

**DARLINGTON BOROUGH COUNCIL**

**PLANNING APPLICATIONS COMMITTEE**

**COMMITTEE DATE: 27<sup>th</sup> October 2021**

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**APPLICATION REF. NO:** 21/00789/FUL

**STATUTORY DECISION DATE:** 1<sup>st</sup> September 2021 (EoT 1<sup>st</sup> November 2021)

**WARD/PARISH:** MOWDEN

**LOCATION:** 1 Hall View Grove  
Darlington

**DESCRIPTION:** Erection of a two storey side extension to west elevation, re-location of 1.8m high side boundary fence, widening of existing drive to create extra off-street parking and the erection of a detached summerhouse in the rear garden (as amended by plans received 26.07.21 and 04.10.21)

**APPLICANT:** Paul Furness

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**RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS** (see details below)

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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=QVKG4IFPFXD00>**

**APPLICATION AND SITE DESCRIPTION**

1. The application property is a south facing detached two storey dwelling sited adjacent to some open space on Hall View Grove. The surrounding area is predominantly residential in character.
2. The application site is not in a Conservation Area.

3. The northern end of the rear garden is covered by Group Tree Preservation Order No 1, 1951. There are several mature trees located on open space land adjacent to the property, none of the trees are situated within the curtilage of this application site.

4. The proposal involves the building a two storey side extension on the western elevation to provide and enlarged kitchen, a utility room and a bin store on the ground floor, the creation of an additional bedroom on the first floor, the re-location of the boundary fence, the widening of the existing drive to create extra off-street parking and the erection of a detached summerhouse in the rear garden.

5. The proposed two storey extension on the western elevation will project 2.5m to the side of the original dwelling and will be 7.7m in length at first floor level and 9.2m in length at ground floor level. The roof will be dual pitched sloping from front to back and being set 90 degrees from the slope of the main roof. The eaves will be 4.8m in height and the ridge 7.0m. The height of the eaves of the front part of the extension will be 2.5m and the ridge 3.7m.

6. The proposal also includes the relocation of the existing fence on the western boundary of the application site. The fence, in line with the rear of the dwelling will be moved 1.2m to the west to allow a pedestrian access to the rear garden.

7. The proposal also includes the widening of the existing drive and dropped kerb to create extra off-street parking.

8. The proposal also includes the erection of a detached wooden summerhouse in the north eastern corner of the rear garden. This summerhouse will be placed on an existing 0.10m high base. The summerhouse will be 3.6m wide and 3.0m deep. The summerhouse will have a shallow dual pitched roof with eaves at 2.35m and the ridge at 2.55m.

9. The materials for the proposals will be red brickwork to match existing with brown concrete tiles to match existing and the detached summerhouse will be wood.

10. The amended plans submitted on 26.07.21 included:

- the widening of the existing drive and dropped kerb to create an extra parking space;
- the positioning of the tree that is proposed to be removed on the adjacent land.

11. The amended plans submitted on 04.10.21 included:

- the addition of the detached summerhouse in the rear garden.

## **LAND OWNERSHIP MATTERS**

12. The Local Planning Authority is not the arbiter of boundary ownership disputes. Ownership of the open space was and remains a civil matter between any other party claiming ownership, and the applicant and is not a material planning consideration.

13. Members will note that the granting of planning permission would not prejudice any legal standing of any of the parties in terms of their ownership interest and their ability to take civil action in respect thereof.

### **MAIN PLANNING ISSUES**

14. The main issues with this application are:

- a) Impact on the character and appearance of the property;
- b) Impact on residential amenity;
- c) Highway safety;
- d) Impact on Trees.

### **PLANNING POLICIES**

15. Relevant Local Plan and National Planning Policy Framework policies include those seeking to ensure that new development: -

- Is in keeping with character, design and external appearance of the dwelling, street scene and surrounding area and that adequate privacy in rooms, gardens and other outdoor buildings is maintained (H12)

### **RESULTS OF TECHNICAL CONSULTATION**

16. The Highway Officer raises no objection to the proposal.

17. The Senior Arboricultural Officer raises no objection to the proposal.

### **RESULTS OF PUBLICITY AND NOTIFICATION**

18. Three properties in Hall View Grove were consulted in accordance with the regulations and five objections have been received.

The points of objection were:

- We believe that the applicant does not own the land to the west of the property that he would like to extend his boundary onto.
- There is a tree to the front west side of the property (not on the applicants land) which would need removing for this work to be completed to the property.
- This is an example of 'Planning Creep'. Last time Mr Furness moved his back fence over his boundary and then submitted a planning application retrospectively. It appears they are attempting any means to gain more land that does not belong to them.

- This planning application would set a precedent to others who wish to extend into open spaces.
- Visual amenity - These proposals will affect the beautiful landscape which is tree lined and the open space, which is a character of the Mowden estate.
- The loss of trees will cause disruption to the wildlife in the environment.
- The land they propose to extend onto is not owned by them, surely if it's common land it is unlawful to take it as your own & build or extend;
- This is an open plan estate and these open spaces should be for the benefit of all the residents not for individual families.
- In granting permission, the council would be condoning taking land that does not belong to the applicant and setting a precedence where everyone living next to a piece of land could claim it as their own thus depriving the wider community of this wonderful amenity.
- The development itself could cause damage to the root system of the two protected trees on the boundary of the property.
- We now see a further attempt to extend the boundary to the left side which I feel will spoil the scenery as you travel along Hallview Grove either by car or on foot.
- This land is a valued public amenity and as such, it is imperative, that it be preserved as such, and not stealthily be granted planning permission( ie stolen) thus creating a precedent for all!
- Residents choose to live in this area because of it layout, open planning and green spaces, as opposed to closely spaced, and congested modern developments.
- The trees and amenities were already there when house purchases were made. Why not buy more suitable sized property, not overlooked by trees in the first place, rather than upsetting things!

