



County Planning Committee

Date Tuesday 1 May 2018
Time 1.00 pm
Venue Council Chamber - County Hall, Durham

Business

Part A

1. Apologies for Absence
2. Substitute Members
3. Declarations of Interest
4. Minutes of the meeting held on 3 April 2018 (Pages 3 - 10)
5. Applications to be determined
 - a) DM/18/00431/FPA - Whitworth Park Phase 4, Spennymoor, DL16 7RQ (Pages 11 - 30)
Erection of 45 houses, including access and infrastructure (re-plan and substitution of house types on 230 plots (Phase 5)).
 - b) DM/18/00478/WAS - Mount Huley Farm, Croxdale, Durham, DH6 5JX (Pages 31 - 52)
Anaerobic Digestion Plant.
 - c) DM/18/00139/FPA - British Oxygen Co, Vigo Lane, Chester-le-Street, DH3 2RD (Pages 53 - 78)
Replan of part of permission DM/16/04052/FPA comprising 99 dwellings, incorporating 27 additional dwellings (Total of 230 dwellings).
6. Planning Development Management Performance Summary 2017/18 (Pages 79 - 82)
7. Such other business as, in the opinion of the Chairman of the meeting, is of sufficient urgency to warrant consideration
8. Any resolution relating to the exclusion of the public during the discussion of items containing exempt information

Part B

Items during which it is considered the meeting will not be open to the public (consideration of exempt or confidential information)

9. 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
23 April 2018

To: **The Members of the County Planning Committee**

Councillor J Robinson (Chairman)
Councillor F Tinsley (Vice-Chairman)

Councillors A Bell, J Clare, D Hicks, I Jewell, C Kay, A Laing,
L Maddison, H Nicholson, G Richardson, A Shield, A Simpson,
P Taylor, M Wilkes and S Wilson

Contact: Ian Croft

Tel: 03000 269702

DURHAM COUNTY COUNCIL

At a Meeting of **County Planning Committee** held in Council Chamber, County Hall, Durham on **Tuesday 3 April 2018 at 1.00 pm**

Present:

Councillor J Robinson (Chairman)

Members of the Committee:

Councillors A Bell, H Bennett, C Carr, J Clare, I Jewell, L Maddison, M McKeon, H Nicholson, A Shield, A Simpson, P Taylor and S Wilson

1 Apologies for Absence

Apologies for absence were received from Councillors Hicks, Kay, Laing, Richardson and Tinsley.

2 Substitute Members

Councillor H Bennett as substitute Member for Councillor A Laing, Councillor C Carr as substitute Member for Councillor Tinsley and Councillor M McKeon as substitute Member for Councillor Kay.

3 Declarations of Interest

There were no declarations of interest in relation to any items of business on the agenda.

4 Minutes

The Minutes of the meeting held on 6 February 2018 were confirmed as a correct record and signed by the Chairman.

5 Applications to be determined

a DM/17/03694/FPA - Field Belonging To Primrose Side Farm and Directly West Of Bleach Green Farm, Alum Waters, New Brancepeth

The Committee considered a report of the Senior Planning Officer regarding an application for the installation of an underground sewerage storm tank and associated works in a field belonging to Primrose Side Farm and directly west of Bleach Green Farm, Alum Waters, New Brancepeth (for copy see file of Minutes).

C Shields, Senior Planning Officer gave a detailed presentation of the application which included a site location plan, aerial view of the site, schematic site layout, view of the site entrance and view of the site.

Councillor Robinson informed the Committee that Councillor D Bell, local Member had requested that the Committee carry out a site visit to the application site prior to determination of the application. This had not been possible due to the location of the site and problems with vehicular access thereto, but Councillor Robinson informed the Committee that he had visited the site with Councillor Bell and was familiar with it. The application could be determined without a site visit taking place.

Councillor D Bell, local Member addressed the Committee. Councillor Bell informed the Committee that while he was not against the application he did not consider the proposed location of the underground sewerage storm tank to be appropriate. Councillor Bell had requested a site visit by the Committee but because of the very poor access to the site access by coach was very difficult, but this would have allowed the Committee to have seen the problems first hand. Councillor Bell thanked the Chairman of the Committee, Councillor Robinson, for meeting with him on site to see the exact location of the application.

Whilst Councillor Bell had sympathy and concern with the local farmer Mr Wade for the loss of his animals because of contamination to the land from sewage overflow which must be addressed and had been ongoing for a number of years, he hoped the Committee would take into consideration the concerns of Mr and Mrs Charlton of Bleach Green Farm. Mr and Mrs Charlton were not against the application in principle and accepted the need to protect their neighbour's cattle and also accepted that sewage could not be allowed to flow into the River Deerness.

The proposed tank was as a result of Northumbrian Water being fined by the Environment Agency for the contamination of the River Deerness and surrounding area and causing the death of cattle. Since June last year Mr and Mrs Charlton had been asked Northumbrian Water why the tank could not be moved a short distance to the west of the proposed site where there were no residential properties. This would not impact on Bleach Green Farm as there would not be the run-off and impact of the surface water as there would be from the proposed sitting of the tank. The reply given was that it was due to hydrological reasons.

In March this year Northumbrian Water indicated that discussion had taken place as to an alternative site in particular their option G2 for a tank further west, and at a meeting on 20 March representatives from Northumbrian Water confirmed that G2 was a feasible solution in terms of engineering, hydrology etc., but was more costly. Councillor Bell asked why this option had not been taken in to consideration by the planners and Northumbrian Water.

There had been a problem in this area of the Deerness Valley from flooding for many years and Councillor Bell could only presume that because there was an existing access track to the area this would be the location as Northumbrian Water could use this track. However, it had now been realised that this track was inadequate for the construction equipment and a new track was needing to be

constructed. This track would go down the bankside and would be closer to the alternative site G2 than the proposed site G1.

Paragraph 88 of Committee report stated that the Committee should restrict development in flood risk areas or where development may increase the risk of flooding elsewhere unless it could be demonstrated that there was no alternative option available at low risk. Likewise, City of Durham Local Plan Policy E7 protected developments from having an adverse impact on neighbouring occupiers. Northumbrian Water had not demonstrated to a sufficient degree that their plans would not have adverse impacts, and the policy guidelines stated this could be given full weight in decision making.

Bleach Green Farm had been flooded previously in 2000 and 2012, and since then the owners had invested heavily in flood defence measures. Northumbrian Water acknowledged increased risk of flooding to the property in many places and the chief risk was not from river flooding but flooding from surface water that would flow to the property from the site. Although Northumbrian Water had agreed to install a 30cm high bund, this would be insufficient and should be at least 6ft high which would be in line with the existing bund around the property.

Councillor Bell asked the Committee to consider the concerns of Mr and Mrs Charlton and to defer the application to allow the Planning Officers and Northumbrian Water to further consider the alternative site.

The Chairman invited Councillor J Turnbull, local Member for a neighbouring Electoral Division to comment on the application. Councillor Turnbull clarified to the Committee that the local farmer Mr Wade resided in his Electoral Division. Councillor Turnbull informed the Committee that he was supportive of the proposed scheme by Northumbrian Water. Currently, sewerage overflow was carried downstream and caused problems in a park in Langley Moor, despite drainage being installed in the park. Additionally, because of the sewerage overflow, Mr Wade had suffered the loss of cattle, and Councillor Turnbull questioned how much longer this could be allowed to go on for.

Mr Charlton of Bleach Green Farm addressed the Committee. He informed the Committee that the proposed development by Northumbrian Water would increase the risk of surface water flooding to Bleach Green Farm. Policy U10 of the City of Durham Local Plan restricted development in flood risk areas unless there was no alternative option available. Since June 2017 Northumbrian Water had been asked about other options, including option G2, which although feasible would be more costly. The G2 option was a viable alternative and would reduce the risk to Bleach Green Farm from surface water flooding, failure of the system and piling. The model used by Northumbrian Water had not considered extreme weather events and the construction of a 30cm bund would be insufficient to prevent surface water flooding, with the ground level being raised by 2 metres.

Mr Charlton considered that Northumbrian Water was fixed to this location to the exclusion of other viable options when other solutions to the problem were available.

Mrs Charlton of Bleach Green Farm addressed the Committee. While she understood the need to address the problem of sewerage leaking into the river she failed to understand why the proposed solution needed to be so close the Bleach Green Farm when there was the whole valley in which to locate the proposed sewerage storm tank. Bleach Green Farm dated back to the 1760's and had no foundations. Mr and Mrs Charlton had undertaken various works to address the problem of surface water flooding including the construction of a 6ft bund. Northumbrian Water had failed to provide a written undertaking that the proposed works would not lead to an increased risk of flooding and had provided no data regarding extreme weather events. Bleach Green Farm had flooded previously which had necessitated the works carried out, and the fear of flooding was not irrational or ill-founded.

Ms T Robinson of Northumbrian Water addressed the Committee. Northumbrian Water had a statutory responsibility to address the existing sewer flooding in the area to prevent the pollution issue. Mr Wade had lost livestock due to pollution incidents and Northumbrian Water was being monitored by the Environment Agency. The proposed scheme included a storage tank, flow control structure and upsizing of pipework in the sewer network and had been developed to address repeat flooding incidents from two manholes which were located upstream and downstream of Bleach Green Farm. The proposed location of the storage tank was because the problem was in a particular location.

An alternative location, which had been referred to as G2, had been considered by Northumbrian Water but involved a different system to address the problem. The alternative location would involve a series of pipes to form a tank and would cover twice the area of the proposed solution. There would be issues of maintenance of this system and siltation would also occur because the pipes would have a low fall. The alternative site G2 was not considered feasible to recommend as an option.

Concerns about flood risk had been expressed. Northumbrian Water was a flood risk authority with specialists in flood risk assessment and considered that the proposed bunds would be sufficient to provide Bleach Green Farm protection from surface water flooding. Surface water flooding would not be exacerbated.

Northumbrian Water had worked closely with Mr Wade and other stakeholders and would continue to liaise with stakeholders and near neighbours of the site to minimise disruption.

Councillor Taylor informed the Committee that this was a difficult situation. While he had sympathy with Mr and Mrs Charlton and the issues faced by them he also had sympathy with Mr Wade and the loss of his cattle due to pollution. The sewerage problems needed addressing swiftly as they were also causing problems downstream in a park at Langley Moor. The suggested alternative site did not sound to be viable and Councillor Taylor **moved** approval of the application.

Councillor Shield agreed that this was a difficult decision. The objector to the application had stated that alternative sites were available and asked whether these had been considered by Northumbrian Water. If they had not, then the application did not comply with Policy U10.

The Senior Planning Officer replied that to the best of his knowledge, all alternative sites had been considered by the applicant. Site G2 was to the west of the proposed site and further upstream where the sewerage issues were reduced.

Councillor Shield considered there was a safeguarding issue of sewerage being deposited in play areas. He did not consider there was any merit in deferring a decision on the application and there were no feasible alternative sites for the location of the sewerage storm tank. There was a need to take account of the statement of the Senior Planning Officer and the views of Northumbrian Water, as a statutory authority. Councillor Shield **seconded** approval of the application.

Councillor Carr commented that this was a combined system and asked whether methods for dealing only with the foul sewerage system had been considered, and if so, any alternative sites for this.

Ms Robinson replied that some surface water from further upstream did enter the system and an options appraisal had been carried out which included the removal of surface water from the system. However, the volume of surface water was not a problem, the hydraulic incapacity of the pipework was the issue. It did not matter how much sewerage was put into the network, the problem was with this particular part of the network.

Councillor Carr expressed concern that foul sewerage would escape into the River Deerness elsewhere even if this proposed development took place.

Councillor Clare referred to the proposed Condition 5 of the permission which referred to the submission of precise details of surface water control measures. These were to be supported by details of flood flow analysis during a 1 in 100 year storm frequency, which should apply to the protection of Bleach Green Farm. The Senior Planning Officer replied that these details had already been received but had not yet been assessed.

Councillor Clare did not consider that there were any grounds to refuse the application. However, there was a need to ensure that the proposed Condition 5 afforded protection to Bleach Green Farm during 1 in 100 year storm frequencies.

Upon a vote being taken it was

Resolved:

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

Councillor Shield left the meeting

b DM/17/04035/FPA - Land To The East Of Clare Lodge And Durham Road, Chilton, DL17 0RW

The Committee considered a report of the Senior Planning Officer regarding an application for the replan of part of Phase 1 of permission DM/17/01213/VOC

comprising 47 dwellings, incorporating 12 additional dwellings (total of 106 dwellings on Phase 1) (for copy see file of Minutes).

S Pilkington, Senior Planning Officer gave a detailed presentation of the application which included a site location plan, aerial view of the site, approved layout, proposed layout, typical elevations, view of the development from Durham Road and a view of the southern boundary.

P Jones, agent for the applicant, addressed the Committee. The application was a replan of an element of the approved scheme and proposed to replace 32 of the approved plots with 52 smaller 2, 3 and 4 bed dwellings. These would be aimed at a wider customer base at the entry level of the housing market for which there was a strong demand in the area. First time buyers of new homes were able to qualify for the Government's Help to Buy Scheme which enabled them to buy a home with a very low deposit and with reduced mortgage payments. It was proposed that the dwellings would start from £125,000 which would mean first time buyers would be able to purchase a new home through the Help to Buy Scheme for as little as £100,000.

The application was fully policy compliant with the 10% affordable housing being phased as agreed with the Authority and reflected in the s106 agreement. There would be increased s106 agreement payments to local education and towards off-site open space.

