

DARLINGTON BOROUGH COUNCIL
PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 5 June 2019

APPLICATION REF. NO: 18/01151/FUL

STATUTORY DECISION DATE: 29 March 2019

WARD/PARISH: HEIGHINGTON AND CONISCLIFFE

LOCATION: Field at OSGR E425124 N514093, Gate Lane
Low Coniscliffe

DESCRIPTION: Application submitted under Section 73 of the Town and Country Planning Act 1990 (as amended) for variation of condition 24 (Restriction of Permitted Development Rights); condition 35 (accordance with plans) and removal of condition 11 (visibility splays) of planning permission reference number 16/01231/FUL dated 22 February 2018 (residential development comprising of 37 No. detached dwellings (including seven affordable units) and associated access road, car parking and landscaping) to permit the substitution of house types and revisions to the layout, open space, vehicular access arrangements and landscaping scheme (amended plan received 14 February 2019)

APPLICANT: Robertson Homes

Members will recall that this planning application was deferred from the Planning Applications Committee on 20th March 2019 to enable officers to consider documentation which a Parish Councillor of Low Coniscliffe Parish Council informed the Committee he held relating to the ownership of the application site.

Officers have subsequently met with Members of the Parish Council and the Action Committee and further letters have been submitted to the Council on behalf of the Parish Council which Officers have also considered. Officers are of the opinion that the application has been correctly made and that the correct consultation procedures have been carried out both in terms of certification of ownership of the application site and in terms of the wider community.

If any aspect of the ownership of the boundary hedge or the adjacent land becomes an area of dispute then it is open to the person disputing ownership to take civil action to prevent the development proceeding. The planning process does not determine ownership of land.

Officers are of the opinion that the application can now proceed for Members to make a decision.

APPLICATION AND SITE DESCRIPTION

The application site comprises two fields to the north and east of Low Coniscliffe. The two fields are separated by an existing field boundary but the overall site measures approximately 3.3 hectares and it is currently used for the grazing of horses. The site is bounded by the A67 to the north; a tributary of the Baydale Beck to the east, the River Tees to the south and the village of Low Coniscliffe to the west. The site is bounded by mature trees and hedges to the north and west and woodland areas to the east and south. The site is accessible off Gate Lane by a field gate and also from the A67 via the entrance to a Public Right of Way (Footpath No 6 - the Teesdale Way) that runs in an east west direction through the site. Five trees within and on the edge of the site are covered by Tree Preservation Order (No. 3) 2017.

Low Coniscliffe lies approximately 3 miles to the west of Darlington Town Centre. A modern housing development known as Merrybent Drive lies to the North West on the opposite side of the A67 beyond which lies Merrybent village. The Baydale Beck Public House and Broken Scar Water Treatment Works lie to the east.

Planning permission (ref no: 16/01231/FUL) was granted by Members of the Planning Applications Committee subject to a Section 106 Agreement and issued in February 2018, to redevelop the site for residential purposes comprising 37 detached dwellings. This planning permission remains “live” and could be implemented subject to the discharge of the planning conditions.

This planning application has been submitted under Section 73 of the Town and Country Planning Act 1990 (as amended) to vary condition 35 attached to planning permission reference number 16/01231/FUL to seek permission for a number of revisions to the approved scheme. The revised proposal involves:

- Changes to the design of the house types and parking arrangements;
- The removal of detached garages and the use of integral garages;
- Revisions to plot positions and the orientation of dwellings within;
- A new area open space in the north west corner of the site;
- Removal of separate vehicular and pedestrian accesses off Gate Lane to the affordable units;
- Creation of an internal footpath link through open space on the north west corner of the site;
- The extent of potential landscaping in the site and on the route of the Public Footpath has been reduced
- The number of bedrooms within the dwellings has been changed from 2, 3, 4 and 5 bed properties to a mix of 2, 4 and 5 and one 6 bed dwelling.

The elements which remain unchanged are:

- The overall number of dwellings;
- The number of affordable dwellings (seven) within the scheme;
- Main vehicular access point into the site;
- The alignment of the internal spine road;
- The alignment of Public Footpath No 6 through the site;
- The dwellings are two storey and the affordable units are bungalows;
- The retention of the hedgerow on the A67 boundary (north);
- The acoustic fencing on the A67 boundary (north);
- The number of existing trees to be retained;
- An increase in the amount of hedgerow on Gate Lane to be retained;
- The row (north - south) of trees and hedging in the centre of the site;
- The ecological mitigation measures;
- The use of and location of a SUDs basin.

As a result of the revisions, the planning application is also seeking permission to vary the wording of condition 24 and to remove condition 11 attached to the original approval.

Condition 24 quotes the Plot Numbers upon which the dwellings would have their “permitted development” rights removed and condition 11 relates to the need to submit details of visibility splays for private drives off Gate Lane.

Condition 24 would need to be revised to reflect new Plot numbers within the revised layout and condition 11 would no longer be required as the revised layout does not involve the private drives off Gate Lane.

This planning application has been submitted by Robertson Homes rather than H and D Ward who were the previous applicants.

The original proposal was granted subject to a Section 106 Agreement to secure financial contributions towards improving Rights of Way and cycle paths, grass playing pitches and open space in the locality of the application site. If planning permission is granted for the revised scheme, there will be a need to vary the Agreement so that it relates to the new submission. There would be no changes to the agreed Heads of Terms as a result of the proposed changes.

As before, the proposed development includes seven affordable units in the form of two bed bungalows which meets the requirement for 20% of the scheme to be affordable housing on site as set out in local development plan policy (CS4 of the Core Strategy) and the Supplementary Planning Document on Planning Obligations

Statement of Community Involvement

The applicant issued approximately 200 public consultation leaflets and a community consultation event took place in the Baydale Beck public house in December 2018. A Statement of Community Involvement document has been submitted in support of the

planning application in accordance with the Council's guidance on such matters. In the document, the applicant has commented on the matters that were raised by residents and they have stated, amongst other issues:

- All proposed dwellings will have a new boundary fence delineating their ownership and they will respect existing boundary features.
- The field gate to the North of 2 Low Coniscliffe will be closed and a new hedgerow planted to complement the existing hedge.
- They will request that double yellow lines are included within the offsite works to be agreed with the local authority. This does not form part of the planning application and must be procured through agreement under the Highways Act.
- The title boundary has been checked and Robertson Homes are comfortable that the proposals can be delivered.
- The facing materials to the entrance wall detail and the bungalows fronting Gate Lane, as well as some of the proposed dwellings within the site, have been amended to reconstituted stone to tie into the village vernacular.

Application documents including Planning Statement, Design and Access statement, plans, consultation responses, representations received and other background papers are available on the DBC website.

Environmental Impact Assessment Requirements

The Local Planning Authority has considered the proposal against the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. The development would not meet the thresholds within the Regulations that require the Local Planning Authority to offer a screening opinion for the proposal.

PLANNING HISTORY

05/01230/FUL In February 2006 a retrospective application for the erection of an animal shelter was REFUSED

06/00593/SU In September 2006 NO OBJECTIONS were raised to an upgrading of the Darlington North to Richmond overhead electricity power line that crosses over the east section of the application site

16/01231/FUL In February 2018 planning permission was GRANTED for the residential development comprising of 37 No. detached dwellings (including seven affordable units) and associated access road, car parking and landscaping

RESULTS OF CONSULTATION AND PUBLICITY

A total of 119 letters of objection have been received and the comments can be summarised as follows:

- *The reduction in landscaping will accentuate damage to the highly valued Teesdale Way and surrounding landscape*
- *The repositioning of affordable housing up to 6m closer to Gate Lane will accentuate the damage to the highly valued visual entrance to Low Coniscliffe*
- *The development encroaches upon land in private ownership*

