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Application Number:	21/02978/OUT
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Application Type:	OUTLINE PLANNING PERMISSION
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Proposal Description:	Outline application for the erection of detached dwelling and garage including construction of new access on 0.03ha of land (all matters reserved).
At:	Land East of Guelder Cottage, West End Road

For:	Mrs S Peacock
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Third Party Reps:	10 objections have been received from members of the public. Objection from Parish Council.	Parish:	Norton Parish Council
		Ward:	Norton and Askern

Author of Report:	Jessica Duffield
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SUMMARY

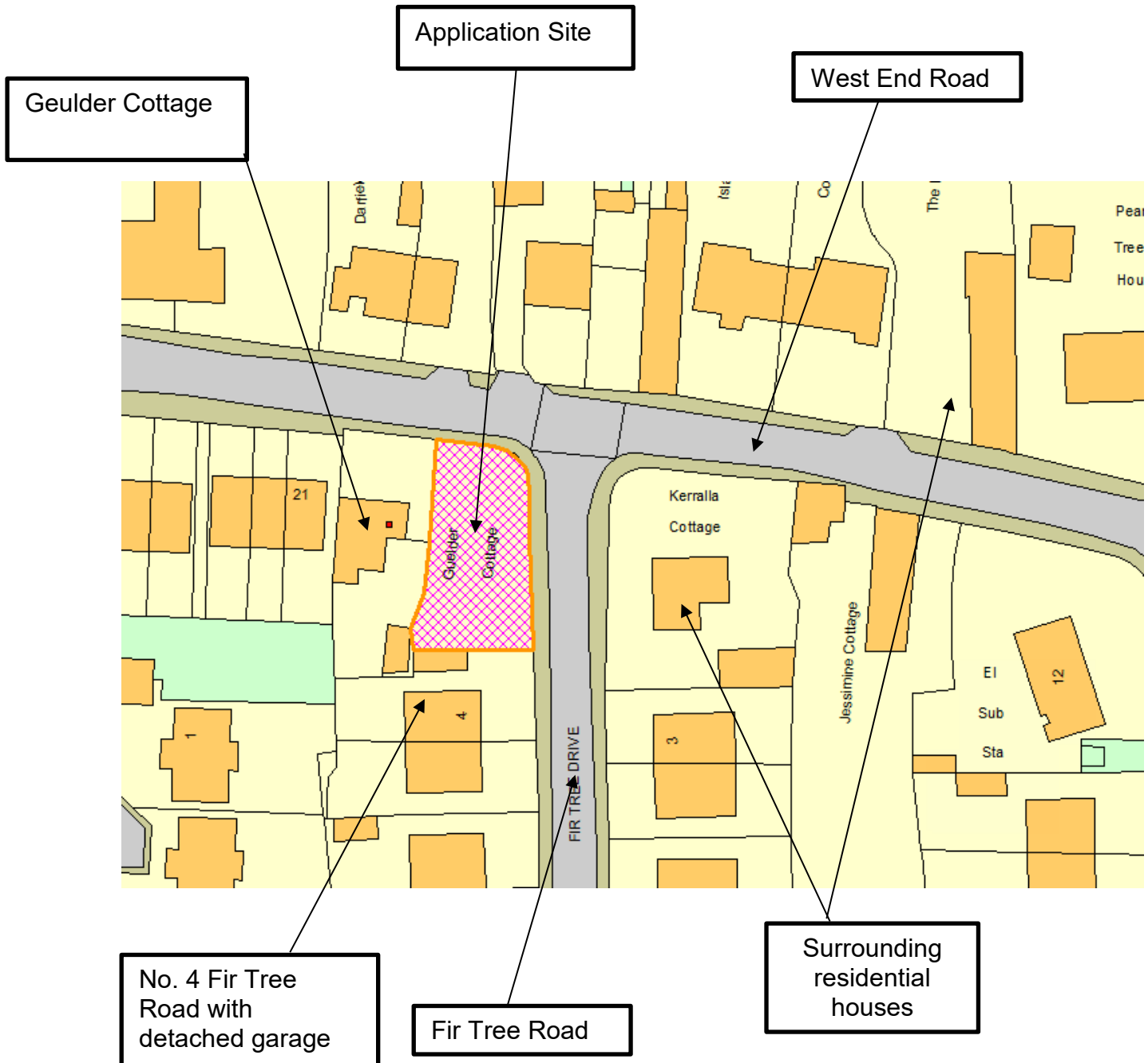
This application is seeking outline planning permission for the erection of a detached dwelling with garage and new access (all matters reserved). The site is positioned on a corner plot of West End Road and Fir Tree Drive, adjacent to the property at Guelder Cottage.

The application has received a high level of public interest with the majority of the representations raising concerns in connection to the land ownership and issues regarding the site previously being considered as informal/non-designated public open space. These issues are addressed in detail within the report. However, in summary the applicant has provided the appropriate information to demonstrate that they are the freehold owner of the land, thus the land ownership issues have been disregarded.

The application is for outline planning permission with all matters reserved and therefore the recommendation is based on the principle of development for one dwelling at the application site.

The application is being presented at Planning Committee as it was called in by a Local Ward Councillor, as well as the level of public interest. The application was deferred at the previous planning meeting for a committee site visit which will take place on 25th March 2022.

