

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	CE/13/00598
FULL APPLICATION DESCRIPTION:	Erection of detached dwelling to the east of 20 Faraday Court (amended plans).
NAME OF APPLICANT:	Mr and Mrs Maclaurin
ADDRESS:	Land at 20 Faraday Court, Neville's Cross, Durham
ELECTORAL DIVISION:	Neville's Cross
CASE OFFICER:	Susan Hyde

DESCRIPTION OF THE SITE AND PROPOSALS

Site

1. The application relates to flat grass land which currently forms the garden of 20 Faraday Court which is an end town house on the contemporary Sheraton Park development lying to the south of Neville's Cross in Durham City. The application proposes to subdivide the garden and the application site forms the east section of the garden. Access into the site is via Faraday Court and the land is bordered by tree lined footpaths to the north, south and east and mature trees lie within and adjacent to the garden. The boundary of the City of Durham Conservation Area is located beyond the application site to the east of the site adjacent to the footpath.

Proposal:

2. The application seeks planning permission for the erection of 1 detached dwelling that is two and a half storeys in height and provides five bedrooms. All the existing boundary trees are shown to be retained.

3. The application is brought before planning committee at the request of Councillor Nigel Martin and Councillor Grenville Holland.

PLANNING HISTORY

4. No planning history on this site but there is a history of residential extensions on Faraday Court.

PLANNING POLICY

NATIONAL POLICY

5. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.
6. 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’.
7. The following elements are considered relevant to this proposal;
8. NPPF Part 1 – Building a Strong and Competitive Economy. The Government attaches significant weight on the need to support economic growth through the planning system. Local Planning Authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century.
9. NPPF Part 4 – 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.
10. NPPF Part 6 – Delivering a Wide Choice of High Quality Homes. Local Planning Authorities should use evidence bases to ensure that their Local Plan meets the needs for market and affordable housing in the area. Housing applications should be considered in the context of the presumption in favour of sustainable development. A wide choice of homes, widened opportunities for home ownership and the creation of sustainable, inclusive and mixed communities should be delivered. Where there is an identified need for affordable housing, policies should be met for meeting this need unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified and such policies should also be sufficiently flexible to take account of changing market conditions over time.
11. NPPF Part 7 – Requiring Good Design. The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
12. 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.
13. NPPF Part 10 – Meeting the Challenge of Climate Change, Flooding and Coastal Change. Planning plays a key role in helping shape places to secure Local Planning Authorities should adopt proactive strategies to mitigate and adapt to climate change. Local Planning Authorities should have a positive strategy to promote energy from

renewable and low carbon sources. Inappropriate development in areas at risk of flooding should be avoided.

14. NPPF Part 11 – Conserving and Enhancing the Natural Environment. The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.

15 NPPF Part 12 – Conserving and Enhancing the Historic Environment. Local planning authorities should set out in their Local Plan a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats. In doing so, they should recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance. The above represents a summary of the NPPF considered most relevant the full text may be accessed at:

<http://www.communities.gov.uk/publications/planningandbuilding/nppf>

LOCAL PLAN POLICY:

16. Policy E14 Trees and Hedgerows sets out the Council's requirements for considering proposals which would affect trees and hedgerows. Development proposals will be required to retain areas of woodland, important groups of trees, copses and individual trees and hedgerows wherever possible and to replace trees and hedgerows of value which are lost. Full tree surveys are required to accompany applications when development may affect trees inside or outside the application site.

17. Policy E15 Provision of New Trees and Hedgerows states that the Council will encourage tree and hedgerow planting.

18. Policy E22 Conservation Areas - seeks to preserve or enhance the character or appearance of conservation areas, by not permitting development which would detract from its setting, while ensuring that proposals are sensitive in terms of scale, design and materials reflective of existing architectural details.

19. Policy H2 New Housing within Durham City states that new residential development comprising windfall development of previously developed land will be permitted within the settlement boundary of Durham City provided that the proposals accord with Policies E3, E5, E6, Q8, R2, T10 and U8A.

