

**Committee Report**

<b>Application No:</b>	<b>DC/16/00960/FUL</b>
<b>Case Officer</b>	<b>Owain Curtis</b>
<b>Date Application Valid</b>	<b>25 October 2016</b>
<b>Applicant</b>	<b>Mr Steven Bell</b>
<b>Site:</b>	<b>Land Adj 11 Butterfield Close Ryton NE40 4UU</b>
<b>Ward:</b>	<b>Crawcrook And Greenside</b>
<b>Proposal:</b>	<b>Erection of dwelling within curtilage of existing building (as amended 23.12.2016)</b>
<b>Recommendation:</b>	<b>Grant Permission</b>
<b>Application Type</b>	<b>Full Application</b>

**1.0 The Application:**

1.1 DESCRIPTION OF THE SITE

1.2 The application site lies at the end of the Butterfield Close cul-de-sac in Crawcrook. Currently there is a row of three identical terraced properties finished in red facing brick with lean-to porches at the front. Number 11 is an end-of-terrace property and has a driveway to the side. To the north of the application site is an area of amenity space and there is a large area of public open space to the rear of the site. Surrounding properties are a mix of various house types and there is a block of flats directly north of the application site.

1.3 DESCRIPTION OF THE APPLICATION

1.4 This application seeks planning permission for the erection of a new dwelling within the curtilage of number 11 Butterfield Close. The proposed dwelling would occupy the space to the side of number 11 which is currently a driveway and garden.

1.5 The proposed dwelling would match the existing properties in the terrace row in terms of scale and design albeit set back by approximately 2m from the front. The external materials would also match the existing properties including red facing brick and concrete roof tiles. Whilst the existing properties have lean-to porches, to accommodate an adequate driveway length the proposed dwelling would not have a front porch but would have a canopy matching the roofs of the porches in the row.

1.6 PLANNING HISTORY

1.7 No relevant history.

## **2.0 Consultation Responses:**

- 2.1 The Coal Authority – No objection subject to site investigation works prior to the commencement of the development.

## **3.0 Representations:**

- 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 23 neighbouring properties have been notified of the application. A total of 6 objections have been received raising the following issues:
- Building will cause noise and disruption
  - There will be more cars and less turning space
  - The proposal is overdevelopment
  - It will remove some of the estate's green land
  - The proposal is 'garden grabbing' in order to accommodate a proposed parking area
  - The dwelling is out of scale with surrounding properties
  - The design does not include a front porch
  - The proposed dwelling will create vehicle access problems
  - It will affect the accessibility for emergency vehicles
- 3.3 One representation was received from the applicant in support of the application however this has not been registered as a formal representation.

## **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, the effect on the character and appearance of the street scene, the effect of the proposal on the living conditions of neighbouring occupiers, and whether there would be any unacceptable highway safety issues.

### **5.2 PRINCIPLE OF RESIDENTIAL DEVELOPMENT**

5.3 Paragraph 49 of the NPPF states that all “housing applications should be considered in the context of the presumption in favour of sustainable development.”

5.4 The Newcastle Gateshead Core Strategy and Urban Core Plan seeks to increase the range and choice of housing across Gateshead by improving the balance of the borough’s housing stock in terms of dwelling size, type and tenure. Accordingly, Core Strategy policy CS11(1) requires that a minimum of 60% of new private housing across the plan area is suitable and attractive for families (i.e. homes with three or more bedrooms). Saved Unitary Development Plan policy H5 also seeks to improve the choice of housing, and states that a “limited range of dwelling sizes and types may be acceptable on smaller sites [sites that are less than one hectare in size]”.

5.5 The proposed development of a two bedroom dwelling would not contribute to increasing the provision of larger homes in Gateshead. However, this proposal is for a single dwelling on a narrow site which would be incapable of accommodating a larger home. Development of a single dwelling would not have a significantly adverse impact on the Council’s overall objectives of improving the supply of larger homes, and the proposal is therefore considered to be compatible with the Council’s policies regarding the range and choice of housing.

5.6 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. The proposal therefore complies with saved policy H4.

