

# COMMITTEE REPORT

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## APPLICATION DETAILS

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<b>APPLICATION NO:</b>	<b>DM/19/01457/FPA</b>
<b>FULL APPLICATION DESCRIPTION:</b>	<b>Erection of 1.9m high boundary wall to South West and South East of site (Part Retrospective)</b>
<b>NAME OF APPLICANT:</b>	<b>Mr John Bownas</b>
<b>ADDRESS:</b>	<b>37 Whindyke Blackhall Colliery Hartlepool TS27 4JZ</b>
<b>ELECTORAL DIVISION:</b>	<b>Blackhalls</b>
<b>CASE OFFICER:</b>	<b>Michelle Hurton Michelle.Hurton@durham.gov.uk 03000 261398</b>

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## DESCRIPTION OF THE SITE AND PROPOSALS

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### SITE:

1. The application site relates to a residential property located within Whindyke, Blackhall Colliery. The property is located within a highly prominent location with the rear of the site facing onto the mini-roundabout located on the entrance into the residential estate.
2. The application site is a single storey property which prior to carrying out the unauthorised works was open plan to the front and enclosed with a 1.8m high open boarded timber fence to the rear of the site. In 2018 a planning application was submitted for the erection of a single storey extension to the side and rear of the property which was granted planning permission.
3. The character and appearance of the surrounding streetscene has a uniform appearance depending on the house type, these being of either single storey or two storey properties of a detached or semi-detached nature. The two storey properties are constructed with facing brickwork at ground floor, render at first floor and pantile roofs. The single storey properties are constructed from facing brickwork only and pantile roof.

### PROPOSAL:

4. Full planning permission is sought for the erection of a 1.9m high boundary wall to South West and South East of the site which is part retrospective. To the north and north east of the site the height of the wall reduces in height to 1m, as permitted development rights have not been removed then planning permission is not required for a 1m high boundary enclosure which is adjacent to a highway. Currently some of the brick piers exceed 1 metre in height, but a revised plan indicates that the height of these will be reduced so as to ensure the front wall benefits from permitted development rights.

5. The development was brought to the attention of the Local Planning Authority via a complaint to the Planning Enforcement Section from a resident within the local area who was concerned about the overall height of the wall and its impact blocking the visibility of the highway junction.
6. The application is brought before members of the planning committee at the request of the local councillors because the proposed development is in a prominent location and both local members would like it to be heard at planning committee due to the visual impact the proposed development could have on the area.

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## **PLANNING HISTORY**

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7. DM/18/02301/FPA – Single storey extension to rear and side - Approved

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## **PLANNING POLICY**

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### **NATIONAL POLICY:**

#### *National Planning Policy Framework*

8. A revised National Planning Policy Framework (NPPF) was published in February 2019. The overriding message continues to be that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways.
9. In accordance with Paragraph 213 of the National Planning Policy Framework, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). The relevance of this issue is discussed, where appropriate, in the assessment section of the report. The following elements of the NPPF are considered relevant to this proposal.
10. NPPF Part 4 - Decision-making. Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
11. NPPF Part 12 - Achieving well-designed places. 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.

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

### **NATIONAL PLANNING PRACTICE GUIDANCE:**

12. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to; conserving and enhancing the historic environment; design; and use of planning conditions.

*<https://www.gov.uk/government/collections/planning-practice-guidance>*

## **LOCAL PLAN POLICY:**

### *District of Easington Local Plan*

13. Policy 1- Due regard will be given to the development plan when determining planning applications. Account will be taken as to whether the proposed development accords with sustainable development principles while benefiting the community and local economy. The location, design and layout will also need to accord with saved policies 3, 7, 14-18, 22 and 35-38.
14. Policy 35 - The design and layout of development should consider energy conservation and efficient use of energy, reflect the scale and character of adjacent buildings, provide adequate open space and have no serious adverse effect on the amenity of neighbouring residents or occupiers.
15. Policy 73 - Extensions or alterations to existing dwellings, requiring planning permission, will be approved provided that there are no serious adverse effects on neighbouring residents, the proposal is in keeping with the scale and character of the building and the proposal does not prejudice road safety or result in the loss of off street parking.

