

COMMITTEE REPORT

APPLICATION DETAILS

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| APPLICATION No: | 1/2008/0884 |
| FULL APPLICATION DESCRIPTION: | Construction of 25 detached houses, two apartment blocks (each containing 30 apartments), cricket clubhouse, cricket practise nets and cricket pitch, new vehicular access, restoration of Spa Well and Spa Well Meadows including public access. (Outline Application) |
| NAME OF APPLICANT: | Shotley Bridge Cricket Club and Anvil Homes |
| ADDRESS: | Shotley Bridge Cricket Club and Spa Well Meadows Shotley Bridge County Durham |
| ELECTORAL DIVISION: | Benfieldside Andrew Farnie Development Management Northern Area Team Leader |
| CASE OFFICER: | Telephone: 03000 264870 andrew.farnie@durham.gov.uk |

BACKGROUND

PURPOSE OF THE REPORT

1. On 19 December 2008 the former Derwentside District Council received a planning application seeking outline planning permission to develop land at Shotley Bridge Cricket Club and Spa Well Meadows for the construction of 25 detached houses, two apartment blocks (each containing 30 apartments), cricket clubhouse and vehicular access, package sewage treatment plant and restoration of spa well and spa well grounds to include for public access. Details of the means of access, layout and massing were submitted with the application and the appearance of the buildings and landscaping were reserved for subsequent approval. The application also sought permission for the change of use to a cricket pitch.
2. The proposal was considered by the former Derwentside District Council on 19 March 2009 when it was resolved that members be minded to approve the application, contrary to the officer recommendation of refusal, subject to it being advertised as a departure, referred to Government Office North East and being reported to the committee of the new authority for final determination, including the above mentioned conditions being achieved. The above 'mentioned conditions' was a reference to the the need to resolve an objection by the Environment Agency relating to flooding and highway signage. The application was subsequently advertised as a departure to the Development Plan and referred to Government Office North East who decided against calling in the

application for consideration by the Secretary of State. In addition, the Environment Agency withdrew their objection. By the time this happened the County Durham Unitary Authority had been established and as the successor authority final determination rests with this Council.

3. Following the minded to approve decision by the former Derwentside District Council representations were received from internal consultees expressing concern at the approach to the decision and the potential impact on wildlife. This brought into question the validity of the decision and whether members at the time had sufficient information in which to undertake their statutory duty as required by the (then) Habitats Regulations.
 4. Local Planning Authorities are required by law to have regard to the Habitats Directive when considering the impact of applications on biodiversity, which includes the impact on protected species. It has since transpired that the report presented to the meeting on 19 March 2009 failed to supply adequate information to enable members to reach a proper conclusion on those issues.
 5. The applicants decided to submit further ecological information rather than submit a fresh application. After a lengthy debate regarding the nature of the survey work that was required an independent review of the ecological reports was undertaken in July 2012 the aim of which was to identify learning points and recommendations to progress the application. This independent Ecologist was appointed in April 2012 and in brief the review concluded that:
 - *The baseline understanding of the sites ecology was still incomplete and that the Council did not have the information that it needed to undertake their statutory roles imposed by ecological statutes.*
 - *The survey work was inadequate and did not appear to follow nationally accepted surveys standards.*
 - *Additional guidance from National England and the Council would have benefited the applicant in understanding what was necessary in order to present an application that was in a position to be determined.*
 - *Ecological impacts were not clearly defined making it difficult to determine appropriate mitigation.*
 6. The review then went on to recommend:
 - *A partnership approach should be adopted to steer the further ecological investigations that are needed.*
 - *Further surveys were needed in respect of:*
 - *Otter*
 - *Bat roosts (Spa Cottages)*
 - *Bat roosts (Trees)*
 - *Badger bait marking survey and impact assessment*
 - *Other groups – Reptiles and birds.*
 - *Bats (Commuting)*
- Consideration should be given to an alternative access as its route is through a Local Wildlife Site resulting in the loss of many trees and is very close to a subsidiary badger sett.*
7. Subsequent to the review being undertaken the applicant and the Council took the recommendations and agreed to take them forward and hence the applicant commissioned a number of detailed ecological reports for consideration by the

Council. These detailed reports were fully assessed by the Council's Senior Ecologist who was satisfied with the quality of the survey work undertaken and that the Council had sufficient information to make a properly informed decision. This whole process took approximately 2 years due to the need to complete the survey work in the correct season. The views of the Council's Ecologist on the application is reported below.

8. For the avoidance of doubt the Derwentside decision is no longer relevant to the determination of this application. This is because that decision is now considered to be flawed owing to the lack of crucial information. The application needs to be considered afresh with all material considerations properly assessed and a new decision made.
9. The applicants have therefore provided a number of documents and amended plans so that the proposal can be properly assessed against the NPPF and the Development Plan and the Council's statutory obligations, with sufficient knowledge of its likely significant environmental effects. This has necessitated a fresh round of consultations with statutory and non-statutory consultees as well as local residents and those parties who had previously commented on the application. The description of the proposal has also been updated and the application is now entirely in the form of an outline application whereas previously it took the form of hybrid application seeking outline consent in part for the road, residential elements, restoration works and clubhouse and full planning permission for the change of use to a cricket pitch.
10. The application is being presented to the County Planning Committee as it represents major development with a site of more than 4 hectares.

DESCRIPTION OF THE SITE AND PROPOSALS

11. The site – The application site measures approximately 5.5 hectares and is located to the north of Shotley Bridge. The site lies between the river Derwent and the A694 road, it narrows towards its southern boundary and Snows Green Burn separates the site from residential development to the south. To the north of the site there is woodland and the River Derwent.
12. Shotley Bridge Cricket Club currently occupies the southern part of the site and this includes the cricket pitch, practice nets and a small single storey cricket club building to the southernmost part of the site. The northern part of the site is meadow land and is grazed by horses.
13. The site consists of mainly flat grassland, which is directly adjacent to the river and surrounded by woodland however the eastern edge of the site rises steeply towards the A694. The steep slope is densely wooded and this woodland extends along the whole eastern edge of the site. In addition the north and west boundaries adjacent to the River Derwent are also heavily wooded.
14. In the middle of the site there are two tenanted cottages which are grade II Listed Buildings and are excluded from the application site. Adjacent to the cottages is the original Spa Well which is also a Grade II Listed Building and to the north is the Spa Well Meadow.

15. The site is currently accessed by a single track road, the Spa Drive, which leads from the A694 down to the site. This road also provides access to five residential properties.
16. The site lies within the Shotley Bridge Conservation Area which was first designated in 1975 and reviewed as recently as 2009. A large part of the site is designated as a Local Wildlife Site known as West Law and Spa Well Paddock. Of particular significance is an area of Ancient Woodland which mostly runs along the eastern edge of the site. The site also falls within the area designated as an Area of High Landscape Value by virtue of policy EN6 of the Derwentside District Local Plan.
17. **The Proposal** – Outline planning permission is being sought for the erection of twenty five dwellings, two blocks of sheltered accommodation apartments (each containing thirty residential units) for people aged 55 and over, a new vehicular access road into the site from the A694, the erection of a new cricket clubhouse and the formation of a new cricket pitch. The proposal also entails the installation of cricket practice nets, the restoration of Spa Well and Spa Well Meadows including public access. Details of the means of access, layout and scale have been submitted for approval with landscaping and design reserved for subsequent approval.
18. In order to take into account the change in levels a curved access road would be provided into the site from the A694 which would necessitate the felling of a large number of trees. The access road would lead to a 'T' junction in the middle of the site where the restored Spa Well and a proposed pond would sit within a landscaped setting. Following the construction of the new access road the existing single track road would only give vehicular access to the five properties located along the road and allows pedestrian access to the south of the residential site.
19. To the west of the 'T' junction and to the north east of the tenanted cottages there would be the new cricket clubhouse which would be a two storey cross shaped building. The clubhouse would include purpose built changing facilities for teams and umpires, storage rooms, kitchen, bar and function rooms. Details of the design of the building have been reserved for subsequent approval.
20. A spur to the rear of the clubhouse would give vehicular access to the rear of the clubhouse and the proposed parking area directly to the north of the cottages. There would be 88 car parking spaces with scope to increase if required. Cricket practise nets would be erected between the car park and the cottages to the south.
21. The cricket pitch would be located to the north east of the proposed clubhouse. Levelling works would be required, drainage installed and grassed in order to provide a purpose built well drained pitch.
22. The northern section of the site, which includes part of the old Spa Meadows, would be restored to create an open parkland area that would be accessible to members of the public. Footpaths would be created by mowing through the site. The proposals also include additional tree planting along the edges of the proposed footpaths.

23. To the south east of the 'T' junction there would be the housing and sheltered accommodation blocks. It is anticipated that the proposed twenty five dwellings would be 'executive' style housing aimed at families. Details have been submitted of the layout of the houses however details of their design are reserved for subsequent approval. It has been indicated that a mixed palette of materials would be used including natural stone and slate.

24. The submitted layout shows that two buildings are proposed to provide shelter accommodation would be t-shaped and would include one and two bedroomed units. Principal elevations of the buildings would face towards the proposed pond in the middle of the site. These buildings would be a mix of two and three storeys high. Car parking associated with these apartments would be located between the blocks. As the application is in outline the details of the scale and layout have been submitted for approval but the detailed design is reserved.

25. There are three Spa wells within the site. The main Grade II Listed structure would be cleared out and an open roof structure placed over the top of it to reflect the thatched structure that was originally constructed over it. The surrounding area would be landscaped with both hard and soft landscaping to create an amenity space. The original Spa east of the cricket pitch would also be refurbished and accessed via a path that runs along the eastern side of the cricket pitch. The third Spa would be covered by the edge of the proposed cricket pitch and its position would be marked.

26. The access road and cricket pitch would be constructed in the first phase of the development, then the clubhouse would be constructed, and the final phase of the development would be the houses and sheltered accommodation.

27. The application when it was first submitted was accompanied by a range of documents including:

An Environmental Statement
Flood Risk Assessment
Landscape & Visual Impact assessment
Protected Species Survey
Arboricultural Impact Assessment
Archaeological Assessment
Transport Statement

28. More recently the following documents have been submitted:

- A draft S106 Unilateral Agreement (September 2010) providing for a commuted sum of £300 per dwelling in lieu of on-site provision of amenity open space/play space and a contribution towards a speed reduction sign on the highway.
- Badger Survey April 2014
- Otter Survey January 2015
- Bat Survey April 2014
- Woodland Habitat Maintenance and Management Plan April 2014
- Grassland Mitigation Plan
- Sustainability Statement
- Heritage Statement
- Business Plan
- Statements of benefits

- Viability Appraisal (Confidential owing to commercially sensitive information.)
- Statement of Grant Availability

PLANNING POLICY

NATIONAL POLICY

National Planning Policy Framework, March 2012

29. In March 2012 the Government consolidated all planning policy statements, circulars and guidance into a single policy statement, termed the draft National Planning Policy Framework (NPPF). The overriding message from the Framework is that planning authorities should plan positively for new development, and approve all individual proposals wherever possible. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant. There is a presumption in favour of sustainable development. It requires local planning authorities to approach development management decisions positively, utilising twelve ‘core principles’ that should underpin both plan-making and decision taking, these being; empowering local people to shape their surroundings, proactively drive and support economic development, ensure a high standard of design, respect existing roles and character, support a low carbon future, conserve the natural environment, encourage re-use of previously developed land, promote mixed use developments, conserve heritage assets, manage future patterns of growth and take account of and support local strategies relating to health, social and cultural well-being.
30. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve ‘core planning principles’. The following elements of the NPPF are considered relevant to this proposal.
31. *Part 1 – Building a strong, competitive economy.* The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country’s inherent strengths, and to meeting the twin challenges of global competition and a low carbon future.
32. *Part 4 – Promoting Sustainable Transport.* States that the transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel. It is recognised that different policies and measures will be required in different communities and opportunities to maximize sustainable transport solutions which will vary from urban to rural areas. Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion.
33. *Part 6 – Delivering a Wide Choice of High Quality Homes.* Housing applications should be considered in the context of a presumption in favour of sustainable development. Local Planning Authorities should seek to deliver a wide choice of high quality homes, widen opportunities for home ownership and create inclusive and mixed communities. To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities, for example where development may support services and facilities in a nearby village.

34. *Part 7 – Requiring Good Design.* The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning. Planning policies and decisions must aim to ensure developments; function well and add to the overall quality of an area over the lifetime of the development, establish a strong sense of place, create and sustain an appropriate mix of uses, respond to local character and history, create safe and accessible environments and be visually attractive.
35. *Part 8 – Promoting Healthy Communities.* Recognises the part the planning system can play in facilitating social interaction and creating healthy and inclusive communities. This includes accessible developments and active street frontages, and the development and modernisation of shops, facilities and services.
36. *Part 10 - Meeting the Challenge of Climate Change, Flooding and Coastal Change-* Planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy.
37. *Part 11 – Conserving and Enhancing the Natural Environment.* The planning system should contribute to, and enhance the natural environment by; protecting and enhancing valued landscapes, recognizing the benefits of ecosystem services, minimising impacts on biodiversity and providing net gains in biodiversity where possible, preventing new and existing development being put at risk from unacceptable levels of soil, air, water or noise pollution or land instability, and remediating contaminated and unstable land
38. NPPF Paragraph 7. Achieving Sustainable Development:

There are three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:

an economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;

a social role – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community’s needs and support its health, social and cultural well-being; and

an environmental role – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.

39. NPPF Paragraph 14 - The presumption in favour of sustainable development

For decision-taking this means:

- approving development proposals that accord with the development plan without delay; and
- where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or specific policies in this framework indicate development should be restricted.

40. NPPF Paragraph 18. (Relevant parts)

When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:

- if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;
- opportunities to incorporate biodiversity in and around developments should be encouraged;
- planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of the development in that location clearly outweigh the loss.

41. The Government has recently cancelled a number of planning practice guidance notes, circulars and other guidance documents and replaced them with **National Planning Practice Guidance (NPPG)**. The NPPG contains guidance on a number of issues including conserving and enhancing the natural environment.

<http://planningguidance.planningportal.gov.uk/>

LOCAL PLAN POLICY:

Derwentside District Local Plan (1997)

42. **Policy GDP1** – General Development Principles – outlines the requirements that new development proposals should meet. The policy states that amongst other things the Council will expect the following measures to be incorporated within the scheme. One of these measures is Criterion D which states that ‘protection of important national or local wildlife habitats , no adverse effects upon, or satisfactory safeguards for, species protected by the Wildlife and Countryside Act 1981, no harmful impacts on the ecology of the district and promotion of public access to, and the management and enhancement of, identified nature conservation sites.’

43. **Policy EN1** – Protecting the countryside.

44. **Policy EN2** – Preventing Urban Sprawl
45. **Policy EN6** – Development within Areas of High Landscape Value
46. **Policy EN10** – Protection of Ancient Woodland.
47. **Policy EN11** – Trees and Development
48. **Policy EN14** – Demolition in Conservation Areas
49. **Policy EN19** – Protection of sites and settings of Ancient Monuments and Archaeological features
50. **Policy HO5** – Development on Small Sites
51. **Policy TR2** – Development and Highway safety
52. **Policy EN22** -Protection of Sites of Nature Conservation Importance
53. **Policy EN23** – Wildlife Corridors – when considering development proposals regard will be had to the need to maintain the nature conservation value and integrity of wildlife corridors and wherever possible development proposals which impinge upon a wildlife corridor should include compensatory measures to enhance or restore the nature conservation interests of the area.

The above represents a summary of those policies considered relevant. The full text of the saved policies can be accessed at:

[HTTP://WWW.DURHAM.GOV.UK/MEDIA/3397/DERWENTSIDE-LOCAL-PLAN-SAVED-POLICIES/PDF/DERWENTSIDELocalPlansavedPolicies.pdf](http://www.durham.gov.uk/media/3397/derwentside-local-plan-saved-policies/pdf/derwentsidelocalplansavedpolicies.pdf)

EMERGING POLICY:

The County Durham Plan, Submission Draft Local Plan, 2014

54. The County Durham Plan was submitted for Examination in Public in April 2014 and stage 1 of that Examination has been concluded. Paragraph 216 of the NPPF says that decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. However, the Inspector's Interim Report following stage 1 of the Examination process, dated 18 February 2015, concludes that the CDP is not sound in its current form. In light of this it is considered that no weight can be afforded to the CDP at the present time.