- *The reduction and removal of hedgerow and trees on the east side of Gate Lane damages the nature, character and its twinning with the west side*
- *The proposed design introduces terraced houses but the decision notice to the original application granted permission for 37 detached dwellings*
- *The change in property style to a modern style of modern urban housing is not in keeping with rural development and will accentuate the damage to the historic character of Low Coniscliffe*
- *There is an absence of information on the affordable housing on Gate Lane*
- *The residents of 2, 4, 6, 8 Low Coniscliffe are adversely affected by both an increase in adjacent properties and their closer proximity*
- *The proposed foul drainage route is outside the development boundary and will damage both the Teesdale Way and necessitate closure*
- *The access driveways off Gate Lane to the affordable housing have been removed which will increase safety risks due to parking of delivery vehicles, visitors along this narrow entrance into the village*
- *It is evident that certain variations submitted within the planning application do not comply with the legal concept of materiality and “de minimis”*
- *Planning conditions are to be amended*
- *There are no dimensions for the heights of the dwellings*
- *There appears to be doubts over the red line boundary of the two applications;*
- *The developer intends to remove the mature hedgerow and replace, in part with much reduced hedging of unknown species;*
- *There is a remnant of fencing that allowed a gap between Nos 2 to 8 Gate Lane and the east field. Development must not encroach on this land and cannot form part of the Title Deed of the proposed properties*
- *The south east corner of the site has been amended to show five properties*
- *The extent of the landscaping has been greatly reduced*
- *Detached garages have been replaced with integral garages*
- *Any closure of the Teesdale Way must be the subject of the appropriate legal procedures*
- *The dwellings on plots 28 and 29 are very close to the boundary with No 2 Gate Lane and these plots now occupy a space previously reserved for a single detached dwelling. The dwellings are crammed in behind mature trees which form part of my garden boundary. Prospective owners of the plots may have limited natural light due to these mature trees shading the properties. These two plots should not be built so close to my boundary*
- *There are too many affordable homes and the unit on Plot 33 is too close to No 2 Gate Lane*
- *The occupiers of the new properties have no rights over existing boundaries*
- *The access is through third party land and should not be approved*
- *The developers are intending to encroach upon private land still vested within the original land owners family*
- *A recent appeal for residential development in respect of the west side of Gate Lane stated that that proposal would be contrary to development policies and of the effect of the development on the character and appearance of the village and area*
- *Saved policy E2 of the Local Plan 1997 should carry substantial weight in this application and therefore should be re-submitted as a full new application*

- *In the planning appeal, the Inspector acknowledges that the approved development on this application site will change the character to the approach to Low Coniscliffe as well as the countryside around the village. The Inspector believes the development would be apparent, with subsequent visual harm to the green countryside character of the access route, the village and A67*
- *The design aesthetic of the site has been changed entirely*
- *A five bed + dwelling has been added*
- *The total number of bedrooms have been altered throughout the site*
- *The change in property style to a modern style housing is not in keeping with the rural historic character*
- *The proposal will create two villages detracting from the existing rural built environment and historical character of the village. The development will be an overbearing modern style urban estate upon a rural village*
- *Residents are disadvantaged by the changes despite the proposed retention of 30m of existing hedging and trees that would be lost by the current planning permission mainly due to the style of urban development further exacerbated by the closer proximity of dwellings and terraced dwellings at the entrance of the site*
- *We appreciate the introduction of open space and relocation trees in the north west corner provides a distinctive landscape feature but it is not enough*
- *There is insufficient landscaping for the site and the Teesdale Way*
- *It is very disappointing that no consideration has been given to retaining some part of the Bronze Age archaeological site despite its significance and value in the local community*

A letter objecting to the planning application has been submitted by Maria Ferguson Planning Consultancy on behalf of the Low Coniscliffe and Merrybent Parish Council and the Low Coniscliffe Action Committee. The comments can be summarised as follows:

- *The use of a Section 73 application to secure the proposed development is wholly unacceptable. The development in terms of its scale, its nature is sufficiently different, even to that described on the decision notice to warrant a fresh full planning application;*
- *There is a difference between the red line boundary identifying the original planning application development site and the new proposed site plan, where access has been highlighted from Gate Lane of some 5 metres;*
- *There is a secondary strip of land down Gate Lane located in the east field which abuts the existing hedgerow. This strip has been retained by the Snaith family for the purpose of a public footpath and it is still held as freehold by the Snaiths in succession and pushes the Gate Lane hedgerow strip of land further into the east field and up to the edge of the fence line.*
- *The amended proposal will affect the rural character of the east field boundary adjacent to the road due to the need to provide access and viability. It is also the intention of the developer to reduce or remove the mature hedgerow and create a much smaller hedge;*
- *The affordable units will be up to 6m closer to Gate Lane further encroaching onto third party land and necessitating the need to remove trees and hedgerow*

- *Foul drainage will be under the Teesdale Way which will need to be closed during the construction work. Any closures must go through the proper legal procedure;*
- *All landscaping around the SUDs basin has been removed and the amended plans only show 24 new trees being planted. There are less trees being planted alongside the Teesdale Way*
- *The amendments will represent a greater intrusion in its setting and will harm the countryside*
- *In 1993 there was a planning submission refused for the west side of Gate Lane due to the amount of hedging that would be removed.*
- *No 2 Gate Lane will be adversely affected by the amendments. The new scheme increases the number of dwellings in this location from 5 to 6 and also reduces the distances which exacerbates the harm to amenity in terms of privacy, noise and outlook.*
- *A Section 278 Agreement for highway works cannot be legally fulfilled without the agreement or dedication of the identified freeholder*

The **Campaign to Protect Rural England** has objected to the planning application and the comments can be summarised as follows:

- *The CPRE fully supports the objections of local residents, the Parish Council and Low Coniscliffe Action Committee*
- *The CPRE considers that the changes are no minor and fall outside the remit of Section 73 of the Town and Country Planning Act (as amended). A new planning application is required*
- *The changes will have a much greater detrimental impact on the local area than the original application*

Consultee Responses

The Council's Ecology and Landscape Officer has requested that the previous conditions are imposed on any new planning permission

The Council's Public Rights of Way Officer has raised no objections

The Council's Sustainable Transport Officer has advised that his comments on the original scheme remain valid

The Council's Historic Asset Officer has no comments or objections to the planning application

The Council's Environmental Health Officer has raised no objections to the planning application and requested the imposition of planning conditions

The Council's Highways Engineer has raised no objections to the revisions to the scheme and to the removal of condition 11

The Council's Senior Arboricultural Officer has advised that the application be recommended for approval and further comments will be made on a landscaping scheme once submitted

The Lead Local Flood Authority has requested that the previous planning conditions are imposed on any grant of planning permission

The Durham Archaeology Team has advised that the revised application does not change their previous advice and the previous conditions still apply

Northumbrian Water has advised that the revised application does not change their previous advice and they have no additional comments to make

Northern Powergrid has raised no objections

The Environment Agency has raised no objections and requested the imposition of a planning condition to ensure that the development is carried out in accordance with the submitted Flood Risk Assessment

Highways England has raised no objections

Northern Gas Networks has no objections

PLANNING POLICY BACKGROUND

In this instance, the relevant local and national planning policies are:

Borough of Darlington Local Plan 1997

E12 – Trees and Development

E14 – Landscaping of Development

Darlington Core Strategy Development Plan Document 2011

CS2 - Achieving High Quality Sustainable Design

CS4 - Developer Contribution

CS14 – Promoting Local Character and Distinctiveness

CS15 - Protecting and Enhancing Biodiversity and Geodiversity

CS16 - Protecting Environmental Resources, Human Health and Safety

CS17 – Delivering a Multifunctional Green Infrastructure Network

CS19 - Improving Transport Infrastructure and Creating a Sustainable Transport Network

National Planning Policy Framework 2019

Other Documents

Tees Valley Design Guide and Specification: Industrial and Estate Development

Supplementary Planning Document - Design for New Development

Supplementary Planning Document - Planning Obligations

PLANNING ISSUES

The main issues to be considered here are whether or not the proposed application is acceptable in the following terms:

- Material Amendment Submission
- Planning Policy
- Planning Application reference number 18/00023/OUT and Appeal
- Impact on the Visual Appearance and Character of the Local Area and Design and Layout of the Development
- Highway Safety
- Residential Amenity
- Impact on Trees
- Landscaping Scheme
- Ecology
- Land Stability
- Archaeology

- Impact on the Significance of Heritage Assets
- Flood Risk and Drainage
- Public Right of Way
- Land Contamination
- Affordable Housing
- Planning Obligations
- Delivery

Material Amendment Submission

Section 73 of the Town and Country Planning Act 1990 (as amended) relates to applications for planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted.

Planning Practice Guidance states that an application can be made under Section 73 of the Town and Country Planning Act 1990 to vary or remove conditions associated with a planning permission. One of the uses of a Section 73 application is to seek a minor material amendment, where there is a relevant condition that can be varied.

Planning permission cannot be granted under Section 73 to extend the time limit within which a development must be started or an application for approval of reserved matters must be made.

