

Committee Report

Application No:	DC/19/00282/FUL
Case Officer	Rebecca Adams
Date Application Valid	10 April 2019
Applicant	Mr Alan Foley
Site:	45 Cornmoor Road Whickham NE16 4PU
Ward:	Dunston Hill And Whickham East
Proposal:	Construction of detached bungalow to the rear of the main dwelling (amended/additional information 13/05/19 and 31/05/19).
Recommendation:	REFUSE
Application Type	Full Application

1.0 The Application:**1.1 DESCRIPTION OF THE SITE**

The application site is the garden area to the rear of the dwelling 45 Cornmoor Road.

1.2 The application site is located within the Whaggs Lane/Broom Lane Area of Special Character, as identified by saved UDP Policy ENV25. The site is typical of the original layout of plots in the area, where properties have large elongated rear gardens with dense landscaping. The site is laid to grass with mature trees and hedging to the north and western boundaries and fencing to the southern boundary.

1.3 The area comprising the application site was previously annexed off from 45 Cornmoor Road in around 2017 through the introduction of a boundary treatment across the garden, alongside the creation of a gated access from an existing private road to the southern side of the site. The dividing boundary treatment has subsequently been removed and the access gates replaced with timber fencing, with sole access to the site gained via 45 Cornmoor Road.

1.4 There are residential properties located to the north (43 Cornmoor Road), to the east (45 Cornmoor Road), to the south (47 and 47a Cornmoor Road) and to the west (34a Whaggs Lane and 1 The Copse, Whaggs Lane).

1.5 DESCRIPTION OF THE APPLICATION

The application follows previously withdrawn application DC/17/00363/FUL for the erection of a dwellinghouse comprising two levels of accommodation, one of which would be provided within the roofspace (withdrawn July 2017); the application proposes amendments to the scheme in respect of the design, scale and position of the dwelling within the site.

- 1.6 The application seeks planning permission for the erection of a single storey detached dwellinghouse with accommodation on ground floor level only.
- 1.7 The dwelling would have a maximum width of 8.9 metres and a maximum depth of 20 metres. The proposed dwelling would have a maximum height of 6.3 metres, incorporating a mono-pitch roof falling from north to south to a height of 3.5 metres. The dwelling would be served by windows within each elevation, with the windows within the east and west elevations proposed to extend full height to eaves level.
- 1.8 The scheme additionally proposes the erection of a detached garage to the east of the dwelling. This would incorporate a footprint of 6 metres by 4 metres with a mono-pitch roof falling from south to north from a height of 4m to 2.3m. The property would be served via a vehicular access from the existing private road to the southern side of the site and incorporates a driveway/turning head.
- 1.9 The application does not indicate the proposed boundary treatment that would separate the site from 45 Cornmoor Road.
- 1.10 The following documents were submitted with the application:
 - Coal Mining and Land Contamination Risk Assessment

1.11 PLANNING HISTORY

The relevant planning history associated with the application site is as follows:

DC/16/00621/CPL was an application for a certificate of lawfulness for 'Demolition of existing garage and extension followed by erection of detached garage, swimming pool building and area of hard standing (amended 07/07/16)'. The application was approved on 17 August 2016.

DC/16/00694/GPDE was a 'Notification for Prior Approval for a Proposed Larger Home Extension' afforded under the Town and Country Planning (General Permitted Development) Order 2015 Schedule 2, Part 1 Class A for 'Erection of a single storey rear extension, which would extend beyond the rear wall of the original house by 5.99m, with a maximum height of 4m, and eaves height of 2.5m'. The application was determined as 'prior approval not required' on 10 August 2016.

DC/16/00723/GPDE was a 'Notification for Prior Approval for a Proposed Larger Home Extension' afforded under the Town and Country Planning (General Permitted Development) Order 2015 Schedule 2, Part 1 Class A for 'Erection of a single storey rear extension, which would extend beyond the rear wall of the original house by 4.0m, with a maximum height of 3.0m, and eaves height of 3.0m'. The application was determined as 'prior approval not required' on 23 August 2016.

DC/17/00363/FUL was an application for the erection of a detached dwelling on land to the rear of 45 Cornmoor Road. This application was withdrawn on 27 July 2017.

2.0 Consultation Responses:

Coal Authority No objection subject to conditions.

