

## DARLINGTON BOROUGH COUNCIL

### PLANNING APPLICATIONS COMMITTEE

**COMMITTEE DATE: 27 August 2025**

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<b>APPLICATION REF. NO:</b>	25/00081/FUL
<b>STATUTORY DECISION DATE:</b>	8 <sup>th</sup> April 2025 (EOT 29 <sup>th</sup> August 2025)
<b>WARD/PARISH:</b>	SADBERGE & MIDDLETON ST GEORGE
<b>LOCATION:</b>	2- 5 Flat Hill Close Sadberge Darlington DL2 1FN
<b>DESCRIPTION:</b>	Change of use from paddock to be included in domestic curtilage of 4 No. dwellings with erection of 1.1m high boundary fence (Retrospective Application)
<b>APPLICANT:</b>	MR ADAM ADAMSON

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#### APPLICATION AND SITE DESCRIPTION

**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=SQLOIEFPLGE00>

1. The application site comprises 4 properties within a residential development, nearing completion, to the east of Middleton Road, to the south of Sadberge. The residential development comprising 25 dwellings, approved under 17/00358/FUL with a subsequent variation (20/00607/FUL) is within the development limits and is identified as a housing commitment in the Local Plan. The northern part of the site is situated within the southern extent of the Sadberge Conservation Area. A small strip of land to the east of the existing housing commitment and included within the application site, is beyond the development limits and considered to be open countryside for the purposes of planning policy.
2. This is a retrospective application for the change of use of the strip of paddock land to form part of the approved gardens for numbers 2 -5 Flat Hill Lane, which are all detached 2-storey, 4-bed properties. The strip of land in question extends to some 3m

back from rear of the originally approved gardens. The application states that the reason for the proposed development is to provide larger gardens for the dwellings, more proportionate to the size of the properties they are serving. Boundary treatment, already in place, consists of a 1.1m high timber post and rail fence with wire mesh panels.

3. A separate retrospective application which proposes the extension of the rear garden of 1 Flat Hill Close, adjacent to the application site, in the same manner, is included elsewhere on the agenda under reference number 25/00072/FUL.

## **MAIN PLANNING ISSUES**

4. The main issues for consideration are:
  - (a) Impact on heritage assets
  - (b) Visual and residential amenity
  - (c) Ecology
  - (d) Other matters

## **PLANNING POLICIES**

5. There are no specific policies that govern the extension of gardens into the open countryside. The development is considered acceptable in principle subject to compliance with the policies listed below, specifically in reference to impact on visual and residential amenity, ecology, landscape character and heritage assets.

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

SD1: Presumption in Favour of Sustainable Development

DC1: Sustainable Design Principles and Climate Change

DC4: Safeguarding Amenity

H3: Development Limits

H7: Residential Development in the Countryside

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

ENV3: Local Landscape Character

ENV7: Biodiversity & Geodiversity & Development

ENV8: Assessing a Development's Impact on Biodiversity

## **RESULTS OF TECHNICAL CONSULTATION**

6. No objections have been raised by the Council's Highways Engineer or Ecologist, subject to conditions.

## **RESULTS OF PUBLICITY AND NOTIFICATION**

7. Two letters of objection have been received from residents, raising the following concerns:

- Will set a precedent for other new house owners, allowing them to purchase extra land from the developer, to extend their properties.
  - Will introduce an irregular feature to the rear of the development, creating an inconsistent boundary encroaching onto open countryside.
  - Within the Conservation Area.
8. It should be noted that one of the objections raises concerns regarding the number of unsold houses already available in the village. This is not relevant to the determination of the application, which relates to alterations to existing dwellings rather than proposing additional dwellings.
9. Sadberge Parish Council has objected to the application, raising the following concerns:
- Will set a precedent.
  - Outside of development limits.
  - Within the Conservation Area.
  - Will reduce green space and habitat.
  - Is out of character and an eyesore.
10. It should be noted that one of the concerns raised by Sadberge Parish Council is that the proposal breaches planning control in terms of the original proposals by virtue of being a retrospective application. It should be noted that its status of being a retrospective application is not a consideration in the determination of the application. The purpose of a retrospective planning application is to regularise the development and remedy the breach by obtaining planning permission. The application should be determined on its planning merits only.

## **PLANNING ISSUES/ANALYSIS**

### **a) Impact on heritage assets**

11. Being partially within the Sadberge Conservation Area, the applicant commissioned a Heritage Assessment.
12. The assessment notes that the site is almost entirely outside of the Conservation Area boundary aside from its northernmost extent, the remainder being within its setting. The assessment notes that:
- The modern housing estate makes a neutral contribution to the character and appearance of the conservation area, reading as a natural extension to the settlement.
  - The adjacent paddock with green rural character makes a minor positive contribution to the character and appearance of the village. This contribution is of much lesser significance when compared with those elements given for the designation of the village as a conservation area, which relate to its special interest.

- The paddock areas/fields here are not listed as part of the special interest/reasons for designation of the conservation area and indeed lie mainly outside of the conservation area reflecting their liminal position and limited significance.

