

Committee Report

Application No:	DC/23/00094/FUL
Case Officer	Josh Kenolty
Date Application Valid	8 February 2023
Applicant	Mr John Plummer
Site:	Oakfield House Gateshead Road Sunniside Newcastle Upon Tyne NE16 5LQ
Ward:	Whickham South And Sunniside
Proposal:	Erection of a single two-storey dwelling-house (Use Class C3) with associated access, and surrounding gardens and curtilage areas across remaining parts of site with detached garage block (resubmission with revised highways work and ecology assessments). (Additional information received on 20/04/23 and 09/05/2023) (Amended site location plan received 04/07/2023).
Recommendation:	Minded to Refuse
Application Type	Full Application

1. The Application:

1.1 DESCRIPTION OF THE SITE

The application site comprises an area of residential garden curtilage to the rear of the property of Oakfield House, located within an existing residential area of the settlement of Sunniside.

1.2 The site is grassed with a stone path running north to the rear boundary. Land levels are relatively flat. The site is bounded to the east by the neighbouring property Sheldawyn and to the south by Oakfield House itself. To the north and west of the site are mature woodland areas which lie in the designated Green Belt and form part of Lottie's Wood Local Wildlife Site (LWS). The application site itself is not located within the Green Belt.

1.3 Access to the application site is obtained from the eastern boundary via a private access track that leads from the A692 Gateshead Road between two residential properties known as Napier House and Seaton House. Two existing residential properties situated behind those fronting onto the A692 are served by this access track, Sheldawyn and Cheviot View. The access does not form part of the adopted highway, nor is it part of a Public Right of Way.

1.4 DESCRIPTION OF APPLICATION

The application proposes the construction of a detached three-bedroom dwelling with a detached double garage. Access to the site would be provided via the existing single-track road serving Sheldawyn and Cheviot View.

1.5 The application represents a re-submission of a development which has twice been refused planning permission in October 2022 and July 2020 – references DC/21/01001/FUL and DC/19/00902/FUL. Further details of both applications are set out within the Planning History section of the report below.

1.6 The design, scale and layout of the detached dwelling and double garage remain the same as the refused applications.

1.7 The proposed access arrangements also remain the same. However, as part of this application, further technical details have been submitted in relation to the site access, including:

- A Transportation Advisory Note;
- A Visibility Splays Plan;
- A Access Swept Path Analysis; and
- A 'Highways Rebuttal' Technical Note, in response to the original consultation comments from Transport Officers (received 20th April 2023)
- A Highways Rebuttal (received 29th June 2023)

1.8 In respect of ecology, further ecological assessment has also been submitted to support this application. A Preliminary Ecological Appraisal, Biodiversity Metric and Mitigation Strategy was also submitted 9th May 2023.

1.9 PLANNING HISTORY

The current planning application is a re-submission of a previously refused scheme in October 2022 for the construction of a detached three-bedroom dwelling with detached garage on the site (reference: DC/21/01001/FUL). The application was determined under delegated powers and refused for the following reasons:

1. *The proposed additional property would intensify the use of the site access and increase the potential conflict between drivers and pedestrians, entering/exiting the lane, while highway safety would not be safeguarded as a consequence of the design and width of the proposed access onto Gateshead Road (A692). As a result, safe and suitable access to the development site would not be achieved for all users, to the unacceptable detriment of highway safety, contrary to the requirements of paragraphs 110 and 111 of the National*

Planning Policy Framework and Policies CS13 and MSGP15 of the Local Plan for Gateshead.

2. Insufficient information has been provided to determine whether the proposed development could be achieved within acceptable ecological limits, or demonstrate that it would follow the mitigation hierarchy and deliver a measurable net gain for biodiversity. The development would therefore be contrary to the requirements of the NPPF and Policy MSGP37 of the Local Plan for Gateshead

- 1.8 The above planning application was itself a re-submission of a previously refused scheme in July 2020 for the construction of a detached three-bedroom dwelling with detached garage on the site (reference: DC/19/00902/FUL). The application was determined under delegated powers and refused for the following reason:

The width of the existing access road is considered to be insufficient to accommodate an additional dwelling, whilst visibility at the access point onto Gateshead Road is considered to be poor. As a result, it is considered that the proposed dwelling could give rise to conflict between vehicles and pedestrians and would therefore have an unacceptable impact on highway safety, contrary to the NPPF and policy CS13 of the CSUCP.