20. Policy H13 Residential Areas – Impact upon Character and Amenity states that planning permission will not be granted for new development or changes of use which have a significant adverse effect on the character or appearance of residential areas, or the amenities of residents within them.

21. Policy T1 Traffic – General states that the Council will not grant planning permission for development that would generate traffic likely to be detrimental to highway safety and/or have a significant effect on the amenity of occupiers of neighbouring property.

22. Policy T10 Parking – General Provision states that vehicle parking should be limited in amount, so as to promote sustainable transport choices and reduce the land-take of development.

23. Policy T21 Safeguarding the Needs of Walkers states that the Council will seek to safeguard the needs of walkers by ensuring that: existing footpaths and public rights of way are protected; a safe, attractive and convenient footpath network is established throughout the City; that the footpath network takes the most direct route possible between destinations; and the footpath network is appropriately signed. Wherever possible, footpaths should be capable of use by people with disabilities, the elderly and those with young children. Development which directly affects a public right of way will only be considered acceptable if an equivalent alternative route is provided by the developer before work on site commences.

24. Policy R11 - Public Rights of Way states that public access to the countryside will be encouraged and safeguarded by protecting the existing network of public rights of way and other paths from development which would result in their destruction or diversion unless a suitable alternative is provided and the proposal accords with Policy T21.

25. Policies Q1 and Q2 General Principles Designing for People and Accessibility states that the layout and design of all new development should take into account the requirements of all users.

26. Policy Q5 Landscaping General Provision sets out that any development which has an impact on the visual amenity of an area will be required to incorporate a high standard of landscaping.

27. Policy Q8 Layout and Design – Residential Development sets out the Council's standards for the layout of new residential development. Amongst other things, new dwellings must be appropriate in scale, form, density and materials to the character of their surroundings. The impact on the occupants of existing nearby properties should be minimised.

28. Policy U8a Disposal of Foul and Surface Water requires developments to provide satisfactory arrangements for disposing foul and surface water discharges. Where satisfactory arrangements are not available, then proposals may be approved subject to the submission of a satisfactory scheme and its implementation before the development is brought into use.

29. Policy U14 Energy Conservation – General states that the energy efficient materials and construction techniques will be encouraged.

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/Pages/Service.aspx?ServiceId=494>

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

30. The County Highways Officer has raised no objections to the development.

INTERNAL CONSULTEE RESPONSES:

31. Ecology – Initially requested further information with regard to the possibility of bats on the site. The applicant provided further information and the Senior Ecologist is satisfied that a bat survey is not required.
32. Design and Conservation – Raised no objection to the principle of a dwelling on the application site but raised concerns about massing and scale of the dwelling which was out of keeping with other dwellings in the street scene. The application has been amended to address this point.
33. Tree Officer - Requested amendments to the application so that the proposal was outside the tree root protection area. Amended plans have been received to address this.
34. Public Rights of Way – Have confirmed no alterations to the footpaths are proposed.
35. Landscape Architect – Objected to the original application as she considered it was overdevelopment of the site.

PUBLIC RESPONSES:

36. The application was advertised by letters being sent to local residents, a site notice was erected and a notice appeared in the local press.
37. A total of 8 no. letters of objection have been received with regards to the application and 2 no. letters raising some comments of support.
38. Objections are raised to the proposed massing and design of the dwelling with it being considered that this is overdevelopment of the application site. In addition concern about how close the gable end is to the footpath and the impact of the balcony on the footpath.
39. Many residents objections relate to the loss of mature trees on the application site and in the applicants garden that were felled some years ago. Concerns relate to the loss of the mature trees leading to a larger flat garden that has now formed this application site for development.
40. Concern about the loss of light and views from neighbouring dwellings and that the new dwelling will have a view of neighbours gardens.
41. Objections to additional traffic, and car parking with neither the existing or proposed dwelling having a garage and only on street parking being available. In addition concern about the access to the application site potentially trespassing over part of the access in the neighbours ownership.
42. The two letters in support of the development compliments the design and layout of the new building, consider another dwelling adds to the needed housing stock in Durham and does not detract from the amenity of the area or access and parking.