Councillor Wilson asked whether the application, which brought with it a slightly amended s106 agreement, would result in any density issues on the development. The Senior Planning Officer replied that the additional 12 units proposed were smaller units and this had been reduced from an initially proposed 20 additional units. There would be 8 affordable units built in the first phase with the remainder in the second phase, which the Senior Planning Officer was confident would be delivered.

Councillor Wilson **moved** approval of the application.

Councillor Clare informed the Committee that the layout of the development had previously been agreed and there were no grounds to refuse this application. Councillor Clare referred to Paragraph 54 in the report and sought clarity on the concern raised by the Police Architectural Liaison Officer regarding the use of parking courts. Councillor Clare was concerned that the increased density of the development would result in the removal of off-street parking provision. The Senior Planning Officer replied that the comments of the Police Architectural Liaison Officer were based on the initial application for an additional 20 units which were situated around parking courts. However, parking courts were not now proposed. The development met all parking standards regarding visitor and in curtilage parking.

Councillor Shield asked whether any of the proposed dwellings would be within the root protection areas on the southern boundary. Parking standards for compliance to park had reduced from 1.7 cars per dwelling to 1.3 cars per dwelling and fewer

spaces and more cars could lead to increased angst and disputes. Councillor Shield suggested that this policy should be revised.

The Senior Planning Officer replied that the concerns regarding root protection on the southern boundary had been raised by landscape officers when the application was for an additional 20 properties. However, this application would not impact on any root protection areas and this was illustrated on an overhead plan.

A Glenwright, Principal DM Engineer informed the Committee that parking provision on the application proposed that all but three dwellings, which were affordable dwellings, had a provision of 2 car parking spaces each which was in excess of minimum requirements. There was provision of 12 visitor spaces throughout the development, which required 8 to meet standards. The development had a good level of parking.

Councillor McKeon asked whether the proposed increase s106 contribution was in accordance with the number of dwellings and the number of people living in the dwellings. The Senior Planning Officer replied that the increased education and open space contribution would increase pro-rata with the number of units.

Seconded by Councillor Maddison

Upon a vote being taken it was

Resolved:

That the application be approved subject to the completion of a Section 106 Legal Agreement to secure the provision of the following across the whole development site:-

- 10% Affordable housing.
- £122,507 towards open space and sporting provision within the Electoral Division
- £104,400 towards highway infrastructure capacity improvements at Rushyford roundabout.
- £498,224 towards increasing the capacity of primary schools in the area.
- £33,165 to deliver targeted biodiversity enhancements in the area.

and subject to the conditions contained in the report.

This page is intentionally left blank

Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/18/00431/FPA
FULL APPLICATION DESCRIPTION:	Erection of 45 houses, including access and infrastructure (re-plan and substitution of house types on 230 plots (Phase 5))
NAME OF APPLICANT:	Barratt David Wilson North East
ADDRESS:	Whitworth Park Phase 5, Spennymoor, DL16 7RQ
ELECTORAL DIVISION:	Spennymoor
CASE OFFICER:	Steven Pilkington, Senior Planning Officer, 03000 263964 steven.pilkington@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site consists of an irregular 'L' shaped parcel of land located to the west of Spennymoor to the south of the County. The site extends to approximately 5.36 hectares (ha) in area and currently comprises agricultural fields forming part of a wider housing development site known as Whitworth Park / Burton Woods. There is a level change across the site, with the land falling approximately 8m in a northerly direction. The site is bound by the open countryside to the north and part eastern boundary, existing residential development and the dwellings associated with Slaughter House Farm are located to the southern boundary. The existing dwellings located on Carr Street are located adjacent to the main western site boundary. The site is served by an existing field access onto Carr Street and the existing development of Lotherton Drive (an earlier phase).
2. A public right of way (Footpath No.85, Spennymoor) extends adjacent to the most western boundary of the site. A second public right of way (Footpath No.27, Spennymoor) crosses the midpoint of the site.
3. The site is located approximately 220m to the east of Rosa Shafto Woodland and 350m north of Whitworth Park Grassland Charity Land Site of Special Scientific Interest (SSSI). The site is located 580m west of Cow Plantation Local Nature Reserve and Local Wildlife Site. The Grade II Listed building of Whitworth Hall and the Whitworth Conservation area is located 980m to the west of the site.

4. This planning application seeks permission for the re plan and substitution of house types on 185 plots of part of phase 3 and 3a involving the addition of a further 45 dwellings (a total of 230). A site layout plan has been submitted setting out that the development would be laid round a principal circulation road with private shared drives and cul-de-sacs utilised. The proposed dwellings would be a mix of terrace, semidetached and detached dwellings comprising 2, 3 and 4 properties ranging from 2 to 2.5 storey houses. Access to the site would be taken off the existing development of Lotherton Drive, whilst a new access would also be formed onto Carr Lane in the form of a roundabout.
5. This planning application is being reported to County Planning Committee because it is a residential development with a site area in excess of 4 hectares.

PLANNING HISTORY

6. The wider site has a complex planning history with a number of overlapping planning permissions extending back to 2003 for a total of 506 dwellings. This is made up of 100 units approved / constructed under Phase 1 and 406 units approved / under construction under phases 2/3/3A. A number of standalone and S.73 applications have also sought changes to layouts and house types.
7. An overarching Section 106 agreement was signed in July 2015, which condensed and superseded all previous agreements in a comprehensive manor on the site, this included the provision of highways mitigations work, delivery of ecology mitigation and habitat creation, offsite sporting and recreation contributions and a review mechanism for the delivery of offsite affordable housing.

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). 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. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve ‘core planning principles’.
9. In accordance with Paragraph 215 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. The following elements of the NPPF are considered relevant to this proposal.
10. *NPPF Part 1 – Building a Strong, Competitive Economy*. The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country’s inherent strengths, and to meeting the twin challenges of global competition and of a low carbon future.

11. *NPPF Part 4 – Promoting Sustainable Transport.* The transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel. It is recognised that different policies and measures will be required in different communities and opportunities to maximize sustainable transport solutions which will vary from urban to rural areas. Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion.
12. *NPPF Part 6 – Delivering a Wide Choice of High Quality Homes.* To boost significantly the supply of housing, applications should be considered in the context of the presumption in favour of sustainable development.
13. *NPPF Part 7 – Requiring Good Design.* The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning. Planning decisions must aim to ensure developments; function well and add to the overall quality of an area over the lifetime of the development, establish a strong sense of place, create and sustain an appropriate mix of uses, respond to local character and history, create safe and accessible environments and be visually attractive.
14. *NPPF Part 8 – Promoting Healthy Communities.* Recognises the part the planning system can play in facilitating social interaction and creating healthy and inclusive communities. Access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities and planning policies and decisions should achieve places which promote safe and accessible environments. This includes the development and modernisation of facilities and services.
15. *NPPF Part 10 – Meeting the Challenge of Climate Change, Flooding and Coastal Change.* Planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy.
16. *NPPF Part 11 – Conserving and Enhancing the Natural Environment.* The planning system should contribute to, and enhance the natural environment by; protecting and enhancing valued landscapes, recognizing the benefits of ecosystem services, minimizing impacts on biodiversity and providing net gains in biodiversity where possible, preventing new and existing development being put at risk from unacceptable levels of soil, air, water or noise pollution or land instability, and remediating contaminated and unstable land.
17. *NPPF Part 12 – Conserving and Enhancing the Historic Environment.* Local planning authorities should set out in their Local Plan a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats. In doing so, they should recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance.

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

18. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to; air quality; conserving and enhancing the historic environment; design; flood risk; land stability; light pollution; natural environment; noise; open space, sports and recreation

facilities, public rights of way and local green space; planning obligations; travel plans, transport assessments and statements; use of planning conditions and; water supply, wastewater and water quality.

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

LOCAL PLAN POLICY:

The Sedgefield Borough Local Plan (SBLP) 1996

19. *Policy E1 – Landscape Protection and Enhancement.* Sets out that the distinctiveness of landscapes is dependent upon the combination of different elements, including, trees, woodlands, the scale of fields and the nature of these boundaries, style of buildings and local features. In order to maintain the diversity of the landscape character, decisions on use and management of land should take account of these features.
20. *Policy E11 – Safeguarding of sites of Nature Conservation Interest –* Sets out that development which would be detrimental to the interests of nature conservation will not be normally permitted, unless it can be clearly demonstrated there are reasons for the development and that these would outweigh the need to safeguard nature conservation, there are no alternative sites and remedial measures are taken to minimise any adverse effects.
21. *Policy E15 – Safeguarding woodlands, trees and hedgerows.* Sets out that the council expect development to retain important groups of trees and hedgerow and replace any trees which are lost.
22. *Policy H2 – Major Housing Sites.* Identifies allocation of land for housing, including Whitworth Park with an estimated yield of 700 dwellings.
23. *Policy H4 – Development in Whitworth Park Area.* Sets out the housing development in the Whitworth Park area of Spennymoor will be granted only as part of a comprehensive planning scheme to include an 18 hole golf course, safeguard nature conservation interests, improved public access to the countryside, landscape enhancement, protection of the remaining open land and community facilities.
24. *Policy H19 – Provision of a range of house types and sizes including Affordable Housing.* Sets out that the Council will encourage developers to provide a variety of house types and sizes including the provision of affordable housing where a need is demonstrated.
25. *Policy L1 – Provision of Sufficient Open Space to Meet the Needs for Sports Facilities, Outdoor Sports, Play Space and Amenity Space.* Requires a standard of 2.4 ha per 1,000 population of outdoor sports and play space in order to bench mark provision.
26. *Policy L2 – Open Space in New Housing Development.* Sets out minimum standards for informal play space and amenity space within new housing developments of ten or more dwellings
27. *Policy L9 – Footpaths, Cycleways and Bridleways in the Countryside.* Seeks to promote the provision of safe, attractive and convenient networks of footpath, cycleways and bridleway routes.

28. *Policy T1 – Footways and Cycleways in Towns and Villages.* States that the Council will seek to ensure that safe, attractive and convenient footpath and cycleway links and networks are provided.
29. *Policy D1 – General Principles for the Layout and Design of New Developments.* This policy establishes six principles to be applied to the layout and design of new development, including a comprehensive and co-ordinated approach, attention to the design of buildings and their spatial relationship to open space, landscaping and boundary treatment, and satisfactory and safe provision for pedestrians, cyclists, public transport, cars and other vehicles.
30. *Policy D2 – Design for People.* This policy details that the requirements of users of a development should be taken into account in its layout and design, with particular regard paid to access, safety and security and the provision of appropriate facilities.
31. *Policy D3 – Design for Access.* This policy provides that development should make satisfactory and safe provision for use by all modes of transport, detailing eight criteria which will need to be included in new development as appropriate. These include cycle parking facilities, measures to minimise conflict between pedestrians, cyclists and motor vehicles and adequate car parking provision.
32. *Policy D5 – Layout of housing development.* Requires that the layout of new housing development should provide a safe and attractive environment, have a clearly defined road hierarchy, make provision for appropriate areas of public open space either within the development site or in its locality, make provision for adequate privacy and amenity and have well designed walls and fences.
33. *Policy D8 – Servicing and Community Requirements of New Development.* Sets out that developments are required to contribute towards offsetting the costs imposed by them upon the local community in terms of infrastructure and community requirements.

RELEVANT EMERGING POLICY:

The County Durham Plan

34. Paragraph 216 of the NPPF says that decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. The County Durham Plan (CDP) was submitted for Examination in Public and a stage 1 Examination concluded. An Interim Report was issued by an Inspector dated 18 February 2015, however that Report was quashed by the High Court following a successful Judicial Review challenge by the Council. In accordance with the High Court Order, the Council has withdrawn the CDP and a new plan being prepared. In the light of this, policies of the CDP can no longer carry any weight. As the new plan progresses through the stages of preparation it will begin to accrue weight.

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

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

35. *Highways Authority* – No objection is raised subject to delivery of the identified mitigation works, including the formation of a new roundabout onto Carr Street and the improvements on Whitworth Road. It is advised that following minor amendments to the site layout current DCC parking standards would be met.
36. *Northumbrian Water* – Advise that any final details for the disposal of foul and surface water should be developed and agreed by condition.
37. *Drainage and Coastal Protection* – Advise that a detailed scheme has been approved to deal with the attenuation of surface water from the site through SUDS. It is advised that this scheme would not comply with current standards in terms of water quality betterment and flow rates, however the nature of the application is recognised and a strategy has been previously agreed and implemented for the wider site.
38. *Coal Authority* – Raise objection in relation to the lack of a Coal Mining Risk Assessment submitted in support of this application.

INTERNAL CONSULTEE RESPONSES:

- 45 *Landscape* – Advise that the revised scheme would not give rise to any additional landscape impact over and above the original permission. A detailed landscape scheme should however be developed for the site to be agreed.
- 46 *School Places and Admissions Manager* – Advise that the pupils generated from the development have been included within pupil forecasts within the area. No mitigation is sought in respect of the development on this basis.
- 47 *Ecology* – Raise no objection, but recommend that the ecological conditions and obligations from the original permission should be carried over to ensure implementation of the various ecological measures, mitigation and compensation.
- 48 *Environmental Health and Consumer Protection (Contaminated Land)*– Note the presence of presence of previous land contamination assessments to the site but recommend the imposition of conditional approach to adopt a cautionary approach to land contamination.
- 49 *Environmental Health and Consumer Protection (Pollution Control)* – Raise no objection recommending a conditional approach to requiring the submission of a construction methodology and restricting working hours on site to protect the amenity of neighbouring residents.
- 50 *Access and Rights of Way* – No objections are raised. It is noted that there are registered rights of way adjacent and crossing the development site and a stopping up/diversion order would need to be made in respect of a number of these paths. It is highlighted that additional pressures could be placed on the PROW and suitable upgrading is encouraged.

