

**DARLINGTON BOROUGH COUNCIL**  
**PLANNING APPLICATIONS COMMITTEE**

**COMMITTEE DATE: 12 December 2018**

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**APPLICATION REF. NO:** 18/00591/FUL

**STATUTORY DECISION DATE:** 4 October 2018

**WARD/PARISH:** MIDDLETON ST GEORGE

**LOCATION:** Land adjacent Oak Tree Pub off Yarm Road  
Middleton St George, Darlington

**DESCRIPTION:** Variation of condition 3 (Approved Plans) attached to planning permission 16/01256/FUL dated 19 June 2018 for residential development comprising 12 No. dwellings (Revised scheme) - to permit the substitution of house types and amended layout

**APPLICANT:** MANDALE HOMES

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**APPLICATION AND SITE DESCRIPTION**

Planning permission was granted in June 2018 for the erection of 12 no. dwellings on land to the east of the Oak Tree Inn, Middleton St George (16/01256/FUL) subject to a Section 106 Agreement to secure financial contributions towards footpath improvements and the provision of a new bus stop adjacent to the development on Yarm Road. This permission has not been implemented but remains extant.

This is an application under Section 73 of the Town and Country Planning Act which seeks to vary condition 3 (approved plans) attached to planning permission 16/01256/FUL to permit the substitution of house types and minor changes to the layout. No other issues are being considered as these were approved under the extant permission 16/01256/FUL.

The application site is agricultural grassland and is located in Oak Tree which is a subsidiary settlement of Middleton St George about half a kilometre to the west of the village. It lies between Oak Tree Close and Yarm Road immediately to the east of the Oak Tree public house. The application site covers an area of some 0.4 hectares and would be accessed off Oak Tree Close via a short cul-de-sac.

One again, 12, 3-bedroomed dwellings are proposed including two affordable units within the revised layout. The previous scheme proposed 6 no. pairs of semi-detached, 3-bedroomed dwellings whereas the revised scheme proposes that the dwellings will all be detached. The general scale and configuration of the proposal remains largely unchanged with the dwellings sited in a very similar location to the approved scheme. Two different house types are proposed. Some of the properties will share a car parking courtyard with the remainder having private drives, as before.

### **PLANNING HISTORY**

16/00059/FUL – 8 apartments and 12 dwellings – Refused permission August 2016 on grounds of density, design, lack of affordable housing provision and road safety issues. No appeal submitted.

16/01256/FUL - Erection of 12 dwellings, associated roads and landscaping – approved 19<sup>th</sup> June 2018 subject to Section 106 Agreement.

### **PLANNING POLICY BACKGROUND**

The following policies of the development plan are relevant:

#### **Borough of Darlington Local Plan 1997:**

- E2 – Development Limits

#### **Darlington Core Strategy Development Plan Document 2011:**

- CS1 – Darlington’s Sub-Regional Role and Locational Strategy
- CS10 – New Housing Development
- CS11 – Meeting Housing Need

The National Planning Policy Framework 2018 is also relevant. The above policies are considered to be compliant with the National Planning Policy Framework.

### **RESULTS OF CONSULTATION AND PUBLICITY**

**Highway Engineer** – The Highway Officer raises no objection to the proposal, subject to appropriate conditions being applied.

**Environmental Health** – No objections on grounds of contaminated land issues. Advises conditions on previous approval be re-imposed.

**Sustainable Transport** – The number of dwellings is below the trigger point for contributions towards an improved bus service. Contributions will be required via a S106 Agreement towards improved bus stop facilities, footpath and lighting improvements.

**Durham Constabulary** – No objections to the proposed layout.

**Lead Flood Authority** – No objections to the final submissions of the applicants relating to surface water run off subject to conditions being attached to any permission granted.

**Northumbrian Water** – Insufficient information provided relating to foul and surface water disposal – request condition attached relating to submission of final details as before.

**Middleton St George Parish Council** – Object for the following reasons:

- Design and density out of character with the surrounding developments
- Access onto Yarm Road dangerous.
- Access around Oak Tree Close a problem due to narrow nature of the private road.
- Not enough car parking for some dwellings. (Highways Engineer notes that the garages can be used as a parking place).
- Site not well connected to public transport.
- Drains in this area are privately owned.

Letters were sent to occupiers of neighbouring properties advising of the proposal and a site notice was displayed. 8 letters of objection have been received raising the following issues.

