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Gary Ridley Acting Chief Executive

4th June 2008

Dear Councillor,

I hereby give you Notice that a Meeting of the **DEVELOPMENT CONTROL COMMITTEE** will be held in the **COUNCIL CHAMBER, CIVIC CENTRE, CROOK** on **12th JUNE 2008 at 6.00 P.M.**

AGENDA

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1. Apologies for absence	
2. To consider development control application 3/2008/0146 – Change of use from open space to garden, land adjacent to 1 Murphy Crescent, Bishop Auckland for Mrs. McNichol.	1 - 4
3. To consider development control application 3/2008/0222 – Construction of 1.8 metres high (6ft) closed panel timber fence and dropped kerb for off road parking. Change of use: from open space to garden/car parking with a 0.6 metres high (2ft) closed panel timber fence adjacent to car park at 2 Bollihope Grove, Bishop Auckland.	5 - 11
4. To consider development control application 3/2007/0610 – Tennis court and 3 metres high fence enclosure at Witton Hall, High Street, Witton le Wear, Bishop Auckland for Mr. Morgan.	12 - 22
5. To consider development control application 3/2008/0242 – Substitution of house types to currently approved development and addition of electricity sub station at Southfields Development Site, Alma Terrace, Stanley for Persimmon Homes.	23 - 30
6. To consider development control application 3/2008/0267 – Proposed three bedroomed dwelling at land adjacent to 1 Fir Tree Drive, Howden le Wear, Crook for Mr. Charlton.	31 - 40
7. To consider development control application 3/2008/0312 – Retention of decking and erection of privacy screen (part retrospective) at 45 Uplands Close, Crook for Mr. Carr.	41 - 46

8. To consider development control application 3/2007/0858 – Conversion of existing stable block to form learning centre and existing dwelling to form children’s care home and construction of new learning centre and 2 new children’s care homes to form therapeutic education and care facility at The Tilery, Low Willington for Witherslack Care Group Office. 47- 60
9. To receive for information an appeal decision – Enforcement notice alleging that without planning permission, four (4) individual liquid petroleum gas (LPG) tanks have been installed within the curtilages of plots 3, 5, 6 and 7 Bullfield, Westgate. 61 - 64
10. To receive for information appeal decision 3/2007/0300 – Erection of dwelling house and associated garage/garden store building at land rear of 54-57 Front Street, Sunnyside, Bishop Auckland for Mr. Palin. 65 - 68
11. To consider the present position in respect of the District Council of Wear Valley, Heather Lane, Crook, Public Path Stopping Up Order 2008. 69 - 71
12. To consider such other items of business which, by reason of special circumstances so specified the Chairman of the meeting is of the opinion should be considered as a matter of urgency.

Yours faithfully



Acting Chief Executive

Members of this Committee: Councillors Anderson, Bowser, Buckham, Mrs Burn, Mrs Douthwaite, Gale, Grogan, Mrs Jopling, Kay, Kingston, Laurie, Mrs Lee, Lethbridge, Mairs, Mews, Mowbray, Perkins, Taylor, Des Wilson and Zair.

Chair: Councillor Grogan

Deputy Chair: Councillor Mrs Jopling

TO: All other Members of the Council for information
Management Team

DEVELOPMENT CONTROL COMMITTEE

12TH JUNE 2008

Report of the Strategic Director for Environment and Regeneration

PART 1 – APPLICATION FOR DECISION

3/2008/0146 - CHANGE OF USE FROM OPEN SPACE TO GARDEN, LAND ADJACENT TO 1 MURPHY CRESCENT AND ERECTION OF METAL SHED AT 1 MURPHY CRESCENT, BISHOP AUCKLAND FOR MRS. MCNICHOL – 16.04.2008

description of site and proposals

1. This item has been reported to Committee as the land is owned by the Council.
2. Planning permission is requested for the change of use from open space to domestic garden on land adjacent 1 Murphy Crescent, Bishop Auckland. The parcel of land measures approximately 10.8 metres in length by 7 metres in width, equating to approximately 75.6 square metres in area. The land would be enclosed by a 2 metres high mesh fence painted green.
3. It is also proposed to erect a shed on the land. The proposed shed would measure 3.6 metres in length, 3 metres in width, and 1.8 metres to the highest point.
4. The application site consists of a small area of open space located to the north of 34 Proudfoot Drive, on the junction of Proudfoot Drive and Murphy Crescent.

planning history

5. None.

planning policies

6. The following policies of the Wear Valley District Local Plan as amended by the Saved and Expired Policies September 2007 are relevant in the consideration of this application:
 - GD1 General Development Criteria
 - H21 Public Open Space within Residential Areas
 - H25 Residential Extensions

consultations

7. CDE&TS (highways): No objection.

officer analysis

8. The main issues for consideration are:

- Impact on Street Scene
- Residential Amenity

impact on street scene

9. The change of use of this additional land would not have a detrimental effect on the host property or the surrounding area. Although the land was originally public open space it did not serve any important role within the street scene. The enclosure of this land would not cause harm to the character of the surrounding area as there are a number of other properties within close proximity which have undertaken similar development. It is considered that the development would not result in the loss of visual amenity of the area and would not lead to the reduction in the quality of the residential environment. The proposed shed is a structure that one would expect to find within a residential garden, and would be in keeping with the character of the surrounding area. The development accords with policies GD1 and H21 of the Wear Valley District Local Plan as amended by the Saved and Expired Policies September 2008.

residential amenity

10. The mesh fence, which would delineate the additional land, would not cause any overbearing or overshadowing effects on the occupiers of adjacent dwellings as it would have a maximum height of about 2 metres. There would be no loss of privacy to the neighbouring properties as a result of the development. The development accords with policies GD1, H25 and H21 of the Wear Valley District Local Plan as amended by the Saved and Expired Policies September 2008.

objections/observations

11. Occupiers of the surrounding properties have been notified in writing and a site notice was also posted.
12. Two letters of objection/observation have been received, the details of which are set out below;
- a) I object to a shed being built on the land.
 - b) The shed will block my view.

response to objections/ observations

13. Below are responses to the points raised;
- a) The proposed shed would be in keeping with the character of the surrounding area, and is a structure one would expect to see in a domestic garden.
 - b) There are no windows adjacent to the location of the proposed shed. Loss of view is not a valid planning objection.

conclusion and reasons for approval

1. The development is acceptable in relation to policies GD1, H21 and H25 of the Wear Valley District Local Plan as amended by the Saved and Expired Policies September 2007 as it:
- 1. Would not result in loss of essential open space within the residential area.
 - 2. Would not have a detrimental effect on the character of the surrounding area.
 - 3. Would compliment the style and design of existing boundary treatments within close proximity to the host property.

RECOMMENDED

That planning permission is **GRANTED**.

background information

Application files, WVDLP as amended by the Saved and Expired Policies September 2007.

PS code	<input type="text" value="20"/>		
number of days to Committee	<input type="text" value="59"/>	target achieved	<input type="text" value="No"/>
explanation	First available Committee.		

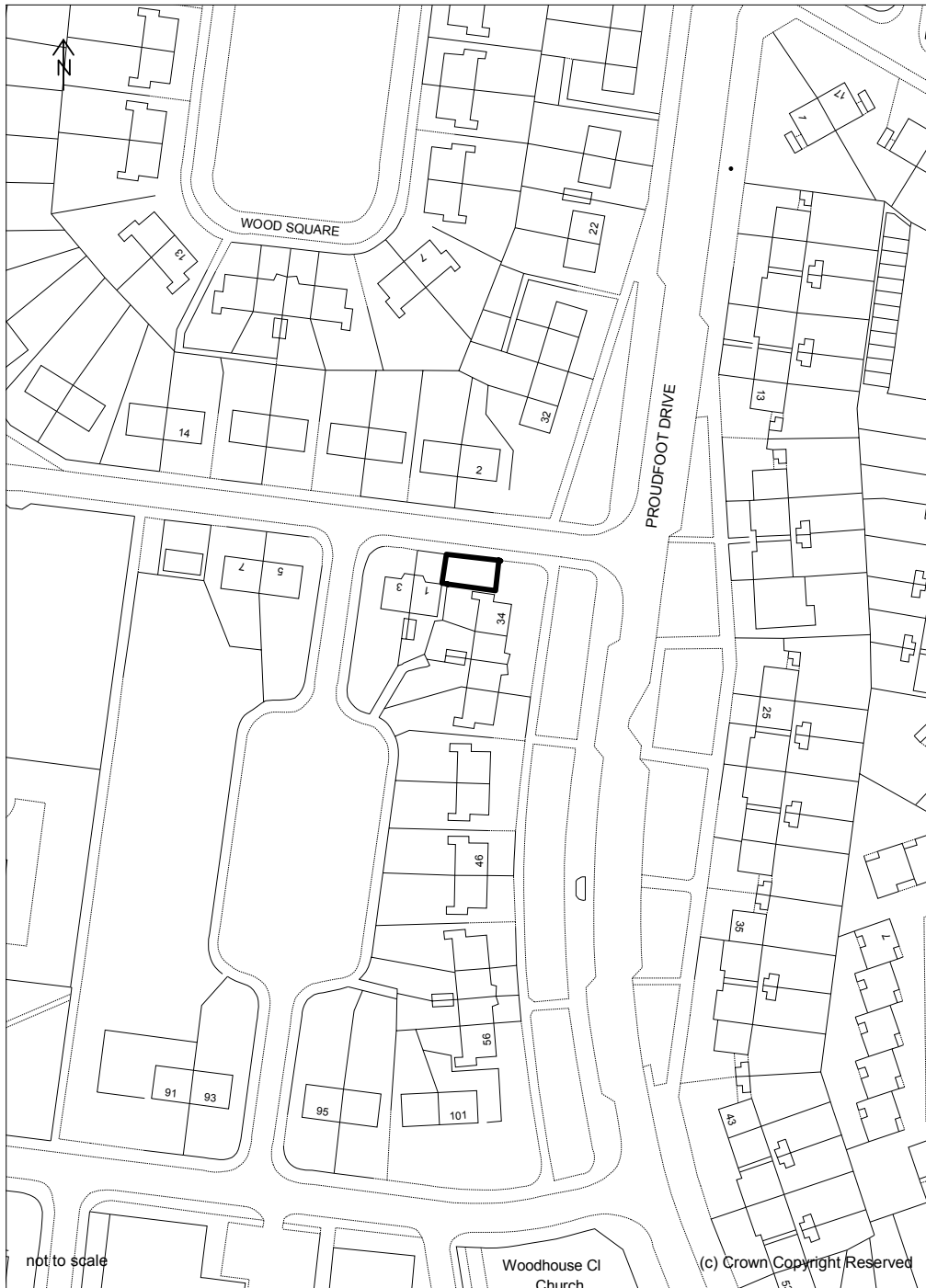
Officer responsible for the report

Robert Hope
Strategic Director for Environment and Regeneration
Ext 264

Author of the report

Adam Williamson
Planning Officer
Ext 495

3/2008/0146 - CHANGE OF USE FROM OPEN SPACE TO GARDEN, LAND ADJACENT TO 1 MURPHY CRESCENT AND ERECTION OF METAL SHED AT 1 MURPHY CRESCENT, BISHOP AUCKLAND FOR MRS. MCNICHOL - 16.04.2008



DEVELOPMENT CONTROL COMMITTEE

12TH JUNE 2008

Report of the Strategic Director for Environment and Regeneration

PART 1 – APPLICATION FOR DECISION

3/2008/0222 - CONSTRUCTION OF 1.8 METRES HIGH (6FT) CLOSED PANEL TIMBER FENCE AND DROPPED KERB FOR OFF ROAD PARKING. CHANGE OF USE: FROM OPEN SPACE TO GARDEN/CAR PARKING WITH A 0.6 METRES HIGH (2FT) CLOSED PANEL TIMBER FENCE ADJACENT TO CAR PARK AT 2 BOLLIHOPE GROVE, BISHOP AUCKLAND

description of site and proposals

1. This application is reported to committee as the land is owned by Wear Valley District Council.
2. Planning permission is sought for the change of use of an area of open space to garden/car parking land and associated means of enclosure. The site measures 22 metres in length and 5 metres in width at its widest point. The site area is approximately 98 square metres.
3. The proposed fencing would be 1.8 metres high along the proposed garden space and would be 0.6 metre high along the parking area of the site. The fencing would be close panel timber fencing.
4. The kerb would be dropped to the front of the property to allow for access on to the proposed parking area.

planning history

5. The planning history relating to the site is set out below:
 - 3/2004/0160 Extension to Dwelling in Brickwork and Concrete Tiles to Match Existing Approved 20.04.2004

planning policies

6. The following policies of the Wear Valley District Local Plan as amended by the Saved and Expired Policies September 2007 are relevant in the consideration of this application:
 - GD1 General Development Criteria

- H3 Distribution of Development

consultations

7. DCC Highways Engineer: No objection.
8. Bishop Auckland Town Council: No response.
9. WVDC Legal: No response.

officer analysis

10. The key issues for consideration are:

- Principle
- Visual Impact
- Residential Amenity

principle

11. The site is within the defined settlement limits for Bishop Auckland. It is considered that the proposal is acceptable in principle. It is considered that the change of use of the site from open land to extra garden space/parking area would not result in the loss of amenity to neighbouring properties in accordance with policies GD1 and H3 of the Wear Valley District Local Plan as amended by the Saved and Expired Policies September 2007.

visual impact

12. The means of enclosure for the piece of land would be a 1.8 metre high fence along the garden area and along the side of the dwelling reducing to a 0.6 metre high fence at the front of the property. The proposed means of enclosure would be the same height as the current means of enclosure at the property. Due to the scale and design of the proposed development it is considered that the proposal accords with policy GD1 of the Wear Valley District Local Plan as amended by the Saved and Expired Policies September 2007.

residential amenity

13. It is considered that the associated fencing would not have an overbearing or overshadowing impact on the adjacent properties or the surrounding area. The 0.6 metre high fence would retain openness to the front of the property. As such it is considered that the proposal is not detrimental to the amenities of the neighbouring residents. It is considered that the proposal has not undermined policy GD1 of the Wear Valley District Local Plan as amended by the Saved and Expired Policies September 2007.

objections/observations

14. Occupiers of the surrounding properties have been notified in writing and a site notice was also posted.

One letter of observation has been received making the following objections:

- a) The owner of number 2 Bollihope Grove has over developed his land, changing the use of the garage and not providing another off road parking space. This has led him to strive for ownership of public open space to fulfill his now need.
- b) Would create a dangerous access, obstructing the view of drivers, in a family area where children play outside their own front gardens.
- c) There are mature 30 year old trees giving pleasure for residents and visitors to this part of the housing estate.
- d) The owners of number 2 Bollihope Grove own a large caravan. I am concerned that it may be parked within the extended garden, which will then go beyond the building line of properties no. 3 and no. 4 and be in constant view from the front of our properties.
- e) I am aware that my neighbour in number 3 is to be given a small amount of land next to his drive should the application go through. I am uncomfortable with this; if the proposed plans go ahead it will lead to other owners next to public open spaces applying to do the same.
- f) I have noticed double gates already in place on the side of an extended plot giving access to a public open space, this will in time become a right of way, and I fear this might happen at the side of number 2 Bollihope Grove.
- g) At present the owner's dogs are away from the public footpath, as people pass the dogs approach the fence attempting to reach up at the lower levels of the current fence. If the fence is moved to the edge of the path, the dogs will be that much closer to the public.

response to objections

15. The following comments are made in response to the points raised:

- a) Each application must be assessed on its own merits. Refer to officer analysis.
- b) There has been no highways objection to the proposed development.
- c) It will be a condition of the planning permission that these trees must be retained.
- d) The parking of a caravan does not come under planning control.
- e) A planning application has not been received for this development; if one is received it would have to be assessed on its own merits.
- f) The planning application is for a change of use to domestic garden land and parking space. It does not include a new public right of way.

- g) The control of pets is outside of the remit of the planning system, it is the responsibility of the pet owners to ensure their dogs are not causing a public nuisance.

conclusion and reasons for approval

1. The proposal is acceptable in relation to policies GD1 and H3 of the Wear Valley District Local Plan as amended by the Saved and Expired Policies September 2007
 1. The site is within the defined settlement limits for Bishop Auckland.
 2. The change of use of the land to private garden area and the fence enclosure would not detract from the appearance of the surrounding area, nor would it impact upon the amenity of neighbouring properties.
 3. The means of enclosure would not have an overbearing or overshadowing impact on adjacent properties or the surrounding area.
 4. No highways objection has been raised to the proposed development.
2. It is considered appropriate to withdraw permitted development rights so that the land cannot be hard surfaced or any fencing/walling erected without planning permission in the interests of visual amenity.

RECOMMENDED

That planning permission be **GRANTED** subject to the following conditions and reasons;

conditions

1. The fence shall be of an open railing construction. Before the development hereby approved is commenced samples of all materials to be used in the construction of the fence shall be submitted to and approved in writing by the local planning authority, and the fence shall be constructed in accordance with the approved details.
2. The existing trees, hedges and shrubs on the site shall be retained and shall not be felled lopped or topped without the prior written consent of the local planning authority. Any trees, hedges and shrubs removed without such consent or which die or become seriously damaged or diseased shall be replaced in the first available planting season with others of similar size and species, unless the local planning authority gives written consent to any variation.
3. Before the development hereby approved is commenced a scheme of landscaping shall be submitted to and approved in writing by the local planning authority which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development. Landscaping of the site shall be carried out in accordance with the approved details.

4. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following implementation of the change of use and any trees or plants which within a period of 5 years of implementation of the change of use, die, are removed, are severely damaged or become seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation.
5. Notwithstanding the provisions of Article 3 and Class F Part 1 and Class A of Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 et seq none of the categories of development described herein shall be carried out on the site without an application for planning permission having been first made to and approved in writing by the local planning authority.

reasons

1. To ensure that the external appearance of the development will not be detrimental to the visual amenities of the area in accordance with policy GD1 of the Wear Valley District Local Plan as amended by the Saved and Expired Policies September 2007.
2. In the interests of the visual appearance of the area. In accordance with policy GD1 of the Wear Valley District Local Plan as amended by the Saved and Expired Policies September 2007.
3. To ensure the satisfactory appearance of the completed development. In accordance with policy GD1 of the Wear Valley District Local Plan as amended by the Saved and Expired Policies September 2007.
4. To ensure the implementation of the approved landscape scheme within a reasonable time. In accordance with policy GD1 of the Wear Valley District Local Plan as amended by the Saved and Expired Policies September 2007.
5. The local planning authority wishes to control future development in order to protect the character of the host dwelling and its setting and to safeguard residential amenity. In accordance with policy GD1 of the Wear Valley District Local Plan as amended by the Saved and Expired Policies September 2007.

background information

Application files, WVDLP as amended by the Saved and Expired Policies September 2007.

PS code	20		
number of days to Committee	59	target achieved	No
explanation: Earliest available Committee			

Officer responsible for the report

Robert Hope

Strategic Director for Environment and Regeneration

Ext 264

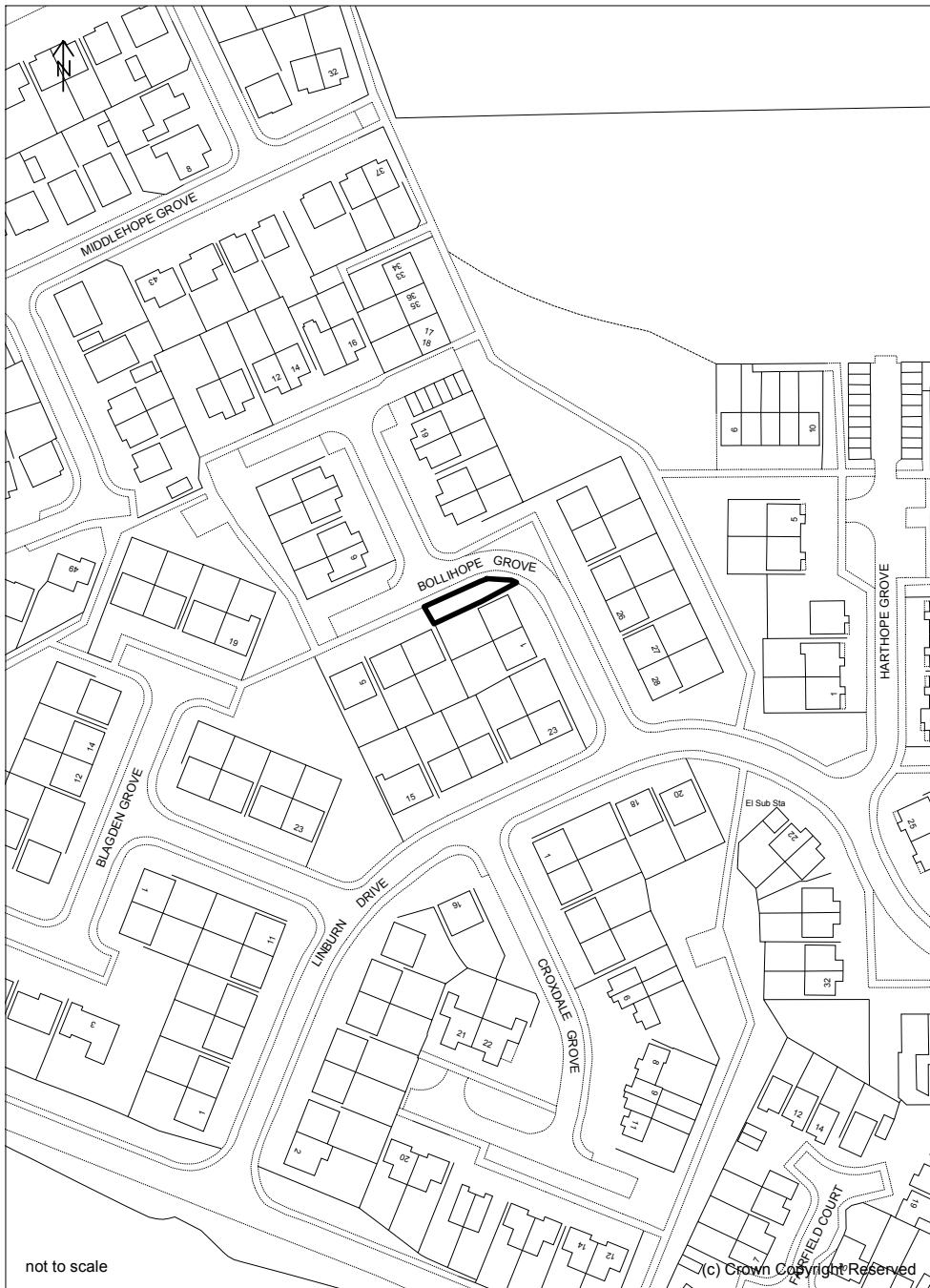
Author of the report

Sinead Folan

Planning Officer

Ext. 272

3/2008/0222 - CONSTRUCTION OF 1.8 METRES HIGH (6FT) CLOSED PANEL TIMBER FENCE AND DROPPED KERB FOR OFF ROAD PARKING. CHANGE OF USE: FROM OPEN SPACE TO GARDEN/CAR PARKING WITH A 0.6 METRE HIGH (2FT) CLOSED PANEL TIMBER FENCE ADJACENT TO CAR PARK AT 2 BOLLIHOPE GROVE, BISHOP AUCKLAND



DEVELOPMENT CONTROL COMMITTEE

12th JUNE 2008

Report of the Strategic Director for Environment and Regeneration

PART 1 – APPLICATION FOR DECISION

3/2007/0610 - TENNIS COURT AND 3 METRES HIGH FENCE ENCLOSURE AT WITTON HALL, HIGH STREET, WITTON LE WEAR, BISHOP AUCKLAND FOR MR. MORGAN -18.08.2007

description of site and proposals

1. Retrospective planning permission is requested for the erection of a tennis court at the above address.
2. The tennis court measures 13.5 metres in width by 27 metres in length. Due to the land on which the tennis court is positioned sloping to the south, the land to the southwestern corner of the court has been increased by approximately 2.6 metres, whilst to the southeastern corner of the court, the land has been increased by approximately 1.6 metres in order to create a level playing surface. The tennis court is enclosed by a 3 metres high metal chain link fence perimeter fence coloured dark green with mesh screening. The tennis court is topped with a 'Playrite All-weather Surface'.
3. The application site consists of a grand stone built detached dwelling with various outbuildings set in substantial grounds. The application site is bounded to the east by Cemetery Road, with a stone wall measuring approximately 2.3 metres in height marking this boundary. Along this boundary are a number of mature trees which are protected by a Tree Preservation Order. To the south of the site are Nos. 1 to 9 Cemetery Road, the closest of which is 9 Cemetery Road which lies directly south of the application site, and approximately 9 metres from the southern end of the tennis court. No 9 Cemetery Road is set at a lower level than the tennis court (approximately 2.5 metres) due to the slope of Cemetery Road. To the north of the application site is The Copse, a collection of 1970's detached dwellings, whilst to the east of the site are 2 No. detached dwellings. The application site lies within the Witton le Wear Conservation Area.

planning history

4. The following planning history is considered relevant to this planning application:
 - 3/2007/0353 Tennis Court Withdrawn 20.07.2007

planning policies

5. The following policies of the Wear Valley District Local Plan as amended by the Saved and Expired Policies September 2007 are relevant in the consideration of this application:
 - GD1 General Development Criteria
 - BE5 Conservation Areas
 - BE6 New Development and Alterations in Conservation Areas
 - BE8 Setting of a Conservation Area
 - H3 Distribution of Development
 - H25 Residential Extensions
 - FPG5 Alteration and Extension Guidelines

consultations

6. CDE&TS (Highways): No objection.
7. Environment Agency: No comment.
8. Design and Conservation Officer: No objection. Full report on file.
9. Witton le Wear Parish Council: The Parish Council is unable to support this application because of a number of serious concerns.
 - The court has been constructed on land which has been built on a steep slope. This has the effect of raising the base of the court higher than the perimeter wall, particularly at the south end of the site. This severely impacts upon the conservation area.
 - The raising of the court above the natural slope of the land seriously impacts upon the dwellings to the east and south of the site. The properties are subjected to removal of privacy, particularly the property to the south of the site since players and spectators standing on the court can easily look into the garden and windows of habitable rooms.
 - The banking up of the earth to the east and south sides of the site turns the perimeter walls into retaining walls.
 - In addition, a 3 metres high mesh fence impacts further upon the conservation area and the streetscape. There is no guarantee that the fence will stop tennis balls being hit onto the adjacent road.
10. DCC Arboroculturalist: Full report on file. Offers the following comments;
 - Site works have taken place to install the base for a tennis court. Instead of normal cut and fill operations this service has been created mainly by importing infill to level the area.

- The only excavations to take place being minimal soil removal to create a pad for the wall foundations. Soil has been raised to the west of three tree boiles (not serious) trees 9- 10 and 11.
- I have been informed that the development is totally semi- permeable and constructed in sympathy with the trees.
- The construction has encroached substantially into the RPA (Root Protection Areas).
- Provided root severance has not occurred the construction will not be detrimental to tree stability. The construction may actually increase root stability providing:
 - a) The integrity of the root plates are still intact.
 - b) The construction is permeable/ semi- permeable
- There is evidence of cracks within the curtilage of the site and to the outer side of the retaining wall. The wall is cracked in at least 11 places, mainly adjacent to the trees. The cracks pre date the recent construction, and the construction activities are not the reasons for the cracks. The cracks are being caused by the size and pressure exerted by the trees.
- Eventually within 10/15 years all trees may have to be removed in order to dismantle and rebuild the retaining wall. Removal of the construction may be detrimental to the trees' stability as the ground has been disturbed. The trees in question are becoming senescent, they already have terminal die back and dead wood which need to be attended to, the trees are in decline with a limited SULE (safe useful life expectancy).

recommendations

1. Retain the structure.
2. Carry out planting works to enhance the site.
3. Carry out pruning works highlighted with the DCC 1999 report.
4. Remove the soil from the west side of trees 9- 10- 11.
5. Monitor the trees for root plate movement, especially tree no. 8 the Norway Maple.
6. Monitor wall movement, tree pressure and cracking.
7. Although when eventually this problem is addressed, the trees are exempt from legislation because they are deemed as causing an actionable nuisance.

8. Consideration should be given to phasing out the trees, replanting in a different location and treating the stumps. This would allow the stumps and roots to dissipate, possibly avoiding the need for major civil engineering works.

officer analysis

11. The key issues for consideration are:

- Principle of Development
- Impact on the Conservation Area
- Impact of Residential Amenity
- Impact on Protected Trees

principle of development

12. The application seeks retrospective planning permission for a tennis court within a residential curtilage. Normally, the creation of a tennis court would not require planning permission as it would fall under Schedule 2 Part 1 Class F of the Town and Country Planning (General Permitted Development) Order 1995 as a hard surface for any purpose incidental to the dwelling house. In this instance, the applicant wrote to the local planning authority asking whether planning permission was required for the construction of a tennis court. The local planning authority responded stating that planning permission would not be required. This advice was given without the knowledge that substantial changes would have to be made to site levels in order to construct the tennis court. Following an enforcement complaint, an application was invited as planning permission was required for the engineering works required to install the base of the tennis court.

13. The construction of a tennis court and the associated fencing is not considered to be unusual within a domestic curtilage. As such it is considered that the principle of development is acceptable and accords with policy GD1 of the Wear Valley District Local Plan as amended by the Saved and Expired Policies 2007.

impact on the conservation area

14. The main impact the tennis court has upon the conservation area is from views along Cemetery Road and views north from Post Office Street as the base of the tennis court sits above the boundary wall of the property due to the increase in land levels to create a level playing surface. Without a landscaping scheme the base of the court appears incongruous within the conservation area and has a substantial impact on views into the conservation area from Cemetery Road and Post Office Street, especially from the eastern corner of 9 Cemetery Road. Whilst travelling south down Cemetery Road, given the slope of the land, the court and its fencing is not unduly prominent within the street scene, and is to a certain degree already screened by the existing protected trees. Whilst travelling north however, the southeastern corner of the court is very prominent due to the base of the court being approximately 1.4 metres above the top of the boundary wall.

15. However, with a degree of screening the visual impact of the base of the court would be significantly reduced and its appearance softened, especially to the southeastern corner of the base of the court. This could be controlled by a condition on a grant of planning permission. As such, it is considered that with a landscaping scheme in place, the proposal would not have a detrimental impact upon the setting or appearance of the conservation area, and would not appear unduly prominent in views from Cemetery Road and Post Office Street. As such it is considered that the proposal accords with policies GD1, BE5, BE6 and BE8 of the Wear Valley District Local Plan as amended by the Saved and Expired Policies September 2007.

impact on residential amenity

16. Normally if someone wishes to change the levels of the land in the curtilage of a dwelling house then planning permission would not be required. In this instance, planning permission is required as in Newbury BC 2/11/94 an Inspector found that a tennis court was not permitted development as engineering operations had been carried out involving the raising of the level of land near the boundary with adjacent cottages. The sole issue was the amenity of the neighbouring property and an Inspector concluded that with landscaping, loss of privacy objections could be overcome. This case is similar to this instance and as such an application was invited.
17. The dwellings which are impacted the most by the tennis court are nos. 9, 10 and 11 Cemetery Road, which lie to the south and east of the tennis court.
18. The rear garden of 9 Cemetery Road is set down by approximately 2.5 metres from the playing surface of the tennis court, and is approximately 9 metres away. The rear of 9 Cemetery Road is north facing and contains 4 windows, with a bedroom to the first floor, and a large sunroom. As the rear of 9 Cemetery Road is north facing the base of the tennis court does not create any loss of light to this property.
19. The dwellings to the east of the tennis court, nos. 10 and 11 Cemetery Road, are located approximately 13 metres from the easternmost edge of the court, with the court level with the first floor level of these properties.
20. The 3 metre high chain link fence around the tennis court has a fine green mesh attached to it which limits views both into and out of the tennis court. This mesh allows the neighbouring dwellings greater privacy. As such it is recommended that a condition be attached to any grant of planning permission so that the mesh must be maintained and retained in order to protect the privacy of neighbouring residents of nos. 9, 10 and 11 Cemetery Road.
21. With this condition in place, along with a landscaping condition, it is considered that the occupiers of neighbouring properties would not suffer any loss of privacy as a result of the proposal. It is reiterated that planning permission is not normally required to alter the land levels in a domestic garden, but in this instance an engineering operation has taken place, and as such the change in land levels requires planning permission.

22. The proposal accords with guidance contained within policies GD1, H25 and FPG5 of the Wear Valley District Local Plan as amended by the Saved and Expired Policies September 2007.
23. The noise element and the nuisance created by tennis balls landing in the garden of the neighbouring property are not matters that can be addressed by the planning system. The planning consideration is to ensure that no commercial/wider public use takes place. The applicant proposes that the tennis court is used for domestic purposes by a single household (including visitors).

impact on protected trees

24. The County Arboroculturalist has been consulted on the application and states that the construction has encroached substantially into the RPA (Root Protection Areas). Providing root severance has not occurred the construction will not be detrimental to tree stability. The construction may actually increase root stability providing:
 - a) The integrity of the root plates are still intact.
 - b) The construction is permeable/ semi- permeable.
25. The County Arboroculturalist also states that there is evidence of cracks within the curtilage of the site and to the outer side of the retaining wall. The wall is cracked in at least 11 places, mainly adjacent to the trees. The cracks pre date the recent construction, and the construction activities are not the reasons for the cracks. The cracks are being caused by the size and pressure exerted by the trees.
26. Eventually within 10/15 years all trees may have to be removed in order to dismantle and rebuild the retaining wall. Removal of the construction may be detrimental to the trees' stability as the ground has been disturbed. The trees in question are becoming senescent, they already have terminal die back and dead wood which need to be attended to, the trees are in decline with a limited SULE (safe useful life expectancy).
27. The County Arboroculturalist has offered a number of recommendations to be attached to any grant of planning permission. Conditions are recommended accordingly. The proposal accords with policy GD1 of the Wear Valley District Local Plan as amended by the Saved and Expired Policies September 2007.

objections/observations

28. Occupiers of neighbouring properties were notified in writing and a site notice was also posted. The application was also advertised in the press.
29. 4 letters of objection/ observation have been received, along with a petition containing 19 signatures. The petition contains the names of the people who have also written a letter of objection.

