

APPLICATION DETAILS

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| Application No: | 20/0658/FUL |
| Location: | Nunthorpe Grange, Nunthorpe, Middlesbrough |
| Proposal: | Erection of 69 no. residential dwellings with associated access, landscaping and infrastructure |
| Applicant: | Persimmon Homes |
| Ward: | Nunthorpe |
| Recommendation: | Refuse |

UPDATE SUMMARY

Permission is sought for the erection of 69 dwellings with associated access, landscaping and infrastructure on land at Nunthorpe Grange to the north west of the A11043 (Nunthorpe Bypass). The site is part of the wider Nunthorpe Grange site.

Following a consultation exercise objections were received from 33 properties, the Community Council, Nunthorpe Parish Council and Ward Councillors.

The site is allocated for housing in the Local Plan therefore the principle of residential dwellings on this site is acceptable. It is considered that the proposed development would provide a good mix of dwelling types which are of a high quality design and materials, in an attractive landscaped setting with an appropriate layout. The density, design, housetypes and layout are sympathetic to the local character of the surrounding area and are in accordance with the adopted Design Code. The development will not result in a significant detrimental impact on the amenities of existing local residents. Localised and strategic works to the highway network will mitigate against the impact of the development on the local highway network.

However, it is considered that the development of this site in isolation does not give priority first to pedestrian and cycle movements. It fails to provide a suitable, safe and attractive pedestrian and cycle link to existing residential estates and infrastructure. The proposed link is long, convoluted, lacks natural surveillance and is considered to be unsafe. It does not promote and provide an attractive sustainable travel option for residents as an alternative to private car journeys. The proposed development therefore fails to deliver alternative travel options which are sought in the NPPF paragraphs 114 and 116, and the Local Plan policy CS4.

The recommendation is for refusal of the application.

CONSULTATION AND PUBLICITY RESPONSES

This is an addendum report following the deferral of the application by Committee previously. The consultee responses detailed below relate only to the reasons the application was deferred.

Summary of Resident Comments – 18 Nunthorpe Gardens

- Truly believe I have an undeniable case and the proposal for plot 46 is unfair;
- Large overbearing resulting in overshadowing to property and garden
- Loss of amenity
- Use of BRE rules 25 degrees and 43 degrees confirm overbearing impacts and loss of amenity
- I have a legal right to light, if MBC approve the building on plot 46 it has knowingly approved an outcome which is unlawful
- MBC planning don't use BRE good practice guidelines while other authorities do. The department operates without a clearly defined policy which protects residents from overbearing buildings (and don't consider conservatories to be habitable rooms when they are used as such). The approach therefore unfairly favours developers at the expense of local residents
- Other issues on the 'sensitive boundary' put to Paul Clarke that remain unanswered
- Land raised by approximately 400mm. Change will cause surface water rainfall runoff to flood my land

Highways - MBC

I have assessed the supporting information supplied by the applicants and after consideration do not consider that we can support the alternate route. Given this position it is the view of the Highway Authority that the application be refused.

PLANNING CONSIDERATION AND ASSESSMENT

Background

1. This application was considered at Committee on the 16th December 2022. It was deferred for two reasons. Firstly to allow the developer time to discuss the application with residents at Nunthorpe Gardens particularly in relation to the impact of one plot on the immediate property 18 Nunthorpe Gardens. Secondly, to provide more detailed information on the legal rights of access for future residents of the development to a pedestrian and cycle link connecting to Nunthorpe Gardens providing a sustainable link to existing infrastructure and services.
2. Changes have been made to the layout since the application was deferred. The majority of the changes do not materially alter the analysis of the application set out in the previous report. It is not intended to revisit all other matters which were set out in the previous report. This report will consider the proposed development in relation to the two reasons the application was deferred.

Impact of Plot 46 on 18 Nunthorpe Gardens

3. Following the deferral of the application at the previous committee the developer discussed the development with the resident of 18 Nunthorpe Gardens specifically in relation to plot 46. Subsequently, changes were made to the proposed development repositioning the dwelling on plot 46 to reduce its impact on 18 Nunthorpe Gardens and views from the highway at Nunthorpe Gardens.

