

Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO: 7/2010/00367/DM
FULL APPLICATION DESCRIPTION: Erection of 52 No. Dwellings
NAME OF APPLICANT: Persimmon Homes
ADDRESS: Land north of Rose Street, Trimdon Grange, Co. Durham.
ELECTORAL DIVISION: Trimdon
CASE OFFICER: David Walker Snr. Planning Officer
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DESCRIPTION OF THE SITE AND PROPOSAL

1. The application site comprises an irregularly shaped parcel of land measuring approximately 1.5 hectares fronting Rose Street which is situated at the northern edge of Trimdon Grange.
2. The vast bulk of the application site is a brown field site and contains a small cleared site between Salter's Lane (B1278) and the Methodist Church and existing garage – MK Motors. A larger section of the application site is located to the east and north of the church and garage and this contains a large detached dwelling Rose Cottage and a range of industrial buildings occupied by Kemp Plant Hire.
3. The area to the north and east contains a mix of woodland and agricultural land whilst a car parking area, area of amenity open space and the former Aged Miners Homes at Galbraith Terrace are located to the south of the application site. Trimdon Grange Industrial Estate is located immediately to the west of Salter's Lane.
4. This application seeks planning permission for the construction of 52 dwellings within the site. Seven dwellings would be located in the area of land between Salter's Lane and the existing Methodist Church; vehicular access would be taken directly from Rose Street. The remaining 45 properties would be accessed via an internal estate road served from Rose Street and located immediately to the east of the MK Motors garage site.
5. The submitted scheme includes a mix of house types containing terraced housing, semi-detached and detached housing varying in size from 2-4 bedrooms. An area of amenity open space measuring approximately 1500 square metres is located within the application site adjacent to, and east of, the entrance to the larger eastern section of the site.
6. During the course of this application a second revised layout showing a reduced number of units totalling 47 dwellings has been prepared illustrating how the layout could potentially be amended. However, this proposal has not been the subject of

public consultation and this does not form part of the planning application currently under consideration.

7. The application has been submitted with a range of supporting information including a Design and Access Statement, Planning Statement, tree report, flood risk assessment, extended phase 1 and protected species survey, statement of community involvement, geotechnical and ground contamination desk top review, affordable housing statement and site waste management plan.
8. This application is reported to committee as it falls within the definition of a major development.

PLANNING HISTORY

9. This site has a complex planning history a summary of which is outlined below for Member's consideration.
10. Several planning applications were submitted and approved in relation to the Kemp Plant Hire operations at this site including the erection of a building for a plant hire depot in 1985 (App. No. 1985/1012) and change of use from workshop and sale room to workshop (App. No. 1986/ 0143). Planning approval was also granted to change the use of part of the highway at Rose Street and landscaped area adjacent to form a staff car park to serve the adjoining commercial business (App. No. 1993/0069).
11. An application seeking retrospective consent for a storage building and an extension to another the storage building in connection with the established plant hire business and agricultural activities, construction of a sunken generator house and 2.4 m high boundary wall (App. No. 1998/0348) was also approved.
12. A planning application for a swimming pool and garage extension to the existing residential property at Rose Cottage was also approved (App. No. 1989/0156).
13. An outline planning application for residential development on this site was submitted in 2006 (App. No 2006/0069) this was recommended for conditional planning approval subject to the applicant entering into a legal agreement to provide a minimum of 10% affordable housing, management and maintenance of open space, a design code for the development (including a mix of house types) and the provision of a 1.8m wide footpath along the northern side of Rose Street from the junction with the B1278 to the entrance to the development site. However, it would appear that the legal agreement was never completed.

PLANNING POLICY

6. National Policy:

Planning Policy Statement 1 (PPS1) Delivering Sustainable Development and Climate Change sets out the Government's overarching planning policies on the delivery of sustainable development through the planning system. The key principles including ensuring high quality development through good and inclusive design, and efficient use of resources.

Planning Policy Statement 3 (PPS3) Housing sets out the sustainable delivery of the Government's national housing objectives. Housing should be of a high quality, offer variety and choice, be affordable and make use of previously developed land in sustainable locations whilst being well related to existing facilities and infrastructure.

This also states that the priority for development should be previously developed land, in particular vacant and derelict sites.

Planning Policy Statement 9 (PPS9) Biodiversity and Geological Conservation: sets out planning policies on protection of biodiversity and geological conservation through the planning system. These policies complement, but do not replace or override, other national planning policies and should be read in conjunction with other relevant statements of national planning policy.

Planning Policy Guidance 13 (PPG13) Transport seeks to integrate planning and transport at the national, regional, strategic and local level and to promote more sustainable transport choices both for carrying people and for moving freight.

