

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

**COMMITTEE DATE:** 6<sup>th</sup> December 2023

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**APPLICATION REF. NO:** 23/00588/FUL

**STATUTORY DECISION DATE:** 21<sup>st</sup> August 2023

**WARD/PARISH:** SADBERGE & MIDDLETON ST GEORGE

**LOCATION:** Land To the Rear of Hazelfield Cottage Elstob Lane  
Great Stainton STOCKTON-ON-TEES TS21 1HP

**DESCRIPTION:** Change of use of agricultural land for tourist accommodation including the siting of 3 No. holiday lodges and 3 No. hot tub enclosures with car parking, associated landscaping and gravel pathways including the creation of secondary access. Conversion of storeroom to form kitchen/office and garage together with landscaping and associated works (Retrospective Application) (Amended plans / information received 5th October 2023 & 22<sup>nd</sup> November 2023)

**APPLICANT:** MR & MRS TURNER

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**RECOMMENDATION: REFUSE PLANNING PERMISSION (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=documents&keyVal=RW4WFSFP0C800>

**APPLICATION AND SITE DESCRIPTION**

1. The application site consists of a rectangular area of former grazing land of some 0.22ha situated on the east side of Elstob Lane, to the west of Little Stainton, to the south of Great Stainton and to the north of Sadberge. The site is bound to the west by an existing dwelling, with open fields to the north, east and south. The site is bounded by laurel hedgerows / trees set in front of a post and rail fence.

2. This is a retrospective application for the erection of 3 No. holiday chalets on the site. The access would be taken from a new secondary access point to the southern boundary of the site from Elstob Lane into Hazelfield Cottage with the existing access to the main dwelling house curtilage being for the occupants only. A new internal road would lead from this access into an area of existing hardstanding in front of existing stables and barn which will accommodate up to 6no. parking spaces solely for the use of the guests.
3. The chalets sit to the north-east portion of the site. They consist of timber structures in a hexagonal shape with a rectangular extension to the rear, each built on a Limestone hardstanding base. Each chalet provides a lounge area, bedroom and living space. As part of the development, an existing outbuilding, which at present occupies a garage and storage area, would be part converted into a kitchen and seating area, reception, and office space. The remainder of the building would retain the garage for the existing dwelling.
4. The proposal also includes landscaping works including the improvement of existing hedgerows to the perimeter of the site and the planting of trees to aid the developments assimilation into its rural setting. The application also states the following:

*'The proposal aims to employ local employers such as gardeners, cleaners, and an onsite maintenance person to support the applicant's business model, who are familiar with this location. The family will operate the management and reception duties in house. In support of the local economy and local businesses the applicant has established contact with local services such as directing holiday makers to the local public house Kings Arms, Glebe Road (north), a business in Darlington to supply pre-ordered afternoon teas and the new donut shop about supplying items for guests along with using Aycliffe dairies for milk, orange juice etc.'*
5. The application follows the previously refused retrospective planning permission (application reference 22/00324/FUL) which was refused on highway safety grounds on 15th November 2022. The applicant did not lodge an appeal against the LPA decision within the permitted timeframe but has instead, chosen to resubmit a new planning application.

## **MAIN PLANNING ISSUES**

6. The main issues for consideration are:
  - (a) Principle of the proposed development.
  - (b) Impact on visual amenity.
  - (c) Impact on Residential Amenity.
  - (d) Highway Safety.
  - (e) Nutrient Neutrality.
  - (f) Ecology.

(g) Other matters.

## **PLANNING POLICIES**

7. The following policies are relevant in the determination of this application:
- 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 & Wellbeing
  - DC4: Safeguarding Amenity
  - H3: Development Limits
  - E4: Economic Development in the Open Countryside
  - ENV1: Protecting, Enhancing & Promoting Darlington's Historic Environment
  - ENV3: Local Landscape Character
  - ENV7: Biodiversity, Geodiversity & Development
  - ENV8: Assessing a Development's Impact on Biodiversity
  - IN1: Delivering a Sustainable Transport Network
  - IN2: Improving Access and Accessibility
  - IN4: Parking Provision including Electric Vehicle Charging

## **RESULTS OF TECHNICAL CONSULTATION**

8. No objections in principle have been raised by the Council's Environmental Health Officer. The Highways team has recommended refusal on highway safety grounds. Discussions are on-going with Natural England, regarding Nutrient Neutrality and the position will be updated verbally at Planning Committee.

## **RESULTS OF PUBLICITY AND NOTIFICATION**

9. 21 letters of support have been received raising the following points:
- Benefit to tourism and local economy.
  - High quality development.
  - Acceptable visually.
  - Access is suitable.
  - Support for speed reduction.

