

DELEGATED

**AGENDA NO
PLANNING COMMITTEE**

4th MAY 2016

**REPORT OF DIRECTOR,
ECONOMIC GROWTH AND DEVELOPMENT
SERVICES**

16/0820/FUL

**Land Between 34-36 Mount Leven Road, Yarm, Stockton-on-Tees
Erection of dwelling with attached double garage.**

Expiry Date 19 May 2016

SUMMARY

The application site lies within a residential estate in Yarm and sits at the northern end of a former pylon route, the removal of which has provided a pleasant corridor of open space which runs from Leven Bank Road (A1044) in the south to Mount Leven Road in the north. The majority of the open space corridor falls within the Council's land ownership, with the only exception being the application site which is privately owned and fenced off preventing public access.

This application seeks permission for the erection of two storey dwelling with attached double garage. The proposed dwelling in part utilises the existing levels on the site as well as 'cutting' into the landscape to minimise its visual impact. It will be served by an access track along the eastern boundary. 1.2m high railings will also prevent incursion into the access and residential property particularly from children using/playing on the open space.

A total of ten objections and five letters of support have been received in response to the proposed development.

The site is considered to be in a sustainable location and in the absence of being able to specifically identify the site as Urban Open Space through the Strategic Diagram and with the Regeneration and Environment Local Plan carrying only limited weight at this time, the proposal can only be assessed on whether it maintain, protect and enhance the quality of the urban environment, including the openness and amenity value of the site. Given the lack of public access to the site the amenity value of the site rests with the visual break it provides between existing development and views it offers out towards the River Tees to the north. This proposal would sit below the level of the view, ensuring that views to the landscape beyond are retained and the degree of openness currently experienced would also be maintained. Alongside the benefit of allowing public use of the land through the delivery of open space the proposed development is considered to be in broad accordance with the development plan and in particular Core Strategy CS10(3).

RECOMMENDATION

That planning application 16/0820/FUL be approved subject to the following conditions and informatives;

Approved plans;

01 The development hereby approved shall be in accordance with the following approved plan(s);

Plan Reference Number	Date on Plan
1591/P/LP O	24 March 2016
1591/P/01 O	24 March 2016
1591/P/02 O	24 March 2016
1591/P/03 O	24 March 2016
1591/P/04 O	24 March 2016
1591/P/05 O	24 March 2016
1591/P/06 O	24 March 2016

Reason: To define the consent.

Materials:

- 02 Notwithstanding any description of the materials in the application, precise details of the materials to be used in the construction of the external walls and roofs of the building(s) shall be submitted to and approved in writing by the Local Planning Authority prior to the construction of the external walls and roofs of the building(s).

Reason: To enable the Local Planning Authority to control details of the proposed development.

Soft landscaping details:

- 03 Notwithstanding the submitted information, a detailed planting scheme shall be submitted approved in writing by the Local Planning Authority prior to the completion of the hereby approved retail store. Such a scheme shall specify final tree/shrub types and species, stock size, numbers and densities. The works shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development whichever is the sooner and any trees or plants which within a period of five years from the date of planting die, are removed, become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure satisfactory landscaping to improve the appearance of the site in the interests of visual amenity.

Landscape maintenance:

- 04 Prior to occupation of the hereby approved development a schedule of landscape maintenance for a minimum period of 5 years shall be submitted to and approved in writing by the Local Planning Authority. The schedule shall include details of the arrangements for its implementation and be carried out in accordance with the approved schedule.

Reason: In the interests of amenity and the maintenance of landscaping features on the site.

Hard landscape details:

- 05 Notwithstanding any description contained within this application, prior to the occupation of the hereby approved development full details of hard landscape works shall be submitted to and approved in writing by the Local Planning Authority and implemented in accordance with the approved details. These details shall include car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials and construction methods; minor artefacts and structures (e.g. incidental buildings and street furniture).

Reason: In the interests of visual amenity.

Open Space Scheme;

- 06 Notwithstanding any submitted information, no development shall commence until full details of the layout, landscaping and the management and maintenance arrangements (including the allowance for maintaining public access in perpetuity) for the open space has been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved open space scheme and the open space shall remain open to the public at all times.

Reason: To enable the Local Planning Authority to satisfactorily control the development.