Where an application under Section 73 is granted, the effect is the issue of a new planning permission, sitting alongside the original permission, which remains intact and unamended.

A decision notice describing the new permission should be issued, setting out all of the conditions related to it. To assist with clarity, decision notices for the grant of planning permission under Section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged.

There is no statutory definition of a 'minor material amendment' but it is likely to include any amendment where its scale and/or nature results in a development which is not substantially different from the one which has been approved.

The objectors to the planning application, including the Low Coniscliffe and Merrybent Parish Council and the Low Coniscliffe Action Committee, have challenged the decision that the application should be treated as a Section 73 application due to the range of changes that are being proposed and that the description of the planning permission relates to "37 detached dwellings" whilst the new submission includes semi detached and terraced dwellings (the affordable units). It is the view of the objectors that a new full planning application is the more appropriate method for determining this revised proposal.

It is the responsibility of the local planning authority to determine the definition of 'minor material'. A judgement on "materiality" in any particular case is one of fact and degree, along with taking into account the likely impact of the amendment on the local environment. Materiality is considered against the development as a whole, not just part

of it. The basis for forming a judgement on materiality is always the original planning permission.

A recent High Court judgement has confirmed (*Finney v Welsh Ministers* 2018) that a variation under Section 73 can be lawful even if it contradicts the original description of the proposed development. The test is also whether any new planning conditions are ones "which the council could lawfully have imposed upon the original permission in the sense that they do not amount to a fundamental alteration of the proposal put forward in the original application"

Having considered the layout, design and scale of the existing planning permission alongside the proposed scheme, the local planning authority is of the opinion that the changes between the two proposals (listed in the Application and Site Description section of this report) would not fundamentally alter the original planning permission.

The statutory bodies and consultees have been re-consulted on the planning application and their responses have not resulted in significant amendments, if any, to the planning conditions imposed on the original permission.

Officers consider therefore that an application under Section 73 of the Act for the changes proposed to the approved scheme is appropriate in this instance.

Planning Policy

An application made under Section 73 is an application for planning permission and therefore Section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise is relevant. The National Planning Policy Framework (NPPF) comprises up to date national planning policy and is a material consideration in planning decisions.

Statute requires that in considering an application under Section 73 a local planning authority "shall consider only the question of the conditions subject to which planning permission should be granted". This does not automatically rule out consideration of all local and national policy that is not directly relevant to the conditions sought to be varied by the Section 73 application, as, in coming to a balanced judgment as to what conditions ought to be attached to any new planning permission granted under Section 73, the local planning authority may consider matters other than those 'directly related' matters, and as such any other relevant policy.

However, in this application, as there is no increase in the number of houses or 'amount of housing development', it would not be appropriate for the local planning authority to consider housing allocation policy or limits of development policy simply for the reason that any permission granted would authorise housing development.

Instead, any changes to layout, appearance, site operation, highways and amenity which are affected by local policies are required to be considered against those relevant policies. These are listed in the Planning Policy Background Section of this Report and considered in detail below.

Land Ownership Matters

The Local Planning Authority is not the arbiter of boundary ownership disputes. Ownership of the hedgerow and verge was and remains a civil matter between the Parish Council, or any other party claiming ownership, and the applicant and is not a material planning consideration. Members will note that the granting of planning permission would not prejudice any legal standing of any of the parties in terms of their ownership interest and their ability to take civil action in respect thereof.

Impact on the Visual Appearance and Character of the Local Area and Design and Layout of the Development

The Darlington Landscape Assessment (2015) has been prepared on behalf of the Council to provide part of the evidence base for forthcoming development planning documents and it provides descriptions and evaluations of the landscape throughout the Borough.

The Assessment recognises Low Coniscliffe as one of the small settlements within the character area which has its own distinctive character. In terms of semi-natural habitats, the River Tees and its wooded banks provides a rich series of habitats, with many sections protected as local wildlife sites. The area is an important green corridor for wildlife species. It is noted in the Assessment that the Teesdale Way follows the north side of the river, linking villages and making use of several footbridges.

The Assessment identifies key sensitivities within this landscape to include:

- Tranquil character along much of the riverside;
- Traditional settlement pattern of nuclear villages related to the river;
- Extensive riparian woodland forms a significant habitat resource;
- Riparian meadow habitats contribute to important wildlife corridor;
- Important historical sites and monuments along the river; and
- Strategic recreational corridor, with the Teesdale Way running the length of the area.

The Assessment states that each of the settlements along the river valley has its own character and sensitivities. The Assessment continues to advise that the riverside villages of Piercebridge, High Coniscliffe, Low Coniscliffe, Neasham and Middleton One Row have little physical room for expansion.

The application site, which is in agricultural use, is in a prominent location on the corner of the A67 and the entrance into Low Coniscliffe (Gate Lane). It is currently bounded by mature hedges and some trees with ranch style timber fencing within the vegetation. A central field boundary comprising hedges and trees splits the two fields and there is an existing timber shed in the western field. The fields can be accessed via a timber stile on the A67 (part of the Teesdale Way); a field gate also off the A67 and a field gate off Gate Lane. The site is in agricultural use and it does provide an open area that separates Low Coniscliffe from the western edge of Darlington.

It is clear that the redevelopment of the land for residential purposes will change the character and appearance of the area. There is an existing planning permission on the

site for housing development and the main consideration here is whether or not the changes to the approved scheme are acceptable and will they harm the character and appearance of the area.

The site is part of the wider green infrastructure of the Borough due to it being within the open countryside, consideration has to be given to the fact that the majority of the hedges and trees would be retained (and enhanced in certain areas), the Right of Way would be enhanced and landscaped and there are areas of open space on the north western and eastern edges which would be landscaped and as a result the development will still retain an element of green infrastructure function. The public accessibility and community value of the site via the Public Right of Way would be retained and enhanced. So whilst this proposal would result in the loss of part of the wider green infrastructure network in the Borough, the extent of the developed area within the site has not significantly altered from the existing planning permission.

The hedge line along Coniscliffe Road will be retained and some thinning works undertaken to ensure this is allowed to thrive and there would be some additional planting behind the existing hedge to reinforce the screening of the development. The need for an acoustic fence along this boundary remains unchanged from the existing planning permission but the view of the dwellings from the north would be improved by the introduction of a new section of open space which substitutes two dwellings that would have been positioned closest to the A67. The new dwellings on Plots 10 to 12 would be approximately 5 metres closer than the previous layout to the northern boundary but they would still be between 18m and 25m from the boundary and their visual impact when viewed from the A67 is considered to be acceptable.

The retained and enhanced hedgerows along the A67 and the position of the proposed dwellings from the edge of the site would help to protect the approach into the urban area from Coniscliffe Road (Policy CS14) and whilst the site is within the Tees Lowland and the Core Strategy seeks to protect and preserve its landscape character, the scheme of this scale when considered in wider context of the Tees Lowland characterisation, would not adversely harm such a setting.

One of the main considerations of the original planning application related to the loss of sections of the hedgerow that forms the western boundary of the site and the impact that the development would have on the entrance to the village. A section of hedge measuring approximately 45 metres would need to be removed to facilitate the access road and the visibility splay as per the original planning permission but this application does not involve the creation of individual vehicular and pedestrian accesses which reduces the extent of hedge removal. Redundant gaps in the hedge could be "filled" and a new hedge line to the rear of the visibility splay to supplement the existing hedge would be planted whilst maintaining the required visibility splay.

The introduction of the area of open space on the north west corner would maintain the "green" appearance and character of the entrance to the village and the relocation of a footway running through this open space rather than through the external highway verge is to protect and retain the hedging and trees on this boundary.

The location of the affordable bungalows at the entrance to the site would help to reduce the visual impact of the development when viewed from Gate Lane and the visual extent and bulk of built form on the frontage has been reduced by the introduction of the aforementioned open space. Whilst these bungalows are approximately 3 metres closer to the west boundary in order to have a vehicular access at their rear, their visual impact on Gate Lane will be negligible and is acceptable, especially as the buildings are single storey and the retained elements of hedging (and any new planting) will provide some visual screening.

The route of the Public Right of Way (Teesdale Way) would be retained and enhanced by a new surface. A landscaped, tree lined verge along one side of the route would be created which is a revision from the existing planning permission which had tree planting on both sides of the route however the practicality of tree planting on both sides is not possible due to the need to run a foul drain along the route. The riverbank would remain unchanged and unaffected by the development.