4. The resident at 18 Nunthorpe Gardens continues to raise objections in relation to the impact from plot 46, particularly in relation to what they consider to be an overbearing impact resulting in loss of light and overshadowing of their property.
5. The separation distance between the proposed dwelling closest to 18 Nunthorpe Gardens is in excess of 9m (from the properties original side elevation) and approx.. 4.5m from the conservatory wall which is located on the side elevation of no. 18. These separation distances are in keeping with the distances between existing properties on Nunthorpe Gardens.
6. In raising concerns, the resident referred to a number of tools which can be used to assess the impact of a development on existing properties in relation to light and overshadowing, however, Middlesbrough Council acting as Local Planning Authority cannot use another authorities policies or standards to determine applications.
7. The impact associated with the proposed property layout and the presence of the conservatory on the side of no. 18 Nunthorpe Gardens has been assessed by the case officer and it is considered that whilst there is an impact on light associated with the conservatory and as a result of anticipated visual presence of the proposed dwelling, these impacts would not be so significant as to warrant refusal of the application. There is no impact on any primary windows located at the front and rear of no. 18 Nunthorpe Gardens as a result of distance, outlook and orientation and so the impact would be on the conservatory. This is a structure that has windows in 3 elevations and has for some time had the benefit of no development adjacent to it. Whilst the presence of the proposed dwelling will be very notable from the adjacent properties conservatory as a result of the extent of glazing, it is considered that the light levels would not become so limited as to warrant refusal of the application, taking into account the spacing between properties and the orientation of gaps to the east and west. The conservatory would still gain sunlight to some extent during the morning and during the afternoon / evening and whilst this will be less so during the winter months when the sun is low in the sky, the overall level of light is considered would be adequate. It is the LPA's duty to consider the impact on amenity as a general provision and in addition to this, there are legal rights to light although these are a civil matter which fall outside planning legislation.
8. In relation to this development the LPA are satisfied that the impact of the application on 18 Nunthorpe Garden has been appropriately assessed, and whilst there is an impact on the side of the property, it is not so significant as to warrant the refusal of the application.
9. Ground levels on the site will be raised, the raise is not significant and if the application is approved full details of a suitable drainage scheme will be required by condition. The drainage scheme will ensure that surface water runoff is effectively managed and controlled to prevent increased risk of flooding on neighbouring properties.
10. It must be noted that, in considering the previous application relative to this site with a similar layout in this part of the site, the Planning Inspector did not raise any issues with the impact of the proposed development on the amenities of existing properties. Whilst the appeal was dismissed the impact on existing residents was not a reason for the dismissal. There have been no local or national policy and guidance changes since the previous appeal decision that would result in a change of the view in relation to the impact on the existing residents amenities.

11. It is considered that the proposed development is in accordance with the requirements of policy DC1 in relation to the amenities of existing and future residents.

Pedestrian/Cycle Link to Nunthorpe Gardens

12. Following receipt of numerous documents and information from the developer. It has been concluded that the developer cannot secure a legal right of access over a piece of land located immediately adjacent to the site between the boundary of the site and the adopted highway on Nunthorpe Gardens. As a result they cannot provide a formal pedestrian/cycle route through Nunthorpe Gardens.
13. The applicant has stated that they can provide the infrastructure to the boundary of their site and can remove the boundary fence/gate which will afford people a connection, albeit over a small bit of land that they do not control. The LPA are concerned that without securing a legal right of access over this land, the owner of the land could erect a fence to prevent access to it at any point.
14. As a result the applicant was advised that they would need to secure an alternative connection to existing infrastructure and services to ensure the site is sustainable and promotes access by means other than cars.
15. Lengthy discussions were held with regards to alternative routes. Initially the developer proposed providing a route through the wider allocated site to the west which could connect to Guisborough Road and/or Stokesley Road. However, this would result in a link through open fields with no natural surveillance that would not be a particularly attractive route to walk and could not be considered a safe route to schools. It could also impact on the future development of the site. As a result this route was not considered to be acceptable.
16. The developer has since submitted information which proposes a link out of the site onto the A1043. The alternate route promoted by the applicants involves the creation of a streetlit 2m footway heading Eastwards alongside the A1043 between the site access and an existing public footpath (PROW) located over the railway bridge on the Redcar & Cleveland side of the authority boundary. This footpath then leads Northwards to Morton Carr Lane which provides a connection to Guisborough Road and various facilities located there including shops, schools and the rail station.
17. The Highways Authority have been consulted on the revised details and have confirmed that they are not able to support the alternate route. Officers do not consider that the alternate route nor assessment of this route and supporting evidence is sufficient to address the concerns raised over the lack of a connection into Nunthorpe Gardens for the following reasons;

