

DELEGATED

**AGENDA NO
PLANNING COMMITTEE
1st SEPTEMBER 2021
REPORT OF DIRECTOR OF FINANCE,
DEVELOPMENT AND BUSINESS SERVICES**

21/1478/VARY

Thorpe Beck Farm, Durham Road, Thorpe Thewles

Section 73 application to vary condition no2 (Approved Plans) and no4 (Landscaping) of planning approval 18/2696/FUL - Application for the erection of 31 dwellings with associated means of access, parking, and landscaping.

Expiry Date 8TH September 2021

SUMMARY

This is a section 73 application to vary the approved plans and the landscaping plans for the site. The proposed changes are to allow the incorporation of retaining walls, replacement landscaping and the deletion of a footpath link.

Six letters of objection have been received. The site is allocated for housing in the local plan and has approval, therefore the principle of development has been established. All other matters are considered to be acceptable in planning terms and there are no sustainable planning reasons to refuse the application.

In view of the planning merits of the case, the proposal is therefore considered to be acceptable and is recommended for approval subject to the recommendation below;

RECOMMENDATION

That planning application 21/1478/VARY be approved subject to the following conditions and informatives;

01 Approved Plans

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

Plan Reference Number	Date Received
454_001 REV B	25 May 2021
454_003 REV W	2 June 2021
454_011 REVC	2 June 2021
454_015 REV A	2 June 2021
454_012 REV C	2 June 2021
454_002 REV AL	2 June 2021
W20497-WBE-16-XX-DR-S-3000-P01	2 June 2021
3691-2E	9 June 2021

Reason: To define the consent.

02 Scope of the Consent

Nothing in this permission other than the variation of condition No. 2 (approved plans) and 4 (landscaping in relation to the plots on the northern boundary only) of planning approval 18/2696/FUL shall be construed as discharging the conditions or obligations attached to that permission.

Reason: To define the consent

03. Landscaping

The landscaping as shown on plan 3691/2 received 9 June 2021 shall be implemented in the first planting season following completion of the plot to which it relates. In addition to the planting as proposed an additional 10 trees shall be provided, with the species and location to be agreed on site with the local planning authority.

All trees shall be planted in the first planting season following completion of the plot to which that planting relates and prior to occupation and shall be retained and maintained for a minimum period of 25 years from practical completion of the development.

There shall be no excavation or raising or lowering of levels within the root protection area of retained trees, shrubs or hedges, unless agreed in writing by the Local Planning Authority. No tree, shrub or hedge shall be cut down, uprooted or destroyed, topped or lopped other than in accordance with the approved plans. Any tree, shrub or hedge or any tree, shrub or hedge planted as a replacement that dies or is removed, uprooted or destroyed or becomes seriously damaged or defective must be replaced by another of the same size and species unless directed in writing by the Local Planning Authority.

Reason: To ensure a high quality planting scheme is provided in the interests of visual amenity which contributes positively to local character and protected the amenity of local residents.

04 Buffer Zone

The buffer zone between the development site and Wynyard Woodland Park shall be retained, including any planting within this area and no development shall take place in this area without the prior written approval of the local planning authority. The fencing between the development and buffer zone shall be retained for the life of the development.

Reason: To protect the ecological buffer area on the site that the Local Planning Authority considers to provide important ecological value in the locality.

05 Hedgerow to the West

The hedgerow and planting to the west of the site, alongside plots 1 – 5 and plot 9 shall be retained and maintained for a minimum period of 25 years from practical completion of the development. There shall be no excavation or raising or lowering of levels within the prescribed root protection area of retained trees, shrubs or hedges, unless agreed in writing by the Local Planning Authority. No tree, shrub or hedge shall be cut down, uprooted or destroyed, topped or lopped other than in accordance with the approved plans. Any tree, shrub or hedge or any tree, shrub or hedge planted as a replacement that dies or is removed, uprooted or destroyed or becomes seriously damaged or defective must be replaced by another of the same size and species unless directed in writing by the Local Planning Authority.

Reason: To protect the existing trees/shrubs and hedges on site that the Local Planning Authority consider to be an important visual amenity in the locality and should be appropriately maintained.

06 Permitted Development Rights

Notwithstanding the provisions of classes A, AA, B, C, D and E of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (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: In order that the local planning authority may exercise further control in order to protect the amenity of adjoining residents and landscaping features.