Tree Protection measures;

- 07 Details of a scheme in accordance with BS5837, 2005 to protect the existing trees and vegetation shall be provided to the satisfaction of the Local Planning Authority. Such a scheme shall include details of a protective fence of appropriate specification extending three metres beyond the perimeter of the canopy, the fence as approved shall be erected before construction commences and shall be maintained to the satisfaction of the Local Planning Authority throughout the entire building period.

Reason: In the interests of amenity and the maintenance of landscaping features on the site.

Means of enclosure;

- 08 All means of enclosure associated with the development hereby approved shall be in accordance with a scheme to be first agreed with the Local Planning Authority before the development is occupied. Such means of enclosure as agreed shall be erected before the development hereby approved is first occupied and shall be retained for the life of the development.

Reason: In the interests of the visual amenities of the locality.

Site and floor levels;

- 09 Notwithstanding the information submitted as part of the application details of the proposed site levels and finished floor levels shall be submitted to and approved by the Local Planning Authority prior to the commencement of the development.

Reason: To define the consent

Lighting;

- 10 Details of the external appearance of any lighting of the hereby approved dwelling, residential curtilage and driveway, along with details of its colour and luminance levels shall be submitted to and agreed in writing with the Local Planning Authority before such lighting is erected. The lighting shall be installed in accordance with the agreed details and be in place prior to occupation of the hereby approved dwelling.

Reason: To avoid light pollution in the interests of the visual amenities of the area

- 11 **Construction activity;**

No construction activity or deliveries shall take place except between the hours of 0800 and 1800 on Monday to Friday and 0900 and 1300 on Saturdays. There shall be no construction activity on Sundays or Bank Holidays.

Reason: To ensure that the development does not prejudice the enjoyment of neighbouring occupiers of their properties.

Removal of PD Rights - All Householder

- 12 **Notwithstanding the provisions of classes A, B, C, D & E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 as amended by the Town and Country Planning (General Permitted Development) (No.2) (England) Order 2015 (or any order revoking and re-enacting that Order), the buildings hereby approved shall not be extended or altered in any way, nor any ancillary buildings or means of enclosure erected within the curtilage without the written approval of the Local Planning Authority.**

Reason: To adequately control the level of development on the site to a degree by which the principle of the permission is based.

INFORMATIVE OF REASON FOR PLANNING APPROVAL

Informative: Working Practices

The Local Planning Authority found the submitted details satisfactory subject to the imposition of appropriate planning conditions and has worked in a positive and proactive manner in dealing with the planning application.

Dropped Kerb:

The applicant should contact Care for Your Area (01642 391959) regarding the construction of the dropped vehicle crossing.

BACKGROUND

1. The application site is within private ownership and over ten years ago, two planning applications were submitted to develop the site. Both were refused and the details of these two applications are discussed below. For information purposes, around the time of the second application the land was fenced off and public access prevented.
2. The first application (Ref: 05/0817/OUT) sought outline permission for 2no. detached single storey dwellings and 1no. detached 2 storey dwelling and was refused on three grounds which related to the unjustified loss of Urban Open Space harming the character of the area; that the proposal would create a precedent for further residential development on areas of Urban Open Space; and, the land was designated as Urban Open Space. The applicant lodged an appeal and the appeal was dismissed due to the conflict with the policy designation as Urban Open Space, the loss of amenity to the locality and the concerns over resisting future development on the remaining former pylon line (See appendix B for site plan of that application).
3. The second application (Ref; 06/2426/OUT) sought outline consent for a single detached dwelling, detached garage and means of access this application was again refused due to the unjustified loss of Urban Open Space harming the character of the area and creating a precedent for further residential development on areas of Urban Open Space; and, that the site provided a welcome break within the street scene which added to the character of the area. In reaching the decision the Inspector agreed that the corridor provided a welcome break with views north to the Tees Valley and south to the North Yorkshire Moors, providing a sense of place to the housing estate and being an important element in its character. He considered that the dwelling and detached garage would develop much of the site, harm the sites openness and obscure views to the north which would harm the character of the area (See appendix C for site plan of that application).

SITE AND SURROUNDINGS

4. The application site lies within a residential estate on the eastern side of Yarm. The land sits at the northern end of a former pylon route, the removal of which has provided a pleasant corridor

of open space which runs from Leven Bank Road (A1044) in the south to Mount Leven Road in the north. The majority of the open space corridor falls within the Council's land ownership, with the only exception being the application site which is within private ownership.

