



Area Planning Committee (North)

Date Thursday 27 September 2018
Time 1.00 pm
Venue Council Chamber - County Hall, Durham

Business

Part A

1. Apologies for Absence
2. Substitute Members
3. Minutes of the Meeting held on 28 June 2018 (Pages 3 - 8)
4. Declarations of Interest (if any)
5. Applications to be determined by the Area Planning Committee (North Durham)
6. DM/18/01298/FPA - Land to the North of St Johns Mews, Burnhope (Pages 9 - 28)
Erection of 28 dwellings for over 55s
7. DM/18/01134/OUT - Jingling Gate Inn, Twizell Lane, West Pelton (Pages 29 - 52)
Outline application for the erection of four dwellings on site of former public house/nightclub (resubmission) (all matters reserved).
8. DM/18/01498/OUT - Land to the East of the Junction of Belle View Drive and Drover Road, Castleside (Pages 53 - 72)
Outline application for the construction of up to 31 residential dwellings and associated works with all matters reserved except for access
9. DM/17/03634/FPA - The Crest, Beamishburn Road, Beamish, Stanley (Pages 73 - 88)
Erection of two dwellings and detached garage.
10. DM/18/00828/OUT - Site of Former Arizona Chemical, Vigo Lane, Chester-le-Street (Pages 89 - 114)
Outline planning permission (all matters reserved except access) for the erection of up to 83 dwellings (Revised scheme 6 July 2018).
11. Appeal Update (Pages 115 - 120)
12. Such other business as, in the opinion of the Chairman of the meeting, is of sufficient urgency to warrant consideration.

Helen Lynch
Head of Legal and Democratic Services

County Hall
Durham
19 September 2018

To: **The Members of the Area Planning Committee (North)**

Councillor I Jewell (Chairman)
Councillor S Wilson (Vice-Chairman)

Councillors A Bainbridge, D Bell, L Boyd, D Boyes, G Darkes,
A Hoppood, C Martin, M McKeon, O Milburn, J Robinson, A Shield,
J Shuttleworth, L Taylor and S Zair

Contact: Lucy Gladders

Tel: 03000 269 712

DURHAM COUNTY COUNCIL
AREA PLANNING COMMITTEE (NORTH)

At a Meeting of the **Area Planning Committee (North)** held in the Council Chamber -
County Hall, Durham on **Thursday 28 June 2018 at 1.00 pm**

Present:

Councillor I Jewell (Chairman)

Members of the Committee:

Councillors D Bell, A Hopgood, C Martin, M McKeon, O Milburn, A Shield, L Taylor,
S Wilson (Vice-Chairman) and S Zair

Apologies:

Apologies for absence were received from Councillors A Bainbridge, L Boyd, D Boyes,
G Darkes, J Robinson and J Shuttleworth

1 Apologies for Absence

An apology for absence was received from Councillor A Bainbridge.

2 Substitute Members

There were no substitute Members in attendance.

3 Minutes of the Meeting held on 26 April 2018

The minutes of the meeting held on 26 April 2018 were confirmed as a correct
record and signed by the Chairman.

4 Declarations of Interest (if any)

Councillor O Milburn declared an interest in application DM/17/03445/FPA - land to
the south of Penshaw View, Tantobie as local Member.

**5 Applications to be determined by the Area Planning Committee (North
Durham)**

a DM/17/03445/FPA - Land to the south of Penshaw View, Tantobie

The Committee considered a report of the Senior Planning Officer regarding the
resubmission of DM/17/00215/FPA and DM/17/02532/FPA for the erection of 52

detached and semi-detached dwellings, including affordable units, with associated services, infrastructure and landscaping on land to the south of Penshaw View, Tantobie (for copy see file of Minutes).

A Farnie, Planning Development Manager gave a detailed presentation on the application which included a location plan, site photographs, proposed site layout and proposed house types.

Councillor O Milburn, local Member, addressed the Committee in support of the application and in doing so informed the Committee that she would not be voting on the application. The village of Tantobie was classed as Category D village in the 1960's, and apart from a development of approximately 50 houses in the 1970's, consisted mainly of terraced housing. The village had a shop, two pubs a café and bus links and could be seen as being sustainable. There was a danger that the aging housing stock in the village could become the haunt of absent landlords.

A failure to approve development could present a risk to services in the village whereas the development of family homes would enable the village to thrive. There was local support for the proposed development, which adjoined and had easy access to playing fields. Councillor Milburn could not understand why objections to the development could not be mitigated by discussion and urged the Committee to approve the application.

Mr J Ridgeon, agent for the applicant, addressed the Committee. Mr Ridgeon thanked council officers for engaging with the applicant throughout the planning process and informed the Committee that significant changes had been made to the application to address concerns raised by internal consultees.

Prior to the original planning application for this site there had been positive public consultation and there had been no objections received from the community to this application. Mr Ridgeon also welcomed the support of Councillor Milburn, the local Member.

The proposed development was in a sustainable location and was acceptable in principle. The development would deliver much needed, modern homes and allow families to stay within their community.

There were three outstanding issues, all of which could be addressed by appropriately worded condition and mitigated fully through an appropriate s106 agreement.

In relation to concerns about the impact on biodiversity, the proposals included amended plans which proposed that the northern part of the site, where mineshafts were located, would be retained as landscaped open space with tree planting and retention to address the comments of the Landscape and Ecology Officer. Updated Landscaping Plans were not proposed to be submitted as they could be controlled by an appropriately worded condition.

Mr Ridgeon referred to off-site mitigation which could be easily calculated by using an appropriate biodiversity impact assessment calculator such as that used by

Warwickshire County Council. Last week the County Committee approved an application using this method. The scheme for 40 dwellings was approved on the basis of a £26,000 payment for off-site ecology improvements. At £650 per dwelling a similar agreement for this site would be £33,800, though this was likely to be less due to the on-site mitigation that was proposed in the northern part of the site. This could be controlled by Condition and Section 106 agreement and should not be a reason for refusal.

Given the proximity of the site to the Tantobie Community Centre and Sports pitches, which included a play park, the site would be well served by existing amenities. A footpath was proposed which would provide direct access to these facilities. A contribution figure of £59,228 had been agreed with the Council and this could be controlled by Condition and Section 106 agreement.

Given that ecology and open space issues could be resolved the outstanding issue related to surface water drainage.

Due to the coal mining legacy of the site and the ground contamination due to historic landfill the open space on the site was located at the north of the site at the top of a hill. A minimum number of houses were needed on the site to ensure it was viable and a drainage retention basin could not be incorporated into the site layout.

The flood risk assessment and drainage strategy submitted with the application detailed that SUDS were not appropriate at this location. However, further detailed design work may ascertain the extent of any SUDS that could be offered due to the nature of the site. In accordance with Council guidance this could include oversized pipes and underground retaining tanks. The guidance stated that these techniques were sustainable where the use of other SUDS techniques were not practical.

The developer had agreed a surface water flow rate into an existing surface water sewer at an adjacent manhole, to the north of the site, which was acceptable to Northumbrian Water. Additionally, Northumbrian Water had recently upgraded the sewage treatment works so foul drainage was not an issue on this site.

It would therefore be more practical to have this as a condition to allow a more detailed solution to be provided which would meet the LLFA requirements. This could be controlled by condition and had been agreed on other development sites and should not be a reason for refusal.

Officers had accepted that the scheme was only marginally viable and that providing modern, efficient housing in a sustainable location was a significant benefit which should be supported. The proposed housing model had been accepted and would widen home ownership opportunities. Ecology, open spaces and drainage issues could all be controlled by condition and Section 106 agreement and should not be a reason for refusal. The decision for the Committee was whether or not a SUDS strategy which was lower in the SUDS hierarchy was acceptable in this instance.

The Planning Development Manager informed the Committee that the application was satisfactory in terms of location, design, layout and highways but an impasse had been reached with the applicant when it came to conditions and contributions in an attempt to get the associated infrastructure for the site. The presentation to Committee which had been made by the applicant's agent contained information not previously forthcoming. There was scope to resolve outstanding issues and the applicant should have entered into discussion about these before the matter was brought to Committee for determination.

Councillor Wilson informed the Committee that there were no local objections to the application which addressed a housing need in the area. In view of the presentation by the applicant's agent and the response of the Planning Development Manager he **moved** that the application be deferred to allow for further discussion to take place between the applicant and planning officers

Councillor Shield sought clarity on the local Member who had spoken in favour of the application prior to hearing any of the debate and whether this should be classed as a prejudicial interest. D Taylor, Legal Manager, Property, Planning and Project Management replied that the local Member had a personal interest in the application as a local Member and had spoken in favour of the application. As a result this could be deemed to be pre-determination of the application and the local Member had informed the Committee that she would not be voting on the application.

Councillor Shield referred to the proposed access to the development site which was adjacent to an access to an equestrian facility on the other side of the road. D Smith, Principal DM Engineer replied that there was a farm access opposite the site which was poor in terms of visibility because it had been built out. The junction would be staggered and the highway had no recorded accidents. Vehicle speeds were commensurate with the junction and there were no highway issues of any concern.

Councillor Shield referred to saved Policies EN1 and EN2 in the Derwentside District Local Plan which were to restrict development in the countryside, however, there was a need for this level of housing in the area. While he could not support the application as it was presented to Committee he supported Councillor Wilson that the application be deferred until outstanding issues could be agreed to the satisfaction of officers.

Councillor Jewell informed the Committee that the development site was once lower than it was now and suffered pooling of water. He had concerns if the land was to be infilled and also had drainage concerns about the site. Once development commenced any remedial work which was necessary would be very difficult.

B Weatherall, Senior Area Drainage Engineer informed the Committee that the application made in November 2017 contained no provision of or space for SUDS. The flood risk assessment for the outline application was insufficient to determine the flood risk, and on-site testing was required for ground conditions. An amended strategy for flood risk, testing and hydrology conditions had been requested but had not been forthcoming.

Councillor Martin agreed with Councillor Milburn that the area was in need of more housing, however, a proper drainage system was needed. Councillor Martin **moved** refusal of the application.

Councillor McKeon empathised with the local community and the need to keep local services going and **seconded** that the application be deferred so that drainage issues could be addressed.

Councillor Hopgood asked, if the application was deferred, whether the time frame for determination would be met. Drainage at this site was a massive issue and agreement was needed on how to progress this.

The Planning Development Manager replied that if the application was to be deferred the applicant would need to agree an extension of time for determination of it. He was unable to say whether the drainage issues could be resolved to the satisfaction of all parties. If the application was to be refused then the applicant could appeal the decision but this was a lengthy exercise for both parties. If the application was deferred there was no guarantee that the ecology, open spaces and drainage issues could be resolved.

Councillor Shield informed the Committee that there had been no guarantee forthcoming from the applicant regarding drainage and flooding and as a result he was withdrawing his support for a deferment and **seconded** refusal of the application.

A vote was taken that the application be deferred, as **moved** by Councillor Wilson, **seconded** by Councillor McKeon. There was an equality of votes, therefore upon the Chairman using his casting vote the motion was **lost**.

Upon a further vote being taken, **moved** by Councillor Martin, **seconded** by Councillor Shield it was

Resolved:

That the application be refused for the reasons contained in the report.

b DM/18/01349/FPA - Land to the South East of Greencore, Hownsgill Industrial Park, Templetown

The Committee considered a report of the Senior Planning Officer regarding an application for the construction of a sustainable drainage system (SuDS) basin, to service the 'Go-Ahead' development and potential future sites on land to the south east of Greencore, Hownsgill Industrial Park, Templetown (for copy see file of Minutes).

A Farnie, Planning Development Manager gave a detailed presentation on the application which included a location plan, proposed site plan and site photographs.

In response to a question from Councillor Shield the Planning Development Manager informed the Committee that the maximum water depth would be 1 metre.

Moved by Councillor Shield, **seconded** by Councillor Hopgood and

Resolved:

That the application be approved subject to the Conditions contained in the report.

6 Appeal Update

The Committee noted a report which provided details of an appeal decision against the refusal of permission for the demolition of two hay storage barns and removal of containers, converted lorry-backs and redundant chicken coop structures and the erection of a single storey detached dwelling part on existing hardstanding and part on site of one of the structures on land and buildings west of Parkers Farm, Pontop Pike Lane (DM/17/02360/FPA).

The Committee also noted that two appeals had been received.

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/18/01298/FPA
FULL APPLICATION DESCRIPTION:	Erection of 28 dwellings for over 55s
NAME OF APPLICANT:	Holmside Developments Ltd
ADDRESS:	Land to the North of St Johns Mews Burnhope
ELECTORAL DIVISION:	Lanchester
CASE OFFICER:	Steve France Senior Planning Officer Telephone: 03000 264871 steve.france@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site is 1.5 ha. of land, to the north of Burnhope, a village sited north of and on top of the escarpment above Lanchester and the A691, 6 miles north-east of Durham City. The village has a small range of services and facilities proportionate to its size, including a community hall, small shops, café, church and school, relying on the hierarchy of surrounding settlements for others. Buses between Stanley and Lanchester connect the village to the sustainable transport network via the 18 bus stops in the settlement.
2. The land is currently used for grazing as improved grassland, subdivided with wooden fences. The west boundary is formed by a small treed embankment, formerly a mineral railway line, now a public footpath. The eastern boundary is mostly open, with some short remnants of hedging, with surrounding countryside mostly also in grazing use. A second public footpath crosses the northern extent of the site. To the south of the triangular site is St. John's Mews, a modern development of 9 large detached dwellings in a cul-de-sac. The proposed access to the development is through this development, and as the cul-de-sac is unadopted, the application's 'development boundary' includes this road as far as the public highway – the main road through the village. This is to assist in preventing the new housing becoming 'landlocked' – although access rights would also need to be ensured through appropriate legal negotiation - and make sure that the new development is connected to the adopted highway and further to allow improvement works to take place within the red line boundary within the scope of the application.

The Proposal

3. The application proposes the erection of 28 detached and semi-detached bungalows (including dormer units) as a development for 'over 55's'. This would take the form of 20 2-bed, and 8 3-bed dwellings including 6 affordable units with associated services, infrastructure and landscaping. One of the affordable dwellings would be reserved for a 'Residents Warden/Caretaker' who would serve the development. The main site is triangular in shape, reflecting the site boundaries, served by an extended cul-de-sac. A central communal area with a feature covered shelter is part of the proposal.
4. The existing cul-de-sac at St. John's Mews is included within the development site to connect the proposed housing development with the existing public highway on Holmside Lane. Whilst serving the existing dwellings, the roadway and its drainage system, have not been adopted as a result of its technical specification. This application seeks to bring this to a standard capable of adoption as part of the proposals. This is to ensure it is fit for purpose in service of the new development, and functions appropriately when serving existing residents within the red line of the defined development site.
5. This application is reported to Committee as a 'major' development.

PLANNING HISTORY

6. In 2007, an 'outline' application by Barratt Homes for 39 dwellings was refused on the basis that it was outside the village development limit and in open countryside, contrary to Policies EN1, EN2 and BI1 of the Derwentside District Local Plan. A second reason was that visibility from St. John's Mews east was substandard and any intensification of the use of the junction was likely to be prejudicial to highway safety, contrary to Policy TR2 of the Plan.
7. Similar applications for residential development were submitted in 2015 and 2017, both of which were withdrawn prior to determination

PLANNING POLICY

NATIONAL POLICY

8. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The NPPF was updated in July 2018. The overriding message remains that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.
9. In accordance with paragraph 48 of the National Planning Policy Framework, the weight to be attached to relevant saved local plan policy will depend upon the degree of consistency with the NPPF. The greater the consistency, the greater the weight. The relevance of this issue is discussed, where appropriate, in the assessment section of the report below.

10. The following elements of the NPPF are considered relevant to this proposal;
11. *NPPF Part 2 - Achieving sustainable development.* The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
12. *NPPF Part 5 – Delivering a sufficient supply of homes.* To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
13. *NPPF Part 6 - 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.
14. *NPPF Part 8 - Promoting healthy and safe communities.* The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
15. *NPPF Part 9 - Promoting sustainable transport.* Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
16. *NPPF Part 11 - Making effective use of land.* Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land.
17. *NPPF Part 12 - Achieving well-designed places.* The Government has attached great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning, with this section of the revised Framework document expanded.
18. *NPPF Part 14 - Meeting the challenge of climate change, flooding and coastal change.* The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.
19. *NPPF Part 15 - Conserving and enhancing the natural environment.* The Planning System should contribute to and enhance the natural and local environment by

protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.

NATIONAL PLANNING PRACTICE GUIDANCE:

20. The National Planning Practice Guidance (NPPG) both supports the core government guidance set out in the NPPF, and represents detailed advice, both technical and procedural, having material weight in its own right. The advice is set out in a number of topic headings and is subject to change to reflect the up to date advice of Ministers and Government.
21. *Climate change* - Addressing climate change is one of the core land use planning principles which the National Planning Policy Framework expects to underpin both plan-making and decision-taking. Planning can also help increase resilience to climate change impact through the location, mix and design of development. Reflecting the 'golden thread' of the NPPF, sustainable development is key.
22. *Natural Environment* - Section 40 of the Natural Environment and Rural Communities Act 2006, which places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. A key purpose of this duty is to embed consideration of biodiversity as an integral part of policy and decision making throughout the public sector.
23. *Design -The importance of good design*. Good quality design is an integral part of sustainable development. The National Planning Policy Framework recognises that design quality matters and that planning should drive up standards across all forms of development. As a core planning principle, plan-makers and decision takers should always seek to secure high quality design, it enhancing the quality of buildings and spaces, by considering amongst other things form and function; efficiency and effectiveness and their impact on wellbeing.
24. *Flood Risk and Coastal Change* - The general approach is designed to ensure that areas at little or no risk of flooding from any source are developed in preference to areas at higher risk. Application of the sequential approach in the plan-making process, in particular application of the Sequential Test, will help ensure that development can be safely and sustainably delivered and developers do not waste their time promoting proposals which are inappropriate on flood risk grounds.
25. *Land Stability* - The guidance provides advice to local authorities and developers to ensure that development is appropriately suited to its location, and that there are no unacceptable risks caused by unstable land or subsidence.
26. *Air Quality* – sets out the national European and National legislative framework and a local air quality management (LAQM) regime which requires every district and unitary authority to regularly review and assess air quality in their area. Whether or not air quality is relevant to a planning decision will depend on the proposed development and its location.
27. *Land affected by Contamination* - When dealing with land that may be affected by contamination, the planning system works alongside a number of other regimes including Building Control and Environmental Protection. To ensure a site is suitable for its new use and to prevent unacceptable risk from pollution, the implications of

contamination for a new development would be considered by the local planning authority to the extent that it is not addressed by other regimes.

28. *Planning obligations* - Planning obligations mitigate the impact of unacceptable development to make it acceptable in planning terms. Obligations should meet the tests that they are necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind. These tests are set out as statutory tests in the Community Infrastructure Levy Regulations 2010 and as policy tests in the National Planning Policy Framework.
29. *Noise* - Noise needs to be considered when new developments may create additional noise and when new developments would be sensitive to the prevailing acoustic environment. Consideration should be given to whether significant adverse effect or an adverse effect occurs or is likely to occur; or whether a good standard of amenity can be achieved. Paragraph 180 of the NPPF provides policy support to this aspect.

LOCAL PLAN POLICY:

30. The following are those saved policies in the Derwentside District Local Plan 1997 relevant to the consideration of this application:
31. *Policy GDP1 – General Development Principles* – outlines the requirements that new development proposals should meet, requiring high standards of design, protection of landscape and historic features, protection of open land with amenity value, respecting residential privacy and amenity, taking into account ‘designing out crime’ and consideration of drainage. In terms of paragraph 11 of the Framework this is considered the ‘most important policy’ for determining the application.
32. *Policy EN1 – Development in the Countryside* – will only be permitted where it benefits the rural economy / helps maintain / enhance landscape character. Proposals should be sensitively related to existing settlement patterns and to historic, landscape, wildlife and geological resources.
33. *Policy EN2 – Preventing Urban Sprawl* – Except where provision has been made in the plan, development outside built up areas will not be permitted if it results in: the merging / coalescence of neighbouring settlements; ribbon development or; and encroachment into the countryside.
34. *Policy EN11 – Trees and Development* – states that throughout the district existing trees should be retained where possible.
35. *Policy HO22 – Recreational Public Open Space within Housing Layouts* - this Policy covers open space provision within housing sites. It states that provision should be made on site where possible, or via a financial payment in lieu of direct provision, where sufficient provision cannot be made on site. The OSNA (2010) sets out the most up to date position in respect to open space provision across the county and provides a formula for calculating requirements on a site specific basis. This is a relevant material consideration in conjunction with Policy HO22 and paragraph 96 of NPPF.
36. *Policy TR2 – Development and Highway Safety* – relates to the provision of safe vehicular access/exit, adequate provision for service vehicle manoeuvring, access for emergency vehicles and access to the public transport network.
37. *Policy TR3 – Cycling* – Requires cyclists’ needs to be taken into account when considering proposals for new traffic management, road improvements and new

developments. Permission will only be granted if safe and convenient access and cycle parking facilities such as racks or wall bars are provided.

RELEVANT EMERGING POLICY:

38.Paragraph 48 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. An 'Issues & Options' consultation was completed in 2016 on the emerging the County Durham Plan (CDP) and the 'Preferred Options' was approved for consultation at Cabinet in June 2018. However, the CDP is not sufficiently advanced to be afforded any weight in the decision making process at the present time.

The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.cartoplus.co.uk/durham/text/00cont.htm>.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

39.*Highways* – The parking scheme was significantly redesigned during the application process at the request of Highways Engineers. However, further amendments are required to the internal layout to allow the scheme to meet adoption design layout highway standards

40.Ongoing discussions on the works required to bring the existing cul-de-sac of St. John's Mews to a standard capable of adoption are still under way as this report is being prepared. Highways Engineers write,

- *'The applicant has discussed the proposed development with myself and the Councils Highways Adoption Engineer Jon Hogarth, the proposed site is currently served by the unadopted road of St Johns Mews. In the past St Johns Mews was not adopted by the Council because of a problem with the sewers, NWL could not conclude an easement through some of the residents' gardens and therefore not adopt them.*
- *The Highways Adoption engineer and myself have advised the applicant the course of action to be taken to progress the Section 38 adoption of St Johns Mews, the main issue being the Section 104 Sewers Adoption Certificate needs to be concluded with the Water Authority before further development would be supported by the Highways Department.*
- *In summary the proposed development would not be supported by the Highways Department unless St Johns Mews is adopted as public highway. No further development should be brought forward either and as such a planning condition should not be attached to any future planning permissions being granted to this current application until this matter has been dealt with'.*

41.*Northumbrian Water* – ask for a condition to be attached to any approval requiring development to be implemented in line with the latest submitted drainage scheme.

EXTERNAL CONSULTEE RESPONSES:

42. *The Coal Authority* – recommends that the LPA impose a Planning Condition should planning permission be granted for the proposed development requiring site investigation works prior to commencement of development. In the event that the site investigations confirm the need for remedial works to treat any areas of shallow coal mine workings or any mine entries to ensure the safety and stability of the proposed development, this should also be conditioned to ensure that any remedial works identified by the site investigation are undertaken prior to commencement of the development.

INTERNAL CONSULTEE RESPONSES:

43. *Spatial Policy* – have confirmed that in terms of the Open Space needs assessment (OSNA) that no contribution would be sought for play space, due to the nature of the development. A scheme of 28 units would generate 62 residents, generating an off-site demand for Parks and Recreation and Allotments. The OSNA assesses that each resident would generate a requirement of £639, therefore a requirement from the overall scheme of £39,618.

44. In terms of the relevant policies they confirm:

- Policy EN1 is largely up-to-date and not connected with housing supply,
- Policy EN2 seeks to prevent encroachment into the countryside, which as an established planning principle is Framework compliant,
- Policy HO7/BI1 is a useful starting point for consideration but is out-of-date,
- Policy HO22 can be given some weight when assessed in conjunction with an up-to-date evidence base,
- Policy TR2's general aims are consistent with the Framework.

The scheme proposes older persons housing and (potentially) affordable units in accordance with numerical local requirements. This would help to satisfy local housing need and weight can be given to this (albeit dependent upon the final model agreed for the affordable element).

45. *Drainage and Coastal Protection* – Engineers offer no objection to the scheme, requesting that the surface water drainage implications of the scheme should ideally be dealt with through a sustainable drainage system, the details of which should be agreed before the approval of the scheme. Engineers' response to the detailed scheme is still outstanding as the report is written, and will be verbally reported to Members.

46. *Design and Conservation* - The original scheme scored well against BLF 12 principles at internal design review in terms of character, creating well defined streets and spaces, the arts and crafts style of the bungalows etc. The submitted revised layout addresses a number of points from the amber scorings by virtue of a reduction in the amount of hard standing in the SW corner of the site replaced with green space, providing rumble strips to encourage lower vehicle speeds, adding a footpath link in the north to connect into the existing public right of way network, breaking up the parking bays and providing these in-curtilage etc. As such the revised scheme represents an improvement compared to the original and as a consequence no design based objection is raised.

47. *Landscape* – acknowledged the lack of formal designations on or around the site. Regretting the lack of a tree survey of the specimens adjoining the site and their proximity to dwellings on the west boundary. The intrusion into the countryside was objected to.

48. *Ecology* – rues the lack of detailed information on biodiversity delivery within the site boundaries, given that the development of the land will result in a net bio-diversity loss.
49. *Environment, Health and Consumer Protection (Air Quality)* – There are no known sources in the vicinity of the proposed properties of emissions of one or more of the eight air quality pollutants that are subject to review and assessment under Local Air Quality Management. This covers emissions from vehicle exhaust fume (Nitrogen Dioxide and Particulates) and from point sources e.g. combustion plant, industrial installations. The proposal will not therefore give rise to the exposure of receptors (residential dwellings, care homes, schools, hospitals.) to levels of one or more of the eight air quality pollutants that are close to or exceed the national air quality objectives. Therefore, no mitigation measures to reduce the exposure of the future occupants of the dwellings to emissions of air quality pollutants is required.
50. *Contamination* – Environmental Health Officers accept the findings of the submitted reports and appraisals including localised remediation of areas with high arsenic and lead levels, suggesting monitoring conditions be attached to any approval.
51. It is suggested however that a condition to require the submission and approval of a Dust Action Management Plan should be included as a requirement in the event of an approval.
52. *Affordable Housing* - Taking the relevant policies into account the site falls within a MEDIUM viability area. This means that 15% of properties on the scheme would need to be affordable. Where a discounted sale home ownership product is being considered, we would require the developer to provide an indication of the open market price of the discounted units, to allow this proposal to be supported. This information is required to allow the percentage discount to be determined to ensure the units comply with the affordability criteria. Where affordable rent is being considered the developer should seek a registered provider partner as soon as possible to determine interest in the site. There is a requirement to provide 10% of the private and intermediate properties for older people. We therefore would welcome bungalow or Building for Life provision.
53. *Education* – Confirm the development should not impact on the amount of school places available in the area.
54. *Footpaths* - Public footpath nos. 40 and 26 Burnhope Parish abut the west and north site boundaries respectively. The application documentation refers to an outdated version of the definitive map from 2011 which does not show footpath no. 40. This is an attractive and locally valued path which follows the route of a former mineral line. It is noted that the proposal to provide a link path between the development and footpath no. 26. The Officer is unable to find any information regarding the intended status of the footpath or future maintenance responsibilities. The merits of providing the link path on the above grounds is questioned, plus possible implications for resident privacy and security (unit 15 will have footpaths to three sides) and any clear benefits to the wider public.
55. *Archaeology* – note that their ‘best-practice’ requests an assessment prior to the submission of an application that exceeds 1ha in size, as an interpretation of paragraph 189 of the Framework. No survey has been submitted.

PUBLIC RESPONSES:

56. Seventeen letters of public consultation were sent out to nearby residents. Site notices were posted on surrounding footpaths and an advertisement placed in the local press.

There were objections from 14 properties and a neutral 'representation' from the Parish Council.

57. Burnhope Parish Council wish the County Council to consider the application 'within all existing planning policies'.
58. Local residents in St. John's Mews have expressed frustration with the drip-feed submission, omissions, quality of information and amendments during the planning process, affecting their ability to understand and comment on the proposals. Those residents have a formal relationship with the developer in regards of the private drainage system the cul-de-sac operates. Their significant concerns on this system and the unadopted roadway above it are relevant to the current application in so far as it relates to the shared roadway and footpaths that form the existing cul-de-sac and that are propose to also serve the new development. They also point out the claimed public consultation exercise by the developer happened some years ago.
59. Residents have a number of concerns, but their main focus is on these two issues.
60. The applicant's recent communications to residents regarding the implications of the new drainage scheme to them have caused distress and indignation. The applicant's history of maintenance of the existing system and inability to bring it to an adoptable standard to date gives concern for the expanded system, as does its detailed technical specification and lack of information on critical elements. Drainage concerns extend to surface water issues from the adjacent land that run onto the site, with ground conditions impermeable. The development will significantly exacerbate existing problems in this regard.
61. Highway safety in the Mews is a concern, with the additional traffic from 28 dwellings considered unacceptable. Young children who currently play in the street will not be able to do so. The proposals and their justification are inaccurate and misguided. In addition to the restricted dimensions of the existing cul-de-sac already serving 9 properties on the Mews, a 'serious visibility issue' with the junction of Holmside lane is pointed out. The lack of adoption to date and the likelihood of future adoption are of concern.
62. It is pointed out that the Council has a strong housing supply figure, and that the proposed development is in the countryside contrary to Planning Policy, being outside the settlement limit defined in the Local Plan. The site was assessed as unsuitable in the SHLAA. There is a range of property available for sale in the village. The proposals and controls as far as they relate to 'over 55s' are unclear and unenforceable. The proposed Management Committee is 'totally unworkable', if it exists. Residential amenity distances on the southern boundary of the site are below standard and not acceptable. Overhead power cables on the site are not accommodated. The triggers for implementation of the affordable housing could be abused. There is still doubt over the accuracy of the current plans and house-types. The potential noise implications of a pumping station of increased size have not been set out or considered. Wildlife using the site will be negatively affected. Ground stability conditions are of concern as shown in the mining assessment which is not of sufficient detail.