PUBLIC RESPONSES:

- 51 The application has been publicised by way of press notice, site notice, and individual notification letters to neighbouring residents.

- 52 3 letters of objection from local residents including that of town councillor Gardner have been received highlighting that the development fails to promote sustainable development in terms of using renewable resources particularly in terms of energy. Suggestions are made regarding the use of alternate sources of energy including community heating and renewable solutions.
- 53 One letter offering support for the development in principle has been received, however concerns regarding HGV deliveries, conditions of estate road and speeding from delivery drivers have been raised.

APPLICANTS STATEMENT:

- 54 Barratt Homes North East are seeking planning permission for 45 houses and a substitution of house types on phase 5 at Whitworth Park. Barratt's new housetypes are smaller family homes which respond to local market demand. The houses are a mixture of detached, semi-detached and terraced 2-4 bedroom houses. The properties benefit from off-street parking and/or garages. The development has been carefully designed to ensure all houses have an active frontage onto the surrounding highways and landscape public open space, specifically orientated to maximise views over all elements of open space. The proposed houses of a modern design which will contribute positively to seeking to add to the mix and quality of housing on offer within the area.
- 55 The change in house types will complement those recently built on the site. The materials proposed have been carefully chosen to ensure the houses match those in the surrounding areas and are in keeping with the built phases on the site. The proposed design achieves a high quality, distinctive and sustainable scheme which provides for a highly sustainable product.
- 56 The principle of development on the site for residential purposes has been accepted previously. The significant changes from the approved scheme are:
- The omission of all apartment blocks
 - The reduction in the use and size of rear parking courtyards
 - The introduction of new house types with better open-plan living and glazed rear pods
 - The introduction of a number of 3 and 4 bedroom 'integral' garage properties.
57. The proposed development will be delivered in accordance with the plans/strategies which have been approved as part of the extant planning permissions on the site. The application will be tied into the financial obligations in the previous S106 through a Deed of Variation.
58. The proposed will bring many benefits including:
- Adding to the County's identified housing supply in a location that has been identified as sustainable
 - The incorporation of smaller family homes will deliver a wider choice of high quality homes for Spennymoor and Durham, responds to the local market and increases opportunities for home ownership
 - Short term benefits to the local economy brought by the construction phase
59. The design principles of the site has been determined through the previous planning permissions and this current application only seeks to substitute house types within the approved highways infrastructure. The overall planning balance weighs in favour

of the proposals, being in line with development plan policy, so far as it is relevant, with no adverse impacts that would significantly and demonstrably outweigh the benefits.

The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at

<https://publicaccess.durham.gov.uk/online-applications/search.do?action=simple&searchType=Application>

PLANNING CONSIDERATIONS AND ASSESSMENT

60. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that if regard is to be had to the development plan, decisions should be made in accordance with the development plan unless material considerations indicate otherwise. In accordance with Paragraph 212 of the National Planning Policy Framework (NPPF), the policies contained therein are material considerations that should be taken into account in decision-making. Other material considerations include representations received. In this context, it is considered that the main planning issues in this instance relate to the principle of the development, locational sustainability of the site, landscape and visual impact, layout and design, highway safety and access, residential amenity, ecology, flooding and drainage, ground conditions, heritage impacts, other issues and planning obligations.

The Principle of Development

61. The principle of developing the site for housing, specifically on this part of the site, has been established under planning applications 7/2004/0858/DM (phase 3) and 07/2008/0057/DM (phase 3a) which were granted on appeal and subsequently amended under application 07/2010/0186. These permissions granted a total of 218 dwellings set amongst the context of an additional 288 dwellings approved and implemented under different planning permissions as part of the wider development site for a total number of 506. This application simply seeks to re-plan parts of phase 3 and 3a of the site, to introduce 45 additional dwellings. This planning permission would sit in alongside approvals for the implemented permissions, however due to amendments to original permissions such as removing apartments and larger units the amended scheme would result in a total of 505 units to be ultimately delivered on site.

62. Notwithstanding this, there are relevant Development Plan policies which relate to the principle of development on the application site. These include SBLP Policies H2 and H4 which allocate the site and wider land for housing, with an estimated yield of 700 dwellings. In line with the approved permissions on the site, the development and delivery of housing would comply with these policies. It is, however, recognised that these housing policies rely on out of date housing supply figures and should be considered out of date in this respect. The acceptability of the development therefore largely rests on the NPPF Paragraph 14 tests. This requires a balance of whether any adverse impacts of approving the development would significantly and demonstrably outweigh the benefits or whether there are any specific policies in the NPPF that indicate development should be restricted.

Five Year Housing Land Supply

63. In September 2017, the Government published a consultation document entitled *“Planning for the Right Homes in the Right Places”*, which introduced a standard methodology for calculating housing need. Applying that methodology for County Durham, the housing need figure would be 1,368 dwellings per annum.

64. The Government published its response to the consultation in March 2018, and clarified that the standardised approach is the most appropriate method for calculating need as it meets the three key principles of being simple, realistic and based on publicly available data. At the same time, a revised draft NPPF was issued for consultation, with paragraph 61 advising that, 'in determining the minimum number of homes needed, strategic plans should be based upon a local housing need assessment, conducted using the standard method in national planning guidance'.
65. The Government also issued draft planning guidance on 9 March 2018, which sets out that where a local plan is more than five years old and the housing figure needs revising, as is the case here, the starting point for calculating land supply will be local housing need using the standard methodology.
66. Taking all of this into consideration, the Council's view is that the standard methodology should be used for measuring the 5-year housing land supply position. Against the 1,368 figure, the Council is able to demonstrate in excess of 6 years supply of deliverable housing land. Accordingly, the weight to be afforded to the boost to housing supply as a benefit of the development is clearly less than where such a healthy land supply position could not be demonstrated. This will need to be factored into the planning balance whilst recognising that this site is a committed site that is taken into account in the Council's 5 year calculation and continued at an increased yield would assist the council in terms of housing delivery and maintaining a five years supply.

Locational Sustainability of the Site

67. In the original planning applications for this site and wider development site, and during allocation of the site within the SBLP, it was concluded that Spennymoor has a reasonable array of services and facilities, largely adequate to serve the development, and that these are within relatively easy reach of the site. It was also concluded that the development would be of a scale commensurate with the role of Spennymoor in the settlement hierarchy, a Main Town. Improvements to the road network including the formation of roundabout for vehicular including pedestrian access secured by S106 agreement would deliver the necessary connections into the existing settlement.
68. In relation to this amended scheme it is considered that the erection of an additional 45 units does not alter the conclusions reached within the original and subsequent approvals, recognising that the total number of units proposed would not exceed that previously granted on the site. Therefore, subject to the implementation of the approved highways infrastructure secured by a S106 deed of variation the locational sustainability of the site remains acceptable in accordance with Paragraph 61 of the NPPF and SBLP Policies D1, D2 and D8 which are considered consistent the NPPF in this respect and can be given full weight in the decision making process.

Landscape and Visual Appraisal

69. In consideration of the original schemes and in the allocation of the site within the SBLP, it was identified that the scheme would result an incursion of built development into open countryside to the west of Spennymoor. It was also identified that there would be some harmful effects on the character of the local landscape, however these would be localised and could be mitigated in time to varying degrees by proposed structure planting. Overall, it was concluded that there would be some residual landscape harm in conflict with Policy E1 of the SBLP, which is considered

consistent with Part 11 of the NPPF that would need to be weighed in the planning balance.

70. Although the revised scheme does to a degree create a denser element to this part of the development site it is considered that this would not result in a significant landscape impact over and above that approved. The scheme would be set against the backdrop of the existing developments and would retain landscape features such as mature vegetation along the eastern boundary, although recognising in accordance with the extant permission a new vehicular access would be created in this location resulting in the loss of some trees and hedgerow with SBLP policy E15 (consistent with the NPPF) in the round seeks to protect.
71. Overall, the scheme would broadly have the same level of landscape impact as the approved and would recognise the likelihood of future phases coming forward as permitted by SBLP Policies H2 and H4. This established impact and conflict with Policy E1 of the SBLP needs to be weighed in the planning balance.

Layout and Design

72. SBLP Policies D1, D2, D3 and D5 seek to promote good design which relates well to the natural and built features of the site, the surrounding area and adjacent land uses. Parts 7 and 11 of the NPPF also seek to promote good design, while protecting and enhancing local environments. Paragraph 58 of the NPPF also states that planning decisions should aim to ensure developments function well and add to the overall quality of the area and establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit. Due to their consistency significant weight can be afforded to SBLP Policies D1, D2, D3 and D5 in this respect.
73. In this respect it was concluded in the original application that the design and layout of the proposed development was considered acceptable in accordance with relevant SBLP Policies. In relation to the revised scheme, as above, a denser element would be created to the southern boundary of the site which, to a degree, is regrettable but commensurate with density of the wider development. However, it is considered that the proposed layout is acceptable and would not result in a car dominated frontage and would utilise corner turner units where appropriate. The house types proposed and materials to be used would be commensurate with those already approved on the site.
74. Overall, it is considered that the re-plan scheme would still deliver an acceptable form of development, in accordance with SBLP Policies D1, D2, D3 and D5, and Parts 7 and 11 of the NPPF.

Highway Safety and Access

75. SBLP Policy D3 requires that development proposals achieve a satisfactory means of access onto the wider highway network while seeking to protect highway safety in terms of vehicle movements and traffic generation. SBLP Policies T1 and L9 seek to ensure that safe, attractive and convenient footpath links are provided, where appropriate, to serve new development. These Policies are considered compliant with the NPPF which also seeks to promote accessibility by a range of methods, while ensuring that a safe and suitable access can be achieved and therefore can be given full weight in considering the application. The NPPF sets out at Paragraph 32 that safe and suitable access can be achieved for all people while setting out that developments that generate a significant amount of traffic should be supported by Transport Assessments or Statements. In addition Paragraph 32 of the NPPF states

that development should only be refused on transport grounds where the residual cumulative impacts on development are severe.

76. This revised scheme would be served by the same highways infrastructure as approved, which has now largely been implemented including internal estate roads, and roundabout improvement works at Clyde Terrace/Clyde Street and at Studley Drive. A S106 agreement requires the formation of a roundabout on Carr Street serving the development site and further access improvements on Whitworth Road. The Highway Authority has reviewed the amended layout and following minor amendments, advises that the parking provision is acceptable and would accord with the Council's parking standards. This would result in an improved layout over and above that approved in this respect as this were based on older more relaxed residential parking standards. A deed of variation to the original S106 agreement would be required to ensure delivery of the further required mitigation works.
77. Overall, the development would be served by an appropriate means of access and would not have an adverse impact on the wider highway network, subject to the mitigation measures previously secured. The design, layout and parking provision is considered acceptable. The scheme is considered to comply with SBLP Policy D3 and Part 4 of the NPPF in this respect.

Residential Amenity

78. SBLP Policies D1 and D3 require that the design and layout of development to have no serious adverse effect on the amenity of those living or working in the vicinity of the development site. These Policies are considered NPPF compliant with a core planning principle at Paragraph 17 of the NPPF stating that planning should always seek to secure a good standard of amenity for existing and future occupants of land and buildings. Whilst Part 11 seeks to prevent both new and existing development from contributing to or being put at unacceptable risk from unacceptable levels of pollution.
79. The scheme would be located in the proximity of existing residential dwellings, occupied within the existing development site and adjacent to the site. However the amended scheme takes account of these properties and adequate separation distance would be achieved which would protect the privacy and amenity of existing and future residents to appropriate levels.
80. The Council's Environmental Health and Consumer Protection Team advise that an approved construction methodology should be adhered to on this element of the site. It is considered reasonable to update this to that submitted in support of the original applications, to reflect changing working practices.
81. The scheme would therefore comply with SBLP Policies D1 and D3 and Part 11 of the NPPF and would not have an adverse impact on the amenity of existing or future residents.

Ecology

82. The site is located approximately 220m to the east of Rosa Shafto Woodland and 350m north of Whitworth Park Grassland Charity Land Site of Special Scientific Interest. The site is located 580m west of Cow Plantation Local Nature Reserve and Local Wildlife Site.
83. Ecology surveys were submitted with the original application, which found that no species that are afforded special legal protection under the Conservation of Habitats

and Species Regulations 2017 and/or the Wildlife and Countryside Act 1981 (as amended) were present on the site. However as a precaution mitigation was proposed in relation to amphibians due to nearby populations. The Council's Ecology Team are satisfied with the approved mitigation and habitat creation and advise that there would therefore be no impact to protected species, subject to ensuring its continued delivery. A deed of variation has been submitted to link this application to the existing S106 agreement which secured the ecology mitigation and habitat creation.

84. In line with the original application, and having regard to the approved mitigation measures, the development is considered to conform to policy E11 of the SBLP (consistent with the NPPF) and Part 11 of the NPPF in this respect.