## **EMERGING POLICY:**

16. Paragraph 48 of the NPPF states that 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. Following consultation at 'Issues & Options', 'Preferred Options' and 'Pre Submission Draft' stages, the CDP was approved for submission by the Council on 19 June 2019. The CDP was submitted to the Planning Inspectorate on 28 June 2019. Although the CDP is now at a relatively advanced stage of preparation, it is considered that it is not sufficiently advanced to be afforded any weight in the decision-making process at the present time.

*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.durham.gov.uk/media/3396/City-of-Durham-local-plan-saved-policies/pdf/CityOfDurhamLocalPlanSavedPolicies.pdf>*

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

Highways – No objection due to the 1.9m high brick wall replacing a 1.8m high wooden fence and as such it is not considered that the wall would impact upon the junction sight visibility at the junction of Whindyke and Brockwell.

### **INTERNAL CONSULTEE RESPONSES:**

17. None

### **PUBLIC RESPONSES:**

18. The application was advertised by means of site notice and by neighbour notification to 11 properties.
19. At the time of preparing this report, 3 letters of support have been received and 1 letter of representation.

20. The letter of representation states that they do not deny anyone who wishes to improve their property provided that the improvement is carried out in the correct and prescribed manner. The visual appearance of such a high wall is out of keeping with the area. The applicants previously applied for planning permission for the single storey extensions and prior to commencing works received their planning approval, it is not understood why they neglected to do so in regards to this wall, and there are no other examples of such boundary treatments within the area. There was previously a fence of similar height to those shown by neighbouring properties.
21. The letters of support state that the wall has been constructed to a good standard and everyone has a right to their own privacy.

#### **APPLICANTS STATEMENT:**

22. On behalf of my wife and myself I would like to explain our reasons for building a wall around our garden. The unique position of our garden, unlike any other in the area means we have our back garden facing directly onto a busy mini roundabout that at peak times has a huge volume of vans and large SUVs entering and leaving the estate. The design of the entrance to the estate is such that 2-way traffic is extremely difficult and at times dangerous. When our original garden fence was blown down in strong winds, we thought there was a real risk to us and passers by of injury. After much discussion we decided that the best long-term plan would be to build a wall, this we believed would offer the best protection in terms of safety, security and privacy to us and our property.
23. We were totally unaware that we would require planning permission to do this. Approximately 75 per cent of the wall had been constructed when we were informed of our mistake. We were told to stop building and either reduce the height of the wall, fit wood panels or railings or apply for retrospective planning permission which we duly did. The council planning officer believed the garden wall was not in keeping with the local area, our response to this was to disagree believing this to be a subjective opinion and not reflecting the views of our ourselves or our fellow residents who have shown great support to the building of the wall.
24. Our overriding ambition is to create something special, a wall that, in time would be covered with climbing plants and flowers providing a colourful and attractive entrance to our estate for years to come.

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### **PLANNING CONSIDERATIONS AND ASSESSMENT**

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25. As identified in Section 38(6) of the Planning and Compulsory Purchase Act 2004 the key consideration in the determination of a planning application is the development plan. Applications should be determined in accordance with the development plan unless material considerations indicate otherwise.
26. The main considerations in regard to this application are the principle of the development, residential amenity, impact on the character and appearance of the area and highway safety.

#### **Principle of Development**

27. The application site is a residential property located within the settlement boundary of Blackhall. The residential estate includes two storey and single storey properties which are either detached or semi-detached in nature. The application site is a detached bungalow, the properties within the street have a uniform appearance.

28. Policy 73 of the District of Easington Local Plan relates to alterations and extensions to dwellinghouses which is considered to be up to date when considered against the NPPF and therefore paragraph 11 is not engaged when considering this application. In turn, it is considered that extensions and alterations to existing properties are acceptable in principle. However, acceptability of the impacts of the proposal will be dealt with within the remainder of the report.

### **Impact upon character and appearance of the Area**

29. Policy 73 of the District of Easington Local Plan states that alterations to existing dwellings need to have no serious effect on the amenities of residents in terms of visual intrusion, and that the proposal is in keeping with the scale and character of the building itself and the area generally in terms of height, design and materials. It is considered that the proposal does not comply with policy 73 given that the 1.9m high boundary wall is not considered to be in keeping with the surrounding area and has a detrimental impact upon the visual amenity of the host dwelling and wider streetscene.

30. The application site is located in a very prominent location which is adjacent to a public footpath and a mini round-about which is located at the residential estate's entrance and is regularly used.

