

Committee Report

Application No:	DC/17/01084/FUL
Case Officer	Owain Curtis
Date Application Valid	26 September 2017
Applicant	Gateshead Council
Site:	Garage Site Rear Of 33 - 43 Derwent View Winlaton
Ward:	Winlaton And High Spen
Proposal:	Creation of four assisted living flats and associated parking (revised application).
Recommendation:	GRANT
Application Type	Full Application

1.0 The Application:

1.1 DESCRIPTION OF THE SITE

The application site is an area of land which lies to the rear of properties on Derwent View and Gibside View in Winlaton. Previously, there were 8 garages on the site however the site has now been cleared. Access into the site is gained from Derwent View and consists of a single track in a gap between two houses. The site itself is mostly level although the properties on Gibside View are at a higher land level than the application site. Surrounding properties are semi-detached and are all of a similar style and age.

1.2 DESCRIPTION OF THE APPLICATION

This revised application seeks planning permission for the erection of a block of 4 flats. The flats are intended to be assisted living accommodation and would allow people with disabilities or social care needs to live independently with support staff available if needed.

1.3 In terms of how the accommodation would operate, the applicant states that it is anticipated that support staff are likely to come and go during the day and it is likely that some tenants will have minimal support needs and may not require daily visits but have one or two weekly visits.

1.4 The previous application was refused by the Planning and Development Committee on 22nd June 2017 as it was concluded *“The proposed development would represent overdevelopment of the site and by virtue of the proximity of the proposed development to surrounding properties, would create an overbearing sense of enclosure causing material harm to the living conditions of the occupants of surrounding properties, particularly number 26 Gibside View.”*

- 1.5 The revised building has been decreased in scale with the height reduced from 9.1m to 8.5m and the overall width of the building has been reduced from 11.4m to 9.3m to reduce the impact of the building on the surrounding residents. The siting of the building has also been amended to increase the separation distance from the properties to the south including 26 Gibside View. The building has been designed to appear as similar as possible to the surrounding semi-detached houses with a pitched roof and side facing gables. The external materials would be red brick, render and grey roof tiles. The application also proposes the erection of a 2m high fence along the boundary to fully enclose the application site.
- 1.6 A total of 5 parking spaces would be provided for the flats and the access road would provide a passing place on the junction with Derwent View.

1.7 PLANNING HISTORY

DC/17/00259/FUL – Refused - Erection of assisted living accommodation (4 units) and associated development on former garage site (additional information received 19/05/17 and amended 10/05/17, 19/05/17, 31/05/17 and 12/06/07) - 22.06.2017.

2.0 Consultation Responses:

The Coal Authority – No objection

Northumbrian Water – No objection

3.0 Representations:

This application is referred to the Planning and Development Committee for determination given the number of objections received.

- 3.1 Neighbour notifications were carried out in accordance with formal procedures introduced by the Town & Country Planning (Development Management Procedure) Order 2015.
- 3.2 43 neighbouring properties have been notified of the application. A total of 13 objection letters from 11 people have been received raising the following issues:
- None of the previous comments have been taken into consideration
 - The building would cause a loss of privacy and intrusive
 - The proposed fence will interfere with the existing fences
 - The measurements on the plan are incorrect
 - The bin store will attract vermin and spread disease
 - There will be a loss of parking on Derwent View meaning an already congested bus route will become busier
 - The development will reduce property values

- The building will block the views over the site where wildlife can be seen
- Emergency vehicles will not be able to enter the site
- The development will cause noise and disturbance
- The garage site is higher than the surrounding houses so will be overbearing and be an extreme breach of privacy
- The proposal will result in a loss of trees and wildlife.

4.0 Policies:

NPPF National Planning Policy Framework

NPPG National Planning Practice Guidance

CS1 Spatial Strategy for Sustainable Growth

CS10 Delivering New Homes

CS11 Providing a range and choice of housing

CS13 Transport

CS14 Wellbeing and Health

CS15 Place Making

DC2 Residential Amenity

H4 Windfall and Small Housing Sites

ENV3 The Built Environment - Character/Design

ENV54 Dev on Land Affected by Contamination

CFR28 Toddlers' Play Areas

CFR29 Juniors' Play Areas

CFR30 Teenagers' Recreation Areas

5.0 Assessment of the Proposal:

5.1 The key considerations to be taken into account when assessing this planning application are: the principle of residential development on the site, the effect on the living conditions of the future occupiers and the occupiers of surrounding properties, the impact on the character and appearance of the area, whether there would be any unacceptable highway safety issues and any other relevant planning considerations.