3.0 Representations:

- 3.1 Neighbour notifications were carried out in accordance with the formal procedures introduced in the Town and Country Planning (Development Management Procedure) Order 2015.
- 3.2 One representation has been received from Councillor Maughan which raises an objection on the basis of the application being infill development.
- 3.3 One petition has been received with 3 signatories. The petition states 'Re: The construction of detached bungalow at the rear of 45 Cornmoor Road. I support the building of the bungalow'.
- 3.4 Two letters of support have been received and are summarised below:
- More bungalows are needed within Wickham due to an ageing population;
 - The property will not impede outlook from the adjacent property at 47a Cornmoor Road; and
 - Further discussions would be desirable between the applicant and adjacent property at 47a regarding shared access and streetlighting.
- 3.5 The origin of one of the letters of support received has been queried. The receipt of the representation was acknowledged in writing by the Council to the address given in the letter of support; it is however understood that the occupier of that address advised that nobody of the name given in the letter of support was in residence at the given address.

4.0 Policies:

NPPF National Planning Policy Framework

NPPG National Planning Practice Guidance

H4 Windfall and Small Housing Sites

H12 Housing Density

H13 Local Open Space in Housing Developments

H14 Neighbourhood Open Space-New Housing Dev

H15 Play Areas in Housing Developments

ENV3 The Built Environment - Character/Design

ENV44 Wood/Tree/Hedge Protection/Enhancement

ENV25 Areas of Special Character

ENV54 Dev on Land Affected by Contamination

CFR20 Local Open Space

CFR28 Toddlers' Play Areas

CFR29 Juniors' Play Areas

CFR30 Teenagers' Recreation Areas

DC1P Contamination, derelict land, stability

DC2 Residential Amenity

CS10 Delivering New Homes

CS11 Providing a range and choice of housing

CS13 Transport

CS14 Wellbeing and Health

CS15 Place Making

CS18 Green Infrastructure/Natural Environment

GPGSPD Gateshead Placemaking Guide SPG

MSGP Making Spaces for Growing Places

5.0 Assessment of the Proposal:

The key planning considerations are whether the development would comply with relevant national and local housing policies, the principle of the development in an Area of Special Character, the impact on the visual amenity of the site, the residential amenity of neighbouring properties, any impact on trees, any highway safety implications, land conditions, open space and play provision, CIL, and any other issues arising.

5.1 PRINCIPLE OF THE DEVELOPMENT

5.2 Housing demand and policy

As the application site is not specifically allocated for housing in the UDP, proposals for housing would need to be considered in terms of windfall housing under policy H4 of the UDP. Policy H4 of the UDP gives a number of criteria that need to be assessed.

5.3 It is considered that the site meets the saved criteria set out in policy H4 in relation to its sustainable location within an established housing area, close to local services and public transport routes, and it would help to sustain the local community. As a result, the principle of developing this site for residential use is considered acceptable should all other material planning considerations be satisfied.

5.4 Housing choice

Policy CS11 of the Core Strategy and Urban Core Plan requires 60% of new private housing across the Plan area to be suitable for and attractive to families, defined as dwellings of three or more bedrooms. The application proposes the erection of a single family home and as such the development is considered appropriate in the context of the NPPF, saved policy H4 of the UDP and policies CS10 and CS11 of the CSUCP.

5.5 Residential space standards

Policy CS11(4) requires that new residential development provides "*adequate space inside and outside of the home to meet the needs of residents*". It is considered based upon the submitted information that the application meets the above requirements, in that it would provide an acceptable level of internal and external space for residents.

5.6 AREA OF SPECIAL CHARACTER

The application site is within the Broom Lane/Whaggs Lane Area of Special Character and therefore saved policy ENV25 of the UDP applies. This policy states that certain areas of the borough have '...a distinctive built character deriving from their buildings and spaces, which are worthy of recognition.' Specifically referring to the Broom Lane/Whaggs Lane area, the policy identifies low density housing, a dense coverage of mature trees and long, well established gardens as the key characteristics of the area.

5.7 The supporting text of this policy states that the detrimental development allowed in the 1980's and 1990's, namely small housing estates and single dwellings on infill and rear garden plots has had an adverse impact on the established character of the area and that 'The area's protection under this policy will control similar damaging development in the future.'