Distance 1.7km vs 850m.

18. Based upon national guidance the distance taken by the alternative route is at least to the upper end of what could be assessed as reasonable. It must be remembered that discussions surrounding distance are purely based upon that in isolation i.e what do statistics demonstrate how far people in general are prepared to walk/cycle. This does not take into account other factors such as safety, attractiveness, legibility etc which could further reduce the maximum distance that they would be prepared to travel by foot/cycle.

Time 21min vs 11min.

19. Using the walking speed provided by the applicant (4.8km per hour) the time taken to walk this route is significantly greater than (just under double) the route via Nunthorpe Gardens and this then has to be assessed against the convenience in taking the car. If residents chose to drive to local facilities/schools it would take in the region of 2-3minutes and is a distance of 2km. It is worth noting that the distance by car is only 300m longer than the alternate walking route proposed. Travelling by car is therefore much quicker and more convenient for residents.

Legibility

20. The alternate route involves residents having to follow a route which is not intuitive and often heads away from the intended destination. Whilst it is acknowledged that over time familiarity will be built up this is dependent on residents not being dissuaded from using the route in the first place owing to the disjointed nature plus also taking into account other negative factors as set out. If the route were progressed it would be heavily reliant on signage to direct people along the route.

Attractiveness/Safety

21. As described earlier the proposed alternate route is to provide a lit 2m width footway alongside the A1043. No speed limit changes are proposed along the full section and as such pedestrians will be walking alongside consistently high volumes of traffic, travelling at speed. The A1043 is A classified and a main arterial route linking Middlesbrough's highway network to Redcar & Cleveland's whilst providing wider connections further afield. This primary function geared towards the movement of traffic can be seen in the design/layout of infrastructure and lack of pedestrian/cycle infrastructure. Pedestrians and cyclists will be largely alien to motorists in this type of environment. The limited footway width will place pedestrians close to the carriageway edge with no protection from traffic and associated issues such as road spray in inclement conditions. These matters coupled with the speed and volume of traffic will make the route a hostile and unattractive environment for pedestrians.
22. Without a detailed topographical survey it is difficult to establish the width of the alternate route which could be delivered, however the route is bounded by carriageway and adjacent hedgerows/embankment. Just over the railway there are traffic signs and a Redcar & Cleveland boundary sign. Such signage is placed within the highway and given the limitations described it is possible that these signs cannot be relocated. Both of these limiting factors mean that the provision of a suitable width route along the full length is doubtful further diminishing the suitability of the route.
23. Once away from the A1043 the PROW (Morton Carr Lane) would take users along a heavily vegetated, unlit route with no natural surveillance. Whilst this route may be considered suitable for leisure purposes it is not considered that such a route would prove attractive to use on a regular basis as a means to access schools, shops etc. The nature of the route, particularly during winter months is unlikely to feel safe for users including those walking alone or taking children to school.

Other points to consider

24. Distances quoted on the submitted plans make reference to the distance from the centre of the site to the edge of the Nunthorpe built up area to compare the routes. Whilst using such an approach would reduce the distance for both routes its implications become more pronounced when assessing the alternative route as it brings the actual distance to the facilities down from 1.7km to the 1.14km quoted on plans. This is considered misleading as people's journeys would not simply terminate on the edge of a built up area. The accessibility of the site is based upon distance

and routes to day to day services likely to be used/needed by residents and as such the distance should be based upon door to door.

