



**DARLINGTON**

Borough Council

# Planning Applications Committee Agenda

1.30 pm, Wednesday, 9 October 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 4 September 2024 (Pages 5 - 14)
4. Introduction to Procedure by the Assistant Director, Law and Governance's Representative (Pages 15 - 16)
5. Applications for Planning Permission and Other Consents under the Town and Country Planning Act and Associated Legislation (Pages 17 - 18)
  - (a) Elm Ridge Garden Centre, Coniscliffe Road, Darlington (Pages 19 - 48)
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 Mrs L Brunton against this authority's decision to refuse permission for consent to undertake work to a tree protected by a Tree Preservation Order at Garden Cottage, Low Middleton, Middleton St George, Darlington, DL2 1AX (Ref No 22/00575/TF) (copy of Inspector's decision enclosed).

**RECOMMENDED** – That the report be received.  
(Pages 49 - 52)

### **PART III**

#### **EXCLUSION OF THE PUBLIC AND PRESS**

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

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

10. Complaints Received and Being Considered Under the Council's Approved Code of Practice as of 20 September 2024 (Exclusion Paragraph No. 7) – Report of the Chief Executive (Pages 53 - 62)
11. SUPPLEMENTARY ITEM(S) (IF ANY) which in the opinion of the Chair of this Committee are of an urgent nature and can be discussed at this meeting.
12. Questions.



**Luke Swinhoe**  
**Assistant Director Law and Governance**

**Tuesday, 1 October 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](mailto:paul.dalton@darlington.gov.uk) or telephone 01325 405805

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## PLANNING APPLICATIONS COMMITTEE

Wednesday, 4 September 2024

**PRESENT** – Councillors Haszeldine (Chair), Ali, Allen, Anderson, Beckett, Cossins, Kane, Laing, Lawley, Lee, McCollom and Tostevin.

**APOLOGIES** – Councillors Bartch and Robinson.

**ALSO IN ATTENDANCE** – Councillor Snedker.

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

**PA21 DECLARATIONS OF INTEREST**

There were no declarations of interest reported at the meeting.

**PA22 TO APPROVE THE MINUTES OF THE MEETING OF THIS COMMITTEE HELD ON 7 AUGUST 2024**

**RESOLVED** – That the Minutes of this Committee held on 7 August 2024, be approved as a correct record.

**PA23 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><b>Reason</b> - To accord with the provisions of Section 91(1) of the Town and Country Planning Act, 1990.</p>
CL2	<p>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.</p>

	<p><b>REASON</b> - 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.</p>
CL3	<p>Prior to the commencement of the development or at a time agreed in writing by the Local Planning Authority a Phase 2 Site Investigation works shall be conducted, supervised and documented by a "suitably competent person(s)" and carried out in accordance with the approved Phase 2 Site Investigation Strategy (Sampling and Analysis Plan). A Phase 2 Site Investigation and Risk Assessment Report prepared by a "suitably competent person(s)", in accordance with published technical guidance (e.g. BS10175 and 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.</p> <p><b>REASON</b> - 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.</p>
CL4	<p>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.</p> <p><b>REASON</b> - 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.</p>

<p>CL5</p>	<p>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.</p> <p><b>REASON</b> - 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.</p>
<p>CL6</p>	<p>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.</p> <p>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.</p> <p>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.</p> <p><b>REASON</b> - 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.</p>

(1) 85 CARMEL ROAD NORTH

**22/00190/FUL** - Demolition of existing bungalow and garage, erection of 5 no. residential dwellings with private amenity space, access including alterations to front boundary, replacement fencing and wall to west and south boundaries, landscaping and associated works (amended plans received 2nd and 5th October 2023; Amended reports, additional plan, Nutrient Calculator and Provisional Nutrient Certificate received 22 February 2024; Biodiversity Net Gain reports and Ecology Reports received 22 April 2024 and 3 May 2024; Drainage information received 23 May 2024; Amended Biodiversity Management Plan received 9 August 2024; amended site layout plan received 12 August 2024).

(In making its decision, the Committee took into consideration the Planning Officer's report (previously circulated), the views of the Council's Highway Engineer, Environmental Health Officer, Senior Arboricultural Officer and Ecology Officer, the Lead Local Flood Authority, Northumbrian Water, Northern Gas Networks, Natural England, and Durham County Council's Archaeology Team, twelve letters of objection received in relation to the original development proposals to redevelop the site with nine dwellings, seventeen objections received in relation to the submission of amended plans which reduced the number of dwellings within the development from nine to five, and the views of the Applicant's Agent and an Objector, whom the Committee heard).

**RESOLVED** – That Planning Permission be granted subject to the following Planning 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 313 SArch S3 XX DR A 1009 MU Site Plan As Proposed
  - b) Drawing Number 313 SArch S3 XX DR A 1050 P01 Autotracking and Visibility Splay
  - c) Drawing Number 313 SArch S3 XX DR A 1020 P02 Entrance Boundary
  - d) Drawing Number 313 SArch S3 XX DR A 3000 P05 House Type A Proposed Elevations
  - e) Drawing Number 313 SArch DG XX DR A 3000 P02 Proposed Double Garage Elevations
  - f) Drawing Number 313 - SArch - DG - ZZ - DR - A - 2000 - P02 Proposed Double Garage Plans
  - g) Drawing Number 313 - SArch - S3 - 00 - DR - A - 1010 - P05 Proposed Boundaries
  - h) Drawing Number 313 - SArch - S3 - XX - DR - A - 3001 - P05 House Type B - 5 Bed Proposed Elevations
  - i) Drawing Number 313 - SArch - S3 - ZZ - DR - A - 2000 - P06 House Type A - 5 Bed - Proposed Plans
  - j) Drawing Number 313 - SArch - S3 - ZZ - DR - A - 2001 - P05 House Type B - 5 Bed Proposed Plans

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

3. Prior to the commencement of the development, a site-specific Demolition and Construction and Environment 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.
- g) Construction Methods to minimise impacts of Construction Activities affecting adjacent Woodland.

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

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

4. 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.

5. Prior to the commencement of the development, precise details of the access arrangements shall be submitted to and approved in writing by the Local Planning Authority. The access shall take the form of a dropped crossing limited to a maximum width of 5.5m; with appropriate tactile paving and visibility splays of between a minimum of 4.3 x 2.4m and a maximum of 7.0m x 2.4m or as close as is deliverable within the constraints of the site. The development shall not be carried out otherwise than in complete accordance with the approved details and the access shall be completed and in place prior to the first occupation of the development.

**REASON** – In the interests of highway safety.

6. Prior to the commencement of the development, precise details of the finished levels, above ordnance datum, of the ground floor(s) of the proposed building(s), in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.

**REASON** - In the interests of residential amenity and visual appearance of the surrounding area.

7. 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.

8. Notwithstanding any description of the external materials in the submitted application, and prior to any dwelling being built above damp proof course, details of the external materials to be used in the carrying out of this permission shall be submitted to, and approved, in writing, by the Local Planning Authority. The details shall include but not be limited to brickwork, roof tiles, windows, doors and the development shall not be carried out otherwise than in complete 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. Prior to any dwelling being built above damp proof course, details of landscaping shall be submitted to, and approved by, the Local Planning Authority prior to site clearance/demolition work commencing on site. Such landscaping shall be provided either within the first planting season after the completion of the development or any individual phase thereof or prior to the buildings being occupied and thereafter permanently maintained. Any trees, hedges or shrubs removed, dying, severely damaged or becoming seriously diseased within thirty years of planting shall be replaced by trees, hedges and shrubs of similar size and species to those originally approved and planted.

**REASON** - To ensure a satisfactory appearance of the site and to improve the visual amenities of the locality.

10. Prior to any dwelling being built above damp proof course, details of a bin store shall be submitted to, and approved, in writing, by the Local Planning Authority. The development shall not be carried out otherwise than in complete accordance with any such approved details. The agreed bin store shall be in place prior to the first occupation of the dwellings and remain in situ for the lifetime of the development.

**REASON** – In the interests of the amenity of the area.

11. Prior to the dwelling on Plot 1 being built above damp proof course, a scheme for protecting the dwelling on Plot 1 from excessive road traffic noise shall be submitted to, for approval in writing by the Local Planning Authority. The scheme shall include details of the specification of the windows, glazing (Rw value) and means of ventilation (windows closed) to be installed and the development shall not be carried out otherwise than in complete accordance with the approved details. The agreed details shall be installed prior to the first occupation of the dwelling on Plot 1 and

shall remain in situ for the lifetime of the development.

**REASON** – To safeguard the amenities of the future occupants of the dwelling.

12. The flat roof of the single storey extension to the rear of the dwelling on Plot 5 shall not be used as a roof terrace, garden or viewing area and no alteration shall be carried out to the main building giving access to that area without prior written permission of the Local Planning Authority to whom a planning application must be submitted.

**REASON** - To enable the Local Planning Authority to assess any impacts on the amenity and privacy of nearby residents.

13. Prior to any dwelling being built above damp proof course, details of the materials for the proposed 1.8m and 1.2m high boundary walls shown on Drawing Number 313-SArch-S3-00-DR-A-1010-P05 shall be submitted to, and approved, in writing, by the Local Planning Authority. The development shall not be carried out otherwise than in complete 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.

