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## APPLICATION DETAILS

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<b>Application No:</b>	21/0674/FUL
<b>Location:</b>	South Lodge, Acklam Road, Middlesbrough, TS5 7HD
<b>Proposal:</b>	Alteration/extension to existing fence line
<b>Applicant:</b>	Mr Michael Cuzmics
<b>Ward:</b>	Acklam,
<b>Recommendation:</b>	Approve Conditionally

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## SUMMARY

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The application seeks planning approval to alter the existing fence line at the side of the property enclosing part of the applicants own land but reducing part of an area of hardstanding used for parking by residents.

Three objections were raised from the other users of the lane with regards to the reduction and exacerbation of existing parking issues at the site. Matters were also raised regarding discrepancies with the application and a hairdressing business being run from the property.

It is considered that the proposal will not have an adverse impact on the character of the area or the significance of the Conservation Area, nor will it significantly impact the amenity of nearby neighbours. It is considered that adequate parking would still be available for the number of residents it serves provided vehicles park appropriately.

The application is considered to be compliant with Policies CS4 (test k), CS5 (test c) and DC1 (test b).

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## SITE AND SURROUNDINGS AND PROPOSED WORKS

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The application site is South Lodge a detached property which is located off Acklam Road. The property is located within the Acklam Hall Conservation area and was one of the ancillary lodges which was built in association with Acklam Hall which is Grade I listed which is located north of the site. The property is located to the north of Acklam Road, its neighbours 479, 481 and 483 which are two storey terraced cottages, sit to the east of the site, separated by the existing private access road that serves these properties.

The application seeks planning approval to replace the existing fence to the side of the property which sits adjacent to the private access road. As part of these works the applicant is also proposing to alter the existing fence line by stepping it out 4.4m x 3.7m so that it aligns with the wall of the applicant's triple garage as indicated on plan.

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## PLANNING HISTORY

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No relevant planning history

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## PLANNING POLICY

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In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, Local Planning Authorities must determine applications for planning permission in accordance with the Development Plan for the area, unless material considerations indicate otherwise. Section 143 of the Localism Act requires the Local Planning Authority to take local finance considerations into account. Section 70(2) of the Town and Country Planning Act 1990 (as amended) requires Local Planning Authorities, in dealing with an application for planning permission, to have regard to:

- The provisions of the Development Plan, so far as material to the application
- Any local finance considerations, so far as material to the application, and
- Any other material considerations.

### Middlesbrough Local Plan

The following documents comprise the *Middlesbrough Local Plan*, which is the Development Plan for Middlesbrough:

- Housing Local Plan (2014)
- Core Strategy DPD (2008, policies which have not been superseded/deleted only)
- Regeneration DPD (2009, policies which have not been superseded/deleted only)
- Tees Valley Joint Minerals and Waste Core Strategy DPD (2011)
- Tees Valley Joint Minerals and Waste Policies & Sites DPD (2011)
- Middlesbrough Local Plan (1999, Saved Policies only) and
- Marton West Neighbourhood Plan (2016, applicable in Marton West Ward only).

### National Planning Policy Framework

National planning guidance, which is a material planning consideration, is largely detailed within the *National Planning Policy Framework* (NPPF). At the heart of the NPPF is a presumption in favour of sustainable development (paragraph 11). The NPPF defines the role of planning in achieving economically, socially and environmentally sustainable development although recognises that they are not criteria against which every application can or should be judged and highlights the need for local circumstances to be taken into account to reflect the character, needs and opportunities of each area.

For decision making, the NPPF advises that local planning authorities should approach decisions on proposed development in a positive and creative way, working pro-actively with applicants to secure developments that will improve the economic, social and environmental conditions of the area and that at every level should seek to approve applications for sustainable development (paragraph 38). The NPPF gives further overarching guidance in relation to:

- The delivery of housing,
- Supporting economic growth,
- Ensuring the vitality of town centres,

- Promoting healthy and safe communities,
- Promoting sustainable transport,
- Supporting the expansion of electronic communications networks,
- Making effective use of land,
- Achieving well designed buildings and places,
- Protecting the essential characteristics of Green Belt land
- Dealing with climate change and flooding, and supporting the transition to a low carbon future,
- Conserving and enhancing the natural and historic environment, and
- Facilitating the sustainable use of minerals.

