

# Public Document Pack

09 January 2009

Dear Councillor

A meeting of the Planning Committee will be held in the **Council Chamber, Civic Centre, Newcastle Road, Chester-le-Street, Co Durham, DH3 3UT on Monday, 19th January, 2009 at 6.00 pm**

**Please note that the above meeting has been re-scheduled from Monday 12<sup>th</sup> January to Monday 19<sup>th</sup> January 2009.**

Yours sincerely

A handwritten signature in black ink, appearing to read 'R Templeman', is written over a faint rectangular grid background.

**R TEMPLEMAN**

**Chief Executive**

## **AGENDA:**

1. Apologies for Absence
2. Minutes of Previous Meeting held 8th December 2008 (Pages 1 - 24)
3. To Receive Declarations of Interest from Members
4. Confirmation of Speakers
5. Planning Matters (Pages 25 - 46)  
Report Of Development and Building Control Manager

(Please note that the meeting may be recorded for clerical purposes only)



## **THE DISTRICT COUNCIL OF CHESTER-LE-STREET**

Report of the meeting of Planning Committee held in the Council Chamber, Civic Centre, Newcastle Road, Chester-le-Street, Co Durham, DH3 3UT on Monday, 8 December 2008 at 6.00 pm

### **PRESENT:**

Councillor Ralph Harrison (Chairman)

### **Councillors:**

T J Smith	M D May
J W Barrett	P H May
L E W Brown	P B Nathan
G K Davidson	M Sekowski
L Ebbatson	J Shiell
M Gollan	A Turner
D M Holding	S C L Westrip
A Humes	F Wilkinson
W Laverick	

### **Officers:**

S Reed (Development and Building Control Manager), C Potter (Head of Legal and Democratic Services), D Chong (Planning Enforcement Officer), C D Simmonds (Assistant Solicitor) and L Morina (Planning Assistant)

Also in Attendance: D Stewart (Durham County Council Highways Officer) and 12 members of the public were also in attendance.

### **37. APOLOGIES FOR ABSENCE**

Apologies for absence were submitted on behalf of Councillors G Armstrong, L Armstrong, S Barr, P Ellis, T H Harland, D L Robson and D Thompson.

### **38. MINUTES OF PREVIOUS MEETING HELD 10TH NOVEMBER 2008**

RESOLVED: "That the Minutes of the proceedings of the Meeting of the Committee held 10 November 2008, copies of which had previously been circulated to each Member, be confirmed as being a correct record subject to the Minutes being amended to show Councillor Turner having left the meeting before Item 5 (A) of the Planning Matters had been discussed.

The Chairman proceeded to sign the minutes.

### **39. TO RECEIVE DECLARATIONS OF INTEREST FROM MEMBERS**

Councillor Humes advised that he had received information through his letterbox in relation to one of the Items on the agenda and stated that although he had read the information, he had remained impartial.

The Chairman thanked Councillor Humes for raising this issue and stated that he thought all Members of the Committee had been lobbied in relation to this application.

Councillor Turner declared that as he had not attended September Committee Meeting when Items No.4 and 5 had originally been deferred, he would not take part in the discussion of these items. The Chairman clarified that only the Members present at September Committee Meeting could take part in the discussion of the deferred items and advised that he had a list of those Members.

Councillor Holding declared a personal interest in Items No. 2, 4 and 5 of the Planning Matters report as a Ward Councillor for that area. He stated that objectors had approached him in relation to these items and he had listened to their views, however he had not expressed any opinion and had remained impartial.

Councillor Nathan also declared a personal interest in relation to Items No.4 and 5 as Ward Councillor for that area.

Councillor M May queried whether to declare a personal interest in Item No.1 as a Member of North Lodge Parish Council. She felt that as the Parish Council had submitted comments in relation to the application she would leave whilst the item was being discussed.

The Head of Legal and Democratic advised that a personal declaration of interest would only be required if Councillor May had attended the Parish Council Meeting and had expressed an opinion in relation to the item either one way or another. He stated that if she had remained impartial at the meeting she could take part in the discussion of this item.

Councillor M May confirmed that she had attended the meeting but had remained impartial.

Councillor P May also declared a personal interest in Item No.1 as Ward and Parish Councillor for that area. He stated that he had attended the Parish Council meeting where the item had been discussed but he had also remained impartial.

In relation to Councillor Gollan's query, the Head of Legal and Democratic Services clarified that he would not need to declare a personal interest in Items No. 4 and 5 as a year had now passed since the previous applications had been presented to the Committee and on the condition that he approached the current applications without a previously formed opinion, he would be eligible to take part in the discussion of these items.

Councillor Shiell declared a personal and prejudicial interest in Item No. 3 of the Planning Matters report as the applicant of the proposal, however he would not be speaking in relation to the application. He proposed to leave the meeting whilst the item was being discussed and return once a decision had been made.

#### **40. CONFIRMATION OF SPEAKERS**

The Chairman referred to the list of speakers and confirmed their attendance.

#### **41. PLANNING MATTERS**

A report from the Development and Building Control Manager was considered, copies of which had previously been circulated to each Member.

The Chairman suggested that the order of the Agenda be changed to reflect the members of the public present and it was agreed that it be considered in the following order – Item Nos. 5, 4, 2, 1 and 3.

**At this point Councillor Turner left the Meeting.**

#### **(A) District Matters Deferred Recommended Approval**

- (5) Proposal: Reserved matters application for the access, appearance, landscaping and scale for the erection of 10 no residential dwellings, pursuant to application 05/00440/REN**

**Location: West Farm, Waldrige Lane, Waldrige,  
Chester-le-Street, Durham, DH2 2NQ**

**Applicant: Mr T. McGiven – Holmside Construction**

**Reference: 08/00228/REM**

The Chairman clarified which Members were eligible to vote on Items No. 4 and 5, as only the members present when the application had been deferred at Septembers Committee Meeting could take part in the discussion.

The Development and Building Control Manager informed the Members that he intended to be brief with the presentation of this item, as Members had previously considered both the photographs and plans of the site during September's Planning Committee when the item had been deferred and comments both for and against the application had been discussed in full. This included listening to the representations made by the speakers at this meeting.

He stated that at Members request, Officers were able to reconsider the matter with the relevant statutory consultees, i.e. Durham County Council as Highways Authority and the Durham Police Architectural Liaison Officer and invited them to attend the subsequent committee at which the applications were to be determined. The Development and Building Control Manager advised the Committee that, whilst both had been invited, only Mr. Stewart from the Durham County Council Highways Department was present.

The Development and Building Control Manager informed Members that the two principle reasons for the resolution to defer were noted in the report and related to highway congestion, in particular at the construction stage on Waldrige Lane and secondly concerns about the safety or otherwise of the proposed footpath link, which would also lead into the site from Waldrige Lane.

He advised that since the application had been deferred the Highways Authority had given consideration to the type of temporary arrangement they would expect to see along Waldrige Lane, which had resulted in additional conditions being attached to the approval. The Development and Building Control Manager also confirmed that as a result of representations from the Parish Council, Officers understood that the County Council had agreed to stop up Waldrige Lane at a point just west of the entrance into the site and to gate Waldrige Lane shortly after the turning from Waldrige Village.

The Development and Building Control Manager further reported that the Police had advised that they would not raise any objection to the proposal on the understanding that arrangements would be in place to stop up the Lane.

In relation to the comment made by Councillor Westrip on safety and crime issues within the development, the Development and Building Control Manager explained that a pedestrian link including anti-motorcycle bollards had been proposed between the two residential developments and would require to be implemented within the scheme as part of the approval. He presumed that the Highways Authority would adopt and assume the maintenance of the footpath, once they were satisfied that the scheme had been implemented as recommended by this Planning Authority. He also felt that the County Council's decision to stop up Waldrige Lane had been persuasive in the police withdrawing their objections.

Councillor Holding spoke in relation to advice given by the Director of Environment at Durham County Council in relation to a previous application and queried the standards used to assess whether Waldrige Lane could be used as a minor access road for a residential development.

The Durham County Council Highways Officer advised that due to the alignment and width of Waldrige Lane, they would not ordinarily encourage the use of this road for residential development however they would need to take into account the amount of vehicular movement, which may already pre-

exist relating to an existing business or activity, as this could affect their decision.

He spoke in relation to the planning inspectorate decision to uphold the refusal on appeal of the application submitted in 1994 on the grounds that Waldrige Lane was inadequate as a means of access for the proposed number of dwellings. He advised that he supported the comments made by fellow Officers in relation to the application submitted in 2002 for 10 dwellings on the same site and the Planning Inspectorates comments, as the number of journeys generated from the development would be comparable with the number of existing trips occurring on Waldrige Lane.

Councillor Holding raised concerns in relation to the access arrangements for the proposal in particular during the construction stage and also the lack of footpath provision along Waldrige Lane itself. Although he was in agreement with Durham County Council in relation to the proposed closure of Waldrige Lane to the west of the development site entrance, he felt he could not support the approval of the application until this had been agreed in principle.

Councillor Westrip sought clarification from Officers in relation to their legal position and the appeals process, should Members be minded to reject the application.

The Development and Building Control Manager advised that as the authority had twice made the decision to approve outline planning permission for 10 dwellings on this site, with the access clearly being proposed from Waldrige Lane, a decision to reject the proposal in principle at this Committee would be extremely difficult to defend at a public inquiry. He referred to the current applications and advised that the Committee were now looking at a slightly different situation than the previous two applications, as Members would now need to agree with the construction traffic associated with an additional residential development also using the access along Waldrige Lane. He stated that the decision to re-route the construction traffic to Waldrige Lane would lead to some noticeable improvements for the residents of the Meadow/Longburn Drive estate, therefore Officers recommend conditional approval of the proposal in light of these amendments.