5. The application site is currently fenced off along the southern boundary (adjacent to Mount Leven Road) with a fence and gate approximately 1.5 metres high which prevents public access. The land is relatively unkempt and at the time of the site visit was used for grazing of a horse. The land in question is surrounded by residential properties to the north, east and west and measures approximately 115m (long) x 30m (wide). The site is identified as natural/semi-natural greenspace within the Council's Open Space audit.

PROPOSAL

6. Planning permission is sought for the erection of dwelling with attached double garage. The proposed dwelling would sit towards the northern end of the site and be served by an access track along the eastern boundary, with an additional planting buffer adjacent to No. 36 Mount Leven Road. The remaining area would form open space with 1.2m high estate railings and planting separating the residential plot and access track from the open space.
7. The proposed dwelling would provide 4 bedrooms and is laid out in a L-shape measuring a maximum of 14.5m (w) x 18m (l) with an integral garage. The proposal is cut into the landscape partially using the gradients of the site and shall be appear as being any higher than 1.5m above existing ground level. Although its maximum overall height would be 7 metres.

CONSULTATIONS

8. The following Consultations were notified and any comments received are set out below (in summary):-

Highways Transport and Environment - Raises no objections to the proposal as Mount Leven Road is an unclassified adopted road subject to a 30 mph speed limit and suitable visibility can be achieved. Three incurtilage car parking spaces, turning area and cycle storage are also provided which is suitable for a 4-bedroom house.

In terms of the visual impact, the proposed dwelling is located within an open field (formerly a pylon corridor) and is enclosed to the north, east and west by existing residential development. Properties to the east and west are all single storey, with gardens demarcated by close board timber fencing. To the north a number of two storey dwelling are located below the site level, overlooking the River Tees.

The location of the proposed dwelling to the rear of the plot, away from Mount Leven Road minimises the impact of the dwelling. Initially views of the property are partially screened by young planting, which on maturity will screen the majority of the building. The submitted sections indicate the building is below the level of the view and receptors on Mount Leven Road will retain views across the proposed roof to the landscape beyond. Residential receptors to the east and west may see views of the roof line at a similar height to the neighbouring properties. Again the low level of the roof line will maintain the openness, allow some longer distance views, and minimise the impact on these adjacent properties.

The proposed materials are acceptable and appropriate to the location. It is considered that the weatherboard cladding which has the appearance of timber will give a softer feel to the building, and it is recommended that this be used on the majority of the upper storey, with brick used for the lower levels which are not visible from outside the site. The proposed green roof is another feature which will soften the building and blend it more readily with the landscape beyond.

A full landscape plan for the site will be required to indicate the location, species etc of all screening vegetation and proposed new trees on the site. Details of all hard landscape materials will be required, including all boundary fences, railings hedges etc. A tree protection plan will also be required to ensure protection of existing trees on and adjacent to the site during the construction period. Details of these will be conditioned should this application be approved.

Environmental Health Unit – No objections subject to the imposition of conditions covering construction/demolition noise and light intrusion

Spatial Plans – Where an adopted or approved development plan contains relevant policies, Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that an application for planning permissions shall be determined in accordance with the Development Plan(s) for the area, unless material considerations indicate otherwise. In this case, policies in the NPPF and the relevant Development Plan i.e. the Adopted Core Strategy Development Plan Document and saved policies of the Stockton on Tees Local Plan are relevant.

The site is classed as Natural/Semi-Natural Greenspace, unlike the remainder of the former pylon easement, which is classed as a Green Corridor. (Formerly and partially Urban Open Space protected under Adopted Stockton on Tees Local Plan Policy EN15 which is now deleted) It provides a break in built development and affords long views beyond the urban area to open countryside. However, the site is in private ownership, and this could limit its usefulness as functional space. The views through and access may be restricted through any works that the private landowner might undertake in the future. Further to this, there are limited opportunities for physical links through to Valley Drive due to existing residential development. Its primary importance would appear to be that for its contribution to local visual amenities.

Relevant policies in the Development Plan, with the exception of those relating to housing supply, are consistent with national planning policy. The development would make a small contribution to housing supply in the Borough. The local value of the site appears to be its contribution to local visual amenity. The design of the dwelling and its position in the site seeks to limit its visual impact and retain openness towards Mount Leven Road. Further to this, the proposed development has the potential to add value through securing public access and enhancement. These attributes should however be considered in the light of planning policies and material considerations which will include the design of the new property and landscaping, amenity of residents, and access and highway safety matters amongst others.