25. Much comment has been made by the applicants with regards to maximum travel distances by foot and cycle, with cycle obviously having a greater travel distance to access day to day facilities. Assessing cycle distances brings a greater range of destinations into suitable travel distances for residents. However, the route being proposed is clearly designed and being provided as a 2m footway. This width and facility is not suitable for use by cyclists and would not cater for them. The promotion of cyclists using this route is contrary to all guidance (including LTN 1/20), is unsuitable and introduces additional conflict between pedestrians and cyclists. The reality is that such a facility simply encourages/requires cyclists to ride on a footway. In addition the status of Morton Carr Lane is footpath and as such is not designed/permitted for cyclists.
26. Masterplan/Allocation
It is accepted that site in question forms part of a wider allocation and whilst development should be in accordance with masterplan principles each site should also work in isolation. There is no certainty over the delivery of housing on the wider allocation other than it is a Local Plan allocation. No planning consents have been approved for housing and the timescales for any such consents are uncertain. As such the application site could exist for an undetermined period of time in isolation. It is likely that a suitable alternative pedestrian and cycle connection can be provided through the wider allocated site on land to the west when development on that site is forthcoming and the link would be incorporated into a suitable scheme so that it is lit, safe and attractive for the users.
27. The delivery of the alternate route falls outside of the Middlesbrough Highway Authority boundary and as such approval from Redcar & Cleveland's highways teams would need to be secured in addition to that of our teams.
28. It is for these reasons that the alternate route is not considered suitable. In the absence of the Nunthorpe Gardens link or a suitable alternative residents of the development would be reliant on the private car to access those services likely to be needed on a day to day basis (shops, schools, public transport). This is contrary to local planning policy CS4 and national transportation and planning policy and guidance in the NPPF.
29. A recent appeal decision for a retail development at Land at Low Lane, APP/W0734/W/22/3313867, considered the sustainability of the site and the promotion of non-car visits. In making their decision the Inspector was very clear that there is a difference between safety and attractiveness in relation to foot and cycle links. A route may be proven to be safe, but it does not mean the route is an attractive proposition to persons. In this instance the Highway Authority have raised concerns about the safety of the route which runs along the fast and busy A1043. It then runs along an unlit, enclosed route with no natural surveillance. This route is not considered to be an attractive offer to pedestrians or cyclists. A road safety audit has not been submitted in this instance, and whilst one may ultimately result in a route being considered to be safe from a highways perspective. It would not remove the issues from a secured by design perspective.
30. As a result it is considered that the development would be substantially more likely to result in residents opting for car borne journeys to local facilities including schools. They would not be encouraged to walk or cycle. The proposed development

therefore fails to deliver alternative travel options which are sought in the NPPF paragraphs 114 and 116, and the Local Plan policy CS4.

Conclusion

31. It is considered that the development of this site in isolation does not give priority first to pedestrian and cycle movements. It fails to provide a suitable, safe and attractive pedestrian and cycle link to existing residential estates and infrastructure. The proposed link is long, convoluted, lacks natural surveillance and is considered to be unsafe. It does not promote and provide an attractive sustainable travel option for residents as an alternative to private car journeys.

RECOMMENDATIONS AND CONDITIONS

Refuse for the following reason

- 1. Fails to Provide and Promote Sustainable Travel Options**

In the absence of the Nunthorpe Gardens link or a suitable alternative the development does not provide an attractive sustainable travel option for residents as an alternative to private car journeys. The development fails to give priority first to pedestrian and cycle movements. It does not promote sustainable travel and residents of the development would be reliant on the private car to access those services likely to be needed on a day to day basis (shops, schools, public transport). This is contrary to local planning policy CS4 and national transportation and planning policy and guidance in the NPPF paragraphs 114 and 116.