The Head of Legal and Democratic Services clarified to members the differences between outline planning permission and the reserved matters application before them.

Councillor Davidson advised that he was in support of Durham County Council's decision to stopping up Waldrige Lane along with the additional footpaths proposed in the application and felt that as there had been no comments made in relation to material planning considerations, he could see no reason why the application should be refused and proposed to move the Officers recommendation for approval.

Councillor Ebbatson raised concerns in relation to the proposed improvement to the curb radii at Whitehill Way, as she stated that this had been of particular

concern to residents and queried whether the proposed changes could be made permanent, if the development was approved. She also spoke in relation to the traffic management scheme and queried whether local residents would be consulted in relation to the scheme and whether proposed extra conditions 5 and 6 could be rearranged to make them contingent on one another.

The Development and Building Control Manager spoke in relation to Councillor Ebbatson comments and advised that:

- In relation to the proposed radii improvement on Whitehill Way, Officers accepted that this would be beneficial as a permanent feature however as this had not been included as a recommended condition in the outline approval they would find it difficult to recommend that the condition be kept in perpetuity. He stated that they could only attach the radii improvement as an extra condition during the construction stage, however the improvements could remain in place once the work has been completed although he stressed that this could not be guaranteed.
- In relation to the suggestion that construction traffic could be restricted from using Waldrige Lane until a satisfactory traffic management scheme had been agreed by the Planning Authority, he advised that this would also be difficult to recommend as again this had not been included in the outline approval for 10 dwellings with access from Waldrige Lane which had previously agreed in principle by this authority.
- In relation to whether local residents would be consulted in terms of the proposed details of the construction traffic management scheme, he advised that due to the high level of public interest in the proposal, particularly during the construction phase, he would be interested in achieving this however he would need to seek advice from the Highways Officer as the correct procedure for this type of consultation.

The Highways Officer advised that the County Council would not usually consult with local residents in relation to temporary traffic management schemes. He stated that if as a planning authority they felt inclined to consult with residents, the County Council would give professional advice and guidance; however the final recommendation in terms of traffic management would be the highways authority's decision.

The Development and Building Control Manager clarified that once a scheme for this proposal had been submitted and discussed with the highways authority; local residents, parish councillors and ward members would be notified in relation to what had been agreed. However he stressed that in terms of planning law Officers were not under any legal obligation to do so.

In relation to the concerns raised by Councillor Nathan on lack of affordable housing provision, the Development and Building Control Manager explained that the outline application that had been granted for ten dwellings in 2002 and renewed in 2005 and had no affordable housing requirement attached to



this outline permission. As a result of that he advised that there was no legal standing to insist on affordable housing requirements for this overall site because the only element of the overall site which is a full application which allows Members to look at all the material considerations is the application for 14 dwellings and the relevant policy on provision of affordable housing in the local plan only applies to developments of 15 or more.

Councillor Brown expressed concern in relation to item 5 on the agenda and whether construction traffic would be prevented from using the access on Waldrige Lane if Members decide to refuse the current proposal.

Councillor P May confirmed that he would not take part in the vote for this item; however he queried whether the developer would be required to rectify any damage caused to Waldrige Lane, during the construction stage.

The Highway Officer advised that the existing condition of Waldrige Lane would be determined with the use of a pre-condition survey, the results of which would be agreed with the developer before work begins. He stated that the developer would then be required to carry out any repairs once the construction stage had been completed.

Councillor Laverick felt that it would be difficult to refuse that application on the movement of traffic along Waldrige Lane, as the Highways Officer had not raised any objections in relation to this and as a result this could be difficult to defend at a public inquiry.

In relation to the concerns raised by Councillor Gollan on the radii improvement on Whitehill Way, the Development and Building Control Manager advised that if the access for the proceeding application for 14 dwellings, item 4 on the agenda, had been proposed through Waldrige Lane then Officers would have the justification to recommend that the proposed radii be made permanent. However as the access for the 14 dwellings had been proposed through the Meadow Drive/Poppyfields estate, the only impact the development would have on the proposed radii at Whitehill Way would be during the construction stage, which would make it difficult to demonstrate a linkage between this development and any additional use of the junction at Whitehill Way other than the proposed access for the 10 dwellings.

Councillor Nathan sought clarification from the Legal and Democratic Services Manager as to what aspects of the reserved matters application, Members would be voting on.

The Legal and Democratic Services Manager advised that Members were being asked to vote on the reserved matters of the application in relation to the access, appearance, landscaping and scale, as the principle of the development had agreed by the outline approval.

In relation to a comment made by Councillor M May on access between the two developments, the Chair clarified that there would not be an access road

through the estates, however pedestrians would be able to access a footpath link between them.

Further to Councillor Davidson proposal to accept the officers' recommendation for approval, Councillor Westrip felt the proposal would difficult to defend at appeal if Members were minded to refuse the application and seconded the officers' recommendation for approval. This proposal was carried.

RESOLVED: "That the recommendation of the Development and Building Control Manager for approval in respect of the deferred application be agreed, subject to the following conditions:

Extra 1.

The development must be begun not later than the expiration of two years from the final approval of the reserved matters. In accordance with Section 92 of the Town and Country Planning Act 1990 (as amended by the Planning and Compulsory Purchase Act 2004).

Extra 2.

The development hereby approved shall be carried out wholly in accordance with the details contained in the application as submitted to the Council on the date specified in Part 1 of this decision notice and as amended on drawings received 19th August 2008; unless otherwise firstly approved in writing with the Local Planning Authority; in order to ensure the development is carried out in complete accordance with the approved plans.

Extra 3.

Notwithstanding any description of the materials in the application, no development shall be commenced until samples or precise details of the materials to be used in the construction of the external hard standings, walls and / or roofs of the buildings have been submitted to, and approved in writing by, the Local Planning Authority in order to ensure the satisfactory appearance of the development upon completion, in the interests of visual amenity and in accordance with Policy HP9 of the Chester-le-Street District Local Plan and Policy 8 of the Regional Spatial Strategy.

Extra 4.

The hereby approved development shall be carried out in accordance with a scheme of landscaping to be submitted to, and approved in writing by, the Local Planning Authority prior to the commencement of any development on site, and which scheme may provide for the planting of trees and / or shrubs (including species, sizes, numbers and densities), the provision of screen fences or walls, the movement of earth, the formation of banks or slopes, the seeding of land with grass, or other works for improving the appearance of the development. The works agreed to shall be carried out within the first planting season following completion of development of the site (or of that phase of development in the case of phased development) and shall thereafter be maintained for a period of 5 yrs following planting; in the interests of visual

amenity, the satisfactory appearance of the development upon completion and in accordance with the provisions of Policy HP 9 and HP 17; of the Chester-le-Street District Local Plan.

Extra 5.

Notwithstanding the information submitted with the application for the duration of all construction works access shall be taken from Walldridge Lane only unless otherwise agreed in writing with the Local Planning Authority in the interests of highway safety and residential amenity in accordance with policies HP9 and T15 of the Chester-le-Street District Local Plan.

Extra 6.

Prior to development commencing a scheme for the management of construction traffic (to include an existing highway condition survey) on Walldridge Lane shall be submitted to and approved in writing by the Local Planning Authority and then implemented in accordance with the approved scheme unless otherwise agreed in writing, in the interests of highway safety and residential amenity in accordance with policies HP9 and T15 of the Chester-le-Street District Local Plan.

Extra 7.

No development approved by this permission shall be commenced until:

- a) the application site has been subjected to a detailed site investigation scheme for the investigation and recording of contamination and a report has been submitted to and approved by the LPA;
- b) should contamination be found, detailed proposals for the removal, containment or otherwise rendering harmless such contamination (the 'contamination proposals') have been submitted to and approved by the LPA;
- c) for each part of the development, contamination proposals relevant to that part (or any part that would be affected by the development) shall be carried out either before or during such development;
- d) if during development works any contamination should be encountered which was not previously identified and is derived from a different source and/or of a different type to those included in the contamination proposals then revised contamination proposals shall be submitted to the LPA; and
- e) if during development work, site contaminants are found in areas previously expected to be clean, then their remediation shall be carried out in line with the agreed contamination proposals.

In accordance with Planning Policy Statement 23: 2004.

Extra 8.

The works to trees indicated on site plan (p)14 received 2nd June 2008 for retention and pruning shall be undertaken prior to works commencing in accordance with the recommendations of the Arboricultural Report dated

March 2008 pages 10 and 11 section 5.0, Appendix 2A, 4 and 5 unless otherwise agreed in writing with the Local Planning Authority, in the interests of avoiding compaction of the roots for the long term health and well-being of the tree and in the interests of visual amenity to accord with the aims of Policy HP9 of the Chester-le-Street Local Plan.

Extra 9.

Post development but prior to occupation Schwegler woodcrete bat boxes shall be installed around the site in accordance with the recommendations in section 4.4 of the White Young Green Bat Survey unless otherwise agreed in writing with the Local Planning Authority in the interests of enhancing biodiversity and conservation interests in accordance with Planning Policy Statement 9 and policy 33 of the Regional Spatial Strategy.

**(4) Proposal: Proposed erection of 14 no houses with associated access road, driveways and landscaping**

**Location: West Farm, Waldrige Lane, Waldrige,  
Chester-le-Street, Durham, DH2 2NQ**

**Applicant: Mr T. McGiven – Holmside Construction**

**Reference: 08/00227/FUL**

Councillor Ebbatson requested an additional condition be added to the approval restricting the hours of construction within the site, in the interests of sustainable development and existing residential properties in the area.

The Development and Building Control Manager was in agreement and stated that similar conditions had been applied to similar forms of development in residential areas. He suggested that two extra conditions be added, with one condition to control the hours of construction and the other to require the developer to submit a methodology as how the site will be constructed.