- 1.9 An appeal was subsequently made against this refusal (reference: APP/H4505/W/20/3261233). The appeal was dismissed by the Planning Inspectorate, who concluded that:

'..the proposal would result in detrimental harm to pedestrian and highway safety. I have considered other development plan policies brought to my attention and furthermore, I attach moderate positive weight to the contribution the appeal site would make to boosting the supply of housing. However, as I have explained, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits of a single new dwelling.'

- 1.10 Within the immediate surrounding area, planning permission was previously refused for the following development:

- 1.11 186/92 | Erection of bungalow (use class C3). | "Sheldawyn" (land at front) Gateshead Road, Streetgate, Sunnyside. Reason 3 of the refusal stated:

The layout of the existing access onto Gateshead Road (A692) is considered to be unsatisfactory and a further intensification of use is undesirable on grounds of highway safety.

- 1.12 829/97 | Erection of detached dwellinghouse on land south of Sheldawyn, Gateshead Road (use class C3). | Sheldawyn (land south of) Gateshead Road Sunnyside. Reason 3 of the refusal again stated that:

The layout of the existing access onto Gateshead Road (A692) is considered to be unsatisfactory and a further intensification of use is undesirable on grounds of highway safety.

- 1.13 An appeal made against this refusal (reference: H4505/A/97/289292/P2) was subsequently dismissed.

2. Consultation Responses:

- 2.1 Tyne And Wear Archaeology Officer: I have checked the application site against the HER and historic maps, and consider that the proposals will not have a significant impact on any known archaeological heritage assets, and no archaeological work is required.

- 2.2 Coal Authority: The Coal Authority concurs with the conclusions and recommendations of the Appraisal of Coal Report and Further Investigation Assessment; that coal mining legacy potentially poses a risk to the proposed development and that investigations are required, along with possible remedial measures, in order to ensure the safety and stability of the proposed development. As such, should planning permission be granted for the proposed development, we would recommend that the following conditions are included on the Decision Notice:

1. *No development shall commence until;*
 - a) *a scheme of intrusive investigations has been carried out on site to establish the risks posed to the development by past shallow coal mining activity; and*
 - b) *any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is made safe and stable for the development proposed.*

The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.
2. *Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works*

and/or mitigation necessary to address the risks posed by past coal mining activity.

The Coal Authority therefore has no objection to the proposed development subject to the imposition of the above conditions.

3. 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, which included the display of a site notice.

3.2 A representation of support for the application has been made by Ward Councillor Wallace, on the basis that this site is suitable for a development of this nature.

3.3 A further 15 representations of support have been submitted to the Local Planning Authority. These can be summarised as follows:

- It will increase the availability of executive housing within the Borough and will help people who want to work in Gateshead to live within the same area.
- The benefits of an addition to Gateshead's housing stock seem to vastly outweigh any negatives.
- The council has approved other developments in the area, namely one of three, four-bedroom houses directly opposite the lane in question, which would surely have the same impact on traffic on Gateshead Road, and a much larger development of houses further down the road but on the same side as Oakfield House.
- The dwelling is within keeping of the area and would positively increase the visual appeal of the area.
- The position of the dwelling will cause no overshadowing, loss of light or loss of privacy to neighbours.
- The pedestrian side of the street is much busier on opposite side of the road, usually with families walking to the nearby restaurant Sorella Sorella's, there is very little pedestrian traffic on the application site side of the road, therefore building a new house on their land will have little impact on our community.
- There would also be no negative impact to the main road in which the private lane is attached as access to the proposal, the dwelling is set back far enough not to cause extra pressure on the highway. The access has been improved to the lane and it is now much safer to enter and exit the lane.
- The width of the access road appears more than adequate
- The build will not be intrusive to the main road and over the past two years access to the main road has been improved.
- The access would be along a lane which has previously supported the vehicular needs of a now closed business (and other residences),

therefore the traffic to one extra house would seem to be much less in comparison.

- This would be excellent use of the land, the entrance to the premises had been used by a number of vehicles given that it was access to a commercial nursery. For example, lorries taking and bringing supplies, cars and vans coming in and out of the nursery.

- As for the traffic issue, the traffic generated by one house must be considerably less than that generated by a market garden.

