



**Name of meeting: HUDDERSFIELD PLANNING SUB-COMMITTEE**

**Date: 12<sup>th</sup> May 2016**

**Title of report: Fenay Lodge, Thorpe Lane, Almondbury, Huddersfield – Erection of detached dwelling and new entrance gates (listed building) (application reference 2015/93052)**

<b>Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?</b>	No
<b>Is it in the Council's Forward Plan?</b>	No
<b>Is it eligible for "call in" by Scrutiny?</b>	No
<b>Date signed off by Director &amp; name</b>	<b>Paul Kemp (Assistant Director) (Acting)</b> <b>Date: 29/4/16</b>
<b>Is it signed off by the Director of Resources?</b>	No
<b>Is it signed off by the Assistant Director – Legal &amp; Governance?</b>	<b>Julie Muscroft</b> <b>Date: 29/4/16</b>
<b>Cabinet member portfolio</b>	<b>Cllr Steve Hall</b>

**Electoral wards affected: Almondbury**

**Ward councillors consulted: No**

**Public or private: Public**

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## **1. Purpose of report**

This application is on the agenda as an item to clarify the Sub-Committee's reasons for refusal following the resolution to refuse the application at the Huddersfield Planning Sub-Committee on 31<sup>st</sup> March 2016.

## **2. Background**

**2.1** At the previous Sub-Committee Members resolved to refuse the application, contrary to the officer recommendation. The reasons for refusal were cited as 'design', 'highways' and the impact on number 21 Dartmouth Avenue. This report considers each of these reasons for refusal.

**2.2** For information, the officer recommendation was to approve the application with conditions. A copy of the original committee report is included at appendix 1.

## **3. Key Points**

### **3.1 Design**

**3.1.1** The original committee report provides officers' subjective assessment of the impact of the development on the setting of Fenay Lodge as a grade II listed building and the impact on the visual amenity of the area. The assessment takes into account general matters relating to 'design'.

**3.1.2** Policies BE1 and BE2 of the Unitary Development Plan (UDP) relate to the design of new development, including matters relating to layout, scale and appearance. Such design considerations therefore strongly influence the impact of the development on the setting of Fenay Lodge.

**3.1.3** Chapter 7 of the National Planning Policy Framework (NPPF) emphasises the importance of good design and chapter 12 of the NPPF states that in determining applications local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets, which include listed buildings.

**3.1.4** The degree of harm caused to the setting of the listed building is a matter of planning judgement. Officers concluded that there would not be any substantial harm to the setting of the listed building given the layout, scale and design of the proposal. However, this is a subjective and balanced judgement and it considered that a refusal based upon the 'design' of the development - which encompasses the siting, scale and appearance of the proposed dwelling - within the context of the setting of the listed building constitutes justifiable grounds for refusal. This would also take into account the loss of garden associated with Fenay Lodge.

**3.1.5** The degree of harm to the visual amenity of the area was also judged to be acceptable to officers, particularly because views of the proposed dwelling within the locale would be relatively limited. This is a subjective view and more weight may be given to the impact of the development on the character of the wider area, however, for the reasons detailed in the original report, Officers do not consider the harm would be so significant so as to warrant a refusal of permission such that it could be substantiated at a planning appeal.

3.1.6 Officers therefore recommend that the reason for refusal on 'design' grounds is as follows:

*The proposed dwelling, by virtue of its siting, scale and design, would harm the setting of the listed building (Fenay Lodge) by substantially reducing the curtilage of the building and introducing a form of development to the site that fails to sustain the significance of the designated heritage asset. The development is therefore contrary to Policy BE1 criteria i of the Unitary Development Plan (UDP) and to chapter 12 of the National Planning Policy Framework.*

## **3.2 Highway matters**

**3.2.1** The original committee report provides a technical assessment of the highway issues. Highway Officers concluded that the development was acceptable given that the development relates to a long established access onto Thorpe Lane whereby the intensification in its use would be negligible. The accident record within the vicinity of the access also suggests that the existing access is operating effectively. It was noted as well that there are similar types of access onto Thorpe Lane close to the site.

**3.2.2** In light of the highways assessment, it is the opinion of Officers that the impact on highway safety would not represent justifiable grounds to refuse the application. It is considered that a refusal on the basis of highway safety could not be reasonably substantiated in the event of a planning appeal. In the absence of evidence to substantiate highway safety harm the Council could be viewed as acting unreasonably in pursuing this matter at an appeal which could result in a potential Cost Award challenge.

## **3.3 Impact on number 21 Dartmouth Avenue**

**3.3.1** The original committee reports provides a detailed assessment of the impact on neighbouring residential properties, including 21 Dartmouth Avenue which lies at a lower level immediately to the rear of the proposed dwelling.