Councillor Davidson requested that a vote takes place to show whether Members were in agreement with the proposed extra condition. Members voted in favour of the additional conditions and the proposal was carried.

In relation to the concerns raised by Councillor Westrip on the Health and Safety aspects of the site, the Development and Building Control Manager advised that the Health and Safety Executive were responsible for ensuring safety on a construction site and as the relevant statutory body they would deal with any breaches of Health and Safety law.

Councillor Davidson advised that he was in support of the application as he felt the comments raised were not material planning considerations and proposed to move the Officers recommendation for approval.

Councillor Nathan raised comments and expressed concern in relation to the following issues:

- The increase in traffic the proposal will bring along Waldrige Lane during the construction stage, which will be damaging for existing residents and local amenities.
- The increase in traffic the proposal will bring through the Meadow Drive/Poppyfields estate as the proposed access to the residential development.
- The applicants decision to build 14 houses rather than 15, which would lead to a requirement for social housing.

The Development and Building Control Manager advised that Officers felt the existing Meadow Drive/Poppyfields estate would not be suitable for accommodating construction traffic, resulting in the use of Waldrige Lane during the construction stage and the future access for the development being proposed through the existing residential estate. In relation to Councillor Nathan's comments on the alignment of the roads and footpaths of the Meadow Drive/Poppyfields estate, he stated that Highway Officers were of the opinion that the road and pavement capacity already in place would be perfectly adequate to accommodate the extra dwellings proposed and the Planning Matters report provided details of a number of existing estates within the Chester West and Chester South wards with similar estate layouts.

In relation to a comment made by Councillor P May on the possibility of an access road between the two developments, the Development and Building Control Manager advised that any planning permission given by this planning authority would be based on the detailed plans submitted by the developer and in this case the plans show only a pedestrian link between the two sites. He stated that if the developer intended providing an access road through the estate, he would be required to submit a new planning application to the authority, as the plans would no longer correspond to the permission.

Councillor Ebbatson queried whether an additional condition should be included in the approval stating that the proposed radii at the access to Whitehill Way must be altered to accommodate to the construction traffic.

The Highways Officer advised that there would be cost attached to creating and removing the proposed road alterations to Waldrige Lane, which the developer would be required to fund. He stated that if the alterations were carried out to a robust permanent standard, then it would be their intention to leave the alterations in place rather than ask the developer to remove them once construction of the proposal had taken place.

The Development and Building Control Manager suggested re-wording extra condition 16 of the approval to state that a scheme for the management of construction traffic is to include an existing highway condition report and realignment of the radii on Whitehill Way and that unless the County Council were willing to fund the improvements, then it would be for the developer to finance.

Discussion ensued in relation to the specific inclusion of the road alterations scheme as part of extra condition 16. The Highway Officer advised that the current phrasing of extra condition 5 and 6 allow for any yet unspecified improvement measures along Waldrige Lane as well as the previously identified radii improvement, however if Planning Officers felt the alterations should be specifically included as part of the recommended conditions then he would support their decision.

Councillors M May and Nathan were of the opinion that the surface improvement of Waldrige Lane would detract from the character and the beauty of the area.

Councillor Nathan raised further concerns in relation to suitability of Waldrige Lane for construction traffic, the security of local residents, the pedestrian link between the two developments and the suitability of Heathfields as the access road for the development, and because of this he did not support this application.

Councillor Gollan spoke in relation to extra condition 13 in the recommendations and queried whether this condition could be reinforced to prevent a scheme being submitted which was less than the target of 10 percent decentralised and renewable energy or low carbon sources in the development.

The Development and Building Control Manager advised that the Regional Spatial Strategy (RSS) specifies that a local authority must set a target of at least 10 percent when securing schemes to minimise energy consumption within a development, which would be non negotiable. He stated that since the RSS had been put in force by the authority, a number of schemes, which met the 10 percent requirement, had been secured and he felt optimistic that a similar scheme could be secured with this development.

Further to Councillor Davidson proposal to accept the Officers' recommendation for approval, Councillor Westrip stated that as the police and highways authority had not raised any objections in relation to the proposal he felt it would be difficult to refuse the application and seconded the Officers' recommendation for approval. This proposal was carried.

**RESOLVED:** "That the recommendation of the Development and Building Control Manager for approval in respect of the deferred application be agreed, subject to the following conditions:

Extra 1.

The development must be begun not later than the expiration of three years from the date of this permission, in order to prevent the accumulation of unused planning permissions as required by Section 91 of the Town and Country Planning Act 1990 (as amended).

Extra 2.

The development hereby approved shall be carried out wholly in accordance with the details contained in the application as submitted to the Council on the date specified in Part 1 of this decision notice and as amended on 19th August 2008; unless otherwise firstly approved in writing with the Local Planning Authority; in order to ensure the development is carried out in complete accordance with the approved plans.

Extra 3.

Notwithstanding any description of the materials in the application, no development shall be commenced until samples or precise details of the materials to be used in the construction of the external hard standings, walls and / or roofs of the buildings have been submitted to, and approved in writing by, the Local Planning Authority in order to ensure the satisfactory appearance of the development upon completion, in the interests of visual amenity and in accordance with the provisions of Policy HP9 of the Chester-le-Street District Local Plan.

Extra 4.

Notwithstanding the details shown on the hereby approved plans and elevations, full details of all means of enclosure of the site (including any internal means of enclosure to sub-divide individual plots) shall be submitted to, and approved in writing by, the Local Planning Authority prior to the commencement of any development on site in order to ensure the satisfactory appearance of the development upon completion, in the interests of visual and residential amenity and in accordance with the provisions of Policy HP9 of the Chester-le-Street District Local Plan.

Extra 5.

The hereby approved development shall be carried out in accordance with a scheme of landscaping to be submitted to, and approved in writing by, the Local Planning Authority prior to the commencement of any development on site, and which scheme may provide for the planting of trees and / or shrubs (including species, sizes, numbers and densities), the provision of screen fences or walls, the movement of earth, the formation of banks or slopes, the seeding of land with grass, or other works for improving the appearance of the development. The works agreed to shall be carried out within the first planting season following completion of development of the site (or of that phase of development in the case of phased development) and shall thereafter be maintained for a period of 5 yrs following planting; in the interests of visual amenity, the satisfactory appearance of the development upon completion and in accordance with the provisions of Policy HP 9 and HP 17; of the Chester-le-Street District Local Plan.

Extra 6.

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and / or re-enacting that Order with or without modification), no walls, fences, palisades or other means of enclosure shall be erected forward of the main front (or side in the case of corner sites) walls of dwellings, in order to ensure the

satisfactory appearance of the development upon completion in the interests of visual amenity and the preservation of the open-plan character and appearance of the development in accordance with Policy HP9 of the Chester-le-Street District Local Plan and Policy 8 of the Regional Spatial Strategy (NE).

Extra 7.

No development approved by this permission shall be commenced until:

- a) the application site has been subjected to a detailed site investigation report for the investigation and recording of contamination and has been submitted to and approved by the LPA;
- b) should contamination be found, detailed proposals for the removal, containment or otherwise rendering harmless such contamination (the 'contamination proposals') have been submitted to and approved by the LPA;
- c) for each part of the development, contamination proposals relevant to that part (or any part that would be affected by the development) shall be carried out either before or during such development;
- d) if during development works any contamination should be encountered which was not previously identified and is derived from a different source and/or of a different type to those included in the contamination proposals then revised contamination proposals shall be submitted to the LPA; and
- e) if during development work, site contaminants are found in areas previously expected to be clean, then their remediation shall be carried out in line with the agreed contamination proposals.

In accordance with Planning Policy Statement 23: 2004.

Extra 8.

The works to trees indicated on site plan (p)09 received 2nd June 2008 for retention and pruning shall be undertaken prior to works commencing in accordance with the recommendations of the Arboricultural Report dated March 2008 pages 10 and 11 section 5.0, Appendix 2A, 4 and 5 unless otherwise agreed in writing with the Local Planning Authority, in the interests of avoiding compaction of the roots for the long term health and well-being of the trees and in the interests of visual amenity to accord with the aims of Policy HP9 of the Chester-le-Street Local Plan.

Extra 9.

Prior to occupation of the dwellings hereby approved, Schwegler woodcrete bat boxes shall be installed around the site in accordance with the recommendations in section 4.4 of the White Young Green Bat Survey unless otherwise agreed in writing with the Local Planning Authority in the interests of enhancing biodiversity and conservation interests in accordance with Planning Policy Statement 9 and policy 33 of the Regional Spatial Strategy.



Extra 10.

The development hereby permitted by this planning permission shall not be initiated by the undertaking of a material operation as defined in Section 56(4)(a)-(d) of the Town and Country Planning Act 1990 until arrangements have been made to secure the provision of adequate open space for sporting use within the locality in accordance with a detailed scheme, which has first been submitted to and approved in writing by the Local Planning Authority. In order to ensure the development makes adequate provision for recreational and open space facilities and to comply with the aims of Policies HP 9 and RL 5 of the Local Plan 2003.

Extra 11.

The development hereby permitted by this planning permission shall not be initiated by the undertaking of a material operation as defined in Section 56(4)(a)-(d) of the Town and Country Planning Act 1990 until arrangements have been made to secure the provision of adequate public artwork provision within the locality in accordance with a detailed scheme, which has first been submitted to and approved in writing by the Local Planning Authority. In order to ensure the development makes adequate provision for public artwork provision to comply with the aims of Policy BE 2 of the Local Plan 2003.

Extra 12.