## **PLANNING ISSUES/ANALYSIS**

### **a) Principle of the proposed development**

10. The proposed site is located outside the development limits set by Policy H3 and is therefore classified as being in the open countryside. Therefore, the new principle Local

Plan policy relevant to this application is Policy E4 – Economic Development in the Open Countryside. Policy E4 seeks to safeguard the intrinsic character of rural Darlington.

11. It sets out that proposals for the sustainable growth and expansion of all types of businesses located in the open countryside will be supported provided proposals meet a series of criteria. General requirements relevant to this proposal include that new buildings are well designed and wherever possible are located physically well-related to existing rural settlements and/or existing buildings and building groups. Additionally, the character, scale and design of all proposed new buildings must be appropriate to its open countryside surroundings. All proposals should also be sensitive to their surroundings, provide satisfactory access from and not have an unacceptable impact on the local road network. Proposals must also not unacceptably affect amenity.
12. Additional requirements within Policy E4, specifically for tourist accommodation state that new static and touring caravan sites, camping sites and chalet type accommodation or extensions to existing sites of this nature should be sited and screened through topography and/or vegetation to minimise visual impact. The materials and colours of the chalets or static caravans and associated site services and infrastructure should blend with its surroundings. All sites should have good access to the road and footpath network and will be subject to conditions to prevent the permanent occupancy of the site.
13. The proposal, given its scale and in this location is acceptable in principle in the context of Policy E4, subject to consideration against the specific criteria set out in the policy and other relevant policy and material planning considerations.

#### **b) Impact on visual amenity**

14. In terms of visual impact, the proposed chalets are of a modest scale and well-related to existing buildings and have minimal visual impact at site level or within the wider context, particularly given the additional landscaping proposed as well as the partial screening provided by existing buildings. Their design and appearance are of a form that will blend in with the surroundings.
15. Overall, subject to a planning condition to secure the proposed landscaping, the proposal is acceptable in respect of its impact on the visual amenities of the locality and complies with policies DC1, ENV3 and E4 in this regard.

#### **c) Impact on residential amenity**

16. The application site is approximately 115m south-east of a former brick and tile works. However, given the type of prefabricated buildings being applied for ground gas migration will not be an issue. Having reviewed the screening assessment submitted

with the application the Environmental Health Officer would not recommend attaching any conditions relating to contaminated land to any subsequent approval.

17. The layout and design of the development ensures that it can co-exist with the existing dwelling, ensuring no significant impact on residential amenity. As such the proposed development complies with policies DC4 and E4 in this regard.

#### **d) Highway safety**

18. Since the determination of the previous application, an unauthorised field access has been installed in the new boundary fencing. This is in the approximate location of a proposed second access, and whilst the applicant refers to this as being an existing access, it is important to note that it is not consented by the Local Highway Authority and does not have a suitably constructed access. The gate location having been a mature hedgerow until removed by the applicant in the early part of 2023.

#### **Access and Visibility**

19. Whilst the application is a retrospective one, it is considered from first principles, a safe means of access is the most fundamental planning consideration.
20. The previously refused application was refused based on the technical advice from the Council's Highways Engineer based on restricted visibility available from the existing lawful access, which demonstrates a visibility splay of 2.4 x 68m northwards based on the topographic survey base plan submitted by the applicant. This would equate to the nearest Design Manual for Roads and Bridges [DMRB] standard of 2.4 x 70m for a 30mph traveling speed. DMRB standards for 60mph 'National' speed limit roads, require visibility splays of 2.4 x 215m in each direction, unless it can be soundly evidenced that actual traveling speeds are significantly lower. Whilst generally it would be advised to undertake speed surveys to establish actual travelling speed if available visibility falls short of accepted standards, observed speeds past the access point were known to exceed 30mph, with speeds of 60mph being achievable in each direction from driven site surveys.
21. The available visibility from the access was therefore considered fundamentally unsafe and unsuitable for any intensification of use, with options to improve visibility not being practicable owing to the access location on the inside of a bend and being obstructed by the applicants own dwelling. Where such shortfalls and limitations are apparent and not practicable to mitigate, there is little benefit in advising the additional cost of a speed survey, and a recommendation to refuse on highway safety grounds would be default highways position.
22. Notwithstanding the above recommendation, before the 2022 application was determined, the applicant sought the advice of a Highways consultant and commissioned a speed survey to establish actual recorded traveling speeds in each direction. This speed survey data is also submitted as part of this new application and

provides a sound evidence base on which to determine actual site-specific visibility requirements from first principles in line with DMRB guidance.