14. Prior to the first occupation of the development a close boarded timber fence and/or wall 1.8 metres in height with a minimum surface density of 10kg/m<sup>2</sup> with no gaps in the structure and with the ground shall be installed in accordance with the submitted Boundary plan (Drawing No 313-SArch-S3-00-DR-A-1010-P05) and thereafter shall be retained and maintained for the duration of the development. No changes to the boundary treatment shall be made without the prior written approval of the Local Planning Authority

**REASON** – To safeguard the amenities of the future occupants of the development.

15. CL2 - Phase 2 Site Investigation Strategy.
16. CL3 – Phase 2 Investigation Works.
17. CL4 - Phase 3 Remediation and Verification Strategy.
18. CL5 - Construction/Remediation works.
19. CL6 - Phase 4 Verification and Completion Report.
20. The electric charging points shown on Drawing Numbers 313 SArch DG XX DR A 3000 P02 and 313 - SArch - DG - ZZ - DR - A - 2000 - P02 shall be a single phase 13 amp socket (minimum requirement) and shall be in place and available for use prior to the first occupation of each dwelling hereby approved. The electric vehicle charging point shall be retained in situ for the lifetime of the development.

**REASON** - In order to ensure the development complies with Policy IN4 of the Darlington

Local Plan 2016 – 2036.

21. The cycle store shown on Drawing Number 313 - SArch - DG - ZZ - DR - A - 2000 - P02 shall be in place and available for use prior to the first occupation of each dwelling hereby approved. The cycle store shall be retained in situ for the lifetime of the development.

**REASON** - In order to encourage the use of sustainable modes of transport.

22. Development hereby approved shall not be carried out otherwise than in complete accordance with the drainage scheme contained within the submitted document entitled "Flood Risk Assessment" dated May 2024 and produced by CK21 Limited. The drainage scheme shall ensure that foul flows discharge to the foul sewer at manhole 3310 and ensure that surface water discharges to the surface water sewer at manhole 3302. The surface water discharge rate shall not exceed the available capacity of 2.9l/sec that has been identified in this sewer. The final surface water discharge rate shall be agreed by the Lead Local Flood Authority.

**REASON** - To prevent the increased risk of flooding from any sources in accordance with the National Planning Policy Framework 2023 and Policy DC2 of the Local Plan.

23. The development hereby approved shall not be carried out otherwise than in complete accordance with the details contained within the document entitled "Arboricultural Method Statement to BS5837:2012" dated 11 February 2024 and produced by Arbtech Consulting Limited.

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

24. The development hereby approved shall not be carried out otherwise than in complete accordance with the recommendations contained within the document entitled "Preliminary Ecological Appraisal and Preliminary Roost Assessment" dated April 2024 and produced by Arbtech Consulting Limited.

**REASON** - In the interests of habitat protection and the biodiversity of the site.

25. In the event of the scheme involving any external lighting, details of the lighting scheme, including lighting contours and illuminance levels, shall be submitted to and approved in writing by the Local Planning Authority prior to any dwelling being built above damp proof course. The development shall not be carried out otherwise than in complete accordance with the approved details.

**REASON** – In the interests of amenity and biodiversity.

26. The development hereby approved shall not be carried out otherwise than in complete accordance with the recommendations contained within the document entitled "Biodiversity Net Gain Management Plan" dated August 2024 and produced by Arbtech Consulting Limited.

**REASON** - In the interests of habitat protection and the biodiversity of the site.

27. All boundary treatments shown on the approved plans shall be erected on all boundaries prior to the first occupation of the dwelling hereby approved.

**REASON** - In the interests of residential amenity.

28. The dwellings hereby approved shall fully comply with Category 2 requirements (accessible and adaptable dwellings) of Building Regulations Approved Document M: Volume 1 (Access to and use of dwellings).

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

29. If piled foundations are proposed, details of the piling method including justification for its choice, means of monitoring vibration and groundwater risk assessment, if necessary, in accordance with recognised guidance shall be submitted to and agreed in writing by the Local Planning Authority prior to commencement of development. The development shall not be carried out otherwise than in accordance with the approved details.

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

30. For the avoidance of doubt and notwithstanding condition 22), the measures to be implemented in accordance with the submitted document entitled “Flood Risk Assessment” dated May 2024 and produced by CK21 Limited shall be retained in situ for the lifetime of the development unless otherwise agreed by the Local Planning Authority to whom a planning application must be submitted. These measures include but are not limited to the internal access road being drained through gullies and driveways being constructed from permeable paving.

**REASON** - To prevent the increased risk of flooding from any sources in accordance with the National Planning Policy Framework 2023 and Policy DC2 of the Local Plan.

**PA24 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.

**PA25 COMPLAINTS RECEIVED AND BEING CONSIDERED UNDER THE COUNCIL'S APPROVED CODE OF PRACTICE AS OF 16 AUGUST 2024 (EXCLUSION PARAGRAPH NO. 7)**

Pursuant to Minute PA20/Aug/2024, the Chief Executive submitted a report (previously circulated) detailing breaches of planning regulations investigated by this Council, as at 16 August 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 – 9 October 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.**

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

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<b>Address/Site Location</b>	<b>Reference Number</b>
Elm Ridge Garden Centre, Coniscliffe Road, Darlington	23/00769/FUL

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## DARLINGTON BOROUGH COUNCIL

## PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 9<sup>th</sup> October 2024

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<b>APPLICATION REF. NO:</b>	23/00769/FUL
<b>STATUTORY DECISION DATE:</b>	16 <sup>th</sup> October 2024
<b>WARD/PARISH:</b>	Hummersknott
<b>LOCATION:</b>	Elm Ridge Garden Centre, Coniscliffe Road Darlington DL3 8DH
<b>DESCRIPTION:</b>	Demolition of existing buildings, erection of a convenience food store (Class E(a)) at ground floor with office accommodation to first and second floors (Class E(g)(i)), alterations to vehicle and pedestrian accesses including additional pedestrian access and associated parking and landscaping (Additional Existing Elevations and Floor plans received 12 October 2023; Amended plans and additional reports received 8 July 2024; amended plan received 12 August 2024)
<b>APPLICANT:</b>	Ward Estates Ltd

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**RECOMMENDATION: GRANT PLANNING PERMISSION SUBJECT TO PLANNING CONDITIONS**

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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=RyVGIaFPKG700>

**APPLICATION AND SITE DESCRIPTION**

1. The application site is on the corner of Coniscliffe Road and Carmel Road South and previously operated as the Elm Ridge Garden Centre. The site is positioned to the southwest of the Coniscliffe Road/Carmel Road South/North roundabout. There are residential dwellings to the north, east and west. Elm Ridge Methodist Church and Hall are located to the south and there is an existing petrol station to the east.

2. The site is currently vacant and whilst the existing two and single storey building has been retained it has been significantly stripped, both internally and externally. Glasshouses to the rear of the building have been either fully or partially removed. The site includes two trees in the north east corner of the site which are covered by a tree preservation order dated 1963 and it is close to the boundary of the West End Conservation Area. There are two residential dwellings alongside the site which are also within the ownership of the applicant (No 271 Coniscliffe Road and Elm Ridge Cottage on Carmel Road South)
3. The proposal involves the demolition of the existing building and the erection of a replacement building comprising a 389sqm convenience store (Class E) on the ground floor with office space (Class E) above on the first and second floors (500sqm per floor). The second-floor office space would be located within the roof space of the building. The main entrance to the convenience store would be located within the south elevation of the building with a secondary entrance on the north elevation. Access to the office accommodation would be via a separate entrance on the eastern elevation.
4. The proposed building would be predominantly 2.5 storey under a ridged roof with a curved feature on the eastern end of the building under a hipped roof which extends above the height of the rest of the building. The 2.5 storey element of the building would be approximately 9.6m in height and the curved feature would have an overall height of approximately 13.7m. The building would be constructed from a mix of facing brickwork, white render and natural slate roof tiles with zinc cladding on the circular structure.
5. Additionally, proposals include a public art installation to the front of the north elevation. The steel installation will be fixed on top of a short 5m long wall which will have the appearance of an undulating dry-stone wall. Taking inspiration from the history and setting of Elm Ridge the steel sculpture will be coloured and formed into the shape of the leaves, branches, flowers and creatures. These creatures include the White Letter Hairstreak Butterfly and the Light Emerald Moth which are two of the many Lepidoptera that call Elm trees their home.
6. Vehicular access would be off Coniscliffe Road with the existing access being reconfigured. There would be 44 parking spaces, with 18 of those dedicated for use by the patrons of the office element only. The remaining 26 parking spaces will be provided in a shared area to the south of the building. Two pedestrian routes would be provided, the first making use of an existing access off Coniscliffe Road and a second made from Carmel Road South.
7. The Planning Statement submitted in support of the planning application states that the convenience store element is intended to be operated as a Sainsbury's Local, with the applicant in discussion with them to take on the unit pending approval of planning permission. It must be stressed however that it is the use that is material here rather than any potential operator.
8. The convenience store and offices would operate between the hours of 06:00-23:00 Monday to Sunday.

### *Statement of Community Involvement*

9. A Statement of Community Involvement document has been submitted in support of the planning application. The document confirms that in April 2023 consultation leaflets were issued within the local area along with site notices as part of a community consultation exercise. The document states that a total of 89 responses were received throughout the consultation process and the main topics were traffic, pedestrian safety; demand and need, parking and visual appearance. The document concludes that it is the view of Ward Estates Ltd that the feedback from the consultation exercise, and its subsequent consideration in the reports prepared to support the planning application, provides confidence that the development proposals addressed the comments raised and accord with the requirements set out in the Development Plan.