5.8 The current UDP was adopted in 2007. The previous UDP was adopted in 1998 and had a policy relating specifically to the Broom Lane/Whaggs Lane area alone. This policy (E12) identified specific blocks within the area where single residential developments at the rear of properties would be unacceptable but that 'elsewhere, they will be permitted at the rear of

properties' but only if new dwellings were not 'visually intrusive' and that new access arrangements were linked to existing access into the site and that parking capacity and any trees were not detrimentally affected.

- 5.9 The two policies are considered to be fundamentally different. The 1998 policy focuses on the design of backland development as opposed to the principle, except within very specific parts of the Broom Lane/ Whaggs Lane area where it was clear such development was not acceptable. The current UDP policy adopted in 2007 focuses on the principle and states that backland development damages the character of the area and should be resisted.
- 5.10 Whilst eight backland developments have been granted permission within the Area of Special Character since 2007, all of these have been revised and resubmitted versions of schemes originally determined under the previous UDP (adopted in 1998) or have been significantly different from the one currently proposed. Where original schemes had been approved, the principle of development had been established as acceptable, under policy E12 of the 1998 UDP. Where schemes had been refused, the refusal reasons were not based on the principle of backland development, due to the more relaxed nature of the policy in the previous UDP policy (adopted in 1998) and were refused on design.
- 5.11 Where extant permissions existed which could be implemented and were approved prior to 2007 the Council took a pragmatic approach to resubmissions of schemes where it was considered these were an improvement on the extant permissions that could be implemented.
- 5.12 Schemes that were refused permission under the former Policy E12 (1998 UDP) were refused due to the design considerations of the scheme rather than the principle of developing in rear gardens and in those cases if resubmissions were made post adoption of the 2007 policy these would need to be considered against the current development plan in force which resists the principle of backland development in this area unless there are material considerations of significant weight to outweigh that policy (ENV25).
- 5.13 The three most recent approvals for a backland development within the area were at 35A Broom Lane (October 2008), 36A Cornmoor Road (August 2013) and 25 Cornmoor Road (November 2015). The application at 35A Broom Lane was not considered to be further detrimental to the character of the area due to an existing tandem arrangement of dwellings on that specific plot where one dwelling sat behind the other (albeit linked) and where the elongated garden was already subdivided and also where important mature trees and landscaping were being retained. In assessing the application at 36A Cornmoor Road significant weight was offered to the fall back position of a previously approved detached granny annex, it was concluded given the proposed dwelling was "... *almost identical [to the annex] except for the ground floor window arrangement... that the effect of the proposed bungalow on the character and appearance of the area would not be different from that of the previously approved granny annex.*" The same view was taken in approving the development at 25 Cornmoor Road given the existence of a

certificate of proposed lawful development which allowed the erection of a swimming pool building. In approving the application Officers concluded 'It is considered that the fallback position open to the application is of such material weight that the non-compliance with Policies ENV25 and ENV3 are outweighed in this instance.'

- 5.14 It is therefore considered that a precedent has not been set for the approval of new schemes submitted since 2007 and although backland development has been allowed, the policy acknowledges this and aims to prevent further detriment to the character of the area.
- 5.15 The planning permission granted in November 2015 for the erection of a new dwelling on land at 25 Cornmoor Road (DC/15/00969/FUL) lapsed in November 2018 with no lawful commencement having taken place. A further application (DC/19/00149/FUL) was submitted for the erection of a new dwelling on this site in February 2019. Owing to significant changes that had taken place to subdivide the site Officers were of the view that no fallback position existed (which was considered at the time of DC/15/00969/FUL to have been established by a certificate of proposed lawful development which allowed the erection of a swimming pool building); attaching due weight to this fallback position, it was considered that the development would conflict with the NPPF, saved Policies ENV3 and ENV25 of the Unitary Development Plan, the Gateshead Placemaking SPD and Policy MSGP24 of Making Spaces for Growing Spaces DPD and planning permission was subsequently refused in April 2019.
- 5.16 In assessing all previous planning applications for housing development within the Broom Lane/Whaggs Lane Area of Special Character, policy ENV25 has been viewed as, and applications determined on the basis of it being, a restrictive policy.
- 5.17 In considering a previous appeal (DC/10/01349/FUL) at 25 Cornmoor Road the Planning Inspector concluded:
"The proposal does not strictly conflict with the wording of policy ENV25 which seeks to encourage development that maintains and/or enhances Areas of Special Character. However, when read in conjunction with the supporting justification, it is clear that the intention of the policy is to control development which would damage the character and appearance of the Broom Lane/Whaggs Lane area".
- 5.18 The Gateshead Placemaking Supplementary Planning Document which has been prepared as an accompaniment to the Local Plan makes specific reference to Broom Lane within Appendix B - Local Character Guidance - 'Place Portraits'. It is stated within the Design Guidance for Broom Lane that the aims of the LPA should be to: "Resist backland development within the gardens of existing properties to protect the character and setting of existing properties".
- 5.19 Further to the above, Policy MSGP24 of the emerging Making Spaces for Growing Spaces DPD (MSGP) continues to identify Broom Lane/Whaggs