APPLICANT'S STATEMENT:

63. We began pre-application consultation with Officers on this scheme approximately five years ago and this is the third application that has been lodged; two previous applications having been withdrawn. Until relatively recently, Durham did not have an established objectively assessed housing land supply, but a previous proposal for a commercial market housing scheme by Barratt Homes had been resisted by Officers

anyway in spite of this. Presently, there is not considered to be a shortage of housing land supply, but we feel that this is not a key issue anyway, as we have always discussed potential for a scheme that delivers a speciality product that is much needed regardless, in a settlement which has a reasonable level of local facilities and services. In any event, our proposal for a bespoke development of bungalows for elderly persons appeared to us to have been supported by Officers, in principle, and our discussions over the last five years were held on that basis. We understand that, although no guarantees can ever be provided, we believed that we were engaged in meaningful discussions rather than discussions that would not lead anywhere, because this, after all, would have been a waste of everyone's time.

64. It is clear that during the time this scheme has been developed, there have been some challenges, including consultation with the residents of St. Johns Mews, even though other Burnhope residents were generally supportive, in principle, and we were encouraged by approaches from interested parties during the consultation process, who expressed an interest in potential purchase of the dwellings. We have addressed technical issues of highway and drainage adoption which we have confirmed can be resolved via a planning agreement and appropriate planning conditions, in the event of approval.

65. The scheme we have now developed is a very high-quality bespoke scheme providing a category of housing that is in high demand and short supply, regardless of the pre-existing or present housing land supply situation. It is also for a specialist category of users, the over 55's; with bespoke dwellings rather than standard house builder product; mainly small two-bedroom bungalows; with a good standard of accommodation; built to "Lifetime Homes" standard; with "Secured by Design"; grouped around an attractive central greenspace and with an informal layout which was welcomed in principle via the Council's informal design review process. There is also a warden proposed to be on hand to manage the facility on behalf of the residents. We have specified the required level of affordable homes which may be delivered by a Planning Agreement and our consultation with the Council's Housing Officers confirmed that there would be very strong interest in bungalows from a range of Registered Social Landlords. Furthermore, the proposed planning agreement would restrict the development to the over 55's as has been achieved in many other developments in other Local Authority areas up and down the country. In summary, this proposal represents an opportunity to provide much needed, high quality homes in a safe environment of supported independence.

The above is not intended to list every point made and represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <https://publicaccess.durham.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=P81S1HGDKWH00>

PLANNING CONSIDERATIONS AND ASSESSMENT

The Principle of the Development

66. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issue in this instance relates to the principle of development in the countryside, with highways and drainage issues of particular concern to residents.

The Development Plan

67. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The Derwentside District Local Plan remains the statutory development plan and the starting point for determining applications as set out at Paragraph 12 of the NPPF. However, the NPPF advises at Paragraph 213 that the weight to be afforded to existing Local Plans depends upon the degree of consistency with the NPPF.
64. The Local Plan was adopted in 1997 and was intended to cover the plan period until 2006. However, NPPF Paragraph 48 advises that Local Plan policies should not be considered out-of-date simply because they were adopted prior to the publication of the NPPF. Notwithstanding this, it is considered that a policy can be out-of-date if it is based upon evidence which is not up-to-date/is time expired depending on the circumstances.
65. The County Plan is at the beginning of the process to consider and ultimately adopt its policies. In terms of this document's relevance to the current application is dictated by this Plan's early stage, it being considered that only the position on the five year housing land supply is of relevance and material weight to this application.

The NPPF

66. Paragraph 11 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means (unless material considerations indicate otherwise):
 - approving development proposals that accord with an up-to-date development plan without delay; or
 - where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i. the application of policies in this (sic) Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. 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.
68. Paragraph 73 of the NPPF requires Local Planning Authorities (LPAs) to maintain a five-year supply of deliverable sites (against housing requirements) thus boosting the supply of housing.

Five Year Housing Land Supply

69. Paragraph 73 of the NPPF requires Local Planning Authorities (LPAs) to maintain a five-year supply of deliverable sites (against housing requirements) to ensure choice and competition in the market for land.
70. In September 2017, the Government published a consultation document entitled "*Planning for the Right Homes in the Right Places*", which introduced a standard methodology for calculating housing need (OAN). Applying that methodology for County Durham, the housing need figure would be 1,368 dwellings per annum (dpa).
71. The Government published its response to the consultation in March 2018, and clarified that the standardised approach is the most appropriate method for

calculating need as it meets the three key principles of being simple, realistic and based on publicly available data. At the same time, the revised draft NPPF was issued for consultation, with paragraph 61 of that document advising that, 'in determining the minimum number of homes needed, strategic plans should be based upon a local housing need assessment, conducted using the standard method in national planning guidance'.

72. The Government also issued draft planning guidance on 9 March 2018, which sets out that where a local plan is more than five years old and the housing figure needs revising, as is the case in County Durham, the starting point for calculating land supply will be local housing need using the standard methodology.
73. The Council's position on 5-year housing land supply was publically tested at a recent public inquiry (APP/X1355/W/17/3180108 – decision issued 10th May 2018) with the Inspector concluding that the use of the Government proposed standardised methodology for calculating land supply would be premature until it has formally come in to force or until the council has adopted a formal position in relation to its OAN. On the 13th June, the 'Preferred Options' of the County Durham Plan (CDP) was presented to the Council's Cabinet and endorsed for consultation. The CDP is aligned with the standardised methodology and formally endorses the use of 1,368dpa as the OAN figure. The Council is able to demonstrate in excess of 6 years supply of deliverable housing land against this figure.
74. Accordingly, the weight to be afforded to the boost to housing supply as a benefit of the development is clearly less than in instances where such a healthy land supply position could not be demonstrated. This will need to be factored into the planning balance.

Countryside Policy

75. In terms of compliance with the Development Plan, there are no relevant housing Policies. Policies EN1 and to a lesser extent EN2, designed to protect the countryside are compatible with the NPPF and still have weight. Policy BI1, which set a development limit and control housing development in Burnhope is considered unduly restrictive and not consistent with the Framework. These are the three policies used to refuse an application in 2007, that decision being subsequently upheld at appeal.
76. Policy HO7/BI1 is a housing control policy, designed to direct housing within urban areas and of limited weight when assessed against the Framework. The site is an extension into the countryside, and one that does not relate well to the form of the existing settlement – very much an 'add-on' rather than a potential integral part.
77. The countryside potentially affected by the development is open grazing land with basic sub-division by agricultural post and wire fences. The land is not designated, but is attractive open countryside with an intrinsic value that has remained undeveloped through the settlement's mining history. In the public domain as a result of being overlooked by the public rights of way to the north and west of the site – only one of which is acknowledged by the applicant – the urban form of this north end of the village reflects to a large degree the route of Holmside Lane. The proposal reflects the route of the treed footpath on the former waggonway and historic field boundaries rather than being any logical urban extension of the urban settlement.
78. Council Landscape Officers described the arrangement and effect thus: *'This tapering field is orientated northwards at a tangent to the existing pattern of the village's footprint. A developed site would form an uncomfortable incursion into surrounding countryside with only a tenuous connection to the existing settlement. In consequence,*

the negative effect on the visual amenity value and landscape character of the area can be summarised as significant. The site is overlooked from the tree lined public right of way that runs northwards along the western edge of the site and other public viewpoints at distance.The proposals would have significant adverse landscape and visual effects’.

79. The policies in the Derwentside District Local Plan designed to protect the countryside are considered to be ‘the most important policies for determining the application’ (Framework paragraph 11). Policy EN1, consistent with the NPPF’s approach for acknowledging the intrinsic value of the countryside seeks to, amongst other criteria, help maintain and enhance landscape character, requiring proposals to be sensitively related to existing settlement patterns. The proposals are a pure extension into the countryside, with no justification from the existing urban form. Policy EN2 seeks to prevent urban sprawl, its third criteria precluding, and ‘an encroachment into the surrounding countryside’. Whilst this Policy is less compliant with the advice in the Framework, the proposals clearly are in conflict with it.

Housing Policy and Supply

80. The Council is at present able to demonstrate in excess of 6 year’s supply of deliverable housing land. Accordingly, the weight to be afforded to the boost to housing supply as a benefit of the development is clearly less than where such a healthy land supply position could not be demonstrated. This will need to be factored into the consideration of the proposals.

81. The applicant’s case is that the housing to be provided is specialist in nature – aimed at a specific and restricted demographic, where there is an apparent identified shortfall.

82. To be able to give significant material weight to the claimed specialist nature of the development the Council must be able to ensure that the proposals are precise and clear in intent and delivery, and further that if the nature of the scheme is the reason it is acceptable, that there are appropriate mechanisms to ensure that the development will be operated in accordance with the stated operation in perpetuity. The developer writes that, *‘all we can do at this juncture, is point you to some over 55’s developments in England, to demonstrate that these speciality products do exist and have been approved by a large number of local planning authorities’*. The identified examples are run by ‘not for profit’ companies and registered charities, with communal facilities and levels of care available in their offer.

83. This proposal describes the, *‘retirement/independent living village model enables independent living by residents, but nevertheless include the backstop of extra care as and when it may be needed’*. The source or definition of this extra care is not defined and this lack of clarity is a feature of the Management Plan that the applicant relies on to provide his special circumstances. For further example, a legal agreement that would needed to be administered by the Local Authority is described to restrict occupation to ‘over 55’s’. The suggested mechanism – that the legal agreement inserts the requirement into the house conveyances gives the Planning Authority no control.

84. The role of the ‘Residents Warden/Caretaker’ and the necessity for that person to live on site and occupy one of the affordable units is not justified. The role appears to be as an on-site odd job man employed by the Management Committee and possibly individual residents. There is no explained need to live on site to perform their duties. There appears no guarantee that the Management Committee might actually exist. The definition of the term ‘care’ is undefined. The development appears to be a potentially part self-managed community of over 55s who are required to finance a caretaker for general maintenance tasks. Previous iterations of the scheme had included formal

element of care and community facilities. The current proposals do not, despite including language that implies such to Officers.

85. With the applicant claiming a specialist development, Officers are concerned at the nebulous and ill-defined nature of the 'retirement village' and its potentially voluntary management and operation. It is accepted that there is a shortage of bungalows available across the County, and that provision for independent living for older people – now defined in the NPPF as 'People over or approaching retirement age, including the active, newly-retired through to the very frail elderly; and whose housing needs can encompass accessible, adaptable general needs housing through to the full range of retirement and specialised housing for those with support or care needs' – is of positive material weight.
86. With a strong justification required to outweigh those policies seeking to protect the intrinsic value of the countryside, the lack of clarity in the proposals compromises Officers ability to attribute a degree of weight to the proposals that would justify a departure from adopted policy.

Neighbouring Amenity

87. Policy GDP1(h) seeks to protect residential amenity, and the Local Plan includes supplementary planning guidance (SPG) on residential facing distances. The SPG is seen as a useful guideline for assessing residential amenity, and can be used as a starting point for assessing amenity relationships. Proposed plots 1 and 2 have a separation distance of approximately 14.5m to numbers 6 and 7 St. John's Mews, where the SPG suggests 21m as appropriate – a significant short-fall and therefore a source of concern in terms the potential effect on residential privacy and amenity. This is considered significant enough to warrant a planning refusal reason.
88. There is a high level of residential amenity between the proposed properties within the planned estate. Residential amenity has been improved as part of the last redraft by moving the dwellings away from the trees lining the mineral railway footpath on the west boundary.

Highways and Drainage

89. Officers insisted that the extent of the development site included the unadopted highway of St. John's Mews. Whilst additional legal agreements would be required to ensure new residents had rights through the existing cul-de-sac, this inclusion gave the opportunity for existing problems to be addressed through the current application. In terms of both the specification and finish of the vehicular public highway, but more importantly the private drainage system, local residents and the developer (consistent to both the existing and proposed developments) have serious disagreements. The current application has brought these issues into a formal process, and to the fore. Outside, but in parallel with the planning process, the developer has issued solicitor's letters to residents, some of whom have connected their own systems into the private communal network. Residents are dissatisfied with the current arrangement and the actions of the developer.
90. The applicant proposes a condition to ensure the drainage system is brought to an acceptable standard before any new property is occupied. The detailed design and implementation of the drainage system is within the remit of the Building Control Regulations and this condition would give an appropriate degree of planning control over it. At present however, Highways Engineers – who would have to ensure the highway within which the drains are contained is built to an adoptable standard – are objecting to the proposals in the absence of formal evidence that the drainage system

can be engineered to an adoptable level. They have further issues with the detailed layout of the estate roadways and parking arrangements, despite this already having been redesigned.

91. The drainage of the site in terms of the new housing development in isolation both for foul and surface water drainage appears in isolation relatively uncontentious. Northumbrian Water ask for a condition to ensure adherence to the submitted report and connection to a specified manhole. Whilst at this point of time, Council Drainage Engineers have not approved the applicant's surface water proposals, the extensive area of open land available would appear to offer opportunities for a SuDS led scheme. The details of the drainage scheme would usually be addressed through to Building Control System.
92. Contention over drainage matters has however focussed on the surface of St. John's Mews, which appears to have been a long running issue between the developer and the residents of the cul-de-sac. The existing system is privately maintained. It is contended by the developer that some properties have duplicated and bypassed the system and that some residents are not contributing the required service charge. Residents meanwhile point to a history of problems with the non-adopted system and its maintenance. That the developer indicates he will discuss and accept a trigger for the drainage system to be brought up to an adoptable standard early in the development process gives comfort that this highly contentious aspect of the proposals has the potential to be addressed.
93. The applicant proposes that a pumping station (not a package plant as set out on the forms), that would also serve existing residents, and would be completed in full before the new development is occupied, secured through the legal agreement. At present Highways Engineers object to the proposals on the basis that it has not been formally established that the drainage scheme can be brought to an adoptable standard.

Affordable Housing

94. Affordable housing Officers raised no objections to the scheme on the basis that the developer indicates that the 20% requirement will be provided on site. They are concerned at the lack of detail provided and the apparent lack of contact with local Registered Social Landlords. Whilst this is an issue that could be addressed through an appropriately worded legal agreement, the lack of detail is an issue. The required mechanisms for assessing the Affordable Housing implications have changed as the revised NPPF was introduced during the course of the application as detailed in the consultee response, above.
95. Just as there has been no explanation as to why the 'Residents Warden/Caretaker' has to reside on-site, there is likewise no explanation as to why one of the affordable units has been indicated to house this resident.

Scale and character

96. Policy GDP1 of the Plan requires developments to be in keeping with the character and appearance of the area, with form, mass, layout, density and materials appropriate to the site's location. The layout has been revised both to reflect highway engineer's requirements for a standard parking arrangement, and following the forwarded comments of the Council's Design Review meeting. The highways revisions achieve the requested in-curtilage standard parking arrangement at the expense of design quality. The other amendments are acknowledged as improvements by Design Officers in their updated response to the revised proposals, and in terms of the appearance and layout of the development (notwithstanding the residential amenity concerns outlined

above) the proposals are accepted as a high quality, attractive proposal that reflects the emphasis Government currently give to Design matters.

Education

97. The County Education Department opines that the development should have no effect on demand for school places in the area. The scheme has therefore been appropriately assessed against paragraph 94 of the NPPF.

Landscaping and Ecology

98. A proposed landscaping scheme has been submitted in detail, but based on an older proposed layout, causing some confusion. The developer asks that this is discounted and a landscaping scheme be conditioned. Whilst this is an issue capable of being conditioned, it compromises the ability of the applicant to demonstrate how a scheme might help off-set the net biodiversity loss that is an inevitable consequence of building on a green-field site. The developer has not provided the required estimation of the amount required to mitigate the effect of development on the natural environment. This means at present, in lieu of this detail, the proposals are contrary to paragraph 170 of the NPPF as they have not shown the scheme will result in a net bio-diversity gain. An ecology survey has however established that no species protected by law will be affected on the site.

Open Space

80. Spatial Policy Officers have identified a requirement for a contribution of £39,618 to address demand on open and recreational space likely to be generated by the potential 62 residents of the development. This would need to be included in an appropriately worded section of a legal agreement to be signed before any development is approved.

Legal Agreement

82. Members will be aware of the requirements for seeking and imposing an s.106 agreement for payments in mitigation of lack of provision of on-site requirements. A lack of clarity in the assessment of impacts and the specifics of on-site mitigation for the above topic and a number of others prevents the clarity required in such an agreement.

Footpaths

99. Footpaths Officers write that they see no benefit to the wider public, and only a security issue for proposed residents from the late inclusion of a footpath link at the northern end of the estate to an existing countryside footpath. The inclusion of this link was at the request of the Council's Design Review to help pedestrian permeability and integrate the development into the existing urban and countryside environment. Footpaths Officers are part of that forum. The proposed additional footpath link is considered by Officers a positive element of the scheme, improving links to the countryside in accordance with paragraph 118 of the Framework.

Economic Benefits

100. The applicants have indicated that the development will generate 17 equivalent full time jobs, which when pressed in the main relate to the construction process. There has been no methodology provided to show how this figure was arrived at. On this

basis whilst a degree of positive weight can be attributed to this in the planning balance in principle, its vague nature prevents detailed weighting.

101. The 'retirement village' is proposed served by a 'Residents Warden/Caretaker' who will occupy one of the available affordable housing units. The role and necessity for this worker is not clear, whether a site manager or a convenient 'odd job' man. The role of this employee appears to be under the control of the ill-defined 'management committee' who may administer the finished development. Where examples of other developments of 'retirement villages' have been provided, they are under the management of companies who specialise in such as a formalised commercial enterprise.

Noise and site works

102. Specialist Officers suggest conditions to mitigate this topic through a Dust Management Plan. A condition for a Construction Management Plan that would include working hours could help mitigate the effect of development works on residents of St. John's Mews in the event of an approval.

103. A resident complains at the noise from the existing drainage pumping plant serving St. John's Mews, pointing out that the implications for the larger plant proposed has not been submitted or assessed. This would need to be formally assessed and mitigated if an approval was proposed

104. Land stability issues for neighbours would be addressed through the condition proposed imposed by the Coal Authority.

Heritage Assets

105. There are no Heritage Assets identified on or adjacent to the site. Planning Officers consider there is insufficient justification to insist on archaeological investigation without evidence of existing known heritage assets.

CONCLUSION

106. The usual 'Balancing Exercise' does not come into operation in Officer's judgement, as there are relevant Development Plan policies, which are those 'most important for determining the application', that appear consistent, and therefore up-to-date in varying degrees in comparison with the advice in the Framework.

107. Policies EN1 and EN2 of the Development Plan, which seek to protect the countryside for its own intrinsic value and character, stopping encroachment of urban form into the countryside, are consistent with paragraph 170's requirement to recognise the intrinsic character and beauty of the countryside. These are the policies most important for determining an application that proposes developing a green-field countryside site (NPPF paragraph 11) which neither relates well to the existing urban form, nor the countryside surrounding the village.

108. It is acknowledged that the application could bring the benefits of adding to the County's housing supply in a settlement that could be considered proportionately 'sustainable'. It has the opportunity if properly presented to increase opportunities for home ownership and widen the variety of available housing opportunities, both market and affordable. Potential mechanisms that would ensure that the development would

be occupied as intended are weak or absent. In terms of the general housing provision, with the Council's current healthy housing land supply position the benefit is 'limited' as presented by the proposals in their current form.

109. The short term benefits to the local economy brought by the construction phase are identified as a positive aspect of the proposals. Economic activity by new residents counts in the application's favour. Neither benefit has been quantified by the applicants. An assumption has therefore been made that the effects are positive in principle in favour of the proposals, but not significant in the overall assessment.
110. There are elements of the proposal that the developer has sought to off-set for later agreement by imposition of planning conditions, or through a formal legal agreement. As yet a number of the issues, including ecology, are not resolved to a point where they meet the tests legal agreements are required to meet.
111. The objection from Highways Engineers appears a significant impasse at this time. They suggest that consent be withheld on this issue pending satisfaction of other, separate, legislative processes. The proposed highways and drainage scheme has not been presented in sufficient detail to give surety that it can be designed and operated to an adoptable standard. However withholding consent on the basis of a lack of formal Highways and Drainage agreements required under other legislation is not possible.
112. The applicant offers a legal agreement to secure the implementation of these works to an adoptable standard with a trigger early in the construction process. This is a potentially useful device that could give the Council and existing residents' confidence that this critical part of the scheme could be closely monitored and constructed to an agreed required standard.
113. However, in the absence of agreement on an acceptable basic layout, the suggested approach defers too much information until after the planning decision, particularly taking into account the history and operation of this site. This is a general weakness of the whole application, but critical to drainage and highways issues. Officers repeatedly asked for these technical issues to be resolved before an application was submitted or at worst early in the process, so that they did not distract from the main planning judgements. There are still technical discussions and arguments in process as the report for this application, which has been subject to an extended determination period, is being written. Whilst it appears an acceptable scheme could be agreed, to accept the current situation could appear premature.

RECOMMENDATION

114. That the application be **REFUSED** for the following reasons:

1. The proposals represent an unacceptable encroachment into the countryside and does not maintain or enhance landscape character, compromising the intrinsic character and beauty of the countryside, contrary to Policies EN1 and EN2 of the Derwentside District Local Plan 1997 (saved Policies).
2. The separation shown between existing and proposed dwellings at the southern boundary is considered to fall well below that which would ensure reasonable expectations of residential privacy and amenity contrary to Policy GDP1 of the Derwentside District Local Plan 1997 (saved Policies).

3. The proposed highways and drainage scheme has not been presented in sufficient detail to give surety that it can be designed and operated to an adoptable standard, contrary to Policies GDP1(I) and TR2 of the Derwentside District Local Plan 1997 (saved Policies) and Part 14 of the NPPF.

STATEMENT OF PROACTIVE ENGAGEMENT

The Local Planning Authority in arriving at the recommendation to refuse the application has been consistent in advice with regards the application and has considered the possibility of a positive outcome in accordance with the NPPF but it has not been possible in this instance.

BACKGROUND PAPERS

The National Planning Policy Framework (2018)
National Planning Practice Guidance Notes
Derwentside District Local Plan 1997 (saved policies)
Statutory, internal and public consultation responses
Submitted forms, plans and supporting documents

Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/18/01134/OUT
FULL APPLICATION DESCRIPTION:	Outline application for the erection of four dwellings on site of former public house/nightclub (resubmission) (all matters reserved)
NAME OF APPLICANT:	Mr Keith Levitt
ADDRESS:	Jingling Gate Inn Twizell Lane West Pelton
ELECTORAL DIVISION:	Grange Villa and West Pelton Ward
CASE OFFICER:	Louisa Ollivere Planning Officer Telephone: 03000 264878 louisa.ollivere@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

- 1.The application relates to the site of the former Jingling Gate Pub that was demolished following a fire several years ago. The site lies adjacent to and on the south side of Twizell Lane, approximately 185m west of West Pelton Village and outside of the West Pelton settlement boundary as defined in the Chester-Le-Street Local Plan. The site is flat and consists of both the concrete raft that lay beneath the former pub and the parking area for the pub. The site is currently enclosed with temporary fencing. There is also hedging on all boundaries. To the south, west and east of the site is open countryside used as pasture. To the north is Twizell Lane and open countryside used for equestrian purposes. There is a poultry farm approximately 50m to the North West. The nearest group of residential properties lie 120m to the north east.

The Proposal

- 2.The application originally sought outline planning permission for the erection of six dwellings however this had since been reduced to four dwellings with all matters reserved.
- 3.This application is reported to Committee upon the request of Councillor Danny Wood on the basis of the economic benefits to the local economy, the improvements to the visual amenity of the site, and that the site cannot be considered to be isolated.

PLANNING HISTORY

4. The site has a long and chequered planning history spanning over 40 years however the following applications are of most relevance to this application:
5. DM/17/01446/OUT Erection of six dwellings on site of former public house/nightclub (withdrawn).
6. 07/00055/OUT Outline application for the demolition of the existing public house and there erection of 5 dwellings. This was refused on the grounds that it was unjustified development in the open countryside in an unsustainable location and as it had not been demonstrated that there would not be adverse impacts on protected species.
7. 08/00261/FUL The conversion of existing property to two dwellings, the erection of one 'work and live' unit and a commercial building with associated car parking and landscaping. This application was withdrawn.
8. 08/00378/FUL Erection of two residential dwellings and one live-work unit, plus associated access and parking. This application was withdrawn.
9. 08/00487/FUL Erection of four live/work units and two holiday lets. This application was approved but not implemented.
10. 2/09/00244/VAR Variation of Conditions 10, 11 & 12 of previously approved application 08/00487/FUL to allow residential development. This application was withdrawn.
11. 2/09/00294/VAR Variation of Conditions 6, 9 & 16 of previously approved application. This was refused on the grounds that it was unjustified development in the open countryside in an unsustainable location and as it would be detrimental to the range of accommodation available to tourists in the area.

PLANNING POLICY

NATIONAL POLICY

12. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.
13. The NPPF requires local planning authorities to guide development towards sustainable solutions whilst taking local circumstances into account, to reflect the character, needs and opportunities of each area.
14. In accordance with paragraph 213 of the National Planning Policy Framework, the weight to be attached to relevant saved local plan policy will depend upon the degree of consistency with the NPPF. The greater the consistency, the greater the

weight. The relevance of this issue is discussed, where appropriate, in the assessment section of the report below.

15. The following elements of the NPPF are considered relevant to this proposal;
16. *NPPF Part 2 - Achieving sustainable development.* The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
17. *NPPF Part 4 - Decision-making.* Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
18. *NPPF Part 5 - Delivering a sufficient supply of homes.* To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
19. *NPPF Part 6 - 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.
20. *NPPF Part 9 - Promoting sustainable transport.* Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
21. *NPPF Part 12 - Achieving well-designed places.* 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.
22. *NPPF Part 14 - Meeting the challenge of climate change, flooding and coastal change.* The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.
23. *NPPF Part 15 - Conserving and enhancing the natural environment.* The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or

being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate. Amongst other aims decisions should ensure that new development is appropriate for its location taking into account the likely effects of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site to impacts that could arise from the development. Noise should be mitigated and reduced to a minimum potential adverse impact to avoid noise giving rise to significant adverse impacts on health and quality of life. Decisions should ensure that new development can be integrated effectively with existing businesses. Existing businesses should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business could have a significant adverse effect on new development the applicant should be required to provide suitable mitigation.

NATIONAL PLANNING PRACTICE GUIDANCE:

24. The newly introduced National Planning Practice Guidance (NPPG) both supports the core government guidance set out in the NPPF, and represents detailed advice, both technical and procedural, having material weight in its own right. The advice is set out in a number of topic headings and is subject to change to reflect the up to date advice of Ministers and Government.
25. *Design - The importance of good design.* Good quality design is an integral part of sustainable development. The National Planning Policy Framework recognises that design quality matters and that planning should drive up standards across all forms of development. As a core planning principle, plan-makers and decision takers should always seek to secure high quality design, it enhancing the quality of buildings and spaces, by considering amongst other things form and function; efficiency and effectiveness and their impact on wellbeing.
26. *Natural Environment* - Section 40 of the Natural Environment and Rural Communities Act 2006, which places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. A key purpose of this duty is to embed consideration of biodiversity as an integral part of policy and decision making throughout the public sector.
27. *Land affected by Contamination* - When dealing with land that may be affected by contamination, the planning system works alongside a number of other regimes including Building Control and Environmental Protection. To ensure a site is suitable for its new use and to prevent unacceptable risk from pollution, the implications of contamination for a new development would be considered by the local planning authority to the extent that it is not addressed by other regimes.
28. *Rural Housing* - It is important to recognise the particular issues facing rural areas in terms of housing supply and affordability, and the role of housing in supporting the broader sustainability of villages and smaller settlements. A thriving rural community in a living, working countryside depends, in part, on retaining local services and community facilities such as schools, local shops, cultural venues, public houses and places of worship. Rural housing is essential to ensure viable use of these local facilities.
29. *Noise* - Noise needs to be considered when new developments may create additional noise and when new developments would be sensitive to the prevailing acoustic environment. Consideration should be given to whether significant adverse

effect or an adverse effect occurs or is likely to occur; or whether a good standard of amenity can be achieved.