The landscaped SuDs basin and open space area remain on the eastern edge of the site which along with the existing riverbank and the Beck itself would maintain an open landscaped "break" between Low Coniscliffe and the western edge of Darlington preserving to some extent the detachment and openness between the village and the urban area and the continuing rural nature of the local area (Policy CS14).

There is a mix of housing types, styles, ages and materials within the village which adds to its character and appearance but also gives it a lack of uniformity. The housing types range from detached and semi-detached dwellings, terraced dwellings, dormer bungalows and bungalows built from a range of materials. The styles of the properties range from the historic traditional buildings to more modern infill developments. The dwellings front onto the circular public highway that forms the pattern of the village with those on Gate Lane positioned behind boundary walls and the properties on Back Lane being a mix of open frontages or low walls, fences and hedges etc. There is a small green where Gate Lane and Back Lane meet and Merrifield Hall and its former Grooms accommodation lie at the entrance to the village.

The design of the proposed dwellings takes a contemporary approach. In terms of the material palette from the existing housing stock this is a mix of render, stonework and brickwork with a range of red, grey and brown clay and concrete roof tiles. A formal entrance feature specified as 1.8m high stone walls with stone coping and piers with stone caps would be located at the site entrance. This is supplemented with low level planting to ensure visibility splays are maintained but creating a high quality entrance. This could also be constructed from stone to reflect the existing walls on the opposite side of Gate Lane.

Under the provisions of the Council's Design SPD, Low Coniscliffe is located within Character Zone 4 (Outer Suburbs). In general terms, the SPD considers that within this Character Zone, buildings between one and 2.5 storeys are acceptable with parking accommodated to the side or rear of the buildings or in a purpose built court within a block. Garages may be provided externally. Terraced, semi-detached and detached dwellings are seen as being a characteristic of the Zone with areas of defensible space to the frontage. Other design features that are considered appropriate in the Zone are

canopies, porches, rectangular windows, bay windows, windows with headers and footers and a variety of roof designs (for example, hipped, pitched, dormers). Brick, render and slate or pantiles for the roofs are considered to be an appropriate choice of materials. Proposed dwellings would accord with the general guidance contained within the Design SPD for this location and it is considered that they are acceptably designed when adjudged against the existing varied housing stock in the village. In order to integrate the development into the village, the seven affordable units that are located on the west boundary of the site front onto Gate Lane to provide a continuation of the existing street frontage.

The River Tees Strategic Corridor (Policy CS17) runs along the south boundary of the application site but the riverbank will not be affected by the proposal. Access to the corridor would be unaffected and the proposed dwellings which are on higher ground would have a 30m woodland buffer as a separating feature in order to protect the corridor and to minimise the visual impact of the new development.

It is considered that the revised layout and designs of the proposed dwellings are acceptable and the impact of the new proposal would not be significantly altered from the existing planning permission, arguably the scheme includes some improvements.

Highway Safety

Policy CS2 (Achieving High Quality Sustainable Design) of the Core Strategy seeks to ensure that new developments provide vehicular access and parking provision that is suitable for its use and location reflecting the standards set out in the Tees Valley Design Guide and Specification: Industrial and Estate Development.

The number of dwellings has not increased and therefore, as previously reported, the proposed development would not generate significant additional trips in the AM and PM peak periods. As the proposed site access is to the North of the village any additional traffic would not have to travel through the village and would have almost direct access to a local distributor road. Police accident records show that there have been no reportable accidents within the previous 5 years data along Gate Lane or its junction onto the A67.

The main vehicular access and spine road remain unchanged from the existing planning permission but the individual pedestrian and vehicular accesses off Gate Lane to the affordable units at the front of the site have been removed from the proposal. Vehicular access and parking spaces for the affordable units would now be located to the rear of those properties accessed from private shared drives off the spine road.

The proposed plans show the location of bin stores on the private shared drives and swept path analysis have been submitted to show that vehicles such as refuse vehicles and emergency vehicles can be accommodated.

One of the revisions to the proposal is that a new direct and adopted footway would not continue along the length of the east verge of Gate Lane in front of the development site from the access to meet a section of existing footway on the corner with the A67.

Instead, a new footway leading from the access point along a shorter section of the verge will cut back into the application site and through the new internal area of open space in the north east corner and then back onto Gate Lane to meet the existing footway. The new footway has been designed to take this route in order to reduce the potential need to remove further hedging and trees on the Gate Lane frontage. The footway would be maintained by the private management company that would maintain the areas of open space within the development. The alternative route is intended to protect and retain the trees and hedging in this location.

There may be a requirement for Gate Lane to be widened in some areas in order to achieve a satisfactory width of 5.5m and the shortened footway within the verge from the access point should be a minimum of 2m wide in order to link in with the internal estate road. These details would be secured by a planning condition.

The parking provision would be provided by a mix on private drives, integral garages and detached garages. Overall, the parking provision across the site for the new house types would meet current guidance.

There is highway objection in principle to the revised development subject to a condition to secure the details of the works within the public highway.

The application seeks to remove condition 11 of the previous permission which requires details of visibility splays for the private drives onto gate Lane to be submitted for approved. As the new proposal does not provide for separate private drives off Gate Lane this condition is no longer necessary on any approval.

Residential Amenity

Policy CS16 (Protecting Environmental Resources, Human Health and Safety) of the Core Strategy seeks to ensure that new development has no detrimental impact on the general amenity and health and safety of the community. One of the core principles of the NPPF is to secure good standard of amenity for all existing and future occupants of land and buildings.

The proximity distances between existing and proposed dwellings are set out within the guidance contained within the Council's adopted Supplementary Planning Document – Design for New Development. The spatial relationships between the proposed dwellings within the development would also need to accord with the SPD.

One of the main changes to the layout is the position and number of dwellings (plots) to the side and rear of Nos 2 to 8 Low Coniscliffe, which are two storey dwellings. The existing boundary with the application site consists of a mix of fencing, hedging interspersed with trees.

The number of new dwellings (plots) around these properties has increased from 7 to 8. The separation distance between the existing and proposed dwellings is in excess of 50m and therefore the proposal will not result in any adverse overlooking conditions between habitable rooms.

The new dwellings would have a garden depth of approximately 10m, excluding the single storey garden rooms at the rear which is not an unreasonable garden depth for new properties. The positions of the dwellings would accord with the Council's SPD in terms of preventing unacceptable levels of loss of privacy.

The terrace of the three single storey affordable units (Plots 33, 34 and 35) are approximately 5 metres further away from the boundary to the North side of No 8 Low Coniscliffe. The dwelling on the end of the terrace does not include any habitable openings in its side elevation and the separation distance would accord with the Design SPD. As the terrace is single storey in height, it would not be an overbearing building when viewed from neighbouring dwellings.

The existing planning permission is supported by a Noise Assessment which concludes that the ambient noise climate across the application site is primarily associated with local and distant road traffic noise. The Assessment also concludes that with certain mitigation measures put in place such as specific glazing and trickle vent specifications and the installation of a reflective barrier along the frontage of the A67 to protect rear garden space, the noise levels for internal and external spaces set out in guidance can be met. Having reviewed the revised layout, the houses not significantly closer to the A67 than was previously proposed and the Environmental Health Officer has advised that the mitigation measures included in the Noise Impact Assessment prepared by Environmental Noise Solutions Ltd dated 8 April 2016 (reference NIA/6572/16/6505 v1) will still be sufficient to ensure relevant noise levels in accordance with the guidance will be achieved for the development.

The planning conditions attached to the existing planning permission which relate to securing the mitigation measures outlined in the Noise Assessment, the details of the acoustic fence to be erected on the A67 boundary, the details of glazing specifications, the submission of a Construction Management Plan and controlling the hours of construction/deliveries, and details of any piled foundations are still relevant to this application.

Impact on Trees

Policy E12 (Trees and Development) of the Local Plan states that development proposals will be required to take full account of trees and hedgerows on and adjoining the site.

Following a previous inspection of the site, the Council's Senior Arboricultural Officer advised that four Ash trees and a Hawthorn tree were worthy of a tree preservation order. The original scheme was revised to realign the internal spine road to retain these trees. The five trees considered worthy of protection are now subject to a tree preservation order and the new scheme has been designed taking into account the protection of these trees. No further tree removals would be required beyond which was previously approved to facilitate the internal spine road (one tree to be removed)

Planning conditions would once more need to be imposed to ensure that these trees along with any other existing trees to be retained are protected during the construction phase of the development.