Planning Policy Statement 23 (PPS 23) sets out the relationship between pollution control and the planning process under the overall heading of Sustainable Development. This Policy statement requires that local authorities must be satisfied that planning permission can be granted on land use grounds following consultation with the relevant pollution control authority. The Local Planning Authority should, in its assessment of a planning application, satisfy itself that the potential for contamination and any risks arising are properly assessed and the development incorporates the necessary remediation and management measures to deal with unacceptable risk. It should not, however, replicate the role of other relevant authorities.

Planning Policy Guidance 24 (PPG24) Planning and Noise guides local authorities in England on the use of their planning powers to minimise the adverse impact of noise. It outlines the considerations to be taken into account in determining planning applications both for noise-sensitive developments and for those activities which generate noise. It explains the concept of noise exposure categories for residential development and recommends appropriate levels for exposure to different sources of noise.

7. Regional Policy

The North East of England Plan - Regional Spatial Strategy to 2021 (RSS) July 2008, sets out the broad spatial development strategy for the North East region for the period of 2004 to 2021. The RSS sets out the region's housing provision and the priorities in economic development, retail growth, transport investment, the environment, minerals and waste treatment and disposal. Some policies have an end date of 2021 but the overall vision, strategy, and general policies will guide development over a longer timescale.

Policy 2 – Sustainable Development: Planning proposals should seek to promote sustainable development through social, economic and environmental objectives.

Policy 4 (The Sequential Approach to Development) provides that a sequential approach to the identification of land for development should be adopted to give priority to previously developed land and buildings in the most sustainable locations.

Policy 8 - Seeks to protect and enhance the environment. This in part should be achieved through promoting high quality design in all development and that it should be sympathetic to the surrounding area.

Policy 24 - Delivering Sustainable Communities - all development within the Region should be designed and located to deliver sustainable communities. Proposals should assess the suitability of land for development and the contribution that can be made by design in relation to 16 detailed criteria, including concentrating development in urban locations, reducing need to travel, proximity to infrastructure, health and well-being, biodiversity and crime prevention/community safety.

8. Local Plan Policy:

As this application is located within the former Sedgefield Borough Council area the Local Plan Policies are contained within the Sedgefield Borough Local Plan (1996).

Policy H8 (Housing Development in Villages) presumption in favour of residential development within defined larger villages, including Trimdon Grange, and establishes a settlement boundary for those villages.

Policy H11 (Housing development in the Countryside) states that the extension, infilling or redevelopment of ribbons or of sporadic groups of houses outside of the towns and villages listed in Policy H8 will not normally be approved.

Policy H19 (Housing for Particular Groups) encourages developers to provide a variety of house types and sizes, and where a need is demonstrated, affordable housing.

Policy L1 (Provision of Open Space) seeks to ensure that sufficient open space is provided to meet the needs of the former Sedgefield Borough.

Policy L2 (Open Space in Housing Developments) sets standards for provision of open space and play facilities within new residential developments.

Policy D1 (Design Principles) sets out principles which should normally be applied to the layout and design of all new developments.

Policy D3 (Designed with pedestrians, cyclists, public transport) aims to ensure that new developments are accessible and safe for pedestrians, cyclists, public transport, cars and other vehicles.

Policy D5 (Layout of New Housing Developments) sets out principles which should be applied to new housing developments to ensure they provide a safe and pleasant environment in which to live with access routes that are safe and accessible for all users.

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 www.durham.gov.uk

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY /EXTERNAL RESPONSE

9. **Trimdon Parish Council** has not commented upon this application.
10. **Highways Authority** has made a number of detailed comments in relation to the submitted layout, particular concern was raised that the layout did not include a 1.8m wide footway on the northern side of Rose Street between the site entrance and Salter's Lane. The scheme also includes 7 properties which are shown to be served by a private shared driveway this arrangement is unacceptable in highway terms as the maximum number of dwellings served by a private drive is 5.
11. It was also suggested that the private driveway to several plots would need to be revised, that the proposed layout be amended to improve the inter relation between the housing and the allocated car parking within the scheme. It was also requested that additional on site car parking provision be accommodated in order to reflect the characteristics and size of house types proposed within this proposal.