5.2 PRINCIPLE OF RESIDENTIAL DEVELOPMENT

Paragraph 49 of the NPPF states that all “housing applications should be considered in the context of the presumption in favour of sustainable development”. Paragraph 50 goes on to state that to create sustainable, inclusive and mixed communities councils should plan for a mix of housing based on, amongst other things, the needs of different groups in the community such as people with disabilities.

- 5.3 Policy CS11 of the Core Strategy and Urban Core Plan seeks to provide a range and choice of new housing across the borough. The proposal relates to specialist supported accommodation to satisfy an identified need and the flats would have a positive impact on the supply of housing in Gateshead. This is in accordance with the NPPF and policy CS11 of the Core Strategy.
- 5.4 Further, this site would be considered as a housing windfall site under saved policy H4 of the Gateshead Unitary Development Plan. The site is not situated in an isolated location and it is considered that the location of the proposal within an existing residential area is sustainable and will help build and sustain the community. On this basis, the proposed development is considered to be a windfall housing site that will bridge a portion of the gap in the dwelling stock within the borough.
- 5.5 Overall the principle of residential development on this site can be supported subject to all other material planning considerations being satisfied.
- 5.6 RESIDENTIAL AMENITY
The NPPF states that a core principle of planning is to always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.
- 5.7 Local policies CS14 of the Core Strategy and DC2 of the UDP require that development does not have any negative impacts on nearby residents and ensures a high quality of design and amenity for existing and future residents.
- 5.8 Representations have been received which raise residential amenity as a concern – particularly with regard to overlooking and loss of privacy.
- 5.9 As the plot is surrounded by residential properties to all sides, the site is highly constrained. The applicant’s solution is to use obscure glazed windows at first floor level.
- 5.10 The northern elevation of the proposed flats would face onto the rear elevations and gardens of the properties to the north of the site on Derwent View. The revised application has reduced the number of windows on the northern elevation from 5 to 3. The windows would serve a bedroom, bathroom and kitchen. The windows would be obscure glazed and would open a maximum of 100mm. The separation

distance from this elevation of the proposed building to the nearest property on Derwent View would be 13.8m.

- 5.11 The southern elevation of the building would face onto the rear elevations and gardens of the properties on Gibside View to the south of the application site. On this elevation there would be four windows at first floor level serving the stairwell, bedroom, bathroom and kitchen. As with the northern elevation, the windows would be obscure glazed with the exception of the stairwell window. At its closest point, the building would be 13m from the rear extension of 26 Gibside View and 16m from its main rear elevation thereby addressing the previous refusal reason in relation to this property.
- 5.12 On this issue, the obscure glazing on these elevations would prevent any undue loss of privacy to the existing residents of surrounding properties on Derwent View and Gibside View as it would prevent all direct overlooking from window to window. It is officers' view that the proposed clear glazed windows serving the stairwell and hall would not cause harm to the living conditions of residents as, unlike the habitable rooms, the occupiers of the flats would not have a lasting presence in this area of the building.
- 5.13 On the east elevation the first floor windows would not be obscure glazed. The windows on this elevation would serve the living rooms of the first floor flats. The nearest properties to this elevation are numbers 31 and 33 Derwent View. Due to the siting and orientation of the proposed building and the distance from the boundary, the separation distance between the flats and the side elevation of number 31 Derwent View would be adequate (approximately 17m at its closest and 19.8m at its furthest). Officers consider that there will be a degree of overlooking from the first floor windows towards number 33 Derwent View however the orientation of the properties would prevent any direct views into the rear windows of number 33 given the oblique angle. As this would not be back-to-back overlooking officers do not consider the level of overlooking would warrant the refusal of this application.
- 5.14 Due to the large separation distance of over 25m and siting of the proposed building, it is not considered there would be any adverse impact on the privacy the residents on the western boundary of the site currently enjoy.
- 5.15 At ground floor level, officers do not consider the proposal would cause unacceptable overlooking to surrounding residential properties as the application proposes the erection of a 2m high boundary fence which would enclose the application site. The erection of this fence would be permitted development in its own right. The applicant has submitted a site section showing the relationship between the proposed building and number 26 Gibside View and 41 Derwent View which are most likely to be affected at ground floor level owing to the land levels and previous extensions. Officers are satisfied that the proposed boundary

fence would prevent any overlooking which could otherwise have a detrimental impact on the occupiers of these properties.

