

PLANNING AND DEVELOPMENT COMMITTEE

A meeting of the Planning and Development Committee was held on Friday 16 December 2022.

PRESENT: Councillors J Hobson (Chair), D Coupe (Vice-Chair), D Branson, B Cooper, J Thompson and G Wilson

ALSO IN ATTENDANCE: A Cooper, R Holland, Councillor J Rathmell, Councillor M Smiles, A Walker, S Watson and B Wells

OFFICERS: P Clarke, A Glossop, R Harwood, G Moore and S Thompson

APOLOGIES FOR ABSENCE: Councillors C Dodds, M Nugent and J Rostron

22/17 **DECLARATIONS OF INTEREST**

Name of Member	Type of Interest	Item/Nature of Interest
Councillor D Coupe	Non-Pecuniary	Agenda Item 5, Item 2 - 8 Hemlington Road, Ward Councillor and Member of Stainton and Thornton Parish Council

22/18 **MINUTES - PLANNING AND DEVELOPMENT COMMITTEE - 11 NOVEMBER 2022**

The minutes of the meeting of the Planning and Development Committee held on 11 November 2022 were submitted and approved as a correct record.

22/19 **SCHEDULE OF PLANNING APPLICATIONS TO BE CONSIDERED BY COMMITTEE**

The Head of Planning submitted plans deposited as applications to develop land under the Town and Country Planning Act 1990.

20/0658/FUL Erection of 69 no. residential dwellings with associated access, landscaping and infrastructure at Nunthorpe Grange for Mr B Stephenson

The above application had been identified as requiring a site visit by members of the Planning and Development Committee. Accordingly, a site visit had been held prior to the meeting.

Full details of the planning application and the plan status were outlined in the report. The report contained a detailed analysis of the application and analysed relevant policies from the National Planning Policy Framework and the Local Development Framework.

The Head of Planning advised that permission was sought for the erection of 69 dwellings with associated access, landscaping and infrastructure on land at Nunthorpe Grange to the north west of the A1043 (Nunthorpe Bypass). The site was part of the wider Nunthorpe Grange site.

The application had originally been scheduled for submission to the Planning and Development Committee back in April (2022). However, delays had been encountered as a result of the guidance published by Natural England. Subsequently, there had been a need for the Applicant to consider and assess the nutrient impacts of the development and propose mitigation measures in that regard. It was commented that the Local Planning Authority was satisfied with the mitigation that had been proposed.

During the application process, revised details had been submitted demonstrating a reduction in the number of dwellings proposed from 77 to 69 and changes had been made to the housetypes and layout, including the removal of the parking courts.

Members were advised that in 2020, the Applicant had submitted an application for the erection of 97 residential dwellings, which had been refused by the Planning and Development Committee. Following refusal, an appeal had been subsequently submitted to, and dismissed by, the Planning Inspectorate.

The site was located on the northwest side of the A1043 (Nunthorpe Bypass) approximately half way between the Poole Roundabout and Swans Corner. It comprised 5.84ha of green field.

Permission was sought for the erection of 69 no. dwellings (reduced from 77) with associated works, including the creation of a temporary vehicle access onto the A1043, internal highway network, drainage works and landscaping. The 69 dwellings proposed were made up of 11 housetypes comprising 4 three-bed, 29 four-bed and 36 five-bed. The dwellings were a mix of two and three storey, detached and semi-detached properties. The majority of properties on the site had parking located to the side of the dwellings, leading to detached garages towards the rear of the houses.

The creation of a temporary vehicle access onto the A1043 was proposed, via a priority T junction. It was commented that the access onto the A1043 had been secured through planning consent 18/0757/FUL in the form of a 4 arm roundabout. It was intended that the T junction would be temporary, with future access proposed to be taken via the approved A1043 roundabout.

Members were shown 3D images of the proposed development, the proposed housetypes and the wider allocated site.

Under the adopted 2014 Housing Local Plan, the Applicant's site formed part of the wider allocated housing policy H29. The entire site (including the Applicant's land) comprised 26.5 hectares (gross), was currently in three separate ownerships. Policy H29 stated that the site be allocated for a maximum of 250 high quality, high value, low density, predominantly three and four bedroom detached and semi-detached dwellings, with open space and wildlife habitat areas, and associated access arrangements. In addition to policy H29, the adopted Nunthorpe Grange Design Code (NGDC) provided more detailed guidelines on the key layout principles, types of housing, landscaping and the quality of development that the Council was seeking for Nunthorpe Grange.