- A house has just been constructed opposite the lane with a new access onto Gateshead Road. Fail to see how an access that has been regularly used for decades is not considered suitable.

- There is single track access to all houses on this stretch of Gateshead Road via driveways, therefore the effect to traffic on Gateshead Road of the manoeuvres of additional traffic up and down the lane would be no different to already having to slow down and wait while people turn in and out of drives.

- Not aware of any accidents relating from vehicles coming onto the road from this access or indeed from the many similar access roads and private drives within the immediate location.

-The proposal of the dwelling would benefit the area by bringing an increase in natural surveillance hence a deterrent to crime.

4. Policies

4.1 NPPF National Planning Policy Framework

NPPG National Planning Practice Guidance

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

MSGP12 Housing Space Standards

MSGP15 Transport Aspects of Design of Dev

MSGP17 Residential Amenity

MSGP20 Land Contamination/Stability

MSGP24 Design Quality

5. Assessment of the proposal

- 5.1 The main issues to be taken into consideration in the assessment of this application are the principle of development, visual amenity, residential amenity, highway capacity and road safety, ecology, contaminated land and coal mining legacy matters.
- 5.2 **PRINCIPLE OF DEVELOPMENT**
The site in question is not allocated for any specific use, and therefore the development of the land for residential use would form a windfall site.
- 5.3 In order to promote the development of a good mix of sites, the National Planning Policy Framework (NPPF) advises that local planning authorities should support the development of windfall sites through their policies and decisions, giving great weight to the benefits of using suitable sites within existing settlements for homes.
- 5.4 The application site is considered to be within a sustainable location in the settlement of Sunnyside, being situated in an existing residential area with nearby public transport links, as well as access to local shops and services.
- 5.5 Furthermore, the latest results of the Housing Delivery Test (HDT) show that 87% of homes of Gateshead's Local Housing Need (LHN) is being delivered in the Borough. The proposal would have the potential to increase delivery which would be a positive factor.
- 5.6 Local Plan policy CS11 indicates that 60% of new private housing across the plan area and within the plan period will be required to be of 3 or more bedrooms. The proposal will also help to meet the above target.
- 5.7 Policy CS11(4) requires adequate space inside and outside the home to meet the needs of residents, whilst policy MSGP12 also sets out that new homes should be built in accordance with the Nationally Described Space Standards (NDSS).
- 5.8 The plot size would provide adequate amenity space for future occupiers. As detailed within the submitted Design and Access Statement, the floorspace of the dwelling would achieve Nationally Described Space Standards.
- 5.9 The development of this windfall site to provide a new three-bedroom dwelling would support the delivery Gateshead's Local Housing Need and would accord with aims and objectives of Local Plan policies. The principle of the development is therefore considered to be acceptable, subject to all other material considerations being satisfied.

5.10 VISUAL AMENITY

Dwellinghouses within the surrounding area are predominantly two-storey with gable roofs, built in a linear arrangement fronting onto Gateshead Road. However, there are examples of properties which are set back from the highway, such as Sheldawyn and Cheviot View, which are in close proximity to the application site. As such, it is not considered that the principle of backland development would be out of character.

5.11 There is also some variety in terms of the architectural style and size of the dwellings within the built environment surrounding the application site, with larger detached properties occupying the plots fronting Gateshead Road (to the south of the site) compared to the more modest bungalow at Sheldawyn, situated to the east of the site.

5.12 Whilst the proposed dwelling would be substantial in scale, it would be set back from Gateshead Road and would be screened by Oakfield House. Notwithstanding this, the design of the dwelling is not considered to be out of character and would be acceptable within the street scene.

5.13 The proposed detached garage would be of a similar design to the dwelling, with a large, pitched roof and small front dormer providing space within the roof. It is considered that the design and choice of facing materials would be acceptable in terms of visual amenity.

5.14 It is also noted that the design and scale of the dwelling and detached garage is the same as the previous two applications. The design and scale of the development was accepted when assessed under the 2019 planning application at the site (and appeal decision) as well as the most recent 2021 planning application.

5.15 It is therefore considered that the proposal would be acceptable in respect of design and visual impact, in accordance with the NPPF and policies CS15 and MSGP24 of the Local Plan for Gateshead.