RECOMMENDATION: GRANT outline planning permission subject to conditions.



1.0 Reason for Report

- 1.1 The application is being presented to Members due to the volume of public interest and being called in by a Local Ward Councillor. Cllr White called the application in based upon environmental impact and highways implications in the area.
- 1.2 The application was presented at the previous planning committee meeting (1st March 2022) but was deferred for a committee site visit. Members requested to visit the site to assess the development's impact upon the character of the area.

2.0 Proposal and Background

- 2.1 Planning permission is sought for outline planning permission (all matters reserved) for the erection of 1x detached dwelling with garage and access, on a parcel of land measuring approx. 0.03ha.
- 2.2 A site plan has been submitted to demonstrate that a detached dwelling can comfortably be accommodated at the application site, though the exact siting, appearance and other matters will be determined at reserved matters stage.
- 2.3 The proposed dwelling is shown to be accessed off Fir Tree Drive with a private garden area to be created between the dwelling and the detached garage on the southern boundary of the site.
- 2.4 The site itself was historically owned by the previous occupiers of Guelder Cottage. However in recent years the cottage and the land have been sold off separately and the site is no longer connected with the adjacent cottage.

3.0 Site Description

- 3.1 The site is relatively oblong in shape, with the north eastern corner being curved to follow the shape of the pathway. The site is slightly shorter in length than the adjacent plot at Guelder Cottage and abuts the detached garage at No. 4 Fir Tree Drive.
- 3.2 Historically the site had an open nature, with no boundary treatments and consisted of multiple large/mature trees. However in more recent years, the site has been cleared and currently consists of grass and informal vegetation. A low height boundary fence has been erected to define and secure the site. Using historic photographs it is obvious that trees were cleared prior to 2012, and the fence was erected circa 2015 (see appendix 2). This demonstrates that the site has not be accessible for public use for around 7 years.
- 3.3 The site is surrounded by residential dwellings in all directions, which vary in scale and appearance. West End Road has a traditional character, with a mixture of cottages and stone built dwellings, though examples of render and red brick are also used in the locality. Fir Tree Drive has a more defined street scene consisting of semi-detached and detached bungalows built in brick with faux stone.
- 3.4 The property on the opposite corner to the site is a large traditionally styled detached render dwelling with high stone wall wrapping around the plot. The presence of the high wall makes the property appear enclosed and private in contrast to the low fence which defines the application site.
- 3.5 The application site falls within Flood Zone 1 and is at low risk of flooding.

4.0 Relevant Planning History

4.1 Planning history for the application site as follows:

Application Reference	Proposal	Decision
20/03166/FUL	Erection of two storey side and rear extensions.	GRANTED – 19/2/2021
17/03018/FUL	Erection of part two storey, part single storey rear and side extension to existing detached dwelling	GRANTED- 21/2/2018
15/00548/FUL	Erection of 1 detached house with detached garage on 0.03ha of land (being resubmission of application 13/02565/FUL, refused on 06/03/2014).	WITHDRAWN – 1/5/2015
13/02565/FUL	Erection of 1 detached house with detached garage on 0.03ha of land	REFUSED – 6/3/2014
<p>The above application was recommended for refusal by the Case Officer with the following reason for refusal:</p> <p><i>In the opinion of the Local Planning Authority, the proposal will result in loss of visual amenity through the loss of open space, nor has it been demonstrated that the land isn't valued by the community and that the alternative proposals are supported. It is therefore contrary to paragraph 74 of the National Planning Policy Framework (Adopted May 2012), Doncaster's Core Strategy Policy CS17: Green Infrastructure (Adopted May 2012), and saved Policy RL2 (criteria c) of the Doncaster Unitary Development Plan (Adopted July 1998, saved September 2007) and Draft Policy SP36: Open Space of the Sites and Policies Development Plan Document which seek to protect areas of open space.</i></p>		
12/00939/FUL	Erection of detached house and detached garage on approx 0.03ha of land	REFUSED – 15/8/2012
<p>The above application was recommended for approval by the Case Officer but then refused by Planning Committee members for the following reason:</p> <p><i>In the opinion of the Local Planning Authority, there is a lack of amenity open space in the settlement of Norton and development of this existing amenity open space will result in an unnecessary loss of visual amenity. It is therefore contrary to paragraph 74 of the National Planning Policy Framework (Adopted May 2012), Doncaster's Core Strategy Policy CS17: Green Infrastructure (Adopted May 2012), and saved Policy RL2 (criteria c) of the Doncaster Unitary Development Plan (Adopted July 1998 and saved September 2007), which seek to protect areas of open space.</i></p>		

5.0 Site Allocation

5.1 The site is identified within the Local Plan as Residential Policy Area.

5.2 National Planning Policy Framework (NPPF 2021)

5.3 The National Planning Policy Framework 2021 (NPPF) sets out the Government's planning policies for England and how these are expected to be applied. Planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions and the relevant sections are outlined below:

5.4 Paragraphs 55-56 states that Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition. Planning conditions should be kept to a minimum and only be imposed where necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

5.5 Paragraph 60 states that to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed; that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.

