



Area Planning Committee (North)

Date Thursday 28 March 2019
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 February 2019 (Pages 3 - 10)
4. Declarations of Interest (if any)
5. Applications to be determined by the Area Planning Committee (North Durham)
 - a) DM/19/00105/FPA - Former Annfield Plain Community Centre, Fairview Terrace, Greencroft, Stanley (Pages 11 - 30)
Demolition of existing community building, erection of 19 residential dwellings, creation of new access and associated works
 - b) DM/18/03865/FPA - Hedley House, 282 Park Road, South Moor (Pages 31 - 44)
Change of Use of 12 self-contained flats (Use Class C3), within two three storey buildings, into a hostel (Use Class C2) incorporating 11 self-contained flats, and 1 office/crash pad facility for 16 to 21 year olds.
 - c) DM/18/03860/OUT - Land to the east of 3 Whitehill Hall Gardens, Chester-le-Street (Pages 45 - 64)
Erection of 2 dwellings (outline)
6. Appeal Update (Pages 65 - 68)
7. 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
20 March 2019

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, A Hopgood,
C Martin, O Milburn, J Robinson, A Shield, J Shuttleworth, T Tucker
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 February 2019** at **1.00 pm**

Present:

Councillor I Jewell (Chairman)

Members of the Committee:

Councillors A Bainbridge, D Bell, L Boyd, A Hopgood, C Martin, J Robinson, A Shield and S Zair

1 Apologies for Absence

Apologies for absence were received from Councillors D Boyes, G Darkes, O Milburn, J Shuttleworth, T Tucker and S Wilson.

2 Substitute Members

Councillor S Dunn substituted for Councillor T Tucker and Councillor M Wilson substituted for Councillor S Wilson.

3 Declarations of Interest

There were no Declarations of Interest.

4 Minutes

The minutes of the meeting held 20 December 2018 were agreed as a correct record and signed by the Chairman.

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

a DM/17/04001/FPA - Mini Maxi Moos Adventure Land, Holmside Park Arena, Holmside Lane, Edmondsley

The Senior Planning Officer, Steve France gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes).

Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The Senior Planning Officer advised that Members of the Committee had previously visited the site and were familiar with the location and setting. The application was for retrospective permission for erection of timber hay store and change of use of an existing equestrian arena to an indoor play area, recladding of existing 'play castle' and creation of additional outdoor activity areas in defined spaces including use of quad bikes and buggies as set out in the Operational Management Plan and was recommended for approval, subject to conditions.

The Senior Planning Officer referred Members to a plan on the projector screen highlighting the extent of the applicant's land, a large area outlined in blue, and also the area which the application referred to, a number of smaller areas outlined in red. Members were referred to four zones for: use of quad bikes; a slow-speed led trail; a play fort; and petting farm, picnic area and slide. The Senior Planning Officer noted that an area that included helicopter rides was not being considered as part of this application.

Councillors were informed of the key issues in relation to the application as set out within the report and noted that subject to adherence to the Management Plan, there were no objections from statutory or internal consultees, subject to the conditions within the report.

The Senior Planning Officer noted there were a number of objections received from the public and also from the local Member for Parliament, Kevan Jones MP. Issues raised had included: issues of noise being exacerbated by the topography; operation of quad bikes; damage to ancient woodland; unauthorised buildings; tree felling; access and traffic; dust from the operation of buggies; pedestrian access concerns relating to Edmondsley. The Senior Planning Officer reiterated as regards the areas of land and activities that formed the application to be considered by Committee. He noted that there was one letter of support received, citing benefits in terms of jobs and that noise levels were at acceptable levels.

The recommendation was for approval subject to the conditions as set out in the report.

As Councillor A Hopgood had arrived slightly late, after the meeting had started, the Chairman asked her if she felt able to participate and she replied that she did.

The Chairman thanked the Senior Planning Officer and asked Ms Deborah Dixon to speak in objection to the application.

Ms Deborah Dixon noted that she and residents of Holmside and Edmondsley were wholly opposed to the application. She added that there had been lots of letters in objection from the public and noted the rural woodland location, being in the past both peaceful and attractive. Ms Deborah Dixon noted a fear for the future was that village life would be destroyed following increasing noise levels. She explained that the noise levels were unbearable, with shouting from the visitors to the site and the repeated "one, two, three" over the tannoy becoming mentally distressing.

Ms Deborah Dixon added that noise carried and that there was no mitigation against this. She added that residents were spending less time in their gardens and having to keep their windows closed and asked whether this was fair for residents.

Ms Deborah Dixon noted that this was the current situation, and that should the application be approved she felt it would worsen, with advertising already stating groups of up to 100 people on top of the sound levels of music being played.

Ms Deborah Dixon explained in relation to traffic and highways issues that the area was not lit and was not part of a bus route. She added that accordingly Holmside and Edmondsley were used as a thoroughfare and that the road network was not suitable for the levels of traffic.

Ms Deborah Dixon noted that in terms of the advertising of “phase two” of developments at the site were advertised earlier in 2018, the suggestion of a done deal. She added the application did nothing for the benefit of the village, nothing for the economy of the village as there was no shop or public house.

Ms Deborah Dixon explained that if the application it would rip the heart out of the village and community and that it would become increasingly difficult to attract new people to the village and therefore the rural community would be lost forever. She noted there was not objections from residents in relation to the mini-moos operation, the aspect for children, however, the application before the Committee was materially different and that it was not child focussed. Ms Deborah Dixon noted that it was felt to be a breach of residents’ human rights and they did not feel it was fair. She noted residents did not feel reassured, complaints were registered each week as regards noise and distress. Ms Deborah Dixon noted a 10-year lease held by the applicant and that on that basis the issues would grow and become more detrimental. She concluded by stressing that residents did not feel that the conditions within the report were sufficient to protect their village and way of life and therefore they would ask that the Committee vote to reject the application.

The Chairman thanked Ms Deborah Dixon and asked Mr Paul Banks to speak in support of the application.

Mr Paul Banks explained he was the Managing Director of Battlezone Paintball and Holmside Park and ran five businesses within the North East creating jobs over the last 20 years. He noted that the business had tried a number of times to engage with the local community, and now a lot of people did engage and talking to those people a lot of the previous issues were no longer there. Mr Paul Banks explained he lived in the North East and wanted to create wealth for local communities, with an aim to recruit locally if possible. He noted the park employed 30 people and was looking to employ 10 more people, and that there was an apprentice and it was hoped to create two more positions. He noted several people from Holmside worked at the park.

In reference to the comments made as regards advertisement of “phase two”, Mr Paul Banks noted this referred to the helicopter and fort, with this application representing “phase three”. He explained that the business operated an open-door policy in terms of listening to any concerns from those in the village.

Mr Paul Banks explained that the facilities were designed to allow for those less-abled to be able to come and participate and enjoy, for all ages to come, getting people out and about.

He added that the proposed activities operating on one day, a Saturday, over a four-month period, would help to support the business overall, protecting that element and to help pay the bills. He concluded by noting photographs taken by objectors from within private land owned by other parties and asking for the Committee to approve the application.

The Chairman thanked Mr Paul Banks and asked the Solicitor – Planning and Development, Neil Carter to speak in relation to correspondence received from Kevan Jones MP.

The Solicitor – Planning and Development noted the letter had placed emphasis on the application being part retrospective and reminded Members that this in itself did not constitute a reason to refuse the application. Members were advised that the previous track record of the applicant also was not a good refusal reason. The Solicitor – Planning and Development noted that the structures referred to by the objectors were under enforcement investigation, however, did not form part of the application before the Committee. He added that should there be a breach of the management plan condition, then the usual enforcement powers could be utilised and therefore any anticipated breach was not sufficient to sustain a refusal reason. In relation to human rights, the Solicitor – Planning and Development noted they were engaged; however, they were not absolute rights but qualified rights and as such could be interfered with so long as that interference was in accordance with the law and also proportionate. He concluded that his advice was that granting the application did not unlawfully interfere with the objectors’ human rights.

The Chairman thanked the Officers, registered speakers and the Solicitor – Planning and Development and asked the Committee for their comments and questions on the application.

Councillor A Shield noted the issues were in terms of the locality of the application and noise. He noted that noise was a subjective view, and that a statutory nuisance was a specific level of noise, however he explained that even a lesser noise could be very aggravating if repeating as described by objectors. He noted that National Planning Policy Guidance notes where issues “can or are likely to occur” and Policy RL9 of the saved Chester-le-Street Local Plan noted that activities in the countryside were permitted providing they did not damage the countryside or the amenity of neighbouring residential properties. Councillor A Shield noted the Officer’s recommendation and that subject to adherence to the Management Plan there were no statutory or internal objections to the application. He added it was for the Committee to decide upon whether there would be adherence and he noted he was undecided on the application at this point.

The Senior Environmental Health Officer, Mark Anslow noted that Councillor A Shield was correct in relation to the issues and the NPPG.

Councillor J Robinson noted diary information kept by a resident in relation to noise levels and disruption, up to 12 hours a day and seven days a week and explained he could see how this would be irritating. He added he did not see anywhere within the report as regards any condition to provide comfort for residents in relation to this and asked if Environmental Health could provide some robust assurance. The Chairman noted that the issues in relation to noise from the generator had been resolved, as noted within the report and explained at the site visit held previously. The Senior Environmental Health Officer noted that the noise from the generator that had previously been in use had represented the majority of the noise complaints and the applicant had removed and replaced this. He added that hours of operation may be able to provide some mitigation, especially in terms of the "it's a knockout" events and that should the Committee feel it would be beneficial further details could be set out.

Councillor L Boyd noted there appeared to be a conflict of information in between the objectors and the applicant and asked if a delay to allow some discussions could be beneficial.

The Senior Planning Officer noted that the application had taken a long time to come to this point, with significant issues such as the noise from the generator having been now resolved. He added that therefore the process would be to monitor against the Management Plan, noting an independent noise assessment had been conducted and this had informed the Management Plan. It was reiterated that Council Officers felt the application was acceptable subject to the conditions and adherence with the Management Plan. In reference to any further discussions between objectors and the applicant, the Senior Planning Officer noted he could not see what any deferment of the application would achieve, those parties disagreeing. He noted that the application was as set out in the report with a recommendation and conditions.

Councillor A Hopgood noted that the second recommendation referred to highways and access works that were not implemented and noted that there was a three-month timeframe to submit for approval in writing. She asked if this was including the time to carry out the works in addition. The Senior Planning Officer noted it was for submission and to carry out works in full. Councillor A Hopgood noted that if the Committee was minded to approve, then this would mean around the end of May potentially before works would be completed and asked if the works were not completed would the operation of the site not be permitted. The Senior Planning Officer reiterated the condition as set out. Councillor A Hopgood asked if there was an issue would there be a drawn-out process of enforcement action, while the operation of the business would continue throughout the summer season. The Area Planning Team Leader - North, Andrew Farnie explained that there had been lengthy discussions between Planning and Highways Officers and regards this matter and the condition had been strengthened. He added that following the three months if there was a breach then there were powers, albeit limited, in terms of next steps. He explained that a stop notice could be issued, however, that may not be the most effective option.

Councillor A Hopgood asked as regards the length of time to carry out whatever enforcement action that would be taken as appropriate and asked whether there could be more within the condition in terms of compliance prior to operation. The Solicitor – Planning and Development noted that as described by Officers the would need to be a breach before any enforcement action could be taken. He noted that those processes had timescales attached and that while they would be looked at as soon as possible, it was not possible to say that they would be immediate or prevent use of the site.

He noted that it appeared as if Members wished for a negatively worded conditions in terms of no operation of the site until highway works were completed, however, he noted that the site was already currently operating and that a three-month timescale was usual and reasonable. Councillor A Hopgood asked as regards whether the highways works to widen the access formed part of the original application in relation to mini moos. The Senior Planning Officer noted that the works were not carried out in 2009, with the current applicant being a leasee and not the original applicant. He added that while enforcement had not been taken in 2009, the condition within the report meant that should the works not be taken forward then enforcement could be taken accordingly.

Councillor J Robinson noted he was still not able to see any reassurance from Environmental Health in relation to noise levels and times of operation. The Senior Planning Officer noted that in relation to the “it’s a knockout zone” this was Monday to Saturday, 10.00am to 5.00pm as set out in the Management Plan.

Councillor A Shield noted that if noise was still considered an issue, could there not be a stipulation in terms of creating a physical barrier in terms of planting, such as leylandii to screen noise. The Senior Planning Officer noted that this may be something the applicant would be willing to look at. The Chairman asked if Mr Paul Banks would clarify for Members. Mr Paul Banks noted that the “it’s a knockout” activities would operate over four months, only on Saturdays between 11.00am and 4.00pm. He added that the buggies and quad bikes would not operate on Sundays. The Senior Environmental Health Officer noted that in terms of planting to screen noise, this was only effective with planting of over 50 metres in depth, and therefore not practical in this case. He added that there was already the area of woodland that provided some mitigation and the noise assessment had been carried out and that following changes made and discussions with residents there had been some positive comments received. It was explained that an e-mail received from a resident noted “in respect of noise, levels were now not excessive... the generator noise had been removed... and at this stage noise was not at the original levels”. The Senior Environmental Health Officer noted that the Management Plan had had a positive effective and noise from the current operational procedure was note excessive. The Senior Planning Officer noted that hours of operation could be stipulated for clarity.

Councillor A Shield asked that if the Management Plan was breached, would enforcement be via a Stop Notice, until there was compliance. The Area Planning Team Leader – North noted he had mentioned that option specifically in terms of the highways condition.

In reference to a breach in respect of the Management Plan, the Area Planning Team Leader - North explained that the type of enforcement would be dependent upon the nature of the breach and the likely option would be an Enforcement Notice, a process that had a right of appeal. He added that a Stop Notice could be looked at if there was a very serious breach. Councillor A Shield asked as regards monitoring of noise levels and devices that could be in place to check as regards a statutory nuisance. The Senior Environmental Health Officer noted that if there were complaints, Officers could visit and could install monitoring equipment if necessary. He noted that a statutory nuisance was not applicable to this application, as noted, however if it was raised by residents Officers would look into the matter.

Councillor A Hopgood noted that Condition One noted updated plans and asked if it could be strengthened. The Senior Planning Officer noted that it was implicit, however, reference numbers could be included and if plans were to alter, this would need to be reflected in a planning application.