### **MAIN PLANNING ISSUES**

10. The main planning issues to be considered here are whether the proposed development is acceptable in the following terms:
- a) Planning Policy
  - b) Impact on Heritage Assets and Surrounding Area
  - c) Amenity
  - d) Highway Safety and Parking
  - e) Sustainable Transport Considerations
  - f) Trees and Landscaping
  - g) Health Impact Assessment
  - h) Construction Management Plan
  - i) Ecology Matters
  - j) Contaminated Land
  - k) Flood Risk and Drainage

### **PLANNING POLICIES**

11. The relevant local development policies are as follows:

#### **Darlington Local Plan 2016 – 2036**

SD1: Presumption in Favour of Sustainable Development

SH1: Settlement Hierarchy

DC1: Sustainable Design Principles and Climate Change

DC2: Flood Risk and Water Management

DC3: Health and Wellbeing

DC4: Safeguarding Amenity

TC1: Darlington Town Centre

TC4: District and Local Centres

TC5: Retail Impact Assessment Threshold

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

ENV4: Green and Blue Infrastructure

ENV7: Biodiversity and Geodiversity and 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

### Other relevant Documents

National Planning Policy Framework 2023

Supplementary Planning Guidance Note – Design for New Development

### RESULTS OF TECHNICAL CONSULTATION

12. The Council's Highways Engineer, Environmental Health Officers, Ecology Officer, Transport Planning Manager, Lead Local Flood Authority Manager and Senior Arboricultural Officer have raised no objections to the principle of the development subject to the imposition of suggested planning conditions
13. Northern Gas Network have raised no objections

### RESULTS OF PUBLICITY AND NOTIFICATION

14. The planning application has been amended by plans received in July 2024. Following the Council's notification and publicity exercises on the application and the amended plans, an overall total of **43 letters of objection** and **4 letters of support** to the proposed development have been received. The summary of the objections can be summarised as follows:

- *The development will lead to an increase in traffic on a busy road in close proximity of a busy roundabout.*
- *Increase in traffic generation from previous use.*
- *There have been several accidents in recent years.*
- *Poor pedestrian connectivity to the site*
- *There is no need for a convenience store and the area is well catered for by existing stores.*
- *Development will lead to an increase in noise and disturbance from additional cars and from the proposed uses (car doors, delivery vehicles, customers etc)*
- *There is a restrictive covenant on all property in this locale that prohibits the sale of alcohol.*
- *It will damage the existing similar stores in close proximity that serve this area perfectly well.*
- *Increased littering*
- *Increase in antisocial behaviour.*
- *Inadequate parking for deliveries, offices, customers and staff*
- *Amenity impacted by hours of opening and deliveries.*
- *Development will lead to overflow parking on surrounding streets by customers and delivery vehicles.*
- *No need or demand for office space in the area*
- *Nos 298 and 296 Coniscliffe Road are listed buildings which would be impacted by changes to bus stops, traffic calming measures, increase in traffic and pedestrian flows.*
- *Heritage Statement is inadequate.*
- *Scale, design, height, materials and appearance of the proposed development are out of keeping with local area and will have an adverse impact on street scene*
- *The existing cottage on Carmel Road South and stone wall must remain.*
- *Views of the skyline will be ruined by proposed development.*
- *The development will have an adverse impact on the town centre*

- *The development will have an adverse impact on wildlife and habitats, for example bats and birds*
- *There is no biodiversity net gain assessment*
- *People will park on the bus stop*
- *Adverse impact on pedestrians especially the elderly and school children*
- *The scheme will have an adverse impact on the Conservation Area*
- *Adverse impact on existing businesses*
- *The off site highway works are not acceptable and will not achieve sufficient highway/pedestrian safety*
- *Functions such as a cash machine, electric charging points and collection points can generate additional visits to the site*
- *Concerned over the felling of any trees or hedges on the boundary of the site*
- *Poor and dangerous visibility at the proposed access especially due to relocated bus stop*
- *The roundabout is already at capacity on the west and south junctions*
- *Impact on Elm Ridge Methodist Church must be a heritage consideration*
- *Possible overlooking from first floor office windows*
- *Hedging on the site boundary must be retained*

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

- *This will be a very useful convenience store for everybody in the vicinity , especially for the elderly*
- *The development will not cause excessive traffic, and the car park is of a good size*
- *The shop will not be used for main weekly shop and therefore will not attract huge numbers of people wanting to fill the car park.*
- *There are bus stops right outside Elm Ridge which can counter the use of cars in and out of the premises which is a benefit*
- *I do not feel the presence of an existing petrol station nearby should hinder this development given the time Elm Ridge and the petrol station have stood opposite each other.*
- *This part of Darlington is crying out for a good convenient store.*

## **PLANNING ISSUES/ANALYSIS**

### **a) Planning Policy**

16. Planning Law (S.38(6) of the Planning and Compulsory Purchase Act 2004) requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework (2023) supports the plan led system providing that planning decisions should be “genuinely plan-led” (NPPF para 15).

17. Policy SH1 of the Local Plan establishes a settlement hierarchy for the Borough of Darlington, and Policy H3 seeks to achieve the locational strategy for new development in the Borough by establishing development limits within which development will be acceptable subject to compliance with other relevant national and local policies.

18. The proposed development is located within the development limits of the main urban area. However, the Council's policy is that main Town Centre uses should preferably be located within the existing Town, District and Local Centres. When development is proposed elsewhere, as in this case, it is important it does not undermine existing centres. Therefore, Policies TC1 and TC4 of the Local Plan requires any development which includes a main Town Centre uses outside an existing centre to undertake a sequential assessment in accordance with national policy, to ensure that consideration is given to sequentially preferable locations. The sequential test guides main town centre uses towards town centre locations first, then, if no town centre locations are available, to edge of centre locations, and, if neither town centre locations nor edge of centre locations are available, to out of centre locations (with preference for accessible sites which are well connected to the town centre). This applies not just to the retail element of the proposed scheme, but also to the proposed office accommodation – which is located outside of both the existing centres and the employment sites identified in the Local Plan.
19. A Sequential Test forms part of the Planning Statement submitted in support of the planning application. Planning Practice Guidance confirms that it is for the applicant to demonstrate compliance with the sequential test and there have been a number of Court judgements and Secretary of State (SoS) / appeal decisions since the publication of the original NPPF in March 2012 that have provided clarification of the application of the sequential test.
20. On the basis of established case law, the correct application of the sequential test relates to the development proposed and, in order to be considered suitable, any alternative, available sites must meet the specific commercial requirements of the developer subject to the requisite flexibility in format and scale.
21. The current proposal is for a convenience store to be operated by Sainsbury's Local to serve the day-to-day needs of local residents, with office space in the floors above. The new convenience store is intended to serve a combination of customers on foot from the immediate surrounding residential area and pass-by trade. Therefore, the convenience store element of the proposal has a specific locational requirement which aims to fill a gap in the network of stores and to serve the immediate residential catchment. The retailer requires a maximum net sales area of 280 sq. m in order to comply with Sunday Trading restrictions and the proposed development itself, including the offices, will have a gross floor area of 1470sq.m.
22. To demonstrate the requisite flexibility, the submitted Sequential Assessment considers sites capable of accommodating a building of this size to reflect the requirements of the applicant's client. Proposals for mixed-use development which are subject to a sequential site assessment are to be considered comprehensively as a single integrated development. It is not considered necessary or appropriate to disaggregate any part of the proposed uses.
23. Consideration must be given to not only to the business model requirements of the convenience store operator, but also to the requirements of the office operator as a single development. In undertaking the sequential approach, it should be considered whether the proposed development in its entirety could occupy any sequentially preferable location and the submitted assessment follows this approach.



24. In order to be considered suitable, any alternative sites must provide the approximate level of proposed floorspace and must also occupy a prominent, highly accessible location in relation to a surrounding residential catchment. An alternative site must also be capable of accommodating suitable access, car parking and servicing arrangements for both the convenience store and the office element of the proposals.
25. Existing convenience stores are the nearby petrol filling station; two stores on Cleveland Terrace; Mace store and Post Office at Blackwell and the Coop at Mowden. As mentioned, the new store aims to offer a small-scale, convenience store readily accessible within this part of the town that will meet the day-today, 'top-up shopping' needs of local residents beyond the existing offer, particularly those west of the application site who are located over 1km walk away from alternative opportunities.
26. In accordance with established guidance, the sequential test search area comprises the residential areas within an approximate 1km radius of the site as well as the Darlington Town Centre, Cockerton District Centre and Mowden Local Centre, which are all beyond 1km from the application site.

*Cockerton District Centre*

27. Three sites which were listed for sale or rent were not of a suitable size or type to accommodate the proposed scheme, including the necessary parking provision. A search for available units revealed no vacant, suitable units within the district centre. It was also noted that there are also two existing competing chain convenience store operators within the centre which would impact on viability of the proposals. In addition, Cockerton District Centre is identified by the Council's retail study to serve local needs of the residential areas of Cockerton, Branksome and parts of Mowden and Pierremont, as opposed to West Darlington, which the proposal aims to serve. The Sequential Assessment advises that locating in this centre would not fit the business model or target catchment of the intended operator.

*Mowden Local Centre*

28. From a search for alternative sites within the local centre via Rightmove, no vacant units are available for sale, nor are there any units available for lease within the centre. The Sequential Assessment advises that no vacant units are available which would be suitable to accommodate the use in its entirety, within or on the edge of the centre. There is also an existing convenience store within this centre.

*Darlington Town Centre*

29. Nine sites within the town centre have been considered as part of the Sequential Test and none were considered suitable for the proposed development due to matters such as lack of parking, or the buildings were not of a suitable size to accommodate both the store and the offices. From a search of alternative sites for lease, there were no units in the Town Centre between 1,000-1,500 sq.m (10,000 – 16500 sq.ft).

*Edge of Centre Sites*

30. Four sites available for sale found on Bondgate and Skinnergate were considered as part of the Sequential Test and all the buildings were not of a suitable size to accommodate the proposed development.