STATUTORY RESPONSES:

55. *National Planning Casework Unit* – Acknowledge receipt of Environmental Statement additional information and have no further comment to make.
56. *Highway Authority*– Raises no objection to the scheme. The submitted drawings are generally acceptable from the highways perspective. A standard T junction is now shown at the first junction within the site and the access road has been widened to 6.0m around the hairpin bend and the stepped footway has been removed from the plans. Full engineering details of the retaining wall will be required but, otherwise, the submitted scheme appears to be acceptable in highway terms.
57. The Transport Statement, accompanying the application is in excess of six years old. However, the latest surveys in this area show that traffic flows on the A694 are little changed and for this reason I do not consider that a new Transport Statement will be required. Likewise public transport provision has little changed.
58. Comprehensive comments regarding this application have been made over the past few years and all remain valid, particularly concerns regarding the use of the private, unmade, and unlit Spa Drive as an alternative pedestrian access to the site.
59. I have a number of concerns regarding the construction of the proposed access road and given the huge level differences across the site, the proposed access road will be challenging to construct. It is however theoretically possible to engineer an access into this site. This is almost always the case. Given an unlimited budget and enough engineering expertise, any road and footpath can be engineered.
60. Because of the topography, the road varies from being as much as 3.8m above existing ground level, to being over 6.4m below existing ground level. At the deepest point of the excavation, the retaining wall will be higher than a street lighting column, and for 70+m (around the hairpin bend) the cutting will be deeper than 4.0m.
61. It has been suggested that a timber-crib retaining could be used. However, our structures team will not accept a timber-crib wall on a highway retaining structure.
62. The car parking standards have been updated since this application was first submitted and it is likely that some additional visitor spaces will be required within the residential streets. The level of parking proposed for the flats would need to be 78 spaces, more than double the level shown. From the information submitted it appears that these properties will be restricted to occupation by over 55's. Provided that this restriction can, and will, be controlled by a condition or a legal agreement I will be prepared to accept some reduction below the 78 space requirement, possibly down to 39 spaces. Note, however, that this is also on the basis that the flats are all one or two bedroom properties and that they are all rental properties. Larger properties, or properties for sale, will require additional parking provision.

63. *Natural England* - Based upon the information provided, Natural England advises the Council that the proposal is unlikely to affect any statutorily protected sites or landscapes.
64. Natural England has published Standing Advice on protected species. The Standing Advice includes a habitat decision tree which provides advice to planners on deciding if there is a 'reasonable likelihood' of protected species being present. It also provides detailed advice on the protected species most often affected by development, including flow charts for individual species to enable an assessment to be made of a protected species survey and mitigation strategy. As Standing Advice it is a material consideration in the determination of applications in the same way as any individual response received from Natural England following consultation.
65. Local sites - If the proposal site is on or adjacent to a local site, e.g. Local Wildlife Site, Regionally Important Geological/Geomorphological Site (RIGS) or Local Nature Reserve (LNR) the authority should ensure it has sufficient information to fully understand the impact of the proposal on the local site before it determines the application.
66. Biodiversity enhancements - This application may provide opportunities to incorporate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes. The authority should consider securing measures to enhance the biodiversity of the site from the applicant, if it is minded to grant permission for this application. This is in accordance with Paragraph 118 of the National Planning Policy Framework. Additionally, we would draw your attention to Section 40 of the Natural Environment and Rural Communities Act (2006) which states that '*Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity*'. Section 40(3) of the same Act also states that '*conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat*'.
67. Landscape enhancements - This application may provide opportunities to enhance the character and local distinctiveness of the surrounding natural and built environment; use natural resources more sustainably; and bring benefits for the local community, for example through green space provision and access to and contact with nature.
68. *English Heritage* - Commented as follows on the original Heritage Statement: The submitted statement strangely includes a section entitled the *Significance of Identified Heritage Assets* but doesn't include any reference to their significance. The statement should explain why the assets are important, what is important about them and how the development would affect their importance. There is no reference at all to the Conservation Area: a designated heritage asset. Paragraph 2.8 concludes that the development would have a positive impact on the assets but there is no explanation of how the impact has been assessed or the conclusion reached.
69. The definition of setting is "the surroundings in which a heritage asset is experienced" (NPPF Glossary). The submitted statement appears to be making the assumption that setting is equal to where the assets can be seen from by the general public. As such, the statement doesn't fully assess the impact of the

development upon the setting of the assets nor, whilst setting itself is not an asset, upon the significance of the assets. In summary, it falls a long way short of what it should include in order to help the Local Planning Authority to assess the impact of the development.

70. I still recommend that the application is refused on the grounds that it does not comply with paragraph 128 of the NPPF.

71. No comments have been received to date in respect of an updated Heritage Statement.

72. *Sport England* – Originally objected to the proposal but following negotiation between the applicant, the England Cricket Board (ECB) and Sport England it has been agreed to;

- Alter the application so that the cricket pitch and pavilion are included as outline and the details shown on the proposed site are indicative only
- Show on the above plan a position for the relocated practice nets (which were funded by the ECB)

73. These revisions allow the specification for the pitch and pavilion to be conditioned to tie in with the ECB's design guidance rather be agreed at this stage, and given the applicant's agreement that they will meet the desired standard means that Sport England is now satisfied that at this stage the proposal is capable of meeting exception E4. On this basis Sport England withdrew their objection subject to conditions being imposed to ensure that the cricket pitch and clubhouse are designed in accordance with the ECB guidelines and the existing outdoor practice nets are relocated in accordance with the site layout plan.

74. *Environment Agency* - *We are prepared to accept (although we are not entirely happy) with the proposed buffer zone of 10m to the garden boundaries on the main River Derwent and 5m for the minor tributaries, mainly because of the extra information provided for otters.*

75. *However, we will accept this only if the following are secured :*

- *That the Mitigation and Recommendations for otters as listed in Section E of the Otter Survey for Shotley Bridge Cricket Ground, Consett of Report No 1 Final January 2015 by E3 Ecology Ltd is implemented and strictly adhered to.*
- *Means of delivery for this Mitigation and Recommendation must be identified, resourced and committed.*
- *The Otter Method Statement provided in Section F Appendix 1 of the Otter Survey for Shotley Bridge Cricket Ground, Consett of Report No 1 Final January 2015 by E3 Ecology Ltd is followed by all operatives working on the site and that compliance is administered.*
- *Buffer zones must remain free of encroachment and allowed to function as true riparian habitats and not as an extension to the development.*

76. Development that encroaches on the River Derwent and its tributaries has a potentially severe impact on their ecological value, for example, by disrupting the

natural diurnal rhythms of a range of wildlife using and inhabiting the river and its corridor habitat.

77. Furthermore, the proposed development will be acceptable if a planning condition is included requiring a scheme to be agreed to ensure that the otter population found on site is protected.

78. **Flood Risk** - We were previously consulted in 2009 on this application and withdrew our objection when the Flood Risk Assessment (FRA), report number MD027/rep/001 Rev E, was submitted. This FRA has been submitted again for this application, and, although it is out of date and legislation has changed, the flood levels are considered appropriate for this site. We, therefore, have no objection in principle to the application as submitted provided that the **previous planning conditions** requested by us in our letter dated 12 June 2009 are included in the event that planning permission is granted.

79. *Northumbrian Water* - The planning application does not provide sufficient detail with regards to the management of foul water from the development for NWL to be able to assess our capacity to treat the flows from the development. We would therefore request the following condition:

CONDITION: Development shall not commence until a detailed scheme for the disposal of foul water from the development hereby approved has been submitted to and approved in writing by the Local Planning Authority in consultation with Northumbrian Water. Thereafter the development shall take place in accordance with the approved details.

REASON: To prevent the increased risk of flooding from any sources in accordance with the NPPF.

INTERNAL CONSULTEE RESPONSES:

80. *Spatial Policy* - *(Please note that these comments were made prior to the publication of the Inspectors Interim Report on 18 February 2015 and as such makes reference to the emerging County Durham Plan which at present can be afforded no weight)*

81. The site is outside of the main built up settlement area of Shotley Bridge. As such the site is regarded as being within the open countryside and Policies EN1 and EN2, as well as many of the aims of GDP1, are relevant to the proposal. These Policies seek to prevent development from encroaching outside of existing settlement limits so as to protect the openness of the countryside, as well as natural and historic features especially where they are of notable quality.

82. Where development overlaps with areas of landscape or biodiversity designations there is a presumption that development will only be permitted where it pays particular attention to the particular qualities of the area (EN6), and in terms of the biodiversity value of the site development should not result in significant harm to, or loss of, the asset (EN10 and EN22).

83. While some of the policy impacts could be mitigated, taken as a whole the scheme conflicts with many of the general aims of the Development Plan.

84. The County Durham Plan will replace district LPs and set down the planning strategy for the whole county. The Plan has progressed through the first stage of the Examination in Public (EIP), but at this stage, and prior to the Inspector's Interim Report limited weight can be applied to the Policies of the Plan. Site selection will be covered in stage two of the EIP and will consider the site allocations set down in the Plan.
85. As a main town Consett is identified as a suitable location for significant housing development to meet growth forecasts for the County. While the site has been assessed as green (potentially suitable) in the Strategic Housing Land Availability Assessment, this related to the planning status attached to the site (i.e. 'minded to approve' status) and was not a reflection of the overall performance of the site. While SHLAAs are a useful tool for providing a general overview of sites, they are not an allocations document nor are they the sole measure for selecting sites for allocation or development.
86. At the heart of the NPPF is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking. In essence this sets down a positive approach for evaluating schemes i.e. development should be approved where it is sustainable (and where it does not conflict with the Development Plan). As the Development Plan Policies can be afforded some weight in the planning balance I am of the view that overall the scheme would conflict with this element of the NPPF.
87. When tested against the Framework as a whole the scheme offers some benefits, mainly in the form of delivering new housing adjacent to Consett main town, which is regarded as suitable for significant residential growth. The scheme would also deliver a new cricket facility and restoration of the Spa Well which must also be factored into the balance.
88. On the other hand the scheme presents conflicts with the Framework, which sets down a presumption for directing development to brownfield sites in preference to greenfield, for instance, as well as ensuring development achieves net gains in terms of biodiversity. The key objectives of para 55 seek to ensure development is located where it will help to maintain rural communities. Opportunities are limited in this respect for this site, and as such development in the countryside should be avoided unless there are special circumstances. This scheme does not accord with the aims or special circumstances listed under para 55. In terms of location the scheme therefore conflicts with the key objectives of the Framework.
89. **Whether the site is needed now to secure a 5 year housing land supply –**
The NPPF sets out the Government's objective of ensuring that the planning system delivers a flexible, responsive supply of land. The NPPF requires Local Planning Authorities to maintain a five year supply of deliverable sites (against housing requirements); however there is also an additional buffer of 5% to ensure choice and competition in the market for land.
90. The ability of the Council to demonstrate sufficient specific deliverable sites to deliver a rolling 5-year supply of housing is a material planning consideration to the determination of any forthcoming application on the sites. The Council maintain that a 5 year supply plus 20% buffer can be demonstrated for County Durham (i.e. 5.11 years using the preferred methodology). Nevertheless this matter was discussed at the Examination in Public and a variety of scenarios

were tested. The HBF/development industry favour a different approach including a blanket 10% reduction which under the worst case scenario would be reduce the supply to 4.67 years, including the 20% buffer. It is anticipated that this issue will be clarified in the Inspector's Interim Report for the EIP, however as things stand it is considered that relevant policies for the supply of housing are considered to be up to date, reducing the need to approve this site in order to ensure sufficient housing supply in accordance with the NPPF.

91. **Other material considerations** - Applications in advance of the adoption of the CDP must address the affordable housing, open and recreational space and infrastructure requirements for the site - all of which are based upon an up to date evidence base.
92. The schemes would potentially provide financial benefits for the Council in the form of New Homes Bonus and CIL and where these are directly related to the application, the Localism Act states that they can be considered as material considerations in support of the development.
93. The starting point for determining the acceptability of planning proposals is the Development Plan (i.e. the Derwentside LP). On balance it is my view that the submitted scheme conflicts with the general aims of the LP. These conflicts cannot be afforded full weight in the planning balance, however, as the relevant LP policies do not fully align with the NPPF.
94. The NPPF states that Local Planning Authorities should approve applications that accord with the Framework, unless there are material issues that suggest otherwise. The Framework promotes sustainable development which is encapsulated through the key economic, environmental and social measures of sustainability. While the scheme offers some benefits in NPPF terms I am of the view that on balance the conflicts with the general aims of the Framework outweigh these benefits.
95. The site has not been allocated in the County Durham Plan as it was discounted from the process owing to its planning status at the time. Considering the scheme against the development management policies of the Plan, it is my view that on balance it presents conflicts with the aims of the Plan. It is located outside of the built up extent of the settlement in the open countryside and would lead to significant impacts in terms of landscape and ecology, as well as in terms of the openness of the site when the intended Green Belt designation is taken into account.
96. Taken as a whole, in policy terms, the benefits of the scheme do not override the disbenefits when measured against the Development Plan and the Framework.
97. *Sustainability Officer* - The site is close to the habitat of protected species therefore advice should be sought from the Ecology Team as to whether mitigation can be achieved or not. The site is within 200m distance of Panshield wood and within 500m of Westlaw wood and may increase levels of local recreational pressure.
98. The site is within a Landscape Conservation Area. Development of the site will incur some adverse residual landscape and visual impacts and will also impact on a landscape designation.

99. Much of the site is flood-zone 2 or 3 and should be accompanied by a flood risk assessment and SuDS incorporated as appropriate.
100. A number of HER assets on site; former Shotley Spa saloon and bath house post medieval. Survey needed. It is noted from the application that the assets associated with the application will be protected and may be enhanced.
101. Loss of grade 3 soil cannot be mitigated for. Incorporation of greenspace should be a priority.
102. The mitigation proposed by the applicant, will ultimately improve various aspects of the sustainability determinants used in the assessment, most notably the flood assessment. However, there remain significant concerns and objections from officers over ecology, heritage, Landscape and trees.
103. The applicant provides evidence that because a site with a lower sustainability score in the SHLAA, has been allocated, this means that this site should also be classed as sustainable. I disagree with this assertion as there are always individual issues that can affect whether or not a site goes forward to be allocated. In this case the site quoted (Lambton Park), has significant benefits which overrode other concerns.
104. The general approach to construction, in terms of a fabric first approach is accepted; however the applicant will also be aware that the Council expects this scheme to improve upon Part L 2013. Furthermore specific information pertaining to CO2 emissions will also be expected.
105. I would therefore conclude that the site is categorised as 'less' sustainable, however more significantly there remain significant adverse issues which mean that the site would **not** meet the presumption in favour of sustainable development. Should the applicant provide evidence that allays the concerns from specialist colleagues, I would review this assertion.
106. *Design & Historic Environment* – In order to consider the application further the applicant should consider the impact on the Conservation Area. In order to do this they should assess the character of the Conservation Area, the significance of the site in relation to the conservation area and what positive or negative attributes it brings to the Conservation Area. However, notwithstanding the gaps of information within the Heritage Statement given the potential extent of harm as identified previously to both the setting of the designated assets and the conservation area, this harm could probably be considered as substantial. The applicant therefore needs to demonstrate that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss.
107. *Landscape* - The site is within an Area of High Landscape Value and the Shotley Bridge Conservation Area. The County Durham Landscape Strategy is Conserve and Enhance for the southern part of the site and Conserve and Restore for the north and east of the site. There are areas of ancient woodland on the site, particularly the band to the west of the A694, through which it is proposed to cut a swathe to create the access road. I cannot see how the proposed development is reconcilable with any of the policies for the designations listed above.
108. The Landscape and Visual Impact Assessment (LVIA) states that the landscape context of the proposed development has a relatively high capacity to absorb the

development without significantly adverse impacts on the landscape character of its context. I do not accept this, or the later assertion that the development adjacent to the River Derwent to the south of this site demonstrates the successful integration of a residential development into the riparian landscape. It is true that the site is generally only visible at closer distances, however the character of the haugh land is essentially that of a flat flood plain bordered by a band of riparian trees on the river side and by a wooded bank on the other. This would be destroyed by filling the flat land with houses and roads. Its character would become completely different - suburban rather than rural.