Prior to development commencing a scheme to provide an anti motorcycle access facility and associated fencing/railings along the central footpath linking to Walldridge Lane shall be submitted to and approved in writing by The Local Planning Authority and thereafter implemented in accordance with the approved scheme prior to the occupation of the dwellings unless otherwise agreed in writing. In the interest of residential amenity and crime prevention in accordance with Policy HP9 of the Local Plan, Policy 2 of the RSS and the Crime and Disorder Act 1998 (as amended).

Extra 13.

Prior to the commencement of the development hereby approved a scheme to minimise energy consumption shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include at least 10% decentralised and renewable energy or low carbon sources unless otherwise agreed in writing with the Local Planning Authority. Thereafter the development shall be carried out in complete accordance with the approved scheme. In order to minimise energy consumption and to comply with the aims of the Regional Spatial Strategy North East Policy 38 and Planning Policy Statements 1 and 3.

Extra 14.

Prior to the commencement of development a surface water drainage scheme shall be submitted to and approved in writing by the Local Planning Authority in the interest of the adequate disposal of surface water and thereafter implemented in accordance with this approved scheme in accordance with Planning Policy Statement 25 and Policy 24 of the RSS.

Extra 15.

Notwithstanding the information submitted with the application for the duration of all construction works, access shall be taken from Waldrige Lane only unless otherwise agreed in writing with the Local Planning Authority in the interests of highway safety and residential amenity in accordance with policies HP9 and T15 of the Chester-le-Street District Local Plan.

Extra 16.

Prior to development commencing a scheme for the management of construction traffic (to include an existing highway condition survey) on Waldrige Lane shall be submitted to and approved in writing by the Local Planning Authority and then implemented in accordance with the approved scheme unless otherwise agreed in writing, in the interests of highway safety and residential amenity in accordance with policies HP9 and T15 of the Chester-le-Street District Local Plan.

Extra 17.

No operations associated with the construction phase of the development hereby approved shall be carried out outside the hours of;

Monday to Friday - 08:00 to 1800

Saturdays - 0800 to 1300

Sundays - None

Bank Holidays – None

In the interests of residential amenity and the avoidance of any potential disturbance or disruption to adjoining residents which may have arisen though working outside these hours, in order to protect the amenities of local residents and to accord with the aims of Policy HP 9 of the Chester-le-Street Local Plan.

Extra 18.

Prior to works commencing a construction methodology to include all potentially noisy operations and details of plant and heavy equipment shall be submitted to and agreed in writing with the Local Planning Authority and implemented on site in accordance with this agreement for the duration of the building works in order to protect the amenities of local residents and to accord with the aims of Policy HP 9 of the Chester-le-Street Local Plan.

**Councillor Turner returned to the Meeting.**

**(B) District Matter Recommended Approval**

- (2) Proposal: Resubmission of previously approved application  
05/00318/FUL for the erection of 1 no dwelling  
(amended plans received 24/11/08).**

**Location: 1 Olive Street, Waldrige, Chester-le-Street,**

## **Durham, DH2 3SQ**

**Applicant: Mr T. O. Graham – Reference: 08/00440/FUL**

The Development and Building Control Manager advised that planning permission for the construction of one dwelling had been issued in 2005 and subsequently built in accordance with the approval. However since the dwelling had been built, a complaint had been received and consequently investigated by Officers, which revealed that the applicant did not own the entire site when the original planning application had been submitted. He stated that although land ownership was not a material planning consideration, the applicant had been invited to re-submit the proposal so the correct certificate could be considered as part of the application.

The Development and Building Control Manager referred to photographs and plans in relation to the proposal, which were displayed for Members' information.

**Mr Robinson the objector, and Mr Graham the applicant, spoke in relation to the application.**

In relation to the query raised by Councillor P May as to whether any objections had been received when the original application was approved in 2005, the Development and Building Control Manager referred to the Committee report from August 2005 and advised that although it did not specify the number of objections, the reasons for the objections were as follows:

- The application site according to the Local Plan map is outside the settlement boundary and within the greenbelt, and as a result the development does not comply with policies NE2, NE4 and NE5.
- That building on this site, in the view of the objectors, would set a precedent, which would allow future building works to creep to the south west of the village.
- Concerns that the proposal will lead to parking problems especially during the construction stage.
- The new building would be incongruous within the village and would have a detrimental impact on the street scene and the street pattern.
- It would detract from the character of the village as a pit village.
- The proposal would result in a loss of privacy.

He stated that the report also listed a number of what were considered as non-material issues raised by objectors, which are also detailed below:

- That the property will be commercial as apposed to residential in nature.
- Concern as to how the adjoining owner would maintain the gable wall.

- Concern as to how the applicant would ensure the remaining gap would be water and weather tight.

In relation to the concerns raised by Councillor Humes on the scale and design of the original application, the Development and Building Control Manager clarified that the dwelling had been built as per the footprint and scale approved at the Planning Committee in 2005. He stated that the reason the applicant had been asked to submit a retrospective application had been to rectify the land ownership discrepancy, as approval had been granted based on the applicant's statement that he owned the entire site. He confirmed that the applicant had now signed the correct land ownership certificate to declare that he does not own the entire site.

Councillor Ebbatson proposal to accept the Officers' recommendation for approval as she felt the retrospective application had been required to resolve a technical matter, as the dwelling had been built in accordance with the granted planning permission, which was seconded by Councillor Davidson.

It was agreed to approve the Officer's recommendation of conditional approval.

RESOLVED: "That the recommendation of the Development and Building Control Manager for approval in respect of the application be agreed, subject to the following conditions:

Extra 1.

The development hereby approved shall be carried out wholly in accordance with the details contained in the application as submitted to the Council on the date specified in Part 1 of this decision notice and as amended on 24th November 2008 unless otherwise firstly approved in writing with the Local Planning Authority; in order to ensure the development is carried out in complete accordance with the approved plans.

Extra 2.

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2008 (or any Order revoking and re-enacting that Order with or without modification) any external alterations to the dwelling (except painting and repairs) and any development within the curtilage of the dwelling (i.e. development permitted under Schedule 2, Part 1(Class A-H inc.) shall require the benefit of planning permission in order to ensure the satisfactory appearance of the development upon completion and in the interests of visual and residential amenity and to comply with Policy HP9 of the Chester-le-Street District Local Plan.

Extra 3.

Notwithstanding the submitted information, the two rear facing windows of the 2-storey of-shot shall be fitted with obscure glazing, and such glazing shall be retained in perpetuity. In the interests of residential amenity and for the

avoidance of any potential overlooking in accordance with policy HP9 of the Chester-le-Street Local Plan.

**Mr Stewart, the Highways Officer and Councillor Holding left the Meeting at 7.30pm.**

**(1) Proposal: Erection of 26 external lighting columns and luminaires.**

**Location: 2 Drum Park, Drum Industrial Estate, Chester-le-Street, Durham, DH2 1AE**

**Applicant: Mr E. Harper – Gladman Homes**

**Reference: 08/00423/FUL**

The Development and Building Control Manager referred to photographs and plans in relation to the proposal, which were displayed for Members' information.

The Development and Building Control Manager advised that since the report had been produced, a consultation response had been received from Network Rail stating that they have no objection to the proposal. In relation to the response, he stated that Network Rail had requested that an additional condition be included in the recommendations stating that the first three months following the installation and operation of the new lighting columns, an assessment of the impact the lighting columns have on the operation of the railway line shall take place and if there are any concerns in relation to driver visibility, a revised scheme would need to be submitted by the developer and agreed by this planning authority. The Development and Building Control Manager recommended that the proposed condition be included in the approval and that the developer undertake the monitoring of the scheme.

In relation to the concerns raised by Councillor P May on the impact the proposed lighting scheme would have on local residents and the nearby motorway, the Development and Building Control Manager advised that the developers had submitted a technical report, prepared by a qualified lighting consultant, which demonstrated the possible impact the lights could have on neighbouring properties. He stated that the report had been scrutinised by the Officers from the Environmental Health team, who used a standard methodology to establish the level of impact the lighting scheme would have on local properties and concluded that the lighting scheme as it stands would be imperceptible to the residents east of the site. He therefore felt an additional condition, similar to the condition requested by Network Rail to monitor the scheme for three months would not be required.

The Development and Building Control Manager spoke on the impact the proposed lighting columns may have in relation to the motorway and advised

that in his opinion the columns would be barely visible due to the height of the current commercial units in the area and also the bunding situated to the east of the site. He also spoke in relation to the design of the lighting units and advised that the light would be angle downwards to minimise the light spill and to ensure the units do not 'over' light the area.

In relation to the concerns raised by Councillor Westrip on whether the scheme would include energy efficient lighting, the Development and Building Control Manager advised that Officers had received an outstanding methodology from the developer, which provided details of how the development as a whole would employ sustainable development principles.

Members raised comments and expressed their concerns in relation to the following issues:

- Visibility of the lighting units to residential properties
- 24 hour operation of the light on the site
- Impact on local ecology

Councillor Laverick was of the opinion that the visibility of lighting units would be obscured by the height of the bunding and landscape associated with the East Coast Mainline and could see no reason why the application should be refused.

Councillors Humes and M May were in support of the comments made by Councillor P May that the lighting scheme be monitored in relation to the impact on local residents and felt that a condition to this effect, should be included in the recommendation.

Discussion ensued in relation to an additional condition being included in the recommendation for approval, which would assess the impact of the lighting scheme for local residents.

Councillor Ebbatson felt it would be difficult to propose a condition of this nature, as she was unsure as to who would be responsible for monitoring the impact on residents, during this period.

The Development and Building Control Manager advised that Extra Condition 2 requires that the development be carried out in accordance with the planning approval, however if Officers had reason to believe that this was not the case, they could obtain specialist advice and investigate any concerns once construction had taken place.