LOCAL PLAN POLICY:

30. The following saved policies in the Chester-le-Street Local Plan 2003 are relevant to the consideration of this application.
31. *Policy NE2 - Development beyond settlement boundaries* - outside of settlement limits development will be strictly controlled. Development should protect and enhance the character of the countryside and be consistent with maintaining the economic sustainability of agriculture and other rural businesses.
32. *Policy HP6 - Residential within settlement boundaries* – Proposals for residential development will be permitted within the defined settlement boundaries of a number of listed settlements providing it is classed as previously developed land and meets the general criteria of Policy HP9.
33. *Policy HP9 - Residential Design Criteria (General)* - requires new development to; relate well to the surrounding area in character, setting, density and effect on amenity of adjacent property, to provide an attractive, efficient and safe residential environment, to provide adequate privacy and amenity, safe road access and retain existing landscape features.
34. *RL5 – Outdoor sport and recreation provision in new residential development* -the requirements for every 1 hectare of land developed or redeveloped for residential purposes, will be that at least 125 square metres of equipped children’s play space and 250 square metres for informal open space be provided within the site. On sites of under 1 hectare a proportion of this standard will be expected within the site. Open space for sporting use, of at least 1000 square metres per hectare developed or redeveloped should be provided within or adjacent to the site. As an alternative to on-site provision a developer may make a commuted payment for off-site provision.
35. *BE2 – Public art* - Where development costs total £500,000 or more, Chester-le-Street District Council will encourage developers to devote at least 1% of those costs to the provision of works of art in new building and landscaping projects accessible to the general or client public. In determining planning applications, due regard will be given to the contribution made by any such works to the appearance of the scheme and the amenities of the area.
36. *T6 – Provision for Public Transport: General* – Development proposals should be designed to encourage use of public transport and reduce reliance upon the private car by locating accesses close to bus routes and footpath links. Where new transport links are required an appropriate contribution will be sought from the developer through a Section 106 obligation.
37. *Policy T8 – Car Parking Provision* – States that new development should seek to minimise parking provision other than for cyclists and disabled users, other than in exceptional circumstances.
38. *Policy T15 - Access and Safety provisions in design* - Development should have safe access to classified road, should not create high levels of traffic exceeding the

capacity of the local road network, and have adequate links to public transport, with consideration for cyclists and service vehicles and emergency vehicles.

39. *Policy T17 - General Policy* - All new developments should have regard to and be consistent with the provision of a safe and accessible transport network, in particular through reducing reliance on the private car, encouraging the use of public transport and promoting cycling and walking

RELEVANT EMERGING POLICY:

40. Paragraph 48 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. An 'Issues & Options' consultation was completed in 2016 on the emerging the County Durham Plan (CDP) and the 'Preferred Options' was approved for consultation at Cabinet in June 2018. However, the CDP is not sufficiently advanced to be afforded any weight in the decision making process at the present time.

The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.cartoplus.co.uk/durham/text/00cont.htm>.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

41. *Highways* – No objections to the principle of new residential development. The Officer advises that there are however some highways improvements required to provide both vehicular and pedestrian access to the units. The 4 vehicular access points onto Twizell Lane are considered acceptable in highway terms, as is the widening of the public highway. However it is advised that the new footway will need to be constructed to highway construction standards at this point to 1200mm in width and then tapered to the existing 1.8m wide footway to form a new coherent footpath link to the existing footpath northeast of unit 1. It is also advised that the footway will need to be improved from unit 3 up to the point of the first existing dwelling to the northeast of the site to assist the footfall from the development.
42. *Northumbrian Water* – Advise that the planning application does not provide sufficient detail with regards to the management of foul and surface water from the development to be able to assess NWL capacity to treat the flows from the development. They therefore request a condition requiring the submission and approval of a detailed scheme for the disposal of foul and surface water from the development prior to its commencement and that any approved scheme is implemented thereafter.
43. *Coal Authority* – The Coal Authority objects to the planning application and recommends that evidence needs to be provided to demonstrate that coal mining legacy features and hazards have been fully considered.
44. *The Environment Agency* – No comments received to date.

INTERNAL CONSULTEE RESPONSES:

45. *Environmental Health Officer*: A technical review of the submitted noise and odour impact assessments in relation to the nearby intensive poultry unit has been undertaken in relation to the likely impact upon amenity in accordance with the relevant TANs (Technical Advice Notes). Below is a summary of the EHO assessment however the full and comprehensive details of this review can be accessed at:

<https://publicaccess.durham.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=P7ACJGGDKOB00>

46. The proposed development site is noted to be in very close proximity (50m) to a significant odour source (five unit intensive broiler chicken farm with 127,000 birds) and another odour source (stables to the north east of the site). The EHO explains that odour impacts can be very challenging to measure and assess and that it is beneficial to utilise a range of both quantitative and qualitative methods to establish a robust estimation of the potential impact, this includes odour monitoring and modelling, odour surveys, looking at history of complaints and an odour risk assessment. The odour monitoring results (9 sniff tests taken over a 3 week period in late Spring) indicate that odour was detectable on 4 occasions out of 9. The sniff test assessment concludes that when detectable the odour was strong and unpleasant. However on a number of occasions odour was not detectable and when it was, the "average odour intensity level" was fairly low, indicating limited potential of impact. However the Officer advises that this is only a snapshot over a short period of time in an unusually dry period. The Officer advises that moisture levels have a significant impact on the odour level and advises the dry spell would have reduced odour levels and may explain the discrepancy between the modelling data and sniff tests.

47. The EHO advises that dispersion modelling based on a donor site indicates a moderate adverse-substantial adverse impact, and therefore a significant odour effect.

48. In terms of local surveys the EHO notes that 58% of persons questioned never detected a smell and when smells are detected it tends to be when the sheds are cleared out once every 8 weeks. However the EHO points out that the persons surveyed are a considerable distance from the site, some 160m being the closest and advises that the impacts of odour are very much distance related. The Officer noted that no complaints have been received from the existing properties to either the Local Authority or the Environment Agency.

49. In terms of the odour risk assessment whilst this indicates that the impact of odour will not be significant the EHO considers this relies too much on the sniff test data rather than the modelling data.

50. The Officer advises that anecdotal, and previous experience, indicates that the development will be subject to significant odour emissions. Whilst, the monitoring undertaken on site, and questionnaire/risk assessment indicate that there will be times at which the odour level will not be significant the Officer advises that this is likely dependant on climatic conditions and unlikely to be the case throughout the year.

51. The EHO advises that two scientifically derived models indicate that for 98 percent of the year odour will be at a level considered significant and therefore likely to lead to complaints. Although the Officer accepts that models cannot be wholly accurate, the presence of two models, and the more recent being significantly above

recognised threshold levels, is considered to be a strong indicator that potentially the results from the odour monitoring taken over a short and dry spell may not demonstrate the full picture. It is therefore the view of the EHO that there is a strong likelihood that for significant portions of the year any future residents of the proposed site will be subject to odour levels above those stated within recognised guidance. As such the Officer considers that should the development be allowed it will result in a statutory nuisance and as such the Officer considers that it would impact on the existing neighbouring business via enforcement action.

52. In terms of noise, the Officer considers the noise rating level is such that it demonstrates a range of activities on site are considered likely to lead to an adverse/significant impact. However the Officer advises that the majority of operations are not constant and therefore the impact is reduced and likely restricted to the summer time in relation to the noise from the operation of fans and a week every 8 weeks in relation to daytime operational noise from loaders, HGV's, loading shovels and pressure washers when the buildings are cleaned out and 3 evenings every 8 weeks when there are operations relating to the catching of birds (forklift noise, operational noise and HGV movements).

53. The EHO notes that the consultant has suggested some mitigation measures which the EHO considers are likely to reduce the potential of impact to some extent. However it is still considered likely that during the significant operations of activity on site, noise will result in an adverse impact. In addition the proposal to restrict sensitive rooms to the façade away from the noise source is considered to be likely difficult to control in practice and there is no restriction on the room uses changing in the future.

Impact on business

54. The potential impact on the business has also been considered by the EHO who considers the closer proximity of residents increases the potential of complaint.

55. It is advised that the commercial activity is both a significant odour and noise generating development, the majority of which is unavoidable and associated with the profitable functioning of the business. The Officer details that measures such as catching birds during the night-time period are needed so as to enable birds to reach markets and ensure welfare provision etc. However the Officer advises that obviously night-time activities are far more likely to result in complaint than that during the day.

56. The Officer advises that any complaints arising from future residents have the potential of resulting in future action and therefore requiring restrictions being placed on the operation or changes being required which may result in significant monetary impact. In terms of the likelihood of complaint and potential outcome this would be dependent on whether there was a statutory nuisance.

Statutory nuisance

57. Having assessed the environmental impacts which are relevant to the development in relation to their potential to cause a statutory nuisance the Officer would object to the granting of planning permission as he considers that the development is likely to lead to a statutory nuisance and does not consider that conditions can be imposed to mitigate the impact.

58. *Contaminated Land Officer* – Requests a pre-commencement scheme to deal with contamination should consent be granted.

- 59.*Design and Conservation Officer* – No objections from a heritage or design perspective. The Officer welcomes the number of units being reduced from 6 to 4 as this would create more spaciousness allowing for a greater volume of amenity space to be provided and the inclusion of sensitively designed landscaping. It is also considered that this will provide a number of positive functions in softening the development, enhancing its aesthetic appeal, and giving the future residents a more attractive outlook. It is advised that the provision of landscaping will be particularly relevant in this case as the development would be seen in open rural rather than denser urban context. The layout indicates a courtyard type configuration which can create character and a more distinctive sense of place.
60. Turning to the units themselves, they are shown as a mixture of single and two stories which the Officer considers would be commensurate the existing properties to the north at Eden Hill Farm and along Twizell Lane. The traditional design approach in terms of modelling, detailing and materiality is considered to generate a good quality aesthetic and the Officer considers it would ensure they relate acceptably to the context of the site and its surroundings.
- 61.*Landscape Officer* – Advises that the site is within an adopted DCC Landscape Conservation Area where the spatial strategy is to Conserve and Restore. It is pointed out that this is an open rural landscape which offers distant viewpoints. It is considered that the significant receptors are along Twizell Lane serving Twizell Hall and associated dwellings. The Landscape Officer considers that the proposals would have some adverse landscape and visual effects and recommends a reduction in the number of units from 6 to provide an acceptable amount of private open space in this rural context.
- 62.*Spatial Policy* – In terms of housing land supply, the Officer advises that the weight to be afforded to the boost to housing supply as a benefit of the development is clearly less than in instances where such a healthy land supply position could not be demonstrated and that this will need to be factored into the planning balance. In respect of broadening housing choice it is advised that the core planning principles of the NPPF include the requirement to meet housing need for the area and expand the range and choice of housing. In terms of the local economy, the Officer advises that the development of the site would contribute to the economy through the delivery of houses, both during their construction but also via new residents supporting local services. The Officer considers this as a minor benefit given the scale of the proposal. It is considered that the locational sustainability should be factored into the balance. The Officer advises that consultation with relevant specialist teams will identify whether there are any additional concerns to consider under the second limb of the NPPF Paragraph 11 test. Any adverse impacts and benefits relating to points of finer detail are advised to be factored into the planning balance.
63. Ecology Officer – Advises that the ecological work undertaken is sound. It is advised that the recommendations for a low level lighting scheme and bird and bat boxes will ensure the site meets the requirements of the NPPF. It is advised that the details of the lighting scheme and bat and bird boxes be conditioned as part of any planning permission.
- 64.*Education Officer* – Views are awaited.

PUBLIC RESPONSES:

65. One hundred and thirty two letters of consultation were sent out to surrounding residents and a Site Notice was posted. This has resulted in 8 letters of objection from a local business and residents. In support a petition has been signed by 60 local residents and 10 letters of support have been received from local businesses and residents. The Local MP, Kevan Jones, has also submitted a letter requesting that the high level of support within the village and the Applicant's willingness to amend their application be taken into account before a decision is taken on this application. The MP has also requested that consideration be given to amenity issues, the impacts to a neighbouring business, housing need and powers of Local Planning Authority to clean up a site.

66. In terms of objections the concerns of local residents and the owner of the nearby chicken farm are summarised as follows:

- Neighbouring occupiers are not opposed to all forms of development on this site but they are to residential development.
- The occupants of the dwellings will be subject to adverse conditions from dust, noise, odour and traffic which could result in a flood of complaints to the Environmental Health Department and to the owner of the chicken farm.
- A previous outline application was refused on the basis of impacts to residential amenity and nearby chicken farm (2/07/00055/OUT).
- Previous proposals on the site were only accepted on the grounds that as live/work units and holiday accommodation that these would be a commercial use (08/00487/FUL).
- The owner of the broiler house has commissioned an odour dispersion modelling study which indicates that odour levels would cause annoyance and elicit complaints. Having seen the applicant's surveys the independent consultant considers his findings still apply.
- Environmental Health officers object to the application and consider that it would lead to a statutory nuisance for which no relevant planning conditions could be imposed to mitigate the impact.
- Residents are likely to be less tolerant to noise and odour on farms than traditional rural populations.
- Noise occurs from vehicular movements and stacking of vehicles both during the day and at night. These operations would not be camouflaged by any significant amount of background noise and would be very disturbing to people living in close proximity.
- The door to the nearest unloading point is only 55m away from the site.
- The residential use ancillary to the former pub was only ever intermittent with windows being closed during business hours and noise would have been camouflaged by noise from the pub/nightclub.
- Occupiers of the new dwellings would be likely to leave windows open and sit outside in their gardens making them sensitive to impacts.
- The noise assessment has failed to take into account that the gable fans will operate at night in warm weather, that cleaning out can take up to 10 days and collections can vary sometimes involving 4 overnight visits in a 3 week period.
- The mitigation would not work as odours would be sucked in via negative pressure and there would be no possible control over room uses.
- Vehicles leaving the site at night have roof mounted lights and this may be a further issue.

- The conclusion of the odour assessment that there is not a significant effect is an erroneous conclusion based upon false interpretation of the observational findings of community based tools.
- Complaints to DCC Pollution Control would result in the farm incurring losses in time, costs and expenses in dealing with these complaints.
- The food industry is vital to this country and the Jingling Gate Poultry Farm contributes to this industry and has done so since 1969. It has a significant turnover and provides employment for on and off-site management, transport drivers, cleaning contractors, feed-mill operators, equipment suppliers and related business contacts whereas a housing development only provides a one-off profit for the speculators and some temporary employment for people in the building trade.
- Access to the farm for long vehicles could be obstructed by any roadside parking associated with the housing.
- The condition of the site is a totally separate issue, the applicant should keep it tidy out of consideration to the neighbours, and it should not be a lever to promote the development.
- The proposed residential use is contrary to the County Durham Structure Plan and Policies NE2 and HP3 of the Chester-Le-Street Local Plan.
- The proposed houses will have a considerably larger footprint than the previous public house, they would be an inappropriate intrusion into the open countryside contrary to Policy TM3.
- This would set a precedent for future ribbon development along both sides of Twizell Lane.
- Housing targets can be met by building on more appropriate sites in the Council's planning strategy and on more suitable sites in the local area.
- The road is not suitable for more traffic.
- This is unjustified development in the open countryside.
- Residents would rely on private vehicles therefore this is unsustainable.
- No shortage of housing within the Parish.
- Statements within the initial noise and odour statement are subjective and not based on evidence.

67. In terms of support the following representations have been made :

- Investment to the village.
- The development will improve the appearance of this eyesore site.
- Reduction of fly tipping.
- This is a good location for housing for local people close to settlement, facilities and transport links.
- Any traffic would be less than its former use or a commercial use.
- Parking would be on-site so no on-street parking issues would be caused.
- Need for good quality family housing and a greater range of housing.
- Design in keeping with semi-rural location.
- Brownfield status of the site.
- Local residents have expressed an interest in purchasing the houses.

The above is not intended to list every point made and represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at

<https://publicaccess.durham.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=P7ACJGGDKOB00>

APPLICANTS STATEMENT

68. This matter has been called to Planning Committee by our Ward Councillor, Danny Wood due to the high level of support throughout the village. The site is regarded as part of the village - it used to have the local pub on it. We have owned the site for over 4 years and lived in the village for over 50 years. It is our intention to build and move into one of the dwellings on site if permission is granted.
69. We have in-depth knowledge of the site and surrounding area, we've lived here 50 years. We thus have first-hand knowledge of living in close proximity to a working poultry farm, as have many of the people who have offered letters of support and completed community surveys - the case officer has all of them. We are keen to develop the site as not only us, but also many of the villagers consider that the poultry farm is not a negative factor - be it the noise, any smells or traffic - all of those impacts are fleeting, far from permanent, and part of what one expects from time-to-time 'living in the countryside' - and the actual survey work supports these views. It is only the artificial 'models' which seem to count against a residential use. The residential use was approved as live/work units not so long ago anyway. There are already a number of residential premises already exposed to nuisance levels of odour if modelling was to be given most weight - the situation on the ground as stated in the reports and community surveys directly contradicts the modelling evidence.
70. We have lowered the number of houses proposed from 6 to 4 - which the site can easily accommodate on a layout which ensures that the farm has minimal impact. We have also endeavoured to accommodate widening the road in our plans for the site to assist the farm to access their existing site. It is our intention to work with the farming businesses which are nearby; that is the way in these parts. It should be noted that the current fence line is not on the legal boundary of our plot. If this fence was to be moved onto the actual legal boundary the poultry farm would find access very difficult and would likely have to find an alternative access away from our site.
71. Our aim is to remain in the village and invest in redeveloping this ugly, eyesore site and bring some pride back into the village. As you will note we have received a letter of interest from another resident of Twizell Lane, expressing a wish to purchase a plot if planning permission was granted - there is that much support people already want to buy the houses before they have a permission. Planning permission for mixed use development was granted in the past, and the case officer has already suggested that "holiday lets" could be a possibility if we withdrew this current application (but we want to live there, so we did not do that).
72. We think that the Council are basing their decision on a 'sometimes possible', but actually 'not very probable' scenario which would ultimately add up to a few hours over a couple of days, every 2-3 months - so: much less than 15 days, spread 4 or 5 times across a year at most - and that is the worst case scenario - in different season and climates the impacts are far less. The Environmental Health Unit appear to have discounted all of the on-site evidence provided by our Environmental Consultant and recommended refusal, despite the fact that the EHO has acknowledged that our noise and odour reports are robust - so will have considerable weight at appeal. We think that too much weight has been given to the artificial 'models' which predict possible outcomes, whilst totally disregarding the actual position on the ground evaluated by an industry expert during periods which are accepted to be the worst case scenario during the farming cycle. It is underlined that the Environment Agency, the authority responsible for monitoring such facilities and ultimately the authority who would deal with any complaints: have raised no objections. The poultry farm has to operate within its this Environmental

legislation, requirements and guidelines, which ensure there is no nuisance to the existing properties in the village, and these new properties are likewise considered to be protected sufficiently by the existing framework. That is what the experts are telling us all.

73. These are compatible uses and the detailed layout plans at reserved matters stage can further help with this - and that is why planning permission should be approved, as this scheme is a beneficial regeneration of a derelict and despoiled site. Please do come to the site anytime to see it for yourselves and consider the smells and noises and traffic.

PLANNING CONSIDERATIONS AND ASSESSMENT

The Principle of the Development

74. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance relate to the principle of development, whether this is a sustainable location for housing development, the impacts upon residential amenity and the economy, impacts upon the character of the area, ecology and highway safety and whether appropriate land safety, stability and drainage can be achieved.

The Development Plan

75. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The NPPF was updated in July 2018. The overriding message remains that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.

76. In accordance with paragraph 213 of the National Planning Policy Framework, the weight to be attached to relevant saved local plan policy will depend upon the degree of consistency with the NPPF. The greater the consistency, the greater the weight. The relevance of this issue is discussed, where appropriate, in the assessment section of the report below.

The Principle Issues

Engagement of paragraph 11 of the NPPF

77. Paragraph 11 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means (unless material considerations indicate otherwise):

- approving development proposals that accord with the development plan without delay; or where there are no relevant development plan policies, or the policies which are most important for determining the application are out of date, granting permission unless:

- i) the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.

Policy HP6 of the Chester-le-Street Local Plan identifies settlements where development would be suitable subject to criteria. West Pelton is not detailed as one such settlement. However this policy is considered to be both inconsistent with the NPPF also out-of-date, given the age of the evidence base which informs it. Therefore the weight to be afforded to that policy is reduced and paragraph 11 of the NPPF is engaged. Policy NE2 of the Chester-le-Street Local Plan restricts dwellings outside of settlement boundaries unless they are required to support existing agricultural, forestry or other rural business and where the development protects or enhances the character and quality of the countryside. The proposal is for private market dwellings which would not be supported by this policy. However this policy is inconsistent with the NPPF which sets out a wider range of circumstances in which development may be acceptable and accordingly, reduced weight can be afforded to it.

78. As specific policies in the Framework do not indicate that the development should be restricted the acceptability of the proposal rests on an assessment of whether any adverse impacts of the proposal would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Housing Supply considerations

79. Paragraph 73 of the NPPF requires Local Planning Authorities (LPAs) to maintain a five-year supply of deliverable sites (against housing requirements).
80. The Council is able to demonstrate in excess of 6 years supply of deliverable housing land against this figure. Accordingly, the weight to be afforded to the boost to housing supply as a benefit of the development is clearly less than in instances where such a healthy land supply position could not be demonstrated. The boost to housing supply from the development of four dwellings should not therefore be given significant positive weight in the planning balance.

Rural Housing

81. The NPPF advises that in rural areas such as this decisions should be responsive to local circumstances and support housing development that reflects local needs. The NPPF advises that to promote sustainable development in such areas housing should be located where it will enhance or maintain the vitality of rural communities. Paragraph 78 of the NPPF recognises that development in one village may support services in a village nearby. Paragraph 79 of the NPPF however restricts the development of isolated homes unless certain circumstances apply.
82. Whilst the site is located within the countryside it is considered to be within close proximity to other dwellings and the settlement of West Pelton, and having regard to recent case law (Braintree District Council v Secretary of State for CLG & others [2017] EWHC 2743 this would not be considered isolated in NPPF terms. Therefore the critical issues in principle are whether the proposal would enhance or maintain

the vitality of rural communities and whether the development of the site would be sustainable in locational terms.

83. The local village of West Pelton is classed as a larger village in the County Durham Settlement Study. In terms of services within this village, it is noted that the site is within a desirable walking range of a school, within an acceptable walking distance to shops and below the maximum walking range to bus stops with regular services to Stanley, Sunderland, Chester-Le-Street, Newcastle, and Consett and to a secondary school. Walking to these services would be along a flat and well lit footpath. Given the presence of accessible shops and services it is likely that any future residents will use these facilities and services and therefore it is likely that this proposal would enhance the vitality of this rural community and would be moderately sustainable in locational terms in accordance with the NPPF.

Residential Amenity

84. Chester-Le-Street Local Plan Policy HP9 requires proposals to avoid damage to neighbouring amenity and provide an attractive environment and adequate privacy and daylight. This policy is broadly consistent with the NPPF and NPPG. Section 11 Paragraph 117 of the NPPF requires planning decisions to ensure healthy living conditions and paragraph 122 emphasis the importance of securing healthy places. Paragraph 170 of section 15 requires decisions to prevent new development from being put at unacceptable risk from, or being adversely affected by, unacceptable levels of pollution such as noise pollution. Paragraph 180 seeks to ensure that new development is appropriate for its location taking into account the likely effects of pollution on health and living conditions. In terms of noise, paragraph 180 advises that planning decisions should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life.

85. In this instance it is considered that the site could be developed in a manner that would achieve acceptable amenity for future residents but only in terms of privacy, light and outlook, it is quality of life afforded the future residents that is of greatest concern here.

86. The proposed development site is in very close proximity (50m) to a five unit intensive broiler chicken farm with 127,000 birds and another odour source (stables 55m to the north east of the site). Given the close proximity of the intensive broiler chicken farm the applicants were requested to submit noise and odour impact assessments of this neighbouring use. The submitted assessments contain thorough consideration of the appropriate methodologies to use in relation to the specific noise and odour issues arising and a technical review of the assessments has been undertaken by the Environmental Health Officer. It is considered by the EHO that there is a strong likelihood that for significant portions of the year any future residents of the proposed dwellings will be subject to odour levels above those stated within recognised guidance. As such the Officer considers that should the development be allowed the residents would experience significant odour effect impacts that would amount to a statutory nuisance. This would not ensure healthy living conditions and would result in residents being put at unacceptable risk from, or being adversely affected by, unacceptable levels of odour pollution contrary to sections 11 and 15 of the NPPF.

87. In terms of noise, the Officer considers that the noise rating level is such that it demonstrates a range of activities on the nearby chicken farm site would likely to lead to adverse/significant noise impacts. These are considered to be likely restricted to the summer time in relation to the fans, and a week every 8 weeks in

relation to cleaning out operation noise experienced during the day and 3 evenings every 8 weeks in relation operational noise associated with catching the birds. At this level the noise causes a material change in behaviour such as keeping windows closed for most of the time or avoiding certain activities during periods when the noise is present. There is the potential for sleep disturbance resulting in difficulty in getting to sleep, premature awakening and difficulty in getting back to sleep. Generally the quality of life of future residential occupiers would be changed due to the acoustic character of the area.

88. Whilst it is recognised that the consultant has suggested some mitigation measures which is likely to reduce the potential of impact to some extent the EHO considers that it is still likely that during the significant operations of activity on site, noise is still likely to be considered to result in an adverse impact. In addition your Officers consider that the proposal to restrict sensitive rooms to the façade away from the noise source would be difficult to enforce and such a condition would not therefore meet the 6 tests of paragraph 55 of the NPPF. The Officer considers that the residents are likely to experience noise impacts that would amount to a statutory nuisance.

89. Given the above issues the EHO has objected to this application. Taking into consideration this advice it is not considered that the development would ensure healthy living conditions or a healthy place for future residents who would be put at unacceptable risk from, or be adversely affected by, unacceptable levels of pollution from odour and noise. The proposal would therefore be contrary to sections 11 (paras 117 and 122) and Section 15 (paras 170 and 180) of the NPPF and Chester-le-Street Local Plan HP9. It is not considered possible to avoid noise from the neighbouring business giving rise to significant adverse impacts on health and the quality of life without impacting on the economic viability of a neighbouring business. Therefore in accordance with paragraph 180 of the NPPF the new development is not appropriate for its location.

Building a strong, competitive economy

90. Section 6 of the NPPF advises that significant weight should be placed on the need to support economic productivity. Paragraph 182 of the NPPF seeks to ensure that new development can be integrated effectively with existing businesses. It advises that existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. It also advises that where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed.

91. The neighbouring commercial activity is both a significant odour and noise generating development, the majority of which is unavoidable and associated with the profitable functioning of the business. Measures such as catching birds during the night-time period are needed so as to enable birds to reach markets and ensure welfare provision etc. However, obviously night-time activities are far more likely to result in complaint than that during the day.

92. The EHO advises that any complaints arising from future residents have the potential of resulting in future action and therefore requiring restrictions being placed on the operation or changes being required which may detrimentally affect productivity and turnover and harm employment for on and off-site management and negatively effect other businesses who provide transport, cleaning, feed-mill operators, equipment and related business contacts. In terms of the likelihood of

complaint and potential outcome this would be dependent on whether there was a statutory nuisance from the existing operations which the EHO considers is likely to occur should this development proceed.

93. To address these issues the applicant has attempted to provide mitigation which the EHO and Planning Officer consider may help reduce the impact, however there is no certainty that this would reduce the impacts to an acceptable level and the mitigation measures in terms of use of rooms would not meet the 6 tests for imposing a planning condition as the mechanism to secure it.

94. Bearing this in mind it is considered that this development would result in the existing neighbouring business having unreasonable restrictions placed on them to address a likely statutory nuisance to the proposed new residents. Therefore the proposal would be likely to significantly harm economic viability in terms of the neighbouring business and damage the viability of associated businesses.

95. In terms of the wider local economy it is recognised that the development would be likely to support the local construction industry and shops/takeaways in West Pelton. However in terms of construction this would only be short term and in terms of the local shops etc. the boost derived from four households would not be so significant to outweigh the likelihood of significant harm to the productivity and viability of the existing chicken farm and associated businesses.

Making effective use of land

96. Section 11 of the NPPF advises that decisions should promote an effective use of land in meeting the need for homes whilst safeguarding and improving the environment and ensuing safe and healthy living conditions. Paragraph 118 advises that substantial weight be given to using suitable brownfield land within settlements for homes and that support should be given to appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land.

97. This is a brownfield, run down site, and whilst this proposal would boost housing supply and improve the environment and hence has gained some local support, it is not considered that considerable positive weight should be given to these issues as the proposal would not ensure healthy living conditions. Significant weight should not be given to the improvement of dereliction, dilapidation or eyesore sites if it is likely that the problem could be remedied despite refusal of planning permission for any proposed development. This could be via section 215 powers to clean up a site in the event that the site cannot be appropriately redeveloped.