109. It is apparent from the Tree Report that a large number of trees are to be removed under these proposals and that, to quote the report, "...these proposals will therefore have a major negative effect at local level." It is also apparent from the conflicts between existing trees and the proposed layout that the Tree Survey was not taken into consideration when the layout was being determined. No effort appears to have been made to accommodate existing trees within the layout in such a way as to avoid conflicts with new buildings. This is contrary to the recommendations of BS5837:2012 'Trees in relation to design, demolition and construction' and will result in a more strongly negative effect on the landscape than is necessary.
110. While a radical reworking of the layout could save several of the important mature trees on the main part of the site, the access road will result in the loss of a wide band through the roadside ancient woodland. I am sceptical that the major engineering work required to construct the access road up the steep slope to the A 694 will leave anything like the number of trees within its loops as are shown in the tree report. I expect the loss of trees in this area to open up views into the site below, though a section through the site would help to clarify this. The proposed replanting could, after many years, fill the visual gap further down the slope, however the requirement for a visibility splay will result in the loss of some of the best mature specimens in this area, and the visual damage will be permanent.
111. The LVIA makes a number of references to the management of the landscape, implying that it's present, relatively unmanaged, state is undesirable, and that the proposed development will benefit the landscape through ensuring its long term management. Firstly, the character of the landscape is due, in part, to its lightly managed state. This should not necessarily be seen as a negative. Secondly, the frequent incursions of people and their pets into ancient woodland generally have a marked negative effect on both the wildlife and landscape qualities of the woodland.
112. The existing Cricket Ground is generally much more visible from the PRow on the opposite side of the river than is suggested by LVIA. Trees such as ash and oak, which form a significant proportion of those on the river bank, are without leaves for more than six months of the year.
113. For topographical reasons the proposed development would be more visually intrusive than the existing recent development closer to the centre of Shotley Bridge. There is a significant likelihood that the proposed development would rise above the skyline when viewed from the PRow.
114. I am concerned at the visual effect of the proximity of the proposed development to the river. It will give the immediate impression of an urban development which

would be particularly stark when contrasted with the view across arable farmland leading to the wooded bank above the flood plain.

115. The LVIA summarises the Landscape Effects of the proposals as being moderate during the construction period and slight to moderate in the long term. I completely disagree with this. Changing from haugh land to housing estate is a change of the highest significance for the landscape character and is at odds with Durham County Council's Landscape Strategy for the site. The LVIA underestimates the significance of the visual effects, which I would put at moderate to substantially negative.
116. I oppose this application because of its conflict with policy, and because of its effects on the landscape character and visual amenity of the area.
117. *Ecology* - The Council's Senior Ecologist has undertaken a detailed assessment of the various reports and surveys and has provided a comprehensive response the contents of which are summarised below.
118. The ecological reports and statements provided by the applicant allude to a net positive change in biodiversity resulting from development and that this should be given some weight through the planning system. The contention that there will be net gain or even maintenance of the biodiversity resource at the site is not supported by ecological survey work, the nature of the direct and indirect impacts or the mitigation proposals.
119. The development will have a significant long term impacts on badgers as well as ancient woodland and a Local Wildlife Site. In addition there are negative impacts on otters and bats, both European Protected Species. All these factors mean that development on the site cannot be regarded as maintaining or enhancing the biodiversity interest. The development will result in a net loss of biodiversity and this is contrary to the NPPF.
120. **Ancient Woodland** - The development includes the direct loss of ancient woodland from the construction of the access road and indirect impacts as a result of the adjacent housing development. All types of ancient woodland both Ancient Semi-Natural Woodland and Planted Ancient Woodland are regarded by Natural England as having the same protection within the National Planning Policy Framework (NPPF).
121. The National Planning Policy Framework in para 118 states that "planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland...unless the need for, and benefits of, the development in that location clearly outweigh the loss".
122. The document 'Keepers of time: A statement of policy for England's Ancient and Native Woodland' produced by DEFRA and The Forestry Commission makes six policy statements one of which is "The existing area of ancient woodland should be maintained and there should be a net increase in the area of native woodland". The permanent loss of the ancient woodland runs contrary to the protection afforded within the NPPF and Government policy on ancient woodland.

123. Alongside the direct losses are indirect impacts from the adjacent development. The proposed development will increase recreational pressure and the risks of increased predation and encroachment. The standard mitigation for these impacts, detailed in the Natural England Standing Advice, is a minimum 15m buffer zone from the edge of development (excluding gardens) to the boundary of the ancient woodland. This buffer zone is not provided for within this development and so the development fails to provide adequate mitigation and so the impacts remain significant.
124. **Local Wildlife Site – Westlaw Wood and Spa Well Paddock** The development includes the loss of approximately 2ha of species rich grassland to the development of the cricket pitch; there is no compensatory habitat to be created. Although the remaining grassland is proposed to be placed under a management plan in an attempt to improve its value to badgers and bats the grassland is already species rich and designated as a Local Wildlife Site. The mitigation proposed is in no way sufficient to mitigate for the loss of a diverse habitat complementary to the ancient woodland.
125. **The development has a negative impact on badgers and bats.** Badgers are protected by the Protection of Badgers Act 1992 and the Wild Mammals (Protection) Act 1996. The species is listed on the Durham and UK Biodiversity Action Plans.
126. Impacts on badgers will result in significant harm; the identified impacts of habitat loss, disturbance and increased road traffic mortality are not dealt with sufficiently by the mitigation proposals. The mitigation proposals do not allow the development to proceed without significant impacts on badgers and so the development does not meet Natural England's Guidance which states that *"Development should not be permitted unless it is possible to take steps to ensure the survival of the badgers in their existing range and at the same population status, with provision of adequate alternative habitats if setts and foraging areas are destroyed"*.
127. Three methods of mitigation are proposed and each has significant problems. The E3 report states that the loss of foraging habitats is to be mitigated through a three pronged approach: woodland management, grassland management and maturing gardens. The proposed mitigation aims to improve the remaining habitats for badgers rather than provide alternative habitat as stated in the Natural England Guidance. There are significant issues with each of the mitigation proposals and there is no confidence that the mitigation proposals will maintain the badger population.
128. Bats - The site is important for bats in terms of commuting corridors and foraging habitats, currently bats are not inhibited in their use of the site and the introduction of development will constrain movement across the site and reduce foraging habitats. The mitigation will not retain all the routes around the site although the most important routes are maintained in some form. Overall the mitigation will restrict commuting routes around the site to the dark corridors retained by the lighting scheme, other routes will be lost and the width of retained routes will be reduced.
129. Overall the value of the site for foraging bats will be significantly reduced and commuting across the site will also be diminished. The long term impacts on bats

do add to the weight of evidence spread across all the species and habitats that the application should be refused on the grounds of significant impacts on biodiversity.

130. The proposed development, even with mitigation, does not comply the National Planning Policy Framework, the emerging Local Plan, the Government Circular: Biodiversity and Geological Conservation: circular 06/2005, Natural England's Guidance for species and saved policies within the Derwentside Local Plan (Policy EN1: Protecting the Countryside). The development on the site cannot be regarded as maintaining or enhancing the biodiversity interest and in fact will result in a net loss of biodiversity through impacts on badgers and bats; this is contrary to the NPPF.
131. **Otter** - The otter is a European Protected Species protected under the Conservation of Habitats and Species 2010 Regs as amended. The 'Otter Survey' determined that otters regularly use the River Derwent and stream to the immediate south of the development site and there is a confirmed resting site on the River Derwent. There is an adequate non-construction buffer zone around the known resting site.
132. In the longer term (post construction) there will likely be disturbance issues with the increased recreational activity along the river banks and this will result in disturbance and displacement of otter. Buffer zones of an appropriate /greater size would be possible if the layout and scale of development were adjusted. Pulling the development further back from the riparian corridor would allow a wider corridor and habitat creation that would have reduced the impacts of disturbance and improved the long term habitat for otter.
133. **Conclusion** - The development has significant impacts on biodiversity and the ecological mitigation is insufficient to maintain and enhance the biodiversity interest on site as required by the National Planning Policy Framework (NPPF). The impacts on various species groups (including protected species) and the proposed mitigation do not meet the guidance provided by Natural England and is undeliverable.
134. *Drainage and Coastal Protection* – The submitted FRA includes a restricted discharge of 20 l/s which is acceptable and the introduction of a SUDS pond is welcomed for the attenuation of the storm water. No objection is raised subject to the imposition of condition requiring full surface water drainage details being submitted and approved prior to the commencement of development.
135. *Environment, Health and Consumer Protection* – Air quality assessment not required as traffic impact from the development is not significant. Given the scale of the development and due to the fact that this development constitutes a change of use to a more sensitive receptor, it is recommended that in the event that permission is granted a contaminated land condition is imposed.
136. I do not object to the development in principle however in order to minimise the environmental impact, I would request a number of conditions are imposed in the event that planning permission is granted. There are buildings and activities proposed that may cause noise disturbance however with a suitable noise mitigation measures these could be controlled by way of building design, hours of operation, noise limiting devices fitted to sound systems. Therefore I would advise that if this application was to be approved a condition should be attached

requiring that a noise assessment is undertaken in order to determine the noise levels associated with these activities. The assessment should include details on the proposed attenuation from the clubhouse as well as information on the design aspects of the clubhouse that would limit noise escape e.g. acoustic glazing, air conditioning, acoustic double lobby doors etc. The assessment should also demonstrate that the noise levels at residential premises (existing and proposed) will meet recommended guideline noise levels for internal and external noise.

137. In order to ensure that lighting from the proposed scheme does not impact on existing and proposed residential premises I would recommend that a condition is attached to any approval granted requiring a lighting spillage plan to be provided.

138. The proposed use will include events and functions which will require catering. Therefore in order to ensure that odours from any cooking operations do not cause a nuisance to existing and proposed residential dwellings I would request that a condition is attached to any approval granted requiring details of the odour extraction equipment to be submitted.

PUBLIC RESPONSES:

139. *The Woodland Trust* - object to the proposal due to the direct loss to an area of ancient woodland. In their response they state that:

- Paragraph 118 of the NPPF advocates that *“planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss.”*
- Keepers of Time’, a statement of Policy for England’s Ancient and Native woodland jointly written by Defra and the Forestry Commission states that *“the existing area of ancient woodland should be maintained and there should be a net increase in the area of native woodland.”*
- Standing advice from Natural England (April 2014) states *“Ancient woodland is of prime ecological and landscape importance, providing a vital part of a rich and diverse countryside.”*
- The management and maintenance plan accompanying the application indicates that woodland topsoil from the road corridor would be placed elsewhere in areas dominated by conifer plantation. Habitat translocation is a relatively new phenomenon and whilst Natural England considers that it may be feasible to create an ecosystem which contains some of the plants and fungi of the former woodland it should be viewed only as a measure of last resort in partial compensation for damaging developments.

- Ancient Woodland is an irreplaceable habitat and therefore cannot be re-created.
- The amended plans do not overcome our objection.

140. *Durham Bird Club* – The proposal could have an impact on the Red Kite population in the Derwent valley but the Ornithological Assessment accompanying the application does not appear to make any reference to Red Kites. The failure to consider the potential impact of this development on the Red Kites is a significant omission and represent that the application is not complete until the information is included. That being the case, it is represented that on current information, the application be refused.

141. *Durham County Badger Group* - maintain its objection to the application, and suggest use of paragraph 118 of the NPF, which states that “If significant harm resulting from a development cannot be avoided, adequately mitigated or compensated for, then planning permission should be refused”. In summary their letter then goes on to state that:

- The fieldwork/surveys represent a fair and accurate assessment of the badger activity on site. However, the mitigation measures proposed are of necessity weak, and unlikely to succeed in retaining badger numbers within the area. It will be very difficult to mitigate for the loss of foraging, fragmentation of habitat, and general disturbance that this development would bring, given the natural boundaries of the site.
- Mitigation includes creation of pools to increase amphibian population but in Britain amphibians are of minor importance in the badger’s diet. The use of residents’ gardens, as suggested, is questionable as a valid mitigation measure for loss of foraging and could well cause conflict between residents and wildlife. Without a restrictive covenant this particular mitigation measure will soon become void as the new estate matures.
- An increase in badger road kill on the A694 can be expected if the application is approved, as the animals cross the road more frequently for foraging.

142. *Shotley Bridge Village Trust* – comments submitted in January and April 2009 still stand. The main concerns expressed at that time can be summarised as follows:-

- 1) the impact of the proposed access road on Park Wood and the character of the A694 approach to the village;
- 2) the unsympathetic road layout design within the development;

- 3) the absence of any demonstration of the need for this scale of residential development to enable the benefits of the development to be achieved;
- 4) the extent of the proposed tree felling on the eastern boundary of the residential development;
- 5) the impact on the setting of the listed cottages and Spa Well created by the mass and proximity of the flats and the clubhouse and the orientation of the nearest houses; also by the indicated road layout and hard landscaping adjoining the Spa Well;
- 6) the exclusion of the remaining Spa Well paddock from the application site and the lack of a long-term management plan (including public access guarantee);
- 7) the potential for this development to prejudice brownfield developments at Wood Street (the mill apartments) and at Shotley Bridge hospital.

143. In relation to the revised documents although the Trust is still concerned about the scale of the development and the impact of it and its access road on the landscape and nature conservation, it is supportive of the applicant's proposals to restore two of the Spa wells and allow public access. It is also disappointing that there is no provision for a riverside path through the site.

144. The revised Heritage Statement is fine on historical facts but poor on assessment of impact on the Setting of the Spa Complex. However, there is no mention of the impact of the two 3-storey blocks of flats, the 2-storey cricket pavilion or the road, parking and lighting infrastructure. There is only reference to 'housing development' and 'new cricket pitch', which gives the impression that there will be no large scale building development.

145. Although the Statement of Benefits states that 'In particular, members of the public will be able to access this [*the northern area of the site*] area via a footpath that leads around the cricket pitch and pavilion", there is no definitive footpath notation on the revised site area plan [E] or the revised Grassland Management Plan, which includes the provision of a hoggin surfaced footpath around the perimeter of the site.

146. Whether there is a "strong local need for retirement flats in the area" is open to question, as most of the flats which have been recently built or converted in the village are rented as they have proved difficult to sell.

147. Although the Village Hall and Methodist Church are now closed, the 'Our Lady of the Rosary' Catholic Church and St Cuthbert's Church Halls are still available for hiring. The Village Trust holds its meeting in the first venue and the second venue has a number of halls, recently refurbished and used by many groups. Both have disabled access, which the two closed venues did not possess.

148. *Ebchester Village Trust*- have made a number of comments and these are summarised below:

- The proposed measures fail to fully address the ecological issues and also fail to address the road safety issues associated with the development
- The entrances to one of the badger setts are very close to the proposed access road and it is highly probable that the sett itself would be damaged during construction of the access road
- The area of land for which planning consent is sought has more than doubled to 11.96 Ha. and with such an extensive increase should be withdrawn to enable any subsequent application to be given proper consideration.
- Insufficient detail has been provided to allow proper consideration of the impact of the access road on the ecology or landscape of the woodland through which it would pass. The drawing indicates that extensive retaining walls will be required to support a 6 metre deep canyon which would be gouged through the ancient landscape. These alien features within the ancient landscape will clearly be destructive and unsightly scar even if properly regulated. Furthermore it would become a frost pocket and susceptible to blockage by snow and ice.
- The proposed junction will require the removal of a long length of mature hedgerow and many trees and will also require extensive earthworks. Despite this, the impact on trees, ecology and landscape has been ignored - indeed the plan of mitigation measures indicates that the roadside trees will be retained; and also that new trees will be planted within both vision splays!
- Part of the private road, Spa Well Drive, is not included within the site boundary and therefore cannot be relied upon as a pedestrian route. Since the majority of the 'elderly' persons who would occupy the apartment blocks are expected (required) to have no car they would have to negotiate the steep access road to reach the A694 highway before embarking on a long walk to the village or a bus stop. The inference is that residents will either be trapped in their homes or will resort to owning and abandoning cars wherever they can find space – to the detriment of amenity and road safety.
- In attempting to mitigate the road safety implications of creating a new access onto an unrestricted section of major highway, the junction has been over-designed (see Transport Statement for low trip generation) to include provision of a right-turn lane. However, the omission of central refuges on the A694, as indicated, will encourage overtaking to the detriment of road safety.

- The northern splay is compromised by the inclusion of a 'crash' (safety) barrier to prevent vehicles rolling into the canyon. Visibility would be reduced to about one third of the quoted 210 metres, equivalent to a traffic speed of only 30 mph on 60 mph road! The barriers should be set back behind the vision splay.
- The Spatial Policy Team have advised that the submitted scheme conflicts with the general aims of both the Development Plan and National Planning Policy Framework.