23. The speed survey data provided by Streetwise (September 2022) recorded 85<sup>th</sup> percentile speeds of 54.2 & 58.4 mph Southbound and Northbound respectively (7-day average 85<sup>th</sup> percentile). The data was then used to calculate visibility requirements in each direction in accordance with DMRB standards. Actual required visibility has been calculated from a first principles basis, using DMRB methodology and in accordance with CD123 requirements. Based on this methodology, a visibility splay of 2.4m x 166m is required looking north and a visibility splay of 2.4m x 194m is required to the south.
24. The above values were agreed between the applicants then appointed Highways Consultant (TPS Consultants) and the Local Highway Authority. They represent *absolute minimum* requirements and are not necessarily a recommendation, when evidence demonstrates higher traveling speeds are apparent in free-flowing conditions. The captured survey data from Monday 19<sup>th</sup> September (Bank Holiday) 2022 shows an 85<sup>th</sup> Percentile speed of 58.2 mph southbound, which would determine that full DMRB requirements of 2.4m x 215m are required.
25. The lower values are therefore only considered acceptable (if demonstrated to be achievable) given that the development is of small scale and does not attract high daily vehicle movements. It should however be cautioned that weekday daily traffic flows are substantial at approximately 7000 vehicles per day (weekday).
26. For context and comparison, the Council's ATC data from July to September 2022 recorded 8100 vehicles per day on the A67 between Morton Palms and Middleton St George, whilst the A167 Croft Rd had daily flows of 8800 (weekday). Elstob Lane is therefore broadly comparable in daily flows to some 'A' Classification Roads within the Borough, carrying high daily flows and providing a movement function like that of a classified strategic road. This is primarily owing to the route offering a link north to the A1m at Junction 60 and having connectivity south to the A66. These factors and established recorded speeds place visibility requirements outside of the scope of Manual for Streets, which is established national guidance for urban environments and generally accepted to only be appropriate where speeds do not exceed 40mph.
27. Given the limitations of the existing access, the applicant seeks to secure a second lawful access from a point approximately 51m south of the existing. This access is to serve the tourist accommodation only, to separate the household vehicle movements from those associated with paying guests. The submitted proposed site plan (003 – MITIGATION PLAN) has the required minimum northward visibility splay of 2.4x166m appraised to both the existing and proposed access point and clearly demonstrates that the required sightlines are not deliverable from either access point, as they are obstructed by the walls of the host dwelling.
28. The location of the proposed new access offers very little benefit over the existing, owing to the host dwelling and location being close to the inside of a bend. The submitted drawing which is appraised to a topographical survey and therefore

considered to be accurate and reasonably absolute, indicates that visibility of 2.4 x 108m is the maximum achievable looking northwards. This would fall short of the DMRB requirement of 2.4 x 120m for 85<sup>th</sup> percentile speeds of 40mph and is therefore not in accordance with any acceptance guidance, given the 85<sup>th</sup> percentile speed is evidenced to be 54.2mph.

### **Drawing No 003 “Mitigation” Plan**

29. The plan has numerous elements which are further grounds for concern. Fundamentally the issue of visibility has not been addressed or perhaps even understood given that the visibility splays appraised to the drawing are clearly shown to extend through the applicants dwelling. To secure the required visibility, partial demolition of the dwelling would be required, which for the avoidance of any doubt, does not form part of the proposal. The implications of visibility splays through a building are obvious and would not meet the scrutiny of a road safety audit. Furthermore, the drawing is not framed correctly with the full extents of the claimed visibility splay to the south from the now retrospective field gate (2.4x194m) not being fully demonstrated.
30. Whilst not falling directly within the remit of planning considerations, being in public highway, it is important to highlight that some of the mitigation measures put forward are not considered to be implementable given that they do not meet other legislative requirements the Local Highway Authority has to comply with, namely the Traffic Signs and General Directions 2016 (TSRGD 2016) and the relevant Chapters of the Traffic Signs Manual (TSM Chapters 1-8).
31. Whilst brown ‘Tourist’ Signs are permitted under highway law, where approved by the Highway Authority, they must be suitably designed and installed in a safe location with all mounting requirements meeting passive safety requirements. Such signage would not be permitted for this site, as it does not meet the requirements of adopted policy: *Policy for The Provision of Tourist Direction Signs (‘Brown Signs’) 2012*, where the Highway Authority has a duty to reduce sign clutter on the network. The drawing also indicates that signage would be placed within a visibility splay and would be a further road safety concern.
32. The applicant has previously installed illegal signage in the highway at two locations within the Borough, whilst the signage located outside the application site was removed within a reasonable timescale, the second location has not yet been removed despite repeated requests. The Highway Authority does, however, have other powers to deal with such matters, should the remaining signage not be removed.
33. The proposed ‘Caution vehicles Emerging from a Concealed Entrance’ is not a prescribed sign in TSM or TSRGD 2016 and a such cannot be lawfully installed in public highway. Whilst similar signage was historically permitted and included within the TSM, Highway Authorities where legally obliged to remove all such signage when it was withdrawn from guidance. The onus is now on providing safe access and visibility though design.