Landscaping Scheme

A landscaping scheme for the site would be secured by planning condition. The Design and Access Statement advises that the trees and hedges fronting Gate Lane are to be retained and enhanced by creating a small village green entrance feature on the corner of Gate Lane/A67. The hedge line along Coniscliffe Road will be retained with some thinning works undertaken to ensure the hedge can thrive with some additional planting behind the existing hedge to reinforce the screening of the development. The SUDs basin area will be designed as a wetland mix to withstand the pressures of the drainage function this offers whilst still being usable as open space during its normal day to day function. It will be supplemented by hedge and tree planting where possible and plot landscaping will consist of smaller tree species, hedge and shrub planting to identify boundaries with lawns to the remainder of the plot. It is proposed to place this area into the control of a management company to ensure there is no pressure for removal from future residents.

Ecology

Policy CS15 (Protecting and Enhancing Biodiversity and Geodiversity) states that the protection, restoration, extension and management of the Borough's biodiversity and geological network will be delivered to help achieve the target level of priority habitats and species set out in the UK and Durham Biodiversity Action Plans by measures including by ensuring that new development would not result in any net loss of existing biodiversity value by protecting and enhancing the priority habitats, biodiversity features and the geological network through the design of new development, including public and private spaces and landscaping.

Policy CS15 also seeks to conserve, restore and enhance the ecological condition of sites that have a high biodiversity value such as the strategic wildlife corridor along the River Tees.

A Preliminary Ecological Assessment submitted with the original planning application advised that the two fields have low ecological value but there is an increased value in the boundary features and the central field boundary, which is of moderate value for foraging and commuting bats.

Overall the site has negligible value for badgers, reptiles, great crested newts and otter and low to moderate value to breeding birds with no roosting value for bats. The Assessment outlined a number of mitigation measures including timescales for hedge removal, compensatory hedge planting and ecological enhancements such as bird boxes.

The Council's Senior Landscape and Ecology Officer accepts the findings of the Assessment and the layout of the development includes the retention of as much of the central field boundary as possible in order to provide a viable commuter route for bats.

In order to protect the route it was considered appropriate to remove permitted development rights from those plots that share the boundary with this route in order to prevent future development from damaging the hedgerow. The planning condition was imposed but the wording would now need to be amended to reflect the appropriate plot numbers within the revised layout

The future maintenance would be carried out by a private management company as part of the wider maintenance regime of the housing development. An ecological street lighting scheme would need to be included within the layout to control the location, height and level of luminance in proximity to this “green corridor”.

Whilst the site is along the River Tees wildlife corridor, the site itself is considered to be of low ecological value other than the field boundaries. The layout of the development, the landscape features and the mitigation measures to compensate for any loss of ecological features outlined in the Assessment remain appropriate along with the Council’s Ecology Officer previous recommendation for some further measures (bat and bird boxes) to be incorporated into the design of the dwellings and the layout.

Land Stability

The dwellings would not be located on the river bank slope and the slope does not form part of the gardens belonging to the dwellings on the south boundary. Sectional plans through the riverbank show that the angle of repose (maximum area to support the foundation loads) from the proposed foundations do not extend to a zone within the existing embankment slope. These sectional plans have been replicated as part of the revised layout and it is not envisaged that there should be any instability of the slope/bank.

Archaeology

Paragraph 197 of the NPPF requires the effect of an application on the significance of non-designated heritage assets to be taken into account in the determination of planning applications. It goes on to state that in weighing applications that affect directly or indirectly non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

Paragraph 199 of the NPPF requires developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible.

A desk based assessment of the site was carried out along with a first phase of archaeological evaluation and an Evaluation Report on these two assessments was submitted with the original planning application and considered by the Durham County Archaeology Team. The analysis identified a feature which may be a burial mound or barrow comprising two sub-circular ditches in the west section of the application site and the Report recommended that a strategy for further investigative studies and recordings of the features through a further evaluation needed to be implemented in mitigation of the proposed development in the west part of the site. Durham County Council’s Historic Environment Record Officer agreed with the recommendations that a strip map and sample exercise should be carried out on the western field of the development area which were secured by appropriate planning conditions.

Further archaeological works have occurred on site but the previously imposed planning conditions should be attached to any new approval.

Impact on the Significance of Heritage Assets

There are three Grade II listed buildings in the village (Nos 20, 55 and 57 Gate Lane) which are located in the central core of the village approximately 70 and 95m from the application site. The proposed development would not be visible from these heritage assets and would not harm their setting. Low Coniscliffe and the application site are not covered by a conservation area.

Flood Risk and Drainage

Policy CS16 (Protecting Environmental Resources, Human Health and Safety) of the Core Strategy states that new development will be focussed on areas of low flood risk (Flood Zone 1) and it should comply with national planning guidance and statutory environmental quality standards relating to risk from surface water runoff, groundwater and sewer flooding.

The majority of the site is within Flood Zone 1 but the southern boundary and south-eastern corner of the site are within Flood Zone 2 and 3. The Environment Agency's Flood Maps highlight an area to the west of the site that is at risk of surface water flooding.

A Flood Risk Assessment and Drainage Strategy was submitted in support of the original planning application. The Drainage Strategy submitted with the planning application indicates that SuDS features are to be used to control surface water flows from the proposed development. The Lead Local Flood Authority, the Environment Agency and Northumbrian Water did not object to the original application and each body has requested the re-attachment of the previous planning conditions.

Public Right of Way

The route of the public right of way that runs through the site would be retained within the revised layout of the housing development. The existing stiles would be removed to improve access for a wider range of users and "kissing" gates would be installed.

Whilst it is acknowledged that there will be a material change to the experience of users of the right of way, it is considered that the impact of the development on the route would not be significantly harmful. The route would be resurfaced with gravel which is beneficial for users and landscaped, with the new dwellings maintaining an acceptable level of natural surveillance. Where the road layout intersects the footpath the crossing would need to be designed to appropriate safety standards, including drop kerbs and sightlines for pedestrians and car drivers.

The proposed foul drainage would need to run under the route of the footpath. In those circumstances a Temporary Traffic Regulation Order would be required for the temporary closure of the right of way to facilitate the works. An Informative has been imposed to advise the applicant accordingly.

It is expected that the route would be maintained by a private management company rather than by the Local Authority and the details of this maintenance scheme would form part of any Section 106 Agreement. The Council's Public Rights of Way Officer

has raised no objections to the proposed development and its impact on the route of the right of way.

Land Contamination

Land at the southern perimeter of the site includes a former clay pit believed to have been infilled in the 1950s and thereafter used as agricultural land and a steep wooded escarpment sloping to the River Tees to the south. Whilst the land is not designated as being contaminated land it would require further investigation, and this would once more be secured by appropriate planning conditions. The remainder of the site is considered to be unaffected by contaminants and further investigations and assessments would not be required.

Affordable Housing

Seven affordable units would be provided on site which equates to 20% of the development in accordance with the requirements of the Planning Obligations SPD. The applicant has a preferred partner subject to entering into a contract. A planning condition would be imposed to secure the affordable units, the tenure split and details of the management regime but officers have been informed that units would consist of 5 shared ownership and 2 properties for affordable rent. It is proposed to erect the 5 shared ownership properties as the first phase of development (plots 33-37) with plots 1 and 2 built at a later date. Whilst this would be confirmed through the discharge of condition process, the tenure split is considered appropriate and the fact that the majority of affordable properties would be built in the first phase of development is welcomed.

Planning Obligations

In compliance with the Council's adopted Supplementary Planning Document on Planning Obligations, the existing planning permission was granted subject to a Section 106 Agreement to secure the following planning obligations:

Sustainable Transport

A financial contribution (£36,900) towards improving and maintaining walking routes, the wider Public Right of Way network and cycle paths within the vicinity of the application site.

Green Infrastructure

A financial contribution (£39,900.70) towards improving and maintaining open space within the vicinity of the application site.

Sport Provision

A financial contribution (£10,816) to improve and maintain existing playing fields in the vicinity of the application site.

Open Space/SuDs and Right of Way Maintenance

The open space, SuDs area and the Right of Way that runs through the site would be maintained by a private management company and the details would be secured as part of the Section 106 Agreement.

There would be a need to vary the existing Section 106 Agreement, if this planning application is approved. This can be done by a new Agreement or a Deed of Variation.