The planning policies and key areas of guidance that are relevant to the consideration of the application are:

DC1 - General Development  
CS4 - Sustainable Development  
CS5 - Design

The detailed policy context and guidance for each policy is viewable within the relevant Local Plan documents, which can be accessed at the following web address.  
<https://www.middlesbrough.gov.uk/planning-and-housing/planning/planning-policy>

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## CONSULTATION AND PUBLICITY RESPONSES

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### **Middlesbrough Council Highways**

The owner of South Lodge would need to be mindful that they cannot obstruct the shared access by parking vehicles in areas that restrict / obstruct other resident's access to their respective properties, in such cases it would be a police enforcement issue. Although we would expect the South Lodge owner to make suitable arrangements so that wasn't the case as a result of the proposed change, but ultimately it is a private issue.

### **Public comments**

Nearby neighbours were notified of the proposal, the following representations have been made -

#### **C Barnfather – 479 Acklam Road**

I have seen new plans to move the fence. My concerns are around parking and access to my property also my two neighbours. Our only means of access of parking and access is limited as it is, my worry is moving the fence which has been in that position for the 18 yrs I have lived here will take away my place. Also when South Lodge has customers they also limit us even further. Mrs Jones at 481 holds the deeds to this lane which assures us of our access at all times

#### **B Jones - 481 Acklam Road**

I write to object to the planning application ref 21/0674/FUL. In respect of south lodge, Acklam Road Middlesbrough TS5 7HD. In respect of Traffic/Highway Safety/Parking Provision. The application contains a plan of the land which shows a discrepancy from the land registry entry for South lodge dated 2013. (Image submitted previously,)the deeds for

my property issued in 2006 also by land registry reflect those of South Lodge dated 2013, however the current application contains a document showing the boundary but this does not accurately reflect the Land registry entries.

The boundary fence noted in the application has been in that position for approx. 30 years since the construction of the 3 garages to service the South Lodge Property.

I'm concerned if the application is approved the fence being moved will reduce the already limited parking for the four properties which utilise the parking for both personal vehicles and visitors to each of the properties, including multiple visitors to south lodge to access the business which is run from there. On a daily basis vehicles are parked without consideration of others and safety in mind, there are numerous occasions whereby vehicles have not had sufficient space to turn around safely, leading to them reversing onto the main highway creating risk of accident as the junction is close to a bend in the road, with reduced visibility of oncoming traffic travelling at speed.

Often cars are blocked in by other vehicles and at times it is hard to see why a vehicle has been blocked, as there will be sufficient space available parallel to the current fence in place. On a personal level the parking difficulties regularly have a detrimental impact on my family. I have a disabled son who although an adult requires support from others to ensure his safety is maintained. On many occasions I have not been able to safely fully utilise the accessible ramp on our vehicle, I have needed to leave my son close to the rear of our property whilst I manoeuvre the vehicle to ensure the ramp can be folded out for him to access the vehicle in his wheelchair.

I am extremely concerned if the application is approved the points I have raised both in this e- mail and through other communication with Joanne Lloyd Planning assistant for the case, will continue to create difficulties both within the parking area highlighted in the application and also on the main highway.

### **B Andrews – 483 Acklam Road**

I am objecting to the above application on the following grounds, first of all I must once again confirm to you that this application is not valid ,the applicant does not own the land on which he is seeking to erect a fence. This land is used for vehicle and pedestrian/ disabled access and parking to all the neighbouring properties including South lodge, 479, 481, 483 Acklam Road. He has made a false declaration on his application, please find attached the documents which will confirm this.

The access and parking is problematic this is due to the applicant running a business from his premises which I have been informed has no planning permission either. The extra vehicle activity created by this business is causing major safety issues as well as disruption for the residents who use this access, resulting in regularly having to reverse on to the very busy Acklam Road to leave their properties. The erection of the proposed fence would exasperate the problem and cause mayhem and danger to life. This is clear to anyone with any level of common sense

I have owned my property for over 20 years, with my current neighbour having lived there with her disabled son even longer, during this period South Lodge has had numerous owners none of which have attempted to move any boundaries to that property whatsoever. The current owner /applicant is quite clearly attempting a LAND GRAB without any consideration with regards access/parking or the safety of others.

This application needs scrutinising, the neighbouring property owners are all entitled to a peaceful enjoyment within their homes, if this application is approved it is clear to see this will not be the case. Any blame for any injury or loss of life to any occupants or motorists lies with the decision makers.

