

DARLINGTON BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 7th May 2025

APPLICATION REF. NO:	24/01004/RM1
STATUTORY DECISION DATE:	9 th December 2024 (EOT 9 th May 2025)
WARD/PARISH:	PARK EAST
LOCATION:	Land At 10 Chatsworth Terrace, Darlington DL1 5DH
DESCRIPTION:	Application for reserved matters approval relating to access, appearance, landscaping, layout and scale for the erection of 2 No. dwellings attached to outline permission 21/00797/OUT dated 29 October 2021 (Outline planning permission with all matters reserved for residential development of up to 3 dwellings with all matters reserved) (Amended site / landscaping plan received 20th January 2025)
APPLICANT:	MR WELCH

RECOMMENDATION: GRANT RESERVED MATTERS SUBJECT TO CONDITIONS (see details below)

Application documents including application forms, submitted plans, supporting technical information, consultations responses and representations received, and other background papers are available on the Darlington Borough Council website via the following link:

<https://publicaccess.darlington.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=SLCRAOFPN1400>

APPLICATION AND SITE DESCRIPTION

1. The application site is situated to the west side of Chatsworth Terrace, which lies in a predominantly residential area to the south of the town centre. Allotments are situated immediately to the west and south of the site, to the north is the existing property of 10 Chatsworth Terrace, a two-storey residential dwelling, and to the east is the highway, with neighbouring terraced dwelling houses beyond. The Grade II registered Park and

Garden, South Park, is situated to the south, beyond the allotments. The immediate area consists of a mix of two storey, traditional terraced and semi-detached dwellings.

2. Outline planning permission was granted in October 2021 (21/00797/OUT) with all matters reserved for residential development of up to 3 dwellings.
3. A Reserved Matters application relating to appearance, landscaping, layout, access and scale for the erection of 3 No. dwellings (24/00076/RM1) was refused under delegated powers in June 2024 for the following reason:

The proposal fails to provide adequate parking provision as required by condition on the outline approval. The proposal, by reason of its scale, design, and appearance, fails to have regard to and respond positively to the local context and the character of the area and will have a resulting negative impact on the character and appearance of the street scene. For the above reasons, the proposal conflicts with policies DC1 and IN4 of the Darlington Local Plan 2016-2036.

4. Further to the above refusal, the applicant has reconsidered the proposal and now puts forward the current application for consideration, which includes a reduction in the number of dwellings to two semi-detached dwellings, to address the issues previously raised and to provide a development compliant with policy. The application again seeks approval for appearance, landscaping, layout, access and scale, which are addressed in the following sections of this report.
5. This submission is solely to consider those matters within the scope of condition 1 of the outline permission relating to access, layout, scale, appearance and landscaping. 17 other conditions were attached to the outline consent dealing specifically with the following matters, and these are to be considered through the mechanism of discharge of condition applications at the appropriate time.
 - i) Details of external materials.
 - ii) Implementation of landscaping scheme.
 - iii) Details of parking.
 - iv) Details of in-curtilage parking spaces for 10 Chatsworth Terrace.
 - v) Construction Management Plan
 - vi) Standard construction / delivery time conditions.
 - vii) Details of secure cycle parking and storage.
 - viii) Phase 1 Preliminary Risk Assessment.
 - ix) Phase 2 Site Investigation Strategy.
 - x) Phase 2 Site Investigation Works.
 - xi) Phase 3 Remediation and Verification Strategy.
 - xii) Further contamination discovered during construction.
 - xiii) Details of finished floor levels.
 - xiv) Details of boundary treatment.
 - xv) Details of measures to secure Biodiversity net gain.

6. **Although the issues as covered by planning conditions are clearly interrelated, the separate mechanism to agree the technical details subject of the other planning conditions, should be noted and is not for specific consideration as part of the reserved matters submission and the discharge of these conditions should not prevent the approval of the reserved matters submission which deals solely with matters of access, layout, scale, appearance and landscaping.**

MAIN PLANNING ISSUES

7. The issues for consideration relate only to the reserved matters set out in condition one of the outline planning permissions, (21/00797/OUT) under which the principle of the development of the site is established. These are:
- a) Access
 - b) Layout
 - c) Scale
 - d) Appearance
 - e) Landscaping
8. Interrelated with the above issues are the following consideration.
- f) Impact on heritage assets
 - g) Residential Amenity
9. In the light of the later issue of nutrient neutrality brought about by the designation of the Teesmouth and Cleveland Coast Special Protection Area, the following issue is also relevant.
- h) Nutrient Neutrality

PLANNING POLICIES

10. The site has outline consent as above and therefore the issue of the principle of the development is not for consideration. The following policies are relevant in the determination of this application.