149. A total of 487 letters of support have been received. Of these 470 took the form of two pro-forma letters and in summary they state that:

- They offer their support to this commendable development scheme.
- It is crucial for the survival of the cricket club.
- The club is very focussed on building a club based on relationships with families, local schools, community and business. It has become a victim of its own success and the inadequate facilities that limit the development of the club.
- If it is to survive and support the local community it is crucial that the club is given the opportunity to address these poor facility issues.
- As someone who often works in the area I support the application for the following reasons:
 - The Spa Wells and local walks will be reclaimed.
 - It will enable the cricket club to grow and provide further opportunities for children.
 - The provision of quality housing in a beautiful location, so important in attracting the right people and businesses to the area.
 - The availability of a venue for functions that does not exist in the local community; and
 - Improved road safety through the creation of new access point which lessens potential of a serious accident.

150. In summary, the seventeen individual letters of support that have been received state that;

Shotley Bridge Cricket Club is an important part of the village community and must remain so. It gives tremendous support to sporting activities in the local community.

The community benefits the scheme brings are enormous and will ensure that the children of the village have a prosperous club, with facilities, that befit them.

Funding is becoming more difficult and without financial support sports clubs will vanish. This at a time when overweight, obesity and diabetes are forecast to be major issues for the NHS.

New facilities would not only allow the club to continue but could also be developed further. Support from Anvil Homes is the ideal way for the club to increase its popularity, members and provide better access to the ground.

It will provide a much needed social area to include the 25 houses and 30 apartments.

The restoration of the historical spa well would be fantastic as it is unrecognisable in its current state.

It would benefit the Village of Shotley Bridge and the youngsters of the area. The existing facilities are outdated and making it difficult to cope with the number of youngsters showing an interest in the club.

The cricket club is a thriving one producing many quality cricketers and has proved its worth as a training ground for top class cricketers. However the facilities of the club are in much need of improvement.

Any development at the Spa can help the area prosper.

Access to the site would be safer and any improvement can only be a good thing.

151. A petition in favour of the application containing 439 signatures has also been received and this states that:

'I agree with the community benefits outlined in the Statement of Benefits...and fully support the application.'

152. A total of 140 letters of objection have been received in response to the most recent consultation exercise. Of these 88 were individual letters of objection with the remaining 52 being a variety of customised standard letters. In summary the letters of objection state:

Impact upon the environment/countryside

- The area as it stands is a quiet, tranquil, natural place; it remains unspoiled and should remain so. It is an area of natural beauty and should not be disturbed. It is also proposed as Green Belt. The development if approved will change the whole character of the area. It will have a negative visual impact on the area and the listed buildings. It will not enhance the natural environment. The area should be left as it is to protect heritage, the community of Shotley Bridge and for our children's children to enjoy.
- The village will lose its identity.
- The council must respect our right to countryside as clarified in *SOS v Britton* under article 4.
- The design of the homes and the 2 apartment blocks are not in keeping with the existing cottages which are set widely apart with large gardens and driveways. It will be at the expense of the beautiful landscape and will have a profound and long lasting negative effect on both the surrounding area and the Spa grounds itself.

- Even with landscaping this cannot obscure the fact that from the public pathway on the riverbank opposite will be an ugly scar formed by the access road cutting across unbroken woodland.
- The Spa Wells meadows have provided enjoyment for the local community for over two centuries and it would be regrettable if it were lost forever.
- The mitigation measures do not fully address the impact that it will have on the environment.

Conservation/Heritage

- Restoration of one of the spa wells is noted but there is no mention of the other two wells and more importantly Spa cottages which hold significant historical values to the community. No attempt has previously been made to maintain the Spa despite it being a grade 2 listed building and Policy 130 of NPPF states 'Where there is evidence of deliberate neglect of, or damage to a heritage asset the deteriorated state of the heritage asset should not be taken into account in any decision'.
- The cottages are the former bath house and saloon and hold significant historical value to the community yet the plans show that the surrounding area will be used for the club house, car park and lake. They are unique in character, history and special to the village. It is clear that the Spa Cottages will be directly affected by the development.
- The revised heritage Statement refers to 'infill' within the Spa Cottages. Only a small extension has been built and this is the only thing that can be described as an 'infill'. All the existing buildings are part of the historic complex and have historic value as an asset.
- The development is inappropriate and ruins the historic value of the two listed buildings built circa. 1838. It shows no regard to its setting and fails to protect or enhance the natural, built and historic environment as required by the NPPF which affords 'great weight' to the conservation of Heritage Assets.
- The grounds are part of the history of the village and are a special place which should be preserved not ripped up and destroyed. It is an idyllic conservation which will be totally spoilt.
- The NPPF has clear objectives and principles for maintaining conservation area and those of historic value. The applicant has failed to provide any assessment of potential harm that it may cause to the Conservation Area, and as such is in direct conflict with the NPPF.
- When the application was originally considered officers concluded that the proposal would result in the loss of the historic spa ground, the loss of the setting of the listed building and loss of trees which

would harm the character of the Conservation Area. The scheme has not changed since that time and the conclusion therefore remains valid. It will cause significant harm to the character and appearance of Conservation Area and will irrevocably alter its appearance transforming a historic landscape into suburban development.

- Recent case law emphasises the considerable weight that must be applied to the preservation of the settings of listed buildings. The presumption is a statutory one and where any harm, even less than substantial can be demonstrated the default position should be refusal. There must be compelling grounds to set aside the statutory presumption.
- The spa well should not have been allowed to fall into disrepair.
- The Heritage Statement fails to address the impact the development will have on the Spa Lodge and the development will erase any historical significance. It does not provide any assessment of significance, no consideration of the impact upon the Conservation Area and a limited understanding of the setting of the heritage assets.

Impact on biodiversity/mitigation measures

- The proposal will have a direct and detrimental effect on badgers. The badger setts are in the path of the access road. The development will have a seriously detrimental effect on the badger population due to the proximity of 3 of the clan's 4 setts to the proposed development site and also destruction of their forage area and pathways.
- The area should be allowed to remain as it is to ensure that the existing wildlife is protected.
- The impact of biodiversity is unavoidable and the effect on protected species will be devastating. The area is rich in biodiversity. Bats, otters and badgers, all of Parish significance will lose their habitat. The council is bound by law to protect them.
- A detailed lighting plan has been designed for the benefit of bats but how can the light level from potentially 85 vehicles minimum (1 vehicle per household) plus cricket club traffic be compliant with mitigated light levels.
- The mitigation proposals are poor and the fact that some details come later is not satisfactory.
- As a UK lead for the IUCN Otter Specialist Group but commenting as an individual the mitigation proposed is insufficient to counter the impact on the otter population. In its current form it risks causing serious disturbance to an otter resting site. To proceed the developers need to investigate the occupancy and use of all holts and otter resting sites in order to determine their importance to the

population. If not addressed then there is a risk of making an active otter breeding site unusable. Furthermore, there needs to be a substantial buffer around the resting sites where work or vegetation clearance does not take place under any conditions.

- Mitigation measures are woefully inadequate and protected species will be at significant risk of harm.
- The Council have a duty of care to both protected species and the community of Shotley Bridge.
- Loss of foraging areas for badgers is a major concern.
- No research of Great Crested Newt has been undertaken. There have been no bat surveys at the Spa Gardens where roads and new buildings are proposed.
- The area is designated as a County Wildlife site in order to preserve the natural history of the area and should be preserved for future generations.
- There is no mention of Red Kite nesting at the north end of the site.
- The mitigation measures include provision for an "Ecological clerk of works" being held responsible for the relevant wildlife legislation. A totally unfeasible idea.
- Residents cats and dogs will have an impact on wildlife populations.
- The site is partly covered by a Site of Nature Conservation Importance which is now referred to as a 'Local Site' in the emerging Development Plan. Despite the proposed improvements the development remains harmful to this area.

Trees/Ancient Woodland

- Felling of ancient woodland trees which date back 200 years will have significant detrimental effect on the visual appearance of the grounds. Felling will be more extensive than outlined in the plans to enable the access road to be constructed. It will be disgraceful to allow the felling of ancient woodland. The NPPF highlights the importance of Ancient Woodland and advises that permission should be refused where development results in loss or deterioration unless the need or benefits outweigh the loss. The benefits do not outweigh the harm.
- Many mature trees (between 150/200) will be lost around Spa Cottages to make way for the Lake Clubhouse and car park. They cannot be replaced. They are also of immeasurable benefit in helping to process carbon emissions. Their loss is unacceptable for un-needed housing.

- The tree survey is grossly inadequate and undertaken in 2008 is completely invalid now. New trees have grown and existing trees have matured. Many trees within Spa Garden have not been identified and whilst the applicant states that all trees within Spa Gardens will be retained how can this be the case if there is no accurate record kept.
- The mitigation measures for the retention of a Silver Birch to stay next to the access road are inadequate.
- The access road will require the removal of ancient hedgerows including trees covered by protection orders.
- Proposal nothing short of environmental vandalism motivated by greed at the expense of a County jewel.
- The adjacent meadow where the cricket club is to be relocated is unspoilt green land with trees hundreds of years old and which have not been taken into account on the plans. Lowland meadow and lowland deciduous woodland is habitat listed by the NERC 2006 as habitat of principal importance. The Spa has both and should be protected not destroyed.
- If we allow building on the site which has evolved over centuries we will have lost it forever and wild life will be damaged beyond compare.

Sustainability

- The site is not easily accessible and does not reduce reliance on private cars. Nearest bus stop would involve a hefty walk up a steep bank. It is only accessible by car.
- The proposed development clearly conflicts with a number of policies in the NPPF and will cause significant adverse impacts that are not outweighed by the benefits presented by the applicant.
- The site cannot be considered to be in a sustainable location. There are no immediate facilities such as local shops, doctors and dentists, these are particularly important as 60 dwellings are designated sheltered accommodation. No post or paypoint facilities. The nearest Tesco Express is 1.5 miles away and nearest post office is in Ebchester 1.5 miles away. The nearest bus stop is approximately 0.5 miles away.
- The proposal will put pressure on local schools and medical facilities.
- It is more suited to a brownfield site. It would be excessive and represent gross-over development.
- The private unmade and unlit road to the bus stop will be hazardous in the dark.

- The sustainability of the development cannot be established solely on the basis of the assessment undertaken in the Council's Strategic Housing Availability Assessment (SHLAA). The SHLAA only provides a general assessment of the suitability of the site. Comments provided by a number of statutory consultees have demonstrated that it is not sustainable.
- The proposal may jeopardise the sustainability of existing development.

Benefits

- A statement from Sport England refers to investment from ECB for practise nets in 2010. This is completely contrary to what the cricket club are claiming. There is local support for the improvements to the club house but further funding should be sought from the ECB.
- The community do not want this (development), the historic and natural environment will suffer and it is only the cricket club who benefit from the proposal. The cricket club has proven to be successful and have raised money in the past for improvements. They have been able to install practice nets and purchase a marquee which cost in the region of £30,000.
- Most people within the village do not use the cricket club. The plan is designed to make profit for the builder not the people of Shotley Bridge. The cricket club members will be the only ones who will benefit from the scheme.
- The problem could be solved by the landowner granting the club a secure tenancy. The fact that the proposal will provide a clubhouse is of no importance.
- No one is disputing that the club needs to upgrade its facilities but this should not be done through building an unnecessary , unwanted housing estate in a conservation area. It is clear that the detrimental affect outweighs any benefits.
- Funds should be raised by the club holding fund raising events. The real motive is for the developer to make money. With further funds from the ECB the club could upgrade existing facilities without having to build a housing estate.
- Although the club is important for some in the community it is by no means any kind of focal point. The activities proposed such as youth services, drama group and local history group are already being provided within Consett.
- The club have suffered for over 120 years and will not cease to exist if refused. The benefits are limited. Surely, it could be extended with grants from bodies such as Sport England. The proposal is a ruse to profiteer for a very small number of individuals

at the expense of the local community. The benefits do not warrant the destruction of the countryside.

- Why destroy the pitch? Why not develop the existing facilities which the local residents would be prepared to support.
- There is no indication of what the status of the new clubhouse would be. The new facilities will be more of a social club than any real benefit to the actual sport itself.
- Due to the minimal seasonal use does not justify a high density development.
- The new club house will not affect the level of skill or training that a player receives.
- Improvements to the club are supported and with minor amendments the existing access road could be made acceptable.
- Those individuals who have signed the petition in favour of the proposal may have done so without being aware of the full facts.
- The club is still in existence and has thrived and grown without the need of relocation.
- The significant adverse impacts are not outweighed by the benefits presented by the applicant.
- The mitigation measures are misleading and inadequate at the very best.

Policy Issues/Need/Demand for additional housing

- There are already several large developments being built in the area; Shotley Bridge has no housing needs to be addressed. The Council has a 5 year supply of housing land to meet the County's requirements and there is an excess of supply in the Northern Delivery Area within which the development is located.
- The applicant has failed to produce evidence of housing need, either market or affordable.
- I would question whether it is a good idea to locate sheltered accommodation in a remote location as residents would need additional support and could possibly end up in a more vulnerable position.
- Individuals living in the apartments will not have a car and will be required to walk up the long access road and could well effect individuals independence.

- There is no demand for more executive housing in the village and would question whether it is suitable to place affordable housing and executive housing in such close proximity.
- Shotley Bridge and Consett are awash with new housing which remain unsold and unlet.
- Many properties are up for sale therefore no need to for more.
- Government guidelines promote development of affordable housing and 25 executive houses do not fall into that category. There is also no need for sheltered accommodation/retirement apartments.
- The Spa Grounds is within a conservation area, county wildlife site and Green Belt. The applicants have failed to research any other potential site. The area should be protected from inappropriate development.
- It goes against government policy for sustainable development which is designed to protect places like this.
- The proposal is contrary/completely contravenes the 12 principles outlined in the National Planning Policy Framework and are also contrary to policies: GDP1, EN1, EN2, EN3, EN6, EN7, EN 10, EN11, EN22, EN23, En26, TR2 and TR3. It goes completely against the districts local plan.
- The Council's Spatial Policy Team has confirmed that relevant policies in the DLP are not out of date and therefore carry material weight.
- The site is not allocated for housing either in the existing or emerging Development Plan.
- The development could set a dangerous precedent. There must be better places to develop housing. The site is also located within the proposed Green Belt which is based on a need to protect land surrounding these towns where any potential development pressures from Tyne and Wear are likely to occur. The proposal would compromise the openness and permanence of the Green Belt and result in urban sprawl. 'Very special circumstances' need to be demonstrated and the application is silent in this regard.
- The justification put forward for Executive Housing is incorrect as there is not a shortage in the Derwent Valley.
- The access road is impossible for wheel chair owners and people with mobility problems especially during the winter. It is often difficult to get out of the Spa Grounds in the winter. It is unrealistic to assume the elderly residents of the sheltered accommodation will find this appealing.

Highway Safety

- Extra volume of traffic from newcomers will be hazardous. It will bring extra traffic onto the A694 which is busy and where accidents regularly happen. The accident database shows that in 2011 there were 61 car accidents in Shotley Bridge alone. It is likely that this will increase if the development goes ahead.
- The planned 'T' junction on the A694 is an accident waiting to happen. It is already extremely busy and frightening to walk due to speeding traffic.

Pressure on services

- Shotley Bridge infants and junior school cannot cope with extra children. It will put an additional strain on the schools and they will be unable to cope with the sheer volume of children taking into the 240 houses being built by Story Homes. This is unsustainable.
- Construction period will add pressure to the already busy A694 and will be disruptive to local residents.
- The village already suffers from a lack of parking

Flood Risk

- The area is a natural floodplain and often floods and is contrary to flood risk assessment provided by the applicant. The development will also aggravate the problem for existing residents and flooding problems at Oley Meadows. The flood risk assessment is outdated and another Flood Risk Assessment should be commissioned.
- Since the original analysis the area has become more prone to surface water flooding and a noticeable increase in waterlogged, flooded areas on the site. In previous years residential properties up river at Shotley Bridge have been seriously flooded with several pedestrian bridges swept away.
- There is no mention of a stream that currently runs down from where the proposed apartments will be. This inevitably means that the stream will be blocked and excess water will be forced further downstream. The main sewer is significantly higher than the area designated for houses and may require the site to be raised substantially.
- The removal of the trees will impact on the amount of water running off the valley side and collecting on the flood plain below which is already susceptible to flooding.
- There are alternative sites for development in the area without the risk of flooding.
- What provision has been made for sewerage?

