with any requirement[s] specifically and in writing:
 - a. Dust Assessment Report which assesses the dust emission magnitude, the sensitivity of the area, risk of impacts and details of the dust control measures to be put in place during the construction phase of the development. The Dust Assessment Report shall take account of the guidance contained within the Institute of Air Quality Management “Guidance on the assessment of dust from demolition and construction” February 2014.
 - b. Methods for controlling noise and vibration during the demolition and construction phase and shall take account of the guidance contained within BS5228 “Code of Practice for noise and vibration control on construction and open sites”.
 - c. Construction Traffic Routes, including parking areas.
 - d. Details of Contractor Parking and Compound, if necessary
 - e. Pedestrian Routes
 - f. Details of wheel washing, if necessary
 - g. Road Maintenance, if necessary
 - h. Warning signage.

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

REASON: In the interests of highway safety and the amenity of the surrounding area

INFORMATIVES

Street Naming and Numbering

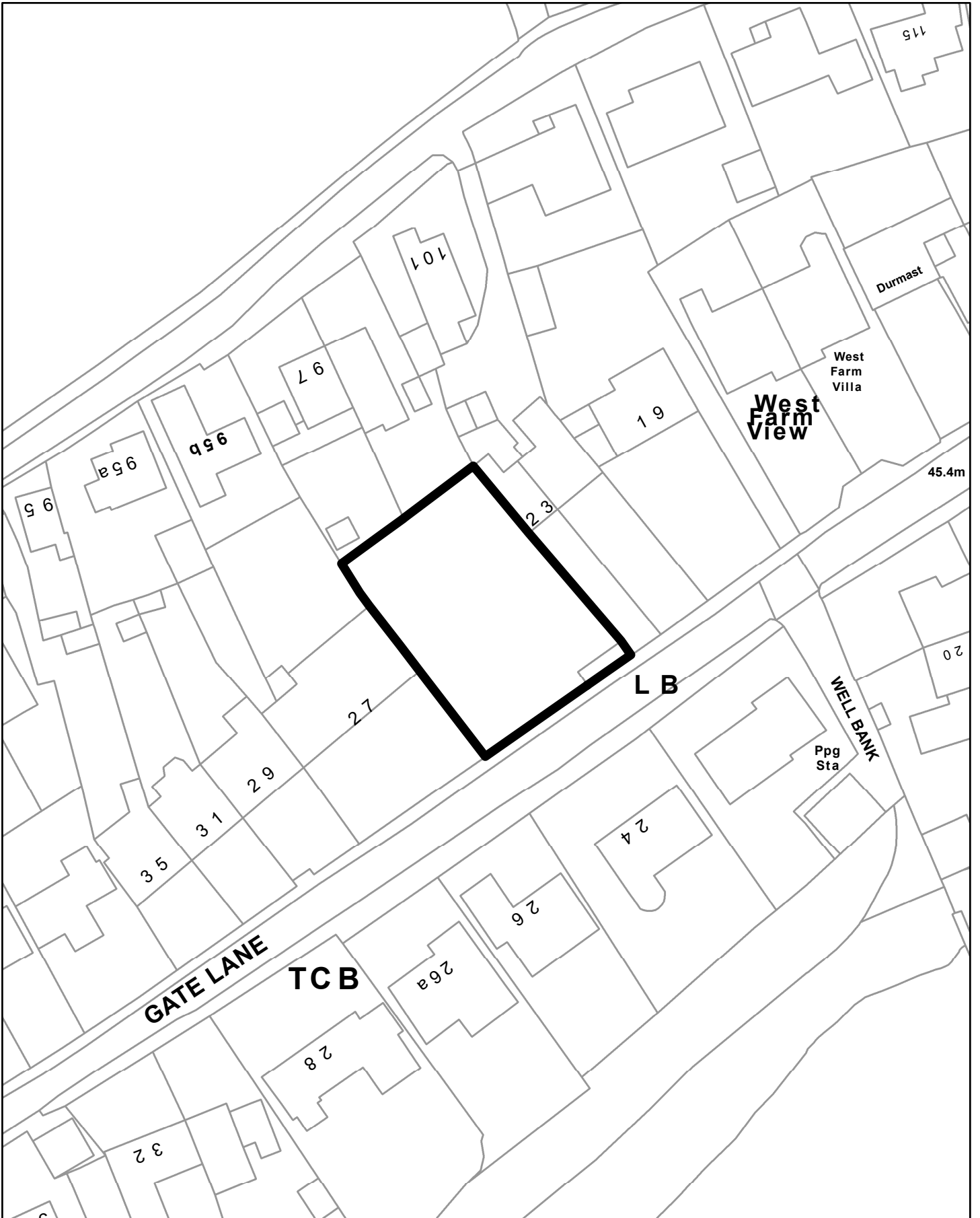
Prior to the commencement of the development, the applicant is advised that contact be made with the Assistant Director: Highways, Design and Projects (contact Mrs. P. McGuckin 01325 406651) to discuss naming and numbering of the development.

Land Contamination

Due to the size and scale of the development it maybe, that instead of a Phase 1 Preliminary Risk Assessment the completion of the Screening Assessment contained within the YALPAG "Development of Land Affected by Contamination" Technical Guidance for Developers,

Landowners and Consultants may suffice to meet the requirements of the land contamination planning condition. Contact must be made with the Council's Environmental Health Section for further advice.

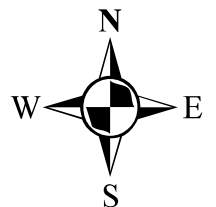
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Planning Ref No: 22/00021/OUT

DARLINGTON BOROUGH COUNCIL



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DARLINGTON BOROUGH COUNCIL

APPEAL AGAINST REFUSAL FOR PLANNING PERMISSION

APPLICATION REF. NO:	22/01271/FUL
APPEAL REF. NO:	Appeal Ref: APP/N1350/W/23/3332091
LOCATION:	42 Durham Road, Coatham Mundeville, Darlington DL1 3LZ
DESCRIPTION:	Erection of 2 no. residential dwellings with associated access, hard standing and private amenity space (revised scheme) (Addendum to Noise Assessment received 19 December 2022; amended Planning Statement received 21 March 2023; Nutrient Calculator and Provisional Nutrient Certificate received 26th July 2023)
APPLICANT:	Mr Farrow

BRIEF SUMMARY:

1. The main issues were:
 - a) whether the appeal site provides a suitable location for the development proposed having particular regard to the development plan's spatial strategy and the effects of the development, which comprised two detached, two storey dwellings, upon the character and appearance of the area; and
 - b) the effects of the development upon the living conditions of the occupiers of 40 and 42 Durham Road with particular regard to privacy and noise

KEY POINTS TO NOTE:

2. The appeal site largely comprises of grassland and is located between Nos 40 and 42 Durham Road within Coatham Mundeville. Durham Road has a largely linear development pattern. There is a variety to the scale and design of buildings within the area, but most of those closest to the appeal site are bungalows or 1 ½ storey properties

REASONS FOR REFUSAL:

