

COMMITTEE REPORT

APPLICATION DETAILS

Application No:	DM/22/01553/FPA
Full Application Description:	Proposed driveway, dropped kerb, change of use of open space to allow parking and hard stand on front garden with gates
Name of Applicant:	Mr Daniel Hawksby
Address:	2 Sudburn Avenue, Staindrop, Darlington, DL2 3JX
Electoral Division:	Barnard Castle East
Case Officer:	Jacob Reed (Planning Officer) Tel: 07827552367 Email: jacob.reed@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSAL

The Site

1. The application site relates to a grassed area to the front of the residential property of no. 2 Sudburn Avenue, located to the south east of the village of Staindrop. The land in question currently forms part of a wider stretch of open space, sited in between the dwellings of Sudburn Avenue and the adjacent highway.
2. The site lies between public footpaths which form part of the adopted highway and run both parallel and perpendicular to the dwellings and the highway of Sudburn Avenue. The grassed open space area falls outside of the adopted highway and is owned and maintained by North Star Housing Association.
3. Surrounding the site residential properties are located to the north and east, to the south lies a wider area of open space. The highway Sudburn Avenue is located to the west, beyond lies Staindrop Academy. The site lies 20m to the south of Staindrop Conservation Area.

The Proposal

4. Planning permission has previously been granted for the formation of an access which extends across the open space to the front of the property, leading to an in-curtilage parking area. This application through a resubmission of the original approval effectively seeks permission to allow parking of the applicant's car on the approved access way to the front of the dwelling, which was not part of the previous planning permission. All of the details in the original application have been resubmitted as part of this application.
5. As approved the accessway would adjoin an existing pedestrian footway which runs perpendicular to a footpath located adjacent to the highway and in front of the dwellings of Sudburn Avenue. The existing adopted highway would be retained and reinforced as required, concrete pin kerbs would delineate the adopted highway and the proposed access way. The appearance of the development would be largely identical to that as approved with a tarmacked surface replacing the existing grass area.
6. As approved and subsequently completed under the original permission the existing front garden has been removed and replaced with a block paved hardstanding area. The existing boundary wall has been retained albeit with a wider opening to facilitate vehicle access, a new timber vehicle and pedestrian gate with a maximum height of 1m is proposed.
7. The application is being reported to planning committee at the request of Staindrop Parish Council on the grounds that highway verge should not be appropriated for private parking.

PLANNING HISTORY

8. DM/19/00269/FPA Two storey and single storey extension to rear, approved 20th March 2019.
9. DM/22/00616/FPA Formation of parking area to front of property including a drop kerb and hard standing area and access across a highway verge, approved 14th April 2022

PLANNING POLICY

National Policy

10. 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.
11. 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.

12. 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.
13. 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.
14. 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:

15. 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; historic environment; design process and tools; determining a planning application; natural environment; local green space and use of planning conditions.

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

Local Plan Policy:

The County Durham Plan (CDP)

16. *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.

17. *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.
18. *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.
19. *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.
20. 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:

21. 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:

22. *Staindrop Parish Council* – Object to the application on the grounds that the highway verge should not be appropriated for private parking as proposed. It is however recognising and indeed supporting the request for access across the highway verge to use parking space on private property.
23. *Highways Authority* – Offer no objections to this proposal from the highway's aspect subject ensuring that any work within the public highway is constructed

in accordance with the requirements of Section 184(3) of the Highways Act 1980.

24. *Design and Conservation* - The property in question is a 20th century semi-detached property set back from the road beyond an open patch of grass. The building is outside the boundary of Staindrop Conservation Area. Similar arrangements appear to have been created to surrounding properties in this group. It is not on the main road through the conservation area but reads as part of this later development. As such it would not be considered to impact on the setting of the conservation area.

Public Responses:

25. The application has been publicised by individual notification letters, no representations have been received.

APPLICANTS STATEMENT:

26. None Received

PLANNING CONSIDERATION AND ASSESSMENT

27. 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 advice within 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 development, visual impact, highway safety and other matters.

Principle of Development

28. The principle of the development of the site has been established under application DM/22/01553/FPA which granted planning permission for a vehicle crossing to the development. This permission has been implemented with the formation of a blocked paved area to the front of the dwelling and widening of the vehicle access. The proposal is largely identical in appearance to the approved development, however, now seeks permission to park a vehicle on the approved access, thereby resulting in a change of use of this area which was not covered in the previous planning permission. The principle of development is therefore considered to be established and the issues raised in this application are related to matters of detail to which consideration is given to below.