07 Permitted Development Rights means of enclosure

Notwithstanding the provisions of Part 2, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order), unless shown on the approved plan (454 -003) no gates, fences, walls or other means of enclosure shall be erected between the front or side wall of any dwelling which the curtilage of the dwelling fronts or abuts without the written approval of the Local Planning Authority.

Reason: In order that the local planning authority may exercise further control in order to protect the amenity of adjoining residents.

08 Removal of PD rights - no garage conversions;

Notwithstanding the provisions 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), no garages shall be converted into part of the house or incidental uses without the prior written consent of the Local Planning Authority.

Reason: To adequately control the level of development on the site to ensure adequate garaging and parking spaces are made available.

INFORMATIVE OF REASON FOR PLANNING APPROVAL

Informative: Working Practices

The Local Planning Authority has worked in a positive and proactive manner and sought solutions to problems arising in dealing with the planning application by seeking a revised scheme to overcome issues and by the identification and imposition of appropriate planning conditions.

BACKGROUND

1. Planning permission was approved for the erection of 31 dwellings with associated means of access, parking, and landscaping on the 3rd September 2019 (Application 18/2696/FUL).
2. The scheme was implemented, however there was a landscaping belt to the northern aspect of the site which was shown to be retained. Work commenced on the removal and following complaints from local residents, a site visit was undertaken and the removal of the remaining landscaping was halted until a solution was found.

SITE AND SURROUNDINGS

3. The application site relates to an approved housing scheme to the south of Thorpe Thewles. To the north of the site is Wynyard Court and 27 Durham Road and to the west is 2 Durham Road. Castle Eden Walkway is to the east.

PROPOSAL

4. This application is a Section 73 application which seeks to vary the approved plans and the agreed landscaping plan by;
 - Implementing retaining walls to the northern plots
 - Provision of replacement planting to the north of the development
 - Removal of the footpath from 2 Durham Road running south to the vehicular access of the development.

CONSULTATIONS

5. The following Consultations were notified and any comments received are set out below:-
6. Highways Transport & Design Manager
The Highways Transport and Design manager raises no objections to the proposed variations but requests that an additional condition be applied to secure further tree planting as outlined below.
Highways Comments - There are no highways objections to the proposed variation of condition no2 (Approved Plans).
Landscape & Visual Comments - There are no landscape and visual objections to the proposed variations, however it is requested that some additional tree planting be allowed to infill visible gaps in the existing planting on the northern boundary. It is suggested that a condition be applied to secure the provision of a further 10 no trees (size and species to match proposed) to be planted in locations agreed on site with Council Officers. All tree planting must be undertaken in accordance with the specification previously approved as part of condition 4 covering staking etc.
In order to ensure the retention and protection of these trees it is the Council's intention to TPO this planting at the earliest opportunity.

PUBLICITY

7. Neighbours were notified and comments were received from the following addresses with the comments summarised below. Full details of the objections can be found online at <https://www.developmentmanagement.stockton.gov.uk/online-applications/>
 1. Mr Nick Waites 3 Wynyard Court Thorpe Thewles
 2. Mr Gary Forster 4 Wynyard Court Thorpe Thewles
 3. Mrs Victoria Bell 5 Wynyard Court Thorpe Thewles
 4. Mr Sean Lynch 6 Wynyard Court Thorpe Thewles
 5. Mrs Allyson Horner, 7 Wynyard Court Thorpe Thewles
 6. Mr Tim Fairs 27 Wynyard Road Thorpe Thewles
 - The development boundary is still disputed
 - The application is attempting to transfer ownership and therefore control over a number of established trees. This transfer would mean that these trees and the buffer/screening area could be removed by any future owner.

- The originally approved planning application stated that the undisturbed green belt that ran behind properties in Wynyard Court was a fundamental part of the approved application and the buffer has been reduced in width
- The properties will result in a significant reduction in privacy and amenity
- The ownership of the buffer zone and its future?
- Why the conifers to the rear of 3 Wynyard Court cannot be retained.
- Impact on the trees by erection of the fences.
- Future removal of the bank/wall and planting.

PLANNING POLICY

8. 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 Stockton on Tees Borough Council Local Plan 2019.
9. Section 143 of the Localism Act came into force on the 15 January 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 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

10. The purpose of the planning system is to contribute to the achievement of sustainable development. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways. These are economic social and environmental objectives.
11. So that sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development (paragraph 11) which for decision making means;
 - approving development proposals that accord with an up-to-date development plan without delay; or
 - where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. 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.