## **PLANNING ISSUES/ANALYSIS**

### **(a) Impact on the character and appearance of the property**

19. The proposed extension and detached summerhouse are not considered to be large in terms of their scale and footprint relative to the application property which itself is a fairly modest detached dwelling. In this instance the application property is situated within a large plot surrounded by similar dwellings.

20. The two storey extension has been designed with a pitched roof at 90 degree angle from the main house roof. This will help the extension appear suitably subservient to the main dwelling and limit the impact of the extension on the character and appearance of both the application property and the surrounding area.

21. The existing 1.8m high boundary fence will be re-located on the western boundary of the application site. The fence, in line with the rear of the dwelling will be moved 1.2m to the west to allow a pedestrian access to the rear garden. It is not considered that this fence will have an unacceptable impact on light to, or outlook from the neighbouring properties.

22. The existing drive and dropped kerb will be widened to create an additional off-street parking space. This driveway will be constructed of porous materials.

23. The construction of a detached summerhouse has been designed with a shallow dual pitched roof which will limit the impact on the character and appearance of both the application property and the surrounding area.

24. Due to the siting and positioning of this property the proposed extension and detached summerhouse meet the requirements of the 45-degree code in relation to the neighbouring properties.

### **(b) Impact on residential amenity**

25. The erection of a two storey side extension to west elevation, re-location of 1.8m high side boundary fence, widening of existing drive to create extra off-street parking and the erection of a detached summerhouse in the rear garden (as amended by plans received 26.07.21 and 04.10.21) would be in keeping with the character of the property and would not, therefore, be harmful to visual amenity.

26. The proposal would not result in any significant detrimental impacts in terms of light, outlook and overlooking to neighbouring residential properties.

27. It is not considered that this proposal will impact significantly on the residential amenities of the adjacent properties to the extent that it would be justified refusing planning permission on these grounds.

### **(c) Highway Safety**

28. The proposal increases the dwelling size from 3 to 4 bedrooms which increases the required curtilage parking provision from the current arrangement of two spaces, to three in order to accord with current Tees Valley Design Guide Standards. An additional space could be easily accommodated within the curtilage with a suitably widened driveway and vehicle crossing.

29. The amended plans demonstrate additional parking provision in order to mitigate the increase in dwelling size from 3 to 4 bedrooms. Officers are satisfied that the proposal demonstrates sufficient curtilage parking.

30. The additional driveway requires the widening of an existing vehicle access and this should be completed prior to occupation of the extension. All works within the highway require the prior consent and approval of the Highways Authority, in this case as part of a Section 184 agreement as the attached informative.

31. The Highway Officer stated that he has no objection to the proposal.

#### **(d) Impact on trees**

32. The trees adjacent to the application site that are not covered by any Tree Preservation Order appear to be in good form and condition but not worthy of protection.

33. It is of paramount importance that the root area of the trees is completely protected from damage by compaction, severance, or from material spillage. This will only be possible through the installation of protective fencing in accordance with BS5837 2012. It is recommended that this fencing is put into position prior to any further works on the site (demolition or development), and that the extent of this protection is inspected by a Council Officer prior to work commencing. This fencing should be at least 2m high and consist of galvanized tube, braced to resist impacts, supporting by a welded mesh wired to the uprights and horizontals to dissuade encroachment.

34. The Senior Arboricultural Officer stated that he has no objection to the proposal.

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

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

#### **CONCLUSION AND RECOMMENDATION**

36. The development accords with relevant Local Plan policies in that it respects the character and appearance of the host property and relates well to the surrounding area. The development does not raise any issues that would not be capable of being dealt with by standard conditions.

#### **THAT PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS**

1. A3 Implementation Limit (3 years)
2. B4a (Materials)
3. No demolition, site clearance or building operations shall be commenced until fencing of a height of not less than 2 metres has been erected around the tree, adjacent to the proposed development. The distance of the fence from the trunk of the tree shall be whichever is the greater distance of the following:-
  - (i) five metres from the base of the tree; or
  - (ii) the area described by the limit of the spread of the branches of the tree.

Such fencing is to be maintained during the course of the development to the satisfaction of the Local Planning Authority.

REASON - To enable the Local Planning Authority to ensure the retention of the tree on the site and its protection from damage, in the interests of visual amenity.

4. Tree Protection (During development)

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

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

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

5. The vehicular access and widened drive shall be provided prior to the extension to which it relates being occupied and thereafter it shall be retained permanently available for parking purposes and for no other purpose without the prior written permission of the Local Planning Authority.

REASON - To safeguard the residential amenities of the neighbourhood and to ensure the provision of adequate off-street parking accommodation to avoid the congestion of surrounding streets by parked vehicles.

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

- 21034-01A – Existing Layouts and Elevations
- 21034-02A – Proposed Layouts
- 21034-03A – Proposed Elevations including Fence Details
- 21034-04B – Existing and Proposed Site Plan including parking

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

## INFORMATIVES

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### Section 184 Crossover

The applicant is advised that works are required within the public highway, to widen an existing vehicle crossing; contact must be made with the Assistant Director : Highways, Design and Projects (contact Mrs Lisa Woods 01325 406702) to arrange for the works to be carried out or to obtain agreement under the Highways Act 1980 to execute the works.

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