30. The contents of the letters are summarised below;
- a) The tennis court destroys the character and visual amenity of the conservation area.
 - b) The erection of the court will mean that tennis can be played much more frequently on the elevated surface than would otherwise be the case, causing loss of privacy to our property.
 - c) At no point were we consulted by the applicant about his wishes to build a tennis court immediately opposite our dwelling.
 - d) The tennis court does not fit in with the surrounding area and looks like a zoo or prison.
 - e) The noise of the people playing tennis is greatly magnified by the adjacent stone walls.
 - f) There is a danger of tennis balls leaving the court and striking someone.

response to objections

31. The following comments are made in response to the points raised;
- a) It is accepted that at the present moment the tennis court appears somewhat incongruous within the conservation area. However, it is considered that with landscaping the impact of the court will be significantly lessened to an acceptable level.
 - b) A tennis court does not normally require planning permission. In this instance planning permission is required for the engineering works required to form a level playing surface. The 3 metres high chain link fence around the tennis court has a fine green mesh attached to it which limits views both into and out of the tennis court. This mesh allows the neighbouring dwellings greater privacy. As such it is considered that a condition be attached to any grant of planning permission so that the mesh must be maintained/retained to protect the privacy of neighbouring residents.
 - c) This is not a material consideration in the determination of this application.
 - d) It is granted that at the present moment the tennis court appears somewhat incongruous within the conservation area. However, it is considered that with landscaping, the impact of the court will be significantly lessened to an acceptable level.
 - e) The noise element and the nuisance created by tennis balls landing in the garden of the neighbouring property are not matters that can be addressed by the planning system.
 - f) This cannot be controlled through the planning process.

conclusion and reasons for approval

1. The application site consists of a domestic garden located within the settlement limits for Witton le Wear. The creation of a tennis court within a domestic garden is not unusual and as such it is considered that the principle of development is acceptable and accords with policy GD1 of the Wear Valley District Local Plan as amended by the Saved and Expired Policies 2007.

2. Subject to a landscaping condition, the proposal would not have a detrimental impact upon the setting or appearance of the conservation area, and would not appear unduly prominent in views from Cemetery Road and Post Office Street. As such it is considered that the proposal accords with policies GD1, BE5, BE6 and BE8 of the Wear Valley District Local Plan as amended by the Saved and Expired Policies September 2007.
3. With the mesh screen attached to the chain link fence, the privacy of neighbouring residents would not be unduly affected by the tennis court. In order to protect the privacy of neighbouring occupiers in the future, a condition is recommended requiring the mesh screen to be maintained/retained to the satisfaction of the local planning authority. With this condition the proposal accords with policies GD1, H24 and FPG5 the Wear Valley District Local Plan as amended by the Saved and Expired Policies September 2007.

RECOMMENDED

That retrospective planning permission be **GRANTED** subject to the following conditions and reasons;

conditions

1. Within 56 days of the grant of planning permission a scheme of landscaping shall be submitted to and approved in writing by the local planning authority (which shall include indications of all existing trees on the land, which shall be retained).
2. All planting, seeding, or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the granting of planning permission, and any trees or plants which within a 5 year period from the completion of the development die, are removed, are severely damaged or become seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation.
3. Within 14 days of the date of the granting of planning permission, details of a mesh screen to be attached to the chain link fence shall be submitted to and approved in writing by the local planning authority. The mesh screen shall be placed on site within 14 days of the approval in writing from the local planning authority and thereafter the screen mesh shall be permanently retained and maintained to the satisfaction of the local planning authority.
4. Within 21 days of the date of the granting of planning permission the soil from the west side of the trees numbered 9-10-11 in the Durham County Council Arboricultural Report dated 29th January 1999 shall be removed.
5. Within 24 months from the date of the granting planning permission the tree works recommended in the Durham County Council Arboricultural Report dated 29th January 1999 shall be carried out unless the local planning authority gives written consent to any variation.

6. The tennis court hereby approved shall be used for the private usage of the owners/occupiers of Witton Hall only and shall not be used for any business or recreational/tennis club purposes nor for any other use without the prior written approval of the local planning authority.
7. No lights or floodlights shall be erected to illuminate the tennis court hereby approved without the prior written approval of the local planning authority.

reasons

1. To ensure the satisfactory appearance of the completed development. In accordance with policies GD1, BE5, BE6, H25 and FPG5 of the Wear Valley District Local Plan as amended by the Saved and Expired Policies September 2007.
2. To ensure the implementation of the approved landscape scheme within a reasonable time. In accordance with policy GD1 of the Wear Valley District Local Plan as amended by the Saved and Expired Policies September 2007.
3. To ensure that a satisfactory development is obtained, in the interests of privacy. In accordance with policies GD1, H25 and FPG5 of the Wear Valley District Local Plan as amended by the Saved and Expired Policies September 2007.
4. To achieve a satisfactory form of development. In accordance with policy GD1 of the Wear Valley District Local Plan as amended by the Saved and Expired Policies September 2007.
5. In the interests of the visual appearance of the area. In accordance with policy GD1 of the Wear Valley District Local Plan. as amended by the Saved and Expired Policies 2007.
6. The commercial use of the tennis court would be detrimental to the residential amenities of surrounding occupiers. In accordance with policies GD1, H25 and FPG5 of the Wear Valley District Local Plan as amended by the Saved and Expired Policies September 2007.
7. In the interests of visual amenity and to avoid a nuisance to residents in the surrounding area. In accordance with policies GD1, H25 and FPG5 of the Wear Valley District Local Plan as amended by the Saved and Expired Policies September 2007.

background information

Application files, WVDLP as amended by the Saved and Expired Policies September 2007.

PS code

21

number of days to Committee

272

target achieved

NO

explanation

Protracted discussions with the objectors and the applicant.

Officer responsible for the report

Robert Hope

Strategic Director for Environment and Regeneration

Ext 264

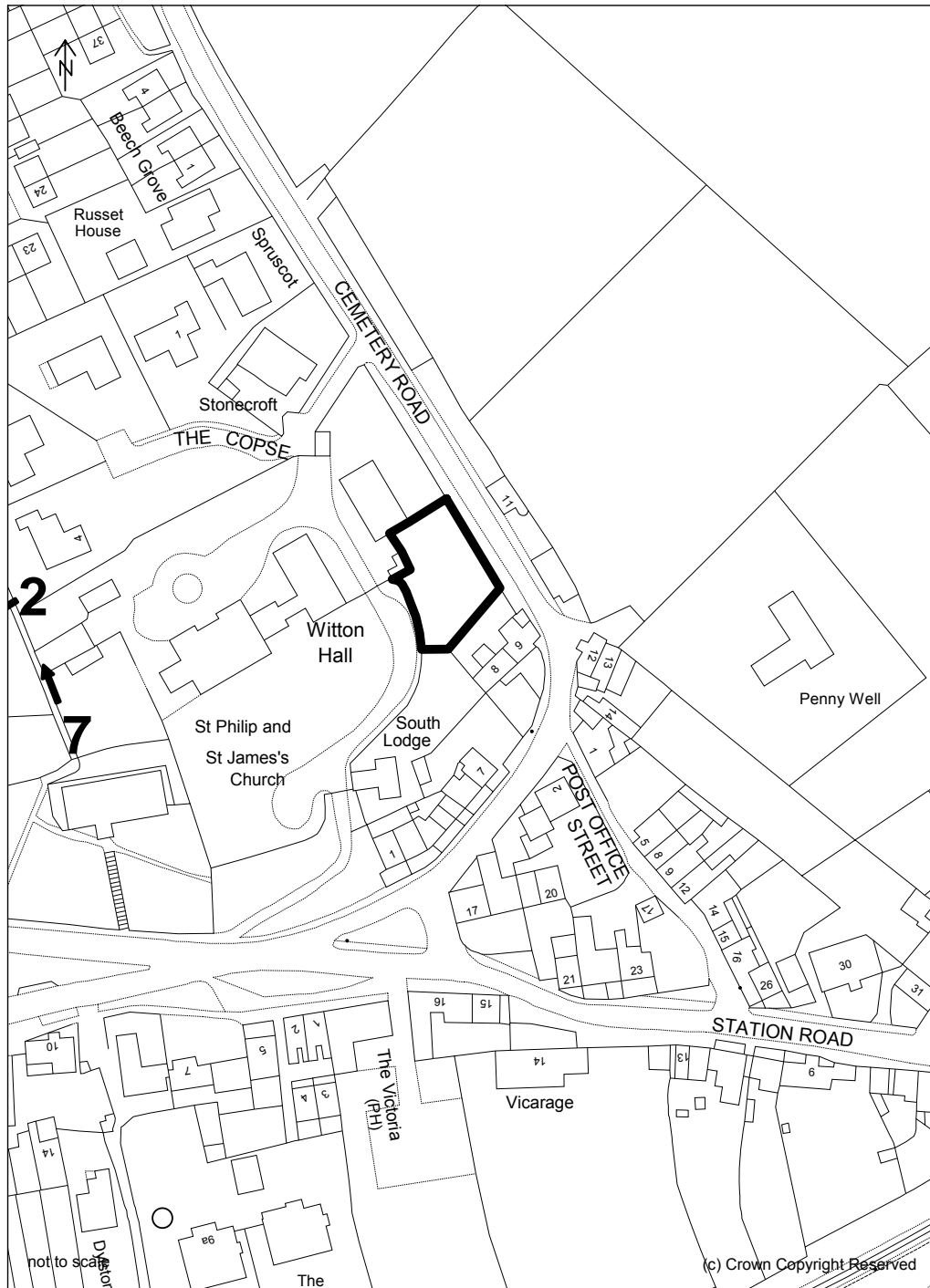
Author of the report

Adam Williamson

Planning Officer

Ext 495

3/2007/0610 - TENNIS COURT AND 3 METRES HIGH FENCE ENCLOSURE AT WITTON HALL, HIGH STREET, WITTON LE WEAR, BISHOP AUCKLAND FOR MR. MORGAN -18.08.2007



DEVELOPMENT CONTROL COMMITTEE

12TH JUNE 2008

Report of the Strategic Director for Environment and Regeneration

PART 1 – APPLICATION FOR DECISION

3/2008/0242 - SUBSTITUTION OF HOUSE TYPES TO CURRENTLY APPROVED DEVELOPMENT AND ADDITION OF ELECTRICITY SUB STATION AT SOUTHFIELDS DEVELOPMENT SITE ALMA TERRACE, STANLEY FOR PERSIMMON HOMES – 05.04.2008 - AMENDED 27.05. 2008

description of site and proposals

1. The site to which the application relates is an area of open space to the east of No.17 Alma Terrace, Stanley Crook. There are residential properties abutting the south and east boundary of the application site. There are residential properties located approximately 5 metres to the west of the application site along Alma Terrace. A football ground is situated to the north with the B6299 highway to the south.
2. The site has an extant permission (Ref: 3/2006/0780) for 43 houses. The proposal in this application is for a substitution of all the house types on the site. The number of dwellings is not to be altered and the layout of the estate is not to be changed from what was approved under permission 3/2006/0780. The proposed changes show a simplification in the house types. The proposal also requests consent for the erection of an electricity sub station within the site. This sub station would measure 5.2 metres by 4.3 metres and reach an overall height of 3.5 metres to the ridge.
3. A Section 106 Agreement was signed at the outline application stage and then updated for the reserved matters application (3/2006/0779 & 3/2006/0780). This agreement ensures that 75% of the houses approved on the site east of High Road (3/2006/0779) should be developed before development commences on the site adjacent to 17 Alma Terrace (3/2006/0780). The agreement also included a financial contribution for environmental improvements and off site sport and recreation provision.

planning history

4. The following applications are relevant in the consideration of this application:
 - 3/2003/0433 Outline Residential Development Approved 27.04.2004
 - 3/2006/0420 Housing Development Withdrawn 05.09.2006

- 3/2006/0779 Housing Development Approved 22.04.2007
(At land to the east of High Road,
Stanley)
- 3/2006/0780 Housing Development Approved 22.04.2007
- 3/2007/0739 Substitution of 10 No. House
Types and Addition of 11 No. approved 08.01.2008
Dwellings to Housing
Development (3/2006/0779)

planning policies

5. The following policies of the Wear Valley District Local Plan are relevant in the consideration of this application:
 - GD1 General Development Criteria
 - H24 Residential Design Criteria
 - H3 Distribution of Development
 - T1 Highways - General Policy

consultations

6. Durham County Council (Highways Authority): No objections.
7. Northumbrian Water: No comments.
8. Architectural Liaison Officer Police: No observations to make.

officer analysis

9. The key issues for consideration are:

- Principle of Development
- Visual Impact
- Residential Amenity
- Access and Parking
- Section 106 Agreement

principle of development

10. The application site falls within the settlement limits to development for Stanley, Crook as allocated on the Proposals Maps and under policy H3 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007. The fact that outline planning permission and a reserved matters application has been granted previously for residential development on this site carries significant weight in determining whether the principle of development is acceptable.

11. As this is an application for only the substitution of house types, the principle of development has been established on this site through both the outline planning permission 3/2003/0421 and the reserved matters permission 3/2006/0780. The principle of development is acceptable and in accordance with policy H3 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.

visual impact

12. The reserved matters application 3/2006/0780, which granted permission for the detailing of the housing on this site, is seen as a high quality residential development which would attract people to live in Stanley. The design quality of the houses on this site are expected to be of a high standard as the site has dwellings which front onto the main highway which runs through Stanley. The proposed house substitutions which were originally submitted with the application were considered basic and of a poor design quality which would have detracted from the overall appearance of the housing estate.
13. Negotiations have undergone between planning officers and the architect in order to achieve house types which would provide a quality development and would not appear out of keeping with the surrounding area. The architect undertook some design research of the housing types in the Stanley area. Amended plans have been submitted which reflect more the design qualities of the existing properties within Stanley. The amended plans incorporate stone head and cills, mock sash windows of varying styles and cottage style front doors. The amended plans are an improvement to the original plans which were submitted in this application. The proposed substitution of house types would provide quality housing which reflects elements of existing properties in the Stanley area, and would provide an overall attractive housing estate.
14. The proposed electricity substation is to be situated within the housing estate and would not be highly visible from the surrounding area. The size and bulk of the sub station is sensitive to the surrounding properties and would not appear overbearing or intrusive within the estate street scene. Conditions are recommended to ensure that suitable materials are used in the construction of the sub station.
15. The proposed substitution of house types and the erection of an electricity sub station is considered acceptable and would be in accordance with policy GD1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.

residential amenity

16. The positioning and layout of the houses are not to be altered from the previous permission. This application does not raise any new issues with regards to the residential amenities of prospective occupiers of the properties and existing occupiers of neighbouring dwellings. The relationship between the proposed properties and the neighbouring dwellings are considered to accord with the minimum standards set out in policy H24 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September

2007. There would be no adverse impacts to neighbouring properties in terms of loss of privacy or loss of light. Adequate garden amenity space is provided for each proposed dwelling.

17. The proposal would not be harmful to the residential amenities of the existing or future residential properties in accordance with policies GD1 and H24 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.

access and parking

18. The access, layout and parking arrangements have not been altered from the previously approved application. Durham County Council Highways Authority have been consulted and no objections have been raised. The proposed development would not have an adverse impact upon highway safety. The proposal is in accordance with policy GD1 and T1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.

section 106 agreement

19. A Section 106 Agreement was signed at the outline application stage (Ref: 3/2003/0443) for the original housing estate. This agreement ensures that 75% of the houses approved on the site east of High Road (3/2006/0779) should be developed before development commences on the site of this application. The agreement also included a financial contribution for environmental improvements and off site sport and recreational provision. Should the Members be minded to grant planning permission a new Section 106 Agreement would have to be produced to ensure that the original obligations are still met.

objections/observations

20. The application has been advertised on site, in the local press and neighbouring properties have been notified individually. One letter of objection has been received.
21. The objection letter comes from the owners of Floss House which is on the south east boundary of the application site. The objection letter claims the boundaries of the site are incorrect. This issue has been raised with the applicant, Persimmons, however the location of boundaries is a land ownership dispute and is not a material planning consideration. There is sufficient distance between the proposed houses and Floss House to achieve adequate levels of residential amenity.

conclusion and reasons for approval

1. The proposed development is within the limits of development for Stanley Crook as defined under policy H3 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007. The principle of development has been established through outline planning permission (3/2003/0443) and reserved matters approval (3/2006/0780). The principle of development is acceptable and supported by policy H3 of the Wear Valley

District Local Plan as amended by Saved and Expired Policies September 2007.

2. The original plans submitted showed basic house types which detract from the overall appearance of the housing estate. Amended plans have been submitted which offer more interesting features to the houses. The proposed substitution of house types would provide quality housing which reflects elements of existing properties in the Stanley area, and would provide an overall attractive housing estate. The proposed electricity sub station would be concealed within the proposed housing estate and would not be highly visible from the surrounding area. The proposed sub station would not be obtrusive within the estate and is considered acceptable. The proposal would be in accordance with policy GD1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.
3. The layout and positioning of the houses are not to be altered and therefore no new issues are raised with regards to the residential amenities of prospective occupiers of the properties and existing occupiers of neighbouring dwellings. The proposal in this application would not be harmful to the residential amenities of the existing or future residential properties in accordance with policies GD1 and H24 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.
4. The access, layout and parking arrangements have not been altered from the previously approved application. The proposed development would not have an adverse impact upon highway safety. The proposal is in accordance with policy GD1 and T1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.

RECOMMENDED

That, subject to the applicant first entering into a Section 106 Agreement to secure financial contributions towards environmental enhancements and towards off site play equipment and recreational facilities, and to address the issue of the phasing of the two sites (land to the east of High Road and land adjacent to Alma Terrace), planning permission be **GRANTED** subject to the following conditions and reasons;

conditions

1. No development shall take place until samples of all materials to be used in the construction of the external surfaces of the buildings have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
2. Development shall not begin until details of the existing and proposed site levels and the finished floor levels of the proposed dwellings and those of existing neighbouring dwelling houses have been submitted to and approved in writing by the local planning authority; and the works shall be completed in accordance with the approved details.