Councillor C Martin noted residents had asked for fairness, and the Committee had to look at the application in terms of planning law and the requisite regulations and frameworks. He noted that Members had to look at the application in balance, in terms of issues of noise, the Management Plan and social and economic issues. Councillor C Martin noted that he felt on balance that the benefits outweighed the negative aspects and that he would therefore **move** that the application be approved as per the Officer's report.

Councillor S Dunn noted that it was clear from the information within the report and from the speakers and Officers that there had been problems and issues. He added that there was also evidence of a lot of work undertaken in terms of mitigation and the changes and investment undertaken by the applicant, for example in terms of the new generator, were welcomed. Councillor S Dunn noted that the engagement with the local community and employment opportunities for local people was also welcomed. He referred to a business that operated in his area that had a number of contentious issues. He explained that in that case a Management Plan had been put in place and it had proved to be very successful, with much reduction in nuisance. Councillor S Dunn noted therefore he was confident that a Management Plan, in line with Officer's recommendations, could be effective. He added that he had similar concerns as Councillor A Hopgood in terms of the highways works issues and suggested an amendment to the condition to reduce the timescale from three months to six weeks. The Chairman asked if this was reasonable from a technical standpoint. The Principal Development Management Engineer, David Smith noted that in terms of drawing up an acceptable scheme, plans, carrying out a procurement process and appointing contractors, and completing the works would take around three months. Councillor S Dunn noted he would withdraw his suggestion.

Councillor A Shield noted given all of the information provided to the Committee he would reluctantly **second** the application, though noted that paragraph 88 of the report referred to Landscape Officers suggestion of the reinforcing of the hedgerow and asked if this would be something to be added as a condition. Councillor J Robinson noted as regards following through in terms of the operation times.

Following a vote being taken it was

Resolved:

That the application be approved subject to the conditions as listed within the report and as amended and added to by the Committee.

Councillors A Shield and S Zair left at 2:15pm

6 Appeal Update

The Committee considered a report of the Principal Planning Officer which provided details of a recent appeal decision in relation to application DM/18/0115/FPA for the erection of a shed within a parking bay on land to the south of 108 Meadowfield, Burnhope.

The Principal Planning Officer advised that the appeal had been dismissed, by the Planning Inspector.

The Principal Planning Officer noted a second appeal relating to application DM/18/01983/FPA at 70 Castlefields, Bournmoor for the retention of uPVC cladding affixed to the front of the property.

The Principal Planning Officer advised that the appeal had been allowed by the Planning Inspector, no application for costs having been made.

Members noted two appeals had been submitted under the written representations procedure relating to: refusal of DM/18/01399/FPA – construction of four dwellings on land to the east of The Byre, Consay Lane, Consay; and refusal of DM/18/01309/FPA – change of use and erection of private stables on land to the south of Denesyde, Medomsley.

Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/19/00105/FPA
FULL APPLICATION DESCRIPTION:	Demolition of existing community building, erection of 19 residential dwellings, creation of new access and associated works
NAME OF APPLICANT:	Partner Construction Former Annfield Plain Community Centre Fairview Terrace
ADDRESS:	Greencroft Stanley DH9 8PP
ELECTORAL DIVISION:	Annfield Plain
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 0.4 hectares of land to the south-west of the staggered crossroads at Greencroft, a settlement attached to the west of Annfield Plain. Greencroft has a restricted offer of facilities and services in its own right and therefore relies on the close proximity of its larger neighbour for the Primary School (350m), supermarket (840m), local centre (740m) and four industrial estates for employment within a 1.8km radius.
2. The site is occupied by a former Community Centre that itself was a conversion from a Schoolhouse, that first appears on the 1923 Ordnance Survey Map. The existing building appears in good repair and represents a non-designated heritage asset. The building is brick-built with a Welsh slate roof and has stone water-table, string course and kneeler details.
3. The site is surrounded on its two roadside boundaries by green palisade security fencing. Alongside the boundary shared with the adjacent modern residential development and the hardstanding areas of the hard-surfaced playground areas is an attractive brick-built boundary wall with rounded coping bricks. Part of the site is hard-surfaced, the remainder a mix of the footings of greenhouses reflecting a previous business use of the site and grassed areas that have become overgrown. trees are sited along the east boundary of the site facing Fairview Terrace, two in the public highway, the remainder within the site boundary. There are sporadic trees and hedging within the

North boundary of the site where it faces Annfield Place. Both roadside boundaries include generous grassed verges, as do the facing streets.

4. There is an existing telecommunications pole and a number of equipment cabinets on the crossroad along with the more usually expected street furniture of street lights and traffic signs. These are outside but adjacent to the site boundary.
5. Fairview Terrace, facing the site from the east is a stone built, slate roof two storey terrace including some rendered properties. A hot-food take-away and dog grooming business are sited at the end of this street. Immediately adjacent the site, sharing the boundary to the south is the modern two storey development of Croft Close. The boundary to the north is shared with semi-improved grazing land. This was subject to an outline planning consent for residential development, however that permission has lapsed. To the north the mid-linked dwellings of Annfield Place face the site. The site is therefore edge of settlement in a predominantly residential environment that is exclusively two-storey in height.

The Proposal

6. The application proposes demolition of the existing former school/community centre building, removal of all the trees on and immediately adjacent the site, followed by the erection of 19 new two storey residential dwellings, all of which are described as 'affordable'. The dwellings are in semi-detached or mid-linked form.
7. The site would be accessed from the mid-point of the boundary facing Fairview Terrace leading to an adoptable standard hammer-head cul-de-sac. All houses have private rear gardens and open front gardens. Seven on-street visitor car parking spaces are proposed, including 2 added to the front of the site in an amendment to the scheme introduced in-process. This amendment would necessitate the removal of two trees in the highway verge. The school boundary wall is proposed retained.
8. This application is reported to Committee as a 'major' development given number of residential units involved.

PLANNING HISTORY

9. The site has no relevant recent planning history.

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 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 unacceptable levels of soil, air, water or noise pollution or land instability.
20. *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.

NATIONAL PLANNING PRACTICE GUIDANCE:

21. 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 and is subject to continual review.
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* – sets out the importance of good design, the planning objectives it can achieve, what constitutes a well designed place and the design issues that relate to different types of development.
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 so developers do not waste their time promoting proposals which are inappropriate on flood risk grounds.
25. *Land affected by contamination* – sets out the regulatory framework for dealing with contamination and sets out the planning system's role within this.
26. *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 170 of the NPPF provides policy support to this aspect.
27. *Conserving and enhancing the historic environment* – details and advises on the framework of designated and non-designated Heritage Assets, how to assess their significance and the potential for planning decisions to harm them.
28. *Viability* – introduces the topic both in relation to plan-making and decision making, advising how development values, costs, land values and suitable developer returns should be defined for the purposes of viability assessment.

LOCAL PLAN POLICY:

29. The following is a summary of those saved policies in the Derwentside District Local Plan 1997 (saved policies) relevant to the consideration of this application:
30. *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.

31. *Policy EN11 – Trees and Development* – states that development will only be permitted which will not cause harm to or result in the loss of trees protected by preservation orders, or trees which contribute to the character and appearance of conservation areas. Throughout the district existing trees should be retained where possible. In determining planning applications consideration will be given to the effect of a proposed development on any existing trees, which contribute significantly to the setting of nearby existing buildings or visual amenity.
32. *Policy HO5 – Housing Development on Small Sites – Greencroft* 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.
33. *Policy HO22 – Recreational Public Open Space within Housing Sites*. Indicates a preference for such areas to be designed into housing layouts or allows for a planning obligation for developers to provide monies in lieu for off-site provision.
34. *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:

35. Paragraph 48 of the NPPF states 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’ stage CDP was subject to consultation in summer 2018. On the 16th January 2019, Cabinet approved the ‘Pre-Submission Draft’ CDP for consultation. 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:

36. *Highways* – The current layout reflects the detailed requirements of County Highways Engineers, ensuring the scheme meets the new parking standards, and that the internal layout of the scheme is to fully adoptable standards.
37. *Northumbrian Water* - The planning application does not provide sufficient detail with regards to the management of foul and surface water from the development for

Northumbrian Water to be able to assess our capacity to treat the flows from the development. They therefore request a condition for the required details to be submitted and approved prior to construction above ground floor level.

EXTERNAL CONSULTEE RESPONSES:

38. *The Coal Authority* – has considered the submitted reports and records of intrusive site investigations and has no objections to the proposal. It will be for the Building Regulations process to ensure the installation of any appropriate foundation solution.
39. *National Health Service* – have provided a matrix that shows that in an assessment including the 'list' size of the nearest existing practice, the additional patient impact, and a floor area/population calculation, that a contribution of £1311 is required to mitigate the impact of the development.

INTERNAL CONSULTEE RESPONSES:

40. *Spatial Policy* – have undertaken the necessary assessment of the viability case offered by the applicant to justify the lack of provision of usually required elements of a major residential housing application. They note, *'the site is DCC owned and earmarked for disposal, however, due to high abnormal costs associated with developing the site (assessed internally and verified and accepted by the Council's Quantity Surveyor), the development appraisal prepared by the preferred purchaser produces a negative land value. Consequently, an agreement is in place for the developer to acquire the site for a nominal fee'*.
41. *'The developer has also made a bid for grant funding (to both Homes England (£950,000) and the Council's s106 fund (£350,000) for affordable housing to deliver the 19 affordable units and make the scheme viable. The development appraisal did not factor any s106 contributions in to it, so it is accepted that any contributions towards open space would tip the scheme back towards being unviable despite the inclusion of grant assistance, as it only covers the current shortfall. On that basis, the inclusion of a s106 contribution would necessitate further grant funding to bridge the increasing viability deficit'*.
42. Separately the Spatial Policy team has confirmed that the OSNA requirement for a scheme of this type and size if offered as monies in lieu would be £33,201.
43. *Housing* - Government planning policy outlined in the National Planning Policy Framework 2018 requires Councils to quantify the need for affordable housing in their area, and bring forward schemes which contribute to the overall need within its area, the definition of such being: *'housing for sale or rent, for those whose needs are not met by the market (including housing that provides a subsidised route to home ownership and/or is for essential local workers)'*.
44. The Council's Strategic Housing Market Assessment is the evidence base used to inform the need for affordable housing. This document confirms that there is a net shortfall of affordable homes per annum and also provides evidence to inform the tenure split for affordable housing. In terms of the split between social/affordable rented and intermediate tenure products, the household survey, which underpins the SHMA identified tenure preferences of existing and newly-forming households. The SHMA therefore outlines a tenure split of 76.5% affordable (social) rented and 23.5% intermediate tenure. For the purposes of implementation, as part of a planning application the tenure split as set out in the SHMA is rounded to an 80:20 ratio (Affordable (social) rented: intermediate tenure).

45. Taking the relevant policies into account the site of "Former Annfield Plain Community Centre, Fairview Terrace, Greencroft" falls within a LOW viability area. This means that 10% of properties on the scheme would be a requirement to be affordable, this equates to 2 units. As the number of affordable housing is low the standard tenure split would not be possible.
46. 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.
47. 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. Where the affordable housing is secured via a Section 106 agreement consideration should be given to the eligibility of people in relation to their local connection, income and ability to secure property on the open market.
48. *Drainage and Coastal Protection* – request for the driveways within the scheme to have a permeable construction and a condition for the agreed drainage strategy.
49. *Design and Conservation* – note the existing building has been identified as a non-designated Heritage Asset, and that they have repeatedly restated their preference pre-submission for the existing buildings to be retained and converted to a new use. They advise that the applicant has not provided sufficient justification for the demolition of the non-designated heritage asset. If demolition is justified, the proposed dwellings should provide a contemporary interpretation of the existing building.
50. The proposed design provides a strong frontage reflecting the character of the area. True corner turning units are a positive feature. The car domination of the internal layout could be improved. Whilst a standard design solution, there is limited positive character reference with the area.
51. *Landscape* – In terms of the amended proposals to remove the additional two trees in the public highway, Landscape Officers advise that they contribute significantly to the character of the local street-scene and the visual amenity of the area, and their retention is recommended.
52. *Trees* - the development will remove a substantial number of trees situated within the site and outside its boundary. The developer should provide a full tree survey to enable the trees to be graded according to their condition and amenity value. Trees are identified that could be retained within gardens. Where the loss of an important tree or trees is considered acceptable, approval will be subject to a requirement that suitable replacement planting be carried out either within the application site or on related land within the applicant's control.
53. *Ecology* – Durham County Council surveyed the site in 2016. The data from this survey is sufficient for the Local planning authority to make a planning decision and no further data is required regarding bats; but the applicant should be made aware that any planning permission does not act as a derogation against the law and they should take appropriate steps to ensure that the legislation surrounding bats is not breached.
54. Japanese knotweed is present on site (north east corner) and this will need to be dealt with appropriately.

55. *Environmental Health (Contamination)* – have assessed and concur with the submitted Ground Gas Risk Assessment, suggesting a pre-commencement condition to ensue submission of appropriate remediation strategies.
56. *Environmental Health (Noise)* - The submitted noise assessment is satisfactory and provided the noise mitigation measures are installed the recommended internal and external noise levels will be achieved. Conditions are suggested that should ensure that a Statutory Nuisance does not occur.
57. *Education* - taking into account the likely implementation of the development, build out rates and other relevant committed development it is anticipated that there will be sufficient space to accommodate the pupils generated by the development in primary and secondary schools and no further mitigation is required in this instance.

PUBLIC CONSULTATION EXERCISE:

58. Thirty-three consultation letters were sent to local residents. No objections were received. There was one letter of support from the local Ward Councillors indicating that if the requested NHS contribution was paid, the scheme has their support. A re-consultation exercise to show the implications of the revised parking arrangement at the front of the site has been undertaken, with no objections received as this Committee report was being prepared.