3. The planning application was refused for the following reasons:
 - a) *The application site lies outside of the limits of development defined by the Policies Map of the Darlington Local Plan 2016 - 2036. The redevelopment of the application site for residential purposes would have an adverse impact on the*

character and appearance of the countryside location and setting of the site and the proposed dwellings do not respond positively to the local context in terms of scale, form, height, materials, colouring, fenestration and architectural detailing further impacting upon the character and appearance of the local area. The proposed development would be contrary to policies; H3 (Development Limits); H7 (Residential Development in the Countryside); DC1 (Sustainable Design Principles and Climate Change) and ENV3 (Local Landscape Character) of the Darlington Local Plan 2016 - 2036.

b) The proposed development will have an adverse impact on the existing neighbouring dwellings in terms of loss of privacy and overlooking and noise and disturbance due to the position of first floor habitable windows in the North West elevation of Dwelling 1 and in the South East elevation of Dwelling 2 along with the raised balconies on the rear elevations of both properties. The development would be contrary to policy DC4 (Safeguarding Amenity) of the Darlington Local Plan 2016 - 2036

APPEAL DISMISSED:

4. The proposed development would be located outside of Development Limits and within the countryside and the dwellings do not constitute a form of exceptional housing development in the countryside which policies of the Local Plan permit and so in this location, the development proposed would not accord with the development plan's spatial strategy.
5. Whilst the houses were designed to work towards achieving the PHI Low Energy Build Standards and seek to incorporate certain Passivhaus criteria which is commendable and would achieve a design which, in these respects, is above the norm, the design of the proposed dwellings were not considered to be so innovative or ground-breaking to amount to being truly outstanding or exceptional. The Planning Inspector agreed that the development would result in an erosion of the open character of the site in this part of the countryside and when considered together with the design of the houses, the development would have a harmful effect upon the character and appearance of the area contrary to policy.
6. The proposal would conflict with policies SH1 and H7 of the Local Plan. It would also conflict with policy DC1 which amongst other matters requires that the design of development responds positively to local context and would complement and enhance the character of both the built and natural environment. The Planning Inspector was in support of refusal reason a)
7. The Planning Inspector considered that planning conditions to secure appropriate screening on the rear balconies and obscure glazing where necessary, could protect the amenities of neighbouring dwellings. The Planning Inspector did not support reason b).
8. Overall, the planning appeal was dismissed.



Appeal Decision

Site visit made on 7 March 2024

by H Jones BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 March 2024

Appeal Ref: APP/N1350/W/23/3332091

42 Durham Road, Coatham Mundeville, Darlington DL1 3LZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Rod Farrow against the decision of Darlington Borough Council.
 - The application Ref is 22/01271/FUL.
 - The development proposed is the erection of 2 No. new dwellinghouses for self or custom build. Segregation of existing access road with new highway connection.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. In December 2023, a revised version of the National Planning Policy Framework (the Framework) was published. The Council and the appellant have been given the opportunity to comment on the revised Framework. I have had regard to the revised Framework in my decision.

Main Issues

3. The main issues are:
 - whether the appeal site provides a suitable location for the development proposed having particular regard to the development plan's spatial strategy and the effects of the development upon the character and appearance of the area; and
 - the effects of the development upon the living conditions of the occupiers of 40 and 42 Durham Road with particular regard to privacy and noise

Reasons

The location of the development and character and appearance

4. The appeal site largely comprises of grassland and is located between 40 and 42 Durham Road which are each residential properties within Coatham Mundeville. With many of its property's situated closely beside Durham Road, Coatham Mundeville has a largely linear development pattern. Although there is a variety to the scale and design of buildings within the area, most of those closest to the appeal site are bungalows or 1 ½ storey properties and incorporate a low eaves level. Therefore, they exhibit a low-slung appearance.

5. Policy SH1 of the Darlington Local Plan 2016-2036 (LP) establishes a settlement hierarchy which shapes the broad distribution of development within the local plan area. The policy sets out that areas that are not within a Development Limit are regarded as the countryside. The justification to the policy further sets out that new housing outside of Development Limits will be required to meet local and other functional needs. The appeal site is not located within a Development Limit.
6. Given this, I find that policy H3 of the LP which relates to proposals within Development Limits, is not applicable to the proposal. Even so, like policy SH1 the justification to policy H3 confirms that policies relating to development in the countryside apply to land outside of Development Limits and that this includes villages which do not have such limits defined.
7. Policy H6 of the LP sets out that in certain circumstances affordable housing will be permitted within the countryside. In order to be rightly considered as affordable, housing must be for those whose needs are not met by the market and it must meet certain definitions which are set out within the Framework. The evidence before me does not demonstrate that the houses proposed would be affordable. As a result, policy H6 is also not applicable to the development, but neither does the proposal garner any support from it.
8. Policy H7 of the LP also applies to housing within the countryside. In order to comply with this policy, the housing proposed is required to meet particular criteria. Examples include that the housing would be necessary for a rural worker or that it would be of exceptional design quality.
9. The houses proposed are designed to work towards achieving the PHI Low Energy Build Standards and seek to incorporate certain Passivhaus criteria. The energy efficiency and ecologically sustainable facets of the houses proposed are supported by those policies within the Framework which seek to increase resilience to climate change. The incorporation of the measures proposed is commendable and would achieve a design which, in these respects, is above the norm. However, it has not been shown to me that the design proposed would be so innovative or ground-breaking so as to amount to being truly outstanding or exceptional.
10. Therefore, the houses proposed would be located outside of Development Limits and within the countryside. They do not constitute a form of exceptional housing development in the countryside which policies H6 and H7 of the LP permit and so in this location, the development proposed would not accord with the development plan's spatial strategy. This conflict with the planned development distribution set out within the development plan is by itself harmful.
11. In this appeal, it is not my role to determine whether the lawful use of the appeal site is as a garden. This can only be formally determined by a lawful certificate application. Even if I were to adopt the view that the appeal site is very likely to be in lawful use as a garden it is nevertheless the case that it is largely open and free of built development. The site provides a visual break in the ribbon of buildings situated alongside Durham Road and views across it of the fields and trees beyond are available. The present condition of the site and the views of the countryside across it contributes positively to the character and appearance of the area.

12. Upon completion of the development, much of the site would become built-upon with the houses largely filling the existing gap between the properties at Nos 40 and 42. This particular part of Coatham Mundeville would become markedly more built-up, and the positive contribution which is made by the site's openness would be harmfully eroded.
13. In comparison to the single and 1 ½ storey properties adjacent, the proposed houses would have a higher eaves level. Each house would have a series of first floor level windows within their front elevations and some pronounced gable features above them. For these reasons, the proposed houses would not share the low-slung appearance of the nearest neighbouring properties. In contrast, their design would be more visually intrusive, and they would form incongruous and unsympathetic introductions to the site. This would be the result even if appropriate external materials were utilised.
14. The hedgerow which runs along the site frontage is relatively low and given the scale of the houses proposed would not provide an effective screen. Further landscaping could be undertaken, but any planting would be likely to take considerable time to mature. Therefore, landscaping would not adequately mitigate the harmful effects I have described.
15. Consequently, in addition to the conflict with the development plan's spatial strategy, an erosion of the open character of the site in this part of the countryside would take place. Coupled with the design of the houses proposed, harmful effects upon the character and appearance of the area would result.
16. In coming to these views, I have had regard to the advice of the Framework which states that rural housing should be located where it will enhance or maintain the vitality of rural communities. However, I have no compelling evidence before me of the particular contribution that this proposal would make in this regard or that there are local services which would particularly benefit from the development.
17. Consequently, the proposal would conflict with policies SH1 and H7 of the LP. It would also conflict with policy DC1 which amongst other matters requires that the design of development responds positively to local context and would complement and enhance the character of both the built and natural environment. The Council's first reason for refusal also cites policy ENV3. However, this policy seeks to protect and improve specific parts of Darlington's landscape which it has not been shown to me the appeal site forms a part of. Therefore, I find that this policy is not relevant to the harm I have identified.