Local Planning Policy

12. The following planning policies are considered to be relevant to the consideration of this application
13. Strategic Development Strategy Policy 1 (SD1) - Presumption in favour of Sustainable Development
 1. In accordance with the Government's National Planning Policy Framework (NPPF), when the Council considers development proposals it will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF. It will always work proactively with applicants jointly to find solutions which mean that proposals for

sustainable development can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.

2. Planning applications that accord with the policies in this Local Plan (and, where relevant, with policies in neighbourhood plans) will be approved without delay, unless material considerations indicate otherwise.

3. Where there are no policies relevant to the application or relevant policies are out of date at the time of making the decision then the Council will grant permission unless material considerations indicate otherwise - taking into account whether:

- Any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole;
- or,
- Specific policies in that Framework indicate that development should be restricted.

14. Strategic Development Strategy Policy 2 (SD2) - Strategic Development Needs

1. The following strategic growth needs have been identified for the period 2017/18 to 2031/32, which will be met through new sustainable development and infrastructure provision that integrates positively with the natural, built and historic environment of the Borough.

Housing

2. To meet the housing requirement of 10,150 new homes over the plan period a minimum of:

- a. 720 dwellings (net) will be delivered per annum from 2017/18 to 2021/22.
- b. 655 dwellings (net) will be delivered per annum from 2022/23 to 2031/32.

3. The Strategic Housing Market Assessment for Stockton-on-Tees Borough identifies that there are specific needs with regard to housing type and tenure. This includes delivering homes to meet the needs of the ageing population.

15. Strategic Development Strategy Policy 3 (SD3) - Housing Strategy

1. The housing requirement of the Borough will be met through the provision of sufficient deliverable sites to ensure the maintenance of a rolling five year supply of deliverable housing land. Should it become apparent that a five year supply of deliverable housing land cannot be identified at any point within the plan period, or delivery is consistently falling below the housing requirement, the Council will work with landowners, the development industry and relevant stakeholders and take appropriate action in seeking to address any shortfall.

2. The following are priorities for the Council:

- a. Delivering a range and type of housing appropriate to needs and addressing shortfalls in provision; this includes the provision of housing to meet the needs of the ageing population and those with specific needs.
- b. Providing accommodation that is affordable.
- c. Providing opportunities for custom, self-build and small and medium sized house builders.

3. The approach to housing distribution has been developed to promote development in the most sustainable way. This will be achieved through:

- e. Supporting residential development in villages (as shown on the Policies Map) through the recognition of existing commitments and new build within the limits to development where the land is not allocated for another purpose.

16. Strategic Development Strategy Policy 5 (SD5) - Natural, Built and Historic Environment

To ensure the conservation and enhancement of the environment alongside meeting the challenge of climate change the Council will:

- 1. Conserve and enhance the natural, built and historic environment through a variety of methods including:

- a) Ensuring that development proposals adhere to the sustainable design principles identified within Policy SD8.
 - e) Supporting development of an appropriate scale within the countryside where it does not harm its character and appearance, and provides for sport and recreation or development identified within Policies SD3 and SD4.
 - f) Ensuring any new development within the countryside retains the physical identity and character of individual settlements.
2. Meet the challenge of climate change, flooding and coastal change through a variety of methods including:
- a. Directing development in accordance with Policies SD3 and SD4.
 - d. Directing new development towards areas of low flood risk (Flood Zone 1), ensuring flood risk is not increased elsewhere, and working with developers and partners to reduce flood risk.

17. Strategic Development Strategy Policy 8 (SD8) - Sustainable Design Principles

1. The Council will seek new development to be designed to the highest possible standard, taking into consideration the context of the surrounding area and the need to respond positively to the:
- a. Quality, character and sensitivity of the surrounding public realm, heritage assets, and nearby buildings, in particular at prominent junctions, main roads and town centre gateways;
 - b. Landscape character of the area, including the contribution made by existing trees and landscaping;
 - c. Need to protect and enhance ecological and green infrastructure networks and assets;
 - d. Need to ensure that new development is appropriately laid out to ensure adequate separation between buildings and an attractive environment;
 - e. Privacy and amenity of all existing and future occupants of land and buildings;
 - f. Existing transport network and the need to provide safe and satisfactory access and parking for all modes of transport;
 - g. Need to reinforce local distinctiveness and provide high quality and inclusive design solutions, and
 - h. Need for all development to be designed inclusively to ensure that buildings and spaces are accessible for all, including people with disabilities.
2. New development should contribute positively to making places better for people. They should be inclusive and establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit.
3. All proposals will be designed with public safety and the desire to reduce crime in mind, incorporating, where appropriate, advice from the Health and Safety Executive, Secured by Design, or any other appropriate design standards.
4. New development will seek provision of adequate waste recycling, storage and collection facilities, which are appropriately sited and designed.