31. The Sequential Assessment concludes that from a review of the search area and Town Centres requested by the local planning authority to be assessed, there are no sequentially preferable sites to which the proposed development could be directed to. On this basis and having regard to key case law relating to the application of the sequential test, it is considered that the requirements of the test have been satisfied.
32. Having reviewed the Sequential Assessment submitted in support of the planning application, the requirements of Policies TC1 and TC4 of the Local Plan have been met and the principle of the proposed development in this location can be supported in general planning policy terms.
33. Policy TC5 of the Local Plan states that proposals for retail (convenience and comparison) and leisure development generating over 500sqm additional floorspace outside Darlington town centre and which are not identified in the Local Plan policies will be required to undertake a Retail Impact Assessment. The retail element of the proposals totals 389 sq.m and is comprised by a 260sq.m sales area and a 129 sq.m back of house area. As a result, the amount of retail space being proposed does not exceed the policy defined threshold and a Retail Impact Assessment is not required to be undertaken in support of this planning application.

**b) Impact on Heritage Assets and Surrounding Area**

34. The existing building is narrow and primarily two storeys with a flat roof. A single storey section is located on eastern end and there were five glasshouses to the rear. The external materials were a mix of facing bricks, stone and smooth cladding/render. The two-storey section of the building measures approximately 5.33m in height with the glasshouses slight lower at approximately 4.1m. The site is bound on Coniscliffe Road and Carmel Road South by a low stone wall interjected by access points (one currently closed off by railings).
35. The surrounding area is predominately residential comprising a mix of detached and semi-detached dwellings and dormer bungalows. Render (smooth and rough), stone and bricks are materials commonly found within the existing properties.
36. Policy DC1 of the Local Plan states that development must have regard to the Council's Supplementary Planning Document – Design for New Development. The application site is within Character Zone 4 Outer Suburbs as defined by the Design SPD which advises that detached buildings of 2.5 storeys can be considered appropriate within this Character Zone.
37. Following discussions with Officers, the palette of materials has been amended along with the design and size of the glazed openings within the two storey gable projections on the north elevation of the building which faces onto Coniscliffe Road. The building would be constructed from a mix a facing brick at the lower level with a white render finish above, separated by a stone string course. The roof of the main building and the curved corner feature would be covered by natural slate. The curved feature would have a zinc cladding finish on the external walls.
38. The proposed building is located in a similar position within the site as the existing building although it is wider and slightly longer, as well as being taller than the existing building.

39. The proposed materials are generally reflective of those found within the properties in the local area and whilst the overall scale of proposed building will be exceeded that of the existing building, it would not be significantly higher than existing dwellings in the street. As stated in paragraph 36 of this report, the Council's Design SPD would support a 2.5 storey building within this location and the building will not be an overly dominant addition to the street scape. The proposed building does increase in height on the eastern end, but this curved design feature recognises that this part of the building is on a significant corner which merits the presence of such a visual design approach. The proposal will introduce some height to street scape at the junction of Coniscliffe Road and Carmel Road South but would not be at such a scale that would adversely impact on the visual appearance of the street scene.
40. Whilst the main entrance to the store would be within the south elevation (rear), there is a secondary entrance and window display areas within the northern elevation (front) to help create and maintain an active street frontage on Coniscliffe Road, supported by the entrance to the offices on the eastern end of the building.
41. One of the existing access points off Coniscliffe Road, which is currently gated, would be reduced in width to create a new pedestrian entrance point with two natural stone piers and reclaimed materials being used where possible. A new pedestrian entrance would be located off Carmel Road South, again utilising natural stone piers on either side of the opening.
42. Whilst the application site is located outside of the West End Conservation Area, it is within 25m of the edge of the Area, and it would be considered to be within its setting. Elm Ridge Methodist Church, which is a non designated heritage asset lies immediately to the south. Nos 296 and 298 Coniscliffe Road, which are Grade II listed buildings are located approximately 113m to the west of the application site. The planning application has been supported by a Heritage Impact Assessment which assesses the impact of the proposed development on significance and setting of the Conservation Area and the Methodist Church. Whilst the above listed buildings are noted, they are positioned sufficient distance from the application site, and separated by the main highway, to conclude that the application site is not within their setting and will not be adversely impacted by the proposed development.
43. The existing flat roofed building does not make any architectural or visual contribution to the significance of the setting of the Conservation Area. The existing boundary features, such as the wall and trees, would be retained and these would be elements which positively contribute towards the setting of the Conservation Area. The proposed building would remain set back from the boundaries of the site which maintains the existing openness across the site. It is agreed that the proposed building would have a neutral impact on the significance of the setting of the West End Conservation Area.

44. A well-established belt of trees/hedging separates the application site from Elm Ridge Methodist Church to the south. This natural boundary treatment contributes positively to the setting of the Church and would be retained as a part of the proposed landscaping scheme for the development. The proposal involves the removal of the existing glasshouses to the rear of the site and the creation of open, landscaped parking areas which would improve the setting of the Church. Whilst the proposed building will be of a larger scale than the existing one, it would not be competing with the Church building in terms of scale and would remain sufficient distance to ensure it is not a dominant structure when viewed from the Church and its grounds. It is agreed that the proposed building would have a neutral impact on the significance of the setting of the West End Conservation Area.

45. It is considered that the proposed development sustains the significance of the setting of these identified heritage assets and would accord with Policy ENV1 of the Local Plan and the National Planning Policy Framework 2023. The proposal would also be reflective of its surroundings, positively responding to its site context and location on a prominent corner. The proposal would comply with policy DC1 of the Local Plan in this regard.

**c) Amenity**

46. The application site was last used as a garden centre with opening times of 08:30 – 17:30 Monday to Saturday and 10:30 – 16:30 on a Sunday.

47. The proposed development would not be introducing a new commercial use into the local area, but it is recognised that the proposed opening hours will greatly differ from those of the garden centre. The operator will have their own methods for ensuring a secure site and measures for the collection and disposal of litter. It is not uncommon to find a local store in residential areas and arguably local residents can greatly benefit from the presence of a local store within walking distance to “top up” on any goods.

48. Planning conditions have been recommended in relation to the submission of details for any external plant and equipment, any external lighting, details of refuse collection and storage as well as controls over the hours of demolition and construction.

49. The hours of opening would be controlled by a planning condition and in recognition of the findings of the submitted Noise Assessment that nighttime impacts from deliveries prior to 7am has the potential to cause significant impacts a planning condition has been recommended that deliveries must occur between 7am and 8pm Mondays to Sundays.

50. Elm Ridge Cottage and No 172 Coniscliffe Road are both within the ownership of the applicant and 1.8m high fencing will be erected around these dwellings to demarcate ownership but also to give some amenity protection from the proposed development and in relation to the Cottage, from the users of the new pedestrian access off Carmel Road South. Details of the fencing would be secured by a planning condition.

51. The hedging along the southern boundary and part of the western boundary forms a good visual barrier between the application site and Elm Ridge Methodist Church and the dwellings on Woodburn Drive. The hedging would be retained (secured via a planning condition) and the area to the rear of the dwellings to the west would be landscaped and further enhanced by new tree planting. This landscaping ensures that cars would not be parked right up to the shared boundary and the planting will give some protection from headlights and general noise and disturbance.
52. The proposed building would sit quite centrally within the site, approximately 39m from the dwellings on the opposite side of Coniscliffe Road; 29m from the south boundary shared with Elm Ridge Methodist Church; 40m from the dwellings to the east on Carmel Road South and 32m from the dwellings to the east on Woodburn Drive. It is considered that the proposed building would not have an overbearing impact on the outlook of these dwellings or create any adverse privacy conditions.
53. A separate planning application would be required for any signage on the building and within its curtilage and amenity would be one of the main considerations of such an application, should one be submitted.
54. It is acknowledged that the proposed use will operate beyond the opening hours of the garden centre and will be a more intensive use in terms of the “comings and goings” of customers. However, these impacts have to be balanced against the positives that can be accrued from the proposed development in terms of providing an accessible, convenience store to an area with limited existing provision. Local stores can be found within residential areas and work well within their community. It is considered that, subject to the recommended planning conditions, the proposed development would be acceptable in amenity terms in accordance with policies DC3 and DC4 of the Local Plan.

**d) Highway Safety and Parking**

55. The planning application has been amended following concerns that were originally raised by the Council’s Highways Engineer.
56. The site is to be accessed via an existing, upgraded vehicular access point directly off Coniscliffe Road. This provides a widened access to accommodate two-way passage of vehicles and provide a dedicated pedestrian access with dropped kerbs and tactile paving. Visibility splays of 2.4m x 43m can be achieved from the site access, in line with the posted 30mph speed limit. To protect these visibility splays, it is proposed to provide double yellow line waiting restrictions to either side of the access, in order to restrict parking/waiting in these areas. This will however be subject to further discussion and consultation as part of the post planning highways technical approval. Once within the site, there will be a dedicated parking area for office staff only and then a car park shared between the two uses.
57. Improved pedestrian access arrangements are required in the vicinity of the site to safely accommodate the additional footfall generated by the proposed convenience store. Where previously the garden centre was a business predominantly generating off-peak car born trips, the proposed convenience store is likely to attract a much wider customer base including school children, college students lunch time work trade etc.