**3.3.2** Officers consider that on balance the amended scheme has reduced the impact of the scale and massing of the development on number 21 Dartmouth Avenue to an acceptable extent. Furthermore it is considered that issues relating to the impact on the privacy of this neighbour could be adequately controlled by conditions.

**3.3.3** Officers made a subjective and balanced judgement on the impact on the amenity of number 21 Dartmouth Avenue. However, more weight could be given to the impact on this neighbour, particularly in respect of the scale and proximity of the upper floor of the dwelling in relation to the neighbour's main private amenity space.

**3.3.4** Officers therefore recommend that the reason for refusal on the grounds of the impact on number 21 Dartmouth Avenue is as follows:

*The proposed dwelling, by virtue of its proximity and scale, would harm the amenity of 21 Dartmouth Avenue by having an overbearing and dominant impact on the main private garden space belonging to this neighbouring property and by introducing a form of development that would detrimentally affect the outlook at the rear of number 21. The proposal is therefore contrary to Policy D2 criteria v of the Kirklees Unitary Development Plan and guidance in the National Planning Policy Framework.*

#### **4. Implications for the Council**

**4.1** The main implication is the potential for an award of costs against the Council under a subsequent planning appeal following a refusal of planning permission. Costs may be awarded on the grounds of unreasonable behaviour.

**4.2** The Council will be expected to produce evidence to show clearly why the development cannot be permitted. The Council will be expected to produce evidence at appeal stage to substantiate each reason for refusal. The key test will be whether evidence is produced on appeal which provides a respectable basis for the Council's stance. What is commonly regarded as unreasonable behaviour is failure to substantiate a reason/all reasons for refusal or refusing an application where a condition would have been appropriate instead. There is ability for Members to express a subjective view on design and residential amenity grounds, but with a refusal on highway grounds officers have not identified any technical data that could be used to support this. Pursuing this reason for refusal may therefore lead to the conclusion that this is unreasonable behaviour and consequently there appears to be a high risk of a costs award.

**4.3** Although Members may have anecdotal evidence relating to highway safety concerns, there is no technical reason to support a contention that on this part of the network the additional traffic associated with the development would compromise highway safety. To support this reason may require that anecdotal evidence be presented by the relevant Members as witnesses to support this view, otherwise in the absence of technical evidence from professional officers, pursuing that reason may be considered unreasonable, with the attendant high risk of costs. This is not information that was available to Members when they resolved to refuse the application.

#### **5. Consultees and their opinion**

Highways Development Management has provided comment on the proposed development. Their opinion is reflected within section 3 – key points.

#### **6. Officer recommendations and reasons**

**6.1** Officers consider that Members' reasons for refusal on the grounds of 'design' in the context of the setting of the listed building and the impact on the amenity of 21 Dartmouth Avenue can be substantiated as reasons for refusal. However, Officers do not consider that the impact on highway safety

could be substantiated as grounds for refusal in light of the assessment of the application made by Highways Development Management.

**6.2** Officers therefore recommend that the reasons for refusal on the application are as follows:

- 1. The proposed dwelling, by virtue of its siting, scale and design, would harm the setting of the listed building (Fenay Lodge) by substantially reducing the curtilage of the building and introducing a form of development to the site that fails to sustain the significance of the designated heritage asset. The development is therefore contrary to Policy BE1 criteria i of the Unitary Development Plan (UDP) and to chapter 12 of the National Planning Policy Framework.*
- 2. The proposed dwelling, by virtue of its proximity and scale, would harm the amenity of 21 Dartmouth Avenue by having an overbearing and dominant impact on the main private garden space belonging to this neighbouring property and by introducing a form of development that would detrimentally affect the outlook at the rear of number 21. The proposal is therefore contrary to Policy D2 criteria v of the Kirklees Unitary Development Plan and guidance in the National Planning Policy Framework.*

**7. Cabinet portfolio holder recommendation**

Not applicable.

**8. Contact officer and relevant papers**

a. Adam Walker – Planner – Tel: 01484 221000  
[adam.walker@kirklees.gov.uk](mailto:adam.walker@kirklees.gov.uk)

