



Area Planning Committee (South and West)

Date Thursday 20 February 2014
Time 2.00 pm
Venue Council Chamber, Council Offices, Spennymoor

Business

Part A

1. Apologies for Absence
2. Substitute Members
3. Declarations of Interest (if any)
4. The Minutes of the Meeting held on 23 January 2014 (Pages 1 - 6)
5. Applications to be determined
 - a) 6/2013/0295/DM - Land South of The Close, Cotherstone, Barnard Castle (Pages 7 - 20)
Erection of 12 dwellings including landscaping and site access
 - b) 6/2013/0360/DM/VP - 32 Cecil Road, Barnard Castle (Pages 21 - 28)
Removal of condition 7 of planning permission 6/2011/0162/DM to allow annexe to be occupied separately by tenant
 - c) 6/2013/0382/DM/TP - Staindrop Hall, 20 Front Street, Staindrop (Pages 29 - 34)
Fell 1 no. sycamore tree protected by TPO CCD-34-2012
 - d) 7/2013/0522/DM - Land to the rear of 17 North End, Sedgefield (Pages 35 - 48)
Erection of 1 no. dwelling
6. Update - Building Preservation Notice (Pages 49 - 50)
7. Such other business as, in the opinion of the Chairman of the meeting, is of sufficient urgency to warrant consideration.

Colette Longbottom
Head of Legal and Democratic Services

County Hall
Durham
12 February 2014

To: **The Members of the Area Planning Committee (South and West)**

Councillor M Dixon (Chairman)
Councillor J Buckham (Vice-Chairman)

Councillors D Bell, D Boyes, J Clare, K Davidson, E Huntington,
S Morrison, H Nicholson, A Patterson, G Richardson, L Taylor,
R Todd, C Wilson and S Zair

Contact: Jill Errington

Tel: 03000 269703

DURHAM COUNTY COUNCIL

At a Meeting of **Area Planning Committee (South and West)** held in Council Chamber, Crook on **Thursday 23 January 2014 at 2.00 pm**

Present:

Councillor M Dixon (Chairman)

Members of the Committee:

Councillors J Buckham (Vice-Chairman), D Bell, J Gray, E Huntington, I Jewell, S Morrison, H Nicholson, A Patterson, L Taylor, R Todd and C Wilson

Also Present:

J Byers – Planning Team Leader (South and West Area)
A Caines – Principal Planning Officer
C Cuskin – Legal Officer
D Stewart – Highways Officer

1 Apologies for Absence

Apologies for absence were received from Councillors J Clare, K Davidson, G Richardson and S Zair.

2 Substitute Members

Councillor J Gray substituting for Councillor J Clare and Councillor I Jewell substituting for Councillor K Davidson.

3 Minutes

The Minutes of the meeting held on 12 December 2013 were agreed as a correct record and were signed by the Chairman.

4 Declarations of Interest

There were no declarations of interest.

5 Applications to be determined

5a 3/2013/0304 - Lilac House, South View, Hunwick, Crook

Consideration was given to the report of the Principal Planning Officer regarding an application for the change of use from dwelling house (Use Class 3) to children's home (Use Class C2) (for copy see file of Minutes).

A Caines, Principal Planning Officer gave a detailed presentation on the application which included photographs of the site. Members had visited the site that day and were familiar with the location and setting.

In presenting the report the Officer advised that paragraphs 43 and 58 should be amended to state that the fear of crime was a material planning consideration in this case which carried less weight. Members were advised that it was for the Committee to determine how much weight to attach to the fear of crime as a material planning consideration.

Members were also advised that since the report had been circulated a further letter had been received on behalf of objectors to the application. The letter highlighted the need to give greater weight to the fear of crime and suggested that there was evidence which directly linked the proposals to increasing crime and anti-social behaviour.

Children in the 11 to 16 age group were more likely to have convictions or warnings from the judicial system. Department of Education research 'Living in Children's Homes' found that 66% of children in care had been convicted or had received a reprimand or final warning. The study also identified high incidents of children going missing all night and that this was more likely among those who had been placed further from home.

Instances of crime had increased in Cockfield since the children's home had opened in the village. The objectors asked that all these factors be taken into account by Members in their deliberations.

Councillor Gunn addressed the Committee as local Member. She lived in Hunwick but some distance from the children's home, and having sought advice was of the view that she could speak on the application but would leave during Member deliberation and voting.

She informed Members that she had referred the application to Committee because of residents' concerns about traffic and parking in that part of Hunwick. The Highways Authority had offered no objections to the proposals but residents had regularly reported a perception of cars speeding in the village and Councillors had met with Officers in the past to discuss the issues.

Speed rumble strips had been installed and a speed survey carried out had shown that over 5% of vehicles were travelling in excess of 36mph, and recorded 85th percentile vehicle speeds were above the 30mph speed limit.

She continued that as Hunwick was a small village speeds of even 4mph over the limit posed a danger. As well as serving the residents of Hunwick the B6286 was a through road. Off-street parking was problematic and cars parked on both sides of the road. The road was also used by larger vehicles such as horse boxes.

Lilac House was located near to the primary school, the Church and a blind bend, and she was concerned that additional traffic generated by the children's home

would increase the danger residents already faced on a daily basis in this part of the village.

To conclude Councillor Gunn referred to a factual error in the report in paragraph 27. The bus service which operated between Durham and Hunwick had been withdrawn some months ago, and this could cause problems for visitors to the children's home who did not have the use of a car.

Mr S Barker, Planning Consultant addressed the Committee on behalf of residents. He explained that residents had faced previous attempts to develop this site which had met with opposition from the village. The report stated that the application was deemed to be acceptable and that it would not adversely affect village life, however he believed this view to be fundamentally flawed and was not a true reflection. The Police, the local MP and Children and Adult Services had opposed the application.

Lilac House would provide a facility for children with behavioural difficulties and in reality homes such as this presented issues of crime. Eyes UK had no track record in the management of children's homes.

The home would not provide for children within County Durham and he noted that the Secretary of State had recently condemned the practice of decanting. The report had no regard for the impact on Social Services or the Police. Statistics showed that it was more likely that a child in care had already been in trouble with the Police; 66% had either been convicted or cautioned, and 50% of children were known to offend when in care.

The Council had not asked the residents of Cockfield for their views about the children's home located in their village and had been informed by a resident that the Police were often called out to address problems. He therefore suggested that consideration be given to deferring the application to seek the views of local people in Cockfield. He also believed that Planning Officers had not examined available evidence and statistics surrounding children's homes.

He reiterated that the local MP had opposed the application and stated that the Government was looking at ways to ban privately run homes.

Children's homes posed very real threats and there were valid powers to refuse the application in accordance with the NPPF. In conclusion he stated that the Government attached real importance to this issue which was demonstrated by the Department for Education research. He urged Members to refuse the application.

Nicola Allen, the Agent for the applicant addressed the Committee. She commenced by stating her intention to rebut certain submissions made which were without foundation or evidence. Parliament had not tried to ban children's care homes nor was there evidence that they broke up communities. She appealed to Members' planning judgement and expertise.

The application accorded with Local Plan Policy and policies relating to design, highways and conservation. The Highways Authority had visited the site on more than one occasion.

She acknowledged that the fear of crime had been a material planning consideration since 1997 but that the weight attached to it was a matter for the Committee's planning judgement. Fear of crime was a perception and should only carry weight if it was likely to occur. For example it was held to be a material consideration in connection with a bail hostel as it would accommodate criminals. However a fear of crime was not material when the incidents could not be attributed to the land use. She referred to case law relating to a traveller site where the judge had ruled that there was no direct link between the site and criminality. A direct link to crime had to be demonstrated.

N Allen continued by making reference to the letter from the Chief Inspector of the Architectural Liaison Partnerships Branch which stated that some children's homes had a high number of instances but that it was the individual child that was key, not the home. Key comments made by the Chief Inspector were that 'some' children would 'occasionally' make demands on the Police if only to return them when they're missing.

The Police were safeguarding vulnerable children and it would be wrong to make the link between that and crime.

To conclude she stated that Eyes UK were not venture capitalists. They were two local men who between them had 20 years experience in working in the financial charities sector and 12 years in social care.

Following a request for clarification from the Chairman and Vice-Chairman of the Committee, N Allen confirmed that children would come from within a 25 mile radius and that there was no legal definition of 'occasionally'.

Councillor Patterson asked if the children would travel to their own individual schools each day. The Member was advised that it would depend upon the child's individual needs.

At this point Councillor Gunn left the meeting.

D Stewart, Highways Officer referred to Councillor Gunn's comments about the speed survey. The results were not untypical of classified roads through small settlements in other parts of the County and the figures provided by the Assistant Area Traffic Engineer showed relatively good compliance with the speed limit.

The proposals were modest in highway terms and although vehicle movement would be larger than usual for a single dwelling it was not considered that it would lead to a severe cumulative residual impact on highway safety.

Members discussed the application at length.

Councillor Dixon, Chairman stated that the Committee needed to take into account only those comments and representations that were material planning considerations and determine what weight should be attached to the fear of crime.

He expressed concern about the sustainability of the development given that the children would travel to and from the home from a distance of up to 25 miles. In addition he considered that the proposals may have an impact on the County's schools and services which would have a detrimental effect on the local economy.

He continued that the Department for Education had drafted new Regulations to reform children's care homes which were expected to be implemented in the near future. Children's homes would be required to undertake a risk assessment to consider the sustainability of a child placement and to meet the full range of individual children's needs. Department for Education Statutory Guidance also attempted to mitigate the risk of a child running away; evidence suggested that distance from home was a key factor. On balance he felt that he could not support the application.

The Vice-Chairman, Councillor Buckham agreed with Councillor Dixon that determination of the application was about balance, based on relevant planning legislation and the information presented at the meeting.

The report stated that Lilac House would not be a home for criminals or persons with mental disorders. He was aware that many children were in care because they had been abused or neglected, and may suffer mental health problems when moved to a safe environment.

Councillor Buckham also made reference to the impact on local amenity due to increased demands on services in County Durham that were already stretched to breaking point.

He considered, on balance, that the application should be refused primarily because of the fear of crime which was a very real issue. In considering the significance of the fear of crime he looked to the submissions of the Police who had objected to the application.

At this point Councillor Patterson raised a number of matters. She appreciated that there were concerns expressed about the application which were not material planning considerations. The report stated that the proposals were in accordance with the Wear Valley Local Plan, however this document had been written a number of years ago and she understood that more weight should be given to the emerging County Durham Plan. She also concurred with the Chairman's comments about the economic impact and sustainability of the proposals.

Councillor Patterson expressed concern about the potential impact on residents caused by traffic at shift changeovers, travel to schools and by visitors. The Highways Officer advised that this had been considered and the respective highway consultants had each concluded that the likely maximum number of vehicles parked at any one time was five. The Highways Authority had visited the sites of some comparable children's homes but had not observed parking problems attributable to the operation of the premises. On the basis of this the proposed parking provision was deemed to be adequate.

The Member continued that there were high statistics of children going missing from homes during the night and this could result in noise disturbance in the surrounding area. The Member also observed that a key material planning consideration was the fear of crime and sought more information about the concerns raised by the Police in this regard.

The Principal Planning Officer responded that the Police considered that in view of the number of objections and representations received there was a high strength of feeling which increased the fear of crime and could affect community cohesion. The Police did not refer to a link between care homes and an increase in crime.

With regard to comments made by Members about sustainability and the impact on local services the Principal Planning Officer reminded the Committee that the application should be determined in terms of the sustainability of the site, in accordance with provisions in the NPPF. The Committee, in considering the impact on services, should also take into account the scale of the development which was a home for only four children, and that there was no evidence to support that existing services in County Durham were at breaking point.

Following lengthy discussion it was **Resolved:**

That the application be refused for the following reason:-

The proposed use would be an unsustainable form of development contrary to the locational aims of the NPPF that by its nature is likely to give rise to an increased fear of crime that would undermine the quality of life and community cohesion in the local area contrary to paragraphs 58 and 69 of the NPPF.

6 Proposed Changes to Constitution - Code of Practice for Members and Officers Dealing with Planning Matters

Consideration was given to the report of the Head of Legal and Democratic Services regarding proposed changes to paragraphs 1.6, 3.2, 10 and 11 of the current Code of Practice to reflect updated guidance published by the Local Government Association relating to probity in planning (for copy see file of Minutes).

Resolved:

That the proposed changes to the Code of Practice for Members and Officers Dealing with Planning Matters be noted.

Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	6/2013/0295/DM
FULL APPLICATION DESCRIPTION:	Erection of 12 dwellings including landscaping and site access
NAME OF APPLICANT:	Partner Construction Limited
ADDRESS:	Land South of The Close, Cotherstone, Barnard Castle, County Durham
ELECTORAL DIVISION:	Barnard Castle West
CASE OFFICER:	Paul Martinson Planning Officer 03000 260823 paul.martinson@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The site

1. The application site is part of an agricultural field which lies at the southern entrance into Cotherstone, immediately outside of the settlement boundary and within the designated Conservation Area and Area of High Landscape Value.
2. It is bounded to the west by the B6277 highway. To the east is a larger area of the field the site lies within. To the north is an adjoining estate of bungalows known as The Close. To the south is a narrow area of woodland bounding the elevated Tees Railway Path (TRP) which provides pedestrian access from the south of Cotherstone to Middleton in Teesdale.

The proposal

3. Permission is sought for the erection of 12 no. dwellings comprising 8 semi detached bungalows and four two storey semi detached dwellings with vehicular access taken directly from the B6277. The properties are proposed to be finished in a cream coloured render with natural stone quoins provided to plots 1-4 at the front of the site.
4. All 12 dwellings would be partly funded by the HCA and eventually managed by a Housing Association for affordable rent.
5. The application is brought to Committee under the Scheme of Delegation because it is classed a major development by reason of the number of dwellings proposed.

PLANNING HISTORY

6. The site has no previous planning history.

PLANNING POLICY

NATIONAL POLICY:

7. On March 27th 2012 the Government published the National Planning Policy Framework (NPPF). This supersedes all previous PPS and PPG documents. The NPPF does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused, unless other material considerations indicate otherwise.
8. The NPPF encourages delivery of housing to meet the needs of present and future generations. In rural areas the LPA should be responsive to local circumstances and plan housing to reflect local needs, particularly for affordable housing including through rural exception sites where appropriate. Rural exception sites are defined as "small sites used for affordable housing in perpetuity where sites would not normally be used for housing.

LOCAL PLAN POLICY:

9. The following saved policies of the Teesdale Local Plan are considered to be consistent with the NPPF and therefore relevant in the determination of this application:
10. *Policy GD1 (General Development Criteria):*
All new development and redevelopment within the District should be designed and built to a high standard and should contribute to the quality and built environment of the surrounding area.
11. *Policy BENV4 (Development within or adjacent to Conservation Areas)*
Development within and/or adjoining conservation areas will only be permitted where the proposed location, design layout, materials and scale respects the quality of the area; Proposals which would adversely affect the setting of a conservation area or the views into or out of the area will not be permitted.
12. *Policy ENV1 (Protection of the Countryside):*
Within the countryside development will be permitted for the purposes of agriculture, rural diversification projects, forestry, nature conservation, tourism, recreation, local infrastructure needs and an existing countryside use where there is a need on the particular site involved and where a proposal conforms with other policies of the plan. To be acceptable proposals will need to show that they do not unreasonably harm the landscape and wildlife resources of the area.
13. *Policy ENV3 (Development Within or Adjacent to Areas of High Landscape Value:*
Development will be permitted where it does not detract from the area's special character, and pays particular attention to the landscape qualities of the area in siting and design of buildings and the context of any landscaping proposals such development proposals should accord with policy GD1.

14. *Policy ENV8 (Protecting Animal and Plant Species Protected By Law):*
Development which would significantly harm any animal or plant species afforded special protection by law, or its habitat, either directly or indirectly, will not be permitted unless mitigating action is achievable through the use of planning conditions and, where appropriate, planning obligations, and the overall effect will not be detrimental to the species and the overall biodiversity of the district.
15. *Policy H1A (Open Spaces Within Developments):*
In new residential development of 10 or more dwellings, open space will be required to be provided within or adjacent to the development.
16. *Policy H12 (Design)*
The local planning authority will encourage high standards of design in new houses and housing sites.
17. *Policy H13 (Low Cost Local Needs Housing)*
As an exception to other planning policies and proposals, and where a need can be demonstrated, the local planning authority may grant planning permission on additional sites for low cost housing for local needs which the local planning authority is satisfied cannot be accommodated in any other way. The proposals must, in all other respect, conform to normal planning and highway requirements.
18. *Policy T2 (Traffic Management and Parking)*
Car parking provision in new development will be limited to that necessary to ensure the safe and efficient operation of the site.

The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.planningportal.gov.uk/england/government/en/1020432881271.html> for national policies; <http://www.durham.gov.uk/Pages/Service.aspx?ServiceId=8716> for the Teesdale Local Plan.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

19. *Cotherstone Parish Council* object to the proposal as it is considered that there is not sufficient demand for this proposal and there is no need of any more social housing within Cotherstone. The village has already had significant Social Housing development over the last 20 years namely Fitzhugh Court and Featherstone Rise. Filling of these properties has been difficult under the s.106 agreement and there have been issues with “local village people” being turned down. The Close, built as old people’s bungalows currently does not have any residents from within the parish. The current proposal can only exacerbate this issue as there is only a 14 day application period for parish residents before being thrown open to Wear Valley and the whole of County Durham. The proposal is not sustainable as it does not provide for local young families and moves the village more towards a retirement village which would have a detrimental impact on local services such as the primary school. The proposed artificial stone and slate are not appropriate for Cotherstone Conservation Area.
20. *The Highway Authority* has no objections subject to a footway linking the application site with the existing pavement adjacent to the bus stop and a planning

condition requiring full engineering details of the construction of the proposed footway.

21. *The Environment Agency* has no objections.
22. *Northumbrian Water* has no issues to raise with the development, providing it is carried out in accordance with the Drainage Strategy submitted as part of the application. The Strategy demonstrates that surface water would discharge directly into the nearby watercourse.

INTERNAL CONSULTEE RESPONSES:

23. *Planning Policy* has no objection noting that the Housing Needs Survey submitted with the application is robust and demonstrates the need for affordable housing within the Lower Teesdale market area, and the proposed property types to be developed fit broadly with the identified housing need.
24. *Design/Conservation* raised concerns with a number of design details and materials in the original submission noting that artificial stone, deep white UPVC fascias and barge boards would not be appropriate in the Conservation Area and the width of footways to either side of the site entrance should be reduced to 1.2m in width. The plans have undergone numerous amendments since, taking on board some of these comments. A number of conditions are suggested relating to external materials, window details, and details of any sheds or bin stores be agreed.
25. *Public Rights of Way* suggest that the developer provide a sealed surface footway from the development entrance to the start of the TRP to the South and a sealed ramp to allow a more convenient, all weather access for users of all abilities. It is also recommend that a number of seats are provided for users of the path to be able to stop, rest and admire the views.
26. *Ecology* has no objection and is satisfied that the likely risk of impact on bats by the proposals has been suitably assessed. It is recommended that the Mitigation and Recommendations detailed in the Ecology Report be conditioned.
27. *Landscape* still has concerns about the landscaping scheme and longevity of hedgerows. It is recommended that a detailed planting plan be provided for the ornamental shrub and herbaceous planting, showing exact plant numbers and locations, and giving plant and planting specifications.
28. *Arboricultural Officer* has no objections to the loss of the poor quality roadside trees.
29. *Sustainability* notes that the site is not the most sustainable location because of distance away from local services and facilities, but it does have good public transport links to Barnard Castle and the development would improve upon 2010 building regulations by 13.8%.
30. *Housing Development & Delivery Manager* is encouraged by the proposal which will go some way in meeting the affordable housing need identified within the Strategic Housing Market Assessment (SHMA).

PUBLIC RESPONSES:

31. The application was advertised by site notice, press notice and letters were sent to neighbouring properties. 7 letters of representation were received, the content of which is summarised below:
- a) The proposed dwellings are of a poor character out of keeping with Cotherstone Conservation Area.
 - b) Cotherstone has one general store and a post office which could disappear at any time and the bus service is limited. There is also no employment in the village and therefore anyone would have to travel in a private car which would be unsustainable and consequently the village is unsuitable for this development.
 - c) 12 houses would lead to 24 cars which would lead to more noise and more pollution.
 - d) The site is located adjacent to a dangerous bend in the road which could lead to accidents in the future.
 - e) The proposal would introduce an alien population into the village.
 - f) Request that the lay by adjacent to the Close is kept free of construction traffic and left open for visitors and carers to the retirement properties.

The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at Spennymoor Council Offices.

APPLICANTS STATEMENT:

23. The proposed development of 12 affordable homes is the result of several months' hard work between planning officers and the applicant to achieve a scheme which respects the characteristics of the Conservation Area and addresses the demonstrable and identified need through a local needs survey, which is reported in the submitted Housing Needs Survey. The survey was completed by the same company (acr4) responsible for the Council's Strategic Housing Market Assessment and they have a sound understanding of the housing requirements across the County. The report identifies a requirement for some 30no. additional affordable dwellings in the area over the next 5 years, which will be met to a large extent by the proposed development and will be subject to a local occupancy restriction.
24. The delivery of local needs affordable housing is a significant and material social benefit of the scheme to be balanced against other policy requirements. There are also a series of other significant economic and environmental benefits of the scheme. These are summarised as follows:
- A New Homes Bonus in the order of £16,000 in a single year, increasing to almost £185,000 over 6 years (also including council tax contributions);
 - A financial contribution of £6,000 towards off-site open space improvements in Cotherstone;
 - Job creation through the construction period;
 - Extension of the existing footpath to the former railway path;
 - Delivery of 8no. bungalows which are in limited supply;
 - Retention of a number of significant trees around the site;

- Introduction of dry stone walling on the site frontage, enhancing the Conservation Area;
 - Over 13% reduction in energy requirements for each dwelling over the requirements of Code for Sustainable Homes Level 3; and
 - Delivery of all properties to Level 3 of the CfSH.
25. In summary, it has been demonstrated through the planning process that there is a significant unmet need for additional affordable housing in this area of the County, and that this scheme is an entirely appropriate means of addressing some of that need. It has been demonstrated that the proposed development is consistent with the requirements of the NPPF and the relevant saved policies of the Local Plan, and is therefore 'sustainable development' in the context of the NPPF. In accordance with paragraph 15 of the NPPF it is appropriate to approve planning permission in accordance with the submitted details.

PLANNING CONSIDERATIONS AND ASSESSMENT

25. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance relate to the principle of the development, the impact on the character and appearance of the Conservation Area and Area of Landscape Value, residential amenity, highway safety and impact on protected species.

Principle of the development

26. Cotherstone is classed as a Tier 4 settlement in the Council's Settlement Study with a limited range of local services. There are however decent bus links to Barnard Castle and therefore there is scope for some small scale development within the village. The proposal for 12 dwellings would be commensurate with the scale of the village and its role in the settlement hierarchy, however, the application site lies outside, although immediately adjacent to, the current village development limits and is therefore contrary to Teesdale Local Plan Policy ENV1. All 12 dwellings would however be available for affordable rent and managed by a housing association. The application site can therefore be treated as a rural exception site as defined by the NPPF and the provision of affordable housing can be given significant weight in the determination of the application.
27. As an exception site, it is still necessary to demonstrate that there is a local need for the housing to be provided in accordance with policy H13 of the Teesdale Local Plan and the NPPF and the Parish Council objection in this respect is noted. In support of the emerging County Durham Plan, the Council commissioned the Strategic Housing Market Assessment which was published in June 2012 and updated in July 2013. This provides a general overview of the affordable housing requirements within 5 separate delivery areas of the Council based on survey data, assessing the annual need from existing and newly-forming households within County Durham and comparing this with the supply of affordable housing. The SHMA has identified a shortfall of 674 affordable dwellings over the next 5 years across the County. The Dales and South Durham Delivery Area comprising the former Wear Valley, Sedgefield and Teesdale District Areas has an identified a

shortfall of 210 affordable dwellings for older people in the 5 year period leading up to 2018.