3. Before the development hereby approved is commenced a scheme of landscaping shall be submitted to and approved in writing by the local planning authority [which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development].
4. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of 5 years from the completion of the development die, are removed, are severely damaged or become seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation.
5. Before the development hereby approved is commenced details of the height, siting, appearance and construction of all means of enclosure to be erected upon the site shall be submitted to and approved in writing by the local planning authority, and the works shall be carried out in accordance with such approved details before the buildings hereby approved are first occupied.
6. No building activities shall be carried out on the site on any Sunday or Bank Holiday or outside the hours of 7:30 a.m. and 6:00 p.m. Mondays - Fridays, or 7:30 a.m. and 4:30 p.m. Saturdays.
7. Before the development hereby approved is commenced wheel washing equipment shall be provided at all egress points. The equipment installed shall be of the grid type to ensure that once the bottom of the vehicle is cleansed of mud, etc. this mud, etc. is not trailed onto the public carriageway. The wheelwashing equipment shall be used on all vehicles leaving the site during the period of construction works.

reasons

1. To ensure the satisfactory appearance of the completed development. In accordance with policy GD1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.
2. To ensure a satisfactory standard of development and to ensure that the development is not unduly prominent within the surrounding landscape. In accordance with policy GD1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.
3. To enable the local planning authority to retain control over the landscaping of the site to secure a satisfactory standard of development and protection of existing trees and hedgerows. In accordance with policy GD1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.
4. To ensure the implementation of the approved landscape scheme within a reasonable time. In accordance with policy GD1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.

5. To achieve a satisfactory form of development. In accordance with policy GD1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.
6. To safeguard the occupiers of adjacent premises from undue noise or other associated disturbance. In accordance with policy GD1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.
7. In the interest of traffic safety and to safeguard the amenity of the surrounding area. In accordance with policy GD1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.

background information

Application files, WVDLP.

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explanation					

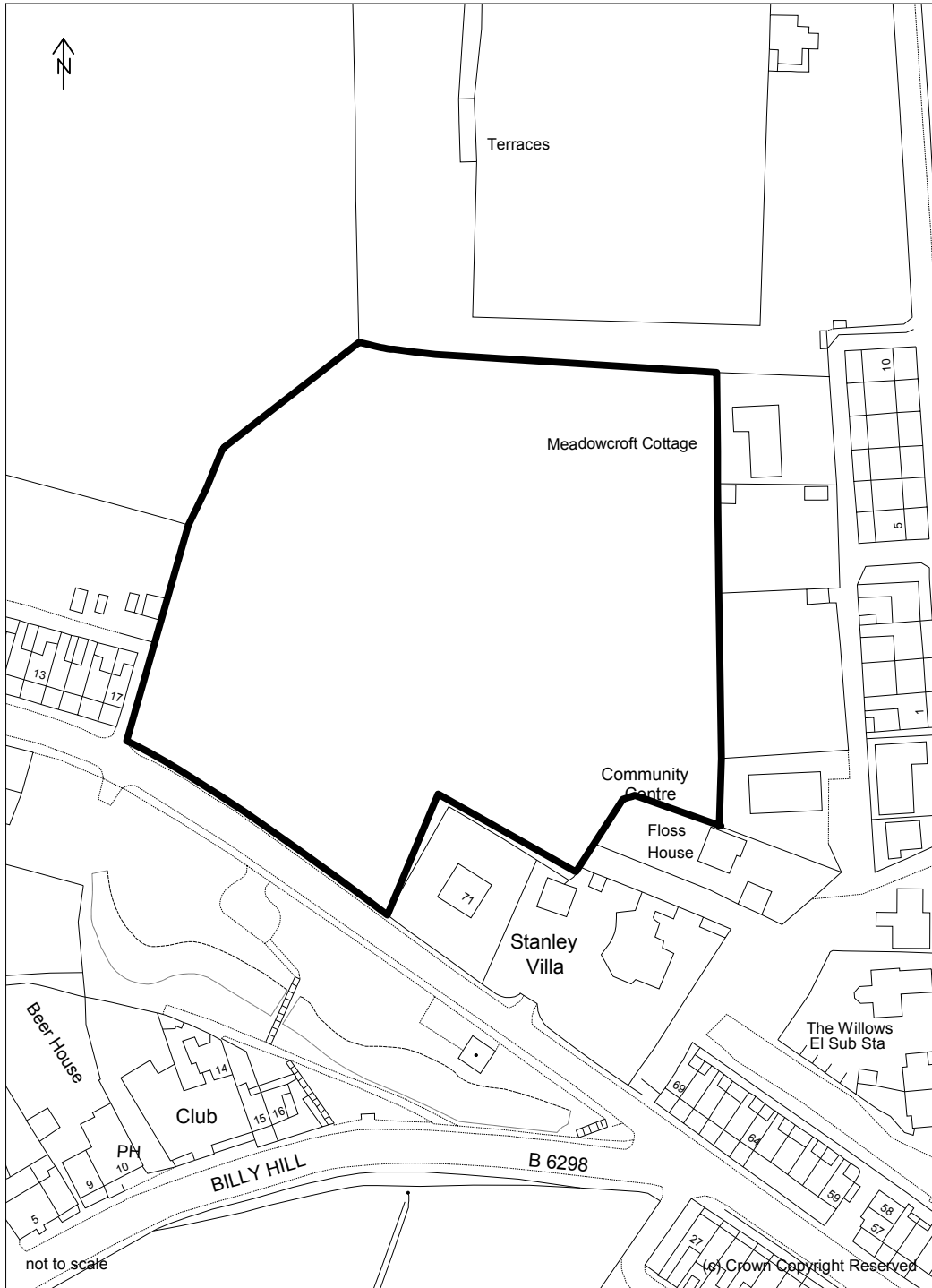
Officer responsible for the report

Robert Hope
 Strategic Director for Environment and Regeneration
 Ext 264

Author of the report

Chris Baxter
 Senior Planning Officer
 Ext 441

3/2008/0242 - SUBSTITUTION OF HOUSE TYPES TO CURRENTLY APPROVED DEVELOPMENT AND ADDITION OF ELECTRICITY SUB STATION AT SOUTHFIELDS DEVELOPMENT SITE ALMA TERRACE, STANLEY FOR PERSIMMON HOMES – 05.04.2008 - AMENDED 27.05. 2008



DEVELOPMENT CONTROL COMMITTEE

12TH JUNE 2008

Report of the Strategic Director for Environment and Regeneration

PART 1 – APPLICATION FOR DECISION

3/2008/0267- PROPOSED THREE BEDROOMED DWELLING AT LAND ADJACENT TO 1 FIR TREE DRIVE, HOWDEN LE WEAR, CROOK FOR MR. CHARLTON – 18.04.2008

description of site and proposals

1. This is a revised scheme following refusal of application 3/2007/0621 and is now for the erection of a redesigned 3 bedroom dwelling on land at the corner of Fir Tree Drive and Hargill Road, Howden le Wear. The refused application was for a four bedroom dwelling of different design.
2. The site is within the development limits in a residential area comprised of a mixture of traditional terraced and more modern dwellings. It is currently used as a garden. Site boundaries comprise of dry stone walls to the roadside boundaries and timber fencing along the north and west boundaries with the adjacent dwellings. As well as various shrubs and small trees, there are two mature Oak trees within the site. One is a large specimen tree that is now protected by a Tree Preservation Order (TPO), but the other is a less impressive specimen, which is clearly in decline.

planning history

3. The following applications relate to the site:
 - 3/2007/0621 Erection of 4 Bed Dwelling Refused 13.11.2008

planning policies

4. The following policies of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007 are relevant in the consideration of this application:
 - GD1 General Development Criteria
 - H24 Residential Design Criteria
 - H3 Distribution of Development
 - T1 Highways - General Policy

Also relevant are: Regional Spatial Strategy (RSS) policies 3 and 5 and the Council's local interpretation of those policies, and national planning policy in PPS1, PPS1 Climate Change Supplement, PPS3, PPG13 and PPS22.

consultations

5. Northumbrian Water: No objections.
6. Arboricultural Officer: All trees, apart from the large specimen Oak tree are expendable. With regards to the large TPO'd Oak tree, further details should be supplied to assess the impact of the development on the tree.
7. Durham County Highways: No objections.

officer analysis

8. The key issues for consideration are:
 - Effect on the Creation of Sustainable Patterns of Growth in the Local Area
 - Impact on the Character and Appearance of the Surrounding Area
 - Highways and Access
 - Impact on the Living Conditions of Neighbours
 - Sustainability

effect on the creation of sustainable patterns of growth in the local area

9. There is a whole raft of local, regional and national planning policy reflecting the overarching objectives to secure sustainable patterns of development by focusing new development within towns and villages that are well served by local facilities in order to reduce the need to travel by private car.
10. At local and regional level this is reflected in the Sequential Approach to development which is set out in RSS policies 3 and 5, as well as the Council's local interpretation (April 2007), which limits new housing development to within the settlement limits of the main urban areas which are well related to homes, jobs and services by all modes of transport, particularly public transport, walking and cycling. The Council has defined those urban areas as Bishop Auckland, West Auckland, St Helens Auckland, Crook, Willington, Tow Law, Coundon, Stanhope and Wolsingham.
11. The application site is within the development limits of Howden le Wear in accordance with Wear Valley District Local Plan policy H3 however, Howden le Wear is not one of the urban areas as identified in the Council's interpretation of Regional Spatial Strategy (RSS) policies 3 and 5. Policy H3 had to be saved to preserve the settlement limits of the identified urban areas, but in turn has saved the settlement limits of non-identified settlements. There is clearly a conflict between saved policy H3 of the Local Plan and the Council's (2007) interpretation of the Regional Spatial Strategy (RSS).

12. In examining which should take precedent as a material consideration, the Wear Valley District Local Plan was adopted in 1997 and is clearly out of date in terms of being in line with the latest national and regional planning policies. In this respect it would be most unreasonable to expect a Local Plan adopted over a decade ago to accurately reflect the aims of the latest emerging policies, as an Inspector has noted in a recent appeal decision. Not all the settlements in saved policy H3 are locations that are well related to homes, jobs and services, particularly by public transport, walking and cycling, as the emerging Regional Spatial Strategy (RSS) requires. They are therefore not all reflective of the sequential approach envisaged by the emerging Regional Spatial Strategy (RSS) and are not consistent with national planning policy in PPS1, PPS3 and PPG13, which seek to secure sustainable patterns of development. It is therefore considered more appropriate to consider the proposal against the latest policy framework of the Regional Spatial Strategy (RSS).
13. This has however changed since the Council adopted its local interpretation of the Regional Spatial Strategy (RSS) and since the last application on this site was refused. There is now greater flexibility as changes have been made to allow “other” and even “secondary” settlements to be identified in LDFs. While the Council’s LDF has not progressed to the stage of identifying “other” and “secondary settlements” it would appear that as the application site is located in close proximity to a school, two local convenience shops including a post office, and a number of local hot food and drink establishments, as well as being within cycling distance of the facilities in Crook, and on a bus route to Crook and Bishop Auckland, that the site is in a settlement that could possibly be considered as one of the “other” or “secondary settlements” where small scale development, such as the development of single plots, would not prejudice the wider aims of creating sustainable patterns of growth in the local area. Members will also recall that they took a similar approach recently in allowing application 3/2007/0604, also for a single dwelling in Howden le Wear.
14. For these reasons I consider that the principle of development for a single dwelling on the site would be acceptable and would not compromise the wider aims of directing larger development proposals to the identified urban areas. I also consider that the development of a single plot would not significantly contribute to the problems of housing oversupply in the district, as the opportunities to repeat this argument in Howden le Wear would be limited to only a handful of developments.

impact on the character and appearance of the surrounding area
15. Significant changes have been made to this revised scheme following the previous refusal. The dwelling has been reduced in scale, the conservatory has been relocated from the side to the rear and the specimen Oak tree is to be retained as it has now been protected by a TPO.

16. These changes would leave a large proportion of the site undeveloped, particularly along the road side and it is considered that this would retain much of the open character of the site when viewed together with the area of open space along Hargill Road. Retention of the large Oak tree would also help in preserving some of the green character of the area and because of its size, would also screen and soften the impact of the built development to some extent. The scale and design of the proposed dwelling are considered to be acceptable.
17. The development would be sufficiently far from the crown and root zone of the protected Oak tree to ensure it would not be detrimental to the health of the tree and conditions to protect the tree during construction and after development (through removal of permitted development rights) would be appropriate.
18. The Oak which is to be removed is clearly in decline and could not be protected by a TPO. The amenity it offers is very limited. The applicant should be made aware that a survey for bats will need to be undertaken before felling. An informative to this effect has been added. This has not been conditioned because the felling of the unprotected tree is not something that requires planning consent. It is the owner's responsibility to ensure an offence is not committed.
19. The application site is privately owned, fully enclosed and currently used as a domestic garden. It is therefore distinctly different from the public open space further along the road. Development on this site would therefore not create a precedent for development of the public open space.
20. It is therefore considered that the previous reasons for refusal in this respect have been overcome. The revised scheme is now considered to be in accordance with policies GD1 and H24 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.

highways and access

21. The refused proposal did not show the access and parking arrangements on the plans. This proposal now includes the formation of a new vehicular access onto Fir Tree Drive. This has been the subject of local objections on the grounds of highway safety. However the Durham County Highways Authority is satisfied that the new vehicular access would not be detrimental to highway and pedestrian safety. Sufficient space would be provided within the curtilage for the parking of two cars in accordance with the County highway standards. Vehicles associated with the new dwelling would therefore be able to park within the site as opposed to on the street. Objections relating to cars parked on the street seem to be existing problems unrelated to the application proposal. Because the dwelling would have sufficient off street parking, the proposal is unlikely to make the situation significantly worse. In fact, the formation of a new driveway could improve the situation as vehicles would no longer be able to park in that position as they would be obstructing the new driveway. The proposal therefore accords with policies GD1 and T1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.

impact on the living conditions of neighbours

22. Saved policy H24 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007 requires at least 15m between habitable windows and gable walls and 21m between habitable windows. It was previously thought that the window in the south east facing gable end of 1 Fir Tree Drive was a bedroom window. It is now known that it is a large landing window. The only first floor window in the north west facing elevation of the proposed dwelling would also be a landing window. The relationship between the proposed dwelling and 1 Fir Tree Drive is therefore acceptable.
23. The internal accommodation has been carefully designed so that the only first floor windows in the rear elevation would be bathroom windows. The ground floor would be well screened by the existing fence. This meets the requirements of Policy H24 in regards to the property to the rear in terms of loss of privacy, which would be minimal as a result. The proposed dwelling would also be of more than sufficient distance away from the dwelling to the rear (approximately 15m) to ensure there would be no harmful impact from loss of light or overshadowing to that property. The rear-to-rear spatial relationship would be the same as those all the way up the street, although in this case there would be greater privacy because of the lack of bedroom windows in the rear of the proposed dwelling.
24. The conservatory that was previously proposed to the side has now been moved to the rear. There would be one bedroom window in the eastern side elevation, which would be 21m from the terraced dwellings opposite in accordance with Policy H24. This window would also be obscured by the protected Oak tree thereby reducing any impact even further.
25. It is therefore considered that the proposal would not cause harm to the living conditions of neighbours in terms of loss of privacy or overshadowing. This accords with policies GD1 and H24 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.

sustainability

26. Since 1 May 2008 the Code for Sustainable Homes is mandatory for all new housing developments, however a registration certificate is not required for this application because it was received before 1 May 2008. Nevertheless, this highlights the importance of sustainable design in the current policy climate and the thrust of planning policy in PPS1 and the Climate Change Supplement, PPS3 and PPS22; as well as policy GD1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007. These all require new development to be energy efficient. Given that the site is not within one of the identified urban areas and therefore not in the most sustainable of locations, it is considered to be even more important to ensure the new development is designed and constructed to be energy efficient. It would therefore be appropriate to condition further details to demonstrate how the proposed dwelling would be energy efficient beyond the minimum Building Regulations.

objections/observations

27. Occupiers of the surrounding properties have been notified in writing and a site notice was posted. At the time of writing this report, 6 No. objections have been received. The main points of objection are summarised as follows:
- a) The development will reduce light to the garden and house to the rear and result in loss of privacy.
 - b) Development on this small garden plot will reduce the open aspect and amenity of the area and be poorly related to its surroundings. There are already too many houses in Howden le Wear and additional houses will spoil the character of the village. This will set a precedent for the remaining open space opposite to be developed.
 - c) Cottage style windows will not be sympathetic or match surrounding properties.
 - d) The development will result in the loss of one large tree and must threaten the health of the other large Oak tree, which contributes to the amenity of the area.
 - e) The vehicular access will be very close to the junction with Hargill Road which will be dangerous for vehicles leaving the property and those entering Fir Tree Drive. There is not enough space for cars to park in the site and there are already problems with cars parked on the side of the road.
 - f) There is a problem with drainage in the area and the application site has been subject to flooding in the past. This is why the plot was not developed in the past. There is a concern that development on the site could displace water on to adjoining properties.

response to objections

28. The following comments are made in response to the issues raised:
- a) The impact on the living conditions of neighbours has been assessed and found to be acceptable.
 - b) As a result of changes to the design of the development it is no longer considered that the development would be harmful to the amenity and character of the area. Small scale developments such as single dwellings are unlikely to harm the character of the village. The potential for precedent has been considered in the assessment.
 - c) The design of the dwelling is not objectionable and is similar to other modern development in the area.
 - d) The only tree worthy of retention has been protected by a TPO. Planning conditions will ensure further protection during and post construction.
 - e) The County Highways Authority do not consider that the new vehicular access would be detrimental to highway and pedestrian safety. Sufficient space would be provided within the site for off street parking in accordance with adopted highways standards.
 - f) The development would be located outside the drainage exclusion zone running across the site and Northumbrian Water has not objected.

