

DARLINGTON BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 27th June 2018

Page 1

APPLICATION REF. NO:	18/00329/CU
STATUTORY DECISION DATE:	16/06/18
WARD/PARISH:	Brinkburn and Faverdale
LOCATION:	21 Lady Kathryn Grove Darlington
DESCRIPTION:	Change of use of open space to domestic garden
APPLICANT:	A Summerson

APPLICATION AND SITE DESCRIPTION

This site lies within a small estate of detached houses arranged around a cul de sac which together with the nearby Brinkburn Public House were built in the early 1990s. The frontages of the properties are predominantly open without fencing and there is a “Green” area located at the head of the cul de sac.

PLANNING HISTORY

Nothing relevant to this application other than the original permission for the houses and pub in 1990. There were no specific planning conditions added to the permission which related directly to a requirement to retain an “open plan” arrangement to the front gardens.

PLANNING POLICY BACKGROUND

Darlington Borough Council Local Plan **Policy H12** relates to the alteration and extension of existing dwellings and it is this policy which has the most relevance in considering this application.

RESULTS OF CONSULTATION AND PUBLICITY

Local residents were consulted and responses were received from **four** residents, raising the following issues :

- Land is not owned by the applicant
- Fence is unsightly in this open plan estate
- If approved, precedent could be set for other similar proposals.
- House deeds prohibit fencing on the frontages.

The applicant has responded to the objections raising the following issues :

- This planning application is not for the fence – only the change of use of the land.
- The Council have never cut the grass – they don't own the land.
- The fence can be removed if necessary.

Highways Engineer – No objections.

PLANNING ISSUES

This application relates to the change of use of an area of open land to domestic garden use. The existing fence on site is not part of the application as it does not require planning permission as its height is below the threshold where planning permission is required. There are no restrictive planning conditions attached to the original planning permission for the housing estate.

Whilst there may be covenants on individual house deeds restricting the erection of fencing in certain locations, there are no such restrictions in place in planning terms. This particular matter is not a planning consideration.

The main planning issue relating to this application is the visual impact that the change of use will be likely to have on the appearance and character of this locality.

The land is currently used to park a car. Other residents' cars are parked in various locations around the estate.

It is considered that the parking of a car in this particular location does not create a visual intrusion sufficient to warrant refusing planning permission in this instance. The car could be located in other locations nearby without planning permission resulting in a similar visual impact.

It is noted that the applicant does not own the land and despite endeavouring to ascertain ownership, no owner has been confirmed at the time of writing. The issue of land ownership is not one which can effect consideration of this planning application – should an owner eventually be found, then that person can decide whether the change of use of land can legally take place. Officers are satisfied that the correct ownership certification has been completed by the applicant.

CONCLUSION

This application relates to the change of use of land from open space to domestic garden. Because of its location on a road frontage, planning permission would be likely to be necessary to erect any new structures or buildings.

It is likely to be used in the future to park a motor vehicle, as is now the case. The loss of open space in planning terms, in this instance is not considered to be detrimental to visual amenity as to warrant the refusal of planning permission. Motor vehicles could in any event be parked on land adjacent to the open space, with similar visual impact.

It is considered that planning permission should therefore be granted.

SECTION 17 OF THE CRIME AND DISORDER ACT 1998

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

RECOMMENDATION

That Planning Permission be **Granted** subject to the following conditions:

1. A3 – Implementation time limit
2. The development shall be carried out in complete accordance with the approved plan(s) and documents as detailed below:
 - The proposed block plan submitted with the application.

Any material change to the approved plans will require a formal planning application to vary this condition and any non-material change to the plans will require the submission of details and the agreement in writing by the Local Planning Authority prior to any non-material change being made.

Reason

In order to ensure that the development is carried out in complete accordance with the approved plans and any material and non-material alterations to the scheme are properly considered.