- Cramped design and density.
- Design out of keeping with other houses nearby – no variety.
- No mixture of house types.
- Insufficient parking on site ..... No sustainable transport connections.
- Outside development limits so contrary to policy.
- Local school is full as are other facilities
- Additional traffic will cause road safety problems
- Noise from adjacent pub and nearby lorry depot will cause nuisance to new residents.
- Damage to local wildlife from loss of green space and trees etc.
- Not enough space in parking courtyard for refuse vehicles

## **PLANNING ISSUES**

Planning law (S.38 (6) of the Planning and Compulsory Purchase 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 (2018) supports the plan led system providing that planning decisions should be “genuinely plan-led” (NPPF para 15).

The application site is outside of development limits and therefore the principle of residential development would be contrary to Saved Policy E2 (Development Limits) of the Darlington Local Plan 1997 and Policy CS1 (Darlington’s Sub-Regional Role and Locational Strategy) of the Core Strategy (2011). It should also be noted that the proposed scheme does not meet any of the criteria for permitted types of residential accommodation in the countryside as set out in saved policy H7 (Areas of Housing Development Restraint) of the Local Plan 1997.

Using the Government’s new standard method for assessing housing need, which is reinforced by the recently updated National Planning Policy Guidance, the Council considers that it can demonstrate a 48.9 year supply of deliverable housing land. The Council consider that deliverable sites sufficient to provide 5 years’ worth of housing against the local housing need figure have been identified and therefore the “tilted balance” in para 11 of the NPPF 2018 is not engaged. Saved policy E2 of the Borough of Darlington Local Plan 1997 and CS1 of the

Darlington Core Strategy Development Plan Document 2011 are not out of date and should be given substantial consideration. The principle of redeveloping the site for residential purposes would therefore be contrary to the local development plan.

As this application relates to a variation of a previous planning permission which is still extant there are no planning policy implications to be considered in this instance. Although the site lies outside of development limits and the Council can now demonstrate a five year supply of deliverable housing land, the principle of developing this site for residential purposes has already been established by way of the extant permission (16/01256/FUL) which is a material consideration which can be given significant weight in the determination of application.

### **Design and scale of the development**

The density of the proposed development is around 30 dwellings per hectare, which whilst higher than the adjacent low density housing estate off Oak Tree Close, is well within what is considered acceptable in planning terms for a small estate of houses. The site plan shows many of the plots having reasonably sized rear gardens and most with spacious open frontages, similar to properties on Oak Tree Close.

Perusal of some of the existing dwellings in Oak Tree Close reveals that the design and scale of the proposed dwellings is similar to that of those dwellings – semi-detached houses with hipped gables coming forward at either end of the building, similar in fact to the earlier approved designs for this site. It is therefore considered that the proposed design of the new dwellings is appropriate for this particular locality. In view of the above therefore it is considered that the proposed variation of house types is acceptable and will not result in harm to the locality in terms of visual impact.

The Highway Engineer has considered the revised layout and has raised no highway objection, subject to a number of conditions. As the effect of a Section 73 application is to issue a new planning permission, all conditions imposed on the earlier approval will be re-imposed and it will be necessary to amend the original Section 106 Agreement, if Members are minded to approve the application.

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

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

### **CONCLUSION**

Section 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 (2018) supports the plan led system providing that planning decisions should be “genuinely plan-led” (NPPF para 15).

Although the site is located beyond the limits to development and the Council can now demonstrate in excess of a 5 year deliverable supply of housing land, in this instance the principle of developing this site for residential purposes has already been established by way of the extant permission (16/01256/FUL) which is a material consideration which can be given significant weight in the determination of application. The proposed changes to the house types and layout are minor in nature and are considered acceptable in this instance. The proposal does not result in any adverse impacts on highway safety, surface water drainage or on residential and visual amenity, with appropriate mitigation measures in place to be secured by planning conditions. Appropriate planning obligations have also been negotiated and would be secured by a Section 106 Agreement, to mitigate against the impacts of the development.

### **RECOMMENDATION**

**THAT PLANNING PERMISSION BE GRANTED SUBJECT TO THE COMPLETION OF A DEED OF VARIATION TO THE SECTION 106 AGREEMENT RELATING TO 16/01256/FUL WITHIN SIX MONTHS TO ENSURE THAT THE OBLIGATIONS CONTAINED THEREIN ATTACH TO THIS PERMISSION AND SUBJECT TO THE FOLLOWING PLANNING CONDITIONS:**

1. The development hereby permitted shall be commenced not later than 18 months from the date of this permission.

REASON - To accord with the provisions of 92(2) of the Town and Country Planning Act 1990 and to ensure the speedy provision of the site for the approved development.