The drainage design would be considered under the building regulations and privately with Northumbrian Water.

conclusion and reasons for approval

1. The proposal is considered to be acceptable and in accordance with policies GD1, H3, H24 and T1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007, as well as the amended provisions of policies 3 and 5 of the Regional Spatial Strategy (RSS) and the general provisions of PPS1, PPS3 and PPG13 as:
 1. The development would be located within the development limits of Howden le Wear where a single dwelling is unlikely to prejudice the development of other sequentially preferable sites.
 2. The proposal would not cause unacceptable harm to the character and appearance of the surrounding area.
 3. The proposal would not cause unacceptable harm to the living conditions of neighbours in terms of loss of privacy or overshadowing.
 4. The proposal would be served by a suitable vehicular access and parking arrangement.

RECOMMENDED

That planning permission be **GRANTED** subject to the following conditions and reasons;

conditions

1. No development shall take place until samples of the materials to be used in the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
2. Before the development hereby approved is commenced a scheme of landscaping shall be submitted to and approved in writing by the local planning authority. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of 5 years from the completion of the development die, are removed, are severely damaged or become seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation. No hard surfacing shall take place under the crown of the TPO protected Oak Tree.
3. The Oak tree, which is protected by a TPO and is to be retained on site [as shown on drawing No. 03] shall be protected for the duration of construction operations by protective fencing minimum 1 metre height, in accordance with details to be first submitted to and approved in writing by the local planning authority. Protection to the tree should be positioned around the crown spread to prevent any access, disturbance or contamination within the rooting zone. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered,

nor shall any excavation be made, without the written consent of the local planning authority.

4. Before the commencement of any other parts of the development hereby approved, the proposed vehicular access to the highway shall be constructed and completed to the satisfaction of the local planning authority.
5. Before the dwelling hereby approved is occupied, the approved car parking area shall be laid out and completed for two cars to be parked and thereafter this space shall be kept clear of obstruction and retained for the parking of two cars at all times.
6. Notwithstanding the provisions of Article 3 and Classes A and F of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification), none of the categories of development described therein shall be carried out on the site without an application for planning permission having been first made to and approved in writing by the local planning authority.
7. Notwithstanding any other details shown on the plans hereby approved, the first floor windows in the rear elevation of the dwelling hereby approved shall be glazed in obscure glass of factor 3 or above. The windows shall thereafter be retained as such.
8. Development shall not commence until details demonstrating how energy efficiency will be addressed in the development hereby approved have been submitted to and approved in writing by the local planning authority and thereafter the development shall be implemented and retained in accordance with the approved details. The details shall include an assessment of the predicted energy performance of the approved dwelling against suitable baseline data, showing an improvement above the minimum Building Regulations.

reasons

1. To ensure that the external appearance of the development will not be detrimental to the visual amenities of the area. In accordance with policies GD1 and H24 of the Wear Valley District Local Plan as amended by saved and expired policies September 2007.
2. To ensure the satisfactory appearance of the completed development. In accordance with policy GD1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.
3. To ensure that the tree to be retained is appropriately protected from damage by the engineering or building operations. In accordance with policy GD1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.
4. In the interests of highway safety and efficiency. In accordance with policy GD1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.

5. To ensure that adequate parking provision is made within the site. In accordance with policy GD1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.
6. The local planning authority wishes to control future development in order to protect the amenity of neighbouring properties and to protect the TPO Oak tree from development near or within the crown. In accordance with policies GD1 and H24 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.
7. In the interests of the amenity of neighbouring properties. In accordance with policies GD1 and H24 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.
8. In the interests of reducing carbon emissions. In accordance with policy GD1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007 and PPS1, the PPS1 Climate Change Supplement and PPS22.

informative

All bats are protected by law. Under the 1981 Wildlife and Countryside Act and the Conservation (Natural Habitats) Regulation 1994 it is illegal to:

- Catch, injure, kill or sell any bat
- Damage, destroy or obstruct bat roosts (even when bats are not present)
- Disturb bats while they are roosting

There is potential that the Oak trees on the site are used as a habitat for bats. A bat survey should be carried out by a competent person to determine the risk to bats or their habitat. Should such a risk be identified, a separate DEFRA licence will be required and any works will need to adhere to the methods and mitigation identified.

background information

Application files, WVDLP as amended by Saved and Expired Policies September 2007, Regional Spatial Strategy (RSS) and the Council's local interpretation of those policies, PPS1, PPS1 Climate Change Supplement, PPS3, PPG13 and PPS22.

PS code	13			
number of days to Committee	56	target achieved	√	

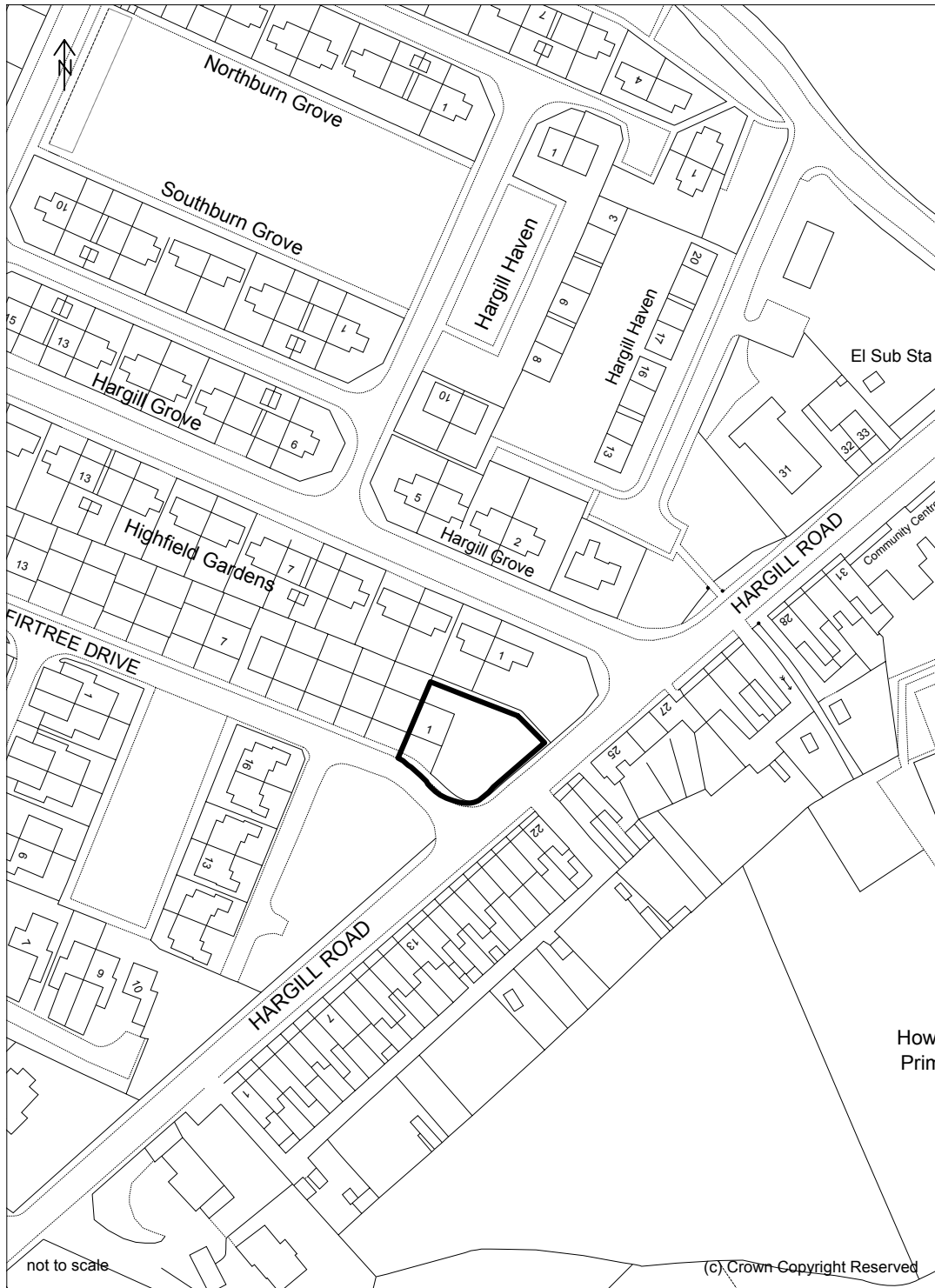
Officer responsible for the report

Robert Hope
Strategic Director for Environment and Regeneration
Ext 264

Author of the report

Adrian Caines
Senior Planning Officer
Ext 369

3/2008/0267- PROPOSED THREE BEDROOMED DWELLING AT LAND ADJACENT TO 1 FIR TREE DRIVE, HOWDEN LE WEAR, CROOK FOR MR. CHARLTON – 18.04.2008



DEVELOPMENT CONTROL COMMITTEE

12th JUNE 2008

Report of the Strategic Director for Environment and Regeneration

PART 1 – APPLICATION FOR DECISION

**3/2008/0312 - RETENTION OF DECKING AND ERECTION OF PRIVACY SCREEN
(PART RETROSPECTIVE) AT 45 UPLANDS CLOSE, CROOK FOR MR. CARR –
14.05.2008**

description of site and proposals

1. Planning permission is sought for the retention of decking and erection of a privacy screen at 45 Uplands Close. The decking covers 21.33 square metres of the garden. It has a length of 8.2 metres and a width at its widest point of 3.6 metres. The decking has been constructed to allow better access and use of the rear garden. Before the erection of the decking the garden area dropped down from the back door making access to the rear garden difficult for the occupiers of 45 Uplands Close.
2. The site constitutes a detached south east facing dwelling. To the north of the site is number 48 Uplands Close, to the east is the host dwelling, to the south is the host dwelling and detached neighbouring dwelling number 44 Uplands Close and to the west is the rear garden of number 42 Tennyson Terrace.

planning history

3. The following planning history is considered relevant to this planning application:
 - 3/2007/0064 2 Storey and Single Storey Approved 15.03.2007
 Extension to Rear

planning policies

4. The following policies of the Wear Valley District Local Plan are relevant in the consideration of this application:
 - FPG5 Alteration and Extensions Guidelines
 - GD1 General Development Criteria

consultations

5. None.

officer analysis

6. The key issues for consideration are:

- Impact on Neighbouring Properties
- Design

impact on neighbouring properties

7. To the north of the site is number 48 Uplands Close, it is located on a lower level than number 45 Uplands Close. The decking is directly opposite the sun room extension at number 48 Uplands Close. The proposed privacy screen is to protect the occupiers of number 48 Uplands Close from overlooking. The privacy screen would have a height of 1.6 metres and would be constructed of opaque plastic panels supported by a frame. The final details of the frame will be a condition of the planning permission; it is suggested that the frame be constructed of metal rather than the proposed timber to allow as much light as possible to the sun room at number 48 Uplands Close. This would also be a better quality material.

8. In relation to the impact of the decking on number 42 Tennyson Terrace part of the existing rear garden at 45 Uplands Close is at the same level as the decking and is closer to the rear garden of number 42 Tennyson Terrace than the decking. It is therefore considered that the decking does not increase overlooking into the rear garden of number 42 Tennyson Terrace.

9. The decking would be located 4.5 metres from number 44 Uplands Close. There is an existing conservatory to the rear of number 44 Uplands Close. It is considered that the decking would not be detrimental to the privacy or amenity of the occupiers of number 44 Uplands Close as the decking would not be on a higher level than the existing garden area adjacent to number 44 Uplands Close.

10. It is considered that the proposed privacy screen would protect the privacy and amenity of the occupiers of number 48 Uplands Close. With the addition of the privacy screen the privacy and amenity of number 42 Tennyson Terrace and number 44 Uplands Close would not be reduced. The proposal conforms to policies GD1 and FPG5 of the Wear Valley District Council as amended by the Saved and Expired Policies September 2007.

design

11. The decking has been constructed of timber with 0.9 metre high spindles adjacent to number 48 Uplands Close. The proposed privacy screen will be constructed of opaque plastic sheets supported by a frame. It is anticipated that the frame would be constructed from metal and suggested that this required by way of a condition. The design of the privacy screen would allow for an adequate amount of light into the existing sun room extension at number 48 Uplands Close. The screen, with a metal frame, would appear as a lightweight structure, which would not be overbearing in relation to the neighbouring properties. Furthermore it is considered that the materials

would be appropriate in a residential area and would be viewed alongside normal domestic paraphernalia and boundary treatments.

12. The development would not have an adverse impact on the visual amenity of the surrounding area. The proposal conforms to policies GD1 and FPG5 of the Wear Valley District Council as amended by the Saved and Expired Policies September 2007.

objections/observations

13. Occupiers of the surrounding properties have been notified in writing and a site notice was also posted.
14. Twelve letters of objection have been received making the following comments:
 - a) The privacy glass will still cause overshadowing to my cousins property, this has a great impact on her dwelling and the surrounding area of her home.
 - b) The decking is viewable from her sun lounge/garden and driveway.
 - c) The dreadful look of the decking.
 - d) This should not be accepted or the whole estate could follow suit, leaving the garden areas of the surrounding houses looking as dreadful as this.
 - e) The rear garden at number 42 Tennyson Terrace is overlooked even more.
 - f) Not in keeping with other properties within the surrounding area in terms of scale or design and is also causing loss of privacy.
 - g) The decking is a complete eyesore from every viewable angle.
 - h) It is an ugly construction.
 - i) The plans are unacceptable as per policies GD1 and H25 of the local plan for the following reasons:
 - It is not in keeping with the host properties and the surrounding areas in terms of scale or design.
 - The decking with screening will cause unreasonable overshadowing having a great impact on the surrounding area.
 - The decking and screening is still resulting in a loss of privacy to my garden, rear bedrooms and driveway as it is so overshadowing even if privacy screening is erected down the one side overlooking my lounge, the front of the decking is still overshadowing to the side/bottom areas of my garden.
 - The erection of this decking with privacy screening on this estate would be detrimental to the visual amenity of the dwelling and would have a detrimental effect on the character of this estate.
 - We understand the privacy screening would be erected at the base of the decking this is a complete eyesore from our property whether it be from our sun-lounge/ garden or driveway, at the highest point our garden fence stands at 1.7 metres (the same as the base of the current structure) and the plans state that they want to build a further 1.6 metres above areas of my garden

fence, this would give a 3.3 metre wall between our property and 45 Uplands Close.

- j) This structure will depreciate the value of my property should I wish to sell due to the obtrusiveness of the decking along with the even more unsightly privacy glass in a frame over the height of the fence.
- k) I would also like to state at this time that at no opportunity would access be allowed to my property to carry out any amendments.
- l) I walk within this area daily and this decking is viewable from the junction leading into Uplands Close right up past the older street of Tennyson terrace to the bungalows.
- m) The decking is also visible when passing the area on public transport.
- n) Adding glass in framing will make this decking look worse.
- o) Loss of privacy.

response to objections

15. The following comments are made in response to the points raised:

- a) Refer to officer analysis.
- b) The decking will be screened by the proposed privacy screen.
- c) Refer to officer analysis.
- d) Each application must be assessed on its own merits.
- e) Refer to officer analysis.
- f) Refer to officer analysis.
- g) Refer to officer analysis.
- h) Refer to officer analysis.
- i) Refer to officer analysis.
- j) This is not a planning matter.
- k) This is a civil matter.
- l) Refer to officer analysis.
- m) Refer to officer analysis.
- n) Refer to officer analysis.
- o) Refer to officer analysis.

conclusion and reasons for approval

1. The proposal is acceptable in relation to policies GD1 and FPG5 of the Wear Valley District Local Plan as amended by the Saved and Expired Policies September 2007 as it;

- 1. Would be in keeping with the host property in terms of mass, scale design and materials.
- 2. Would not result in any significant loss of privacy or amenity to occupiers of neighbouring properties.
- 3. Would not result in an overbearing or overshadowing impact to occupiers of neighbouring properties due to the choice of materials.

RECOMMENDED

That planning permission be **GRANTED** subject to the following condition and reason;

condition

1. Notwithstanding the information shown on the submitted application, within 56 days of the date of this permission details of the frame to be used in the construction of the privacy screen (to include materials and colour and method of fixing) shall be submitted to and approved in writing by the local planning authority. The privacy screen shall be implemented in accordance with the approved details within 28 days of approval in writing by the local planning authority and shall thereafter be retained.

reason

1. To enable the local planning authority to control details of the development in the interests of amenity. In accordance with policy GD1 of the Wear Valley District Local Plan as amended by the Saved and Expired Policies September 2007.

background information

Application files, WVDLP.