Northumbrian Water Limited – No comments

Northern Gas Networks – No objections

Tees Archaeology – There are no known archaeological sites within the development area or its immediate vicinity, there are no objections to the scheme.

Natural England - No comments to make on this application with regards to significant impacts on statutory designated nature conservation sites or landscapes.

Canal & River Trust (Former British Waterways) - No comments

PUBLICITY

9. Neighbours were notified and a total of 10 objections and 5 support comments have been received to the application, these are detailed below (in summary);

Objection comments;

- The land is open space, is designated as `urban open space` and should be protected

- It provides visual amenity to the locality
- Development is a two storey building adjacent to single storey dwellings and is out of character
- Will overlook neighbouring dwellings
- Construction materials are not in keeping with the estate
- Planning permission has previously been refused on the site and appeal dismissed. The new dwelling will continue to obstruct the view
- Consideration needs to be given to the excavation of the "hole" to accommodate the development and potential drainage/land stability issues
- Concerned further development could occur on the open space area as original scheme sought more development than what is currently proposed.
- In view of pressure it is inevitable areas of open space become vulnerable to development
- Would only support development if restricted to a single dwelling and that the open space is protected as such
- Impact on wildlife both in the short and long-term including newts, squirrels, deer, birds and bees. A habitat survey should be carried out.
- Concerns over structural disturbance and may cause subsidence to the properties in close proximity
- Horses would still be able to graze on the open space.

Objectors:

1. Vivienne and Trevor Burgess - 9 Bankside Yarm
2. Barry Phillip - 46 Mount Leven Road Yarm
3. Mr John Kerr - 85 Valley Drive Yarm
4. Mr David Hunter - 5 Bankside Yarm
5. Helen and Vince Jaques - 7 Bankside Yarm
6. Mr And Mrs Wiley - 14 Foxton Close Yarm
7. Mr Neil Stewart - 19 Stevenson Close Yarm
8. Mrs G Witheford - 2 Goulton Close Yarm
9. B Pemberton - 60 The Crescent Langley Park
10. Mr Andrew Sherris - 18 Merlay Close, Yarm TS15 9TE

Support comments:

- Site is only for grazing horses and is fenced off with a dilapidated fence and is an eyesore
- Site is private land and is not and never will be available as a public space. At best it remains an open visual space
- Prepared to accept the proposed development as a better outcome than the status quo
- Development would not be out of character and be an improvement to the present condition
- Land is untidy, smells and attracts vermin/flyies
- Consideration needs to be given to the maintenance and management of the open space
- Will provide improved security to properties adjacent to the site
- Development would be unlikely to overlook or interrupt the view of existing surrounding properties
- No objection but asks that 'weed free' barrier be retained and that the use of exterior lighting be kept to a minimum

Supporters

1. Mr Gerard Wilson - 1 Bankside Yarm
2. Mr Richard Finch - 15 Stevenson Close Yarm
3. D A Wilson - 21 Mount Leven Road Yarm
4. Dr Tim Meek - 87 Valley Drive Yarm
5. Mr David Gowdy - 1 Bankside Yarm

PLANNING POLICY

10. Where an adopted or approved development plan contains relevant policies, Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that an application for planning permissions shall be determined in accordance with the Development Plan(s) for the area, unless material considerations indicate otherwise. In this case the relevant Development Plan is the Core Strategy Development Plan Document and saved policies of the Stockton on Tees Local Plan. Section 143 of the Localism Act came into force on the 15 Jan 2012 and requires the Local Planning Authority to take local finance considerations into account, this section s70(2) Town and Country Planning Act 1990 as amended requires in dealing with such an application [planning application] the authority shall have regard to a) the provisions of the development plan, so far as material to the application, b) any local finance considerations, so far as material to the application and c) any other material considerations

National Planning Policy Framework

11. Paragraph 14: At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking. For decision-taking this means approving development proposals that accord with the development without delay; and where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or specific policies in this Framework indicate development should be restricted.

