

**Committee Report**

<b>Application No:</b>	<b>DC/19/00149/FUL</b>
<b>Case Officer</b>	<b>David Morton</b>
<b>Date Application Valid</b>	<b>22 February 2019</b>
<b>Applicant</b>	<b>Mr Alistair Sundin</b>
<b>Site:</b>	<b>25 Cornmoor Road Whickham Newcastle Upon Tyne NE16 4PU</b>
<b>Ward:</b>	<b>Dunston Hill And Whickham East</b>
<b>Proposal:</b>	<b>Erection of detached dwellinghouse.</b>
<b>Recommendation:</b>	<b>REFUSE</b>
<b>Application Type</b>	<b>Full Application</b>

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

The site is located within the Whaggs Lane/Broom Lane Area of Special Character, as identified by saved UDP Policy ENV25. The site was typical of the original layout of plots in the area where properties have large elongated rear gardens with dense landscaping, albeit a large part of the curtilage has been annexed off through the introduction of a boundary treatment across the garden and adjacent to the existing driveway.

1.2 The site remains relatively well planted, however there is evidence of the recent removal of trees and planting, further the garage associated with the site has been removed.

1.3 There are residential properties located to the north (23 and 19b Cornmoor Road), to the south (27 and 27a Cornmoor Road) and also to the west (14a, 14, 16 and 18 Whaggs Lane).

**1.4 DESCRIPTION OF THE APPLICATION**

The application follows previously withdrawn application DC/18/01037/FUL (withdrawn January 2019); the application proposes the same development with no alterations.

1.5 The application seeks planning consent for the erection of a single detached dwellinghouse, the dwelling would have two levels of accommodation with one level being provided within the roofspace.

1.6 The dwelling would have a maximum width of 11.5 metres and a maximum depth of 21 metres. The proposed dwelling would have a maximum overall height of 5.7 metres. All windows proposed within the northern and southern elevations are proposed to be provided as rooflights, all ground floor rooms would be served by windows within the eastern and western elevations.

1.7 The following documents were submitted with the application;

- Coal Mining Risk Assessment
- Contaminated Land Preliminary Risk Assessment

## 1.8 PLANNING HISTORY

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

- DC/10/00995/FUL for a single two storey dwellinghouse in the rear garden of 25 Cornmoor Road was refused planning permission 01 December 2010 on the grounds that the proposal would result in backland development contrary to UDP policy ENV25 and the second ground was that the proposed development would result in significant harm to the visual amenity of the area and would have a detrimental impact on the area of special character and the amenities of neighbouring properties contrary to policy ENV3 of the UDP.
- DC/10/01349/FUL for a dormer bungalow in the rear garden of 25 Cornmoor Road was refused planning permission on 02 February 2011 on the grounds that the proposal would result in backland development contrary to UDP policy ENV25. The decision was appealed and the appeal was dismissed on 08 June 2011, the Planning Inspector stating '*... the proposed dwelling would create a continuous run of four backland properties. This would result in a concentration of this form of development in the immediate vicinity and would undermine the sense that backland housing is only a sporadic feature of the area*' and would thus be unacceptable when considered against Policy ENV25 and the Planning Policy Statement 1 (PPS1).
- DC/14/00167/FUL for the erection of a dormer bungalow in the rear garden of 25 Cornmoor Road was refused planning permission on 29 April 2014 on the grounds that the proposal would result in backland development contrary to UDP policy ENV25. An appeal to the Planning Inspectorate was lodged by the Applicant, the appeal was dismissed on 29 August 2014.
- DC/14/00484/CPL was an application for a certificate of lawfulness for 'The provision within the curtilage of the dwellinghouse of a building required for purposes incidental to the enjoyment of the dwellinghouse.' The application was refused on 10 June 2014 for the following reason;
 

*"Following consideration of the evidence provided by the applicant, it is considered that on the information submitted it has not been demonstrated that the proposed detached building would 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 1995 as amended."*
- DC/14/01096/CPL was an application for a certificate of lawfulness for 'The provision within the curtilage of the dwellinghouse of a building required for purposes incidental to the enjoyment of the dwellinghouse.' The application was refused on 14 November 2014 for the following reason;
 

*"Following consideration of the evidence provided by the applicant, it is considered that on the information submitted it has not been demonstrated that the proposed detached building*

*would 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 1995 as amended."*

The applicant subsequently appealed the refusal to the Planning Inspectorate; the appeal was allowed on 17 September 2015.