12. **Police Architectural Liaison Officer** has raised no issue regarding the proposed layout but has suggested that those plots backing onto open space be protected with a 2m high close boarded fence re-inforced with low defensive planting and that the width of the proposed garaging be increased from 2.5m to 3.0 in order to encourage greater use of the garages for storing vehicles.
13. **Environment Agency** has no objections to the proposal but have recommended that planning conditions be attached requiring the submission of details in relation to surface water disposal and land contamination prior to the commencement of work on site.
14. **Northumbrian Water Limited** has raised no objection to the proposal subject to the imposition of planning conditions being attached restricting the commencement of development until a detailed scheme has been submitted and agreed regarding the diversion of the existing public sewer within the site and in relation to the disposal of surface water.
15. **Natural England** has no objection to the proposal but has stated that this proposal may affect Bats which are a European protected species. As such, it was advised to consult Natural England's standing advice regarding this matter.
16. **Northern Gas Networks** have raised no objection to this proposal but have provided details of their apparatus within the site.

INTERNAL CONSULTEE RESPONSES

17. **Forward Plans section** has provided detailed comments in respect of this proposal. These comments are outlined in detail within the Planning Considerations and Assessment section of this report.
18. **County Ecologist** is satisfied with the methodology used within the Phase 1 and Protected Species Survey and has recommended that the mitigation measures detailed within the above report regarding the provision of satisfactory alternative roost space are provided in advance of any works commencing on the original roost building. It was also recommended that a lighting strategy be developed and submitted to the LPA prior to any works commencing on site, that a planning condition be included to prevent vegetation clearance and /or building demolition during the bird breeding season.
20. It was suggested that a new hedgerow alongside the northern and eastern boundary of the site be included in order to create bio-diverse green linkages through the site and to form a natural boundary within the rural landscape beyond. It was also pointed out that it is an offence to plant or otherwise cause these species to grow in the wild a number of Cotoneaster species. As such, it was suggested that the Cotoneaster horizontalis referred to in the planting schedule be replaced with a more appropriate wildlife friendly shrub.
21. **Sport & Leisure Services** have stated that this area of Trimdon is currently well served by children's play sites it was, therefore, suggested that instead of providing additional play equipment on site a commuted sum be utilised to upgrade the existing facilities within this area.
22. **The Environmental Health Officer** has stated that it is recognised as Best Practice for a noise assessment to be conducted when a residential development is proposed close to existing noise sources, such as an industrial estate and road network. A noise assessment was considered necessary in this case because of

the close proximity of the proposed housing to the existing industrial premises adjacent to the application site. It was also stated that there is potential for short term effects to occur to existing nearby residential receptors during the construction phase of the development of the site. It was, therefore, suggested that the applicant submit a report detailing how noise and dust would be controlled during construction to prevent disturbance to surrounding residential properties.

23. Notwithstanding the Desk Top study and geo- technical report already provided in support of this application it was suggested that a planning condition be attached requiring the submission and approval of a Phase 2 Site Investigation report. This report shall take into consideration; the relevant aspects of the desk top study and discuss remediation measures. After remediation measures are implemented at the site, a final validation statement shall be submitted to the local planning authority.
24. **The Senior Low Carbon Officer** has stated that this scheme would need to satisfy the RSS requirement of 10% renewable energy within this development proposal.

PUBLIC RESPONSES

25. This planning application has been advertised via a press notice, the posting of site notices and via direct neighbour notification. As a result 3 written representations were received in respect of this proposal.
26. The owner of MK Motors which operates from Rose Street and would be bounded to the north and east by the proposed development has objected to this proposal. It has been pointed out that at the time that he purchased the existing garage in 2007 the previous owner declared that he had enjoyed *unrestricted access since 1980 along Rose Street ... and along the unmade road to the west of the property serving the rear of the property*. The submitted layout would, however, include proposals to build two private garages and three rear gardens upto the rear of the existing garage building and over the existing rear service yard.
27. One local resident from Enneffar raised no objection to this proposal but sought reassurances that no vehicular or pedestrian access serving the proposed development would be taken from the existing private vehicular access to the east of his property. Clarification was also sought that the existing sewer to the rear of Galbraith Terrace was capable of sustaining the additional flows generated by this proposal.
28. The minister of Trimdon Grange Methodist Church also wrote in on behalf of her congregation. Whilst the construction of houses in this area was welcomed concern was raised regarding the close proximity of the proposed housing to the west of the church building. It was pointed out that the aging Church building will need to be the subject of ongoing maintenance and structural repair in the future. As the congregation are *anxious to maintain the building in a safe state of repair for ourselves and the occupants of the new houses*.

APPLICANT'S STATEMENT

29. The applicant has submitted a Planning Statement and a Design and Access Statement in support of this planning application.
30. These explain that the layout includes a variety of detached, semi-detached and terraced dwellings, the majority of which would be arranged around a 'T' shaped roadway leading from Rose Street. Seven dwellings are shown fronting onto, and directly accessed from Rose Street. All units would have good standards of amenity, including well-proportioned rear gardens. In addition the layout

demonstrates that all dwellings would have off-street parking as well as access to on site visitor parking.