5.6 Paragraph 119 states that planning decision should promote an effective use of land in meeting the need for homes and other uses.

5.7 Paragraph 124 states that planning policies should support the development that makes efficient use of land when taking into account the identified need for different types of housing and other forms of development.

5.8 Local Plan

5.9 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires proposals to be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan for Doncaster consists of the Doncaster Local Plan (adopted 23 September 2021). The following Local Plan policies are relevant in this case:

5.10 Policy 10 relates to Residential Policy Areas and states that residential development will be supported where the development would provide an acceptable level of residential amenity for both new and existing residents; would protect and enhance the qualities of the existing area; and meets other development plan policies.

5.11 Policy 41 relates to character and local distinctiveness and states that development proposals will be supported where they recognise and reinforce the character of local landscapes and building traditions; respond positively to their context, setting and existing site features as well as respecting and enhancing the character of the

locality. Developments should integrate visually and functionally with the immediate and surrounding area at a street and plot scale.

- 5.12 Policy 42 relates to urban design and states that new development will be expected to optimise the potential of a site and make the most efficient use of land whilst responding to location, local character, relevant spatial requirement and design standards.
- 5.13 Policy 44 relates to residential design and sets out the key design objectives which residential development must achieve, as well as stating that all developments must protect existing amenity and not significantly impact on the living conditions or privacy of neighbours.
- 5.14 Policy 13 relates to sustainable transport within new developments. Part A.6 states that proposals must ensure that the development does not result in an unacceptable impact on highway safety, or severe residual cumulative impacts on the road network. Developments must consider the impact of new development on the existing highway and transport infrastructure.
- 5.15 Policy 48 states that development will be supported which protects landscape character, protects and enhances existing landscape features and provides high quality hard and soft landscaping scheme which includes fit for purpose planting and generous trees, shrubs and hedgerow planting.

5.16 Neighbourhood Plan (NP).

- 5.17 No neighbourhood plan is relevant to this application.

5.18 Other material planning considerations and guidance

- Development Requirements and Guidance Supplementary Planning Document (SPD) (2015)
- South Yorkshire Residential Design Guide (SPD) (2015)
- Residential Backland and Infill Development (SPD) (2010)
- National Planning Policy Guidance

6.0 Representations

- 6.1 This application has been advertised in accordance with Article 15 of the Town and Country Planning Development Management Procedure (England) Order 2015 by means of council website and neighbour notification.
- 6.2 The application was initially submitted on the 1st October 2021 and advertised via neighbour letter (*consultation expiry 5th November 2021*). Following this publicity, a total of 10 letters of objection were received from local neighbours. One neighbour in particular has submitted multiple representations however these have only be counted as one letter of objection. A summary of the material planning issues raised is set out below:

- Road junction is dangerous;
- Congestion on the highway;
- No consideration to residents;
- Limited parking spaces/loss of parking availability
- Trees have been taken down;

- Site is infested with vermin;
 - Position of proposed dwelling will obstruct views;
 - Boundary should be built of stone instead of fencing;
 - Development would result in loss of open/green space;
 - Increased danger to pedestrians / reduced visibility;
 - Large soakaway under the site to prevent flooding on Fir Tree Drive;
 - No change from previously refused applications;
 - Loss of light.
- 6.3 The non material issues raised within the neighbour representations included the following:
- Land not owned by Guelder Cottage;
 - Land was originally public land;
 - Unauthorised ownership of land;
 - Land obtained to make a profit;
 - Land was incorrectly gifted;
 - Wishes site to be used as a memorial/remembrance garden;
 - Application address incorrect;
 - The site is not maintained/poorly maintained by the owner;
- 6.4 A separate representation in objection has been received from the Parish Council of Norton raising the following concerns:
- Previous owners/developers of the Fir Tree Drive applied to develop the site in the 1980s but were unsuccessful.
 - The land is the only green open space in the centre of the village and members of the Parish Council historically planted flowers on the site in the belief that it was public open space.
 - Issues regarding flooding.
- 6.5 A second round of publicity via neighbour notification letter (consultation expiry 1st February 2022) has taken place following an updated description of the application site address and clarification of the applicant's address. The site address has been updated to make it clear that the application site is the land to the east of Guelder Cottage to address the comments made in relation to application address/ ownership. Following this publicity, a total of 2 letters of objection were received from local neighbours, though both of these neighbours had objected previously with the same comments as covered above.
- 6.6 Land ownership issues are not material planning considerations and are therefore to be disregarded as part of the planning assessment. However, given the history of the site and the number of objections in relation to such issues, the Case Officer is of the opinion that it would be appropriate to provide a brief overview of the site's ownership history to address the comments raised as summarised above.
- 6.7 Copies of emails from Land Registry (which have been provided by local neighbours) confirm that an application was received in 2008 from the then occupiers of Guelder Cottage to register themselves as the landowners of the application site based on adverse possession (*the occupation of land to which another person has title with the intention of possessing it as one's own*).
- 6.8 The adverse possession application was supported by statutory declarations, and a surveyors report notice was served on DMBC. The Council did not object to the

application and therefore based on the evidence submitted the possessory title was granted to the occupiers/owners of Guelder Cottage- completed 3rd October 2008. The fact that the Council did not object to the notice served by Land Registry indicates that the Council did not consider themselves as landowners at that time.