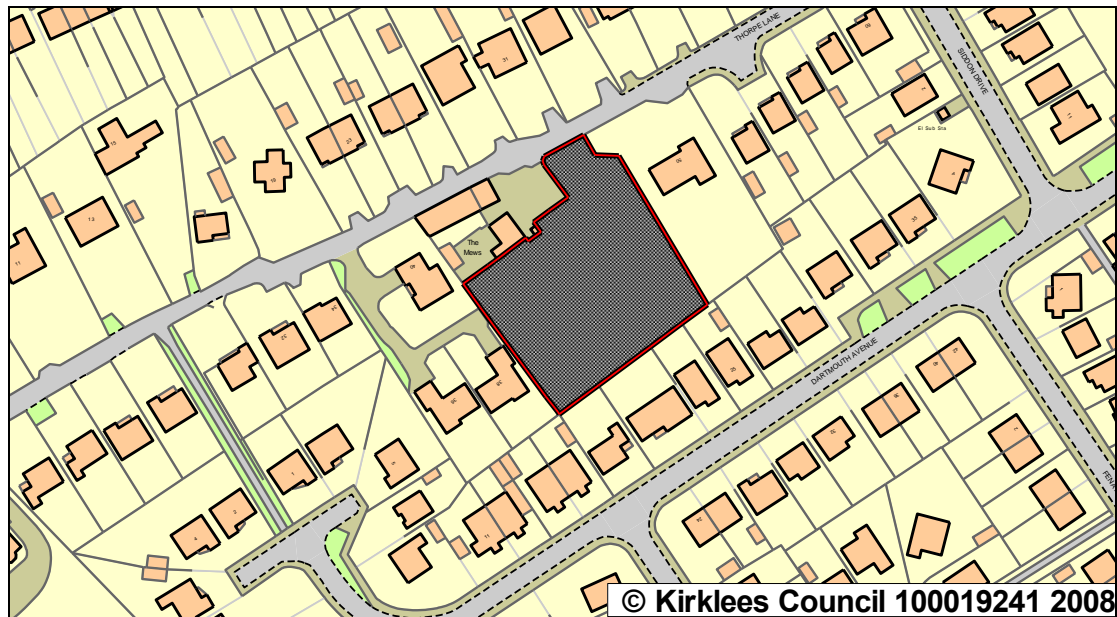
b. Mathias Franklin – Development Management Group Leader – Tel: 01484 221000  
[mathias.franklin@kirklees.gov.uk](mailto:mathias.franklin@kirklees.gov.uk)

**9. Assistant Director responsible**

Paul Kemp – Assistant Director, Investment and Regeneration (Acting) –  
01484 221000 – [paul.kemp@kirklees.gov.uk](mailto:paul.kemp@kirklees.gov.uk)

## APPENDIX 1 – COPY OF ORIGINAL COMMITTEE REPORT

### LOCATION PLAN



**Map not to scale – for identification purposes only**

#### **1. SUMMARY OF APPLICATION**

The scale, siting and design of the proposal are such that the impact on the setting of the listed building is mitigated to an acceptable extent. There would not be any significant impact on the visual amenity of the area and the proposal as amended would not result in any significant detriment to the amenities of adjacent property. The development would not result in any material harm to highway safety.

#### **RECOMMENDATION: CONDITIONAL FULL PERMISSION**

#### **2. INFORMATION**

The application is brought before the Sub-Committee at the request of Councillor Hughes and Councillor Scott.

Councillor Hughes' reason for making the request is:

*"I would like to refer this application to planning committee if you are minded to approve. My reasons being:*

*1) the new property would be overbearing to properties on Dartmouth Avenue, in particular number 21*

*2) access into Thorpe Lane is sub-standard in terms of width and visibility*

### 3) the erosion of the grounds of Fenay Lodge”

Councillor Scott’s reason for making the request is:

*“If you are mindful to agree to this application I would respectfully request that it goes to Huddersfield planning committee on the grounds that it is not in keeping with the local area, it is in the grounds of a grade 2 listed building within the conservation area, it will be too overlooking of neighbouring properties and will detract what local sun light there is down there (ie, one garden will be in permanent shade).”*

The Chair of the Sub-Committee has confirmed that Councillor Hughes’ and Councillor Scott’s reasons for making their requests are valid having regard to the Councillors’ Protocol for Planning Sub Committees.

### **3. PROPOSAL/SITE DESCRIPTION**

The application is for the erection of a detached dwelling within the grounds of Fenay Lodge. The site comprises of a Grade II listed Georgian style mansion set within a substantial garden area. The proposal would be located to the rear of the existing dwelling.

The proposed dwelling would have a contemporary design consisting of two distinct blocks; a roughly rectangular shaped element at ground floor with a slightly smaller rectangular ‘pod’ above it situated at a right angle and overhanging the ground floor. The roof of the lower floor element would form a small terrace area to the front of the ‘pod’ and a sedum roof to the back. The lower floor of the dwelling would be faced in rough dressed sand stone cladding and the upper floor would be faced in dark grey zinc cladding with large glazed sections.

