

# COMMITTEE REPORT

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## APPLICATION DETAILS

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| Application No:               | DM/19/03217/FPA   |
| Full Application Description: | Resubmission of DM/19/01057/FPA for new pitched roof to existing property, two storey side extension and change of use of adjacent land from open space to private garden |
| Name of Applicant:            | Mr Darrell Harris   |
| Address:                      | 12 Hatfield Place, Peterlee, SR8 5SZ  |
| Electoral Division:           | Peterlee  |
| Case Officer:                 | George Spurgeon (Planning Officer)<br>Tel: 03000 261 959<br>Email: <a href="mailto:george.spurgeon@durham.gov.uk">george.spurgeon@durham.gov.uk</a>                       |

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## DESCRIPTION OF THE SITE AND PROPOSAL

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### The Site

1. The application site comprises of the residential curtilage of the property number 12 Hatfield Place, Peterlee, and a parcel of land 4 metres in width that is currently in use as open space directly adjacent to this property, covering an area of approximately 69 metres squared. This parcel of open space forms part of a larger area of open space, 8.7 metres in width. The open space to the side of the property slopes down from the north east corner towards the south west corner and three mature sycamore trees are located on it.
2. 12 Hatfield Place is a two-storey end terrace property finished in red facing brick to the front and rear elevations and brown facing brick to the side elevation. The house type and materials are typical of the surrounding area. The dwelling features a traditional dual pitched roof finished in grey profiled sheeting. The property benefits from garden areas to the front and rear, bordered by a brown fence.

3. The three mature sycamore trees on the parcel of open space to the side of the property are protected under a Tree Preservation Order (TPO). These trees were considered to have a high enough amenity value to be worthy of protection under a TPO during the processing of previous application DM/19/01057/FPA. A TPO (reference TPO-110-2019) was subsequently placed on all three trees earlier this year. The surrounding area is characterised by pockets of open space in between buildings, with many of these areas containing trees.

### The Proposal

4. Full planning permission is sought for the replacement of the existing roof of the property 12 Hatfield Place with red concrete roof tiles and the conversion of a parcel of public open space to private garden, to facilitate the erection of a two-storey side extension. As a result of the construction of the extension, the two sycamore trees closest to the side elevation of the host property would need to be removed.
5. The application is reported to the Planning Committee at the request of Councillor Audrey Laing who considers that the application should be considered by planning committee to allow the benefits of the scheme to be assessed against the harm to the street scene.

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## PLANNING HISTORY

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6. DM/19/01057/FPA -New pitched roof to existing property, two storey side extension and change of use of adjacent land from open space to private garden. Withdrawn 24.07.2019

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## PLANNING POLICY

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### National Policy

7. 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 dependent.
8. 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;
9. *NPPF Part 8 Promoting Healthy Communities*: The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.

10. *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.
11. *NPPF Part 15 Enhancing the Natural Environment*: Aims to contribute to and enhance the natural and local environment by recognising the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best trees and woodland and by minimising impacts on providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.

### **Local Plan Policy:**

12. The following policies of the District of Easington Local Plan are considered relevant to the determination of this application.
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.
16. Policy 92 - Amenity open space will be protected from development except where the development of a small part of a larger area of open space enables the enhancement of that remaining; or alternative provision of equal or enhanced community benefit, in terms of quality and/or accessibility that is capable of serving the existing population, is provided.

### **Emerging County Durham Plan:**

#### **The County Durham Plan**

17. 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 27 June 2019 and the examination in public is now progressing. 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.

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **Internal Consultee Responses:**

18. Highways Section: raises no objections to the application.
19. Landscape Section: objects to the application due to the loss of young mature trees in good condition with a high amenity value. The loss of these trees would be to the detriment of the appearance of the surrounding area.
20. Ecology Section: objects to the application due to the loss of mature trees which would result in a net loss of biodiversity.

### **Public Responses:**

21. The application has been publicised by way of notification letters sent to neighbouring properties. No letters of support or objection were received in response to the application.

