



Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

Application No:	DM/22/01910/FPA
Full Application Description:	Change of use from public highway to private drive
Name of Applicant:	Mrs Lynda Collis
Address:	35 Gateways, Wolsingham, Bishop Auckland, DL13 3HW
Electoral Division:	Weardale
Case Officer:	Jacob Reed (Planning Officer) Tel: 03000 260826 Email: jacob.reed@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSAL

The Site

1. The application site is located to the north of the Village of Wolsingham, to the West of the County. The site itself relates to part of a turning head within the adopted highway, located to the front of a detached dormer bungalow, sited centrally within a cul-de-sac known as 'Gateways'
2. The dwelling and application site are surrounded by other residential properties of a similar scale, while to the west larger detached dwellings are located. An area of public open space is also sited to the west of the site. The Gateways estate is largely open plan, with limited boundary treatments to the front of the properties, however similar to the application site, some properties have planted vegetation to provide a degree of enclosure. Access to the dwelling is provided through part of the turning head, serving an integral garage and small hardstanding.
3. The site is located outside of the Wolsingham Conservation Area.

The Proposal

4. Retrospective, planning permission is sought to change the use of part of a turning head to the front of the dwelling, to residential curtilage to provide

parking for the property. The works undertaken to date have involved the installation of a new driveway over the tarmac of the adopted highway, in line with the most southern extent of residential curtilage of the property. The works have effectively removed one of the turning stubs of the turning head, to provide a formal driveway or the property allowing parking of two vehicles. Prior to this, the property had no formal in-curtilage car parking and informally parked within the turning head.

5. The application is being reported to planning committee at the request of Councillor Savory to allow full consideration of the development with particular interest relating to highway safety and visual amenity matters.

PLANNING HISTORY

6. Planning permission for the wider estate was granted in 1986.

PLANNING POLICY

National Policy

7. A revised National Planning Policy Framework (NPPF) was published in July 2018 (with updates since). 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.
8. NPPF Part 2 Achieving Sustainable Development - The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. 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. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
9. 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.
10. NPPF Part 9 Promoting Sustainable Transport - Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.

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.

<https://www.gov.uk/guidance/national-planning-policy-framework>

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; flood risk; healthy and safe communities and highway safety.

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

Local Plan Policy:

The County Durham Plan (CDP)

13. *Policy 6 (Development on Unallocated Sites)* states the development on sites not allocated in the Plan or Neighbourhood Plan, but which are either within the built-up area or outside the built up area but well related to a settlement will be permitted provided it: is compatible with use on adjacent land; does not result in coalescence with neighbouring settlements; does not result in loss of land of recreational, ecological, or heritage value; is appropriate in scale, design etc to character of the settlement; it is not prejudicial to highway safety; provides access to sustainable modes of transport; retains the settlement's valued facilities; considers climate change implications; makes use of previously developed land and reflects priorities for urban regeneration.
14. *Policy 21 (Delivering Sustainable Transport)* requires all development to deliver sustainable transport by: delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; ensuring that any vehicular traffic generated by new development can be safely accommodated; creating new or improvements to existing routes and assessing potential increase in risk resulting from new development in vicinity of level crossings. Development should have regard to Parking and Accessibility Supplementary Planning Document.
15. *Policy 29 (Sustainable Design)* requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out 18 elements for development to be considered acceptable, including: making positive contribution to areas character, identity etc.; adaptable buildings; minimising greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; and suitable landscape proposals. Provision for all new residential development to comply with Nationally Described Space Standards, subject to transition period.

16. *Policy 31 (Amenity and Pollution)* sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that they can be integrated effectively with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised. Permission will not be granted for sensitive land uses near to potentially polluting development. Similarly, potentially polluting development will not be permitted near sensitive uses unless the effects can be mitigated.
17. Residential Amenity Standards SPD (2020 Adopted version) – Provides guidance on the space/amenity standards that would normally be expected where new dwellings are proposed.