Flooding and Drainage

85. National advice within the NPPF and PPG with regard to flood risk advises that a sequential approach to the location of development should be taken with the objective of steering new development to flood zone 1 (areas with the lowest probability of river or sea flooding). When determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment.
86. The original application was accompanied by a Flood Risk Assessment (FRA) which identified that the application site is located within flood zone 1 and is therefore located on land least likely to suffer from tidal or fluvial flooding. The approved drainage strategy identified that surface water would be disposed of via a connection to Burton Beck, which lies 0.2km to the south of the site. Surface water attenuation would be provided on site in the form of a SUDS scheme.
87. The Council's Drainage and Coastal Protection Advise that a detailed scheme has been approved to deal with the attenuation of surface water from the site through SUDS. It is advised that this scheme would not comply with current standards in terms of water quality betterment and flow rates, however the nature of the application is recognised and a strategy has been previously agreed for the wider site and it would be in appropriate to revisit this issue through this application.
88. With regard to the disposal of foul waters Northumbrian Water raise no objections. A condition can be added in the event of an approval to ensure this along the layout of the drainage network to be adopted.
89. In relation to land contamination the site is being developed in accordance with an approved Land contamination Strategy which identifies that limited remedial works are required. However in reviewing extracts of this strategy, it is advised by the Councils Environmental Health and Consumer Protection Team to adopt a cautionary conditional approach to review this strategy for this phase of the development.
90. The site lies within an area of high risk in relation to historic coal mining activity. The Coal Authority have raised objections in relation to this application due to the lack of a submission of Coal Mining Risk Assessment. However this matter has been considered in previous applications where the Coal Authority reviewed a Coal Mining Risk Assessment and strategy for development of this part of the site. A conditional approach was adopted to agree a strategy of monitoring and any required remediation. This conditional approach is recommended to be adopted in this application.

Heritage Impacts

91. Whitworth Conservation Area is located 980m to the west of the site. Within the Conservation Area the Grade II listed Whitworth Hall, separately listed associated features and Whitworth Parish Church are located. It is deemed that there would be no adverse impact on the settings of the listed buildings/features due to the separation distances and landscape features. The locally designated parks of interest – Whitworth Park and Spennymoor Jubilee Park in adjacent areas and it is considered that they would remain unaffected. This view is retained and there would be no heritage impact in accordance with part 12 of the NPPF.
92. With regards to archaeology, investigative work has been previously carried out which revealed no archaeological remains of significance. No further mitigation is required in relation to this matter in accordance with Part 12 of the NPPF.

Other Issues

93. NPPF Paragraph 112 states that LPAs should take into account the benefits of the best and most versatile agricultural land and where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality. The development would result in the loss of approximately 5.36ha land. A site specific investigation into the land classification does not accompany the application. However, Natural England classification maps for the North-East region identify that majority of the site is 3b with approximately 0.5h 3a (best and most versatile)
94. In a circumstance that the land is best and most versatile land this does not preclude the land from development but is a factor to consider in the determination of the application in the planning balance. In this instance it is considered that the amount of best and most versatile agricultural land (0.5ha) that would be lost is not significant, recognising that the land is no longer in an agricultural use and therefore this has already been lost under the existing permissions, it is nonetheless an adverse impact which should be given weight in the planning balance recognising the extant consent on the site.

Planning Obligations

95. SBLP Policy H19, in accordance with Part 6 of the NPPF, sets out where a need has been established an appropriate level of affordable housing should be provided. The identified need in the area is set out in the Strategic Housing Market Assessment and equates to a minimum of a 10% provision on site. However, in this instance given the proven viability issues around the site no affordable provision was secured in the original permission, a viability review mechanism was however built into the s106 agreement to ensure that in the event that the site becomes profitable an offsite contribution would be secured. A deed of variation has been submitted to link this application to this review mechanism.
96. SBLP Policy D8 sets out that where appropriate, a contribution to the provision and subsequent maintenance of related social, community, infrastructure and leisure facilities in the locality where such provisions are necessary and directly related to the development being proposed. Furthermore, SBLP Policy L1 and L2 which are considered consistent with the NPPF, sets out targets for sporting and/or recreational land as part of the development or as an alternative developers are expected to make a contribution to the provision of such facilities. These targets have been revised under the Council's Open Space Needs Assessment (OSNA) 2010 which is

considered the most up to date assessment of need for the purposes of Paragraph 73 of the NPPF.

97. The OSNA sets out the requirements for public open space on a population pro rata basis, and this development would be expected to provide provision for six typologies, either within the site, or through a financial contribution towards offsite provision, in lieu. In the previously approved application a significant amount of open space would be provided on site, together with an offsite community contribution totalling some £150,000. A deed of variation has been submitted to link this application to the relevant triggers of payments. It should be noted that this application would not increase the number of dwellings in total on site over and above the original 506 dwellings assumed to be delivered in the S106 and therefore no additional contribution is required as mitigation.
98. The Council's School Places and Admissions Manager advises that the pupils generated from the development has been included forecasted pupil roles within the area. No mitigation is sought in respect of the development on this basis.

Planning Balance

99. The principle of developing the site for residential purposes has been established under implemented applications 7/2004/0858/DM, 07/2008/0057/DM and 07/2010/0186. However, as set out above the acceptability of the application should be considered under the planning balance test contained within Paragraph 14 of the NPPF. No specific policies within the NPPF are considered to indicate development should be restricted and therefore planning permission should be granted unless any adverse impacts of a proposed development significantly and demonstrably outweigh the benefits.

Benefits

100. The development would assist in maintaining deliverable housing land supply in the short term at a time when housing supply policies within the SBLP are considered out date. However, in light of the Councils housing supply figure when assessed against the Governments OAN methodology this benefit is a limited one.
101. To a degree the development would provide direct and indirect economic benefits within the locality and from further afield in the form of expenditure in the local economy.

Adverse Impacts

102. The development would result in the loss of 0.5ha of 3a best and most versatile agricultural land, however this level of loss is not considered significant. This impact is the same as already approved recognising that the land is no longer in an agricultural use
103. There would be an adverse landscape impact, with the character of the site being transformed, and there being localised adverse effects upon views across the site. This impact would be similar as already approved, whilst recognising the density of the development in this area would increase.

CONCLUSION

104. The principle of developing the site for residential purposes has been established under applications 7/2004/0858/DM, 07/2008/0057/DM and 07/2010/0186. This application seeks planning permission to revise the layout of part of these approvals and in so doing, introduce an additional 45 dwellings within this area of development. The total number of delivered would be similar to that previously approved on the site. The delivery of housing in this location would be in accordance with SBLP Policies H2 and H4.
105. Notwithstanding this, the acceptability of the application should be considered in the context of the planning balance test contained within Paragraph 14 of the NPPF due to the out of date nature of SBLP housing supply policies. In the absence of any specific policies that indicate development should be restricted, Paragraph 14 sets out that the development should be approved unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
106. In line with the original approval the adverse impacts have been identified in the form of residual landscape harm and loss of agricultural land. However given the limited visibility in the wider landscape and the limited loss of agricultural land for the purposes of Paragraph 14, this harm would not significantly and demonstrably outweigh the recognised, social and economic benefits of new housing partially when considering the implemented permissions on site.
107. Paragraph 204 of the NPPF and Paragraph 122 of The Community Infrastructure Levy Regulations 2010 set out three planning tests which must be met in order for weight to be given to a planning obligation. These being that matters specified are necessary to make the development acceptable in planning terms, are directly related to the development, and are fairly and reasonably related in scale and kind to the development. In the proposed deed of variation to link this permission to contributions regarding open space and sporting opportunities, the provision highways mitigation, off site ecology mitigation and a viability review mechanism are considered necessary for the development to be considered acceptable and therefore meet the relevant tests.

RECOMMENDATION

That the application is **APPROVED** subject to the completion of a deed of variation to the existing Section 106 Legal Agreement to apply the existing obligations relating to affordable housing, off-site highway works, open space and woodland management/maintenance, and community contribution to this new permission in addition to the existing permissions, and subject to the following conditions:-

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

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 in shall be carried out in strict accordance with the following approved plans and documents :

Phase 5 - Planning Site Layout ref: 13070 P30 Revision D

Phase 5 - Materials and Enclosures Layout ref: 130707 P31 Revision D

Alderney Classic (Det) ref BALD 00CD drwg 01 Dated April 2016
Buchanan (Det) ref BBUH 00CD Dated March 2016
Chester Classic (Det) ref BCSR 00CD drwg 01 Dated April 2016
Derwent Classic (Det) ref BDER 00CD drwg 01 Dated April 2016
Moresby Classic (Det) ref BMMS 00CD drwg 01 Dated April 2016
Norbury Classic (End) ref BNOR 00CE drwg 01 Dated April 2016
Palmerston Classic (End) ref BPMS 00CE drwg 01 Dated April 2016
Palmerston Classic (Mid) ref BPMS 00CI drwg 01 Dated April 2016
Windermere Classic (Det) ref BWIE 00CD drwg 01 Dated April 2016
Folkestone ref 2016/FOL/C/02 Dated Jan 2016
Kenley ref 2016/KNL/C/01 Dated Jan 2016

Reason: To define the consent and ensure a satisfactory form of development is obtained in accordance with Policies, E15, H2, H4, T1, D1, D2, D3, D4, D5, D8 and D9 of the Sedgfield Borough Local Plan.

3. Notwithstanding the submitted information, prior to the occupation of the 1st dwelling hereby approved a detailed landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority.
The landscape scheme shall include the following.
- A plan showing the public/structural landscaping and private/in-curtilage landscaping.
 - Any trees, hedges and shrubs scheduled for retention and method of projection.
 - Details soft landscaping including planting species, sizes, layout, densities, numbers;
 - Details of planting procedures or specification.
 - Finished topsoil levels and depths.
 - Details of temporary topsoil and subsoil storage provision.
 - The establishment maintenance regime, including watering, rabbit protection, tree stakes, guards etc.
 - The timeframe for implementation of the landscaping scheme.
 - Full details of the management, maintenance and accessibility of all areas of open space in perpetuity.
 - Details of surfacing of the PROW adjacent to the proposed roundabout.

The approved landscaping scheme shall thereafter be undertaken in accordance with the approved details and timeframes.

Trees, hedges and shrubs planted in accordance with the scheme shall not be removed within five years. Within the area defined as public/structural landscape space any trees or plants which die, fail to flourish or are removed within a period of 5 years from the substantial completion of the development shall be replaced in the next planting season with others of similar size and species. Replacements within the area defined as public/structural landscape space will be subject to the same conditions.

Reason: In the interests of the visual amenity of the area and to comply with Policies E1, L2 and D1 of the Sedgfield Borough Local Plan and Parts 7 and 11 of the National Planning Policy Framework.

4. Prior to the construction of the 1st dwelling hereby approved full details of the proposed site levels and finished floor levels shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.

Reason: In the interests of the visual amenity in accordance with Policies E1, D1 and D5 of the Sedgfield Borough Local Plan and parts 7 and 11 of the National Planning Policy Framework.

5. Prior to the construction of the 1st dwelling a detailed scheme for the disposal of surface water and foul water from the development shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be completed in accordance with the approved details.

Reason: In the interest of the adequate disposal of foul and surface water in accordance Parts 10 and 11 of the National Planning Policy Framework.

6. Prior to the erection of the first dwelling hereby approved to stabilise the site in relation to former coal mining activity shall be submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall detail:-
 - The submission of a scheme of further intrusive site investigations to investigate the condition of the recorded mine entry condition for approval;
 - The undertaking of that scheme of further intrusive site investigations;
 - The submission of a report of findings arising from the intrusive site investigations;
 - The submission of a scheme of remedial works for both the shallow coal mine workings and the mine entry for approval, including a plan of any updated 'no-build zone' for the recorded mine entry which may be required and a time frame Implementation of those remedial works.The scheme thereafter shall be completed in accordance with the approved details and timeframes.

Reason: In order to stabilise the site in relation to former coal mining activity in accordance with Part 11 of the National Planning Policy Framework. This is required as a pre commencement condition in order to mitigate potential impact on residential amenity which needs to be considered before site works commence.

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

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

No construction works or works of demolition whatsoever, including deliveries, external running of plant and equipment, internal works whether audible or not outside the site boundary, shall take place on Sundays, Public or Bank Holidays. For the purposes of this condition, construction works are defined as: The carrying out of any building, civil engineering or engineering construction work involving the use of plant and machinery including hand tools.

Reason: To protect the residential amenity of existing and future residents from the development to comply with Part 11 of the National Planning Policy Framework.

8. No development of any phase shall commence until a Construction Management Plan covering that phase shall be submitted to and approved in writing by the local planning authority. The Construction Management Plan shall include as a minimum but not necessarily be restricted to the following:
 - A Dust Action Plan including measures to control the emission of dust and dirt during construction
 - Details of methods and means of noise reduction
 - Where construction involves penetrative piling, details of methods for piling of foundations including measures to suppress any associated noise and vibration.
 - Details of measures to prevent mud and other such material migrating onto the highway from construction vehicles;

- Designation, layout and design of construction access and egress points;
- Details for the provision of directional signage (on and off site);
- Details of contractors' compounds, materials storage and other storage arrangements, including cranes and plant, equipment and related temporary infrastructure;
- Details of provision for all site operatives for the loading and unloading of plant, machinery and materials
- Details of provision for all site operatives, including visitors and construction vehicles for parking and turning within the site during the construction period;
- Routing agreements for construction traffic.
- Details of the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- Waste audit and scheme for waste minimisation and recycling/disposing of waste resulting from demolition and construction works.
- Detail of measures for liaison with the local community and procedures to deal with any complaints received. The management strategy shall have regard to BS 5228 "Noise and Vibration Control on Construction and Open Sites" during the planning and implementation of site activities and operations.