### **Applicants Statement:**

22. The applicant has applied to what is now known as Believe Housing to purchase a strip of land to the side of his property, with the intention of extending his property. A planning application to cover the change of use, along with a two storey side extension was submitted to Durham County Council in April 2019.
23. In order to carry out the development my client wished to remove the existing 3 No. Norway Maple trees previously planted there by either Easington District Council or the old Peterlee Development Corporation. Their location can be seen on drawing number 1.
24. Initially the Planning Officer seemed happy with only the 2 trees nearest the proposed extension being removed, with the furthest away tree being retained. Revised drawings to reflect this requirement were sent to the Council and a Building Regulations application submitted on that basis. However the Planning Officer then changed his mind, insisting that all three trees should be retained, and indicating that he would refuse the application on that basis. We withdrew the application and after consultation with the local County Councillor, resubmitted the application on the understanding that it would be 'called in' and decided by the full Planning Committee.
25. It is understood that the Council have since taken out a tree preservation order on these trees (ref. TPO-110-2019). Looking at the D.C.C. website regarding Tree Preservation Orders, it states that the Local Planning Authority has the power to protect important trees by making a Tree Preservation Order. We question the importance of these three trees and contend that the T.P.O. has been taken out purely to give the Planners a justification for resisting this application. There are areas of open green space all around Hatfield Place, and trees have been planted on several of the larger greens. The area between the side of number 12 and the footpath is a relatively small green. The existing three trees have been planted in a group close to the rear corner of the applicant's property. A better arrangement might have been three trees in a row parallel with the footpath, evenly spaced along the length of the green. This is in fact how trees have been planted on the small green space immediately to the South of the application site.

26. If the Council grant Planning Permission to remove the two closest trees the applicant would be agreeable to plant 2 new trees of the same type in line with the remaining tree. This would provide the necessary mitigation for the removal of two existing trees. The proposed location of these new trees is shown on a revised drawing number 1. This would be done in consultation with Believe Housing. It should also be noted that on the two grassed areas immediately to the North of the application site either the County Council, or Believe Housing, has recently cut down about 11 existing trees, so the principle of removing trees on this estate is well established.
27. We contend that the Council should never have planted Norway Maple trees with an ability to grow up to 18 metres high (reference NHBC guidelines for building near trees) barely 3 metres from the corner of the applicant's house. The dwellings in Hatfield Place are built off shallow ground beam type foundations. It is impossible to know how well the ground below the foundations was consolidated before the foundations were installed. Trees too near to buildings can undermine foundations during prolonged spells of hot dry weather, which is the reason for the NHBC guidelines for building near trees. Climate change issues are very much in the news these days, and spells of extremely hot dry spells are likely to become more frequent.
28. We respectfully ask the Planning Committee to approve this application on the understanding that the applicant is willing to plant 2 No. new trees in a line near to the footpath as shown on the revised drawing no. 1.

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## **PLANNING CONSIDERATION AND ASSESSMENT**

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29. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that if regard is to be had to the development plan, decisions should be made in accordance with the development plan unless material considerations indicate otherwise. In accordance with Paragraph 212 of the National Planning Policy Framework (NPPF), the policies contained therein are material considerations that should be taken into account in decision-making. Other material considerations include representations received. In this context, it is considered that the main planning issues in this instance relate to the principle of the change of use, protected trees, ecology, visual amenity, and residential amenity.

### **Principle of Change of Use**

30. The application proposes to convert part of the existing public open space to the side of 12 Hatfield Place to residential curtilage. Policy 35 permits development provided sufficient open space is provided and Policy 92 of the District of Easington Local Plan states that amenity open space will be protected from development except where the development of small part of a larger area of open space enables the enhancement of that remaining or alternative provision is provided. These policies are considered to be both up to date and consistent with the NPPF, accordingly paragraph 11 is not engaged.
31. The supporting text of Policy 92 does not provide a definition of amenity open space but does state that amenity open spaces are likely to include public parks, village greens, commons, and major areas of landscaping in respect of the 'softening' of urban development. Although the parcel of open space in question under this application is of a smaller scale than that which is listed in the supporting text, the open space does contribute in terms of the 'softening' of urban development and so can be considered to be amenity open space. Therefore, Policy 92 is considered to be relevant.

32. Whilst the proposal is not fully in accordance with Policy 92, the development would result in sufficient open space remaining in the vicinity. The proposal would not result in the loss of the entire parcel of open space to the side of 12 Hatfield Place, ensuring that although some open space will be lost, approximately half of the land will remain in use as public open space, retaining a visually attractive break in development that is typical of the surrounding area and forms part of an extensive network of open spaces throughout Peterlee generally.
33. Furthermore, the land is not designated as open space within the Councils Open Space Needs Assessment and there are other areas of open space within the residential estate that will remain to be used and enjoyed by residents. The largest area of nearby open space is located to the south east of Hatfield Place and is designated as open space within the aforementioned assessment. Therefore, there is considered to be a sufficient amount of open space after the development, and so the principle of the proposed change of use is considered to be acceptable.