- 6.9 It is understood that a second application was received by Land Registry in 2012, however this application was lodged by Norton Parish Council. The application sought to de-register the land on the grounds that there was an error in the register. This application was supported by various statutory declarations. The registered proprietors (the occupiers of Guelder Cottage) objected to this application, and the dispute was then referred to the Adjudicator at HM Land Registry. The dispute was heard in court on 16th and 17th April 2013 and the court ordered that the alteration to the application be cancelled.
- 6.10 During the court hearing the Judge stated that the land in question (i.e. the application site) was not common land nor did the Local Authority hold a documentary title to it. Any previous use by local residents was therefore considered as trespass.
- 6.11 As part of this planning application, the agent has provided a copy of title plan and register which indicates that the applicant (as stated on the application form) is the freehold landowner of the application site and has been the single owner of the site since December 2015. Based on all the information provided, the issues regarding land ownership have sufficiently been addressed and disregarded.

7.0 Town/Parish Council

- 7.1 Norton Parish Council- see comments above.

8.0 Relevant Consultations

- 8.1 National Grid – No response
- 8.2 DMBC Asset and Property- No response
- 8.3 Yorkshire Water – No response
- 8.4 DMBC Ecology – Site is too small for biodiversity net gain however some enhancements are required. Ecological enhancement plan condition proposed.
- 8.5 DMBC Tree Officer – No objection or conditions. The reserved matters application should include proposed boundary treatments; hard landscaping details for the paving/walls/fences; and planting plan schedule. Informative attached.
- 8.6 DMBC Internal Drainage – No objection, condition proposed.
- 8.7 DMBC Housing Policy – Detailed comments provided in regards to the site's history (attached at the appendix 3). The comments raised in the local neighbour objections have been discussed however as the site is privately owned; not accessible to the public and does not hold the visual amenity that it once, the site cannot be considered as public open space and Policy 27 (protecting open space) does not apply. The site is designated in the site's residential policy area in the adopted Local Plan and is therefore acceptable in principle subject to meeting all other relevant policies.

- 8.8 DMBC Highways Development Control – No objections, however further comments are to be addressed at reserved matters stage. Informative attached with comments.
- 8.9 DMBC Pollution Control – YALPAG form requested and provided. No objection, condition proposed.
- 8.10 Ward Members – Cllr White called the application into Planning Committee based upon environmental health and highway implications.

9.0 Assessment

9.1 The proposal seeks outline permission for the erection of 1x detached dwelling and garage including the construction of new access on 0.03ha of land (all matters reserved). As the application relates to outline permission with all matters reserved, this assessment will consider the principle of the development only, with the detailed matters to be assessed at reserved matters stage. In considering the proposal the main material planning considerations are outlined below:

- The acceptability of residential development
- The impact on the character of the area
- The impact on neighbouring residential properties
- The impact on the highway network and highways standards
- The impact on the existing trees
- The impact on the ecology of the site

9.2 For the purposes of considering the balance in this application the following planning weight is referred to in this report using the following scale:

- Substantial
- Considerable
- Significant
- Moderate
- Modest
- Limited
- Little
- No

Appropriateness of the proposal

9.3 The application site falls within the Residential Policy Area as defined in the adopted Local Plan (2021). Policy 10 relates to the Residential Policy Area and states that new residential development will be supported in these areas provided that:

- The development would provide an acceptable level of residential amenity for both new and existing residents;
- The development would help protect and enhance the qualities of the existing area and contribute to a safe, healthy and prosperous neighbourhood;
- The development would meet other development plan policies including those relating to flood risk, open space, design and sustainable construction.

- 9.4 Based on the policy designation the proposed development is acceptable in principle subject to the above criteria which will be assessed below.

Sustainability

- 9.5 The NPPF (2021) sets out at paragraph 7 that the purpose of the planning system is to contribute to the achievement of sustainable development. At a very high level, the objective of sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs
- 9.6 There are three strands to sustainability, social, environmental and economic. Para.10 of the NPPF states that in order sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development.

SOCIAL SUSTAINABILITY

Impact on Residential Amenity

- 9.7 Part A.1 of Policy 10 refers to residential amenity for both new and existing residents. The proposed development is surrounded by residential development in all directions. In terms of overlooking; overshadowing and separation distances, these could vary slightly at reserved matters stage once the siting and appearance of the dwelling is confirmed. Based on the proposed site plan, it is not considered that neighbouring residential amenity will be harmfully impacted.
- 9.8 The application site is 0.03ha in size, which is an appropriate size for the scale of the proposed development. It is not considered that the proposal would be an overdevelopment of the site which would introduce harmful overlooking or overshadowing upon neighbouring properties.
- 9.10 The development provides a sufficient size of outdoor garden space for the future residents and the internal space standards will be assessed against Policy 45 at reserved matters stage. Based on the information provided, the proposed development is not considered to harmfully impact residential amenity.