APPLICANTS STATEMENT: (SUMMARISED BY PLANNING OFFICERS)

43. The applicants, Mr & Mrs Maclaurin, have a growing family with ageing parents and they have outgrown their current home. They have a clear need for a better designed home, with a more efficient use of floor space, and within walking distance of their children's

schools. The dwelling has been designed to be in keeping with the existing properties in the surrounding area, it is of a high quality and in materials to be in keeping with the street. In addition the dwelling benefits from a large garden and the retention of all the trees and hedges on the site.

44. Access to the new dwelling is via the existing estate road and parking for 3 vehicles is available on the drive. All the access to the adopted highway is in the applicants' ownership. The applicants have negotiated with the Planning Officer in the light of the residents concerns and Officers concerns and have reduced the size of the dwelling, moved the siting away from the trees and hedge and altered the design of the dwelling.

PLANNING CONSIDERATIONS AND ASSESSMENT

45. 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, impact upon the character and appearance of the area, impacts on residential amenity, impacts on highway safety and the City of Durham Conservation Area.

The Principle of the Development

46. The proposed development site consists of part of an existing garden at 20 Faraday Court. The application site being within Neville's Cross is also located within the Durham City settlement boundary as defined by the Local Plan. Policy H2 of the Local Plan accepts the principle of windfall development of previously developed land for residential development. There is no saved local plan policy in respect of Greenfield windfall sites. However, on a recent planning appeal statement relating to another site in Durham City the Planning Inspectorate considered that Policy H2 was not a negative or restrictive policy which automatically considers that housing on greenfield land is unacceptable. The Inspectorate emphasized the need to consider each application on its own merits and in that instance found no adverse effect in accepting the development at the site. In a similar vein whilst the NPPF emphasizes the importance of redevelopment of brownfield land it does not preclude development on greenfield sites. This site is within a settlement boundary on a clearly defined site, close to schools, services and public transport links and therefore has good sustainability credentials.

47. As a result the principle of the development can be accepted as Policy H2 of the Local Plan is not directly relevant as the site is Greenfield and the proposal is considered to be in accordance with the thrust of the NPPF, particularly in terms of sustainability.

Impacts Upon the Character and Appearance of the Area

48. Policies Q8 and H13 provide the principal Local Plan advice on the design and layout of residential development within a predominantly residential area. Policies E14 and E15 relate to tree retention and provision whilst Policy Q5 relates to landscaping. Part 7 of the NPPF advises on the importance of good design within development proposals.

49. Some public objection to the development proposal relates to the design and massing of the proposed dwelling although some support has also been received.

50. Officers initially raised objection to the appearance of the proposed dwelling and requested that the applicant address these, seeking to provide a smaller footprint to be

more in keeping with the street scene and a design with better reference to the character and appearance of the area. As a result the dwelling has been reduced in scale and the elevations now reasonably reflect the vernacular in the area. The bay windowed gable on the front elevation has also been reduced in height to match the neighbouring properties. A balcony is also proposed on the rear elevation which is sited so that there are no views available over the neighbours garden at no. 20 Faraday Court. Views to the rear (south) are restricted due to the existing trees and there is a distance of 15 metres before the boundary of the neighbours gardens to the rear. Views to the east are over open playing fields.

51. Some public concern relates to the loss of mature trees that were removed on the application site before this application was submitted. The loss of these mature trees is noted and was investigated at the time the trees were removed. It was concluded that no action could be taken over their removal as they were not subject to any control by the Council. It is noted that since the trees were lost a Tree Preservation Order was served on the remaining worthy trees on the Sheraton Park estate to protect the remaining mature trees that are considered an asset to the visual amenity of the area.