31. The application site is an existing Brownfield site and contains a mix of light industrial units and for many years has been occupied by Kemp Plant hire. The site, although on rising ground, is well screened by existing surrounding screen planting.
32. Development will primarily consist of a mix of two and three storey detached, semi-detached and terraced properties of high quality design, sympathetic with its surroundings in terms of bulk scale and massing. In addition, access can be achieved through the existing highway infrastructure and the adjacent public footpath connections which border the southern boundary of the development site ensure that the creation of a new residential parcel within the locality not only compliments, but seamlessly integrates with the adjacent residential areas.
33. The layout is legible and simple, incorporating a wide mix of high quality design house types of varying sizes offering different accommodation ranging from smaller two bedroom starter units to larger family dwellings in the form of detached, semi-detached and terraced housing with the aim of developing an inclusive community. The range of house types breaks up the urban block structure creating a varied streetscape softened by structural landscaping.
34. Access to public transport is essential for social inclusion with this in mind the existing bus services which operate along the B1278 to the west and Peel Avenue and Galbraith Terrace to the south are within easy walking distance of the development. It is proposed that by maximising the potential to travel by public transport, bicycle or foot, the development will be in keeping with the local policies D3 and national objectives to create sustainable communities, less dependant on the motor car.
35. The development proposals incorporate a generous proportion of public open space which forms a 'Village Green' within the development. This creates an attractive focal point and usable area on site for recreational open space for residents. In addition, directly south of the development is a large area of amenity space, which when combined with the on site provision, creates a vast recreational green corridor between the application site and the Aged Miners' Homes situated on Galbraith Terrace.
36. It is stated that this proposal will provide attractive 'positive' frontages onto 'Rose Street' with front accessed dwellings and pedestrian links from the neighbourhood to ensure the development setting is protected and exploited to the best advantage.
 - Block structure of residential units fronting onto the main arterial access route to provide natural surveillance of the public realm.
 - Strong character mixed with a range of terraced, semi-detached and larger detached dwellings break up the urban form creating a varied and attractive streetscape.
 - Residential units pulled back from sensitive edges creating a 'back garden buffer' to reduce the impact of development on neighbouring land use and protect amenity.
 - Generous provision of on-site public open space, overlooked by residential units to provide natural surveillance. The site also links with the large area of amenity space directly to the south of the development, creating a vast, recreational green corridor through the north of Trimdon Grange.
 - The site is well positioned in relation to public transport links with existing bus

stops within easy walking distance as well as good links to the public right of way which runs along the southern site boundary.

37. Although the application site is located outside the residential framework of Trimdon Grange, as identified by the Sedgefield Borough Local Plan, it is pointed out that National Planning Policy is also a material planning consideration
38. The applicant has stated that this proposal would not cause material harm and that this would comply with guidance contained within PPS3. In that this scheme would provide-
 - A high quality design will be ensured via the DC process
 - Housing mix will demonstrate compliance with the SHMA findings
 - The sites suitability has been confirmed in the SHLAA whilst site specific sustainability will be ensured via the DC process
 - The DC process will ensure the site is used efficiently
 - The sites approval is in line with housing objectives, will meet need and demand, fully accords with the spatial vision for the area and will not undermine wider policy objectives
39. In relation to the above PPS 3 criterion, whilst the application site lies just outside the existing settlement boundary, its development for housing would, for the reasons set out above, represent a sustainable urban extension when considered against the main provisions of PPS3. The proposal would have the added benefits of sustaining existing shops and services within Trimdon Grange, and contributing towards the national target of at least 60% of new housing development being on Brownfield sites.
40. It is also considered that the proposal would help to consolidate the village to the north, and significantly improve the visual amenity of the locality. Rose Street has historically exhibited poor visual qualities through indiscriminate outside storage of materials and the general poor quality of buildings. The opportunity here for environmental improvement is significant. These material considerations are considered to outweigh the normal presumption against development outside the settlement envelope under Policy H8 of the Sedgefield Borough Local Plan.
41. Furthermore, the development in fully in accordance with paragraph 54 of PPS 3 states that to be considered deliverable, sites should:
 - Be available – the site is available now
 - Be suitable – the site offers a suitable location for development now and would contribute to the creation of sustainable mixed communities.
 - Be Achievable – there is reasonable prospect of this site coming forward within five years.

PLANNING CONSIDERATIONS AND ASSESSMENT

42. In assessing this proposal against the requirements of the aforementioned planning policies, and having regard to all material planning consideration, including representations received, the main planning issues in this case are as follows:

- * Principle of Development
- * Layout and Design
- * Affordable housing
- * Open Space
- * Access and highway issues
- * Noise
- * Impact on Wildlife

* other issues raised during application.