9.11 Conclusion on Social Impacts.

- 9.12 Para. 8 b) of the NPPF (2021) indicates, amongst other things, that the planning system needs to support strong, vibrant and healthy communities, by ensuring well-designed and safe built environments, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being.
- 9.13 It is not considered that the proposed development would adversely affect future or existing residential amenity. The development would provide one new dwelling within the village of Norton adding to the vibrancy of the community. This weighs in favour of the application carrying substantial weight.

9.14 ENVIRONMENTAL SUSTAINABILITY

Impact upon the character and appearance of the surrounding area

- 9.15 Norton is medium sized village located on the north part of the Borough. The application site is located on the junction of West End Road and Fir Tree Drive, relatively central within the village. The principle elevation of the proposed dwelling is shown to face Fir Tree Drive, with the side elevation to follow the established build line along this section of West End Road.
- 9.16 The opposite corner plot has been developed historically (Kerralee Cottage). Development of the application site would make the street junction appear more symmetrical and is considered to be an improvement both visually and in terms of character in comparison to the site's current state.
- 9.17 The application site currently consists of 1m high fencing with concrete post panels. The site is relatively unkempt with overgrown vegetation.
- 9.18 Development of the site is considered to significantly improve the appearance of the site, benefiting both West End Road and Fir Tree Drive, as well as the overall character of the village.
- 9.19 In terms of the appearance of the dwelling, the finished materials/style will be assessed at reserved matters stage, but the applicant will be encouraged to use traditional styles making use of stone and/or render to reflect the local character.
- 9.20 Overall, the development is considered to enhance the character and appearance of the local area.

Highways/Access

- 9.21 The detailed highway information will be assessed at reserved matters stage. However for the principle of the outline application, the proposed site plan indicates that the development will include a driveway to the south of the site with a detached single garage. The driveway and garage is shown to be accessed off Fir Tree Drive, adjacent to the access to No. 4.
- 9.22 The Highways DC Officer has reviewed the proposed development and raised no concerns. The officer has provided some advice in regards to width of the proposed driveway and the appropriate visibility splay which will need to be taken into considered in terms of the detailed highway design as per the proposed informative.
- 9.23 Many of the neighbour representations refer to lack of parking availability within the local area and suggest that the site is relied upon for additional provision. Fir Tree Drive consists of bungalows each which have generous driveways/ paved front gardens for multiple vehicles. It is important to note that the application site is currently fenced off and is in private ownership. The site does not provide additional parking spaces and the development of the site should not impact the availability of parking spaces within the local community.
- 9.24 As part of the reserved matters application, the proposal will need to include the appropriate number of off-street parking spaces in association with the size of the proposed dwelling. Any dwelling with 2+ bedrooms would need to provide at least 2 dedicated parking spaces. The application site provides sufficient space for this

requirement to be met and therefore it would not be considered that the development would result in a harmful impact in terms of anti-social parking.

- 9.25 Similarly the development of one house is not considered to harmfully impact the local highway network. Based on all of the above the proposal is considered to be in accordance with Local Plan Policy 13 and causes no harmful impact in terms of highways or access.

Trees and Landscaping

- 9.26 It is recognised that historically large trees and small plants were present on the site. However based on photographs (both from online and those associated with previous applications) it is noted that the site was cleared prior to 2012 (see photos in appendix 2), though the site was still 'open' at this time. The boundary fence posts were then installed circa 2015, with the fence panels added not long after to fully secure the site, making it inaccessible to the public.
- 9.27 The Tree Officer has reviewed the proposal and confirms that there are no trees on site which are of an arboricultural value to justify an objection. The proposed position of the dwelling as shown on the site plan does limit the tree planting somewhat and would mean any future trees would need to be of small/medium sized. No tree conditions are proposed at this time though an informative is attached confirming the level landscaping details required at reserved matters stage.

Ecology and Wildlife

- 9.28 The Council's Ecologist has reviewed the proposed development and confirms that there are no habitats or protected species at the application site. The site is too small for a biodiversity net gain assessment but some enhancements that contribute to ecological networks should be provided. The reserved matters application should therefore include an ecological enhancement plan as per the proposed condition.

Pollution issues

- 9.29 The contamination team have been consulted on the application. The appropriate YALPAG form has been completed and a condition is proposed.

9.30 Conclusion on Environmental Issues

- 9.31 Para. 8 c) of the NPPF (2021) indicates, amongst other things, that the planning system needs to contribute to protecting and enhancing the natural built and historic environment, including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.
- 9.32 The proposed development is not considered to harm the environment and instead will enhance and improve the appearance of the site within the street scene. Development at the site will include sufficient planting and ensure that ecological enhancements are implemented. The proposal will not harmfully impact the local highway network or the availability of parking. In conclusion of the environmental issues, it is considered the development carries substantial weight.

9.33 ECONOMIC SUSTAINABILITY

9.34 It is anticipated that there would be some short term economic benefit to the development of the site through employment of construction workers and tradesmen connected with the build of the project however this is restricted to a short period of time and therefore carries limited weight in favour of the application.

9.35 Conclusion on Economy Issues

9.36 Para 8 a) of the NPPF (2021) sets out that in order to be economically sustainable developments should help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure.

9.37 Whilst the economic benefit of the proposal is slight and afforded only limited weight, it does not harm the wider economy of the borough and for that reason weighs in favour of the development.