5.16 RESIDENTIAL AMENITY

Separation distances between the proposed dwelling and Oakfield House to the south, properties to the south-west and south-east, are in excess of 21m. As this exceeds the minimum recommended distance it is therefore considered that the proposed dwelling would not have an unacceptable impact on the residential amenity of these properties through a loss of outlook, overshadowing or a loss of privacy.

5.17 The separation distance between the side elevation of the proposed dwelling and the side elevation of Sheldawyn would be approximately 11m. However, there would be no windows within the side elevation of the proposed dwelling facing Sheldawyn. A substantial hedgerow, with a timber fence set behind this, runs along what would be the common boundary between the two dwellings. Taking this into account, it is not

considered that the proposed dwelling would result in an unacceptable impact on the residential amenity of the occupants of Sheldawyn.

- 5.18 The detached garage would be located to the south-west corner of the application site, set just off the shared boundary with the neighbouring dwelling of Woodland, 9 East Farm Court. A high brick wall runs along this common boundary.
- 5.19 Although the garage would be relatively large, with a maximum height of 6.75 metres, its position to the north of the property of Woodland means that it would not directly face the rear elevation of the neighbour. In addition, only its side gable elevation would face towards the rear garden of the neighbouring dwelling, which would help to ensure that the outbuilding would not cause unacceptable harm in relation to loss of outlook or overshadowing of any habitable room windows at the dwelling. No windows are proposed to the side elevation of the garage overlooking the neighbour.
- 5.20 In addition, it is also noted that the position and size of the detached garage was considered to be acceptable in relation to its impact on residential amenity when assessed under the 2019 planning application at the site, and subsequent planning appeal, as well as the more recent 2021 planning application.
- 5.21 Given the above, it is considered that the development would be acceptable in terms of impact upon residential amenity, in accordance with the aims and objectives of the NPPF and policies CS14, MSGP17 and MSGP18 of the Local Plan for Gateshead.
- 5.22 **HIGHWAY CAPACITY AND ROAD SAFETY**
Paragraph 110 of the NPPF makes clear that, when considering development proposals, it should be ensured that safe and suitable access to a site can be achieved for all users. Paragraph 111 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 5.23 Policy CS13 of the Local Plan for Gateshead seeks to ensure that any new development minimises car trips, promotes and enhances public transport, connects safely to and mitigates the effects of development on the existing transport networks; and provides safe, secure and direct pedestrian links.
- 5.24 Furthermore, Policy MSGP 15 states that new development will be required to secure safe access to the site for all people and provide adequate servicing facilities; and not have an unacceptable impact on the safe operation of the transport network.

- 5.25 As detailed within the Planning History section of this report, planning permission was previously refused at the site in July 2020 (reference: DC/19/00902/FUL) and in October 2022 (reference: DC/21/01001/FUL) for the construction of a detached three-bedroom dwelling and garage, on the basis that the limited width of the access road to the site off Gateshead Road (A692) had the potential to result in conflict between vehicles and pedestrians. As such, it was determined that the proposed dwelling could give rise to an unacceptable impact on highway safety.
- 5.26 Whilst the 2019 refusal was appealed, the Planning Inspector concurred with the Council (as Local Planning Authority), dismissing the appeal and concluding that the proposal would lead to conflict between vehicles, and pedestrians, and would not accord with Policy CS13 of the Local Plan for Gateshead, to ensure development connects safely to transport networks, or the NPPF that seeks to achieve a safe and suitable access to the site. The 2022 refusal was not appealed.
- 5.27 In terms of the current application, no physical development works are proposed to widen the access track (although some clearance of the hedgerow running alongside it has taken place).
- 5.28 However, in attempt to overcome the reason for the refusal of the previous planning applications, additional information has been submitted with this new planning application in respect of the site access onto the A692, including a Visibility Splays Plan and an Access Swept Path Analysis. Further detail is included within a Transportation Advisory Note, which argues that the proposed site access and approach roads will provide a safe and suitable access to serve the proposed unit without endangering existing or future highway users.
- 5.29 Furthermore, additional information in the form of a 'Highways Rebuttal' Technical Note was received on 20 April 2023. A further rebuttal against Council Transport Officer comments was received 29th June.
- 5.30 The submitted plans, advisory note and additional information have all been subject to consultation with the Council's Transport Officers.
- 5.31 Whilst it is acknowledged by Transport Officers that that some attempt has been made to address their highway safety objections through the submission of the additional technical details, the required 2m x 2m pedestrian visibility splay has not been provided.
- 5.32 Additionally, the width between the fence of Seaton House and the hedge running along the boundary of Napier House would not practically accommodate two cars passing. Whilst Officers acknowledge the dimensions shown on the drawing confirming the varying widths of the access track, their highway safety concerns regarding two cars passing remains, and the tracking provided does not remove these concerns, as the tracking is judged to be unrealistic.