34. Bend signs, Diagram 512, TSM Chapter 4 (warning Signs) advises that *“The sign should be used sparingly and only to indicate a bend hazard. It should not be used simply to allay local apprehension regarding the speed of traffic. Over-use of the sign could compromise its contribution to road safety and add to sign clutter”*. IT *“may be used to give advance warning of a bend which a driver might find difficult to negotiate without slowing down and the severity of which cannot easily be seen either by day or by night.”*
35. Given that the recorded 85<sup>th</sup> percentile speeds of 54mph, there is no clear evidence for the use of the sign where the severity of the bend does not require drivers to slow. TSM guidance advises that care should be taken to ensure that a route is signed uniformly, this would therefore be consistent with the rest of Elstob Lane which is not signed for other high-speed sweeping bends, but only on tighter radii which require drivers to slow.
36. The additional slow markings are primarily intended to make drivers aware of an upcoming bend(s) where a reduced speed is needed to travel safely. The empirical evidence provided by the applicant’s speed survey data, is clear evidence that this is not the case, and the use of such markings is not appropriate, and overuse of such markings reduces effectiveness. This raises questions over what material impact all the above measures would have on actual recorded traveling speed if implemented, given that Elstob Lane is already suitably signed and lined in accordance with the required DfT guidance.
37. Notwithstanding any decision which may be reached in the determination of this application, it is important to make all parties aware of the separate and distinct approvals required for offsite highway works. All works proposed outside of the applicant’s ownership will require the prior approval and consent of the Local Highway Authority under Section 278 of the Highway Act 1980. Given the concerns raised with the above plan, the associated signage and road markings would not be supported by the Local Highway Authority and would not be implementable by the applicant, given that they do not meet the requirements of The TSM or TSRGD 2016 which Highway Authorities are obligated to meet. In his recommendation, the Highway’s Engineer has therefore asked that this is taken into account in the determination of this application to the extent that the mitigation plan provided by the applicant cannot be fully implemented.

### **Speed Limit Reduction**

38. Given that retrospective planning consent is needed on a proposal which was subject to a previous refusal on highway safety grounds, the applicant is understandably asking us to consider any practicable means of providing safe access, including but not limited to a reduced speed limit of 50mph on Elstob Lane.
39. Speed limits should not be set based on the requirements of a planning application, retrospective or otherwise, rather the onus is on the applicant to demonstrate a safe means of access is possible. Notwithstanding this principle, the suitability of a reduced



speed limit has been considered, as a reduced speed limit may be supported where other criteria suggests that it is appropriate.

40. Highway Authorities are required to follow the Department for Transport Guidance published under DFT circular 'Setting Local Speed Limits' which advises that: "*The minimum length of a speed limit should generally be not less than 600 metres to avoid too many changes of speed limit along the route. Speed limits should not be used to attempt to solve the problem of isolated hazards, such as a single road junction or reduced forward visibility, for example, at a bend.*"
41. Adding an additional risk factor to the public highway, and the asking the Local Highway Authority to reduce speed is not considered an appropriate solution in this instance, and following discussion of the evidence presented was not supported by Councils Traffic Manager or Head of Network Management. This has been further addressed in a letter from the Councils Chief Executive to Paul Howell MP, which confirms the Council are not minded to reduce the speed limit, where available visibility is still below the requirements of a 50mph speed limit, this is not considered sufficient or appropriate mitigation.
42. The evidence put forward by the speed survey commissioned by the applicant shows that recorded 85<sup>th</sup> percentile speeds are between 54 & 55 mph. This is evidence that the 60mph national Speed limit is appropriate, and a reduction to 50mph would be likely to create non-compliance issues for the enforcing Authority, as 50mph is not considered a credible limit and is likely to have poor compliance. Signage alone, is not an effective means of reducing speed where the local highway is otherwise conducive to higher traveling speeds. Should the applicant have any further concerns regarding speeding or any other moving traffic offences, then this would be best raised with the Police at a local PACT meeting.
43. It is noted that many of the letters in support of the application seem to do so based on the belief that this application is a means for the applicant to secure a reduced speed limit of 50mph on Elstob Lane, however this is not the case.
44. A review of the most recent 5-year period, shows that there have been no recorded personal injury collisions associated with, or within the immediate vicinity of the application site. This would further evidence the existing 60 mph National speed limit is appropriate, and that there is no evidence base on which to warrant a reduced speed limit for highway safety reasons. The enforcing Police Authority must consider the best use of available resources for enforcement, which would typically be in areas of high rates of non-compliance, excess speed or evidenced accident history. Elstob Lane is unlikely to be a high priority on that basis.

