

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	4/10/00451/FPA
FULL APPLICATION DESCRIPTION:	Sub-division of existing dwelling to form one 4-bedroom dwelling and one 6-bedroom dwelling
NAME OF APPLICANT:	Mr P Smith
ADDRESS:	85 Gilesgate, Durham, DH1 1HY
ELECTORAL DIVISION:	Gilesgate
CASE OFFICER:	Steve France, Senior Planning Officer steve.france@durham.gov.uk 0191 301 8711

DESCRIPTION OF THE SITE AND PROPOSALS

1. 85 Gilesgate, the former Britannia Inn, is a prominent traditional two storey building situated at the head of Gilesgate Bank. Situated within the City Centre Conservation Area, the former Inn and its curtilage to the rear are laid out in the form of a traditional burgage plot with a long garden area behind a narrow developed frontage, providing a generous rear garden. Planning permission has previously been granted for the change of use of the property, with physical alterations, to provide an eight bed-roomed house, involving partial demolition with erection of single storey extensions to rear, in proportion with the host property.
2. The scheme the subject of this application has been completed externally to a high standard and has resulted in a marked visual improvement to this part of the Conservation Area.
3. Internally the development has not been built in accordance with the previously approved plans, in the first instance having duplicate kitchen and living areas, along with stair access to the attic. Rooms approved previously as studies have been converted to bedrooms. Finally the house has been sub-divided to form two separate residential dwellings.
4. The application presented here, seeks retrospective planning permission for the sub-division of the existing dwelling to form 1 no. 4-bedroom dwelling and 1 no. 6-bedroom dwelling.

5. In response to the issue of restricted car parking at the site the applicant has agreed to provide membership of a car sharing club to occupants of the building and to make specific arrangements by appointments for delivery and drop at crucial times at the start and end of the academic terms.

6. The application is reported to Committee at the request of Ward Members, given the history of the site, and the highways issues raised by the current application.

PLANNING HISTORY

7. The recent history of the site in terms of planning applications is as follows;

8. Change of Use and conversion from Public House and managers flat to six bedroom residential dwelling – Approved in 2004.

9. Erection of 4 no. residential dwellings - application withdrawn in 2005.

10. Erection of 2 no. six bedroom dwellings with shared garden/amenity space. (Re-submission) – Refused 2005.

11. Change of use from public house to eight bed-roomed house, involving partial demolition with erection of single storey extensions to rear – Approved 2005.

12. Change of use and conversion of existing public house and associated residential accommodation to form 1 no. dwelling-house, with erection of single storey pitched roof extension to rear elevation – Approved. 2008.

13. Conversion of existing roof-space and 2 no. study rooms to create 4 no. additional bedrooms, totaling a 12 no. bed-roomed house in multiple occupation, including erection of 2 no. rooflights, and 1 no. additional window to the north elevation – Refused 2008.

14. The scheme that the applicant has externally implemented is that approved in 2005. An enforcement notice served by the Council to get the applicant to comply with the approved plans was not upheld by the Planning Inspectorate, both on technical grounds and on the basis that the property had been already physically subdivided into two separate units, and the planning issues had moved on.

PLANNING POLICY

15. NATIONAL POLICY:

Planning Policy Statement 1: Delivering Sustainable Development, sets out the Government's overarching planning policies on the delivery of sustainable development through the planning system. Particular emphasis is placed on the need for good design to be an intrinsic part of the development process.

Planning Policy Statement 3: Housing underpins the delivery of the Government's strategic housing policy objectives and our goal of ensuring that everyone has the opportunity to live in a decent home, which they can afford in a community where they want to live. This PPS3 sets out the expectations of the Government for Local Planning Authorities considering the

various aspects of development of new houses, including issues of sustainability, quality, mix, access to facilities, land supply, and the need for 'balanced communities'.

Planning Policy Statement 5: Planning for the Historic Environment, recently published sets out the principals guiding the consideration of applications for consent relating to definitions of the different elements of the historic environment as 'Heritage Assets'.

Planning Policy Guidance 13: Transport, objectives are to integrate planning and transport at the national, regional, strategic and local level and to promote more sustainable transport choices both for carrying people and for moving freight. It also aims to promote accessibility to jobs, shopping, leisure facilities and services by public transport, walking and cycling and to reduce the need to travel, especially by car. To deliver these objectives, the guidance says that local planning authorities should actively manage the pattern of urban growth, locate facilities to improve accessibility on foot and cycle, accommodate housing principally within urban areas and recognise that provision for movement by walking, cycling and public transport are important but may be less achievable in some rural areas.

Planning Policy Guidance 24: Planning and Noise, guides local authorities on the use of their planning powers to minimise the adverse impact of noise. It outlines the considerations to be taken into account in determining planning applications both for noise-sensitive developments and for those activities which generate noise. It explains the concept of noise exposure categories for residential development and recommends appropriate levels for exposure to different sources of noise.

The above represents a summary of those national policies considered most relevant. The full text can be accessed at: <http://www.communities.gov.uk/planningandbuilding/planning/planningpolicyguidance/planningpolicystatements>.

16. LOCAL PLAN POLICY:

Policy E6 (Durham (City Centre) Conservation Area) states that the special character, appearance and setting of the Durham (City Centre) Conservation Area will be preserved or enhanced as required by section 72 of the Planning (Listed Building and Conservation Areas) Act 1990. The policy specifically requires proposals to use high quality design and materials which are sympathetic to the traditional character of the conservation area.

Policy E22 (Conservation Areas) seeks to preserve or enhance the character or appearance of conservation areas, by not permitting development which would detract from its setting, while ensuring that proposals are sensitive in terms of scale, design and materials reflective of existing architectural details. (This Policy is complimentary to E6)

Policy H9 (Multiple Occupation/Student Households) seeks to ensure that buildings in multiple occupancy do not adversely affect the character of the area and do not require significant extensions or alterations having regard to Policy Q9.

Policy H13 (Residential Areas - Impact upon Character and Amenity) states that planning permission will not be granted for new development or changes of use which have a significant adverse effect on the character or appearance of residential areas, or the amenities of residents within them.

Policy T1 (Traffic - General) states that the Council will not grant planning permission for development that would generate traffic likely to be detrimental to highway safety and / or have a significant effect on the amenity of occupiers of neighbouring property.

Policy T10 (Parking - General Provision) states that vehicle parking should be limited in amount, so as to promote sustainable transport choices and reduce the land-take of development.

Policies Q1 and Q2 (General Principles Designing for People and Accessibility) states that the layout and design of all new development should take into account the requirements of all users.

Policy Q9 (Alterations and extensions to residential dwellings) states that proposals should have a scale, design and materials sympathetic to the character and appearance of the area, whilst ensuring no adverse impact upon residential amenity for adjacent occupiers.

The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.cartoplus.co.uk/durham/text/00cont.htm>.

CONSULTATION AND PUBLICITY RESPONSES

17. STATUTORY RESPONSES:

The Highway Authority notes that the site has a long and complex history, in which they have been involved. Noting the absence of specific on-street parking to the front of the properties on Gilesgate, the demand for such has been evidenced by conflict over the enclosure of private land in this area. The land is not adopted highway, and is therefore controlled by private bodies or individuals. The only adopted highway consists of the footpath to the front of 85 Gilesgate and the A181. Of prime concern is that these adopted highways are not obstructed by parked cars, and there is no suggestion that this is the case.

It is also noted however that parking congestion on private land can make it difficult for motorists to manoeuvre on and off the highway and this can cause safety problems. There are a high proportion of buildings occupied by students, in flats, houses and houses in multiple occupation, and this could have a large effect on car parking demand if car ownership amongst students were larger than at present. Students at Durham are discouraged from bringing cars to University, and the constrained car parking opportunities at Gilesgate acts as further deterrent for cars to be based there. However, there will still be residents, permanent and temporary, who neglect to plan for parking when considering living in a property, or purchasing a vehicle.

The highway Authority has therefore approached development on Gilesgate attempting to limit the scale of such wherever possible, and in the case of 85 Gilesgate, balancing the demand for likely residential parking space against that which might have been expected from its use as a Public House. Applications for residential use for 6 and then 8 bedrooms were accepted as least likely to generate parking problems. An application for 12 was made and refused, with provision for student membership of a car club, provision of a car space in the vicinity, a travel plan, and further support of the car club.

The application proposes 10 bedrooms, above the eight approved in 2005 which was considered the maximum acceptable. The creation of two dwellings is likely to raise residents' expectations for car parking. The proposed booking system for the pick up and drop off arrangements is considered unenforceable. The application is recommended refused.

18. INTERNAL CONSULTEE RESPONSES:

None

19. PUBLIC RESPONSES:

At the time of writing there were 9 no. objectors to the application, including the City of Durham Trust and the MP, with four letters in support.

Objectors consider the accommodation inflexible and clearly aimed at the student market, exacerbating a predominance of such in the area, with the further student resident proposed unbalancing the local community further, undermining community feel to the area, particularly during the summer months, when much of the accommodation is vacated. The applications submitted are evidenced as the applicants intent to fill the property to 'saturation point' and an incremental process that will not be ended by this application. Objectors point out that despite assurances that whilst the applicant has stated to have no plans for additional bedrooms in the roof, this does not preclude additional bedrooms elsewhere, the property currently being advertised as having been let, having six bedrooms in each of the two separate properties i.e. 12 bedrooms in total – with each bedroom advertised as having a double bed.

The use of rooms approved as 'study rooms' in the 2005 approval deprives tenants of living space to which they are entitled. Specific residential amenity problems are identified by the landlords of the flats to the west, the vennel access to the rear dwelling proposed, being the only access to that property, and directly adjacent those residential flats, with unwanted noise transmitted day and night. The additional use of and 'comings and goings' are a direct result of the separation of the unit to the rear. The relationship between the windows of the residential units and the flats adjacent are considered to unreasonably affect the residential amenity of the latter, one resident in particular listing a series of problems with the density and nature of the residential relationship in terms of both residential amenity and privacy, and parking issues, having provided extensive photographic evidence of problems of the latter.

The balance of the local community is considered compromised by the blight of over-development by multi-occupancy in the area.

The amount and disposal of refuse from the premises is a concern, as are issues of noise.

The vehicular access to adjacent properties is contended to be already compromised and subject to significant obstruction from parked vehicles, with no specific off-street parking, the land being available to the public, the applicant having no exclusive right to such. There is parking available for 2 no. cars. With the Vice-Chancellor of the University stating that student numbers are decreasing the reuse of student properties by young professionals and others are likely to lead to an additional demand, the potential for the detrimental effect to highway safety on the A181 is a concern. It is contended there has been an increase both in traffic, and let property in the vicinity with a commensurate effect on long-term residents in the area. The additional two tenants will add to vehicular demand for their own vehicles and service vehicles. There are additional traffic movements relating from the sub-division of the two properties. Parking is alleged to spill into and compromise that on neighbouring properties.

The City of Durham Trust object to the application as overdevelopment, with highways issues, and implications to the 'balanced community' of Gilesgate.

The MP has written in support of objectors, raising issues of scale, parking and balanced communities, trusting Committee Members will give due consideration to the opinions of local residents whose privacy, amenity and patience have been tested to the limit for a number of years.

In support of the application, a former resident of the property, claims the property is well managed, and residents never gave cause for complaint, but makes allegations against the neighbours. Other supporters commend the quality of refurbishment of the property, and consider it unlikely the tenants will use cars if they cannot park them. The imaginative use of the car club scheme is backed. The closest neighbour to the east notes preference of the current use to a public house, considers parking not to be a problem with the landlord considerate and responsive to problems.