- 5.33 In addition, Transport Officers attended the site and were unable to manoeuvre their vehicles at the end of the access track, and were required to utilise the driveway of Sheldawyn, which is not an acceptable arrangement. Intensifying trips without a formal turning facility for delivery drivers etc. is a further negative aspect of this application.
- 5.34 Gateshead Road is a classified 'A' road, carrying very high volumes of traffic. The proposed additional property will intensify the use of the access and as such increase the potential conflict between drivers entering/exiting the access, which raises a significant highway safety concern. As previously highlighted, the tracking provided to demonstrate that two cars would be able to pass at the access is not accepted. Realistically, drivers turning in/out of the access are not going to follow the tracking suggested and would enter/exit in a more central position. In view of the lack of visibility, this creates an obvious potential conflict.
- 5.35 Transport Officers therefore do not accept that two cars would be able to pass at the access. This could result in reversing manoeuvres at the junction, on a classified 'A' road, or reversing along the access track itself. Either way, there is clearly an identified highway safety risk. This also applies to vehicular conflict with pedestrians entering/leaving the site access.
- 5.36 It is also considered by Transport Officers that the pedestrian route to the new build is very poor generally and unappealing to use, due to the secluded nature of the site and the fact that there is no street lighting.
- 5.37 Furthermore, there is also no safe place to leave a refuse bin for collection, without either obstructing the entrance to the access track and the visibility splay at the entrance, or the adopted highway itself. In addition, Waste Services Officers have highlighted the distance the wheeled bins will have to be pulled out to put in the location from where they will be emptied is quite far, so the road surface would have to be of good quality. Potholes, mud and gravel would be difficult terrain to navigate a full bin over for that distance. Assisted collections, where the bin crews would go to the house to retrieve and return the bin, would be a burden on the waste collection service if it occurred.
- 5.38 Officers are of the view that significant weight must be given to the planning inspector's decision to dismiss the appeal against the refusal of planning permission in 2020 for the construction of a dwelling at the site (reference: APP/H4505/W/20/3261233). As well as supporting the highway safety objections put forward by the Council's Transport Officer, the Inspector suggests that two-way traffic should be accommodated for a certain distance along the access which has not been provided. The Inspector also highlights the proximity of a telegraph pole and the brick pillar associated with Seaton House, which obstructs visibility at the access. Concern was also expressed regarding how close the driveway of Seaton House is to the access, a further potential conflict. Furthermore, it was concluded that the footway on the same side as the

access was more heavily used due to the proximity of the nearby bus stop, post box and local amenities generally.

- 5.39 It was highlighted by the Inspector that the proposed three-bed dwelling would inevitably increase the number of vehicular movements along this lane, together with visitor trips and pedestrian movements; and that highway and pedestrian safety would not be safeguarded as a consequence of the design and width of the proposed access onto Gateshead Road (A692).
- 5.40 Transport Officers also highlight two previous refusals within close proximity of the application site. Planning applications for the residential development of land south of Sheldawyn in 1992 and 1998, respectively, were refused planning permission on the grounds of highway safety, with an inspector subsequently dismissing the 1998 proposal at appeal. The inspector found that *'visibility for a driver leaving the access road to join the A692 would be limited and deficient towards the north-east. Furthermore, drivers on the main road wishing to proceed to the appeal dwelling along the access might well meet a vehicle waiting at the junction to join Gateshead Road. One of the two drivers would have to reverse to allow the other driver to move. The full width of the access is about 3-4m so that vehicles cannot pass, where the access meets the A692.'* They go on to state *'the lack of visibility and single-track access with the likelihood of reversing either on the A692 or within the access, would be hazardous and likely lead to accidents. I conclude that the proposed development would be detrimental to highway safety, through a substandard sightline along Gateshead Road and the inadequate width of the access drive.'*
- 5.41 Whilst a considerable period of time has elapsed since these decisions and the planning policies which were used to assess the application are now out-of-date, it is considered that weight can still be afforded to these decisions, as they illustrate the longstanding highway safety concerns expressed by the Council's Transport Officers.
- 5.42 Having regards to all of the information submitted as part of this application including the applicants latest rebuttal received 29th June, it is still considered by Officers that the proposed additional property would intensify the use of the site access and, as such, increase the potential conflict between drivers entering/exiting the access track, and pedestrians, while highway safety would not be safeguarded as a consequence of the design and width of the proposed access onto Gateshead Road (A692). As a result, safe and suitable access to the development site would not be achieved for all users, to the unacceptable detriment of highway safety, contrary to the requirements of paragraphs 110 and 111 of the National Planning Policy Framework and Policies CS13 and MSGP15 of the Local Plan for Gateshead.
- 5.43 ECOLOGY