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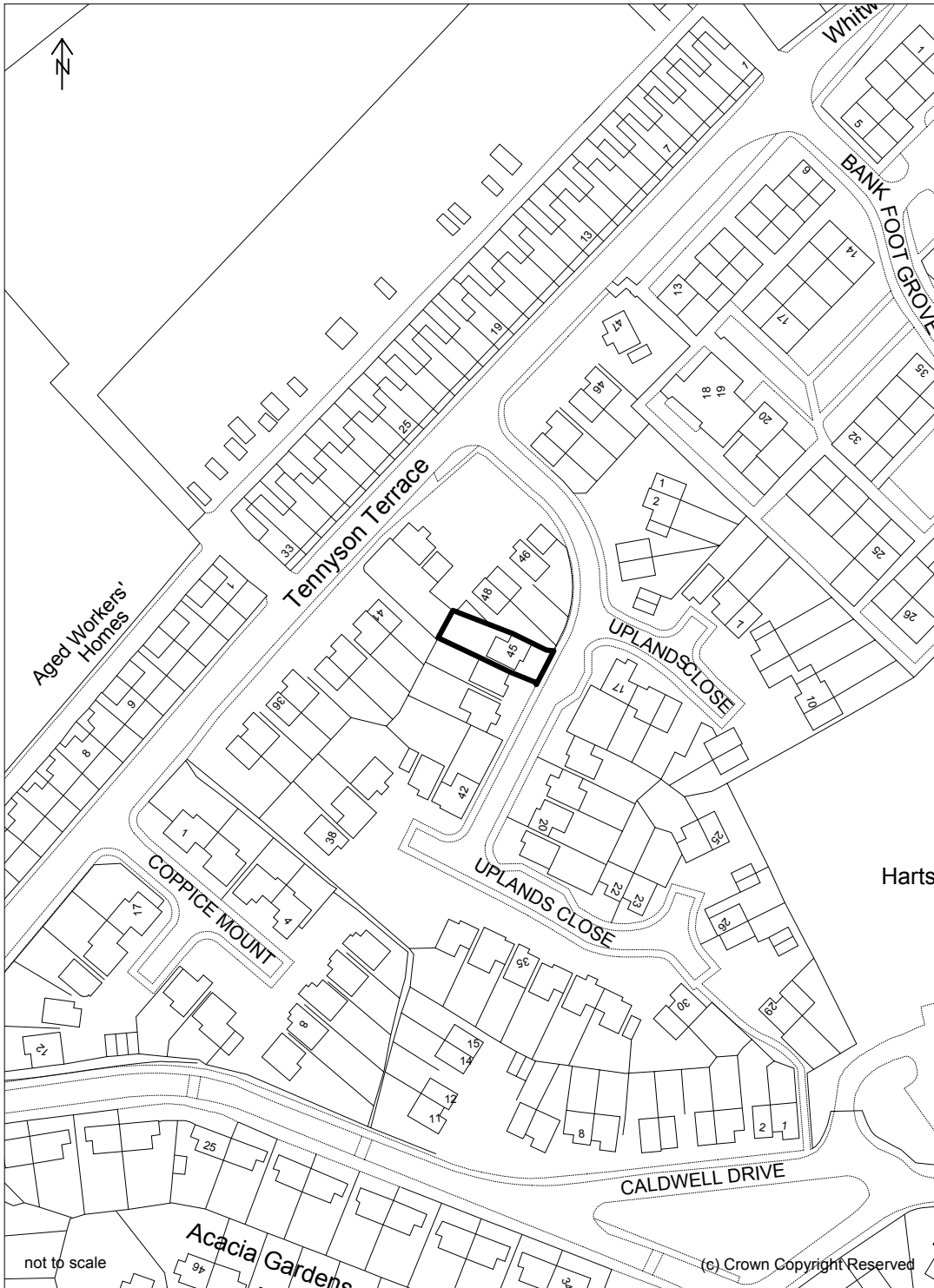
Officer responsible for the report

Robert Hope
Strategic Director for Environment and Regeneration
Ext 264

Author of the report

Sinead Folan
Planning Officer
Ext 272

3/2008/0312 - RETENTION OF DECKING AND ERECTION OF PRIVACY SCREEN (PART RETROSPECTIVE) AT 45 UPLANDS CLOSE, CROOK FOR MR. CARR – 14.052008



DEVELOPMENT CONTROL COMMITTEE

12th JUNE 2008

Report of the Strategic Director for Environment and Regeneration

PART 1 – APPLICATION FOR DECISION

3/2007/0858 - CONVERSION OF EXISTING STABLE BLOCK TO FORM LEARNING CENTRE AND EXISTING DWELLING TO FORM CHILDREN'S CARE HOME AND CONSTRUCTION OF NEW LEARNING CENTRE AND 2 NEW CHILDREN'S CARE HOMES TO FORM THERAPEUTIC EDUCATION AND CARE FACILITY AT THE TILERY, LOW WILLINGTON FOR WITHERSLACK CARE GROUP OFFICE – 21.12.2007 - AMENDED 12.05.2008

description of site and proposals

1. Planning permission is sought for the development of the site at The Tilery, in Willington. The Tilery is a site located approximately 500 metres to the east of the settlement of Willington. The site is currently occupied by a detached property and a new stable block with 8 loose boxes, tack room and feed store. The site is accessed by a poorly surfaced, unadopted road, which links to the A690 road. The access road and the site slope downwards from the A690 in a southerly direction. The site lies in the open countryside and is surrounded by agricultural fields. The nearest property is Lowfield Bungalow situated approximately 300 metres to the south west.
2. The proposed development is a scheme for a therapeutic education facility for children with special needs, together with residential care home facilities. The proposal involves a two phase scheme. Phase 1 would be for the conversion of the existing property to be able to accommodate 6 children plus care staff. The conversion of the existing house consists of small extensions with internal alterations. Phase 1 also incorporates the conversion of the existing stables blocks into a learning centre for the 6 children. The conversion would create two classrooms with two activity rooms, toilets and two office rooms.
3. Phase 2 is proposed to commence within 2-3 years of operation and involves the construction of two additional residential accommodation buildings to house a further 14 children together with the construction of a new learning centre. Each accommodation building would provide a lounge, kitchen, dining room, office and staff accommodation together with a sun room and 7 bedrooms with en-suite facilities and a separate bathroom. The proposed learning centre would incorporate office/reception, headteachers office, staff accommodation, kitchen, dining/assembly/recreational space, changing facilities and one classroom at ground floor level. At first floor there would be 3 classrooms, office, library, activity areas and changing facilities. Phase two

would also incorporate the construction of parking areas for staff and visitors, and areas of hard and soft playgrounds. A formal playing pitch is also proposed.

4. Ultimately the full proposal would be for the conversion of the existing stables, extensions to the existing property, the construction of two care home buildings and the construction of a new learning centre.
5. The proposed education facility would accommodate children who have special educational needs which have significantly impeded their social and educational development and will consequently require a highly supported and nurturing environment. The application proposes that the following staff would be required, 4 teaching and learning support staff, 17 care staff, and 4 administration staff. This would give an overall staff requirement of 25 employees. It has also been indicated that specialist staff would be visiting the site occasionally which would include educational psychologists, psychotherapists, speech and language therapists which would be from the Children and Adolescent Mental Health Services.

planning history

6. The following planning history is considered relevant to this planning application:
 - 3/2003/0263 Erection of Detached Bungalows Approved 14.06.2003 with Attached Garages and Separate Stable Blocks
 - 3/2004/1065 Creation of Leisure Fishing Lake Approved 18.02.2005 and Utility Building and Horse Ménage for Business Purposes

planning policies

7. The following policies of the Wear Valley District Local Plan are relevant in the consideration of this application:
 - GD1 General Development Criteria
 - ENV1 Protection of the Countryside
 - T1 Highways – General Policy

Also of relevance: Planning Policy Statement 1: Delivering Sustainable Development (PPS1), Planning Policy Guidance 4: Industrial, Commercial Development and Small Firms (PPG4), Planning Policy Statement 7: Sustainable Development in Rural Areas (PPS7), Planning Policy Guidance 13: Transport (PPG13), and the Consultation Paper on a New Planning Policy Statement 4: Sustainable Economic Development (PPS4).

consultations

8. WVDC (Economic Development): Supports the application.
9. Durham County Council (Highways Authority): Full report on file, comments summarised below.

10. As the track lies outside the site boundary, any improvements to the access track would need to be made the subject of a Grampian condition. Construction details are a private issue, however it is suggested that a standard carriageway construction is used.
11. There are concerns regarding the PPG13 accessibility issues raised by this proposal. Several new buildings are proposed outside the settlement limit, over 400 metres from the nearest adopted highway and at a site with no pedestrian access from the main road. It is the opinion of the Highways Officer that a refusal on PPG13 grounds could be sustained.
12. Durham County Council (Landscape): Full report on file. A tree survey and Tree Constraints Plan, along with a protected species survey should be submitted.
13. Durham County Council (Public Rights of Way): Byway 72 Greater Willington runs through the site, a byway has a right of way for traffic, horse riders, cyclists and walkers and should be kept open for public use at all times.
14. Durham County Council (Archaeologist): No comments.
15. Greater Willington Town Council: Full support in principle to this application.
16. Northumbrian Water: No objections.
17. Environment Agency: No objections subject to the imposition of the following condition;
18. *'Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall be passed through trapped gullies installed in accordance with a scheme previously submitted to and approved in writing by the local planning authority.'*

officer analysis

18. The key issues for consideration are:

- Principle of Development
- Impact on the Open Countryside and Surrounding Area
- Residential Amenity
- Highway and Access Issues
- Impact on Protected Species

principle of development

19. The proposed development is located outside the settlement limits of development for Willington. Whilst policy ENV1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007 must be taken into consideration, the guidance contained within PPS7 must be given weight as a material consideration when determining whether the proposed development is acceptable in principle.

20. Whilst general principles identify that new development should be directed towards urban areas (within settlement boundaries), there are certain exceptions which may be considered acceptable to allow development within the countryside. It is stated within PPS7 that some of the Government's objectives are;
21. *'To promote more sustainable patterns of development by... promoting a range of uses to maximize the potential benefits of the countryside fringing urban areas; and*
22. *Promoting the development of the English regions by improving their economic performances so they are able to reach their full potential – by developing competitive, diverse and thriving rural enterprise that provides a range of jobs and underpins strong economies.'*
23. PPG4 further states: *'Planning permission should normally be granted unless there are specific and significant objections, such as a relevant development plan policy, unacceptable noise, smell, safety and health impacts or excessive traffic generation. The fact that an activity differs from the predominant land use in any locality is not a sufficient reason, in itself, for refusing planning permission.'*
24. The proposed development is some 500 metres away from Willington and could be considered to be a site fringing an urban area. It is stated within the application that up to 25 members of staff would be created from this development and therefore providing jobs for the local community. A large proportion of the 25 jobs created would not be considered to be specialist jobs, as it is stated within the application that additional specialist staff would be visiting the site. It is considered due to the jobs that would be created, the proposed development would be beneficial to the local economy.
25. The specific use of the proposed development is also a material consideration when determining this application. The application is for an education facility specifically for the accommodation of children with special needs. It is accepted that an education facility would usually be expected to be situated within a defined settlement which is close to residential properties, services and sound transport links. However this is not considered to be the case with the proposed facility. Given this is a facility for children with special needs, accommodation is proposed on site which negates the need for good transport links to local services. An isolated location for a facility of this nature is considered necessary as disturbance from the site could be greater than that generated by a standard school or education facility.
26. The development has been proposed to be built in two phases. The first phase involves the conversion of the existing house and existing stables on the site. In principle, the re-use of existing buildings within the countryside is considered acceptable. Phase 2 proposes the development of two new residential care homes and a new education learning building. Phase 2 would only be developed providing there is a need for the additional buildings. Given that the proposed residential care homes would only be required if the education learning building is constructed, a condition is recommended ensuring that the education learning centre is brought into use prior to the care homes being occupied.

27. The main focus of PPS7 is to provide sustainable development with the underlining principle to ensure the protection of the countryside for the sake of its intrinsic character and beauty, the diversity of its landscapes, and its heritage and wildlife. The impact of the development on the countryside is to be discussed under the next heading.
28. It is acknowledged that new development is normally directed towards the urban areas of the District, however the proposal in this application is considered an exception. Due to the special nature of the proposal (the care and teaching of children with special needs), the education facility requires an isolated location which the application site provides. The phasing scheme ensures that the new buildings will only be built after the education facility has been established. The proposed development would create up to 25 new jobs which is beneficial for the local community. As quoted above, there are elements of guidance within PPS7 and PPG4 which promote alternative uses within the countryside.
29. It is considered due to the exceptional circumstances involved with the proposed development, the proposal is acceptable in principle and would accord with elements of guidance contained within PPS7 and PPG4.

impact on the open countryside and surrounding area

30. Guidance contained within PPS1 and PPS7 promote high quality design in the layout of new developments, and continued protection of the open countryside. Given that substantial new development is proposed (particularly in phase 2 of the scheme) it is essential that the impact of this development on the open agricultural nature of the site and its surroundings are fully assessed.
31. The Durham County Council Design and Conservation Officer has fully considered the proposal from a design perspective. Phase 1 consists of the conversion of the existing property to the residential accommodation for residents and staff combined with the conversion of the stable block to provide educational facilities. The stable block and existing building are located on a traditional courtyard style arrangement. The external alterations to the existing house building are limited primarily to the addition of a conservatory to the south elevation. The scale, design and location of the conservatory are acceptable in relation to the host property. With regards to the conversion of the stables, there is very little character worthy of retaining in the original structure. It is considered that the proposed works involved with the conversion of the stables are acceptable.
32. The Design and Conservation Officer raised no objections to the scale of the proposed education building. The scale of the new education facility is broadly reminiscent of a large agricultural building which one would expect to see in such a location. By virtue of the character of the site the design should be kept simple whilst providing an attractive and stimulating environment in which to learn. The original plans submitted for the education learning facility were considered unacceptable. The original plans presented a building which could at best be described as functional, there were few if any elements of interest and the south elevation particularly lacked any visual interest. Amended plans

have been received showing minor alterations to the proposed education facility. The amendments have significantly improved the buildings appearance, the breaking of the eaves and ridge level with a continuous central glazed atrium has given the building more presence reduced the expanse of simple roof materials and allowed the building to read as two more distinct elements rather than one simple low mass. As an educational facility, the building would appear welcoming and accessible.

33. The original plans which were submitted for the proposed residential care homes were considered unacceptable. The buildings were overly large, of poor design and failed to display any characteristics of the existing residential building or scale of residential development on the site. Amended plans were received showing alterations to the proposed residential care homes. The care homes have been significantly improved with the breaking up of the mass of the building, the changing of the roof levels, this combined with the alterations to the fenestration have provided much more appropriate buildings for the site reflecting the original dwelling. The orientation of the buildings to present the narrowest elevation on entering the site reduces their visual impact and helps the legibility of the wider site.
34. The colour and finish of the materials proposed for the buildings will be of paramount importance in the successful integration of the buildings into the landscape. Conditions are recommended accordingly.
35. The application site itself has few existing elements of landscaping. There are mature trees and hedging along the boundary of the site, particularly to the north. Although the proposed plans submitted show an indicative level of landscaping, it is considered that a full landscaping scheme should be submitted to ensure the proposed buildings, along with car parking, and soft and hardstanding areas are integrated effectively with proposed trees, plants and shrubbery. A landscaping scheme is recommended accordingly.
36. It is noted that Byway 72 Greater Willington runs through the site, this byway has a right of way for traffic, horse riders, cyclists and walkers and should be kept open for public use at all times. The applicants have confirmed that they are aware of this and will ensure that the byway will not be blocked.
37. The proposed development involved with phase 1, which is the conversion of the existing house and stables, is considered to be acceptable and would be a significant improvement to the stable blocks. It is acknowledged that the proposed new buildings would be visible from the wider surrounding area, in particular the A690 to the north and the residential properties to the west. However given the amended designs of the buildings and with the appropriate use of materials, the new buildings would not appear overly dominant within the countryside. The application site is not located within an area which is specifically allocated as an area of landscape value. It is considered that the proposed development would not detract from the appearance and visual quality of the countryside landscape and would integrate well into the character of the area.

38. The proposal would not be contrary to guidance contained within PPS1 and PPS7 which relate to the protection of the countryside. The proposal would not contradict policies GD1 and ENV1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.

residential amenity

39. The application site is within a relatively isolated location in relation to its distance to neighbouring properties. The nearest residential property is approximately 300 metres away. Due to the nature of the proposed development, insofar as the facility would be accommodating children with special needs on a 24 hour basis, it is the perception that noise levels may be higher than a standard care home facility. Therefore the isolated location is considered necessary in order to provide acceptable levels of residential amenity to surrounding properties. Given the nearest neighbouring property is some 300 metres away, the proposed development would not have an adverse impact on the residential amenities of neighbouring occupiers. The proposed development is considered to be in accordance with policy GD1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.

highway and access issues

40. The proposed development is to be accessed via an existing track which runs from the A690 to the site. The access track has passing places, but for most of its length it is restricted to single vehicle width. The track is unmade, in poor condition and is unlit. The access track is not within the red line boundary of the site and from the information submitted by an objector, the access is not within the ownership of the applicant. The applicant does appear to have a right of way over the access track.
41. The Durham County Council Highways Officer has indicated that improvements would have to be made to the access track to the site. The Highways Officer has suggested that the access should be constructed to a standard highway construction. Subject to the improvement of the access track, the Highways Officer would have no objections to the access to the site. Given the access is not within the applicants control, a Grampian condition is recommended which would ensure that the improvements to the access track are made prior to any development on site.
42. The Durham County Council Highways Officer has raised concerns regarding the development in terms of accessibility in relation to guidance contained within PPG13.