Lane as an area of special character. The inclusion shows a clear direction of travel indicating a clear intention to continue to protect the Broom Lane/Whaggs Lane Area of Special Character while also confirming that Saved UDP Policy ENV25 remains in compliance with the NPPF. The current status of MSGP is that it has been submitted for examination and is due to be considered in Autumn 2019; weight should therefore be afforded accordingly.

- 5.20 It is considered that the proposal for the dwelling at the rear of 45 Cornmoor Road in a tandem arrangement would not accord with Policy ENV25 of the current development plan.
- 5.21 In assessing the current application, consideration must be offered to a certificate of lawful development which currently exists on the application site (DC/16/00621/CPL). The application sought to obtain a certificate of lawful development for the provision within the curtilage of 45 Cornmoor Road of two buildings required for purposes incidental to the enjoyment of the dwellinghouse and the creation of a hardstanding associated with 45 Cornmoor Road.
- 5.22 The larger of the two detached structures was to be used as a swimming pool structure. This building was proposed as a single storey structure with a footprint of 7.4 metres by 37.4 metres to ridge and eaves heights of 4 metres and 2.25 metres respectively. It was proposed for the building to be located 2.5 metres from both the northern and southern boundaries and 7.796 metres from the western boundary.
- 5.23 It must be noted that a Certificate of Lawfulness application is determined not on the basis of planning policies or material planning considerations, but in accordance with the specific factual matrix and in accordance with all relevant legal principles. Therefore, while it is considered that the erection of such a detached building would undoubtedly have a significant detrimental impact on the application site and the wider area in direct conflict with saved UDP Policy ENV25 this was not material in determining the application for the swimming pool structure.
- 5.24 Once granted, a certificate of lawfulness remains valid for the use or development described in it, on the land it describes, provided there is no subsequent material change in the circumstances. This is clearly set out in Section 192 of the Town and Country Planning Act 1990:
"The lawfulness of any use or operations for which a certificate is in force under this section shall be conclusively presumed unless there is a material change, before the use is instituted or the operations are begun, in any of the matters relevant to determining such lawfulness."
- 5.25 Subsequent to the grant of the Certificate of Lawfulness (as set out above) the following changes have taken place within the site.
- 5.26 In around the time that application DC/17/00363/FUL (for the erection of a detached dwelling on land to the rear of 45 Cornmoor Road) was submitted to the Council and subsequently withdrawn, a boundary treatment was erected

on site effectively separating the land on which the dwellinghouse proposed by application DC/17/00363/FUL would stand from the existing dwellinghouse and its curtilage. In addition, a gated access was created from an existing private road to the southern side of the site (which leads to 47a Cornmoor Road) into the land on which the proposed dwellinghouse would be located