(It is noted that an amount of correspondence has been screened as 'sensitive' from the public access site during the course of the application for various reasons, where issues of data protection and libel have raised potential concern.)

20. APPLICANTS STATEMENT:

The applicant's Planning Statement includes an interpretation of the Inspector's Report from the enforcement against the 2005 application, noting the Inspector did not accept an unauthorised Change of Use had occurred, in that whilst the description of the application was specific as a 'Change of use from public house to eight bed-roomed house', there were no conditions attached to restrict the number of bedrooms, and no condition requiring the applicant to build in accordance with the approved plans. The applicant therefore considers that the 10 bed-roomed dwelling is an approved 'fall-back' position against which the current proposals should be considered. The main issues are contended as: the effect on the amenity of residents of the property and those neighbouring, and the demand for parking from residents and visitors.

The applicant wishes to state that the current application, if approved, will be implemented and remain as proposed, and he has no plans to create additional bedrooms in the roof-space. He considers that Policy H9 of the Local Plan encourages the sub-division of houses to multiple occupancy / student households, providing the detailed criteria are met. The applicant considers that there is no 'significant' adverse impact likely on the privacy and amenity of adjacent residents when 10 as opposed to eight residents are involved, any differences being marginal. It is further considered that the subdivision into two properties will likely dissipate the impact of the residential impact on neighbours by sub-dividing it. Noting the Highway Authority's lack of objection to the application in 2005, it is inconceivable that they should now object on this occasion. Policy T1's presumption against development that either generates traffic likely to be detrimental to highway safety, or result in a significant effect on the amenity of neighbouring property are not considered compromise by the proposals. The current application will not result in a material change to parking demand or any impacts on amenity.

Offering residents access to the 'Option C Car Club', and a 'booking system' for parental delivery of residents to be ensured by condition to any approval, the applicant considers highways issues addressed.

The full 25 page applicant's statement and a subsequent follow-up statement are available for inspection on the web-link below.

The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <http://82.113.161.89/WAM/showCaseFile.do?action=show&appType=planning&appNumber=10/00451/FPA>. Officer analysis of the issues raised and discussion as to their relevance to the proposal and recommendation made is contained below

PLANNING CONSIDERATIONS AND ASSESSMENT

21. This property has evolved through an extensive planning history and the consideration of this application effectively comes down to the main issues of the density of residential accommodation the site can reasonably accommodate without harm to the residential amenity of nearby residents and the impact upon highway safety.

22. Planning permission has previously been approved for the proportionate extension of the host building –a traditional structure, prominent in the Conservation Area but not listed – with eight bed-rooms, a lounge, kitchen, conservatory and study rooms. The applicant has provided evidence to show that the property was initially let to 8 no. residents and implemented in accordance with the approved scheme. However, officers later inspection of the property revealed a duplication of internal facilities that suggested the property was not operating in accordance with the extant planning permission. The external physical alterations had been carried out to a high standard, as required in a Conservation Area., here.

Principle of development

23. The principal of the building for use as a house in multiple occupation (HMO) has already been established and accepted through previous applications. Set at a level of 8 bedrooms, this represented a compromise between the size of the property, as a larger former public house, and the narrow site with its closer relationship in terms of privacy and amenity to neighbouring dwellings. The site was also compromised by a lack of parking within the control of the applicant, albeit the forecourt of the public house, when in use, has been informally used for such, on this undesignated part of the Village Green. The issues raised by these two topic areas are those which Officers contend the current proposals must be assessed against. The most pertinent Policies of the Local Plan therefore are considered to be:

Policy H9 (Multiple Occupation/Student Households) which seeks to ensure that buildings in multiple occupancy do not adversely affect the character of the area and in particular do not adversely affect the amenities of nearby residents, and Policy H13 (Residential Areas - Impact upon Character and Amenity) which states that planning permission will not be granted for new development or changes of use which have a significant adverse effect on the character or appearance of residential areas, or the amenities of residents within them.

Policy T1 (Traffic - General) states that the Council will not grant planning permission for development that would generate traffic likely to be detrimental to highway safety and / or have a significant effect on the amenity of occupiers of neighbouring property and Policy T10 (Parking - General Provision) states that vehicle parking should be limited in amount, so as to promote sustainable transport choices and reduce the land-take of development, but should comply with the Parking standards approved by the County Council in its capacity as Highway Authority.

Residential amenity

24. The issue of residential privacy and amenity is obviously one of degree, with the basic use of the building having been previously accepted. Policy H9 states that 'the subdivision or conversion of houses for multiple occupation, will be permitted providing that: 2. It will not adversely affect the amenities of nearby residents'. Policy H13 states that planning permission will not be granted for development or Changes of Use which have 'a significant adverse effect onthe amenities of residents within (residential areas)'.

25. The immediate neighbours on either side of the application site are split in their support / objection to the proposals and the effect of the students on residential amenity. However, whilst both properties are physically joined to the site, the application's rear extensions, and the sole entrance door to the newly created separate unit and the gated vennel access, impact on the objector's property only. A resident of the flats of the adjacent property, supported by their landlords have provided a list of compromises to their residential amenity which relate to the intensified use of the vennel, vennel gate and new main access door, which would indicate that the proposals are clearly contrary to criteria 2 of Policy H9 as above.

26. Whilst the applicant's agent argues that such an arrangement is common in the City, the relationship and arrangement is newly introduced here. Officers do not consider that an argument that the changes are 'significant' – the critical word in Policy H13 – could be reasonably upheld, given the fact that the rooms, windows, access door and external amenity area have already been approved for use with a House in Multiple Occupation. However the issue here is the degree of intensified use resulting in the now subdivided use of the property and the additional bedrooms. Notwithstanding the fact that the impact may not be significant in the context of policy H13 it still nevertheless fails the tests regarding impact on amenity required by Policies H9 and T1.

Highway Issues

27. The highways issues are potentially more complex. The Council has through the history of the applications on this site sought to take a pragmatic line in that whilst the applicant does not control any land or parking on the forecourt that fronts the site, the public house use of the site had previously benefited from its informal use as such. This had been taken into account and given a degree of 'weight' in previous decisions.

28. During the course of this application the owners of the flats at 83 Gilesgate fenced the land to the front of that building. They enquired in advance whether approval was required under planning legislation for the fence, or a Change of Use, and under highways legislation as to the effect on the adopted highway. Following provision of evidence through deeds to show ownership, advice on the design of the fence, and confirmation that the area was not designated Village Green, fencing was erected, and then immediately removed. A much abbreviated form of fencing designed to give basic definition to only the boundary between 83 and 85 was re-erected, and this also has been removed. The erection of the fence, and the land-ownership issue involved is outwith the consideration of the planning application, but obviously has relevance to it, both in representing existing residents' and land owners' reaction to the parking and highways effects of the development, and the applicant's rights and ability to control claimed parking rights.

29. The applicant's agent acknowledges the situation regarding parking is an area of dispute between his employer and the owner of the adjacent property, with a difference of opinion (and possibly legal advice) on this matter. He contends that in the absence of unequivocal evidence of ownership/rights, this is not something the Council can or should make judgment on, and the only reasonable approach is to acknowledge uncertainty. The Council is not however making a judgment on this issue. The neighbouring owner has provided a copy of a deed to show full ownership of their forecourt. The applicant provided no evidence to show any right over that land which may now not be generally available to him, or the public at large, in accessing the forecourt of his own property for parking. Whether the land is available to him is not for the Council to determine. The fact that the land may not now be available to him is relevant, and must be given an appropriate degree of weight in making a planning decision. A resident of the adjacent flats again contends that there is an ongoing effect on the residential amenity of her property from the vehicular traffic generated by the development, and again that there are different effects between the use of the application site as one unit and two. Photographic evidence has been provided to illustrate repeated double parking and restriction of access.

30. Whilst the applicant's efforts to direct and encourage tenants to the innovative car club scheme is laudable, rental advertising still makes it clear that off-street parking and parking permits are available. The control of the parking is considered outside his, and the Council as Local Planning Authority's control.

31. The Highway Authority note the application proposes 10 bedrooms, which is greater than the eight approved in 2005 which was considered the maximum acceptable, with the creation of two dwellings likely to raise residents' expectations for car parking. They consider the proposed booking system for drop off and pick up is unenforceable.

32. Given the applicant contends that this system is already in place, yet the impact of the beginning and ends of academic terms has been identified still as a problem by objectors, the proportionate effort required by the Council to enforce such is considered unreasonable, and therefore fails to meet the requirements of a Condition. The wording of Policy T1 is such that the Council will not grant planning permission for development which would be in the first instance detrimental to highway safety. With an objection from the Highway Authority, and uncertainty over the extent of parking land available, the conclusion must be that at the current point in time, the proposal is likely to give rise to problems prejudicial to highway safety. Secondly, policy T1 requires that proposals must not have significant affect on the amenity of occupiers of neighbouring property. Whilst the applicant has a density of accommodation already approved, and whether this is the 8 bedrooms approved, or his agent's contended 'fall-back' position of 10 bedrooms, the Council must take into account the current position, particularly where highway safety is at stake. Without making judgment on the land ownership/rights, the applicant's ability to access the property to the extent previously assumed is in question, and given the evidenced claim of significant detriment to the amenity of occupiers of neighbouring property, this point must carry some weight.

Other matters

33. The above are considered the main planning issues and policies raise by the application. Other issues have been raised by the applicant, and objectors with debate in particular on the issue of 'balanced communities'. It must be noted that in Durham this issue has synthesised into a debate over the effect of student housing, usually but not exclusively in areas of traditional residential accommodation. That students are not identified as different from other forms of 'multiple occupants', and the conversion of the majority of residential

accommodation to property for let has not in the past required planning permission is often overlooked when the issue is raised. Likewise the differences in definitions between Planning and Environmental Health legislation in reference to Houses in Multiple Occupation has confused the debate to an extent.

34. This in some ways goes to explain why there is no planning database of the extent of HMOs in the Durham City Area, and why the anecdotal evidence presented by objectors to the creation of new schemes given a degree of weight by Planning Officers that disappoints those who offer it. The Council simply do not have the evidence that the development 'will not result in concentrations of sub-divided dwellings to the detriment of the range and variety of the local housing stock' (Policy H9), in other words unbalance the community in favour of HMOs. Since the majority of those HMOs have come into being at a level that did not require recourse to planning permission, issues of 'balanced communities' are not therefore considered a determining feature in this application.

35. The application effectively turns on whether the differences between the approved scheme for one large HMO and that unit sub-divided into two smaller ones has sufficient differences to demonstrate harm between them. It is reasonable for the application to be determined on the current circumstances, just as it is for it to be determined against Government advice and legislation at this time. Officers consider that the differences are a determining feature, and that the uncertainty over access must be taken into account.

36. Both the MP's and new Governments desire for greater localism in the determination of applications are noted.

CONCLUSION

37. For the reasons outlined above, the application is considered contrary to Policy H9, but not Policy H13 in terms of residential privacy and amenity, with the adjacent residential property's amenities adversely affected, but not to the degree where it could be argued 'significant'.

38. Likewise, giving due weight to both the objection from Highway Authority, and the uncertainty over access issues to the forecourt fronting, but outwith the ownership of the site, the proposals are considered contrary to the requirements of the general Highway Policy T1, with the creation of two dwellings likely to raise residents' expectations for car parking.

39. However, Policy T10 seeks the promotion of sustainable transport choices, and with the Highway Authority's consistently pragmatic approach to parking standards in the City, where bus connections and other alternatives exist, the application is not considered contrary to the wording or aspirations of this.