43. The Highway Officer's comments are noted and it is acknowledged that the objectives of PPG13 is to promote more sustainable transport choices and to reduce the need to travel, especially by car. The circumstances of the proposed development have to be given material consideration when assessing the proposal against the objectives of PPG13. Due to the nature of the development it is likely that the majority of people visiting the site would arrive by car. PPS4 is still in consultation period however this document recognises that planning authorities should adopt a positive and constructive approach towards proposals for economic development. PPS4 states:
44. *'In rural areas, recognising that accessibility – whether by private transport, public transport, walking and cycling – is a key consideration and planning authorities should recognise that a site may be an acceptable location for development even though it may not be readily accessible by public transport.'*
45. The proposed development does not specifically meet the objectives set out in PPG13. However it has previously been stated that a development of this nature requires an isolated location (in terms of residential amenity), therefore the proposed development would never be likely to be in a position to promote sustainable travel. The emerging PPS4 advocates the point that a location may be acceptable for development even though it may not be readily accessible by public transport.
46. It is considered that given the exceptional circumstances of this proposal, the likelihood that the majority of the people visiting the site would arrive by car, and on condition that the access track is upgraded prior to any works beginning on site. The access details relating to the proposed development would be acceptable and in accordance with policies GD1 and T1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007 and guidance contained within the emerging PPS4.

impact on protected species

47. Durham County Council Landscaping Officer and Ecologist have requested that a risk assessment is made of the site to ensure there are no bats and otters present on the site. The agent has confirmed that a risk assessment is to be undertaken.

objections/observations

48. The application has been advertised on site, in the press and neighbouring properties have been notified individually in writing about the proposal. One observation letter has been received. The contents of this letter is summarised below:
- a) Policy prefers development to be on brownfield sites in or next to settlements and not within the open countryside.
 - b) PPS1 details that protection of the countryside and the impact on landscape quality should be taken account of and protected.
 - c) PPS7 details that new buildings in the countryside should be strictly controlled.

- d) PPS7 details that new development should be focused in or near to local service centres.
- e) The location is identified as open countryside and is also identified as being adjacent to green belt land. The site is a considerable distance away from the settlement envelope and does not meet PPS7 policy.
- f) The access track is a single track with no passing places. The applicants only have a right of access over this track. The track is not designed for the level of traffic proposed. Policy BE20 requires that any building conversions would not lead to an unacceptable increase in the level of traffic.
- g) The level of traffic will be much higher than what the previously approved fishing lake would have generated.
- h) A large proportion of the jobs created would be specialist jobs. The existing local community may be unable to provide these skills thereby not providing employment for the local community.
- i) The application has no connection with countryside based enterprise, and is therefore contrary to PPS7.
- j) Given the nature of the proposal, it is unlikely that public transport would be used by people visiting and leaving the site. The route from the nearest bus stop to the Tilery is over an unmade track and is not lit with any form of lighting.
- k) The power cable which supplies the existing buildings on the site would not be able to support the new facility.
- l) The facility should be located where it has access to suitable mains sewerage and not by means of a septic tank.
- m) PPS7 details that equine-related activities should be supported. The stables are currently unoccupied and could provide leisure and recreational facilities without the need for a new build or planning.
- n) Confirmation is requested whether a condition (relating to the 3/2003/0263 permission) was placed on the existing property that the occupant of the bungalow needed to be there for reasons of the welfare of the equine business.

response to objections

49. The following points are in response to the issues raised above:

- a) As discussed in officer's analysis, this development is considered acceptable due to its exceptional circumstances.
- b) As above.
- c) As above.
- d) As above.
- e) The site is not adjacent to a green belt.
- f) Agreed. A Grampian condition is recommended which would ensure the access track is upgraded to an acceptable standard to accommodate the additional traffic proposed by the development. The issue of ownership of the track is a civil matter and not a material planning consideration.
- g) Agreed.
- h) Up to 25 jobs are to be created which are not considered to be specifically specialist jobs. Beyond this 25 employees there will be specialist workers visiting the site.

- i) Agreed that the development is not related to any countryside based enterprise. As stated above, due to the exceptional circumstances the development is considered acceptable in this location.
- j) Agreed.
- k) The applicant has further investigated this issue and has confirmed that the existing electricity supply is sufficient to supply the proposed development. Electricity supply to a development is not necessarily a material planning consideration.
- l) Northumbrian Water and Environment Agency are not objecting to the proposed development.
- m) Whilst it is accepted that the existing stables could be used for equine use, the proposal in this application has to be assessed on its own merits.
- n) There was no condition put on the 3/2003/0263 permission which states that the occupant of the bungalow needed to be there for reasons of the welfare of the equine business.

conclusion and reasons for approval

1. The proposed development is located outside the settlement limits of development of Willington therefore the guidance contained within PPS7 should form the material consideration when assessing and determining the proposal. Whilst it is accepted that the general principle is that new development is directed towards urban areas, the exceptional circumstances of the proposed development have to be given significant weight. The site fringes Willington which is some 500 metres away and the development would provide up to 25 new jobs which would be beneficial to the local community. An isolated location for a facility of this nature is considered necessary as noise levels from the site could be louder than that of a standard school or education facility. Due to the exceptional circumstances involved with the proposed development, the proposal is acceptable in principle and would be in accordance with elements of guidance contained in Planning Policy Statement 7: Sustainable Development in Rural Areas and Planning Policy Guidance 4: Industrial, Commercial Development and Small Firms.
2. The conversion of the existing house and stables are acceptable and would not have an adverse impact on the surrounding area. Amended plans have been received with regards to the proposed education facility and the two residential care homes. The education facility is broadly reminiscent of a large agricultural building which one would expect to see in such a location. The amended plans of the education facility and care homes are considered acceptable and would not appear overly prominent within the surrounding landscape and would not detract from the visual quality of the open countryside. The proposal would not be contrary to policies GD1 and ENV1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007. The proposed development would be in accordance with guidance contained within Planning Policy Statement 1: Delivering Sustainable Development and Planning Policy Statement 7: Sustainable Development in Rural Areas, which relate to the protection of the countryside.

3. Due to the nature of the proposed development, it is the perception that noise levels may be higher than a standard care home facility, therefore an isolated location is necessary. The proposal is within an isolated location, some 300 metres from the nearest residential building. Given this distance between the proposed facility and adjacent properties, the activities concerned with the proposed development would not adversely compromise the residential amenities of neighbouring occupiers. The proposal is in accordance with policy GD1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.
4. On condition that the access track is upgraded prior to development commencing on site, the proposal would be acceptable in relation to policies GD1 and T1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007. Given the exceptional circumstances of this proposal and the likelihood that the majority of people visiting the site would arrive by car, the development would be acceptable in relation to guidance contained within the Consultation Paper on a New Planning Policy Statement 4: Sustainable Economic Development (PPS4).

RECOMMENDED

That planning permission be **GRANTED** subject to the following conditions and reasons;

conditions

1. No development shall take place until samples of all materials to be used in the construction of the external surfaces of the buildings have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
2. Development shall not begin until details of the surface treatment and construction of all hardsurfaced areas have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details prior to the first use of the new learning centre building.
3. Before the development hereby approved is commenced a scheme of landscaping shall be submitted to and approved in writing by the local planning authority [which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development].
4. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the new learning centre building or the completion of the development, whichever is the sooner, and any trees or plants which within a period of 5 years from the completion of the development die, are removed, are severely damaged or become seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation.

5. Before the development hereby approved is commenced details of the height, siting, appearance and construction of all means of enclosure to be erected upon the site shall be submitted to and approved in writing by the local planning authority, and the works shall be carried out in accordance with such approved details before the new learning centre buildings hereby approved are first occupied.
6. Prior to any development on site the access track shall be constructed in accordance with details which shall be first submitted to and approved in writing by the local planning authority. The access track shall be constructed in accordance with the approved details.
7. Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall be passed through trapped gullies installed in accordance with a scheme previously submitted to and approved in writing by the local planning authority.
8. The new education learning centre facility shall be in use prior to the first occupation of the residential care home buildings.

reasons

1. To ensure the satisfactory appearance of the completed development. In accordance with policy GD1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.
2. To achieve a satisfactory standard of development. In accordance with policy GD1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.
3. To enable the local planning authority to retain control over the landscaping of the site to secure a satisfactory standard of development and protection of existing trees and hedgerows. In accordance with policy GD1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.
4. To ensure the implementation of the approved landscape scheme within a reasonable time. In accordance with policy GD1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.
5. To achieve a satisfactory form of development. In accordance with policy GD1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.
6. To ensure a satisfactory access is constructed. In accordance with policies GD1 and T1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.
7. To prevent pollution of the water environment. In accordance with policy GD1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.

8. To ensure the occupation of the care homes are related to the education learning centre. In accordance with policy GD1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.

INFORMATIVE

The public footpath, Byway 72 Greater Willington, should remain unobstructed both during and after the implementation of the approved development so as not to hinder the use of the footpath.

background information

Application files, WVDLP.

PS code	<input type="text" value="6"/>		
number of days to Committee	<input type="text" value="173"/>	target achieved	<input type="text" value="√"/>
explanation	Amendments to the design of the residential care homes and education learning centre.		

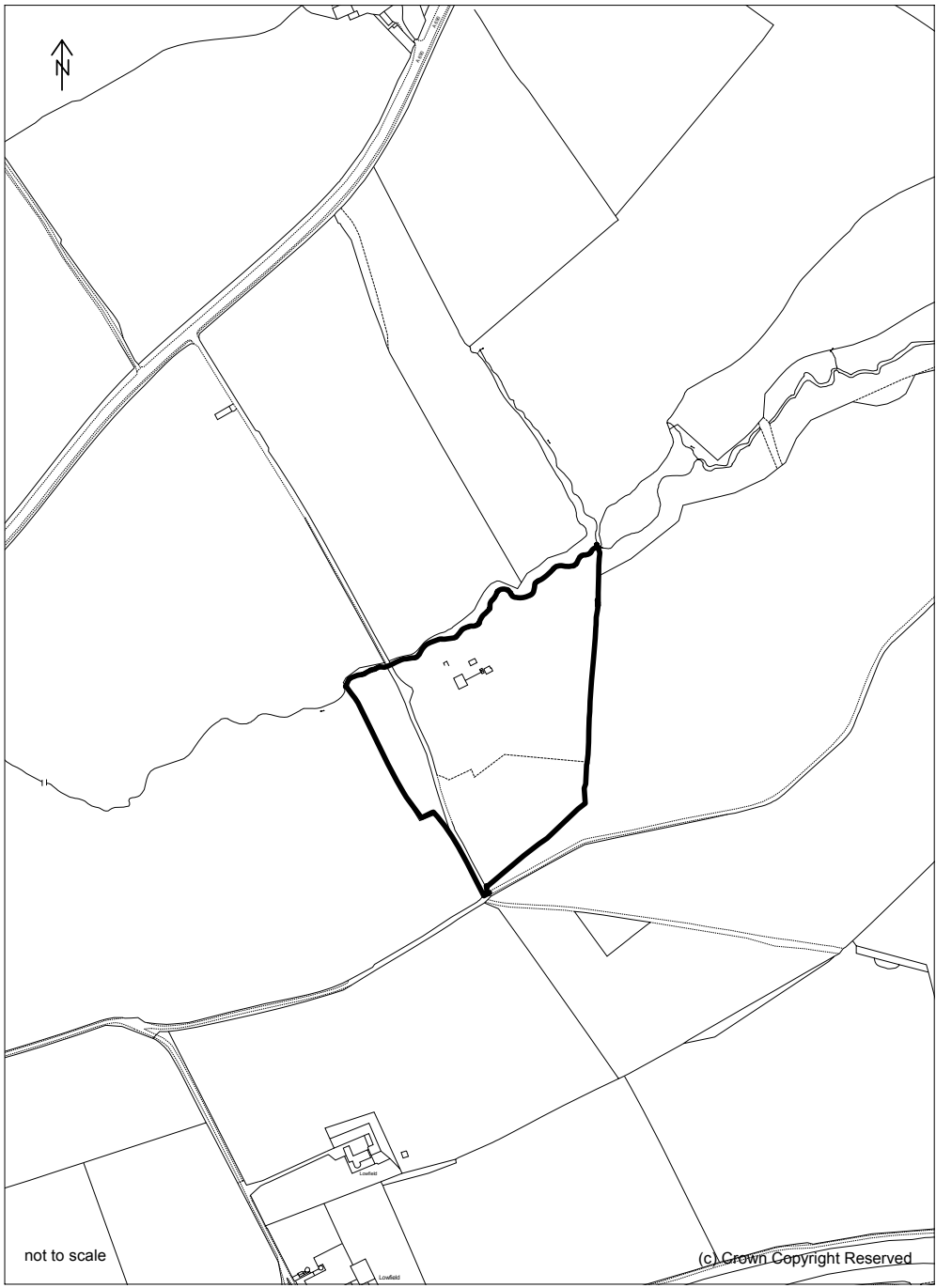
Officer responsible for the report

Robert Hope
Strategic Director for Environment and Regeneration
Ext 264

Author of the report

Chris Baxter
Senior Planning Officer
Ext 441

3/2007/0858 - CONVERSION OF EXISTING STABLE BLOCK TO FORM LEARNING CENTRE AND EXISTING DWELLING TO FORM CHILDREN'S CARE HOME AND CONSTRUCTION OF NEW LEARNING CENTRE AND 2 NEW CHILDREN'S CARE HOMES TO FORM THERAPEUTIC EDUCATION AND CARE FACILITY AT THE TILERY, LOW WILLINGTON FOR WITHERSLACK CARE GROUP OFFICE – 21.12.2007 - AMENDED 12.05. 2008



DEVELOPMENT CONTROL COMMITTEE

12th JUNE 2008

Report of the Strategic Director for Environment and Regeneration

PART III – OTHER MATTERS

FOR INFORMATION

APPEAL DECISION

ENFORCEMENT NOTICE ALLEGING THAT WITHOUT PLANNING PERMISSION, FOUR (4) INDIVIDUAL LIQUID PETROLEUM GAS (LPG) TANKS HAVE BEEN INSTALLED WITHIN THE CURTILAGES OF PLOTS 3, 5, 6, AND 7 BULLFIELD, WESTGATE

1. On the 16 February 2000 a planning application (ref 3/1999/0509) for the erection of 8 detached dwellings and 3 bungalows at the Bullfield, Westgate was approved by the Development Control Committee.
2. On the 19 September 2007 an Enforcement Notice was issued alleging that without planning permission, four (4) individual Liquid Petroleum Gas (LPG) tanks have been installed within the curtilages of plots 3, 5, 6, and 7 Bullfield, Westgate.
3. An appeal was lodged against this Enforcement Notice.
4. The appeal has been dismissed; the enforcement notice has been upheld, subject to variations set out in the decision and the application for deemed planning permission has been refused. The Inspector concluded that;
 - Policy BE6 of the Wear Valley Local Plan indicates that development within the Conservation Area should satisfy certain criteria. In particular, it should preserve or enhance the character of the area in terms of scale, bulk, height, materials, colour, vertical and horizontal emphasis, and design. Local materials (or equivalent natural materials) should generally be used in external surfaces.

Westgate is a traditional, stone-built Dales village. The LPG tanks on Plots 3, 5, 6 and 7 are grey metal cylinders, mounted horizontally on concrete bases. I consider them to be unattractive structures, which neither preserve nor enhance the character of the Conservation Area. The tank on Plot 7 is clearly visible from the carriageway in Bullfield, and from High Town, the road to the west. The tanks on Plots 3, 5 and 6 are screened from the public highway, but are each visible from neighbouring properties. During the Inspector's site visit his attention was drawn to various storage tanks and similar structures that are stationed above ground within the curtilages of residential properties elsewhere in the village. The LPG tanks at Nos 1, 2 and 4 Bullfield

appear to have been installed in breach of planning control. The Inspector did not consider that they make a positive contribution to the character or appearance of the Conservation Area; but he understood the reason for the Council's reluctance to take enforcement action against them. The Inspector's conclusion on the first issue is that the unauthorised development which is the subject of the enforcement notice detracts from the character and appearance of the Westgate Conservation Area, and is contrary to Policy BE6 of the Local Plan.

- Policy H24 of the Local Plan indicates that new residential developments should provide usable private amenity space, with each house having a rear garden depth of at least 10m. However, the supporting text indicates that this criterion may be relaxed in Conservation Areas, for instance to facilitate the traditional styles of development characteristic of rural villages. 16. The Inspector noted that a number of the gardens in Bullfield fall short of the 10m standard. For instance, the depth of the back garden to the house on Plot 3 varies between 6.6m and 8.1m. The presence of an LPG tank in a garden of such limited size further reduces the amount of usable private amenity space available to prospective residents. Although a relaxation of the Council's normal standard may have been justified by the need to accommodate a traditional pattern of development in this Conservation Area, the Inspector could see no merit in further restricting the limited private amenity area available, by placing LPG tanks in back gardens. The Inspector considered the unauthorised development to be contrary to Policy H24 of the Local Plan.

5. The Inspector has taken account of all the other matters raised, including the cost and difficulty of removing the LPG tanks and making alternative arrangements. However, he could not find any of these factors to be sufficient to outweigh the considerations that have led him to the conclusion that the appeal on ground (a) and the deemed application for planning permission should not succeed.

The appeal on ground (f)

The Inspector accepted the appellant's argument that the requirement to remove the concrete bases, on which the LPG tanks currently stand, is excessive. The bases are more or less flush with the ground. They do not have a significant impact on the character or appearance of the Westgate Conservation Area. They would not have a significant effect on the amount of usable private amenity space available to prospective residents. They raise no public safety issue. The Inspector varied the notice by deleting the requirement for the removal of the concrete bases.