58. Additional pedestrian crossing points are now proposed on each of the four arms of the adjacent Roundabout to better facilitate pedestrian movements to/from the development. It is proposed to enlarge the existing splitter islands to better provide for pedestrians, which can then facilitate a dropped kerb crossing with tactile paving on each arm.
59. At the site access, dropped kerbs and tactile paving will be provided to assist pedestrians moving east-west across the junction. A Stage 1-2 RSA of the proposals shall be undertaken, and the design will be worked up to detailed design and agreed through a S278 agreement, post planning approval. The wider pedestrian infrastructure on Carmel Road and Coniscliffe Road is of high quality and offers convenient and safe walking routes to the site, which combined with the above proposed offsite works, demonstrates that the proposal is in accordance with Policy IN2 of the Local Plan
60. As part of the initial site review, concerns were raised by officers with maintaining the existing bus stop in its current location, as it conflicted with the site access. In this position, buses would block vehicles egressing the site. The proposal, therefore, provides a dedicated bus layby to the east of the site access. This has been provided broadly in line with the Council's specification for a full bus layby taking account of physical site constraints, such as available frontage and proximity to the roundabout. This arrangement has been deemed acceptable in principle, but the design will be subject to detailed design post planning approval, through a formal S278 submission and a planning condition.
61. Given the convenience nature of the development proposals, it is likely that visits to the site will be short and as such a higher turnover of spaces is likely. Indeed, the Association of Convenience Stores (ACS) stated in their Local Shop Report (2014) that the average duration of stay of customers is just 5 minutes, confirming that there would likely be a high turnaround of spaces within the carpark. Whilst it is accepted that the total provision indicated broadly meets The Tees Valley Design Guide recommendations, further assurance was requested to ensure that overspill parking would not occur on the public highway, due to the site's location on the strategic highway network. A parking accumulation exercise was therefore undertaken, which demonstrates that predicted peak hour demand does not exceed the proposed level of parking provision.
62. The analysis suggests that during the weekday there would be a maximum parking accumulation of 10 vehicles and during the weekend there would be a maximum accumulation of 14 vehicles. It is concluded that there is sufficient car parking provided within the site to accommodate the predicted demand from the development.
63. Suitably worded planning conditions have been recommended to ensure that a fully detailed design for the offsite highway works is in accordance with local and national design guidance and that an initial stage 1-2 road safety audit (RSA) should be submitted as part of the detailed design submission, with further stage 3-4 RSA submissions at the appropriate time.

64. The submitted swept path analysis drawing (Appendix K of the transport assessment) demonstrates how it is expected the site will be serviced by a delivery vehicle. It is suitably demonstrated on plan, that the delivery vehicle can enter the site, turn around in the area provided and service the site, without blocking the access road. A dedicated loading bay will be provided on the western flank of the building for servicing the site.
65. To determine the vehicle trip rates associated with the convenience store, the TRICS database has been interrogated using agreed parameters. Based on TRICS derived data. The proposed convenience store is anticipated to generate 64 two-way vehicle trips in the AM peak (08:00 – 09:00), 56 two-way trips in the PM peak hour (17:00 – 18:00) and 51 two-way vehicle trips in the Saturday peak hour (12:00 – 13:00). It is, however, commonly accepted that food retail developments do not generate wholly 'new' trips on the highway network. The majority of journeys tends to be either existing retail journeys, transferring to the new store from a store that would have previously been visited, or existing journeys on the network that call at the new store as part of an existing, wider primary journey.
66. It is considered that, given the convenience nature of the development proposals, that the latter is highly likely. Given that the site is located on a strategic road, A67 Coniscliffe Road, which is a key route locally, providing a route east towards Darlington and west to surrounding residential areas, it is considered that the site would generate a high volume of pass-by trips, with many customers calling in on their way past to pick up items rather than visit it as a destination to undertake a large food shop, as would be the case at larger supermarkets. The submitted Transport Assessment offers further analysis of TRICS Research to determine the likely percentage make up pass-by trips for the proposed convenience store. Indeed, the report acknowledges that "convenience stores are more likely to produce pass-by trips". Based on the findings of the TRICS 14/1 Research Report, a pass-by and diverted percentage of 85% has been applied to the trip generation set out above, the remaining 15% of trips are considered to be 'new'. It is therefore anticipated that there would be just 10 new two-way vehicle trips in AM peak hour, 9 new two-way vehicle trips in the PM peak and 8 new two-way trips in the Saturday peak hour, generated by the convenience store element of the development.
67. To determine the vehicle trip rates associated with the proposed office element, again the TRICS database has been interrogated using agreed parameters: the proposed office development is anticipated to generate 28 two-way vehicle trips in the AM peak and 22 two-way trips in the PM peak hour. The trip generation of the offices is expected to be negligible at a weekend and, therefore, no further assessment has been undertaken. Whilst the existing garden centre business is predicted to generate 18 two-way trips in the weekend peak hour (Saturday 12-00 – 1300), weekday peak hour generation is considered negligible, and therefore no 'netting off' has been applied to the overall predicted traffic generation.

68. When considering both the convenience store and office use, the proposed development is anticipated to generate a total of 92 two way vehicle trips in the AM peak, 79 two-way trips in the PM peak hour and 33 two-way vehicle trips in the Saturday peak hour. However, this does not account for netting off all non 'new' retail trips which, when removed equate to 38 new two-way vehicle trips in AM peak hour, 31 new two-way vehicle trips in the PM peak and 8 new two-way trips in the Saturday peak hour. Based on this level of generation it is accepted that the traffic generation can be accepted on the local highway network without requiring additional junction capacity assessment or offsite mitigation works.
69. A review of the most recent 5-year period of recorded accident history shows that there have been no accidents in the immediate vicinity of the site, along the section of Coniscliffe Road which the site fronts. This suggests that turning manoeuvres to/from the existing garden centre are undertaken without issue. Two accidents have occurred to the west of the site, on Coniscliffe Road and Salutation Road, one classified as slight and one classified as serious. To the east of the site, on the northern arm of the four-arm roundabout there has been one slight collision. The number of accidents in the study area across the latest five-year period, equates to less than one accident per year, which is not considered to be severe. Based on the level of accidents recorded and the locations they were recorded at, it is not considered that there are any existing road safety issues that would be exacerbated by the development proposals.
70. To conclude, it is accepted that food retail stores typically introduce very few 'new' trips on the highway network, with vehicle trips typically being largely composed of passby trips already on the highway network passing the store location or are otherwise diverted or transferred trips whereby customers are transferred from other nearby retailers. Whilst it is acknowledged that the site sits on the intersection of strategic roads which carry high daily traffic flows, the additional traffic generation is not significantly high to warrant capacity or road safety concerns. The scope of offsite highway works include significantly improved pedestrian crossings provision on the roundabout, improved vehicular access location, and relocation of the existing bus stop to optimize through flow and visibility. Sufficient parking has been demonstrated within the site, and as such the proposal is not considered to pose a risk to highway safety or obstruction of the highway from additional overspill car parking. The proposal does not indicate there would be 'severe residual cumulative impact' required to warrant refusal under NPPF guidance and the development would accord with Policy DC1, IN1, IN3 and IN4 of the Local Plan in this regard.

**e) Sustainable Transport Considerations**

71. The application site is in a sustainable location in close proximity to existing, regularly serviced bus stops on Coniscliffe Road. The Transport Policy Team have no objections to the principle of the existing bus stop relocation. Pedestrian links have been created into the site from both Coniscliffe Road and Carmel Road South which are separate from the vehicular access point. Cycle parking can be secured via a planning condition and whilst the proposed development is below the policy threshold for such matters, the development does include EV charging points. The proposal would accord with policy IN4 of the Local Plan in this regard.



**f) Trees and Landscaping**

72. The application site contains two Oak trees in the north east corner which are part of a tree preservation order dated 1963. There is an Ash tree to the rear of the existing building which is not part of any Order, and the site has a mature belt of hedging on the south boundary and sections of the east and west boundaries.
73. The planning application has been supported by an Arboricultural Method Statement and Impact Assessment which advises that one of the protected Oak trees is a Category A (high quality) tree and the other is a Category C (low quality) tree. The unprotected Ash tree is a Category C tree.
74. The report also advises that all the hedges within and around the site are Category C specimens.
75. In order to facilitate the development, the unprotected Ash tree would need to be removed along with hedging on the eastern boundary to create a pedestrian access and car parking areas. Hedging to the rear of No 271 Coniscliffe Road and a centrally located within the site would be removed to enable the construction of the building.
76. Parking bays and access routes are located within the root protection areas of the protected Oak trees. The root protection areas of these trees are already hard surfaced, having been used for parking, storage and display within the sites former use as a garden centre. As such, the continued use of these hard surfaces should not pose an issue to the trees. The Assessment recommends that if a new surface layer is required that this is laid over the existing one to avoid potential root damage from surface removal. An area of existing hard surface surrounding the stem of the Category A Oak tree will be removed to enable shrubs to be planted, which will need to be undertaken by hand. There is an encroachment of the proposed parking with the root protection area of a tree located within the grounds of Elm Ridge Methodist Church. However, the encroachment is minor and should not result in a detrimental impact on the trees condition.
77. The Assessment advises that the root protection areas of the protected trees should not be adversely impacted during the construction phase of the development and no new utility runs must run within any of the retained tree root protection areas. The Assessment also includes details of tree protection barriers.
78. The Ash tree to be removed cannot be easily viewed from outside of the application site and is not worthy of a tree preservation order. The Council's Senior Arboricultural Officer agrees with the method statement and protection measures contained within the Assessment, which will be secured via a planning condition.

79. The hedgerow to the rear of No 271 Coniscliffe Road and the section located within the centre of the site are not highly visible from outside the application site. The hedging on the eastern boundary along Carmel Road South is highly visible and its removal will alter the appearance of this section of street frontage. It would not be possible to retain or plant a new hedge in this location due to the presence of proposed parking spaces but the Category A Oak tree and an adjacent street tree (Norway Maple) which will be retained would continue to provide a natural and green boundary on this section of the site. It is acknowledged that the existing hedge could be removed at any point without the need for consent from the Local Planning Authority.
80. The hedging on the southern and western makes a valuable visual contribution to the setting of the Method Church and the wider local area and they have ecological benefits as well as provide a good visual screen between the site and the neighbouring dwellings. A landscaping scheme for the site involves the retention of these hedgerows and the two Oak trees along with the planting of fifteen new trees around the site, the creation of a flowering lawn and shrub beds.
81. The tree species proposed are all native species that are suitable for the climate and general location. The shrubs proposed are all ornamental non-native species. The flowering lawn mix is a good choice for the local area, offering increased native biodiversity. The landscaping scheme would improve the visual appearance of the site and have biodiversity net gain value. A Management Plan for the scheme would be secured by a planning condition.
82. The development would accord with policies DC1 and ENV4 of the Local Plan in this regard.