Principle of Development

43. Whilst the proposed site is outside of the existing settlement boundary as defined by Policy H8, its development for housing would represent a sustainable urban extension to Trimdon Grange. Housing will occupy previously-developed land that is located to the north of the village.
44. Although not an overriding factor, additional housing will help to sustain existing shops, services and facilities within Trimdon Grange.
45. The scheme would contribute towards the national target that by 2008, at least 60% of additional housing should be provided on Brownfield land. The regional target (as set out in Policy 29 of the RSS) is 65% and the scheme would contribute to this target.
46. New dwellings on the site would not be unduly intrusive and in many ways would consolidate the village to the North.
47. It is considered that the proposal represents an opportunity to redevelop this site and improve the visual amenity of the immediate area generally.
48. Taking the above circumstances into consideration the Council's Planning Policy section are of the opinion that there is sufficient justification for giving favourable consideration to the redevelopment of this edge of village Brownfield site in principle provided that the issues relating to design, highways, open space provision, noise and ecology can be satisfactorily resolved.

Layout and Design

49. PPS1 Sustainable Development states that good design ensures attractive usable, durable and adaptable places and is a key element in achieving sustainable development. Good design is indivisible from good planning. It is therefore of key importance that new development should be of a high quality of design.
50. These sentiments are re-iterated in Policy 8 of the Regional Spatial Strategy which seeks to protect and enhance the environment. This in part should be achieved through promoting high quality design in all development and that it should be sympathetic to the surrounding area.
51. Policies D1, D5 and SPG 3 of the Sedgefield Borough Local Plan seek to ensure the layout and design of new developments are in keeping with the surrounding area and achieve satisfactory privacy and amenity of the neighbouring residents.
52. The overriding principles of the design policies of the Local Plan requires new housing development to have an attractive appearance, be durable, function well for their users and be designed to relate well to the surroundings of the site and the landscape setting.
53. Notwithstanding the comments contained within the applicant's Planning Statement and Design and Access Statement it is felt that the proposed design and layout of this scheme is somewhat disappointing and fails to maximise the opportunities presented within the site and does not reflect the design principles outlined in Best Practice such as CABI Building for Life Standards.

54. The scheme relies heavily on the use of standard house types and with the exception of a small number of dual fronted houses they appear to lack a coordinated design which provides a sense of place or individuality. Nor does the current proposal appear to reflect the characteristics of the older or more distinctive buildings within this area.
55. The design of the current layout also fails to provide key focal points or strong building lines. The lack of a strong building line is particularly noticeable for several plots which are located on the smaller but more prominent section site adjacent to Salter's Lane. Nor does this appear to take into account the topography of the site which falls sharply towards the eastern edge of the application site and is in part cut into the existing embankment to the north of the site.
56. The rear gardens of several plots are extremely limited. In some cases the rear gardens are approximately 6.5-7.0m in length a factor further exacerbated by the relationship between the rear gardens and the existing retaining walls.
57. The inter relationship between the proposed housing and the existing industrial unit was also a cause for concern because of concerns regarding both overshadowing, fumes and noise. The issue of noise is considered in a later section of this report.
58. Although the site does benefit from a significant degree of screening provided by off site planting to the north west and south. Further potential exists to improve the setting of the development further by introducing hedgerow planting along the north eastern and eastern perimeter of the development.
53. In conclusion, the layout and design of the proposal is considered to be unsatisfactory in that it fails to provide a quality of development which provides a sense of place. The high number of units within the proposal is considered to represent an over development of the site which has led to several of the plots being located in close proximity to adjacent buildings or retaining walls resulting in a cramped appearance. As a result it is considered that several of the proposed properties are likely to have sub standard levels of amenity. The proposals are, therefore contrary to Policies D1, D5 and SPG 3 of the Sedgfield Borough Local Plan and Policies 8 and 24 of the Regional Spatial Strategy.

Affordable Housing

54. The provision of affordable housing within this development site was considered to be a significant positive benefit arising from the proposed development of the site when the outline planning application to develop this site was first considered in 2006 (App. No. 2006/ 0069).
55. The County Durham Strategic Housing Market Assessment (SHMA) report was completed in 2008 and supplies the evidence base for a 20% requirement for affordable housing across the (former district) Sedgfield area.
56. However, recent High Court judgments have underlined the need to consider factors such as economic viability in formulating policy targets, in accordance with Government guidance. The viability of the site was previously considered in relation to the earlier outline scheme (App. No. 2006/0069) where after taking into account the remediation costs of the site the level of affordable housing to be provided on this site was reduced from 20% to 10%.
57. The applicants have demonstrated that the inclusion of affordable housing will make their scheme unviable; this has been independently tested by County Council officers.