52. A comprehensive tree report by Batson was submitted with the planning application which plotted the constraints from the existing trees. Amended plans were sought and received from the applicant which reduced the footprint of the dwelling so that it did not encroach on the root protection area of the tree to the rear. It is also relevant that the trees to the rear are located to the south of the dwelling and so this elevation will suffer from shade cast which also added to the good practice of reducing the footprint of the building away from the root protection area.

53. To the east of the site adjacent to the footpath there is an existing planted row of young trees which are just outside the boundary of the planning application site. The siting of the dwelling has been amended to ensure there is at least 3 metres between the young hedge and the dwelling to allow this hedge to mature in height. The growth of this existing hedge will also assist in softening the development adjacent to the existing footpath.

54. Overall the amended layout and design of the dwelling is considered to be appropriate with no harm caused to the existing trees and the layout allows for the existing trees and hedge to mature which is appropriate to the visual appearance of the area. However given the prominence of the siting of the dwelling in the street scene and the tree constraints on the site Officers consider that it is appropriate to remove permitted development rights for extensions and ancillary buildings in the garden by condition.

Residential Amenity

55. Some public opposition to the development raises concerns over the proximity at which the dwelling would be built to existing property and the loss of privacy and amenity.

56. Policy Q8 of the Local Plan provides specific guidance on residential development to ensure adequate privacy and amenity for all. Similarly Policy H13 of the Local Plan also seeks to protect the amenity of existing residents from new developments.

57. The 2 ½ storey dwelling is located in alignment with the existing street pattern with the same residential relationship occurring between the properties. The existing side elevation of no. 20 has one bedroom window which the agent has offered to obscure glaze as part of this application. However as it is looking into a blank gable and there is an additional window to the primary bedroom window (which is on the front elevation) this is not considered to be needed. A second window is into a bathroom which is obscure glazed. To the rear there is a distance of over 30 metres from the proposed rear elevation to the existing rear elevation of the detached dwellings on Westcott Drive which exceeds the Council's Policy guidelines. To the front elevation no 21 Faraday Court is located at an

oblique angle to the application site and as such there are no material residential amenity implications.

58. Objectors have also raised concerns about overlooking of the gardens on 21 Faraday Court. The rear gardens of the terraced dwellings already have an element of being overlooked by the existing neighbours and the siting of the proposed dwelling reflects the existing street pattern. As such the level of residential amenity is considered to be consistent with other properties on the estate and the introduction of an additional dwelling would not materially impact upon the position.

59. Overall officers consider that the development is acceptable in terms of its impacts upon residential amenity for both existing and prospective occupiers.

Highways Issues

60. Matters regarding parking and highway safety have been a concern within the public responses to the application.

61. Policy T1 of the Local Plan seeks to ensure that all development is acceptable in terms of highway safety whilst Policy T10 seeks to limit parking provision in development to promote sustainable transport choices and reduce the land take of development. Part 4 of the NPPF seeks to promote sustainable transport choices. With regards to plans and decisions paragraph 32 of the NPPF advises that safe and suitable access to a site should be achieved for all people but that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

62. The County Highways Officer has carefully considered the application and has raised no objection to the application. Vehicular access and two parking spaces are provided with the proposed dwelling. It is also of note that an objector has clarified that he has ownership of part of the highway and the County Highway Officer has reviewed this and continued to raise no objection to the application.

63. Objectors have also raised concerns about the potential impact of the development on the footpath from Faraday Court to the east. This footpath is outside the application site and is not shown to be altered.

64. On balance the proposed development is considered to be acceptable from a highway perspective.

Ecology

65. Policy E16 of the Local Plan seeks to conserve nature conservation assets and prevent harm to protected species through development. This aim is replicated through Part 11 of the NPPF most notably at paragraphs 118 and 119. In this case the County Ecologist has carefully considered the site but does not consider that a habitat survey is required on the site.