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

Reason: To protect the residential amenity of existing and future residents from the development to comply with Part 11 of the National Planning Policy Framework. This is required as a pre commencement condition in order to mitigate potential impact on residential amenity which needs to be considered before site works commence.

9. The erection of any dwelling shall not commence until a scheme to deal with contamination for that has been submitted to and agreed in writing with the Local Planning Authority. The scheme shall include the following:

Pre-Commencement

- (a) a Phase 2 Site Investigation and Risk Assessment shall be carried out for any phase before any development commences on that phase to fully and effectively characterise the nature and extent of any land and/or groundwater contamination and its implications.
- (c) If the Phase 2 identifies any unacceptable risks, remediation is required and a Phase 3 Remediation Strategy detailing the proposed remediation and verification works shall be carried out for that phase. No alterations to the remediation proposals shall be carried out without the prior written agreement of the Local Planning Authority. If during the remediation or development works any contamination is identified that has not been considered in the Phase 3, then remediation proposals for this material shall be agreed in writing with the Local Planning Authority and the development completed in accordance with any amended specification of works and timescales.

Completion

- (d) Upon completion of the remedial works (if required), a Phase 4 Verification Report (Validation Report) confirming the objectives, methods, results and effectiveness of all remediation works detailed in the Phase 3 Remediation Strategy shall be submitted to and agreed in writing with the Local Planning Authority within 2 months of completion of the development.

Reason: 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, and to ensure that the development can be carried out safely without unacceptable risk to workers, neighbours and other offsite receptors in accordance with Part 11 of the National Planning Policy Framework.

STATEMENT OF PROACTIVE ENGAGEMENT

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

BACKGROUND PAPERS

Submitted application form, plans supporting documents and subsequent information provided by the applicant.

The National Planning Policy Framework (2012)

National Planning Practice Guidance Notes

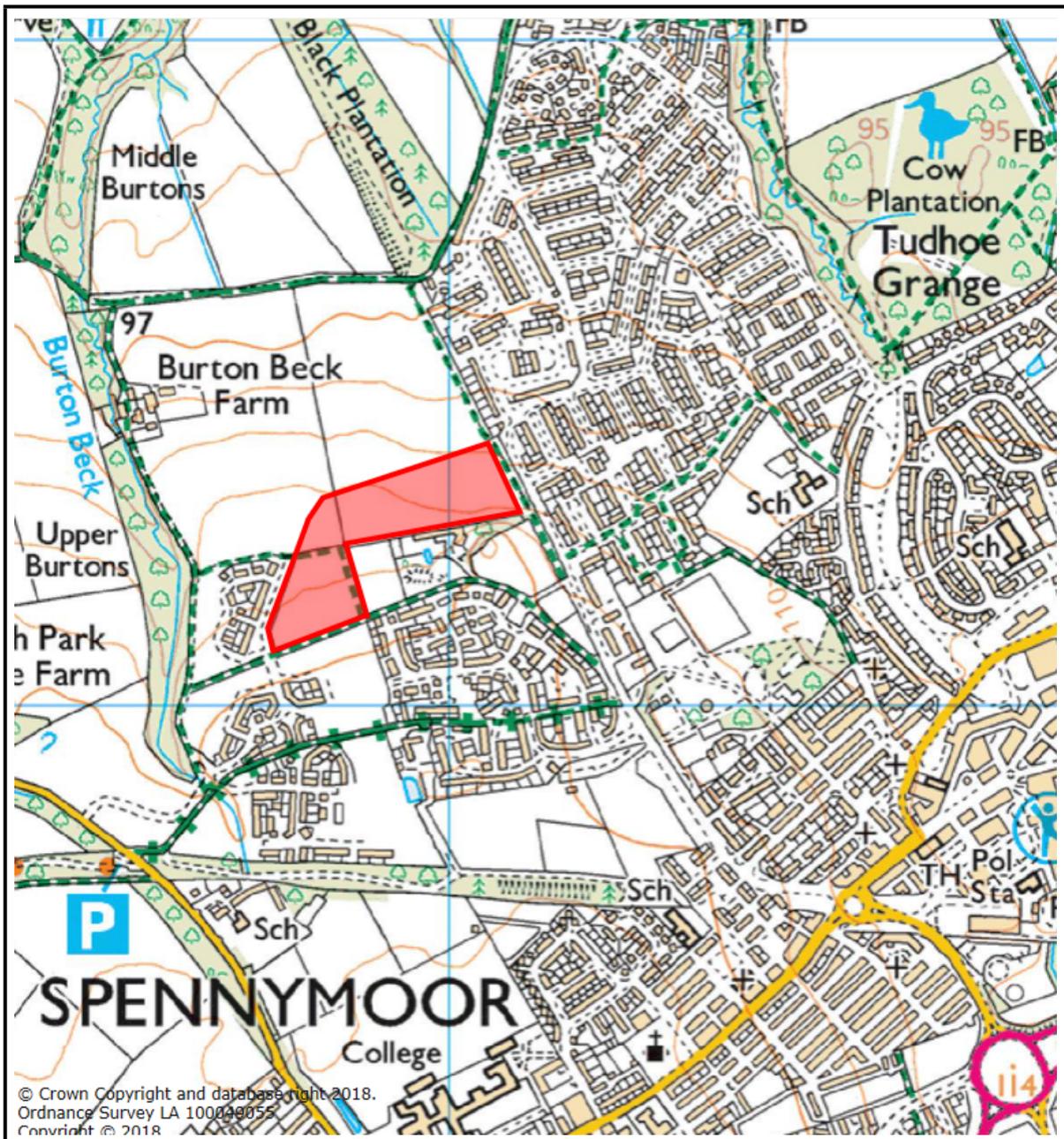
Sedgefield Borough Local Plan

The County Durham Plan (Submission Draft)

The County Durham Strategic Housing Land Assessment

The County Durham Strategic Housing Market Assessment

Statutory, internal and public consultation responses



 <p>Durham County Council</p> <p>Planning</p> <p>Services</p>	<p>Erection of 45 houses, including access and infrastructure (re-plan and substitution of house types on 230 plots (Phase 5))</p> <p>Whitworth Park</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 May 2018</p>	<p>Scale Not to scale</p>

Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/18/00478/WAS
FULL APPLICATION DESCRIPTION:	Anaerobic Digestion Plant
NAME OF APPLICANT:	Ener-G-Bio
ADDRESS:	Mount Huley Farm, Croxdale, Durham
ELECTORAL DIVISION:	Coxhoe
CASE OFFICER:	Chris Shields, Senior Planning Officer 03000 261 394, chris.shields@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The site occupies an area of approximately 2.12 hectares (ha) within an essentially rural landscape, which is predominantly in use for agriculture. The wider farm holding extends to approximately 800 ha. The A167 road is a major feature in the area, providing a clear boundary between the developed areas of Spennymoor and Tudhoe to the west and the rural landscape to the east. The village of Hett lies approximately 1.3km to the north of the application site, Croxdale approximately 2.2km to the north west, Tudhoe approximately 900m to the west and Spennymoor (Durham Gate) approximately 300m to the west.
2. The steading area of Mount Huley Farm is situated to the immediate west of the application site and includes several farm buildings of varying ages, farmyard and 2 dwellings associated with the farm.
3. The application site comprises parts of three fields to the immediate east and south of the steading area of the farm, extending to an area of 2.12 hectares. The three fields are currently set to grass and comprise improved grassland. The general landform is an area of near level ground although to the immediate east of the farm buildings there is a natural depression approximately 4m below the surrounding ground level. The fields are bounded by a mix of hedgerow and post and wire fencing. The proposed development would be accessed via an existing field entrance from the A167.
4. The nearest Public Right of Way (PRoW) to the site is Footpath No.28 (Croxdale and Hett) located approximately 100m to the east. The A167 lies immediately to the west of the application site and is the main highway connection. The site is within a mix of High Risk and Low Risk Coalfield Development Areas. There are no landscape designations or designated heritage assets within or adjacent to the site. There are no nature conservation designations within or adjacent to the site. Within 5km of the site lie The Carrs Site of Special Scientific Interest (SSSI) 2.8km to the south east,

Butterby Oxbow SSSI 3.4km to the north and Thrislington Plantation SSSI 3.7km to the south east.

5. The nearest residential properties beyond those within the farmstead lie approximately 300m to the south at Thinford, 930m to the west at Hutton House, 600m to the south west at Spennymoor, 910m to the west at Tudhoe and 1.3km to the north at Hett. Commercial properties at Enterprise City and Greenhills Business Park are located 185m to the west.

The Proposals

6. This application is for an anaerobic digestion (AD) plant that would produce methane gas for distribution to the gas grid. The plant would produce up to approximately 8,000,000m³ of biogas per annum. The development would also include a small combined heat and power (CHP) unit for the parasitic load for the plant and heat for the tanks with excess heat being used on the farm. It is intended that the plant would operate continuously on a 24/7 basis, apart from scheduled maintenance operations when the plant would be completely closed down.
7. The proposed development would process approximately 43,435 tonnes of waste per annum consisting of processed food waste, farmyard manures and silage.
8. The farmyard manures and silage would be derived from Mount Huley Farm. The precise source of the food waste feedstock cannot be set out at this time but there are a number of food production businesses within County Durham producing food waste that could be utilised at the facility. The food waste would be imported to the site via heavy good vehicles (HGVs), including tankers, with a peak capacity of 8 (4 in and 4 out) per day during daytime hours. The site would be accessed directly from the A167 via an existing field entrance that widened with appropriate visibility splay and a central island that would force vehicles to enter and leave the site in a left in and left out arrangement.
9. The AD plant would comprise of a main and a secondary digester tank which would both have an internal diameter of 26m, a height of 8m and a total volume of 4,247m³. In addition there would be a digestate storage tank with an internal diameter of 36m, a height of 10m and a volume 10,000m³. There would also be three pasteurisation tanks with an internal diameter 2.95m, a height of 6.15m and a volume of 30m³. There would be a waste reception building measuring 30m by 20m with a height of 10m which would house a depackaging plant and liquid storage tanks. In addition to the AD plant there would also be a gas grid entry unit, gas purification and storage plant, technical container, office and laboratory, a CHP unit in a shipping container measuring 6m by 2m with a height of 2.5m and a 5m flare stack.
10. HGVs carrying solid food waste would enter the food waste reception building, operated under negative pressure, where the waste would be unloaded, de-packaged and sorted. The doors of the building would be kept closed at all times other than when HGVs enter or leave the building. Liquid food waste would be transferred via a sealed pumping system into one of four reception tanks for analysis. The tanks allow for wastes of different origins to be 'blended' together to provide the optimum mix for processing in the tanks. From the reception tanks the feedstock would be transferred into the primary fermentation tank either by an auger (solids) or by direct pipe (liquids). Straw would continue to be stored in bales on the farm, as per the current situation.

11. The material would be fermented in the tanks for between 40 and 90 days. Once all the methane has been extracted from the material, it would then be pumped into a pasteurisation facility which heat treats the material before it is then pumped into the digestate storage tank.
12. At this point in the AD cycle the digestate would no longer be a waste but a bio fertiliser, capable of being spread on land instead of conventional fertilisers. The digestate would be stored in a pumpable liquid form and would be removed from the site via a sealed pipework system connected to tankers or umbilical pipework direct to the fields. It would then be spread on land at Mount Huley Farm or taken off site for use at other farms instead of conventional fertiliser. Due to the seasonal demands for fertiliser as well as existing restrictions on application of material to land, the facility would incorporate up to 6 months storage of digestate on site.
13. An Environmental Permit from the Environment Agency would be required. In accordance with the permitting requirements, as well as sound environmental management practices, the site would be bunded behind concrete walls capable of holding 110% of the volume of the largest tank.
14. The application is being reported to the County Planning Committee because it is for major waste development with a site area greater than 1ha.

PLANNING HISTORY

15. Mount Huley Farm is a long established farm complex comprising of two dwellings, agricultural buildings, extensive farmyard area and surrounding land.

PLANNING POLICY

NATIONAL POLICY

16. 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 dependent.
17. The NPPF does not contain specific waste policies as these are contained within the National Planning Policy for Waste (NPPW) document. However, the NPPF requires local authorities preparing waste plans and taking decisions on waste applications should have regard to policies in the NPPF so far as relevant.
18. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve 'core planning principles'. The following elements of the NPPF are considered relevant to this proposal.
19. In accordance with Paragraph 215 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.

20. *NPPF Part 1 – Building a Strong, Competitive Economy.* The Government is committed to securing economic growth in order to create jobs and prosperity and to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system. Decisions should support existing business sectors, taking account of whether they are expanding or contracting.
21. *NPPF Part 3 – Supporting a Prosperous Rural Economy.* Planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development.
22. *NPPF Part 4 – Promoting Sustainable Transport.* States that the transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel. It is recognised that different policies and measures will be required in different communities and opportunities to maximize sustainable transport solutions which will vary from urban to rural areas. Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion.
23. *NPPF Part 7 – Requiring Good Design.* The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning. Planning policies and decisions must aim to ensure developments; function well and add to the overall quality of an area over the lifetime of the development, establish a strong sense of place, create and sustain an appropriate mix of uses, respond to local character and history, create safe and accessible environments and be visually attractive.
24. *NPPF Part 8 – Promoting Healthy Communities.* Recognises the part the planning system can play in facilitating social interaction and creating healthy and inclusive communities. Access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities.
25. *NPPF Part 10 - Meeting the Challenge of Climate Change, Flooding and Coastal Change.* Planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy.
26. *NPPF Part 11 – Conserving and Enhancing the Natural Environment.* The planning system should contribute to, and enhance the natural environment by; protecting and enhancing valued landscapes, recognizing the benefits of ecosystem services, minimising impacts on biodiversity and providing net gains in biodiversity where possible, preventing new and existing development being put at risk from unacceptable levels of soil, air, water or noise pollution or land instability, and remediating contaminated and unstable land.
27. *NPPF Part 12 – Conserving and Enhancing the Historic Environment.* Local planning authorities should set out in their Local Plan a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats. In doing so, they should recognise that

heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance.