Access and Highway Issues

58. The proposed layout and access arrangements have been examined by the Highway Authority who found that the proposed layout was unsatisfactory in highway safety terms in that this did not include a 1.8m wide footway on the northern side of Rose Street between the site entrance and Salter's Lane. This lack of a direct and safe pedestrian access route from the application site to Salter's Lane was deemed to be contrary Policies D1, D3 and D5 of the Sedgefield Borough Local Plan in that fails to provide a safe, convenient and attractive environment.
59. It was also felt that the internal road layout was inadequate in that 7 properties are to be served by a private shared driveway and the car parking arrangements were in sections found to be unsatisfactory, contrary to Policies D1 and D3 of the Sedgefield Borough Local Plan.

Provision of Open Space and Play Areas

60. Policy L2 of the Borough Local Plan stipulates that housing developments should provide for open space at a minimum rate of 100 sqm of informal play space and 500 sqm of amenity space for every 10 dwellings. Plus a contribution towards the provision of new or improved equipped play areas and outdoor sports facilities to serve the development.
61. PPS3 which is more up to date generally, promotes higher housing densities, and it is rarely possible to meet the Policy L2 standards.
62. To assess the degree of open space that should be provided on this site, due regard has to be given to requirements of PPS3, to current planning policy on open space, and also to the Council's Open Space Needs Assessment (OSNA). Paragraph 16 of PPS3 states that when assessing the design quality of a developers proposed housing scheme, Local Planning Authorities are to consider the extent to which the proposed development provides, or enables good access to, community and green and open amenity and recreational space (including play space) as well as private outdoor space such as residential gardens, patios and balconies.
63. The Open Space Needs Assessment has demonstrated that Trimdon Grange is well provided for in terms of open space provision.
64. Whilst the quantity of open space is important it is also important to take into account the location of the existing open space within this settlement, the accessibility of this open space from the proposed development site and the actual needs arising from the development itself. With this in mind, the applicant is proposing to provide an area of amenity open space at the entrance of the site so that this can provide easily accessible informal play provision; this also provides a natural linkage to the existing amenity open space south of Rose Street. Opportunities also exist to provide additional play equipment in existing recreational areas off site.
65. Bearing in mind the good current level of existing provision within the Trimdon Grange area it is considered that a contribution of a commuted sum by the developer could be put to good use to enhance existing facilities within the area which would be beneficial not only the occupants of the new dwellings, but also the existing residents within this area.
66. However, in spite of this shortfall being identified the applicant has failed to either increase the area of open space within the site nor have they agreed to enter into a

Section 106 agreement in relation to the commuted sum to compensate for the under provision on site and pay towards the provision of play equipment off site.

67. It is considered that this proposal is contrary to the provisions of Policies L1, L2 and D5 of the Sedgefield Borough Local Plan.

Noise

68. Planning Policy Guidance 24 outlines Government advice as to how Local Planning Authority's should assess site noise with considering planning applications. Para. 2 of PPG 24 recognises that *'the impact of noise can be a material consideration in the determination of planning applications. The planning system has the task of guiding development to the most appropriate locations. It will be hard to reconcile some land uses, such as housing ... With the activities which generate high levels of noise but the planning system should ensure that wherever practical, noise sensitive developments are separated from major sources of noise (such as road, rail and air transport and certain types of industrial development)'*.

69. It is recognised that a number of measures can be utilised to mitigate the impact of noise including engineering including the protection of surrounding noise sensitive buildings (e.g. by improving sound insulation in these building and / or screening them by purposes built barriers) and by altering the layout so that adequate distance between source and noise sensitive buildings or area, screening by nature barriers, other buildings or non critical rooms in buildings.

70. Para. 14 states that 'early consultation ...about the possible use of such measures is desirable and may enable them to be incorporated into the design of the proposal before it is formally submitted for determination'. This application was not subject to any pre-application discussions and although these concerns were raised with the applicant no noise assessment has been submitted to date.

71. Noise is considered to be of particular concern in this case because of the close proximity of the proposed housing - in particular plot Nos. 7-12 to the existing garage premises located at Rose Street. The submitted layout shows that rear gardens of Plot Nos. 8, 9 and 10 to immediately abut the existing garage building with the houses themselves being located only 8.5m to the north. The front garden of the house at Plot. No. 11 also abuts the commercial garage and the front corner of the pair of semi-detached houses at Plot Nos. 11 and 12 is approximately 4m from the existing garage.