National Design Guide (2019)

Local Plan (2016-2036)

SD1: Presumption in Favour of Sustainable Development

DC1: Sustainable Design Principles and Climate Change

DC3: Health & Wellbeing

DC4: Safeguarding Amenity

ENV1: Darlington's Historic Environment (Strategic Policy)

ENV3: Local Landscape Character

ENV7: Biodiversity & Geodiversity & Development

ENV8: Assessing a Development's Impact on Biodiversity

IN4: Parking Provision including Electric Vehicle Charging

Design of New Development Supplementary Planning Document (SPD) (2011)

RESULTS OF TECHNICAL CONSULTATION

11. No objections in principle have been raised by the Council's Highways Engineer, Transport Policy Officer Environmental Health Officer, Ecologist and Natural England, subject to conditions.

RESULTS OF PUBLICITY AND NOTIFICATION

12. Four objections have been received from residents raising the following concerns:
 - Impact on residential amenity, loss of light to outdoor areas, impact on privacy, noise pollution.
 - Highway safety / parking issues.
 - Impact on heritage assets.
 - Impact on character of the area.
 - Impact on ecology.
 - Flooding issues.
 - Construction disruption.
13. Other matters raised regarding impact on value of property and restriction of views are not material planning considerations and have therefore not been taken into account in the consideration of this proposal. Also raised is the issue of potential damage to foundations. This is noted however there is no evidence to suggest that this will occur, and this matter can be adequately dealt with by other mechanisms including the Building Regulations and the Party Wall Act.

PLANNING ISSUES/ANALYSIS

a) Access

14. Access in planning legislation is defined as the accessibility to and within the site, for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network; where "site" means the site or part of the site in respect of which outline planning permission is granted or, as the case may be, in respect of which an application for such a permission has been made.
15. Access to the site is taken from Chatsworth Terrace, which is consistent with the outline permission and the other properties in the locality.
16. Having considered the previously refused proposal from a Highway Safety perspective it was apparent that the constraints of the site were only able to accommodate a

maximum of two dwellings without being prejudicial to the discharge of other specific conditions, particularly those related to in curtilage parking provision. (Conditions 6 & 7 of outline approval 21/00797/OUT) require that adequate parking is provided for both the new dwellings and to ensure adequate parking for No 10 Chatsworth Terrace.

17. The Highways Engineer is now satisfied that the revised RM submission is not prejudicial to the discharge of Conditions 6 & 7. An issue was raised by the adjacent landowner regarding land ownership which may have prevented the discharge of the above conditions, however the applicant has provided information to demonstrate that they are in control of the land concerned and therefore that the relevant conditions are capable of being discharged.
18. It is noted that cycle parking is conditioned as part of the original outline consent so is not for consideration as part of this planning application but instead will be dealt with by discharge of the relevant planning conditions at the appropriate time.
19. In conclusion, officers consider the details of access to the development is acceptable, compliant with the outline consent and the relevant policies as set out above.

b) Layout

20. Layout in planning legislation is defined as the way in which buildings, routes and open spaces within the development are provided, situated, and orientated in relation to each other and to buildings and spaces outside of the development.
21. The orientation of the dwellings and the related open space reflects the layout and orientation of nearby buildings and open spaces. As above, the amended scheme demonstrates how the applicant intends to address the parking requirements subject of condition 7.
22. In conclusion, officers consider the layout of the development is compliant with the outline consent and promotes a high-quality design that responds appropriately to the character of the area, in accordance with the policies listed above.

c) Scale

23. Scale, in planning legislation, is defined as the height, width and length of each building proposed within the development in relation to its surroundings.
24. The scale of the proposed development is now considered to be sympathetic to its surroundings. The height of the new dwellings are consistent with those immediately adjacent to the site and the depth is acceptable, broadly consistent with other plots in the locality. Whilst deeper than the plot immediately adjacent, the depth proposed is within acceptable limits. The dwellings will sit comfortably within their surroundings and will have an acceptable impact on the visual amenities of the locality.