The committee was advised that policy H29 stated that the development would not be brought forward until an agreement on the provision of a park and ride facility or the Longland/Ladgate link road had been secured. Whilst the park and ride element of policy H29 had not been met, Members heard that the Local Planning Authority was duty bound to consider the application. It was explained that the lack of a full agreement, in relation to the park and ride, was not justification on its own to refuse the application.

The committee was advised that the Planning Inspectorate had assessed the Council's Housing Local Plan and had determined that it was up-to-date on most issues, however, in respect of policy H29 it was considered to be partly out of date where it referenced a maximum of 250 dwellings across the wider site. The Planning Inspectorate considered that the maximum of 250 should be given limited weight, given that the NGDC suggested the site could accommodate more dwellings. As a result of the Planning Inspectorate's comments, it was clear that planning policy could not restrict the number of dwellings on the wider site to 250. The number of acceptable dwellings on the site had to be determined by compliance with the design standards, as set out in the NGDC.

When considering the previous appeal at the site, in respect of the erection of 97 dwellings, the Planning Inspector had confirmed that the adopted NGDC was a material consideration and had afforded it significant weight. The appeal had been dismissed as it was contrary to the NGDC. The density of the proposed scheme of 97 dwellings would have been significantly higher than that envisaged within the NGDC and the scheme would have failed to respond positively to existing local character and identity, conflicting with the document. There was also an area of the site where parking would have dominated the front of dwellings, contrary to guidance within the NGDC. In addition, the extensive use of parking courts would have increased the risk and fear of crime.

The current application had removed the areas of high density, removing terrace rows and semi-detached dwellings, replacing them with large detached dwellings in large plots, which reflected the northern most part of the site. As a result, the development was now considered to be in accordance with the requirements of the NGDC in that regard. The reduction in dwellings, and the proposed larger properties, assisted in reducing the overall density of the

development.

In terms of parking, as stipulated by the NGDC, the majority of properties on the site would now have parking located to the side of dwellings, leading to detached garages toward the rear of the houses. It was also highlighted that the parking courts, which had been previously proposed, had now been removed.

The layout of the development had been designed to ensure that properties would front on to open spaces within the site, including the large landscaped area.

In terms of Sample Area E, it was explained that the large detached properties would have a staggered building line and would face the wildlife habitat. It was commented that the rear gardens of the properties would end at the bottom of the tree lined embankment of the A1043 and would be located to avoid the root protection zone.

It was advised that Sample Area F planned to provide lower density housing and there had been no significant changes to what was originally proposed. The housing located in Sample Area F, on the northern edge of the site with the railway to the rear and facing onto the proposed Wildlife Habitat Area, would be of the lowest density of the entire development.

In 2019, access onto the A1043 had been secured through planning consent 18/0757/FUL in the form of a 4 arm roundabout. Members noted that, although a technical start had been made, the 4 arm roundabout was yet to be constructed. Therefore, in terms of the current application, access would be provided to the site via a priority T junction. The Applicant had advised that the direct access T junction onto the A1043 was only ever intended to be temporary and that they were happy for the principle to be secured through either a planning condition or legal mechanism, such as a S106 Agreement.

Members heard that when assessing the development proposals in isolation i.e. a stand-alone consent, there were no available pedestrian/cycle connections into the wider area.

It was advised that development proposals included a pedestrian link to the North of the site into Nunthorpe Gardens, which would provide access to local facilities and public transport within nationally recommended walking distances. However, it was explained that the land over which that link would cross was outside of the red line planning boundary, was not publicly maintainable highway and was outside of the ownership/control of the Applicant. Without the footpath link to Nunthorpe Gardens, the distance to local facilities and services was approximately 1.5km. That distance was outside of national guidance covering acceptable and desirable walking/cycling distances to such facilities. In addition to the issue of the distance, no infrastructure existed to provide an alternate route. The alternate route would have involved walking/cycling on the grass verge alongside the A1043, which was unlit and subject to a 60mph speed limit.

The position of the Applicant was that they were in negotiations to enable the footpath link to be provided and that it could be covered by a suitably worded Grampian condition, a view which had been supported by planning colleagues. It was highlighted to the committee that a condition had been attached to the application, meaning that the development could not commence on site until it had been demonstrated that pedestrian access from the site, to the existing highway network on Nunthorpe Gardens, had been legally secured.