40. The application is proposed refused on the basis of Policies H9 and T1 of the City of Durham Local Plan 2004.

41. As the application is retrospective authorisation is also sought for enforcement action to ensure the property reverts back to a single house in Multiple Occupation as approved.

RECOMMENDATION

That the application be **Refused** for the following reasons;

1. The proposed development, by reason of its scale, nature and access arrangements, is likely to impact adversely upon levels of amenity those living close by can reasonably expect to enjoy, contrary to the objectives of Policy H9 of the City of Durham Local Plan 2004.
2. The proposed development, by reason of its scale and limited parking provision, is likely to create traffic conditions prejudicial to both highway safety and residential amenity levels that those living close by can reasonably expect to enjoy, contrary to the objectives of Policies H9 and T1 of the City of Durham local Plan 2004.

Additional matters;

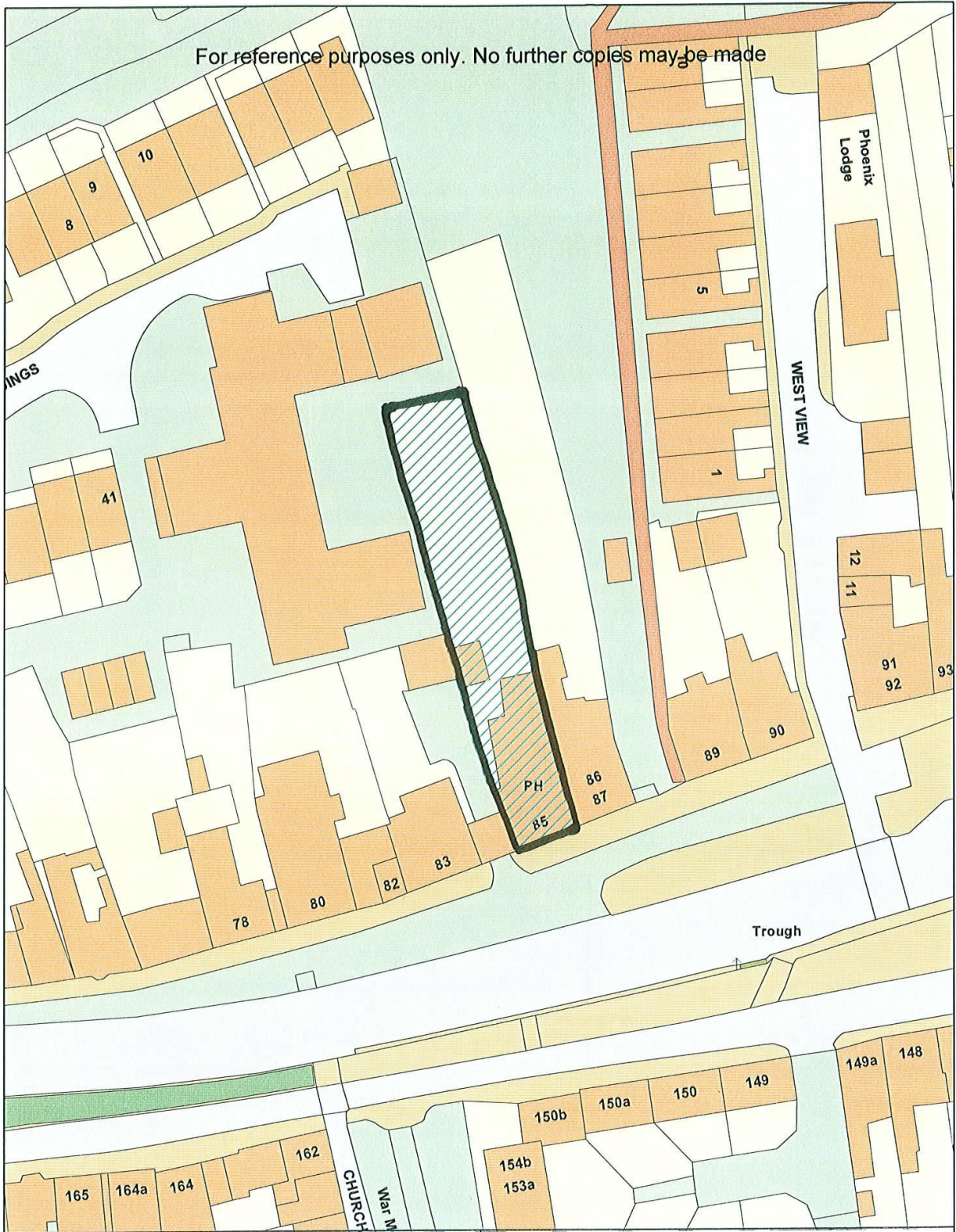
That authorisation be granted for the issue and service of an enforcement notice to require the cessation of the current unauthorised use of the property.

BACKGROUND PAPERS

Submitted Application Forms and Plans
Design and Access Statement
Planning Support Statement and correspondence
City of Durham Local Plan 2004
Planning Policy Statements / Guidance, PPS1, PPS3, PPS5, PPG13, PPG24
Response from County Highways
Public Consultation Responses incl. City of Durham Trust
Response from MP



For reference purposes only. No further copies may be made



Planning Services

4/10/451/FPA - 85 Gilesgate, Durham

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Comments

Date

12 October 2010

Scale

1:625

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	4/10/00470/FPA
FULL APPLICATION DESCRIPTION:	Erection of 2 no. dwellings with associated parking together with upgrading of access from Front Street
NAME OF APPLICANT:	Mr S Williams
SITE ADDRESS:	Land west of 4 South Terrace, Framwellgate Moor Durham
ELECTORAL DIVISION:	Framwellgate Moor
CASE OFFICER:	Andrew Inch, Senior Planning Officer (0191) 31 8745 Andrew.inch@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

1. The application site comprises in part an area of vacant land, partly sown to grass, partly mud and partly hard surfaced, and which is currently used for vehicle parking, siting of storage container and storage of building materials. The site is also made up of an unmade, narrow access in a poor state of repair and which serves a number of existing residential properties from Front Street, as well as including some parking spaces. To the front of the site is the access with a number of new residential dwellings, set on higher ground level, beyond. To the rear are traditional terraced two storey dwellings largely of render and slate with some brick. These properties appear to have pedestrian access onto the application site as well as one having vehicular access. To the east and adjoining the site is an existing terrace of two storey properties, some with attic accommodation, while to the west is an area of gardens with further residential development beyond.
2. Planning permission is sought for the erection of a pair of two storey semi-detached dwellings, with 3 and 4 bedrooms each. The properties would be a mix of render and facing brickwork with grey slate roofing. Three parking spaces would be provided to the front of the dwellings. An integral part of the application is the proposed upgrade of the unmade access road to an adoptable standard including parking bays adjacent to 16 Front Street, and both vehicular and pedestrian access in tarmac with associated drainage. The upgraded access would stop at the western edge of the proposed dwellings.
3. The application is reported to Committee following a request by a Local Ward Member.

PLANNING HISTORY

4. This application follows the refusal of planning permission (09/00797) for two dwellings and an apartment in December 2009. The reasons for refusal related to the land being considered to not be previously-developed, unsuitable access and privacy loss for surrounding residents.

5. In addition, and of significance to the application site is a planning permission (06/00849) for the erection of two dwellings immediately to the east of and adjoining the site; 3 and 4 South Terrace. Permission was granted subject to conditions, and specifically that the access road was upgraded prior to the occupation of the development following agreement of an appropriate scheme. Such agreement was reached and involves the construction of part of the road, to form a turning head, on the site subject of this application. The dwellings have been erected and are occupied; however, the road is not upgraded. A s73 application (09/00554) to remove the condition from the original permission was refused in September 2009. In February 2010 and subsequent to the refusal of planning permission to redevelop the site and to remove the condition requiring the access upgrade, a breach of condition was served with a six month period for compliance which has now lapsed without the steps in the notice being complied with. The developer may now be open to prosecution under section 179 of the Town and Country Planning Act 1990.

PLANNING POLICY

6. NATIONAL POLICY:

Planning Policy Statement 1: Delivering Sustainable Development sets out the overarching planning policies on the delivery of sustainable development through the planning system.

Planning Policy Statement 3: Housing underpins the delivery of the Government's strategic housing policy objectives and our goal of ensuring that everyone has the opportunity to live in a decent home, which they can afford in a community where they want to live.

Planning Policy Guidance note 13: Transport seeks to integrate planning and transport at the national, regional, strategic and local level and to promote more sustainable transport choices both for carrying people and for moving freight.

7. LOCAL PLAN POLICY:

Policy H2 (New Housing within Durham City) states that new residential development comprising windfall development of previously developed land will be permitted within the settlement boundary of Durham City provided that the proposals accord with Policies E3, E5, E6, Q8, R2, T10 and U8A.

Policy H13 (Residential Areas – Impact upon Character and Amenity) states that planning permission will not be granted for new development or changes of use which have a significant adverse effect on the character or appearance of residential areas, or the amenities of residents within them.

Policy T1 (Traffic – General) states that the Council will not grant planning permission for development that would generate traffic likely to be detrimental to highway safety and / or have a significant effect on the amenity of occupiers of neighbouring property.

Policy T10 (Parking – General Provision) states that vehicle parking should be limited in amount, so as to promote sustainable transport choices and reduce the land-take of development.

Policies Q1 and Q2 (General Principles Designing for People and Accessibility) states that the layout and design of all new development should take into account the requirements of all users.

Policy Q3 (External Parking Areas) requires all external parking areas to be adequately landscaped, surfaced, demarcated, lit and signed. Large surface car parks should be subdivided into small units. Large exposed area of surface, street and rooftop parking are not considered appropriate.

Policy Q8 (Layout and Design – Residential Development) sets out the Council's standards for the layout of new residential development. Amongst other things, new dwellings must be appropriate in scale, form, density and materials to the character of their surroundings. The impact on the occupants of existing nearby properties should be minimised.

Policy U8a (Disposal of Foul and Surface Water) requires developments to provide satisfactory arrangements for disposing foul and surface water discharges. Where satisfactory arrangements are not available, then proposals may be approved subject to the submission of a satisfactory scheme and its implementation before the development is brought into use.

The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at:-

National Planning Policy

<http://www.communities.gov.uk/planningandbuilding/planning/planningpolicyguidance/planningpolicystatements/>

Local Plan Policy

<http://www.cartoplus.co.uk/durham/text/00cont.htm>

CONSULTATION AND PUBLICITY RESPONSES

8. STATUTORY RESPONSES:

The Highway Authority have given detailed consideration to the proposals:

South Terrace is an unadopted and partly unsurfaced lane which serves a considerable number of dwellings. Access is unsatisfactory due to the poor carriageway, lack of pedestrian facilities, poor drainage and lighting. A previous development application (06/00849) was granted planning permission on condition that the access lane was improved to a standard which was agreed by this Authority as suitable for highway adoption. This layout would have been to a lower standard than that normally recommended but is the best which can be provided within the available space. The limited amount of traffic which this area generates allows reduced standards to be applied and it was felt that such a scheme would be an enhancement to the area and provide a better and safer access to these properties.

The development of the 2 new dwellings proceeded but without any improvement to the road. I understand that enforcement action is being considered to address this deficiency.