Residential Amenity

- A major concern at present is excessive noise from a marquee used for functions. As the new cricket club will move closer to residential properties residents are concerned that this noise will increase. The new clubhouse should have adequate function facilities thereby negating the need for the marquee. However, will measures be built into the building to eliminate excessive external noise?
- Local residents already suffer from noise and anti-social behaviour from events at the cricket club. Is it appropriate to build such a high level of housing, particularly those designed for elderly people in close proximity to it. Given its proximity residents could be subjected to noise all day and into the early hours. There is also a risk of anti-social behaviour, vandalism and crime. There will also be noise from delivery vehicles and vehicles visiting and leaving the premises.
- It is obvious that they wish to move from a village cricket club to develop a function venue all year round. It is understood that the existing marquee would be moved to the proposed site exacerbating existing problems of noise and anti-social behaviour.
- The development would simply push existing problems closer to existing properties
- The positioning of the clubhouse in such close proximity to existing housing is completely inappropriate. Noise from functions will be problematic with people leaving late at night. Residents currently living at the Spa Grounds will have their entire surroundings changed from rural countryside to suburban. Their privacy will also be adversely affected.

Miscellaneous issues

- The letters of support are a standard letter written by one individual and should be classed as that. The individual letters of objection should therefore carry more weight.
- There are discrepancies in the plans. The scale of the existing cricket pitch is misrepresented and is shown larger on the plans than actually is. The validity of the plans needs to be questioned.
- The boundary of Hoddington Oaks (Spa Gardens) has not been been accurately considered in the planning application. The road and proposed lake will impede on a tenanted property and if developed could lead to unlawful eviction. Due to the extent of the boundary certain aspects of the development would be unable to be developed including the internal access road, lake, cricket club and tree planting.

- The development would not introduce long term employment opportunities for the community and residents will likely commute to Newcastle or Durham.
- Devaluation of property.
- The site could be developed as a sports centre/hub not a housing site.
- The 'minded to approve' resolution made by the former Derwentside Council was a hurried decision and made in haste because of the pending absorption of the district by Durham County Council.

153. A petition containing 164 signatures objecting to the proposal on grounds that it would destroy wildlife and habitat importance, seriously compromise existing wildlife corridor and increase volume of traffic, noise and pollution on A694 and through Shotley Bridge village has also been received.

154. Finally, an E-Petition taken from the 38 Degrees web site has been received and at the time of preparing the report contained 1009 signatures objecting to the proposal on the grounds that the site is *'a county wildlife site and would result in the decimation of hundreds of mature trees and loss of habitat for many protected species'*.

The above represents a summary of the comments received on this application.

APPLICANTS STATEMENT:

155. *The application which is in front of you to determine is essentially the same application which was presented to the Members of the Derwentside Planning Committee back in March 2009. The development is on land adjacent to the north of the built up area of Shotley Bridge and includes the construction of new housing on the existing cricket pitch and a new cricket pitch and cricket clubhouse on land immediately to the north of this. To enable this development to proceed a new highways access from the A694 must also be constructed as the existing vehicular access, which currently gives access to the existing cricket club, is acknowledged by all to be inadequate and dangerous.*

156. *At the Derwentside Committee meeting back in March 2009 the Members determined to approve the development notwithstanding the officer recommendation for refusal. The decision notice was not issued at the time as the application had to be referred to the Government Office for the North East (GONE), advertised as a departure from the Local Plan and an objection from the Environment Agency had to be resolved. All of these matters were resolved by August of that year, in particular GONE did not 'call in' the application and made no representations on the development. However, within that time period Officers raised additional concerns in relation to the development.*

157. *The discussions that have occurred over the last 6 years, since this original decision, have resulted in minor alterations to the original scheme for example the internal roundabout has become a 'T' junction. Apart from this the scheme is*

the same. As such the joint applicants of Anvil Homes and the Shotley Bridge Cricket Club believe the scheme still offers the same significant social, community, environmental and economic benefits to the community of Shotley Bridge as it did back in 2009. These benefits are the same as those which the Derwentside Members, in granting permission back in 2009, determined were sufficient to override the Officers concerns. These benefits include the construction of much needed facilities for the cricket club as well as significant additional environmental benefits through the management of the adjacent grassland and woodland, designated as a Local Wildlife Site, along with public access to the area.

158. We are now asking Members of this Planning Committee to uphold and respect the decision of the Derwentside Members made in March 2009, that is to grant planning permission for this development. The delay of 5 years in bringing this application back to you is for a number of reasons. This was primarily due to an error in the original Council consultation exercise. The delay has never been due to any omission by the applicants.

159. The discussions that have occurred over the last 5 years, since March 2009, have been dominated by matters relating to the wildlife and wildlife habitats in the area. This has led to a body of survey work which clearly identifies the impact on wildlife, but more importantly, has allowed a package of extensive mitigation measures to be put together to enhance the habitats in this area.

160. We think it is also important to stress the benefits to the local people of Shotley Bridge. Most importantly these benefits are to the Cricket Club as a valuable and respected facility in the community but also the restoration work to a grade II listed structure and the opening up of the site to the public.

161. The southern half of this site is currently occupied by Shotley Bridge Cricket Club. It is a successful cricket club that was the starting point of the career of Paul Collingwood, who went on to play and captain his county and country. The current facilities at the existing club are too small, wholly inadequate and do not meet the English Cricket Boards guidelines or the Disability Discrimination Act. This has resulted in the Club having to curtail their activities and cap the number of new members. The Club has a hugely successful youth section and this has been affected by the existing facility. In the light of recent government concerns on the health and fitness of the younger generation the fact that a successful sporting club is being curtailed by inadequate facilities, especially when there is a scheme that would allow it to grow and develop, has to be a concern to all of us.

162. Activities currently at the club and which are impacted upon include:

- 3 senior cricket teams*
- Ladies Team*
- 5 Junior Teams*
- Training every Thursday evenings for 100 children between the ages of 7 and 17*
- Hosting Northumberland and Tyneside League Squad training*
- Hosting Junior County Games*
- Archery classes (through Derwentside Leisureworks)*
- School Cricket Festivals (Schools do not have their own cricket pitches)*

- *Function venue for the local community (very few facilities exist in the Consett area after the closure of the Civic Centre, Shotley Bridge Community Centre and the local Methodist Church)*
- *Fund raising events for Cricket for Leukemia, Wilburn Hospice, Bobby Robson Foundation.*
- *Hosting the Stuart Weightman Charity fund raising day, the Blackhill and Benfieldside Partnership Free Day and Round Table events*

163. *This club should be supported. The proposed new pavilion will provide much needed toilet and changing facilities as well as indoor training facilities. This will enable the Club to grow, attract new members, train future international stars, but more importantly continue to play a key role in the personal development and education of local young people.*

164. *The development would also see restoration to the Spa Well, a grade II listed structure. The setting of this and adjacent listed buildings may be impacted upon by this development, however it will result in the Spa Well becoming a centerpiece for this development underlining the history of this area. In addition, public access into the grassland will allow local people to enjoy this natural environment.*

165. *The scheme has been criticised for the level of woodland that would need to be felled in order to create the new access road from the A694. However, this must be considered in the context of the existing grossly inadequate access and the fact that any minor improvements to the cricket club may be stifled by this poor access.*

166. *Since the application was presented to Derwentside Planning Committee, Shotley Bridge Cricket Club and Anvil Homes have attempted to address all of the outstanding issues, particularly in relation to ecological issues, on the site. They believe that the scheme, including the mitigation measures, balances all of these outstanding concerns relating to this development and it is considered that, on balance, the community benefits of the scheme are significant enough to outweigh any other concerns.*

167. *In addition to the statement above the applicants have provided an explanatory statement regarding the availability of grants and this is summarised below:*

The clubhouse was constructed without the security of a lease through self build and donation of materials. Since then the club has operated and grown with the support of the landlord and there has never been a reason to require or obtain a formal lease. It is only in the last 10-15 years when the Club has put in place a Plan of expansion that it has become evident that the lack of a formal lease is so important to obtaining grant funding. The landlord and owner of the site is not willing to give a formal lease to the Club as he wishes to safeguard his assets for the future; the Club is not in a position to force this situation to change. There are advantages to this situation, that is the Club pays very little rent. However, it does not have the security of tenure for grant bodies to invest significant amounts of money in the infrastructure associated with the Club.

Over the last few years we have discovered that we are not in a position to get any significant grant funding, that would be required to demolish and re-

build the clubhouse, from sources such as National Lottery, ECB and Sport England

In order to obtain that funding (for the practice facilities) we have provided to the ECB a written agreement that the proposed move (as proposed in the planning application) would incorporate a future lease, the transfer of the facility and ensure the quality of the re-installation. It is also written into the agreement that should we not continue with specific undertakings the club will be liable for the whole amount of the grant.

For your information and again because we have no current lease for the land, the Marquee that is used by the Club as a temporary facility over the summer was purchased by the Cricket Club with a loan secured with personal guarantees from people on the Cricket Club Management. There is nobody in the club that could 'underwrite' that cost of the facilities that this new development would create.

The only way the Club can improve its current facilities is by entering into an arrangement with a developer as has been put forward in this planning application.

PLANNING CONSIDERATIONS AND ASSESSMENT

168. The history of the application is set out in paragraphs 1-9 of the report. This demonstrates that the Council is no longer bound by the previous decision made by Derwentside District Council and committee is accordingly advised that the proposal needs to be considered afresh so that the application can be properly assessed against the development plan and other material considerations. Consideration, assessment and determination of the application will therefore focus on the principle of the development, traffic and highway safety, ecological issues, landscape and visual impact, affordable housing, heritage assets, flooding and drainage and noise, disturbance and whether need for and benefits of the development are sufficient to outweigh any departure.

Principle of the Development

169. Paragraph 14 of the NPPF states that a **presumption in favour of sustainable development** is "at the heart of" of the NPPF and for decision taking means "approving development proposals that accord with the development plan without delay; and where the development plan is absent, silent or relevant policies are out of date, granting planning permission unless:

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
- specific policies in this Framework indicate development should be restricted.

170. Therefore the main issues in relation to the principle of the development are the extent to which the proposed development accords with the existing development plan (Which in this case is the Derwentside Local Plan), and the extent to which the development is consistent with the NPPF.

171. The extent of the built up settlement of Shotley Bridge is not defined in the Derwentside District Local Plan (DDLp) but in physical terms the northern edges tend to be defined by Oley Meadows and Co-operative Terrace which are distinct from the Spa site. As such the site is considered to lie outside of the main built up settlement of Shotley Bridge and within the open countryside where saved Policies EN1 and EN2 of the DDLp are relevant to the proposal. Policy EN1 specifies that:

Development in the countryside will only be permitted where it benefits the rural economy or helps to maintain or enhance landscape character. Proposals should be sensitively related to existing settlement patterns and to historic, landscape, wildlife and geological resources in the area

172. The main purpose of this policy is to protect the countryside from inappropriate development and to direct most new development to sites within built up areas. Policy EN2 of the DDLp reinforces this approach which does not allow for development outside built up areas if it results in:

- a) the merging or coalescence of neighbouring settlements; or
- b) Ribbon development; or
- c) An encroachment into the surrounding countryside.

173. The reasoning behind this particular policy is to prevent urban sprawl in order to *'protect the amenities, character and identity of the countryside'*.

174. While the Local Plan remains a statutory tool for determining applications it is government policy only to accord the Local Plan weight where it complies with the NPPF. Whilst the general approach may be regarded as too restrictive the above policies are considered to be in general conformity with the NPPF. Indeed in recent appeal decisions Inspectors have indicated that despite the age of policies EN1 and EN2 they should be given full weight or considerable weight as they are considered to be consistent or broadly consistent with policies set out in the NPPF.

175. Paragraph 7 of the NPPF sets out the dimensions of sustainable development, namely economic, social and environmental roles, whilst Paragraph 17 identifies 12 core land use principles, including that planning should be plan led, take account of the character of different area, recognise the intrinsic character and beauty of the countryside and encourage the re-use of brownfield land. Paragraphs 47- 55 of the NPPF seek to boost significantly the supply of housing to create sustainable, inclusive and mixed communities. To accord with the NPPF new housing development should be located to provide improved access for all to jobs, health, education, shops, leisure and community facilities, open space and recreation, by ensuring that new development is located where everyone can access services or facilities on foot, bicycle or public transport rather than having to rely on access by car. The key matter in applying the NPPF relates to directing development to sustainable locations. Furthermore, the NPPF at paragraph 49 states that where a Local Planning Authority cannot demonstrate a 5 year housing land supply, housing policies should not be considered to be up to date.

176. With regards to the 5 year housing land supply issue, the Council's Spatial Policy Team submitted at the Public Examination that it could demonstrate an adequate supply, as required by the NPPF. However, in light of the recent Inspector's

Interim Report the Council is currently considering the position in respect to the 5-year land supply. If the Council cannot demonstrate a five-year supply of deliverable housing sites then relevant policies for the supply of housing should not be considered up to date. Paragraph 14 of the NPPF applies a presumption in favour of sustainable development in such circumstances. Permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the NPPF as a whole, or specific policies in the NPPF indicate that development should be restricted.

177. For the reasons set out later in this report, officers consider that the specific policies in the NPPF relating to the loss of irreplaceable habitats (paragraph 118) and substantial harm to the significance of designated heritage assets (paragraph 133) indicate that development should be restricted. Additionally when assessing the scheme against the three dimensions of sustainable development the proposal on balance conflicts with the social and environmental aspects of sustainable development. Collectively these override the benefits of the proposal promoted by the applicants and in the context of paragraph 14 of the NPPF, these adverse impacts would significantly and demonstrably outweigh the benefits of the scheme. Therefore the application does not benefit from the presumption in favour of sustainable development and is unacceptable in principle.

178. Given the location of the development site at the edge of the settlement approximately 900 metres from the centre of Shotley Bridge, on land that is not well contained by existing built development, and where it would not consolidate the existing built form, the site is considered to not form part of the built up area. The development would instead form an extension of the settlement into the countryside with poor access to services and facilities which given the distance to the centre of Shotley Bridge would consequently foster a reliance on the private car.

179. Whilst the DDLP was adopted in 1997 it is considered that Policies EN1 and EN2 of the DDLP are broadly consistent with the NPPF. They should therefore be given material weight and consequently, there is reliance upon the NPPF to provide justification for this development.

180. As discussed earlier in this report, the presumption in favour of sustainable development contained within Paragraph 14 of the NPPF has not been triggered and an assessment of the site, and the proposal leads to the conclusion that it does not represent sustainable development in any event, resulting in no support from the NPPF. Therefore, it is considered that the proposal is unacceptable in principle and contrary to the NPPF and Policies EN 1 and EN2 of the DDLP.

Access, Traffic and Highway Safety

181. At present the site is accessed by a single track road, the Spa Drive, which leads from the A694 down to the Cricket Club. This road also provides access to five residential properties. The access is considered to be poor by the Highway Authority owing to its narrow width, restricted visibility, and lack of footpaths and lighting. Furthermore, it would not be suitable for the level of traffic that would be generated by the proposal and as such necessitates the creation of a new access onto the A694 approximately 320 metres to the north of the current access. Owing to a significant change in levels and in order to provide a gradient

that would satisfy the requirements of the Highway Authority the access road meanders down the bankside in the form of a hair pin bend before levelling out when it reaches Spa meadow. In order to facilitate the access significant engineering works will be required including retaining walls in excess of 4 metres. Whilst the Highway Authority have a number of concerns regarding the construction of the proposed access given the huge level differences across the site they are satisfied, following lengthy discussions with applicants engineering consultants, that it is possible to engineer an access into the site. Subject to full engineering details being submitted, which could be secured through the imposition of an appropriate condition, they consider that the access is acceptable in highways terms.

182. Furthermore, the internal road layout serving the proposed dwellings is considered to be acceptable and whilst parking standards have been updated since the application was first submitted the overall level of car parking is considered to be acceptable subject to the occupation of the flats being limited to the over 55's and that the flats are one or two bedroom properties and that they are retained as rental properties. These restrictions could be secured through conditions and/or legal agreements.
183. Given the lack of objection from the Highway Authority and the fact that paragraph 32 of the NPPF states that development should only be refused on transport grounds where the residual cumulative impacts of development are severe the proposal in highway terms is considered to be acceptable. It will also be a significant improvement upon the existing access which is narrow and unsurfaced and although visibility onto the A694 in both directions is good, joining the road from the existing access is a difficult manoeuvre owing to the alignment of the junction and the gradient of the access. It should however be noted that there have been no reported personal injury accidents at the existing access to the cricket club in the past three years. The only two accidents in the vicinity of the site have been on the derestricted section, in the vicinity of the proposed new access. Both involved vehicles leaving the road, hence the requirement for crash barriers.

Biodiversity

184. The National Planning Policy Framework (NPPF) states that: *If significant harm to biodiversity cannot be avoided, mitigated or compensated for then planning permission should be refused.* This is also the approach that is now advocated by Natural England.