The dwelling would be set down within the site and would have an enclosed garden to one side and a gravel parking area to the other. Access to the property would be via the existing driveway off Thorpe Lane and the creation of a new gravelled access route within the site. New landscaping is proposed in the form a hedge to the rear site boundary and a new laurel hedge and planting to the front of the dwelling to create an informal residential boundary with Fenay Lodge.

The site lies within a residential area with numbers 19-25 Dartmouth Avenue lying at lower level to the rear, numbers 38 and 40 Thorpe Lane towards the western site boundary and number 50 Thorpe Lane to the east.

### **4. BACKGROUND AND HISTORY**

2015/93053 Listed Building Consent for erection of new entrance gates –  
Undetermined

2005/90042 Erection of detached dwelling and associated landscaping –  
Withdrawn

The above application was for a dwelling within the grounds of Fenay Lodge. The proposal had a modern design and was located to the rear of the listed building. Officers had concerns with the access to the site, the impact on the setting of Fenay Lodge and the impact on the amenities of neighbouring dwellings on Dartmouth Avenue. Officers intended to refuse the application on these grounds however the applicant withdrew the application prior to them receiving the decision notice.

## **5. PLANNING POLICY**

### **Development Plan:**

The site is unallocated on the UDP Proposals Map.

BE1 – Design principles  
BE2 – Quality of design  
BE11 – Materials  
BE12 – Space about buildings  
H1- Housing needs of the district  
T10 – Highway safety  
T19 – Parking standards  
NE9 – Retention of mature trees

### **National Policies and Guidance:**

Paragraph 14 – Presumption in favour of sustainable development  
Paragraph 17 – Core planning principles  
Chapter 4 -Promoting sustainable transport.  
Chapter 6 - Delivering a wide choice of high quality homes  
Chapter 7 - Requiring good design  
Chapter 8 - Promoting healthy communities  
Chapter 10 - Meeting the challenge of climate change, flooding and coastal change  
Chapter 11- Conserving and enhancing the natural environment  
Chapter 12 - Conserving and enhancing the historic environment

## **6. CONSULTATIONS**

The following is a brief summary of consultee advice. Further information is contained within the assessment, where necessary.

**KC Highways Development Management** – No objections

**KC Conservation & Design** – No objections

**KC Arboricultural Officer** – No objections

**KC Environment Unit** – No objections

## **7. REPRESENTATIONS**



The application was originally advertised by site notice, neighbour notification letters and press advert.

**Representations:**

- 27 letters of objection received, including an objection from the Huddersfield Civic Society.
- 5 letters of support received - most of these were submitted under the associated listed building consent application for the proposed replacement entrance gates however they make reference to the erection of the new dwelling and general planning considerations.

Objections summarised as follows:

Heritage:

- Harmful impact on the setting of Fenay Lodge
- Loss of garden to Fenay Lodge detrimental to its setting
- Design and materials inappropriate in the grounds of a listed building
- Incongruous appearance

Visual amenity:

- Detrimental impact on the visual amenity of the surrounding area
- Design and materials not in keeping with surrounding properties
- Additional development will affect the character of the area
- Overdevelopment
- Upper floor visible from Dartmouth Avenue affecting the visual amenity of the street scene

Residential amenity:

- Overlooking/loss of privacy
- Overbearing
- Visually intrusive
- Harmful to the outlook of adjacent properties
- Overshadowing
- Increased noise as a result of new parking area close to boundary and concern with headlight glare
- Concern with height of proposed hedge along boundary

Highway safety:

- Access unsuitable/substandard
- Additional traffic on Thorpe Lane
- No footpaths in vicinity of site
- Poor sightlines from access

Trees/ecology:

- Loss of trees
- Detrimental impact on biodiversity

Other matters:

- Impacts associated with the carrying out of building operations, including impact on structural integrity of boundary walls and noise
- Impact on drainage infrastructure
- Possible subsidence and impact on stability of adjacent land
- Previous application refused

Letters of support summarised as follows:

- Discreet siting of dwelling to limit impact and design is sensitive to the site
- High quality architecture
- Very limited impact on surrounding properties
- Efficient use of site
- Additional housing for Kirklees

Following the submission of amended plans the application was advertised by letters sent to all of the original objectors. This publicity expires on 23<sup>rd</sup> March 2016.