28. Although the SHMA is useful as a general guide, it covers a very wide area comprising 3 former districts. The applicant has therefore submitted an updated Housing Needs Assessment in February 2013 which included data based on a household survey to all 962 occupied households in Cotherstone and the Lower Teesdale Parishes (Eggleston, Hunderthwaite, Lartington, Mickleton and Romalldkirk). A total of 143 responses were received and identified a need for 23 1-2 bedroom non age specific dwellings and 7 older person dwellings within the Cotherstone and the Lower Teesdale Parishes. Given the survey results and taking into account the data from the SHMA it is considered that the applicant has robustly demonstrated that there is a need for affordable housing within the Lower Teesdale market area and that the proposed property types and scale of development would fit sufficiently with the identified housing need.
29. Another point of concern raised by the Parish Council and objectors relates to the availability of the homes to local residents. Negotiations taking place with relation to the S106 legal agreement have sought to restrict qualifying occupants to those who have lived in the wider local area. This would be a reasonable approach to ensure that the affordable provision serves a local need.
30. It should also be noted that Policy H1A of the Teesdale Local Plan requires any applications for 10 or more dwellings to provide public open space in accordance with minimum standards included as part of the policy. As this proposal does not include any public open space the applicant has agreed to contribute to the maintenance of existing off-site facilities within Cotherstone based on the figures within the Durham OSNA and this will be secured through the S106 agreement.
31. It is therefore considered that the proposal would represent a rural exception site and as such, the development of a greenfield site outside of the settlement boundary to deliver affordable housing and off site contributions towards local open space provision/maintenance would accord with policies H1A and H13 of the Teesdale Local Plan, and the principles and aims of the NPPF.

Impact on the character and appearance of the Conservation Area and Area of Landscape Value

32. The entire site falls within the Cotherstone Conservation Area and therefore regard has to be paid to section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires the local planning authority to pay special attention to the desirability of preserving or enhancing the character or appearance of the Cotherstone Conservation Area. It also falls in the Area of Landscape Value.
33. The site lies at the southern entrance to the village and as an agricultural field it makes some contribution to the rural setting of the village and Area of Landscape Value. This is however limited to some extent by the unmanaged hedgerow along the roadside, which largely obscures views into the site from the road (B6277).
34. The proposal involves removal of the roadside hedgerow, which would open the site and development to view. Development of the site in principle would impact on

the Area of Landscape Value, but when balanced against the benefits of affordable housing, this impact is justified subject to a suitable standard of development being achieved that is also appropriate to the conservation area.

35. The application has been subject to several amendments in respect of the design of the dwellings, use of materials and treatment of enclosures, particularly along the site frontage to provide an appropriate standard of development within the conservation area. Originally the dwellings were to be constructed in artificial stone; however that has since been amended to a render finish with natural stone quoin detailing to plots 1–4. It would have been more preferable to see use of natural stone throughout the development, but this has been constrained by viability and there are other rendered properties in the area, most notably the adjacent development at The Close. The significant weight that the affordable housing carries in addressing local need, also justifies some concession in this respect. Porch detailing on the bungalows has been amended and barge boards have been removed. Particular attention has been given to the enclosures and treatment at the site entrance where officers have negotiated provision of a dry stone wall, landscaping and reduction of the width of the footway. As a result of these amendments, it is considered that the proposal would now represent a more appropriate form of development within the conservation area and Area of Landscape Value.
36. There are still concerns with the window design in the bungalows, which could be improved to a more rural style with vertical proportions, but this could be addressed by a suitably worded condition to require further window details to be approved. There are also outstanding concerns with details of landscaping within the site, but these could also be addressed by a condition requiring agreement of specific planting locations and species. Subject to these conditions, it is considered that the proposal would not have a detrimental impact on the surrounding area and having regard to section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, it is considered that the proposal would preserve the character and appearance of the Cotherstone Conservation Area.
37. The proposal would therefore comply with policies GD1, H12, H13, BENV4 and ENV3 of the Teesdale Local Plan, as well as the relevant provisions within the NPPF.

Residential amenity

38. The application site is located immediately to the south of the rear gardens of the bungalows on the Close. The proposed dwellings would all be bungalows along that boundary, with rear gardens enclosed by a 1.8m high close boarded timber fence. The proposed dwellings would be sited approximately 12m from the closest dwelling on the Close, but given the proposed boundary treatment and the single storey nature of the properties, it is considered that existing levels of privacy would be maintained and the proposal would not result in any loss of privacy or overbearing impact on the neighbouring properties. There are no other neighbouring properties that adjoin the application site. Concerns have been expressed in the objections about potential noise disturbance and pollution from the amount of development and associated cars, however, although the site lies outside the development limits, it is still part of the village setting and located on the main road through the village where the scale of development proposed and

associated vehicle movements is unlikely to result in unacceptable levels of pollution or noise disturbance to the neighbouring properties at The Close.

39. It is therefore considered that the proposal would not harm the residential amenity of neighbouring properties and would comply with policies GD1 and H12 of the Teesdale Local Plan.

Highway and access issues

40. The development would be served by a new vehicular access off the B6277 and each semi-detached property would have its own off street parking space with a shared space between. A new pedestrian footway would link the site to the footway to the north and public footpath to the south.
41. Objections have expressed concerns about the safety of the access, however, The Highway Authority are satisfied with its location and visibility given the application site falls within the 30mph speed restriction on the edge of Cotherstone. The number of proposed parking spaces has also been amended in line with suggestions by the Highway Authority who has since raised no objections to the proposal subject to conditions.
42. The Council's Public Rights of Way Section have requested additional improvements to the entrance at the start of the public footpath to the south, including provision of a sealed ramp and public seating. The proposal includes a new footway link to the start of the public footpath, but it would be unreasonable to expect any further improvements given the small scale of the development, contributions towards open space and the overall viability of the scheme.
43. Concerns raised in the objections about keeping the lay by adjacent to the Close free of construction traffic is beyond the scope of control in this application.
44. The proposal would therefore comply with policies GD1 and T2 of the Teesdale Local Plan.

Protected species

45. The application was supported by an extended phase 1 survey which identified that Great Crested Newts were present at a pond close to, but not within, the application site. Great Crested Newts are a protected species. The phase 1 survey has therefore proposed mitigation measures in order to prevent against any harm to the protected species during and following construction, as well as habitat improvement to offset the loss of any habitat from the development including the provision of a new pond and provision of a buffer zone between the development and the neighbouring Local Wildlife Site. A tree located on the edge of the site that is proposed to be retained was initially considered to have a moderate risk of supporting roosting bats, also a protected species, however following a climbing survey it was concluded that there were no features of roost of potential. The existing application site itself is considered to be of low ecological value.

46. The Council's ecologist is satisfied that subject to the mitigation and habitat improvement proposed in the ecology report, the proposal would not be detrimental to any protected species or other ecology. A Natural England license will therefore not be required and the local planning authority can discharge its duty under the Habitats Regulations.
47. The proposal would therefore comply with policies GD1 and ENV8 of the Teesdale Local Plan and the provisions within the NPPF.

CONCLUSION

47. The proposal would provide 12 affordable dwellings on a suitable site on the edge of the village that would address an identified need within Cotherstone and the surrounding parishes. It would also secure a contribution to off site provision/maintenance of open space in the locality. These factors carry significant weight in the determination of the application.
48. Following a number of amendments it is considered that an appropriate scheme would be delivered that would preserve the character of the conservation area and without having a harmful impact on the residential amenity of neighbouring properties, highway safety or protected species.
49. Subject to the suggested conditions, the proposal is considered to be in accordance with Teesdale Local Plan Policies GD1, ENV3, ENV8, H1A, BENV4, H12, H13 and T2.

RECOMMENDATION

That the application be **APPROVED** subject to the completion of a Section 106 Legal Agreement to ensure the dwellings remain affordable in perpetuity, and to secure a financial contribution of £6,000 towards the provision/maintenance of open space in the locality; in addition to the following conditions and reasons.

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby approved shall be carried out in strict accordance with the following approved plans:-

Plan Reference Number	Date received
Site Location Plan	11/11/2013
300:01 Rev. 12	07/02/2014
300:02 Rev. 10	07/02/2014
300:03 Rev. 07	07/02/2014
R1498-1C	07/02/2014

Reason: To define the permission and ensure that a satisfactory form of development is obtained.

3. Prior to the commencement of the development, details of the proposed materials and colour finish of the proposed canopy porches shall be submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details.

Reason: In the interests of appearance of the development and the impact on the character and appearance of the Conservation Area. In accordance with policies GD1, H12, H13 and BENV4 of the Teesdale Local Plan.

4. Notwithstanding the details submitted with the application, prior to the commencement of the development full details including plans at a scale of 1:20 and details of the colour finish and design of the proposed windows shall be submitted to and approved in writing by the Local planning authority. The windows shall be installed and thereafter retained in accordance with the approved details.

Reason: In the interests of appearance of the development and the impact on the character and appearance of the Conservation Area. In accordance with policies GD1, H12, H13 and BENV4 of the Teesdale Local Plan.

5. No development shall take place until full details of hard and soft landscape works and garden structures have been submitted to and approved in writing by the local planning authority. These details shall include proposed hard surfacing materials, details of proposed sheds, details of proposed bin stores, a detailed planting plan for the ornamental shrub and herbaceous planting showing exact plant numbers and locations and giving plant and planting specifications, and, details of the treatment of the boundary hedge to the north of the site. The development shall be carried out in accordance with the approved details.

Reason: To achieve a satisfactory form of development and in the interests of the impact on the character and appearance of the Conservation Area and the Area of High Landscape Value. In accordance with policies GD1, H12, H13, ENV3 and BENV4 of the Teesdale Local Plan.

6. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting season following the occupation of each individual plot to which they relate, or the completion of the development, whichever is the sooner, and any trees or plants which within a period of 5 years from the completion of the individual plot to which they , or the completion of the development die, are removed, are severely damaged or become seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority agrees in writing to any variation.

Reason: To ensure the implementation and retention of the approved landscape scheme in the interests of visual amenity. In accordance with policies GD1, H12, H13, ENV3 and BENV4 of the Teesdale Local Plan.

7. All rainwater goods shall be coloured black.

In the interests of the impact on the character and appearance of the Conservation Area. In accordance with policies GD1, BENV4 and H12 of the Teesdale Local Plan.

8. No development shall take place unless in accordance with the mitigation detailed within the protected species report `Extended Phase 1 Survey and CSH Assessment at Mount pleasant, Cotherstone Report No. 3` prepared by E3 Ecology Ltd. and received on 09/01/2014 including but not restricted to:
- Sensitive timing of works to avoid any impacts on breeding birds;
 - Use of the detailed Newt Mitigation Strategy appended to the ecological report; and
 - Inclusion of buffer zone/habitat area to include wildflower grassland and pond with scattered scrub as detailed in the report and appended GCN Impacts and Mitigation Plan.

To conserve protected species and their habitat in accordance with policy ENV8 of the Teesdale Local Plan and the NPPF.

10. Prior to the commencement of development full engineering details shall be submitted for approval of the B6277 footway and lay by extension works shown on the approved plan. The approved works shall be implemented and made available for use prior to occupation of any dwelling.