The current application would extend the housing by two further dwellings onto vacant land to the west of the current terrace. To properly serve this proposal, it will be necessary to extend the highway scheme across the frontage of these properties and this has been indicated on the proposed road layout submitted with the planning application. The road layout includes an area for cars and light delivery vehicles to turn and a car parking lay-by. This lay-by would form part of the adopted highway and could not be reserved for residents. However it would be conveniently placed for residential parking and I am content with this provision. The layout continues to suffer from a pinch point in the vicinity of the garage near the entrance but this can be accepted as the traffic levels are low. A footpath would be provided along the frontage of the dwellings. A system of road drainage would be provided.

There are some areas of land which could, with their owners consent, be added to the area of surfaced highway. These include the triangular area mentioned by the local councillor and the area further to the west of the proposed road improvement. This would be beneficial to neighbouring properties and provide a more complete improvement of the area.

I am very concerned that the previous development proceeded without the necessary highway improvements being completed - or even attempted. I am therefore unwilling to agree to this development commencing until the road is improved and I would recommend that a planning condition is applied to any permission requiring that the road works shown in Drawing No 10/09/202 are completed to our satisfaction before any works are commenced on the proposed dwellings. I would recommend that the final wearing course should be delayed until after all building works are completed.

In summary, no objection is raised subject to an appropriate planning condition.

Northumbrian Water Limited raise no objection, however, they advise that a public sewer crosses the site and is shown built over on the application and it would need to be diverted. An appropriate condition is suggested.

9. INTERNAL CONSULTEE RESPONSES:

The Area Planning Policy Team considers that the site constitutes previously-developed land in a sustainable location with good access to shops and other key service requirements of Local Plan Policy H2 and PPS3.

10. PUBLIC RESPONSES:

Six letters of objection have been received.

The occupiers of No.7 Tindale Avenue raise material planning issues which include a loss of privacy, impact on their garden, and loss of natural light. Concerns are also raised in relation to drainage, and that there will be considerable noise and disturbance during construction.

The owners of 7 Victoria Court object on the basis that, although the roof accommodation has been removed from this revised scheme, the proposals will cause significant privacy loss to their main room windows, noting the still reduced separation standards. Concern is expressed that the ridgeline is higher than in the earlier scheme, and that this may lead to accommodation in the roofspace.

The occupiers of No. 10 South Terrace have written twice and object on the grounds of the overdevelopment of the area, particularly in terms of student properties, that the proposal will compromise the privacy of residents in Tindale Avenue that additional traffic using the access will be to the detriment of highway safety, particularly at the junction with Front Street. The upgraded access raises concerns in two areas. Firstly, that the work will lead to existing residents not being able to access their properties and secondly, that the road will become narrower if pavements are provided. Finally, concerns are expressed in relation to drainage, in terms of there being a sewer across the site and that existing drainage problems have not been adequately addressed.

The occupiers of both Nos. 12 and 14 South Terrace object to the proposals on the basis that parking to the front of the properties will restrict access to property along the cul-de-sac and that parking facilities will be seriously restricted, as they can be currently by members of the public using the shops on Front Street park at the head of the cul-de-sac. They are concerned that the new access road will increase surface run-off at the head of the cul-de-sac where it would not be upgraded.

The Local Ward Member objects to the proposals, and expresses concern that the applicant has not fulfilled previous planning requirements on this street. Fundamentally, the member considers that the applicant ought to upgrade the access road to the head of the cul-de-sac rather than the extent of the site, and that to not do this will lead to increased surface run-off, that the existing cul-de-sac head is not capable of taking any additional traffic, whilst a small area of land which should be included for upgrade is excluded and finally that, bin stores should be provided.

11. APPLICANTS STATEMENT:

We consider that we have addressed the three reasons for refusal of the prior planning application, reference 4/09/0079/FPA, as set out in our comprehensive, eleven- page Design and Access Statement.

Despite this, we acknowledge that there remains some nearby residents and a Councillor objection to these proposals. We have already addressed these objections in our statement where we have given a full and detailed explanation. That said we would wish to highlight the following points:

Access

It would appear that access proposals remain the primary reason for objectors concern. However, it is clear in the Council's Highway Development Control section consultation response that the proposed upgrade to the access road and parking provision is acceptable in the given circumstances and that the proposals offer an opportunity to improve highway conditions and safety in the vicinity of the site. These accord with our pre-application discussions with the Council.

We acknowledge the Section Manager's suggested conditioning of any approval to ensure the upgrade takes place in part before development commences. We consider this suggestion reasonable in the given circumstances where there would be assurances that the Local Planning Authority could enforce such a condition if necessary. We maintain that this will be unnecessary.

The access road to the west of the site is of poor condition. It is not our responsibility to address this matter, as it is incumbent upon the joint owners to ensure that the access beyond the site is of an acceptable standard for their own use. We would consider any condition that would seek to shift the responsibility for the access beyond the west of the site to us to be unreasonable and unacceptable.

We also note the comments of Northumbria Water Authority and suggest that if there remains any concern, the Local Planning Authority could condition any approval to ensure we take measures to address the Water Authority's comments.

Separation distances

Clearly, there are site constraints but we have sought to address the overlooking and privacy objections of the Local Planning Authority to planning application 4/09/00797/FPA as best we can.

Second-floor roof space accommodation has been removed from these proposals in order to reduce the potential for overlooking to occur. Moreover, to reduce overlooking further, non-habitable rooms on the ground floor have been sited to the south side of the building. Habitable room windows on the first floor have been located on the west elevations of the offshots to prevent first floor overlooking of Tindale Court or, indeed, each other. This means the minimum separation distances set out in Policy Q8 of the Local Plan have now been exceeded in part.

Building upon earlier proposals, these proposals also seek to reduce the scale of the development while maintaining an appropriate level of accommodation. Overall, the scale of the development is commensurate with surrounding residential properties and its locality. This is illustrated by historical mapping from 1897 to 1839 that shows that the original, and now demolished, dwelling houses of South Terrace extended beyond the west boundary of these proposals.

We consider that these revised proposals overcome any objections to the development with regard separation distances and consider that they now accord to the spirit of Policy Q8 and H13 of the Local Plan for the layout of new residential development and the protection of residential amenity respectively.

Previously developed land

We wholly appreciate that whether or not the site constitutes "previously developed land" constitutes a moot point in the consideration of this planning application. We have comprehensively detailed why we consider the land to be brownfield land in our Design and Access Statement.

We maintain this view based on an absence of case law precedent to the contrary. We remain convinced that windfall development of the site is permissible by virtue of Policy H2 of the Local Plan. In any case, if the Local Planning Authority does not to agree with our reasoning, we believe that the material considerations of these proposals would justify a departure from policy.

We respectfully request that the Committee consider these points and our design and access statement in full before making a decision. We consider that the Committee has an opportunity to bring about a much-needed improvement to what is essentially wasted land, and in approving this application, to provide an upgrade to the access road for the benefit of the community that would otherwise be unlikely to occur. We suggest that the Committee could approve this application, with reasonable conditions as consider necessary.

The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <http://82.113.161.89/WAM/showCaseFile.do?action=show&appType=planning&appNumber=10/00470/FPA>. Officer analysis of the issues raised and discussion as to their relevance to the proposal and recommendation made is contained below

PLANNING CONSIDERATIONS AND ASSESSMENT

12. The main issues to consider are the principle of development, the suitability of the means of access and related highway issues, visual amenity and residential amenity, having regard to the three reasons for refusing the earlier application.

13. Policy H2 of the Local Plan permits the windfall development of previously-developed sites or the conversion of existing buildings and that new residential development within the city's limits will occur through such development only. Previously-developed land is defined in Annex B to PPS3 as land which is or was occupied by a permanent structure, and historical mapping shows this is the case here, but excludes instances where the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time (to the extent that it can reasonably be considered as part of the natural surroundings). Historical mapping does show the existence of properties on the site in the period 1970 to 1979 but not on the later 1980 to 1994 version, suggesting it is a considerable time period, perhaps 30 years since properties once stood on this site. The applicants state that the site is therefore acknowledged as having been *developed previously*. Moreover, they contend that since the housing on the site was demolished and completely cleared and there would be no fixed surface infrastructure remaining and that neither could it have blended into the landscape over time. Essentially, if the housing had been demolished, but not completely cleared, it would undoubtedly be considered previously-developed since it would be unlikely that such remains would have blended into the landscape in that time. In addition, the Council's Area Planning Policy Team consider the site to be previously-developed, and on balance it is considered that the sites characteristics are broadly consistent with the definition of such land and that its redevelopment comprising windfall development of previously-developed land would accord with Policy H2 of the Local Plan and the presumption in favour of the use of such land for housing as set out in PPS3.

Highway Safety

14. Turning now to site access, there have been a number of objections stating the unacceptable nature of the access, in terms of its condition, its narrowness and propensity to become congested at its eastern end. The access is on inspection in a very poor state of repair, having large areas of potholes and broken surface, whilst there are no footpaths or streetlights and its narrowness is such that the section toward the eastern end can become congested as a combination of vehicles moving in opposite directions together with parked vehicles creating a bottleneck neck. To address the condition of the access and in order to resolve a breach of planning control in respect of a condition requiring the upgrade of the access prior to the occupation of the adjacent dwellings, this application includes details of the means by which the access would be upgraded.

15. The Highway Authority has consistently stated in the strongest terms that the access is unsuitable to serve further residential development. The applicants have identified in detail a scheme to upgrade the access which includes the provision of a tarmac surface from the junction with Front Street as far as the western edge of the application site. This would incorporate pedestrian footways, lighting, drainage and parking spaces at both the Front Street junction and to the front of the proposed dwellings as well as a turning head positioned between the western gable of 4 South Terrace and the first proposed dwelling. The Highway Authority have considered in detail the proposed scheme and consider that it would be of an appropriate standard to serve the development, provided that the road works are completed to their satisfaction before any works are commenced on the proposed dwellings and that the final wearing course should be delayed until after all building works are completed. The proposed road upgrade would therefore have a number of benefits including providing existing residents with a much improved carriageway of an adoptable standard and it would address a breach in planning control.

16. As the Highway Authority noted, there are some areas of land which could, with their owners consent, be added to the area of surfaced highway. These include the triangular area mentioned by the Local Ward Member and the area further to the west of the proposed road improvement, and while this would be beneficial to neighbouring properties and provide a more complete improvement of the area, it would be outwith the red-edged application site, and could not be imposed on the developer as part of this scheme. In requiring highway improvements, the works must be proportionate to the development proposed, and in this case, it is considered that the access upgrade and its extent is proportionate to the two dwellings proposed and the two already constructed, and as such, it is considered that the scheme accords with Policies T1 and T10 of the Local Plan. Residents concerns about parking levels and the access being narrowed are considered to not be of such weight that they would outweigh the Highway Authority's conclusion on this issue.

Visual Amenity

17. In visual terms, although the properties would be detached from the rest of the terrace, its layout and position would replicate what once stood on the site and generally the character of the area as a whole, in terms of design, materials and overall scale. An objector states that the height of the ridgeline of the proposed dwellings exceeds that shown in the earlier refused scheme. The modulated ridgeline of the earlier scheme ranged from 7.8 to 8.5m in height. Whilst the proposed scheme has a continuous ridgeline of some 8.0m, which in any case is around 1.2m lower than the adjacent 4 South Terrace, and would therefore follow the general levels of the terrace, it is considered to not be excessive in scale, being similar to those in Victoria Court opposite. The proposed dwellings would, it is considered, enhance the vacant and visually unappealing site, and would accord generally with the aims of Policy Q8 and the need for high quality design.