Impacts upon character of the area

98. Chester-Le-Street Local Plan Policy HP9 requires developments to relate well to the surrounding area, respect its predominant character and street pattern. This policy is broadly consistent with the NPPF although the NPPF is less prescriptive in respect of density stipulated design requirements. To achieve appropriate densities Section 11 of the NPPF requires LPA's to consider need, availability of land, local market conditions and viability, the availability and capacity of infrastructure, the desirability of maintaining an area's prevailing character and setting or of promoting regeneration and change and the importance of securing well-designed, attractive and healthy places. Section 15 of the NPPF requires developments to protect and enhance valued landscapes and to recognise the intrinsic character and beauty of the countryside. The site is within an adopted Landscape Conservation Area where the spatial strategy is to Conserve and restore.

99. The reduction in the number of units from 6 to 4 is welcomed by Officers as being appropriate for this site bearing in mind the considerations outlined in Section 11 of the NPPF.
100. The finer design details such as development footprint are not for consideration given this is an outline application. In terms of landscape impacts your Officers advise that whilst the new units would be detached from the main fabric of village, rather than integrated, which is ordinarily resisted, that this is not a significant concern in this instance given that buildings formerly occupied the site. It is considered that it would be possible to develop this site for four new dwellings in a manner that protects the landscape and the general character of the area. Concerns raised by objectors over potential precedent for further ribbon development along this lane are noted however the majority of land adjacent to this lane is not brownfield and any further proposals would have to be considered on their own merits.

Ecology considerations

101. Chester-le-Street Local Plan is silent in respect of ecological considerations. Section 15 of the NPPF seeks to ensure that planning decisions contribute to and enhance the natural and local environment by protecting and enhancing sites of biodiversity value and to minimise impacts on and provide net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressure. Paragraph 175 of the NPPF advises that if significant harm to biodiversity cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused. The submitted ecological survey concludes that the site is of low value in relation to bats and other protected species, other than for foraging and recommends mitigation. Ecology Officers are confident that the proposal would meet the requirements of the NPPF and recommends that the mitigation proposed in terms of lighting and provision of bat and bird boxes be made subject of a condition in the event of an approval. With such conditions it is considered the application gains the support of the NPPF in this respect.

Drainage Considerations

102. Chester-Le-Street Local Plan is silent in respect of flooding. Section 14 of the NPPF requires Local Planning Authorities to take full account of flood risk. Paragraph 163 advises that development should not increase flood risk elsewhere. The applicant has detailed several options in terms of surface water drainage which is contrary to the requirements of the County Durham Surface Water Management Plan and it is agreed with Northumbrian Water that a surface water drainage scheme would have to be made subject of a condition in the event of an approval. With such a condition it is considered the application gains the support of the NPPF in this respect.

Land safety and stability

103. Chester-Le-Street Local Plan is silent in respect of land stability. Section 15 of the NPPF requires Local Planning Authorities to prevent new development from being put at unacceptable risk from the effects of soil pollution and land instability which is of relevance as the site lies within a Coalfield development High Risk Area.
104. In terms of land stability it is noted that the Coal Authority have objected to the development as it has not been proven that the application site is safe, stable and suitable for development. Under such circumstances it would be considered appropriate to attach a condition to ensure that further assessment is undertaken to

assess whether the site can be remediated and if so that any necessary remediation carried out prior to the commencement of the development. This approach is consistent with that which has routinely been applied. With such a condition it is not considered that this would be an adverse impact in terms of the planning balance.

105. In terms of land remediation it is noted that the Contaminated Land Officer has requested a condition be attached requiring a pre-commence scheme to deal with contamination. With such a condition there would not be adverse impacts in respect of this issue.

Provision of Affordable Housing, Recreational Space, Education and community Facilities and Public Art.

106. The NPPF is supportive of delivering affordable housing as a component of ensuring sustainable development. This proposal falls below these thresholds and affordable housing would not be required based on the current number of units.

107. Paragraph 94 of NPPF confirms that the government places importance in ensuring that sufficient choice of school places is available to meet the needs of existing and new communities and requires LPAs to ensure this. It is not anticipated that the addition of four households would necessitate funding to improve school capacity.

108. Policy RL5 requires small sites such as this to dedicate a proportion of the site for equipped children's play space /informal open space or a commuted sum to be paid in lieu of such provision. This broadly aligns with the approach set out in paragraph 91 of the NPPF. While some amenity space would be encouraged on the site, contributions wouldn't normally be expected owing to the small scale of the proposal.

109. BE2 seeks contributions for public art where a development costs total £500,000 or more. This policy is consistent with the Framework insofar as the NPPF is supportive of ensuring that development is well designed and responds to local character. Delivery of public art must be considered in relation to viability, which will be dependent upon local circumstances. No public art provision has been proposed nor has a 106 agreement been requested given the unacceptable nature of the proposal, however this could be required in the event of an approval as the development cost is estimated to slightly exceed this figure.

110. Paragraph 92 of NPPF recognises the need for planning decisions to ensure an integrated approach when considering the location of new housing and to plan positively for the provision and use of community facilities and local services. This provides policy justification to seek mitigation in respect to essential services including GP provision where a deficit would result from, or be exacerbated by, a proposal. Given the size of the development the impacts to local community facilities would be minimal and neither weigh in favour or against this proposal.

Access/Parking/Highway Safety

111. A range of transport policies apply to this scheme however only T6 and T15 achieve some consistency with national guidance. T6 requires development to be consistent with a safe and accessible public transport network and should help to encourage its use by all members of the public. T15 requires developments to have safe access, turning and manoeuvring space, acceptable levels of traffic, adequate links and access to and provision for public transport and consideration for pedestrians and cyclists. Paragraph 108 advises that appropriate opportunities to promote

sustainable transport modes can be taken up, a safe and suitable access to the site can be achieved and that any significant impacts can be cost effectively mitigated.

112. As detailed above it is considered that this is a moderately sustainable location with opportunities for residents to use sustainable transport modes. Whilst the owner of the poultry farm and local residents have concerns over the potential for off street parking and traffic the Highways Officer has no such concerns and has no objections to the principle of new residential development subject to highway improvements. This issue can be addressed by way of condition. Bearing the above in mind it is therefore considered that in terms of Highways Safety the proposal is in accordance with the NPPF and Chester-Le-Street Local Plan Policy.

Other Issues

113. It is recognised that there is considerable local support for the development of this site however this must be weighed against the planning considerations detailed above.
114. Reference has been made by objectors to the County Durham Structure Plan and Policy HP3 of the Chester-le-Street Local Plan however this plan and policy are not saved.
115. Reference has also been made to C-L-S Local Plan Policy TM3 however this is not relevant as this policy concerns new tourist accommodation.
116. Reference has been made by objectors to previous planning decisions on this site however these were different developments and pre-dated the NPPF.
117. The prevention of fly tipping can only be afforded very limited weight in the assessment of this application as it is a matter covered by other legislation such as the Environmental Protection Act 1990 (EPA 1990).

The Balancing Exercise

118. The application brings the benefits of adding to the County's housing supply, enhancing the vitality of a rural community and aiding the local construction and retail economy and the remediation of a contaminated site. Whilst the improvement to the character of the area could be considered a benefit the weight to be afforded to this is reduced as there are other means of addressing potential blight sites.
119. The adverse impact considerations relate to the unhealthy living conditions for future residents who would be put at unacceptable risk from, or be adversely affected by, unacceptable levels of pollution. This would be from odour for significant portions of the year. It would also be from noise during the summer period and during the daytime one week on a bi-monthly basis and over 3 evenings on a bi-monthly basis. This is likely to result in both a statutory nuisance and a significant adverse impact on health and the quality of life which would not be possible to mitigate without impacting on the economic viability of a neighbouring business and associated businesses.
120. Measures likely to be required to overcome any complaints from future residents would require restrictions being placed on the operation or changes being required to the neighbouring business. These in turn may detrimentally affect productivity and turnover and harm employment for on and off-site management and negatively

effect other businesses who provide transport, cleaning, feed-mill operators, equipment and related business contacts.

121. All other issues are considered to be neutral.

122. This balancing exercise has led your Officers to the following conclusion.

CONCLUSION

The conclusion of the balancing exercise of paragraph 11 of the NPPF is that the impacts to the future residential occupiers in terms of noise and odour and to the agricultural economy in terms of adverse impacts on the operation of the neighbouring business would significantly and demonstrably outweigh the limited housing supply, construction and commercial economy benefits, visual amenity and remediation benefits when assessed against the policies in this Framework taken as a whole. Therefore in accordance with paragraph 11 of the NPPF, the application should be refused.

RECOMMENDATION

That the application be **REFUSED** for the following reasons:

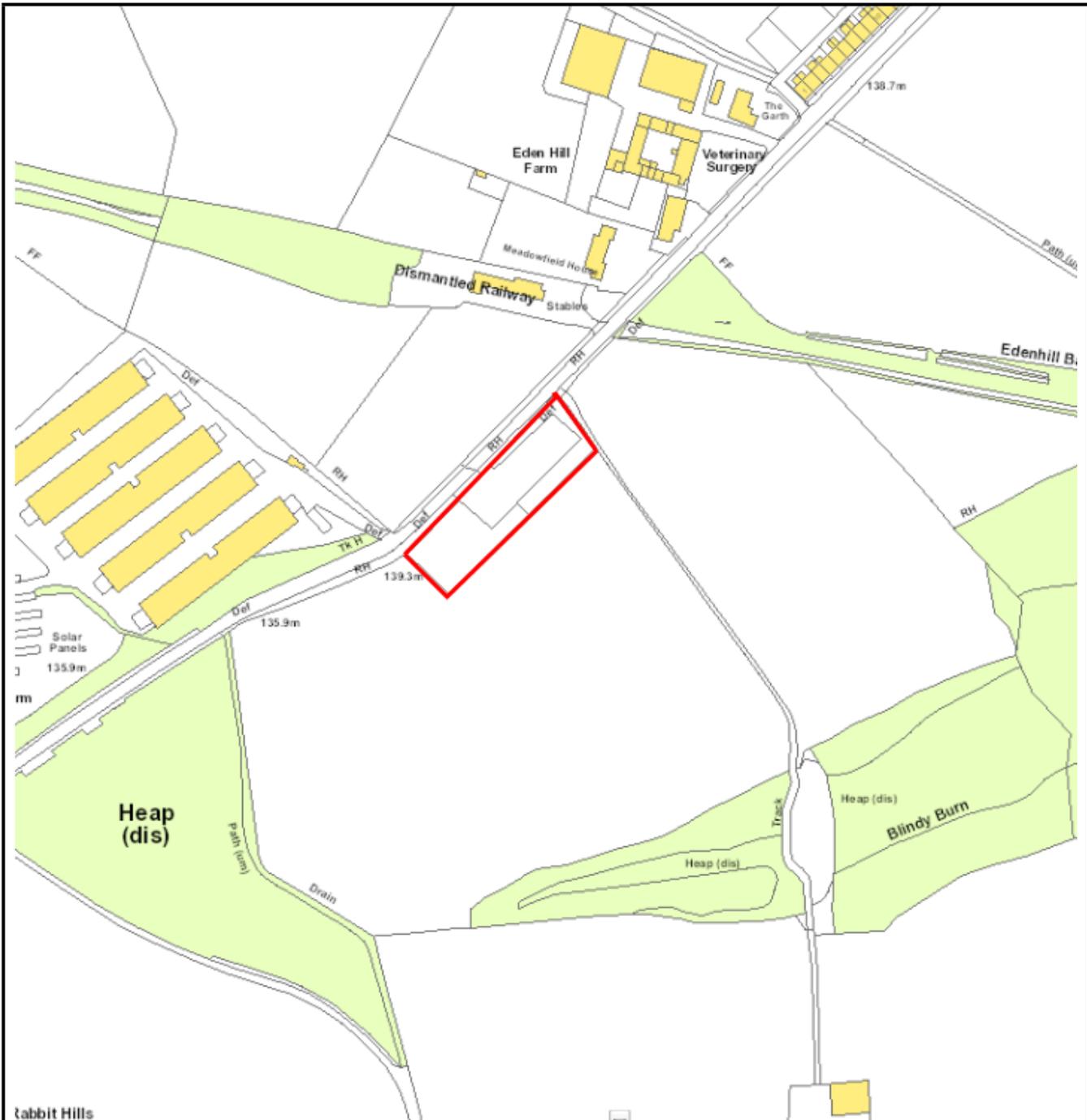
1. Given the proximity of the site to an established and fully operational chicken farm future residents would be subject to unacceptable levels of noise and odour. These impacts cannot be mitigated to prevent a significant adverse impact on the health and quality of life of future residents. Therefore the proposal is contrary to Chester-le-Street Local Plan Policy HP9 and section 15 paragraph 180 of the NPPF which seeks to ensure that new development is appropriate to its location to avoid significant adverse impacts on health and the quality of life.
2. The development cannot be integrated effectively within close proximity to an existing business as the chicken farm would be at risk of having unreasonable restrictions placed on it due to the significant potential for future residents to experience unacceptable levels of odour and noise. Suitable mitigation measures are not possible. The proposal is therefore contrary to the aims of Section 6 of the NPPF which seeks to promote a strong and competitive economy and specifically Section 15 paragraph 182 of the NPPF which seeks to ensure that new development can be integrated effectively with existing businesses without the need for unreasonable restrictions.

STATEMENT OF PROACTIVE ENGAGEMENT

The Local Planning Authority in arriving at its decision to refuse the application has, without prejudice to a fair and objective assessment of the proposals, issues raised and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF. However the delivery has not been possible in this instance. (Statement in accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.)

BACKGROUND PAPERS

The National Planning Policy Framework (2018)
National Planning Practice Guidance Notes
Chester-le-Street Local Plan 2003 (saved policies)
Statutory, internal and public consultation responses
Submitted forms, plans and supporting documents



Planning Services

Erection of four dwellings on site of former public house/nightclub (resubmission).

Application Number DM/18/01134/OUT

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Comments

Date 27.09.2018

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Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/18/01498/OUT
FULL APPLICATION DESCRIPTION:	Outline application for the construction of up to 31 residential dwellings and associated works with all matters reserved except for access
NAME OF APPLICANT:	Northumbrian Water Limited
ADDRESS:	Land to the East of the Junction of Belle View Drive and Drover Road Castleside
ELECTORAL DIVISION:	Lanchester
CASE OFFICER:	Steve France Senior Planning Officer Telephone: 03000 264871 steve.france@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site is 1.77ha of land in Castleside, a village formed around the junction of the A692 and A68, 2.2 miles south-west of the town of Consett. Nine bus stops in the village connect it with Consett, Durham, Stanley, Wolsingham and Lanchester.
2. The site is part of a wider area of land that wraps around a covered reservoir. This is surrounded by the village on three sides, with the land to the south open countryside, which includes Ancient Woodland on the boundary. The site is a triangular area of land that slopes steeply from this countryside north to the reservoir and further towards the stone built Victorian terracing that fronts the A692. Consisting of semi-improved grassland used for grazing, the only structure on the land is a small electricity sub-station in a brick enclosure built into the stone wall boundary with Drover Road.
3. The surrounding village is a mix of architectural styles and materials, with Victorian stone terracing, modern estates and 1960's two storey, dormer and bungalow developments all apparent. The Village Hall is close to the site, along with playing fields and public open space. There are no off road public footpaths on or around the site.

4. The village has a restricted range of services in its own right, but is well served as part of the wider association of settlements attached to the town of Consett, and the extensive range of services and facilities offered by the main town.

The Proposal

5. The application is in 'outline' form, asking for the principle of up to 31 dwellings to be erected, seeking detailed agreement of the site access onto Drover's Road only. All other matters are reserved for subsequent approval.
6. This proposed access onto Drover Road is sited just below the aforementioned sub-station. Dover Rd is a steeply sloping busy highway, used by many drivers to bypass the busy junction of the A68 and A692. To show the site can accommodate the quantum of development proposed, an indicative layout, street scenes and site sections has been submitted with the application. No approval is sought for these elements at this time. The indicative layouts show that the suggested density of dwellings and gardens could be achieved in a design that allocates space for SuDS features, and buffers to the adjacent countryside / Ancient Woodland.
7. This application is reported to Committee as a 'major' development.

PLANNING HISTORY

8. Representing the most recent formal planning history on the site, in 2003 an application for an outline residential development was refused: as contrary to Planning Policy Guidance (PPG) Note 3 (Housing), which promoted new development on previously developed land, and on the basis the applicant had failed to demonstrate adequate visibility on the entrance to the development from Drover Rd, in the absence of estimates of traffic flows, being therefore considered detrimental to highway safety and Policy TR2 of the Derwentside District Local Plan, 1997.
9. The site has however been most recently assessed as 'green', i.e. achievable for development within 11-15 years, in the Strategic Housing Land Availability Assessment (SHLAA), Individual Sites Assessments, June 2018.

PLANNING POLICY

NATIONAL POLICY

10. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The NPPF was updated in July 2018. The overriding message remains that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.
11. In accordance with paragraph 48 of the National Planning Policy Framework, the weight to be attached to relevant saved local plan policy will depend upon the degree

of consistency with the NPPF. The greater the consistency, the greater the weight. The relevance of this issue is discussed, where appropriate, in the assessment section of the report below.

12. The following elements of the NPPF are considered relevant to this proposal;
13. *NPPF Part 2 - Achieving sustainable development.* The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
14. *NPPF Part 5 – Delivering a sufficient supply of homes.* To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
15. *NPPF Part 6 - 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.
16. *NPPF Part 8 - Promoting healthy and safe communities.* The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
17. *NPPF Part 9 - Promoting sustainable transport.* Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
18. *NPPF Part 11 - Making effective use of land.* Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land.
19. *NPPF Part 12 - Achieving well-designed places.* The Government has attached great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning, with this section of the revised Framework document expanded.
20. *NPPF Part 14 - Meeting the challenge of climate change, flooding and coastal change.* The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of

existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.

21. *NPPF Part 15 - Conserving and enhancing the natural environment.* The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.

NATIONAL PLANNING PRACTICE GUIDANCE:

22. The newly introduced National Planning Practice Guidance (NPPG) both supports the core government guidance set out in the NPPF, and represents detailed advice, both technical and procedural, having material weight in its own right. The advice is set out in a number of topic headings and is subject to change to reflect the up to date advice of Ministers and Government, and is subject to continual review.

23. *Climate change* - Addressing climate change is one of the core land use planning principles which the National Planning Policy Framework expects to underpin both plan-making and decision-taking. Planning can also help increase resilience to climate change impact through the location, mix and design of development. Reflecting the 'golden thread' of the NPPF, sustainable development is key.

24. *Natural Environment* - Section 40 of the Natural Environment and Rural Communities Act 2006, which places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. A key purpose of this duty is to embed consideration of biodiversity as an integral part of policy and decision making throughout the public sector.

25. *Design -The importance of good design.* Good quality design is an integral part of sustainable development. The National Planning Policy Framework recognises that design quality matters and that planning should drive up standards across all forms of development. As a core planning principle, plan-makers and decision takers should always seek to secure high quality design, it enhancing the quality of buildings and spaces, by considering amongst other things form and function; efficiency and effectiveness and their impact on wellbeing.

26. *Flood Risk and Coastal Change* - The general approach is designed to ensure that areas at little or no risk of flooding from any source are developed in preference to areas at higher risk. Application of the sequential approach in the plan-making process, in particular application of the Sequential Test, will help ensure that development can be safely and sustainably delivered and developers do not waste their time promoting proposals which are inappropriate on flood risk grounds.

27. *Land Stability* - The guidance provides advice to local authorities and developers to ensure that development is appropriately suited to its location, and that there are no unacceptable risks caused by unstable land or subsidence.

28. *Air Quality* – sets out the national European and National legislative framework and a local air quality management (LAQM) regime which requires every district and unitary authority to regularly review and assess air quality in their area. Whether or not air quality is relevant to a planning decision will depend on the proposed development and its location.

29. *Land affected by Contamination* - When dealing with land that may be affected by contamination, the planning system works alongside a number of other regimes including Building Control and Environmental Protection. To ensure a site is suitable for its new use and to prevent unacceptable risk from pollution, the implications of contamination for a new development would be considered by the local planning authority to the extent that it is not addressed by other regimes.
30. *Planning obligations* - Planning obligations mitigate the impact of unacceptable development to make it acceptable in planning terms. Obligations should meet the tests that they are necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind. These tests are set out as statutory tests in the Community Infrastructure Levy Regulations 2010 and as policy tests in the National Planning Policy Framework.
31. *Noise* - Noise needs to be considered when new developments may create additional noise and when new developments would be sensitive to the prevailing acoustic environment. Consideration should be given to whether significant adverse effect or an adverse effect occurs or is likely to occur; or whether a good standard of amenity can be achieved. Paragraph 180 of the NPPF provides policy support to this aspect.

LOCAL PLAN POLICY:

32. The following are those saved policies in the Derwentside District Local Plan 1997 relevant to the consideration of this application:
33. *Policy GDP1 – General Development Principles* – outlines the requirements that new development proposals should meet, requiring high standards of design, protection of landscape and historic features, protection of open land with amenity value, respecting residential privacy and amenity, taking into account ‘designing out crime’ and consideration of drainage.
34. *Policy EN1 – Development in the Countryside* – will only be permitted where it benefits the rural economy / helps maintain / enhance landscape character. Proposals should be sensitively related to existing settlement patterns and to historic, landscape, wildlife and geological resources.
35. *Policy EN2 – Preventing Urban Sprawl* – Except where provision has been made in the plan, development outside built up areas will not be permitted if it results in: the merging / coalescence of neighbouring settlements; ribbon development or; and encroachment into the countryside.
36. *Policy EN11 – Trees and Development* – states that throughout the district existing trees should be retained where possible.
37. *Policy HO22 – Recreational Public Open Space within Housing Layouts* - this Policy covers open space provision within housing sites. It states that provision should be made on site where possible, or via a financial payment in lieu of direct provision, where sufficient provision cannot be made on site. The OSNA (2010) sets out the most up to date position in respect to open space provision across the county and provides a formula for calculating requirements on a site specific basis. This is a relevant material consideration in conjunction with Policy HO22 and paragraph 96 of NPPF.

38. *Policy TR2 – Development and Highway Safety* – relates to the provision of safe vehicular access/exit, adequate provision for service vehicle manoeuvring, access for emergency vehicles and access to the public transport network.
39. *Policy TR3 – Cycling*, Requires cyclists' needs to be taken into account when considering proposals for new traffic management, road improvements and new developments. Permission will only be granted if safe and convenient access and cycle parking facilities such as racks or wall bars are provided.

RELEVANT EMERGING POLICY:

40. Paragraph 48 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. An 'Issues & Options' consultation was completed in 2016 on the emerging the County Durham Plan (CDP) and the 'Preferred Options' was approved for consultation at Cabinet in June 2018. However, the CDP is not sufficiently advanced to be afforded any weight in the decision making process at the present time.

Five Year Housing Land Supply

41. Paragraph 73 of the NPPF requires Local Planning Authorities (LPAs) to maintain a five-year supply of deliverable sites (against housing requirements) to ensure choice and competition in the market for land.
42. In September 2017, the Government published a consultation document entitled "*Planning for the Right Homes in the Right Places*", which introduced a standard methodology for calculating housing need (OAN). Applying that methodology for County Durham, the housing need figure would be 1,368 dwellings per annum (dpa).
43. The Government published its response to the consultation in March 2018, and clarified that the standardised approach is the most appropriate method for calculating need as it meets the three key principles of being simple, realistic and based on publicly available data. At the same time, the revised draft NPPF was issued for consultation, with paragraph 61 of that document advising that, 'in determining the minimum number of homes needed, strategic plans should be based upon a local housing need assessment, conducted using the standard method in national planning guidance'.
44. The Government also issued draft planning guidance on 9 March 2018, which sets out that where a local plan is more than five years old and the housing figure needs revising, as is the case in County Durham, the starting point for calculating land supply will be local housing need using the standard methodology.
45. The Council's position on 5-year housing land supply was publically tested at a recent public inquiry (APP/X1355/W/17/3180108 – decision issued 10th May 2018) with the Inspector concluding that the use of the Government proposed standardised methodology for calculating land supply would be premature until it has formally come in to force or until the council has adopted a formal position in relation to its OAN. On the 13th June, the 'Preferred Options' of the County Durham Plan (CDP) was presented to the Council's Cabinet and endorsed for consultation. The CDP is aligned with the standardised methodology and formally endorses the use of 1,368dpa as the OAN figure. The Council is able to demonstrate in excess of 6 years supply of deliverable housing land against this figure.

46. Accordingly, the weight to be afforded to the boost to housing supply as a benefit of the development is clearly less than in instances where such a healthy land supply position could not be demonstrated. This will need to be factored into the planning balance.

The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.cartoplus.co.uk/durham/text/00cont.htm>.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

47. *Highways* – The site access as proposed from Drover Road as part of this outline application is positioned to ensure safe access and egress from the site. County Traffic Engineers confirm the speed limit on Drover Road does not need to be change or relocated. The access as proposed needs to be built to adoption standards under a future Section Highways 38/278 Agreement. The site access in its current form is acceptable.
48. A suite of conditions and informatives relating to adoptable construction standards, speed limits in the development and the layout being constructed to adoptable standard are suggested.
49. *Northumbrian Water* – *‘With regard to foul flows, an enquiry was received by Northumbrian Water to ascertain suitable connection points and discharge rates to the public sewer network. Our work undertaken in response to this enquiry indicated that the adjacent sewer network does not have capacity to accommodate additional flows at present. Upon receiving certainty that this development will proceed, following the granting of planning permission, Northumbrian Water will carry out further assessment work to inform subsequent investment to enable a foul drainage strategy to be agreed for the site’.* A condition is suggested to enable Northumbrian Water to agree a suitable foul drainage strategy following further assessment works.

EXTERNAL CONSULTEE RESPONSES:

50. *The Coal Authority* – concurs with the recommendations of the Phase 1 Geo-Environmental Desk Study; that coal mining legacy potentially poses a risk to the proposed development and that intrusive site investigation works should be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues on the site. A suitably worded standard condition is suggested.

INTERNAL CONSULTEE RESPONSES:

51. *Spatial Policy* - assess the status of relevant local plan policies, thus:
- Policy GDP1, requiring high quality design is NPPF compliant and should be factored in the planning balance.
 - Policy EN1 restricts development in the countryside, requiring proposals to be sensitively related to existing settlement patterns and environmental resources. The Policy is largely up-to-date and can be given weight.
 - Policy EN2 seeks to restrict development outside existing built up areas and encroachment into the countryside. Weight can be given to the Policy.
 - Policy EN11 Existing trees should be incorporated into new developments where possible. This is NPPF compliant.

- Policy HO22 requires public open space provision or monies in lieu. The general aims are consistent with national policy.
 - Policy TR2 has general aims, which when read with the more up-to-date County Highway standards are consistent with the Framework and NPPG advice.
52. (Considering a larger parcel of land including the site) the SHLAA 2018 identified that the reservoir consolidates the settlement boundary. There has been planning permission granted in the past. There will be some issues that may affect yield - there will need to be a 15m buffer to protect the LWS and there is some surface water flooding that will need mitigation. Highways have no issues with the site but local car parking and narrow roads will have to be considered. The site has previously been identified for housing development in the existing Local Plan, although the policies relating to this were not saved as the evidence base became out-of-date.
53. An OSNA figure was identified to support the likely demands from the scheme of 31 units, will need to include offsetting for what can be provided on-site at the reserved matters stage.
54. *Drainage and Coastal Protection* – Engineers state, ‘*The proposal should comply with the NPPF which states that those proposing development are responsible for drainage designs which reduce flood risk to the development and elsewhere, potentially through the use of Sustainable Drainage Systems (SuDS). Surface water arising from a developed site should, as far as is practicable, be managed to mimic the surface water flows arising from the site prior to the proposed development, while reducing the flood risk to the site itself and elsewhere. The proposal should also limit surface water discharge from the proposed development to comply with greenfield QBAR Rural Rate, which may be less than 5 l/s as suggested in the Flood Risk Assessment*’.
55. *Ecology* – the detailed scheme and landscaping scheme will inform the extent of any requirements for off-site mitigation to ensure the development meets the requirement of a net biodiversity gain, both from the effects of the physical development itself, and from the additional pressures new residents will bring on the surrounding natural environment.
56. *Landscape* – note the relationship of the site to the AHLV, the Ancient Woodland and a Local Wildlife Site. They state, ‘*There would be, in particular, a notable effect on the rural character of the area as perceived from Drover Road on approach to Castleside from the south. The effect on the character of the wider landscape of the Derwent Valley would be lower, given the level of visual containment and surrounding residential development, despite the proximity of the AHLV and the elevated location*’. A detailed design critique is given on the indicative layout. They conclude the proposals would have some adverse landscape and visual effects.
57. *Environment, Health and Consumer Protection (Noise)* – measures should be employed on site to mitigate any emissions of dust from the construction site activities carried out on site. A further detailed assessment of the air quality involving dispersion modelling is not required in this case.
58. *Environment, Health and Consumer Protection (Contamination)* – have assessed Wardell Armstrong geo-environmental desk study (April 2018) and agree with its conclusions and that a phase 2 site investigation is further required. A suitable condition is suggested.