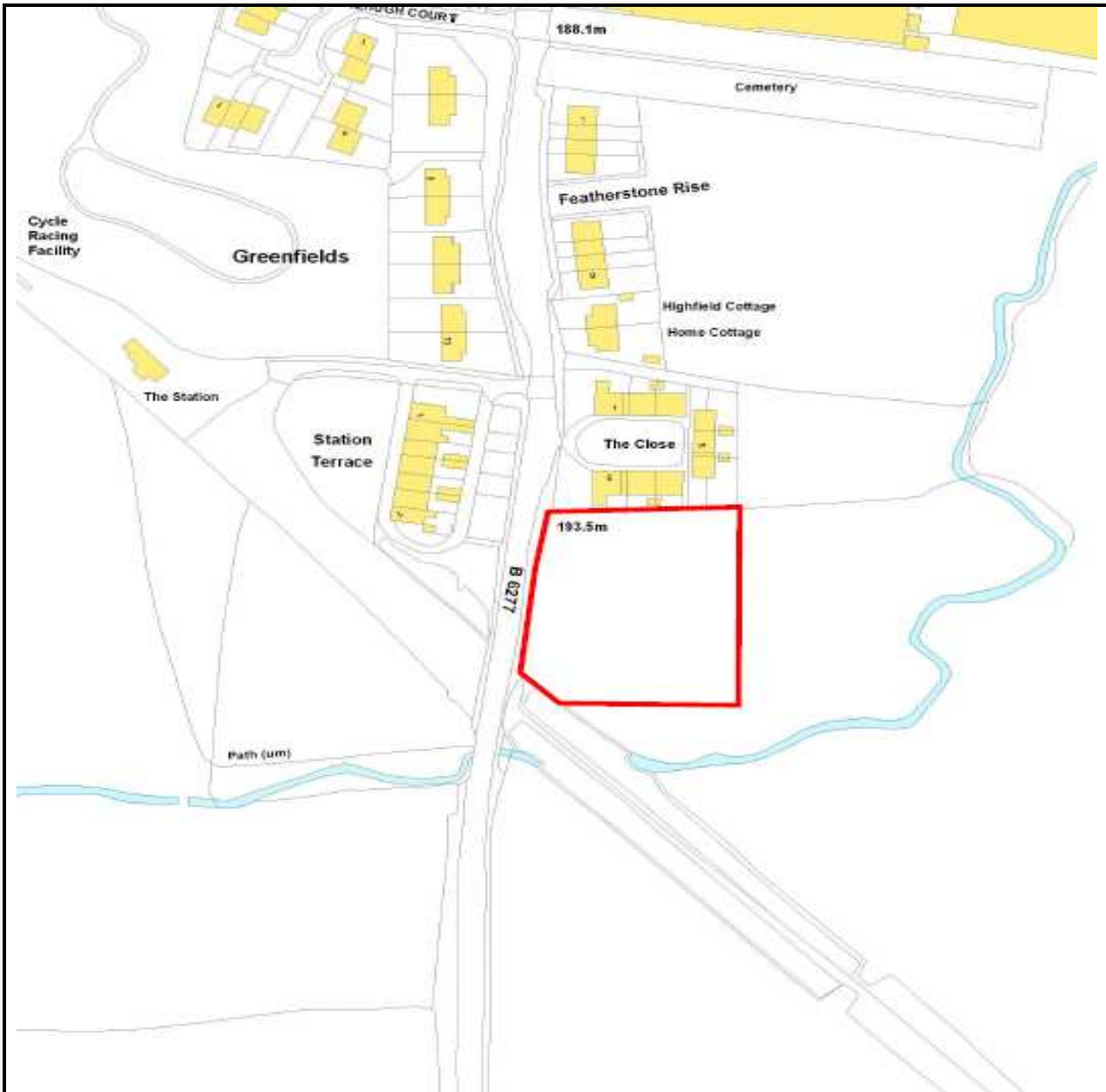
In the interests of highway safety. In accordance with policies GD1 and T2 of the Teesdale Local Plan.

STATEMENT OF PROACTIVE ENGAGEMENT

50. In arriving at the recommendation to approve the application the Local Planning Authority has assessed the proposal against the NPPF and the Development Plan in the most efficient way to ensure a positive outcome through appropriate and proportionate engagement with the applicant and carefully weighing up the representations received.

BACKGROUND PAPERS

Submitted Application Forms, Plans and Statements
National Planning Policy Framework
Teesdale Local Plan
Consultee comments and public consultation responses



Planning Services

Land South of The Close, Cotherstone,
Barnard Castle, County Durham

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Comments

Date 07/02/2014

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Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	6/2013/0360/DM/VP
FULL APPLICATION DESCRIPTION:	Removal of condition 7 of planning permission 6/2011/0162/DM to allow annexe to be occupied separately by tenant
NAME OF APPLICANT:	Mr Richard Mulley
ADDRESS:	32 Cecil Road, Barnard Castle, County Durham, DL12 8AN
ELECTORAL DIVISION:	Barnard Castle West
CASE OFFICER:	Paul Martinson Planning Officer 03000 260823 paul.martinson@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The site

1. The application site is a semi-detached dwelling with a single storey annexe extension to the side that was approved in 2011 under permission 6/2011/0162/DM. The property is located within a street of similar dwellings in a residential area of Barnard Castle. The boundary with the highway is defined by a stone wall, whilst the garden and a large gravelled parking area to the rear of the dwelling is predominantly enclosed by a timber fence of varying heights.
2. The annexe consists of 2 bedrooms, a kitchen and living area.

The proposal

3. The application seeks to remove condition 7 of planning permission 6/2011/0162/DM, which currently restricts occupation of the annex to persons within the existing household and prevents it from being sold as a separate dwelling. The condition currently reads:

The annexe hereby approved shall at all times remain and be used solely for purposes ancillary to and in connection with the main dwelling, 32 Cecil Road, and shall only be occupied by persons in that household. The development shall not be occupied as a separate dwelling.

4. The applicant states that the reason for applying to vary the condition is that there is no longer any need for the additional space. Furthermore it is said that the Council are charging full Council Tax on the annex and therefore they need to let the property to a tenant in order to provide an extra income to cover the additional Council Tax payments.

5. The application has been called to Committee by the Barnard Castle Town Council because of concerns about the impact on the character of the area if the property became a separate dwelling.

PLANNING HISTORY

6. There have been a number of planning applications and appeals relating to the annex.
7. The first of these was in February 2009 (6/2008/0458/DM) when an application for the erection of a new dwelling on land to the side of 32 Cecil Road was refused on the grounds of the impact on the character of the area and the impact on amenity of the occupiers of 32 Cecil Road. An Appeal against the refusal was dismissed in May 2009 (APP/X1355/A/09/2098474).
8. In September 2010 an application (6/2010/0135/DM) for the erection of a two storey annexe extension to the side was refused on the grounds of the impact on the character and appearance of the area and highway safety. An Appeal against the refusal was dismissed in March 2011 (APP/X1355/A/10/2139203). Importantly, although the Inspector dismissed the appeal because of the impact on the character of the area, he noted the LPA's concerns that the proposed annexe would be tantamount to new dwelling could be overcome by imposing an occupancy condition securing the annexe as one unit of accommodation. It was also noted that the highway issues could be overcome by the suggested conditions.
9. The current single storey annex was granted permission in July 2011 subject to condition 7 limiting the occupation of the annexe to a member of the household of 32 Cecil Road and preventing it from being occupied separately.

PLANNING POLICY

NATIONAL POLICY:

10. On March 27th 2012 the Government published the National Planning Policy Framework (NPPF). The framework establishes a presumption in favour of sustainable development. However, the NPPF does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused, unless other material considerations indicate otherwise.

LOCAL PLAN POLICY:

11. The following saved policies of the Teesdale District Local Plan are considered to be consistent with the NPPF and can therefore be given weight in the determination of this application:

12. *Policy GD1 (General Development Criteria)*: All new development and redevelopment within the District should be designed and built to a high standard and should contribute to the quality and built environment of the surrounding area.

The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.planningportal.gov.uk/england/government/en/1020432881271.html> for national policies; <http://www.durham.gov.uk/Pages/Service.aspx?ServiceId=8716> for the Teesdale Local Plan.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

13. *The Highway Authority* has no objection noting that there is space in the parking area to the rear to independently accommodate three cars. It appears slightly larger than that approved in 2011. Accordingly, and provided the future availability of such space were assured in planning terms, it would be difficult to sustain a highways refusal.

PARISH COUNCIL RESPONSES:

14. *Barnard Castle Town Council* has objected to the proposal because it is considered that the variation is not in keeping with the character and appearance of the area in that it is transforming a semi-detached house into a terraced house, which contravenes policies GD1 and H11 of the Teesdale Local Plan 2002.

PUBLIC RESPONSES:

15. The occupiers of the neighbouring properties were notified in writing of the application. 2 letters of objection have been received. Concerns have been raised about loss of privacy to neighbouring properties; the impact on the character of the area from turning a pair of semi detached properties into a terrace of 3; setting a precedent; as well as suggesting there are Council Tax exemptions for an unoccupied annex.

The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at Spennymoor Council Offices.

APPLICANTS STATEMENT:

16. This annex was originally built for a family member but due to their health condition, this person has now gone into care. There is not another family member who could use the annex.
17. The council are charging full council tax on this annex as if it was a separate property.
18. We do not require the additional space as part of the existing property.

19. Due to the change in circumstances and due to the council charging full council tax on this annexe we have made this planning application to allow the annexe to be occupied separately by a tenant. There is adequate car parking for this to be used separately and there are no objections from the authority's highway engineer.
20. As this application comes to the planning committee with a recommendation for approval, we hope the planning committee can support this application.

PLANNING CONSIDERATIONS AND ASSESSMENT

21. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance relate to the impact on the character and appearance of the area and impact on residential amenity of neighbours.

Impact on the character and appearance of the area

22. The proposal seeks complete removal of condition 7 to allow the annex to be rented out to a tenant unconnected with the household at 32 Cecil Road.
23. During the course of the previous applications and subsequent Appeal decisions it has been demonstrated that the application site is not suitable for a separate dwelling as separation of curtilage and parking would not be in keeping with the character and appearance of the area. When permission was eventually granted for the single storey annex extension in 2011 it was specifically conditioned to prevent its occupation and sale as a separate unit of accommodation so that it would appear as an extension to the dwelling rather than a separate residential unit.
24. These considerations remain just as relevant now and therefore complete removal of the condition is considered to be unacceptable as its removal would be likely to lead to subsequent subdivision of the curtilage causing the unit to appear out of character with the surrounding area and in conflict with Teesdale Local Plan Policy GD1. The reasons for the applicant wanting to remove the condition are largely personal and therefore carry little weight to justify full removal of the condition. It is also noted that the property is up for sale and future occupants with a larger household may desire the additional space.
25. Consideration should however be given to whether the accommodation could be used in such a way that would not lead to its physical separation from no.32, while still allowing the flexibility of use desired by the applicant, as it is the physical impact rather than the principle of residential use in this location that is the concern.
26. Accordingly, it is considered that the applicant's desire to rent out the accommodation could still be achieved by a variation to the wording of the condition in a way which removes the requirement for occupants of the annex to

be from the same household, but still prevents the annexe from being separated and sold as a separate dwelling.

27. The effect of this in use terms would be little different to renting accommodation in the house to a lodger and physically, the annex would still appear as an extension to the dwelling. The highway Authority has confirmed that there is sufficient space to accommodate three vehicles on the parking area to the rear of the property and subject to ensuring the curtilage and parking area could not be separated from the main dwelling and that parking for the annex takes place within the existing parking area to the rear, it is considered that the occupation of this accommodation by a tenant would have little impact on the character or appearance of the area.

Impact on the amenity of neighbouring properties

28. The neighbour at no.30 has expressed concerns about potential increased overlooking of their garden area and has requested the height of the boundary treatment is raised. However, even if the annex is used by a tenant, as opposed to a family member, there would be no change to the existing situation in terms of access arrangements to the annex, window relationships and the way the property and garden could be used at present. Furthermore, no.30 lies across an access lane serving a number of properties and any user of the lane would be able to look into the rear garden of no.30. Varying the condition to allow a tenant to occupy the annex is therefore unlikely to lead to any material increase in overlooking of no.30 and the proposal accords with policy GD1 of the Teesdale Local Plan in this respect. It should also be noted that condition 5 of the permission for the annex requires the boundary treatment along the side lane to be no higher than 0.9m for highway safety visibility reasons. Accordingly, a condition to raise the height of boundary treatment would not be justified and would conflict with the requirements of condition 5 in respect of highway safety.

Other matters

29. The objections raise concerns that the proposal would set a precedent for other similar proposals, however all applications are assessed on their own merits based on their individual situation and context.
30. The applicant's reasons for removing the condition because of Council Tax payments has been questioned in the objections. Enquiries with the Council Tax Section have confirmed Council Tax is being charged on the annex; however this is a private matter and is therefore a consideration which has not been given any weight in the determination of the proposal.

CONCLUSION

31. While full removal of condition 7 would not be appropriate because of the potential impacts any future separation of the annex would have on the character of the area, it is considered that the wording of the condition could be varied to allow occupation by a tenant, while still preventing the annex from ever being physically separated and sold separately. This would retain the appearance of the annex as an extension to 32 Cecil Road. Subject to revised

wording of condition 7, it is considered that there would not be any harmful impact on the character or appearance of the area, in accordance with policy GD1 of the Teesdale Local Plan.

RECOMMENDATION

Recommendation that condition 7 of permission 6/2012/0174/DM is varied to remove the requirement that restricts occupation of the annex to only persons in the household of 32 Cecil Road, but retains the requirement that the annex cannot be sold as a separate dwelling, or physically separated from 32 Cecil Road by means of enclosure; and subject to an additional condition relating to parking provision and the original conditions covering the development:

1. The development hereby permitted shall be begun no later than 14 July 2014.

Reason: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby approved shall be carried out in strict accordance with the following approved plans:-

Plan Reference Number	Date received
11264/1	20/05/2011
11264/3A	20/05/2011

Reason: To define the permission and ensure that a satisfactory form of development is obtained in accordance with Policy GD1.

3. The development hereby approved shall be constructed of natural stone to match the existing in terms of colour, texture, coursing, surface finish and unit size.

Reason: In the interests of the appearance of the area and to comply with Policy GD1 of the Teesdale Local Plan.