- 5.7 Overall the principle of a new dwelling on this site can be supported subject to all other material planning considerations being satisfied.
- 5.8 RESIDENTIAL AMENITY
- 5.9 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.
- 5.10 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.
- 5.11 The proposed dwelling would adjoin number 11 Butterfield Close. In order to accommodate a 5m long driveway, the dwelling would be set back from the established building line therefore the rear of the property would project 2m further than the existing terrace row. Given the small projection and the fact the windows on the rear elevation of number 11 are set in from the side wall, officers do not consider that the proposed dwelling would cause unacceptable overshadowing of the kitchen and bedroom of the neighbouring property.
- 5.12 There is currently a small obscure-glazed bathroom window in the first floor side elevation of number 11, which is owned by the applicant, this would be removed as part of the proposal. A bathroom is not defined as a habitable room where a householder might spend a significant amount of time therefore the effect of the loss of this window is not considered to be significant.
- 5.13 Given the separation distance of the proposed dwelling from all other properties, there would be no unacceptable overshadowing of any other properties as a result of the proposed development.
- 5.14 With regard to overlooking, there would be a separation distance of approximately 31m to the nearest property at the rear and 14m to the side gable of number 8 at the front therefore the proposal would not cause undue loss of privacy to the occupiers of the surrounding properties.
- 5.15 Turning to the living conditions of the future occupiers of the proposed dwelling, the internal floor area of the proposed dwelling would be 49.5m<sup>2</sup>. There are no minimum space standards in the Core Strategy and Urban Core Plan or Unitary Development Plan but occupiers should have a good standard of amenity in accordance with Core Strategy policy CS14 and saved policy DC2 of the UDP.
- 5.16 The scale of the proposed dwelling and internal layout would match the other three properties in the terrace row and many of the properties in

the surrounding area therefore officers consider the development would provide adequate living conditions for any future occupant.

- 5.17 The rear garden of number 11 would be subdivided to form the curtilage of the new dwelling. The resultant garden would be a comparable size to the rear garden of number 10, the mid-terrace property, at approximately 34m<sup>2</sup> however the rear garden of the proposed dwelling would be slightly smaller at approximately 27m<sup>2</sup>. Given the size of outdoor amenity space afforded to the other properties in the terrace row and surrounding area, it is considered the level of amenity space would be a sufficient size to accommodate these needs of a future occupier and would therefore be acceptable.
- 5.18 In light of the above it is considered the proposed scheme would comply with policy CS14 of the Core Strategy and saved policy DC2 of the UDP which seek to safeguard residential amenity for existing and future occupants of land and buildings.
- 5.19 VISUAL AMENITY
- 5.20 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.
- 5.21 Representations were received with regard to the visual effect of the proposed development on the area including that the dwelling would be out-of-scale with the surrounding properties, the scheme is over-development and the property would not have a front porch.
- 5.22 Officers consider the proposed dwelling would integrate well within the established street scene. The scale, massing and design of the property would closely match the surrounding properties and the dwelling would be constructed in materials that would reflect the local vernacular. As the site can accommodate a new dwelling with the same proportions as the other dwellings in the terrace, and provide an acceptable amount of outdoor amenity space, it is not considered that the proposal would appear as over-development.
- 5.23 It is not considered that the 2m set back or the entrance canopy as opposed to a porch would cause injury to the visual amenity of the area due to the surrounding variety of house types and styles.
- 5.24 There are two amenity trees to the north of the site approximately 3.5m from the side wall of the proposed property. Whilst the proposed dwelling would not result in the direct loss of the trees, it is likely that in the future the trees would come under pressure from the owners of the property due to the likelihood that they would come into contact with

the new dwelling. This may cause conflict with the future owners of the property who may wish to remove or heavily prune the trees.

- 5.25 The amenity trees are outside the red line boundary of this application and not within the ownership of the applicant therefore a condition requiring the removal and replanting of the trees would not meet the tests of reasonableness and enforceability for planning conditions. Any impact the trees may have on the proposed dwelling would therefore be a private matter between the two landowners.
- 5.26 The proposed dwelling may cause a future conflict with the amenity trees to the north of the site therefore there may be some environmental harm. However it is not considered that the development as submitted would have an adverse effect on the character and appearance of the area in accordance with policy CS15 of the Core Strategy and saved policy ENV3 of the UDP.
- 5.27 HIGHWAY SAFETY AND PARKING
- 5.28 Paragraph 32 of the NPPF is clear that applications should only be refused on transport grounds where the residual cumulative impacts of development are 'severe'.
- 5.29 Several objections raise the issue of parking and state that as a result of the development there will be more cars but less turning space and that the proposed dwelling would create access problems including for emergency vehicles.
- 5.30 The proposed dwelling would be built within the existing garden and driveway area of number 11 Butterfield Close. The proposed dwelling would be set back by 5.1m from the adopted highway in order to form a driveway with an adequate length to prevent vehicles from overhanging the highway. As the extent of the development is within the existing curtilage of number 11, the proposal would not create any access problems in terms of existing resident's parking nor would it hinder the safe access of emergency vehicles. Furthermore, the proposal would not result in the loss of an area of adopted highway which is used for turning purposes.
- 5.31 As the existing driveway of number 11 would no longer be available for parking, the applicant proposes to convert the front garden area into a parking space through the laying of hardstanding. The new parking area would be 4.95m in length.
- 5.32 Officers consider the proposed development adequately offsets the loss of the driveway though the creation of a new parking space in front of the existing property and that the proposed 5.1m long driveway for the new dwelling is acceptable. The proposal would therefore 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.