13. In taking the above into account the Heritage statement concludes that the modest extension of the rear gardens of the dwellings results in a public benefit (improved residential amenity) and will not cause any harm to the special interest of the conservation area due to the following:

- The works are modest and light-touch in nature.
- The development maintains a green aesthetic given the garden use, not involving any additional built form.
- The fencing is visually permeable linking paddock and garden lands.
- Due to the discrete location and nature of the change it would not impact on natural landscape character, is read in connection with the housing development, and preserves the green setting of the conservation area with these only slightly enlarged outdoor areas complementing both the built form and the paddocks.

14. The statement therefore concludes that the development accords with the requirements of policy ENV1. The assessment and conclusions made are considered to be an accurate assessment and it is therefore agreed that the proposal does not cause harm to the special interest of the Sadberge Conservation Area and complies with policy ENV1 in this regard.

#### **b) Visual and residential amenity**

15. Visual amenity is assessed in terms of impact on landscape character of the site and the surrounding area. Whilst the concerns of residents and the Parish Council are noted, and with regard to the heritage assessment considered above, it is also considered that the modest increase to the size of the perimeter gardens, in a continuous row and seen in the context of the overall development, would not have a significant impact on the adjoining paddock's contribution to overall landscape character.

16. Given the above, it is concluded that the development does not result in harm to the natural quality of the rural landscape as required by policy ENV3 and avoids significant detrimental impact on the setting of the dwellings as required by Policy H7.

17. At the same time in terms of amenity, the curtilage extensions proposed create modestly larger gardens for these perimeter dwellings, which will improve the quality of private amenity space for occupiers, creating more attractive and desirable places to live, which are in line with the overall policies of the Local Plan and the NPPF.

#### **c) Ecology**

18. Retrospective planning applications are currently exempt from the Biodiversity Net Gain requirement although the government is working on bringing BNG into effect for retrospective planning applications through further regulations in the future.
19. Despite the above, there is a local requirement for the development to comply with policies ENV7 and ENV8, which require the impact of the development to be assessed and the provision of net gains in biodiversity, to be demonstrated using the Defra Biodiversity Metric. This local requirement for a net gain is not 10% as in the current Statutory Metric, however the developer does have to demonstrate a net gain in biodiversity.
20. As a result of the above requirement, the applicant was asked to submit a biodiversity net gain (BNG) assessment on impacted habitats on-site, to include a baseline and post-development assessment. The surveys were conducted during optimal season and as the development is retrospective, also included assessment of adjacent grassland. It was concluded that there would be a small loss of habitat, which would be accounted for by the applicant purchasing 0.01 units from a habitat bank.
21. The Council's Ecologist agrees with the information submitted and recommends a planning condition to secure submission and agreement of a certificate for the purchase, within 12 weeks of the planning decision. Subject to this, the proposal is considered to comply with policies ENV7 and ENV8 in this regard.

**d) Other matters**

22. It is noted that objections raise concerns regarding the proposal setting a precedent for similar developments. Precedent is a proper and material consideration where it is likely that similar future proposals in closely parallel situations could not be resisted and cumulative harm to planning principles or policies would result. However, the force of the "precedent" argument is reduced where the planning circumstances are unlikely to be replicated, or where policies exist within the discipline of which there is room for treating each proposal on its merits in the light of the situation prevailing at the time.
23. The concept of setting a precedent can be considered in relation to the adjoining dwellings along the rear boundary of the housing development, since proposals elsewhere, would have an entirely different context and should be considered on their own planning merits. To this extent, it is noted that the overall site circumstances for these adjoining dwellings are the same as the current proposal and it could be considered possible that other householders may wish to do the same.
24. The above is noted; however, the issue of precedent is principally considered to be a negative factor where a development would likely cause future similar developments that could cumulatively undermine planning policies or principles. In this case, the development currently being considered is considered to be acceptable for the reasons set out above. Therefore, whilst it is acknowledged that it is possible that other adjoining householders could purchase land in the same way, identical extensions along

the entire boundary would likely be considered acceptable for the reasons set out. Any concerns regarding more sporadic such extensions, that had no continuous line, could be considered on their own merits in terms of their visual impact and may not be acceptable.

25. Given the above, the potential for the development to set a precedent is noted, however under the circumstances of the current applications, which form a modest continuous line along an existing residential boundary, and do not conflict with the policies set out above, this concern is not considered to weigh against the application.
26. Whilst unrelated to this specific application, condition 13 of the original permission for the overall housing development (20/00607/FUL), requires off-site highway works to be completed prior to occupation of the dwellings. A complaint was recently received that despite some dwellings being occupied, the off-site highway works have not yet been completed.
27. As a result of the above, contact was made with the developer. They have confirmed that they are currently working with the Highways team to progress the Section 278 agreement, and their timetable sets out that the works are programmed to be completed in September 2025. This will be monitored by the Enforcement team going forward.

## **CONCLUSION**

28. In summary, overall, the development is considered acceptable, does not conflict with the relevant planning policies and raises no significant issues in respect of impact on heritage assets, visual or residential amenity.

## **RECOMMENDATION**

THAT PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS.

1. PL Accordance with plans
  - C.011-SLP-21-24 Location Plan
  - C.011-PP-21-24 Proposed plan
  - BD-100 Proposed fence details
2. Within 12 weeks of the date of the decision (below) a certificate / receipt for the purchase of 0.01 habitat units from a Habitat Bank, shall be submitted to and approved in writing by the Local Planning Authority.

REASON – In the interests of Ecology, to comply with policies ENV7 and ENV8 of the Darlington Local Plan 2016-2036.