72. Bearing in mind that a noise assessment has not been carried out to measure the noise level that the dwellings may experience the Local Planning Authority is unable to judge whether the proposed dwellings and / or gardens and the proposed amenity space would be detrimentally affected by the close proximity of the existing industrial businesses in this area, nor is it able to assess whether the proposed layout is acceptable or is in need of review and refinement. The applicant however has not been prepared to withdraw the application to enable a noise assessment to be undertaken. In the absence of a noise assessment the Local Planning Authority have insufficient information to enable a fully informed decision to be made.

73. It is considered that this proposal is contrary to the provisions of Policies D1 and D5 of the Sedgefield Borough Local Plan and PPG24.

Impact upon Wildlife

74. PPS9 sets out planning policies on protection of biodiversity and geological conservation through the planning system. These policies complement, but do not replace or override, other national planning policies and should be read in conjunction with other relevant statements of national planning policy.
75. The application subject of this report has been accompanied by both an extended phase 1 and protected species survey which included a detailed bat survey. Both the County Ecologist and Natural England have advised that the survey undertaken was adequate subject to a condition to secure the mitigation identified in the survey in view of its findings. These measures included that the bat mitigation works were carried out in accordance with the mitigation scheme submitted in support of the planning application with a replacement roost being erected in advance of the demolition of the existing roost. It was also suggested that planning conditions be attached in respect of the timing of demolition and vegetation clearance so as to avoid the bird nesting and breeding season and the landscaping scheme being amended to remove the *Cotoneaster horizontalis* referred to in the planting schedule and the introduction of hedgerows along the northern and eastern perimeter of the site.
76. The existing buildings on site have been surveyed and the existing residential property Rose Cottage was found to hold a large common pipistrelle maternity roost and a roost of brown long eared bats. The demolition of the building will therefore result in the loss of a bat roost for a period of time, and without mitigation, would result in the permanent loss of the roost. A European Protected Species (EPS) license will therefore be required from Natural England. Local planning authorities responsibilities in respect of European protected species has recently been clarified in a Judicial Review judgment in the case of Woolley vs Cheshire East Borough Council. This judgement makes clear that planning authorities, in exercising their planning and other functions, must have regard to the requirements of the EC Habitats directive, as prescribed by Regulation 9 of the Conservation of Habitats and species Regulations 2010.
77. The development must meet a purpose of preserving public health or public safety or other imperative reasons of overriding public interest including those of social or economic nature and beneficial consequences of primary importance for the environment; there must be no satisfactory alternative; and, favourable conservation status of the species must be maintained. Neither Circular 06/2005 or indeed PPS9 provide any detailed advice on judging whether a development could be considered favourably against such tests.

Test 1: preserving public health/safety or other imperative reasons of overriding public interest

78. The development proposed is not required for any interests of public health or public safety. Natural England considers in its statement following the aforementioned judicial review case that overriding public interest would include those of social or economic nature and beneficial consequences of primary importance for the environment. There would be no public economic or social benefits provided by a private housing scheme of this nature. Beneficial consequences of primary importance for the environment however, may arise. The existing dwelling has been substantially extended to such a degree that this does little to contribute to the character and appearance of the area. Furthermore the existing dwelling and its curtilage form a significant part of the proposed development site were this to be excluded it is considered that the remaining plant hire site which contains a range of large but unattractive buildings and a significant degree of vehicle and plant storage

which is rather unsightly. It is considered that there is sufficient merit in the scheme as a whole that it satisfies the first of three derogation tests.

Test 2: there must be no satisfactory alternative

79. The only satisfactory alternative which would see the retention of the roost would be the retention of the building. However, the building has been substantially extended to meet the particular requirements of the owner and it is felt that a building of this size and layout in close proximity to the existing commercial plant hire business would not be suitable for retention as an alternative use. The retention of the building in the longer term would not represent a satisfactory alternative, and as any development proposal involving the demolition of the existing building where the roost is present would result in the loss of the roost. It is, therefore, considered that there is no satisfactory practical alternative available, and the second test is consequently met in this particular circumstance.

Test 3: favourable conservation status of the species must be maintained

80. The demolition of the building will result in the loss of the identified roost, however, mitigation is proposed which provides for the creation of new alternative roost sites in the roof structures of two garages within the site and for the creation of a further creation of alternative roof sites in 10 of the proposed dwellings. Such mitigation is considered to be acceptable by Natural England and should ensure that favourable conservation status is both maintained during and following the implementation of the development proposed, and as such the third and final derogation test is considered to be met.