In terms of nutrient neutrality, the Applicant had provided details of off-site mitigation. A field, which was currently farmed within the catchment area would be left to lie fallow, reducing the levels of nitrate. The size of the field was suitable to provide the necessary levels of mitigation required by the development. It was commented that the measure would be controlled through the s106 agreement.

Members were advised that policy H29 stated that off-site improvements to school provision would be required to accommodate the educational needs of future residents. Education had been consulted during the application process to consider the implications of the development on the local schools. Subsequently, no request had been made for a financial contribution towards new facilities or improvements to the local schools.

It was advised that, should the application be approved, s106 contributions would be required for offsite affordable housing, the provision of new community facilities and strategic highway

works. The Head of Planning confirmed the recommendation and referenced a change of wording to condition no. 17 to require agreement with the Local Planning Authority as part of the requirements of the condition.

A Member raised a query regarding access. In response, the Transport Development Engineer advised that proposed access to the site would be via a priority T junction, which would give way to the main traffic, with right turn ghost island approximately 220m east of the approved roundabout. It was commented that the junction would be temporary and there were no safety issues associated with that access.

The Applicant was elected to address the committee, in support of the application.

In summary, the Applicant advised that:

- the previous scheme, which had been refused, had been fundamentally redesigned;
- the scheme would form part of the Charles Church brand, which offered larger house types;
- the scheme fully complied with the NGDC in relation to the landscape setting, parking provision, house types and the high-quality layout;
- in terms of pedestrian access, negotiations were at the final stage and pedestrian/cycle connections into the wider area would be agreed in the new year; and
- in terms of nutrient neutrality, a mitigation strategy was in place and would be controlled through the s106 agreement.

A discussion ensued and Members commented on the importance of the development providing pedestrian footpaths and safe cycle routes to local facilities. It was also commented that the wider connectivity to the rest of the site and the incorporation of good walking and cycle connections was vitally important.

A Ward Councillor was elected to address the committee.

In summary, the Ward Councillor commented that:

- the application should be refused;
- additional housing was not required in Nunthorpe and there was no demand for overpriced new builds;
- Nunthorpe, as a community, was already overstretched and lacked the infrastructure it required;
- roads were already under strain;
- although pre-owned homes sold well in the area, sales of new executive homes were slow (that was exemplified by the nearby Bellway development);
- the proposed development would have a detrimental impact on wildlife;
- the proposed development would be isolated, marooned from the rest of Nunthorpe and vehicle dependent;
- since 2019, Persimmon have had the opportunity to find a solution in respect of providing good pedestrian and cycle links to local facilities, however, the issue remained unresolved; and
- residents were concerned that other green field sites in the area would be developed, particularly those on the opposite side of the A1043.

The Head of Planning advised that:

- in respect of the proposed development, the site had been allocated for housing in the Local Plan, therefore the principle of residential dwellings on the site was acceptable;
- there had been an increase in demand for larger properties, although, demand was not a planning issue; and
- the scheme's landscaping and ecological mitigation planned to increase opportunities for biodiversity on the site and would result in an attractive landscaped setting.

In respect of the potential development of green fields on the opposite side of the A1043, National Grid power lines were located there and the land was located in Redcar and Cleveland's boundary, meaning Middlesbrough Council had no control over that land. It was

added that the park and ride facility was likely to be located within the boundaries of Redcar and Cleveland.

Another Ward Councillor was elected to address the committee.

In summary, the Ward Councillor commented that:

- the development would increase traffic on to the A1043 at a point of relatively low visibility from vehicles approaching, which posed a risk to road users;
- the installation of the temporary T junction, with direct access onto the A1043, would increase road safety risks and it was imperative that the junction did not provide a permanent access;
- there had been no joined-up thinking in respect of the proposed development, particularly in respect of roads and pedestrian access; and
- the delivery of the development relied on the use of land located in Redcar and Cleveland's boundary, over which Middlesbrough Council had no control.

The Head of Planning commented that the Applicant had advised that the direct access onto the A1043 was only ever intended to be temporary. A legal mechanism, S106 Agreement, planned to ensure that the issue was enforceable and penalties would be incurred by the Applicant if the access was not removed.