### **Public Responses**

Number of original neighbour consultations	5
Total numbers of comments received	3
Total number of objections	3
Total number of support	0
Total number of representations	3

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## PLANNING CONSIDERATION AND ASSESSMENT

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### Policy context

1. The National Planning Policy Framework (NPPF) was most recently revised and published by the Government in February 2019 and is a material consideration. The NPPF states that, where a planning application conflicts with an up-to-date development plan, permission should not usually be granted (para. 12). In determining planning applications, due weight should be given to local planning policies in accordance with their consistency with the revised Framework, with greater weight given to those policies which are closer to those in the Framework (para 213).

2. As a starting point, the proposal should be assessed against policies set out in the Development Plan. Policies DC1, CS4 and CS5 which in essence seek to ensure high quality sustainable development, ensure the amenity of nearby residents, character of the area and highway safety are not adversely affected by the development.

### Appearance

3. South Lodge currently has a red brick wall with coping stone with fence atop and stone pillar along its principal elevation fronting Acklam Road. The secondary boundary treatment along the side, which abuts the shared private access road, is a 2m high timber fence. Works are proposed to alter the existing fence line at side extending it a further 4.4m x 3.7m so that the fence will align with the wall of the applicants triple detached garage.

4. It is noted that permitted development rights would allow this section of land to be enclosed with a metre high fence without the need for planning approval. As the fencing proposed will exceed a metre, adjacent to a highway, planning permission is required in this case. As such the main considerations in this case are the appearance and height of the fencing and impacts on amenity of residents and the highway and parking provision.

5. The proposed/replacement fencing will be similar in appearance and height to the existing and therefore will be consistent with the existing boundary treatment. Whilst the fence line is to be extended along the rear, this part/change will not be highly visible from Acklam Road, only by users of the private access road, and as such the site will appear largely unchanged within the streetscape. In view of the above it is considered that the proposed development will not have a significantly adverse impact on the character of the area and minimal impact on the significance on the Conservation Area CS4 (test k), CS5 (test c) and DC1 (test b).

### Impact

6. In light of the above, it is considered that the proposed development will not have a significant additional impact on the amenity of nearby residents, beyond that of the existing

arrangements in this regard as the fencing is located to the side/rear and located away from habitable room windows, any impact in terms of outlook and amenity will be minimal and is therefore in accordance with Policy DC1 (test c).

### **Highways**

7. The private access road serves South Lodge as well as the three-property terrace to the east of the site. The access road is owned by 481 Acklam Road (as shown on Title Plan obtained from Land Registry) although it is understood that all four properties have a right of access across it. The hardstanding to the rear/adjacent these properties is relatively limited in relation to the number of properties it serves and is not laid out in a particularly formal manner. It is understood that this has resulted in a number of parking issues such as vehicle parking restricting manoeuvrability and access and in some instances, it is understood that vehicles have had to reverse down the access road directly onto Acklam Road. Importantly, this proposal is not seeking to introduce development that increases the need for access or parking, it is for the repositioning of a fenceline.

8. Formal objections have been received from users of the lane stressing their concerns and how parking is already limited and how the proposal will intensify this matter. Whilst the works will include enclosing a part of the currently open space used for parking and access, it will decrease parking and manoeuvrability in this location to some degree. It is noted that ownership of land and rights of access have some relevance as to how the lane and current open areas have been used.

9. The access road serves four properties, including South Lodge, the majority of which have garages which can provide additional means for parking (if used). In view of the access and open hardstanding, it is considered that there should be adequate space to accommodate the properties it serves provided residents park considerately. Notwithstanding this, the road is private and obstruction along it by vehicles parked poorly would be a matter for the residents or police to address. No objections have been raised by the Local Highways Authority in recognition of it being a private matter.

### **Other matters**

10. Residents raised concerns regarding discrepancies with the application as the applicant was seeking to erect a fence on land in which they did not solely own. The application was put on hold whilst the Title Plan for the property was sought from Land Registry confirming the correct boundary. The applicant has since submitted revised plans, which now supersede the previous plan, which includes land within their own ownership only. This matter has therefore been rectified.