Local Planning Policy

12. The following planning policies are considered to be relevant to the consideration of this application.

Core Strategy Policy 2 (CS2) - Sustainable Transport and Travel

1. Accessibility will be improved and transport choice widened, by ensuring that all new development is well serviced by an attractive choice of transport modes, including public transport, footpaths and cycle routes, fully integrated into existing networks, to provide alternatives to the use of all private vehicles and promote healthier lifestyles.

3. The number of parking spaces provided in new developments will be in accordance with standards set out in the Tees Valley Highway Design Guide.
Further guidance will be set out in a new Supplementary Planning Document.

Core Strategy Policy 3 (CS3) - Sustainable Living and Climate Change

8. Additionally, in designing new development, proposals will:

_ Make a positive contribution to the local area, by protecting and enhancing important environmental assets, biodiversity and geodiversity, responding positively to existing features of natural, historic, archaeological or local character, including hedges and trees, and including the provision of high quality public open space;

_ Be designed with safety in mind, incorporating Secure by Design and Park Mark standards, as appropriate;

_ Incorporate 'long life and loose fit' buildings, allowing buildings to be adaptable to changing needs. By 2013, all new homes will be built to Lifetime Homes Standards;

_ Seek to safeguard the diverse cultural heritage of the Borough, including buildings, features, sites and areas of national importance and local significance. Opportunities will be taken to constructively and imaginatively incorporate heritage assets in redevelopment schemes, employing where appropriate contemporary design solutions.

Core Strategy Policy 10 (CS10) Environmental Protection and Enhancement

3. The separation between settlements, together with the quality of the urban environment, will be maintained through the protection and enhancement of the openness and amenity value of:

- i) Strategic gaps between the conurbation and the surrounding towns and villages, and between Eaglescliffe and Middleton St George.
- ii) Green wedges within the conurbation, including:
 - _ River Tees Valley from Surtees Bridge, Stockton to Yarm;
 - _ Leven Valley between Yarm and Ingleby Barwick;
 - _ Bassleton Beck Valley between Ingleby Barwick and Thornaby;
 - _ Stainsby Beck Valley, Thornaby;
 - _ Billingham Beck Valley;
 - _ Between North Billingham and Cowpen Lane Industrial Estate.
- iii) Urban open space and play space.

Saved Policy HO3 of the adopted Stockton on Tees Local Plan

Within the limits of development, residential development may be permitted provided that:

- (i) The land is not specifically allocated for another use; and
- (ii) The land is not underneath electricity lines; and
- (iii) It does not result in the loss of a site which is used for recreational purposes; and
- (iv) It is sympathetic to the character of the locality and takes account of and accommodates important features within the site; and
- (v) It does not result in an unacceptable loss of amenity to adjacent land users; and
- (vi) Satisfactory arrangements can be made for access and parking.

MATERIAL PLANNING CONSIDERATIONS

13. The main planning considerations of this application are compliance with national and local planning policies and the impacts of the development on the character of the area, amenity of neighbouring occupiers, highway safety and protected species. These are discussed below;

Principle of development;

- 14. The National Planning Policy Framework (NPPF) sets out the Governments objectives for the planning system and in particular those for achieving sustainable development. The core planning principles outline the need to identify and meet housing needs as well as respond positively to wider opportunities for growth. Paragraphs 47 and 49 of the NPPF also make it clear the importance government place on boosting the supply of housing and that where a five year land supply cannot be demonstrated the relevant policies for housing should not be considered up-to-date. Currently the Borough has a 4.5 years housing land supply with the 20% buffer added, consequently the provision of housing to address the shortfall in the 5 year housing land supply therefore carries some weight in favour of this proposal.
- 15. With regards to the Borough's own planning policies, the site lies within the defined limits to development and is considered to be a sustainable location. Core Strategy Policy CS10(3) seeks to maintain, protect and enhance the quality of the urban environment, including the openness and amenity value of Urban Open Space and play space. However, this designation is not explicitly defined under the Strategic diagram of the Core Strategy and consequently the Borough has no identifiable Urban Open Space at this time, with the actual detailing falling to the emerging Regeneration and Environment Local Plan (RELP), albeit it can at this stage be afforded very little weight in determining planning applications. For completeness, under Policy ENV1 and the RELP proposals map the whole site is allocated for Urban Open Space (where previously it had been approximately half the site under the 1997 adopted Local Plan). This policy proposes very similar terms to EN15 in that where urban open space is lost (in whole or part) it will be necessary to ensure that it is replaced by equivalent or better provision in terms of quantity and quality.
- 16. In considering the principle of residential development on the site it is noted that the Local Planning Authority has also successfully defended two appeals for residential development on the site. Whilst these do form a material planning consideration, recognition also needs to be

given to some significant changes in the planning policy context which are discussed above but predominately surround the removal of policy EN15.