10.0 PLANNING BALANCE & CONCLUSION

10.1 In accordance with Paragraph 11 of the NPPF (2021) the proposal is considered in the context of the presumption in favour of sustainable development. The proposal is considered to be located within a sustainable location on a site earmarked for residential development in the Local Plan and this weighs considerably in favour of the application.

10.2 The indicative plan submitted with the application has shown that a suitable proposed layout can be achieved that would be reflective of the character of the area and safeguard neighbouring properties through appropriate separation distances and this weighs significantly in favour of the application.

10.3 The proposed development will include adequate highways/parking arrangements together with the potential landscaping/planting and ecological enhancements as set out in the proposed conditions, the development weighs significantly in favour of the application.

10.4 Limited weight in favour of the application has been afforded to the potential economic benefits generated by the proposal.

11.0 RECOMMENDATION – GRANT PLANNING PERMISSION FOR THE PROPOSED DEVELOPMENT SUBJECT TO THE FOLLOWING CONDITIONS:

Conditions / Reasons

01. The development to which this permission relates must be begun not later than whichever is the later of the following dates:- i) The expiration of three years from the date of this permission or ii) The expiration of two years from the final approval of the reserved matters or in the case of different dates the final approval of the last such matter to be approved.

REASON

Condition required to be imposed by Section 92 (as amended) of the Town and Country Planning Act 1990.

02. Approval of the details of the access, layout, scale, appearance and landscaping of the site (hereinafter referred to as reserved matters) shall be obtained from the local planning authority before the commencement of any works.

REASON

To enable the local planning authority to control the development in detail and to comply with Section 92 (as amended) of the Town and Country Planning Act 1990.

03. The development hereby permitted must be carried out and completed entirely in accordance with the terms of this permission and the details shown on the approved plans listed below:

Location Plan- Received 10th February 2022

REASON

To ensure that the development is carried out in accordance with the application as approved.

04. On submission of reserved matters, an Ecological Enhancement Plan shall be submitted to the Local Planning Authority for approval in writing. This plan shall include details of the following measures, all of which shall be implemented prior to the first occupation of the site or an alternative timescale to be approved in writing with the local planning authority:

- A scheme of native species shrub planting in appropriate locations within the final site layout
- The provision of two woodcrete bird nest boxes integrated into the walls or attached externally to the dwelling with the type, location and orientation specified by a suitably qualified ecologist.

REASON

To ensure the ecological interests of the site are maintained in accordance with Local Plan policy 29.

05. Should any unexpected significant contamination be encountered during development, all associated works shall cease and the Local Planning Authority (LPA) be notified in writing immediately. A Phase 3 remediation and Phase 4 verification report shall be submitted to the LPA for approval. The associated works shall not re-commence until the reports have been approved by the LPA.

REASON

To secure the satisfactory development of the site in terms of human health and the wider environment, in accordance with the National Planning Policy Framework and Doncaster's Local Plan Policy 54 & 55.

06. The development hereby granted shall not be begun until details of the foul, surface water and land drainage systems (based on sustainable drainage principles SuDS) and all related works necessary to drain the site have been submitted to and approved by the Local Planning Authority. These works shall be carried out concurrently with the development and the drainage system shall be operating to the satisfaction of the Local Planning Authority prior to the occupation of the development.

REASON

To ensure that the site is connected to suitable drainage systems and to ensure that full details thereof are approved by the Local Planning Authority before any works begin.

INFORMATIVES

01. **INFORMATIVE**

The developer shall consider incorporating all possible sustainability features into the design of the proposed development.

02. **INFORMATIVE**

But with a full application that may be forthcoming, trees and hedgerows will expect a landscape scheme and this would include:

- Proposed boundary treatments
- Hard landscape including paving/surfacing type, walls, fences
- Planting plan and planting schedule: including common/botanical names, nursery stock specification of trees and shrubs (complying with BS8545, and BS3936: Part 1 / the Horticultural Trades Association National Plant Specification), planting density / numbers of plants for shrubs or hedges, seed mix and sowing densities for grass /wildflowers etc.

03. **INFORMATIVE**

Parking spaces are required to comply with the South Yorkshire Residential Design Guide Space dimensions 4B.1.1.22 – *“Standard parking spaces must be 5 metres by 2.5 metres.*

The driveway should be a hard surface that enables surface run off and the extent shown on a site plan and to comply with 4B.1.1.29. There looks to be a shaded area from the highway footway to the centre of the dwelling, if this is a designated footpath then the driveway access width needs only be 2.75m. However, if there is no footpath shown from the driveway to the dwelling, we would have to insist on the driveway access being 3.3m width to comply with the South Yorkshire Residential Design Guide 4B.1.1.19.

It looks like the adjoining fence abutting the proposed driveway could obstruct visibility, therefore a 2m x 2m visibility splay will be required to comply with 4B.1.1.31.