- DC/15/00969/FUL was a planning application for '*Proposed erection of a single-storey 3-bed bungalow (Use Class C3) to rear of existing property with shared access and erection of single garage for host property.*' The application was approved on 20 November 2015.
- DC/18/01037/FUL was an application for the erection of detached dwelling in rear garden of 25 Cornmoor Road. The application was withdrawn on 04 January 2019.
- DC/19/00008/HHA was an application for extension to 25 Cornmoor Road comprising of a loft conversion, two storey side extension and single storey rear extension. The application was approved on 06 March 2019.

## **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. A total of 11 letters of objection were received including one from a Ward Councillor (Councillor Peter Maughan), in addition to a single letter of representation. The objections are summarised below;

- The development would impact on the amenities of surrounding properties;
- The proposed development would lead to additional parking congestion and;
- It will not be possible to get heavy plant and machinery to the rear of the application site.
- The proposed development would lead to additional flood risk to neighbouring properties.
- The proposed development would have a determinantal impact on ecology and specifically badgers.
- The proposed development fails to comply with the requirements of Policy ENV25 of the UDP.

## **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

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

DC2 Residential Amenity

CS10 Delivering New Homes

CS11 Providing a range and choice of housing

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:**

- 5.1 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, density, any impact on trees, any highway safety implications, open space and play provision, land conditions and any other issues arising.
- 5.2 PRINCIPLE OF THE DEVELOPMENT
- 5.3 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.

- 5.4 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.
- 5.5 **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.
- 5.6 **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, providing an acceptable level of internal and external space for existing and proposed properties.
- 5.7 **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.
- 5.8 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.'
- 5.9 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.

- 5.10 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.
- 5.11 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.
- 5.12 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.
- 5.13 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).
- 5.14 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.*'

- 5.15 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.
- 5.16 There was a significant change in circumstance following the refusal of planning application DC/14/00167/FUL at 25 Cornmoor Road. Two separate applications seeking to obtain certificates of lawful development (DC/14/00484/CPL and DC/14/01096/CPL) were submitted. The first application (DC/14/00484/CPL) sought a certificate of lawfulness for the provision of a building required for purposes incidental to the enjoyment of the dwellinghouse, the application was refused and was not subsequently appealed.
- 5.17 The second application (DC/14/01096/CPL) again sought to obtain a certificate of lawful development for the erection of a building required for purposes incidental to the enjoyment of the dwellinghouse. More specifically the application proposed that the structure would be single storey in nature with a footprint of 20 metres by 10 metres, the building would have an eaves height of 2.4 metres and ridge height of 3.5 metres. The building would be located 4 metres and 4.2 metres from the common boundary with the properties to the north and south of the site respectively and 15.3 metres from the boundary with the boundary to the rear.
- 5.18 The proposed detached building would be made up of the following accommodation; a swimming pool, a plant/store, a shower/changing room and a hallway.
- 5.19 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.
- 5.20 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."*
- 5.21 The existence of the above certificate of lawfulness was afforded significant weight in the granting of application DC/15/00969/FUL. However, 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.

- 5.22 In considering the previous appeal (DC/10/01349/FUL) on the current application site 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"*
- 5.23 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."*
- 5.24 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.
- 5.25 It is considered that the proposal for the dwelling at the rear in a tandem arrangement would not accord with Policy ENV25 of the current development plan.
- 5.26 Following the grant of the Certificate of Lawfulness (as set out above) significant changes have been undertaken on site; a boundary treatment has been erected on site effectively separating the land on which the proposed dwellinghouse would stand from the existing dwellinghouse and its curtilage. In addition, it is understood that the existing dwellinghouse and the land on which the proposed dwellinghouse would stand within different ownership (based upon the ownership certificates submitted in relation to applications DC/19/00008/HHA and DC/19/00149/FUL). 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 25 Cornmoor Road. The land is now physically separate and distinct from the land on which the existing dwellinghouse stands, the two areas of land are separately enclosed 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.
- 5.27 Further, the previously approved planning application (DC/15/00969/FUL) lapsed in November 2018 with no lawful commencement taking place.