Living conditions

18. Along the common boundary of No 40 and the appeal site there is a dense and high coniferous hedgerow. I have no reason to conclude that this hedgerow would not be likely to endure in the long term. Its presence would be likely to limit the views towards No 40 from the first floor master suite and rear balcony of House 2.
19. Despite this, the plans do not include sufficient detail to demonstrate to me that some overlooking of the hedgerow would not be possible. However, had I concluded that the appeal should be allowed, I am satisfied that a condition could ensure that the 2 first floor master suite windows within House 2 were obscurely glazed and the subject of a restriction on their means of opening. A

further condition could ensure that a screen be erected at this end of the rear balcony. This would prevent overlooking of No 40 taking place.

20. No hedgerow is in place which would screen the side elevation of House 1 from the windows within the flanking elevation of No 42. Even so, the same approach could be adopted whereby conditions ensure the obscuring and restricted opening of the master suite windows opposite and the erection of a balcony screen. This would ensure that House 1 would not unacceptably infringe upon the privacy of the occupiers of No 42.
21. It is part of the character of the area that the gardens of neighbouring properties are adjacent to one another. Therefore, I expect that for the occupants of one property to hear some noise coming from the plot of a neighbouring property is quite typical of the area. I further expect that the occupiers of both Nos 40 and 42 already experience this from time to time.
22. Some noise may emanate from the use of the balconies proposed to serve the 2 houses. However, I have no substantive evidence before me which demonstrates to me that this would be very different from the type of noise that would arise from the use of their gardens nor that arises from the use of gardens of existing properties nearby. I find that the proposed balconies would not be likely to give rise to any harmful increase in noise nor result in any noise that would be unusual or divergent from that which prevails in the area already.
23. Accordingly, subject to the imposition of conditions in the scenario that I had allowed the appeal, the effects of the development upon the living conditions of occupiers of Nos 40 and 42 with particular regard to privacy and noise would be acceptable. The proposal would accord with policy DC4 of the LP which requires new development to protect the amenity of building users including in regard to privacy and noise.

Other Matters

24. The development would make a contribution to housing supply and would increase the choice of housing in the area. However, in providing only 2 houses this contribution would be modest.
25. I have already set out that the development's energy efficiency and ecologically sustainable facets would be commendable and this element of the design of particular merit does weigh in the proposal's favour. The appellant refers to the National Policy Statements for Energy Infrastructure (NPS). The proposal would accord with some content within the NPS which seeks to reduce energy demand and achieve an energy demand shift. However, the purposes of the NPS are principally to provide advice in respect of dedicated large-scale energy infrastructure rather than the energy efficiency credentials of a small-scale housing development. The specific content of the NPS therefore has little bearing upon my decision.
26. The appellant submits that the proposed dwellings would deliver custom/self-build homes. However, despite the appellants' stated intentions to this end, no means of securing the houses as custom/self-build homes is before me. Consequently, this limits the extent to which I can attribute any positive weight to their provision.

27. Although the appellant refers to a housing shortage in the area this is not supported by any substantive evidence. Regardless, the harmful effects of the proposal would be considerable and would outweigh the benefits of the proposal I have outlined above.
28. My attention has been drawn to the dwelling permitted at land adjacent to No 36¹. Amongst other differences, the dwelling beside No 36 may not share the abovementioned facets of the appeal proposal. However, the planning application on the land adjacent to No 36 was granted when a different development plan was in force. I cannot be certain that the position on housing land supply at that time is very comparable with the present situation either. These are distinguishing factors, and moreover, I have come to my own conclusions on the appeal scheme having regard to the particular circumstances of this case. The planning permission adjacent to No 36 is therefore of very limited weight in my decision.
29. A further residential planning permission may have also been granted on land adjacent to No 8, but I have very limited detail before me on that case and so I cannot be certain that the circumstances are very similar. In any case I have considered the appeal proposal on its own merits.
30. The appellants earlier planning application² is not the subject of the appeal. The Council's handling of that case and the development plan policies which it used to assess the proposal has no bearing upon my decision on the appeal proposal.
31. The proposal may not conflict with the specific criteria within Policy H8 of the LP which relates to housing development within gardens or back land positions. Nevertheless, the proposal would still conflict with the development plan's spatial strategy, cause harm to the character and appearance of the area and this is determinative.
32. Wastewater arising from the development could result in nutrient loading effects upon the Teesmouth and Cleveland Coast Special Protection Area and Ramsar site. If I were minded to allow the appeal, I would need to be satisfied that the proposal would have no adverse effects on the site's integrity. Given I am dismissing the appeal, there is no requirement for me to undertake this assessment. Even if I were to conclude that no such adverse effects would be caused by the development it would at most be a neutral factor in this appeal.
33. The vehicular access and parking arrangements of the development would be acceptable and no effects that would be detrimental to highway safety would result. However, these are also neutral factors that weigh neither for nor against the proposal.

Conclusion

34. In my second main issue, I have identified that the effects of the development upon the living conditions of occupiers of Nos 40 and 42 would be acceptable. However, the housing proposed on the appeal site conflicts with the development plan's spatial strategy and would result in harmful effects upon the character and appearance of the area. This matter is determinative, and I conclude that the proposal conflicts with the development plan taken as a

¹ Planning application reference 16/01097/FUL

² Planning application reference 21/01360/FUL

whole. Material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, I conclude that the appeal should be dismissed.

H Jones

INSPECTOR

DARLINGTON BOROUGH COUNCIL

APPEAL AGAINST ENFORCEMENT NOTICE

REF. NO:	21/0002APPENF
APPEAL REF. NO:	Appeal Ref: APP/N1350/C/21/3266272 & 3266273
LOCATION:	Land on the northeast side of Neasham Road Hurworth Moor Darlington DL2 1QH
DESCRIPTION:	Unauthorised stationing of four caravans for residential use
APPELLANT:	Mr Robert Flannigan and Mr Mitchell Flannigan

BRIEF SUMMARY:

The appellants appealed against an enforcement notice (as set out below). One of the grounds for appeal was ground A (that planning permission ought to be granted for the development). The appeal succeeded on these grounds and the Enforcement notice was quashed and appeal allowed, and planning permission granted subject to conditions.