APPLICANT'S STATEMENT:

59. *'The proposed development proposes the construction of 19 no. new homes at the former Annfield Plain Community Centre, Annfield Plain, with 100% of those being affordable housing. The properties will be built by Partner Construction and handed to Riverside, who will be the Registered Provider, on completion. Riverside will maintain ownership of the affordable properties and will be responsible for the continued maintenance and management of the site. The provision of 19 affordable homes in this area of the County is a significant material benefit of the proposed development. Examples of the economic impacts of the proposed development are as follows:*
- *Supports the employment of 58 people (direct, indirect and induced jobs);*
 - *Approximately £32,000 in annual council tax receipts;*
 - *Approximately £130,000 in New Homes Bonus receipts from the government;*
 - *House building as an industry is almost entirely reliant upon goods and materials from the UK, meaning 90% of the investment is spent within the UK economy;*
 - *Approximately £95,000 spent in the local economy in one-off spending on furnishing and decorating to make the new house 'feel like home' (approximately £5,000 per household).'*
60. *'Other salient considerations in the determination of the application are as follows:*
- *The proposed development will secure regeneration of a dilapidated brownfield site within the urban area of Annfield Plain and provide much needed affordable housing;*
 - *Significant economic, social and environmental benefits associated within the scheme are identified within the submission;*
 - *The potential harm associated with the demolition of the existing building has been considered, concluding it is significantly outweighed by the material planning benefits;*
 - *The scheme has been designed to remain sympathetic to local design characteristic and site constraints, through careful consideration of house types and materials, and consideration of the landscape and visual effects of the site in refining the layout and landscape scheme'.*

61. 'Overall it is demonstrated the proposed development accords with the development plan and can be assessed as 'sustainable development' in the context of the Framework, benefiting from the presumption in favour of sustainable development.'

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=PLBZAQGDH8100>

PLANNING CONSIDERATIONS AND ASSESSMENT

The Principle of the Development

62. 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 relate to the principle of residential development along with its scale and character and residential amenity implications, the presence of the non-designated heritage asset, trees and residential amenity.

The NPPF

63. At paragraph 11, the Framework sets out a presumption in favour of sustainable development. For decision-taking this means assessing in the first place whether the 'most important' policies in the Development Plan are 'out-of-date'.

The Development Plan

64. Despite its age, the Development Plan has a number of relevant policies that may be attributed a high degree of material weight given their consistency with the Framework. Heritage issues are not reflected in saved policies and must be led by the Framework. The 'most important' Policy is HO5 – Development on Small Sites, with GDP1 General Development Principles, and EN11 Trees and Development, also relevant. Part 16 of the Framework covers the Heritage issues.

65. Policy HO5 allows for windfall development on small sites, subject to a number of set criteria. This Policy is sometimes attributed less weight because of a restriction on the size of the site. In this instance the application meets all the requirements. This is not a Policy that relies on historic housing assessment figures. The policy has a good degree of consistency with the Framework. Policy GDP1 in so far as it is relevant to the current proposals has strong resonance with the Framework, particularly in terms of its requirements for strong design and protection of residential amenity. The Policy is considered NPPF compliant in this instance. Policy EN11 prevents development that would harm or result in the loss of protected trees, and asks that elsewhere existing trees should be retained, 'where possible', or where important trees are lost, be subject to suitable replacements. This policy also has a good degree of consistency with the Framework.

66. It is considered that this application should be assessed against these policies given their consistency with the Framework, and paragraph 11 of that document and the 'tilted balance' is not 'engaged'.

Residential Development

67. Within an existing urban area, on a brownfield site, the location is considered 'sustainable' for residential development. There are seven bus stops within 200m of the site (three within 15m), the retail offer of Stanley is 730m away where health, leisure and social opportunities also exist. There are schools within the immediate area, close access to countryside footpaths, allotment gardens and significant employment opportunities within a short distance.
68. The relevant housing policy is HO5 which allows for development on small sites in specified settlements subject to four criteria: the proposal is appropriate to the existing pattern and form of development in the settlement, it does not extend beyond the existing built-up area of the settlement, it represents acceptable backland or tandem development, and the site area does not exceed 0.4ha. Compared to these requirements: sited adjacent the modern developments of Croft Close and The Croft and including mid-linked modern two-storey dwellings on the roadside frontages, the proposals reflect the existing form of development as it exists to the south-west of the crossroads. The school/community centre has formed part of the urban environment in Greencroft for around a century – the redevelopment of this site does not therefore represent an extension of the settlement. The proposal is neither backland nor tandem development. Whilst the final criteria – in setting an inflexible threshold for consideration of 'small sites' is the reason that this policy is sometime considered not to have full weight when assessed for NPPF compatibility, this site is actually within the historic size threshold. The development is concluded compatible with Policy H05.
69. Further, the application proposes erection of 19 residential dwellings that will be secured through a s.106 legal agreement as 'affordable'. Both the provision of new homes and the fact they can be ensured to be affordable are material benefits of the proposals and carry significant weight in the required assessment. If the loss of the school building can be justified, that the development would use a brownfield site counts in its favour, the Framework advising, *'the use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist'*.
70. The SHLAA assessment of the site's potential for new residential development noted it was mostly brownfield, and that a convincing case for the removal of the school would be required.

Design and Residential Amenity

71. Both Policy GDP1 and the Framework stress the importance of good design. Design Officers are encouraged that, *'The proposed layout will provide strong built frontage to Fairview Terrace and Derwent Terrace, reflecting the character of the area. The development to the south has created a strong building line. This proposal should continue that established building line. It is positive to see that plots 6 and 19 will address both streets, being true corner turning units'*. The applicants have agreed to a consistent materials palette that will give the development a stronger character. Porch canopies and heads and cills give the elevations a degree of quality, described by Design Officers as a, *'limited positive character reference'*. The proposed scheme has a net density of 48 dwellings per hectare. This is relatively high and reflects the lack of open space provision within the scheme. The Council's new parking standards that must be accommodated have a negative effect on the communal and private hard surface elements of the scheme, an issue pointed out by Design Officers.
72. Whilst the density is high, assessment of the scheme shows the houses have larger footprints than those in the adjacent development, have larger private rear gardens and

all include open front gardens, protected from the public highway by a birds-mouth trip rail style fence. The comparatively generous private amenity space within the scheme is considered to balance to some degree the visual and functional intrusions of the vehicular requirements of the development. The quality of the development is considered enhanced by the retention of the existing school boundary wall, both visually and in reflecting the history of the site.

73. Required amenity distances to facing dwellings in Fairview Terrace and Annfield Place are significantly exceeded. One dwelling in Croft Close has a principal (rear) elevation facing north towards the site – this is aligned with the vehicular areas of the development ensuring no facing privacy/amenity issues. Each of the existing dwellings in Croft Close with gables facing the site include an obscured first floor window facing north. The proposed dwellings include a narrow secondary living room window on the ground floor and a narrow secondary bedroom window at the first floor. The relative relationships are considered acceptable given the nature of the openings existing and proposed.

74. It is concluded that in terms of the requirements of Policy GDP1 for both residential amenity and design quality, and the advice in part 12 of the Framework for the latter, the scheme meets the standards required for a positive recommendation.

Affordable Housing

75. The application proposes a scheme of 100% Affordable Housing on a 'rent in tenure' basis, that meets the definition in the NPPF. 'Riverside', as Registered Social Landlord, will maintain ownership of the dwellings and will be responsible for the continued maintenance and management of the site. Riverside state their intention of providing affordable houses, specifically for households in housing need in the local area. The properties will be made available to potential residents via the Durham Choice Based Lettings System.

76. Housing Officers have provided a generic response to their consultation, identifying that there is a requirement for two of the dwellings to be affordable, as a 10% provision in a 'low viability area'. They offer advice on different forms of tenure.

77. Paragraph 64 of the Framework advises that where a scheme proposes a 100% affordable delivery, there is an exemption to the usual minimum requirement of 10%.

78. The applicants contend, and Planning Officers agree that the 100% affordable nature of the scheme carries a significant degree of positive weight in the planning determination.

Trees and Development

79. At the time of the submission the application site included a number of trees within it – principally on the community centre site boundaries, and two in the public highway adjacent the existing site entrance at the south-east corner of the land. The site layout has been redesigned in process to incorporate two layby visitor parking spaces on the existing highway, which would also result in the loss of these two trees too.

80. Policy EN11 of the Plan protects trees subject to Preservation Orders and in Conservation Areas. It advises that existing trees '*should be retained and incorporated in new developments where possible*'. Consideration in applications must be given to the effect existing trees contribute significantly to the setting of nearby or proposed buildings – Landscape Officers have confirmed the trees (and those in the highway verge in particular) '*contribute significantly to the character of the local street-scene and the visual amenity of the area*'.

81. The trees within the site have been cleared by the developer in advance of the consideration of this application, to allow the developer to avoid the implications of the protection of nesting birds in the Wildlife and Countryside Act 1981. The trees were not protected, or considered worthy of a Tree Preservation Order, however, Officers are disappointed that they were not allowed the opportunity to consider these as part of the application process and, in removing the trees, the applicant appears to have prejudged the outcome of the application.
82. The two trees in the highway verge were proposed retained when the scheme was first submitted. Concerns were raised that the development would physically detrimentally affect the specimens, and that the relationship of the trees to the new dwellings would cause conflict with expectations for residential amenity and property maintenance. The proposals have been amended to include two visitor parking bays on the existing roadside that would necessitate the removal of the trees.
83. The value attributed to the trees by Landscape Officers is acknowledged. The surrounding area has a good coverage of street trees in the highway verges, so that whilst the loss of the trees is regretted, the ultimate recourse to ensure their retention – a Tree Preservation Order – was not considered justified. The loss of the trees removes residential amenity concerns their retention would have caused. The loss of the ecology and biodiversity benefits of the trees counts as a negative in the assessment of the proposals. In the event of an approval, the responsibilities of the developer for nesting birds set out in the Wildlife and Countryside Act 1981 would be highlighted by an informative.
84. Policy EN11 allows for a positive recommendation if tree loss is mitigated by ‘*suitable replacement planting*’. The applicant has agreed to provide new tree planting on prominent boundaries within plots around the site, and implementation and short-term retention can be ensured through an appropriate condition. Given the applicant’s ownership and maintenance responsibilities for the site, the specimens have a better chance of being retained long-term.

Heritage Assets

85. The other potentially significant negative effect of the scheme is the loss of the non-designated Heritage Asset, i.e. the former school buildings. The buildings appear in good order and retain the intrinsic character of a traditional colliery village school building with obvious connections to the social history of the settlement. Whilst some elements – notably the windows - had suffered from recent maintenance regimes, the buildings appear externally largely unaltered. The SHLAA assessment had noted the preference for conversion and the need to justify any proposed demolition. This was conveyed to the applicants pre-submission.
86. In an effort to reflect the previous use of the site by degree, the developer has retained the brick-built school wall where it exists on the south and north boundaries of the site. This is an attractive feature, featuring decorative brick ‘specials’, that give it character and a raised design quality. This feature’s long-term retention can be ensured by a condition removing permitted development rights for demolition.
87. Design and Conservation Officers feel that the loss of the building has not been sufficiently justified within the submission. The applicant refers to the historic difficulties the Council has experienced in finding suitable uses for the building, and similarly difficulties in converting the existing structures to both a viable design and one that allows for meaningful development across the remainder of the site. The arguments take into account the ‘significant costs’ relating to the presence of asbestos in the building,

gas protection measures, control of the Japanese knotweed present on part of the site and the implications of the Coal Mining legacy in stabilising the land.

88. It is acknowledged that the buildings are not worthy of listed status. The loss of the finite resource of the buildings that reflect the social and historic evolution of the settlement is regretted. Ultimately, acknowledging the concerns of specialist colleagues, Planning Officers do not consider that a refusal could be sustained based on the retention of the school buildings.

Highway Safety

89. Highways Engineers are satisfied that the proposed layout and parking provision meets the new requirements of the Council's adopted highways standards. No concerns are raised as to the effect of the proposals on the wider highways network. The scheme is concluded to meet the requirements of Policy TR2 of the plan and paragraph 109 of the Framework.

Contributions

90. New Housing developments can reasonably be expected to mitigate their impact on the existing physical and social environment, either on-site, or through payments in lieu where appropriate.

91. The two local Members had indicated that whilst they supported the scheme in principle, that they would object to it if the mitigation requested by the NHS for local healthcare provision was not provided as part of the proposals. Specifically, this relates to an assessment of the 'list' size of the nearest existing medical practice, the additional patient impact based on a floor area/population and a resultant financial mitigation calculation of £1311. The applicant has confirmed the identified sum will be secured in the legal agreement. This requirement is considered wholly consistent with the statutory tests set out in Community Infrastructure Levy Regulations 2010, the policy tests in the National Planning Policy Framework and the advice in the Government's Planning Practice Guidance notes.

92. No open space is provided within the layout. The Spatial Policy team has identified that the required sum for off-site provision would be £33,201. The applicant has sent a viability case to prove their case that if the Council insisted on this provision, either on-site or through monies in lieu, then the proposed development of the site would be unviable. Spatial Policy Officers have assessed and accepted the case presented. Relevant to this aspect of the case being accepted is the general good provision and access to a number of types of formal and informal open space and recreation opportunities in and around Greencroft.

Other Issues

Economic Benefits

93. Material weight is given in the planning process to the economic benefits that would accrue from both the development process and the lifetime of the proposals. The Planning Statement submitted with the application sets out potential benefits of: employment of 58 people (direct and indirect), £130,000 in New Homes Bonus receipts, and around £5000 spend in the local economy per dwelling for furnishing and decorating. Whilst the latter is a very generic figure, likely to be affected by the size and tenure of the dwellings proposed, the argument is accepted, and positive material weight is accrued.

Ground Conditions

94. The Coal Authority confirms they have no objection to the proposals, confirming their requirements will be met through the Building Regulation process. Environmental Protection set out a standard condition to ensure that the site will be fit for residential development. Given the nature of this issue, it is considered that unless additional information is received, assessed and agreed before determination of the application, this condition needs imposed, 'pre-commencement'. This meets the requirements of Part 15 of the Framework.

Drainage

95. Northumbrian Water raise no objection, but request a condition be added to any approval to ensure their requirements are fully met. The scheme has been amended in detail in process to ensure it meets the requirements of the Council's Drainage and Coastal Protection Team in respect of controlling surface water drainage. Subject to a condition to ensure the scheme is implemented in accordance with the agreed Drainage Plan, this team have no objection. On this basis it is concluded that the scheme meets the requirements of Policy GDP1(i), (j) and (k) and Part 14 of the Framework.

Noise

96. Environmental Protection Officers have set out their requirements for a Construction Management Plan to ensure that the site works will not cause a Statutory Nuisance and will meet reasonable expectations of residential amenity. Again, given the nature of this issue, this is proposed required pre-commencement.

Ecology

97. The County Ecologist is happy with the available bat data but asks that the applicant be made aware that planning permission does not act as a derogation against the law and that they should take appropriate steps to ensure that the legislation surrounding bats is not breached. This can be added as an informative to any consent. The presence of Japanese Knotweed on the site requires specialist mitigation. The applicant has acknowledged the presence. An informative is proposed to flag the applicant's responsibilities for removal of the plant.