### **Highways Analysis and Recommendation**

45. All works have thus far been undertaken by the applicant 'at risk' having neither planning or highways approval or having sought the appropriate advice prior to undertaking works. The submitted information refers to an improved access on multiple

documents and drawings but fails to demonstrate any substantive betterment, or evidence to support the claimed improvement in visibility.

46. Works to the boundary thus far have only provided a subjective aesthetic change and have not demonstrated improved visibility. Undoubtedly the site is now more conspicuous from the highway, given the removal of boundary wall and mature hedgerow, however this is not to be mistaken for achieving visibility from the access.
47. By virtue of the lawful access being in the same location and obstructed by Hazelfield Cottage, no betterment has been made to the available visibility. Whilst the wall has been removed this was not an effective means of increasing visibility, the increase in x distance (setback from the road) *reduces* available visibility from 68m to 52m when measuring from a x distance of 4.5m. It is also questionable as to why focus is on the existing access, given that the supporting information confirms that the applicant does not intend to make use of this access for access in association with the tourist accommodation business.
48. Regarding the proposed second access, whilst a field gate has been installed without the appropriate highway consent, the maximum achievable visibility northwards is just 2.4x108m. A significant shortfall over the absolute minimum requirement of 2.4x166m, as determined by speed survey data and way short of DMRB 60mph requirements of 2.4x215m. Again, visibility is restricted owing to the host dwelling and being located close to the inside of a bend.
49. The applicant has put forward a raft of means and measures, which clearly indicate that the site access is unsafe, however none of these measures do anything substantive to address the fundamental issue of limited visibility. In view of the evidence submitted by the applicant, the Highways Team would have little discretion in being able to recommend the application for approval, where there is clear evidence that visibility from both the existing and proposed access points fall short of minimum standards determined from recorded speed surveys.
50. Whilst it is acknowledged that trip generation associated with the development is not high, where visibility falls below required minimum standards, the severity of any collision is a serious concern given that most fatal collisions occur on high-speed rural roads. Whilst the LPA and LHA are required to support rural development where appropriate, the primary consideration in this instance must be the wider duty to ensure the safe operation of the public highway for all users. In accepting such a new access onto the public highway, DBC as overseeing authority must consider very carefully the balance of public benefit and highway safety.
51. Whilst the occupiers of Hazelfield Cottage and regular users of the existing access may be familiar with the risks associated with the local highway conditions, the users of tourist accommodation are unlikely to be fully aware of the potential risk of such an access. Whilst the proposed magnitude of development is modest, where daily weekday traffic flows of up to 7000 vehicles are evident, the road safety risk of insufficient visibility is increased significantly.

### **Further information submitted on 5<sup>th</sup> October 2023**

52. Since the initial information submitted and the first Highways Engineer response the applicant has submitted revised information in early October 2023 related to a recent radar speed survey and interpretation of visibility requirements based on Manual for Streets (MfS2) methodology. In this, the applicant has proposed a *further* reduction in visibility based on inappropriate design standards and submitted a revised drawing again with incorrectly drawn visibility splays.
53. As such the previous concerns have not been addressed and the applicant has failed to present any substantially new or relevant information as to why a reduction in visibility is applicable, or how concerns can be mitigated. In fact, the revised information provides further evidence that recorded 85<sup>th</sup> percentile traveling speeds exceed 50mph, and that visibility is significantly short of *the appropriate* national guidance (DMRB).

### **Speed survey data and application of appropriate visibility standards.**

54. Highway Authorities can use a variety of guidance, both local and national. Our own adopted local guidance is the Tees Valley Design Guide for Residential and Industrial Development (TVDG), however the scope of this only covers highways of up to 60kph design speed (37mph) and as such is only relevant for highways of a maximum speed limit of 40mph. The Highways Team would also recommend that nationally recognised standards should be applied where matters of dispute arise between applicants and the Planning Authority, as national guidance is usually considered to carry more weight if considered by the Planning Inspectorate as part of an appeal.
55. The TVDG is derived from the national guidance, Manual for Streets (MfS) which offers guidance primarily for urban environments with 30mph speed limits or lower. MfS was further expanded under MfS2 to include guidance on highways of higher categories, including potentially urban classified roads of up to and including 40mph where such road may form part of the strategic road network. There is however a clear and accepted cut-off where MfS principles are not applicable and Design Manual for Roads and Bridges (DMRB) should be applied, again this is where design speeds exceed 60kph (37mph) but is more broadly applied by Highway Authorities to speed limits exceeding 40mph, where DMRB guidance should be used.
56. The local highway environment at the application site falls unequivocally within the scope of DMRB guidance not Manual for Streets or Manual for streets 2 (MfS2). Elstob Lane is a highway of 'Movement' not 'Place' with the application site with just one other nearby property having direct access along a 4 miles of national speed limit road from between the A1150 and Great Stainton. The wider highway context joins two 'A' classification dual carriageway roads A1150 (south) and the (A689) which are immediate links to National Highways trunk roads, (A66 & A1m respectively) and as such Elstob Lane is used as a strategic link.