Other Issues

66. The application site does not lie within the City of Durham Conservation Area but its boundary runs adjacent to the playing fields to the east of the site. In accordance with Policy E22 the County Conservation Officer has therefore considered the impact of the development on the setting of the Conservation Area and subject to the amended plans has raised no objection to the development.

67. Residents have raised concerns about the detrimental impact building works will have on the residential amenity of the area. Officers consider it appropriate to attach a condition with regard to working hours.

CONCLUSION

68. The proposed development seeks the development of a dwelling within a settlement boundary in a small residential estate and such a development is in principle considered to be in accordance with the provisions of the Local Plan and having regards to the aims of sustainable development running through the NPPF.

69. Revisions to the layout and appearance of the proposed dwelling have been made during the course of the application and these have reduced officers concerns with regards to both the impacts of the development upon visual amenity and the amenity of local residents to the point that officers do not raise objection to the scheme on these grounds.

70. A further key consideration and point of concern from public responses relates to highway safety and the County Highway Officer has carefully considered the application and not raised any objection to the access and parking.

71. Officers raise no objections having regards to other key material planning considerations such as impacts on nature conservation assets and public rights of way.

72. As a result approval of the application is recommended.

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 and details:

Location Plan A3 size received 9th July 2013

Planning Layout Rev A received 10th September 2013

Ground Floor Plan 03 Rev A received 10th September 2013

First Floor Plan 04 Rev A received 10th September 2013

Second Floor Plan 05 Rev A received 10th September 2013

Front and Rear Elevations 06 Rev A received 10th September 2013-09-25

Side elevations 07 Rev A received 10th September 2013

Reason: To define the consent and ensure that a satisfactory form of development is obtained having regards to relevant Policies E14, E15, E16, H2, H13, T1, T10, T21, Q1, Q2, Q5, Q8 and U8A of the City of Durham Local Plan 2004

3. Notwithstanding any details of materials submitted within the application no development shall commence until full details of the make, colour and texture of all walling,

roofing and hard surfacing materials have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved details.

Reason: In the interests of the appearance of the area having regards to Policies Q8 and H13 of the City of Durham Local Plan.

4. Notwithstanding any details submitted within the application no development shall commence until precise details of the materials and colour treatment of all windows, doors, balcony and rainwater goods to be used in the development have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved details.

Reason: In the interests of the appearance of the area having regards to Policies Q8 and H13 of the City of Durham Local Plan.

5. Tree removals as part of the redevelopment shall be limited to those as shown on planning layout QD718-LP-10 Rev A received 24th April 2013. The remaining trees to be retained shall be protected by the erection of fencing comprising a vertical and horizontal framework of scaffolding, well braced to resist impacts, and supporting temporary welded mesh fencing panels or similar in accordance with BS 5837:2012. Said protection shall be erected prior to development commencing and retained until the completion of the development.

Reason: To define the consent and in the interests of the preservation of trees having regards to Policies E14 and Q8 of the City of Durham Local Plan 2004.

6. No development shall commence until full details of the means of enclosures to be utilised within and on the boundary of the application site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be implemented in accordance with the approved details prior to the occupation of the dwelling to which they relate.

Reason: To define the consent and ensure the development is acceptable having regards to both visual amenity and residential amenity having regards to Policies H13 and Q8 of the City of Durham Local Plan.

7. No development works shall be undertaken outside the hours of 8am and 6pm Monday to Friday and 8am to 1pm on a Saturday with no works to take place on a Sunday or Bank Holiday.

Reason: In the interests of residential amenity having regards to Policies H13 and Q8 of the City of Durham Local Plan 2004.

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

Reason: In the interests of the appearance of the area and to comply with Policies E6, E22 and Q8 of the City of Durham Local Plan 2004.

STATEMENT OF PROACTIVE ENGAGEMENT

In dealing with the application, the Local Planning Authority has worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising during the application process. The decision has been made in compliance with the requirement in the National Planning Policy Framework to promote the delivery of sustainable development.