The Chair of Nunthorpe Parish Council was elected to address the committee, in objection to the application.

In summary, the Chair of Nunthorpe Parish Council commented that:

- in terms of dwellings, the maximum figure for site as a whole was 250 as set out in the Local Plan, Persimmon planned to significantly exceed its fair share;
- with the 69 dwellings proposed, the density of the development remained excessive and the proposal provided Persimmon with an uncontrolled advantage over other developers;
- there was no right of way for pedestrians and cyclists to pass between the site and Nunthorpe Gardens and no evidence to demonstrate that the footpath and cycle link could even be achieved;
- the park and ride had not come forward and therefore the development was premature and in conflict with the Local Plan;
- it was difficult to understand how construction of housing could be shown to be compatible with the Housing Local Plan without the evidence of a joint commitment - by Middlesbrough Council, Redcar & Cleveland Council and Network Rail - to establish a park and ride adjacent to Nunthorpe Grange; and
- there was a sensitive boundary between the properties of Nunthorpe Gardens and the new estate.

The Head of Planning advised that the Local Plan had been published in 2014, and the Planning Inspectorate had determined that elements of that plan were considered relevant. However, the Planning Inspectorate had stated that policy H29 was partly out of date in identifying a maximum of dwellings across the wider site, as planning policy could not restrict the number of dwellings on the wider site to 250. It was advised that the number of acceptable dwellings on the site needed to be determined by compliance with the design standards as set out in the NGDC.

Members heard that, whilst full agreement in respect of the provision of the park and ride facility had not been secured, the application represented only one element of the wider Nunthorpe Grange site. Whilst the park and ride element of policy H29 had not been met, the Local Planning Authority was duty bound to consider the application submitted. It was commented that the lack of a full agreement in relation to the park and ride was not justification on its own to refuse the application.

In terms of the pedestrian footpaths and cycle routes via Nunthorpe Gardens, the Grampian condition would ensure those links were provided.

An objector was elected to address the committee, in objection to the application.

In summary, the Objector advised that:

- plot 46 would be located in close proximity to the boundary line of a property in Nunthorpe Gardens;
- a dwelling being built on plot 46 would result in overshadowing, overlooking and loss of privacy for the property; and
- Persimmon had acknowledged the detrimental impact of the proposed dwelling on the property but had not offered any solution.

A discussion ensued and Members were in agreement that the application should be deferred, for a period of six months, to ensure that:

- access via Nunthorpe Gardens for a pedestrian footpath and cycle route was secured; and
- agreement, in respect of the provision of a park and ride facility or the link road, was secured.

In addition, given the sensitive boundary line, Members requested that in order to mitigate the impact of the development on the amenity of residents, the Applicant should explore possible solutions with the relevant residents of Nunthorpe Gardens.

ORDERED that the application be **Deferred** for the following reasons:

To allow the developer to progress negotiations to ensure that access via Nunthorpe Gardens for a pedestrian footpath and cycle route is secured.

Prior to consideration of the following item, Councillor Coupe (Ward Councillor and Member of Stainton and Thornton Parish Council) went to sit in the public gallery.

22/0539/FUL Retrospective application for the erection of two storey dwelling with detached double garage (demolition of existing bungalow) at 8 Hemlington Road, Middlesbrough, TS8 9AJ for Mr S Watson

The above application had been identified as requiring a site visit by members of the Planning and Development Committee. Accordingly, a site visit had been held prior to the meeting.

Full details of the planning application and the plan status were outlined in the report. The report contained a detailed analysis of the application and analysed relevant policies from the National Planning Policy Framework and the Local Development Framework.

The Development Control Manager advised that retrospective permission was sought for alterations to a previous planning approval, which granted permission for the demolition of a bungalow and the erection of a two-storey dwelling and detached double garage at 8 Hemlington Road. The previous application had been approved by the Planning and Development Committee in November 2020 (20/0376/FUL).