CONCLUSION

98. The application proposes a residential development on a previously developed site within an established urban area that offers a good range of services, facilities and opportunities. The site is concluded sustainable in principle.

99. The development would deliver a 100% scheme of affordable dwellings and bring economic activity into the area. The design and layout of the site is appropriate to the area, and results in a good level of amenity and privacy for existing and potential residents. These are all positive material benefits. The proposals are in accordance with the relevant housing Policy which is amongst those, 'most important for determining the application'.

100. The loss of the trees on the site is part mitigated by proposed replanting. The removal of the trees during the determination process highly regrettable, but ultimately not material to the determination. The proposal is compliant with Policy EN11.

101. The Heritage aspects of the proposals have only been partially addressed by the applicants but are ultimately accepted in consideration of the application as a whole, noting the positive of the retention of the school wall on the site boundary. Refusal of the application on this issue is likely to be unsustainable.
102. The required NHS mitigation is offered by the applicants. It is accepted that imposition of other usual requirements for residential development would make the scheme unviable.
103. The scheme is concluded on balance to be Policy compliant and acceptable.

RECOMMENDATION

104. That the application be APPROVED, subject to:
- A s.106 legal agreement that includes securing the tenure of all the approved dwellings to meet the definition of 'affordable housing' set out in the NPPF, and
 - A s.106 legal agreement that includes securing the payment for £1311 to directly mitigate the healthcare implications of the development, and
 - The following conditions:
 1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
Reason: 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 in strict accordance with the approved plans listed in Part 3 - Approved Plans.
(incl: Site layout block plan, highways layout, elevations + floorplans, materials plan, boundary treatment plan, landscaping plan XX Refs reqd.)
Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies GPD1, EN11, HO5, HO22, and TR2 of the Derwentside District Local Plan 1997 (saved policies).
 3. Prior to construction above ground floor level, a detailed scheme for the disposal of foul and surface water to the public sewer must be submitted to and approved in writing by the Local Planning Authority. The development must take place in full accordance with the approved details.
Reason: To prevent the increased risk of flooding from any sources in accordance with the Policy GDP1 of the Derwentside District Local Plan 1997 (saved policies) and parts 14 and 15 of the NPPF.
 4. For surface water drainage, the development must be implemented in full accordance with the updated Drainage Strategy dated Set. 2018, Ref: C (XX Expected).
Reason: To prevent the increased risk of flooding from any sources in accordance with the Policy GDP1 of the Derwentside District Local Plan 1997 (saved policies) and parts 14 and 15 of the NPPF.
 5. To mitigate potential contaminated land issues, 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 or c are not required. Throughout both the pre-commencement and completion phases of the development all documents submitted relating to Phases 3 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 Phase 3 Remediation Strategy detailing the proposed remediation and verification works is required. No alterations to the remediation proposals shall be carried out without the prior written agreement of the Local Planning Authority.

Completion

During the implementation of the remedial works 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.

Upon completion of the remedial works, 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.

6. To mitigate potential noise pollution for potential residents, all sound attenuation measures detailed in the noise assessment [NJD Environmental Associates NJD18-0052-00IR dated Dec 18] must be fully completed prior to the beneficial occupation of the development and permanently retained thereafter.

Reason: In the interests of residential amenity in accordance with Policy GPD1 of the Derwentside District Local Plan 1997 (saved policies).

7. To mitigate potential noise pollution for existing residents, the applicant shall prepare and submit a Construction/Demolition Management Plan (CDMP) to the local planning authority for approval before development works commence. The CDMP shall be prepared by a competent person and shall consider the potential environmental impacts (noise, vibration, dust, & light) that the development may have upon any occupants of nearby premises and shall detail mitigation proposed. This shall include:

- An assessment of the potential for dust emissions from the site and the mitigation measures that will be used to minimise any emission taking into account relevant guidance such as the Institute of Air Quality Management "Guidance on the assessment of dust from demolition and construction" February 2014
- An assessment of the likely noise (including vibration) emissions from the site and the mitigation measures that will be taken to minimise noise disturbance

taking into account relevant guidance such as BS5228 'Code of practice for noise and vibration control on construction sites' 2014.

- Where it is necessary to undertake piling on the site details shall be provided justifying the method of piling used so as to minimise disturbance, from noise and vibration, to the occupants of nearby premises.

- Details of the operating hours during which construction/demolition works are to be undertaken. Durham County Council's accepted hours for construction/demolition activities that generate noise are 8am – 6pm Monday – Friday, 8am – 1pm Saturday and no noisy working on a Sunday or Bank Holiday.

- Detail of any planned measures for liaison with the local community and any procedures to deal with any complaints received.

- Details of whether there will be any crushing/screening of materials on site using a mobile crusher/screen and the measures that will be taken to minimise any environmental impact.

No works, other than site investigation works, shall be permitted to start on site until the CDMP has been submitted and approved in writing by the local planning authority. Once approved the development of the site shall be carried out in accordance with the approved CDMP.

Reason: In the interests of residential amenity in accordance with Policy GPD1 of the Derwentside District Local Plan 1997 (saved policies).

8. Before development of the approved highways layout commences, full engineering details must be submitted to the Local Planning Authority and agreed in writing. The layout must thereafter be implemented to an adoptable standard in full accordance with said agreement and be completed in full before occupation of any dwelling hereby approved.

Reason: In the interests of highway safety and Policy TR2 of the Derwentside District Local Plan 1997 (saved policies).

9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Statutory instrument revoking or re-enacting that Order with or without modification, the brick wall retained on the south and west boundaries of the site in plots 11, 12, 13, 14, 15, 16 shown on the approved site plan must not be removed, altered or replaced at any time.

Reason: To retain connection with the historic interests of the site in accordance with the advice in the NPPF.

STATEMENT OF PROACTIVE ENGAGEMENT

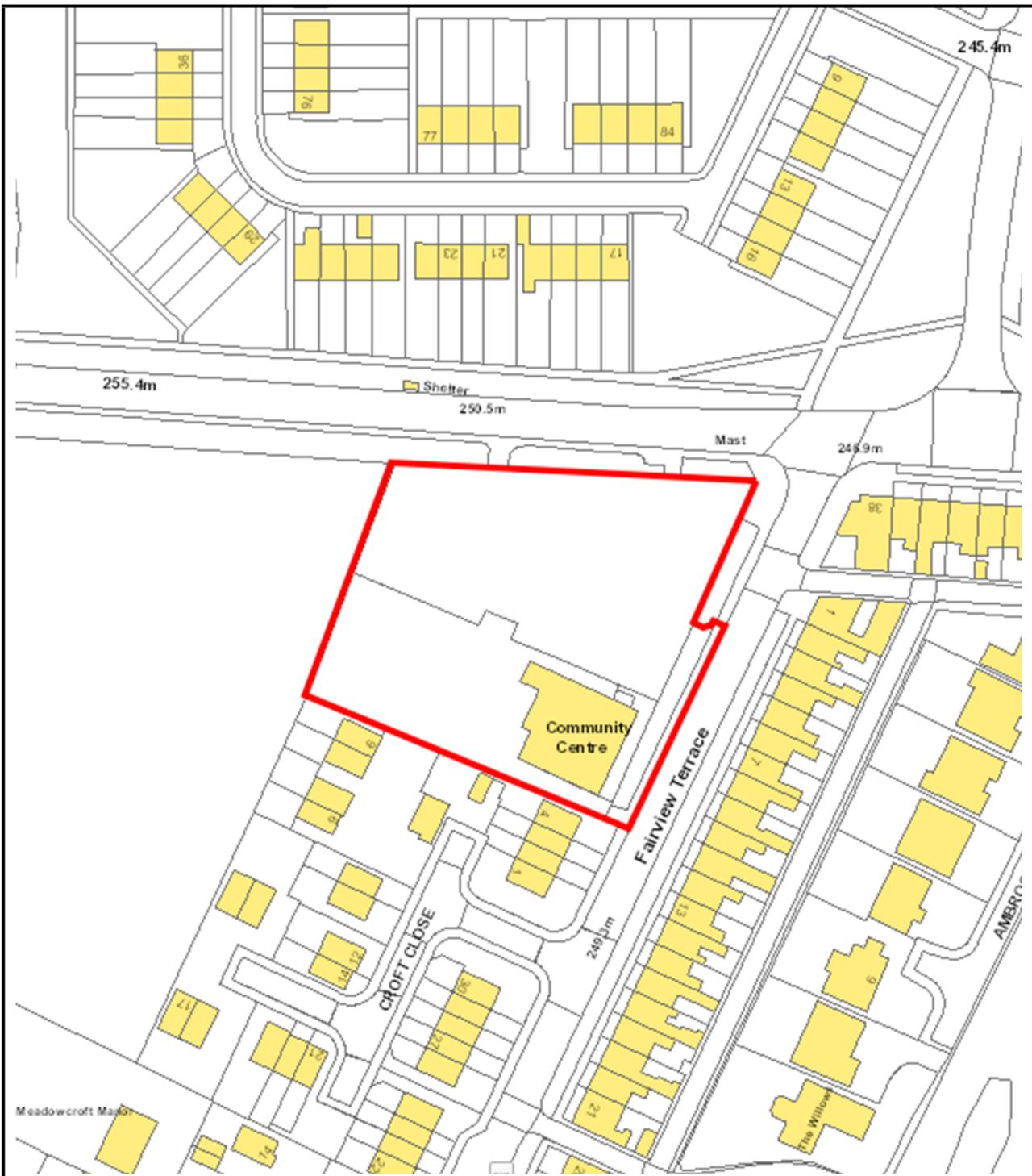
The Local Planning Authority in arriving at its decision to approve the application has, without prejudice to a fair and objective assessment of the proposals, issues raised, and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering 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

Wildlife and Countryside Act 1981
Derwentside District Local Plan 1997 (saved policies).
Strategic Housing Land Availability Assessment
Statutory, internal and public consultation responses
Submitted forms, plans and supporting documents





<p>Planning Services</p>	<p>Demolition of existing community building, erection of 19 residential dwellings, creation of new access and associated works.</p> <p>Application Number DM/19/00105/FPA</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 28th March 2019</p>		<p>Scale NTS</p>

This page is intentionally left blank

Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/18/03865/FPA
FULL APPLICATION DESCRIPTION:	Change of Use of 12 self-contained flats (Use Class C3), within two three storey buildings, into a hostel (Use Class C2) incorporating 11 self-contained flats, and 1 office/crash pad facility for 16 to 21 year olds.
NAME OF APPLICANT:	Changing Lives
ADDRESS:	Hedley House 282 Park Road South Moor DH9 7ED
ELECTORAL DIVISION:	Craghead and South Moor
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 relates to Hedley House, a modern three storey block of residential apartments that face onto the main street, Park Road, in South Moor. South Moor is now part of the extended settlement of Stanley. The significant facilities and services offered by the main centre of Stanley are around 1km from the site (as the crow flies). This main town offers a supermarket, bus station, leisure centre, Council Offices and a range of social and commercial facilities.
2. Hedley House is in a mixed-use area, that includes a restricted offer of retail services, residential properties and other uses – the adjacent commercial buildings include a dance academy, a dog grooming business, a white goods repair shop and a plastering business.
3. In terms of the urban form, surrounding dwellings include Victorian stone- and brick-built terracing and commercial buildings, modern bungalow developments for older residents, small modern housing developments of detached and semi-detached one and two storey dwellings, and two post war dwellings immediately to the south of Hedley House, one of which is a part-time manned Police Station. Greenland Community Primary School is 200m south of the site, with the Memorial Park 75m beyond that. Buildings fronting Park Road are one, two and three storeys in height. The pavement in front of the site and the adjacent commercial buildings is particularly wide, at 6.8 metres.

4. The existing modern building is brick built, three storeys in height and attached to the gable end of the adjacent building to the north. The block has two communal front entrances and two at the rear. The rear accesses are ramped from a lower access/service area shared with the terraced dwellings of Holyoake Terrace, with enclosed bin stores and defined parking set out specifically for Hedley House. The development is set back from the pavement on the front elevation by small landscaped areas which separate living room windows from the pavement, with the front boundary marked by a wall with fence inserts and a hedge behind. The landscaping wraps around the south gable end of the building and the rear.

The Proposal

5. The application proposes a change of use of the building into a hostel incorporating 11 self-contained flats, and 1 office/crash pad facility for 16 to 21-year olds, to be run by the north-east based charity Changing Lives. The Office would be manned 24 hours a day. The proposal is supported by a Management Service Delivery Information Document that sets out the detailed operation of the building and the use.
6. This application is reported to Committee as a 'major' development given number of residential units involved.

PLANNING HISTORY

7. The existing building was let for 12 residential flats within the C3 use class by Coast and Castles Housing Association.

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 8 - Promoting healthy and safe communities.* The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. It should promote social interaction, including opportunities for meetings between people who might not otherwise come into contact with each other. Developments should be safe and accessible, '*so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion*'.
14. *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.
15. *NPPF Part 12 - Achieving well-designed places.* Planning policies and decisions should ensure that developments achieve a range of aims including, '*create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience*'.

NATIONAL PLANNING PRACTICE GUIDANCE:

16. 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 and is subject to continual review.
17. *Health and wellbeing* - seeks to ensure opportunities for healthy lifestyles have been considered in decision making along with the potential for pollution and other environmental hazards, which might lead to an adverse impact on human health.

LOCAL PLAN POLICY:

18. The following is a summary of those saved policies in the Derwentside District Local Plan 1997 (saved policies) relevant to the consideration of this application:
19. *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, deterring crime and consideration of drainage.
20. *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:

21. Paragraph 48 of the NPPF states 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' stage CDP was subject to consultation in summer 2018. On the 16th January 2019, Cabinet approved the 'Pre-Submission Draft' CDP for consultation. 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:

22. **Highways** – advise that there is adequate parking provision in accordance with the Councils Parking Standards for the proposed planning Class C2 use which requires 1 parking space per 5 members of staff. It is noted that the site is also conveniently located next to a bus stop for journeys by public transport, the Front Street is also well protected with double yellow parking restrictions.

EXTERNAL RESPONSES:

23. **Durham Constabulary Crime and Community Issues** – acknowledge the concerns expressed by some residents but note that the Police recognise the need for this type of supported accommodation. They advise that the Neighbourhood Policing Team have been involved in the consultation process and are supportive of the proposal.

INTERNAL CONSULTEE RESPONSES:

24. **Spatial Policy** – draw attention to Policy GDP1 as the relevant Development Plan Policy, confirming that it can be afforded weight in the decision-making process.