<https://www.durham.gov.uk/cdp>

Neighbourhood Plan:

18. The application site is not located within an area where there is a Neighbourhood Plan to which regard is to be had.

CONSULTATION AND PUBLICITY RESPONSES

Statutory Consultee Responses:

19. *Highways Authority* – Advise that historical highways adoptions records indicate there was a turning head provided for the Gateways Road outside No. 35 Gateways. However, as the estate subsequently expanded and the Gateways Road extended, another turning head was provided adjacent to No. 23 Gateways. As a result, the turning head outside No. 35 Gateways was not deemed necessary albeit it was never removed from the adopted highway network. Therefore, it is advised that, the portion of the turning head outside No. 35 Gateways can be used for a private drive without resulting in a loss of highway safety.
20. In addition to this, it is advised that the utility chambers sited in the road outside No. 35 Gateways are solely related to the drainage associated with No. 35 Gateways. It is advised a separate 'stopping up' process to remove the adopted highways status would be required, this is a separate process following the grant of planning permission.

Public Responses:

21. Neighbouring residents have notified by individual notification letters one letter of objection has been received raising concerns related to highway safety. This is due to the narrow nature of the road and as a turning point is now not provided a loss of highway safety would arise. Concerns are also raised that this may set a precedent for others within the street and the resultant impact on highway safety.

PLANNING CONSIDERATION AND ASSESSMENT

22. 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 development, highway safety, visual amenity and other issues.

Principle of Development

23. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The County Durham Plan (CDP) is the statutory development plan and the starting point for determining applications as set out in the Planning Act and reinforced at Paragraph 12 of the NPPF. The CDP was adopted in October 2020 and provides the policy framework for the County up until 2035 and is therefore considered up to date.
24. Paragraph 11c of the NPPF requires applications for development proposals that accord with an up to date development plan to be approved without delay. Paragraph 12 of the NPPF states that where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.
25. CDP Policy 6 recognises that in addition to the development of specifically allocated sites, there will be situation where future opportunities arise for additional new development over and above that identified. Policy 6 sets out the that the development of sites which are not allocated in the Plan which are either (i) in the built up area; or (ii) outside the built up area but well related to a settlement will be permitted provided the proposal accords with all relevant development plan policies and (relevant to this proposal):
- a. is compatible with, and is not prejudicial to, any existing, allocated or permitted use of adjacent land;
 - c. does not result in the loss of open land that has recreational, ecological or heritage value, or contributes to the character of the locality which cannot be adequately mitigated or compensated for;
 - d. is appropriate in terms of scale, design, layout, and location to the character, function, form and setting of, the settlement;
 - e. will not be prejudicial to highway safety or have a severe residual cumulative impact on network capacity;
 - h. minimises vulnerability and provides resilience to impacts arising from climate change, including but not limited to, flooding;

26. The County Durham Plan defines 'the built up area' as land contained within the main body of existing built development of a settlement or is within a settlement boundary defined in a Neighbourhood Plan. Areas falling outside this definition will be regarded as countryside. The site is located within the heart of the village of Wolsingham and as a result is considered as development within a built-up area. The application site, forming part of the adopted highway, does not have any recreational, ecological value, and therefore subject to a detailed analysis of the impacts of the scheme, the development is considered to be acceptable in principle.

Highway Safety

27. Policy 6 of the County Durham Plan sets out that development should not be prejudicial to highway safety. Policy 21 of the CDP requires that all development ensures that any vehicular traffic generated by new development can be safely accommodated and have regard to Parking and Accessibility Supplementary Planning Document
28. Part 9 of the NPPF requires that applications for development should create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards. Furthermore Part 9 outlines that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
29. Objections have raised concerns regarding the impact upon highway safety that the proposal may cause, as the cul-de-sac of Gateways would lose a turning head at its mid-point.
30. The development undertaken, has resulted in the change of use of part of a turning head situated halfway down the cul-de-sac of Gateways. The area in question is located directly in front of no.35 Gateways and consists of a turning stub measuring 70 sqm in area. The applicant has resurfaced this area, though the installation of block type pavements, which facilitates the parking of two vehicles and now incorporates this area within the residential curtilage of the property.
31. In assessing the development, consultation has been held with the Highway Authority. They advise that in reviewing historical highways adoptions records a turning head was initially provided for the Gateways development outside No. 35 Gateways. However, as the estate subsequently expanded and the Gateways road extended, another turning head was provided adjacent to No. 23 and no. 25 Gateways to serve the development as a whole. As a result, it is advised that the turning head outside No. 35 Gateways is not now deemed necessary, albeit it was never removed from the adopted highway network. It is also advised that under highways adoptions agreements the remaining part of the turning head, to the south of the application site, has been designed as visitor parking. Therefore, the Highways Authority offer no objections to the application and consider the provision of a turning head at the end of the Gateways road appropriate and suitable to serve the development, even when talking into account highways widths and geometries.