The Derwentside Local Plan, which was adopted in 1997, pre-dates the NPPF and as a consequence Policy GDP1 of the plan fails to acknowledge the test set out in the NPPF. Little weight can therefore be given to this policy.

185. Notwithstanding the relative weight that can be attached to existing policy the key test that needs to be applied is whether the proposal will cause significant harm to bio-diversity. The key ecological impacts are upon ancient woodland, Local Wildlife sites, birds, otters bats, and, badgers. Each of these considerations are addressed below.
186. **Ancient Woodland** – Ancient Woodland in England is defined as an area that has been wooded continuously since at least 1600AD. It is of prime ecological and landscape importance. Developed over centuries they have had time to develop complex ecological communities providing habitat for many different

species. Ancient woodland is a scarce and irreplaceable resource and its permanent loss runs contrary to the protection afforded within the NPPF and Government policy on ancient woodland.

187. The development includes the direct loss of ancient woodland from the construction of the access road, its fragmentation and indirect impacts as a result of the adjacent housing development. The loss through development will be significant particularly in the light of the extensive engineering works that will be required to facilitate the 'U' shaped access road. Works beyond the route of the access road to facilitate its construction will be inevitable and the impact of the access road on the ancient woodland would be significant.
188. Alongside the direct losses are indirect impacts from the adjacent development. The proposed development will increase recreational pressure and the risks of increased predation and encroachment. The standard mitigation for these impacts, detailed in the Natural England Standing Advice, is a minimum 15m buffer zone from the edge of development (excluding gardens) to the boundary of the ancient woodland. This buffer zone is not provided within this development and as such fails to provide adequate mitigation.
189. The National Planning Policy Framework in para 118 states that "planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland...unless the need for, and benefits of, the development in that location clearly outweigh the loss".
190. The document 'Keepers of time: A statement of policy for England's Ancient and Native Woodland' produced by DEFRA and The Forestry Commission makes six policy statements one of which is "The existing area of ancient woodland should be maintained and there should be a net increase in the area of native woodland". Standing advice issued by Natural England and the Forestry Commission in April 2014 aims to 'Protection and maintenance of the ancient woodland resource as an irreplaceable biological and cultural asset'. Both documents are considered to be material to the consideration of the application and should be given considerable weight
191. **Local Wildlife Site – Westlaw Wood and Spa Well Paddock** – These areas are species rich grassland which are designated as a Local Wildlife Site and as such represents a resource of County importance. Local Wildlife Sites are afforded protection through Policy EN22 of the DDLP which states that development will only be permitted which would not lead to the loss of or cause significant harm to sites of nature conservation interest.
192. The proposal would result in the loss of a significant part of the Local Wildlife Site. Its loss has not been compensated for by the applicant and according to the Council's Senior Ecologist *"the mitigation proposed does not make any additional contribution to the ecology of the site, create new habitats or ecological networks. The loss of the grassland in fact inhibits ecological networks. The proposed mitigation is a grassland management plan which states that "the conservation status of the site will be maintained". This goal is achievable over the remnant grassland but in no way begins to mitigate for the destruction of a significant section of the grassland especially when combined with the increases in disturbance and displacement of species by new residents and recreational visitors over the remaining area of LWS'*.

193. Notwithstanding the mitigation measures that are being proposed it is considered that the proposal will adversely affect the the Local Wildlife contrary to the aims and objectives of Policy EN22 of DDLP.

194. **BIRDS** The value of the site for birds is understood to be concentrated on the woodland and woodland edge with the species rich grassland providing habitat for wintering birds. The mitigation for birds is in line with the Wildlife and Countryside Act and so there will be no breaches in legislation. The mitigation for the loss of the species rich grassland and coarse grassland is not held within the Grassland Habitat Management and Maintenance Plan and so there will be long term impacts on ground nesting birds and winter foraging habitat. The mitigation for the disturbance and loss of woodland habitat are based on habitat improvements and the recommendations should be sufficient to maintain the bird interest within this habitat over the long term.

195. Overall the impacts on birds will be minor and adjustments made to the grassland management plan accompanying the application will result in only minor losses.

196. OTTER

197. The 'Otter Survey' determined that otters regularly use the River Derwent and stream to the immediate south of the development site. The site does hold resting sites for adult animals, such resting sites are protected under the Conservation of Habitats and Species Regulations

198. The impacts of development were identified by the applicant as

- Disturbance to / pollution of watercourses
- Harm or disturbance during construction works
- Disturbance by new residents

199. In summary, the mitigation that is being proposed includes:

- Otter method statement for contractors
- No major construction works would be undertaken within 15m of the river. Most properties are 20m from the river bank.
- A 15m buffer from the river to built development and a 10m buffer to gardens will be retained along the River Derwent and a 5m buffer for minor streams to minimise disturbance to otter during the works

200. The mitigation for the otter resting sites does meet the Natural England Guidance for works during construction. In the longer term (post construction) there will likely be disturbance issues with the increased recreational activity along the river banks and this will result in disturbance and displacement of otter. The River Derwent is regularly used by otter as well as by females with young and the proposed mitigation of a 10m buffer zone is not regarded by the County Council's Senior Ecologist as sufficient mitigation for a development of this scale along a section of river previously relatively undisturbed.

201. Conclusion: The otter resting site is protected by an appropriate buffer zone. Although the impact of disturbance by any new residents of the site is acknowledged within the Otter Survey report the mitigation in the form of buffer

zones, falls below that expected by the County Council's Senior Ecologist and as such there are outstanding concerns that the otter usage of the riparian corridor will be impacted upon.

Riparian Corridor

202. The County Council's Senior Ecologist does not regard a 10m buffer zone as submitted by the scheme as sufficient to maintain and enhance the riparian corridor. The scale of development and increase in disturbance in the long term represents a dramatic change from the relatively undisturbed situation currently at the site. A more significant buffer zone is required to protect and enhance the river corridor

203. BATS

204. The survey work on bats found there to be a number of key findings:

- High level of bat usage along the river corridor
- A central corridor (around the Spa Cottages) of importance to commuting bats
- Myotis bats foraging in woodland and woodland edge habitat
- Significant foraging by pipistrelle bats, with some myotis bats, on the northern grassland
- Tree roosts present
- Early evening foraging activity by Noctule bats

205. The potential impacts on bats are detailed by the applicant and the main impacts are:

- Severance of the central commuting route
- Loss of species rich grassland
- Loss of woodland / woodland edge habitats
- Street lighting and vehicles causing disturbance
- Loss of tree roosts

206. The mitigation proposed includes:

- Detailed lighting design
- New planting and protection of riparian corridor
- Promote bat movements along the stream to the south of development
- Parkland tree planting
- Inclusion of bat roosts within development
- Preconstruction surveys / NE licences

207. The proposed mitigation for the main commuting corridors is primarily a lighting design that maintains dark corridors suitable for commuting bats. The lighting levels in relation to bat commuting routes fall within acceptable levels. However, a significant drawback of the lighting scheme is that the 'T' junction and road lie directly on the central commuting corridor. Although a dark corridor is retained the lighting does impinge on the central corridor and hence the bat commuting routes are not strictly maintained but rather bats will be forced to the north. This new northerly route will be tree planted and this will help in maintaining a suitable commuting corridor although it will take some time for this planting to have a positive effect; short term impacts are expected.

208. Overall the mitigation proposed will not retain all the routes around the site. Some routes will be lost and overall routes will be restricted to the dark corridors retained by the lighting scheme. The site is currently dark and undisturbed and although the mitigation serves to maintain limited dark corridors on the major commuting routes overall development will restrict and reduce commuting routes over the site largely as a result of the centre of the housing development being unsuitably lit and the access road being aligned along the main central commuting route.
209. Furthermore, the development will impact on bats by reducing the amount of foraging habitat. The site forms an excellent resource for bats and the Bat Survey report submitted by the applicant states that "*habitats were of a type that provide amongst the highest quality of bat habitat within the County.*" Nearly 40% of the LWS will be lost alongside impacts on ancient woodland and edge habitats.
210. The mitigation is significantly hampered by the fact that the development is fixed and the applicant is not prepared to amend the layout to improve the mitigation. Although some dark corridors are maintained, especially across the centre of the site, the layout of the development means that mitigation is compromised and avoidance of the main commuting routes or reducing the loss of foraging habitats has not been entertained.
211. The importance of the commuting routes at Shotley Spa in relation to a maternity roost is unknown as potential roost sites were off site and access was not permitted. If the negative impacts at Shotley Spa on commuting and foraging were enough to negatively affect the bats local distribution or their survival, breeding or rearing of young then this would result in a significant negative impact on the species' conservation status at the site and the wider area.
212. The impacts are on site will result in negative impacts on bats and the quality of habitat will be significantly reduced and this is contrary to the NPPF. The main flight paths at Shotley Spa are being retained, albeit in a reduced form, and their importance to the maintenance of a bat maternity colony is unknown. Ideally the precautionary principle should be followed and the mitigation improved to retain more of the commuting and foraging areas. There remain concerns that the mitigation should be improved to maintain the commuting routes in a more comprehensive manner giving confidence that there would be no impacts on a maternity roost.
213. The impact on bats could be reduced to an acceptable level by reducing the quantum of development. This is not an option that the applicant is prepared to consider and so the mitigation remains flawed.
214. **Conclusion:** Although the mitigation has been designed to maintain the main commuting routes these are still constrained by the development, the impacts on secondary routes and on foraging habitats mean that the quality of the site in relation to bats will be reduced and bat activity of the site will be reduced.

215. Badgers

216. The survey work undertaken by the applicant identified a number of impacts resulting from the proposed development, there are essentially three impacts:

- Loss of foraging habitat:

Species rich grassland to the north of proposed housing (Local Wildlife Site) will be lost under the proposed cricket pitch, the extant cricket pitch and surrounding areas of woodland and coarse grassland which are used for foraging will be lost under proposed housing and ancient woodland will be lost in the construction of the proposed access road.

- Disturbance and conflict with residents and recreational visitors

The increased usage of the site by both residents and recreational visitors to the site and their pets will increase the disturbance to badgers and badger setts.

- Increased risk of traffic mortality on the new access road and A694 due to both increased traffic and increased migration across the A694 due to loss of foraging and disturbance.

217. The mitigation proposed by the applicant includes:

- Increase earthworm biomass (the primary prey item for badgers) through management of the woodland and grassland habitats. Creation of ponds to increase amphibian prey
- Reduction of disturbance through the creation of a riparian buffer zone, signage and an information pack to residents
- Gardens designed to minimise severance to commuting badgers and provide a food supply for badgers
- 20mph speed limit on the access road to reduce the risk of traffic mortality
- Construction method statements to reduce the risks of harming and disturbing badgers during the construction phases of development

218. The proposed mitigation is essentially designed to enhance existing habitats and those remaining after development rather than maintaining or creating new habitat as required by Natural England's Standing Advice. The relative merits of the mitigation measures proposed are considered below:

219. The proposed use of gardens to compensate for habitat loss and to allow for continued connectivity is flawed as it requires gardens to be maintained as badger habitat in perpetuity with no changes to the original garden layouts allowed and this may bring them into conflict with homeowners. If the gardens could be used as mitigation they need to be permeable to badger migration and provide a defined area of suitable grassland and planting. In order for this mechanism to work as mitigation the planting of gardens and fencing design would need to be retained as static in perpetuity. This is undeliverable and would make the housing an unattractive purchase; as home owners would not be

able to change the garden layout to suit their needs or tastes or be able to take measures to exclude badgers if gardens were being damaged or the homeowner simply did not want badgers accessing their garden. Homeowners would not be able to convert lawn to decking or other hard-standing, increase the area of flower beds or fence their gardens to keep pets or children contained.

220. The conflicts between householders and badgers are well documented and the Rural Development Service has produced a Technical Advice Note (07) – Badger Problems: Advice to Householders showing how to negate badger impacts; none of the advice would be available to the residents as their gardens would be essential as badger habitat forming an integral part of mitigation. The idea of using gardens also runs into problems as the applicant can have no idea how many gardens will remain open to badgers in the long term and therefore the level of deliverable mitigation is unknown.
221. The existing habitats on site are already of a high quality and the mitigation to compensate for the loss of LWS grasslands and ancient woodland by attempting to significantly increase the quality of the remaining habitats for badgers is unrealistic and is hampered by the vague nature of any potential increases in the availability of the badgers main food item (earthworms). The proposed management of woodland and grassland to improve earthworm biomass and availability involve timescales that are too long; the impacts on current foraging habitat will occur over a three / four year period as they are lost to development. The badger report claims that the woodland and grassland management and gardens will balance out the habitat loss in 10+ years. This timescale, even if the mitigation was valid, is unacceptable as there needs to be continuity of foraging habitat, the impacts of development need immediate mitigation and not mitigation over a decade from the onset of construction works.
222. Both the woodland and grassland management suffer from there being no confirmation that the management will deliver enough changes in earthworm biomass. In addition Natural England guidance on badgers and development states that “*foraging areas should be maintained or new foraging areas should be created*”. The mitigation provided does not maintain the foraging habitat or create any new foraging areas. The mitigation aims to increase the quality of existing habitat to such a degree that the losses are mitigated for; there are no guarantees that this is achievable. The management of woodlands, grasslands and the use of gardens is not sufficient mitigation and should only be used as secondary mitigation to support primary mitigation of maintenance of existing foraging habitat or the creation of new linked habitats.
223. The issue of disturbance is not dealt with adequately by the mitigation, especially disturbance to foraging badgers and badger setts due to increased recreational use of the woodlands and grasslands. The woodlands are currently undisturbed; the creation of a housing development and increased access by the public will have negative impacts on the badgers. Disturbance as a result of recreational activities is noted by the Chartered Institute of Ecology and Environmental Managers as a threat to populations.
224. The Badger Survey report also states that there is an increased risk of traffic mortality due to both increased disturbance and increased migration across the A694 due to loss of foraging habitat. With mitigation they determine that the risk of increased mortality is low. This is not considered to be the case as the mitigation for both the loss of foraging habitat and the disturbance issue is not

considered to be adequate. Badgers will be forced across the A694 as foraging habitat on Shotley Spa is lost and disturbance increases. Increasing the instances of badgers crossing the A694 is unacceptable and no direct mitigation, such as an underpass under the road, has been provided by the applicant. Natural England's guidance also states that development that results in problems such as "increased road traffic collisions" should not be sanctioned.

225. In relation to the road construction and the nearby sett; the survey report concedes that the sett will possibly be abandoned. If this was to occur then the survey report states that there are other potential sett locations. Potential abandonment of the sett is obviously a further impact on badgers and the current sett location must be regarded as optimal for the badgers as this is their chosen location at the interface of two habitat types, any other location must be regarded as sub-optimal.

226. To conclude, the mitigation proposals do not allow the development to proceed without significant impacts on badgers and so the development does not meet Natural England's Guidance which states that "*Development should not be permitted unless it is possible to take steps to ensure the survival of the badgers in their existing range and at the same population status, with provision of adequate alternative habitats if setts and foraging areas are destroyed*".

227. Impacts on badgers will result in significant harm; the identified impacts of habitat loss, disturbance and increased road traffic mortality are not dealt with sufficiently by the mitigation proposals. The mitigation for badgers does not comply with the Natural England Guidance - "Badgers and Development, A guide to best practise and licensing" which states that:

Sufficient foraging habitat should be maintained. This may require creation of new foraging areas to compensate for losses. Development that results in problems such as increased road traffic collisions and damage to gardens and houses should be avoided

228. Finally, the site forms part of a badger territory with three setts fringing the site and a fourth just off site to the north. Placing a housing development and new cricket pitch in the middle of these setts and destroying a significant part of a Local Wildlife Site (LWS) will result in a loss of foraging habitat near to setts, increased disturbance, the potential loss of a sett and subsequently an increase in the likelihood of traffic mortality.

229. Overall impact on Protected Species

230. Although the impact on birds and otters is likely to be negligible the impact upon bats and badgers is considered to be significant. Whilst the mitigation has been designed to maintain the main commuting routes the impacts on secondary routes and on foraging habitats mean that the quality of the site in relation to bats will diminish and bat activity of the site will be reduced. The mitigation for loss of badger foraging habitat is unsound and does not follow Natural England Guidance. Impacts on badgers will result in significant harm; the identified impacts of habitat loss, disturbance and increased road traffic mortality are not dealt with sufficiently by the mitigation proposals.