KEY POINTS TO NOTE:

- An Enforcement Notice was issued to the appellants setting out that without planning permission, 4 touring caravans have been stationed on the land for residential use (2 of them being very recently occupied for that purpose) and that together with the works referred to at (2) and (3) below this constitutes an unauthorised change of use of the land from paddock land to a new private Gypsy, Traveller site; (2) the making of an unauthorised site access onto the land from Neasham Road; and (3) the laying of hardcore materials on the land to form an access road and hard standing, removal of hedgerow, the erection of fencing, gates and dog kennels and the installation of services for power and drainage of utility buildings (the works).
- The requirements of the notice were to: (1) Cease residential use of the land and remove from the land all caravans, utility buildings, dog kennels and associated vehicles; (2) Remove the new access, access road, gates, fencing and hardcore materials from the land; and (3) Reinstate the land to its condition immediately before the breach of planning control took place including, without prejudice to the generality of this requirement, the removal of any rubbish and debris in connection with this unauthorised development and the closure of the site access by replanting of the hedgerow at that location.
- The inspector considered the case put forward by the appellant and the Council and the following conclusions were made:

- i) The site is sustainably located for the provision of Gypsy and Traveller Accommodation and accords with policy H9 of the Local Plan in this regard.
- ii) The effect on the character and distinctiveness of the rural area is acceptable and the development accords with Local Plan policies ENV3 and H9 in this regard.
- iii) Suitable and safe vehicular access can be achieved, to accord with Local Plan policies DC1 and H9 in this regard.
- iv) Subject to mitigation by means of appropriate conditions, the development would not have significant adverse effects on biodiversity or geodiversity. Furthermore, and subject to payment of the identified credits, it would contribute to protecting, maintaining, and managing the SPA. Accordingly, the use and associated operational development accord with policies ENV 7 and ENV 8 of the Local Plan.
- v) Provided appropriate further measures are identified and implemented, the site is suitable for a private Gypsy, Traveller site and unacceptable risks to human health or the environment will not arise. The development would therefore accord with policies DC 1, DC 4 and H 9 (criteria d iii, d v and d vi) of the DLP and is acceptable in this regard.
- vi) **The Council's current Gypsy and Traveller Accommodation Needs Assessment underestimates the Borough's need.**
- vii) The provision of Gypsy and Traveller accommodation on small private sites is consistent with the Council's expectation of windfall sites and is allowed for by Local Plan policy H 9, subject to criteria d i to vi, which the inspector considered to be met.
- viii) The inspector gave weight to the personal circumstances and needs of the appellants.

APPEAL ALLOWED UNDER GROUND A (that planning permission ought to be granted) subject to conditions as the site is sustainably located to provide windfall accommodation within the framework of Local Plan policies to meet the needs of the appellants and their dependants. Subject to relevant details being secured through appropriate conditions, the effects on the character of the area, highway safety, ecology and the living conditions of occupiers can be adequately mitigated.



Appeal Decisions

Hearing held on 15 August 2023

Site visit made on 15 August 2023

by Mark Harbottle BSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16/01/2024

Appeal A Ref: APP/N1350/C/21/3266272

Appeal B Ref: APP/N1350/C/21/3266273

Land on the North East side of Neasham Road, Neasham Road, Hurworth Moor, Darlington DL2 1QH

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended ("the Act") by Mr Robert Flannigan (Appeal A) and Mr Mitchell Flannigan (Appeal B) against an enforcement notice issued by Darlington Borough Council.
- The notice was issued on 7 December 2020.
- The breach of planning control as alleged in the notice is: Without planning permission, (1) 4 touring caravans have been stationed on the land for residential use (2 of them being very recently occupied for that purpose) and that together with the works referred to at (2) and (3) below this constitutes an unauthorised change of use of the land from paddock land to a new private Gypsy, Traveller site; (2) the making of an unauthorised site access onto the land from Neasham Road; and (3) the laying of hardcore materials on the land to form an access road and hard standing, removal of hedgerow, the erection of fencing, gates and dog kennels and the installation of services for power and drainage of utility buildings (the works).
- The requirements of the notice are to: (1) Cease residential use of the land and remove from the land all caravans, utility buildings, dog kennels and associated vehicles; (2) Remove the new access, access road, gates, fencing and hardcore materials from the land; and (3) Reinstate the land to its condition immediately before the breach of planning control took place including, without prejudice to the generality of this requirement, the removal of any rubbish and debris in connection with this unauthorised development and the closure of the site access by replanting of the hedgerow at that location.
- The periods for compliance with the requirements are: (1) 2 weeks after the notice takes effect; (2) and (3) 4 weeks after the notice takes effect.
- Appeal A is proceeding on the grounds set out in section 174(2)(a), (c), (f) and (g) of the Act. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
- Appeal B is proceeding on the grounds set out in section 174(2)(c), (f) and (g) of the Act.

Summary of Decisions: Appeal A is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision. Appeal B is dismissed.

Preliminary Matters

1. In these decisions, "the change of use" means item (1) of the alleged breach of planning control and "the works" means items (2) and (3) of the same.
2. At the time of the Hearing, the definition of Gypsies and Travellers in Planning Policy for Traveller Sites (PPTS) did not include people who have ceased to travel permanently. A subsequent update to PPTS widened the definition to

- include such people. However, I had already sought the parties' views on this matter, so it was not necessary to invite further submissions.
3. The Council adopted the Darlington Local Plan 2016-2036 ("the DLP") during the appeal. The parties updated their submissions to address the relevant new policies. The National Planning Policy Framework ("the Framework") was revised after the Hearing had closed but did not include any changes material to the planning issues considered in the appeal on ground (a).
 4. The appeal site is part of a larger site with planning permission for use as "a private Gypsy site to provide pitches for 2 residential caravans and 2 touring caravans ... and use of land for equestrian purposes". This was initially granted for a limited period but an appeal against the condition imposing that restriction was subsequently allowed¹.
 5. The appellants contend the larger site was used in breach of conditions requiring conformity with the approved plans (condition 2) and limiting the number of caravans (condition 4). If it could be demonstrated that those breaches had persisted for a period of not less than 10 years, ending on or before the date on which the notice was issued, the change of use might be immune from enforcement action.
 6. An appeal against a notice alleging a breach of the above condition 4 on land adjacent to the site of these appeals was allowed, and the notice quashed, in January 2022 ("the 2022 appeal decision")². In that decision, it was found that a 3rd pitch had been continuously occupied residentially for a period of 10 years before the notice was issued. A lawful development certificate (LDC) to confirm this was also issued. The identified location of the 3rd pitch on the plan accompanying the LDC does not fall within the site of these appeals.
 7. No appeal has been made on ground (d) and the limited evidence provided by the appellants does not demonstrate continual breach of either condition over a 10 year period on land subject of the current notice. The appeals will therefore be determined on the grounds stated on the appeal form.
 8. In its stated reasons for issuing the notice, the Council set out its view that the matters constituting the breach of planning control had all occurred within the preceding 4 years. However, item (1) of the breach is a material change of use of land and while items (2) and (3) are operational development, they were carried out to facilitate the change of use. Accordingly, the relevant period during which enforcement action could be taken is 10 years from the date on which the change of use was instituted.

Appeals A and B – the appeals on ground (c)

9. An appeal may succeed on this ground if an appellant can show that one or more of the matters alleged in the notice does not constitute a breach of planning control. This could be because it is not development or does not require planning permission.
10. It is not disputed that the matters alleged in the notice constitute development. However, the appellants contend that they are authorised by the permissions described in paragraph 4 above. The words "and use of land for equestrian

¹ 10/00059/FUL, granted 19 November 2010, and APP/N1350/A/11/2153205, allowed 20 September 2011.

² APP/N1350/C/21/3266271, allowed 27 January 2022.

purposes” in the description of that development suggest the equestrian use was intended to be a separate use from the private Gypsy site, not part of a mixed use. The Council’s reasons for granting permission referred to “the occupied part of the site,” suggesting that the residential use did not account for all the land. The appeal decision includes a description of how the land was being used at the time, stating, “The caravan pitches and utility buildings are situated in the north western corner of the site, with the remainder being given over to equestrian use.”