- 5.16 Turning to overshadowing, the building would be sited north of Gibside View and there is an adequate separation distance between properties to the east and west of the application site to ensure no unacceptable overshadowing would occur. The properties which would be the most susceptible would be those on Derwent View to the north of the application site. The proposed building would not cause a material loss of light into any habitable rooms in surrounding properties nor would it unreasonably darken the garden areas by virtue of the separation distance.
- 5.17 Several objections have stated that the proposed building would be overbearing. It is considered that the scale of the proposal on the site and land levels would prevent the development from leading to an overbearing impact resulting in oppressive living conditions seen from the neighbours' gardens. Number 33 Derwent View would be the closest property to the flats however the proposed siting would ensure the building would not occupy the area of land along the side boundary of the property thereby avoiding a harmful sense of enclosure or an oppressive outlook.
- 5.18 Overall, officers consider the proposed development would not result in material harm to the living conditions of the occupiers of surrounding residential properties on account of overlooking, overshadowing or the proposal being over-dominant.
- 5.19 Turning to the living conditions of the future residents of the flats, the proposal has been designed in order to overcome privacy concerns with regard to neighbouring occupants. As a result of this, as discussed above, many of the windows on the first floor would be obscure glazed. Two flats are proposed on the first floor. Windows serving the kitchen area would be obscure glazed on the northern and southern elevations. Whilst this is somewhat unusual in primary living accommodation, fully clear glazed windows would serve these rooms on the eastern elevation therefore it is considered the windows would afford the future occupants an acceptable outlook.
- 5.20 Obscure glazing is also proposed in the bedrooms of the two first floor flats. As with the living area, although views to the north and south will be prevented, the occupants would have an acceptable outlook to the west through clear glazed windows.
- 5.21 All windows on the ground floor, excluding bathroom windows, would be clear glazed. As the 2m high fence would prevent direct window-to-window overlooking from surrounding properties the development would be acceptable in this regard.

- 5.22 Lastly, the internal space standards and provision of outdoor amenity space are considered to be sufficient for the proposed use.
- 5.23 Overall, officers conclude that as there would be no material harm to existing and future occupiers the development accords with the NPPF, policy CS14 of the Core Strategy and DC2 of the UDP which seek to protect living conditions.
- 5.24 **VISUAL AMENITY**
Section 7 of the NPPF states that the Government attaches great importance to the design of the built environment and that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Local policies CS15 of the Core Strategy and ENV3 of the UDP reflect this.
- 5.25 The siting of the proposed building means it would not be a highly visible addition to the area from any public vantage point. The section plan submitted in support of the application shows the height of the building is comparable to the surrounding two-storey semi-detached properties therefore the building would not appear as overbearing or out-of-character with the area.
- 5.26 In terms of external appearance, the main finishing materials would be red brick with accents of render and the building would have a pitched, tiled roof.
- 5.27 Officers consider the development would respond positively to local distinctiveness and its scale, massing and design would integrate within the local area. The proposal is therefore in accordance with policy CS15 of the Core Strategy and saved policy ENV3 of the UDP.
- 5.28 **HIGHWAY SAFETY AND PARKING**
Paragraph 32 of the NPPF states that applications should only be refused on transport grounds where the residual cumulative impacts of development are 'severe'. Case law has recently clarified that the severity test over residual cumulative transport impacts, referred to in paragraph 32 does not apply to matters of highway safety.
- 5.29 Concerns have been raised by local residents about the displacement of car parking. Residents of surrounding properties currently use the site as an informal car park. The site is not a designated car park and the landowner may, at any time, prevent members of the public accessing the site. This can be achieved without planning permission therefore limited weight is given to the displacement of the existing cars. Furthermore, there is unrestricted on-street parking available on the surrounding streets.