231. Whilst bats are a European Protected Species Badgers are not. Badgers are however protected by the Protection of Badgers Act 1992 which makes it illegal

to kill, injure or take badgers or to interfere with a badger sett. The intention of this legislation is to prevent persecution of badgers. Badgers are listed on the Durham Biodiversity Plan but are not a rare or endangered species; nonetheless, they are a protected species and with any development proposal the objective should be to avoid adverse impacts on badgers. If there are unavoidable impacts then mitigation should be designed to reduce those impacts. If, following this, there are still unacceptable impacts on the species then compensation measures will need to be designed to offset the impacts. In determining planning applications it is necessary to consider whether there are any satisfactory alternatives to the proposed scheme which would have less of an impact on protected species. No consideration has been given to alternative sites. The proposal could also be changed by reducing the amount of development. The layout could also be altered to minimise its impact but changing the means of access could prove difficult given the topography of the area and the need to provide adequate visibility. As stated previously, the applicants are unwilling to amend the proposal in this way as this would necessitate the submission of a fresh application.

232. Bat and Otter Licence

233. The requirements of the Habitats Directive were brought into effect by the Conservation (Natural Habitats etc.) Regulations 1994, (now superseded by the 2010 Regulations referred to below). These regulations established a regime for dealing with derogations, which involved the setting up of a licensing regime administered by Natural England. Under the requirements of the Regulations it is a criminal offence to kill, injure or disturb the nesting or breeding places of protected species unless it is carried out with the benefit of a license from Natural England.

234. The species protection provisions of the Habitats Directive, as implemented by the Conservation of Habitats & Species Regulations 2010, contain three "derogation tests" which must be applied by Natural England when deciding whether to grant a licence to a person carrying out activity which would harm a European Protected Species (EPS). This licence is normally obtained after planning permission has been granted. The three tests are that:

- the activity to which the licence is required must be for imperative reasons of overriding public interest or for public health and safety;
- there must be no satisfactory alternative; and
- favourable conservation status of the species must be obtained.

235. Notwithstanding the licensing regime, the Local Planning Authority (LPA) must discharge its duty under the Regulations and also be satisfied that these three tests are likely to be met when deciding whether to grant planning permission for a development which could harm an EPS. A LPA failing to do so would be in breach of the Regulations which requires all public bodies to have regard to the requirements of the Habitats Directive in the exercise of their functions.

236. Guidance provided by Natural England states that the proposed development must meet the purpose of 'preserving public health or public safety or other imperative reasons of overriding public interest including those of social or economic nature and beneficial consequences of primary importance for the environment'. In addition the Council must be satisfied that 'there is no satisfactory alternative' and that 'the action authorized will not be detrimental to

the maintenance of the population of the species concerned at a favourable conservation status in their natural range'. The guidance goes on to state that Natural England applies the tests on a proportionate basis, thus the justification required increases with the severity of the impact on the species or population concerned.

237. As the regulations only apply to European Protected Species the derogation tests would only need to be applied to otters and bats. In respect of bats a license would only be required if the works result in the removal of trees where bats roosts are present or if there is significant disturbance and a license would only be required for otters if there is evidence that a shelter is in use when construction takes place in the area. There is appropriate mitigation for the otter resting place

238. In conclusion, the proposed development would result in a significant impact on biodiversity and provides for insufficient mitigation to maintain and enhance the biodiversity interest of the site as required by the National Planning Policy Framework. For the reasons cited at paragraphs 264 to 273 of this report any public benefit in the scheme does not outweigh the harm it will cause to legally protected species and their habitat. As such the development would be contrary to the National Planning Policy Framework which at paragraph 109 seeks to minimise impacts on biodiversity and providing net gains in biodiversity where possible

Landscape and Visual Impact

239. The site is covered by the following designations in the DDLP:

- Area of High Landscape Value (EN6)
- Site of Nature Conservation Importance (EN22)
- Wildlife Corridor (EN23)
- Shotley Bridge Conservation Area (EN14)

240. In addition, Policy EN10 seeks to protect areas of Ancient Woodland and Policy EN11 seeks to safeguard trees which are worthy of protection.

241. Part 11 of the NPPF seeks to protect and enhance valued landscapes and at paragraph 118 states that permission should be refused for development resulting in the loss of irreplaceable habitats including ancient woodland.

242. Given the scale of the development a large number of trees will be removed and more importantly areas of ancient woodland will be lost particularly the band to the west of the A694, through which it is proposed to create the access road. Given the scale and nature of the engineering works involved in forming the access road and associated visibility splay the loss of ancient woodland is likely to be significant. Furthermore, the loss of trees to accommodate the new access road will open up views into the site which will negatively affect the character of the countryside that currently separates Shotley Bridge from Ebchester.

243. The Council's Landscape Architect is critical of the Landscape and Visual Impact Assessment (LVIA) submitted by the applicant and does not agree with the assertion that the landscape context has a relatively high capacity to absorb the development without significant adverse impacts on the landscape character.

Whilst it is recognised that the site is only generally visible at closer distances the character of the site is essentially that of a flat flood plain bordered by a band of riparian trees on the river side and a wooded bank on the other. It is considered that the character of the area would be destroyed by developing the flat land with roads and houses and change its character from rural to suburban. The fact that the scheme also includes two blocks of flats containing 30 apartments which according to the indicative drawings accompanying the application would be three storey building would only serve to exacerbate the urbanising effect of the proposal and its adverse effect on the landscape character of the area.

244. The County Durham Landscape Strategy is to conserve and enhance the southern part of the site and to conserve and restore the north and east of the site. The proposal in its current form neither conserves nor enhances the landscape character of the area and the magnitude of the impact upon the landscape character and appearance of the area will be significant and as such would prove contrary to existing policies of the DDLP, and the NPPF and in particular paragraphs 17 and 109 which seek to ensure that valued landscapes are protected and enhanced.

Heritage Assets

245. The site is within the Shotley Bridge Conservation Area and there are three listed buildings on the site namely the Shotley Spa Saloon, the former Shotley Spa bath house and the Spa Well Head. All are defined as designated heritage assets. As part of the proposal it is intended to renovate the Spa Well Head which is currently in a poor state. There are two other spa wells and these are regarded as Non Designated Heritage Assets. The intention is to refurbish the spa east of the cricket pitch and the third spa would be covered by the edge of the proposed cricket pitch and its position would be marked.

246. Since the application was first submitted national planning policy has changed and as such the application should be re-assessed against the NPPF and in particular paragraph 128 which states that *'in determining applications, Local Planning Authorities should require an applicant to determine the significance of any asset affected, including any contributions made by their setting'*. Although the application was originally accompanied by an Archaeological Assessment it did not include an assessment of significance of heritage assets nor the impact upon significance of the development. In an attempt to address this matter the applicant submitted a Heritage Statement. This document was reviewed by English Heritage and the Council's Principal Design and Conservation Officer and both concluded that it fell a long way short of what it should include in order to help the local planning authority to assess the impact of the development. It was recommended that the application should be refused on this basis. In response to these concerns the applicant commissioned an updated Heritage Statement in an attempt to satisfy the requirements of Para. 128 of the NPPF and to update its Environmental Statement.

247. Whilst the updated Heritage Statements is seen as an improvement upon the original document it still does not fully address the significance of any asset affected by the proposal. However, notwithstanding the gaps in the information provided within the Heritage Statement it has enabled the Council's Principal Design and Conservation Officer to conclude that *'Given the potential extent of harm as identified previously to both the setting of the designated assets and the conservation area, this harm could probably be considered as substantial'*.

When the application was originally considered in 2009 (which was prior to the introduction of the NPPF) the view which was taken at the time was that the development would not enhance or preserve the conservation area or provide a suitable setting for the listed buildings and objected to the proposal on the following grounds:

1. *There would be the loss of the historic spa grounds an integral feature in the historic development and character of Shotley Bridge.*
2. *The setting for the listed buildings would be compromised by the close proximity of the proposed housing on one side and the cricket club car park on the other.*
3. *The new access would sever the link with the listed Spa Lodge which currently marks the entrance to the grounds.*
4. *The new access road would require a disproportionate amount of land to accommodate the gradient and would harm the enclosing woodland that has changed little in extent since it was first laid out.*
5. *The proposed development would be beyond the natural limits of the village in open space that forms its natural setting.*
6. *The detailed layout would not allow for the natural qualities of the site to be reflected or give any indication that these were former spa grounds. In my view the layout is suburban in character.*
7. *The apartment blocks in particular would represent an urban intrusion of large scale into natural parkland."*

248. It should be noted that the scheme has not changed significantly since these comments were made and notwithstanding the lack of evidence concerning 'significance' in the revised Heritage Statement it is considered that these comments are still pertinent. Given the scale of the development, the extent of the engineering works to facilitate access to the site and its suburban layout the proposal will inevitably affect the character and appearance of the area. Furthermore, whilst the proposal does not directly impact upon the Spa Saloon or the former Shotley Spa bath house their setting will be significantly changed with the introduction of the new housing, the new club house and associated infrastructure works. It is therefore considered that the development would result in the loss of the historic spa ground and would harm the setting of the listed buildings and the character of the conservation area contrary to GDP1 of the DDLP and strong statutory presumption against development adversely affecting listed buildings and their setting.

249. Notwithstanding the relevant weight that can be attached to these policies the desirability of protecting or enhancing the character or appearance of the Conservation Area is a significant and important material consideration. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states '*with respect to any buildings or other land in a Conservation Area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area*'. This directly correlates with the NPPF which states in paragraph 132 that when considering the impact of a proposed development on the significance of a designated heritage asset, '*great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting*'.

250. It is however important to recognise that the proposal provides for what is termed the renovation of the Holy Well a grade II listed building and to introduce hard and soft landscaping. Very little remains of the well above ground level and as a consequence it is proposed to build a replacement thatched roof covering that was originally part of the spa. It is also intended to preserve the spa well to the north-east of the spa well complex to create a feature which could be accessed via public footpaths. Whilst these improvements are welcomed they are not considered to outweigh the harm to the setting of the listed buildings or the character and appearance of the Conservation Area.

AFFORDABLE HOUSING

251. Paragraph 50 of the NPPF requires Local Planning Authorities to deliver a wide choice of high quality homes, to widen opportunities for home ownership and to create sustainable, inclusive and mixed communities.

252. The submitted scheme provides for two blocks of sheltered accommodation apartments (each containing thirty residential units) for people aged 55 and over. The remainder of the scheme entails large properties which have been described as 'executive style housing'. The proposal as submitted does not provide for any smaller units or affordable housing and such would be predominantly 'executive style housing' and flats for the over 55's. Therefore the proposal would not create a mixed community contrary to the NPPF. In order to establish whether there was any scope to provide a better mix of housing in the form of affordable homes the applicants were requested to prepare a viability appraisal. In response the applicants have submitted a viability appraisal (which contains commercially sensitive information and as such is a confidential document) and this indicates that *'The enabling works, to include the new pavilion, pitch and access road are significant and extraordinary costs that will reduce the land value to such an extent that the introduction of affordable housing or commuted sums would render the proposal unviable'*. The appraisal has been assessed by Assets who found that build costs, house prices, professional fees and finance charges were within acceptable limits and reflective of the market. The only matter that they had issue with was land purchase fees which amounted to 16% of the gross development value. This equated to an uplift of almost 30 times the existing value of the land and was considered to be healthy return which exceeded any comparable evidence other than prime Durham City sites.

253. The recently published National Planning Policy Guidance advises at paragraph 023 that when considering site viability the assessment of site value will vary but there are common principles which should be reflected and in all cases estimated land or site value should:

- reflect policy requirements and planning obligations and, where applicable, any Community Infrastructure Levy charge;
- provide a competitive return to willing developers and land owners (including equity resulting from those wanting to build their own homes); and
- be informed by comparable, market-based evidence wherever possible. Where transacted bids are significantly above the market norm, they should not be used as part of this exercise.

254. Based upon the above and given the significant uplift in value which the land owner would benefit from it was considered that there was significant scope to renegotiate with the land owner whilst still providing a competitive return which would still incentivise the land owner to sell. On this basis it was considered that there was considerable scope to provide an element of affordable housing or a commuted sum in lieu of affordable housing. The applicant in response has submitted a revised appraisal which factored in additional planning fee costs, increased build costs for the cricket club pavilion and pitch and an increased net profit of 20% to reflect exposure to risk by lenders. These changes have resulted in land purchase fees being reduced from 16% of GDV to 10.3 which mean that the uplift in land value has reduced by almost a third. The applicant has also highlighted the fact that stamp duty, legal fees and tax need to be factored in and that the land owner will be transferring a further 19 acres of land in order to facilitate the development proposals which include 13.5 acres of pasture and woodland.

255. While it is difficult to project what a willing land owner would regard as a competitive return the uplift in land value would still be significant. Furthermore, the developer was originally willing to accept a profit margin of 17.5% and up until the submission of the revised appraisal was prepared to proceed with the development on this basis. In the light of the paragraph 023 of NPPG which indicates that land value should reflect policy requirements, which would include those designed to secure affordable housing, it is considered that there is still scope to secure an element of affordable housing, either on site or through a commuted sum, whilst providing a competitive return to a willing developer and land owner. In the absence of any affordable housing the proposal is considered to be contrary to the aims and objectives of Paragraph 50 of the NPPF. Furthermore, the lack of any affordable housing would also mean that the site could not be regarded as rural exception site as set out in paragraph 54 of the NPPF.

Other matters

Residential Amenity

256. As part of the proposal includes the provision of a clubhouse which it is intended to use for functions it is important to assess the impact that this will have upon the amenity of existing and future residents. In the past the cricket club have utilised a temporary marquee for various functions and historical records reveal that complaints regarding noise, disturbance and anti-social behaviour have been raised by existing residents. Despite these concerns permission was recently granted on 11 November 2014 to erect and retain a marquee until 1 October 2015. In order to protect the amenity of residents a series of conditions were imposed limiting the hours and days when functions could take place, limiting the use of amplified music and requiring a detailed noise assessment and proposed noise control scheme to be submitted to and approved by the Council. Given the fact that these measures were considered to be adequate to deal with noise and disturbance emanating from a temporary structure it is considered that a similar approach would be applicable in this instance particularly as the building would be a permanent structure and easier to adapt to contain noise emissions.

Other Environmental Factors.

257. Neither contamination nor air quality give grounds for concern.

258. A large proportion of residents who have commented on the application have raised concerns about flood risk and the fact that the Flood Risk Assessment is outdated as it was submitted at the time the original application was submitted. Notwithstanding the concerns of local residents the Environment Agency have offered no objection to the proposal on flood risk grounds provided suitable conditions are imposed should permission be granted. They have also recognised that the submitted Flood Risk assessment is out of date and legislation has changed but nevertheless consider the flood levels to be appropriate for the site. The Council's Drainage and Coastal Protection team have also offered no objection to the proposal and are satisfied with the restricted discharge rate that is proposed and welcome the attenuation of storm water through the introduction of a SUDS pond. Given the lack of objection from both parties it is considered that subject to the imposition of appropriate conditions the proposal will not exacerbate flood risk in the area.

259. *Concerns have been expressed that the sewerage system is running to capacity and an independent sewerage system will have to be installed which could give rise to the discharge of effluent.* At the time the original application was made the sewage treatment works in Consett/ Shotley Bridge did not have the capacity to take the development. However, Northumbrian Water had a programme of improvement works that were taking place across the County and the treatment works were due for an upgrade but they were unable, at the time, to commit to a date and time for these works. The original application therefore made provision for a sewage treatment plant which would be removed at the point a mains connection was available. Due to the time delay between the submission and final determination of the application the sewage plant has been upgraded and the treatment plant on the site is no required. Therefore, in line with the original intention, the treatment plant has been removed from the layout plan.

260. *There is no definitive footpath notation on the revised site area plan [E] or the revised Grassland Management Plan, which includes the provision of a hoggin surfaced footpath around the perimeter of the site.* Public access along the river bank and through the woodland was never part of the original application. However, the opportunity for enhanced public access around the meadowland to the north of the site was part of the original application. In particular, the original site plan showed potential routes around the retained meadowland to the north of the site. This proposed enhancement and benefit has not been withdrawn from the scheme as a result of the amended drawings. However, the County Ecologist raised concerns at the nature of the public access to the meadowland. He is concerned that encouraging such access may be to the detriment of the wildlife on the site and so it was agreed to 'down play' public access but not to withdraw it from the application. It was agreed that if no formal pathways through the meadowland were included (such a mown paths or hard-core paths) then people may be discouraged from entering this area. However, the applicants would be prepared to reinstate these pathways and to erect appropriate signage at the entrance to advise people of the nature of the area and to keep their dogs on the lead.