25. They note further that the application suggests measures would be in place to ensure round the clock support at the facility, addressing potential amenity concerns for neighbours. In relation to potential benefits, the proposal may provide accommodation for those who require support and assistance in a location that is close to local facilities and services.

26. **Durham County Council Housing Solutions** - advise that Hedley House will assist Durham County Council to fulfil its statutory Duty to Homeless people with a local connection to County Durham between the ages of 16 and 21 years who have been identified as single, homeless with low to medium support needs.

27. They note that in addition to young people aged between 16 and 21 open to CYPS (Children and Young People's Services) to include those who are assessed as child in need (CIN) or Care Leavers (CL).

28. The provision will provide the following to Young People:

- Immediate access to a safe room/sit-up room – those young people presenting as homeless with a priority need or reason to believe.
- Accommodation with housing related support in order to maintain independence.

29. It is advised that all agencies involved with the young person will agree to sign up to and adhere to a multi-agency agreed care and support plan.
30. Housing Solutions note that without such accommodation young people could end up rough sleeping or sofa surfing. In addition, this type of accommodation provides young people with the life skills to go onto holding their own successful tenancy, as well as securing employment, Education and Training.
31. The accommodation will have 24hr onsite support with 10 individual flats and 1 crash pad opposite main office offering 24hr emergency access via telephone referrals from CYPS EDT or Housing Solutions Out of Hours Officer.
32. It is noted that the young person will receive a Licence agreement – this is based on an individual need and will be reviewed every month via the accommodation panel; to ensure appropriate move on options are considered and the accommodation is relevant to the needs of the young person. It is anticipated that the average placement length will be 6 – 9 months, subject to the needs of the young person.
33. Housing Solutions has worked with Changing Lives for a number of years and fully support the application. They are customer focussed and provide the young people with the skills they require at the same time as providing support to the wider community.

PUBLIC CONSULTATION EXERCISE:

34. Twenty-four consultation letters were sent to surrounding properties, site notices were posted at the front and side of the site and an advertisement was placed in the local press.
35. Twenty-seven letters of objection have been received from 25 dwellings. Five of the letters are from dwellings between 250m – 470m from the site. One further letter queried the detail of the description of the proposal.
36. There are three clear main elements of public concern: the effect of the proposed use on the local community, the appropriateness of the location for proposed residents in the scheme, and the extent of the Planning consultation exercise.
37. For the first issue, a number of written responses feel that the development is aimed at South Moor as a 'dumping ground' for problems with repeat planning applications of this type. The settlement is contended to have an existing set of problems with drink, drugs, crime, anti-social behaviour and animal cruelty, particularly evidenced by specific recent Police activity in the immediate locale, in addition to regular Police presence, all of which causes distress to residents. One resident has written listing the 2018 crime statistics for the area. The area is described as run-down and suffering from a lack of investment and improvement. There are too many youths in South Moor, and they bring problems of drink, drugs and alcohol. There are no facilities for young people in South Moor. The existing Youth Club is aimed at youths up to 16 years in age and will not be available to the new residents.
38. One resident complains that South Moor is finally being improved, that there is new housing, improvements to existing housing, new shops and businesses, and improvements to the park, and that all this will be undermined by the proposal.
39. A significant element of the concern as to the effect of the proposed use on the local community is the fear of crime. Objectors describe a potential particular effect on a vulnerable, elderly, ill and infirm population that will suffer from an increase in anxiety,

fear, stress and isolation if the application is approved, exacerbating existing problems of such in the area. Families with children and general householders will suffer too.

40. In terms of the appropriateness of the location for proposed new residents in the scheme, objectors are concerned that this is an inappropriate location for youths who may have mental, physical and behavioural problems, who may have been in trouble with the Police, who display dubious character flaws, who have drug and alcohol addiction problems, who will not have necessary facilities and support, or be subject to the 24 hour supervision, control and curfews they require, in an area of no amenities or job prospects. They will fall easy pray to local drug dealers and be susceptible themselves to the existing crime in the area.
41. It is contended that the applicants experience problems with their other facilities and that comparable operations in Chester-le-Street cause issues.
42. There is fear from some residents at the relationship to both the adjacent dance studio and the nearby primary school, with the primacy of the Council's Duty of Care responsibility for these children and families a focus for some objectors.
43. Also raised as of concern by one resident are traffic issues experienced by existing residents for on-street parking both outside the existing dance studio and in surrounding streets, with parking on pavements, parking of works vehicles, and highway visibility issues at junctions. A number of residents are concerned that care agencies visiting the facility will cause disruption and traffic problems.
44. Some correspondents have been frustrated and confused by the formal consultation process, the extent and format of which is challenged by many. There has been confusion with other meetings and consultations held before and during the planning process by others. Additional public meetings are requested by some.
45. Reference is made by a number of correspondents to a recent planning application for conversion of a school in the area to a hostel use (that application, at Greenland School was withdrawn before determination).
46. The potential for the proposed facility to devalue house prices in the area is a concern to many.

APPLICANT'S STATEMENT:

47. Changing Lives have been providing support to vulnerable people in the North East of England since 1970 and have been supporting Durham residents since 2005.
48. The Hedley House project will support young people, from the ages of 16 to 21, from Durham who need a low to medium level support that will enable them to live, work, study and train independently in the County. These individuals may not have had the best start in life and will often be homeless, at a risk of homelessness or leaving the looked-after system. This makes this project an essential link for Durham to enable a sustainable transition into adulthood, for some of its most vulnerable young people.
49. Changing Lives are vastly experienced in managing services (often in areas of perceived disadvantage) which require a robust safeguarding environment and are confident that the proposed criteria, process, staff profile and programme of support will enable the project and its young persons to not only to flourish but to also be seen as an asset to the community of South Moor.

50. Changing Lives promotes the positive emotional and behavioural development of all its residents and, when required, they work closely with the relevant services to minimise offending behaviour. This is achieved through delivering a wide range of support services, activities and programmes which are designed to improve health, behaviour and self-esteem and ensure that young people have all the necessary skills to move into employment, education and training. To name just a few, this includes counselling sessions, maintenance workshops, volunteering and art sessions.
51. Changing Lives would implement their Community Standard which provides transparency into the organisations operations and gives the local community an opportunity to contact the project 24 hours per day to discuss any issues. Through the Community Standard, Changing Lives will quickly and openly deal with any issues raised and appropriately respond to members of the community. Furthermore, a Quarterly Community Steering Group will be formed for local residents, project representatives and local agencies to manage and monitor community concerns and engagement.
52. Changing Lives has a proven track record of making positive contributions to areas and local communities in which they operate. This planning application has the support of Durham Constabulary and Durham County Council Housing Solutions. Changing Lives are hopeful that the application will also be support by members of the Planning Committee to deliver this essential facility for County Durham residents.

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=PJZTZLGDH0100>

PLANNING CONSIDERATIONS AND ASSESSMENT

The Principle of the Development

53. 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 proposed use of the building as a hostel and the fear of crime.

The Development Plan

54. 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. 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.
55. 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. Policy GDP1 which seeks to both to protect the amenities of neighbouring occupiers and land users and to use design and location to deter crime and increase personal safety, is the most relevant and important policy for the proposed use of the site, and has resonance with parts 8 and 12 of the Framework in terms of both its

general design implications, its protection of amenity and its requirements to deter crime and increase personal safety. This Policy leads determination of the application.

The NPPF

56. In terms of the Framework, the 'most important policy for determining the application' is, as noted above, GDP1 which is considered to have a high degree of consistency with the advice in the NPPF and is not out of date. Consequently, paragraph 11 of the NPPF is not engaged. The relevant advice set out in the Framework, particularly at Parts 8 – Promoting healthy and safe communities and 12 – Achieving well-designed places, has been given special attention.

The Use of the Building

57. Hedley House has been in a residential use as twelve flats managed by a Housing Association. The applicant contends that the level of occupation has gradually run down as a result of low demand for its specific use in this area.

58. The building and its curtilage have been designed as residential apartments and operated with on site car parking, screened bin stores, small surrounding planting / amenity spaces, all of which have been designed to give an appropriate level of residential amenity for the existing use, and these would be generally consistent for the proposed use.

59. As a change of use with no external building works, there are no additional adverse effects on privacy from the development to surrounding dwellings, gardens and public areas. The proposed incorporation of CCTV cameras should not affect surrounding residents as it is directed at the building's entrances. The residents of Hedley House on the ground floor level enjoy a level of privacy enhanced by the small front garden that separates the windows from the pavement in a similar arrangement to many of the Victorian dwellings in Park Road.

60. Where the change of use may result in noticeable external change is in the servicing of the building and the use of external spaces. From the Management Service Delivery Information provided in support of the application, it appears that if there is a need to house a new resident at unsociable hours, this will be the exception, rather than the norm, and this will therefore not be to a frequency that would represent an unreasonable intrusion onto general expectations of residential amenity.

61. Ultimately, the building has been designed for, and used as residential apartments, and the proposal is likewise for a residential apartment use. In this respect the proposals are acceptable. It is the changed nature of the residential use that both necessitates the need for planning permission and that has caused the majority concern. The implications of this are discussed below.

Amenity and The Fear of Crime

62. The Framework sets out at paragraph 127 that planning policies and decisions should *'create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience'*. Paragraph 91 advises that, *'Planning policies and decisions should aim to achieve healthy, inclusive and safe places which: ...are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion'*.

63. A useful lead in how to assess a concern was given by the Planning Inspector assessing a development elsewhere in County Durham for a Change of Use from a C3 (dwelling-house) to a C2 Use Class (residential accommodation with care) (Ref: 3/2013/0304 Lilac House, Hunwick, Crook, DL15 0JW, Appeal Ref: APP/X1355/A/14/2219717). That application was subject to objection from Durham Police, from the Council and from residents. The Inspector stated that, *'the courts have held that the fear of crime is only a material consideration where the use, by its very nature, would provide a reasonable basis for concern. It is not a foregone conclusion that the use of the land as a care home in the manner proposed would inevitably result in an increase in crime, and the fear and concern must therefore be supported by evidence'*.
64. 'Crime and security as a planning matter increased in profile after Section 17 of the Crime and Disorder Act 1998 required all local authorities to exercise their functions with due regard to their likely effect on crime and disorder, and to do all they reasonably can to prevent crime and disorder. The prevention of crime and the enhancement of community safety are matters that a local authority should consider when exercising its planning functions under Town and Country Planning legislation' (*source: DCP.a). 'Generally, Inspectors have taken the view that, given appropriate management, the occupants of these properties (*Hostels and care in the community establishments*) should not cause significantly greater impact than normal homes. The view that providing such facilities actually provides a wider benefit is often also cited and weighs against local anxiety' (DCP.a).
65. Officers accept that the resident's fear of crime is real. The specific nature of the use, the operation proposed, and the nature of the residents' needs and occupancy may not be fully understood by some who have commented, potentially on the basis or relayed and partial or even erroneous information.
66. There are a number of relevant aspects of the proposals that lead Officers to their conclusion. Potential residents have been identified as single, homeless with low to medium support needs. This would preclude residents that require high levels of care and supervision because of behavioural or dependency needs. There is a 'right to decline' potentially unsuitable residents. Operated in this manner, this potentially addresses one of the significant concerns of objectors.
67. It is noted that Housing Solutions support the application on the basis that the development will assist Durham County Council to fulfil its statutory Duty to Homeless people with a local connection to County Durham. The proposal therefore brings specific benefits and meets the needs of residents of County Durham. That the proposal will have a positive effect on the lives or potentially vulnerable local young people is of positive material weight in the planning balance.
68. Whilst it is not the role of the Planning system to duplicate other regulatory systems and control, nonetheless both Councillors and the public must have assurance that the facility, if granted consent will both operate in the manner indicated, and that it will not change or evolve into a different form. It is proposed this is achieved by agreement and conditioning of a headline Management Plan, based on elements of the submitted 'Management Service Delivery Information' document submitted in support of this application that are relevant to the planning process. Using the full document for a Planning Condition would extend the planning application's control and responsibility into areas that would be inappropriate (and that are subject to other controls). The presence of a Management Plan has been shown to be a significant component in addressing concerns on C2 and hostel residential uses. The absence of one was of concern to the Planning Inspector assessing the Lilac House case referred to above.

69. The Management Service Delivery Information indicates that the residents' needs, and therefore tenure, will be reviewed on a monthly basis. There will be 24 hour on-site staffing at the property. There will be a secure Door System and CCTV in operation. The applicants have additionally offered that local residents' representatives are invited to the Steering Group meetings that monitors the running and operation of the facility, where concerns and issues can be raised.
70. It is significant in Officer's assessment, and shows the due diligence of the applicant, that the Neighbourhood Policing Team indicate that they have been involved in the pre-planning application consultation process, and that they are supportive of the proposal. It is further significant that there has been no specific and direct evidence that the use of Hedley House as a hostel in the manner proposed would inevitably result in an increase in crime. Housing Solutions indicate that they have worked with the applicants for a number of years. Objectors' reference to the applicant have had 'problems' at another site in Birtley are not elaborated. Likewise passing reference to alleged issues at the YMCA in the centre of Chester-le-Street is not quantified as relevant evidence.
71. The Inspector at Lilac House did take note of the track record of the applicant and proposed care provider in that instance. Changing Lives is a national charity based in the North East that has been supporting vulnerable people for over 45 years.
72. In summing up Officers' conclusions on the aspect of the fear of crime, the use by its nature would not by its nature provide a reasonable basis for concern, and these concerns can be formally mitigated both by a proportionate level of control by a Management Plan, and by the reasonable expectations of other regulatory agencies and the applicants, taking into account their history. There is no underlying reason why the use proposed should lead to an increase in crime, and no evidence had been put forward to show why this would be the case.

Highway Safety

73. County Highways Engineers note the existence of the ten car parking spaces designated for the use of Hedley House, which meets the standards required for a C2 use, as proposed. They note further that the site is also conveniently located next to a bus stop for journeys by public transport, the Front Street is also well protected with double yellow parking restrictions.
74. The bus stops give good access to the shopping and leisure offer of nearby Stanley, which at around 1km distance could be considered in reasonable walking distance for the age of residents of the facility.
75. Concerns have been raised by residents at existing inappropriate use of the wide footpaths in front of Hedley House by the existing businesses and the dance school to the detriment of highway safety stating that this will be exacerbated by visitors to the new use. The existing illegal use of the pavement would be within the control of the Police, if reported. Given Hedley House has available existing parking provided, there is no reason to suspect that the use should generate parking on the pavement. If this did become a problem, referral to either the Police or the proposed Steering Group could be avenues to address it.
76. The proposals are acceptable in respect of the highways implications considered against policies TR2 and GDP1(h).