18. Housing Policy 1 (H1) - Housing Commitments and Allocations

1. To deliver the housing requirement and to maintain a rolling five year supply of deliverable housing land, the Council have allocated sites identified within this policy. The majority of the new homes will be delivered through existing commitments (sites with planning permission identified within point 2) with the remainder of new homes being delivered through allocations at:
- a. Various sites within the Regenerated River Tees Corridor.
 - b. Various sites within the conurbation.
 - c. West Stockton Sustainable Urban Extension.
 - d. Wynyard Sustainable Settlement.

The total number of dwellings set out in this policy is not the same as the housing requirement. This is because some commitments have already delivered a proportion of the dwelling numbers identified and some sites will likely deliver dwellings beyond the plan period, after 2032.

Commitments

2. Residential development is proposed at the following main sites, which benefit from planning permission. These sites are re-affirmed for residential development and are illustrated on the Policies Map:

V7 Thorpe Beck Farm, Thorpe Thewles

19. Housing Policy 4 (H4) - Meeting Housing Needs

1. Sustainable residential communities will be created by requiring developers to provide a mix and balance of good quality housing of appropriate sizes, types and tenures which reflects local needs and demand, having regard to the Strategic Housing Market Assessment, its successor documents or appropriate supporting documents.

2. Support will be given to higher density development within areas with a particularly high level of public transport accessibility. Elsewhere housing densities will be considered in the context of the surrounding area in accordance with Policy SD8.

3. The Council require 20% of new homes to be affordable on schemes of more than 10 dwellings or with a combined gross floorspace of above 1000sqm.

4. Where an applicant considers that the provision of affordable housing in accordance with the requirements of this policy would make the scheme unviable, they must submit a full detailed viability assessment to demonstrate the maximum level of affordable housing that could be delivered on the site. The applicant will be expected to deliver the maximum level of affordable housing achievable.

5. Affordable housing will normally be provided on-site as part of, and integrated within housing development to help deliver balanced communities. This provision should be distributed across sites in small clusters of dwellings. Off-site affordable housing or a commuted sum will only be acceptable where:

a. All options for securing on-site provision of affordable housing have been explored and exhausted; or

b. The proposal is for exclusively executive housing, where off-site provision would have wider sustainability benefits and contribute towards the creation of sustainable, inclusive and mixed communities; or

c. The proposal involves a conversion of a building which is not able to accommodate units of the size and type required; or

d. Any other circumstances where off-site provision is more appropriate than on-site provision.

6. Where off-site affordable housing or a commuted sum is considered acceptable, the amount will be equivalent in value to that which would have been viable if the provision was made onsite and calculated with regard to the Affordable Housing Supplementary Planning Document 8 or any successor.

7. The Council will support proposals for specialist housing, including extra care and supported housing to meet identified needs. Accommodation will seek to deliver and promote independent living.

8. Extensions to dwellings to provide accommodation for dependent relatives will be supported where they are designed to be used as part of the main dwelling when no longer required for that purpose.

9. To ensure that homes provide quality living environments for residents both now and in the future and to help deliver sustainable communities, from the 1st April 2019 the following Optional Standards will apply, subject to consideration of site suitability, the feasibility of meeting the standards (taking into account the size, location and type of dwellings proposed) and site viability:

a. 50% of new homes to meet Building Regulation M4 (2) "Category 2 - accessible and adaptable dwellings".

b. 8% of new dwellings to meet Building Regulation M4(3) "Category 3 - Wheelchair User Dwellings". Where the local authority is responsible for allocating or nominating a person to live in that dwelling, homes should meet building regulation M4 (3) (2) (b). When providing for wheelchair user housing, early discussion with the Council is required to obtain the most up-to-date information on specific need in the local area.

10. To widen the overall housing offer, the Council will support the delivery of custom and selfbuild housing. The Council will:

a. Regularly monitor the demand for custom and self-build housing and assist in facilitating the delivery of land/sites, where appropriate.

b. Encourage applicants to consider incorporating plots for custom and self-build housing within larger housing developments.