261. *Water safety - concern has been expressed about the safety implications of the pond and associated pier. - Should members be minded to approve the application then conditions could be imposed requiring the installation of measures to safeguard children and to prevent buggies/prams and wheel chairs from being accidentally manoeuvred into the water.*
262. *The road impedes on tenanted land and the proposed lake will also impede on tenanted property. This will potentially lead to unlawful eviction of part of the demise as tenant is not agreeable to the proposal. Residents occasionally ask the Council to help them establish the exact position of the boundary of their property. The Council cannot become involved in boundary disputes between neighbours; they are best resolved amicably by the parties concerned. If investigation of the position of the boundary is to be taken further, it may be necessary for the parties concerned to seek their own legal advice from a solicitor.*
263. The proposal will also put extra pressure on existing schools. – It is understood that the infants and juniors school is hovering around capacity and depending upon future projections may become a deficit. However, as the housing is predominantly for people over the age of 55 it is unlikely in the short term have a significant impact on school places.
264. PLANNING BENEFITS
265. Whilst the applicants are not presenting the proposal as an ‘enabling’ scheme the applicant has put forward what they consider to be the benefits of the proposed development which they have defined as social, community, environmental and economic. They have stated that the development would improve an outdated facility to provide a modern new cricket club and community facilities. Other benefits have also been suggested such as improvements to the County Wildlife Site, improved public access and the restoration of the Spa Well.
266. The business plan accompanying the application explains that:
- *Existing changing facilities are poor with no separate umpire changing or separate changing rooms for juniors or girls.*
 - *The club does not meet the Disability Discrimination Act*
 - *Drainage problems are being experienced on the cricket pitch with standing water on 40% of the field after even the lightest of showers.*
 - *The poor facilities and unsuitable access are starting to work against the club making it difficult to expand. The new road will address the current concern that a major accident may occur at the current junction with the A694.*
 - *The new facility will enable the club to expand and diversify the range of activities and opportunities available to people.*
267. The business plan also explains that the proposal will help support the local community and will provide much needed facilities following the closure the Village hall and the Village Church. It is also claimed that the proposal will boost community cohesion, social inclusion and enhance the aspirations and life expectations in the area. Furthermore it explains that Shotley Bridge Cricket Club and its partners will deliver sports/fitness activities, healthy eating, nutrition and music/dance programmes to individuals and wide group of organisations.

Volunteering will be encouraged and will have an open door policy to groups from neighbouring villages.

268. The scheme would also provide financial benefits for the Council and where these are directly related to the application, the Localism Act states that they can be considered as material considerations in support of the development. The Localism Act has introduced 'local financial considerations' as a legitimate material consideration providing they are material to the application. Local financial considerations are defined as:

- a) a grant or other financial assistance that has been, or will or could be, provided to a relevant authority by a Minister of the Crown, or
- b) sums that a relevant authority has received, or will or could receive, in payment of Community Infrastructure Levy.

269. Although the proposal would not deliver any Community Infrastructure Levy (CIL) contributions if they were determined in advance of the adoption of the CDP, it is the case that they could deliver economic gains via the New Homes Bonus mechanism which would satisfy point (a) in the above definition of what constitutes a legitimate financial consideration. However, this would only be the case if the New Homes Bonus was spent on mitigating the impacts of the development or in a way that directly relates to it. There is no known proposal by the Council to hypothecate any NHB receipts here in such a way.

270. While it is evident that the scheme will potentially give rise to both social and economic gains these need to be balanced against the environmental harm that the proposal will cause to interests of acknowledged importance. Furthermore, paragraph 28 of the Framework, which seeks to encourage a positive approach to economic growth in rural areas where it would create jobs and prosperity makes it clear that this would be dependent upon new development being sustainable, which for the reasons set out in the report, would not be the case in this instance. Therefore, the question that must be asked is whether the need for and the benefits deriving from the development clearly outweigh the harm that will be caused.

271. It is self-evident that the clubhouse is in need of improvement as the current changing facilities are cramped and do not provide for separate facilities for juniors and girls. Whether it is necessary to build a new clubhouse is debateable as there is scope to refurbish and extend the building. According to the applicant its condition limits the ability of the club membership to grow further and numbers have declined since 2009. It is also acknowledged that the improved facilities will potentially be more attractive to the wider community but these benefits are aspirational to some degree and as such there is no guaranteeing that these benefits will be delivered. The fact that other community facilities have closed in Shotley Bridge would tend to suggest that there is limited demand in the area.

272. The development will also include a new access which will replace an existing substandard access. Whilst this is a positive outcome in terms of highway safety the route of access road will result in the loss of Ancient Woodland which is a scarce and irreplaceable asset.

273. The applicant has also cited the fact that the main spa well be restored and the surrounding area landscaped. This in heritage terms is to be welcomed but as previously stated does not outweigh the harm to the setting of the listed buildings or the character and appearance of the Conservation Area.
274. The applicant also highlights as benefits, the management of the spa meadows and public access into these areas. As previously mentioned the Council's Senior Ecologist considers that the mitigation measures do not adequately compensate for the loss of biodiversity and ecologically important habitat.

CONCLUSION

275. The application has a long history dating back to 2008 when the application was first submitted and 2009 when the former Derwentside District Council were minded to approve the application contrary to the officer recommendation of refusal. Subsequent to that decision being made concerns were raised regarding the manner in which the issue of protected species had been addressed which prompted considerable debate and further extensive survey work following a review by an independent ecologist. More recently a view was taken that with the passage of time the application needed to be considered afresh with all material considerations properly assessed and a new recommendation made. That is what this report has sought to achieve.
276. Whilst the Derwentside District Local Plan has been a constant, the Regional Spatial Strategy has been revoked and the NPPF and the NPPG have been published. Despite the passage of time the saved policies within the DDLP are still, to varying degrees, considered to be in compliance with the NPPF and this evidenced by recent appeal decisions.
277. Even where the local plans is considered to be in conformity with the NPPF, the decision-making policies within the NPPF are still a material consideration in all planning applications (paragraphs 2, 13 and 196). At the heart of the NPPF is a "presumption in favour of sustainable development" (paragraph 14). For decisions on planning applications this means taking decisions that accord with the development plan (which should itself accord with the NPPF) without delay.
278. Sustainable development has three broad roles: economic, social and environmental. The environmental role is "contributing to protecting and enhancing our natural, built and historic environment; and as part of this, helping to improve biodiversity" (paragraph 7). These roles should not be undertaken in isolation, because they are mutually dependent. Economic, social and environmental gains should be sought jointly and simultaneously.
279. The benefits cited by the applicant need to be balanced against the fact that the site is located outside the built up extent of the settlement in the open countryside. Paragraph 55 of the Framework states that to promote sustainable development in rural areas housing should be located where it will enhance or maintain the vitality of rural communities. In addition LPAs should avoid new isolated homes in the countryside unless there are special circumstances. The application site can reasonably be regarded as falling within the definition of 'isolated homes' as they are well outside any village or town. The location is also one where residents of the buildings are more often than not likely to use a car rather than use public transport, walk or cycle. The fact that a large proportion of the dwellings are for people over 55 would mean that there would be a greater

tendency to travel by car particularly given the steep incline that would need to be negotiated to gain access from the application site to the A694 which leads to Shotley Bridge a walk of approximately 900 metres. Furthermore, Shotley Bridge has limited services and residents are therefore likely to travel further afield by car.

280. Furthermore, the benefits of the scheme need to be balanced against the following:

- The loss of Ancient Woodland, an important, scarce and irreplaceable resource which the NNPF stipulates that planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland unless the need for, and benefits of, the development clearly outweigh the loss.
- The development will also destroy a significant proportion of the Westlaw Wood and Spa Well Meadows.
- Significant impacts on protected species and their habitats, including badgers and bats.
- The adverse impact upon the character and appearance of the Shotley Bridge Conservation Area and the wider countryside. Given the scale and massing of the development the proposal will clearly have an urbanising effect and adversely affect the appearance of the area which is characterised by expanses of open space concealed from the road by woods that flank the A694. Whilst acknowledging that the site would be generally well screened, the introduction of such a comparably large scale of residential development in this location would not be sensitive to the defining characteristics of the immediate area.

281. Furthermore, although the proposed access road will be a significant improvement upon the existing substandard access it will involve major engineering works which will not only open up the site making it more visible but also an urbanising effect by the presence of crash barriers, embankments and retaining walls (possibly in the form of crib lock walls) in some area in excess of 6 metres in part) and a wide visibility splay onto the A694 where planting would not be permitted. In addition the Highway Authority have indicated that accident records, up to the end of October reveal that there have been no reported personal injury accidents at the existing access to the cricket club in the past three years. The only two accidents in the vicinity of the site have been on the derestricted section, in the vicinity of the proposed new access. Both involved vehicles leaving the road, hence the requirement for crash barriers.

282. Officers do not consider that the benefits that would be derived from the scheme would outweigh the negative impacts on biodiversity and protected species. Indeed the benefits are on a small and local scale and do not outweigh the significant negative impacts on biodiversity. The applicant has failed to consider alternative means of development which would minimise its impacts. Furthermore, no attempt has been made to amend the proposed layout or to reduce the quantum of development to reduce its overall impact.

283. Finally, members are advised that the Conservation of Habitats & Species Regulations 2010 requires all public bodies to have regard to the Habitats Directive in the exercise of their functions as the Council. d

284. In conclusion, it is considered that on balance the positive aspects of the development do not outweigh the disbenefits when measured against the Development Plan and the National Planning Policy Framework and it is therefore recommended that the application should be refused.

RECOMMENDATION

That the application be REFUSED for the following reasons;

1. The Local Planning Authority considers that the site is not a sustainable location for significant new residential development, and would lead to a significant incursion into the open countryside that would be contrary to paragraphs 7 and 17 of the National Planning Policy Framework, Policy E1 and E2 of the Derwentside District Local Plan and Policies.
2. The Local Planning Authority considers that the proposed development, as a result of its siting and scale would represent a significant incursion into open countryside which would unreasonably and unacceptably alter the character and appearance of the area, contrary to paragraphs 17 & 109 of the National Planning Policy Framework, Policy GDP1 and EN6 of the Derwentside District Local Plan.
3. Notwithstanding the mitigation measures that are being proposed the development would result in a significant and negative impact on biodiversity, including the direct loss of ancient woodland, its fragmentation and indirect impacts as a result increased recreational pressure and encroachment arising from the proximity of the residential development. Any public benefit in the scheme does not outweigh the irreplaceable loss of ancient woodland and the harm it would cause to legally protected species and their habitat and as such the proposal would be contrary to:

The National Planning Policy Framework and in particular paragraphs 14, 55, 109 and 118.

Policies EN 11, EN22 and EN23 of the Derwentside District Local Plan.

4. The proposed development, by reason of the height, scale, massing and density of the residential development and the associated access road would appear unduly prominent and out of character with the open aspect of the Spa Grounds. The urbanising impact of the development would fail to preserve or enhance the character and appearance of the Shotley Bridge Conservation Area in which the site is located and would adversely impact on the setting of the Grade II Listed former Shotley Spa Bath-house, former Shotley Spa Saloon and Shotley Spa. As a result, the harm to heritage assets would be substantial and given the lack of clear and convincing evidence that substantial public benefits would be derived from the scheme that would outweigh the harm, the proposal fails to comply with the National Planning Policy Framework; Policies GDP1 of the Derwentside District Local Plan.

5. The proposed development does not provide for a mixed community and would not deliver on-site affordable housing. As a result the proposal would prove contrary to the aims and objectives of the National Planning Policy Framework and in particular paragraph 50 which seeks to Provide a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities

STATEMENT OF PROACTIVE ENGAGEMENT

The Local Planning Authority in arriving at its decision to refuse this application has, sought to work in a positive and proactive manner based on seeking solutions to the various issues arising from the development. However, the issues of concern could not be overcome and a positive outcome could not be achieved.

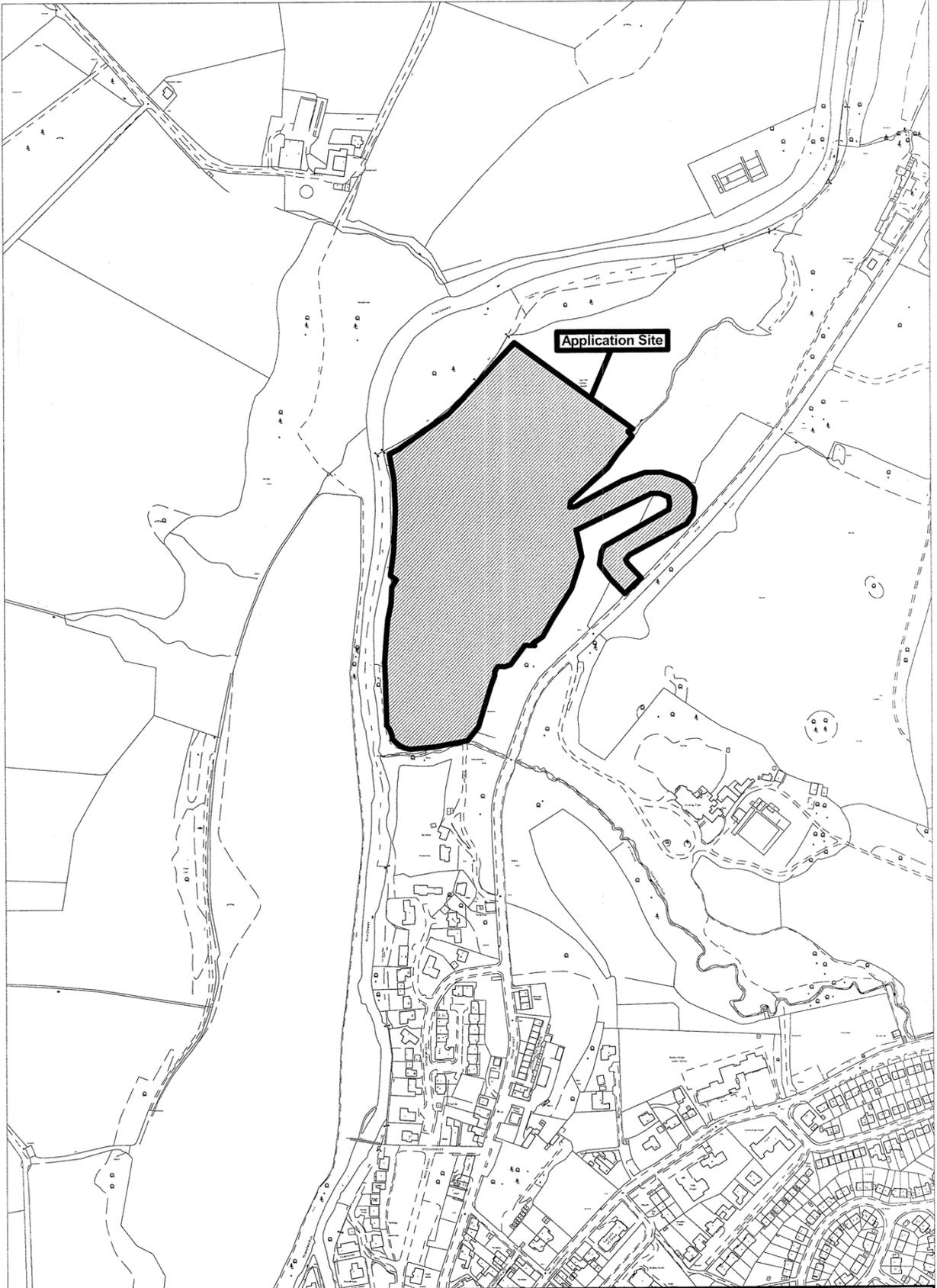
(Statement in accordance with Article 31(1)(CC) of the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012.)

BACKGROUND PAPERS

- Submitted Application Forms, Plans surveys and reports and subsequent information provided by the applicant including:

- Environmental Statement
- Updated Ecology Surveys
- Updated Heritage Statement
- Statement of Benefits
- Business Plan
- Viability Appraisal

- Saved Derwentside Local Plan 1997
- The National Planning Policy Framework (2012)
- National Planning Practice Guidance Notes
- The County Durham Plan (Submission Draft)
- Statutory and internal consultation responses including responses from the Secretary of State, Natural England, English Heritage, Sport England, the Environment Agency, Northumbrian Water, the County Highway Engineer, Principal Ecologist, Principal Design and Conservation Officer and Landscape officer.
- Public responses including Ebchester Village Trust, Shotley Bridge Village Trust, Durham Badger Group, petitions and representations from the public in favour and against the proposal.



SCALE 1:5000

Shotley Bridge Cricket Club and Spa Well Meadows
Shotley Bridge

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