Other Issues

77. Members will be aware that arguments for property depreciation have no weight in the planning assessment.
78. The withdrawn application for, 'change of use from school to 109 bed supported care hostel with ancillary facilities' at Greenlands School, referred to by a number of objectors is of no relevance to the current proposals.
79. There has been criticism of the extent of the Planning consultation exercise, and confusion about other consultation exercises undertaken. The Planning consultation exercise sent direct mail to those dwellings and businesses directly adjacent or facing the site, and those sharing the service yard at the back of Hedley House. Site notices were posted to the front of the building and near the side vehicular access. A notice was posted in the local press. This meets the Council's and national consultation requirements. A pre-submission enquiry by the applicant to the Planning Section was only directed at establishing the existing use of the site.
80. The proposed use was subject to a consultation by Councillors and Housing Officers before the planning application was submitted. During the planning process there has been some confusion relating to an extension of this separate consultation process for a street omitted from that exercise. This was not part of the planning process.
81. There has been additional, uncontrolled and unauthored consultations with wider residents, apparently of South Moor and beyond which may have been instigated by residents/objectors to the application. This appears to have been a significant source of confusion and some distress to residents.

CONCLUSION

82. The residential use of the the building and its implications for existing residential amenity is established.
83. A significant element of the assessment of the application has been residents' fear of crime that it has been contended will be attracted to or will emanate from the new use. Directed by the advice in the Framework, appeal decisions and the view of the courts, Officers concluded that the use would not inevitably result in an increase in crime, and objections have not provided evidence that the grant of planning permission would result in crime from this or attracted to this specific proposal. Conditions for a headline Management Plan to ensure the basis of the operation, without overlapping the regulatory powers of others can help mitigate this concern.
84. The highways implications of the new use are acceptable, and there are powers to control any parking that objectors fear could take place on the footpaths at the front of the site. The physical implications from the changed servicing of the different use proposed are not such that they affect existing residential amenity and privacy to a degree that is unreasonable.
85. The proposals are considered acceptable assessed against the 'most important policy' for determining the application – GDP1. The advice of the Framework and the weighting in the planning balance of objectors' concerns, informed by caselaw has been taken into account. The proposals are recommended for approval.

RECOMMENDATION

95. That the application be APPROVED, subject to the conditions detailed below:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
Reason: 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 in strict accordance with the approved plans listed in Part 3 - Approved Plans: Site Location Plan, Proposed Layout Plans.
Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policy GDP1 and TR2 of the Derwentside District Local Plan 1997
3. Before the development hereby approved is brought into use a headline Management Plan to include, but not restricted to details of: 24 hour on-site staffing at Hedley House, a secure Door System, a CCTV system and operation, the establishment of a Facility Steering Group with availability to surrounding residents' representatives, the hostel's monitoring provisions, and an outline of the responsibilities of other Regulatory Agencies with contact details for the facility Manager must be submitted to and approved in writing by the Local planning authority. The Use must thereafter be operated only in full accordance with said Management Plan.
Reason: In the interests of residential amenity, to address fears of crime and to ensure highway safety, meeting the requirements of Policies GDP1 and TR2 of the Derwentside District Local Plan 1997 (saved policies) and Parts 5, 8, 9 and 12 of the Framework.
4. Details of CCTV system to monitor the entrances to the building must be submitted to and approved in writing by the Local Planning Authority, implemented in full, and made operational prior to the commencement of the use hereby approved. The CCTV system must be kept operational at all times Hedley House is in residential occupation.
Reason: Reason: In the interests of residential amenity, to address fears of crime and to ensure highway safety, meeting the requirements of Policies GDP1 and TR2 of the Derwentside District Local Plan 1997 (saved policies) and Parts 5, 8, 9 and 12 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 (revised 2018)

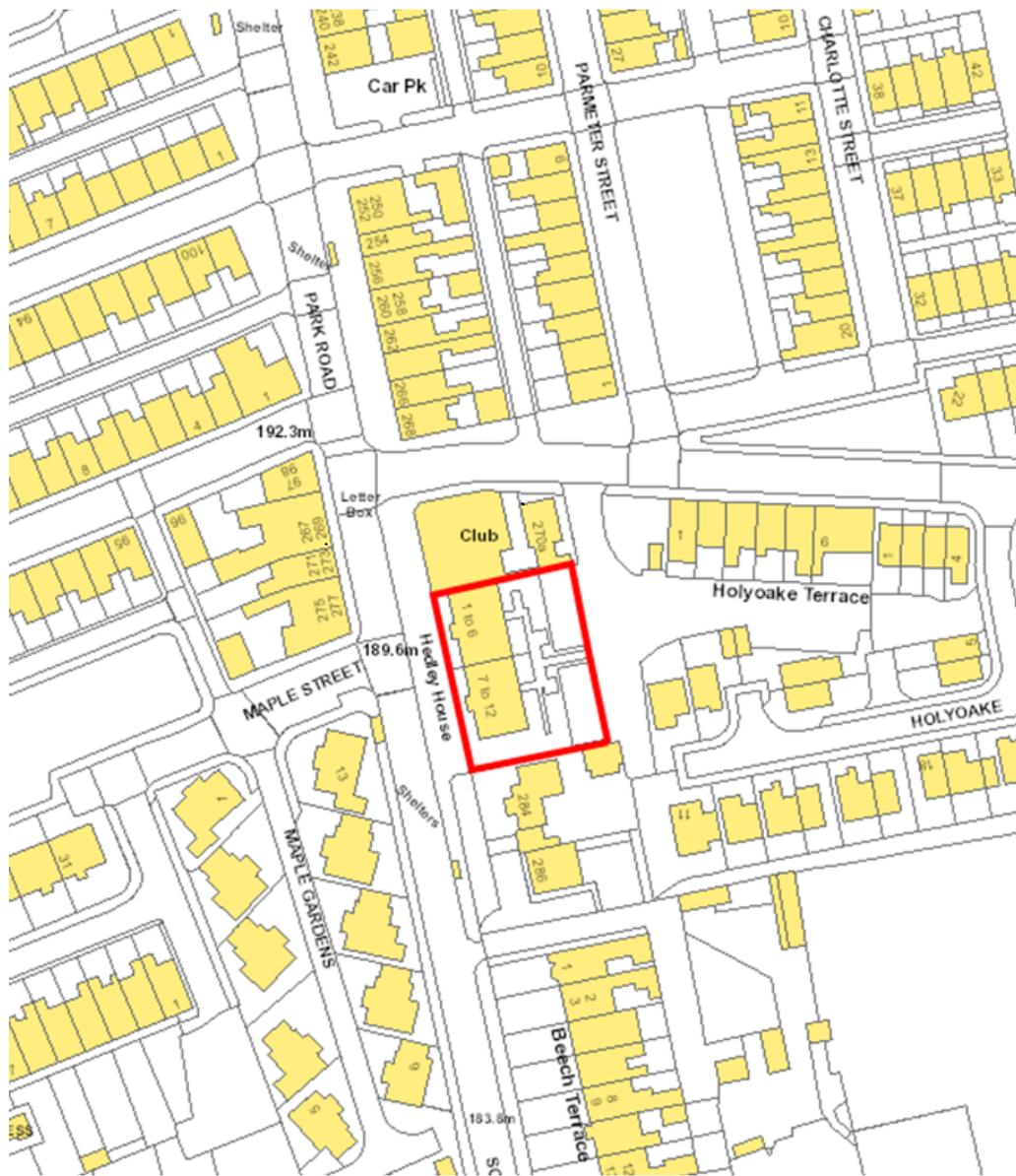
National Planning Practice Guidance Notes

Derwentside District Local Plan 1997 (saved policies)

Statutory, internal and public consultation responses

Submitted forms, plans and supporting documents

*DCP.a – Development Control Practice: 4.124 Crime and Disorder



Planning Services

Change of Use of 12 self-contained flats (Use Class C3), within two three storey buildings, into a hostel (Use Class C2) incorporating 11 self-contained flats, and 1 office/crash pad facility for 16 to 21 year olds.

Application Number DM/18/03865/FPA

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

Comments

Date 28th March 2019

Scale NTS

Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/18/03860/OUT
FULL APPLICATION DESCRIPTION:	Erection of 2 dwellings (outline)
NAME OF APPLICANT:	Mr S Healer & B Jewitt
ADDRESS:	Land to the east of 3 Whitehill Hall Gardens, Chester-le-Street
ELECTORAL DIVISION:	Chester-le-Street West Central
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 an area of flat grassed land within the southern part of a small housing estate of 14 dwellings which were constructed in the 1990s within the former walled garden of Whitehill Hall. The estate lies adjacent to and to the north of a larger 1970's housing estate known locally as the Whitehill Park Estate located in the western area of the Chester-le-Street. The southern boundary of the site contains the last remaining section of wall that formed the walled Garden that served the former Whitehill Hall which has been demolished. The curtilages of residential properties adjoin the site to the south and west. The access road for the housing estate adjoins the site to the north and east. The site is overlooked by residential properties to the north and east.

The Proposal

- 2.The application seeks outline planning permission for the erection of two detached dwellings with all matters reserved.
- 3.This application is reported to Committee upon the request of Councillor Simon Henig due to the loss of visual amenity and previous planning decisions in this location.

PLANNING HISTORY

- 4.The site has a long and chequered planning history spanning approximately 30 years however the following applications are of most relevance to this application:

- 5.EN/18/00894 Enforcement enquiry into erection of 2m high fence (No breach as only fencepost holes dug.)
- 6.2/06/00166/OUT Outline application for construction of two detached dwellings (withdrawn).
- 7.2/06/00333/CLU Certificate of lawfulness for existing use of land for amenity, play and recreational use (Approved).
- 8.05/00505/OUT Outline application for construction of 2 detached dwellings (Approved).
- 9.05/00313/OUT Outline application for proposed construction of 2 detached dwellings (Withdrawn).
- 10.05/00282/OUT Outline application for residential development. This was refused on the ground that it would comprise over development, be out of keeping with the prevailing density and street pattern of the surrounding area, contrary to Chester-Le-Street Local Plan Policy HP9 and that the proposal would result in the loss of mature protected trees from the land which would be detrimental to the visual amenity of the area and contrary to local plan policy.
- 11.2/97/00322/FUL 1 Dwelling with garage (Approved).
- 12.91/00391/FUL Bungalow (Approved).
- 13.2/90/00180/out Outline application for residential development (Approved).

PLANNING POLICY

NATIONAL POLICY

- 14.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.
- 15.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.
- 16.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.
- 17.The following elements of the NPPF are considered relevant to this proposal;
18. *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.

19. *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.
20. *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.
21. *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.
22. *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.
23. *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.
24. *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.
25. *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.
26. *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.

27. *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.

NATIONAL PLANNING PRACTICE GUIDANCE:

28. 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.

29. *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, enhancing the quality of buildings and spaces, by considering amongst other things form and function; efficiency and effectiveness and their impact on wellbeing.

30. *Conserving and Enhancing the Historic Environment* – Explores the terms ‘significance’ and ‘special architectural or historic interest’ and ‘harm’, noting assessment of the impact on setting needs to take into account, and be proportionate to, the significance of the heritage asset under consideration and the degree to which proposed changes enhance or detract from that significance and the ability to appreciate it.

31. *Open Space, sport and recreational facilities, public rights of way and local green space* - Gives key advice on open space, sports and recreation facilities, public rights of way and the new Local Green Space designation.

32. *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.

33. *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.
34. *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.

LOCAL PLAN POLICY:

35. The following saved policies in the Chester-le-Street Local Plan 2003 are relevant to the consideration of this application.
36. *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.
37. *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.
38. *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.
39. *Policy HP16 – Enclosure of Open land in Residential Areas* – Requires changes of use or enclosure of public open spaces, landscaping and amenity strips for private residential purpose to have regard to residential amenity, character of the area, the use and location of the land, highways safety, the design and style of means of enclosure.
40. *Policy RL1 Sport and Leisure Opportunities: General* – Requires existing leisure facilities, open spaces and rights of way to be protected and promotes the improvement or creation of new recreation and leisure facilities.
41. *Policy RL3 Protection of Outdoor Recreational Facilities* – development that would result in the loss of amenity open space, playing pitches, courts, greens, parks, allotments and rights of way will not be allowed unless the development is for new or improved facilities or suitable equal standard or better alternative provision is provided for or where there is an identified excess in provision of a particular facility.
42. *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.

43. *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.

44. *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.

45. *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:

46. 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:

47. *Highways* – No objections to the principle of new residential development but advise that for any full planning application (or reserved matters) the proposed new dwellings will need to achieve minimum on-site car parking provision in accordance with the requirements of the Council's parking standards.

48. *Northumbrian Water* – No comments offered other than informing the LPA that a public sewer crosses the site.

49. *Coal Authority* – No objections.

INTERNAL CONSULTEE RESPONSES:

50. *Design and Conservation Officer* - In relation to heritage matters the Officer has no objections or fundamental concerns in relation to the principle of residential development on this site. In terms of the walled garden, given the extent of development that has occurred and that the historic garden buildings once

attached to the north, south and west walls that have been lost, the walled garden is far from complete and therefore the Officer considers that it has lost a high degree of its authenticity, integrity, and heritage value. That said, the Officer advises that the historic garden walls that exist still represent historic fabric that is important as a primary source of evidence giving a clear understanding of sites original use. As such they are considered to have a degree of historic and evidential values and can also be considered to have aesthetic merits, the patina of age contrasting with the modern dwellings. It is therefore the view of the Officer that it is of the utmost importance that these walls are retained, maintained and protected.

51. In relation to design matters the Officer considers that the loss of the open land would appear to have an adverse impact due to the land appearing as an open area of green amenity space. Furthermore, it is advised that the site layout does not reflect the existing as the proposed dwellings are shown to step forwards from the established building line and they do not have deep front amenity spaces.

52. *Spatial Policy* – Advise that saved policy NE2 (Development outside of settlements) is of relevance it provides a useful starting point for considering the locational credentials of planning proposals. In terms of Saved Policy HP6 (Residential within Settlement Boundaries) sets out specific requirements for development within these defined boundaries. It is noted that the policy only supports development within defined settlements if the proposal will be on a brownfield site. The Officer advises that the NPPF's definition of previously developed land specifically excludes 'land in built up areas such as residential gardens, parks, recreation grounds and allotments'. The Officer notes that there is a certificate of lawful use, ref. 06/00333/CLU in place in which the council recognises the purpose and use of the land as a communal green. It is considered that this does not preclude development in this location but does mean that further consideration will be required as to how appropriate this particular location is for residential development.