- 5.30 The scheme proposes 4 flats and a total of 5 parking spaces. It is considered the scheme provides adequate parking provision for the number of flats proposed.
- 5.31 The applicant has included a tracking diagram for the largest vehicle which would enter the site which is an ambulance. This demonstrates an ambulance and cars can enter the site, turn and leave in a forward gear onto Derwent View. This arrangement is considered to be acceptable as no long-distance reversing would be required. With regard to bin wagons, these would not enter the site itself. The refuse arrangement would be that the bins would be moved from the communal bin store on collection day to the kerb on Derwent View.
- 5.32 Access into the site is gained from the 3.1m wide road from Derwent View. In order to improve highway safety, the plans show the access road would be widened to 5.5m in width at the junction with Derwent View before reducing to 3.1m.
- 5.33 It is considered the development would have no adverse impact on highway safety or on parking in the area and is therefore in accordance with the NPPF and policy CS13 of the Core Strategy.
- 5.34 **CONTAMINATED LAND**
The application site is situated on 'potentially contaminated land' based on its previous historic uses as a garages site. Contamination may exist in any made ground imported as a development platform or from the sites usage as garages.
- 5.35 It is therefore appropriate to condition the submission of a Remediation Statement, and Remediation Verification Reports following the completion of any remediation, if necessary (conditions 7 to 9). An additional condition is also required that if unexpected contamination is found during the build, an investigation and risk assessment must be undertaken, and where remediation is necessary a remediation scheme shall be submitted.(conditions 10 and 11).
- 5.36 **PLAY AND OPEN SPACE**
Saved UDP policies CFR20, CFR28, CFR29 and CFR30 relating to the provision of play and open space are considered to apply to the current application for the creation of new residential development.
- 5.37 The overriding national policy direction is that no tariff based S106 contributions can be required where the development relates to less than ten dwellings. Therefore, while it cannot be concluded that the proposed development would comply with saved policies CFR20, CFR28, CFR29 and CFR30 of the UDP, it is considered that other material planning considerations outweigh the UDP policies.
- 5.38 **COMMUNITY INFRASTRUCTURE LEVY**

On 1st January 2017 Gateshead Council became a Community Infrastructure Levy (CIL) Charging Authority. This application has been assessed against the Council's CIL charging schedule and the development is CIL chargeable development as it is housing related. The development is located within Charging Zone C, with a levy of £0 per square metre for this type of development. Therefore, this proposal would not be charged.

5.39 OTHER ISSUES

Several objection letters state that the proposal would be dangerous as emergency services would not be able to enter the site, particularly fire engines. The applicant has provided tracking diagrams for a fire appliance and ambulance which demonstrate it is possible for both types of vehicle to enter and exit the site. Following a discussion between the Fire Service and Building Control, it was stated that in practice the Fire Service would likely attend the building by parking the fire appliance in the 5.5m wide section of the access road and using a 60m long hose to combat any fire from ground floor level. Furthermore, sprinkler systems would be installed in the building to ensure the risk from fires would be mitigated and the future occupants of the building would be safe.

5.40 It is also alleged that the measurements on the site plan are incorrect. The applicant has checked this and is satisfied that the site plan is correct. Officers are also satisfied the site plan is accurate and the development could be built in accordance with this plan. If there were any deviation from the approved plan then it would be necessary for the applicant to submit a further application to the Local Planning Authority for full consideration.

5.41 Representations state that the proposed bin store will attract vermin and spread disease. Officers consider that the siting of the bin store is acceptable and there is no evidence that incidence of encountering vermin would increase as a result of the development and would be harmful to the living conditions of the surrounding properties.

5.42 Representations were received which state there is wildlife on the site including rabbits and bats and the proposal would result in the loss of trees. The scheme has been assessed by the council's Ecologist in terms of the impact of the development on protected species and ecology. It was concluded that "the site is considered to be of very low ecological value. Habitats within the site are limited to small areas of coarse grassland/ruderal vegetation, several small self-seeded sycamore and birch saplings and a very short length of hedge/shrub planting towards the eastern boundary/neighbouring property". The proposed development would therefore be acceptable from an ecological point of view.

5.43 Noise levels have also been highlighted as an issue by surrounding residents – particularly noise during the construction and noise from

the future residents. To prevent the construction of the building having an unacceptable adverse impact on surrounding residents, the hours of construction are conditioned (condition 4). Regarding noise from the future occupants, there is no evidence that the occupants of the proposed flats would create more noise than a dwellinghouse therefore officers consider this to be acceptable.

- 5.44 Finally, it has been raised that the development will reduce property values in the area. Property values are not a material planning consideration therefore no weight is given to this.