59. *Affordable Housing* - The Strategic Housing Market Assessment (SHMA) sets out the affordable housing need across the county. The proposed development at Land to the east of the junction of Belle View Drive and Drover Road, Castleside would fall in the North delivery area which has an affordable housing need of 15%, equating to 5 affordable units across this development should the proposed 31 units be delivered. This should be delivered as a mix of tenure with 70% for affordable rent and 30% for affordable home ownership. This should be delivered in a mix of 2 and 3 bedroom properties.
60. Where a discounted sale home ownership product is being considered, we would require the developer to provide an indication of the open market price of the discounted units, to allow this proposal to be supported. This information is required to allow the percentage discount to be determined to ensure the units comply with the affordability criteria. Where affordable rent is being considered the developer should seek a registered provider partner as soon as possible to determine interest in the site. Dialogue around the affordable housing requirement is recommended as early as possible.
61. *Education* – Based on the methodology set out in the Councils adopted Securing Developer Contributions towards Education Provision in County Durham, the proposed development of 31 dwellings would produce 10 pupils of primary school age and 4 pupils of Secondary age. In order to mitigate the impact of the development a contribution of £66,176 (4 x £16,544) would be required to facilitate the provision of additional teaching accommodation. This can be secured through a s.106 legal agreement.
60. *Archaeology* – acknowledge the additional survey work they requested has been undertaken by the developer, and ask for a condition to secure additional investigation works.

PUBLIC RESPONSES:

62. Twenty seven letters of public consultation were sent out to nearby residents and community buildings. Site notices were posted and an advertisement placed in the local press. Thirteen objections have been received, from local residents and the Parish Council.
63. The Parish Council object on four grounds: Highway Safety from increased traffic, Affordable Housing may not be affordable to local people, shortage of school places, and lack of facilities in the village.
64. The principal issue for local residents is the increased traffic the development will generate and the safety implications of this for vehicles, pedestrians and property. Use of the Village Hall exacerbates traffic issues on a steep hill that is used as a rat-run to avoid the main road junction. Traffic issues are cumulative with other housing schemes approved in the area.
65. Other issues raised include that the local school is at capacity, and the village generally has a lack of facilities. The relationship of the site to nearby Ancient Woodland and the AONB is of concern. The loss of the site for dog-walkers and villagers taking short-cuts is referred to, along with the loss of green spaces. Too many houses are being approved in Castleside which will lose its identity as a village. There are no places to play. The development may result in drainage issues. No social housing is proposed and the dwellings would not be affordable for people in or relocating to Castleside.

APPLICANT'S STATEMENT:

66. Northumbrian Water Limited (NWL) is pleased to see that your Officers are recommending approval of this planning application, which will allow for a forthcoming housing developer to build out the site (subject to the future approval of the Reserved Matters) to provide new market housing and affordable homes in a sustainable location.
67. NWL has been proactive throughout the application process, working with the Council through the submission of a pre-application enquiry to understand any technical constraints from the outset and to directly inform the final proposals. As a result a scheme of 31 homes including an ecological buffer, open space and a sustainable drainage scheme has been designed and is the final scheme you see before you.
68. The applicant has also been proactive through the community engagement process, inviting local ward members and residents to a consultation event which took place on Monday 28 February 2018 at Castleside Village Hall. Leaflets were posted to 750 homes in the local area in advance of this which also included a questionnaire.
69. As set out within this committee report, the scheme brings with it the opportunity to deliver a number of benefits. These include:
- 15% of the homes on site are to be affordable, in line with Durham County Council's requirements;
 - Enhance the existing range and choice of dwellings in Castleside to meet local needs;
 - The existing woodland to the south of the site is to be retained;
 - The enhancement of landscaping and provision of SUDS within the site which could support ecological benefits;
 - The provision of open space, including an opportunity to provide a children's play area on site;
 - Economic benefits including construction jobs, the generation of New Homes Bonus Payments and the opportunity to deliver an uplift in Council Tax revenues payable to Durham County Council; and
 - The provision of a monetary contribution towards highways upgrades and education.
70. NWL are required, as a regulated water and sewerage company, to make best use of their assets and dispose of them when they are no longer required for operational purposes, ensuring they get best value for the land and property.
71. In the context of national and local planning policy, we respectfully request that the Council grants planning permission of the proposed development without delay.

The above is not intended to list every point made and represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at

<https://publicaccess.durham.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=P8X9C0GDL8J00>

PLANNING CONSIDERATIONS AND ASSESSMENT

The Principle of the Development

72. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all

other material planning considerations, including representations received, it is considered that the main planning issues in this instance relate to the principle of development in the countryside, the relationship to the existing settlement and Highways issues.

The Development Plan

73. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The Derwentside District Local Plan remains the statutory development plan and the starting point for determining applications as set out at Paragraph 12 of the NPPF. However, the NPPF advises at Paragraph 213 that the weight to be afforded to existing Local Plans depends upon the degree of consistency with the NPPF.

74. The Local Plan was adopted in 1997 and was intended to cover the plan period until 2006. However, the Framework advises that Local Plan policies should not be considered out-of-date simply because they were adopted prior to the publication of the NPPF. Notwithstanding this, it is considered that a policy can be out-of-date if it is based upon evidence which is not up-to-date/is time expired depending on the circumstances, such as the housing allocation for this site.

The NPPF

75. Paragraph 11 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means (unless material considerations indicate otherwise):

- approving development proposals that accord with an up-to-date development plan without delay; or
- where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i. the application of policies in this (sic) Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. 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.

76. Paragraph 74 of the NPPF requires Local Planning Authorities (LPAs) to maintain a five-year supply of deliverable sites (against housing requirements) thus boosting the supply of housing.

Countryside Policy

77. In terms of compliance with the Development Plan, there are no relevant up-to-date housing Policies. Policies EN1 and to a lesser extent EN2, designed to protect the countryside are compatible with the NPPF and still have weight. Paragraph 12 of the Framework states, proposals should be considered against those policies '*most important for determining the application*'. Each planning application, and each proposal is then taken on its own merits and Members will note that another application on this agenda uses the same policies and comes to a different conclusion.

78. The site at Drover Road is effectively surrounded by the existing settlement on three sides, and was concluded in the SHLAA assessment as a consolidation of the built

form of the settlement. In terms of Policy EN1 whilst the proposals are development in the countryside, they are '*sensitively related to existing settlement patterns*'. Given the SHLAA assessment that the development of the site, Policy EN2's relevant criteria, preventing development that is '*an encroachment into the surrounding countryside*' is not considered compromised, as the countryside could be argued to extend into the existing built development, with the site an infill. The settlements have already 'merged' evidenced by the existing urban form. The site is not 'ribbon development'. Policy EN2's requirements are met.

Housing

79. The County Council have a positive housing land supply position that means that in terms of the additional supply of housing the development would bring, the benefit can only be considered neutral. The site was identified as suitable for housing in the Development Plan, but as noted elsewhere in this report, the evidence base that supported that allocation is now out-of-date. Most relevant at this time is the Durham County Council, Strategic Housing Land Availability Assessment, Individual Sites Assessments, June 2018 gave a 'green' categorisation to the site, concluding it has residential development potential.

Highway Safety

80. The Outline application seeks to 'reserve' all detailed matters for later consideration, except for access. A detailed access arrangement is shown. As part of their assessment Highways Engineers will have considered the additional traffic the development will create, the capacity and layout of the existing highway and road network. The cumulative effect of the development on these aspects in association with other approved schemes, the effect on the safety of pedestrians and the sustainability of the location of the site are all further elements within their remit. All of these aspects are concerns for local residents. Highways implications were flagged as a potential site constraint as part of the SHLAA process. However, it is critical that Highways Officers offer no objection to any aspect of the proposals providing the site and its access are built to adoptable standards. Planning Officers are led by this view and conclude highways issues are acceptable.

Sustainability

81. Local residents and the Parish Council have questioned the sustainability of the Castleside for this and future development. The Settlement Studies carried out to inform future Planning Policy documents point out that small settlements often sit in a hierarchy, where hamlets and smaller villages provide for themselves a basic set of services and facilities, but rely on larger neighbours for others. Castleside, along with Moorside, The Grove, Delves and Leadgate have been seen as part of a group of settlements relying on Consett for some of their principle facilities and services. Paragraphs below detail where specific additional local contribution is required for the likes of Education and Open Space provision to mitigate specific demands the development would generate. The village is concluded to have services available proportionate to its size, and access along an 'A' road to the wider services of the main urban town centre of Consett. The SHLAA assessment concluded, 'Site is reasonably well located in relation to local shops'. The suggested refusal on these grounds is not considered tenable.

82. New development and new residents have the potential to protect and sustain existing businesses and facilities and attract new investment.

Impact upon the Surrounding Area and Neighbouring Amenity

83. This is an outline planning application and where internal consultees have made detailed criticism of the submitted layout, they are assessing an 'indicative' plan, submitted to show the site can be developed rather than detailed proposals involving proposed residential relationships.
84. The applicant's availed themselves of the Council's pre-application advice service which allowed the site to be considered by the Building for Life (BfL) forum. This resulted in the proposals being significantly reduced, with the quantum of development proposed in the revised proposals allowing for the suggested visual / wildlife / woodland buffers to be included, steeper parts of the site avoided benefitting longer views, and land for SuDS features allowed. The result is that the impact on the surrounding area was reduced to a level where Officers indicated the scheme had the potential to be supported on these issues if unexpected elements did not emerge through the formal planning process.
85. The site has no direct effect on the Area of Outstanding Natural Beauty (AONB), which does not extend east of the A68, some 700m to the west.
86. The indicative plan does show that in principle an attractive design could be achieved that meets required separation distances both to existing development and within the scheme, incorporates land for SuDS features and open space, leaving significant buffers between the build development and the nearby designated Ancient Woodland, and avoids the upper part of the site more visible in longer views. The proposal is concluded compliant with Policy GDP1(h) which seeks to protect residential amenity, and achieve a scheme that is in keeping with the character and appearance of the area.

Other Issues

87. *Legal Agreement / Conditions* - The following is a brief summary of technical topics that require to be addressed and formally mitigated in outline approval via a legal agreement and conditions for further agreement as part of the detailed scheme. There are tests required for imposition of both mechanisms set out in the NPPF, NPPG and Community Infrastructure Levy Regulations 2010. Where Officers suggest these mechanisms are used, it is on the basis that it is considered that the relevant tests are met. A number of pre-commencement conditions are suggested. This is likewise on the basis that they meet the tests required for this approach and relate to issues that must be addressed in advance of physical development.
88. *Affordable Housing* - The developer has indicated that the usual requirements for affordable housing can be agreed through a legal agreement tied to any approval. Policy HO22 of the Development Plan justifies the imposition of this requirement in this instance through inclusion in the intended legal agreement.
89. *Drainage* - The development sets out an indicative layout that allows space for sustainable drainage features. Drainage Officers ask that a detailed scheme be prepared through the surface water hierarchy. An appropriate condition will be required. Policy GDP1 of the Development Plan and Part 14 of the Framework require this issue addressed.
90. Northumbrian Water (as consultee) acknowledge there is insufficient capacity in the system at the moment to accommodate the development. A condition could ensure that no dwelling was occupied until this was rectified, ensuring compliance with Part 14 of the NPPF.

91. *Education* - The County Education Department has identified a requirement for the development to make provision for the extra demand it would create. This requirement can be accommodated within a s.106 legal agreement. Paragraph 94 of the Framework requires this mitigation.
92. *Open Space / Play Space* - Whilst the form of the development, the type and number of units proposed, and the provision of any on-site functional open space can all be deferred to the 'reserve matters' process, Spatial Policy Officers have identified an amount of OSNA contribution that equates to the impact of the scheme in its current form, that again can be secured through legal agreement. The provision would ensure compliance with Policy HO22 of the Development Plan.
93. *Ecology* - There are no protected species on the site. The County Ecologist acknowledges that due to the type of application, the net bio-diversity loss/gain cannot be established at this point – the nature of the detailed landscaping proposals and make-up of the buffer zone will inform whether the required mitigation can be carried out on-site, or whether off-site mitigation in the immediate locale is required. This would address both the physical effect of development on the site, and additional pressure on Local Wildlife Reserves from new residents. Inclusion in the legal agreement and appropriate conditions can ensure this requirement, and ensure compliance with the advice of Part 15 of the Framework, paragraph 175 in particular.
94. *Economic Benefits* - Whilst not quantified to a degree that would allow specific weight to be added to this important component of the planning assessment, that the development will bring economic benefits to the local economy during the construction phase of development and from the subsequent economic activity of new residents in the lifetime of the development is a material factor in favour of the development. The applicant also points out that additional benefits include, '*the generation of New Homes Bonus Payments and the opportunity to deliver an uplift in Council Tax revenues payable to Durham County Council*'.
95. *Noise and site works* - Specialist Officers suggest conditions to mitigate these areas, both during site works and in the lifetime of the development.
96. *Heritage Assets* - The developer has carried out the site investigations requested by the County Archaeology Section, who have confirmed that their further requirements can be dealt with by way of a condition.
97. *Coal and Contamination* - The Coal Authority and Specialist Officers confirm that coal mining legacy issues and any contamination on site can be dealt with by way of appropriate conditions.

CONCLUSION

98. The application involves development of an area of countryside that whilst contrary in principle to countryside policies, on detailed assessment is concluded a logical infill of the existing settlement. The site does not possess any particular features which distinguish it from other countryside although its undeveloped state means that the development would result in the loss of an open site and part of the countryside. However, any adverse effects upon the character of the area would be very limited. Highways Engineers are confident that the access and highways implications of the site are 'safe and satisfactory'. Effects on nearby countryside, including Ancient Woodland, are acceptable. Technical issues and impacts on the settlement can be mitigated.

99. The County Council has a comfortable housing land supply position at present, and therefore any benefits to housing land supply are of little weight when considering benefits and negatives of the application.
100. Despite local concerns, Castleside is considered a sustainable location for residential development.
101. Subject to a legal agreement and an appropriate suite of conditions to ensure the implications of the site can be mitigated, and that the Council has control over the quality of a detailed scheme, the proposals are recommended positively.

RECOMMENDATION

102. That the application be **APPROVED**, subject to the developer entering into a s.106 legal agreement to provide the following, and the conditions detailed below:

A section 106 Legal agreement to secure, proportionate to the direct impacts of the development:

- monies to address the direct impacts of any education shortfall created by the development, (£66,176 on the basis of the indicative scheme),
- monies to mitigate the direct impacts of development on bio-diversity from both the development works and direct impacts from new residents if not mitigated in full or part within the reserved matters application, said funds to be used within an agreed distance of the site,
- monies to make provision for any open space shortfall as assessed through the Council's OSNA model if not mitigated in full or part within the reserved matters application, (£48,134 on the basis of the indicative scheme),
- the provision within the reserved matters scheme of 15% affordable housing in a form compatible with the Framework,
- funding of off-site highways upgrades that are directly required as a result of the development.

Conditions:

1. Application for approval of reserved matters shall be made to the Local planning authority before the expiration of three years beginning with the date of this permission and the development must be begun not later than the expiration of two years from the final approval of the reserved matters, or in the case of approval on different dates, the date of approval of the last of the reserved matters to be approved.

Reason: Required to be imposed pursuant to Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall thereafter be carried out as approved.

Reason: Required to be imposed pursuant to Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

3. The development hereby approved must be carried out within the site identified on the following boundary plan:
- SK-00.01 REV B - Red line boundary plan

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies GDP1 and TR2 of the Development Plan.

4. The development hereby approved must comprise of no more than 31 dwellings.

Reason: To clarify the extent of the approved development.

5. Before any part of the development hereby approved is commenced, an existing site levels survey for the whole site and a proposed highways levels plan for all communal vehicular and pedestrian highways, and shared drives must be submitted to and approved in writing by the Local planning authority. Before any individual plot commences development an existing levels plan, a proposed ground levels plan to cover the whole plot and show all formed slopes and retaining structures, existing and proposed boundary markers, and elevations showing finished floor, eaves and ridge levels must be submitted to and approved in writing by the local planning authority, with the development carried out in full accordance with said approval.

Reason: to ensure a satisfactory form of development and in the interests of residential amenity, as required by Policy GDP1 of the Development Plan.

6. No dwellings shall be occupied until a scheme for the ongoing maintenance of any areas of public open space within the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. In the event of proposals to maintain the public open space by means other than through transfer to the Local Authority then the scheme shall provide for details of an agreed maintenance and cutting schedule in perpetuity.

Reason: In the interests of visual amenity and Policy GDP1 of the Development Plan.

7. Before development commences, full constructional details of the proposed roads, the site access, and any required offsite highway works, to be of a standard capable of adoption, including levels, kerbs, drainage, footways, footway crossings and shared drives shall be submitted to and approved in writing by the Local planning authority. A schedule for construction of the road and triggers for implementation must be included in said document. The works must be carried out in full accordance with the written agreement.

Reason: to ensure a safe and satisfactory highways layout, in accordance with Policy TR2 of the Development Plan.

8. 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.

9. Development must not commence until a detailed scheme of surface water disposal from the development has been submitted to and approved in writing by the Local Planning Authority. The proposal should comply with the NPPF which states that those proposing development are responsible for drainage designs which reduce flood risk to the development and elsewhere, potentially through the use of Sustainable Drainage Systems (SuDS). Surface water arising from a developed site should, as far as is practicable, be managed to mimic the surface water flows arising from the site prior to the proposed development, while reducing the flood risk to the site itself and elsewhere. The proposal should also limit surface water discharge from the proposed development to comply with greenfield QBAR Rural Rate, which may be less than 5 l/s as suggested in the Flood Risk Assessment. Reference should be made to the Councils SuDS Adoption Guide 2016 which gives details of how

schemes should demonstrate compliance with national standards and local policy taking into account: Prevention, Source Control, Site Control and Regional Control. The scheme must be submitted to and approved in writing by the Local Planning Authority before development commences.

Reason: To ensure that the implications of surface water drainage are fully assessed and mitigated as required, compliant with Policy GDP1 of the Development Plan and Part 14 of the NPPF.

10. Before development commences, the developer must undertake a scheme of intrusive site investigations which is adequate to properly assess the ground conditions and the potential risks posed to the development by past coal mining activity. This must include, but is not restricted to:

- The submission of a report of findings arising from the intrusive site investigations, including details of any remedial works necessary for approval; and
- Implementation of those remedial works.

Further, this must be submitted to and approved in writing by the Local Planning Authority in consultation with The Coal Authority within the prescribed timescale.

Reason: To ensure the implications of the Coal Mining Legacy are addressed, in accordance with the NPPF.

11. Throughout both the pre-commencement and completion phases of the development all documents submitted relating to Phases 2 to 4 as detailed below shall be carried out by competent person(s) and shall be submitted to and agreed in writing with the Local Planning Authority.

Pre-Commencement

(a) A Phase 2 Site Investigation and Risk Assessment is required to fully and effectively characterise the nature and extent of any land and/or groundwater contamination and its implications. Prior to the Phase 2 a Sampling and Analysis Plan is required.

(b) If the Phase 2 identifies any unacceptable risks, a Phase 3 Remediation Strategy detailing the proposed remediation and verification works is required. If gas protection measures are required a verification plan is required detailing the gas protection measures to be installed, the inspection regime and where necessary integrity testing programme.

The installation of the gas membrane should be carried out by an appropriately qualified workforce and the verification of the installation should be carried out by an appropriately competent, experience and suitably trained person(s) (preferably independent to the installer) to ensure mitigation of the risk to the buildings and the people who occupy them. No alterations to the remediation proposals shall be carried out without the prior written agreement of the Local Planning Authority.

Completion

(c) During the implementation of the remedial works (if required) and/or development if any contamination is identified that has not been identified pre-commencement, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment shall be carried out in accordance with part a of the condition and where necessary a

Phase 3 Remediation Strategy shall be prepared in accordance with part b of the condition. The development shall be completed in accordance with any amended specification of works.

(d) Upon completion of the remedial works (if required), a Phase 4 Verification Report (Validation

Report) confirming the objectives, methods, results and effectiveness of all remediation works detailed in the Phase 3 Remediation Strategy shall be submitted to and agreed in writing with the Local Planning Authority within 2

months of completion of the development. If integrity testing of the membrane(s) was required a verification pro forma should be included.

Reason: The site may be contaminated as a result of past or current uses and/or is within 250m of a site which has been landfilled and the Local Planning Authority wishes to ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems in accordance with NPPF Part 11.

12. Prior to the submission of reserved matters the applicant must secure the implementation of a phased programme of archaeological work in accordance with a written scheme of investigation, including a timetable for the investigation, which has been approved in writing by the Local Planning Authority. The Scheme shall provide for:

- i), the proper identification and evaluation of the extent, character and significance of archaeological remains within the application area by means of trial trench evaluation to inform the reserved matters application(s);
- ii), an assessment of the impact of the proposed development on any archaeological remains identified in the evaluation phase;
- iii), proposals for a mitigation strategy for the investigation, recording and recovery of archaeological remains and the publishing of the findings, it being understood that there shall be a presumption in favour of their preservation in situ wherever feasible, should features be identified in the trenching phase (i);
- iv), sufficient notification and allowance of time to archaeological contractors nominated by the developer to ensure that archaeological fieldwork as proposed in pursuance of (i) and (iii) above is completed prior to the commencement of permitted development in the area of archaeological interest; and
- v), notification in writing to the County Durham and Darlington County Archaeologist of the commencement of archaeological works and the opportunity to monitor such works.

The development shall then be carried out in full accordance with the approved details.

Reason: To comply with paras 197 and 199 of the NPPF because the site is of archaeological interest.

13. Prior to the development being beneficially occupied, a copy of any analysis, reporting, publication or archiving required as part of the mitigation strategy shall be deposited at the County Durham Historic Environment Record.

Reason: To comply with para. 199 of the NPPF which ensures information gathered becomes publicly accessible.

14. No development, site clearance or preparatory work shall be undertaken outside the hours of 0730 and 1800 Monday to Friday and 0730 and 1300 on a Saturday, with no works to take place on a Sunday or Bank Holiday.

Reason: To give due regard to the amenity and privacy local residents can reasonably expect to enjoy in line with Part 15 of the Framework.

15. Prior to the commencement of any part of the development, site clearance or preparatory work hereby permitted, a Construction Management Plan shall be submitted to and approved in writing by the local planning authority. The Construction Management Plan shall include as a minimum, but not necessarily be restricted to, the following:

- (a) A Dust Action Plan including measures to control the emission of dust and dirt during construction;
- (b) Details of methods and means of noise reduction;

- (c) Where construction involves penetrative piling, details of methods for piling of foundations including measures to suppress any associated noise and vibration;
- (d) Details of measures to prevent mud and other such material migrating onto the highway from all vehicles entering and leaving the site;
- (e) Designation, layout and design of construction access and egress points;
- (f) Details for the provision of directional signage (on and off site);
- (g) Details of contractors' compounds, materials storage and other storage arrangements, including cranes and plant, equipment and related temporary infrastructure;
- (h) Details of provision for all site operatives for the loading and unloading of plant, machinery and materials;
- (i) Details of provision for all site operatives, including visitors and construction vehicles for parking and turning within the site during the construction period;
- (j) Routing agreements for construction traffic;
- (k) Details of the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- (l) Waste audit and scheme for waste minimisation and recycling/disposing of waste resulting from demolition and construction works;
- (m) Detail of measures for liaison with the local community and procedures to deal with any complaints received, and;
- (n) Demonstration that regard shall be had to BS 5228 "Noise and Vibration Control on Construction and Open Sites" during the planning and implementation of site activities and operations.

The approved Construction Management Plan shall be adhered to throughout the construction period and the approved measures shall be retained for the duration of the construction works.

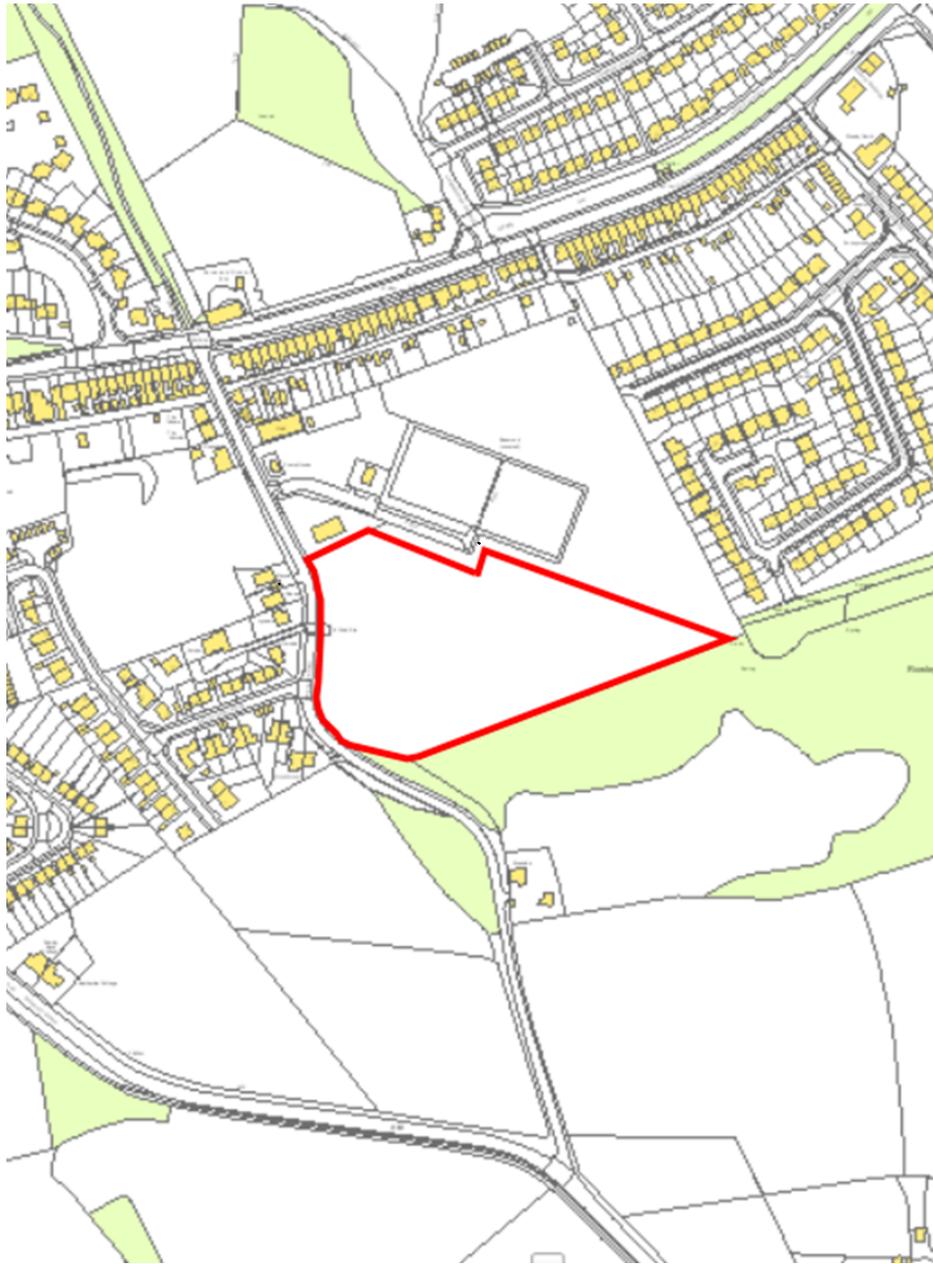
Reason: To give due regard to the amenity and privacy local residents can reasonably expect to enjoy in line with Part 15 of the Framework.

STATEMENT OF PROACTIVE ENGAGEMENT

The Local Planning Authority in arriving at its decision to approve the application has, without prejudice to a fair and objective assessment of the proposals, issues raised and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF. (Statement in accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.)

BACKGROUND PAPERS

The National Planning Policy Framework (2018)
National Planning Practice Guidance Notes
Derwentside District Local Plan 1997 (saved policies)
Statutory, internal and public consultation responses
Submitted forms, plans and supporting documents
Durham County Council, Strategic Housing Land Availability Assessment, Individual Sites Assessments, June 2018



Planning Services

Outline application for the construction of up to 31 residential dwellings and associated works with all matters reserved except for access

Application Number DM/18/01498/OUT

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Comments

Date 27th Sept. 2018

Scale NTS

Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/17/03634/FPA
FULL APPLICATION DESCRIPTION:	Erection of two dwellings and detached garage
NAME OF APPLICANT:	Mr David Armstrong The Crest Beamishburn Road
ADDRESS:	Beamish Stanley DH9 0LR
ELECTORAL DIVISION:	Tanfield
CASE OFFICER:	Nick Graham Planning Officer Telephone: 03000 264960 nicholas.graham@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site is 0.15 ha. of land, to the north of Kip Hill, part of the Shield Row area of Stanley, approximately 0.75 miles north-east of Stanley town centre. A new housing estate, Badgers Wood completed in the mid 2000s, lies within approximately 100 metres of the site to the south, whilst the South Causey Inn Hotel is located within approximately 150 metres to the north of the site. Between the Hotel and application site, planning permission has been granted for tourist accommodation.
2. The land is currently used as a garden and driveway for the host property, The Crest. A double detached garage at the site, would be demolished to facilitate the development. The western boundary is formed of an embankment leading to Causey Road. The northern boundary borders an agricultural field which forms part of an Area of High Landscape Value. The eastern boundary fronts Beamishburn Road and the Blue Bell Public House. The southern boundary bounds the adjoining property to The Crest, Maclymont. The existing access to the site is taken from Beamishburn Road as per the other three dwellings within the vicinity.