11. Furthermore, the approved plans show distinct areas that could be separately used for residential and equestrian uses and the appeal site occupies part of the larger of the 2 paddocks shown on those plans. By reason of its scale, equestrian use of that paddock, which now includes the appeal site, seems unlikely to be ordinarily ancillary or incidental to a residential use.
12. It may have been intended that the occupiers of the caravans would keep their horses in the paddocks, and that may well have occurred in the past. However, it has not been demonstrated that any equestrian use was intimately associated with the residential use, such that it was ancillary or incidental.
13. Paragraph 23 of the 2022 appeal decision records that the appellant and the Council had agreed that a material change of use had not occurred. While I have not seen the evidence presented in that appeal, the decision letter indicates that points I have considered in this ground of appeal were not examined in detail. Consequently, I do not consider that decision to fetter my discretion to determine these appeals according to the evidence before me.
14. The foregoing evidence indicates that the permitted use of the larger site is for 2 uses materially different in character, a private Gypsy site and equestrian use. The area identified for equestrian use on the approved plans, comprising 2 paddocks, is significantly larger than the area identified for caravans and as such I consider it was proposed and approved as an independent use constituting a separate planning unit. No evidence of a functional link between its use for equestrian purposes and the approved private Gypsy site has been demonstrated and while a part of the land identified for equestrian use has an LDC for a 3rd pitch, the appeal site does not fall within that part.
15. Accordingly, it has not been demonstrated that the appeals relate to land with a permitted use as a private Gypsy site. The evidence indicates that the land has a permitted equestrian use. The change of use to a private Gypsy, Traveller site, which has a definably different character, is a material change of use requiring planning permission, which has not been granted.
16. For these reasons, the appeals on ground (c) must fail.

Appeal A – the appeal on ground (a)

17. The main issues in this appeal are:

- Whether the private Gypsy, Traveller site is sustainably located in terms of access to services.
- The effect on the character of the rural area.
- The effect on highway safety.
- The effect on ecology, including nutrient neutrality.

- The living conditions of occupiers, particularly with regard to the potential for ground gas migration and contamination from infilled material.
- The need for and supply of Gypsy and Traveller pitches in Darlington.
- The personal circumstances of the appellants and their dependants.

Reasons

Whether the site is sustainably located

18. The site is approximately 3 km from the centre of Darlington and about 1.5 km from local facilities in the Service Village of Hurworth, in countryside defined by policy SH 1 of the DLP. Neasham Road is unlit and lacks footways although there are public footpaths and bridleways to Hurworth and Darlington and an advisory cycle route nearby. Those routes, and Burma Road connecting them, are designated Green Corridors by policy ENV 4 of the DLP. The site therefore has safe access to the borough-wide cycling and walking network including links to the public rights of way network and leisure routes.
19. The location has been found sustainable in the past, but the Council considers it has recently become less so because a bus service no longer runs on Neasham Road. Without access to bus services, the only transport options are the private car, cycling or walking. The Green Corridors are intended to provide an accessible network of well connected, multi-functional open spaces for recreation and play and to enhance visual amenity, biodiversity, landscape, and productivity. However, this does not extend to everyday use such as going shopping or to school, which are undertaken in all weather and at all times of the year. Considering that, and the absence of lighting and footways on Neasham Road and Burma Road, satisfactory access to local schools and other amenities is most likely to be made by means of the private car.
20. The Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, a matter that should be considered in decision-making. Viewed from that perspective and noting that journeys to services and facilities in Hurworth or Darlington would be relatively short, the site is not far away from existing settlements. Furthermore, no evidence that the use would not respect the scale of the nearest settled community or dominate it or place undue pressure on local infrastructure has been presented. Accordingly, the use accords with policy H of PPTS.
21. For these reasons, the site is sustainably located for the provision of Gypsy and Traveller accommodation, in accordance with policies H 9 (criterion d ii) and IN 2 of the DLP.

The character of the rural area

22. The surrounding countryside is relatively flat, with a regular pattern of agricultural fields punctuated by small areas of woodland. There is sporadic development, largely commercial, along Neasham Road. Policy ENV 3 of the DLP makes specific requirements for development in distinct parts of the borough but the site does not lie within any of these, although it is close to the Darlington/Middleton St George/A66/A67/Stockton Corridor historic route.
23. Views of the site are limited by vegetation on Neasham Road, except for the access point, where large gates are visible, set back relative to the adjacent

Gypsy site. Notwithstanding this, most of the site boundaries, where visible, appear appropriate and could, if supplemented by acceptable landscaping, be sympathetic to and in keeping with the surrounding area. Such landscaping could also protect and enhance the natural quality of the rural landscape by reinstating natural hedgerow features.

24. The site adjoins another Gypsy site but, subject to appropriate landscaping, an over-concentration of Gypsy and Traveller accommodation would not be apparent, and the rural character of the area would be adequately maintained.
25. In reaching this view I am mindful of an appeal decision relating to adjacent land to the north³, although only an extract from that decision has been provided. Nevertheless, I saw the site in question from a field gate on Burma Road. From that, and the available information, it appears that the scheme before me does not erode the open countryside to a comparable extent or result in a similar cumulative effect.
26. For these reasons I find the effect on the character and local distinctiveness of the rural area to be acceptable, in accordance with policies ENV 3 and H 9 (criterion d i) of the DLP.

Highway safety

27. Adequate visibility has been created at the site access through the removal of a section of hedgerow. The appellant states that he and the appellant in Appeal B own the land involved and has produced a letter from the former owner to confirm this. However, the highway authority advises that the new access has not been formed to the required standard, although that could be addressed by means of a planning condition if the appeal were to succeed.
28. On that basis, suitable and safe vehicular access can be achieved, as required by policies DC 1 and H 9 (criterion d iv) of the DLP.

Ecology

29. The site is within the catchment of the Teesmouth and Cleveland Coast Special Protection Area (SPA), a wetland of European importance. Increases in the levels of nitrogen entering the SPA via surface water and groundwater can severely threaten the sensitive habitats and species within it. It is therefore important to carry out an appropriate assessment as to whether any development that discharges wastewater into the catchment includes or is accompanied by measures to achieve nutrient neutrality in terms of nitrate discharge. If that is not achieved, this development and others discharging wastewater into the catchment would harm the integrity of the SPA.
30. The appellant applied to purchase credits to offset the nitrate discharge from the use of the site under a nutrient mitigation scheme operated by Natural England (NE). Purchase of 9 credits to mitigate a total nitrogen load of 8.74 kg per annum, as calculated by the Council, has been approved, a deposit has been paid, and the appellant and NE have signed a provisional Nutrient Credit Certificate (NCC). The NCC would become final subject to the appellant's payment of the balance within a prescribed period.

³ APP/N1350/W/21/3268831.