20. Transport and Infrastructure Policy 3 (TI3) - Communications Infrastructure

7. Developers should demonstrate how proposals for new homes, employment or main town centre uses will contribute to and be compatible with local fibre and internet connectivity.

21. Natural, Built and Historic Environment Policy 1 (ENV1) - Energy Efficiency

1. The Council will encourage all development to minimise the effects of climate change through meeting the highest possible environmental standards during construction and occupation.

The Council will:

a. Promote zero carbon development and require all development to reduce carbon dioxide emissions by following the steps in the energy hierarchy, in the following sequence:

i. Energy reduction through 'smart' heating and lighting, behavioural changes, and use of passive design measures; then,

ii. Energy efficiency through better insulation and efficient appliances; then,

iii. Renewable energy of heat and electricity from solar, wind, biomass, hydro and geothermal sources; then

iv. Low carbon energy including the use of heat pumps, Combined Heat and Power and Combined Cooling Heat and Power systems; then

v. Conventional energy.

b. Require all major development to demonstrate how they contribute to the greenhouse gas emissions reduction targets set out in Stockton-on-Tees' Climate Change Strategy 2016; and

c. Support and encourage sensitive energy efficiency improvements to existing buildings.

2. Proposals are encouraged where development:

a. Incorporates passive design measures to improve the efficiency of heating, cooling and ventilation; and

b. Includes design measures to minimise the reliance on artificial lighting through siting, design, layout and building orientation that maximises sunlight and daylight, passive ventilation and avoids overshadowing.

Domestic

3. All developments of ten dwellings or more, or of 1,000 sq m and above of gross floor space, will be required to:

a. Submit an energy statement identifying the predicted energy consumption and associated CO2 emissions of the development and demonstrating how the energy hierarchy has been applied to make the fullest contribution to greenhouse gas emissions reduction; and

b. Achieve a 10% reduction in CO2 emissions over and above current building regulations. Where this is not achieved, development will be required to provide at least 10% of the total

predicted energy requirements of the development from renewable energy sources, either on site or in the locality of the development.

4. All development proposals will be designed to ensure that:

- a. Opportunities are taken to mitigate the risk of flooding elsewhere;
- b. Foul and surface water flows are separated;
- c. Appropriate surface water drainage mitigation measures are incorporated and Sustainable Drainage Systems (SuDS) are prioritised; and
- d. SuDS have regard to Tees Valley Authorities Local Standards for Sustainable Drainage (2015) or successor document.

5. Surface water run-off should be managed at source wherever possible and disposed of in the following hierarchy of preference sequence:

- a. To an infiltration or soak away system; then,
- b. To a watercourse open or closed; then,
- c. To a sewer.

6. Disposal to combined sewers should be the last resort once all other methods have been explored.

7. For developments which were previously developed, the peak runoff rate from the development to any drain, sewer or surface water body for the 1-in-1 year rainfall event and the 1-in-100 year rainfall event should be as close as reasonably practicable to the greenfield runoff rate from the development for the same rainfall event, but should never exceed the rate of discharge from the development prior to redevelopment for that event. For greenfield developments, the peak runoff rate from the development to any highway drain, sewer or surface water body for the 1-in-1 year rainfall event and the 1-in-100 year rainfall event should never exceed the peak greenfield runoff rate for the same event.

9. Sustainable Drainage Systems (SuDS) should be provided on major development (residential development comprising 10 dwellings or more and other equivalent commercial development) unless demonstrated to be inappropriate. The incorporation of SuDS should be integral to the design process and be integrated with green infrastructure. Where SuDS are provided, arrangements must be put in place for their whole life management and maintenance.

22. Natural, Built and Historic Environment Policy 5 (ENV) - Preserve, Protect and Enhance Ecological Networks, Biodiversity and Geodiversity

7. Existing trees, woodlands and hedgerows which are important to the character and appearance of the local area or are of nature conservation value will be protected wherever possible. Where loss is unavoidable, replacement of appropriate scale and species will be sought on site, where practicable.

23. Historic Environment Policy 2 (HE2) - Conserving and Enhancing Stockton's Heritage Assets

2. Where development has the potential to affect heritage asset(s) the Council require applicants to undertake an assessment that describes the significance of the asset(s) affected, including any contribution made by their setting. Appropriate desk-based assessment and, where necessary, field evaluation will also be required where development on a site which includes or has the potential to include heritage assets with archaeological interest. Applicants are required to detail how the proposal has been informed by assessments undertaken.