Representations: 8 objections received

- Development does not address original concerns raised in relation to the impact on the amenity of the neighbouring properties to the rear
- Loss of privacy
- Oppressive outlook/visual intrusion when viewed from neighbouring properties on Dartmouth Avenue, particularly no.21
- Detrimental impact on the setting of Fenay Lodge, including from loss of curtilage and inappropriate design and materials of proposal
- Development would block and reduce key views of the listed building
- Harm to the listed building is not outweighed by the public benefits of the development
- Huddersfield Civic Society maintain their objection
- Overdevelopment
- 'Garden grabbing'
- Increased traffic on Thorpe Lane
- Impact on highway safety
- Absence of information on finished levels
- Query new hedge planting

## **8. ASSESSMENT**

### **General principle:**

The site is on land without notation on the Unitary Development Plan (UDP) proposals map and therefore Policy D2 is applicable. Policy D2 of the UDP states "planning permission for the development ... of land and buildings without specific notation on the proposals map, and not subject to specific policies in the plan, will be granted provided that the proposals do not prejudice [a specific set of considerations]". All these considerations are addressed later in this assessment. Subject to these not being prejudiced, the

development of the site would be acceptable in principle in relation to policy D2 of the UDP.

Paragraph 14 of the National Planning Policy Framework (NPPF) outlines a presumption in favour of sustainable development. Paragraph 14 states that where relevant policies are out-of-date, planning permission should be granted “unless any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework taken as a whole, or that specific NPPF policies indicate development should be restricted”.

The Council is currently unable to demonstrate a five year housing land supply and the lack of a five-year supply, on its own, weighs in favour of the development proposed. The lack of a five-year supply also means that policies in the UDP concerning housing land are out of date.

The NPPF sets out at paragraph 49, “housing applications should be considered in the context of the presumption in favour of sustainable development.” This increases the weight in favour of the development.

The site forms residential garden and is therefore classed as ‘greenfield’. Whilst national planning policy encourages the use of brownfield land for development, it also makes it clear that no significant weight can be given to the loss of greenfield sites to housing when there is a national priority to increase housing supply.

An application for a dwelling to the rear of Fenay Lodge was submitted under application reference 2005/90042. At that time Officers had concerns with the access to the site, the impact on the setting of Fenay Lodge and the impact on the amenities of neighbouring dwellings on Dartmouth Avenue. Officers intended to refuse the application on these grounds however the applicant withdrew the application prior to them receiving the decision notice. Matters relating to highway safety, heritage assets and residential amenity are addressed separately within this assessment.

### **Visual amenity and heritage issues:**

Policies BE1 and BE2 of the UDP are considerations in relation to design, materials and layout. The layout of buildings should respect any traditional character the area may have. New development should also respect the scale, height and design of adjoining buildings and be in keeping with the predominant character of the area. Chapter 7 of the NPPF emphasises the importance of good design.

The proposal would be located within the grounds of a grade II listed building. When making decisions on planning applications for development that affects the setting of a listed building there is a duty for local planning authorities to have special regard to the desirability of preserving this setting. In this context preservation means not harming the interests of the building as opposed to keeping it unchanged. Furthermore Chapter 12 of the NPPF states that in

determining applications local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets.

The location and design of the proposed dwelling has been subject to pre-application discussion with Conservation and Design officers. It is considered that the location of the proposal, which is immediately to the rear of Fenay Lodge and physically separated from it by an existing area of lawn garden, limits the impact on the setting of the heritage asset. The impact on the listed building's setting is further mitigated by the scale and design of the proposal which is set down in relation to Fenay Lodge with the ground floor of the proposed dwelling being almost below the ground floor level of Fenay Lodge. This means that it is principally the upper floor 'pod' which would affect views of the listed building. The overall size of the proposed dwelling also gives it a subservient appearance to Fenay Lodge.

The proposed dwelling and its curtilage would be clearly distinct from Fenay Lodge as a result of its siting, the difference in levels and the proposed boundary treatment between the properties (new laurel hedge and planting). This therefore enables much of the original character of Fenay Lodge to be retained. Whilst the proposal would reduce the overall amount of curtilage associated with the listed building, it is considered that the impact of this on the significance of the heritage asset is relatively limited because a proportionate level of curtilage around the building would be maintained.

The unique design of the proposed dwelling is considered to be a suitable approach for this development. The design, which comprises of two distinct 'blocks' on top of and at right angles to each other, combined with the palette of materials would sit comfortably alongside the historic building and allows the proposal to be 'read' as a modern addition to the site, thus avoiding an unsympathetic pastiche of the heritage asset.

In more general terms, there are two detached properties to the west of the site which are located behind 40 Thorpe Lane; the proposed dwelling broadly replicates this pattern of development and as such it is considered that the proposal would not be out of keeping with the overall character of the area. Surrounding development encompasses a mixture of designs and whilst the proposal would be distinct from any of these it is not considered that this would result in any significant harm to the visual amenity of the area, particularly because views of the dwelling within the locale would be relatively limited.

In conclusion, for the reasons outlined above it is considered that the significance of the designated heritage asset would be preserved and the proposal would not result in any significant harm to the character of the surrounding area. The application therefore accords with Policies BE1, BE2 and D2 of the UDP and chapters 7 and 12 of the NPPF.