2. B4 (Materials)
3. PL00 (Accordance with approved plans)

Site layout plan 2018/OAK/100  
House detail plans 2018/OAK/101 and 2018/OAK/102

4. E2 (Landscaping)
5. Prior to the occupation of any unit within the development, a scheme for the provision of affordable housing shall be submitted to and approved in writing by the local planning authority. The provision will take the form of on-site provision (of not less than 20% of the housing units) in accordance with a scheme to be submitted and agreed in writing by the local planning authority. The scheme for the development shall include:
  - (a) The timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
  - (b) The arrangements for the transfer of the affordable housing to an affordable housing provider (or the management of the affordable housing) (if no RSL is involved);
  - (c) The arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing;
  - (d) The occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced;

- (e) The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2 of the National Planning Policy Framework or any future guidance that replaces it.

REASON – To comply with Core Strategy Policy CS11.

6. Precise details of the off-site highway works required to access the site and mitigate the development impact shall be submitted and approved by the Local Planning Authority prior to the commencement of the development. The submitted details shall include widening of the existing footway along the north-south section of Oak Tree Close to 2.0m wide, the addition of a new footway along the frontage of the development on the east-west section of Oak Tree Close at 2.0m wide (measured between restraints) connecting into the surrounding infrastructure and the new site access junction and linking footways. The development shall not be carried out otherwise than in complete accordance with the approved details.

REASON – In the interests of highway safety

7. Prior to the commencement of the development, a Construction Management Plan shall be submitted and approved in writing by the Local Planning Authority. The Plan shall include details for wheel washing, a dust action plan, the proposed hours of construction, vehicle routes, road maintenance, and signage. The development shall not be carried out otherwise than in complete accordance with the approved detail.

REASON – In the interests of residential amenity.

8. Development shall not commence until a detailed scheme for the disposal of foul and surface water from the development hereby approved has been submitted to and approved in writing by the Local Planning Authority in consultation with Northumbrian Water and the Lead Local Flood Authority.

REASON – To prevent the increased risk of flooding from any sources in accordance with the NPPF.

9. The development hereby approved shall not be commenced on site, until a scheme for ‘the implementation, maintenance and management of a Sustainable Surface Water Drainage Scheme has first been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details, the scheme shall include but not be restricted to providing the following details:
- (a) Detailed design of the surface water management system;
  - (b) A build program and timetable for the provision of the critical surface water drainage infrastructure;
  - (c) A management plan detailing how surface water runoff from the site will be managed during the construction phase;
  - (d) Details of adoption responsibilities.

**REASON:** To ensure the site is developed in a manner that will not increase the risk of surface water flooding to site or surrounding area, in accordance with the guidance within Core Strategy Development Plan Policy CS10 and the National Planning Policy Framework.

10. The buildings 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 buildings;
- (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.

**SHOULD THE SECTION 106 AGREEMENT NOT BE COMPLETED WITHIN THIS PRESCRIBED PERIOD WITHOUT WRITTEN CONSENT OF THE COUNCIL TO EXTEND THIS TIME, THE MINDED TO APPROVE STATUS OF THE PERMISSION SHALL BE CONSIDERED TO BE A REFUSAL ON THE GROUNDS THAT THE APPLICATION HAS FAILED TO PROVIDE ADEQUATE MITIGATION MEASURES TO PROVIDE A SATISFACTORY FORM OF DEVELOPMENT IN ACCORDANCE WITH THE REQUIREMENTS OF CORE STRATEGY POLICY CS4 (DEVELOPER CONTRIBUTIONS) WITHOUT ANY FURTHER REFERENCE TO THE PLANNING APPLICATIONS COMMITTEE**

## **INFORMATIVES**

The Developer is required to submit detailed drawings of the proposed internal highway and off site highway works to be approved in writing by the Local Planning Authority and enter into a Section 278/38 agreement before commencement of the works on site. Contact must be made with the Assistant Director: Highways, Design and Projects (contact Mr S. Brannan 01325 406663) to discuss this matter.

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

An appropriate street lighting scheme and design to cover the new adopted highways and proposed amendments should be submitted and approved in writing by the Local Planning Authority. Contact must be made with the Assistant Director: Highways, Design and Projects (contact Mr M. Clarkson 01325 406652) to discuss this matter

**THE FOLLOWING POLICIES AND DOCUMENTS WERE TAKEN INTO ACCOUNT  
IN CONSIDERATION OF THE APPLICATION:**

**Borough of Darlington Local Plan 1997:**

- E2 – Development Limits

**Darlington Core Strategy Development Plan Document 2011:**

- CS1 – Darlington’s Sub-Regional Role and Locational Strategy
- CS10 – New Housing Development
- CS11 – Meeting Housing Need

**National Planning Policy Framework, 2018**