The Proposal

3. The application proposes the erection of two semi-detached dwellings, with a monopitch side garage to each property, and a further side garage to the host property. The new dwellings would each have four bedrooms, with the first property accessed via an existing drive from Beamishburn Road, and a new access would be

created to serve the second proposed property and host property. The properties would be similar in scale and materials to the existing two pairs of semi-detached properties located immediately to the south, and would be constructed on the same building line with matching red brickwork and slate hipped roofs. The properties would differ from the existing dwellings with the inclusion of dormers within the roofline, and bay windows. A block paved driveway is also proposed.

4. This application is reported to Committee at the request of Councillor Joyce Charlton, who has raised concerns in respect of highway safety.

PLANNING HISTORY

5. In 2009, an application for the erection of a detached garage was approved at the site (ref. 1/2009/0734/71969), and a subsequent scheme of landscaping was submitted and approved as part of a discharge of conditions application (ref. 1/2010/0158/73708).

PLANNING POLICY

NATIONAL POLICY

6. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The NPPF was updated in July 2018. The overriding message remains that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.
7. The NPPF requires local planning authorities to approach development management decisions positively, and in accordance with paragraph 48 of the National Planning Policy Framework, the weight to be attached to relevant saved local plan policy will depend upon the degree of consistency with the NPPF. The greater the consistency, the greater the weight. The relevance of this issue is discussed, where appropriate, in the assessment section of the report below.
8. The following elements of the NPPF are considered relevant to this proposal;
9. *NPPF Part 2 - Achieving sustainable development* - The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
10. *NPPF Part 5 – Delivering a sufficient supply of homes* - To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.

11. *NPPF Part 6 - 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.
12. *NPPF Part 8 - Promoting healthy and safe communities* - The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
13. *NPPF Part 9 - Promoting sustainable transport* - Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
14. *NPPF Part 11 - Making effective use of land* - Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land.
15. *NPPF Part 12 - Achieving well-designed places* - The Government has attached great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning, with this section of the revised Framework document expanded.
16. *NPPF Part 14 - Meeting the challenge of climate change, flooding and coastal change* - The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.
17. *NPPF Part 15 - Conserving and enhancing the natural environment*. The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.

NATIONAL PLANNING PRACTICE GUIDANCE:

18. The National Planning Practice Guidance (NPPG) both supports the core government guidance set out in the NPPF, and represents detailed advice, both technical and procedural, having material weight in its own right. The advice is set out in a number of topic headings and is subject to change to reflect the up to date advice of Ministers and Government.
19. *Climate change* - Addressing climate change is one of the core land use planning principles which the National Planning Policy Framework expects to underpin both

plan-making and decision-taking. Planning can also help increase resilience to climate change impact through the location, mix and design of development. Reflecting the 'golden thread' of the NPPF, sustainable development is key.

20. *Natural Environment* - Section 40 of the Natural Environment and Rural Communities Act 2006, which places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. A key purpose of this duty is to embed consideration of biodiversity as an integral part of policy and decision making throughout the public sector.
21. *Design -The importance of good design*. Good quality design is an integral part of sustainable development. The National Planning Policy Framework recognises that design quality matters and that planning should drive up standards across all forms of development. As a core planning principle, plan-makers and decision takers should always seek to secure high quality design, it enhancing the quality of buildings and spaces, by considering amongst other things form and function; efficiency and effectiveness and their impact on wellbeing.
22. *Flood Risk and Coastal Change* - The general approach is designed to ensure that areas at little or no risk of flooding from any source are developed in preference to areas at higher risk. Application of the sequential approach in the plan-making process, in particular application of the Sequential Test, will help ensure that development can be safely and sustainably delivered and developers do not waste their time promoting proposals which are inappropriate on flood risk grounds.
23. *Land Stability* - The guidance provides advice to local authorities and developers to ensure that development is appropriately suited to its location, and that there are no unacceptable risks caused by unstable land or subsidence.
24. *Noise* - Noise needs to be considered when new developments may create additional noise and when new developments would be sensitive to the prevailing acoustic environment. Consideration should be given to whether significant adverse effect or an adverse effect occurs or is likely to occur; or whether a good standard of amenity can be achieved. Paragraph 180 of the NPPF provides policy support to this aspect.

LOCAL PLAN POLICY:

25. The following are those saved policies in the Derwentside District Local Plan 1997 relevant to the consideration of this application:
26. *Policy GDP1 – General Development Principles* – outlines the requirements that new development proposals should meet, requiring high standards of design, protection of landscape and historic features, protection of open land with amenity value, respecting residential privacy and amenity, taking into account 'designing out crime' and consideration of drainage.
27. *Policy HO5 – Housing Development on Small Sites* – Stanley is one of the listed settlements where housing development will be permitted on small sites. Development must be appropriate to the existing pattern and form of development; must not extend beyond the existing built up area; represents acceptable backland or tandem development; and should not exceed 0.4 hectares when taken together with an adjoining site.
28. *Policy TR2 – Development and Highway Safety* – relates to the provision of safe vehicular access/exit, adequate provision for service vehicle manoeuvring, access for emergency vehicles and access to the public transport network.

RELEVANT EMERGING POLICY:

29. Paragraph 48 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. An 'Issues & Options' consultation was completed in 2016 on the emerging the County Durham Plan (CDP) and the 'Preferred Options' was approved for consultation at Cabinet in June 2018. However, the CDP is not sufficiently advanced to be afforded any weight in the decision making process at the present time.

Five Year Housing Land Supply

30. Paragraph 73 of the NPPF requires Local Planning Authorities (LPAs) to maintain a five-year supply of deliverable sites (against housing requirements) to ensure choice and competition in the market for land.
31. In September 2017, the Government published a consultation document entitled "*Planning for the Right Homes in the Right Places*", which introduced a standard methodology for calculating housing need (OAN). Applying that methodology for County Durham, the housing need figure would be 1,368 dwellings per annum (dpa).
32. The Government published its response to the consultation in March 2018, and clarified that the standardised approach is the most appropriate method for calculating need as it meets the three key principles of being simple, realistic and based on publicly available data. At the same time, the revised draft NPPF was issued for consultation, with paragraph 61 of that document advising that, 'in determining the minimum number of homes needed, strategic plans should be based upon a local housing need assessment, conducted using the standard method in national planning guidance'.
33. The Government also issued draft planning guidance on 9 March 2018, which sets out that where a local plan is more than five years old and the housing figure needs revising, as is the case in County Durham, the starting point for calculating land supply will be local housing need using the standard methodology.
34. The Council's position on 5-year housing land supply was publically tested at a recent public inquiry (APP/X1355/W/17/3180108 – decision issued 10th May 2018) with the Inspector concluding that the use of the Government proposed standardised methodology for calculating land supply would be premature until it has formally come in to force or until the council has adopted a formal position in relation to its OAN. On the 13th June, the 'Preferred Options' of the County Durham Plan (CDP) was presented to the Council's Cabinet and endorsed for consultation. The CDP is aligned with the standardised methodology and formally endorses the use of 1,368dpa as the OAN figure. The Council is able to demonstrate in excess of 6 years supply of deliverable housing land against this figure.
35. Accordingly, the weight to be afforded to the boost to housing supply as a benefit of the development is clearly less than in instances where such a healthy land supply position could not be demonstrated. This will need to be factored into the planning balance.

The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.cartoplus.co.uk/durham/text/00cont.htm>.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

36. **Highways** – No concerns were raised regarding the lack of a footpath to the site given the proximity to a footpath 70 metres away, along with the benefit of street lighting to the site and a lightly trafficked road. The proposed accesses to the site incorporating the required visibility splays were redesigned during the application process at the request of the Highways Engineer, who confirmed following a review of the site drawings no objections raised to the proposal subject to a condition requiring the highways works to be implemented prior to the development being brought into use.

37. **Northumbrian Water** – Have no comments to make in relation to the proposal.

INTERNAL CONSULTEE RESPONSES:

38. **Landscape** – Noted the site's proximity to the AHLV and prominence following the felling of non-protected trees to the northern boundary, and considers the size and location of the structure to be of an unfamiliar domestic scale in this settlement edge location. The proposal would reduce the visual amenity value and rural character of the AHLV in the prominent gateway location.

39. **Ecology** – Confirmed the bat risk assessment is acceptable, with no further works required.

40. **Environment Health** – Has confirmed the details of the Noise Impact Assessment and considers it complies with the thresholds as detailed in the Technical Advice Notes (TANs) indicating the development will not lead to an adverse impact. A statutory nuisance would be created unless suitable planning conditions relating to sound attenuation, construction working times, and minimising noise, vibration, light and dust nuisance are imposed as part of any approval granted.

EXTERNAL CONSULTEE RESPONSES:

41. **The Coal Authority** – Recommends that the LPA impose a Planning Condition should planning permission be granted for the proposed development requiring site investigation works prior to commencement of development. In the event that the site investigations confirm the need for remedial works to treat any areas of shallow coal mine workings or any mine entries to ensure the safety and stability of the proposed development, this should also be conditioned to ensure that any remedial works identified by the site investigation are undertaken prior to commencement of the development.

42. **Health and Safety Executive** – The site falls within proximity of a gas pipeline however the HSE do not advise against the granting of planning permission on safety grounds.

PUBLIC RESPONSES:

43. Seven letters of public consultation were sent out to nearby residents, and a site notice was posted. At the time of the report being finalised, two letters of objection, one anonymous, had been received raising the following points:

44. Services are restricted; there is no public footpath north of Badgers Wood; street lighting is only provided due to the access requirements of the Blue Bell Public House. The road is only cleared due to the two pubs nearby; the proposal is on the wrong side of the hill for connection to the sewerage system. The proposal will increase traffic along Beamishburn Road, further compromising the pastoral aspect of the area. The comments of the Highways Engineer are disputed.
45. Prior to the application being submitted, shrubs and trees were cut down at the site; the development involves laying large swathes of block paving. The proposed development significantly diminishes the rural character of the site and represents an overdevelopment and urbanisation of a rural area. The proposal constitutes a change of use from agricultural to domestic, whilst the case officer's views regarding the design of the proposal are noted
46. This small settlement of four semi-detached properties enjoy a unique character and a local landmark. The development of this greenfield site does not align with the policy to protect land which is recognised for its amenity value or the contributions its character makes to an area. It will result in a street of houses and further diminish any enjoyment of the area.
47. Other sites within the vicinity should be prioritised for housing. The Stanley area notes there is no local business requirement for additional workers or indeed room for any other business in the immediate vicinity. No development here shall benefit the rural economy not help to maintain or enhance landscape character.

APPLICANT'S STATEMENT:

48. The site is a strip of land adjacent to the applicant's dwelling, from agricultural use. I wish to construct two residential semi-detached properties with a slate dual pitched slate hipped roof with dormer windows to East elevation of the properties.
49. The two proposed dwellings and the host dwelling to have attached garages. The formation of a new driveway and a shared driveway for the existing dwelling and one of the proposed dwellings provides a new access on to Beamishburn Road
50. The design of the proposed dwelling and all materials to be used for development are to match those used in the surrounding street scene and host dwelling so as to ensure no detrimental impact upon the character of the area. The proposed development which is of a scale and design compatible with the host dwelling and general character of the surrounding area, with no adverse impact upon the amenity and privacy of surrounding properties.
51. Currently the host property has a single driveway which will provide access to one of the proposed dwellings. The proposed shared driveway to be accessed from Beamishburn Road is bounded by a grass verge and Hawthorn hedging to the front area of the host property. The intention is to form a break in the hedge to allow the erection of shared access. This will be kept to the minimum required for the work. The applicant is a Landscape Gardener by profession and intends to trim back and tidy the remaining hedging to maintain the required sightlines from the access.

The above is not intended to list every point made and represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <https://publicaccess.durham.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=P81S1HGDKWH00>

PLANNING CONSIDERATIONS AND ASSESSMENT

52. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance relates to the principle of development, the impact of the development on the character of the surrounding area, neighbouring amenity, highways, scale and character, landscaping, ecology, noise and site works, and coal mining risks.

The Development Plan

53. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The Derwentside District Local Plan remains the statutory development plan and the starting point for determining applications as set out at Paragraph 2 of the NPPF. However, the NPPF advises at Paragraph 48 that the weight to be afforded to existing Local Plans depends upon the degree of consistency with the NPPF.

54. The Local Plan was adopted in 1997 and was intended to cover the plan period until 2006. However, NPPF Paragraph 211 advises that Local Plan policies should not be considered out-of-date simply because they were adopted prior to the publication of the NPPF. Notwithstanding this, it is considered that a policy can be out-of-date if it is based upon evidence which is not up-to-date/is time expired depending on the circumstances.

55. An 'Issues & Options' consultation was completed in 2016 on the emerging the County Durham Plan (CDP) and the 'Preferred Options' was approved for consultation at Cabinet in June 2018. However, the CDP is not sufficiently advanced to be afforded any weight in the decision making process at the present time.

The NPPF

56. Paragraph 11 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means (unless material considerations indicate otherwise):

- approving development proposals that accord with an up-to-date development plan without delay; or
- where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i. the application of policies in this (sic) Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. 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.

57. Paragraph 73 of the NPPF requires Local Planning Authorities (LPAs) to maintain a five-year supply of deliverable sites (against housing requirements) thus boosting the supply of housing.

Policy Principle and Housing Land Supply

58. In terms of compliance with the Development Plan, Policy HO5 is of most relevance to the application, however it is not fully consistent with the NPPF and therefore only limited weight can be afforded to it. As it is a settlement boundary policy based on evidence which is out of date, then Paragraph 11 of the NPPF is also engaged. Determination therefore reverts to Paragraph 11 of the Framework and its presumption in favour of granting planning permission when considering the planning balance as there are no protective policies in the Framework which provide a clear reason or refusing the application.
59. As stated in paragraphs 30 – 35 above the Council is able to demonstrate in excess of 6 years supply of deliverable housing land. Accordingly, the weight to be afforded to the boost to housing supply as a benefit of the development is clearly less than where such a healthy land supply position could not be demonstrated. This will need to be factored into the planning balance.
60. Policy HO5 of the Local Plan supports housing on sites measuring less than 0.4 hectares in size within defined settlements, which is considered to be the case in this application. The proposal should also be appropriate to the existing pattern and form of development, not extend beyond the existing built up area of the settlement, and represent acceptable backland or tandem development. It is noted the proposal would follow the same form as the existing dwellings adjacent to the site, and the site is comprised of a domestic garden and would not protrude into agricultural land or open countryside. In this regard, the development is considered to form the edge of the built-up area of the settlement and would be acceptable development given its scale and siting. Therefore the proposal would comply with the broad principles of Policy HO5. However, as previously noted, only limited weight can be afforded to this policy because it is not consistent with the NPPF and is also out of date.
61. Shield Row has a small range of services and facilities proportionate to its size, including a petrol station, convenience store, and primary school, relying on the hierarchy of surrounding settlements for others. Bus stops are located within approximately 150 metres of the site, at Causey Road, with twice-hourly services to Newcastle city centre, the Metrocentre, and Stanley town centre. Given the presence of accessible shops and services it is likely that any future residents will use these facilities and services and therefore it is likely that this proposal would enhance the vitality of this community and is considered sustainable in locational terms in accordance with the NPPF.
62. In terms of the economic benefits of the proposal, both the construction of the dwellings, and the increase, albeit small, in the number of residents supporting local services, can be given a small degree of weight in terms of economic sustainability. In terms of the environmental credentials of the scheme, these will be explored further in the Landscaping section of the report, however the site's location means a private vehicle would not always be required to access day-to-day services and facilities given the site's proximity to local amenities

Impact upon the Surrounding Area and Neighbouring Amenity

63. The application is proposed on an area of garden land located to the north of the existing dwelling, and on the edge of the build-up area. It is noted non-protected trees and other vegetation has been removed to the north of the site, which has allowed the site to become more open particularly when viewed from the north. Vegetation removal is also required to accommodate the required visibility splays for the access. The Landscape Officer has echoed these views, although it is considered the site is at the edge of the settlement where such views are likely to be encountered. It is also noted the trees at the site were not protected and could have been felled without

consent. As the site is currently well-screened, a scheme of landscaping is recommended as a condition to ensure the site continues to retain an element of screening in line with Policy GDP1(f) of the Local Plan. The securing of a landscaping plan will allow the Council to retain a degree of control in regard to inward views of the development and site landscaping. Given the proposed layout and appearance of the proposal, it is considered that the development site in principle appears a logical extension of the existing settlement.

64. Policy GDP1(h) which seeks to protect residential amenity, and the Local Plan includes supplementary planning guidance (SPG) on residential facing distances, 21 metres between facing habitable room windows and 12.5 metres between a facing and non-facing habitable room window. As the properties would be located on the same building line as the existing four properties, and the closest property would sit adjacent to the host property with no habitable room windows in either, it is not considered any adverse amenity or privacy impacts would occur as a result of the proposal, and no objections have been raised in this regard.

Highways

65. To ensure satisfactory visibility when exiting the site from Beamishburn Road, the Highways Engineer requested the submission of a plan demonstrating the required visibility splays from each of the proposed access points, which has been confirmed as acceptable subject to a suitable condition requiring the accesses to be brought into use prior to the development being brought into use. Objectors have raised concerns regarding the increase in traffic along Beamishburn Road, the lack of a footpath and limited street lighting, however given the scale of the development the Highways Engineer has raised no concerns in this regard. Accordingly, it is considered that the proposal is in compliance with saved policy TR2.

Scale and character

66. Policy GDP1 of the Plan requires developments to be in keeping with the character and appearance of the area, with form, mass, layout, density and materials appropriate to the site's location. The layout has been revised following discussions between Officers and the applicant, and it is considered the dwellings would reflect the existing properties at the site, with similar features including materials and hipped roofs, and removal of several elements of glazing and positions of dormers within the rooflines in order to improve the scheme visually. Accordingly, the proposal complies with saved Policy GDP1.

Drainage

67. Concerns have been raised by objectors regarding drainage however Northumbrian Water has raised no issues in relation to the proposal and the development is considered acceptable in this regard.

Ecology

68. A bat risk assessment was submitted in support of the application, and the County Ecologist has confirmed the acceptability of the assessment with no further works required. In this regard, a condition requiring the development to be carried out in accordance with the mitigation details as set out within the assessment is considered appropriate, including the insertion of a Schwegler Bat Tube to each of the proposed dwellings. In this regard it is considered the proposal would comply with the biodiversity requirements of Part 15 of the NPPF.

Noise and site works

69. The Environmental Health Officer has considered the findings of the submitted noise report in relation to the Blue Bell Inn, and road noise from Causey Road and Beamishburn Road, with the report noting road noise levels would be higher to the west façade of the site due to road traffic from the busier Causey Road. To the east façade, the noise from Beamishburn Road would be combined with noise associated with the Blue Bell Inn, and particularly the outside seating area.
70. Conditions have been suggested by the Officer to mitigate concerns in this regard, both during site works and in the lifetime of the development, including methods of façade construction, and the erection of boundary treatments within the site. Additionally, given the proximity of the site to other residential properties, a condition restricting the working hours and practices on site is also considered appropriate however a construction management plan is not considered to be required given the scale of development. Subject to the required mitigation being implemented as set out within the noise report, and working hours and practices on site, the proposal is in accordance with saved policy GDP1.

Coal Mining Risks

71. The Coal Authority concurs with the findings of the submitted coal mining risk assessment and subject to a condition requiring a scheme of intrusive works and if required remedial works being submitted, it is considered the proposal would comply with the ground conditions requirements of Part 15 of the NPPF.

Other matters

72. Objectors have noted other sites would be preferable for housing, and also the lack of employment opportunity in Stanley, however this application can only consider the development in question and the acceptability of the scheme in planning terms. The prioritisation of alternate sites for housing cannot be afforded weight within the assessment of this proposal.

The Planning Balance

73. In accordance with Paragraph 11 of the NPPF, a balancing exercise must be undertaken to decide whether the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits of the proposal. The application brings the benefits of adding to the County's housing supply in a location that is considered 'sustainable', increasing the sites environmental credentials and opportunities for home ownership. The short term benefits to the local economy brought by the construction phase are also identified as of positive material weight along with the associated economic activity by new residents.
74. No negatives have been identified that would significantly and demonstrably outweigh the identified benefits.

CONCLUSION

75. The scheme brings some benefits, and with no adverse impacts identified, the 'titled planning balance' test in Paragraph 11 of the NPPF leads to a recommendation for approval of the proposals, subject to the identified conditions.

RECOMMENDATION

That the application be **APPROVED** subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby approved shall be carried out only in accordance with the following approved plans:

Plan Ref:

Date Submitted:

Proposed Plans, Elevations and Site Plan

31 August 2018

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policy GDP1 of the Derwentside District Local Plan.

3. No development shall commence until a detailed landscaping scheme has been submitted to and approved in writing by the Local Planning Authority.

No tree shall be felled or hedge removed until the landscape scheme, including any replacement tree and hedge planting, is approved as above.

Any submitted scheme must be shown to comply with legislation protecting nesting birds and roosting bats.

The landscape scheme shall include accurate plan based details of the following:

- Trees, hedges and shrubs scheduled for retention.
- Details of hard and soft landscaping including planting species, sizes, layout, densities, and numbers.
- Details of planting procedures or specification.
- Finished topsoil levels and depths.
- Details of temporary topsoil and subsoil storage provision.
- Seeded or turf areas, habitat creation areas and details etc. Details of land and surface drainage.
- The establishment maintenance regime, including watering, rabbit protection, tree stakes, guards etc.

The local planning authority shall be notified in advance of the start on site date and the completion date of all external works.

Trees, hedges and shrubs shall not be removed without agreement within five years.

Reason: In the interests of the character of the area in accordance with Policy GDP1 of the Derwentside Local Plan (required pre-commencement in accordance with Article 35 of the Development Management Procedure Order 2015).

4. No development shall commence until, in accordance with the findings of the Coal Mining Risk Assessment Report (ref. G18010), a scheme of intrusive site investigations has been undertaken, and a subsequent report has been submitted to, and approved in writing by, the Local Planning Authority. The approved scheme shall be implemented thereafter prior to works commencing. Should the report outline the

requirement for remedial works, these shall also be implemented thereafter prior to works commencing.

Reason: In the interests of the safety and stability of the site and to comply with Part 15 of the NPPF (required pre-commencement in accordance with Article 35 of the Development Management Procedure Order 2015).

5. No development shall take place unless in accordance with the mitigation detailed within Parts 5.6 and 6.0 of the Bat Risk Assessment (dated 28 February 2018) including, but not restricted to, adherence to precautionary working methods; provision of two Schwegler Bat Tubes.

Reason: To conserve protected species and their habitat in accordance with Part 15 of the NPPF.

6. The dwellings shall not be occupied until the highways works detailed on the proposed site plan (ref. Proposed Plans, Elevations and Site Plan dated 31 August 2018) have been fully completed and shall be permanently retained thereafter.

Reason: To provide adequate visibility from and of emerging vehicles in the interests of highway safety and to comply with Policy TR2 of the Derwentside District Local Plan.

7. Prior to the occupation of the dwellings, all sound attenuation measures detailed in the noise assessment (ref. Northburn Acoustics Noise Impact Assessment reference 18-51-578 dated 21st February 2018) shall be fully installed and permanently retained thereafter.

Reason: In the interests of the amenity of the occupiers of the proposed dwellings in accordance with Policy GDP1 of the Derwentside Local Plan.

8. In undertaking the development that is hereby approved:

No external construction works, works of demolition, deliveries, external running of plant and equipment shall take place other than between the hours of 0800 to 1800 on Monday to Friday and 0800 to 1400 on Saturday.

No internal works audible outside the site boundary shall take place on the site other than between the hours of 0800 to 1800 on Monday to Friday and 0800 to 1700 on Saturday.

No construction works or works of demolition whatsoever, including deliveries, external running of plant and equipment, internal works whether audible or not outside the site boundary, shall take place on Sundays, Public or Bank Holidays

For the purposes of this condition, construction works are defined as: The carrying out of any building, civil engineering or engineering construction work involving the use of plant and machinery including hand tools.

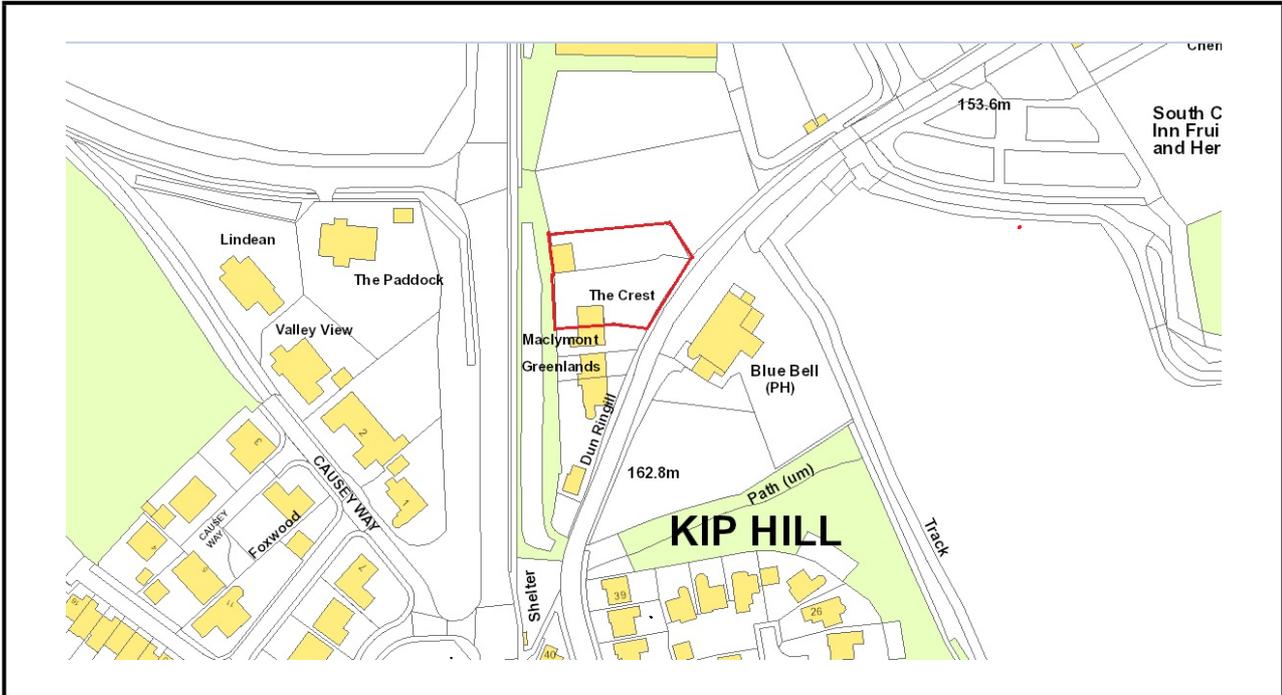
Reason: In the interests of the amenity of the area in accordance with Policy GDP1 of the Derwentside Local Plan.

STATEMENT OF PROACTIVE ENGAGEMENT

The Local Planning Authority in arriving at its decision to approve the application has, without prejudice to a fair and objective assessment of the proposals, issues raised and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF. (Statement in accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

BACKGROUND PAPERS

The National Planning Policy Framework (2018)
National Planning Practice Guidance Notes
Derwentside District Local Plan 1997 (saved policies)
Statutory, internal and public consultation responses
Submitted forms, plans and supporting documents



<p>Planning Services</p>	<p>The Crest, Beamishburn Road, Beamish, Stanley, DH9 0LR</p>	
<p>This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of Her Majesty's Stationary Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding. Durham County Council Licence No. 100022202 2005</p>	<p>Comments</p>	
	<p>Date 27th September 2018</p>	<p>Scale NTS</p>

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Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/18/00828/OUT
FULL APPLICATION DESCRIPTION:	Outline planning permission (all matters reserved except access) for the erection of up to 83 dwellings (Revised scheme 6 July 2018).
NAME OF APPLICANT:	Kraton Chemical B.V
ADDRESS:	Site Of Former Arizona Chemical Vigo Lane Chester-le-Street DH3 2EB
ELECTORAL DIVISION:	North Lodge
CASE OFFICER:	Graham Blakey, Senior Planning Officer 03000 264865 graham.blakey@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site is located to the south of Vigo Lane in North Lodge, Chester-le-Street, and extends to 2.90 hectares of previously developed land. The administrative boundary of Gateshead Council lies along the northern side of Vigo Lane. The site had been occupied by industrial development since the 1960s and was subsequently closed and demolished by 2016. Sandwiched between road and cycle routes, the site is broadly orientated on an east-west axis and features Vigo Lane to the northern boundary, the C2C cycle route (once a former railway until 1960s) atop a tree-lined embankment to the southern boundary with housing beyond, and to the east Ambleside Court, a housing development erected in the last decade. To the west, the former British Oxygen Company (BOC) site is currently undergoing redevelopment for a total of 230 dwellings by Avant Homes North East. Further west, the A167 (Durham Road) provides access north and south. To the north of Vigo Lane lies the Barley Mow Social Club and Barley Mow residential estate.
2. Within the site the ground is generally level, indicative of the previous built use, but with a gradual somewhat imperceptible slope from east to west. The pre-existing boundary treatments and landscaping features remain, such as the factory access points, gates and posts and high perimeter fencing which encloses the site to three of the four boundaries. Works to the BOC site and the new housing has seen the

perimeter fence in this location removed. Trees are features to northern and southern boundaries to some degree, with on occasion dense, mature tree belt to the C2C embankment forming a significant screen in places. More sporadic, individual trees to the northern boundary exist some of which once formed part of the landscaping scheme to the previous industrial use.