6.0 CONCLUSION

- 6.1 Taking all the material planning considerations into account, including the objections raised, it is recommended that planning permission be granted.
- 6.2 The development would increase the range and choice of housing in Gateshead and would provide specialist supported accommodation to meet an identified need whilst helping to support an inclusive and mixed community. Officers also consider the development would be acceptable in terms of residential amenity, highways and parking as well as all other material planning considerations.
- 6.3 It is officers' opinion that the previous reasons for refusal have been addressed and, given the relevant conditions suggested to be imposed, it is considered the revised proposal accords with relevant national and local planning policies.

7.0 Recommendation:

That permission be GRANTED subject to the following condition(s) and that the Strategic Director of Communities and Environment be authorised to add, delete, vary and amend the planning conditions as necessary:

1

The development to which this permission relates must be commenced not later than 3 years from the date of this permission.

Reason

To comply with section 91 of the Town and Country Planning Act 1990 as amended by section 51 of the Planning and Compulsory Purchase Act 2004.

2

The development shall be carried out in complete accordance with the approved plan(s) as detailed below -

AL(20)100 Rev C dated September 2017

AL(20)101 Rev G dated October 2017
AL(90)102 Rev E dated September 2017
AL(20)102 Rev D dated September 2017
AL(00)100 Rev A dated March 2015

Any material change to the approved plans will require a formal planning application to vary this condition and any non-material change to the plans will require the submission of details and the agreement in writing by the Local Planning Authority prior to any non-material change being made.

Reason

In order to ensure that the development is carried out in complete accordance with the approved plans and any material and non-material alterations to the scheme are properly considered.

3

No external materials for the development hereby approved shall be used on site until samples of all materials, colours and finishes to be used on all external surfaces have been made available for inspection and are subsequently approved in writing by the Local Planning Authority. The agreed external materials shall then be used on site.

Reason

To safeguard the visual amenities of the area and to ensure that the proposed development does not have an adverse effect upon the appearance of the existing street scene in accordance with the NPPF, Saved Policies DC2 and ENV3 of the Unitary Development Plan and Policies CS14 and CS15 of the Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne.

4

Unless otherwise approved in writing by the Local Planning Authority, all external works and ancillary operations in connection with the construction of the development, including deliveries to the site, shall be carried out only between 0800 hours and 1700 hours on Mondays to Saturdays and at no time on Sundays, Bank Holidays or Public Holidays.

Reason

To safeguard the amenities of nearby residents and in accordance with policies DC1, DC2 and ENV61 of the Unitary Development Plan and Policy CS14 of the Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne

5

Before the first occupation of the building hereby permitted, windows indicated on plan AL(20)101 Rev G annotated with "OG" shall be permanently obscure to a level of obscurity to Pilkington level 3 or above or its technical equivalent by other manufactures and shall open inwards only and by a maximum of 100mm. The windows shall be permanently retained in that condition thereafter.

Reason

To ensure the protection of privacy for neighbouring occupiers in the interests of residential amenity, in accordance with NPPF, Saved Policies DC2 and ENV3 of the Unitary Development Plan and Policies CS14 and CS15 of the Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne.

6

Prior to the first occupation of the building hereby permitted, the 2m high close-boarded perimeter fence shown on plan AL(90)102 Rev E shall be installed on site and shall be permanently retained thereafter.

Reason

To ensure the protection of privacy for neighbouring occupiers in the interests of residential amenity, in accordance with NPPF, Saved Policies DC2 and ENV3 of the Unitary Development Plan and Policies CS14 and CS15 of the Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne.

7

Prior to commencement of the development hereby permitted, a detailed remediation scheme (based on the recommendations of the Atkins intrusive site investigation and Phase 2 Risk Assessment Report dated April 2017) to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment shall be submitted to and approved by the Local Planning Authority.

The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. NB The Local Authority requires that a minimum of 1.15m of 'proven' uncontaminated 'clean cover' is provided in all soft landscape and garden areas.

Reason

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without

unacceptable risks to workers, neighbours and other offsite receptors in accordance with the National Planning Policy Framework, policy CS14 of the Core Strategy and Urban Core Plan and saved policy DC1(p) of the Unitary Development Plan.

8

The details of the remediation measures approved under condition 7 shall be fully implemented prior to commencement of the development hereby permitted and maintained for the life of the development.

Reason

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with the National Planning Policy Framework, policy CS14 of the Core Strategy and Urban Core Plan and saved policy DC1(p) of the Unitary Development Plan.

9

Prior to first occupation of the development hereby permitted and following completion of the remediation measures approved under condition 8, a verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the Local Planning Authority.