The Development and Building Control Manager spoke in relation to the site being lit up over a 24 hour period and advised that Health and Safety requirements in relation to vehicles being transported around the site. He also advised that in relation to the ecology issue, the lighting scheme had been designed to minimise light spill outside the site and that the specialist report submitted with the application shows that light will only cover the hard standing area.

In relation to Councillor Gollan's request for clarification on the additional conditions being added to the recommendation for approval, the Development and Building Control Manager advised that he felt Network Rail's request for an additional condition should be included, as this would monitor the impact of the site on the railway. However he felt that a condition to monitor the impact on local residents would not be required as if they were affected by light intrusion as a result of the development, then they could contact Environmental Health Officers who would have powers to address the complaints on their behalf.

Councillor Davidson felt it would be negligible to refuse the application on these grounds as Environmental Health Officers would investigate complaints on behalf of local residents and proposed that the application be approved in accordance with the additional conditions, which was seconded by Councillor Turner.

RESOLVED: "That the recommendation of the Development and Building Control Manager for approval in respect of the application be agreed, subject to the following conditions:

Extra 1.

The development must be begun not later than the expiration of three years from the date of this permission, in order to prevent the accumulation of unused planning permissions as required by Section 91 of the Town and Country Planning Act 1990 (as amended).

Extra 2.

The development hereby approved shall be carried out wholly in accordance with the details contained in the application as submitted to the Council on the date specified in Part 1 of this decision notice unless otherwise firstly approved in writing with the Local Planning Authority; in order to ensure the development is carried out in complete accordance with the approved plans.

Extra 3.

Notwithstanding any description of the materials in the application, no development shall be commenced until precise details of the colour of the lighting columns has been submitted to, and approved in writing by, the Local Planning Authority in order to ensure the satisfactory appearance of the development upon completion, in the interests of visual amenity and in accordance with the provisions of Policy IN3 of the Chester-le-Street District Local Plan and Policy 8 of the Regional Spatial Strategy.

Extra 4.

Notwithstanding the information submitted a scheme for the maintenance of the lighting units shall be submitted to, and approved in writing by the Local Planning Authority prior to the erection of the floodlighting and thereafter the lighting shall be maintained in accordance with the approved scheme. In the

interest of residential and visual amenity in accordance with Policy IN3 of the Chester-le-Street Local Plan and Policy 8 of the Regional Spatial Strategy.

Extra 5.

Notwithstanding any information submitted for the first three months following the installation and operation of the new lighting an assessment will be made to check the effect of the lighting on the operation of the nearby railway line. If it is found that there is a problem with driver visibility, additional screening/cowling or light adjustment will be employed as appropriate to alleviate the problem, to the satisfaction of the Local Planning Authority in association with Network Rail and the train operating companies to ensure the safe operation of the railway line.

**Councillor Humes left the Meeting at 8.00pm.**

**At this point Councillor Shiell declared a personal and prejudicial interest in the following Item and left the Meeting.**

- (4) Proposal: Erection of first-floor extension above existing garage at side of property and construction of single-storey extension at front of site including construction of pitched roof over remaining flat roof at front and rear.**

**Location: 126 Hilda Park, Chester-le-Street, Durham, DH2 2JY**

**Applicant: Mr J. Shiell – Reference: 08/00442/FUL**

The Development and Building Control Manager referred to photographs and plans in relation to the proposal, which were displayed for Members' information.

Councillor Davidson proposed to accept the Officer's recommendation of conditional approval, which was seconded by Councillor Turner.

**RESOLVED:** "That the recommendation of the Development and Building Control Manager for approval in respect of the application be agreed, subject to the following conditions:

Extra 1.

The development must be begun not later than the expiration of three years from the date of this permission, in order to prevent the accumulation of unused planning permissions as required by Section 91 of the Town and Country Planning Act 1990 (as amended).

Extra 2.



The development hereby approved shall be carried out wholly in accordance with the details contained in the application as submitted to the Council on the date specified in Part 1 of this decision notice unless otherwise firstly approved in writing with the Local Planning Authority; in order to ensure the development is carried out in complete accordance with the approved plans.

Extra 3.

That the facing materials to be used for the external walls and roofs of the development hereby approved shall match in colour and texture those materials used on the existing dwelling house to the satisfaction of this Local Planning Authority, and where such matching materials are not available samples of the materials which it is proposed to use on the development shall be submitted to, and approved in writing by, the Local Planning Authority prior to the commencement of any development on site. Reason - In order to ensure that the proposal does not have an adverse impact upon the scale, form, character or appearance of the building upon completion, as required by Policy HP11 of the Chester-le-Street District Local Plan.

**Councillor Shiell returned to the Meeting.**

**(C) List of Planning Appeals and Current Status**

The Chairman referred to the list of Planning Appeals, which were included in the report for information.

RESOLVED: "That the list of Planning Appeals and the current status be noted."

At the end of the Meeting the Chairman proposed to change the date of the next Committee Meeting to Monday 19<sup>th</sup> January 2009 at 6.00pm.

RESOLVED: "That the next Meeting of the Committee be held on Monday 19<sup>th</sup> January 2009 at 6.00pm."

Councillor Davidson took the opportunity to thank Officers for inviting the County Council Highways Officer to attend the Meeting.

**At the close of the Meeting, the Chairman wished everyone a Merry Christmas and a Happy New Year.**

The meeting terminated at 8.15 pm

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## **REPORT OF THE DEVELOPMENT & BUILDING CONTROL MANAGER**

- ITEM 1**      District Matters Recommended Approval
- ITEM 2**      Appeals List
- ITEM 3**      Notification of Appeal Decision

**COPIES OF ALL PLANS, ELEVATIONS AND SUPPORTING DOCUMENTATION  
CAN BE VIEWED IN THE PLANNING SERVICES DIVISION PRIOR TO THE  
COMMITTEE MEETING**

**COPIES OF PLANS AND ELEVATIONS FOR APPLICATIONS WHERE THE  
APPLICANT / OBJECTORS / SUPPORTERS WISH TO SPEAK OR FOR OTHER  
MAJOR APPLICATIONS WILL BE DISPLAYED IN THE COUNCIL CHAMBER PRIOR  
TO AND DURING THE COMMITTEE**

**ITEM 1****District Matters Recommended Approval**

**1.**

**Reference: 08/00467/VAR**

**Proposal** Variation of condition 6 of planning approval 08/00131/COU to allow opening hours of Monday to Wednesday 09:00 - midnight and Thursday to Saturday (including Bank Holidays) from 09:00 - 03:30 and Sunday 09.00 - 01.00 (previously restricted to 09:00 - 23:30 on all days) (amended description 2/12/08).

**Location** 183 Front Street Chester-le-Street Durham DH3 3AX

**Applicant** Mr A. Ali

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**Application Summary**

**Ward:** Chester Central

**Case Officer:** Lisa Morina, Assistant Planning Officer

**Contact Details:** 0191 387 2146

[lisamorina@chester-le-street.gov.uk](mailto:lisamorina@chester-le-street.gov.uk)

**Summary of recommendation:** The variation of condition proposed is considered to be appropriate as it would provide for a form of development which is considered to be acceptable in terms of impact on the amenities of surrounding residential occupiers.

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**The Proposal**

This report relates to an application which seeks approval for the variation of a condition attached to a previous planning approval 08/00131/COU to allow an extension of opening hours.

The premises comprises a Hot Food Takeaway which has been operating since June 2008. The previous use was as a restaurant. The site lies within the town centre of Chester-le-Street, in the secondary frontage.

## Site History

08/00131/COU - Change of use of ground floor premises from restaurant to hot food take-away (use class A5) including erection of single-storey extension at rear to provide enlarged kitchen area and change of use of first floor premises to residential flat (Use Class C3) (amended description 28.3.08) (amended plans received 24.4.08 to provide larger extension at rear and 9.5.08 to provide amended shop front). Approved 20/5/08.

99/00020/COU - Change of use from accountancy office (B1) to premises for sale of hot and cold food (A3). Approved 24/3/99.

84/00254/COU - Change of use from shop to offices. Approved 15/6/84.

74/00437/FUL - Redevelopment of car showroom and offices and two shops to new multi storey office block. Approved 28/10/74.

## **Consultation Responses**

Neighbours have been notified through direct notification and the display of a site notice. To date one petition containing 78 names and one letter of objection have been received with the following concerns raised:

- The noise will be unbearable with car doors and raised voices
- The extended hours will attract drunks and out of control youths
- There will be an increase in brawls and other incidents
- How will people who live in flats in the vicinity get to sleep

Regeneration Team - No comments

Environmental Health Team - No objections.

Durham County Council Highways Department - No highway objection raised.

Durham Constabulary - No concerns.

## **Relevant Planning Policies and Considerations**

This application must be considered against the requirements of Policy R19 of the Chester-le-Street Local Plan, which relates to applications relating to A3 uses (now A4 and A5 uses as revised by the Use Classes Order 2005) including public houses, restaurants hot food takeaways etc.

Policy R19 advises that in principle food and drink outlets are considered to be appropriate within the wider town centre providing certain criteria can be met including that there should be no detrimental impact on the amenity of occupants of residential property from noise, fumes, smell, lighting, activity levels or hours of operation.

In determining this application the main issue to be considered is the impact the proposal will have on the amenity of surrounding residential occupiers. Issues with regards to fumes, smell and lighting were considered under the previous application for the change

of use of this property. Therefore, in this instance it is considered that the main issue to address is whether the increased operational hours will provide for an increased level of noise.

The application site is situated along the Front Street within close proximity to other town centre uses including take-away uses and pubs/clubs. Given that no objections have been received from the relevant consultees (Environmental Health and the Police) and after investigation into various opening hours granted for nearby properties through the Licensing Act, it is considered that the variation of the opening hours proposed is appropriate. This is on the basis that other neighbouring uses within the immediate locality are open to similar times. Some surrounding pubs/clubs have opening hours until 3am with another take-away shop opposite having consent to open until 3.30am.