**Residential amenity:**

Policy BE12 of the UDP sets out the Council's policy in relation to space about buildings. New dwellings should be designed to provide privacy and

open space for their occupants and physical separation from adjacent property and land. Distances less than those specified in the policy will be acceptable if it can be shown that by reason of permanent screening, changes in level or innovative design no detriment would be caused to existing or future occupiers of the dwellings or to any adjacent premises or potential development land.

The main impact of the development would be on 21 Dartmouth Avenue which lies at a lower level immediately to the rear of the proposed dwelling. The rear wall of no.21 is 11.8m from the mutual boundary with its main private garden space lying in between and sloping up gently towards the application site. There were previously a number of mature trees adjacent to the boundary but these were cut down relatively recently. The existing boundary treatment mainly comprises of timber fencing.

The lower floor of the proposal would be 2m from the boundary with no.21 however this element of the proposal would be entirely screened from the neighbours view as a result of the dwelling being dug into the ground and the proposed boundary treatment which consists of a new hedge planted adjacent to the existing fence.

Much of the upper floor of the dwelling would be visible from no.21 and Officers initially had concerns that the proximity of this element of the building would have a harmful effect on the amenities of 21 Dartmouth Avenue, particularly the rear garden. In response to these concerns, the design has been amended to increase the separation distance between the upper floor of the dwelling and the boundary with no.21; the distance has increased from 3m to 6.3m. As a result, Officers now consider that on balance the upper floor of the dwelling would not have any significant overbearing effect on the neighbour's property.

There are two windows in the rear wall of the dwelling – an en-suite window and a secondary bedroom window. These windows are 18.5m from the rear wall of no.21 and comfortably exceed the minimum recommended separation distance between habitable and non-habitable windows (12m). The secondary bedroom window would, to some extent, directly overlook the neighbour's garden where there is currently very little direct overlooking from this direction; in the circumstances a condition is recommended requiring that this window be fitted with obscure-glazing, along with the en-suite window. A restriction on the formation of the new openings in the rear elevation is recommended to preserve the neighbour's privacy in the future.

The main outlook for the proposed dwelling would be towards the south west and north east.

South west facing windows would be approximately 16m from the boundary with 38 Thorpe Lane and would be towards the rear garden of this neighbouring property and not onto any of its main windows. Some screening is also provided close to the boundary. There are not therefore considered to be any significant overlooking issues in relation to this adjacent property.

North east facing windows would be approximately 20m from the boundary with 50 Thorpe Lane and would be towards the lower part of the large rear garden of this neighbouring property. Significant screening is also provided close to the boundary. There are not therefore considered to be any significant overlooking issues in relation to this adjacent property.

The north east and south west facing windows would be at an oblique angle to the properties that are to the rear of the site on Dartmouth Avenue. The ground floor windows would be screened along the boundary and so it would only be the upper floor bedroom windows that would potentially affect privacy. Given the oblique relationship and the separation distances involved Officers do not consider that there would be any significant overlooking of the properties to the rear.

In terms of the impact on the amenity of Fenay Lodge, windows in the north west elevation would not give rise to any undue overlooking. A terrace area is proposed to the north west elevation of the dwelling but this would be screened off by a new laurel hedge.

The design incorporates a sedum (green) roof to the rear of the ground floor block; this would have the potential to prejudice the amenities of properties on Dartmouth Avenue if it were to be used as a raised terrace/balcony area in the future. A condition is recommended to prevent the sedum roof being used as such.

The main private garden for the property is set down within the site and well screened to its boundaries. The garden area would not result in any undue harm to residential amenity.

In conclusion, it is considered the development would not result in any significant detriment to the amenities of surrounding occupiers. The application is considered to comply with Policies BE12 and D2 of the UDP.

### **Highway issues:**

Access to the site is via the existing point of access for Fenay Lodge off Thorpe Lane. A new gravel access route is to be formed off the existing driveway which would lead to a parking and turning area. The site plan also shows parking and turning space being retained for Fenay Lodge.

The scheme provides adequate parking space and turning facilities for both the existing and proposed dwellings.

Visibility onto Thorpe Lane is constrained by the height of boundary walls to each side of the access and there is very limited scope for the boundary walling to be lowered because of the listed status of the property and some of the walling being in separate ownership. Whilst sightlines are substandard, the development relates to a long established access where the intensification in its use would be modest. Furthermore, there have not been any recorded accidents within the vicinity of the access within the last 5 years which

suggests that it is operating effectively. It is also to be noted that there are similar types of access onto Thorpe Lane close to the site.

Taking the above into account, on balance it is considered that the development would not result in any material harm to highway safety and the application accords with Policies T10 and D2 of the UDP.