- 5.27 The boundary treatment which had been erected to separate the sites has subsequently been removed and the access gates into the site from the adjacent private road have been removed and replaced with timber fencing; evidence of the previous existence of both the boundary treatment and gates however remain on site. Notwithstanding the removal of the boundary treatment, Officers consider that the two parcels of land are of differing characters which evidence their having been separated until recently; the parcel of land immediately to the rear of 45 Cornmoor Road appears as well-maintained garden up until the level of the former dividing boundary treatment, with the parcel of land to the west side of the former boundary treatment (on which the proposed dwellinghouse would be positioned) having been left to rough grass.
- 5.28 In addition it is understood that the land on which the existing dwellinghouse and the land on which the proposed dwellinghouse would stand are in different ownership (based on Land Registry searches undertaken). Based on these facts, Officers are of the view that the area of land on which the proposed dwelling would be constructed is no longer within the curtilage of 45 Cornmoor Road. Whilst the parcels of land are now no longer physically separate, these are of visibly different characters and appear to be in separate legal ownership. On this basis, the swimming pool structure would no longer benefit from a deemed planning permission by virtue of Article 3, Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) Order 2015 (the GPDO) as amended.
- 5.29 It is, therefore, considered that no fallback position exist on the site. It is accepted by officers that the sites could be brought back into single ownership within the curtilage of 45 Cornmoor Road and as such a fallback could be re-established. The Case Law on the issue of fallbacks (*R (on the application of Zurich Assurance Ltd) v North Lincolnshire Council* [2012] EWHC 3708 (Admin)) is clear.
- 5.30 The judgement states:
"The prospect of the fallback position does not have to be probable or even have a high chance of occurring; it has to be only more than a merely theoretical prospect. Where the possibility of the fallback position happening is "very slight indeed", or merely "an outside chance", that is sufficient to make the position a material consideration (see Samuel Smith Old Brewery (Tadcaster) v Secretary of State for Communities and Local Government [2009] EWCA Civ 333 at [20]-[21] per Sullivan LJ). Weight is, then, a matter for the planning committee."
- 5.31 Therefore, even were a fallback position to be established, as set out above the weight attached to such a fallback is a matter for the decision maker.

- 5.32 In this instance, it is considered that such a fallback position should be attributed little weight, given it is considered that there is no genuine prospect of the (swimming pool building) development coming forward. This view is taken given the site has in essence been subdivided and the dwelling and its curtilage are within separate ownership.
- 5.33 Section 38(6) of the Planning & Compulsory Purchase Act 2004 specifies that: 'If regard is to be had to the Development Plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the Plan unless material considerations indicate otherwise.'
- 5.34 As set out above, it is considered that the proposed development would conflict directly with the requirements of saved UDP Policy ENV25, The Gateshead Placemaking Supplementary Planning Document and Policy MSGP24 of the emerging MSGP. In the absence of a fallback position no material considerations exist which would outweigh the presumption to refuse the application based upon its impact on the Broom Lane/Whaggs Lane Area of Special Character.
- 5.35 **IMPACT ON THE STREETSCENE AND APPEARANCE OF THE AREA**
The NPPF at Paragraph 124 makes it clear that 'the creation of high quality buildings and places is fundamental to what the planning and development process should achieve.' It goes on to make clear that 'good design is a key aspect of sustainable development...'
- 5.36 Further, Paragraph 130 states that:
"Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents. Conversely, where the design of a development accords with clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development."
- 5.37 The CSUCP reflects the general aims of the NPPF encouraging economic growth and identifying the importance of quality of place. Policy CS15 refers specifically to Place Making and the need for new development to demonstrate high and consistent design standards in line with the Council's design guidance contained in the Gateshead Placemaking SPD.
- 5.38 The proposed dwelling is considered to be of a not dissimilar scale (in terms of its footprint) to the adjacent properties to the south and west of the application site.
- 5.39 Notwithstanding the above, and whilst the proposed dwelling would not be readily visible from the public domain, it is considered that the development would fail to represent high quality design that contributes to the character and quality of the area, as advocated by both the NPPF and policy CS15 of the

CSUCP. The design of the development instead presents as an incohesive contrast between a 1960s/1970s aesthetic (reinforced by the large mono-pitch red/brown concrete tile roof together with the rectangular building form and large brick chimney stack) which conflict heavily with more contemporary features which the scheme attempts to incorporate into the building (notably the sections of full-height glazing to the east and west elevations). The cumulative impact of this is a dwelling which comprises an awkward amalgamation of styles, resulting in a building of overall poor quality and disjointed design of little to no merit that would warrant refusal of the application.

5.40 The proposed dwelling would additionally result in the creation of a continuous run of three backland properties, which would undermine the sense that backland housing is only a sporadic feature within the area. It is considered that the proposal would not maintain the essential spacious distinctiveness of the Area of Special Character, contrary to the objectives of the NPPF, saved policy ENV3 of the Council's UDP and policy CS15 of the CSUCP.