In the nearby vicinity of the Front Street there are 4 residential properties which are situated between the host property and the other pubs/clubs and takeaways which have approved late opening hours. The closest residential properties are a block of flats sited around 30m away. Although objections have been raised with regards to noise and disturbance issues, it is not considered that the proposal would have a serious adverse impact on the amenity of nearby residents. This view is supported by the fact that no objections have been raised from both the Environmental Health Section and Durham Constabulary with regards to noise/disturbance issues. It is also considered that given the nature of the location of the premises, being within a town centre containing a high volume of late night uses, that residents who elect to live within the area must expect a higher degree of noise than if they were to live in a purely residential area.

### **Conclusion**

Taking all relevant issues into account it is considered that the variation of condition proposed should be approved in this instance as it is not considered to have a negative impact on the residential amenity of neighbouring properties and is therefore, considered to accord with the aims of policy R19 of the Chester-le-Street District Council Local Plan.

### **RECOMMENDATION** CONDITIONS:-

Approve

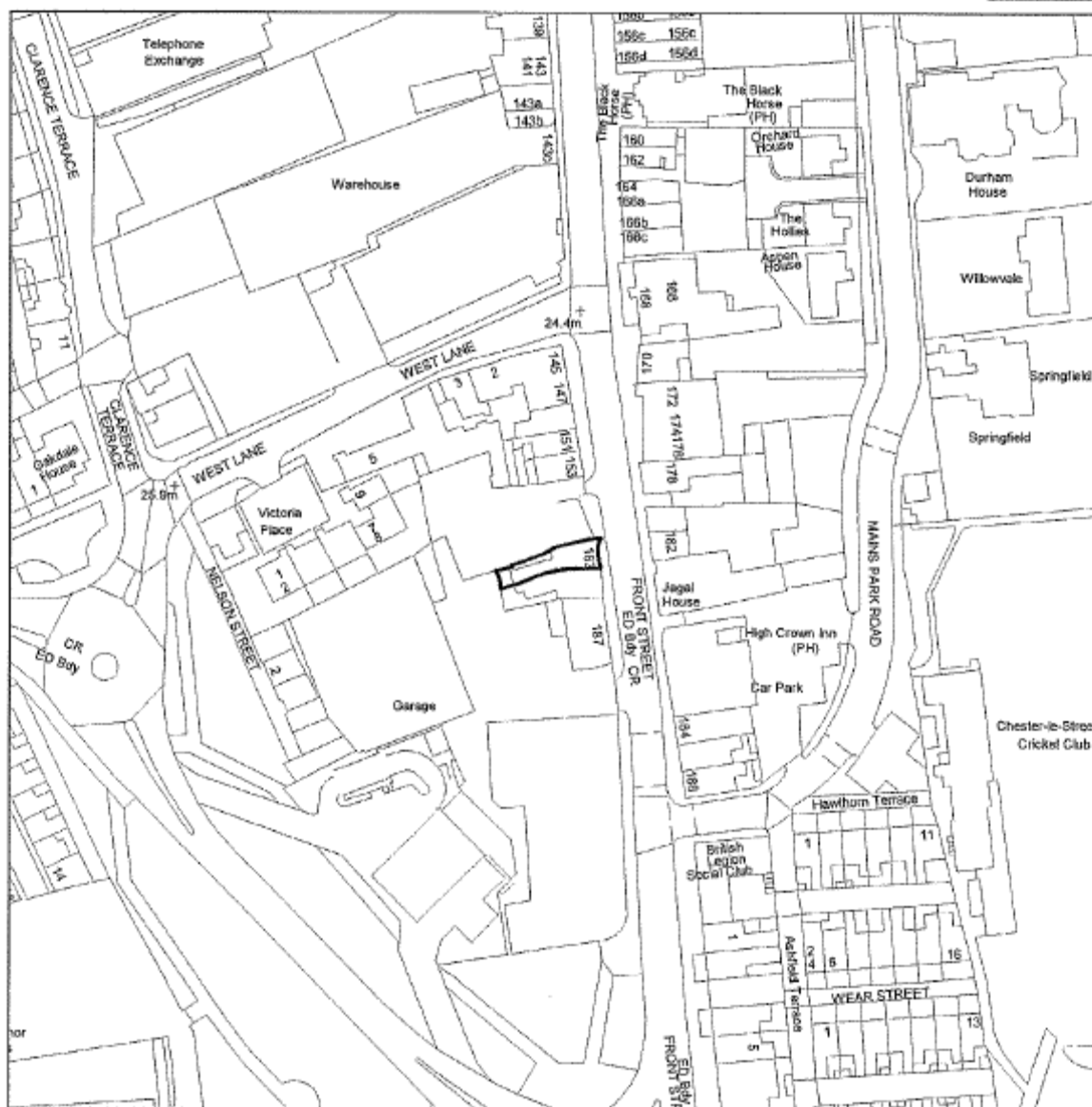
SUBJECT TO THE FOLLOWING

Extra 1.

There are no conditions attached to this application.

# 183 Front Street

Chester-le-Street



## 2.

**Reference: 08/00472/VAR**

**Proposal** Removal of Condition 4 and 6 of previously approved application reference 08/00096/COU to allow design of fence to remain and to remove need for the fence to be set back

**Location** 100 Queen Street Grange Villa Chester-le-Street Durham DH2 3LT

**Applicant** Mr R. Robson

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### **Application Summary**

**Ward:** Grange Villa and West Pelton

**Case Officer:** Lisa Morina, Assistant Planning Officer

**Contact Details:** 0191 387 2146

[lisamorina@chester-le-street.gov.uk](mailto:lisamorina@chester-le-street.gov.uk)

**Summary of recommendation:** The removal of condition 4 and 6 is considered to be appropriate as, subject to the installation of the proposed landscaping scheme, it would provide for a development which is considered to be acceptable in terms of impact on the streetscene and the host property.

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### **The Proposal**

This report relates to the proposed removal of two conditions from a previously approved planning application reference 08/00096/COU. Members may recall this previous application was determined at the April 2008 Planning Committee and related to a proposal for the erection of a two storey extension to the side and rear elevations, and enclosure/change of use of land adjacent to side elevation from open amenity space to domestic garden. The two conditions relating to this application are for the removal of condition 4 and 6.

Condition 4 states - "Notwithstanding the details shown on the hereby approved plans and elevations, full details of a revised fence style to the Northern elevation of the site shall be submitted to, and approved in writing by, the Local Planning Authority, within 56 days from the date of approval in order to ensure the satisfactory appearance of the development upon completion, in the interests of visual and residential amenity and in accordance with the provisions of Policy HP16 of the Chester-le-Street District Local Plan"



Condition 6 states -"Notwithstanding the details shown on the hereby approved plans and elevations, the proposed fence line to the Northern elevation of the site is to be set back 2m from the footpath. Full details of which shall be submitted to, and approved in writing by, the Local Planning Authority, within 56days from the date of approval, prior to the commencement of any development on site in order to ensure the satisfactory appearance of the development upon completion, in the interests of visual and residential amenity and in accordance with the provisions of Policy HP16 of the Chester-le-Street District Local Plan"

The property is an end of terrace house situated to the Northern end of Queen Street, Grange Villa, adjacent to public playing fields. The style, design and character of the property is typical of other terraced properties found in and around the village of Grange Villa, although the footprint is quite unique in that it resembles a trapezium shape.

### Relevant Planning History

Other than the application stated above, the only previous planning history on this site is 07/00376/COU - Erection of two storey extension to side and rear elevations, and enclosure/ change of use of land adjacent to side elevation from open amenity space to domestic garden - Application withdrawn

### Consultation Responses

The planning application was advertised through direct notification to local householders and by the display of a site notice. As a result of this exercise to date, three letters and a 121 named petition have been received in support of Mr Robson's application to allow the conditions to be removed; with the fence to remain as existing and the set back requirement for the fence to be removed, for the following reasons:

- It is an improvement to the streetscene even more so when the proposed planting is added.
- It greatly reduces the amount of balls coming from the football pitch.
- It removes an unsightly piece of land especially with the addition of the proposed hedging.

Three letters of objection have also been received with the following concerns raised:

- The proposal has a detrimental impact on the character of the surrounding area and would have a negative impact on the visual amenity of the streetscene
- The fence causes an obstruction to other residents using the footpath - the proposed planting would cause a further obstruction as it would overhang the footpath with the fence being so close to the footpath.
- The materials, size and scale of the fence are out of keeping with other properties
- A gap should be retained to allow for through growth so that wheelchair and pushchair users are not impeded and people do not have to walk on the road especially from the north footpath into 100 Queen Street.
- Concern that the sewage pipe will be damaged during construction

- This development will undo the work of the Council trying to improve the village.

The Council's Regeneration Team have advised that the proposal may affect sewers.

Durham County Council Highways have not been consulted on the application. However they raised no objections to the previous application.

The Council's Environmental Services Team have confirmed that they have no objections to the proposed landscaping scheme and that it would provide for a suitable dense screen to the existing fence.

## **Relevant Planning Policies and Considerations**

### **Regional Spatial Strategy**

The (RSS) sets out a long-term planning strategy for the spatial development of the North East Region of England. The RSS is part of the statutory Development Plan. The Regional Spatial Strategy was adopted in July 2008.

Policy 8 - Seeks to protect and enhance the environment. This in part should be achieved through promoting high quality design in all development that should be sympathetic to the surrounding area.