6. The following are designated heritage assets:

- d. Listed Buildings

MATERIAL PLANNING CONSIDERATIONS

24. The application has full approval for 31 dwellings and therefore the principle of development cannot be revisited and the only matters under consideration are the amendment to the approved plans and the landscaping.

Retaining walls/plot layout

25. The applicant commenced work and it was apparent that retaining walls needed to be in place as the land to the rear is higher. The retaining walls will result in gardens that will have a slope to the rear and will result in a development which allows for a garden area along with the landscape buffer. The latter is required to be planted to offer some protection to the privacy of the existing and future residents.
26. The change in land levels between with site and Wynyard Court varies from 3.5 metres from the west to 2 metres as the land extends towards the eastern boundary. As indicated in the Councils Sustainable Design Guide, where level changes occur the separation distances should be increased (2 metres for every 1 metre level change). Whilst the dwellings have largely been designed to ensure that adequate distances are met and do achieve the required separation distances there are two plots (14 and 15) where the distances should be greater due to the level difference, however, the plots are not directly back-to-back and are slightly off set. Those circumstances along with the provision of the proposed landscaping mean it is not considered that the development would be unacceptable.
27. However, as with previous applications for the site, it recommended that permitted development rights be removed which will ensure that any future extensions can be fully considered and will protect the amenity of the occupiers of these properties. The conditions have been repeated on this application.

Landscaping

28. The development site was approved with existing planting retained, however the landscape buffer to the north that was indicated to remain has been partially removed. The local planning authority has been in discussions with the neighbours and the developer to rectify this situation and provide some replacement planting.
29. The plans show that no further planting is to be removed and whilst it is acknowledged that the replacement planting is not as extensive as the planting already removed it is considered that it will provide sufficient screening for the development.
30. The planting that remains to the rear of 4 -7 Wynyard Court is sparse in places and therefore it is recommended that an additional 10 trees are provided, and the planting positions identified on site by the council's landscape architect.
31. A condition has been recommended to ensure that the planting is retained and the Council will seek to create a group tree preservation order once the development is complete. This will ensure the trees are retained.
32. To the rear of 3 Wynyard Court are some conifer trees, the ownership of which is in dispute. No evidence has been provided in relation to the ownership of the trees, nonetheless this is a civil matter to be resolved between the two parties.

Removal of the footpath

33. When the developers commenced work on site it became apparent that the proposed footpath to the west of the site, could not be provided to adoptable standards without the removal of a significant portion of the hedge which is considered to be an important feature in the street scene. Given there is a footpath link proposed from Durham Road into the north of the development, it is considered that the benefits of the hedge retention outweighed the loss of the footpath and in this instance is considered acceptable. A condition has been recommended to ensure the hedge is retained once the plots are occupied.

Land Ownership

34. There have been disputes over the land ownership, however no evidence has been supplied to state who has rights over what land other than the land registry document the applicant supplied. Following advice from the Councils Chief Solicitor the local planning authority can determine the application as submitted.
35. The site and neighbouring properties were visited by the Case Officer and it does appear that some of the fence lines are staggered. However, in order to come to an agreement the applicant is not proposing challenge the legal ownership. The fences and planting that are in place will remain and no changes will occur. The cross sections that have been provided show the existing fence line and the "title fence line" are for reference only to show where the new planting will take place.

Buffer Zone

36. Comments have been received in relation to the buffer zone on the eastern boundary. This land is to create a "buffer zone" from development area to the boundary of the woodland park which is within the ownership of the local authority. A condition has been recommended to ensure the buffer zone remains undeveloped and the fencing is retained as the buffer is considered to be of ecological importance and this will occur no matter whose ownership the land is in.

CONCLUSION

It is recommended that the application be Approved with Conditions for the reason(s) specified above.

Director of Finance, Development and Business Services
Contact Officer Elaine Atkinson Telephone No 01642 526062

WARD AND WARD COUNCILLORS

Ward Northern Parishes
Ward Councillor Councillor John Gardner

IMPLICATIONS

Financial Implications: None

Environmental Implications: See report

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

National Planning Policy Framework
Adopted Local Plan
Application Files

Supplementary Planning Documents

SPD1 – Sustainable Design Guide