Residential Amenity

18. Turning now to residential amenity, there are objections from surrounding residents who consider that the scheme would cause a loss of privacy in terms of overlooking and would lead to a loss of natural light. Policy Q8 sets out 'required distance standards' in order to ensure a good degree of privacy between buildings. In this case, whilst improvements have been made over and above the earlier refused scheme, the proposed dwellings nonetheless do not meet the required distance standards. The front elevation of the proposed buildings would be some 17m from the rear elevation of properties in Victoria

Court, while at the rear, a distance of 16m would be provided between habitable facing rooms on the main elevation, and some 13m between a two storey gable with non-habitable accommodation and facing room windows opposite. Whilst the latter distance accords with Policy Q8, the remainder do not. In particular, it is noted that habitable room windows at first floor level would be within 7m of the limited private amenity space at the rear of properties in Tindale Avenue. This proximity is considered to exacerbate the extent to which occupiers of properties in Tindale Avenue would be overlooked both actually and perceptually.

19. However, there are a number of relevant mitigating factors which include that the ground level in Victoria Court is around 1.2m higher overall, and that substandard separation distances have been approved between Victoria Court and 4 South Terrace previously, and that the more dense characteristics of terraced development often leads to lower separation distances. However, such factors do not in this particular case, provide sufficient justification for approving development where significant adverse affects would be felt by existing surrounding residents and to a degree by prospective occupiers. Moreover, as noted above, terraced properties do historically have higher densities and separation distances below modern standards, historical mapping shows that the housing formerly on this site provided at least 18.5m to properties in Tindale Avenue. Therefore, it is considered that the proposed dwellings, whilst being a marginal improvement on the earlier refused scheme, would result in overlooking of both main habitable room windows and the private amenity space at the rear of Victoria Court and Tindale Avenue as well as prospective occupiers, causing privacy loss to the extent that it would significantly adversely affect residential amenity of existing and prospective occupiers, contrary to Policies H13 and Q8 of the Local Plan. The alleged loss of light, given the north facing elevation of Tindale Avenue, is considered to not be so significant that it would warrant refusal alone, and similarly, the separation distances are sufficient to ensure that outlook, although affected, is not significantly adversely affected.

Other matters

20. Residents have expressed concern that the construction works would be both noisy and lengthy, whilst works to upgrade the access road would impede resident's access at the head of the cul-de-sac. Whilst such affects are not disputed, they are nonetheless the inevitable short-term and temporary affects often associated with development, and rarely if ever, as is the case here, do they lead to the refusal of planning permission.

21. Issues of drainage have also been raised, in terms of the development being shown to build over a sewer as well as increased surface water run-off from the new access road. Subject to the sewer being diverted with Northumbrian Water Limited's permission, this would not be a reason to resist the proposals in its own right since the matter could be adequately controlled in the event that permission was granted. Turning to surface water run-off, it is considered that in providing a scheme of an adoptable standard which would incorporate drainage to cater for surface water run-off at its western extremity, there should be no reason why increased surface water run-off would occur.

CONCLUSION

22. In conclusion, it is considered that on balance, Officers are prepared to accept the supporting justification provided by the applicants that the site is in fact previously-developed land and its development for residential purposes would be acceptable in principle having regard to Policy H2 of the Local Plan, thereby addressing the first reason for refusal of the earlier application. Similarly, it is considered that the revised scheme incorporating detailed

access upgrade is proportionate to the development proposed and would have the affect of addressing the breach of planning control in respect of the adjacent site as well as some benefit to existing occupiers. However, all of this would be at the expense of the privacy of existing and prospective occupiers, by virtue of the sub-standard separation distances proposed, which have not improved significantly as part of this revised application. The extent to which the separation distances are below the requirement is such that it weighs heavily against the scheme and accordingly, refusal of the application is recommended.

23. Since the proposed development, including the access road upgrade, is judged unacceptable and thereby incapable of addressing the breach in planning control with respect to the adjacent development at 3 and 4 South Terrace, and in view of the now elapsed period for compliance with the requirements of the breach of condition notice issued in February 2010, prosecution proceedings should now be instigated under section 179 of the Town and Country Planning Act 1990.

RECOMMENDATION

That the application be **REFUSED** for the following reason:

The Local Planning Authority considers that the proposed development would, as a result of sub-standard separation distances between facing habitable rooms, lead to a loss of privacy for both existing occupiers in Victoria Court and Tindale Avenue and to prospective occupiers, thereby detrimentally affecting the level of residential amenity that such occupiers should reasonably expect to enjoy. The proposals are therefore contrary to Policies H13 and Q8 of the City of Durham Local Plan 2004.

BACKGROUND PAPERS

Submitted Application Forms and Plans
Planning, Design and Access Statement
City of Durham Local Plan 2004
Planning Policy Statements / Guidance, PPS1, PPS3 and PPG13
Responses from Highway Authority and Northumbrian Water Limited
Response from Area Planning Policy Team
Public Consultation Responses
Response from Local Ward Member



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 <p>Durham County Council Planning Services</p> <p><small>This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of Her Majesty's Stationary Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding. Durham County Council (Durham City Area Office) Licence No. 100022202 2005.</small></p>	4/10/470/FPA - Land West Of 4 South Terrace		
	Comments		
	Date	12 October 2010	Scale

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	4/10/00559/FPA
FULL APPLICATION DESCRIPTION:	Insertion of 5 no. additional rooflights to south elevation
NAME OF APPLICANT:	Mr T Macallan
ADDRESS:	7 Warwickshire Drive Belmont Durham DH1 2LU
ELECTORAL DIVISION:	Belmont
CASE OFFICER:	Steve France, Senior Planning Officer Steve.france@durham.gov.uk 0191 301 8711

DESCRIPTION OF THE SITE AND PROPOSALS

1. Number 7 Warwickshire Drive is a large residential bungalow, recently completed at the head of a short cul-de-sac in the modern Cheveley Park housing estate of Belmont. The property was carefully designed to achieve a large floor area in proportion to the oversized site, whilst presenting a front elevation in reasonable scale with the existing single storey dwellings in the street. The development has an extensive history and has been contentious amongst nearby residents.

2. This application seeks alteration to the previously approved plans to introduce 5 no. additional rooflights to the south, street fronting elevation. These elements would usually constitute permitted development, however the planning permission for the bungalow, granted in August 2009 was subject to the following condition:

'Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 or any order revoking or re-enacting that order, no conversion of the roof-space to any form of habitable accommodation, and no rooflights or dormer windows shall be inserted into any plane of any roof-slope or erected at any time without the grant of further specific permission from the Local Planning Authority'.

3. A number of such conditions were attached to the approval, some designed to give the Council control over the extent of additional features, such as sheds and gazebos, and some were designed to allow the Council the opportunity to prevent additions that could, in

the Council's view, undermine the basis upon which the planning permission was granted.

4. The matter is reported to Committee following discussion with Local Members.

PLANNING HISTORY

5. In March 2007 application for erection of 2 no. dwelling-houses was refused under Delegated Powers.

6. In July 2007 an application for erection of 2 no. dwelling-houses (revised and resubmitted) was refused by Committee, with the decision subsequently upheld at appeal.

7. In April 2008 an application for erection of single storey pitched roof extension to side, alterations and pitched roof over existing rear offshoot and erection of replacement detached double garage was submitted and withdrawn as invalid.

8. In June 2008 application for the erection of single storey pitched roof extensions to side and rear of existing bungalow, alterations to existing fenestration, and erection of pitched roof double garage was submitted then withdrawn.

9. In July 2008, an application for demolition of the existing bungalow and erection of a replacement bungalow was submitted and withdrawn.

10. In October 2008 an application for a detached bungalow was refused by Committee members.

11. In November 2008 application for prior approval for demolition of existing dwelling was submitted and withdrawn.

12. In December 2008 application for prior approval for demolition of the existing dwelling, (a resubmission), was approved.

13. In February 2009 an application for a bungalow was returned as invalid.

14. In March 2009 Committee Members approved the erection of a revised design of bungalow.

15. A further application for a revised design of the bungalow was submitted and withdrawn in May 2009.

16. In August 2009 the committee approved a revised design of bungalow.

17. In November 2009 approval was granted under Delegated Powers for the installation of 2 no rooflights on the front elevation of the proposed bungalow, either side of the porch roof.

18. In December 2009 a garden shed was approved to the side of the bungalow under Delegated Powers.

19. Also in December 2009 an application to introduce additional rooflights into the south elevation of the building was returned as invalid, with advice on the required information received, and an explanation as to why Officers considered such an application was unlikely to receive their support.

20. In March 2010 the applicant made a formal pre-application approach on the likely success of an application for additional rooflights to the front of the bungalow, to which Officers responded such an application was unlikely to receive their support.

21. In July 2010 approval was granted for the erection of pitched roof garden shelter under Delegated Powers.

22. Also in July 2010 a variation of condition to allow alteration to approved floor-plans to introduce stair access to loft-space from the hallway was approved under Delegated Powers.

PLANNING POLICY

23. NATIONAL POLICY:

Planning Policy Statement 1: PPS1 sets out the Government's overarching planning policies on the delivery of sustainable development through the planning system. Particular emphasis is placed on the need for good design to be an intrinsic part of the development process.

The above represents a summary of those national policies considered most relevant. The full text can be accessed at: <http://www.communities.gov.uk/planningandbuilding/planning/planningpolicyguidance/planningpolicystatements>

24. LOCAL PLAN POLICY:

Policy H13 (Residential Areas – Impact upon Character and Amenity) states that planning permission will not be granted for new development or changes of use which have a significant adverse effect on the character or appearance of residential areas, or the amenities of residents within them.

Policy Q8 (Layout and Design – Residential Development) sets out the Council's standards for the layout of new residential development. Amongst other things, new dwellings must be appropriate in scale, form, density and materials to the character of their surroundings. The impact on the occupants of existing nearby properties should be minimised.

Policy Q9 (Alterations and extensions to residential dwellings) states that proposals should have a scale, design and materials sympathetic to the character and appearance of the area, whilst ensuring no adverse impact upon residential amenity for adjacent occupiers.

The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.cartoplus.co.uk/durham/text/00cont.htm>

CONSULTATION AND PUBLICITY RESPONSES

25. STATUTORY RESPONSES:

None

26. INTERNAL CONSULTEE RESPONSES:

None

27. PUBLIC RESPONSES:

Eleven objections have been received to the application including the Parish Council, and Local Ward Member, Councillor Holroyd.

Residents are concerned that the proposals will have a significant effect on the appearance and scale of the cul-de-sac, quoting the Officer report for the application for a variation to introduce stairs to the hallway; 'conditions were imposed to prevent the applicant altering the property, in terms of visual appearance and use, to a two storey dwelling, given the Council and Planning Inspectorate's consistent line that only single storey development was appropriate in the cul-de-sac'. They note that the approval of the dwelling in 2009 was, in light of the scale and design of development, subject to conditions designed to give control over further proposals that gave rise to issues of scale, character, massing, privacy and amenity. Regretting the Council's approval of two rooflights already, the cumulative effect of seven rooflights on the front elevation is considered out of character with the street, giving a two-storey appearance to the bungalow, again quoting Council correspondence that 'the scale of the building is not just affected by its volume, but by its appearance'

Objectors point to a 'long list of inappropriate applications', through which it is contended that the applicant has attempted to manipulate the planning system to achieve his original aims whilst a mounting expense has been incurred by the Planning Department and therefore Council Tax payers during a lengthy procedure.

There is disagreement over the applicants support statement regarding in particular the existence of other rooflights in the street, and his proposals for the use of the upper storey – objectors considering the use 'habitable' rooms, and therefore contrary to the restrictive condition.