### **Chester-le-Street District Local Plan**

Policy HP16 states that proposals for the change of use or enclosure of public open spaces, landscaping and amenity strips of land for private residential purposes should have regard to the following: -

- The effect upon the residential amenity and character of the area and the use and location of the land in question
- The effect upon highway safety
- The design and style of the means of enclosure

In determining this application, the main issues to be considered are whether the proposed removal of the two conditions would have a negative impact on streetscene and the host property as well as the impact the removal of the conditions may have on the amenity of neighbouring residents.

### **Issue of Impact on Streetscene**

#### **Condition 4**

This condition required the installation of a revised fence style in comparison to what had been used on the development (a 1.8 metre palisade fence). The condition was imposed on the grounds that the palisade fence was considered unacceptable on design grounds

for a largely residential area. However the applicant has requested this condition be removed, the effect of which would be to allow the present palisade fence to remain. The applicant's request is largely based on the contended impact that his proposed landscaping scheme would have in softening the impact of the fence. This landscaping scheme has been approved by the Councils Arboricultural Officer. The Arboricultural Officer has confirmed that the installation of this approved scheme (comprising a mix of evergreen tall shrubs) would result in the existing fencing being largely masked.

The applicant also draws attention to the existence of other fences of a similar nature surrounding the football field to the rear of the site.

In assessing this issue it is considered, having regard to the accepted screening that the approved landscaping scheme will generate, it is considered that the current fence style would not have a negative impact on the visual amenity of the streetscene. Although the fence is not of a similar nature to other surrounding residential properties, it is in keeping with some fencing within the wider area as stated above. Accordingly it is considered that the character of the streetscene will not be harmed if the condition was to be removed. This is on the understanding that the landscaping scheme as approved was to remain in place in perpetuity. As Members will note from the recommendation below it is proposed that this be made a condition of approval.

#### Condition 6

This condition required the setting back of the fence to a position 2 metres back from the adjacent footpath. The reason for the condition was to safeguard the visual amenity of the area by preventing an unduly 'enclosed feeling' arising in the event of the palisade fence remaining in the erected position (500 mm off the footpath). The applicant has advised that if the set back was to be made, then this would infringe on the area in which the extension is proposed to be built and furthermore would remove the availability of the off-street parking space at the rear of the site.

In assessing this element of the proposal, and having regard to the softening impact the agreed landscaping scheme will have (as discussed above) it is considered that the current position of the fence will not lead such a negative impact on the visual amenity of the streetscene, or users of the footpath, as originally considered.

#### Residential Amenity

The proposed change of use of the amenity land including the erection of the fence will not give rise to any adverse impact on residential amenity. This view is formed on the grounds that the strip of land in question is not of high amenity value, and also on the ground that it will not lead to any form of overlooking into neighbouring residential property. It is considered therefore, that the style of the fence to remain and the removal of the set back would not have a negative impact on the residential amenity of the neighbouring properties.

### Other Issues Raised

Objectors have raised concerns with regards to the need to walk on the roadway due to the position of the fence. The proposal is not on highway land therefore, regardless of whether the fence is in existence or not, this arrangement would have been in place prior to the installation of the fence.

Objectors have also raised concern over the potential for through growth of the hedge causing an obstruction to the adjacent footpath. However it is the applicant's responsibility to maintain the hedge which is to be planted and has already been approved through the discharge of condition procedure relating to the landscaping scheme as discussed above. Durham County Council as Local Highway Authority also have powers to request work to be carried out to any item which could be considered an obstruction on the Highway. Accordingly if the approved hedge was to be allowed to extend onto the footpath there would be other powers available to remedy this concern.

Potential damage to a sewer pipe is not a material planning consideration. The applicant will be informed through an informative of any approval that the proposal may affect a public sewer and that Northumbrian Water should be contacted prior to the commencement of any works.

### Conclusion

Taking all relevant issues into account, it is considered that the removal of conditions 4 and 6 of the previously approved application is considered appropriate; having regard to the accepted impact the approved landscaping scheme will have in terms of protecting the visual amenity of the area.

### RECOMMENDATION

Approve

SUBJECT TO THE FOLLOWING

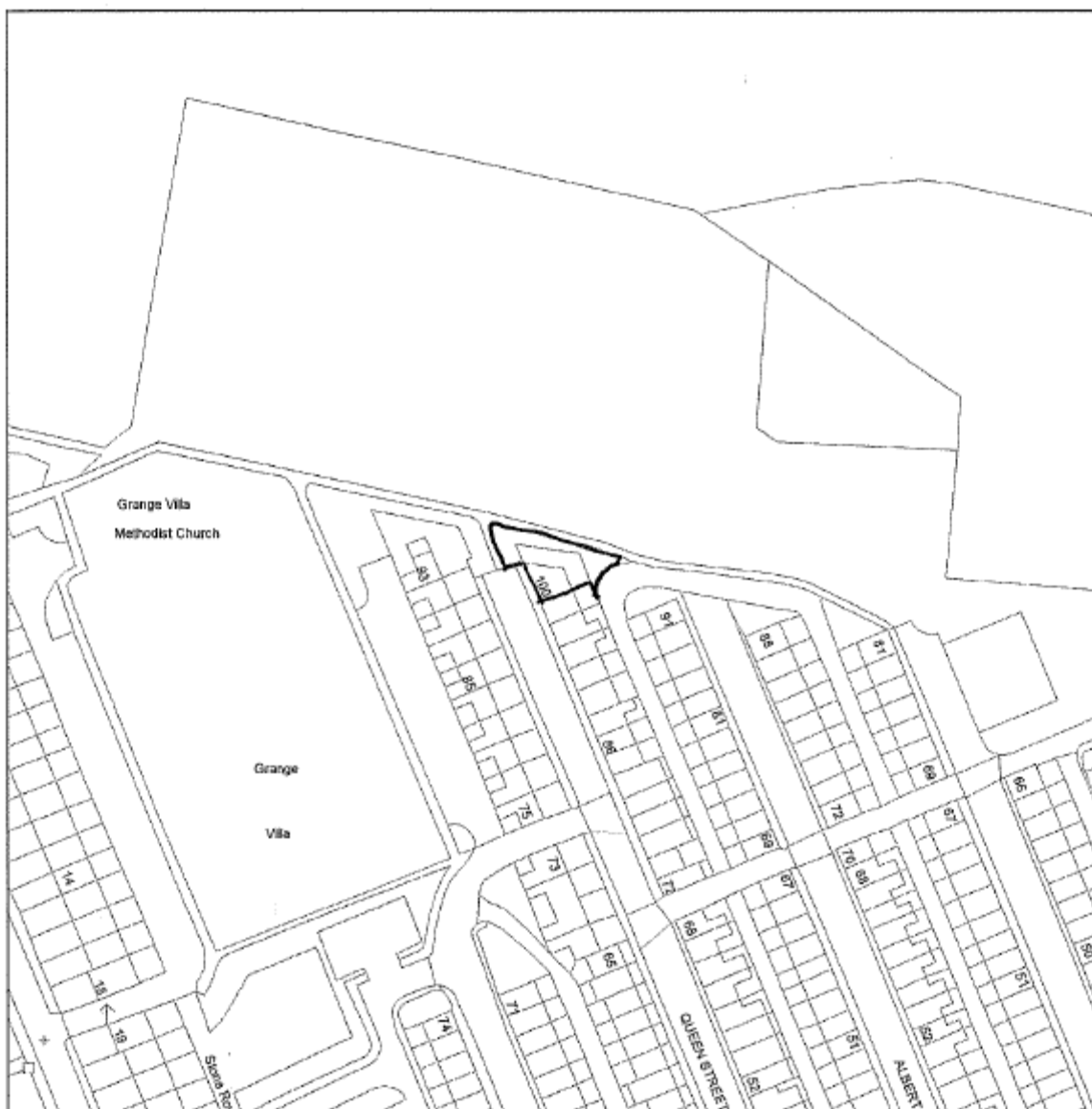
CONDITION:-

Extra 1.

That the approved landscaping scheme under planning application 08/00096/COU is implemented in full within the first available planting season and retained thereafter to the satisfaction of the Local Planning Authority, for the lifetime of the proposed. In the interests of visual amenity and to accord with policy HP 16 of the Chester-le-Street Local Plan.

# 100 Queen Street

Grange Villa



Four benefits of paper types/beneficial products and features in relation to plants, like containers in accumulation of colour of appropriate beauty. Col. containers - well known to you.

[illegible]

PLANNING DEPT.  
JAN 20 1970

READ INFORMATION WITH  
CHILD ENLARGE  
THIS INFORMATION OVER

**PROPOSED ELEVATION A**  
(1566)

PLEASE REFER TO ATTACHED  
ORDINANCE SUBMIT MAP  
FOR SITE LOCATION

**A1**  
MR E ROBSON  
100 CUPERT STREET  
GRANGE VILLA  
CHESTER-LE-STR

Serials	1-100	Owner's	NDP	Date	26MAR07
Quantity	NO. 207			Box	1 OF 1
					Rev. A

## ITEM 2

### Appeals List



## **Chester-le-Street District Council**

Civic Centre, Newcastle Road, Chester-le-Street, Co. Durham DH3 3UT

Tel: 0191 387 1919 Fax: 0191 387 1583

Directorate of Development Services

**8 January 2009**

### ***List of Planning Appeals and Current Status***

The Planning Applications listed below have been, or are currently, the subject of appeals against the decision reached by the Planning Committee. Planning Appeals are considered by a Planning Inspector from the Planning Inspectorate, a body which is independent of Chester-le-Street District Council.

#### Key to Appeal Type Code

W	-	Written Representations
I	-	Hearing
P	-	Public Inquiry

If you wish to view a copy of an Inspector's decision letter regarding any one of the appeals listed below please contact the Planning Division on 0191 387 2172 or 0191 387 2173 in order to arrange this.