Gateshead Local Plan Policy MSGP37 (Biodiversity and geodiversity) makes clear that, where appropriate, development proposals must demonstrate how they will:

- a) avoid/minimise adverse impacts on biodiversity and geodiversity in accordance with the mitigation hierarchy; and
- b) provide net gains in biodiversity

- 5.44 The application is supported by a Preliminary Ecological Appraisal, Biodiversity Metric and Mitigation Strategy (RH Ecological Services, 2023) which assessed the site as currently supporting 'sparsely vegetated ground' but previously constituting vegetated garden habitats. The ecological submission identifies the presence of the adjacent Lottie's Wood Local Wildlife Site (LWS) present to the north and west of the site, and managed by the Woodland Trust, which consists of broadleaved woodland, grassland habitats and a stream and supports Durham BAP priority habitats and Species of Principal Importance in England under the NERC Act. The report also identifies at least one tree with suitability to support roosting bats adjacent to the site.
- 5.45 In the absence of mitigation, construction activities and operational use of the site (including any external artificial lighting) have the potential to impact upon the adjacent LWS, priority habitats, ecological connectivity and any statutorily protected and priority species which are likely to occur within immediate proximity of the site e.g. roosting, foraging and commuting bats, nesting birds.
- 5.46 In accordance with paragraph 180 of the National Planning Policy Framework NPPF, and Policy MSGP 37 of the Local Plan, development proposals must demonstrate how they will avoid/minimise adverse impacts on biodiversity in accordance with the mitigation hierarchy. The ecological submission includes a Method Statement for Contractors – Land to the rear of Oakfield House, Sunnyside which does provide an appropriate level of mitigation to avoid/minimise adverse some of the potential adverse impacts on biodiversity in accordance with the mitigation hierarchy. It is considered that the residual likely impacts referenced above could be adequately addressed via the imposition of appropriately worded planning conditions, in the event that planning permission were granted.
- 5.47 In addition to the above, any application for planning permission for the site should be supported by a biodiversity net gain assessment including a completed copy of the Defra biodiversity net gain metric and the GIS shapefiles/plans used to measure/calculate the onsite baseline, onsite post enhancement and, where appropriate, offsite baseline and offsite post enhancement habitat parcels.
- 5.48 The application is supported by a completed copy of the Defra Biodiversity Net Gain (BNG) Metric 3.1. (RH Ecological Services, 2023). Within the submitted metric, the site has been assessed as having a baseline biodiversity value of 0.19 Habitat units, which is predicted to

decrease to 0.08 Habitat units post-development (-61.26% net change in biodiversity value, constituting a loss of 0.12 Habitat units (of Low Distinctiveness)).

- 5.49 The submitted BNG Metric 3.1 includes an accurate representation of the Baseline Conditions prior to site clearance in 2020 (as referenced within the submitted report (RH Ecological Services, 2023), Taking the baseline to be the condition of the site prior to any habitat conversion connected with the project is in accordance with British Standard BS8683: Process for designing and implementing Biodiversity Net Gain – Specification which states:

3.1.4 biodiversity baseline Description of pre-project biodiversity (type, extent and condition) against which to assess impacts and outcomes. Note. This is assessed prior to any habitat conversion connected with the project including enhancements or deliberate degradation of habitat in anticipation of a project to confirm whether a static or dynamic baseline is required.