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

28. Accompanying the NPPF the Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This provides planning guidance on a wide range of matters. Of particular relevance to this development proposal is the practice guidance with regards to air quality, transport, flood risk, waste and use of planning conditions.

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

29. National Planning Policy for Waste sets out the Government's ambition to work towards a more sustainable and efficient approach to resource use and management. Waste Planning Authorities should only expect a demonstration of need where proposals are not consistent with an up to date Local Plan and should not consider matters that are within the control of pollution control authorities. Waste proposals should not undermine the objectives of the Local Plan and should be environmentally sensitive and well designed. Of further relevance is the Waste Management Plan for England, which also advocates the movement of waste up the waste hierarchy in line with the requirements of the European Waste Framework Directive (WFD). One such requirement is the 'proximity principle' (Article 16) which stipulates self-sufficiency; an 'integrated and adequate network of waste disposal installations' and that waste management should be at the nearest appropriate installations.

<https://www.gov.uk/government/publications/national-planning-policy-for-waste>

LOCAL PLAN POLICY:

County Durham Waste Local Plan (2005)

30. *Policy W2 – Need* – requires the demonstration of need for a particular development which cannot be met by an alternative solution higher up the waste hierarchy.
31. *Policy W3 – Environmental Protection* – states that proposals for new development will be required to demonstrate that the natural and built environment and the living conditions of local communities will be protected and where possible enhanced.
32. *Policy W4 – Location of waste management facilities* – states that proposals for new waste management facilities will be determined having regard to protection of the environment and local amenity, traffic impacts, opportunities to integrate with other facilities or developments which will benefit from the recovery of materials and to extend or develop existing waste management facilities.
33. *Policy W6 – Design* – requires new buildings for waste management uses to be carefully sited and designed to complement the location and existing topography. Landscape proposals should be incorporated as an integral part of the overall development of the site. Where appropriate, the opportunity should be taken to illustrate best practice by incorporating sustainable design principles in new building, using recycled materials wherever possible.
34. *Policy W7 – Landscape* – states that proposals for waste development which would result in the loss of important landscape features or which would have a significant adverse effect on the character of the landscape will not be permitted.

35. *Policy W17 – Nature Conservation (Minimisation Of Adverse Impact)* – states that proposals should incorporate measures to ensure that any adverse impact on the nature conservation interest of the site is minimised.
36. *Policy W21 – Archaeology* – Policy requires an archaeological assessment and field evaluation prior to the determination of a planning application where there is reason to believe important remains may exist within or in the vicinity of the site of a proposed waste development.
37. *Policy W22 – Archaeology* – Where nationally important archaeological remains, whether scheduled or not, and their settings are affected by a proposed waste development there will be a presumption in favour of their preservation in situ. Proposals for waste development that would have an adverse effect on regionally important archaeological remains will only be permitted where the need for the development outweighs the importance of retaining the site intact and no other suitable locations are available.
38. *Policy W23 – Archaeology* – Where the preservation of archaeological remains in situ is not appropriate, planning permission will not be granted unless satisfactory provision has been made for the excavation and recording of the remains.
39. *Policy W24 – Public Rights of Way* – States that waste development will be permitted where there will be no significant adverse impact upon the recreational value of the countryside, including the local path network, country parks and picnic areas
40. *Policy W25 – Agricultural Land* – States that proposals for waste development that would impact upon, or lead to the loss of high quality (best and most versatile) agricultural land will be strongly resisted unless there is a need for the development in this location.
41. *Policy W26 –Water resources* – Proposals for waste development which does not involve landfill or landraise will not be permitted unless it can be demonstrated that there will be no significant adverse impact or significant deterioration to: the quality of surface or groundwater resources; and the flow of surface or groundwater at or in the vicinity of the site.
42. *Policy W29 – Modes of transport* – requires that waste development incorporate measures to minimise transportation of waste.
43. *Policy W31 – Environmental impact of road traffic* – states that waste development will only be permitted if traffic estimated to be generated by the development can be accommodated safely on the highway network, the amenity of roadside communities is protected, the strategic highway network can be safely and conveniently accessed and the impact of traffic generated by the development on local and recreational amenity is otherwise acceptable.
44. *Policy W32 – Planning obligations for controlling environmental impact* – states that in granting planning permission for waste development, planning conditions be imposed to cover, in addition to other issues, the prevention of the transfer of mud, dust, or litter onto the public highway by measures including the provision of wheel cleaning facilities, suitably metalled access roads and the sheeting of laden vehicles.

45. *Policy W33 – Protecting local amenity* – requires that suitable mitigation measures are incorporated into proposals to ensure that any harmful impacts from noise, odour, litter, vermin, birds, dust, mud, visual intrusion and traffic and transport are kept to an acceptable level.
46. *Policy W36 – Locations for Waste Recovery Facilities* - states that unless it can be clearly demonstrated that any environmental impacts can be effectively mitigated proposals for new or the expansion of existing waste management facilities should be fully contained within well designed buildings or enclosed structures appropriate to the technology or process and appropriate in scale and character to their surroundings.
47. *Policy W43 – Aerobic and Anaerobic Digestion* – states that proposals for Anaerobic Digestion Plants which make a significant contribution to sustainable waste management in County Durham and which make the best practical use of by-products will be permitted where they can be satisfactorily located: a) on land identified for general industrial use or on previously developed land in sustainable locations; or where the proposal forms part of an integrated waste management facility.
48. *Policy W44 – Small Scale Aerobic And Anaerobic Digestion* – states that proposals for small scale aerobic and anaerobic digestion plants which make the best practical use of by-products will be permitted on general industrial sites; or on previously developed land in sustainable locations and where the processing of waste is appropriate in scale to an existing primary use of the site, or where they involve the re-use of appropriate rural buildings and hard standings, including as part of farm diversification.
49. *Policy W45 – Energy from Waste* – Proposals for the development of energy from waste facilities will be permitted where it can be demonstrated that they contribute to a sustainable waste management system for County Durham and where they can be satisfactorily located on land identified for general industrial uses, or on previously developed land in sustainable locations; or where the proposal forms part of an existing permanent waste management facility.

EMERGING POLICY:

50. Paragraph 216 of the NPPF says that decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. The County Durham Plan (CDP) was submitted for Examination in Public and a stage 1 Examination concluded. An Interim Report was issued by an Inspector dated 18 February 2015, however that Report was quashed by the High Court following a successful Judicial Review challenge by the Council. In accordance with the High Court Order, the Council has withdrawn the CDP and a new plan being prepared. In the light of this, policies of the CDP can no longer carry any weight. As the new plan progresses through the stages of preparation it will begin to accrue weight.

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

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

51. *Highway Authority* – has raised no objections to the proposals.

52. *Environment Agency* – has raised no objections to the proposals but has provided advice in respect of amenity stating that the proposed development is in close proximity to housing and an expanding commercial area and that even with good standards of odour management there could still be incidents of nuisance odours.
53. *Drainage & Coastal Protection* – has raised no objections to the proposal but has requested details of surface water management through condition.
54. *Coal Authority* – has raised no objections subject to a condition being imposed requiring intrusive ground investigations to be carried out followed by remedial work, if necessary.

INTERNAL CONSULTEE RESPONSES:

55. *Landscape* – has raised no objections to the proposals. Officers have stated that the development would result in some harmful visual and local landscape effects as a consequence of the scale of development and the visibility in some views. However, these could be tempered by sensible choice of finishing colour for the plant and buildings and could be mitigated in time to varying degrees of structure planting, all of which could be secured by condition.
56. *Ecology* – has raised no objections to the proposal and consider the submitted information to be sufficient. Officers have requested that the recommendations set out in the Ecological Impact Assessment are secured by condition.
57. *Archaeology* – no objections are raised following the submission of a geophysical survey and trial trench evaluation.
58. *Environmental Health and Consumer Protection (Noise and Odour)* – has considered the proposal in relation to the Council's relevant Technical Advice Notes (TANS) in respect of odour and noise. Officers advise that submitted details indicate that the development would not lead to an adverse impact or statutory nuisance subject to conditions. These conditions would require noise emitted from fixed plant/machinery/vehicle movements on the site shall not exceed 51dB LAeq (1 hour) between 07.00-23.00 and 37dB LAeq (15 mins) between 23.00 - 07.00 at Mount Huley Farm, the Meadows and East Farm and that within 28 days of beneficial use a verification report shall be provided to the Local Planning Authority to demonstrate adherence with this level. Also, it is requested that there no movement of vehicles or deliveries associated with the development other than between the hours of 7am and 11pm.
59. In respect of odour, the submitted assessment demonstrates that odour emissions from the proposed plant would be within the threshold levels stated in the TANS. This is based on a number of uncertainties and reliance on the operators adhering to good practice. However, the site would be further regulated by the EA, and as such it is assumed that appropriate standards will be enforced. Officers do, however, state that due to the location and waste used, at times there is likely to be odour events/climactic condition which is likely to lead to increased odour and therefore potentially complaints. However, it is also recognised that this may also be true of the existing farm in close proximity and the further agricultural uses in the area.
60. *Environmental Health and Consumer Protection (Air quality)* – has raised no objections to the proposed development stating that the air quality assessment demonstrates that the impact on air quality pollutants at receptors would not be significant.

PUBLIC RESPONSES:

61. The application has been advertised in the press, by site notice and neighbour notification. One letter has been received from the planning agent acting on behalf of the DurhamGate site. Whilst not an objection the letter provides an assessment of the noise and odour impacts from the proposed development and requests that conditions be imposed to require the submission of an odour management plan and to supply a verification report to prove that the predicted noise levels are being achieved once the plant is operational.

APPLICANTS STATEMENT:

62. The Government has shown a clear commitment to increasing the proportion of the United Kingdom's energy requirements produced from carbon neutral or low carbon sources. Moreover, the Government is keen to diversify the mix of such energy sources and not to be over-reliant on wind power. Anaerobic Digestion (AD) plants are carbon reducing and the proposed development will therefore make a contribution towards achieving the Government's target of cutting CO₂ as well as diversifying the mix of renewable energy sources.
63. The proposed development accords with the National Planning Policy Framework, which urges local planning authorities to look upon proposals for renewable energy generation favourably. The DEFRA publication, the 'National Anaerobic Digestion Strategy and Action Plan – A commitment to increasing energy from waste through anaerobic digestion' (2011 & 2013), which indicates the government's strong support for anaerobic digestion facilities, offers significant encouragement for the proposal. The Waste Management Plan for England (2013) is also supportive of the proposal.
64. There is no conflict with local planning policy with reference to the extant development plan policies contained within the County Durham Waste Local Plan (2005).
65. The plant will process a combination of food wastes that would otherwise go to landfill together with energy crops, waste straw, farmyard manures/slurries and other liquid residues, to produce bio-gas. The bio-gas will then be both purified and compressed for injection into the Gas Grid with a small proportion being combusted in the CHP plant to provide electricity for the operation of the plant. The resultant bi-product from the process known as digestate, may be separated into its solid and liquid components. The liquid is a bio-fertiliser and the solid may be used as a fertiliser and soil improver. These odourless bi-products will be applied on the farm's fields via dribble bar instead of farmyard manure and imported nitrate fertiliser which are used at present.
66. The proposal represents an appropriate form of sustainable development at the site. Moreover, it has been demonstrated that the development will not result in a significant impact upon the landscape or visual amenity, will not cause noise or odour nuisance, will not give rise to traffic issues of any significance, will not harm the local ecology and will not impact any features of archaeological importance.
67. Furthermore, it has been concluded that the proposal will benefit the rural economy, and promote the Government's aim to diversify farms as opportunities present themselves.
68. On that basis, we hope officers and members will support this scheme.

PLANNING CONSIDERATIONS AND ASSESSMENT

69. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that if regard is to be had to the development plan, decisions should be made in accordance with the development plan unless material considerations indicate otherwise. In accordance with Paragraph 212 of the National Planning Policy Framework (NPPF), the policies contained therein are material considerations that should be taken into account in decision-making. Other material considerations include representations received. In this context, it is considered that the main planning issues in this instance relate to: principle of development, residential amenity, landscape impact, ecology, access and traffic, access and rights of way, agricultural land, flood risk and drainage and other matters.