Delivery

One of the aims of the Interim Planning Position Statement is to significantly boost housing delivery over the next five years or so to meet identified housing need. The implementation time limit for the existing planning permission was reduced to two years which means planning conditions need to be discharged and work must commence by 22 February 2020 in order to keep the consent “live”. As this application has been submitted under Section 73, the implementation time limit cannot be extended.

Planning Conditions

Since the previous planning approval was determined, planning guidance has changed and Local Planning Authorities must seek the agreement of the applicant with regard to the imposition of “pre-commencement” planning conditions. Following discussions with offices the some of the previous “pre-commencement” conditions have been revised so that the requested information is submitted before any dwelling is erected above damp proof course level.

SECTION 17 OF THE CRIME AND DISORDER ACT 1998

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

CONCLUSION

Planning permission (ref no: 16/01231/FUL) has been granted, subject to a Section 106 Agreement and planning conditions, to redevelop this site for residential purposes comprising 37 detached dwellings. This planning permission is “live” and could be implemented.

This planning application has been submitted under Section 73 of the Town and Country Planning Act 1990. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.

There is no increase in the number of houses or ‘amount of housing development’, and therefore it would not be appropriate for the local planning authority to consider housing allocation policy or limits of development policy simply for the reason that any permission granted would authorize housing development.

Having considered the layout, design and scale of the existing planning permission alongside the proposed scheme, the changes between the two proposals would not fundamentally alter the original planning permission. The responses that have been received from statutory bodies and consultees have requested the imposition of planning conditions which the council could lawfully have imposed upon the original

permission in the sense that they do not amount to a fundamental alteration of the proposal put forward in the original application. Officers consider that, in this instance, an application being submitted under Section 73 of the Act is appropriate.

Having considered the changes within the revised application against the requirements of the appropriate local development plan policies the impact of the housing development upon the character and appearance of the surrounding area and Low Coniscliffe village is acceptable.

The proposal would comply with the proximity distances outlined in the Council's adopted Supplementary Planning Document – Design for New Development and subject to the imposition of appropriate planning conditions, it will not raise any significantly harmful residential amenity issues.

The development can be implemented without adversely affecting highway safety, the ecological nature of the site and the wider area and the Public Right of Way. The development does not pose any flood risk or drainage issues subject to the imposition of appropriate planning conditions.

The existing Section 106 Agreement attached to the existing planning permission would need to be varied.

Overall, it is considered that the revised development is acceptable and is recommended for approval, subject to planning conditions.

RECOMMENDATION

THAT PLANNING PERMISSION BE GRANTED SUBJECT TO THE VARIATION OF THE EXISTING SECTION 106 AGREEMENT WITHIN SIX MONTHS. TO SECURE PLANNING OBLIGATIONS THAT ARE APPROPRIATE FOR THE DEVELOPMENT COVERING:

- a) A financial contribution towards improving and maintaining walking routes, the wider Public Right of Way network and cycle paths within the vicinity of the application site.
- b) A financial contribution towards improving and maintaining open space/green infrastructure within the vicinity of the application site.
- c) A financial improvement to improve and maintain existing playing fields in the vicinity of the application site.
- d) Details of a private management company to maintain open space, the Public Right of Way and retained field boundaries.

AND THE FOLLOWING PLANNING CONDITIONS:

1. The development hereby permitted shall be commenced not later than 22 February 2020
REASON; Due to the planning application being submitted under Section 73 of the Town and Country Planning Act 1990 (as amended) and in the interests of achieving an improved rate of housing delivery in the Borough

2. No dwellings hereby approved shall be erected above damp proof course level until samples and details of the external materials to be used in the construction of those dwellings have been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details.

REASON: In the interests of visual amenity

3. Prior to the occupation of any unit, a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The provision will take the form of on-site provision (of not less than 20% of the housing units) in accordance with a scheme to be submitted and agreed in writing by the local planning authority. The scheme shall include:

- a) The timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
- b) A plan to show the location of the affordable housing
- c) The arrangements for the transfer of the affordable housing to an affordable housing provider (or the management of the affordable housing) (if no RSL is involved);
- d) The arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing;
- e) The occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced;
- f) The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2 of the National Planning Policy Framework or any future guidance that replaces it.

REASON: To comply with local development plan policy

4. The development hereby approved shall not be commenced on site, until a scheme of 'Surface Water Drainage and Management' for the implementation, maintenance and management of the sustainable drainage scheme has first been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details, the scheme shall include but not be restricted to providing the following details;

- a) Detailed design of the surface water management system
- b) A build program and timetable for the provision of the critical surface water drainage infrastructure
- c) A management plan detailing how surface water runoff from the site will be managed during construction Phase
- d) Details of adoption responsibilities;
- e) Management plan for the Surface Water Drainage scheme and any maintenance and funding arrangement;

The building hereby approved shall not be brought into use until the approved 'Surface Water Drainage' scheme has been implemented and the approved scheme shall be maintained in accordance with the Surface Water Management scheme for the lifetime of the development.

REASON: To ensure the site is developed in a manner that will not increase the risk of surface water flooding to site or surrounding area, in accordance with the guidance within Core Strategy Development Plan Policy CS16 and the National Planning Policy Framework.

5. The development permitted by this planning permission shall only be carried out in accordance with the Flood Risk Assessment (FRA) 2017 Reference:

H76116/FRA/001 previously approved under planning permission reference number 16/01231/FUL dated 22 February 2019. Limiting the surface water run-off generated by the impermeable areas of the development up to and including the 100 year critical storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site. This will be achieved by limiting surface water discharge from the development to 13.6l/sec. The mitigation measures shall be fully implemented prior to the occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any period as may subsequently be agreed, in writing, by the local planning authority.

REASON: To prevent flooding by ensuring the satisfactory storage of / disposal of surface water from the site and to reduce the risk of flooding to the proposed development and future occupants.

6. No dwellings should be occupied until the surface water management system for the development or any phase of the development is in place and fully operational. A maintenance plan detailing how the surface water management system will be maintained during the construction phase must also be submitted and approved in writing by the Local Planning Authority.

REASON: To reduce flood risk during construction / development of the site

7. The development hereby approved should not be carried out otherwise than in complete accordance with the drainage scheme contained within the Drawing Number H76116-D-001 Rev C "Drainage Strategy" produced by JNP Group approved under planning permission reference number 16/01231/FUL dated 22 February 2019. The drainage scheme shall ensure that foul flows discharge into the foul sewer at manhole 0901 and ensure that surface water discharges to the existing watercourse

REASON: To prevent increased risk of flooding from any sources in accordance with the National Planning Policy Framework 2019

8. The development hereby approved shall be carried out in complete accordance with the Flood Risk Assessment dated June 2017 approved under planning permission reference number 16/01231/FUL dated 22 February 2019 and the following mitigation measures detailed within the Flood Risk Assessment and Drawing Number L015046-103 Rev C:

- a) No dwellings shall be built within Flood Zones 2 or 3.

9. The mitigation measures shall be fully implemented prior to the occupation and subsequently in accordance with the timing/phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority
REASON: To reduce the risk of flooding to the proposed development and future occupants.

10. The development permitted by this planning permission shall be carried out in accordance with the Flood Risk Assessment (FRA) approved under planning permission reference number 16/01231/FUL dated 22 February 2018 and the following mitigation measures detailed within the FRA and site plan drawing L05046-103:

- 1) No dwellings shall be built within flood zones 2 or 3.

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

REASON: To reduce the risk of flooding to the proposed development and future occupants.