Members heard that the Applicant was seeking retrospective consent for the following alterations to the previously approved plans:

- The site levels had been reduced by 0.47 metres towards the boundary with 10 Hemlington Road and by 0.6 metres towards Glebe Gardens. The building itself was the same height as was previously approved, but the site levels appeared not to have been reduced to the required levels at the point closest to 10 Hemlington Road. As a result, the overall height of the building was 0.47 metres higher. The additional 0.47 metres was not considered to have any significant impact in terms of the character and appearance of the street scene and the Stainton and Thornton Conservation area or in terms of having an overbearing impact on the neighbouring residential properties.
- The french doors and juliet balcony had been replaced with two separate windows on the first floor of the projecting two storey rear elevation, the triple pane window had been replaced with a door and side window on the first-floor rear elevation (resulting in a 0.3m increase in the height of the opening) and there had been an increase in the height of the window on the first floor front elevation by 0.3 metres. The revisions to

the previously approved french doors/juliet balcony and the first-floor windows on both the front and rear elevations were considered to have no additional impact in terms of loss of privacy or amenity to the neighbouring properties.

- In respect of the approved plans, the side elevation of the garage was 4.7 metres at the closest point from Glebe Gardens and the rear elevation was 1.5 metres from the boundary. The garage had been built 2.6 metres from the side boundary and 2.2 metres from the rear boundary. It was explained that the alteration would not impact on highway visibility, given its set back position.
- Solar panels had been positioned on the rear and side elevations of the roof. The photovoltaic panels had been installed within the rear/side elevations of the roof to reduce the visual impact on the appearance of the building and were therefore not considered to have a significant impact on the character and appearance of the area.

Following a consultation exercise, 1 neighbour objection had been received and there had been objections from Stainton and Thornton Parish Council. Those objections were detailed in the submitted report.

The changes to the approved scheme had been considered against their potential for harming the character and appearance of the host property, the surrounding area, the conservation area and the amenity and privacy of nearby properties. Whilst the changes being sought were not considered to be positive changes above the previously approved scheme, it was considered that on balance, the nature of the changes were not so significant as to warrant refusal of the application - given the property's position, design and relationship with surrounding properties.

A Member of Stainton and Thornton Parish Council was elected to address the committee, in objection to the application.

In summary, the Member of Stainton and Thornton Parish Council advised that:

- In July 2020 an application had been submitted to the Council for the demolition of the existing bungalow and the erection of a two storey dwelling with a detached double garage. As a result of the proposal, there had been a number of objections from local residents relating to the size and height of the new dwelling.
- Following consultation with the residents, revised plans had been submitted in October 2020, effectively reducing the overall height/ridge line and repositioning the detached garage.
- The revised plans had been submitted to the Council and were subsequently approved by the Planning and Development Committee, subject to conditions.
- The development had clearly not been built in accordance with the approved plans, and it appeared the dwelling had been built in accordance with the original plans that had been submitted in July and had received a number of objections.
- The approved plans had been completely disregarded and the dwelling had been built in accordance with unapproved plans, which had been rejected by the Council and residents.
- If the retrospective application received approval from the committee, the integrity of the Local Planning Authority would be jeopardised.

The Development Control Manager advised that if it was identified that a development was not being built in accordance with approved plans, and there was a perceived breach of planning control, a stop notice could be issued by the Local Planning Authority. It was added, however, that the issuing of stop notices could receive adverse challenge and it was therefore imperative that the issuing of such notices was both reasonable and proportionate. In respect of the retrospective application that had been submitted, minor alterations had been made and those changes had not resulted in a negative impact on the character of the area, amenity and privacy or highways. Therefore, the application was considered acceptable.

In respect of retrospective applications, the failure to comply with the details of the previous permissions was done at the Applicant's own risk. It was added that, retrospective planning applications were not uncommon.

The Applicant was elected to address the committee in support of the application.

In summary, the Applicant advised that:

- the unapproved changes made to the dwelling had been an oversight;
- it had been considered that solar panels were a permitted development;
- the changes made to approved plans were unintentional; and
- an apology was offered.

The Head of Planning advised that the installation of solar panels would have only become a permitted development when the building had been completed.

A Member expressed concern that the dwelling had been built in accordance with unapproved plans.

A discussion ensued and Members commented that the majority of alterations were minor. However, with regards to the door that had been installed on the first floor rear elevation of the property, Members highlighted the importance of the condition being imposed which prevented the use of the flat roofed area as a balcony or other outdoor seating.

ORDERED that the application be **Approved on Condition** for the reasons set out in the report.

22/20

DELEGATED PLANNING DECISIONS

The Head of Planning submitted details of planning applications which had been approved to date in accordance with the delegated authority granted to him at Minute 187 (29 September 1992).

NOTED