#### Impact on Protected Trees, Ecology and Visual Amenity

34. Policy 35 of the District of Easington Local Plan permits development provided that it reflects the character of the area. Part 15 of the NPPF aims to recognise the wider benefits from natural capital and ecosystem services - including the economic and other benefits of the best trees.
35. The application proposes to remove two mature sycamore trees that are protected under a TPO. 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 sound justification and evidence for works to such trees. This is usually on the grounds of health, property damage, or danger.
36. In relation to determining whether or not works to protected trees should be permitted, National Planning Practice Guidance advises Local Authorities to:
- assess the amenity value of the tree or woodland and the likely impact of the proposal on the amenity of the area;
  - consider, in the light of this assessment, whether or not the proposal is justified, having regard to the reasons and additional information put forward in support of it;
  - consider whether any loss or damage is likely to arise if consent is refused or granted subject to conditions;
  - consider whether any requirements apply in regard to protected species;
  - consider other material considerations, including development plan policies where relevant; and
  - ensure that appropriate expertise informs its decision.
37. NPPG advises that the higher the amenity value of the tree and the greater the negative impact of proposed works on amenity, the stronger the justification must be before granting consent. However, if the amenity value is lower and the impact is likely to be negligible, it may be appropriate to grant consent even if the authority believes there is no particular arboricultural need for the work. Amenity is considered to include visibility, size and form, and contribution to the landscape.

38. The Council's Tree Officer has commented that the trees are young, mature and moderate specimens that are in good condition. T2 has an included fork that may potentially reduce its safe useful life expectancy and T3 has a kink in the stem, but overall the trees are in good condition and no evidence has been submitted that suggests the trees have caused any damage to the property. The application proposes the removal of two of the trees (T1 and T2) but the Tree Officer is of the view that because the levels of the land are graded to such an extent, it is likely that the third sycamore tree (T3), that is marked on the plans to be retained, may also be damaged in order to install the foundations of the extension. In the absence of the applicant providing an adequate tree survey or arboricultural report, it should be assumed that this development may result in the removal of all three trees.
39. The applicant has put forward a number of arguments in an attempt to justify the tree removal. Firstly, it is argued that the trees have a lower amenity value because they have been planted in a close group rather than in a row parallel to the footpath. Officers disagree with this view and consider that the current location of the trees results in them being visible from the footpath and wider surrounding area, to which they make a positive contribution. Secondly, the applicant states that other trees within the estate have been felled, including around 11 immediately to the north of the application site. Officers have been unable to verify the location of these, and it has not been possible to investigate the circumstances behind their removal. Thirdly, the applicant argues that the species of tree is inappropriate for the location and could undermine the foundations of the house. However, no evidence in the form of an arboricultural report has been submitted in support of this claim.
40. The three sycamore trees are considered to have a high amenity value, as they are mature trees that are visible from and make a positive and valuable contribution to the surrounding area. The trees also form part of a wider network of planted areas, which are common throughout the estate, forming an important part of the character of the estate in terms of its layout, design and wider visual appearance. If these trees were to be removed, it is considered that this would adversely affect the visual amenity of the area.
41. The reason for the removal of the trees is to facilitate the erection of an extension to a residential property. This is not considered to justify the loss of the trees, which are in good condition and are considered to have a high amenity value that makes a positive contribution to the appearance of the area.
42. Furthermore, paragraph 170 d) of the NPPF also requires development to minimise impacts on and provide net gains for biodiversity. The Council's Ecologist has commented that the trees form a vital component of the urban biodiversity resource and the loss of these mature trees would result in a net loss of biodiversity value, in conflict with the aims and objectives of the NPPF.
43. The three sycamore trees were considered to have a high enough amenity value to be worthy of protection under a TPO. A replacement planting scheme is not considered to sufficiently mitigate for the loss of these trees as they would not have the same maturity as the current sycamore trees, resulting in them having a lower amenity value, and a lesser presence and visual impact.
44. The proposal is therefore considered to be in conflict with Policy 35 of the District of Easington Local Plan, Part 15 of the NPPF and National Planning Practice Guidance.