3. No statutory or locally designated landscape or ecological sites are located within or immediately adjacent to the application site, although Pelaw Hill Railway Local Wildlife Site lies approximately 380m to the south west, beyond the A167 via the C2C route; with Waldrige Fell Site of Special Scientific Interest (SSSI) a popular and well used public amenity space located to the west of Chester le Street. No recorded public rights of way are contained within the application site. The application site contains no watercourses, with the site lying entirely within Flood Zone 1, which is the zone of lowest risk. The closest heritage asset is Vigo House; the grade II listed structure which lies 250 metres to the east.

The Proposal

4. Outline planning permission is sought for the erection 83 dwellings with matters of landscaping, layout, scale and appearance being reserved for agreement later. Access is therefore also sought for approval at the outline stage. Vehicular access is proposed from the eastern part of the site from Vigo Lane directly south east of the Barley Mow Social Club, with an additional three pedestrian links to the western part of the Vigo Lane frontage, west into the BOC site matching an approved access link, and south on to the C2C cycle route.
5. An indicative site layout has been provided by the agent for the proposal to demonstrate the delivery of 83 dwellings, pockets of open space and a Sustainable Urban Drainage System (SuDs) basin feature to the north west corner of the application site. Housing is shown as fronting Vigo Lane to the northern boundary, following the precedent set by the recent development approval to the BOC site adjacent. The application proposes to deliver 15% of the total proposed housing as affordable homes.
6. The application also includes offsite highways works to Vigo Lane, including the provision of a bus layby and protected right hand turns for the new access point and improved pedestrian access to/from the north. Further works are also proposed to the Portobello Road / Vigo Lane junction within the Gateshead Council administrative area to the north east of the application site. This is to elongate the protected right hand turn of traffic from the east turning north up Portobello Road.
7. This planning application is being reported to North Area Planning Committee because it is a residential development with a site area in excess of 1 hectare.

PLANNING HISTORY

8. No relevant, post demolition planning history.

PLANNING POLICY

NATIONAL POLICY

9. A revised National Planning Policy Framework (NPPF) was published in July 2018. The overriding message continues to be that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways.
10. In accordance with Paragraph 213 of the National Planning Policy Framework, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). The relevance of this issue is discussed, where appropriate, in the assessment section of the report. The following elements of the NPPF are considered relevant to this proposal.
11. *NPPF Part 2 Achieving Sustainable Development* - The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives - economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
12. *NPPF Part 4 Decision-Making* - Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
13. *NPPF Part 5 Delivering a sufficient supply of homes* – To support the Government’s objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed and that the needs of groups with specific housing requirements are addressed.
14. *NPPF Part 6 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.
15. *NPPF Part 8 Promoting Healthy and Safe Communities* - The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
16. *NPPF Part 9 Promoting Sustainable Transport* - Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.

17. *NPPF Part 11 Making Effective Use of Land* - Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land.
18. *NPPF Part 12 Achieving Well-Designed Places* - 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.
19. *NPPF Part 14 Meeting the Challenge of Climate Change, Flooding and Coastal Change* - The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.
20. *NPPF Part 15 Conserving and Enhancing the Natural Environment* - Conserving and enhancing the natural environment. The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.
21. *NPPF Part 16 Conserving and Enhancing the Historic Environment* - Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

<https://www.gov.uk/guidance/national-planning-policy-framework>

22. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to; air quality; climate change; conserving and enhancing the historic environment; consultation and pre-decision matters; design; determining a planning application;; flood risk and coastal change; health and well-being; land affected by contamination; land stability; light pollution; natural environment; neighbourhood planning; noise; renewable and low carbon energy; travel plans, transport assessments and statements, use of planning conditions and; water supply, wastewater and water quality.

<https://www.gov.uk/government/collections/planning-practice-guidance>

LOCAL PLAN POLICY:

The Chester-le-Street District Local Plan (2003) (CDLP)

23. *Policy NE8 Sites of Nature Conservation Importance and Local Nature Reserves* – seeks to protect such sites by approving development which either enhance the site, do not harm the site or minimise and compensate for any damage to them.

24. *Policy HP6 – Residential development within settlement boundaries* – identifies Chester le Street as a settlement where residential development will be allowed on non-allocated sites that are previously developed land and meet the criteria of Policy HP9, Appendix I and other relevant policies in the Local Plan.
25. *Policy HP9 – Residential Design Criteria (General)* – requires new development to; relate well to the surrounding area in character, setting, density and effect on amenity of adjacent property, to provide an attractive, efficient and safe residential environment, to provide adequate privacy and amenity, safe road access and retain existing landscape features.
26. *Policy HP13 – Affordable Housing* – seeks the provision of affordable housing on residential developments in excess of 15 dwellings.
27. *Policy HP15 – Community Provision* – the Council will seek to negotiate, where appropriate, a contribution to the provision and subsequent maintenance of related social, community, infrastructure and leisure facilities in the locality where such provisions are necessary and directly related to the development being proposed.
28. *Policy T6 – Provision for Public Transport: General* – Development proposals should be designed to encourage use of public transport and reduce reliance upon the private car by locating accesses close to bus routes and footpath links. Where new transport links are required an appropriate contribution will be sought from the developer through a Section 106 obligation.
29. *Policy T8 – Car Parking Provision* – seeks to minimise the level of general vehicle parking provision in new development.
30. *Policy T15 – Access and Safety provisions in design* – Development should have safe access to classified road, should not create high levels of traffic exceeding the capacity of the local road network, have adequate links to public transport, with consideration for cyclists and service vehicles and emergency vehicles.
31. *Policy T17 – General Transport Policy* – All new developments should have regard to and be consistent with the provision of a safe and accessible transport network, in particular through reducing reliance on the private car, encouraging the use of public transport and promoting cycling and walking.
32. *Policy RL5 – Provision in New Developments* – subject to dwelling sizes and types proposed, and the level of local provision, there is a requirement for at least 125m² children’s play space and 250m² informal open space to be provided within the site for every 1 hectare of land developed or redeveloped for residential purposes, adjusted pro-rata for smaller sites.
33. *Policy BE2 – Public Art* – Developers of larger schemes will be required to contribute 1% of development costs to the provision of works of art in new projects accessible by the public.
34. *Policy BE22 - Planning Obligations* - Chester le Street Council will enter into legal agreements to either enhance the quality of the proposed development or enable a proposal to go ahead that might otherwise be refused.

RELEVANT EMERGING POLICY:

The County Durham Plan

35. Paragraph 48 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. An 'Issues & Options' consultation was completed in 2016 on the emerging the County Durham Plan (CDP) and the 'Preferred Options' was approved for consultation at Cabinet in June 2018. However, the CDP is not sufficiently advanced to be afforded any weight in the decision making process at the present time.

The above represents a summary of those policies considered most relevant. The full text, criteria, and justifications of each may be accessed at: <http://www.durham.gov.uk/article/3266/Whats-in-place-to-support-planning-and-development-decision-making-at-the-moment> (Chester le Street Local Plan)

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

36. *Gateshead Council* – Raises no objections subject to a condition requiring works to be undertaken to mitigate the impacts of the development at the Portobello Road / Vigo Lane junction.
37. *Highway Authority* – No objections have been raised on highway grounds, both in proximity to the application site and to the wider network whereby necessary mitigation will be secured by condition. The addition of 83 units would not see additions to traffic flows along Vigo Lane, the A167 or wider network in the Durham Council area that would lead to a cumulative impact upon highway safety.
38. *Northumbrian Water* – Raises no objections, subject to the imposition of a condition to agree the finer detail of the drainage scheme.
39. *Drainage and Coastal Protection* – Raises no objection noting that the proposed drainage strategy would achieve greenfield run-off rates, with the indicative site plan having provision for Source Control element of the management train outlined in the Council's SUDs Adoption Guide 2016. Greenfield run-off rate of 12.6 l/s should be achieved by the development at all times.
40. *The Coal Authority* – Raises no objections subject to a condition requiring the necessary gas protection measures are implemented on site.

EXTERNAL CONSULTEE RESPONSES:

41. *Durham Constabulary Architectural Liaison* – No objections are raised noting that the crime risk assessment for this development is low. Some concerns over openness to railway embankment outlined and a number of amends to the layout are suggested.

INTERNAL CONSULTEE RESPONSES:

42. *Spatial Policy* – Raises no objections. The Council, through the revised NPPF and Standard Methodology for calculating housing supply figures, considers to have a housing supply in excess of 5 years required by Paragraph 73 of the NPPF; however as the planning policies in the development plan are out-of-date with respect to the housing figures which underlie them determination of this application therefore reverts to Paragraph 11 of the NPPF.

43. In the planning balance exercise, the boost to supply of housing is considered to carry less weight as a result of the Council being able to demonstrate a supply in excess of 6 years. Provision of affordable or specialist housing can be considered as benefits in terms of satisfying local housing need and the planning balance. Paragraph 8 of the framework considers the three dimensions of sustainability and in this application, the development of the site would contribute to the economy through the construction and delivery of houses, both during their construction but also via new residents supporting local services. This can be considered as a benefit.
44. Part 9 of the NPPF seeks to ensure patterns of growth are managed to ensure the fullest use of sustainable modes of transport. The location of this site is such that it provides opportunities for residents to access services and facilities locally and without necessarily having to rely on the private car. This can be considered as a benefit.
45. Consultation with relevant specialist teams will identify whether there are any additional matters to consider under the Paragraph 11 test which should be factored into the planning balance required of NPPF.
46. *Design and Conservation* – Raises no objections. Indicative layout goes some way to providing a level of development that is in keeping with recently approved development adjacent with attention paid to the Vigo Lane frontage. The site contains no designated or known non-designated heritage assets. Improvements to quantum of open space within the development should be made at the layout setting stage.
47. *Landscape* – Raises no objections. Layout is dense with work needed to the public open space elements of the scheme to improve these. Footpath links welcomed and should respect road furniture proposed as part of highways works. Vegetation to Vigo Lane should be protected where possible.
48. *Landscape (Arboriculture)* – Raise no objections. Officers consider that the arboricultural report supplied is satisfactory and complies with current standards. 23 Category B (moderate quality), 6 Category C (low quality) and 2 Category U (require removal) trees would be lost by the proposed development mainly to create sufficient visibility splay for the new vehicular access point. Applicant is proposing a new set of tree planting inside of visibility splay which should be robustly enforced at reserved matters stage.
49. *School Places and Admissions Manager* – The development is likely to produce 25 primary pupils and 10 secondary pupils. There are insufficient school places at both primary school age and secondary school age within the nearest primary school or wider Chester le Street Area for secondary school level to accommodate the development of this scale. Consequently contributions of £367,575 and £165,440 respectively will be required for the provision of additional teaching accommodation.
50. *Ecology* – Raise no objections. The site is of low ecological value as confirmed by the ecological assessment. Appropriate public open space within the development site would help meet the requirements of the NPPF to minimise impacts on biodiversity and provide net gains and requests to increase and consolidate green infrastructure on the site are made
51. Environment, Health and Consumer Protection (Contaminated Land) – Raise no objections. A planning condition is suggested requiring the submission of a revised site investigation and risk assessment, remediation strategy and subsequent verification report.

52. *Environment, Health and Consumer Protection (Noise, Dust and Odour)* – Raise no objections. A planning condition is suggested to ensure that the proposed dwellings are constructed in accordance with the mitigation strategy outlined within the submitted noise assessment. A condition is also recommended so as to agree a construction management plan.
53. *Environment, Health and Consumer Protection (Air Quality)* – Raise no objections. A Dust Action Plan is recommended to mitigate impacts during the construction phase of the development. No significant effects upon local air quality would occur during the operational phase. It is recommended that pedestrian and cycle routes are incorporated into the development to link to local facilities whilst consideration of means to encourage low and zero emission vehicle use should be made.
54. *Sustainable Travel* – No objections are raised, although some revisions to the Travel Plan are suggested and the potential for some cycle/pedestrian path amends queried. C2C link should be provided by this development.
55. *Affordable Housing* – Raise no objections. The 15% affordable housing requirement is proposed by the applicant and is suggested that a tenure mix of 70% affordable rent and 30% affordable home ownership be secured by planning obligation.

PUBLIC RESPONSES:

56. The application was advertised within the press, on site and letters were sent to neighbouring properties. No representations from the public have been received.

APPLICANTS STATEMENT:

57. Fairhurst has been appointed to prepare and submit an outline planning application for a residential development with associated infrastructure on land at Vigo Lane, Chester-le-Street. The submission has identified a significant number of supporting factors and benefits to be derived from granting planning permission for the proposals, these include: -
 - Assisting the Council in achieving a 5 year supply of housing land;
 - Provision of a wider range of first-time buyer and family housing in the town;
 - Direct financial benefits to the area including New Homes Bonus payments;
 - Efficient use of a brownfield site and enhancements to the character of the local area;
 - Increased local employment both through the construction phase and indirect jobs created through increased expenditure in the area;
 - Provision of on-site open space and landscaping;
 - Creation, protection and enhancement of wildlife habitats on-site; and
 - Provision of new pedestrian and cycle links through the site.
58. The submission demonstrates that the proposal accords with the NPPF and the relevant Chester-le-Street District Local Plan policies that can be considered up-to-date. The application should therefore be granted planning permission without delay, in accordance with Paragraph 11 of the NPPF.

The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at:
<http://publicaccess.durham.gov.uk/online-applications/search.do?action=simple&searchType=Application>

PLANNING CONSIDERATIONS AND ASSESSMENT

59. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that if regard is to be had to the development plan, decisions should be made in accordance with the development plan unless material considerations indicate otherwise. In accordance with advice within the National Planning Policy Framework (NPPF), the policies contained therein are material considerations that should be taken into account in decision-making. Other material considerations include representations received. In this context, it is considered that the main planning issues in this instance relate to: the principle of the development, locational sustainability of the site, highway safety and access, landscape impact and layout and design, affordable housing, residential amenity, public open space, flood risk and drainage, ecology, heritage impacts and other matters.

The Principle of the Development

The Development Plan

60. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The Chester le Street District Local Plan (CDLP) remains the statutory development plan and the starting point for determining applications as set out in the Planning Act and reinforced at Paragraph 12 of the NPPF. The CDLP was adopted in 2003 and was intended to cover the period to 2006. However, NPPF Paragraph 213 advises that Local Plan policies should not be considered out-of-date simply because they were adopted prior to the publication of the NPPF.

The NPPF

61. Paragraph 11 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means:-

- approving development proposals that accord with an up to date development plan without delay; or
- where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed ; or
 - ii. 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.

Five Year Housing Land Supply

62. Paragraph 73 of the NPPF requires Local Planning Authorities (LPAs) to maintain a five-year supply of deliverable sites (against housing requirements) to ensure choice and competition in the market for land. Paragraph 60 of the NPPF advises that, *'To determine the minimum number of homes needed, strategic policies should be informed by a local housing need assessment, conducted using the standard method*

in national planning guidance...'. Applying that methodology for County Durham, the housing need figure would be 1,368 dwellings per annum (dpa).

63. The Government also issued draft planning guidance on 9 March 2018, which sets out that where a local plan is more than five years old and the housing figure needs revising, as is the case in County Durham, the starting point for calculating land supply will be local housing need using the standard methodology.
64. The Council's position on 5-year housing land supply was publically tested at a recent public inquiry (APP/X1355/W/17/3180108 – decision issued 10th May 2018) with the Inspector concluding that the use of the Government proposed standardised methodology for calculating land supply would be premature until it has formally come in to force or until the council has adopted a formal position in relation to its Objectively Assessed Need (OAN). On the 13th June, the 'Preferred Options' of the County Durham Plan (CDP) was presented to the Council's Cabinet and endorsed for consultation. The CDP is aligned with the standardised methodology and formally endorses the use of 1,368dpa as the OAN figure. The publication of the updated NPPF in July confirms its appropriateness for use. Against the 1,368dpa figure, the Council is able to demonstrate in excess of 6 years supply of deliverable housing land.
65. Accordingly, the weight to be afforded to the boost to housing supply as a benefit of the development is clearly less than in instances where such a healthy land supply position could not be demonstrated. This will need to be factored into the planning balance accordingly.

Assessment having regards to Development Plan Policies

66. Given the age of the CDLP and housing supply figures that informed it, the housing supply policies therein do not reflect an up-to-date objective assessment of need, and must now be considered out-of-date for the purposes of Paragraph 11 of the NPPF, and the weight to be afforded to the policies reduced as a result. Paragraph 213 of the NPPF states that out-of-date policies should not be considered irrelevant in the determination of a planning application, with the amount of weight attributed to each policy in the decision making process being in accordance with their level of consistency with the NPPF.
67. CDLP Policy HP6 supports the principle of residential development on non-allocated sites within Chester-Le-Street's settlement boundaries provided the site comprises previously-developed land. As such, the proposals do, in principle, accord with the development plan. However, given the Policy is out-of-date as described above the weight to be afforded to the Policy is reduced. That weight is further reduced by the requirement in CDLP Policy HP6 that housing is only permitted on previously-developed sites, something which is not consistent with the NPPF. Consequently, the acceptability of the development largely rests on whether any adverse impacts of approving the development would significantly and demonstrably outweigh the benefits or whether there are any NPPF policies that protect areas or assets of particular importance which provide a clear reason for refusal.
68. Remaining policies within the CDLP of relevance to the site are considered to relate to specific matters rather than influencing the principle of the development.

Locational Sustainability of the Site

69. The County Durham Plan Settlement Study (2018) is an evidence based document whose scoring matrix rates Chester le Street as one of the main urban areas in the County. These larger towns will have access to all facilities expected within an urban

setting such as schools, doctors, community facilities and industrial estates. It is considered likely therefore, that residential development in these settlements would be locationally sustainable, subject to specific site constraints.

70. The site also lies within the settlement boundary identified within the CDLP, to the northern part of the town. Consequently, the site has access to all of the facilities in the town and those nearest to the site (schools and public transport links) with a range of existing services available within Chester le Street and Birtley, with the development providing the potential to strengthen and support for these services.
71. Paragraphs 108 and 110 of the NPPF set out that development proposals should promote sustainable transport modes, prioritising pedestrian, cycling and access to public transport. CDLP Policy T6 encourages the use of public transport and reduce the reliance upon the motor car, and is consistent with the NPPF. From the application site, Park View (North Lodge) Secondary School is located at a walking distance of approximately 1.1km; a selection of services including Barely Mow Social Club (50m), Barley Mow Public House and Village Hall (550m); garden centre and DIY stores (650m) and local convenience store (650m) are nearby and the nearest doctors surgery is located 1km away (Rickleton) with others in Birtley (1.5km) and Chester le Street (2.2km). The Drum and Durham Road Industrial Estates lie 1km and 650m away respectively; while shops and services within the town centre of Chester le Street are to the south.
72. The proposed development encourages walking through the provision of access links in all directions, including the C2C to the south, the adjacent housing development to the BOC site to the west and nearby public transport. For services not available in the vicinity, bus stops are located adjacent to the site providing links to Birtley, Gateshead, Newcastle to the north, Chester le Street and Durham to the south (with buses running every 5-10 minutes in both directions throughout the day), and Washington to the east (buses running every 30 minutes in both directions). A range of transport options would therefore be available for future residents.
73. As a result, it is considered that in the vicinity the site has access to an array of services and facilities, more than adequate to serve the development proposed, and that these are within relatively easy reach of the site. The development would be comfortably assimilated within the built form of the area around Vigo Lane, in keeping with the role of Chester le Street in the settlement hierarchy. No objections are therefore raised having regards to the locational sustainability of the site. The re-use of previously-developed land is encouraged through the NPPF, which this site would achieve and so adds weight in favour of the development in the decision making process.
74. Overall, it is considered the walking distances, improved pedestrian links and the established bus service would give future residents alternative options to the private motor car to access services and amenities, in accordance with Paragraphs 108 and 110 of the NPPF, which encourages the integration of new development into the existing environment; and CDLP Policies HP9, T15 and T17, which are considered consistent the NPPF in this respect.

Highway Safety and Access

75. CDLP Policy T15 requires that development proposals achieve a satisfactory means of access onto the wider highway network while seeking to protect highway safety in terms of vehicle movements and traffic generation. CDLP Policies T17 and T6 seek to ensure that safe, attractive and convenient footpath links are provided, and where appropriate, to serve new development and provide access to public transport. These Policies are considered compliant with the NPPF which also seeks to promote

accessibility by a range of methods, while ensuring that a safe and suitable access can be achieved and therefore can be given full weight in considering the application, except for Policy T15 which uses out of date guidance and so is only partially compliant.

76. The NPPF sets out at Paragraph 108 that safe and suitable access can be achieved for all people while Paragraph 111 sets out that developments that generate a significant amount of traffic should be supported by Transport Assessments or Statements. In addition Paragraph 109 of the NPPF states that development should only be refused on highways grounds if there would be unacceptable impact upon highways safety, or the residual cumulative impacts on the road network would be severe.
77. The application is accompanied by a Transport Statement (TS) which seeks to inform on and assess the key highways related implications of the development. This includes the accessibility of the development; trip generation and traffic assignment; future year flows; operational assessment of junctions; highway safety; and present highways works necessary to facilitate the development.
78. The TS establishes that the impact of the development upon the highway network would, for a large part be acceptable, and would not result in impacts that could be considered severe. The TS takes into account impacts which would occur to the highway network in both Durham and Gateshead Local Authority areas.
79. In Durham, the Highway Authority considers the impact from allowing the proposed development to take access from Vigo Lane to be acceptable and not lead to issues in capacity in the future. Modelling also takes into account improvements to the A167 (Durham Road) / Vigo Lane roundabout secured and being delivered currently by the adjacent BOC site and developer. This mitigation to widen the Vigo Lane approach to the roundabout is secured by way of planning condition to the permission granted for the BOC site and is in the throes of being implemented on site by the Council's Highways Authority. No other impacts upon the highway network within the Durham Council administrative area are shown by the modelling, and so the development would not lead to an impact upon highway safety in County Durham.
80. In terms of the concerns about the impacts upon the public highway network to the north, and within the Gateshead Local Authority Area, the TS indicates that the development would lead to increased traffic utilising the network in the area. Gateshead Council in response to the application have highlighted the junction at Vigo Lane / Portobello Road which sits to the north east of the application site, and whereby mitigation in the form of road widening to allow traffic from the east (Vigo Lane) and turning north (Portobello Road) to no longer lead to long queuing that has resulted in overrunning of the grass verge in this area. As such, to meet the objection from the adjoining authority a condition requiring implementation of the necessary highway works in this location should be included with a recommendation for approval.
81. The proposed development provides pedestrian links to the north, west and south of the development site. These links serve to provide access to the predominant sustainable transport option in the area, the bus, and the cycle network in the area. CDLP Policy T17 promotes the increased access of new development to sustainable transport links, and with the surrounding bus stops and the C2C route to the south of the site, this proposal is considered to adhere to the requirements of the Policy.
82. CDLP Policy T8 and associated Appendix X seeks to minimise parking provision within new development and establishes maximum parking levels. This is considered inconsistent with the NPPF which advises against maximum parking standards except

in compelling circumstances. Policy T8 is therefore given very limited weight. The Highway Authority have raised no objections to the parking provision proposed within the development.

83. As a result, the impacts from the proposed development are, subject to mitigation at the Portobello Road / Vigo Lane junction, considered insignificant and would not lead to a severe residual cumulative impact in the context of Paragraph 109 of the NPPF. The proposals therefore comply with CDLP Policies T15, T17 and T6 in regard to reducing private transport use through improved access to links and safe access to the highway network.

Landscape Impact, Layout and Design

84. CDLP Policy HP9 requires that developments should be designed and built to a high standard which provides an attractive and efficient residential environment that relates well to the built environment around the site, and which retains existing landscape features of the area. CDLP Policy BE2 seeks a contribution to provide public art in publically accessible spaces, but does not discourage the incorporation of public art within developments where proposed. Parts 12 and 15 of the NPPF also seek to promote good design and sets out that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes. However, the somewhat prescriptive nature of the Policy is at odds with the flexible nature of the NPPF.
85. Paragraph 127 of the NPPF also states that planning decisions should aim to ensure developments function well and add to the overall quality of the area and establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit. CDLP Policy HP9 and appendices it references offer some prescriptive guidance limits to specifics of the design and layout which are not entirely consistent with the aims of the NPPF. Similarly, CDLP Policy BE2 has limited support from the NPPF but public art is supported by the NPPG. Overall, both Policies do broadly build upon the NPPF and NPPG requirements and so can be considered partially consistent as a result. Therefore the key policy consideration in this matter is whether the site is read together well with the built environment and the surrounding landscape features, and represents good design.
86. The application is in outline form, with an indicative layout given to demonstrate the ability of the site to accommodate the number of houses proposed together with the various features expected from housing development, such as public open space and any drainage features. Matters of layout, landscaping, scale and appearance are all reserved for approval later, however officers are satisfied that these can be accommodated in a successful manner as demonstrated by the indicative layout. Access is a matter sought for approval at the outline stage, with detailed designs for the proposed junction and associated improvements to Vigo Lane included with the application.
87. The applicant has worked with officers to develop and improve the indicative layout, including the frontage of the development on to Vigo Lane and overall permeability. Following revisions, the number of proposed units was reduced by one from 84 to 83 dwellings, allowing more space across the development site to achieve a suitable layout at reserved matters stage. Pedestrian links west to the BOC site, which is factored into the approved layout in this development, and south to the C2C route atop the embankment are welcomed but also to provide permeability to the layout.
88. Tree losses would occur as a result of the development and this would cause some harm. In broad landscape terms, the position of the site within the built environment

would result in little or no impacts upon the wider landscape as would be expected from development beyond the edge of a settlement. This urban location results in no designated landscape restrictions, but also features a strong wooded landscape that characterises the southern boundary of the site and also screen users of the rail line C2C path from overlooking into the proposed new properties.

89. CDLP Policy BE2 requires contribution towards publically accessible art provision; however the detail of how any provision could be achieved on site would form part of the detailed proposed layout in the future. To ensure provision is made, a condition requiring a scheme of accessible art provision is provided on site would be appropriate to meet the requirements of CDLP Policy BE2.
90. The setback of properties to Vigo Lane is part of the character of the streetscene and would continue with this proposal as a result of the wide highway verge along Vigo Lane. All of the proposed dwellings along this northern boundary are shown to indicatively face out onto Vigo Lane, consistent with the existing development on both sides of Vigo Lane. Ambleside Court lies to the east of the application site and is set to a higher level following the general drop of ground levels from east to west along Vigo Lane. The proposal at this stage would be shown to match the layout of the housing here by offering back-to-back gardens or a continuation of the frontage facing building line.
91. Indicatively, the proposed layout would be potentially visually interesting and offer a high quality form of development that has taken into account the different aspects of the surrounding development to each boundary. Retention of existing, mature and substantial tree screening to the southern boundary would assimilate the development in the urban environment with ease and provide a green backdrop to views from within the development. As such, the development would be considered to comply with CDLP Policies HP9 and BE2 and be an appropriately designed and visually interesting development. Compliance with Parts 12 and 15 of the NPPF therefore follows and adds weight in favour of the development in the planning balance.

Affordable Housing

92. In order to deliver a suitable amount and variety of homes, local need should identify, among other things, affordable housing requirements for their area, whereby Paragraph 60 of the NPPF encourages the provision of affordable housing based on evidenced need. CDLP Policy HP13 encourages developers to provide an appropriate amount of affordable housing, but is only considered to be partially consistent with the NPPF as issues of viability and housing market area requirements are outdated with the more up-to-date evidence in the Strategic Housing Market Assessment establishing a requirement for 15% provision, amounting to 13 dwellings.
93. The Housing Delivery Team has requested that this be delivered in the form of 70% affordable rent and 30% affordable home ownership (i.e. discounted sale). The applicant has confirmed that this requirement can be met by a planning obligation secured through S106 of the Town and Country Planning Act 1990.

Residential Amenity

94. CDLP Policy HP9 requires that the design and layout of development to have no adverse effect on the amenity of those living or working in the vicinity of the development site. This aspect of the Policy is considered NPPF compliant with Paragraph 127 of the NPPF stating that planning should always seek to secure a good standard of amenity for existing and future users.