- 5.50 Having Further to the above, BS 42020:2013 Biodiversity – Code of practice for planning and Development states:

6.4.8 Where relevant, any report on survey activities should also include reference to any evidence of material events occurring on site, either before or after ecological surveys have been carried out, for example: a) removal or management of vegetation, including trees; b) alteration or loss of other biodiversity features, such as hedgerows, ponds, ditches or buildings and features of value to protected species; c) control of weeds or other species; and d) cessation or reintroduction of grazing or mowing. Such events should be described and the cause explained where known along with the implications, if any, for the main findings of the ecological report. NOTE 1 Such activities may include unexplained “clean up” in derelict or old agricultural buildings or structural changes to an old building, e.g. installation of a new roof. NOTE 2 Aerial photographs may be used to determine what a site was like before changes occurred.”

- 5.51 The ecological submission includes accurate pre and post-development habitat plans, and classifies the post-development habitats realistically and appropriately to account for the use of the site as a residential garden.

- 5.52 However, the submitted report (RH Ecological Services, 2023) acknowledges that it is not possible to achieve a net gain in biodiversity within the site (even with amendments to the site layout) and that there will be a requirement for offsite enhancement measures.

- 5.53 In order to achieve measurable net gains for biodiversity as a result of the proposed developed in accordance with the NPPF and policy

MSGP37 of the Local Plan, any offsite biodiversity net gain compensatory scheme will be required to provide a total of 0.13 Habitat biodiversity units (of the same broad habitat or a higher distinctiveness habitat) (to deliver 10% Biodiversity Net Gain according to the completed Defra metric 3.1 including the offsite baseline, offsite habitat creation and enhancement). This figure takes into account the on-site post-enhancement proposed in the submitted report.

5.54 To this end the applicant has agreed to an obligation in the form of a financial contribution towards securing Biodiversity Net Gain off site of £1,680. Should Members be minded to approve the application, this would be secured by a Section 106 agreement.

5.55 Therefore, subject to a completed Section 106 agreement and appropriate planning conditions, the proposed development could demonstrate that it would follow the mitigation hierarchy and deliver a measurable net gain for biodiversity. The development would therefore accord with the requirements of the NPPF and Policy MSGP37 of the Local Plan for Gateshead and the previous reason for refusal is resolved.

5.56 CONTAMINATED LAND

The site has been assessed and inspected as part of the Council's Contaminated Land Strategy and is not situated on potentially contaminated land based on previous historic use with the application area believed to have not been subject to previous significant contaminative site usage. The site has remained as agricultural land/ open space/ garden area since the earliest editions of the Ordnance Survey.

5.57 Consequently, overall the potential level of contamination possibly being a hazard to site operatives and future site users is considered to be low, and that significant contamination of soils and made ground beneath these areas is not anticipated.

5.58 Therefore, it is unlikely that the development area may be affected by significant ground contamination and, such, a planning condition will not be required for a preliminary risk assessment report in relation to specific potential land contamination issues.

5.59 COAL MINING LEGACY

The application site falls within the defined Development High Risk Area; therefore within the 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.

5.60 More specifically, the Coal Authority's information indicates that a coal seam outcrops across the site, which may have been worked in the past. Voids and broken ground associated with such workings can pose a risk of ground instability and may give rise to the emission of mine gases.

- 5.61 The current planning application is accompanied by an Appraisal of Coal Report and Further Investigation Assessment (November 2019, prepared by WB Engineers), which was submitted in support of the previous application.
- 5.62 Based on a review of coal mining and geological information, the submitted report acknowledges that unrecorded mining works at or close to the surface pose a potential risk to development at the site. Accordingly, it goes on to recommend the carrying out of intrusive ground investigations in order to determine the presence of coal/workings at shallow depth and to inform any necessary remedial or mitigatory measures.
- 5.63 Subject to conditions in relation to the above, to ensure that the site is made safe and stable for the development the Coal Authority confirmed that they had no objections to the proposal.
- 5.64 PROCEDURAL ISSUE
- 5.65 The application site is not owned entirely by the applicant. In accordance with the Town and Country Planning (Development Management Procedure) Order 2015, Article 13, the applicant has amended the application to declare that they do not own all of the land within the application site, and has served Notice on relevant individuals, formally notifying them a planning application has been lodged with the Council. The Notice expires 21st July 2023. It is therefore recommended that planning permission be refused upon expiry of the legal notification.