31. The previous boundary treatment at the site included a 1.8m height open boarded timber fence at the rear and was open plan to the front of the site. Prior to the submission of this application part of the enclosure had already been erected, particularly the 1.9m high brick wall located adjacent to the mini-roundabout and part of the 1m high wall to the front.

32. It is considered that the addition of a 1.9m high brick wall in such a prominent location is an incongruous addition within the streetscene which is visually obtrusive in nature and would create an unwanted precedent within the streetscene. Although the brick has been chosen to match the house, the solid construction is out of keeping with other enclosures which are predominantly timber fencing. As such, it presents a harsh appearance, particularly adjacent to the footpath. Officers would recommend that the application be amended to reduce the visual impact upon the wider area by removing sections of the wall and replacing with either railings, similar to the property on the opposite side of the road or with vertical fencing, as it is considered that this would be of a better design and help to harmonise and soften the appearance of the wall which would in turn reduce the adverse impact upon the visual appearance within the streetscene.

33. Paragraph 130 of the NPPF states that planning permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area.

34. Comments have been received from a neighbouring resident regarding the visual appearance of the 1.9m high boundary wall not being in keeping with the surrounding area.

35. It is considered that the development would have a detrimental impact upon the visual amenity of the area and does not comply with Policy 73 of the District of Easington Local Plan or paragraph 130 of the NPPF.

## **Impact upon residential amenity**

36. The boundary wall encloses the rear garden area along the rear and the side adjacent to the public footpath at 1.9m then reduces in height to 1m adjacent to the rear of the single storey extension and continues around to the front garden curtilage. Along the shared boundary with the neighbouring property number 36 Whindyke the existing 1.3m high boundary enclosure remains in place. Therefore, given the nature and location of the proposal, it is not considered that the wall would result in a direct loss of residential amenity to the adjacent neighbours of the site.
37. Comments have been received in support of the application stating that the boundary wall would provide privacy for the applicants. There is no dispute that a boundary enclosure of this nature would provide adequate privacy for the applicants, however, the introduction of a replacement boundary fence similar to the one previously at the site would also provide the applicants with the required adequate amenity space and privacy required.

## **Highways**

38. The General Permitted Development Order sets a height limit of 1 metre for boundary treatments adjacent to a vehicular highway in order to ensure that if vehicular crossings of the highway are made within the boundary treatment that drivers emerging/entering can see over them in order not to endanger other road users/pedestrians and themselves.
39. The proposed development would be a replacement of a 1.8m high open boarded timber fence, therefore given that the wall would replace a boundary fence of a similar height the Highways officer has raised no objection on highway safety grounds.
40. In this respect no concerns are raised in relation to highway matters at the site, and therefore it is considered that the proposals are acceptable from a highway point of view.

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## **CONCLUSION**

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41. It is considered that the principle of enclosing the garden curtilage of the property is acceptable should the enclosure be in keeping with the host dwelling and surrounding area. Given the prominent location, height and materials of the unauthorised wall, however, it is considered that the development constitutes an incongruous addition which adversely affects the character and appearance of the area.
42. As the proposal is partially retrospective, for the reasons outlined above, it is considered expedient to ensure that the provisions of the District of Easington Local Plan are upheld. Consideration should therefore be given to the authorisation of further planning enforcement action. This action would seek to secure the removal of the means of enclosure or amendments to it so as to enable a more suitable boundary treatment to be erected in its place.
43. Therefore, it is considered that the application should be refused as the proposal is of unacceptable appearance within the streetscene and as such, does not comply with policy 1, 35 and 73 of the District of Easington Local Plan or Section 12 of the NPPF.

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## **RECOMMENDATION**

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Recommendation that the application is:

### **REFUSED**

1. The 1.9m high brick wall, by reason of its materials, design and prominent location, constitutes a development that is not in keeping with the host property and wider streetscene and creates an adverse impact upon the character and appearance of the area. This would be contrary to Policy 1, 35 and 73 of the District of Easington Local Plan and Section 12 of the NPPF.