4. Notwithstanding the details shown on the submitted application, the roof tiles to be used shall match the existing building in terms of colour, texture and size.

Reason: In the interests of the appearance of the area and to comply with Policy GD1 and H11 of the Teesdale Local Plan.

5. For the avoidance of any doubt the height of the side road boundary treatment shall be kept at no greater than 0.9m in height to allow for a set back distance of 2.4m as measured from the edge of the Cecil Road carriageway.

Reason: In the interests of highway safety and in accordance with policy GD1 of the Teesdale Local Plan.

6. Prior to the first occupation of the annexe, the existing vehicular access onto Cecil Road shall be stopped up, its use permanently abandoned and the footway

crossing reinstated in accordance with details that have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety and in accordance with policy GD1 of the Teesdale Local plan.

7. The annex building hereby approved must not be sold separately from the existing dwelling known as no. 32 Cecil Road and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or in any Statutory Instrument revoking or re-enacting that Order with or without modification) there shall be no means of enclosure erected to separate the annex from 32 Cecil Road.

Reason: Any physical separation of the annex from the main residential dwelling would result in development which was out of character and with the surrounding area. In accordance with policy GD1 of the Teesdale District Local Plan.

8. Parking associated with the annex shall take place in the parking area to the rear of no. 32 Cecil Road and that area shall be used and maintained in such a manner to ensure its availability at all times for the parking of 3 private vehicles.

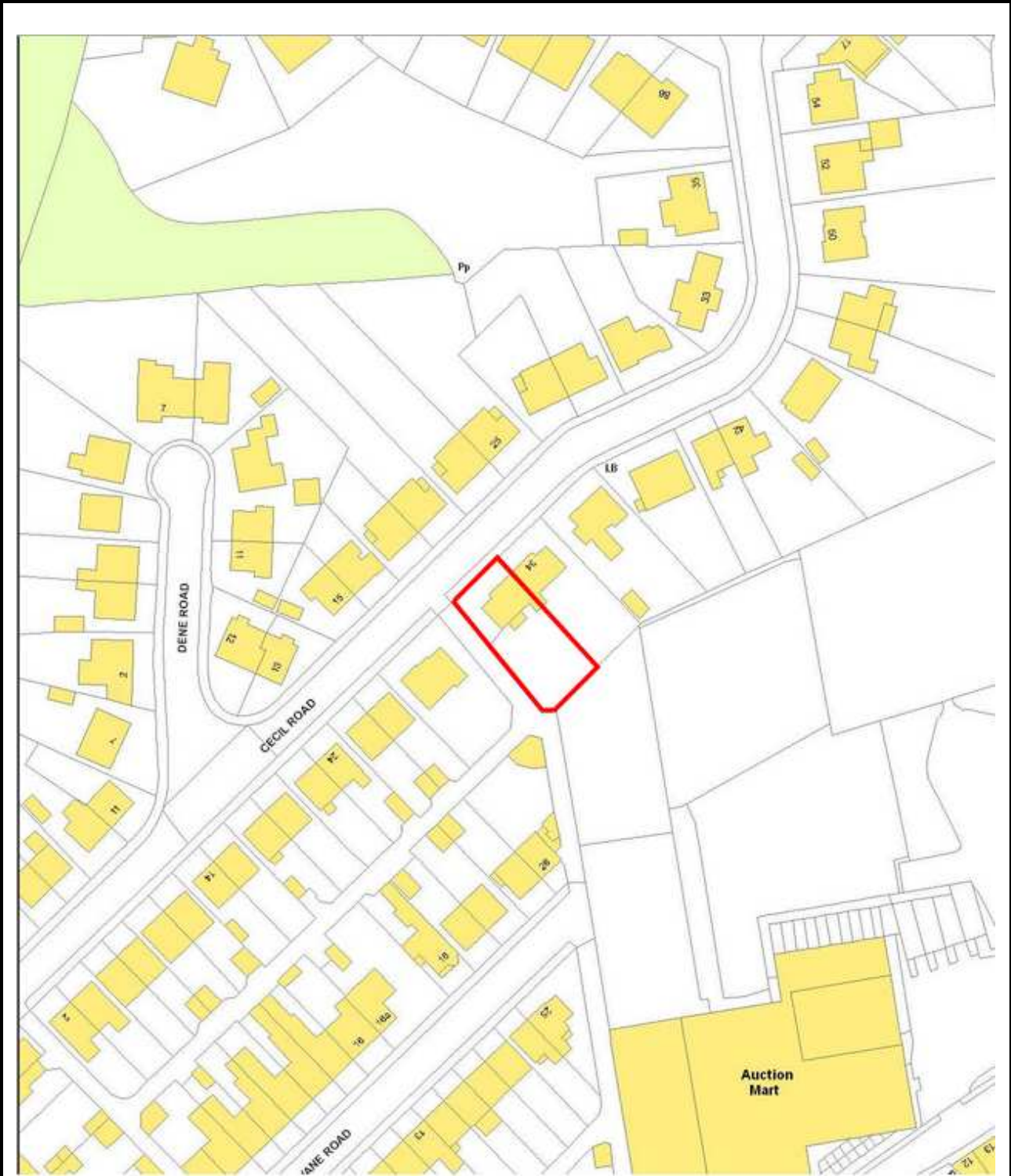
Reason: To ensure there is adequate off street parking provision in the interests of highway safety and visual amenity. In accordance with policy GD1 of the Teesdale Local Plan.

STATEMENT OF PROACTIVE ENGAGEMENT

32. The local planning authority has demonstrated a positive and proactive approach by considering an alternative solution to allow the applicant to rent out the annexe.

BACKGROUND PAPERS

Application details
Consultation responses
Representations received
Planning history
National Planning Policy Framework
Teesdale Local plan



Planning Services

32 Cecil Road, Barnard Castle, County Durham, DL12 8AN

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Comments

Date 07/02/2014

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Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	6/2013/0382/DM/TP
FULL APPLICATION DESCRIPTION:	Fell 1 No. Sycamore Tree protected by TPO CCD-34-2012
NAME OF APPLICANT:	Mr Trevor Hutchinson
ADDRESS:	Staindrop Hall, 20 Front Street, Staindrop, Darlington, County Durham, DL2 3NH
ELECTORAL DIVISION:	Barnard Castle East
CASE OFFICER:	Paul Martinson Planning Officer 03000 260823 paul.martinson@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The site

1. The tree (named in the application as T1B) is a mature sycamore that is growing in what was formerly the rear garden of Staindrop Hall. It is protected by a Tree Preservation Order, imposed in 2012 following receipt of a Section 211 Notice (works to trees in conservation areas) to fell it. Due to its substantial height, the tree is visible from Front Street above the level of the boundary wall and can be seen more readily when the double vehicular access gates are open. It can also be seen from Public Footpath no. 22 which is located adjacent to the southern boundary of the site and is well used at school leaving and arrival times.
2. Staindrop Hall itself has been converted into 2 separate dwellings and the former coach house has also been converted to a dwelling. The garden has an extant planning permission for the erection of 2 detached dwellings. The site is bounded by a high brick and stone wall to the south and west. The tree is located at the western edge of the site close to the boundary with the neighbouring property. A yew tree (T2B) is growing alongside, whilst a younger and smaller sycamore (T3B) is located further south towards the southern boundary of the site.

The proposal

3. The application seeks to fell the sycamore tree T1B, claiming it has developed a lean and has suffered storm damage making it unstable. It is also considered that the pruning required as part of the development proposals would unbalance the tree and destabilise it further.
4. This application has been called to Committee at the request of Councillor George Richardson to consider the impact on the street scene and character of Staindrop

PLANNING HISTORY

5. This site has a long and complex planning history. Planning permission was granted in 2009 (6/2009/0012/DM) for the conversion of Staindrop Hall into 3 no. dwellings, the Coach House into 1 no. dwelling and the erection of 2 no. detached dwellings and an apartment block comprising 4 no. flats. The rear garden of Staindrop Hall was relatively wooded at this point with a number of mature trees that can be seen on the Tree Survey submitted with this application. The majority of the mature trees were scheduled for removal as part of the development process and the site was cleared and the trees removed in advance of the proposed works. However, despite the trees being removed, this development was never implemented. The conversion of the Hall took place under a later permission (6/2010/0426/DM) and the proposals for the 2 no. dwellings and apartment block was never carried out. This permission has now expired.
6. Planning permission has since been approved for 2 detached dwellings within the rear garden of Staindrop Hall in a different location to the 2009 approval (6/2011/0338/DM), adjacent to the western boundary of the site. The northern dwelling was proposed to be sited within the root protection area (RPA) of T1B. An acceptable scheme was eventually approved which allowed the tree to be retained in harmony with the dwelling. This required the dwelling to be constructed on pile foundations and the RPA of the tree to be protected during the construction process. Minor pruning works to allow for sufficient clearance of the roof of the proposed dwelling were also agreed at this stage.
7. Following the approval of the detached dwellings on 20/02/2012, the applicant submitted a Section 211 notice on 18/06/2012 to fell T1B. The accompanying tree report stated that the tree had developed a lean since the planning approval and had suffered storm damage in the 2011/12 winter, which was likely to cause it to fail in the near future. The tree's health was assessed by the Council's Arboriculturalist and it was determined that the tree was in a healthy condition and that there was no evidence of any newly acquired lean or severe storm damage. As the tree was a substantial mature tree with high amenity value within the Staindrop Conservation Area and in good health, it was considered expedient to serve a Tree Preservation Order. This was formally confirmed on 04/10/2012.
8. Most recently, an application (6/2013/0286/DM/TP) to fell this same tree was due to be considered at the December Planning Committee. Members attended a site visit however the application was withdrawn shortly before the meeting.
9. This current application is an identical resubmission of the previously withdrawn application and does not contain any additional supporting information or survey reports.

PLANNING POLICY

NATIONAL POLICY:

10. Tree Preservation Orders and the application processes are governed by the Town and Country Planning (Tree Preservation) (England) Regulations 2012. The

general principles and policy guidance are contained within the government document *Tree Preservation Orders: a Guide to the Law and Good Practice*.

LOCAL PLAN POLICY:

11. There are no specific planning policies relating to the consideration of tree applications contained within the Teesdale Local Plan however there are policies (ENV10, ENV11 and BENV4) relating to the protection of trees as part of the consideration of development proposals that were taken into account during the determination of the planning approval for 2 dwellings at the application site (6/2011/0338/DM).

The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.planningportal.gov.uk/england/government/en/1020432881271.html> for national policies; <http://content.durham.gov.uk/PDFRepository/TeesdaleLP SavedPolicies.pdf> For the Teesdale Local Plan.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

12. Staindrop Parish Council has no objections.

INTERNAL CONSULTEE RESPONSES:

13. The Tree Officer reiterates his objection to the proposal. It is considered that the application is intrinsically linked to the consent to erect 2 dwellings rather than the actual condition of the tree. The Arboricultural Survey Report, which was not written by an arboriculturalist, refers to outdated British Standards relating to development and trees and the suitability of this development close to this tree has already been addressed through at least 2 planning applications. There are fundamental flaws in the submitted tree report in respect of canopy spread and proximity of the tree to the approved dwelling. The report states that 5 metres on the canopy spread will need to be removed to give clearance to the dwelling, when in fact the actual figure is only 2.5m. There is also no evidence that the tree is close to failure, or that it is in poor condition.

PUBLIC RESPONSES:

14. A site notice was posted adjacent to the public footpath and the application was advertised on the weekly list. No representations have been received.

PLANNING CONSIDERATIONS AND ASSESSMENT

15. It is considered that the main issues in this instance relate to whether there is sufficient justification to fell a protected tree that makes a positive contribution to the Staindrop Conservation Area.