31. The provisional NCC confirms that NE has reserved the required number of credits for the appellant, confirming that it considers the development can be adequately mitigated to avoid harm to the SPA. It is issued on the understanding that any planning permission for the development will include a condition to prevent occupancy until it has been demonstrated that sufficient nutrient credits have been purchased. This is to ensure that development only occurs on condition that adequate mitigation of nitrate discharge is achieved. As the development has been carried out, a different form of wording, requiring cessation of the use if sufficient credits to offset the calculated nitrate discharge are not purchased, would be necessary.
32. A preliminary ecological appraisal was carried out during the appeal. Implementation of its relevant recommendations would ensure any significant adverse effects to biodiversity, other than in terms of the SPA, are adequately mitigated.
33. Subject to mitigation by means of appropriate conditions, the development would not have significant adverse effects on biodiversity or geodiversity. Furthermore, and subject to payment of the identified credits, it would contribute to protecting, maintaining, and managing the SPA. Accordingly, the use and associated operational development accord with policies ENV 7 and ENV 8 of the DLP.

Living conditions

34. Criterion d iii of DLP policy H 9 requires that the design of Gypsy and Traveller sites takes account of the needs of residents and provides an appropriate pitch layout and adequate facilities for parking, storage, play and, if required, grazing space for livestock. From my observation of the site, I am satisfied that this is achieved.
35. Criterion d v of the same policy requires that all necessary utilities can be provided on the site including mains water, electricity supply, drainage, sanitation and provision for the screened storage and collection of refuse, including recyclable materials. Criterion d vi requires that Gypsy or Traveller sites avoid any unacceptable adverse impact on the amenity, health or living conditions of neighbouring residents or any other neighbouring uses. This includes considerations of flood risk, noise, dust, odour, lighting, traffic generation, and the keeping of livestock or other activities. No evidence of any unacceptable adverse impact in those terms has been identified and the development therefore accords with policy H 9 in these respects.
36. The adjacent land to the north is a former landfill site so the risks of ground gas migration and contamination affecting the occupiers of the appeal site must be considered. Subject to appropriate conditions to secure further investigations and implementation of any works identified as necessary by those investigations, these risks can be suitably managed.
37. Provided appropriate further measures are identified and implemented, the site is suitable for a private Gypsy, Traveller site and unacceptable risks to human health or the environment will not arise. The development would therefore accord with policies DC 1, DC 4 and H 9 (criteria d iii, d v and d vi) of the DLP and is acceptable in this regard.

The need for and supply of pitches

38. The Council's Gypsy and Traveller Accommodation Assessment Update 2017 ("the GTAA") stated the borough needed an additional 63 pitches by 2022 and estimated a supply of 58 additional pitches in the same period. It therefore identified that a further 5 pitches were needed, 1 of which has been created. Planning permission for 2 more is in place.
39. The GTAA also noted that 37 pitches were planned to be created or brought back into use between 2017 and 2022. The appellant contends there is no evidence that any more than 3 of these pitches have been realised. He considers they should therefore be carried forward, along with 18 available but unused pitches also identified in the GTAA, making a shortfall of between 55 and 58 pitches.
40. The Council accepts there is a lesser need for 15 additional pitches during the 5-year period beginning January 2021, of which 8 have yet to be delivered. It is taking steps to realise additional pitches through an extension of its site at Rowan East with a further 25 pitches. A planning application has been prepared and, if permission is granted, funding may be available. It also anticipates the creation of 8 pitches at another Council site, Honeygot Lane, through an application to make transit pitches permanent. If these plans come to fruition, they could provide the additional 23 pitches the Council considers are needed by 2028. The Council also assumes a windfall on small sites of 4 pitches per annum.
41. However, if the 55 to 58 pitches identified by the appellant were added to the number the Council accepts are needed in future, there would be a significant shortfall in provision. No evidence has been produced to show that the 18 available but unused pitches identified in 2017 have since become unavailable, so I do not agree they should be added. However, the lack of evidence regarding the 37 pitches that were planned to be created or brought back into use between 2017 and 2022 is of concern. Furthermore, there is little evidence of small site windfalls being realised at the assumed rate of 4 per annum.
42. The estimates of future need for Gypsy and Traveller pitches in the GTAA and in the subsequent 2020 addendum are based on a definition of Gypsies and Travellers that excludes those who have ceased to pursue nomadic lifestyles and as it does not accord with the current PPTS definition, I consider the GTAA under-estimates the borough's need.
43. The Council is making efforts to secure additional pitches that would meet anticipated future needs. However, for the reason just given, the actual need is likely to be higher than stated in the GTAA and it is not clear whether the additional pitches that should have been realised between 2017 and 2022 have come forward. Furthermore, the Council's strategy for delivering additional pitches is reliant on the expansion of large sites, a matter to be considered in terms of the personal circumstances of the appellants and their dependants. However, the provision of Gypsy and Traveller accommodation on small private sites is consistent with the Council's expectation of windfall sites and is allowed for by DLP policy H 9, subject to criteria d i to vi, which I have found are met.

Personal circumstances

44. The appellants and their families are Romani Gypsies and thus have the protected characteristic of race under section 149(7) of the Equalities Act 2010. Both appellants travel for work and to attend fairs and horse events. Their families include school-age children, whose needs are best met by a secure and stable environment allowing long-term residence. One appellant's eldest son lives in the area and regularly stays with his father. Access to a local GP practice is particularly important to one appellant and the other appellant's wife.
45. While the foregoing confirms the needs of the appellants' families for accommodation in the local area, those needs could be met on another site in or near Darlington. However, the environment provided by the appeal site is important to the welfare of one of the appellants, who explained the difficulties he had experienced when living on a larger site in the area. While this is not addressed directly in the submitted medical evidence, I have no reason to doubt the importance of a private site in a quiet location to his quality of life in terms of his security, confidence, and routine. It appears that he may need to manage his circumstances in this way indefinitely.
46. As noted earlier, the Council's strategy for delivering additional Gypsy and Traveller pitches is reliant on the expansion of large sites, including the one the appellant had difficulty living at. Therefore, even if a 5-year supply of pitches is in place, there would be few opportunities to meet the appellant's needs. While his needs for security, confidence and routine could be met on another small private site, which could arise as a windfall, they are relatively scarce and there is no evidence that any such pitch is available at present. Furthermore, the medical evidence acknowledges the importance of extra support and security provided by his brother and other family members. There must be a risk that this would be diminished if the appellants were unable to find another site to live on together.

Other matters

47. Concern has been expressed that many local people have difficulty finding suitable accommodation and that they consider it unfair that the appellants did not obtain planning permission before moving onto the land. However, section 177(1) of the Act allows that planning permission may be granted in respect of the matters stated in a notice. Consistent with that, the courts have confirmed that the enforcement of planning control should be remedial rather than punitive⁴. They have also confirmed that a grant of retrospective planning permission is not unlawful, although it should not afford an advantage that ought to be denied⁵. Accordingly, and while the concern is understood, and even though intentional unauthorised development has occurred, it does not alter or outweigh my findings on the main issues above.

Conclusion on the appeal on ground (a)

48. For the reasons given, the site is sustainably located to provide windfall accommodation within the framework of DLP policies to meet the needs of the appellants and their dependants. Subject to relevant details being secured through appropriate conditions, the effects on the character of the area,

⁴ *Tapecrown Ltd v FSS & the Vale of White Horse DC* [2006] EWCA Civ 1744.

⁵ *Ardagh Glass v Chester CC & Quinn Glass* [2009] EWHC 745 (Admin).

highway safety, ecology and the living conditions of occupiers can be adequately mitigated.