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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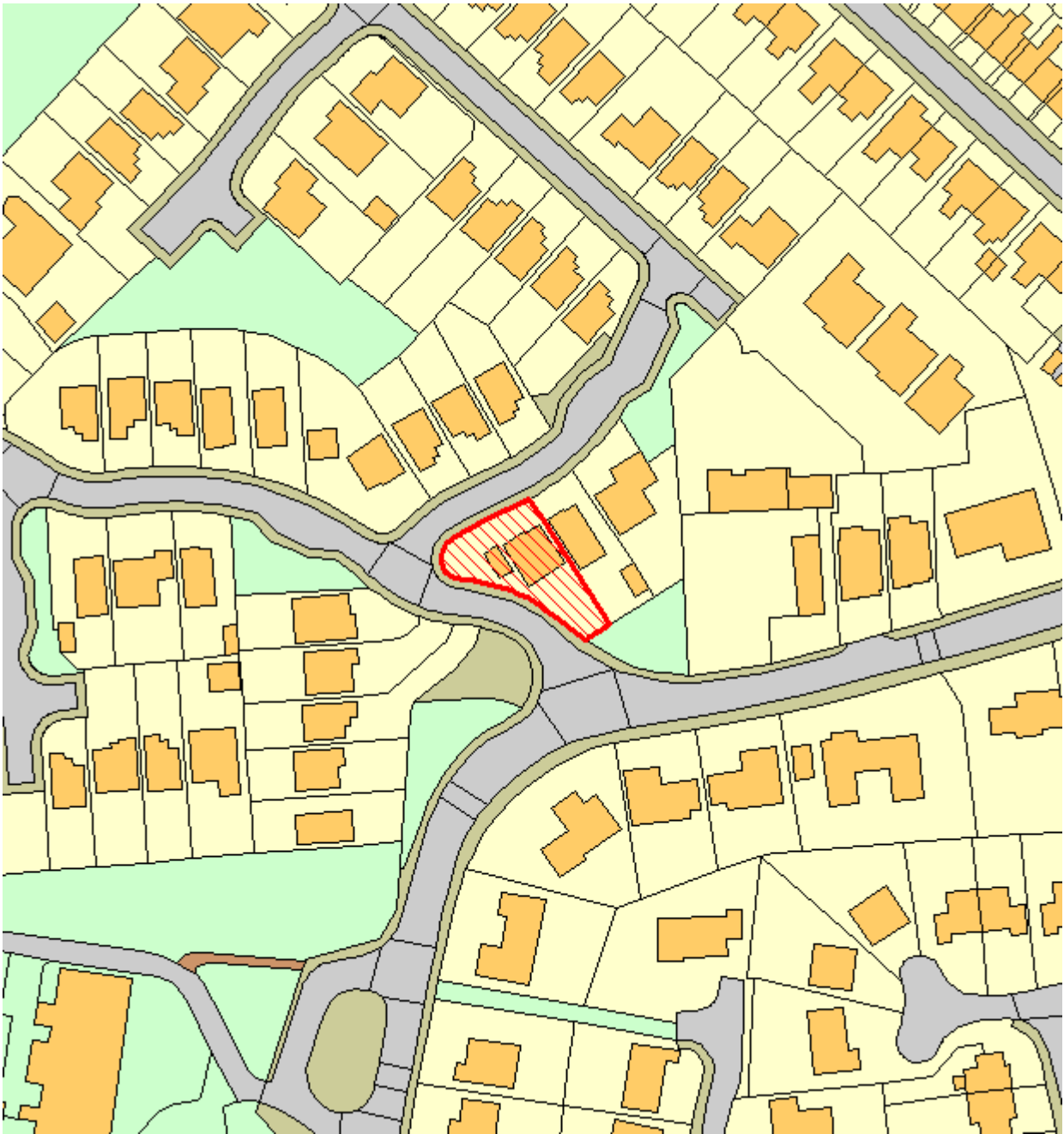
The Local Planning Authority in arriving at its decision to refuse the application has, without prejudice to a fair and objective assessment of the proposals, issues raised and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF. (Statement in accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

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## **BACKGROUND PAPERS**

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- Submitted Application Forms and Plans.
- District of Easington Local Plan 2001
- National Planning Policy Framework
- National Planning Practice Guidance
- Consultation Responses
- Objection Letters
- Representation Letter



**Planning Services**

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Erection of 1.9m high boundary wall to South West and South East of site (Part Retrospective) at 37 Windyke, Blackhall Colliery, Hartlepool, TS27 4JZ

**Comments**

**Date. 10 September 2019**

**Scale 1:1250**