Other issues raised by respondents

81. The owner of MK Motors, a commercial repair garage at Rose Street, has expressed concern that this proposal would involve development on land immediately to the rear of the garage over which the garage has a longstanding right of access. This issue of concern has been forwarded to the applicants, however, this matter is considered to be a private matter between the parties concerned. The inter-relationship of the proposed housing and the garage premises themselves is a material planning consideration which has been considered in detail within the Layout and Design and Noise sections of this report.
82. The local resident from Enneffar sought re-assurances that no vehicular or pedestrian access serving the proposed development would be taken from the existing private vehicular access to the east of his property (the vehicular access to the proposed development is shown to be taken from Rose Street and no proposed pedestrian access has been shown over the area concerned).
83. Northumbrian Water was formally notified in respect of this planning application and in response no objection has been raised subject to the imposition of appropriate planning conditions.
84. The minister of Trimdon Grange Methodist Church also expressed concern regarding the close proximity of the proposed housing to the west of the church building. It was pointed out that the aging Church building will need to be the subject of ongoing maintenance and structural repair in the future. This concern has been forwarded to the applicant, however, the submitted drawings show a retained gap of approximately 1.0 m between the gable end of the existing church and the gable end of the nearest residential property. It is considered that such a retained separation distance would be sufficient to allow construction of the new property and allow access to the church to satisfy future maintenance requirements. It should also be noted that although the industrial building previously on this site was

situated approximately 9.5 m to the west, consent of the land owner would technically still have been required to access their land whilst carrying out maintenance or repair works. In any event, this is a private law matter between the parties.

CONCLUSION

85. In conclusion, whilst the site is located outwith the residential framework of Trimdon Grange it is considered that residential development of this Brownfield site for residential use is considered acceptable in principle.
86. However, the proposal as submitted is considered to be unacceptable in that the design and layout represents an over development of the site which does not take into account the relationship of the proposed housing to the topography of the site and adjacent commercial uses and would lead to a cramped form of development leading to a substandard level of amenity for future occupiers.
87. The layout is unacceptable as this fails to provide a satisfactory pedestrian link along the northern section of Rose Street to the existing footpath network at Salter's Lane and does not provide a satisfactory internal access and car parking arrangements to highway standards.
88. The submitted scheme does not include on site open space provision in accordance with Local Plan Policy L1,L2 and D5 nor does it make provision for a commuted sum to be paid to enhance off site leisure or recreational facilities.
89. It is also considered that the applicant has failed to demonstrate that the residential amenity of future occupants would not be detrimentally affected by noise arising from the existing garage premises at Rose Street and / or the industrial premises at Trimdon Industrial Estate.
90. The applicant has been given the opportunity to withdraw the application which would have enabled further discussions to take place to secure improvements to the layout and design of the scheme and overcome those outstanding issues outlined above. The applicant however has not been prepared to withdraw the application in the full knowledge that officers would be recommending that the application be refused.

RECOMMENDATION

That the application be refused for the following reasons

1. In the opinion of the Local Planning Authority, the design and layout is considered to be unacceptable in that this represents an over development of the site which does not take into account the relationship of the proposed housing to the topography of the site and adjacent commercial uses and would lead to a cramped form of development leading to a substandard level of amenity for future occupiers. This is contrary to Policies D1 and D5 of the Sedgfield Borough Local Plan and Policies 8 and 24 of the Regional Spatial Strategy.
2. In the opinion of the Local Planning Authority, the layout is unacceptable as this fails to provide a satisfactory pedestrian link along the northern section of Rose Street to the existing footpath network at Salter's Lane and does not provide a satisfactory internal access and car parking arrangements. This is /or would be contrary to Policies D1 and D3 of the Sedgfield Borough Local Plan.

3. In the opinion of the Local Planning Authority the submitted scheme fails to make suitable on site open space provision nor does this make provision for a commuted sum to be paid in lieu in order to enhance off site leisure or recreational facilities. This is contrary to Policies L1, L2 and D5 of the Sedgefield Borough Local Plan.
4. In the opinion of the Local Planning Authority the applicant has failed to demonstrate that the residential amenity of future occupants would not be detrimentally affected by noise arising from the existing garage premises at Rose Street and / or the industrial premises at Trimdon Industrial Estate. This is contrary to Policies D1 and D5 of the Sedgefield Borough Local Plan and Planning Policy Guidance note 24: Planning and Noise.

BACKGROUND PAPERS

- Submitted Application Forms and Plans.
- Design and Access Statement, Planning Statement, tree report, flood risk assessment, extended phase 1 and protected species survey, statement of community involvement, geotechnical and ground contamination desk top review, affordable housing statement and site waste management plan.
- North East of England Plan Regional Spatial Strategy to 2021 (RSS) July 2008
- Sedgefield Borough Council Local Plan 1996
- Planning Policy Statements / Guidance, PPS1, PPS3, PPS9, PPG13, PPS23 and PPG24,
- Responses from Statutory / external consultees, internal consultees and members of the public.