17. This proposal would also re-introduce some public access onto the site through the provision of open space. This area would equate to approximately 0.14 hectares compared to the allocated area of Urban Open Space under the 1997 Local Plan of 0.17 hectares. This would offer some social benefits in favour of the scheme and improve the overall quality and quantity of the open space.
18. In view of the fact that the Council cannot identify specific sites as Urban Open Space under the Core Strategy, the key test under policy CS10(3) is whether the development of the site maintains, protects and enhances the quality of the urban environment, including its openness and amenity value. In this instance given the lack of current public access to the site it is considered that the amenity value of the site is borne out of the fact that the site provides a visual break between development and offer view out towards the River Tees to the north and its impact on the character of the area. This view is shared by the Spatial Planning section have also identified that the main value of the site is in its contribution to the local visual amenity, this is discussed in further detail below.

Character of the area;

19. As detailed above, the amenity value of the site is borne out of the fact that the site provides a visual break between developments and offers views out towards the River Tees to the north, which is reflected within the two appeal decisions. At the time of the site visit (April) the land remained fenced off, with no public access and had a horse grazing upon it.
20. This application whilst providing a two storey dwelling on the site would, due to the proposed levels and 'cut' into the bank only appear at most as a single storey dwelling from the main street scene. In addition it would allow for a much greater area of public open space to be retained at the front of the site (towards the existing corridor and Mount Leven Road) than previously proposed which will equate to approximately 1400sqm in area. The dwelling will occupy the northern area of the site adjacent to Valley Gardens utilising the changing gradient of the site to minimise its impact. The southern boundary of the housing area and the area alongside the proposed access will be planted with the aim of screening and softening the development. Both these boundaries will also have 1.2m high railings. The submitted site plan also includes a section through the site which indicates that very little of the proposed dwelling would be visible from the public highway once the landscaping is established.
21. In considering the visual impacts of this application, the Council's Landscape Architects consider that the proposed location of the dwelling would minimise the impact upon persons passing by. In addition they consider that the building would be below the level of the view, ensuring that views to the landscape beyond are retained. The low level of the building is also considered to maintain the openness within the area while the use of timber and the green roof are also considered to soften the overall development and minimise its impacts. Final details regarding materials, hard and soft landscaping details, means of enclosure and tree protection can be secured via a planning condition. Consequently there is no landscape objection to the proposed development.
22. In view of these considerations and given the level of detail provided as part of this application a degree of certainty exists with regards to the developments impacts. The change in site position towards the northern end of the site will also retain a greater degree of openness to the site, while the unusual design will also retain views northwards to the River Tees. Consequently, much of the Inspectors concerns from the last appeal with regards to the visual impacts of a dwelling on the site and harm to the character of the area have been satisfactorily addressed.

Amenity of the neighbouring properties;

23. Some of the objectors have commented that they are concerned over a loss of privacy caused by the proposed development. However, at nearest the proposed development would be situated in excess of 25m from side of the proposal to rear of No.'s 5 and 7 Bankside and approximately 24m from the side of the garage to the rear of the No. 44 Mount Leven Road which are in excess of the Council's minimum separation distances and will ensure that the proposal does not result in a significant loss of light or appear overbearing to the surrounding properties.
24. In addition the significant change in levels will ensure that the potential for overlooking is severely limited and will be minimised further by existing fences to the surrounding properties. As a consequence it is not considered that the proposed would have any significant impacts on privacy or residential amenity and would not justify a refusal of the application.

Highway Safety;

25. The Highways, Environment and Transportation Manager has commented that Mount Leven Road is an unclassified road which is subject to a 30 mph speed limit. Appropriate visibility and sight lines can be achieved and 3 curtailed car parking spaces, are provided which accords with the Council's guidance on parking provision for new developments. The scheme is therefore not considered to pose any significant risks to highway safety.