5.41 It is considered that the proposed development would conflict directly with the requirements of the NPPF saved UDP Policy ENV3 and Policy CS15 of the CSUCP.

5.42 RESIDENTIAL AMENITY

The south facing elevation of the proposed dwelling would be positioned some 1.4 metres from the southern site boundary, formed from close boarded fencing, and would contain windows serving two bedrooms and a bathroom in addition to two secondary windows serving the lounge area. The north facing elevation of the dwelling would face directly towards the northern site boundary, formed from dense hedging with mature trees, from which it would be separated by approximately 2 metres, and would contain windows serving two further bedrooms, a bathroom, and kitchen area; one of these bedrooms would be served by an additional window within the eastern elevation however this would be positioned approximately 5 metres from the blank rear elevation of the proposed garage.

5.43 Having regard for the above, it is considered that the proposed development would result in unacceptably adverse living conditions for future occupiers of the property by virtue of the limited outlook and overbearing impact that would result from the very limited separation distances between the north, south and east elevations of the proposed dwelling and adjacent boundaries and blank elevation of the proposed garage, contrary to the NPPF, Policy CS14 of the Core Strategy and Urban Core Plan, and DC2 of the Unitary Development Plan.

5.44 It is considered that the proposed development would not lead to any significant impact on residential amenity to neighbouring uses, in accordance with the NPPF, saved UDP policy DC2 and CSUCP policy CS14.

5.45 The proposed dwelling would be positioned 3.9 metres to the north of the single storey dwelling at 47a Cornmoor Road. The front elevation of the

proposed dwelling would be approximately level with that of 47a, and the rear elevation would extend beyond that of 47a by 4.2 metres. In addition to the close boarded timber fencing which forms this boundary, hedging is situated within the site of 47a.

5.46 It is considered that the scale of the proposed dwelling together with the separation distance afforded and intervening boundary treatment is such that impact upon the residential amenity of this property would be acceptable.

5.47 The separation distance between the proposed dwelling and the properties to the rear of the site (34a Whaggs Lane, to the north west and 1 The Copse Whaggs Lane, to the south west) would be in excess of 21 metres, separated by dense tree planting to the rear boundary of the site. The front elevation of the proposed dwelling is 47 metres from the rear elevation of 45 Cornmoor Road.

5.48 It is further considered that the proposed garage, access and any associated landscaping would have a minimal impact upon the residential amenity of neighbouring uses owing to their minor nature.

5.49 IMPACT UPON TREES

In considering the above application in relation to impact upon trees, regard is offered to the NPPF, Policies CS15 and CS18 of the CSUCP and saved UDP Policies DC1, ENV44 and ENV25.

5.50 The application site benefits from a group of trees close to the western site boundary and a number of beech trees positioned within the hedge to the northern boundary adjacent to the proposed dwelling. These trees are regarded as providing a good level of amenity, being visible from within the public domain, and contribute to the Broom Lane/Whaggs Lane Area of Special Character; as noted by saved UDP policy ENV25: "*the main characteristics of this area are...dense coverage of mature trees; long, well-established gardens...*".

5.51 The proposed site plan indicates the retention of the trees adjacent to the western site boundary and includes their canopy extents; the application does not however provide clear details as to the intentions towards the trees located within the northern boundary hedge.

5.52 In the absence of an arboricultural survey, assessment and mitigation report and having regard for the proximity of the proposed development from the trees to the northern boundary, it is not possible to make a full assessment as to the likely impact of the development on the trees.

5.53 On the basis of the above, it is considered that it cannot be concluded that the proposed development complies with the National Planning Policy Framework, saved policies CS15 and CS18 of the CSUCP and saved UDP Policies DC1, ENV44 and ENV25.

5.54 HIGHWAY SAFETY

The application proposes than an existing access to the south of the site, which leads to 47a Cornmoor Road and is included within the site boundary, would be used to access the site. This would lead to a driveway/turning head and garage within the site. The car parking and access for the development are considered to be acceptable.

5.55 The proposed garage is not of a sufficient size to accommodate cycle parking requirements. The provision of appropriate cycle storage within the curtilage of the property could however be secured by a planning condition.

5.56 Subject to the above condition, it is considered that the proposal would comply with the aims and objectives of the NPPF and policy C13 of the CSUCP.