The Members of Belmont Parish Council resolved to raise two objections to the application. Noting the approval of the dwelling was subject to conditions to prevent the use of the roof-space for living accommodation, the installation of the rooflights could allow creation of a two-storey dwelling. Secondly the inclusion of the five rooflights would have an adverse effect on the character and appearance of the residential area contrary to Policy H13 of the Local Plan.

Cllr. Holroyd, Ward Councillor for the Belmont Electoral Ward, has written to object to alterations that will effectively create a two story building in a cul-de-sac of bungalows, with the development contravening conditions attached to earlier planning approvals. He notes that this is the eighteenth application submitted for this property since January 2007, and the

sixth since approval was given for the erection of the bungalow in August 2009, with four of the six relevant to the use of the loft-space.

He is concerned about an apparent abuse of the planning system with evidence that it is the applicant's intention to use the loft-space for a purpose that would not have been acceptable if included in the original application for the dwelling in August 2009. He contends that the four recent applications were therefore devised, again quoting from previous reports; 'some of the conditions however were imposed to prevent the applicant altering the property, in terms of visual appearance and use, to a two storey dwelling, given the Council and indeed the Planning Inspectorate's considered line that only single-storey development was appropriate in the cul-de-sac', 'for clarity, the grant of consent for this staircase does not constitute approval of conversion of the roof-space to any form of habitable accommodation, nor indications or intent that this would be acceptable. Any proposal for such conversion may only be implemented on the grant of further specific permission from the Local Planning Authority'.

Noting full agreement with the Planning Inspectorate and Planning Service's view that only single storey development was acceptable in Warwickshire Drive, he quotes the applicant's supporting information; 'the installation of the 5 additional velux windows... , thereby allowing the loft space to be used for multiple activities'. It is his view that whilst it is not uncommon for loft-space to be used for storage, office or as a playroom, the applicant's description of 'multiple activities is vague and open to interpretation as 'living space'.

As with other objectors, the existence of other roof lights as stated by the applicant is questioned. He strongly urges refusal of the application.

28. APPLICANTS STATEMENT:

The applicant believes that the application should be endorsed for the following reasons:

- There is no infringement of the privacy of local residents.
- There is no contravention of Policies Q8 or H13 in terms of scale and character, as the velux windows do not increase the scale, numerous dwellings in the area and the cul-de-sac exhibit velux windows, and there are already velux windows in the south elevation of the property.
- The removal of permitted development rights was not to prevent development, but to ensure sensible development, compliant with the intention of the main legislation. Permitted development rights have not been removed elsewhere on the estate despite far higher plot densities and smaller separation distances which are clearly contrary to Policies Q8 and H13.

He has written to clarify that the proposed uses of the rooms served by the rooflights are as a media/rest-room, and a gym/games room.

The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at (<http://82.113.161.89/WAM/showCaseFile.do?action=show&appType=planning&appNumber=10/00559/FPA>). Officer analysis of the issues raised and discussion as to their relevance to the proposal and recommendation made is contained below

PLANNING CONSIDERATIONS AND ASSESSMENT

29. This planning application proposes the erection of 5 no. rooflights on the front elevation of a recently constructed bungalow at the head of a cul-de-sac on the modern Cheveley Park Estate in the Belmont area of Durham City. The application is required as permitted development rights were removed for such on the approval of the bungalow, in 2009, by the following condition: *'Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 or any order revoking or re-enacting that order, no conversion of the roof-space to any form of habitable accommodation, and no rooflights or dormer windows shall be inserted into any plane of any roof-slope or erected at any time without the grant of further specific permission from the Local Planning Authority'*.

30. The approval of the bungalow was a highly contentious decision, following an extensive history of refusals and appeals. The issue was effectively a compromise between the applicant's desire to build a large residential dwelling on a disproportionately large site, and achieving a scale and design of dwelling with a street frontage appropriate to the character of a cul-de-sac of smaller bungalows. A scheme was approved that was considered to meet these two criteria, subject to a suite of restrictive conditions to ensure that the Council had control over any potential alterations to the property that might undermine the basis of its approval.

31. There is no suggestion by any party that the windows have a detrimental effect on the privacy of surrounding residents. The determination of this application rests on whether the alterations have a detrimental effect on the scale and character of the bungalow, and the cul-de-sac in which it sits. Three policies quoted above as relevant to determination of the application are Q8 (Layout and Design – Residential Development), Policy Q9 (Alterations and extensions to residential dwellings) and Policy H13 (Residential Areas – Impact upon Character and Amenity). Q8 is included as it was the Policy that justified the imposition of the original condition. Policy Q9 is the main relevant Policy, with H13 quoted by both the applicant and objectors, having previously been a determining Policy.

32. The application turns on whether the additional windows proposed changes the appearance of the building to the extent where it undermines the character of the building as a bungalow in a street of smaller bungalows. Policy Q9 requires the design, scale and materials of an alteration or extension to residential property to be sympathetic to the main dwelling and the character and appearance of the area. Policy H13 states that planning permission will not be granted for new development which has a significant adverse effect on the character or appearance of residential areas.

33. The bungalow was designed following refusal both by the Council and by the Planning Inspectorate of schemes including first floor accommodation, the Inspector defining the character of the cul-de-sac as 'characterised by simple pitched roof bungalows of similar size and style', and 'as a result of the single storey scale of the developed frontage...the street scene has a spacious appearance'. As noted above the bungalow that now sits on the site was designed to reflect the small scale bungalow appearance of the frontage, using the set back building line of the plot, articulation of the front elevation and the perspective of the main approach to the property to disguise the fact that the bungalow extends back into a plot far larger than any other on the street. Officers consider that the various design devices used to integrate this large property into a smaller scale street scene have been successful.

34. It was made clear to the developer at the time, and indeed through correspondence thereafter that the approved scheme represented the full extent the Council considered the main dwelling could be developed, and that alterations that undermined the basis of the original design ethos would not be looked upon favourably. Permitted development rights were removed from the property to ensure that the Council had control over these elements, and the design and siting of the likes of garden structures which may reasonably be expected on a residential curtilage. The applicant did not exercise his right to appeal against the imposition of these conditions.

35. As noted in the representation from the Ward Councillor, and a number of the letters from local residents, there have been a number of applications resulting from these conditions since approval – a shed and a decorative garden structure have been approved as uncontentious. Two of those applications have implications on the current proposals, having sought the introduction of two roof-lights to light the hallway, and the alteration of approved floor-plans to introduce a staircase access to the roof-space. The addition of the rooflights was approved subject to a condition that: *'the development hereby approved shall be carried out only in accordance with the approved plans, specifications and conditions hereby imposed. Thereafter the two rooflights must only serve the hallway'*. The windows have in fact been constructed in a higher position than that approved, and officers have written to the applicant on this matter as a prelude to considering the appropriateness of enforcement action. (It is noted that the existing rooflights are not accurately plotted on the submitted plans – the applicant has been requested to provide a revised plan before the Committee meeting.)

36. Objectors consider the application for the windows, and the stair access to the roof-space subsequently approved as a subterfuge to achieve his original aims. In his supporting statement the applicant refers to these features as a precedent. Officers have tried to take a reasonable and pragmatic line to this development, and the approval of these features in their own right were not considered to undermine the original approval, and were justified in their own right (the approved siting of the roof lights, closed to the 'visual clutter' of the porch roof was carefully considered to fit in with this as opposed to their more prominent position 'as built'). At each approval conditions imposed and correspondence to the applicant made clear that the approvals did not represent indications or intent that the habitable use of the roof-space would be acceptable.

37. The applicant considers that as no volume is being added to the property, its scale and character is not changing. Officers contend that alterations to the visual appearance of a property can have equal effect. It is considered that the Council has a responsibility to ensuring that the basis of the original approval is not undermined. Local residents, whilst not happy with the scheme that was approved have echoed this sentiment, still making their views known despite the potential for 'consultation fatigue' with the unprecedented number of applications and approaches on this site, as outlined above. The proposed uses of the rooms do bring the upper floor into what could be termed habitable space, and once implemented potentially could be used as living or bedrooms without submission of further applications, again contrary to the intent of the original approval.

CONCLUSION

38. It has been, and remains Officer's opinion that the introduction of the additional roof-lights proposed by this application to the property will undermine the design devices which allow this large structure to be successfully assimilated into a street frontage of simply designed, relatively small-scale bungalows, and on this basis, the proposals are contrary to both Policies Q9 and H13 of the development plan – The City of Durham Local Plan 2004.

RECOMMENDATION

That the application be **REFUSED** for the following reason;

The Local Planning Authority consider that the proposed insertion of 5 no. additional roof-lights in the street frontage elevation of the new bungalow at 7 Warwickshire Drive is an unsympathetic alteration to the visual scale and character of the dwelling, and would have a significant adverse effect on the character and appearance of the immediate area in which it sits, contrary to Policy Q9 and Policy H13 of the City of Durham Local Plan 2004.

BACKGROUND PAPERS

Submitted Application Forms and Plans

Applicant's Supporting Statement

City of Durham Local Plan 2004

Planning Policy Statement PPS1

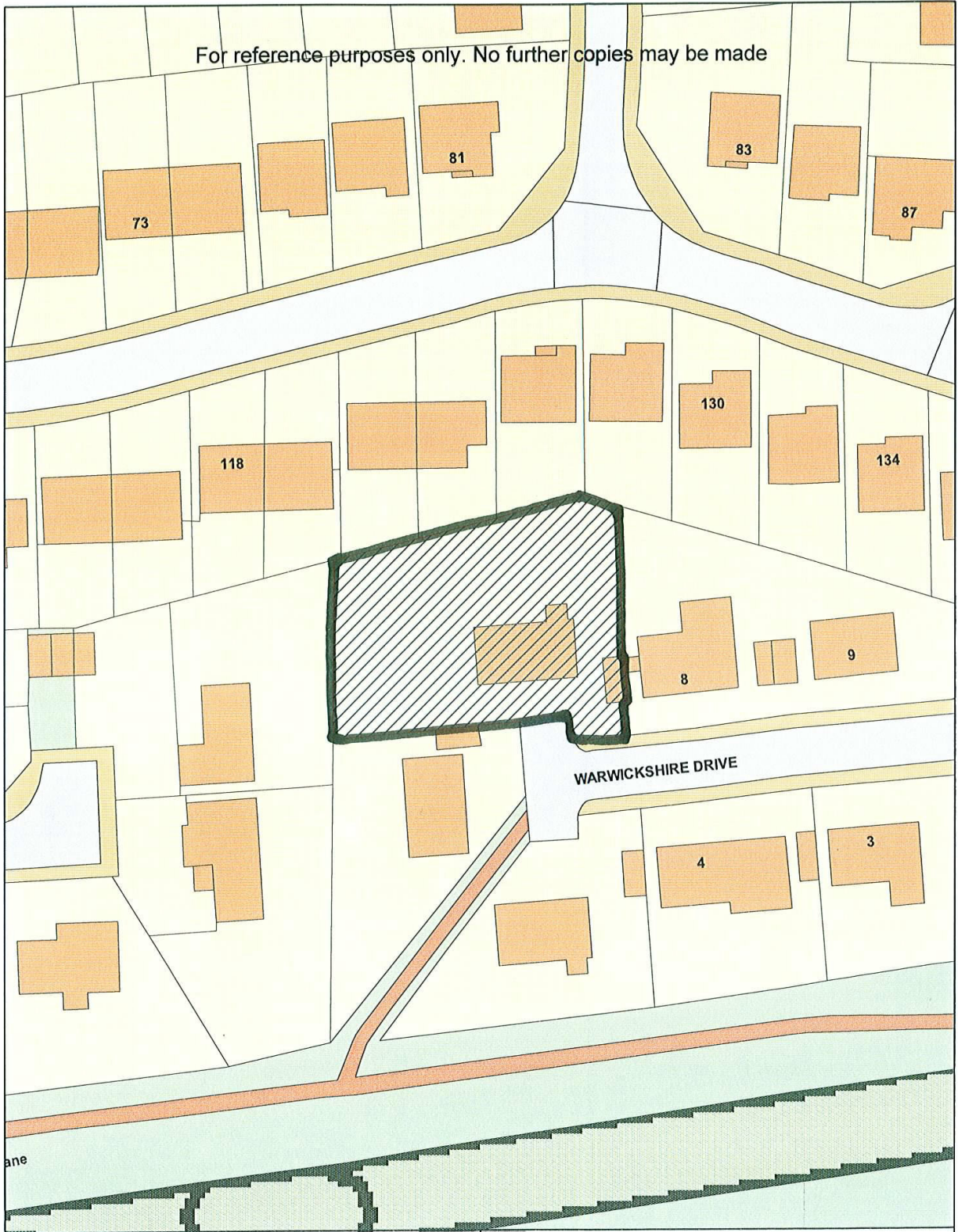
Public Responses including Belmont Parish Council, and Ward Member