Dropped kerb informative will also be applied. - Dropped crossing - Applications for a vehicle crossing facility can be carried out by completing the e-form at the following: <https://www.doncaster.gov.uk/doitonline/dropped-kerb>

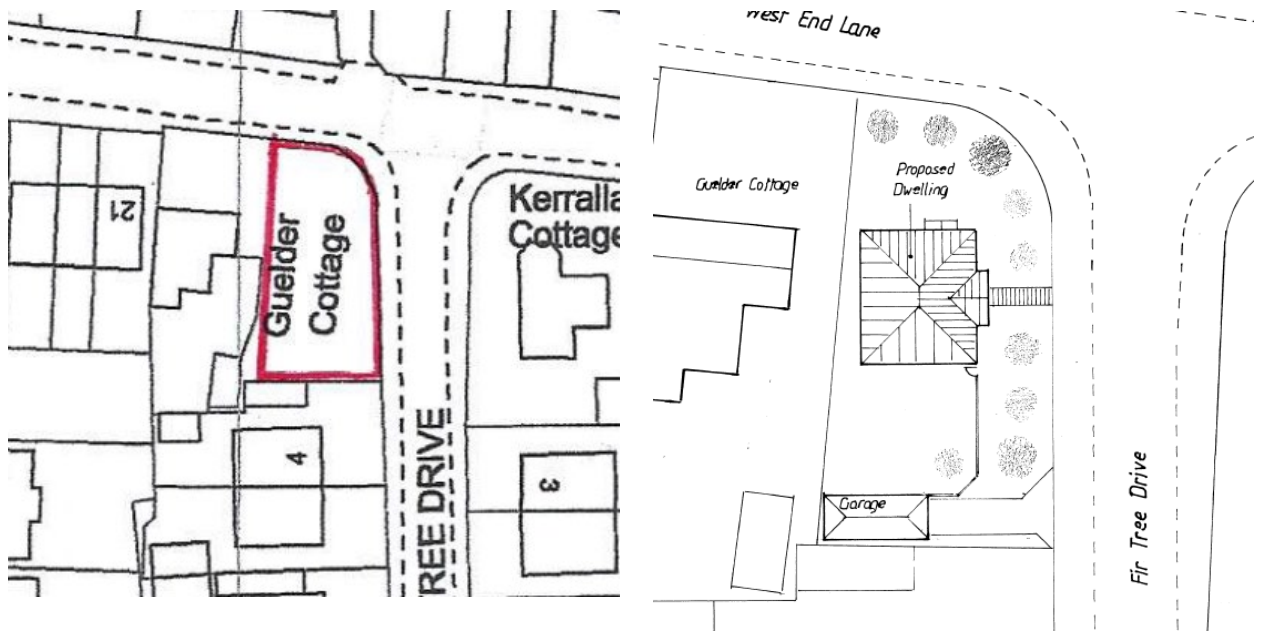
STATEMENT OF COMPLIANCE WITH ARTICLE 35 OF THE TOWN AND COUNTRY DEVELOPMENT MANAGEMENT PROCEDURE ORDER 2015

In dealing with the application, the Local Planning Authority has worked with the applicant to find solutions to the following issues that arose whilst dealing with the planning application:

- Amended application site description to ensure that it accurately reflects the application site;
- Updated location plan to remove the blue line as the adjacent land is no longer in the applicant's ownership.

The above objections, consideration and resulting recommendation have had regard to Article 8 and Article 1 of the First Protocol of the European Convention for Human Rights Act 1998. The recommendation will not interfere with the applicant's and/or objector's right to respect for his private and family life, his home and his correspondence

APPENDIX 1- Proposed Location/ Site Plan



APPENDIX 2 – Photographs of Site History

Photo from 2009 – Google Streetview



Photo from 2012 application file- site had been cleared but still open



Photos from 2015 application file - Fence posts installed



Photo from April 2021 – Google Streetview



Photos taken by Case Officer – 11/2/2022





APPENDIX 3- Public Open Space Comments

Thank you for consulting on this application. From an open space point of view, this is a difficult application to assess. I appreciate this has, in the past, been publically accessible land. I also appreciate there is clear disagreement about the status of this land, and that applications on this site have been refused previously due to open space matters, albeit under a different Local Development Scheme to today (UDP and Core Strategy; now new Local Plan, adopted 2021). I will attempt to set out the position with regards to open space.

The site dates back to the time the adjacent housing scheme was developed. It appears that as part of DC9734/A (1971) that there was a condition (no. 3) requiring that there should be tree or shrub planting on the site “in accordance with a scheme approved by the Local Planning Authority...”

Officers have reviewed the original planning files related to this application, and cannot find an accompanying map from the date of this application specifies where the open space is located. On the maps we have seen, the land in question is left blank – there is nothing to indicate with 100% certainty that this was the open space referred to in the decision notice. We also have no evidence that we can find on the planning file to show this condition was ever discharged. So whilst we *believe* it is highly likely that the site in question was the intended area for tree and shrub planting, as per DC9734/A, and whilst we know that in circa 2010 this land was still a pleasant grassed area with fir trees located on it, we cannot point to any categorical proof of this on our records from the time that this was definitely the open space, nor that it was delivered via discharge of condition 3 of DC9734/A.

As I understand it, such processes at the time were far more informal than they are today and of course, the paper based system then used means it is easier for files to be misplaced or lost, if indeed the files ever existed. It is also possible, looking over information related to application 12/00939/FUL (as stated in the Planning Committee report for that application) that the builder of the adjacent houses went out of business before the site was completed, and that the parish council / local residents took it upon themselves to deliver and maintain this space for the benefit of the public.