53. It is advised that saved Policy RL1 states that existing open spaces will be protected; this could have bearing on the proposals if it is considered that the land in question constitutes open space. Furthermore, it is pointed out that Saved Policy RL3 specifies that development which would result in the loss of any amenity open space should not be permitted unless it meets a set of specific conditions. Again, it is considered that this could have bearing on this proposal if the land in question is considered to be open space.

54. In terms of Saved Policy T17 (General Policy) it is advised that a proposal of this scale would not be expected to make any contribution towards public transport, walking or cycling infrastructure, though again this is a consideration to be borne in mind when considering the application. Furthermore, Saved Policy T6 (Provision for Public Transport) encourages sustainable travel by requiring development to be located on, or as near to as possible, existing bus routes, and footpath links should be available. Regarding sustainability, the Officer considers this to be a sustainable location from the point of view of accessibility of sustainable transport options.

55. In terms of housing land supply, the Officer considers that the contribution that two units would make to boost housing supply is not significant and should only be afforded limited weight in the determination of a future planning application.

56. Regarding the non-designated wall, the Officer advises that the development will need to be mindful of the wall and its setting. In terms of design the Officer

highlights the loss of amenity space and loss and lack of privacy. The Officer advises that educational provision is a material planning consideration and that demand on other community services and facilities should be taken into consideration and mitigated if necessary.

57. In this instance the Officer advises that 11d of the NPPF is engaged due to the fact that the housing policy most important for determining the application is out of date. However, the Officer considers that relevant remaining saved LP policies must still be afforded some weight. It is advised that simply because the paragraph 11d is engaged does not mean that they are irrelevant or are of no weight.

58. *Clean and Green* – No comments received.

59. *Neighbourhoods*- No comments received.

60. *Education* – No comments received.

PUBLIC RESPONSES:

61. Thirty-four letters of consultation were sent out to surrounding residents. This has resulted in 46 letters of objection from local residents and others. The Local MP, Kevan Jones, has also submitted a letter requesting that his constituent's concerns in relation to loss of amenity space, health and safety issues, traffic and parking issues, planning history are considered in the determination process.

62. The concerns of local residents are summarised as follows:

- Impacts on privacy, loss of view, loss of light/overshadowing, odour impacts, noise from traffic.
- The proposal does not relate well to the surrounding area, nor respect its predominant character, layout, street pattern, setting, design, materials or density.
- Increase in traffic, impacts on parking /access to estate and driveways which is already problematic.
- The historic wall could be damaged if building work carried out near it and the local residents are expected to maintain each dwelling's individual portion of this wall as part of the condition of purchase and deeds.
- The visual amenity afforded by the wall would be lost.
- The development would result in pressure for an original door feature of the historic wall to be removed.
- Removal of the door would restrict access to the site in breach of the Certificate of Lawful Use.
- The wall is our shared boundary and we would not consent to it being altered.
- The original planning consent in 1990 was granted on the basis that a communal area would be set aside for residents use.
- The land has been used as an amenity area for in excess of 25 years and was described as such by the original developers/land agents.
- There are restrictive covenants on place to restrict further building.
- The original planning permission restricted the number of dwellings and the proposal would be contrary to the requirement and purpose of this condition.
- A Certificate of Lawful use was granted by the former Chester-le-Street District Council in 2006 to use this land for amenity, play and recreational use therefore the land should not ever be built on.

- The land is not brownfield land and its development is therefore contrary to Chester-le-Street Local Plan Policy HP6.
- Proposal is contrary to local, strategic, regional and national planning policies, in particular there is conflict with Chester-Le-Street Local Plan Policies HP9, RL3, HP16, RL3 and policy 27 and 30 of the emerging County Durham Plan.
- Proposal is contrary to government circulars, orders and statutory instruments.
- The land is not poor quality and has been maintained by one of the residents.
- There is not an identified excess in provision of amenity space therefore the proposal is contrary to paragraph 97 of the NPPF.
- The fact that the land has not been designated as open amenity space by the County Council does not diminish its importance to local residents.
- Concerns over measurements stated being incorrect.
- Previous applications were refused on the grounds of overdevelopment due to proximity to other properties, overshadowing and loss of all amenity space for estate residents.
- The proposal conflicts with the space around dwellings advice contained within Appendix I of the Chester-le-Street Local Plan.
- The development would result in excavation and unnecessary interruption of services.
- Impacts on wildlife and flora and fauna seen on the area.
- Hazardous materials/ground contamination.
- Loss of trees.
- Effect on Listed Buildings and Conservation Areas.
- Landscaping.

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=PJZHIGGDH0900>

APPLICANTS STATEMENT

63. The site is a private open space, which is currently poor quality amenity space. The utilisation of this site for housing would be fully in accordance with National and Local Policy and would help meet the housing need of County Durham without the need for Green Belt release.
64. The proposed development will have a number of benefits which are of material consideration in the determination of this application. Most importantly, it is a highly sustainable location within the Chester le Street development settlement limits, subsequently having access to a large number of services and facilities.
65. All of the existing and proposed residents will have access to significant areas of amenity space and, therefore, no harm will arise from this development, though it is acknowledged that the outlook of the existing residents will be changed. It is important, however, to note the existing residents will continue to have an acceptable level of amenity and, in this regard, the indicative layout plan demonstrates appropriate separation distances can be afforded.
66. The overall planning balance weighs in favour of the proposals, being in line with the Development Plan Policy, so far as it is relevant, with no adverse impacts which would significantly and demonstrably outweigh the benefits.

67. In accordance with National Policy, the determination of this application should apply a presumption in favour of sustainable development and approve these two houses without delay.

PLANNING CONSIDERATIONS AND ASSESSMENT

The Principle of the Development

68. 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, loss of open space, the impacts upon residential amenity and the economy, impacts upon the character of the area and a non-designated heritage asset, highway safety and whether appropriate land stability and drainage can be achieved.

The Development Plan

69. 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 February 2019. 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.

70. 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

71. The proposal would be in conflict with the most relevant saved local Plan policy HP6 (Residential development within settlement boundaries) as this is not a brownfield site and the indicative drawings do not demonstrate compliance with residential design criteria. However, this policy is inconsistent with the NPPF and also out-of-date, therefore, the weight to be afforded to this policy is reduced and paragraph 11 of the NPPF is engaged.

72. 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.

Locational Sustainability

73.Paragraph 108 of the NPPF advises that when considering new development, it should be ensured that there are appropriate opportunities to promote sustainable transport modes can be taken up. There are bus stops with regular services to the nearby Town Centre and a few local shops within reasonable walking distance of the site. The proposed site can therefore be considered to be moderately sustainable as there would not be heavy reliance on the private vehicles for accessing employment and services.

74.It is accepted that the proposed development would result in greenhouse gas emissions. However, it is considered that such emissions are likely to be relatively lower than would be the case for alternative, less sustainable locations.

Residential Amenity

75.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.

76.In this instance whilst local residents' concerns are acknowledged, it is considered that the site could be developed in a manner that would achieve acceptable privacy, light and outlook for the existing residents. However, it is the amenity of future residents that is the greater concern here. The indicative plans fail to demonstrate that a good outlook within the rear ground floor of the property could be achieved by virtue of the close proximity (4.4m-5.8m) of the historic predominantly blank 3m high wall. This wall would be likely to have an overbearing impact on future development. Furthermore, the indicative plan fails to demonstrate the provision of suitable sunlit areas or private amenity space for two dwellings with a footprint reflective of the footprint of surrounding dwellings on this estate. Bearing this in mind it is not considered that the site is appropriate for the development of two proposed dwellings in terms of future residential amenity.

Loss of Open Space

77.Policies RL1 and RL3 of the Chester-Le-Street District Local Plan seek to protect against the loss of open spaces by limiting the circumstances when it can happen. RL3 prevents the loss of amenity open space unless the development is for new or improved facilities related to the use of the recreational land to safeguard its use or where suitable alternative provision is provided for, or where there is an identified excess in provision of a particular facility. Paragraph 97 of the NPPF advises that existing open space should not be built on unless an assessment has been undertaken which has clearly shown the open space to be surplus to requirements; or the loss would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss. Chester-le-Street Local Plan Policy HP16 seeks to ensure that proposals that involve the change of use from open spaces, landscaping and amenity strips to land for private residential purposes are assessed in terms of the effect on the use and location of the land in question.

78. The Council has carried out a detailed Open Space Needs Assessment in 2018 to identify those areas which are of high or low quality and value. This site is not listed in this assessment and is not subject to any recreation/open space designation. The OSNA also states that open amenity spaces should be a minimum of 0.2ha as lesser areas of open space are considered to have limited recreation function, although they are recognised for their visual amenity value. The application site is approximately 0.07ha and therefore well below this threshold, therefore an open space needs assessment was not requested, or required. Whilst the OSNA details that the wider Local Plan Monitoring Area (LPMA) of North Durham is lacking in amenity green space and most other types of space, the Whitehill Estate area appears well served by open space with several areas of amenity open space to the south and natural green space to the north (Whitehill Hall Woods) within 480 metres or 10 minutes' walk of this site which is the accepted access standard within the OSNA.
79. It is recognised however that the proposal would result in the loss of the only green space on this Cul-de-Sac and that the local residents applied for and were issued with a certificate of Lawfulness of Existing Use in 2006 for the use of the land for amenity, play and recreational use. Whilst this is not a planning permission, it can serve to provide legal certainty that the use is lawful at a point in time. This certificate was issued as at the time it was considered that on the balance of probability that the residents claims that the land had been used for such purposes had been demonstrated. Local residents claim that the land still remains used for such purposes.
80. However, despite the Certificate of Lawful Use and lack of physical restrictions placed on access to the site at present, it would be possible, as privately-owned land, to restrict such access in the future by erecting fencing up to 1m in height without the need for planning permission.
81. As the site is not designated as a high or low-quality open space and only offers limited potential for recreation it is not considered that this is a valuable community space, particularly where there are similar spaces within reasonable distance in the local area.
82. Bearing the above in mind, no significant weight is given to the loss of the space in amenity terms. In reaching this opinion the level of public support for the open space, the objections to the development and lawful use of the land are acknowledged. However, the weight that can be attributed to these objections are tempered as the current use of the site by the public is not permitted by the landowner with trespass signs being visible and is only not physically prevented, and as the site is not designated as a village green or open space.
83. To conclude on this issue, it is considered that the scheme would not be in conflict with Policies RL1, RL3 and HP16 and the Framework, which aims to guard against unnecessary loss of open spaces and recreational facilities.

Impacts upon non-designated heritage asset

84. Paragraph 197 of the NPPF states that the effect of an application on the significance of a non-designated heritage asset should be considered in determining the application. Where an application directly or indirectly affects non-designated heritage assets a balanced judgment is required having regard to the scale of any harm or loss and the significance of the heritage asset.

85. The specific significance of the garden wall lies not only with its age and historic purpose, but also its aesthetic merit in terms of the patina of age contrasting with the modern dwellings.
86. Concerns have been raised by residents over the possible damage to the wall from building works close by and that this development would lead to pressure for removal of the door feature. As no works to the historic walls have been identified at this stage the Design and Conservation Officers do not object on heritage grounds provided that the wall is protected during construction.
87. It is, however, the opinion of your Officers that this application would result in direct effects on the historic wall as boundary features would likely need to adjoin the wall to enclose private areas. Furthermore, the proposal would also indirectly affect the wall as the proposed dwellings would obscure views of much of remainder of the wall and its historic opening feature thereby reducing the ability to understand the original use of the site and losing the aesthetic quality achieved by the juxtaposition of the historic wall in the context of the newer properties. It is considered that this weighs against this proposal.

Impacts upon character of the area

88. Chester-Le-Street Local Plan Policy HP9 requires developments to relate well to the surrounding area, respect its predominant character and street pattern, setting and density. This policy is broadly consistent with the NPPF although the NPPF is less prescriptive in respect of density stipulated design requirements. Paragraph 127 of the NPPF dictates that developments should amongst other criteria add to the overall quality of the area and be visually attractive, be sympathetic to the local character and history, including the surrounding built environment. 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. Chester-le-Street Local Plan Policy HP16 seeks to ensure that proposals that will result in the change of use of open land in residential areas for private residential areas are assessed in terms of the effect on the character of the area amongst other criteria. Appendix I of the Chester-le-Street Local Plan advises that the amount of space around housing should be sufficient to ensure a satisfactory appearance for the whole estate.
89. Local residents are concerned about the design and materials for the development. Whilst the finer design details such as development footprint, layout, design and materials are not for assessment given this is an outline application, Officers consider that it has not been demonstrated that it would be possible to construct two dwellings on this site that manage to achieve an acceptable level of outlook and light whilst also achieving the deep front and rear amenity spaces characteristic of this estate. The indicative drawings show dwellings that are slightly smaller in footprint than the surrounding dwellings and the size of the gardens does not reflect the existing context.
90. The proposed development of the open green space would exacerbate the feeling of enclosure within the estate and result in the loss of space within this compact residential area which provides visual relief from the surrounding built up area. Thus, it is agreed with local residents that the proposed development would be harmful to the character and appearance of the area. Residents are correct in that the surrounding estates all have areas of grassed open space and therefore this

development will result in this estate being out of character in the wider context of this part of Chester-Le-Street.

91. Part of the character of this estate is that it was built entirely within the former walls of the Whitehill Hall Walled Garden from which it takes its name. The properties are centred around the green open space and remaining section of the historic wall with views of this aesthetically pleasing feature adding to the unique character of this estate. The proposal would be unsympathetic to the character and history of the estate to the detriment to the character of the area.

92. Density has been an issue raised by objectors and taking on board the considerations above it is not considered that the density on this site is appropriate.

93. It is recognised that notwithstanding this planning application that it would be possible, as privately-owned land for the owner to fence off this land under permitted development rights. However as this would be permissible under planning legislation only to a height of 1m without planning permission it is not considered that such enclosure would have a similarly significant harmful impact upon the character of the estate as views both into the site and of the historic wall would still be possible above any fencing. No significant weight is therefore given to this possible fall-back position.

Five Year Housing Land Supply

94. Paragraph 73 of the NPPF maintains the requirement for Local Planning Authorities (LPAs) to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old.