25. In conclusion, officers consider the scale of the development is acceptable and promotes a high-quality design that responds appropriately to the character of the area, in accordance with the policies listed above.

d) Appearance

26. Appearance, in planning legislation, is defined as the aspects of a building or place within the development which determine the visual impression the building or place makes, including the external built form of the development, its architecture, materials, decoration, lighting, colour and texture.
27. Elevations have been provided which demonstrate the external appearance of the proposed dwellings. The amended proposal now has regard to context in terms of design and appearance of nearby dwellings, such that the structures will now sit comfortably within the street scene. The proposal includes pitched roof with forward projecting two storey gables with exposed cills and lintels. External materials in terms of the brick type and roof tiles, were required by virtue of condition 4 of the outline approval and so will be considered via this separate mechanism at the appropriate time.
28. In conclusion, officers consider the appearance of the development is acceptable, promoting a high-quality design that responds appropriately to the character of the area in accordance with the relevant policies as set out above.

e) Landscaping

29. Landscaping, in planning legislation, is defined as the treatment of land (other than buildings) for the purpose of enhancing or protecting the amenities of the site and the area in which it is situated and includes: screening by fences, walls or other means; the planting of trees, hedges, shrubs, or grass; the formation of banks, terraces or other earthworks; the laying out or provision of gardens, courts, squares, water features, sculpture or public art; and, the provision of other amenity features.
30. The proposal has sought to provide some landscaping to the front in the form of box hedging, to soften the development within the street scene. Whilst this is limited in terms of its amount, this is due to the need to provide parking provision and is proportionate.
31. Amenity space to the rear garden is provided, which includes the planting of 7 No. native trees and shrubs and a native hedge which includes Hawthorn, Blackthorn, Alder, Cherry and Spindle. The landscaping scheme was submitted alongside a basic management plan. Integral bird and Bat boxes are also proposed.
32. The proposed landscaping scheme is considered appropriate and proportionate to the development proposed.

33. Details of boundary treatment are included within the submitted plans; these are shown as a 1.8m high hedgehog friendly timber fence to the rear / side amenity areas. The details of boundary treatment were required by virtue of condition 19 of the outline approval and so final details of these will be dealt with via that separate mechanism, however the proposed boundary treatment is considered appropriate.
34. In conclusion, officers consider the landscaping of the development is acceptable, offering suitable mitigation and promoting a high-quality design that responds appropriately to the character of the area in accordance with the relevant policies as set out above.

f) Impact on heritage assets

35. To south of the site lies the Grade II Registered Park and Garden, South Park. At outline stage, the principle of a development on the site was established. Due to the limited visibility of the site and the nature of the site within an existing built-up area of which the development will be seen in the context of, it is not considered that the proposal would have a harmful impact on heritage assets. This position is reinforced by the significant amendments made to the previously refused scheme, in terms of scale, design and appearance, which allow the buildings to sit comfortably within their surroundings.
36. In view of the above, the proposed development is acceptable in terms of impact on heritage assets and is in accordance with the relevant policies as set out above.

g) Residential amenity

37. Officers consider the position and orientation of the proposed dwellings, and the degree of separation between properties both within, and existing dwellings out with the development site, to be acceptable and in accordance with the guidance set out in the Design SPD. It is noted that the introduction of new dwellings will create some intervisibility between rear amenity areas, however this is normal within a residential area, and replicates the situation with other nearby sites, and although there is a difference in ground levels, lower level intervisibility can be adequately controlled through appropriate boundary treatment as part of the relevant planning condition. Also noted is that the new dwellings are deeper than those most closely related to the north. This is mitigated by the degree of separation between the dwellings and is again considered to be within acceptable limits.
38. Issues of land contamination and construction impacts were covered by planning conditions on the outline permission and will be dealt with by the separate mechanism of a discharge of condition application at the appropriate time.
39. In view of the above, the proposal would not result in harm to the amenity of neighbouring occupiers or future occupiers of the proposed dwellings, in accordance with the relevant policies listed above.