**g) Health Impact Assessment**

83. In accordance with Policy DC3 of the Local Plan, a Health Impact Assessment has been submitted in support of the planning application. The Assessment highlights that the proposed store will be accessible for all groups including older people and people with mobility issues. The proposal is in a sustainable location and its accessibility would reduce the need to travel by car and customer could easily visit the store on foot. Cycle parking provision would be secured via a planning condition. The existing trees would be retained on site, with new ones added as part of a landscaping scheme and some local employment opportunities would be created by the proposal. Stores such as this can help support local communities and the site is making use of an existing site. Planning conditions would be imposed for the submission of a Construction Management Plan.

**h) Construction Management Plan**

84. A planning condition has been recommended to secure the submission of a site-specific Demolition and Construction Management Plan in the interests of both highway safety and residential amenity.

**i) Ecology Matters**

85. A Preliminary Ecological Appraisal (PEA) has been submitted in support of the planning application. The PEA was conducted using appropriate survey methodology and the Councils Ecology Officer agrees with the findings that the site is within a suburban setting with bat foraging and commuting habitat to the south of the site. The general assessment of the site is one of limited wildlife interest with negligible potential for roosting bats. The PEA includes some recommendations relating to a method statement to following during construction works and the inclusion of bat and bird boxes, which can be secured by planning conditions.
86. Due to the presence of trees and hedgerows within and bordering the site, there is a requirement under Policies ENV 7 and Policy ENV 8 of the Local Plan and under the Environment Act 2021 to undertake a biodiversity net gain (BNG) assessment of all habitats within the red-line boundary.
87. A statutory Small Sites Metric has been completed and submitted in support of the planning application. The Metric has been completed correctly and demonstrates a net gain of 38.30% on habitat units and 10.35% on hedgerow units, with the trading rules being satisfied. As a result, Biodiversity Net Gain can be achieved onsite and the high rate of net gain for both habitat and hedgerow units is welcomed. A Biodiversity Management and Monitoring Plan (BMMP) would be secured by a planning condition.

**j) Contaminated Land**

88. A Phase 1 Desk Study Report has been updated and it is detailed that no tanks are considered to be present on the site. Although it is acknowledged that the historic presence of fuel tanks cannot be ruled out completely. The Phase 1 Study considers potential contamination risks associated with the historical use of the site and surrounding area taking into account the proposed end use of the site for commercial redevelopment. Historically the site has formed part of a nursery/garden centre comprising buildings (potential asbestos materials), greenhouses and large planters. The main feature in the surrounding area includes a petrol station and cemetery. A site walkover has been undertaken and a conceptual ground hazard model is derived identifying potential source pathway-receptor linkages associated with the former uses on site and surrounding area. The report recommends that intrusive site investigation works are carried out (potentially including gas monitoring). Environmental Health do not object to the principle of the planning application and subject to the imposition of appropriate land contamination conditions, the development would accord with policy DC1 of the Local Plan in this regard.

### **k) Flood Risk and Drainage**

89. A Flood Risk Assessment submitted in support of the planning application confirms that the site is within Flood Zone 1 with a low flood risk (Policy DC2 of the Local Plan). The Assessment concludes that the site is not at risk of flooding and the works will not increase the risk of flooding in the area. The application has been supported by a Drainage Strategy which includes the use of deep storage creates within the site and hydrobrakes to control flows to the existing mains sewers. The Lead Local Flood Authority has advised that sufficient information has been submitted to show that a surface water runoff solution can be achieved without increasing existing flood risk to the site or the surrounding area. However, a detailed design for the management of surface water runoff from the proposed development needs to be secured by appropriate planning conditions. The development would accord with policy DC2 of the Local Plan in this regard.

### **THE PUBLIC SECTOR EQUALITY DUTY**

90. 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 proposed store would be accessible, and the office space can be accessed via internal lifts. There are accessible parking spaces in close proximity to the building. The development would accord with Policy IN2 of the Local Plan.

### **SECTION 17 OF THE CRIME AND DISORDER ACT 1998**

91. 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. This is covered in paragraph 40 of this report.

### **CONCLUSION AND RECOMMENDATION**

92. The application site is with the development limits for the urban area as defined by the Darlington Local Plan. In accordance with national and local development plan policy the applicant has submitted a Sequential Test which shows the proposed development cannot be provided within any available town centre locations, edge of centre locations, or other out of centre locations and therefore the proposal is policy compliant in sequential test terms. A retail impact assessment is not necessary in this instance, as the size of the retail unit does not exceed the development plan threshold for such an exercise. As a result, the principle of the proposed development can be supported in general planning policy terms.

93. The palette of materials for the proposed building has been amended to better reflect those found within the local area and whilst the proposed building is a larger building than the existing, it is considered to be of an appropriate scale and design to mark this significant corner site without having an adverse impact on the nearby West End Conservation Area, the Elm Ridge Methodist Church and the neighbouring dwellings.

94. Planning conditions have been recommended in the interests of the amenities of the neighbouring properties and it is considered that the proposed development will not give rise to adverse amenity conditions that would justify refusing the planning condition on such grounds.
95. Off site highway works have been agreed with the Local Highway Authority to mitigate any highway and pedestrian safety impacts of the proposed development and the proposal is considered acceptable in general highway terms.
96. Biodiversity net gain has been achieved via a landscaping scheme within the site and the protected trees would be retained as part of the scheme.
97. It is considered that following the submission of additional and amended plans, and the use of the planning conditions listed below, the proposed development is acceptable and would accord with local and national development plan policy.

## **GRANT PERMISSION SUBJECT TO THE FOLLOWING PLANING CONDITIONS**

### **GENERAL**

1. A3 – Implementation Limit (Three Years)
2. The development hereby permitted shall be carried out in accordance with the approved plans, as detailed below:
  - a) Drawing Number L022074 005 Rev D Proposed Elevations
  - b) Drawing Number 5041/1 Detailed Landscape Proposals
  - c) Drawing Number L022074-002 Rev D Site Layout Plan
  - d) Drawing Number L022074-007 Rev A Proposed Materials
  - e) Drawing Number L022074-011 Pedestrian and Vehicular Access Points
  - f) Drawing Number D 1003 Rev A Proposed Offsite Highway Improvements
  - g) Drawing Number L022074-005 Rev C Proposed Extensions
  - h) Drawing Number L022074-008 Rev A Location and Block Plan
  - i) Drawing Number L022074-003 Rev C Ground & First Floor Plans
  - j) Drawing Number L022074-004 Rev A Second Floor Roof Plans
  - k) Drawing Number MD01708/0100 Proposed Drainage Strategy

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

### **SCULPTURE**

3. The public art installation as shown on the approved plans shall be installed prior to the first occupation of the development or within such extended period which may be agreed in writing by, the Local Planning Authority.

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

### **MATERIALS**

4. Notwithstanding the details shown on the approved plans, precise details of the external materials (including samples) to be used in external surfaces of the building and boundary walls where new entrances are being inserted shall be submitted to an approved in writing by the Local Planning Authority prior to any building being constructed above damp proof course. The development shall not be carried out otherwise than in complete accordance with the agreed details.

REASON – In the interests of the visual appearance of the development and the local area.

## HIGHWAYS

5. Prior to the first occupation of the development, the following schemes of off-site highway mitigation measures must be completed on site:
  - a) Improved pedestrian crossing points as indicated on Drawing P2149 D – 1003 Rev A, at: Elm Ridge Roundabout
  - b) Site access and bus stop relocation works at Site of former Elm Ridge Garden Centre Coniscliffe Road

For each scheme of off-site highway mitigation, except for investigative works, no excavation or other groundworks or the depositing of material on site in connection with the construction of any scheme of off-site highway mitigation or any structure or apparatus which will lie beneath that scheme must take place, until full detailed engineering drawings of all aspects of that scheme including any structures which affect or form part of the scheme have been submitted to and approved in writing by the Local Planning Authority.

An independent Stage 2 Road Safety Audit carried out in accordance with GG119 - Road Safety Audits or any superseding regulations must be included in the submission and the design proposals must be amended in accordance with the recommendations of the submitted Safety Audit prior to the commencement of works on site.

A programme for the delivery of the schemes and their interaction with delivery of the other identified schemes must be submitted to and approved in writing by the Local Planning Authority prior to construction works commencing on site. Each item of the off-site highway works must be completed in accordance with the approved engineering details and programme.

REASON - To ensure that the design is appropriate in the interests of the safety and convenience of highway users.

6. No part of the development must be brought into use until the access, parking, manoeuvring and turning areas for all users 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 appropriate on-site vehicle facilities in the interests of highway safety and the general amenity of the development.

7. Notwithstanding the requirements for a Stage1/2 RSA at submission of detailed design, further independent Stage 3 & 4 Road Safety Audits must be carried out in accordance with GG119 - Road Safety Audits or any superseding regulations. Audits Shall Cover all off-site highway works within the public highway. The design proposals must be amended in accordance with the recommendations of the submitted Safety Audit within a timescale to be agreed in writing with the Local Planning Authority.

REASON - To ensure that the design is appropriate in the interests of the access, safety, and convenience of highway users.

8. No building shall be constructed above damp proof course until precise details of secure cycle parking provision have been submitted to and approved in writing by the Local Planning Authority. The cycle parking provision shall accord with the guidance in LTN 1/20 on Cycle Infrastructure Design as a minimum. The development shall not be occupied until the cycle parking has been constructed and completed in accordance with the approved details and shall thereafter be kept free of obstruction and permanently available for the parking of cycles only.

REASON: To comply with policy IN4 of the Local Plan and the guidance in LTN 1/20 on Cycle Infrastructure Design.