Conditions

49. While a condition requiring commencement of development within a specified period would normally be imposed under the provisions of Section 91(1) of the Act, the development has already been carried out. Consequently, the imposition of such a condition, as suggested by the Council, is not necessary in this instance. Similarly, I shall alter the wording of other suggested conditions where necessary because, as drafted, they are not enforceable as it is not possible to submit details prior to occupation of the site.
50. Condition 1 is necessary to restrict occupation of the site to Gypsies and Travellers in view of the limited supply of available sites within the borough, which does not justify general residential occupation.
51. While not suggested by the Council, it is reasonable to add condition 2 to limit the number of caravans to those specified in the breach. This is to ensure the site design takes account of the needs of residents and provides an appropriate pitch layout and adequate facilities for parking, storage, and play, as required by policy H 9 of the DLP. It will also limit the scale of development in the countryside, consistent with policy SH 1 of the DLP.
52. Conditions 3 and 4 are necessary to ensure that the risks of ground gas migration and contamination from the adjacent former landfill site are investigated and suitably managed in the interests of the health of the occupiers of the site.
53. Condition 5 is necessary to ensure that the site incorporates soft landscaping that provides habitat enhancements to achieve net biodiversity gains and to achieve a satisfactory appearance of the site in the interests of the character and appearance of the area.
54. Condition 6 is necessary to ensure that the access to the site is constructed to a satisfactory standard, with appropriate visibility, in the interests of highway safety.
55. Conditions 7 and 8 are necessary to ensure appropriate mitigation of nutrients to protect the SPA in accordance with the requirements of Regulation 63 of the Conservation of Habitats and Species Regulations 2017.
56. Conditions 9 and 10 are necessary to maintain biodiversity. Condition 9 will ensure that any external lighting avoids indirect disturbance to bats. Condition 10 will ensure that appropriate mitigation measures relating to birds, amphibians and small mammals recommended in the preliminary ecological appraisal are implemented during landscaping works.
57. The Council suggests a condition to prohibit any commercial activity on the site and another to prevent the stationing, parking, or storing of any vehicle over 3.5 tonnes and storage of cars. It explained that the first of these conditions would be targeted at activities such as large-scale dog breeding, or which involve plant and machinery. However, no evidence was presented that activities which either condition would curtail have taken place on the site or are likely. Consequently, and given the likelihood that the introduction of such

activities would result in a material change of use requiring planning permission, I do not consider either condition necessary.

Appeal A - Conclusion

58. For the reasons given, the appeal on ground (c) fails. Subject to the imposition of necessary conditions, the change of use and the associated works accord with the relevant development plan policies, with the development plan as a whole, and with PPTS. Accordingly, there is success on ground (a), and I shall grant planning permission for the change of use and the associated works as described in the notice subject to conditions.

59. In these circumstances, the notice will be quashed and the appeals on grounds (f) and (g) do not fall to be considered.

Appeal B - Conclusion

60. For the reasons given, the appeal on ground (c) fails.

61. In view of the success on ground (a) in Appeal A, the appeals on grounds (f) and (g) do not fall to be considered.

Appeal A – Formal Decision

62. The appeal is allowed, the enforcement notice is quashed, and planning permission is granted on the application deemed to have been made under section 177(5) of the Act as amended for the development already carried out, namely the change of use of the land from paddock land to a new private Gypsy, Traveller site; the making of a site access onto the land from Neasham Road; and the laying of hardcore materials on the land to form an access road and hard standing, removal of hedgerow, the erection of fencing, gates and dog kennels and the installation of services for power and drainage of utility buildings at Land on the North East side of Neasham Road, Neasham Road, Hurworth Moor, Darlington DL2 1QH as shown on the plan attached to the notice and subject to the conditions in the attached schedule.

Appeal B – Formal Decision

63. The appeal is dismissed.

Mark Harbottle

INSPECTOR

APPEARANCES

FOR THE APPELLANTS:

Bradley Stovell	Director, Stovell and Millwater Limited
David Stovell	Managing Director, Stovell and Millwater Limited
Robert Flannigan	Appellant
Lisa Flannigan	Appellant's wife
Mitchell Flannigan	Appellant
Alexandra Flannigan	Appellant's wife

FOR THE LOCAL PLANNING AUTHORITY:

David Coates	Head of Development Management and Environmental Health, Darlington Borough Council
Michael Conyard	Monitoring and Compliance Officer, Darlington Borough Council
Fiona McCall	Planning Officer (Policy), Darlington Borough Council
David Nelson	Principal Planning Officer (Policy), Darlington Borough Council
Emma Williams	Planning Officer (Development Management), Darlington Borough Council

INTERESTED PARTIES:

Councillor Lorraine Tostevin, Darlington Borough Council
Councillor Geoffrey Crute, Neasham Parish Council

Documents submitted at the Hearing

- 1 Letters of notification of the Hearing
- 2 Letters of service of the enforcement notice
- 3 The Council's amended list of suggested conditions
- 4 Appeal decision APP/N1350/C/21/3266271
- 5 Letter from the previous owner of the land
- 6 Letter from Royal Marsden NHS Trust

Schedule of Conditions

- 1) The site shall not be occupied by any persons other than Gypsies and Travellers, defined as persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.
- 2) No more than 4 caravans as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended (of which no more than 2 shall be static caravans) shall be stationed on the land at any time.
- 3) The use hereby permitted shall cease and all structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 2 months of the date of failure to meet any one of the requirements set out in i) to v) below:
 - i) Within 3 months of the date of this decision an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites – Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced) shall have been submitted for the written approval of the local planning authority. If any contamination is found, the assessment shall specify the measures to be taken ("the measures"), including the timescale, to remediate the site to render it suitable for the approved use.
 - ii) If within 6 months of the date of this decision the local planning authority refuses to approve the measures or fails to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
 - iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the measures shall have been approved by the Secretary of State.
 - iv) The approved measures shall have been carried out and completed in accordance with the approved timetable.
 - v) A verification report shall be submitted to and approved in writing by the local planning authority within 2 months of the completion of the measures.

Upon implementation of the approved measures and any additional measures required to be implemented by this condition, those measures and any additional measures shall thereafter be retained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 4) If, during the course of the implementation of the measures approved under condition 3) above, any contamination is found which has not been previously

identified, the use hereby permitted shall cease and all structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 2 months of the date of failure to meet any one of the requirements set out in i) to v) below:

- i) Additional measures for remediation (“the additional measures”) shall be submitted for the written approval of the local planning authority within 30 days of that contamination being found.
- ii) The remediation of the site shall thereafter incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 30 days of the report being completed and approved in writing by the local planning authority.
- iii) If within 2 months of the date of their submission the local planning authority refuses to approve the additional measures or fails to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
- iv) If an appeal is made in pursuance of iii) above, that appeal shall have been finally determined and the additional measures shall have been approved by the Secretary of State.
- v) The approved additional measures shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of any additional measures required to be implemented by this condition, those additional measures shall thereafter be retained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 5) Unless within 2 months of the date of this decision a scheme for the landscaping of the site, which shall include a native hedge and standard trees within the site and incorporate relevant measures in the Primary Ecological Appraisal undertaken by Naturally Wild Consultants Limited, reference SAM-20-03, January 2021, to provide the necessary habitat enhancements to achieve net biodiversity gains and proposals for replanting in the event of the failure of any specimen, is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within 2 months of the local planning authority’s approval, the use hereby permitted shall cease and all structures, equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented.