11. Residents also raised concerns regarding a hairdressing business that is being run from part of the applicant's garage without planning approval. However, planning approval is not always required to work or run a business from home provided the operation is small scale, any impacts are minimal and that the property will be still used mainly as a private residence. The applicant has advised that the use only operates 2 days a week and that between 1 and 3 customers will visit during the day. As such given the small scale of business planning approval would not be required in this regard.

### **Conclusion**



12. The proposal has been assessed against local policy and guidance. It is the Development Control view that the proposal will not have any notable detrimental impact on the character of the area or the amenity of nearby neighbours.

13. The access road is privately owned as such any parking issues would be a civil matter. A relatively small area of the access road is to be enclosed, adequate space for parking will still be available for the number of properties it serves.

14. Officer recommendation is to approve subject to conditions.

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## **RECOMMENDATIONS AND CONDITIONS**

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### **Approve with conditions**

#### **1. Time Limit**

The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted.

Reason: In order to comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended).

#### **2. Approved Plans**

The development hereby approved shall be carried out in complete accordance with the plans and specifications detailed below and shall relate to no other plans:

- a) Revised location plan received 4th February 2022
- b) Proposed site location plan received 16<sup>th</sup> May 2022

Reason: For the avoidance of doubt and to ensure that the development is carried out as approved.

#### **3. Proposing fencing**

The section of fencing proposed shall be the same design/materials as the existing boundary treatment and shall be no more than 2m in height or shall be in accordance with details to be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details.

Reason: In the interests of the amenities, character and appearance of the area having regard for policies DC1 and CS5 of the Local Plan

### **REASON FOR APPROVAL**

This application is satisfactory in that the design of the proposed boundary treatment accords with the principles of the National Planning Policy Framework (NPPF) and, where appropriate, the Council has worked with the applicant in a positive and proactive way in line with paragraph 38 of the NPPF (2018). In addition, the proposed boundary treatment accords with the local policy requirements (Policies CS4, CS5 & DC1 of the Council's Local Development Framework).

In particular, the proposed boundary treatment has been sensitively designed and

located so that their appearance will not detract from the character and appearance of the area and will prevent adequate and safe access to the site.

The application is therefore considered to be an acceptable form of development, fully in accordance with the relevant policy guidance and there are no material considerations which would indicate that the development should be refused.

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**INFORMATIVES**

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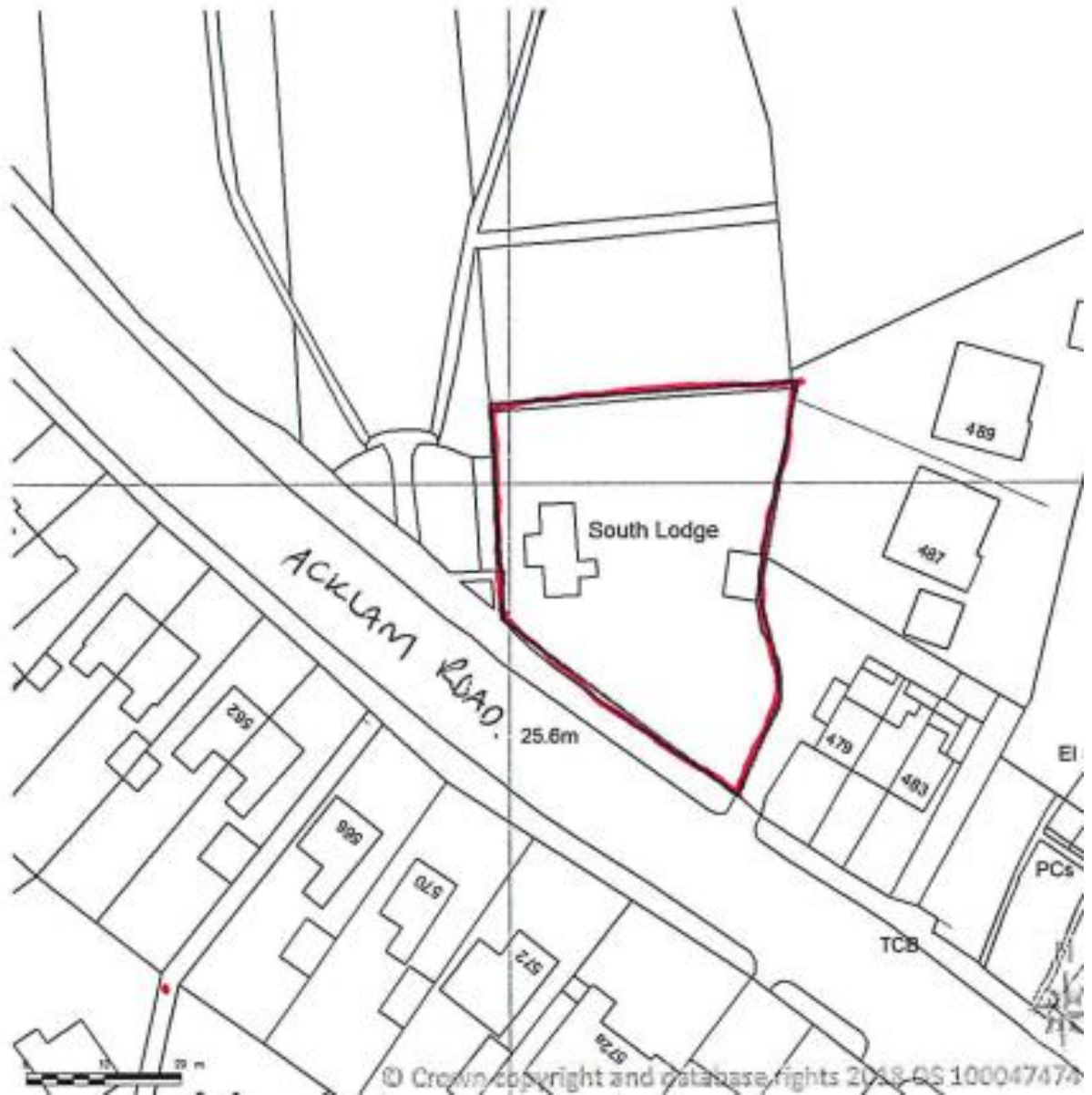
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Case Officer: Joanne Lloyd