11. No dwellings hereby approved shall be erected above damp proof course level until precise details of a bin storage facilities and location shall be submitted and approved in writing by the Local Planning Authority. The development shall not be carried out otherwise than in accordance with the approved details and shall be permanently retained thereafter.
REASON: in the interests of highway safety

12. Notwithstanding the details shown on the approved plans, precise details of the offsite highway works required to access the site and mitigate the development impact shall be submitted and approved, in writing, by the Local Planning Authority prior to the commencement of the development. The submitted details shall include widening of Gate Lane to 5.5m up to the new access junction, the provision of a new 2.0m wide footway along the frontage of the development on Gate Lane connecting into the surrounding infrastructure and the new site access junction. The development shall not be carried out otherwise than in complete accordance with the approved details.
REASON: In the interests of highway safety

13. No dwellings hereby approved shall be erected above damp proof course level until precise details of secure, covered cycle parking provision shall be submitted to and approved in writing by the Local Planning Authority and the development shall not be carried out otherwise than in complete accordance with the approved details
REASON: In order to encourage the use of sustainable transport

14. The mitigation measures outlined in the Noise Impact Assessment produced by Environmental Noise Solutions Ltd dated 8 April 2016 (reference NIA/6572/16/6505 v1) approved under planning permission reference number 16/01231/FUL dated 22 February 2018 shall be fully implemented prior to the first occupation of the dwellings and thereafter shall be retained and maintained for the life of the development.
REASON: In the interests of the amenities of the occupiers of the development
15. Notwithstanding the mitigation measures outlined within the a Noise Impact Assessment produced by Environmental Noise Solutions Ltd and dated 8 April 2016 (reference NIA/6572/16/6505 v1) approved under planning permission reference number 16/01231/FUL dated 22 February 2018, precise details of the acoustic fence to be installed shall be submitted to and approved in writing by the Local Planning Authority prior to any dwellings hereby approved being erected above damp proof course level. The details shall include the specification and construction of the fence (i.e. density, height, design) and its location. The development shall not be carried out otherwise than in complete accordance with the approved details and the fence shall be fully installed prior to the first occupation of the dwellings, and thereafter shall be retained and maintained for the life of the development
REASON: In the interests of the amenities of the occupiers of the development
16. Notwithstanding the mitigation measures outlined within the Noise Impact Assessment produced by Environmental Noise Solutions Ltd and dated 8 April 2016 (reference NIA/6572/16/6505 v1 approved under planning permission reference number 16/01231/FUL dated 22 February 2018, precise details of the glazing specifications (including details on the $R_w + C_{tr}$ value) and acoustic trickle vents (including their acoustic performance) for all windows for habitable rooms on the road frontage elevation for dwellings within 20 metres of Coniscliffe Road shall be submitted to and approved in writing by the Local Planning Authority prior to any dwellings hereby approved being erected above damp proof course level. The development shall not be carried out otherwise than in complete accordance with the approved details and the measures shall be implemented prior to the first occupation of the dwellings, and thereafter shall be retained and maintained for the life of the development
REASON: In the interests of the amenities of the occupiers of the development
17. Prior to the commencement of the development, a Construction Management Plan shall be submitted and approved in writing by the Local Planning Authority. The plan shall include the following:

 - a) Dust Assessment Report which assesses the dust emission magnitude, the sensitivity of the area, risk of impacts and details of the dust control measures to be put in place during the construction phase of the development. The Dust Assessment Report shall take account of the guidance contained within the Institute of Air Quality Management

“Guidance on the assessment of dust from demolition and construction”
February 2014.

- b) Methods for controlling noise and vibration during the construction phase and shall take account of the guidance contained within BS5228 “Code of Practice for noise and vibration control on construction and open sites” 2009.
- c) Construction Traffic Routes, including parking areas for staff and visitors.
- d) Details of wheel washing.
- e) Road Maintenance.
- f) Warning signage.

The development shall not be carried out otherwise in complete accordance with the approved Plan

REASON: In the interests of residential amenity and highway safety

18. Construction work, including the use of plant and machinery (including generators) as well as deliveries to and the removal of material from the site, shall not take place outside the hours of 08.00 - 18.00 Monday - Friday, 08.00 - 14.00 Saturday with no working on a Sunday and Bank/Public Holidays without the prior written approval from the Local Planning Authority

REASON: In the interest of the residential amenity of the area

19. If piled foundations are proposed, prior to the commencement of the development details of the piling method including justification for its choice, means of monitoring vibration and groundwater risk assessment if necessary in accordance with recognised guidance shall be submitted and agreed in writing by the Local Planning Authority. The development shall not be carried out otherwise than in accordance with the approved details.

REASON: In the interest of the residential amenity of the area

20. Prior to the commencement of the development, a management plan for keeping Public Footpath No 6 The Parish of Low Coniscliffe available for public use during the construction phase of the development. The development shall not be carried out otherwise than in complete accordance with the approved plan.

REASON: To ensure that the Public Footpath continues to be accessible.

21. The proposed development (construction and post development) shall not be carried out otherwise than in complete accordance with the recommendations set out in the document entitled “Preliminary Ecological Appraisal and Bat Survey Report. Land south of Coniscliffe Road, Low Coniscliffe” Version R2 dated 16 August 2016 and produced by Naturally Wild and approved under planning permission reference number 16/01231/FUL dated 22 February 2018 unless otherwise agreed in writing by the Local Planning Authority

REASON: In the interests of mitigating the impact of the development to protected and notable species

22. No dwellings hereby approved shall be erected above damp proof course level, an appropriate street lighting scheme for the development, including for the "Safe Route for School" route on the A67/Coniscliffe Road shall be submitted to and approved, in writing by the Local Planning Authority. The development shall not be carried out otherwise than in complete accordance with the approved details.

REASON: In the interests of highway and pedestrian safety

23. Notwithstanding condition 19 and the recommendations set out in the document entitled "Preliminary Ecological Appraisal and Bat Survey Report. Land south of Coniscliffe Road, Low Coniscliffe" Version R2 dated 16 August 2016 and produced by Naturally Wild and approved under planning permission reference number 16/01231/FUL dated 22 February 2018 the street lighting scheme for the site shall include an ecological lighting strategy to be submitted to and approved in writing by the Local Planning Authority. The strategy shall include details, location and level of luminance of the street lighting and external floodlighting on the dwellings in the vicinity of the retained central field boundary and the development shall not be carried out otherwise than in complete accordance with the approved details. No additional street lighting or external floodlighting to the dwellings shall be installed other than agreed without the prior consent of the Local Planning Authority

REASON: In the interests of protected species and their habitats

24. Notwithstanding the recommendations set out in the document entitled "Preliminary Ecological Appraisal and Bat Survey Report. Land south of Coniscliffe Road, Low Coniscliffe" Version R2 dated 16 August 2016 and produced by Naturally Wild and approved under planning permission reference number 16/01231/FUL dated 22 February 2018 a scheme for the installation of bat and bird boxes (within trees and integrated into dwellings) shall be submitted to and approved in writing by the Local Planning Authority prior to any dwellings hereby approved being erected above damp proof course level. The scheme shall include the type of bird boxes and location throughout the development and the development shall not be carried out otherwise than in complete accordance with the approved details

REASON: In order to compensate for the loss of bird nesting opportunities due to the removal of sections of hedgerow and to enhance alternative bat foraging routes in the general ecological interests of the site.

25. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Order), no enlargement, improvement or other alteration of the dwellings on Plots 8, 9, 10, 23 and 24, including any additional structures/building within the curtilage of the site, shall be carried out without the prior consent of the Local Planning Authority, to whom a planning application must be made.

REASON: In order to protect the central boundary hedge for ecological purposes

26. CL1 – Phase 1 Preliminary Risk Assessment
27. CL2 – Site Investigation Strategy
28. CL3 – Phase 2 Investigation Works
29. CL4 – Phase 3 Remediation and Verification Strategy
30. CL5 - Construction/Remediation Works
31. CL6 – Phase 4 Verification and Completion Report
32. No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation that has been approved in writing by the Local Planning Authority. The scheme shall provide for:
 - a) Measures to ensure the preservation in situ, or the preservation by record, of archaeological features of identified importance
 - b) Methodologies for the recording and recovery of archaeological remains including artefacts and ecofacts
 - c) Post-fieldwork methodologies for assessment and analyses
 - d) Report content and arrangements for dissemination and publication proposals
 - e) Archive preparation and deposition with recognised depositories
 - f) A timetable of works in relation to the proposed development, including sufficient notification and allowance of time to ensure that the site work is undertaken and completed in accordance with the strategy
 - g) Monitoring arrangements, including the notification in writing to the County Durham Principal Archaeologist of the commencement of works and the opportunity to monitor such works
 - h) A list of all staff involved in the implementation of the strategy, including sub-contractors and specialists, their responsibilities and qualifications

The archaeological mitigation strategy shall be carried out in accordance with the approved details and timings.

REASON: To comply with paragraphs 197 & 199 of the National Planning Policy Framework 2019 because the site is of archaeological interest.