We are aware there is some dispute about the ownership. It appears this has been maintained over the years as open space, although it has never been formally owned by DMBC or the Parish Council. Members of the local community have said they have informally maintained it, and the landowners have also said they maintained it. We are unable to comment on this other than to say it clearly has been planted at some point, maintained in the past and that it appears to have been accessible and therefore arguably of recreational and visual amenity value previously.

That said, the matter of ownership appears to have been resolved, rightly or wrongly, depending on your view, by the land registry. The land is in private ownership.

In the absence of any concrete evidence to hand regarding the intended use of the land, as described above, and given the ownership has been determined to be private, we can only judge this based on the facts as we find them today.

Those facts are now as follows:

1. The land is privately owned, as such public access could be considered trespass. A fence has been erected around it which now makes it clear this is not a site for public access. It can therefore not be argued that this land has recreational value because it cannot be used recreationally;
2. The land has been cleared of shrubs and planting. It looks slightly unkempt. What visual amenity once existed has not been eroded.
3. The site is allocated as Residential Policy Area in the Local Plan. It is not identified in the Green Space Audit (2013). That does not preclude it from being determined under Policy 27 of the Local Plan as an undesignated open space, but given points 1 and 2 above, it is difficult to now conclude it can be seen as an open space and therefore trigger the need for this policy to be viewed as a loss of open space – the process for dealing with which is set out in both local and national policy.

In short, if this is considered to be an open space, we have to be clear what open space function it is providing. I do not consider it can be said to be providing an open space function such as those listed under Policy 27 part b, and perceptually, it no longer looks like open space. Because it is privately owned and we cannot show it was the intended open space as per the original application, it is not within our power to insist or enforce that this should therefore be retained and maintained as an open space, because we cannot prove it was intended or delivered as such.

There have been a number of applications to develop this site for residential use in the last ten years which have been refused for reasons related to open space in addition to the current application, as set out below:

12/00939/FUL: refused by committee against officer recommendation due to lack of amenity open space in Norton and development of this existing amenity space would

result in an unnecessary loss of visual amenity. Contrary to (then) NPPF 74; Core Strategy CS17 and UDP RL4(c).

13/02565/FUL: refused due to loss of visual amenity through the loss of open space, and it was not demonstrated that the land is not valued by the local community and that alternative proposals are supported as the applicants did not undertake a local consultation to prove the loss of this unidentified open space was acceptable. Contrary to (then) NPPF 74; Core Strategy CS17; UDP RL4(c) and emerging Policy SP36 from the then draft and later withdrawn Sites and Policies Development Plan Document.

15/00548/FUL: withdrawn.

Site visit photos for these applications show that by May 2012 the site had been cleared of trees and shrubs, and that by March 2015 a fence appears to be being erected around the site. We can assume it has been fenced for a number of years now, and therefore perceptually no longer "open" or public.

In the intervening years, the site was submitted to be considered as a 'Local Green Space' in the Local Plan by the Parish Council. Local Green Spaces are a separate designation that can be made through Local and Neighbourhood Plans which are different to the more common open spaces. These can only be allocated where it is proven the sites are demonstrably special to the local community, and if allocated as such, they are given a status akin to Green Belt in the Local Plan. They do not have to be in public ownership. The Borough Council did consider the site for allocation for this reason, but concluded it did not meet the threshold for significance (Beauty; Historical; Recreation; Tranquillity; Wildlife; or Other). No evidence on its local significance was submitted by the Parish Council. This was not a comment on anything other than the proposal for the site to be allocated very specifically as Local Green Space and is not pertinent to this case.

Since the 2012, 2013 and 2015 applications, there have been some changes related to this site. Most significantly, the land has been fenced off and now has the appearance of scrubland or a development plot. There is a lack of public access available now whereas once it appeared to be part of the public realm and could have arguably had recreational or visual amenity value as an open space. Furthermore, the UDP and Core Strategy have been replaced by the new Local Plan, with a new suite of policies. That said, the same principles do broadly still exist in that undesignated open spaces can be protected and we can ask for a consultation on the loss of these if we deem the space to serve an open space function.

Given the above points, and short of being able to establish the full details of the original 1971 application, I am unable to see how this site can now be said to be an open space, or be of value as an open space, given its ownership, lack of public access, appearance and allocation in the Local Plan. As such, I am of the opinion that Local Plan policy 27 does not apply in this case.

The ownership issues are pertinent but beyond our control. There is nothing we can see that allows us to conclude with absolute certainty that this space was the intended open space of the original application, delivered as such, with the conditions discharged.

Furthermore it is now privately owned and not accessible to members of the public, and does not hold the visual amenity value it once did – nor can we affect this or enforce against it given the ownership and issues establishing the site history. I appreciate the strength of opinion locally on this matter and its history. However, given the above and its allocation in the Local Plan as residential policy area, I do not believe Policy 27 parts b or d (Protecting Open Space and Non Designated Open Space) applies in this case. In short, whilst this could once more clearly be argued to be an open space, it now cannot, and short of someone willing negotiate and purchase the site to re-establish the open nature of it for the community, it is hard to see how this position can now change.