95. Within County Durham all of the extant development plans are more than five years old and their housing figures need revising so the starting point for calculating land supply will be local housing need using the Government's standard methodology. The 'Preferred Options' (June 2018) stage of the emerging County Durham plan (CDP) is aligned with the standardised methodology and identifies a housing need figure of 1,368 dwellings per annum (dpa). 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 two dwellings should not therefore be given significant positive weight in the planning balance.

Building a strong, competitive economy

96. Section 6 of the NPPF advises that significant weight should be placed on the need to support economic productivity. It is recognised that the development would be likely to support the local construction industry. However, in terms of construction this would only be short term and would not carry much weight in favour of the proposal.

Drainage Considerations

97. 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 that surface water drainage would be to the mains sewer which is contrary to the requirements of the County Durham Surface Water Management Plan therefore 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 Stability

98. 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 land instability which is of relevance as the site lies within a Coalfield development High Risk Area.

99. In terms of land stability, the Coal Authority have not objected to the development as they are satisfied that the content and conclusions of the Coal Mining Risk Assessment Report are sufficient for the purposes of the planning system in demonstrating that the application site is safe and stable.

Provision of Education and community Facilities

100. 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 two households would necessitate funding to improve school capacity.

101. 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

102. 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.

103. As detailed above it is considered that this is a moderately sustainable location with opportunities for residents to use sustainable transport modes. Whilst the residents of the estate have concerns over the potential for off street parking and additional traffic using the estate road, the Highways Officer has no such concerns and has no objections to the principle of new residential development subject to parking requirements being met on site. In order to encourage alternative means of transport electric vehicle (EV) charging points can be required by condition. Full

details of charging points and parking arrangements would be submitted under the reserved matters application. 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

104. Members will be aware that objections in relation to loss of view are not material planning considerations.
105. Objections relating to hazardous materials/ground contamination, smells, loss of trees and effect on listed Buildings and Conservation Areas detailed by an objector are not considered relevant to this application
106. Issues raised in relation to the responsibility for maintaining the boundary wall are a civil matter between the interested parties and not a material planning consideration, as are covenants on the land.
107. It is noted that residents claim that the original planning consent in 1990 was granted on the basis that a communal area would be set aside for residents use however there is no record of this within the Council planning records.
108. It is acknowledged that the land has been used as an amenity area for in excess of 25 years and was described as such by the original developers in sales particulars, but these would not prevent the granting of planning permission for an alternative use. As outlined above the land could be enclosed and access restricted without planning permission.
109. Whilst the original planning permission restricted the number of dwellings this only relates to that permission and does not prevent further permission being granted in the future.
110. A Certificate of Lawful use determines the lawful use of the land at the time but would not prevent further planning applications to change the use or develop the land.
111. Concerns over site measurements stated being incorrect have been checked and the site is confirmed to measure the area as stated within this application.
112. It is acknowledged that previous applications were refused on the grounds of overdevelopment due to proximity to other properties, overshadowing and loss of all amenity space for estate residents however these applications pre-dated the NPPF.
113. Whilst the development would lead to disturbance during the construction process it would not be reasonable to refuse an application on these grounds. An informative could be imposed to advise upon suitable working times and use of equipment.
114. Concerns have been raised about impacts to wildlife and flora and fauna however the grass appears to be well maintained therefore this is not considered relevant.
115. Health and Safety matters are not material planning considerations.

The Balancing Exercise

116.The application brings the benefits of adding to the County’s housing supply of dwellings in sustainable locations and aiding the local construction economy.

117.The adverse impact considerations relate to the poor amenity for future residents from lack of light and overshadowing and poor outlook, the direct and indirect harm to a non-designated heritage asset of aesthetic and heritage value and the detrimental impact to the character of the estate and the visual quality of the area that would result from overdevelopment, the unsympathetic development and the loss of the only green space.

118.All other issues are considered neutral.

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

CONCLUSION

121.The conclusion of the balancing exercise of paragraph 11 of the NPPF is that the impacts on the future residential occupiers and on the non-designated heritage asset, the character of the estate and general visual amenity would significantly and demonstrably outweigh the limited housing supply, sustainable transport and construction economy benefits, when assessed against the policies in the 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:

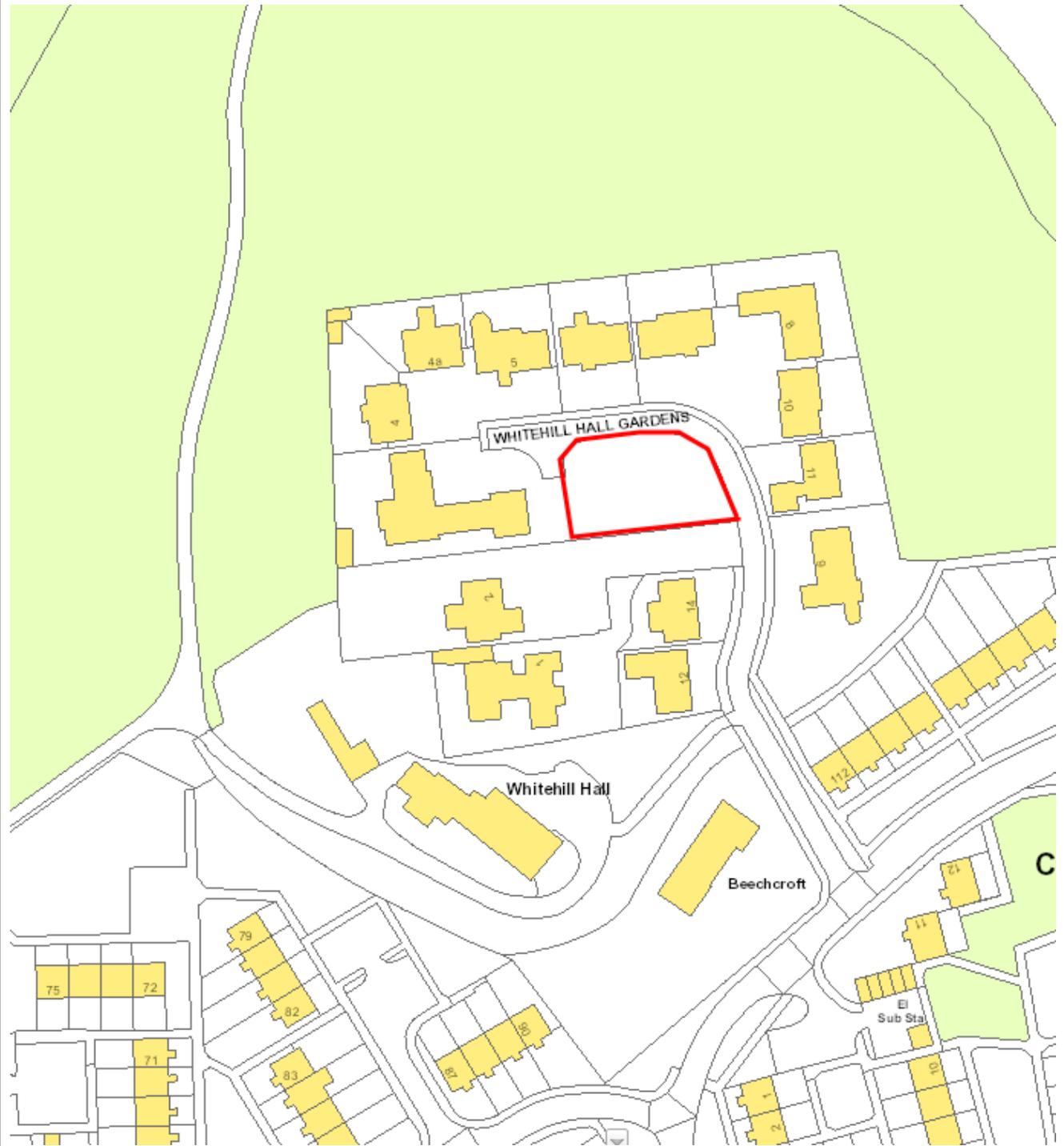
1. The applicant has failed to demonstrate the site is capable of accommodating two dwellings whilst providing a reasonable level of amenity for residents, due to lack of light, overshadowing and poor outlook and private space contrary to Chester-Le-Street Local Plan Policy HP9.
2. The proposal would result in harm to the walled garden wall, a non-designated heritage asset of aesthetic and heritage value contrary to paragraph 197 of the NPPF.
3. The proposal would result in overdevelopment, a lack of private amenity space and loss of landscaped green space which would result in significant adverse impacts to the character of the estate and the visual amenity of the area contrary to Chester-le-Street Local Plan Policies HP6, HP9 and HP16.

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 (2019)
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

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

Erection of 2 no. dwellings.

Application Number DM/18/03860/OUT

Comments

Date 28.03.2019

Scale NTS

This page is intentionally left blank



Planning Services

COMMITTEE REPORT

AGENDA ITEM NUMBER:

APPEAL UPDATE REPORT

APPEALS DETERMINED

Appeal against an enforcement notice the material change of use of 10 Queen Street, Grange Villa, Chester – le – Street to a guest house.

The Enforcement Notice was served on 05.01.18 for the following reasons –

'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 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.'

The Notice required the use of the property as a guesthouse to cease.

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

The main issues in the determination of the appeal were the impact upon the amenity and character of the area by reason of noise, disturbance, anti-social behaviour and the associated fear of crime contrary to the principles set out in Policy HP17 of the Chester-le-Street District Local Plan and Part 8 of the NPPF.

In terms of the impact on the character and amenity of the area the Inspector noted that the character of usage of the property as a Class C1 use is distinctly different to that of the surrounding Class C3 uses. These different characteristics of usage can be significantly detrimental to the living conditions and enjoyment of the area by permanent residents. Furthermore, the apparent lack of site management has the potential to lead to situations where loud or unruly behaviour cannot be dealt with in a swift and effective manner. Guests

will have a free hand on the hours they keep and the noise they might generate. There could also be situations whereby street parking places are used at the expense of permanent residents and guests arriving, whether by car or other means, might arrive and/or leave at unsociable hours.

The Inspector noted there would be some economic benefits in that the use would generate income for the appellant and bring visitors to spend money on the many tourist attractions in this part of County Durham. In that sense the use would meet the economic objective of achieving sustainable development as set out in the NPPF. However, it failed in the social and environmental objectives because of its effect on living conditions; the need to promote a healthy community and the overall impact on the character of this residential area.

The Inspector consider that in failing to meet all objectives the use was not sustainable. Thus, any presumption in favour of sustainable development was therefore outweighed.

The appeal was dismissed.

Appeal against refusal of planning permission for the construction of four dwellings on Land East of The Byre, Cornsay Lane, Cornsay.

Planning permission was refused under delegated powers for the construction of four dwellings on the site on 19th July 2018 on the following grounds:

'The public benefits of this proposal in terms of housing supply, the construction sector and community viability would not be substantial to the extent that they outweigh the substantial harm to the designated heritage asset of the conservation area therefore paragraph 14 and 133 of the NPPF direct that this application should be refused.

The proposal conflicts with the core planning principles within the NPPF in regard to the potential for a low carbon future and locating development where sustainable modes of transport for the movement of people can be exploited. Therefore this is not a sustainable location for new dwellings contrary to Part 1 of the NPPF.

The proposal fails to protect the existing landscape and open land which is recognised for its visual amenity value contrary to Derwentside Local Plan Policy GDP1 and would result in an encroachment into the countryside contrary to Derwentside Local Plan Policy EN2 and the development would have an adverse impact upon the landscape contrary to Derwentside Local Plan Policy EN1 and the NPPF.

The application has failed to demonstrate compatibility with the NPPF and Derwentside Local Plan Policy in respect of residential amenity, protecting ecology and protecting the economy (agricultural sector).'

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

The main issues in the determination of the appeal were the effect on the character and appearance of the Conservation Area and the surrounding countryside; whether the appeal site is a suitable location for new housing and whether the proposed development would provide suitable living conditions for the future occupiers, with particular regard to odour and noise from the neighbouring farm.

In terms of the impact on the character and appearance of the Conservation Area the Inspector noted the openness of the Conservation Area is a defining characteristic of the Conservation Area and considered that the proposed development would interrupt the current openness of the north east side of the road. It was considered that the proposal would introduce new solely residential properties in a part of the Conservation Area that is predominantly agricultural in appearance. The Inspector also noted that the existing built form tends to have direct access to the main carriageway and that the village has no kerbed edges to the carriageway and no footways. In this context the Inspector considered the proposed access to be overly engineered and incongruous. It was concluded that due to the above the proposal would neither preserve, nor enhance the character and appearance of the Conservation Area and would result in harm to its significance. In weighing up the harm against the public benefits of the proposal such as housing supply, the community, economic benefits and support for local services the Inspector concluded that whilst there would be some benefits, that these would be small in scale and consequently the Inspector found that they would not overcome the great weight that the NPPF requires to be given to the harm.

In terms of encroachment into the countryside the Inspector considered that due to the presence of a dry-stone wall that the site had the appearance of being more a part of the village than part of the countryside and did not consider that it would appear as an encroachment into the countryside. The Inspector also considered the effect on the wider landscape to be neutral. However, these neutral effects were not considered to outweigh the harm that the development would cause to the character and appearance of the Conservation Area.

In respect of sustainable transport, due to the lack of facilities in the village; the paucity of public transport; the distance to the nearest schools and to settlements; and the nature of the connecting roads, the Inspector considered that the occupants of the proposed dwellings would, on the balance of probability, be reliant on travel by private car to meet their day to day needs. He accepted that the Framework acknowledges that sustainable transport solutions will vary between urban and rural areas, and that this should be taken into account in decision making. However, in this instance weight was given to the fact that no sustainable transport solutions have been identified.

With regard to the living conditions of the future occupiers, the Inspector was of the view that at certain times of the year there would be noticeable odour

and transient noise from the nearby farm, however, as potential occupiers would be aware of the presence of the farm, the odour would not be all year round and there was no evidence that noise levels would be so high as to cause disturbance the Inspector concluded that the proposed development would provide suitable living conditions for the future occupiers.

To conclude, whilst the Inspector found that the development would have a broadly neutral effect on the wider countryside and landscape, and that it would provide suitable living conditions for the future with some other small scale benefits, none of these considerations would outweigh the harm to the character and appearance of the Cornsay Conservation Area and the fact that the site is not a suitable location for new housing having regard to the development plan and access to shops, services, other facilities and employment opportunities.

The appeal was dismissed.

Reports prepared by Christine Wood (Planning Enforcement Officer), Louisa Ollivere (Planning Officer)