6.0 CONCLUSION

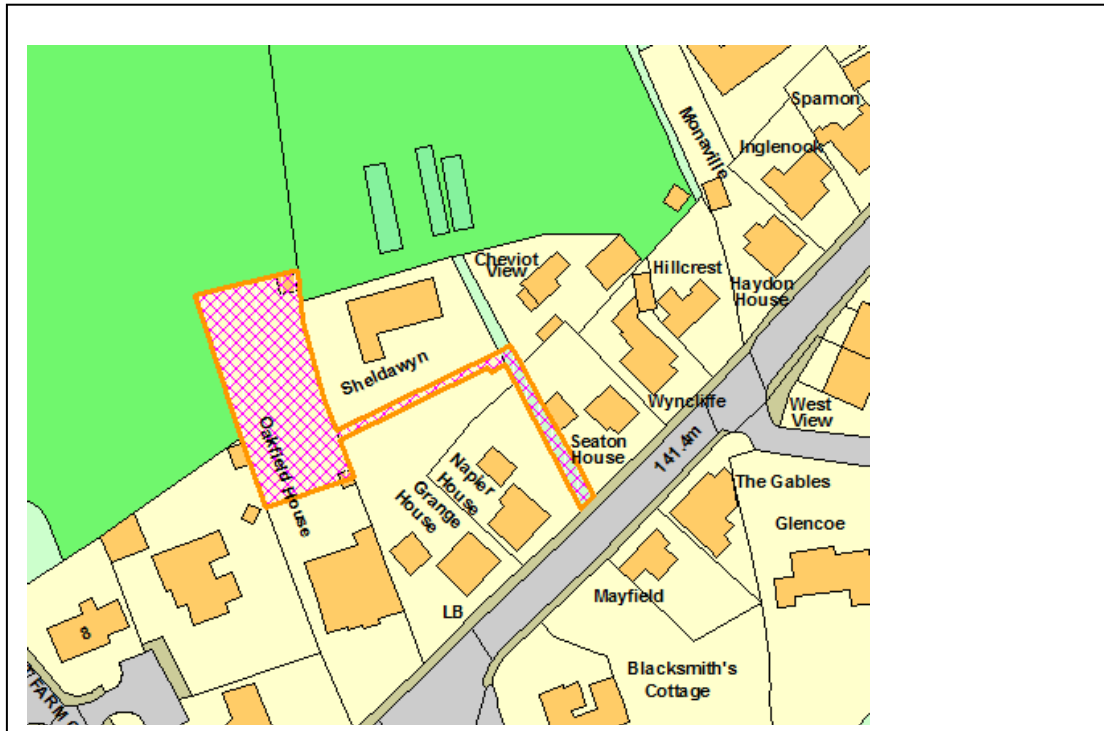
- 6.1 Taking all relevant material considerations into account it is recommended that planning permission is refused as the proposed additional property would intensify the use of the site access and increase the potential conflict between drivers and pedestrians entering/exiting, while highway safety would not be safeguarded as a consequence of the design and width of the proposed access onto Gateshead Road (A692). As a result, safe and suitable access to the development site would not be achieved for all users, to the unacceptable detriment of highway safety, contrary to the requirements of paragraphs 110 and 111 of the National Planning Policy Framework and Policies CS13 and MSGP15 of the Local Plan for Gateshead.
- 6.2 The recommendation is that the application should be refused upon expiry of the Notices served in relation to land ownership. The Notices expire on 21st July 2023.

7.0 Recommendation

Authorise the Service Director of Climate Change, Compliance, Planning and Transport to REFUSE permission, upon the expiry of the notification period in relation to notices served regarding land ownership (21 July 2023) for the following reason:

1

The proposed additional property would intensify the use of the site access and increase the potential conflict between drivers and pedestrians entering/exiting the site access. Highway safety would not be safeguarded as a consequence of the design and width of the proposed access onto Gateshead Road (A692). As a result, safe and suitable access to the site would not be achieved for all users, to the detriment of highway safety, contrary to the requirements of paragraphs 110 and 111 of the National Planning Policy Framework and Policies CS13 and MSGP15 of the Local Plan for Gateshead.



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