- 5.28 It is, therefore, considered that no fallback position exist on the site. It is accepted by officers that the subdivision of the land could be reversed 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.
- 5.29 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."*
- 5.30 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.
- 5.31 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 been subdivided and the dwelling and its curtilage are within separate ownership.
- 5.32 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.'*
- 5.33 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.
- 5.34 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...'*
- 5.35 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."*

- 5.36 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.
- 5.37 The proposed dwelling is considered to be of a not dissimilar (in terms of its footprint) to the adjacent properties to the east and south of the application site. The proposed dwelling would create a continuous run of four backland properties. It is considered that the development would undermine the sense that backland housing is only a sporadic feature within the area, while also being prominent and causing a visual intrusion when seen from surrounding properties. 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.
- 5.38 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.
- 5.39 RESIDENTIAL AMENITY  
It is considered that the proposed development would not lead to any significant impact on residential amenity. The proposed dwelling would be located an acceptable distance from all neighbouring properties. The separation distance between the proposed dwelling and the existing bungalow at 19b is 5.5 metres and the separation distance between the proposed dwelling and the two storey dwelling at 27a Cornmoor Road is 3.5 metres. The property in situ at 27a Cornmoor Road does have windows located in the side elevation, however it is considered that impact would be minimal based upon the scale of the dwelling and the separation distance afforded. The distance to the rear elevation of 16 Whaggs Lane is in excess of 75 metres, due to the length of the property's garden. The front elevation of the proposed dwelling is 48 metres from the rear elevation of 25 Cornmoor Road.
- 5.40 It is considered these separation distances, combined with the orientation of the dwelling ensure that no significant impact would be suffered by neighbouring occupiers.
- 5.41 Further, it is considered that the proposed garage, access and landscaping would have a minimal impact on amenity owing to the minor nature of the operations.
- 5.42 It is not considered that the proposal would have an adverse impact on the amenity of nearby residents and as a result it would comply with the aims and objectives of the NPPF, saved policy DC2 of the Council's UDP and policy CS14 of the CSUCP.

#### 5.43 HIGHWAY SAFETY

The existing access to the side of 25 Cornmoor Road at its narrowest is 2.44m and at the widest point is 2.85m wide. The drive is bounded by the gable end of the existing dwelling and cannot be widened at this point. The access is not wide enough to accommodate heavy plant and a concern has been raised by neighbours in respect of construction traffic not being able to access the development site with the resultant storage of materials on the footpath on Cornmoor Road. An area for storage of materials could be secured by a planning condition, if the application was approved and if material was stored on the highway this matter could be dealt with through other legislation.

5.44 However, it is proposed to widen the drive to 3.7 metres beyond the existing dwelling. This will include demolition of the existing single storey garage, provision of a replacement single garage and a turning head. This access is also to be used to access the new proposed dwelling.

5.45 The car parking for the existing dwelling and the proposed development is acceptable and the garages can also accommodate the cycle parking requirements.

5.46 Regarding refuse collection, as the new dwelling would be 79m from the public highway, a storage collection area would be necessary. This could be secured by a planning condition.

#### 5.47 ECOLOGY

In considering the above application in regard to ecological impact regard is offered to the NPPF, Policy CS18 of the CSUCP and saved UDP Policies DC1, ENV46 and ENV47.

5.48 Paragraph 118 of the NPPF sets out the ecology 'mitigation hierarchy' as follows;

- Avoidance - can significant harm to wildlife species and habitats be avoided for example through locating on an alternative site with less harmful impacts?
- Mitigation - where significant harm cannot be wholly or partially avoided, can it be minimised by design or by the use of effective mitigation measures that can be secured by, for example, conditions or planning obligations?
- Compensation - where, despite whatever mitigation would be effective, there would still be significant residual harm, as a last resort, can this be properly compensated for by measures to provide for an equivalent value of biodiversity?

5.49 In the absence of an ecological survey, assessment and mitigation report, it is not possible to make a full assessment as to the likely impacts of the development on biodiversity (having specific regard to nationally protected species).

5.50 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 DC1, ENV46 and ENV47 of the Council's Unitary Development

Plan and Policy CS18 of the Council's Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne.