57. MfS2 emphasizes that Highway Authorities and designers should consider local context, and only apply DMRB where appropriate, not as a starting point for non-trunk roads. Whilst this approach is accepted and agreed where appropriate, the following guidance is taken directly from MfS2 **1.3 Scope of MfS** and offers specific guidance on where MfS is and is not appropriate (sections underlined for emphasis):

*‘Where designers refer to DMRB for detailed technical guidance on specific aspects, for example on strategic inter-urban non-trunk roads, it is recommended that they bear in mind the key principles of MfS, and apply DMRB in a way that respects local context. It is further recommended that DMRB or other standards and guidance is only used where the guidance contained in MfS is not sufficient or where particular evidence leads a designer to conclude that MfS is not applicable’.*

*‘Much of the research behind MfS1 for stopping sight distance (SSD) is limited to locations with traffic speeds of less than 40mph and there is some concern that driver behaviour may change above this level as the character of the highway changes. However, 40mph speed limits in built-up areas cover a wide range of contexts, from simple urban streets with on-street parking and direct frontage access to 2/3 lane dual carriageways. Furthermore, local context varies not only from street to street but also along the length of the street’.*

*‘Where a single carriageway street with on-street parking and direct access is subject to a 40mph speed limit, its place characteristics are more of a residential street or high street, with higher traffic flows, and may result in actual speed below the limit. It is only where actual speeds are above 40mph for significant periods of the day that DMRB parameters for SSD are recommended. Where speeds are lower, MfS parameters are recommended. Where there may be some doubt as to which guidance to adopt, actual speed measurements should be undertaken to determine which is most appropriate. (See Chapter 10 for SSD Guidance.’.*

This section provides guidance on SSDs for streets where 85<sup>th</sup> percentile speeds are up to 60kph (37mph). This will generally be achieved within 30mph limits and may be achieved in some 40mph limits.

58. With reference to chapter 10 (10.1.3) above, the following guidance clearly states that it is not applicable to speeds exceeding 60kph (37mph) and only covers SSD up to 60kph.

*‘Direct frontage access is common in all urban areas, including where 40mph speed limits apply, without evidence to suggest that this practice is unsafe. This is confirmed in TD41/95 (Annex 2 paragraph A2.10) which states that ‘in the urban situation there is no direct relationship between access provision and collision occurrence’. However, this is not true of rural roads (A2.5) where the research identified a ‘statistically significant relationship for collisions on rural single carriageways with traffic flow, link length and farm accesses’.*

59. Two speed surveys have been undertaken by independent highway consultants on behalf of the applicant, with a third publicly available speed survey associated with the

Byers Gil solar farm scoping being referenced. It is not clear if the applicant or the applicants' representatives have permission to reproduce this data, for purposes unrelated to its intended scope. Whilst it is not directly applicable to the application address, it provides further evidence that 85<sup>th</sup> percentile traveling speeds on Elstob Lane are higher than 50mph and therefore far exceed the 37mph scope of MfS2 methodology and that DMRB standards should be applied.

60. A radar speed survey was undertaken on behalf of the applicant, by NTPL for a short period between 09:20 and 15:00 on Thursday 7<sup>th</sup> September, which determines 85<sup>th</sup> percentile speeds in excess of 50mph with speeds of 51.6mph southbound and 51.2mph northbound respectively. Whilst this offers limited data capture owing to its short duration and timing 'off peak,' it is broadly consistent with the much more comprehensive 7-day speed surveys previously undertaken.
61. The 7-day speed survey initially commissioned by the applicant was provided by Streetwise (September 2022) and recorded 85<sup>th</sup> percentile speeds of 54.2 & 58.4 mph Southbound and Northbound respectively (7-day average 85<sup>th</sup> percentile). The data was then used to calculate visibility requirements in each direction in accordance with the appropriate DMRB standards. Actual required visibility was calculated from a first principles basis, using DMRB methodology and in accordance with CD123 requirements. Based on this methodology, a visibility splay of 2.4m x 166m is required looking north and a visibility splay of 2.4m x 194m is required to the south.
62. The revised visibility put forward by the applicant is just 2.4x118 in each direction albeit, not suitably appraised to the drawing. This falls just short of the DMRB requirements of 120m for 40mph traveling speeds and way short of the DMRB standards of 2.4x215m applicable to the 60mph speed limit and observed travelling speeds.
63. The previously accepted requirements for visibility splays of 2.4m x 166m to the north and 2.4m x 194m to the south are absolute minimums and represent a reasonable relaxation in standards, based on speed survey evidence and the level of use. However, this is not deliverable or achievable within land under the control of the applicant. To consider a further reduction is not appropriate and is directly contrary to the evidenced speed surveys provided by the applicant.
64. Notwithstanding the view put forward by the applicant's latest highway consultant, asserting that 2.4x118m visibility splays are appropriate on a rural 60mph road, the splays shown on the amended plan are not drawn correctly, as they do not extend from the 2.4m x measurement to the nearside kerblin.
65. Comprehensive advice was given to the applicant previously regarding offsite lining and signing works, the Highways Engineer has again highlighted that these concerns are not addressed, and the applicant still proposes non-prescribed signage within the public highway. Neither the applicant nor the Council in acting as Local Highway Authority can legally place such signage within the highway.