Reason

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with the National Planning Policy Framework, policy CS14 of the Core Strategy and Urban Core Plan and saved policy DC1(p) of the Unitary Development Plan.

10

Any undesirable material observed during excavation of the existing ground shall be screened and removed. If any areas of odorous, abnormally coloured or suspected contaminated ground are encountered during development works, then operations shall cease and the exposed material shall be chemically tested.

The works shall not continue until an amended Risk Assessment and amended remediation and monitoring measures and a timetable for implementation have been and submitted to and approved in writing by the Local Planning Authority.

Reason

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with saved policies DC1 and ENV54 of the Unitary Development Plan, policy CS14 of the Core Strategy and Urban Core Plan and the National Planning Policy Framework.

11

Where required, the amended remediation and monitoring measures approved under condition 10 shall be implemented in accordance with the approved details and timetable for implementation prior to any further works (other than those required for remediation) and maintained for the life of the development.

Reason

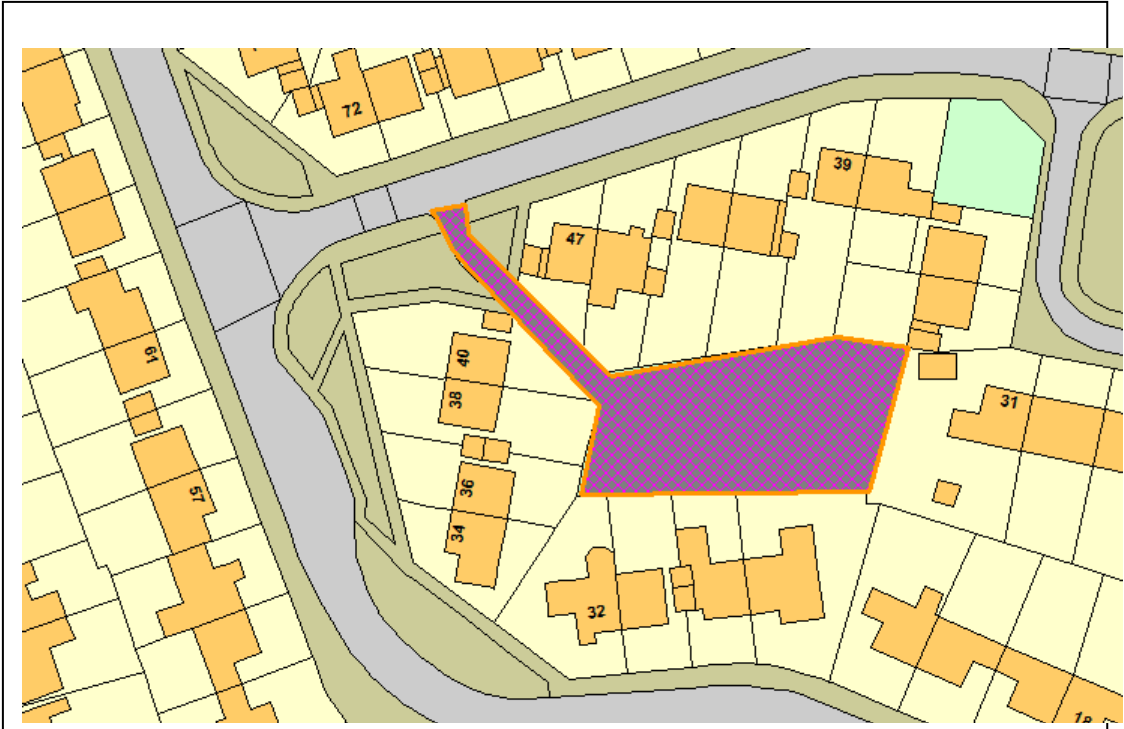
To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with saved policies DC1 and ENV54 of the Unitary Development Plan, policy CS14 of the Core Strategy and Urban Core Plan and the National Planning Policy Framework.

12

Where additional remediation is required (under conditions 10 and 11), following completion of the approved remediation and monitoring measures, the development hereby approved shall not be occupied until a verification report that demonstrates the effectiveness of the remediation carried out has been submitted to and approved in writing by the Local Planning Authority.

Reason

To ensure there is adequate land stability in accordance with saved policies DC1 and ENV54 of the Unitary Development Plan, policy CS14 of the Core Strategy and Urban Core Plan and the National Planning Policy Framework.



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