INFORMATIVES

N/A

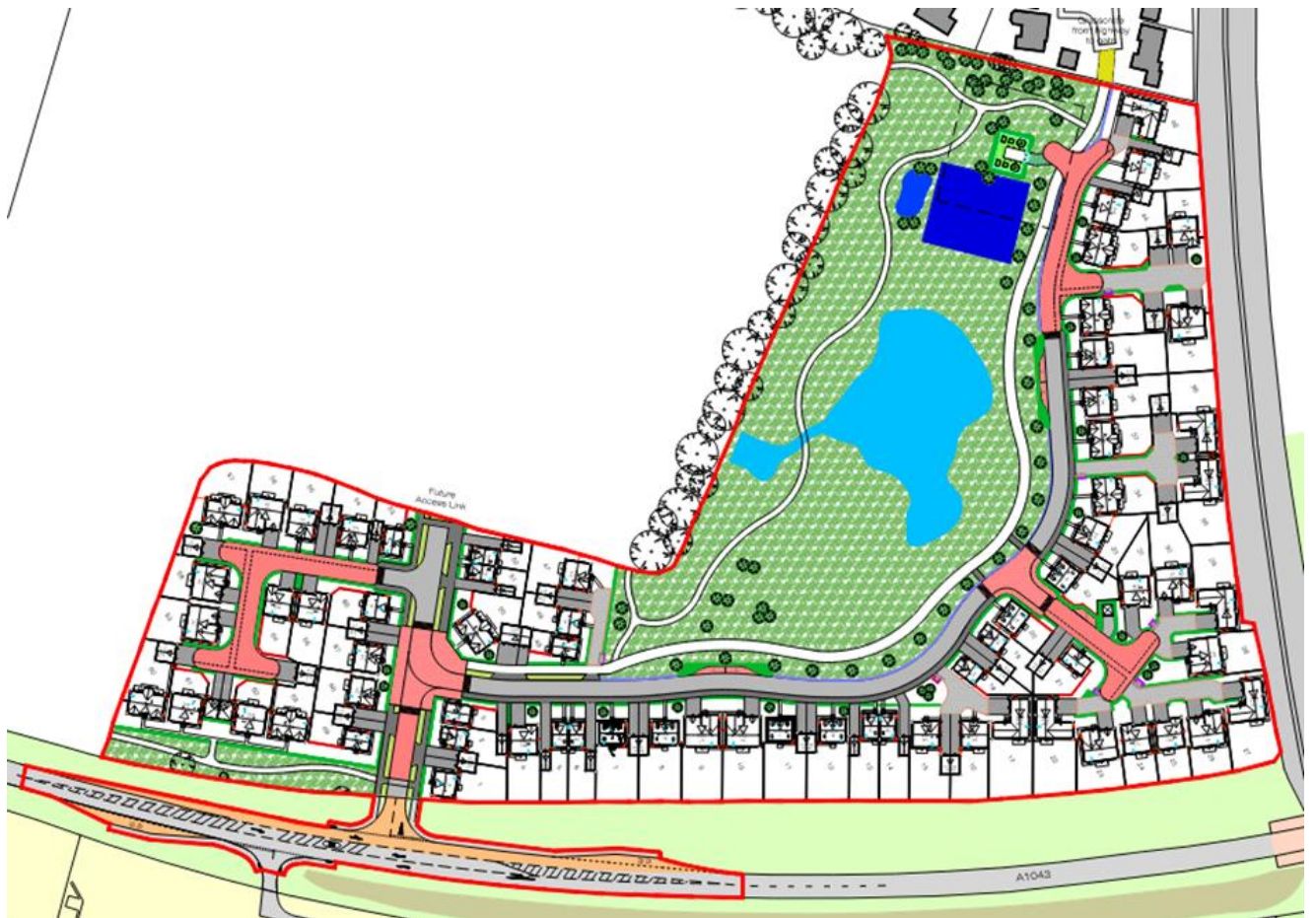
Case Officer: Shelly Pearman

Committee Date:

Location Plan



Proposed Layout



Proposed Pedestrian/Cycle Connection



Aerial CGI