Application Files, 07/00033/FPA, 4/07/00553/FPA, 4/08/00304/FPA, 4/08/00389/FPA, 4/08/00604/FPA, 4/08/00746/FPA, 4/08/00954/PND, 4/08/01019/PND, 4/08/01035/FPA, 4/08/01106/FPA, 4/09/00329/FPA, 4/09/00412/FPA, 4/09/00740/FPA, 4/09/00742/DRC, 4/09/00819/FPA, 4/09/00930/FPA, 4/10/00072/PREAPP, 4/10/00381/VOC, 4/10/00382/FPA

Appeal Notice APP/Z1320/A/07/2055316/WF



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Planning Services

4/10/559/FPA - 7 Warwickshire Drive, Belmont

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Comments

Date

12 October 2010

Scale

1:625

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO: 4/10/00647/FPA

FULL APPLICATION DESCRIPTION: Substitution of house types on plots 64-73 and reduction from 11 no. dwellings as approved by application 4/07/311 to 10 no. dwellings (amended description)

NAME OF APPLICANT: Keepmoat Homes Ltd

SITE ADDRESS: Land from junction Robert Terrace to Bowburn Hall junction, Tail-upon-End Lane, Bowburn, Durham

ELECTORAL DIVISION: Durham South

CASE OFFICER: Andrew Inch, Senior Planning Officer
(0191) 31 8745
andrew.inch@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

1. The application site relates to an area of land extending to some 0.23 hectares and which forms part of larger development site itself extending to some 2.83 hectares and located on the north-east periphery of Bowburn, but within its defined settlement limits. An area of former public open space, the land is now being redeveloped for residential purposes to provide some 83 dwellings together with an area of enhanced public open space of some 0.74 hectares on the southern edge of the site, planning permission having been granted for the development in 2007.

2. Planning permission is sought to substitute house types on eleven plots and provide ten replacement dwellings, thereby reducing the overall number of dwellings on the site to 82. The house types proposed have been widely used elsewhere on the site and comprise a range of detached and semi-detached dwellings of two and two and a half storeys in height. The layout in terms of the surrounding dwellings, roads and footpaths is unchanged. As with the remainder of the site, a red facing brick would be utilised together with a grey roof tile.

3. The application has been amended during the course of its assessment to remove a plot from the application where works had begun on site to erect the house type for which permission was already in place. Residents were accordingly notified in writing of the changes to the application.

4. The application is reported to Committee as the scheme constitutes 'major' development.

PLANNING HISTORY

5. In September 2007, planning permission (07/00311) was granted for the erection of 83 dwellings with associated vehicular and pedestrian access, landscaping and provision of landscaped public open space following referral of the application to Government Office for the North East under the then Town and Country Planning (Development Plans and Consultation)(Departures) Directions 1999.

6. There have been a series of subsequent applications for tree works, condition variations and house type substitutions. In particular, planning permission (09/00448) was sought to vary condition 11 of the original permission. Condition 11 sought to restrict development commencing until such time as time as capacity became available at Bowburn Sewage Treatment Works. Planning permission was granted and the condition was varied to enable an interim solution to proceed whereby up to 40 dwellings could be occupied with foul sewage flows being collected on site and tankered off regularly for disposal elsewhere.

PLANNING POLICY

7. NATIONAL POLICY:

Planning Policy Statement 1: Delivering Sustainable Development sets out the overarching planning policies on the delivery of sustainable development through the planning system.

Planning Policy Statement 3: Housing underpins the delivery of the Government's strategic housing policy objectives and our goal of ensuring that everyone has the opportunity to live in a decent home, which they can afford in a community where they want to live.

Planning Policy Guidance note 13: Transport seeks to integrate planning and transport at the national, regional, strategic and local level and to promote more sustainable transport choices both for carrying people and for moving freight.

8. LOCAL PLAN POLICY:

Policy E5a (Open Spaces within Settlement Boundaries) does not permit proposals which would detract from the functional, visual and environmental attributes they possess will not be permitted.

Policy H3 (New Housing Development within the Villages) allows for windfall development of previously developed sites within the settlement boundaries of a number of specified former coalfield villages across the District, provided that the scheme is appropriate in scale, design location and number of units. The policy exceptionally allows the development of greenfield sites under 0.3ha where there are clear and quantifiable benefits and where these benefits cannot be achieved through the development of previously developed land or conversion of existing buildings. This exception policy includes a number of former coalfield villages including Bowburn.

Policy H13 (Residential Areas – Impact upon Character and Amenity) states that planning permission will not be granted for new development or changes of use which have a significant adverse effect on the character or appearance of residential areas, or the amenities of residents within them.

Policy T1 (Traffic Generation – General) states that the Council will not grant planning permission for development that would generate traffic likely to be detrimental to highway safety and / or have a significant effect on the amenity of occupiers of neighbouring property.

Policy T10 (Parking – General Provision) states that vehicle parking should be limited in amount, so as to promote sustainable transport choices and reduce the land-take of development.

Policy R2 (Provision of Open Space – New Residential Development) states that in new residential development of 10 or more units, open space will be required to be provided within or adjacent to the development in accordance with the Council's standards.

Policy Q3 (External Parking Areas) requires all external parking areas to be adequately landscaped, surfaced, demarcated, lit and signed. Large surface car parks should be subdivided into small units. Large exposed area of surface, street and rooftop parking are not considered appropriate.

Policy Q5 (Landscaping – General Provision) sets out that any development which has an impact on the visual amenity of an area will be required to incorporate a high standard of landscaping.

Policy Q8 (Layout and Design – Residential Development) sets out the Council's standards for the layout of new residential development. Amongst other things, new dwellings must be appropriate in scale, form, density and materials to the character of their surroundings. The impact on the occupants of existing nearby properties should be minimised.

Policy U8a (Disposal of Foul and Surface Water) requires developments to provide satisfactory arrangements for disposing foul and surface water discharges. Where satisfactory arrangements are not available, then proposals may be approved subject to the submission of a satisfactory scheme and its implementation before the development is brought into use.

The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at:-

National Planning Policy

<http://www.communities.gov.uk/planningandbuilding/planning/planningpolicyguidance/planningpolicystatements/>

Local Plan Policy

<http://www.cartoplus.co.uk/durham/text/00cont.htm>

CONSULTATION AND PUBLICITY RESPONSES

9. STATUTORY RESPONSES:

The Highway Authority raises no objection to the revised layout finding that there will be proper provision for drive lengths.

Northumbrian Water Limited raise no objection noting that the layout of highways and drainage is unchanged. However, they do advise that the condition to which the original permission was subject (as varied) should remain in force.

10. INTERNAL CONSULTEE RESPONSES:

There have been no internal responses.

11. PUBLIC RESPONSES:

There has been one letter of objection received from the occupiers of 83 Henry Avenue, itself a new dwelling on the site, now occupied and backing onto the application site. The main issue raised is a concern that the developers are supposed to be providing low cost/affordable housing on the site, but a 4 bed detached property is around £180,000. Therefore, they consider that since the developer was not previously required to make any off-site contributions they should be in this case.

In addition to the specific letter of objection, there has been ongoing correspondence in relation to procedural matters as part of the assessment of this application.

Cassop-cum-Quarrington Parish Council advise that they have no objection to the application itself, but they do raise concerns about the number of occupied dwellings on site and that this exceeds the limit relative to the disposal of foul sewage.

12. APPLICANTS STATEMENT:

Introduction

This statement supports the full planning application for the plot substitution of plots 64-74 at Tail upon End Lane, Bowburn. The purpose of this statement is to provide supporting relevant information identifying the context and need for the proposed development.

Applicant

Keepmoat Homes, part of the Keepmoat Plc group of companies, specialised in providing desirable homes predominantly for first and second time buyers throughout the United Kingdom.

As one part of the Durham Villages Regeneration Company, Keepmoat Homes (North East) are committed to providing quality housing in the County Durham area.

Context

The site is situated upon the Tail upon End Lane scheme and is deemed as open land. This proposal is in response to meeting the market demand for high quality detached housing. The aim of this application is to substitute 12 no. plots with the omission of 1 no. plot.

The proposal recognises that the ultimate success of the development will be greatly enhanced by plot substitution and will ensure the scheme's long term sustainability.

The designs of the dwellings are focused on achieving wider range of options and allow for modern family living. The plot substitution will be an encouraging addition to a well established community defined by existing buildings incorporating a number of local elements and materials. The development will have a clear and tangible character and as such become a positive intervention within Tail upon End Lane scheme.

Conclusion

The proposed application shows a clear principal identifying the context and need for the proposed development to the Tail upon End lane scheme.

The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <http://82.113.161.89/WAM/showCaseFile.do?action=show&appType=planning&appNumber=10/00647/FPA> Officer analysis of the issues raised and discussion as to their relevance to the proposal and recommendation made is contained below

PLANNING CONSIDERATIONS AND ASSESSMENT

13. The principle of residential development at the site has been accepted by virtue of planning permission having been granted for the wholesale redevelopment of the site to provide some 83 dwellings in September 2007. That the application formed part of a wider holistic approach to bring about the continued regeneration of Bowburn, and where the proposed housing, enhanced public open space and financial receipts from land sales and individual property sales were to be ring-fenced towards the continued regeneration of Bowburn. Therefore, the principle of residential development is considered entirely acceptable, and in any event, the applicants have a strong fallback position insofar as they already have planning permission to build 11 houses on this part of the site, and where they are now seeking to build only ten units.

14. In such circumstances, the main issues are whether there would be adverse affects upon visual and residential amenity, highway safety and whether suitable arrangements exist for the disposal of foul sewage.

Visual Amenity

15. As approved, the layout on this part of the site comprised three terraces of three dwellings and a pair of semi-detached properties, the majority being of two and a half storeys in height. The revised scheme proposed, would introduce six detached dwellings of two storeys together with two pairs of two and a half storey dwellings. The effect on the streetscene is one of a clear move towards a scheme with a lower density in both actually and appearance and of a lower overall height, whilst utilising house types which have been used extensively elsewhere on the site. The use of appropriate materials including a Russell

Slate Grey roof tile and Milburn Red mix facing bricks ensure that the proposed substitutions would be appropriate in the context of the development site itself as well as in the context of this part of the village which has seen a substantial new development in recent years as part of its continued regeneration. In terms of visual amenity the revised layout and house types is considered acceptable and in accordance with the requirements of Policy Q8 in this regard.