If no scheme in accordance with this condition is approved within 5 months of the date of this decision, the use hereby permitted shall cease and all structures, equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme approved by the local planning authority is implemented.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be retained with replanting as may be approved.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time

limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 6) Unless within 2 months of the date of this decision a scheme for the construction of the access to Neasham Road together with a timetable for its implementation is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented, including the visibility splays shown on the extract from drawing DN/20/003/003 appended to this decision, within 2 months of the local planning authority's approval, the use hereby permitted shall cease and all structures, equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented.

If no scheme in accordance with this condition is approved within 5 months of the date of this decision, the use hereby permitted shall cease and all structures, equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme approved by the local planning authority is implemented.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be maintained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 7) Unless within 2 months of the date of this decision a copy of the signed Final Credit Certificate from Natural England is submitted in writing to the local planning authority for approval, the use hereby permitted shall cease and all structures, equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a copy of the signed Final Credit Certificate from Natural England is submitted.

- 8) If a signed Final Credit Certificate cannot be obtained from Natural England for any reason, and unless within 6 months of the date of this decision full details and specifications of an alternative Nutrient Neutrality Mitigation Scheme, including any long term maintenance and monitoring details is submitted to and approved in writing by the local planning authority (in consultation with Natural England) the use hereby permitted shall cease and all structures, equipment and materials brought onto the land for the purposes of such use shall be removed.

If no scheme in accordance with this condition is approved within 3 months of the date of this decision, the use hereby permitted shall cease and all structures, equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme approved by the local planning authority is implemented.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be retained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 9) Unless within 2 months of the date of this decision a scheme for the sensitive positioning of external lighting to avoid unnecessary spill onto hedgerow, tree line and areas of open grassland, is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within 2 months of the local planning authority's approval, any external lighting shall be removed until such time as a scheme is approved and implemented.

The scheme shall include details of the type and angle of lighting, including use of narrow-spectrum bulbs that avoid white and blue wavelengths, and the height of lighting columns.

If no scheme in accordance with this condition is approved within 5 months of the date of this decision, any external lighting shall be removed until such time as a scheme approved by the local planning authority is implemented.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be maintained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 10) If any vegetation management works are required in connection with the landscaping scheme to be approved under condition 5), clearance works must be carried out outside of the bird nesting season, which is defined as running from March to August, inclusive. If this is not feasible for any reason, a nesting bird survey must be carried out by a suitably qualified ecologist, along with specifications for any exclusion zone around a nest, shortly prior to the start of works to ensure no active nests are present. In the event that any active nests are found during this survey or at any point during the works, a suitable exclusion zone must be put around the nest, in accordance with the specification accompanying the survey, with no work taking place in this area until such time as the nest can be confirmed as no longer active.

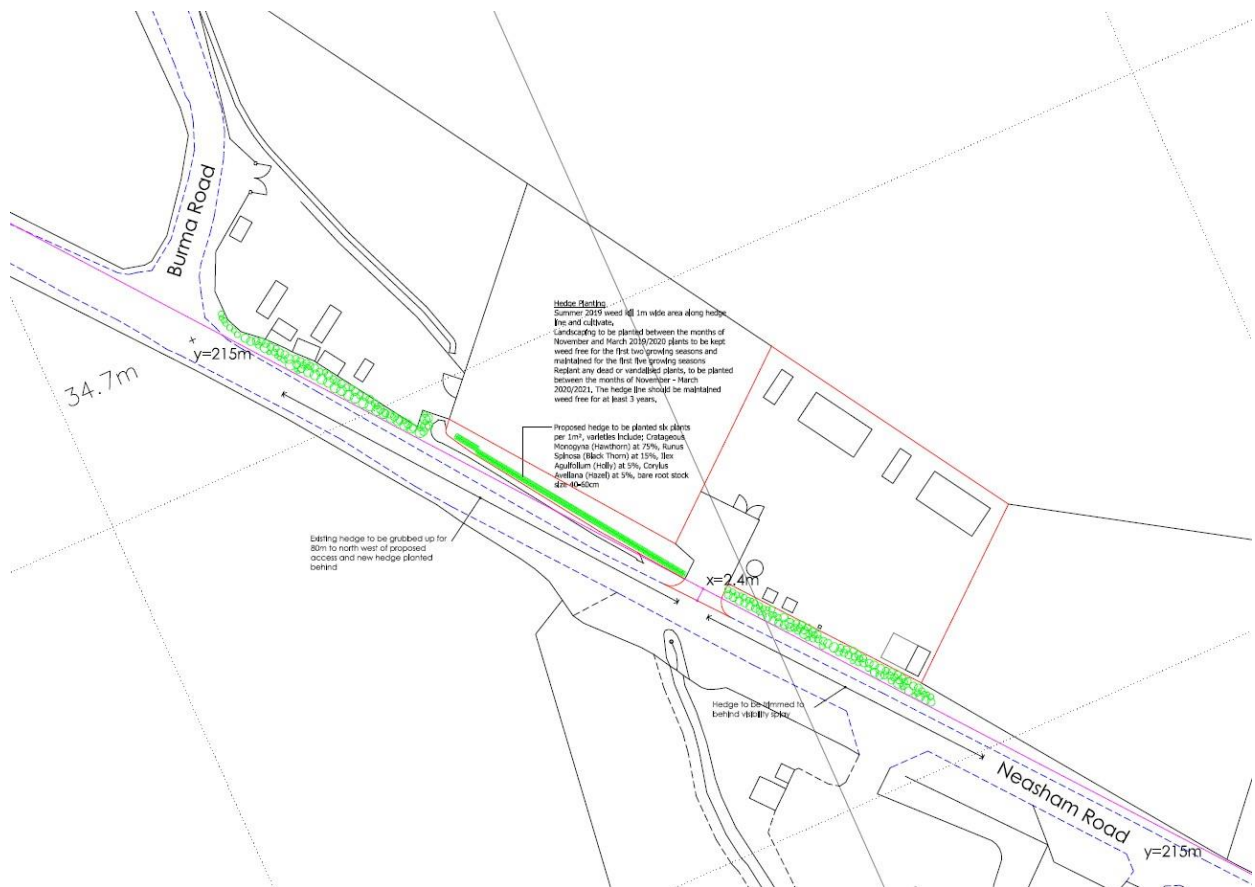
Any vegetation management works on site in connection with the approved landscaping scheme must be conducted in a precautionary manner in respect of Great Crested Newts (GCN). If any GCN are encountered during any works, those works must stop immediately and shall not be recommenced other than in accordance with appropriate ecological advice.

Any vegetation management works on site in connection with the approved landscaping scheme must be conducted in a precautionary manner in respect of hedgehogs. Any hedgehogs encountered during site works in connection with the approved landscaping scheme must be carefully moved to a safe location away from the works or be allowed to move off of their own accord.

Any trenches or other excavations created during site works in connection with the approved landscaping scheme must be backfilled or covered over at the end of each working day. If this is not possible for any reason, a suitable means of escape must be provided for any nocturnal wildlife, such as badgers and hedgehogs, that may become entrapped. (A suitable means of escape would comprise a ramp with adequate grip, at least 30 cm wide and set at an angle of no greater than 45°.)

Appendix

Extract from drawing DN/20/003/003 referred to in condition 6):



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

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