#### 5.51 LAND CONDITIONS

##### 5.52 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 that 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.

##### 5.53 Land Stability

The application site falls within the defined Development High Risk Area and therefore within the application site and surrounding area there are 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.

5.54 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.

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

#### 5.56 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.

5.57 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.

#### 5.58 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. The development is located within a Charging Zone with a levy of £30 per square metre for this type of development.

#### 5.59 OTHER MATTERS

Objections also raised the issue of Flood Risk and drainage. The site lies within flood zone 1, an area at least risk of flooding. The surface water is proposed to be disposed of to the mains sewer. The development would increase the area of hard surfacing within the site, however it is considered that this would not lead to a significant increase in surface water and the disposal of water into the mains sewer is considered appropriate.

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

### 6.0 CONCLUSION

6.1 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, insufficient information has been submitted to assess the impact of the proposal in terms of ecological impact.

6.2 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.

### 7.0 Recommendation:

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

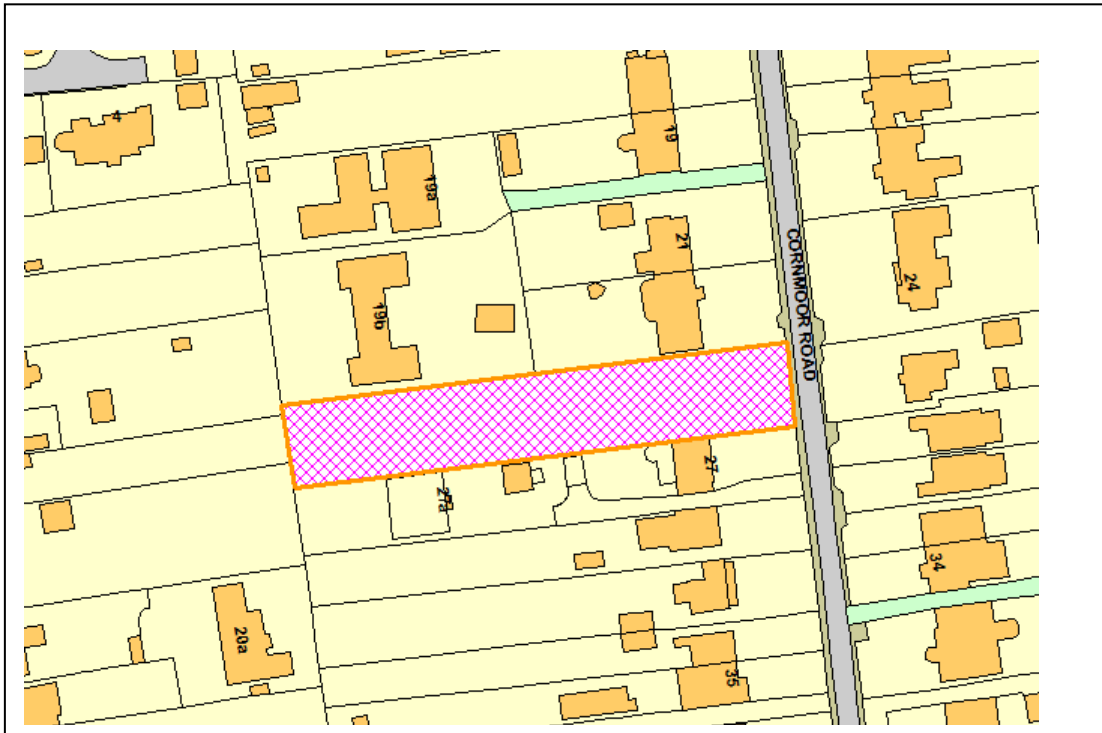
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The development would result in back land development and the subdivision of the existing plot. This would have a detrimental impact on the area of special character, the development would therefore fail to comply with aims and objectives of the NPPF, 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

Insufficient information in the form of an ecological survey, assessment and mitigation report has been submitted to enable the Council to consider whether the proposed development would have any unacceptable negative impact on nationally protected species, contrary to the National Planning Policy Framework, saved policies DC1, ENV46 and ENV47 of the Council's Unitary Development Plan and Policy CS18

of the Council's Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne.



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