Residential Amenity

16. Turning to residential amenity, Policy Q8 requires that adequate privacy and amenity are provided for both existing and prospective occupiers. In this case the layout of the site is such that the proposed dwellings directly overlook an area of public open space whilst to the rear they would face directly onto existing recently completed dwellings, with both containing facing habitable room windows. The 1011 house type which includes accommodation in the roofspace has a dormer window to the front to serve a bedroom overlooking public open space, whilst to the rear, a single rooflight would serve an en-suite, however, it some 1.8m above finished floor level thereby reducing the extent to which any overlooking can occur. Policy Q8 sets out that in such circumstances a distance of 21m is required between properties. In this case, separation distances of between 20.5 and 22m are provided, and as such, it is considered that the privacy of both existing and prospective occupiers would be safeguarded in accordance with Policy Q8 and indeed, the revised scheme represents a slight increase in separation between facing properties.

Highway Safety

17. The erection of 83 dwellings with associated access and parking levels has been approved previously, having been judged acceptable in highway safety terms in accordance with Policies T1 and T10 of the Local Plan. This application represents a reduction by one in the overall number of dwellings, whilst the means of access and road layout are unchanged. As such, the Highway Authority considers that the scheme remains acceptable, whilst sufficient driveway length is provided to ensure sufficient parking and prevent vehicles overhanging the footway. As such, in highway safety terms, the scheme is considered acceptable in light of Policies T1 and T10.

Foul Sewage

18. The issue of foul sewage flows in Bowburn is a contentious one. Northumbrian Water Limited (NWL) has long advised that there is insufficient capacity at the Bowburn Sewage Treatment Works to cater for new residential development in the village and indeed in Coxhoe and Parkhill. The original planning permission in 2007 was therefore subject to a condition restricting the development of the site until such time as additional capacity was available, and at that time, it was thought that the capacity from a new sewage treatment works would be operational by around 2010. However, due to delays outwith the applicant's control, the new sewage treatment works is unlikely to be available until 2012 at the earliest. In light of this, the applicants sought to vary the condition of the previous planning permission to allow an interim solution whereby foul sewage could be collected from the site and disposed of elsewhere. The condition was varied to enable such a solution provided no more than 40 dwellings were occupied. Since this application represents a new planning permission for the development of this part of the site, the original condition would no longer apply. NWL advise that whilst they have no objection to the scheme itself, finding that the means of surface water and foul drainage layout acceptable, the condition precluding

connection to the sewage network should remain in force. It is therefore considered necessary to condition this permission in order to control the means of foul sewage disposal, such that development commencing would be precluded until such time as an appropriate means of foul sewage disposal is agreed. This could be achieved either through capacity being available currently or as a result of the upgrade of the sewage treatment works or through a further interim solution.

19. The Parrish Council have expressly raised concerns that there are now more than 40 occupied dwellings, which would exceed the level set out in the relevant condition of the permission (as varied). Other correspondents on the matter generally, and not necessarily related to this particular application, have identified that the site is in fact connected to the sewage network and making use of Bowburn Sewage Treatment Works in spite of there being insufficient capacity. The Council has sought, on numerous occasions, to seek formal clarification from NWL that this is the case, but such confirmation has not been forthcoming. In the event that the site is connected and making use of the sewage treatment works with NWLs permission, the requirements of the varied condition no.11 of the original permission would become superfluous.

20. In the circumstances, it is considered that it would be unreasonable to withhold planning permission given the applicants fallback position and related occupancy level restriction. Given the applicants ability to vary the original condition relative to the remainder of the site to provide other means of disposing of foul sewage which they consider appropriate,, by for example tankering excess flows from the sewage treatment works directly rather than from the site in the event that the site is connected to the sewage network. Therefore, whilst, ideally, the site would be connected to a treatment works with sufficient capacity to cater for the demand, such capacity is likely to be available in less than two years in any event.

Other Matters

21. The objector is concerned that the original scheme made little contribution to the community and that properties are expensive and not low cost or affordable, and therefore such contributions ought to be made relative to the application subject of this report. However, it is considered that the original permission, as well as this application will make a contribution to the village, since the overall scheme forms part of a wider exercise in delivering regeneration in Bowburn, and housing itself is considered to bring about regeneration through an improved housing stock, while quantifiably the financial receipts from the sale of the land together with a percentage of the profit from each property sold will be ring-fenced to assist in the regeneration of Bowburn. Indeed, the redevelopment of the overall site has provided funding for the redevelopment of Bowburn Recreation Ground.

22. Whilst the price of some properties on the site may be above national average house prices, the site has and continues to provide a range of house types to suit all income levels. This is true not only on this site, but on other sites developed through the Durham Villages Regeneration Partnership across Bowburn. The number of units proposed as part of this application falls below the threshold where a proportion of affordable housing, for example, would be sought in any case, and such a requirement could not be imposed retrospectively on the remainder of the scheme.

23. Off site contributions from residential developments of ten or more dwellings normally arise where appropriate levels of open space are not provided on site, in accordance with Policy R2 of the Local Plan. In this case, the open space levels provided on the site ensure

that such financial contributions in lieu of on site provision are not necessary in this case.

CONCLUSION

24. In conclusion, the residential redevelopment of this application site specifically, as well as the wider development site has been approved previously, albeit as a departure from the Local Plan (which remains in force).and the previous planning permission provides the applicants with a clear fallback position. The proposals themselves reduce the number of dwellings on this part of the site from 11 to 10, whilst seeking to utilise house types used elsewhere on the wider site, and without compromising visual or residential amenity or highway safety. Issues of foul sewage disposal can be addressed adequately through an appropriate condition. Accordingly, Officers recommend the approval of the application.

RECOMMENDATION

That the application be **APPROVED** subject to the following conditions;

1. The development to which this permission relates shall be begun not later than three years from the date of this permission.
2. The development hereby approved shall be carried out in strict accordance with the following approved plans unless otherwise agreed in writing with the Local Planning Authority: Drawing no. PL002 received 10 August 2010 and PL003 and PL004 received 14 September 2010.
3. Development shall not commence until details of a scheme for the disposal of foul sewage from the site is submitted to and agreed in writing with the Local Planning Authority in consultation with Northumbrian Water Limited.

REASONS FOR THE RECOMMENDATION

1. The application proposes the further use of an already-used house type on a development site, and where there would be no significant adverse affects on either visual or residential amenity or highway safety in accordance with Policies Q8, T1 and T10 of the City of Durham Local Plan 2004 (which is a saved plan in accordance with the Secretary of States Direction under paragraph 1 (3) of Schedule 8 to the Planning and Compulsory Purchase Act 2004).
2. The main issues considered relate to the impacts upon the streetscene in terms of the changes between house types and the privacy of existing dwellings at the rear of the site, and the means by which foul sewage disposal would be controlled in light of insufficient capacity at Bowburn Sewage Treatment Works.
3. Objections and concerns expressed relative to contributions to the village, the affordability of the housing proposed and the occupancy levels relative to the disposal of foul sewage are considered not to be of such weight that they would outweigh the otherwise acceptable nature of the scheme and its particular merits in the context of the long-standing initiative to further the continued regeneration of Bowburn.

BACKGROUND PAPERS

Submitted Application Forms and Plans

Amended application Forms and Plans

Design and Access Statement

City of Durham Local Plan 2004

Planning Policy Statements / Guidance, PPS1, PPS3 and PPG13

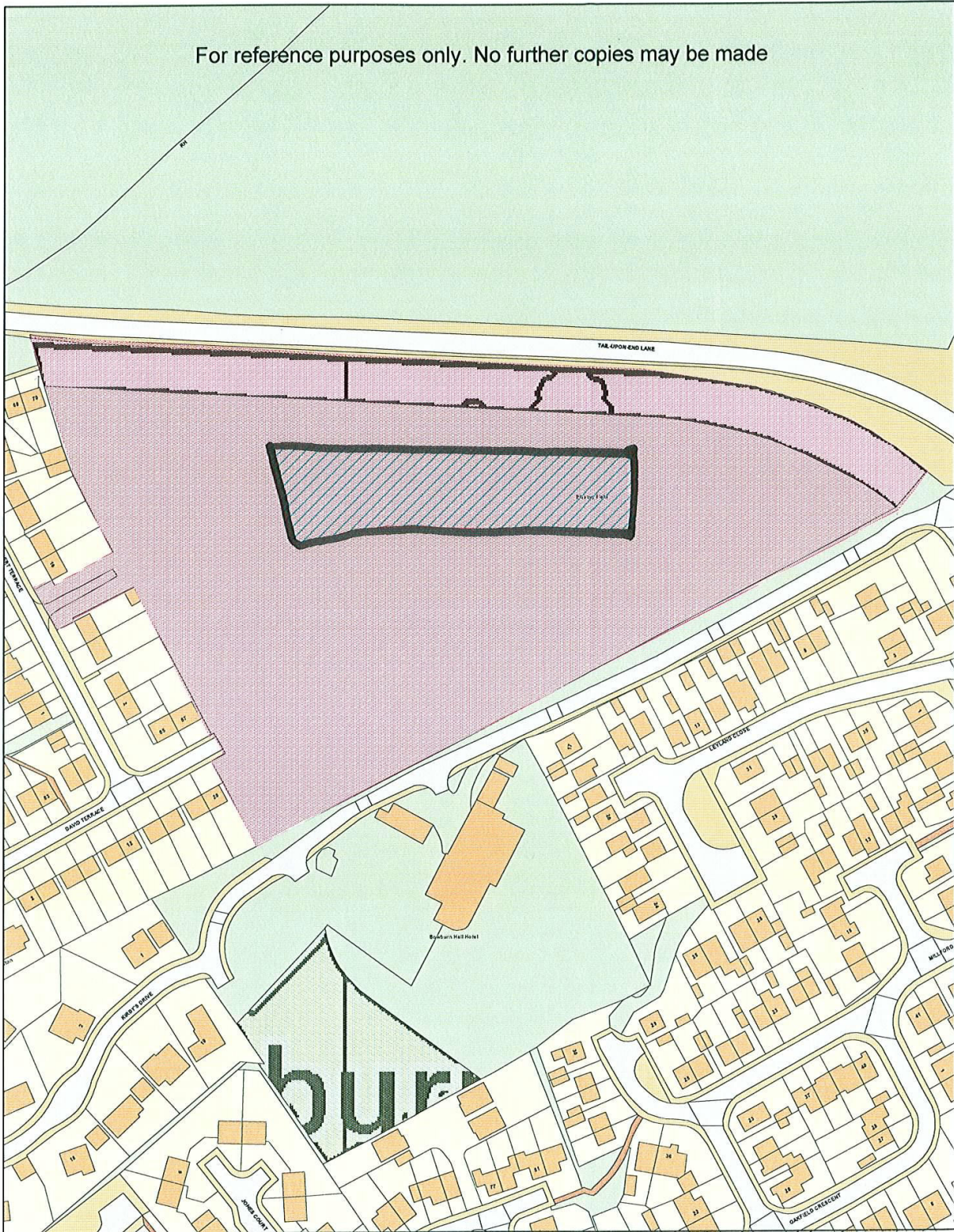
Responses from Highway Authority and Northumbrian Water Limited

Public Consultation Response

Parish Council Response



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4/10/647/FPA - Tail Upon End Lane

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Comments

Date

12 October 2010

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