BACKGROUND PAPERS

Submitted Application Forms, Plans and supporting documentation

City of Durham Local Plan 2004

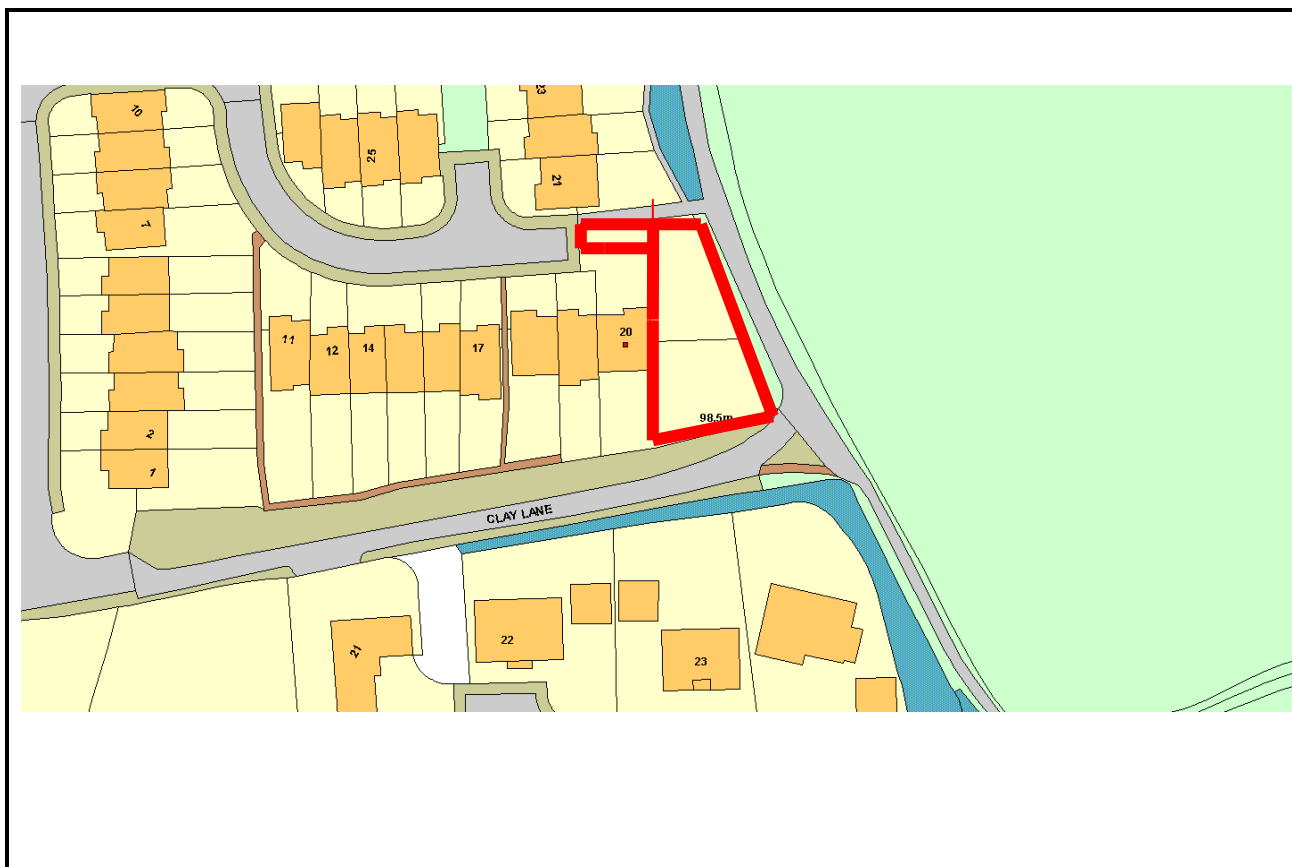
National Planning Policy Framework

Internal consultee responses

Public responses

Responses from statutory and other consultees

Planning Circular 11/95





Planning Services

Erection of a detached dwelling to the East of 20 Faraday Court

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