Application Number / ODPM reference number	Applicant	Appeal Site	Proposal	Appeal Type / Appeal Start Date	OS Grid Reference	Status / Date of Appeal Decision
06/00563/TPO /	Building Insurers	27 Tudor Road Chester-le-Street Durham DH3 3RY	Proposed felling of birch tree protected by Wearvale Terrace Tree Preservation Order.	W /	E:427520 N:552162	Appeal Withdrawn / 17.10.2008
07/00544/FUL /	Mr & Mrs Cree	3 Kingsmere Chester-le-Street Durham DH3 4DB	Erection of single storey extension at side of dwelling and erection of detached garage in garden area at side/front (amended plans received 18 February 2008).	W / 11.06.2008	E:427309 N:553411	Appeal Dismissed / 26.09.2008
08/00089/FUL /	Mr P. Blaydon	Land at Entrance to Valley View Sacriston Durham	Erection of one detached bungalow and means of access	W / 09.07.2008	E:423797 N:546791	Appeal Dismissed / 26.11.2008
08/00245/FUL /	Mr D. Keith	Grooms Cottage Morton House Fencehouses Houghton-le-Spring DH4 6QA	Proposed increase in height of existing fence to 1.9 metres in height	W / 29.10.2008	E:431511 N:549908	Appeal In Progress /



<b>Application Number / ODPM reference number</b>	<b>Applicant</b>	<b>Appeal Site</b>	<b>Proposal</b>	<b>Appeal Type / Appeal Start Date</b>	<b>OS Grid Reference</b>	<b>Status / Date of Appeal Decision</b>
08/00370/ADV /	J. C Decaux	Chester Le Street Cricket Club Ropery Lane Chester-le-Street Durham DH3 3PF	Erection of advertisement hoarding.	W / 15.12.2008	E:427567 N:550929	Appeal In Progress /
08/00279/HH /	Mrs M. Lonsdale & Mrs J. Weightman	Picktree Manor Picktree Washington Tyne and Wear NE38 9HH	High Hedges Complaint	W / 17.12.2008	E:427955 N:553148	Appeal In Progress /

### **ITEM 3**

### **Notification of Appeal Decision**

**Appeal Ref: APP/G1305/A/08/2079692/WF**

**Description: Erection of one detached bungalow and means of access**

**Location: Land at Entrance to Valley View, Sacriston, Durham.**

**Decision: The Appeal was dismissed**

Notification has recently been received from the Planning Inspectorate of a decision reached in an appeal lodged by Mr P. Blaydon against the Council's decision to refuse planning permission for the erection of one detached bungalow at land at the entrance to the Valley View housing estate in Sacriston.

Members will note that this application was refused in April 2008 under Officer delegated powers with the following two reasons for refusal:

*"The development proposed would result in the loss of a valued green open amenity space, which enhances the character and appearance of the surrounding area and is therefore considered detrimental to the visual amenity contrary to Policies RL3 and HP9 of the Chester-le-Street Local Plan 2003".*

*"The application site is not previously developed land and as such would therefore comprise the use of greenfield land for housing development contrary to Planning Policy Statements 1, and 3 and Policy HP6 of the Chester-le-Street Local Plan".*

The key considerations for the Inspector were the impact on the development plan priorities for new housing development and the effect of the proposal on the character and appearance of the area.

In the following the inspector adequately summarises the key considerations and reasoning behind the decision:

*"I conclude that the proposed development would result in harm to the achievement of the housing objectives of the adopted development plan, and would significantly harm the character and appearance of the area by the loss of an important open amenity space and by the size, scale, mass, form, design, and appearance of the proposed dwelling".*

Accordingly, the appeal was dismissed. A copy of the appeal decision is appended to this report for Member's consideration.

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**Application Summary**

**Ward:** Sacriston

**Case Officer:** James Taylor, Senior Planning Officer

**Contact Details:** 0191 387 2146

jamestaylor@chester-le-street.gov.uk

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**Stephen Reed**

**Development and Building Control Manager**

**7 January 2009**

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# Appeal Decision

Site visit made on 18 November 2008

by **J D S Gillis BA(Hons) MRTPI**

an Inspector appointed by the Secretary of State  
for Communities and Local Government

The Planning Inspectorate  
4/11 Eagle Wing  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol BS1 6PN

☎ 0117 372 6372  
email: [enquiries@pins.gsi.gov.uk](mailto:enquiries@pins.gsi.gov.uk)

**Decision date:**  
**26 November 2008**

**Appeal Ref: APP/G1305/A/08/2079692**

**Junction of Witton Road and Valley View, Sacriston, County Durham, DH7 6NX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr P Blaydon against the decision of Chester-le-Street District Council.
- The application Ref 08/00089/FUL, dated 25 February 2008, was refused by notice dated 24 April 2008.
- The development proposed is a new detached bungalow.

## Decision

1. I dismiss the appeal.

## Main issues

2. From the representations received and my inspection of the site and surrounding area I consider that the main issues in this case are whether the proposal would result in harm to the achievement of the development plan priorities for housing development and the effect of the proposal on the character and appearance of the area.

## Reasoning

3. The appeal site comprises an area of attractive open land at the entrance to a modern housing development on the edge of Sacriston. While it is suggested that the site was at one time used in association with the construction of the adjacent housing estate it is clear that there were no permanent structures and the site is now landscaped, providing a buffer between the housing and Witton Road somewhat similar to the land to the north-east fronting the dwellings at 1 – 6 Valley View. Hence the site does not fall within the definition of previously developed land set out in Annex B of Planning Policy Statement 3, *Housing* [PPS3].
4. Saved policy HP6 of the Chester-le-Street Local Plan, adopted in 2003, states that residential development within settlement boundaries must be on previously developed land. This accords with the recently adopted North East England Regional Spatial Strategy [RSS] and national policy guidance in PPS1, *Delivering Sustainable Development*, and PPS3, which give priority to the use of previously developed land in urban areas. The evidence before me indicates that there are sufficient available sites on previously developed land to provide for the identified housing needs of the area for some years to come.

5. Accordingly the development of the site does not accord with adopted development policies or national guidance nor is it needed in order to achieve the housing targets for the area. While the proposal relates to only a single dwelling the site is large enough to accommodate more than one dwelling. I consider that even the development of one dwelling would be contrary to development plan policy and harm the achievement of the housing objectives of the plan.
6. In relation to the effect on the character and appearance of the area it has been argued that the site does not function as an open amenity area as it is in private ownership. Additionally, with the proposed development most of the site would remain free from built development, and thus any impact would be limited.
7. Planning Policy Guidance 17, *Planning for Open Space, Sport and Recreation* [PPG17] makes it clear that open space can include land in private ownership. It also indicates that an open space can be important visually even if no public access is available. Hence saved policy RL3 of the adopted Local Plan is relevant. From my inspection of the area I have no doubt that the site forms an important visual amenity open space not only for occupiers of nearby properties but as an attractive part of the setting of the settlement of Sacriston. It provides an important transition from the built area into the open countryside as well as a buffer between Witton Road and the Valley View housing.
8. While it is stated that the proposed dwelling would occupy only some 20% of the site area the associated change in use [including domestication of the land and the potential erection of associated ancillary structures] would result in a fundamental change to its character and appearance. Currently the site forms an attractive, well-maintained open space. The proposal before me would remove these characteristics to the significant detriment of the local environment.
9. It has been argued that the site is not allocated as open space in the adopted development plan and therefore has no status as such. However it is quite usual for Proposals Maps to include only sites above a specific size threshold [often 0.4 ha.]. Thus I do not consider that the lack of an open space notation on the site indicates that it is not of importance to the amenities of the area. Similarly the representation of the site as "white land" does not imply that it is appropriate for residential development, even though within the defined settlement limit. Indeed the traditional planning meaning of "white land" is land on which no change of use is expected. Therefore it could be argued that the development plan intends the site to remain in open use.
10. I do not accept that the site is vacant. It has an open amenity space use. In any event not all vacant land is suitable for development, as made clear in national policy guidance. I am not aware that the term "gash land" has a specific meaning in planning but I do not consider that the site was simply "left over" when the adjacent residential development was designed. It appears to me that the site, together with the open land to the north-east, was consciously intended to provide a landscape setting for the housing development, taking account of the changing ground levels and the proximity of Witton Road.

11. It is argued that the proposal would make effective and efficient use of land within the settlement boundary, in accordance with national policy guidance. I have already indicated that national policy does not anticipate that all land is suitable for development [even if the site was vacant and unused]. Moreover, such guidance requires that development should have regard to its surroundings and that high quality design is required from all involved in the development process.
12. It is claimed that the proposed dwelling would enhance the area and that its design draws on local distinctiveness. I consider that the size, scale, mass, form, design and appearance of the proposed dwelling would be incongruous in this location. While innovative design may not be unacceptable paragraph 34 of PPS1 makes it clear that design that is inappropriate in its context, or which fails to take the opportunities available for improving the character and quality of an area and the way in which it functions, should not be accepted. I consider that the proposed development would be contrary to such requirements and also conflict with saved policy HP9 of the adopted Local Plan.
13. I have had regard to all other matters raised but none of them is sufficient to outweigh those that have led to my decision. I conclude that the proposed development would result in harm to the achievement of the housing objectives of the adopted development plan, and would significantly harm the character and appearance of the area by the loss of an important open amenity space and by the size, scale, mass, form, design and appearance of the proposed dwelling.
14. Thus the proposal would conflict with saved policies RL3, HP6 and HP9 of the adopted Local Plan, the sequential development policies of the recently adopted RSS [and national guidance on this matter] and fail to reflect national policy guidance in relation to the importance of high quality design. Accordingly the proposal is unacceptable and the appeal is dismissed.

*JDS Gillis*

Inspector

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