16. A TPO is imposed when the Council considers that it is expedient to do so in the interests of amenity. This will include circumstances where there is a threat to a tree that is considered to be in good health and where the tree makes a valuable contribution to the amenity of the area. Once protected by a TPO there must be very good reasons for loss of such a tree. This is usually on the grounds of health, property damage, or danger and must be backed up by sound justification and evidence. Lack of amenity value of the tree is not an argument for loss of a TPO tree because it has been judged to have an amenity value when the TPO was imposed, but the impact of its loss can be considered
17. The site has seen the loss of a large number of trees over the last few years as a result of development approvals within the grounds of Staindrop Hall. None of these have actually been implemented as intended and therefore their loss seems unnecessary at this time and has impacted negatively on the character of the conservation area. This has increased further the significance of the remaining mature trees in the site, which make an important contribution to the visual amenity of this part of the Conservation Area. T1B is the sole remaining tree of this scale within what was formerly a comparatively wooded rear garden. The tree has good amenity value given its maturity and stature, its prominence from the Public Right of Way, visibility above the level of the high wall when viewing the site from Front Street and through the gates. It also contributes to the amenity of the garden of the grade II listed Staindrop Hall. When the development of 2 dwellings was approved within in the grounds of Staindrop Hall the impact on this tree was an important consideration. In order for planning permission to be granted for the dwelling the applicant agreed to use pile foundations and special protective measures to allow the building to be constructed alongside the tree without harming its health or amenity value and this led to an acceptable outcome for both the development and the retention of the tree.
18. The main reasons given in this application for felling the tree, just 2 years later, are that it has developed a lean and that there is root heave to the north and subsidence to the south rendering the tree highly susceptible to failure in the near future. It is also argued that the tree has no arboricultural merit or amenity value. These are however the same reasons for removal that were considered as part of the Section 211 application in 2012, which led to the imposition of the TPO.
19. Apart from stating the fact in the submitted tree report, no evidence has been provided to substantiate the claims of a further lean and subsidence in the last 2 years. The Council's Tree Officer has visited the tree on a number of occasions and is satisfied that the tree is in good health with no stability issues.
20. The application documents also state that the tree has suffered storm damage in the winter of 2011/12 and is likely to fail in the near future. Again, the Council's Tree Officer has inspected the tree and is satisfied that the damage referred to is not likely to have created stability issues.
21. A further assertion within the application is that the requirement of the planning permission to achieve 2m clearance from the canopy to the roof of the approved dwelling will lead to the loss of 5m of canopy on the east side of the tree, thereby exacerbating the instability of the tree and potentially causing it to fail in the near future. This has however, been incorrectly calculated and only around 2.5m of the

canopy would actually be lost through this requirement, which is considered reasonable and would not destabilise the tree or diminish its amenity value.

22. It is therefore considered that there is no evidence to support the applicant's claims that the tree is unstable or likely to fail in the near future. Furthermore the Council's Tree Officer has assessed the tree and concluded that it is in a healthy condition and does not exhibit any signs of being unstable. Because of significant loss of trees from the garden over time, this tree contributes to the amenity of the Staindrop Conservation Area and garden of the listed building (Staindrop Hall). Loss of the tree would negatively impact on the conservation area and the amenity of the garden of Staindrop Hall. The planning permission that exists on site can be implemented successfully without felling of the tree and as such this is not a sufficient reason for its loss. The tree was considered worthy of special protection by TPO in 2012 and nothing has changed since. There are no valid reasons for loss of a protected tree which is healthy and which contributes to the amenity and character of the Staindrop Conservation Area.

CONCLUSION

23. The tree is in a stable, healthy condition with no evidence of any instability or likely failure in the near future with no evidence submitted to the contrary. Because of significant loss of trees from the garden over time, this tree contributes to the amenity of the Staindrop conservation area and amenity of the garden of the listed building (Staindrop Hall). The planning permission that exists on site can be implemented successfully without felling of the tree. The tree was considered worthy of protection by TPO in 2012 and nothing has changed since. There are no valid reasons for loss of a protected tree which is healthy and which contributes to the amenity and character of the Staindrop Conservation Area, and the amenity of the garden of the listed Staindrop Hall.

RECOMMENDATION

That the application be **REFUSED** for the following reasons.

24. There has been no evidence submitted with the application to demonstrate that the sycamore tree T1B is unstable or likely to fail in the near future, or that works required in connection with permission 6/2011/0338/DM are likely to destabilise the tree, or diminish its amenity value. The tree is considered to be in a healthy condition and its unjustified loss would have a detrimental impact on the character and amenity of the Staindrop Conservation Area, and the amenity of the garden of the listed Staindrop Hall.

BACKGROUND PAPERS

Application Documents

Tree Preservation Orders: a Guide to the Law and Good Practice



	Planning Services	Fell 1 No. Sycamore Tree protected by TPO CCD-34-2012 at Staindrop Hall, Staindrop	
This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of Her Majesty's Stationary Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding. Durham County Council Licence No. 100022202 2005		Date 05 February 2014	

Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	7/2013/0522/DM
FULL APPLICATION DESCRIPTION:	Erection of 1 no. dwelling
NAME OF APPLICANT:	Mr and Mrs G and M Clark
ADDRESS:	Land to the rear of 17 North End, Sedgefield TS21 2AZ
ELECTORAL DIVISION:	Sedgefield
CASE OFFICER:	Hilary Sperring, Planning Officer, 03000 263947, Hilary.sperring@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

1. The application relates to the former garden area to the rear of Hardwick House, 17, North End, Sedgefield. To the north, east and south of the site lie residential dwellings, of various forms. The rear garden is bounded to the west, by West Park Lane, with access to the site taken directly from it.
2. The site is on the western periphery of Sedgefield, with the registered Hardwick Park beyond. The site is also located within the Sedgefield Conservation Area. Residential development has taken place on similar plots in between North End and West Park Lane.
3. In 2013 conditional planning permission was granted for the erection of 1 no. dwelling on the application site. This dwelling was a two storey detached four bed property with single storey additions to the east and west.
4. The site has subsequently been sold to the applicants who would like to amend the approved scheme to meet their own accommodation requirements. The proposed 4 bed dwelling house would still be located within the northern corner of the site, in a similar general position to the approved, but it would have an amended design and larger footprint. The dwelling is also resited 1.2 metres further south and includes an increase in both eaves and ridge height. The dwelling now takes the form of a two storey detached four bed property (with rooms within the roof space). The footprint of the main dwelling would measure 12.6 metres by 7.8 metres (with attached double garage to the east 5.7 metres by 6.2 metres and single storey extension 4.8 metres by 2.7 metres to the west). The proposed dwelling would be 5.2 metres to eaves and 8.3 metres to the ridge.
5. Access to the site remains, as existing, from West Park Lane and the proposals would provide 5 on site parking spaces. A number of trees on site are to be removed to make way for the proposed dwelling including 6 that were not included in the earlier scheme.
6. This application is being reported to Planning Committee as it has been made by a member of staff within the Council's Regeneration and Economic Development Service

PLANNING HISTORY

7. The application site and the wider garden area immediately to the rear of 17 North End has been the subject of a number of planning applications for residential development. In 2004 planning permission was refused for the erection of 3 no. dwellings on the wider site (7/2004/0388/DM)(subsequent appeal dismissed). An application in 2011 was also refused for the erection of 2 no. dwellings (7/2011/0377/DM)
8. In 2013 conditional planning permission was granted for the erection of 1 no. dwelling on the site (7/2012/0248/DM). Later in 2013 a discharge of condition application in respect of this approval was approved.

PLANNING POLICY

NATIONAL POLICY:

9. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.
10. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve ‘core planning principles’. The following elements of the NPPF are considered relevant to this proposal.

Part 4 – Promoting sustainable transport. Transport policies have an important role to play in facilitating sustainable development but also in contributing to wider sustainability and health objectives. Smarter use of technologies can reduce the need to travel. The transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel. However, the Government recognises that different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas.

Part 6 - Delivering a wide choice of high quality homes. To boost significantly the supply of housing, applications should be considered in the context of the presumption in favour of sustainable development.

Part 7 – Requiring Good Design. The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.

Part 10 – Climate Change. Meeting the challenge of climate change, flooding and coastal change. Planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and associated infrastructure. This is central to the economic, social and environmental dimensions of sustainable development.

Part 11 – Conserving and enhancing the natural environment. The planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests and soils; recognising the wider benefits of ecosystem services; minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures; preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability; and remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

Part 12 – Conserving and enhancing the historic environment. Local planning authorities should set out in their Local Plan a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats. In doing so, they should recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance.

The above represents a summary of the NPPF considered most relevant the full text may be accessed at:

<http://www.communities.gov.uk/documents/planningandbuilding/pdf/2116950.pdf>

LOCAL PLAN POLICY:

11. In accordance with paragraph 215 of the National Planning Policy Framework, the weight to be attached to relevant saved local plan policies will depend upon the degree of consistency with the NPPF. The greater the consistency, the greater the weight. The relevance of this issue is discussed, where appropriate, in the assessment section of the report, however, the following policies of the Sedgefield Borough Council Local Plan (saved policies 2007) are considered relevant.

Policy D1 (General principles for the layout and design of new developments) requires the layout and design of all new developments to take account of the site's relationship to the adjacent land uses and activities.

Policy D3 (Design for access) seeks to ensure new development makes satisfactory provision for all road users and pedestrians.

Policy D5 (Layout of new housing development) sets criteria for the layout of new housing developments.

Policy E1 (Maintenance of landscape character) the Council will seek to encourage the maintenance of distinctive landscape areas

Policy E15 (Safeguarding of Woodlands, Trees and Hedgerows) expects development proposals to retain important groups of trees and hedgerows wherever possible and replace any trees which are lost.

Policy E18 (Preservation and Enhancement of Conservation Areas) the Council will seek to preserve or enhance the character and appearance of the Boroughs Conservation Areas.

Policy H8 (Residential framework for larger villages) established residential development as an acceptable use within the identified residential framework for Sedgfield.

Policy H17 (Backland and infill housing development) sets criteria for new backland and infill housing development.

SPG1: (Conservation Areas) provides details on the character and description of conservation areas?

SPG3: (The Layout of New Housing) sets amenity/ privacy standards for new residential development.

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

EMERGING POLICY:

12. The emerging County Durham Plan is now in Pre-Submission Draft form, having been the subject of a recent 8 week public consultation, and is due for submission in Spring 2014, ahead of Examination in Public. In accordance with paragraph 216 of the NPPF, decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. To this end, the following policies contained in the Pre-Submission Draft are considered relevant to the determination of the application:

Policy 1 – Sustainable Development, sets out a presumption in favour of such through 18 subsections including directing economic growth to existing centres, protecting agricultural land, promoting inclusive and healthy communities, achieving well designed accessible places, making the most effective use of land, and conserving the quality diversity and distinctiveness of the County including the conservation and enhancement of designated and non-designated heritage assets.

Policy 15 – Development on Unallocated Sites – All development on sites that are not allocated within the County Durham Plan or in a Neighbourhood Plan, will be permitted provided that they meet certain criteria.

Policy 18 – Local Amenity - states that permission will only be granted for proposals providing it can be shown that a significant adverse impact on amenity would not occur including, for example, loss of light and privacy, visual intrusion, overlooking, noise and odour. In addition to this, permission will not be granted for sensitive land uses where suitable mitigation measures can not be put in place to rectify the adverse impact on amenity.

Policy 40 – Trees Woodland and hedges – Proposals for new development will not be granted that would result in the loss of or damage to trees or woodland of high landscape, amenity or biodiversity value unless the benefits of the scheme clearly outweigh the loss. The fragmentation, loss, deterioration of identified ancient woodland will require exceptional circumstances and appropriate compensation.

Policy 41 – Biodiversity and Geodiversity – New development will not be permitted if significant harm to biodiversity and geodiversity cannot be avoided, adequately mitigated, or as a last resort compensated for.

Policy 44 – Historic Environment – seeks to ensure that designated and nondesignated heritage assets and their settings are appropriately protected.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

13. *Sedgefield Town Council* - No objection in principle and on the basis that the proposal retains the character of the area and complies with the Conservation area criteria.
14. *Highway Authority* - Deemed acceptable from a highways point of view.
15. *Northumbrian Water Limited* - No comments.

INTERNAL CONSULTEE RESPONSES:

16. *Archaeology Section* - Confirm that there are archaeological features within the development site which will require appropriate mitigation as conditions of planning permission, if granted.
17. *Arboricultural Officer* - *No objection.*
18. *Design and Historic Environment Section* - No objection, recommend conditions in respect of material samples, fenestration details and boundary treatments be submitted.
19. *Drainage Section* – No response at the time of report preparation
20. *Ecology Section* - No objections.
21. *Environmental Health* - Advises conditions relating to general restrictions on site operations and working hours in addition to use and operation of plant, machinery, equipment etc.

PUBLIC RESPONSES:

22. The application has been publicised by way of press and site notices and individual notification letters to neighbouring residents.
23. One letter of representation has been received from the occupants of 17 North End. No issues are raised in respect of the proposed plans. Clarity is however sought regarding the tree survey, supporting guidance, and protection of trees on site during any build.
24. Sedgefield Civic Trust has raised no objection to the proposed works providing materials and works specifications are adhered too. Positive comments are made about the detailing of brickwork and windows although it is considered that the proposed doors on the house and garage would be better painted rather than stained.