Protected Species;

26. Natural England have considered the scheme and offer no objections to the application on the basis of statutory designated nature conservation sites or landscapes. Whilst comments with regards to impact of the development on wildlife are noted none of these are 'protected species' in terms of planning legislation and a habitat survey would not be required.
27. Although Great Crested Newts are offered protection under planning legislation. It was evident from the site visit that the site possessed relatively few habitat features, with trees to the periphery of the site and no pond being present. Natural England's standing advice also indicates that Great crested newts prefer small to medium sized ponds, rather than garden ponds. In the absence of any evidence to the contrary, it is considered that Great crested newts are unlikely to be present on the site and that the site has limited potential of protected species to be on the site. The developer will however, need to be mindful of other ecological legislation and protections when developing the site.

Residual Issues;

28. Tees Archaeology have commented that there are no known archaeological sites within the development area or its immediate vicinity and therefore the proposal is not considered to adversely affect features of an archaeological interest.
29. It is noted that several people consider that the 'open space' should be fenced off to delineate the land as private land and prevent the open space being used by horses. Whilst noted it is considered that retaining an open frontage will mimic the open frontage on the opposite side of Mount Leven Road and would be more likely to encourage public use of the land as it is intended. A planning condition is recommended to secure the final details regarding layout, landscaping and the management and maintenance arrangements for the open space which is to be provided on the site.
30. Comments received in respect of the cutting into the landscape and structural requirements of the proposed dwelling are noted. However, the site is not within a known area for land stability issues and consequently this would fall outside of the planning system. The final details would be formulated by an engineer and the structural stability of the building would be a matter for building regulations, should any damage to property arise this would be a civil issue between landowners. However, from discussions with the planning agent it is understood that the

intension would be to use gabion baskets to build the retaining wall or use of helical piles (piles which are drilled into the ground). For the avoidance of doubt the planning agent has been advised about potential implications of building a retaining wall and the potential issues with resultant noise and vibrations from piling foundations.

31. Concerns over the potential for future development are noted. However, this application must be assessed on its own merits and against the policies of the development prevalent at that point in time. Similarly any future proposal would need to be considered on its own merits, however, and as detailed earlier in this report a significant factor in the positive recommendation of this application is the provision of publicly accessible open space and the social benefits it brings.

CONCLUSION

32. The site lies within the defined limits to development and is considered to be a sustainable location. Whilst noting the position of the two previous appeals, there has been a significant shift in both the national and local planning policy landscape since this time. In the absence of being able to identify the site as Urban Open Space through the Strategic Diagram and the Regeneration and Environment Local Plan carrying only limited weight, the proposal can only be assessed on whether it maintains, protects and enhances the quality of the urban environment, including the openness and amenity value of the site.
33. Given the lack of public access to the site the amenity value of the site is borne out of the fact that the site provides a visual break between developments and offers views out towards the River Tees to the north. It is considered that this proposal would be below the level of the view, ensuring that views to the landscape beyond are retained and the degree of openness currently experienced would also be maintained. Alongside the benefit of allowing public use of the land through the delivery of open space the proposed development is considered to be in broad accordance with the development plan and particularly Core Strategy policy CS10(3).
34. The proposed development is considered to be acceptable in all other regards and consequently the application is recommended for approval subject to those conditions within the report.

Director of Economic Growth and Development Services
Contact Officer Mr Simon Grundy Telephone No 01642 528550

WARD AND WARD COUNCILLORS

Ward Yarm
Ward Councillor(s) Councillors Ben Houchen, Elsi Hampton and Julia Whitehill

IMPLICATIONS

Financial Implications:

Section 143 of the Localism Act has been taken into consideration and there are no known financial considerations/implications at this time.

Environmental Implications:

The proposal relates to single residential property and its visual impacts, along with matters relating to the impacts on residential amenity particularly as a result of noise and disturbance are considered and addressed within the report. These are however considered to have a limited impact.

Human Rights Implications:

The provisions of the European Convention of Human Rights 1950 have been taken into account in the preparation of this report.

Community Safety Implications:

The provisions of Section 17 of the Crime and Disorder Act 1998 have been taken into account in the preparation of this report

Background Papers:

Stockton on Tees Local Plan Adopted 1997

Alteration Number 1 to the Adopted Local Plan – 2006

Core Strategy – 2010

Emerging Regeneration and Environment Local Plan – Publication February 2015.

Supplementary Planning Documents

SPD1 – Sustainable Design Guide

SPD2 – Open Space, Recreation and Landscaping

SPD3 – Parking Provision for Developments