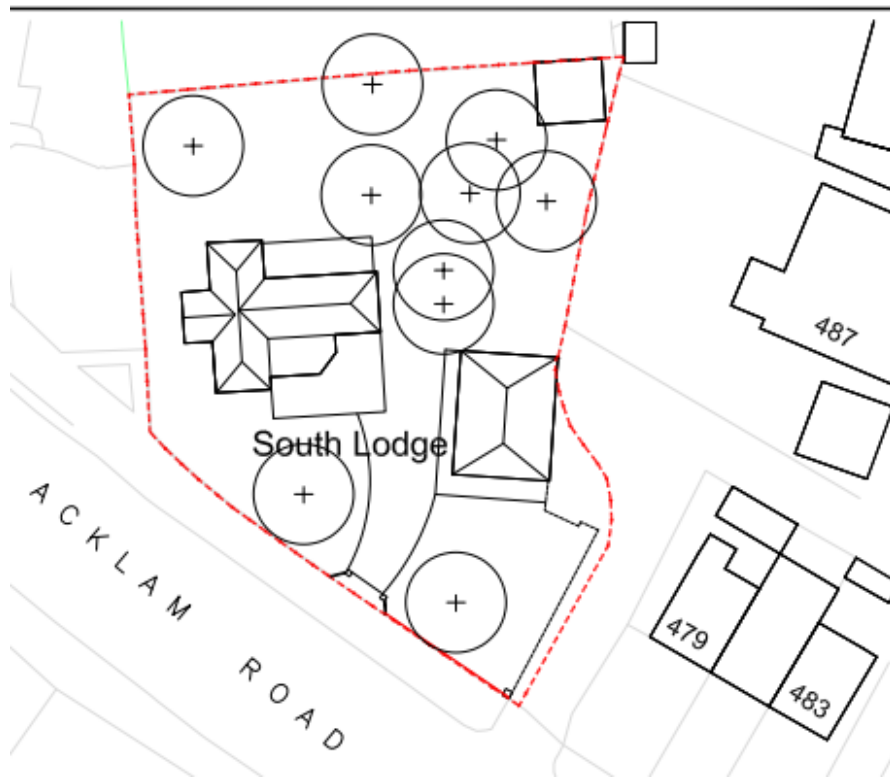
Committee Date: 22<sup>nd</sup> July 2022

**Appendices A – Site location plan**





**Appendices B – Existing site plan**



**Appendices C – Proposed site plan**