Principle of Development

70. National and local planning policies are generally supportive towards sustainable waste management initiatives and seek to promote the movement of materials up the waste hierarchy. The Government's 'Waste Strategy for England 2007' set out the Government's objectives to reduce waste and increase recycling of waste and energy recovery. The Waste Review of 2011 sets out the Government's aims for a 'zero waste' economy. The direction of travel set by the Review is a new focus in national policy on the use of materials throughout the economy; the integration of business and household waste; a smaller and different role for central government; and more focus upon the householder or business and the importance of this agenda – from waste prevention to waste management – for the "green economy". Waste is considered a valuable resource. The National Anaerobic Digestion Strategy and Action Plan outlines the Government's aim to increase energy from waste through AD, moving towards the 'zero waste' economy. It highlights the important role of AD in dealing with organic waste and avoiding greenhouse gas emissions that are associated with its disposal to landfill.
71. The NPPW sets out in the waste hierarchy that prevention of waste and re-use of materials should be considered before recycling, recovery and final disposal of waste. This is reflected in WLP Policy W2 requiring developments to demonstrate an established need for the facility and to show that they would make a contribution to the County's sustainable waste strategy and achieve overall environmental benefits, and move waste up the Waste Hierarchy. Furthermore, the Policy seeks to prevent unnecessary importation of waste into the County. Policy W2 is considered to be consistent with the NPPF and can therefore be afforded weight in the decision making process.
72. The proposed development would seek to import up to up to 43,435 tonnes per annum of food waste, manures and silage to produce up to 8,000,000m³ of biogas a year from the anaerobic digester. Capacity for anaerobic digestion is currently unknown as waste data showing available feedstocks is not readily available. Determining need based upon capacity is therefore currently an unreliable measure. Although no contracts are in place, the applicant has identified local sources for feedstocks and would be able to treat all of the waste on site, producing renewably sourced gas for the grid and bio fertiliser, both of which contribute to regional self-sufficiency and as there would be no waste at the end of the process the proposal would not amount to an unnecessary importation of waste into the County. Contracts with suppliers would

not normally be in place until planning permission has been secured to give certainty. The proposal would therefore broadly accord with WLP Policy W2 even though the need for the development is currently unknown.

73. Anaerobic digestion is specifically covered in the WLP under Policies W43 and W44. Policy 43 seeks to locate anaerobic digesters on general industrial or previously developed land; or in other situations where the proposal forms part of an integrated waste management facility. Policy W44 is broadly similar to W43 but allows for small scale facilities to be located on farms as a form of diversification. The WLP does not elaborate on what constitutes 'small scale' but the assertion is that proposals on farms would normally be permitted if they are only using feed stocks (including waste) produced within the same farm unit. The proposed facility at Mount Huley Farm would use feed stocks from the farm supplemented by imported waste. It is therefore considered that the proposal must be considered against Policy W43. As the development would produce useable electricity and heat it should also be assessed against Policy W45 relating to energy from waste. W45 has the same locational requirements as W43. The proposed development would involve the use of a relatively small field to the immediate east of the existing farm buildings for the construction of an AD plant. The proposal would not be located on an industrial estate, would not form part of an integrated waste management facility or reuse previously developed land and is therefore contrary to WLP Policies W43 and W45. WLP Policies W43 and W45 are considered to be consistent with the NPPF and can be given weight in the decision making process.
74. The supporting text in the WLP relating to aerobic and anaerobic digestion in the WLP was written at a time when the technology was in its infancy and few examples existed within the UK. It was understood that digestion facilities would primarily be used to produce compost from municipal waste with little regard to the potential for energy production. Technology has advanced and anaerobic digesters have become a recognised as a viable source of renewable energy as well as producing a useful product from waste material that would otherwise have been sent to landfill or incinerated.
75. WLP Policy W45 relating to Energy from Waste was also written without the knowledge of what future technological innovations may become available. The supporting text focuses upon energy recovery from waste via gasification, pyrolysis and incineration of municipal waste on an industrial scale. These processes are quite different from how energy is recovered in an anaerobic digester where a viable supply of renewable fuel can be obtained at a range of scales. The primary purpose of the AD plant would be to generate gas for the national grid. A small amount would be used for heat and power at Mount Huley Farm.
76. The proposed development would bring benefits to the wider area in that it would produce energy for the national grid from waste food, farmyard manure and excess silage that would otherwise need to be disposed of. The digested material could be used as a stable bio-fertiliser for use at Mount Huley Farm or taken off site for use at other farms, limiting the need for manmade fertilisers. The bio-fertiliser would be relatively odourless in comparison to the manure that is currently spread to land.
77. Whilst it is accepted that the proposed development would be a departure from WLP Policies W43 and W45 it is considered that these specific Policies have not kept pace with current technology and only limited weight can be attributed to them. The departure does not undermine the key aims of the development plan and would not need to be referred to the Secretary of State. Indeed, the proposal would comply with all other relevant local plan policies.

78. WLP Policy W4 refers to the location of new waste management facilities and criteria to be considered including protection of local amenity, minimising the transportation of waste, integration with other facilities, environmental benefits and the safe and free flow of traffic on the highway network. These criteria are reflected in Appendix B of the NPPW which also includes protection of water quality and resources, land instability, landscape and visual impact, nature conservation, traffic and access, air emissions, odours, noise and light. Those applicable to this development and location are considered in this report. WLP Policy W29 reinforces the need to minimise the transportation of waste. WLP Policies W4 and W29 is considered to be consistent with the NPPF and can be afforded weight in the decision making process.
79. The proposed development would be located in close proximity to the A167 road and A1(M) and being able to access the site from this major road would be a benefit to the development. Feedstocks would be provided by activities on the farm and it is suggested in the application that there are food production businesses in County Durham that could direct waste to this facility. The site would therefore be in close proximity and well connected to the sources of the feedstocks and would therefore accord with WLP Policies W4 and W29 in terms of minimising transport of waste.

Residential Amenity

80. WLP Policy W3 requires proposals for waste development to demonstrate that the living conditions of local communities will be protected and where possible enhanced. WLP Policy W33 seeks to ensure that mitigation is provided to ensure that harmful impacts from development are kept to an acceptable level and Policy W36 sets out the need to fully contain waste management facilities within buildings or enclosed structures appropriate to the technology or process.
81. The proposed development would be located to the immediate east of the farmstead for the digester tanks with the reception building and silage clamps located further to the south east. The site has limited screening around its perimeter but there are sporadic plantations around the site that break up ranged views. The nearest residential properties beyond those within the farmstead lie approximately 300m to the south at Thinford, 930m to the west at Hutton House, 600m to the south west at Spennymoor, 910m to the west at Tudhoe and 1.3km to the north at Hett. 185m to the west are commercial properties at Enterprise City and Greenhills Business Park.
82. The proposed facility would store waste materials in tanks located within the buildings and also within the AD plant itself. Materials would be brought to and from the site by tractors and HGV's.
83. The key issues in terms of residential amenity are noise and odour and are addressed below.

Noise

84. Anaerobic digestion is a generally quiet activity with the majority of the process occurring within sealed tanks. The site is an active arable farm and use of tractors is a normal part of those operations and the internal transportation on the farm of manure and waste straw currently takes place. The main sources of noise from the facility would be HGV's travelling to and from the site, CHP plant, gas to grid equipment, digester loading and the biofilter. The applicant has submitted a noise impact assessment in support of the application. The assessment shows that the predicted noise levels from the development would result in no increase in day time noise levels at the nearest sensitive receptor (Mount Huley Farm) and a 4dB increase in night time noise levels at the nearest noise sensitive property. The assessment recommends

mitigation measures to be in put in place and in this case the applicant has proposed to erect a 3m acoustic fence around the active components of the plant.

85. Environmental Health and Consumer Protection officers have considered the proposal and have raised no objections but in order to ensure residential is protected they have recommended conditions to ensure that noise levels are not exceeded and that noisy activities are not carried out during night time hours (11pm to 7am). Officers have also requested that a verification report be submitted to confirm that predicted noise levels are being achieved once the plant is operational. This condition was also requested by the planning agent acting on behalf of DurhamGate. Subject to the imposition of these conditions it is considered that the proposal would not conflict with WLP Policies W3 and W33 and Paragraph 120 of the NPPF in respect of noise impact.

Odour

86. The proposed development would use manures and silage from the farm in combination with imported food waste as a feedstock, which by their nature are odorous materials. The farm already stores and manages silage and manure as part of normal operation. The imported food waste would be delivered directly to the reception and stored in sealed tanks before being used. Once feedstocks have entered the digester it is a sealed process until the resultant digestate is spread to land.
87. An Odour Assessment has been submitted in support of the application which considered the potential odour impact at the nearest receptors including the residential property at Mount Huley Farm, The Meadows, East Farm, Hett Moor, Coldstream House, Durham Gate Phase 3 (housing estate), Thinford House, Police Dog Kennels and Greenhills Business Park. The report assesses that the predicted odour impact ranges from negligible to slight at the majority of receptors with a moderate impact predicted at Mount Huley Farm. The report does, however, note that even a moderate impact falls below the benchmark level set by the Environment Agency as being acceptable. The assessment concludes that odour impact from the proposed development can be considered as not significant.
88. Environmental Health and Consumer Protection officers have considered the submitted details and assessed them against the relevant Council's Technical Advice Note (TAN). Officers have stated that the assessment demonstrates that the odour level arising from the proposed development would be within acceptable thresholds. However, this would depend on a large amount of factors and good practices, which if not adhered to could significantly alter the odour composition. The Environment Agency has raised no objections to the proposal but did state in its response that proposed development would be in close proximity to housing and an expanding commercial area and that even with good standards of odour management there could still be incidents of nuisance odours. It should be noted that the Environment Agency made this comment prior to the Odour Assessment being submitted. Due to the potential risk of odour being generated by the development it is recommended that a condition be imposed requiring an odour management plan to be submitted through condition. This condition was also requested by the planning agent acting on behalf of DurhamGate.
89. In conclusion, it is considered that the applicant has adequately demonstrated that odour from the development could be controlled to a point at which it would not cause statutory nuisance or a significant adverse impact on amenity and the Environment Agency and Environmental Health and Consumer Protection officers raise no objection. In addition, the site would be subject to an Environmental Permit that would be issued and monitored by the Environment Agency. The proposal would therefore

not conflict with WLP Policies W3 and W33 and Paragraph 120 of the NPPF in respect of odour impact.

Landscape and Visual Impact

90. The site is an existing agricultural holding within the open countryside. It lies in the Wear Lowlands County Character Area, specifically the Eastern Valley Terraces Broad Character Area which belongs to the Lowland Valley Terraces Broad Landscape Type. The landscape typically consists of gently rolling farmland between the incised valley of the River Wear and the Limestone Escarpment. It is an open landscape of largely arable farmland with sub-regular patterns of old hedges, fragmented in places, with scattered hedgerow trees and few woodlands. The landscape becomes more wooded towards the Wear where parklands and wooded estates spread onto the terraces at Lambton, Croxdale and Whitworth.
91. There are large areas of reclaimed colliery land and restored opencast land which contain young hedges, plantations and shelterbelts. Frequent mining towns and villages and the western outskirts of Durham City are connected by a network of busy modern highways and older, narrow, winding lanes. The area is crossed by the A1(M), the east coast main line and the Leamside line, and by major power lines. The escarpment forms a strong horizon to the east.
92. The site has a topography that falls to the east and is largely screened by the existing farm house and buildings adjacent the A167 road. Whilst hedges running adjacent to the A167 would help screen the development to some degree when approaching from south of the farmstead, when travelling from the north the hedges are clipped low and as the land rises slightly in this location the development will be seen on the skyline and extend the existing farmstead to the east. Whilst the proposal will be seen in the context of, and behind the existing farm buildings, the new additions would be larger in height. The proposed development would be clearly visible from the road into Hett village at the north of the site and from Footpath No. 28 (Croxdale and Hett) to the east. Long ranged views of the site would be possible across the valley from Coxhoe and Old Quarrington. The existing Anaerobic Digester at Old Quarrington is visible from the application site.
93. The proposed AD plant would inevitably have an industrial quality which would be out of keeping with the rural character of the area and would detract to some degree from the scenic qualities in the near and middle distance views. It would have a transformative effect on the site itself, essentially doubling the size of the farm complex. There would be some local harm to the quality of the landscape, given the proposals are on an industrial scale and that, against the background of the landscape setting, it would represent a prominent and intrusive addition to some views. The development would also result in the loss of sections of historic hedgerow, although this would be offset by proposed new hedgerow planting. The colours, finishes and final design of elements of the plant would be required by condition.
94. WLP Policy W7 seeks to resist development that would have a significant adverse impact on the character of the landscape and promotes the restoration or enhancement of the landscape where possible. WLP Policy W6 and W36 promote the careful siting and design of new buildings appropriate to the waste process proposed that complement the proposed location and topography with landscape proposals integrated into the scheme.
95. Landscape officers have raised no objections to the proposal subject to the submission of a landscaping scheme as it is considered that structure planting in locations at the north and east of the site would be required. A further condition requiring details of

colours and finishes is also recommended. In addition precise details of the reception building, gas purification and storage plant, gas grid entry unit, technical unit, office and laboratory building would be required through condition. Subject to the imposition of these conditions it is considered that the proposal would accord with WLP Policies W3, W6, W7 and W33 and Part 11 of the NPPF. WLP Policies W3, W6, W7 and W33 are considered to be consistent with the NPPF and can be afforded weight in the decision making process.