APPLICANTS STATEMENT:

25. The site is in a sustainable location within Sedgefield, close to facilities and amenities. Permission has previously been granted.

26. The dwelling footprint is larger than the existing approved dwelling but remains appropriate for the size of the site and in keeping with other properties in the locality. The dwelling is considered in keeping with the surrounds in terms of design and conservation, the relationship with other neighbouring occupiers and parking.
27. The scale and size is restrained to minimise impact upon views from West Park field. Our dwelling is sufficiently far from all remaining tree roots and will not affect the life of the remaining trees.
28. A double garage is proposed to facilitate better car parking arrangements. 5 spaces are provided in comparison to just 3 on the existing approval.
29. Increasing the width of the garage results in the main bulk of the house being constructed further away from the rear of 17 North End and Hardwick Mews
30. Our application acknowledges planning concerns about design, window details, privacy, views from West Park and conservation matters.

The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at the Council Offices, Green Lane, which can be viewed at: <http://planning.wearvalley.gov.uk/portal/servlets/ApplicationSearchServlet?PKID=69842> and <http://planning.wearvalley.gov.uk/portal/servlets/ApplicationSearchServlet?PKID=72155>

PLANNING CONSIDERATIONS AND ASSESSMENT

31. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the key planning issues in this instance relate to the principle of the development, the impact of the proposed development upon heritage assets, residential amenity, highway safety, impact on protected species/ ecology and the impact on trees.

The Principle of Development

32. The National Planning Policy Framework (NPPF) sets out the Governments overarching objectives for the planning system, promoting sustainable development as a key objective.
33. Paragraph 49 of the NPPF explains how housing applications should be considered in the context of the presumption in favour of sustainable development. Furthermore, Paragraph 111 explains how planning policies and decisions should encourage the effective use of land by re-using land that has been previously developed, providing it is not of high environmental value.
34. Saved Local Plan Policies H17 and D5 support new residential development on backland and infill locations where they can achieve a satisfactory means of access and parking provision, satisfactory amenity and privacy for both the new dwellings and existing adjacent dwellings, and where development is in keeping with the scale and form of adjacent dwellings and the local setting of the site.
35. The application site is located in close proximity to the centre of Sedgfield which is well served by a range of facilities. Access and connectivity within the settlement and to neighbouring settlements is good. It is therefore considered that the proposed

development would be located in a sustainable location with regard to the provisions of the NPPF.

36. In any event the principle of residential development in the form of one additional dwelling on the site has been established by the grant of the previous planning permission.

Impact upon heritage assets

37. Paragraph 129 of the NPPF advises that Local Planning Authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including the setting of a heritage asset). The application site is located within Sedgefield Conservation Area. The boundary of the Hardwick Park Conservation Area runs along West Park Lane, to the rear of the site, with the registered historic Hardwick Park extending beyond to the west. Additionally the site is located within an archaeological sensitive area.
38. SPG Note No.1 (Conservation Areas) provides detail regarding the character and description of the Sedgefield Conservation Area, specifically mentioning properties along North End and the open areas to the rear of properties contributing to the character of the Conservation Area. Local Plan Policy E18 reiterates the statutory duty set out at S72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, in seeking to ensure that the character and appearance of Conservation Areas is preserved or enhanced through preventing development which would detract from Conservation Areas or their settings.
39. The previous approval for a dwelling on the site was considered to leave a sufficient amount of open space, helping retain the character of the area and establishing the principle of residential development upon the site. The proposed layout of the new dwelling, again of a linear form, is also considered similar to the established development pattern of the locality. Although of a larger footprint it is considered that the current proposals would not result in a significant loss of the open space characteristic of this part of the Conservation Area or indeed significantly detract from the wider Conservation Areas setting.
40. The proposed property is orientated east to west (as the approved) so its bulk and massing would face into the site enabling a relatively open frontage onto West Park Lane to be kept. The dwelling would be visible within the conservation area as well as on approaches from the public footpaths, which lead from the historic parkland. However the retention of some trees along the site boundary behind the existing high wall would help to screen longer views into the site.
41. It is acknowledged that the proposed dwelling would be 500mm higher than the previously approved dwelling and it would be higher than the lower rise Hardwick Mews dwellings immediately to the north. However it would also be slightly lower than Pear Tree House to the south and some of the frontage properties within North End to the east. This variation in height is considered acceptable and the proposed dwelling would not be overly large or incongruous to its setting, and would respect neighbouring development, building patterns in the area and street scene.
42. In addition to policy E18, Local Plan Policies D1 and D5 seek to ensure the layout and design of new development is in keeping with the surrounding area and achieves satisfactory privacy and amenity for neighbouring residents. Policy H17 again contains a key criterion that development is in keeping with the scale and form of adjacent dwellings and the local setting of the site.

43. In terms of detailed design the proposed extensions to the side and addition of a front porch would appear as subservient additions to the main dwelling as would the rear bay features. A materials specification has been submitted with the application detailing the use of traditional materials in the main. This includes Ibstock Beamish Blend Brick type for the main house and Sandtoft County Clay Pantile for the main roof areas (Natural Red) and Sandtoft Goxhill Rosemary clay tile for the proposed porch (also Natural Red). Proposed windows (white painted timber sliding sash) and doors are considered to be of suitable proportion and style to the locality of the development.
44. Comments from the Sedgefield Town Council are noted in terms of achieving a development which retains the character of the area and complies with the Conservation area criteria and it is considered that the current proposals achieve this.
45. An important consideration in respect of the proposals also relates to the possible impact of the development upon nationally important Romano-British remains. Paragraph 128 of the NPPF states that "Where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation".
46. An archaeological evaluation has been submitted as part of the proposals and trenches dug within the rear garden area of Hardwick House. Small fragments of Roman and Medieval pottery have been found as a result of the evaluation showing that the features known within East Park and the Show Field extend into this area. The Archaeology Section confirms that appropriate mitigation is necessary as part of the development. Appropriate conditions are therefore recommended and in this respect the proposed development is considered acceptable in terms of the possible impact upon the significance of any archaeological heritage asset.
47. Subject to adherence to condition which could be imposed in the interests of securing high design standards, it is considered that the proposed scheme would not have a significant affect upon the heritage assets, and the character and appearance of the conservation would be preserved. The proposal is therefore considered to accord with section 7 and 12 of the NPPF and relevant Local Plan Policies, in particular D1, D5, E18 and H17.

Residential Amenity

48. Policies H17 and D5 and Supplementary Planning Guidance Note 3 (SPG 3) seek to achieve adequate amenity and privacy standards for existing and proposed dwellings when assessing new residential development.
49. The site and its surroundings are of relatively level topography. The current proposals have a larger footprint than the previously approved scheme resulting in a repositioning of the bulk of the main house further west within the site and also a further 1.2 metres south, bringing the development closer to Pear Tree House. Nevertheless there would still be in excess of 21 metres from the rear elevation of the proposed dwelling to the gable of Pear Tree House and there would also be in excess of 28 metres from the eastern gable of the main dwelling to the rear of properties on North End. (It is also noted that windows would no longer be provided within this eastern gable).
50. The repositioning further west would result in an increased off set of the main house from the residential properties within Hardwick Mews to the north and the current proposals bring the main dwelling further from these properties.

51. Given the location of the proposed dwelling, layout, position of proposed windows, and the separation distances to neighbouring properties, it is considered that the privacy of neighbouring residents would not be significantly affected. There would be no material loss of light or outlook to neighbouring occupiers. Informatives are proposed in line with comments from the Environmental Health Officer.
52. The proposal would result in a suitably sized garden for the new dwelling and for the main property to the east which formerly included the application site as part of an extended garden.
53. The proposal is not considered to have a significant impact on the amenity or privacy of the neighbouring residents. The new dwelling would have an acceptable relationship with adjacent land users and activities and is considered to accord with policies D5 and H17 of the Plan and SPG 3.
54. In order to control future privacy/amenity of neighbouring properties, it has been considered appropriate to impose further conditions controlling all future extensions, outbuildings and alterations. It is also recommended that a condition be attached to control the means of enclosure proposed in order to comply with policy D5. Such a condition was attached to the previous approval.

Highway safety

55. Local Plan policies H17 and D3 both seek to ensure that new development achieves a satisfactory means of access, manoeuvring, turning and parking space for the number and type of vehicles using the development.
56. Vehicular access to the proposed dwelling would be achieved from West Park Lane and via an existing area that serves three other dwellings including 17 North End and those within Hardwick Mews for the erection of 1 no. dwelling house. These arrangements would remain.
57. The proposals provide a double garage capable of accommodating 2 vehicles together with 2 parking spaces in front of the garage. A further hardstand area would also be provided in front of the proposed kitchen. This level of parking provision is above that included within the previous application and would comply with Durham County Council Residential Car Parking Standards (July 2013) for a dwelling with four bedrooms.
58. The Highway Authority deems the proposal acceptable in terms of providing a safe and satisfactory means of access, manoeuvring, turning and off street parking. The proposal would accord with Policies D1, D3 and H17 in this respect.

Impact on protected species/ ecology

59. Section 11 of the NPPF seeks to ensure that proposals show regard to the protection and enhancement of internationally and nationally important sites and species; contributing and enhancing the natural and local environment by minimising impacts on biodiversity. A number of trees will be lost as part of the development and a bat potential survey and nesting birds report has been submitted with the application. The risk that bats could be present was considered very low and the Ecology Section raises no objection to the proposal in the light of these findings subject to conditions to ensure the relevant guidance, method statements and mitigation steps (including installation of bat boxes) are adhered and to ensure that site clearance should be carried out outside of the bird breeding season. A protected species licence from Natural England would not be required.

60. Subject therefore to the imposition of suitably worded planning conditions the proposal would accord with the NPPF part 11 in this regard and would be acceptable in terms of its possible ecological and environmental impact upon the site.

Impact on trees

61. Policy E15 seeks to permit development only where it would not damage areas of important woodland and important groups of trees or Tree Preservation Orders (TPO's). Wherever possible, new trees should be planted to replace those which are lost as a result of development. The site lies within the Conservation Area but none of the trees are subject to any Tree Preservation Orders.
62. An arboricultural survey has been submitted with the application and also an amended document in respect of tree matters. It is acknowledged that more trees would be removed from the site than previously approved. This includes two additional trees to the west of the proposed building and a number of fruit trees centrally located within the site (six additional trees in total). These trees are considered to be of low amenity value. Several larger trees, located along the western boundary, would however be retained and would frame and help screen the development. The Council's Arboricultural Officer raises no objections to the application.
63. Comments from the neighbouring occupier are noted and a copy of the tree plan has been provided for their information. In addition, it has been confirmed that in the event of planning permission being granted a condition would be attached to secure protective fencing around the retained trees in accordance with good practice.
64. Subject to the imposition of a condition to safeguard retained trees the proposal would accord with Policies E15 and D1 of the Local Plan, in this respect.

CONCLUSION

65. The principle of a residential dwelling on the site has previously been established and the current proposal has many similarities to the approved scheme. The proposal would be situated in a sustainable location within the existing residential framework for Sedgefield and would be acceptable in terms of scale and design, amenity/privacy standards, highway safety aspects, impact on trees and ecology. The application is considered to satisfy the requirements of the NPPF and Local Plan Policies in particular H8, H17, E15, E18, D1, D3, D5 and Supplementary Planning Guidance 1 and 3 subject therefore to the imposition of appropriate planning conditions it is recommended for approval.

RECOMMENDATION

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

1. The development hereby approved shall be begun not later than the expiration of 3 years from the date of this permission.