#### 5.33 LAND STABILITY / CONTAMINATION

5.34 The site lies within the Coal Authority High Risk Area therefore coal mining legacy potentially poses a risk to the proposed development. To mitigate this risk it is recommended it be conditioned that intrusive site investigation works are to be undertaken prior to the commencement of the development in order to establish the exact situation regarding coal mining legacy issues on the site (conditions 7 and 8).

5.35 The site has not been classified as "contaminated land" as it has historically been agricultural land until developed in the 1970's for residential use. Given the sensitive end use it is appropriate to condition that if contamination is found at any time during the build, the development must be halted and the contamination must be reported to the Local Planning Authority (conditions 4 and 5).

#### 5.36 PLAY AND OPEN SPACE

5.37 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.

5.38 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.

#### 5.39 COMMUNITY INFRASTRUCTURE LEVY

5.40 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.

#### 5.41 OTHER ISSUES

5.42 Representations were received which state that the building of the new dwelling would cause noise and disruption and the proposal is 'garden grabbing'.

- 5.43 To prevent undue harm to neighbour amenity a condition restricting hours of construction is included which prevents work from being undertaken at unsocial hours (condition 6).
- 5.44 Paragraph 53 of the NPPF relates to development in residential gardens and states that “local planning authorities should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area”. There is no such policy in the Core Strategy or UDP and, in the above assessment of material planning considerations, it is concluded the proposal would not cause harm to the local area.

## **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. Given the relevant conditions suggested to be imposed, it is considered the proposal accords with relevant national and local planning policies.

## **7.0 Recommendation:**

That permission be GRANTED subject to the following condition(s)

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

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.

3

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

Proposed Elevations 'New dwelling adjoining existing' received 23.12.2016

Proposed Site Plan received 07.02.2017

Location Plan received 08.09.2016

Proposed Car Parking Plan received 07.02.2017

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.

4

During development works, any undesirable material observed during excavation of the existing ground should be screened and removed. If any areas of odorous, abnormally coloured or suspected contaminated ground are encountered during development works, then operations should cease until the exposed material has been chemically tested. An amended risk assessment (including a proposed timetable for implementation of works) of the development should then be undertaken, to determine whether remedial works are necessary.

Reason

In order to ensure the safety of site operatives and to ensure that the land is suitable for its end use 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.

5

Any works deemed to necessary following testing (as part of Condition 4) shall be carried out in full in accordance with the timetable set out in Condition 4.

Reason

In order to ensure the safety of site operatives and to ensure that the land is suitable for its end use 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.

6

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

7

Other than preparation works/investigations, the development hereby approved shall not commence until intrusive site investigation works have been undertaken in order to establish coal mining legacy issues on site.

The findings of the intrusive site investigations in relation to coal mining legacy issues along with details of any required remedial works (and timescales) shall be submitted to the Local Planning Authority for approval prior to the construction of the dwelling.

Reason

To ensure that any risks from historical coal mining activities to the future users of the site and neighbouring land are minimised 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, saved policies DC1, and ENV54 of the Unitary Development Plan and policy CS14 of the Core Strategy and Urban Core Plan.

8

Any remedial works in relation to historical coal mining activities as identified through compliance with condition 7 shall be fully implemented in accordance with the timescale set out in the approved findings.

Reason

To ensure that any risks from historical coal mining activities to the future users of the site and neighbouring land are minimised 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, saved policies DC1, and ENV54 of the Unitary Development Plan and policy CS14 of the Core Strategy and Urban Core Plan.

9

The secure cycle storage facility shown on approved plan 'Proposed Site Plan' received 07.02.2017 shall be provided prior to the first occupation of the dwelling hereby approved.

Reason

In order to ensure adequate provision for cyclists and in compliance with Policy CS13 of the Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne and the Gateshead Cycling Strategy.

10

The car parking arrangement shown on approved plan 'Proposed Car Parking Plan' received 07.02.2017 shall be provided prior to the first occupation of the dwelling hereby approved.

Reason

In order to ensure adequate provision of parking and in compliance with Policy CS13 of the Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne.