### **Trees and ecology:**

The only protected tree within the site is to the front of Fenay Lodge and is unaffected by the development. There were previously a number of mature (unprotected) trees to the rear site boundary which have been removed. A number of existing trees are to be retained towards the south west and north east boundaries of the proposed dwelling as well as a large mature tree which would be adjacent to the new gravel access. The council's arboricultural officer has been consulted on the application and no objections have been raised. Officers are satisfied that the application accords with Policy NE9 of the UDP.

The proposal does not involve the removal of any existing trees that would have bat roost potential and the Environment Unit considers that the overall site has limited biodiversity interest. The biodiversity of the development can be enhanced through the inclusion of bat and bird boxes, native species of planting being used for the landscaping and measures to protect the free movement of hedgehogs. It is recommended that these matters are conditioned.

### **Air quality:**

NPPF Paragraph 109 states that "the planning system should contribute to and enhance the natural and local environment by..... preventing both new and existing development from contributing to or being put at unacceptable risk from, amongst other things, air pollution. On small new developments this can be achieved by promoting green sustainable transport through the installation of vehicle charging points. This can be secured by planning condition.

### **Objections:**

27 objections and 1 letter of support were received in response to the plans as originally submitted. Following an amendment to the scheme which resulted in the upper floor of the dwelling being repositioned to address Officers' concerns with the impact on residential amenity, 8 objections have been received; these include objections from 17, 21, 23 and 25 Dartmouth Avenue (to the rear of the site) which state that the amendment to the scheme has not addressed their concerns in terms of the impact on their amenity. This second round of publicity expires on 23<sup>rd</sup> March 2016 and any additional representations received will be reported to Members in the committee update.

The main thrust of the objections relates to the impact on the setting of Fenay Lodge, visual amenity concerns, the impact on residential amenity and highway safety. Specific concerns have also been raised regarding the loss of trees and the impact on biodiversity. All of these matters are addressed within this report. Of the other matters raised an Officer response is provided as follows:

#### Noise

**Officer response:** Concerns have been raised about increased noise as a result of the proposed parking area which is close to the rear site boundary. The amount of vehicular activity associated with the dwelling is likely to be very modest and as such Officers do not consider that the use of the parking area would result in any material harm to the amenity of adjacent properties. The parking spaces would be screened along the rear boundary by a new hedge which would help to mitigate the limited amount of noise generated and also block glare from headlights.

Some concern has also been raised about noise associated with construction; nuisance caused by construction noise would be dealt with under separate environmental health legislation.

#### Height of proposed hedge on rear boundary

**Officer response:** Full details of the proposed hedge have not been supplied although the elevation drawings indicate that the hedge would be approximately 3m in height. There is a gradual change in ground levels along the length of the rear boundary but the plans suggest that the hedge would generally be around 1.3m above the height of the existing boundary fence; this would screen the ground floor of the proposal as well as the garden and parking areas. It is noted that there have previously been numerous mature trees along this boundary and the hedge would be significantly lower in height than these. A condition is recommended requiring full details of the hedge in the interests of residential amenity.

#### Impact on drainage infrastructure

**Officer response:** It is proposed to connect foul and surface water drainage to a main sewer. There is a right of connection for foul drainage to main sewer and given the scale of development there are no objections to a surface water connection. The plans show a connection to the sewer in Thorpe Lane.

#### Lack of footway provision on Thorpe Lane

**Officer response:** The lack of footway provision is not considered to significantly prejudice highway safety in the context of this application. The amount of vehicular traffic likely to be generated by the development would be very low and there have been no recorded accidents within the vicinity of the site within the past 5 years. Pedestrian access for the proposed development along Thorpe Lane is affected by the lack of footway provision but this is an established situation and is not considered to be sufficient reason to justify a refusal.

#### Possible subsidence and impact on stability of adjacent land



**Officer response:** The NPPF indicates that planning decisions should take into account ground conditions and land instability. Given the scale of the proposed development and the nature of the site it is considered that adequate control over such matters would be provided through the Building Regulations regime.

Impact on structural integrity of boundary walls

**Officer response:** The dwelling and its garden area are reasonably well separated from the nearest stone boundary walls and it is considered that any potential impact on the structural integrity of existing boundary walls would be sufficiently controlled through the Building Regulations regime.

Absence of information on finished levels

**Officer response:** A condition regarding finished levels is recommended.

**Conclusion:**

The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice. This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development.

The scale, siting and design of the proposal are such that the impact on the setting of the listed building can be mitigated to an acceptable extent. There would not be any significant impact on the visual amenity of the area and the proposal as amended would not result in any significant detriment to the amenities of adjacent property. The development would not result in any material harm to highway safety.