45. Policy 73 of the District of Easington Local Plan permits extensions or alterations to existing dwellings provided they reflect the character and appearance of the area.
46. The two-storey side extension is proposed to match the ridgeline of the main house. The extension would have a width of 3.1 metres, compared to the 5.8 metre width of the main house, leaving a gap of 800 millimetres from the proposed new side boundary line. The extension is considered to be of good design and subordinate to the main house, so the erection of the extension itself is not considered to have an adverse impact on the character and appearance of the surrounding area.
47. The replacement of the existing roof material, consisting of grey profiled sheeting, with red concrete roof tiles has been carried out on numerous properties within the surrounding area and is not considered to harm the character and appearance of the street scene.
48. The extension and replacement roof of the main house would not have an adverse impact on the character and appearance of the area and are therefore considered to be in accordance with Policy 73 of the District of Easington Local Plan.

#### Residential Amenity

49. Policy 73 of the District of Easington Local Plan permits extensions or alterations to existing dwellings provided that they would not have an adverse impact on the residential amenity of neighbouring residents.
50. The two-storey extension is proposed to extend out from the side elevation of an end terrace property. The extension accords with the relevant guidance for separation distances and would not have an overbearing or oppressive impact on any nearby properties, nor would it result in overshadowing, visual intrusion or loss of privacy for any surrounding residents.
51. The proposed extension would not have an adverse impact on the levels of amenity currently enjoyed by neighbouring residents and is therefore considered to be in accordance with Policy 73 of the District of Easington Local Plan.

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## CONCLUSION

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52. The proposed two-storey side extension is considered to be a subordinate feature to the main house. The replacement of grey sheeting with red concrete roof tiles has occurred to multiple other properties within the surrounding area. Neither of these elements of the proposal are considered to have an adverse impact on the character and appearance of the surrounding area.
53. The change of use of part of a larger area of public open space to private garden is also considered to be acceptable in principle, as it would result in part of the area being retained as open space to provide a visually attractive break in development, in keeping with the surrounding area.



54. However, to facilitate the erection of the proposed extension, two mature sycamore trees would have to be removed and the construction of the extension may result in the loss of the third sycamore tree. The trees are protected under a TPO and are considered to have a high amenity value. The trees are visible from the surrounding area and in good condition. The loss of these trees is considered to have a detrimental impact upon the character and appearance of the street scene and would result in a net loss of biodiversity value. The points raised by the applicant have been considered but are not such as to outweigh the adverse impacts of the tree removal. A replacement replanting scheme would not be sufficient to mitigate the loss of these mature trees as they would not have the same amenity value, presence or comparable positive impact on the appearance of the street scene in the short to medium term.
55. The proposal is therefore in conflict with Policy 35 of the District of Easington Local Plan, Part 15 of the NPPF and National Planning Practice Guidance and is therefore recommended for refusal.

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## **RECOMMENDATION**

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That the application be **REFUSED** for the following reason(s)

1. The proposal would lead to the removal of at least two of the three mature sycamore trees on the site which are protected by a Tree Preservation Order. These trees are in good condition and make a positive contribution to the site and its surroundings and are considered to have a high amenity value. Insufficient justification has been provided for removal of the trees. The loss of the trees would therefore be to the detriment of the character and appearance of the surrounding area and would also result in a net loss of biodiversity value, contrary to Saved Policy 35 of the District of Easington Local Plan, the provisions of Part 15 of the NPPF and National Planning Practice Guidance.

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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The Local Planning Authority in arriving at the recommendation to refuse the application has been consistent in advice with regards the application and has considered the possibility of a positive outcome in accordance with the NPPF but it has not been possible in this instance.

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## **BACKGROUND PAPERS**

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Submitted application form, plans supporting documents and subsequent information provided by the applicant.

The National Planning Policy Framework (2018)

National Planning Practice Guidance Notes

City of Durham District Local Plan 2007

Statutory, internal and public consultation responses



### Planning Services

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Resubmission of DM/19/01057/FPA  
for new pitched roof to existing  
property, two storey side extension  
and change of use of adjacent land  
from open space to private garden at  
12 Hatfield Place, Peterlee

Date

10<sup>th</sup> December 2019