9. The four EV charging points shown on Drawing Number L022074-002 Rev D shall be installed and be available for use prior to the first occupation of the development hereby approved.

REASON – In order to accord with Policy IN4 of the Local Plan.

10. The disabled parking bays shown on Drawing Number L022074-002 Rev D shall be installed and be available for use prior to the first occupation of the development hereby approved.

REASON – In order to accord with Policy IN2 of the Local Plan.

## **DEMOLITION AND CONSTRUCTION MANAGEMENT PLAN**

11. No development, including demolition works, must commence until a site-specific Demolition and Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Plan must include, but not be limited, to arrangements for the following in respect of each phase of the works:
  - 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” 2009.

- c) Details of any temporary construction access to the site including measures for removal following completion of construction works.
- d) Wheel washing facilities on site to ensure that mud and debris is not spread onto the adjacent public highway.
- e) The parking of contractors' site operatives and visitor's vehicles.
- f) Areas for storage of plant and materials used in constructing the development clear of the highway.
- g) Details of the measures to be taken for the protection of trees.
- h) Contact details for the responsible person (site manager/office) who can be contacted in the event of any issue.
- i) Warning Signage.
- j) Road maintenance.
- k) Details of security lighting that is to be used during the construction period.

REASON - In the interest of public safety and amenity

### **AMENITY**

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

REASON – In the interest of residential amenity.

13. No building shall be constructed above damp proof course until precise details of ventilation and fume extraction, including a full technical specification by a suitably qualified technical person has been submitted to and agreed in writing to the Local Planning Authority. The scheme should specify the position of ventilation, fume, or flue outlet points; the type of filtration or fume treatment to be installed and shall include details of noise levels generated and any noise attenuation structures to be incorporated. The development shall not be carried out otherwise than in complete accordance with the approved details which shall be installed prior to the first occupation of the development and shall thereafter be retained for the lifetime of the development unless otherwise agreed in writing by the Local Planning Authority.

REASON – In the interests of residential amenity.

14. No building shall be constructed above damp proof course until precise details of any ventilation and fume extraction systems to be installed including details of the emissions, methods of treatment to remove odour, particles or droplets and discharge points have been submitted to and agreed in writing by the Local Planning Authority. The development shall not be carried out otherwise than in complete accordance with the approved details which shall be installed prior to the first occupation of the development and shall thereafter be retained for the lifetime of the development unless otherwise agreed in writing by the Local Planning Authority.

REASON – In the interests of residential amenity.



15. No building shall be installed above damp proof course until precise details of external lighting to be installed on site have been submitted to and approved in writing by the Local Planning Authority. The details shall include the type of light appliance, the height and position of fitting, illumination levels and light spillage. The development shall not be carried out otherwise than on complete accordance with the approved details and the lighting approved shall be installed and maintained in accordance with the approved details.

REASON – In the interests of residential amenity.

16. No building shall be constructed above damp proof course until precise details for the storage of refuse, including details of location, size, means of enclosure and materials, have been submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out otherwise than in complete accordance with the approved details which shall be installed prior to the first occupation of the development and shall thereafter be retained for the lifetime of the development unless otherwise agreed in writing by the Local Planning Authority.

REASON – In the interests of residential amenity.

17. No building shall be constructed above damp proof course until details of new boundary treatments to the rear of No 271 Coniscliffe Road and Elm Ridge Cottage, Carmel Road South have been submitted to, and approved in writing by, the Local Planning Authority. The development shall not be carried out otherwise than in accordance with any such approved details and the boundary treatment shall be erected prior to the first occupation of the development and shall not be repaired or replaced other than in accordance with the approved plans.

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.

18. The existing Leyland Cypress hedging on the eastern boundary shown to be retained as part of the approved landscaping plan (Drawing Number 5041/1) shall not be removed or reduced in height below 3m without the consent of the local planning authority to whom a planning application shall be made.

REASON – In the interest of the residential amenity.

19. The existing privet hedging on the southern boundary shown to be retained as part of the approved landscaping plan (Drawing Number 5041/1) shall not be removed or reduced in height below 2.5m without the consent of the local planning authority to whom a planning application shall be made.

REASON – In the interest of the residential amenity

## **HOURS OF OPENING AND DELIVERIES**

20. The convenience store and offices hereby approved shall not operate outside the hours of 06:00-23:00 Monday to Sunday.

REASON – In the interests of residential amenity

21. The delivery and despatch of goods to and from the site, including waste collection, shall not occur outside the hours of 07:00 and 20:00 on Mondays to Sunday.

REASON – In the interests of residential amenity.

## **LAND CONTAMINATION**

22. CL2 - Phase 2 Site Investigation Strategy.
23. CL3 – Phase 2 Investigation Works.
24. CL4 - Phase 3 Remediation and Verification Strategy.
25. CL5 - Construction/Remediation works.
26. CL6 - Phase 4 Verification and Completion Report.

## **ECOLOGY**

27. Prior to the commencement of the development, a Habitat Management and Monitoring Plan shall be submitted to and approved in writing by the Local Planning Authority and the development shall not be carried out otherwise than in complete accordance with the approved Plans.

REASON – In the interest of securing biodiversity net gain in accordance with Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021).

28. The development hereby approved shall not be carried out otherwise than in complete accordance with the recommendations (Paragraph 7.6) of the approved document entitled “Preliminary Ecological Appraisal “Low Impact” Ecological Impact Assessment for Elm Ridge, Darlington DL3 8DH” dated May 2023 and produced All About Ecology unless otherwise agreed in writing by the Local Planning Authority.

REASON – In the interests of biodiversity and habitats.

29. Notwithstanding the details shown on the approved plans, no building shall be constructed above damp proof course until precise details of the swift bricks/boxes and bat bricks/boxes shall be submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out otherwise than in complete accordance with the approved details which shall be installed prior to the first occupation of the development and shall thereafter be retained for the lifetime of the development unless otherwise agreed in writing by the Local Planning Authority.

REASON – In the interests of biodiversity and habitats.

## **TREES**

30. The development hereby approved shall not be carried out otherwise than in complete accordance the mitigation measures and tree protection measures contained with the approved document entitled “Arboricultural Method Statement inc. Impact Assessment Ref: ARB/CP/3116” dated May 2023 and produced by Elliott Consultancy Limited unless otherwise agreed in writing by the Local Planning Authority.

REASON – In the interest of the visual appearance of the development.

## **LANDSCAPING**

31. The landscaping scheme shown on Drawing Number 5041/1 D 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. Any trees, hedges or shrubs removed, dying, severely damaged or becoming seriously diseased within thirty years of planting shall be replaced by trees, hedges and shrubs of similar size and species to those originally approved and planted.

REASON - To ensure a satisfactory appearance of the site and to improve the visual amenities of the locality.

## **DRAINAGE**

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

- a) Detailed design of the surface water management system and full Flood Risk Assessment.
- b) A build program and timetable for the provision of the critical surface water drainage infrastructure.
- c) A management plan detailing how surface water runoff from the site will be managed during the construction phase.

REASON - To ensure the site is developed in a manner that will not increase the risk of surface water flooding to site or surrounding area, in accordance with the guidance within Policy DC2 of the Local Plan and the National Planning Policy Framework 2023

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

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

## **INFORMATIVES**

### **Highways**

Applicants are reminded that in addition to securing planning permission, other permissions may be required from Darlington Borough Council 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 Streetworks 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.

Notwithstanding any valid planning permission for works to amend the existing highway, there must be no works in the existing highway until an Agreement under Section 278 of the Highways Act 1980 has been entered into between the Developer and Darlington Borough Council as the Local Highway Authority. To carry out works within the highway without a formal Agreement in place is an offence.

### **Signage**

The applicant is reminded that a separate planning application for advertisement consent will be required for any new signage on the building and/or within the curtilage of the development.

### **Environmental Health & Licensing**

Environmental Health enforces Food Safety and Health and Safety legislation at these premises and the applicant will need to register the business – this can be done using the following link: <https://register.food.gov.uk/new>

A Premises Licence may also be required if they are to serve alcohol or open after 23.00 and if this is the case the applicant should contact the Council's Licensing Department for further advice.

## **Drainage**

At detailed design stage the applicant must consider detailed guidance within the CIRIA SuDS manual and to achieve a successful SuDS scheme it should where appropriate deliver multiple benefits including water quantity, water quality, amenity and biodiversity.