The appeal on ground (g)

The Inspector noted that the removal of the LPG tanks would need specialist expertise and third party supervision, to ensure compliance with health and safety requirements. He also noted that a crane would have to be commissioned. He accepted that one month may provide an insufficient time in which to organize these works. As the appellant does not suggest an alternative period for compliance, the Inspector has directed that this period be varied to three months.

RECOMMENDED

That the Inspector's decision in relation to the above appeal be noted for future reference.

background information

Application files, Enforcement Notice dated 19th September 2007, Inspector's letter dated 19th May 2008.

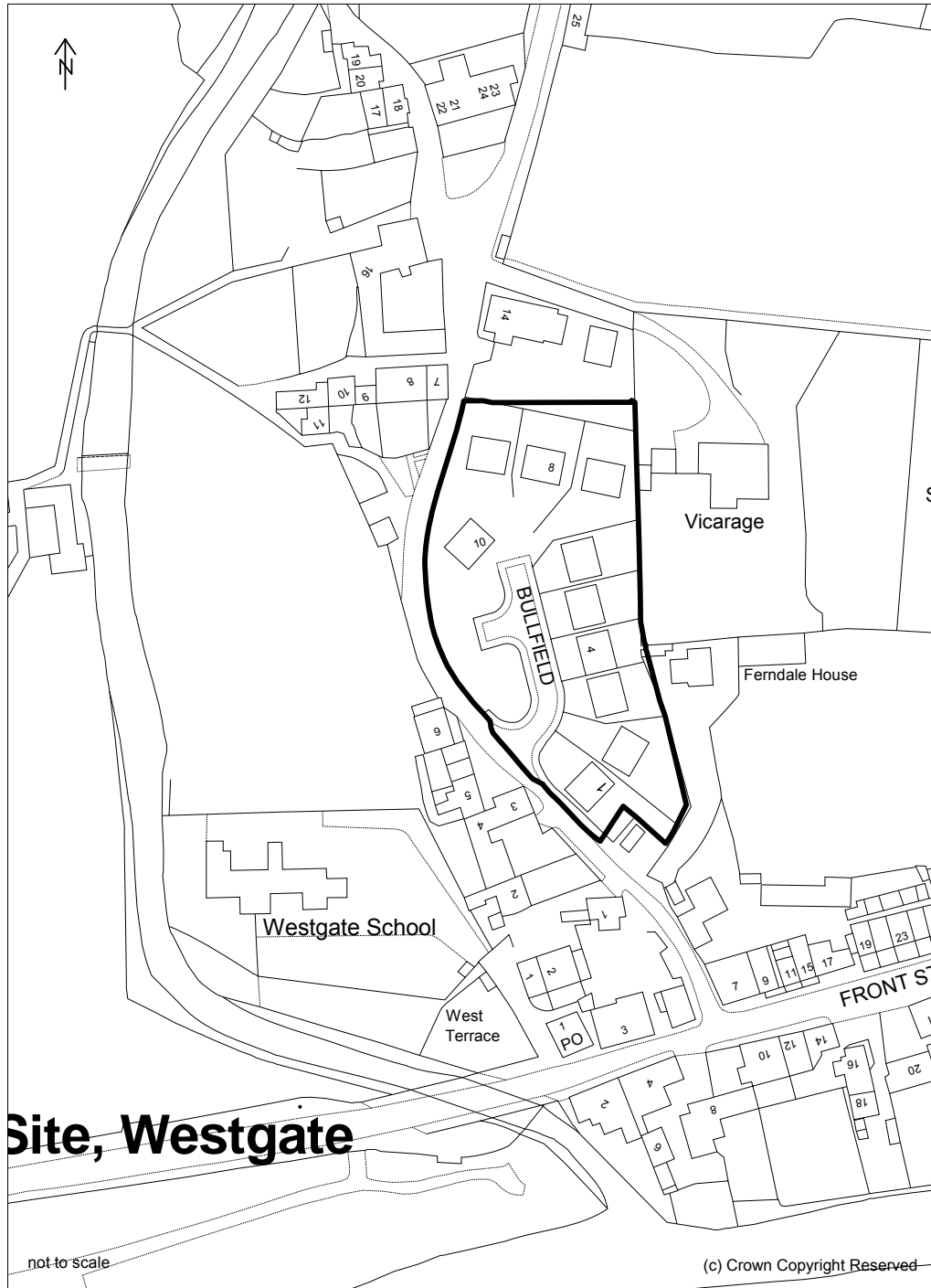
Officer responsible for the report

Robert Hope
Strategic Director for Environment and Regeneration
Ext 264

Author of the report

Adam Williamson
Planning Officer
Ext 495

**APPEAL DECISION
ENFORCEMENT NOTICE ALLEGING THAT WITHOUT PLANNING PERMISSION,
FOUR (4) INDIVIDUAL LIQUID PETROLEUM GAS (LPG) TANKS HAVE BEEN
INSTALLED WITHIN THE CURTILAGES OF PLOTS 3, 5, 6, AND 7 BULLFIELD,
WESTGATE**



DEVELOPMENT CONTROL COMMITTEE

12th JUNE 2008

Report of the Strategic Director for Environment and Regeneration

PART III – OTHER MATTERS

FOR INFORMATION

APPEAL DECISION

3/2007/0300 - ERECTION OF DWELLING HOUSE AND ASSOCIATED GARAGE/GARDEN STORE BUILDING AT LAND REAR OF 54-57 FRONT STREET, SUNNISIDE, BISHOP AUCKLAND FOR MR. PALIN

1. Planning permission was refused for the erection of one dwelling to land rear of 54- 57 Front Street, Sunnside for the following reason;

The application proposes the development of a greenfield site outside of the district's main urban areas. No justification has been submitted to explain why this land should be released for residential purposes prior to the development of sequentially preferable brownfield sites. The application is therefore considered to be unacceptable and contrary to policies DP1, DP2 and H3 of the Regional Planning Guidance for the North East (RPG1), Policy 3 of the Draft Regional Spatial Strategy and guidance contained in PPS3: Housing.

2. Mr. Palin appealed against the refusal of the application.
3. The Inspector has dismissed the appeal. He concluded that;
 - Sunnside is identified under 'saved' policy H3 as a village where residential development on unallocated site is to be allowed, provided certain criteria are met. The policy itself identifies that development should be within the identified limits. This proposal would fail this requirement, the scheme encroaching into the fields beyond the village.
 - Saved policy GD1 of the local plan insists that schemes should be in keeping with the character and appearance of the area, and appropriate in terms of form, to the settlement in which they are situated. Sunnside consists largely of terraced dwellings strung along the roadside and facing directly onto the street. This proposal would conform to a different pattern. It would lie wholly behind the frontage development and served by a relatively narrow access around the side of the terrace. The scheme would contravene the saved policies and would encourage an alien form of development encroaching into the fields behind the dwellings on Front Street.

- In any case, it appears that there is an important lacuna in the arguments pursued for the appellant. Although the emerging RSS incorporates the flexibility for 'secondary' settlements to be 'identified in LDFs as providing a significant opportunity in terms of previously developed land and buildings', it does so in the context of applying a carefully structured sequential approach to the development of land. However, the Local Plan was adopted in 1997, well before a sequential approach to development had been advocated in connection with anything other than retail schemes. The settlements identified in 'saved' policy H3 simply do not reflect the sequential approach envisaged by the emerging RSS. On the contrary, the 'saved' policy simply lists places where residential development might be acceptable, provided certain criteria are met. Those settlements have not been selected as places providing a 'significant opportunity in terms of previously developed land and buildings'.

The selection of Sunnyside demonstrates the point; the possibility of redeveloping one or two dilapidated buildings or vacant plots could hardly constitute a significant development opportunity of any kind. Nor could all the listed settlements be described accurately as offering locations well related to homes, jobs and services, particularly by public transport, walking and cycling, as the emerging RSS requires. Again, this is illustrated by the inclusion of Sunnyside. An isolated straggle of dwellings beside a 'B' road with a couple of pubs, a mooted shop and an hourly bus service is not the sort of secondary settlement envisaged as being identified for development under the cited emerging RSS policy.

- Clearly, the flexibility to identify 'secondary settlements' in LDFs, now incorporated into the emerging RSS, brings with it the requirement to make sure that those settlements provide significant opportunities in terms of previously developed land and buildings and that such sites are well related, particularly by public transport, walking and cycling, to homes, jobs and services. It seems unreasonable to me to claim the flexibility offered by the emerging policy but to ignore the requirements that it necessarily entails. It is somewhat perverse to expect a Local Plan adopted over a decade ago to reflect the aims of currently emerging regional policies. Indeed, that is why the Council have expended no little effort in preparing their 'annual monitoring report' to examine how the policies 'saved' from their Local Plan can be interpreted and operated in a way that might bring them more into line with the sequential test emerging from the RSS. It is clear, for the reasons set out above, that such effort is necessary. It is clear too that aspects of 'saved' policy H3 must 'be at odds' with that emerging approach. Seen in that light, the resolution of the full Council, passed on 11 April 2007, serves the very important function of up-dating the interpretation and operation of 'old' policies to comply with emerging parts of the 'new' Development Plan system, given the absence of any local DPP.

For that reason alone, the resolution must be an important 'material consideration', notwithstanding the apparent absence of public consultation. It is, after all, self evident that the 'main urban areas' within this particular district offer significant opportunities to re-use previously developed land and buildings in locations likely to be well related by public transport, walking and cycling to homes, jobs and services.

- Sunnyside is not a settlement possessing the characteristics likely to commend it for the development envisaged under the emerging policies of the RSS. Hence, this scheme would not accord with those policies. Worse still, it would, if approved, serve to undermine a carefully considered resolution of the Council designed to up-date the interpretation and operation of the 'saved' policies with the aim of bringing them more into line with emerging parts of the 'new' Development Plan system.

RECOMMENDED

That the Inspector's decision in relation to the above appeal be noted for future reference.

background information

Application files, Inspector's letter dated 1 May 2008.

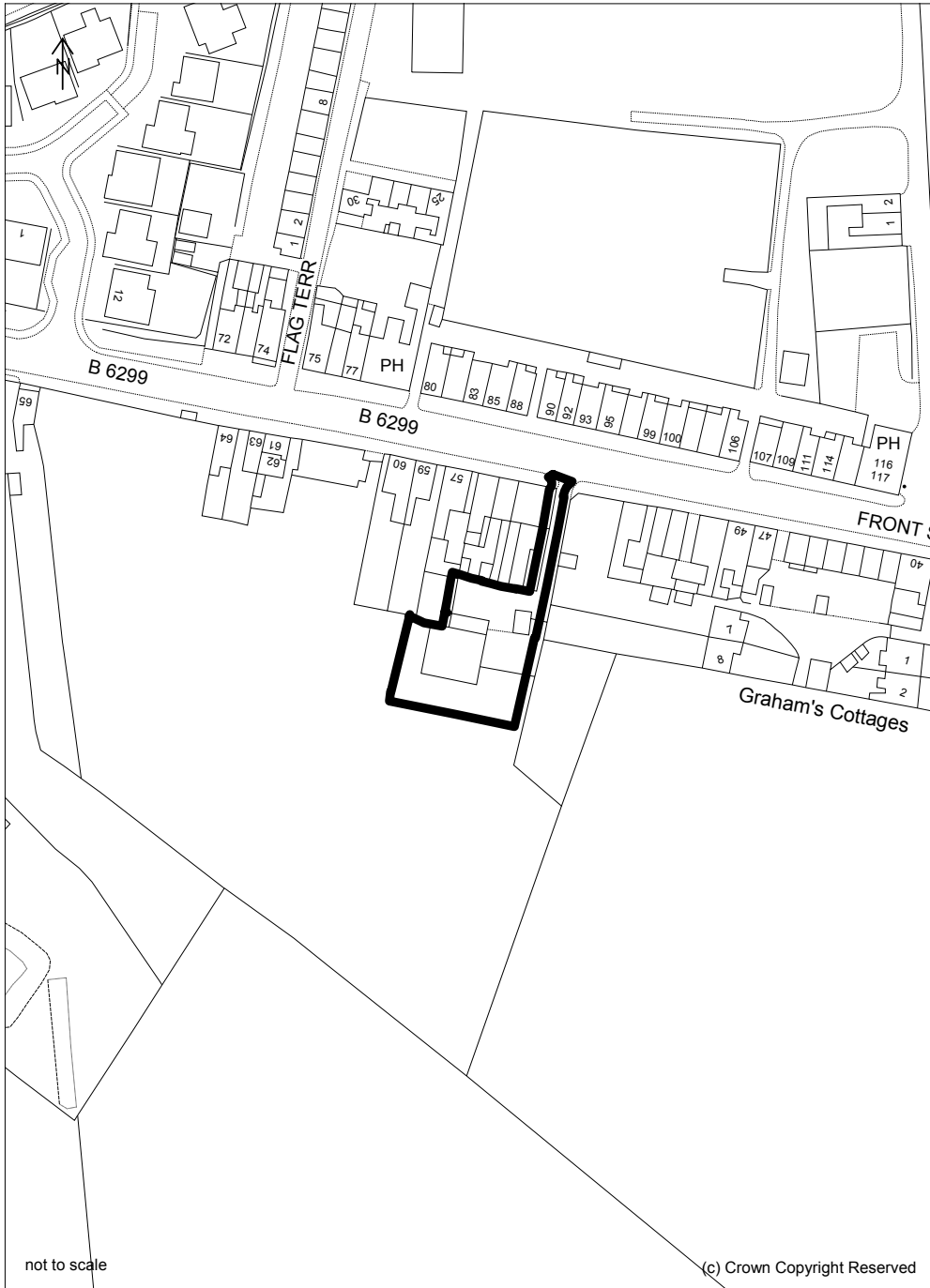
Officer responsible for the report

Robert Hope
Strategic Director for Environment and Regeneration
Ext 264

Author of the report

Adam Williamson
Planning Officer
Ext 495

APPEAL DECISION
3/2007/0300 - ERECTION OF DWELLING HOUSE AND ASSOCIATED
GARAGE/GARDEN STORE BUILDING AT LAND REAR OF 54-57 FRONT
STREET, SUNNYSIDE, BISHOP AUCKLAND FOR MR. PALIN



DEVELOPMENT CONTROL COMMITTEE

12TH JUNE 2008

Report of the Strategic Director for Environment and Regeneration

PART III – OTHER MATTERS

**TOWN AND COUNTRY PLANNING ACT 1990 SECTION 257
THE DISTRICT COUNCIL OF WEAR VALLEY HEATHER LANE CROOK PUBLIC
PATH STOPPING UP ORDER 2008**

purpose of the report

1. To advise members of the present position in respect of the above Order and to seek members consent to submit the Order to the Secretary of State for determination.

background

2. On 29th August 2007 Committee considered a request from Miller Homes Limited on behalf of a Mr. and Mrs. Arkley to stop up a short section of footpath adjacent to 10 Heather Lane, Crook. Committee resolved to make the Order.

present position

3. The formal Order was made on 9th January 2008 and advertised in the local press on 17th January inviting representations or objections about the order by 18th February. By the closing date of 18th February 6 letters of objection were received from local residents. Prior to the making of the Order, a petition objecting to the proposed Order signed by 98 residents (52 households) was received by the Strategic Director for Environment and Regeneration on 27th July 2007.
4. Government Guidance in relation to footpath stopping up orders provides that order making authorities are expected to make every effort to resolve objections and secure their withdrawal wherever possible. In an effort to comply with this guidance all objectors, including the signatories to the petition, were invited to attend at the Civic Centre on 15th April to meet officers of the Council and a representative from the developer, Miller Homes Limited. This meeting was arranged to discuss the proposals in further detail and to answer any enquires that the objectors had regarding the Stopping Up Order. Residents of 12 properties in the locality attended the meeting. 6 residents had made formal written objection, 5 had signed the petition and 1 had neither objected or signed the petition.

5. Following the meeting 4 of the duly made objections were withdrawn, and several of the signatories to the petition have confirmed withdrawal of their objections. The result of this exercise is that 2 duly made objections from the residents of two households have not been withdrawn. Furthermore 26 households who signed the position have not withdrawn their objection. It is arguable whether the petition represents a duly made objection given that it was submitted before the Order was made. In this respect Government Guidance states that a representation or objection is duly made to an order provided it is within the time limit and in the manner specified in the Notice of Making the Order. For the sake of completeness it is proposed that the petition be included in the referral to the Secretary of State.

proposals

6. If duly made objections are not withdrawn the Order must be referred to the Secretary of State for confirmation or otherwise. If the Council is satisfied that any representation or objections cannot be met and are unlikely to be withdrawn the order if the authority decides to proceed the order must be submitted to the Secretary of State for determination. The author is satisfied that the Council has been unable to secure the withdrawal of the outstanding objections and that it is now necessary for the Order to be referred to the Secretary of State for determination.
7. Miller Homes Limited have confirmed that they will pay the Councils costs in making the Order

RECOMMENDED that the Order be referred to the Secretary of State for determination.

Officer responsible for the report

Gary Ridley
Chief Executive
Ext. 306

Author of the report

Andrew Coates
Legal Services Manager
Ext. 418

THE DISTRICT COUNCIL OF WEAR VALLEY HEATHER LANE CROOK
PUBLIC PATH STOPPING UP ORDER 2008