Reason: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004

2. The development hereby approved shall be carried out in strict accordance with the following approved plans:

Plan Ref No.	Description	Date Received	
Plan no. 1	Site Layout	10 2013	December
Plan no. 2	Proposed Elevations	10 2013	Decemebr
Plan no. 3	Proposed Floor Plans	10 2013	December
Plan no. 4	Location Plan	19 2013	December
Plan no. 5	Details	10 2013	December
Plan no. 6	Street scene	10 2013	December
Plan no. 7	Door Details	10 2013	December
Plan no. 8	Window Details	10 2013	December
Plan no. 9	Chimney Detail	10 2013	December
	Photographic Porch detail and letter	12 2013	December
	Materials Specification amended by email of 22 December 2013 confirming use of Ibstock Beamish Blend Brick type and email of 10 February 2014	19 2013	December
	Archaeological Services Durham University	10 2013	December
	Archaeological Desk Based Assessment Report 2921 revised December 2012		
	Archaeological Services Durham University	10 2013	December
	Archaeological Evaluation written scheme of investigation DS12.594rev		
	Aboricultural Method Statement for trees at Hardwick House, 17, North End, Sedgfield Revision A (Amended 2 January 2013) as amended by Document entitled 'Tree Matters for Clarity'	10 2013	December
	Drawing AMS TPP-B dated 02.0113 as amended by Document entitled 'Tree Matters for Clarity'	10 2013	December
	All About Trees Bat Potential Survey issued 12 June 2012	10	December 2013
	All About Trees Nesting Birds Assessment – letter dated 18 July 2012	10	December 2013

Reason: For the avoidance of doubt and in the interests of proper planning.

3. Notwithstanding the details shown on the approved plans precise details of all new fenestration, glazing, heads and cills shall be submitted to and approved in writing by the local planning authority, prior to the commencement of the development. The scheme shall be implemented in accordance with the approved details.

Reason: In the interests of the appearance of the area and to comply with Policies D1 (General principles for the layout and design of new developments) and E18 (Preservation and Enhancement of Conservation Areas) of the Sedgefield Borough Local Plan.

4. No development shall be commenced until details and plans of protective fencing for retained trees have been submitted, inspected after erection and approved in writing by the Local Planning Authority. The location and design of protective fencing details shall follow the guidelines set out in BS5837:2012 Trees in relation to Design, Demolition and Construction, Recommendations and detailed in All About Trees Tree Protection Plan that accompanied the application. No operations whatsoever, no alterations of ground levels, and no storage of any materials are to take place inside the fences, and no work is to be done such as to affect any tree, without prior written agreement of the Local Planning Authority.

Reason: To ensure that the trees are appropriately protected from potential damage by the engineering or building operations in accordance with policies E15 (Safeguarding of Woodlands, Trees and Hedgerows) and E18 (Preservation and Enhancement of Conservation Areas) of the Sedgefield Borough Local Plan.

5. No development shall take place until the implementation of a programme of archaeological work in accordance with a mitigation strategy document has been submitted to, and approved in writing, by the local planning authority. The strategy shall include details of the following:

- i., Measures to ensure the preservation in situ, or the preservation by record, of archaeological features of identified importance.
- ii., Methodologies for the recording and recovery of archaeological remains including artefacts and ecofacts.
- iii., Post-fieldwork methodologies for assessment and analyses, including final analysis and publication proposals in an updated project design where necessary.
- iv., Report content and arrangements for dissemination.
- v., Archive preparation and deposition with recognised repositories.
- vi., A timetable of works in relation to the proposed development, including sufficient notification and allowance of time to ensure that the site work is undertaken and completed in accordance with the strategy.
- vii., Monitoring arrangements, including the notification in writing to the County Durham Archaeologist of the commencement of archaeological works and the opportunity to monitor such works.
- viii., A list of all staff involved in the implementation of the strategy, including sub-contractors and specialists, their responsibilities and qualifications.

The development shall thereafter be carried out in accordance with the agreed scheme.

Reason: To comply with paragraph 141 of the National Planning Policy Framework 2012.

6. The development hereby permitted shall not be occupied until a copy of any analysis, reporting, publication or archiving required as part of the mitigation strategy shall be deposited at the County Durham Historic Environment Record. This may include full analysis and final publication. Reporting and publication must be within one year of the date of completion of the development hereby approved by this permission

Reason: To comply with paragraph 141 of the National Planning Policy Framework 2012 to ensure that the developer records and advances understanding of the significance of the

heritage asset to be lost (wholly or in part) in a manner proportionate to its importance and the impact, and to make this evidence (and any archive generated) publicly accessible.

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or in any Statutory Instrument revoking or re-enacting that Order with or without modification) no development falling within Classes A-H of Part 1, Class A of Part 2, and Classes A-C of Part 40 of Schedule 2 of the said Order shall be carried out.

Reason: In order that the local planning authority may exercise further control in this locality in the interests of residential amenity and the visual amenity of the area and to comply with Policies D1 (General principles for the layout and design of new developments) and E18 (Preservation and Enhancement of Conservation Areas) of the Sedgefield Borough Local Plan.

8. No development shall take place unless in accordance with the mitigation detailed within the Bat Potential Survey undertaken by All About Trees June 2012, including but not restricted to the provision of a suitable artificial bat roost to be incorporated within the building, details of which shall be submitted to and agreed by the Local Planning Authority.

Reason: To conserve protected species and their habitat in accordance with Part 11 of the NPPF.

9. All works shall take place outside the bird breeding season (March to end of August), unless the project ecologist undertakes a checking survey immediately prior to clearance and confirms that no breeding birds are present. The survey shall be submitted to and approved in writing by the local Planning Authority prior to the removal of vegetation during the bird breeding season.

Reason: To conserve protected species and their habitat in accordance with Part 11 of the NPPF.

STATEMENT OF PROACTIVE ENGAGEMENT

In assessing the application, the Local Planning Authority has worked with the applicant in a positive and proactive manner in seeking to resolve issues during the application process whilst ensuring the prompt determination of this application.

BACKGROUND PAPERS

Submitted Application Forms, Plans and supporting documents

National Planning Policy Framework

Sedgefield Borough Council Local Plan

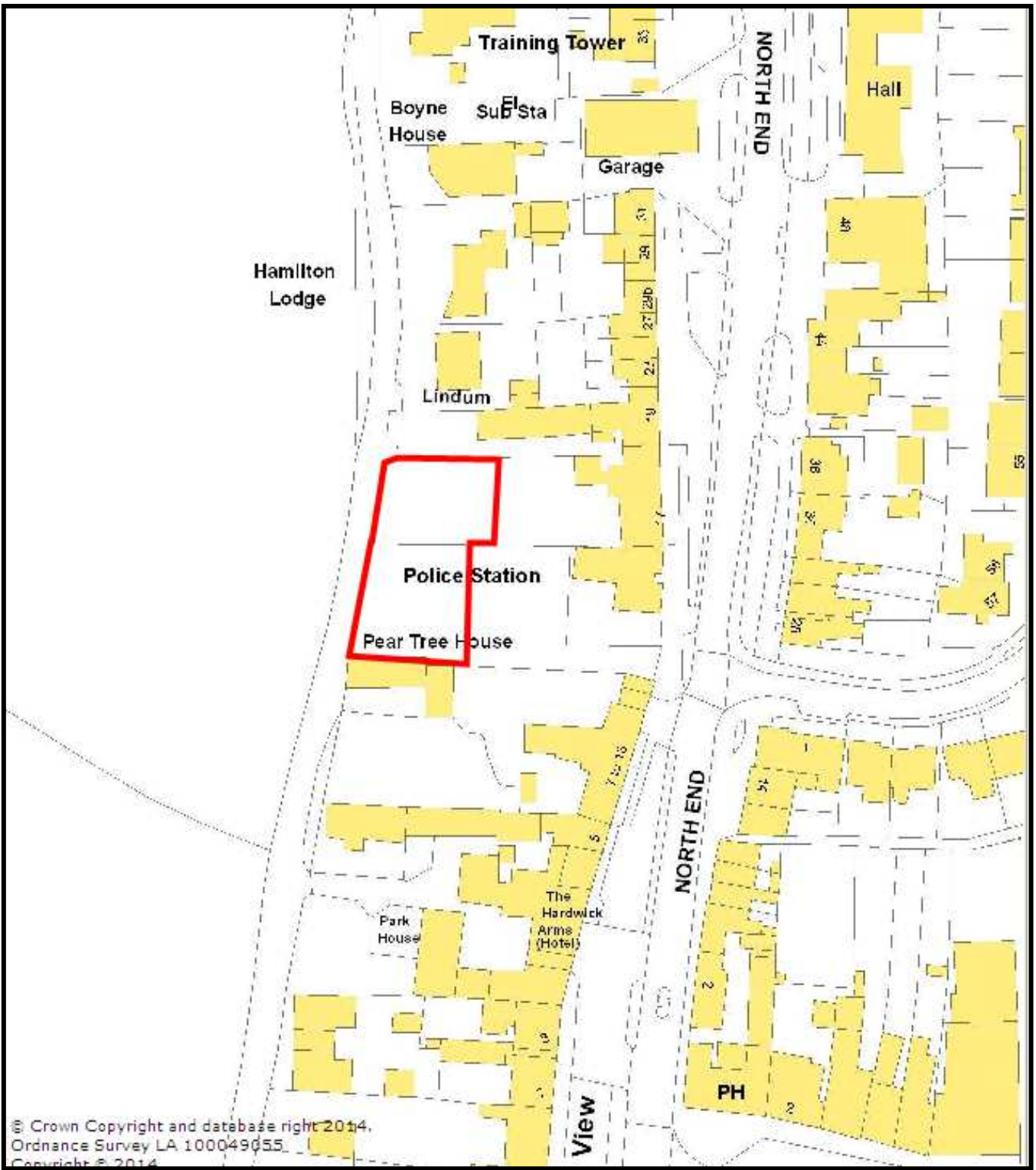
County Durham Plan (pre submission version)

Planning application 7/2012/0248

Statutory responses from Sedgefield Town Council, Highway Authority, Northumbrian Water Limited

Internal responses from Design and Historic Environment Section, Archaeology Section, Environmental Health, Ecology Section, and Arboricultural Officer

Public Responses from 17 North End and Sedgefield Civic Trust



Planning Services

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Land to the rear of 17 North End, Sedgefield TS21 2AZ

Comments

Date 20 February 2014



Planning Services

COMMITTEE REPORT

UPDATE (FROM HERITAGE, LANDSCAPE AND DESIGN TEAM)

Issue of Building Preservation Notice on the winding engine house and machinery at Grove Rake Mine, Rookhope, Weardale, County Durham.

Introduction

1. To inform Members that the Director of Regeneration and Economic Development has exercised his emergency powers as set out in paragraph 12 of Table 1 of the delegations to Chief Officers in order to issue a Building Preservation Notice under Section 4(1) and 4(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 on the winding engine house and machinery at Grove Rake Mine, Rookhope.

Background

2. Under Section 4(1) and 4(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 Local planning authorities may serve an emergency Building Preservation Notice (BPN) on a building which is not listed, but which they consider is of special architectural or historic interest and is in danger of demolition or of alteration that would adversely affect this special interest.
3. A BPN takes effect immediately when it is affixed to the building and protects the site for 6 months or until the Secretary of State (for Culture, Media and Sport) lists the building or informs the authority that she does not intend to do so. Whilst the BPN is in place, the building is subject to the same protection as a listed building and any works to the building will require listed building consent.
4. The group of buildings that survive at Grove Rake mine, of which the winding house and machinery are part, represent a unique collection. The mine was worked from the mid 18th century for lead; later iron and fluorspar. Upon closure in 1999 it was believed to be the last fluorspar mine operating in England and the last deep mineral mine in Durham. The engine and housing are a very rare example of surviving power plant at a mine in Durham. The building is a utilitarian, 20th century structure that derives its historic significance from; the plant it contains, its contribution to the group value of the Grove Rake site, and its association with the headgear over the Old Whimsey shaft – the latter being the last structure of this type in the North Pennine Orefield.
5. Grove Rake Mine was the subject of a number of planning applications for the extraction of fluorspar however operations ceased in 1999 and the planning authority are of the opinion that any conditions relating to former permissions at the site are now unenforceable due to time lapse.
6. The winding engine house recently suffered a partial collapse and as a consequence DCC Building Control issued a Section 78 notice on the site occupier that required them to make the building safe. The preferred method of achieving this due to the historic

significance of the building and machinery was to erect fencing around the building however the occupier indicated that their intention was to demolish the structure.

7. The loss of the engine house, and with it the engine, would represent severely detrimental harm to the overall significance of the group of surviving structures at Grove Rake Mine.
8. An application to designate the remaining features at the site (either through group listing or scheduling) has been submitted to English Heritage in accordance with guidance on the issue of a BPN.
9. As the building was considered to be of special historic interest and was imminently threatened with demolition it was considered appropriate for the Council to exercise their power to serve a BPN on the building until the decision on designation is taken by English Heritage (on behalf of the Secretary of State).

Recommendation:

That Members note the serving of the Building Preservation Notice on the winding house and machinery and also the action taken by the Director of Regeneration and Economic Development under his emergency powers contained in paragraph 12 of Table 1 to Part 3(c) of the Constitution.