33. Prior to the development being beneficially occupied, a copy of any analysis, reporting, publication or archiving required as part of the mitigation strategy shall be deposited at the County Durham Historic Environment Record
REASON: To comply with paragraph 199 of the National Planning Policy Framework 2019, which requires the developer to record and advance understanding of the significance of a heritage asset to be lost, and to make this information as widely accessible to the public as possible.
34. Prior to the commencement of the development hereby approved (including demolition work), details shall be submitted of a scheme to protect the existing

trees shown on the submitted plans to be retained. The submitted details shall comprise generally the specification laid down within BS 5837 and shall include fencing of at least 2.3m high, consisting of a scaffolding frame braced to resist impacts, supported by a weldmesh wired to the uprights and horizontals to dissuade encroachment. The agreed scheme of protection shall be in place before the commencement of any work, including demolition operations. The Local Planning Authority shall be given notice of the completion of the protection works prior to the commencement of any work to allow an inspection of the measurements to ensure compliance with the approved scheme of protection. Notwithstanding the above approved specification, none of the following activities shall take place within the segregated protection zones in the area of the trees:

- a) The raising or lowering of levels in relation to the existing ground levels;
- b) Cutting of roots, digging of trenches or removal of soil;
- c) Erection of temporary buildings, roads or carrying out of any engineering operations;
- d) Lighting of fires;
- e) Driving of vehicles or storage of materials and equipment.

REASON - To ensure that a maximum level of protection in order to safeguard the well being of the trees on the site and in the interests of the visual amenities of the area.

35. No dwellings hereby approved shall be erected above damp proof course level until a landscaping scheme shall be submitted to, and approved in writing by, the Local Planning Authority prior to any works commencing and, upon approval of such schemes, it shall be fully implemented concurrently with the carrying out of the development, or within such extended period as may be agreed in writing by, the Local Planning Authority, and thereafter any trees or shrubs removed, dying, severely damaged or becoming seriously diseased shall be replaced, and the landscaping scheme maintained for a period of five years to the satisfaction of the Local Planning Authority.

REASON - To ensure a satisfactory appearance of the site and in the interests of the visual amenities of the area.

36. Prior to the commencement of the development hereby permitted, details of the finished floor levels of the dwellings and gardens hereby approved in relation to existing ground levels shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be undertaken in accordance with the details as approved.

REASON – In the interest of visual and residential amenity.

37. The development hereby permitted shall be carried out in accordance with the approved plans, as detailed below:

- a. SBA–4–16 – Planning Floor Plans SBA – 4
- b. SBA – 4 – 05 – 4 Elevations SBA - 4

- c. Gate Lane_000_XX_DR_A_003 Rev E Proposed Site Layout
- d. Gate Lane_000_XX_DR_A_004 Rev B Proposed Materials Layout
- e. Gate Lane_000_XX_DR_A_010 Rev A Proposed Boundary Treatments
- f. Gate Lane_000_XX_DR_A_035 Proposed Site Sections
- g. Gate Lane_000_XX_DR_A_060 Proposed Refuse Vehicle Tracking
- h. Gate Lane_000_XX_DR_A_061 Proposed Fire Tender Tracking
- i. Gate Lane_000_XX-DR_A_090 Rev B Proposed Management Plan
- j. DG-06 Rev A Double Garage Elevations
- k. DG-03 Rev C Double Garage Floor Plan
- l. 18-ST-11-1 Planning FF Plan Stewart
- m. 18-ST-11 Planning GF Plan Stewart
- n. 18-ST-06.02 Elevations - E02 Feature 1 Stewart
- o. 18-ST-06.03 Elevations- E03 Feature 2 Stewart
- p. 18-ST-06.13 Elevations – E03 Feature 2 Stewart
- q. 18-ST-06.12 Elevations – E02 Feature 1 Stewart
- r. 18-NA-GR-11 Planning Floor Plans Nasmyth Garden Room 18
- s. 18-NA-GR-06.02 Elevations – E02 Feature 1 Nasmyth Garden Room 18
- t. 18-NA-GR-06.03 Elevations - E03 Feature 2 Nasmyth Garden Room 18
- u. 18-MI-GR-11 Planning Floor Plans Mitchell Garden Room 18
- v. 18-MI-GR-06.02 Elevations – E02 Feature 1 Mitchell GR18
- w. 18-MI-GR-06.03 Elevations – E03 Feature 2 Mitchell GR18
- x. 18-LE-GR-11 Planning Floor Plans Leonardo & GR 18
- y. 18-LE-GR-06.02 Elevations – E02 Feature 1 Leonardo & GR 18
- z. 18-LE-GR-06.03 Elevations E03 Feature 2 Leonardo & GR 18
- aa. 18-LA-GR-11 Planning Floor Plans Lawrie Garden Room 18
- bb. 18-LA-GR-06.02 Elevations E02 Feature 1 Lawrie Garden Room 18
- cc. 18-LA-GR-06.03 Elevations E03 Feature 2 Lawrie Garden Room 18
- dd. 18-HU-GR-11 Planning Floor Plans Hutton Garden Room 18
- ee. 18-HU-GR-06.02 Elevations E02 Feature 1 Hutton Garden Room 18
- ff. 18-HU-GR-06.03 Elevations E03 Feature 2 Hutton Garden Room 18

REASON – For the avoidance of doubt and to ensure the development is carried out in accordance with the planning permission

SHOULD THE 106 AGREEMENT NOT BE COMPLETED WITHIN THE PRESCRIBED PERIOD WITHOUT WRITTEN CONSENT OF THE COUNCIL TO EXTEND THIS TIME (THE DECISION AS TO WHETHER OR NOT TIME IS TO BE EXTENDED IS

DELEGATED TO OFFICERS), THE PERMISSION SHALL BE REFUSED WITHOUT ANY FURTHER REFERENCE TO THE PLANNING COMMITTEE ON THE GROUNDS THAT THE APPLICATION HAS FAILED TO PROVIDE ADEQUATE MITIGATION MEASURES TO PROVIDE A SATISFACTORY FORM OF DEVELOPMENT IN ACCORDANCE WITH THE REQUIREMENTS OF CORE STRATEGY POLICY CS4 (DEVELOPER CONTRIBUTIONS). THE REASON TO REFUSE THE PLANNING APPLICATION WOULD BE AS FOLLOWS:

1. The proposed development would be contrary to policy CS4 (Developer Contributions) of the Darlington Core Strategy Development Plan Document 2011 as adequate provision has not been made for improving Rights of Way and cycle paths, grass playing pitches and open space in the locality of the application site in order to mitigate the impact of the proposed development.

THE FOLLOWING POLICIES AND DOCUMENTS WERE TAKEN INTO ACCOUNT WHEN ARRIVING AT THIS DECISION:

Borough of Darlington Local Plan 1997

E12 – Trees and Development

E14 – Landscaping of Development

Darlington Core Strategy Development Plan Document 2011

CS2 - Achieving High Quality Sustainable Design

CS4 - Developer Contribution

CS14 – Promoting Local Character and Distinctiveness

CS15 - Protecting and Enhancing Biodiversity and Geodiversity

CS16 - Protecting Environmental Resources, Human Health and Safety

CS17 – Delivering a Multifunctional Green Infrastructure Network

CS19 - Improving Transport Infrastructure and Creating a Sustainable Transport Network

National Planning Policy Framework 2019

Other Documents

Tees Valley Design Guide and Specification: Industrial and Estate Development

Supplementary Planning Document - Design for New Development

Supplementary Planning Document - Planning Obligations

INFORMATIVES

Highways

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

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

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

The applicant is advised to contact the Assistant Director: Highways, Design and Projects (contact Mr. Chris Easby 01325 406707) to discuss the introduction of a 20mph zone

Environment Agency

The Baydale Beck watercourse bounds the site to the East and the River Tees bounds the site to the South, both are designated as a 'main river' under the Environmental Permitting Regulations. If any works or structures (such as outfalls) are proposed, in, under, over or within 8 metres of the top of the bank/foreshore of the Baydale Beck or River Tees, you will need to apply for an environmental permit for flood risk activities. You can find more information on permit requirements using the following link:

<https://www.gov.uk/guidance/flood-risk-activities-environmental-permits>.

If a permit is required, it must be obtained prior to beginning the works

Public Rights of Way

The applicant is advised that a Temporary Traffic Regulation Order would be required to temporarily close Footpath No 6 – In the Parish of Low Coniscliffe) and contact must be made with the Assistant Director: Highways, Design and Projects (contact Mrs. P. McGuckin 01325 406651) to discuss the matter further.