h) Nutrient Neutrality

40. The application site is located within the River Tees Catchment Area and is therefore subject to the guidance issued by Natural England on the 16th of March 2022 in respect of the unfavourable condition of the Teesmouth and Cleveland Coast Special Protection Area (SPA), Ramsar Site and associated Sites of Special Scientific Interest.
41. The Teesmouth and Cleveland Coast protected area is a wetland habitat comprising an area of complex of coastal habitats centred on the Tees estuary and include habitats such as sandflats, mudflats, rocky foreshore, saltmarsh, sand dunes, wet grassland and freshwater lagoons. These habitats support internationally important populations of breeding and nonbreeding waterbirds including but not limited to breeding Little Tern (A195), passage Sandwich Tern (A191), wintering Red Knot (A143), Redshank (A162) and Ringed Plover (A136) as well as a significant assemblage of wintering waterbirds and high density of benthic invertebrates.
42. The Conservation objectives for the SPA are to ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the aims of the Wild Birds Directive, by maintaining or restoring;
- The extent and distribution of the habitats of the qualifying features
 - The structure and function of the habitats of the qualifying features
 - The supporting processes on which the habitats of the qualifying features rely
 - The population of each of the qualifying features, and,
 - The distribution of the qualifying features within the site.
43. The Natural England Teesmouth and Cleveland Coast Special Protection Area/Ramsar Evidence Pack August 2022 (TIN204) confirms that this protected area is currently in an unfavourable condition due to nutrient enrichment, which includes pollution from nitrates, including Nitrogen.
44. Regulation 63 of the Conservation of Habitats and Species Regulations (2017) requires Darlington Borough Council (as the Competent Authority) prior to giving permission for any plan/project that is likely to have a significant effect on a European site (either alone or in combination with other plans/projects) to undertake an appropriate assessment of the implications of the plan/project for that site in view of that site's conservation objectives.
45. Regulation 75 of the Conservation of Habitats and Species Regulations (2017) also states that it is a condition of any planning permission granted by a general development order made on or after 30th November 2017, that development which is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and is not directly connected with or necessary to the management of the site, must not be begun until the developer has received written notification of the approval of the local planning authority.

Population Growth and Average Occupancy Rate

46. During the introduction of Nutrient Neutrality into the River Tees catchment in March 2022. Natural England's guidance recommends that, as a starting point, local planning authorities should consider using the average national occupancy rate of 2.4 persons per dwelling as calculated by the Office for National Statistics (ONS). A standard calculator produced by Natural England works off such an assumption.
47. On behalf of the Tees Catchment, Stockton on Tees Borough Council commissioned ORS to consider the weight to be placed on that assumption and prepare a local evidence-based review of the relationship between population growth and provision of new homes within the River Tees catchment to ensure that a suitable robust and evidence-based approach can be taken.
48. Based on local evidence, ORS concluded that the resident population living in the Tees Catchment increased by 24,800 persons over the intercensal period 2011 to 2021 and the housing stock increased by 41,000 dwellings, equivalent to an average gain of 0.60 persons per dwelling across the area. Allowing for natural population change and a reduction of residents living in communal accommodation this increased the average to 0.71 persons per dwelling.
49. Justification is given by ORS that within the Tees catchment, many of the people occupying new homes would have already been residents living within the local area and would therefore not have added to the number of people living in the area. Had these new homes not been provided, it is unlikely that this would have had any material impact on the natural population change – there would still have been broadly the same number of births and deaths recorded over the decade.
50. However, despite the internal migration within the Tees catchment, it is also acknowledged that there is variation between each authority and therefore an individual figure will be adopted by each of the various Tees Catchment Authorities.

Local population growth in Darlington

51. In determining the figure to be used to assess population growth arising from new dwellings with Darlington Borough, the Local Planning Authority has been mindful of the requirement of the Habitat Regulations and the need to employ a precautionary approach to ensure that the methodology taken is both reasonable and would prevent an impact on the SPA.
52. Although it is noted that within the 2011-2021 baseline period each new dwelling within Darlington yielded an average of 0.64 persons per dwelling, applying a sensitivity test of +10% would increase that growth to a figure of 0.77 (figures 7 and 8 of the ORS report) which is less precautionary than the adopted Local Plan's gain over the Plan period of 0.98 persons per dwelling.

53. The research shows that for the Borough if we used the baseline period of 2011-2021 it would show an increase of 0.64, whilst the highest 5-year average would show an increase of 1.1 per dwelling. Due to the recent accelerated growth, which was partly down to a period of constraint, suggests the highest 5-year average is not a resilient figure and a more appropriate approach would be to use the recently adopted annual housing requirement as indicated in the Local Plan which indicates a gain of 0.98 persons per dwelling.
54. Consequently, rather than simply apply a 10% buffer to the average population growth, Darlington Borough Council have in line with the Habitat Regulations opted to follow a precautionary approach (which will be subject to future reviews) and have resolved to use the figure of 0.98 persons per dwelling derived from the 'adopted annual housing requirement' in the Darlington Borough Local Plan with a 10% buffer applied.
55. It is considered that such an approach gives a robust evidenced based approach and that a local population growth figure of 1.1 persons per dwelling for Darlington is more appropriate than Natural England's 'starting point' of 2.4 persons per new dwelling.