32. It is however advised that the applicant would need to apply to have the land deregistered as unadopted highway under highway legislation. This is a separate process to the determination of the planning application.
33. In addition to this, prior to the undertaking of the work, the property of no.35 Gateways had no in-curtilage car parking, with the exception of a substandard sized hardstanding, or designated parking within the wider highway. This somewhat peculiar arrangement is at odds with the Council's adopted Parking Standards which promotes at least one in curtilage car parking space in instances where there is additional on-street car parking. Furthermore, after reviewing aerial and historic photography it is clear that this area has been routinely used by the residents of the property, extending back as far as 2001. It is considered that the development is a formalisation of this established practice.
34. Concerns have been raised by the objector regarding the possibility of the development creating a precedent for other residents to carry out similar works within the remaining the cul-de-sac on the street. Whilst each application needs to be determined on its own merits, the remaining turning heads serve a function within the estate due to their position within the highway, therefore their loss would impact on manoeuvring within the street and highway safety. Therefore, any subsequent change of use would likely be resisted.
35. Overall, whilst the concerns of local residents are appreciated, in line with the advice of the Highways Authority it is considered that the proposal does not affect highway safety, according with Policies 6 and 21 of the County Durham Plan and Part 9 of the NPPF.

Visual Amenity

36. Policy 6 of the CDP sets out that development will only be permitted where it is appropriate in terms of scale, design, layout and location to the function form of the settlement. Policy 29 of the County Durham Plan sets out that development should contribute positively to an areas character, townscape and landscape features to create and reinforce locally distinctive and sustainable communities.
37. Part 12 of the NPPF seeks to promote good design of developments that are sympathetic with their surroundings
38. In this respect that the development as undertaken has resurfaced part of the highway through the installation of block paving and will extend to the most southern part of the curtilage of the dwelling. The curtilage of the dwelling in this location is defined by semi mature hedging and a tree. When viewed in the wider street scene it is considered that the created driveway, and the part of the tuning head, is read as part of the curtilage of the dwelling and does not create an incongruous feature in the street scene. This is particularly evident when parked cars are in situ, which appears to have happed for a significant period of time.
39. Overall, it is considered that the development has not impacted on the character or appearance of the surrounding area, in accordance with Policies 6 and 29 of the County Durham Plan and Part 12 of the NPPF.

Other Matters

40. It is considered that due to the nature of the proposals and separation to surrounding properties that a loss of residential amenity has and will not occur. The development is considered to accord with Policy 6, 29 and 31 of the County Durham Plan in this respect.
41. The development has not increased the amount of hardstanding over and above the adopted highway and therefore is not considered to increase the risk of flooding or surface water runoff in the area. In addition to this, it is advised by the Highway Authority that the utility chambers sited in the road outside No. 35 Gateways are solely related to the drainage associated with No. 35 Gateways. The development is therefore considered to accord with Policies 6 and 35 of the County Durham Plan in this respect.

CONCLUSION

42. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The CDP is an up to date development plan. Paragraph 11 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means approving development proposals that accord with an up-to-date development plan without delay (paragraph 11 c).
43. In this respect the application seeks retrospective planning permission for the change of use of part of the public highway serving as a turning head to private driveway and residential curtilage. It is concluded that this would not adversely affect highway safety, the visual amenity of the surrounding area or the residential amenity. Therefore, the proposal is considered to accord with relevant policies of the County Durham Plan and the NPPF.
44. The objections and concerns raised have been taken into account and addressed within the report. However, on balance the concerns raised were not considered sufficient to justify refusal of this application. There are no material considerations which indicate otherwise and therefore the application is recommended for approval.

RECOMMENDATION

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

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:

Site location plan
Site Plan

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policy 6, 21, 29 and 31 of the County Durham Plan and Parts 2, 4, 9 and 12 of the National Planning Policy Framework.

STATEMENT OF PROACTIVE ENGAGEMENT

In accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority 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.

BACKGROUND PAPERS

Submitted Application Forms, Plans and supporting documents
National Planning Policy Framework
The County Durham Plan (CDP)
Residential Amenity Standards Supplementary Planning Document 2020
Statutory consultation responses



<p>Planning Services</p>	<p>Change of use to driveway</p>	
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