Visual Amenity

29. 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.

Part 12 of the NPPF seeks to promote good design of developments that are sympathetic with their surroundings

30. In visual amenity terms the proposed development would have the same impact as the approved development, with a tarmacked vehicle access extending across the public highway and open space. However, this application specifically seeks to change the use of the approved access to allow the parking of a car. The Parish Council have raised concerns regarding the parking of a vehicle in this location.
31. The land in question is owned by North Star Housing Association, who maintain the area. The land is not designated in the County Durham Plan as Public Open Space, but is considered general open amenity land. The site adds to the pleasant approach into the Sudburn Avenue area of the village, where dwellings are set off the highway separated by an area of open space.
32. In assessing the proposed development against the above policy context, it is recognised that the appearance of a parked car to the front of dwellings would result in a change to what was previously approved. However, this arrangement is not uncommon within the area and an established practice with neighbouring, properties historically parking on access ways within the open space. Whilst this does result in a degree of visual clutter, it is considered that the general openness of the area is maintained and when balanced against the visual impact of the parking on the highway the development is not considered to adversely impact on the character and appearance of the area.
33. In relation to the hardstanding area to the front of the dwelling, widening of the access and proposed access gates, in line with the approval these are considered acceptable in principle.
34. The Staindrop Conservation Area is located to the north of the site, however the Council's Design and Conservation Officer advises the property in question is a 20th century semi-detached property set back from the road beyond an open patch of grass. Similar arrangements appear to have been created to surrounding properties in this group. It is not on the main road through the conservation area but reads as part of this later development. As such it would not be considered to impact on the setting of the conservation area.
35. Overall, while appreciating the Parish Council's concerns, it is considered that the development would not significantly impact on the character and appearance of the area over and above the extant situation. Accordingly, it is considered that the proposal is in accordance with Policies 6 and 29 of the County Durham Plan and Part 12 of the NPPF.

Highway Safety

36. 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.
37. 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.

38. CDP Policy 21 states car parking at residential developments should ensure that a sufficient level is provided for both occupants and visitors, to minimise potential harm to amenity from footway parking. On street and footway parking should be avoided where it would have an unacceptable impact on highway safety.
39. The Parish Council have objected on grounds that the Highway verge should not be appropriated for private parking.
40. As approved the accessway would be located to the south of and adjoin an existing pedestrian footway which runs perpendicular to the footpaths located adjacent to the highway and in front of the dwellings on Sudburn Avenue. The existing adopted highway would be retained and reinforced as required, concrete pin Kerbs would delineate the adopted highway and the proposed access way. The development would therefore not result in the loss of any adopted highway.
41. The Council's Highways Officer has reviewed the proposal and raises no objections to the development, advising that the proposal would not give rise to any highway safety concerns. It is however advised that the applicant would need enter into a S184 agreement to agree the scope of the works within the adopted highway. It is also advised that parking would not be permitted in the areas designated as adopted highway to ensure that there is not an obstruction to road users. The Highways Authority have specific powers to regulate such matters.
42. Overall, the proposal would not adversely affect highway safety, according with CDP Policy 21 and Part 9 of the NPPF.

Other Matters

43. 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 Policies 6, 29 and 31 of the County Durham Plan in this respect.
44. While the development would increase the amount of hardstanding this is relatively limited and would fall to the adjacent grassed areas. This would provide a degree of attenuation water before passing into the mains drainage system. The development is therefore considered to accord with Policies 6 and 35 of the County Durham Plan in this respect.

CONCLUSION

45. 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).

46. The application effectively seeks planning permission for the change of use of an area of open space and access to allow parking of vehicles, with the physical works already approved and partially undertaken in an extant permission. It is concluded that the development would not impact on the visual amenity of the surrounding area, would not adversely affect highway safety or the amenity of neighbouring residents. Therefore, the proposal is considered to accord with relevant policies of the County Durham Plan and the NPPF.
47. Whilst recognising the concerns of the Parish on balance these are 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.

Public Sector Equality Duty

48. Section 149 of the Equality Act 2010 requires public authorities when exercising their functions to have due regard to the need to i) the need to eliminate discrimination, harassment, victimisation and any other prohibited conduct, ii) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and iii) foster good relations between persons who share a relevant protected characteristic and persons who do not share that characteristic. In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified.

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, Received 20th May 2023

Existing and Proposed Site Plans, Rev C, Received 4th October 2023

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policy(ies) 6, 21 and 29; of the County Durham Plan and Parts 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



Planning Services

Formation

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Comments

Date: 20th April 2023