Screening assessment

56. The Screening Assessment requires the Local Planning Authority as the Competent Authority to consider and conclude whether the potential for likely significant effects to the Teesmouth and Cleveland Coast SPA/Ramsar designated features can be excluded for this planning application. If they cannot, the LPA must make an Appropriate Assessment (AA) of the implications of the development for that site, in consideration of the affected sites conservation objectives.
57. The information required to enable the LPA to undertake the screening assessment and where necessary appropriate assessment is provided by:
- Nutrient Budget Calculator (18 November 2024)
 - Nutrient Neutrality Assessment (18 November 2024)
 - Nitrate Assessment MoU (13 November 2024)
 - Nitrate Allocation Agreement (13 November 2024)
 - Habitat Management Plan (13 November 2024)
 - Section 106 Agreement – Mitigation Land (30 January 2025)
 - Agents Responses to Nutrients Queries (13 December 2024)
58. This information provided by the applicant is now considered sufficient to enable the Local Planning Authority as the Competent Authority to fully consider the impacts of the development proposal on Teesmouth and Cleveland Coast SPA/Ramsar.
59. The submitted nutrient budget calculator demonstrates that the proposals will increase the nitrogen arising from the development and consequently it cannot be ruled out at the screening stage that this development will not have a likely significant effect on the Teesmouth and Cleveland Coast SPA/Ramsar. An appropriate assessment needs to be

undertaken. Mitigation measures cannot be considered at the Screening Stage but should be considered as part of an Appropriate Assessment.

Appropriate Assessment

60. The applicant has used Natural England's Nutrient Budget Calculator tool for the River Tees catchment to establish a nutrient budget for the proposal. Following consideration and amendment the assumptions and inputs used by the applicant within this calculator are now considered satisfactory and are an accurate reflection of the site and its location.
61. This proposal for 2 net additional dwellings would increase the total annual nitrogen load arising by 3.12kg per year.
62. As a nitrogen surplus would arise, the applicant has accepted that mitigation would be necessary to avoid likely significant effects. Informed by the Nutrient Budget Calculator Tool the applicant proposes to mitigate this nitrogen surplus by;
63. Purchasing 3.12 credits from a Nutrient Mitigation Land Scheme run by Biomark which is equivalent to the surplus nitrogen of 3.12kg that needs to be mitigated. The applicant has provided a Nitrate Allocation Agreement obtained from Biomark confirming the reservation of the credits solely for the applicant. They have also provided a Memorandum of Understanding identifying the particular area of mitigation land to be used for this proposal along with the Section 106 agreement which legally secures the lands use for mitigation purposes along with the Habitat Management and Monitoring Plan setting out how the land will be monitored and managed to ensure the land continues to mitigate the impact of the development proposal in perpetuity.
64. Following detailed consideration of this information it is now considered sufficient evidence has been provided to confirm this particular mitigation proposed is robust and achievable and appropriately located within the Tees catchment. A pre-occupation condition will be required to ensure that the required and necessary mitigation is secured and in place. This should set out that prior to the occupation of the proposed dwellings the countersigned Final Allocation Agreement needs to be provided to the Local Planning Authority demonstrating that the credits have been purchased and the necessary mitigation secured and is in place.
65. The Competent Authority considers this a form of mitigation in keeping with Natural England guidance.

Appropriate Assessment Conclusion

66. This assessment has found that the proposed mitigation measures would adequately mitigate the effects of the proposal and ensure the proposed development will not result in an increase in nitrogen reaching the Teesmouth and Cleveland Coast SPA.

67. 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.
68. Prior to issuing a decision on this application in accordance with regulation 63 of the Conservation of Habitats and Species Regulations (2017) Natural England must be consulted on this Screening and Appropriate Assessment. A response must then be received from Natural England confirming they have no objection to the proposed development provided that all mitigation measures are appropriately secured in any planning permission. This process has now been completed and the 'no objection' received from Natural England.

THE PUBLIC-SECTOR EQUALITY DUTY

69. 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

70. The RMA is submitted to discharge the Condition 1 requirement and has been made in full accordance with the parameters set out in the Outline Consent, including the approved plans. The proposed details in respect of access, layout, scale, appearance and landscaping, are considered to be acceptable and in accordance with the relevant policies as set out above.
71. Accordingly, it is recommended that reserved matters relating to details of access, appearance, landscaping, layout, and scale pursuant to outline planning permission 21/00797OUT BE APPROVED subject to the following conditions:
1. Unless otherwise confirmed in writing by the Local Planning Authority, the development hereby approved should be carried out in accordance with the following plans:

R301 S10A Site location plan
R301 SK200D Site plan / landscaping
R301 SK201B Proposed floor plans
R301 SK210 Proposed elevations

REASON - To ensure the development is carried out in accordance with the planning permission.
 2. Prior to the first occupation of the development, written confirmation, in the form of a countersigned Final Allocation Notice or otherwise, that 3.12 Nutrient Credits have been purchased 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