5.57 LAND CONDITIONS

5.58 Contaminated land

As the applicant proposes a sensitive end use on the site, a Preliminary Risk Assessment (PRA) was submitted with the application. The historical use of the land was for agricultural purposes prior to residential development on the site and as the site is not within an area identified as potentially contaminated, the Local Planning Authority is satisfied that no further investigation would be required prior to the commencement of development. It is not considered necessary to condition further investigative works beyond those that would be required under the Building Control regime. The development complies with policy CS15 of the CSUCP and policy ENV54 of the UDP.

5.59 Land Stability

The application site falls within the defined Development High Risk Area and within the application site and surrounding area there are therefore coal mining features and hazards which need to be considered in relation to the determination of this planning application. As a result, the applicant has submitted a Coal Mining Risk Assessment, which has been assessed by the Coal Authority.

5.60 The Coal Authority is satisfied with the broad conclusions of the report, informed by the site investigation works; that coal mining legacy issues are not significant within the application site and do not pose a risk to the proposed development. Accordingly, The Coal Authority does not object to the proposed application, however were members minded to grant planning permission it is recommended that a condition be attached that requires site investigation works to be undertaken.

5.61 The proposed development is therefore considered to be in accordance with the NPPF and policy DC1 of the UDP.

5.62 PLAY AND OPEN SPACE

The NPPG (Paragraph: 031 Reference ID: 23b-031-20160519) is clear that tariff style contributions should not be sought from developments of 10-units or less, and which have a maximum combined gross floorspace of no more than 1000sqm.

5.63 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 it is not possible to require any contribution for either play or open space provision in this case, based on the above assessment.

5.64 COMMUNITY INFRASTRUCTURE LEVY (CIL)

On 1st January 2017 Gateshead Council became a 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 development within Residential Zone B, which has a levy of £30 per square metre for this type of development.

5.65 OTHER MATTERS

It is considered that all other material planning considerations have been addressed within the main body of the report.

6.0 CONCLUSION

Taking all the relevant issues into account, it is recommended that planning permission be refused as it would have a detrimental impact on the Broom Lane/Whaggs Lane Area of Special Character. In addition, the proposed dwelling is considered to be of poor design which would warrant refusal of the scheme. Furthermore, insufficient information has been submitted to assess the impact of the development upon trees

6.1 The applicant has failed to submit any supporting information that would outweigh officers' concerns. It is considered that the proposed development does not accord with national and local planning policies and as a result it is recommended that planning permission be refused. The recommendation is made taking into account all material planning considerations including the information submitted by the applicant and third parties.

Recommendation:

That permission be REFUSED for the following reason(s) and that the Service Director, Development, Transport & Public Protection be authorised to add, vary and amend the refusal reasons as necessary:

1

The development would result in back land development and the subdivision of the existing plot. This would have a detrimental impact on the area of special character, the development would therefore fail to comply with aims and objectives of the National Planning Policy Framework, saved Policies ENV3 and ENV25 of the Unitary Development Plan, the Gateshead Placemaking SPD and Policy MSGP24 of the emerging Making Spaces for Growing Spaces DPD.

2

The proposal would represent poor design, by virtue of its incohesive and disjointed appearance, which would fail to make a positive contribution to the character and quality of the area. The proposal would fail to comply with the aims and requirements of the Gateshead Placemaking SPD, saved policy ENV3 of the Unitary Development Plan, policy CS15 of the Core Strategy and Urban Core Plan and the National Planning Policy Framework.

3

The proposed development would result in unacceptably adverse living conditions for future occupiers of the property by virtue of the limited outlook and overbearing impact that would result from the very limited separation distances between the north, south and east elevations of the proposed dwelling and adjacent boundaries and proposed garage. The proposal would therefore fail to accord with the NPPF, Policy CS14 of the Core Strategy and Urban Core Plan, and DC2 of the Unitary Development Plan.

4

Insufficient information in the form of an arboricultural survey, assessment and mitigation report has been submitted to enable the Council to consider whether the proposed development would have any unacceptable impact on trees, contrary to the National Planning Policy Framework, policies CS15 and CS18 of the CSUCP and saved policies DC1, ENV44 and ENV25 of the Unitary Development Plan.