95. The indicative site layout for the proposed 83 dwellings satisfactorily demonstrates sufficient space is available within the development proposals in order to protect the residential amenity of the existing housing of Ambleside Court, and that of the proposed housing to the BOC site. Level differences would still require thorough assessment to ensure this is the case at the reserved matters stage.
96. In terms of noise, the application is accompanied by a noise survey which identifies that the impacts from the surrounding road network has a relatively high background noise environment during the day, but reduced during the night when traffic movements would be limited nearby. The Council's Technical Advice Note (TAN) regarding noise outlines thresholds within which living conditions inside dwellings should be maintained.
97. The Council's Environmental Health and Consumer Protection officers have considered the submitted report, and advise that it is of sound methodology. The report concludes that the noise environment of the proposed development would adhere to relevant recommended threshold levels outlined under World Health Organisation (WHO) Guideline Values, and contained within the TANs, of no greater than Lmax 45 dB(A) at night to the first floor of the proposed properties, subject to suitable mitigation in the form of type of window glazing used. Environmental Health and Consumer Protection officers advise that this arrangement is likely to reduce the likelihood of statutory nuisance. Additionally it is considered that the level of amenity available to future occupiers would be acceptable in accordance with the Council's TANs, subject to implementation of the mitigation strategy which can be secured by condition.
98. During the construction phase of the development, it is acknowledged that levels of noise may be noticeable by existing residents, and some level of disturbance is almost inevitable with a development of this duration and scale. It is considered that through the imposition of a condition requiring a Construction Management Plan, such impacts can be minimised, and reduced to such a level that statutory nuisance would be unlikely to occur, and the impact upon residential amenity would be reduced to an acceptable amount. Having regard to these measures, the application is considered to be in accordance with CDLP Policy HP9, and Part 15 of the NPPF in this regard.
99. With regard to air quality, the application is accompanied by an air quality survey which finds that the impact of the development upon air quality once occupied to be negligible, with the predicted amount of air quality pollutants remaining well below the annual mean air quality objective. It is however accepted that the construction phase may give rise to nuisance dust, which can be classed as a medium level of risk. In order to address this, a Dust Management Control Plan (including active monitoring and mitigation), is proposed, and can be secured by means of a planning condition. Environmental Health and Consumer Protection have considered the content of the report and find its methodology and conclusions to be appropriate. The application is therefore considered to be in accordance with CDLP Policy HP9 and Part 15 of the NPPF in this regard.

Public Open Space

100. CDLP Policy RL5 seeks to ensure adequate provision is provided in new housing development. This Policy is considered only partially NPPF compliant as the evidence base has now been updated within the Open Space Needs Assessment (OSNA). The Council's Open Space Needs Assessment (OSNA) 2018 is considered the most up to date assessment of need for the purposes of Paragraph 96 of the NPPF.
101. The OSNA sets out the requirements for public open space on a population pro rata basis, and this development would be expected to provide provision for six typologies,

either within the site, or through a financial contribution towards offsite provision, in lieu. Having regard to the proposed layout, it is considered that the development accommodates appropriate levels of Amenity Open Space, Play Space, and Semi-Natural Greenspace within the development. Therefore, taking into account the levels of open space proposed on site, which would be secured by condition, improvements to existing areas of open space, sport and recreation spaces in the vicinity would be required by way of an in-lieu financial contribution totalling £67,750, and would be sought through a planning obligation secured through Section 106 agreement of the Town and Country Planning Act 1990.

102. The public open space proposed within the site would take the form of peripheral open space to the A167 and Vigo Lane, with pockets of smaller landscaped areas within the central areas of the development forming focal points within development. The landscaped areas on the periphery of the site would have a lesser functional role in this regard, forming mainly semi-natural greenspace but still accessible by the public.
103. Overall therefore, the application is considered to be in accordance with CDLP Policy RL5 and Paragraph 96 of the NPPF with regards to the provision of public open space.

Flood Risk and Drainage

104. National advice within the NPPF and PPG with regard to flood risk advises that a sequential approach to the location of development should be taken with the objective of steering new development to flood zone 1 (areas with the lowest probability of river or sea flooding). When determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment.
105. The application is accompanied by a Flood Risk Assessment (FRA) and this has been amended during the course of the application. The application site is located within flood zone 1 and is therefore located on land least likely to suffer from tidal or fluvial flooding.
106. The FRA identifies that site is at low risk of flooding from fluvial, groundwater and sewer sources, very low risk from surface water flooding, and with negligible risk from tidal flooding. Overland flows would form the highest potential threat to flood risk for the site and mitigation is proposed to address this within the FRA.
107. With regards to how the development would address drainage, the application demonstrates that the previously developed nature of the site and its risk of contaminants precludes the disposal of surface water by infiltration.
108. As a result, it is proposed to dispose of surface water via connection to Northumbrian Water's surface water drain subject to their future agreement. Northumbrian Water have confirmed acceptance of this in principle subject to a planning condition to agree the detail of the drainage scheme for the development. Discharge of surface water would be at a maximum rate of 12.6l/s, which is reflective of greenfield rates. Drainage and Coastal Protection officers are satisfied with this level of discharge. Surface water attenuation will be required to ensure this rate can be achieved and is proposed in the form of a SUDs scheme, which will prevent external flooding for both 1 in 30 year floods and up to 1 in 100 flood events. Again, detail of this scheme is subject to agreement of the final layout of the development, and as such, a condition to require the details of the proposed SUDs scheme should be used.

109. With regards to the disposal of foul waters Northumbrian Water raise no objections. A condition can be added in the event of an approval to ensure a suitable means of connection and rate of discharge.
110. The development is proposed to meet the required level of surface water run-off at greenfield run-off rate through the provision of a SUDs scheme and is therefore considered acceptable and compliant with Part 14 of the NPPF.

Ecology

111. The closest sites of nature conservation interest are Pelaw Hill Railway Local Wildlife Site (LWS) which is located 380m and to the west of the East Coast Mainline, accessed via the C2C route; and the Waldrige Fell SSSI that is located to the north and west of Chester le Street. Part 15 of the NPPF seeks to ensure that developments protect and mitigate harm to biodiversity interests, and where possible, improve them. An ecology survey and bat survey have been submitted with the application, highlighting that no species that are afforded special legal protection under the Conservation of Habitats and Species Regulations 2017 and the Wildlife and Countryside Act 1981 (as amended) have been recorded within the site. The reports therefore conclude that the risk of protected species being on the site, with the exception of foraging bats and breeding birds within trees, or the development being a risk to the protected species are low. The County Ecologist has considered the content of the submitted information and has advised that the methodology and findings are sound.
112. Details of landscaping are reserved for determination at a later date, however are likely to lead to some biodiversity gain.
113. Therefore, having regard to the submitted reports, the development would, it is considered, lead to no net loss in biodiversity in accordance with the aims of Paragraph 175 of the NPPF. No harmful impacts upon local or statutory ecological sites would occur in accordance with CDLP Policy NE8. Policy NE8 is considered consistent with the NPPF and can be attributed its full weight.

Heritage Impacts

114. The application site does not lie within any designated heritage assets. The closest being Vigo House, grade II listed and situated some 250m away, and with no direct visual relationship with the site as a result of built development north of Vigo Lane and sinuous directionality of Vigo Lane itself. Consequently, it is considered that there would be no harm upon the designated heritage asset, Vigo House. In terms of non-designated heritage assets, again none have been identified within the immediate vicinity of the site.
115. Design and Conservation officers raise no objections to the proposal noting the site contains no designated or known non-designated heritage assets nor are there designated close to the application site.
116. Paragraph 196 of the NPPF states that the impact of an application upon the significance of a designated heritage asset should be taken into account in the determination of the application, and that the scale of any harm or loss to significance should be weighed in the balance. In this instance, with there being no impact upon significance, the application is considered to be acceptable in this regard, and in accordance with Part 16 of the NPPF.

Other Issues

117. CDLP Policy HP15 expects developments to make contributions with regard to social, community and infrastructure facilities, and is fully consistent with the requirements of the NPPF and the thrust of the Policy is considered to be consistent with Paragraph 94 of the NPPF which attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities.
118. The School Places Manager has advised that there is insufficient capacity at both primary school age and secondary school age places in the Chester-le-Street area in proximity to the application site. Therefore, as a result of the proposed development, additional school places would be required in order to accommodate the pressure upon school places likely to result from this development.
119. Contributions of £367,575 and £165,440 are required respectively for the provision of primary and secondary school places in order to provide the additional capacity and this would be secured by means of a planning obligation.
120. Being previously-developed in nature, the site has been subject to Phase 1 study to assess the risk of contamination. These reports identify that contamination is clearly present, and has identified proposed remediation. Environment, Health and Consumer Protection officers raised no objection to the proposal subject to a planning condition requiring the submission of further work to the proposed remediation strategy and so as to ensure that this contamination is correctly mitigated. The proposed development complies with Paragraphs 170 and 178 of the NPPF which would ensure the site and the surrounding area would be safe and appropriately remediated.

Planning Obligations

121. Paragraph 56 of the NPPF and Paragraph 122 of The Community Infrastructure Levy Regulations 2010 set out three planning tests which must be met in order for weight to be given to a planning obligation. These being that matters specified are necessary to make the development acceptable in planning terms, are directly related to the development, and are fairly and reasonably related in scale and kind to the development. CDLP Policy BE22 encourages the Local Planning Authority to enter into legal agreements to enhance the quality of developments, which is partially consistent with the above requirements of the NPPF. The proposed contributions towards education provision and offsite open space provision are all considered to be in accordance with these tests, as is the securing of affordable housing.

Planning Balance

122. This proposal is considered to accord with the development plan in principle, through the proposed redevelopment of a brownfield site within the established built environment. However, as a result of CDLP policies most important for determining the application being out of date, the acceptability of the application should be considered under the planning balance test contained within Paragraph 11 (d) of the NPPF. No NPPF policies that protect areas or assets of particular importance provide a clear reason to refuse the application and therefore in order to justify the refusal of planning permission any adverse impacts of a proposed development must significantly and demonstrably outweigh any benefits.

Benefits

123. The development would assist in maintaining housing land supply at a time when the housing policies for the area are out of date whilst acknowledging that the Council can

demonstrate in excess of 6 years housing land supply against an objectively assessed need. Accordingly, the weight to be afforded to the boost to housing supply as a benefit of the development is reduced.

124. This boost to housing supply would extend to the delivery of affordable homes as the development proposes the delivery of 15% affordable housing provision in accordance with the Strategic Housing Market Assessment (SHMA). The provision of the affordable housing can be secured through a planning obligation under S106 of the Town and Country Planning Act 1990.
125. The development is proposed to a previously-developed site that is currently vacant awaiting re-development and within the built envelope of development. Locationally, the development has excellent access to most services and facilities including Chester le Street and Birtley town centres, employment opportunities in these centres and beyond, as well as excellent access to sustainable modes of transport (bus and cycle links).
126. To a degree the development would provide direct and indirect economic benefits within the locality and from further afield in the form of expenditure in the local economy. This would include the creation of construction jobs, as well as further indirect jobs over the lifetime of the development. A temporary economic uplift would be expected to result from the development and expenditure benefits to the area.

Adverse Impacts

127. A shift from the previous industrial type development that once occupied the site would result in some adverse economic impact upon the local area through the loss of an employment site; however this site is not a designated employment site in the CDLP. The development would result in tree loss from the front boundary of the site to facilitate appropriate access and visibility.

CONCLUSION

128. The residential development would draw support from CDLP Policy HP6 in terms of its location and previously-developed nature; however, the NPPF sets out that on the basis of the out-of-date nature of policies most important to the determination of the application that the presumption in favour of sustainable development is engaged. In the context of Paragraph 11, the development should be approved unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
129. As set out above, the proposed development would result in limited adverse impacts, and they do not “significantly or demonstrably” outweigh the substantial benefits identified above, and as a result, the proposed development can be considered to constitute sustainable development for the purposes of Paragraph 11, for which there is a presumption in favour.
130. The proposal has generated no public interest with no comments received at the time of writing.

RECOMMENDATION

That the application is **APPROVED** subject to the completion of a Section 106 Legal Agreement to secure the following:

- Provision of 15% affordable housing units on site;
- £367,575 towards the provision of additional capacity at secondary schools in the Chester le Street area;
- £165,440 towards the provision of additional capacity at primary schools in the Chester le Street area;
- £67,650 towards the provision or improvements to open space and recreation within North Lodge Electoral Division;

and subject to the following conditions:

Time Limit Outline

1. Application for approval of reserved matters shall be made to the Local Planning Authority before the expiration of three years beginning with the date of this permission and the development must be begun not later than the expiration of two years from the final approval of the reserved matters, or in the case of approval on different dates, the date of approval of the last of the reserved matters to be approved.

Reason: Required to be imposed pursuant to Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

Submission of Reserved Matters

2. Approval of the details of appearance, landscaping, layout and scale (hereinafter called "the reserved matters") shall be obtained in writing from the Local Planning Authority before any development is commenced.

Reason: Required to be imposed pursuant to Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004

No. of Dwellings

3. The development hereby approved shall comprise a maximum of 83 dwellings.

Reason: To define the consent and precise number of dwellings approved.

Approved Plans

4. The development hereby approved shall be carried out in strict accordance with the following approved plans:

Plan	Drawing No.	Date Received
Site Location Plan Proposed Access	122344-8005 122344/1001 Rev A	16/03/18 06/07/18

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policy HP6 of the CDLP and the NPPF.

Pre-Commencement Conditions

Contaminated Land

5. The development hereby permitted shall not commence until a pre-commencement scheme to deal with contamination has been submitted to and agreed in writing with the Local Planning Authority. The full scheme, both pre-commencement and completion shall include the following, unless the Local Planning Authority confirms in writing that any part of sub-sections a, b, c or d are not required.

Throughout both the pre-commencement and completion phases of the development all documents submitted relating to Phases 2 to 4 as detailed below shall be carried out by competent person(s) and shall be submitted to and agreed in writing with the Local Planning Authority.

Pre-Commencement

- (a) A Phase 2 Site Investigation and Risk Assessment is required to fully and effectively characterise the nature and extent of any land and/or groundwater contamination and its implications. Prior to the Phase 2 a Sampling and Analysis Plan is required.
- (b) If the Phase 2 identifies any unacceptable risks, a Phase 3 Remediation Strategy detailing the proposed remediation and verification works is required. If gas protection measures are required a verification plan is required detailing the gas protection measures to be installed, the inspection regime and where necessary integrity testing programme. The installation of the gas membrane should be carried out by an appropriately qualified workforce and the verification of the installation should be carried out by an appropriately competent, experience and suitably trained person(s) (preferably independent to the installer) to ensure mitigation of the risk to the buildings and the people who occupy them. No alterations to the remediation proposals shall be carried out without the prior written agreement of the Local Planning Authority.

Completion

- (c) During the implementation of the remedial works (if required) and/or development if any contamination is identified that has not been identified pre-commencement, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment shall be carried out in accordance with part b of the condition and where necessary a Phase 3 Remediation Strategy shall be prepared in accordance with part c of the condition. The development shall be completed in accordance with any amended specification of works.
- (d) Upon completion of the remedial works (if required), a Phase 4 Verification Report (Validation Report) confirming the objectives, methods, results and effectiveness of all remediation works detailed in the Phase 3 Remediation Strategy shall be submitted to and agreed in writing with the Local Planning Authority within 2 months of completion of the development. If integrity testing of the membrane(s) was required a verification pro forma should be included.

Reason: The site may be contaminated as a result of past or current uses and/or is within 250m of a site which has been landfilled and the Local Planning Authority wishes to ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems in accordance with NPPF Part 15. This is required as a pre commencement condition in order to mitigate potential impact upon the sensitive end use of the site which needs to be considered before site works commence.

Construction Management Plan

6. Prior to the commencement of any works of demolition, remediation or construction hereby permitted, a Construction Management Plan shall be submitted to and approved in writing by the local planning authority.
 1. A Dust Action Plan including measures to control the emission of dust and dirt during construction;
 2. Details of methods and means of noise reduction;
 3. Where construction involves penetrative piling, details of methods for piling of foundations including measures to suppress any associated noise and vibration. The use of vibrating rollers during construction of roads and piling mats should also be included in these details;
 4. Details of measures to prevent mud and other such material migrating onto the highway from construction vehicles;
 5. Designation, layout and design of construction access and egress points;
 6. Details for the provision of directional signage (on and off site);
 7. Details of contractor compounds, materials storage and other storage arrangements, including cranes and plant, equipment and related temporary infrastructure;
 8. Details of provision for all site operatives for the loading and unloading of plant, machinery and materials;
 9. Details of provision for all site operatives, including visitors and construction vehicles for parking and turning within the site during the construction period;
 10. Routing agreements for construction traffic.
 11. Details of the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 12. Waste audit and scheme for waste minimisation and recycling/disposing of waste resulting from demolition and construction works;
 13. Detail of measures for liaison with the local community and procedures to deal with any complaints received.

The management strategy shall have regard to BS 5228 “Noise and Vibration Control on Construction and Open Sites” during the planning and implementation of site activities and operations.

The approved Construction Management Plan shall also be adhered to throughout the construction period and the approved measures shall be retained for the duration of the construction works.

Reason: To protect the residential amenity of existing and future residents from the development to comply with Part 15 of the National Planning Policy Framework. This is required as a pre commencement condition in order to mitigate potential impact on residential amenity which needs to be considered before site works commence.

Drainage

7. Prior to the commencement of the development hereby approved a detailed scheme for the provision of foul and surface water drainage informed by Flood Risk Assessment and Drainage Strategy, March 2018 (Ref: D/I/D/122344/01), shall be submitted to and approved in writing. The scheme for surface water drainage shall include sustainable urban drainage systems within the design in accordance with the Council's SUDs Adoption Guide 2016 and details of the management and maintenance regime for those systems. The scheme for surface water run-off shall not exceed 12.6 l/s. The drainage shall be completed in accordance with the details agreed.

Reason: In the interests of the adequate disposal of foul and surface water in accordance with Parts 14 and 15 of the NPPF. This is required as a pre commencement condition to ensure that the proposed development provides adequate levels of drainage which needs to be considered before site works commence.

Tree Protection

8. No development work shall take place until all trees and hedges agreed for retention by plan ref: ARB/AE/1559, Appendix 1, Arboricultural Impact Assessment, February 2018, are protected by the erection of fencing and comprising a vertical and horizontal framework of scaffolding, well braced to resist impacts, and supporting temporary welded mesh fencing panels or similar in accordance with BS 5837:2012. Protection measures shall remain in place until the cessation of the development works.

Reason: In the interests of the visual amenity of the area having regards to Policy HP9 of the Chester le Street Local Plan and Parts 12 and 15 of the NPPF. Required to be pre-commencement as landscape features must be protected prior to works, vehicles and plant entering the site.

Time Limited Conditions

Accessible Art Provision

9. Prior to the occupation of the first dwelling hereby approved, a scheme for the provision of public art on the site shall be submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall detail the appearance of the artwork, maintenance schedule and timeframes for implementation. The scheme shall be completed in accordance with the approved details and timings thereafter.

Reason: In the interests of the amenity of the surrounding area in accordance with Policy BE2 of the Chester le Street District Local Plan and Part 12 of the National Planning Policy Framework.

Open Space Maintenance

10. Prior to the occupation of the first dwelling a scheme for the ongoing maintenance of the areas of public open space including any on-site biodiversity mitigation within the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. In the event of proposals to maintain the public open space by means other than through transfer to the Local Authority then the scheme shall provide for details of an agreed maintenance and cutting schedule in perpetuity.

Reason: In the interests of appearance of the area in accordance with Policy HP9 of the Chester le Street Local Plan and Parts 12 and 15 of the NPPF.

Travel Plan

11. Within a period of six months of the first occupation of any part of the development of the relevant phase, a final Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented thereafter in accordance with the approved timescales.

Reason: To reduce reliance on the private motor car and to promote sustainable transport methods in accordance with Policy T6 of the Chester le Street District Local Plan and Parts 9 and 15 of the NPPF.

Other Conditions

Amount of Open Space

12. Notwithstanding the indicative layout submitted with the application, a minimum of 0.3 hectares of open space shall be provided on site.

Reason: In the interests of appearance of the area in accordance with Policy HP9 of the Chester le Street Local Plan and Parts 12 and 15 of the NPPF.

Noise Mitigation

13. All dwellings hereby approved shall be constructed in accordance with noise mitigation measures as contained within "Assessment of Noise Levels and Noise Amelioration Measures, Proposed Residential Development at former Arizona chemicals site, Vigo Lane, Birtley, Kraton Chemicals B.V., March 2018; Ref AH/AC/001" and fully implemented prior to the first occupation of each dwelling and retained in perpetuity thereafter.

Reason: To protect the residential amenity of existing and future residents from the development to comply with Part 15 of the National Planning Policy Framework.

Working Hours

14. No external construction works, works of demolition, deliveries, external running of plant and equipment shall take place other than between the hours of 0800 to 1800 on Monday to Friday and 0800 to 1300 on Saturday.

No internal works audible outside the site boundary shall take place on the site other than between the hours of 0800 to 1800 on Monday to Friday and 0800 to 1700 on Saturday.

No construction works or works of demolition whatsoever, including deliveries, external running of plant and equipment, internal works whether audible or not outside the site boundary, shall take place on Sundays, Public or Bank Holidays.

For the purposes of this condition, construction works are defined as: The carrying out of any building, civil engineering or engineering construction work involving the use of plant and machinery including hand tools.

Reason: To protect the residential amenity of existing and future residents from the development to comply with Part 15 of the National Planning Policy Framework.

C2C Connection

15. The reserved matters submissions required for compliance with condition 2 must include details of the provision of an access link to the C2C cycle route, and this link must be implemented in accordance with the details agreed at the reserved matters stage.

Reason: So as to promote sustainable transport options for the development having regards to Part 9 of the National Planning Policy Framework.

STATEMENT OF PROACTIVE ENGAGEMENT

The Local Planning Authority in arriving at its decision to support this application has, without prejudice to a fair and objective assessment of the proposals, issues raised, and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF. (Statement in accordance with Article 35(2) (CC) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.)

BACKGROUND PAPERS

- Submitted application form, plans, supporting documents and subsequent information provided by the applicant
- The National Planning Policy Framework (2018)
- Conservation of Habitats and Species Regulations 2017
- National Planning Practice Guidance
- Chester le Street District Local Plan
- Evidence Base Documents e.g. SHLAA, SHMAA, County Durham Settlement Study and OSNA
- DCC Sustainable Urban Drainage Systems Adoption Guide 2016
- Statutory, internal and public consultation responses



Planning Services

DM/18/00828/OUT

Outline planning permission (all matters reserved except access) for the erection of up to 83 dwellings (Revised scheme 6 July 2018).

Site Of Former Arizona Chemical, Vigo Lane, Chester-le-Street, DH3 2EB

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Comments

Date September 2018

Scale Not to scale



Planning Services

COMMITTEE REPORT

AGENDA ITEM NUMBER:

APPEAL UPDATE REPORT

APPEALS DETERMINED

Appeal against the refusal of Planning Permission for the erection of an agricultural barn on land at Dunelm Close, Leadgate (DM/17/02609/FPA).

The application was refused by committee on 27.10.17 on the grounds that –

'The proposed building by virtue of its appearance, design and materials would be detrimental to the visual amenity, residential amenity and character and appearance of this predominantly residential/urban fringe area contrary to Policies GDP1, AG3 and EN26 of the Derwentside District Local Plan and Parts 7 and 11 of the NPPF.'

The appeal was dealt with by way of written representations and an unaccompanied site visit.

In determining the appeal, the Inspector noted that Policies GDP1 and AG3 of the Local Plan expect new development to be of a high standard of design which is in keeping with the character and appearance of the area, appropriate to the location and to be sited and designed to be in scale with, and not form an intrusive element within, the landscape. It was noted that these policies are broadly consistent with the NPPF and were therefore accorded substantial weight.

The Inspector noted that due to its location at the end of Dunelm Close, the proposed building would appear as a terminal feature in an elevated position in views up the street from the west and from within the adjacent streets resulting in it being a prominent feature. He noted that the proposed hedge would only partly screen the building and would take some time to become established.

In terms of the materials it was noted that metal sheeting was proposed which would be viewed in the context of the brick and render properties with tiled or slate roofs. The Inspector stated that 'the very basic design of the building and the use of materials that are inconsistent with the materials of those buildings closest to the appeal site would combine with its visual prominence to result in an incongruous and jarring feature immediately adjacent to residential buildings.' As such it was concluded that the building would be harmful to the character and appearance of the area.

The Inspector noted that the reason for refusal of the application did not refer to odour however this had been raised in the appeal process. He stated that there is no substantive evidence that the proposed development would generate any additional odours and did not consider this to be directly relevant to the appeal.

Finally, the Inspector noted allegations that the Planning Committee had been unduly influenced by one member. He noted that the application had been recommended for approval by Officers and the lack of evidence to support the allegations that had been made. He pointed out that members are entitled to take a different view to their Officers on applications providing that there are valid planning reasons to do so.

The appeal was dismissed.

Appeal against the grant of Planning Permission subject to conditions at Jarola House, 21a Glencoe Avenue, Chester-le-Street (DM/17/03920/FPA)

Retrospective Planning Permission was granted on 5th December 2017 for the erection of a single storey rear extension at the above property. Condition 4 of the permission required the clear glass in the western elevation of the extension to be replaced with obscured glazing within three months of the date of the permission. The condition was imposed due to concerns regarding the impact of the extension in terms of overlooking on the adjacent property, 8 Glen Barr.

In determining the appeal the Inspector noted the significant degree of intervisibility between the extension and the neighbouring property. It was noted that views between the properties would be readily apparent to the residents of 8 Glen Barr leading to a significant and harmful perception of being overlooked. The Inspector felt that this would lead to an intrusive and unneighbourly relationship between the properties with resultant harm to the living conditions of the residents of 8 Glen Barr.

Note was taken of a hedge separating the two properties which provides a degree of screening however the Inspector noted that the retention of the hedge cannot be guaranteed in the long term.

The removal or variation of the condition would, in the opinion of the Inspector, lead to unacceptable harm to the living conditions of the residents

of 8 Glen Barr in terms of their privacy therefore the condition was considered to be reasonable and necessary and the appeal was dismissed.

The Planning Enforcement Team have contacted the applicant and have stated that the clear glazing must be replaced with obscured glazing within three months of the Inspector's decision.

APPEALS RECEIVED

An appeal has been received against the refusal of planning permission for the retention of a shed within a parking bay on land to the south of 108 Meadowfield, Burnhope (DM/18/01105/FPA).

The application was refused under delegated powers on 25.06.18 on the following grounds –

'The shed reduces parking to the host property, displacing parking of vehicles into other areas of the housing estate. As such the application is contrary to criteria c of Policy TR2 of the Derwentside District Local Plan which requires adequate parking space to be provided.'

'The shed which is sited on a parking bay is considered to have a negative impact on the character and appearance of the area contrary to criteria A of Policy GDP1.'

An appeal has been received against the refusal of outline planning permission for the erection of a single dwelling to use existing farm access, with all other matters reserved at Stobbilee Farm, Langley Park (DM/18/00872/OUT).

The application was refused under delegated powers on 17.05.18 on the following grounds –

'The proposal would neither protect or enhance this valued landscape contrary to Derwentside Local Plan Policies GDP1, EN1, EN6 and section 11 of the NPPF.'

'The proposal would result in the encroachment of built development into the countryside contrary to Derwentside Local Plan Policy EN2.'

'The proposal does not generally support sustainability objectives of paragraphs 17 and 35 of the NPPF with regard to the potential for reducing greenhouse gas emissions and locating development where sustainable modes of transport for the movement of people can be exploited. Therefore, this is not a sustainable location for a dwelling.'

An appeal has been received against the refusal of planning permission for change of use of residential annex to dwelling at Woodlea Manor, Lanchester (DM/18/00036/FPA).

The application was refused on 12.03.018 under delegated powers on the following grounds –

'The proposal would result in the creation of a separate single dwelling in an unsustainable location that would not contribute to the three roles of sustainability: environmental, economic or social. As a result, in terms of Paragraph 14 of the NPPF it is considered the adverse impacts of the proposal in terms of sustainability, as set out within Paragraphs 7 and 8 of the NPPF, would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.'

An appeal has been received against the refusal of outline planning permission for two houses on land to the south of The Valley, East Hedleyhope (DM/17/03494/OUT).

The application was refused under delegated powers on 21.12.17 on the following grounds -

'The proposal does not generally support sustainability objectives of paragraphs 17 and 35 of the NPPF with regard to the potential for reducing greenhouse gas emissions and locating development where sustainable modes of transport for the movement of people can be exploited. Therefore this is not a sustainable location for a dwelling.'

An appeal has been received against the refusal of a partly retrospective application for a general purpose agricultural building at 5 Front Street, Burnhope (DM/17/03957/FPA).

The application was refused under delegated powers on 13.02.18 on the following grounds –

'The applicant has failed to demonstrate that the proposed building is required for the operational needs of an existing agricultural unit, in conflict with criterion (a) of Policy AG3 of the Derwentside District Local Plan.'

An appeal has been received against an Enforcement Notice requiring the use of 10 Queen Street, Grange Villa, Chester-le-Street as a guest house to cease (EN/17/00848).

The notice was issued on 05.01.18. The Council considered it expedient to issue the notice because –

'The use of the property as a guesthouse without appropriate planning consent constitutes inappropriate development and has a detrimental effect upon the amenity and character of the area contrary to Part (vi) of Policy HP17 of the Chester-le-Street District Local Plan and Part 8 of the NPPF.'

The Council believe that planning permission should not be granted because planning conditions could not overcome the objections to the development.'

All of the above appeals are being dealt with through the written representations procedure and Members will be updated of the decisions in due course.

Report prepared by Fiona Clarke (Principal Planning Officer).

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