66. Notwithstanding any decision which may be reached in the determination of this application, it is important to reiterate as above and make all parties aware of the separate and distinct approvals required for offsite highway works. All works proposed outside of the applicant's ownership will require the prior approval and consent of the Local Highway Authority under Section 278 of the Highway Act 1980. Given the concerns raised with the submitted plan, the associated signage and road markings would not be supported by the Local Highway Authority and would not be implementable by the applicant, given that they do not meet the requirements of The TSM or TSRGD 2016 which Highway Authorities are obligated to meet. This is therefore a material consideration in the determination of this application.

### **Highway safety summary and conclusions**

67. In the context of the evidence presented, the Highways Engineer has recommended that the application is refused on grounds of highway safety, where achievable visibility standards fall below the nationally recognised standards, applicable to high-speed rural roads (DMRB). Whilst the existing access serves just a single dwelling, this is an historic access and not considered suitable for intensification of use associated with the proposed business. The Local Highway Authority would not accept the road safety risk associated with the proposed new access, where clear evidence shows insufficient visibility on a high-speed national speed limit road with high daily traffic flows.

68. In summary the evidence submitted by the applicant clearly demonstrates that visibility standards in accordance with national guidance are not achievable. The Highways Engineer recommends that the application is refused on grounds of highway safety where the Highway Authority has a primary duty to ensure that development is not prejudicial to highway safety.

69. In view of the above, the proposed development would not meet the requirements of policy DC1 and E4 by reason of fundamental highway safety concerns.

### **e) Nutrient Neutrality**

70. Natural England together with the Department for Levelling Up, Housing and Communities (DLUCH) announced on 16<sup>th</sup> March 2022 that the administrative area of Darlington Borough Council is now located within the catchment area of the Teesmouth and Cleveland Coast Special Protection Area. Under the Habitats Regulations, those planning authorities falling within the catchment area must carefully consider the nutrients impacts of any projects, including new development proposals, on habitat sites and whether those impacts may have an adverse effect on the integrity of the site that requires mitigation.

71. This impacts on all planning applications, both existing and proposed, which relate to primarily all types of overnight accommodation, such as new dwellings, care homes, student accommodation, holiday accommodation etc. and impacts all developments for one dwelling upwards. It also affects other applications where development may

impact upon water quality, including those seeking to discharge planning conditions relating to foul and surface water drainage for a range of development proposals.

72. The applicant has used Natural England's Nutrient Budget Calculator tool for the River Tees catchment to establish a nutrient budget for the proposal. The assumptions and inputs used by the applicant within the calculator are now considered by the Competent Authority to be satisfactory and are an accurate reflection of the site and its location. The proposal for 3 lodges would not increase the total annual nitrogen load.
73. This figure was arrived at by incorporating a wider area of land into the site red line boundary than had been previously. This is lowland grazing and will be changed to greenspace. A condition must be applied to any permission granted ensuring that prior to the occupation of any lodge the greenspace is in place and a management plan, including the long-term design objectives, management responsibilities and maintenance schedules for all areas of greenspace shall be submitted to and approved in writing by the Local Planning Authority. The condition will also need to ensure that the management plan specifies that no fertilisers are to be used on the land and appropriate measures are in place for dog waste if applicable.
74. The applicant has also stated that wastewater will be treated via a Graf Small Wastewater Treatment System – One2clean which has a treatment efficiency of 87% and will produce 7.9mg/l of total nitrogen. A condition is required to ensure that this specific wastewater treatment system is installed to treat wastewater from the proposed development.
75. Officers have completed a Screening and Appropriate Assessment as required by the Habitat Regulations. This assessment has found that through the use of appropriate conditions there is a sufficient likelihood that mitigation measures measure can be secured at the necessary points in time to adequately mitigate the effects of the proposal and ensure the proposed development will not result in an increase in nitrogen reaching the Teesmouth and Cleveland Coast SPA. So, it can be concluded that the proposal will not adversely affect the integrity of the Teesmouth and Cleveland Coast SPA and meets the relevant Habitat Regulations, subject to conditions as set out above.
76. Prior to issuing a decision on this application in accordance with regulation 63 of the Conservation of Habitats and Species Regulations (2017) Natural England must be consulted on the Screening and Appropriate Assessment. A response must then be received from Natural England confirming they have no objection to the proposed development provided that all mitigation measures are appropriately secured in any planning permission and that a management plan is included for this. To date, Natural England have raised some concerns regarding the implementation and monitoring of the proposed mitigation techniques and have therefore, at the time of writing, not agreed with the conclusions of the Appropriate Assessment. Discussions are on-going and a verbal update on this issue will be provided at Planning Committee.