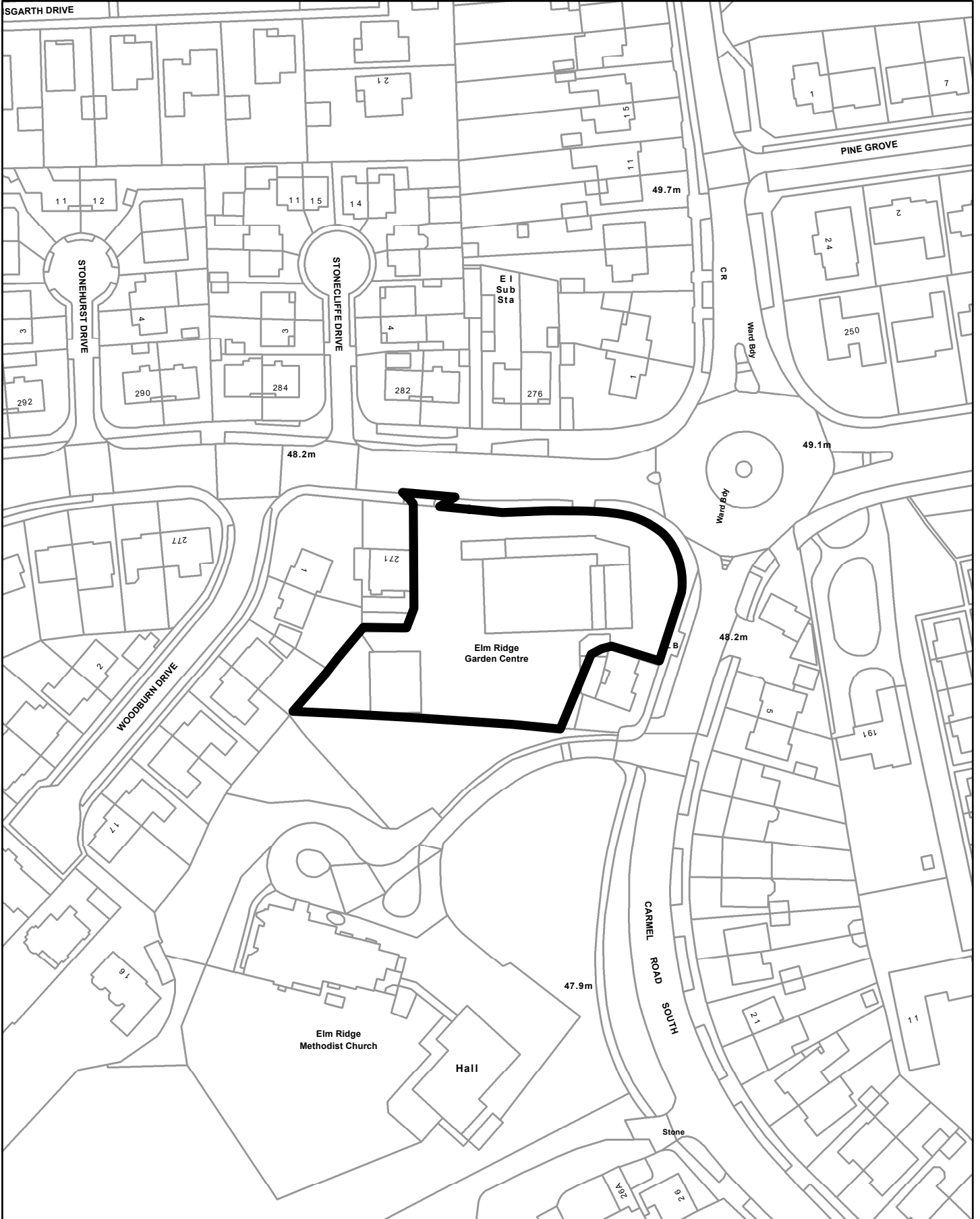
The LLFA encourages innovative approaches involving rainwater harvesting and greywater recycling. These systems can significantly reduce the volumes of both treated water supplied to a site and wastewater entering the sewerage system.

SuDS are an opportunity to enhance the environment as well as providing for outdoor learning and recreation. Roofs and all hard surfaces provide an opportunity to slow, clean and collect water run-off. These may be linked by creative use of surface channels, rills and linear features to move water around the site. Incorporating features such as green roofs, green walls, cascades, spouts, water chutes and tree pits. These add visual interest, enhance biodiversity, improve water quality and reduce water quantity.

Sewers For Adoption 6 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.

It is recommended that the applicant contacts the Lead Local Flood Authority (LLFA) at an early stage to discuss surface water management requirements and their proposed surface water drainage solution for any new development.

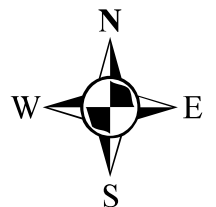
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**Planning Ref No: 23/00769/FUL**

DARLINGTON BOROUGH COUNCIL



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## DARLINGTON BOROUGH COUNCIL

### APPEAL AGAINST REFUSAL OF PLANNING PERMISSION

**APPLICATION REF. NO:** 22/00575/TF.

**APPEAL REF. NO:** APP/TPO/N1350/9261.

**LOCATION:** Garden Cottage  
Low Middleton Hall  
Low Middleton  
MIDDLETON ST. GEORGE

**DESCRIPTION:** Works to 1 no. Ash Tree protected by Tree Preservation Order 1986 (no.4) - Prune back over hanging branches to clear telephone wires and house.

**APPLICANT:** Mrs. Linda Brinton.

**ASSISTANT PLANNING OFFICER: ROGER MARTIN.**

#### BRIEF SUMMARY

1. This application was submitted for the pruning back of overhanging branches to clear the adjacent overhead telephone wires and the nearby house. No supporting evidence or details of the extent of pruning work was provided with the application. The application relied solely on the description of works set out on the application form, together with a number of supporting photographs.
2. The application tree is a mature Ash Tree positioned in a prominent location within the front/side garden of the application site and faces directly onto Middleton Lane. The application tree is visible from public vantage points along Middleton Lane and is an important feature of the street scene. There are numerous other trees growing within the locality, many of which are mature trees; these trees along with the application tree afford the immediate area a mature landscape quality and contribute positively to its character and appearance.

#### KEY POINTS TO NOTE

3. The main issues in this case were the effects of the proposed pruning on the health and visual amenity of the tree, and whether there were sufficient grounds for the works as proposed.
4. The Council’s Senior Arboricultural Officer carried out an inspection of the Ash Tree and advised that there was an acceptable degree of clearance between the application tree, the telephone wires, and the house. He also advised that there were no structural reasons to undertake such work. The proposal was considered to be excessive and unjustified and would be detrimental to the health of the tree and would have a significant impact upon the character and appearance of the tree and the wider street scene. damaging to the amenity value of the Ash Tree.

## **REASON(S) FOR REFUSAL**

7. The application was refused for the following reason:

The 1 no. Ash Tree is protected by the virtue of Tree Preservation Order (no.1) 1952 and the application tree is considered to be in reasonable form and condition. Without any satisfactory justification, the pruning works would result in a loss of natural form to a protected tree in acceptable condition with no safety concerns; furthermore the applicant has not provided any structural reasons for the proposed works. The proposed development would therefore result in a significant detrimental impact upon the visual amenity of an important tree in the surrounding area, contrary to saved policy ENV4 Green and Blue Infrastructure (Strategic Policy) of the Darlington Borough Local Plan (2016-2036).

## **APPEAL DISMISSED:**

8. Reasons as outlined by the Planning Inspector:

The outer edge of the tree's canopy is clear of the house by approximately 2 metres and the telephone wires pass beneath the canopy of the tree with good clearance. As a result the Inspector concluded that the tree is not causing problems in relation to its proximity to the house and telephone wires. Any pruning to materially increase the gap between the tree and the dwelling and telephone lines would alter the form of the tree to the detriment of its visual amenity.

9. In this case the proposed tree works would have a material adverse effect on the appearance of the tree and the points put forward to justify the proposed pruning do not outweigh the harm that would be caused.



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# Appeal Decision

Site visit made on 29 August 2024

**by I Radcliffe BSc(Hons) MRTPI MCIEH DMS**

**an Inspector appointed by the Secretary of State**

**Decision date: 24 September 2024**

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**Appeal Ref: APP/TPO/N1350/9261**

**Garden Cottage, Low Middleton, Middleton St George, Darlington, DL2 1AX**

- The appeal is made under regulation 19 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 against a refusal to grant consent to undertake work to a tree protected by a Tree Preservation Order.
  - The appeal is made by Mrs L Brunton against the decision of Darlington Borough Council.
  - The application Ref: 22/00575/TF, dated 25 May 2022, was refused by notice dated 6 July 2022.
  - The work proposed to an ash is to prune back branches to clear the house and telephone wires.
  - The relevant Tree Preservation Order is the Borough of Darlington Council Tree Preservation (No.4) Order Low Middleton Hall, Middleton One Row which was confirmed on 13 June 1986.
- 

## Decision

1. The appeal is dismissed.

## Preliminary matters

2. The application gave reasons for wanting to carry out work to the protected ash but did not state the extent of pruning that was proposed. The Council dealt with the application on the basis that it sought to prune back branches close to the house and overhead telephone wires. As the appellant's grounds of appeal confirms the Council's interpretation, I have dealt with the appeal on the same basis.
3. This appeal has been dealt with by way of the fast track written representations procedure. As explained in section F of the appeal form, this means that the appeal is determined on the basis of only those matters that were before the local authority when the decision on the application was made. As a result, reference introduced at appeal stage to concern regarding the danger of injury from falling branches has not been taken into account in the determination of this appeal.

## Main Issues

4. The main issues in this appeal are:
  - the amenity value of the ash and the likely effect of the proposed works; and,
  - whether sufficient justification has been provided for the proposed works.

## Reasons

5. The ash is located within the front garden of Garden Cottage close to the entrance and house. It is a tall, mature specimen that appears to be in good health with little deadwood present. Rather than a fuller, domed canopy that is typical of the species, extensive pruning has resulted in the tree having a raised, vase like canopy. Nevertheless, as the first tree encountered within the grounds of a dwelling on the approach to Low Middleton from the north it is highly visible. With the tall boundary wall and garage partially screening the less impressive lower part of the tree from view, it is a tree of significant amenity value that contributes to the mature verdant landscaping in the vicinity of Low Middleton Hall.
6. The application seeks to prune back the tree away from the house and clear of telephone wires. However, the outer edge of the tree's canopy is clear of the house by approximately 2m and the telephone wires pass beneath the canopy of the tree with good clearance. As a result, the tree is not causing problems in relation to its proximity to the house and telephone wires. Any pruning to materially increase the gap between the tree and the dwelling and telephone lines would alter the form of the tree to the detriment of its visual amenity.
7. With any application to carry out works to a protected tree, a balancing exercise needs to be undertaken. The justification for the works applied for must be weighed against the resultant loss to the amenity of the area. In this case, the proposed tree works would have a material adverse effect on the appearance of the tree and the points put forward to justify the proposed pruning do not outweigh the harm that would be caused. Accordingly, I therefore conclude that the appeal should be dismissed.

*Ian Radcliffe*

Inspector

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

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