In such circumstances it is considered that there are no adverse impacts of granting permission which would significantly and demonstrably outweigh the benefits when assessed against the policies in this framework taken as a whole, or that specific NPPF policies indicate development should be restricted. In such circumstances the application is recommended for approval.

**9. RECOMMENDATION**

Approve subject to the following conditions:

1. The development hereby permitted shall be begun within three years of the date of this permission.
2. The development hereby permitted shall be carried out in complete accordance with the plans and specifications listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.

3. Samples of the facing materials for the dwelling hereby approved shall be submitted to and approved in writing by the Local Planning Authority before works to construct the superstructure the dwelling commence. The dwelling shall be constructed of the approved materials and thereafter retained as such.
4. Details of proposed and existing ground and floor levels from an identified datum point shall be submitted to and approved in writing by the Local Planning Authority before development commences and the development shall be implemented in full accordance with the approved details.
5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order (with or without modification)), the area identified as 'sedum roof' on the approved plans shall not be used as a raised patio, terrace, balcony, roof garden or similar such amenity area at any time.
6. The bedroom and en-suite windows in the south east elevation of the dwelling (identified as 'elevation 2' on the approved plans) shall be first installed with obscure-glazing that achieves a minimum privacy level of 5. Notwithstanding the provisions of section 55(2)(a)(ii) of the Town and Country Planning Act 1990 and the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order (with or without modification)) the glazing shall be so retained thereafter.
7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any Order revoking or re-enacting that Order (with or without modification)) no doors, windows or any other openings (apart from those expressly allowed by this permission) shall be created in the south east elevation (identified as 'elevation 2 on the approved plans) of the dwelling at any time.
8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order (with or without modification)) no buildings or structures included within Classes A, B, C, D and E of Schedule 2 to that Order shall be carried out within the curtilage of the dwellinghouse hereby approved without the prior written consent of the Local Planning Authority.
9. Notwithstanding the submitted plans, details of the new hedge to the south eastern site boundary as identified on the approved site plan shall be submitted to and approved in writing by the Local Planning Authority before works to construct the superstructure of the dwelling commence. The hedge shall be planted in the first available planting season following the completion of the superstructure of the dwelling. Should any part of the hedge die or become seriously damaged within five years of the first occupation of the development, the affected hedge shall be replaced in the next planting season with hedge plants of similar size and the same species. The hedge shall thereafter be retained as such.

10. Details for the provision of one bat box (in the form of a Schwegler type 1FR bat box or similar) and one sparrow terrace nest box to be installed on the exterior of the dwellinghouse shall be submitted to and approved in writing by the Local Planning Authority before the practical completion of the superstructure of the dwellinghouse. The bat and bird boxes so approved shall be provided before the dwelling is first occupied and thereafter retained.

11. All new tree, shrub and hedge planting within the site shall comprise native species of plants and retained as such.

12. Boundary walls and fences shall be designed so as not to impede the free movement of hedgehogs. The boundary treatment shall thereafter be retained as such.

13. An electric vehicle recharging point shall be installed within the dedicated parking area of the approved dwelling before the dwelling is first occupied. Cable and circuitry ratings shall be of adequate size to ensure a minimum continuous current demand of 16 Amps and a maximum demand of 32Amps. The electric vehicle charging point so installed shall thereafter be retained.

14. The access, parking and turning facilities as indicated on the approved site plan shall be provided before the dwelling hereby approved is first occupied. The access, parking and turning facilities shall thereafter be retained as such.

15. Details of the proposed entrance gates shall be submitted to and approved in writing by the Local Planning Authority before works to install the entrance gates commence. The gates shall be installed in accordance with the approved details and thereafter retained.

This recommendation is based on the following plans and specifications schedule:-

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Design & Access Statement	Original	-	5/10/15
Location Plan / Existing Site Plan	EX01	-	5/10/15
Site Plan as Existing	EX02	-	5/10/15
Site Elevations/Sections as Existing	EX20	-	5/10/15
Proposed Site Plan	AL0002	Rev B	25/2/16
Proposed Lower Ground Floor Plan	AL0011	Rev A	25/2/16
Proposed Upper Ground Floor Plan	AL0012	Rev A	25/2/16
Site Elevations as Proposed	AL0020	Rev B	25/2/16
North East Elevation as Proposed	AL0025	Rev A	25/2/16

South East Elevation as Proposed	AL0026	Rev A	25/2/16
South West Elevation as Proposed	AL0027	Rev A	25/2/16
North West Elevation as Proposed	AL0028	Rev A	25/2/16
3D Visuals	3D Visuals	Rev A	25/2/16
Heritage Assessment	Original	-	5/10/15