## **f) Ecology**

77. An Ecology assessment and Biodiversity net gain assessment was submitted in support of the application. The Ecological assessment concludes that the site is generally of low ecological value and that the overall impacts of the development are minimal, the main impacts considered to be the loss of grassland which may have been used on occasion by foraging amphibians, priority species and to a lesser extent bats and birds. The report recommends mitigation, compensation, and enhancement in the form of:

- External lighting that may affect the site's suitability for bats will be avoided, and lighting should be avoided close to the hedgerow and line of trees. If required this will be limited to low level, avoiding use of high intensity security lighting.
- The hawthorn hedgerow should be planted up with native woody species to improve its value.
- The grassland should be seeded with a species rich seed mix of local provenance, avoiding the use of a seed mix dominated by perennial rye grass to achieve g3c – other neutral grassland.
- The installation of two bat and bird boxes on trees or buildings within the site land holding as a biodiversity enhancement.

78. The submitted net gain assessment concludes that the development impact results in a net loss of 0.55 units but that the upgrading of grassland as detailed above, will compensate and result in an overall net gain in biodiversity.

79. The above mitigation, compensation and enhancement measures could be required by an appropriately worded condition and subject to this, the proposal would comply with policy ENV7 and ENV8 in this regard.

## **g) other matters**

80. The information submitted in support of the application, including the use of local services and supplies and the employment created by the development is noted, however this does not outweigh the technical highway safety concerns raised by the Highways team and the prejudicial impact of the development on highway safety.

81. To clarify the retrospective nature of the application, the applicant sets out that they were unable to get in touch with the planning team during Covid when officers were working from home, which was a call they were making before constructing the lodges. This is noted; however, it should be noted that service levels of the planning team were not affected during Covid save that each officer carried out their working duties at home rather than from the office. Officers had full access to all forms of communication such as telephone and email and there are no records of any issues with contacting the team either directly or via the Contact centre, nor has the team had any similar feedback from other customers.



82. The supporting information goes on to claim that the applicant then spoke to a Council officer who advised her over the phone, that the buildings do not require planning permission, which resulted in the development being implemented unlawfully. It should be noted that planning officers do not give such advice over the phone, and if speaking to a planning officer, the applicant would not have been given this information. It should however be noted that, contrary to the above, the Design and Access statement notes that the applicant was advised incorrectly by 'other parties'.
83. Nevertheless, whilst the background provides some context, this carries no weight in the determination of the application which focusses solely on whether the proposal is acceptable or not taking into account the relevant policies and technical considerations.

## **CONCLUSION AND RECOMMENDATION**

84. Whilst it is noted that it is acceptable in respect of visual and residential amenity and biodiversity, the proposed development is prejudicial to highway safety by reason of the creation of an additional access for the associated traffic generation which does not include a safe level of visibility. No evidence has been provided by the applicant to demonstrate that visibility standards in accordance with national guidance are achievable. The proposed development conflicts with Policy DC1 (Sustainable Design Principles and Climate Change) and Policy E4 (Economic Development in the Open Countryside) of the Darlington Local Plan 2016-2036 and the National Planning Policy Framework. The economic benefits of the proposal have been considered in the determination of the application; however, these do not outweigh the technical highway safety concerns as set out within this report.
85. Accordingly, it is recommended **THAT PLANNING PERMISSION BE REFUSED FOR THE FOLLOWING REASON(S)**

The proposed development is prejudicial to highway safety by reason of the creation of an additional access for the associated traffic generation which does not include a safe level of visibility. No evidence has been provided by the applicant to demonstrate that visibility standards in accordance with national guidance are achievable. The proposed development conflicts with Policy DC1 (Sustainable Design Principles and Climate Change) and Policy E4 (Economic Development in the Open Countryside) of the Darlington Local Plan 2016-2036 and the National Planning Policy Framework.