Ecology

96. Paragraph 109 of the NPPF sets out the Government's commitment to halt the overall decline in biodiversity by minimising impacts and providing net gains where possible with Paragraph 118 stating that development should be refused if significant harm to biodiversity cannot be avoided, mitigated or, as a last resort, compensated for. WLP Policy W17 requires all waste development to incorporate appropriate measures to ensure that any adverse impact on nature conservation is minimised. WLP Policy W17 is considered to be consistent with the NPPF and can be afforded weight in the decision making process.
97. An Ecological Impact Assessment has been submitted in support of the application. The report states that the site is of low ecological value. No protected species were recorded. It notes that there is a moderate risk to nesting birds within the areas of hedgerow that are due for removal. The assessment recommends that hedgerows are removed outside of bird breeding season, or under ecological supervision, compensatory planting should be provided, low lighting implemented and air pollution monitored and managed post development.
98. The Council's Ecologist has confirmed that the supplied Ecological Impact Assessment is sufficient to inform this proposal and that no further survey work is required but has requested recommendations of the report are required by condition. Given their distance from the site no impacts upon distant SSSIs have been identified.
99. An Air Quality Report has been submitted with the application. The report confirms that the results of air quality modelling indicate that emissions from the digester plant are unlikely to significantly affect existing conditions at nearby sensitive ecological receptors. Environmental Health and Consumer Protection officers confirms that they are satisfied with the air quality prediction and offer no objection to the proposal.
100. It is considered that the proposal would not result in the loss of valuable habitat or harm to protected species and the structure planting to be agreed through condition has the potential to create biodiversity enhancement. The proposal would therefore not conflict with WLP Policy W17 and Part 11 of the NPPF.

Access and Traffic

101. Paragraph 32 of the NPPF states plans and decisions should take account of whether: opportunities for sustainable transport modes have been taken up; safe and suitable access can be achieved; improvements can be undertaken to limit significant impacts of development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. The Locational Criteria in NPPW Appendix B include traffic and access considerations: 'Considerations will include the suitability of the road network and the extent to which access would require reliance on local roads, the rail network and transport links to ports'. WLP Policy W29 seeks to ensure that measures are incorporated into developments to minimise the transportation of waste and Policy W31 requires proposals to demonstrate that traffic generated by the development can be safely and

conveniently accommodated on the highway network without causing detrimental impact to local amenity. WLP Policy W32 sets out means of mitigation that should be secured to ensure that development does not result in harm to the highway network.

102. The proposed development would be accessed via an existing field gate directly from the A167 road. This would be significantly widened and upgraded to accept HGV's into the site. The junction with the A167 would have central dividing island that would force vehicles to only be able to turn left in and left out of the site. It is recommended that a condition be imposed requiring the site access to be completed prior to the development being brought into use.
103. The proposal would generate approximately 8 vehicle movements per day (4 in and 4 out), not including tractors collecting digestate to spread to land. The vehicle movements from HGV's could be controlled by condition.
104. The Highway Authority have assessed the proposals and consider that the proposed access arrangements and vehicle movements would be acceptable. Subject to a condition setting a limit on vehicle movements it is considered that the proposal would accord with WLP Policies W29, W31 and W32 and Part 4 of the NPPF. WLP Policies W29 and W31 are considered to be consistent with the NPPF and although W32 is only partially consistent, as it does not fully reflect Regulation 122 of The Community Infrastructure Levy Regulations 2010, there is no conflict in relation to these proposals and therefore can be afforded weight in the decision making process.

Access and Rights of Way

105. Part 8 of the NPPF seeks to promote healthy communities with a key reference being towards the protection and enhancement of public rights of way and access. WLP Policy W24 requires proposals to demonstrate that there would not be a significant impact upon the recreational value of the countryside, including the local path network. WLP Policy W24 is considered to be consistent with the NPPF and can be given weight in the decision making process.
106. The nearest Public Right of Way (PRoW) to the site is Footpath No.28 (Croxdale and Hett) located approximately 100m to the east. The submitted site layout plans indicate that there would be hedgerow planting on the perimeter of the site that would provide a visual screen to users of the Footpath No.28 (Croxdale and Hett) located as it would screen not only the proposed development but the farm as a whole, reducing its impact in the landscape. In addition, Landscape officers have requested further planting on the northern and eastern sides of the site to be agreed through condition. It is considered that the proposal would not conflict with WLP Policy W24 and Part 8 of the NPPF.

Agricultural Land

107. Paragraph 112 of the NPPF seeks to protect best and most versatile land, prioritising the use of lower quality land where it has been demonstrated that development of agricultural land is necessary. WLP Policy W43 sets a higher test, requiring waste development to be located on industrial land or previously developed land and, more importantly, WLP Policy W25 seeks to strongly resist any proposals that would impact on or lead to the loss of best and most versatile agricultural land. WLP Policies W25 and W43 are considered to be consistent with the NPPF and can be given weight in the decision making process.
108. The proposed development would be located on a greenfield site on the northern edge of the farmstead. The area of land to be developed amounts to just over 2ha and is

classed as being Grade 3 although the available information does not distinguish between 3a and 3b.

109. Whilst the applicant has not demonstrated that there is an overriding need to locate the proposed development on agricultural land the overall loss is relatively small in the context of the surrounding area. If it is assumed as a worst case scenario that the land is best and most versatile (Grade 3a) then the proposal not accord with WLP Policies W25 and W43 and Paragraph 112 of the NPPF. However, it is considered that the conflict is not sufficient to justify refusal of the planning application.

Flood Risk and Drainage

110. The application site is located within Flood Zone 1 and as the development covers an area of more than 1ha a Flood Risk Assessment (FRA) has been submitted in support of the application. The FRA identifies that the site is not at risk of flooding and as the digester area of the site would be bunded to prevent pollution incidents, any rainfall would be prevented from running off. Given the water intensive nature of the process any collected water would be used in the plant. The remainder of the site would be hardstanding but without bunding. Drainage and Coastal Protection officers have requested details of surface water management through condition. The FRA concludes that the proposal would not have a significant impact upon flooding in the area in accordance with WLP Policy W26 and Part 10 of the NPPF.
111. The Environment Agency and Drainage and Coastal Protection officers have raised no objections to the proposal. WLP Policy W26 is considered to be consistent with the NPPF and can be afforded weight in the decision making process.

Archaeology

112. A geophysical survey and a trial trench evaluation have been undertaken. The results of the trial trenching found evidence of modern infilling of a former pond, field drains and furrows with no archaeological significance. Paragraph 135 of the NPPF advises that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. In this Archaeology officers have accepted the results of the trial trenching evaluation and raise no objections.
113. In accordance with WLP Policy W21 an archaeological assessment and evaluation has been carried out demonstrating that deposits are not of archaeological significance and there is no requirement for recording or mitigation. The proposal accords with WLP Policies W21 and W23 and Paragraph 135 of the NPPF. The proposal would not conflict with WLP Policy W22. WLP Policies W21, W22 and W23 are considered to be consistent with the NPPF.

Other matters

114. The site is with a mix of high and low risk coalfield development areas. The applicant has provided a mining risk assessment, which identifies ground investigation works to be carried out. The Coal Authority has considered the submitted information and raised no objections subject to a condition requiring the ground investigation works to be carried out and followed with any subsequent remedial works, if necessary. Subject to this condition being imposed the proposal would accord with Paragraphs 120 and 121 of the NPPF.

CONCLUSION

115. Planning policy is generally supportive towards sustainable waste management initiatives and seeks to locate AD plants on land identified for general industrial use or on previously developed land in sustainable locations. The proposed AD plant would not fit with this locational criteria but the proposal would support the existing farm business and in close proximity to the A167 and A1(M) the site is in a sustainable location. The encroachment onto agricultural land is regrettable but in the context of the site as a whole it is not considered to be a significant loss. The benefits in terms of sustainable use of waste for energy production and replacement of artificial fertiliser with biofertiliser are considered to outweigh the policy conflicts of the development.
116. Although no objections have been raised from neighbouring residents or businesses the potential impacts on local amenity associated with matters such as noise, odour and visual impact have been carefully considered and can be controlled through the implementation of appropriate mitigation measures and planning conditions.
117. The proposals are considered to broadly accord with the relevant policies of the County Durham Waste Local Plan and meet the aims of national planning guidance contained within NPPW and relevant sections of the NPPF.

RECOMMENDATION

That the application be APPROVED subject to the following conditions:

1. The development hereby approved must be begun no later than 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 accordance with the following approved plans and documents:

- Drawing No. 90-01 Rev. 01 'Proposed Site Layout'
- Drawing No. 20-10 Rev. 01 'Proposed Elevations'
- Drawing No. JN1536-Dwg-0006 'Proposed Site Access Arrangement With Swept Path Analysis'

Reason: To ensure the development is carried out in accordance with the approved documents.

3. Prior to the commencement of development precise details of the reception building, gas purification and storage plant, gas grid entry unit, technical unit, office and laboratory building shall be submitted and agreed in writing with the Local Planning Authority and thereafter be provided in accordance with those details.

Reason: In the interests of visual amenity (County Durham Waste Local Plan Policy W33 and Part 11 of the National Planning Policy Framework). Required to be pre-commencement to ensure details are appropriate to the development and its surroundings.

4. Prior to the commencement of development precise details of the colours and finishes for all buildings, fixed plant and machinery shall be submitted and agreed in writing with the Local Planning Authority and thereafter be provided in accordance with those details.

Reason: In the interests of visual amenity (County Durham Waste Local Plan Policy W33 and Part 11 of the National Planning Policy Framework). Required to be pre-commencement to ensure details are appropriate to the development and its surroundings.

5. Prior to the commencement of development a landscaping scheme shall be submitted to the Local Planning Authority and approved in writing. This scheme shall provide details of earthworks, tree planting and grass seeding. The approved scheme shall be implemented in the first available planting season following the commencement of development and shall be maintained for the life of the development.

Reason: In the interests of visual amenity (County Durham Waste Local Plan Policy W33 and Part 11 of the National Planning Policy Framework). Required to be pre-commencement as essential to the acceptability of the hereby approved development, and to be implemented at an early stage in order to achieve early and full effectiveness.

6. Prior to the commencement of development precise details of surface water control measures shall be submitted to the Local Planning Authority for approval in writing. The design of the control measures shall be supported by details of flood flow analysis during 1 in 100 year storm frequencies. The approved design shall be implemented and completed as part of the construction works prior to the development being brought into use. The surface water control measures shall be maintained in perpetuity.

Reason: To ensure that neighbouring land and property is not adversely impacted by surface water flooding in accordance with County Durham Waste Local Plan Policy W26 and Part 10 of the National Planning Policy Framework. Required to be a pre-commencement condition as these details are required to inform development works.

7. Prior to the commencement of development a detailed scheme of mitigation measures for the management of odour arising from the site shall be submitted to and approved by the local planning authority. The agreed mitigation measures will be implemented prior to beneficial use of the premises and adhered to thereafter.

Reason: In the interests of residential amenity (County Durham Waste Local Plan Policy W33 and Part 11 of the National Planning Policy Framework). Required to be pre-commencement as essential to the acceptability of the hereby approved development.

8. Prior to the commencement of development rotary probeholes shall be drilled to determine the exact depth to rockhead and the amount of rock cover compared to drift cover above the potential coal seams. If the investigation works confirm that remedial works are necessary then these must be also be carried out prior to commencement of development and the Waste Planning Authority notified of the remedial works to be undertaken.

Reason: In the interests of safety and limitation of coal mining risk (National Planning Policy Framework paragraphs 120 and 121 and County Durham Waste Local Plan Policy W33). This is a pre-commencement condition in order to fully assess the ground conditions prior to building work being carried out.

9. The development hereby approved shall be carried out in full accordance with the recommendations set out in Section 6 of the Ecological Impact Assessment produced by Naturally Wild reference EGB-17-01.

Reason: To ensure that impact upon biodiversity is minimised (County Durham Waste Local Plan W17 and Part 11 of the National Planning Policy Framework).

10. The development hereby approved shall not be brought into use until the plant has been fully constructed in accordance with Drawing No. 90-01 Rev. 01 'Proposed Site Layout' and Drawing No. JN1536-Dwg-0006 'Proposed Site Access Arrangement With Swept Path Analysis' and details approved under conditions 3, 4, 5, 6, 7 and 8, and in accordance with condition 7.

Reason: To ensure that the development is carried out in accordance with the approved plans. (County Durham Waste Local Plan W33 and Part 11 of the National Planning Policy Framework).

11. No feedstocks other than processed food waste (whey permeate, Ener-G Bio soup, wheat syrup and glycerol), farmyard manures (manure, broiler dung and pig slurry) and silage shall accepted at the site.

Reason: To provide certainty of the types of feedstock to be used at the site as other materials may have differing environmental impacts. (County Durham Waste Local Plan W33 and Part 11 of the National Planning Policy Framework).

12. No movement of vehicles or deliveries associated with the development shall be allowed on the site, other than between the hours of 7am and 11pm.

Reason: In the interests of residential amenity and highway safety (County Durham Waste Local Plan Policy W31 and W33 and Parts 4 and 11 of the National Planning Policy Framework).

13. Vehicle movements to the site in connection with the receipt and processing of waste material hereby approved shall be restricted to no more than 8 HGV movements per day (4 in/4 out). The operator shall maintain a record of all vehicles using the site in connection with these activities and a certified copy of this record shall be afforded to the Local Planning Authority on request within 2 working days of such a request.

Reason: In the interests of highway safety (County Durham Waste Local Plan Policy W32 and Part 4 of the National Planning Policy Framework).

14. All vehicles leaving the site shall be sufficiently cleaned in order to ensure that mud, dirt, and waste is not transferred onto the public highway.

Reason: In the interests of residential amenity and highway safety (County Durham Waste Local Plan Policy W31 and W33 and Part 11 of the National Planning Policy Framework).

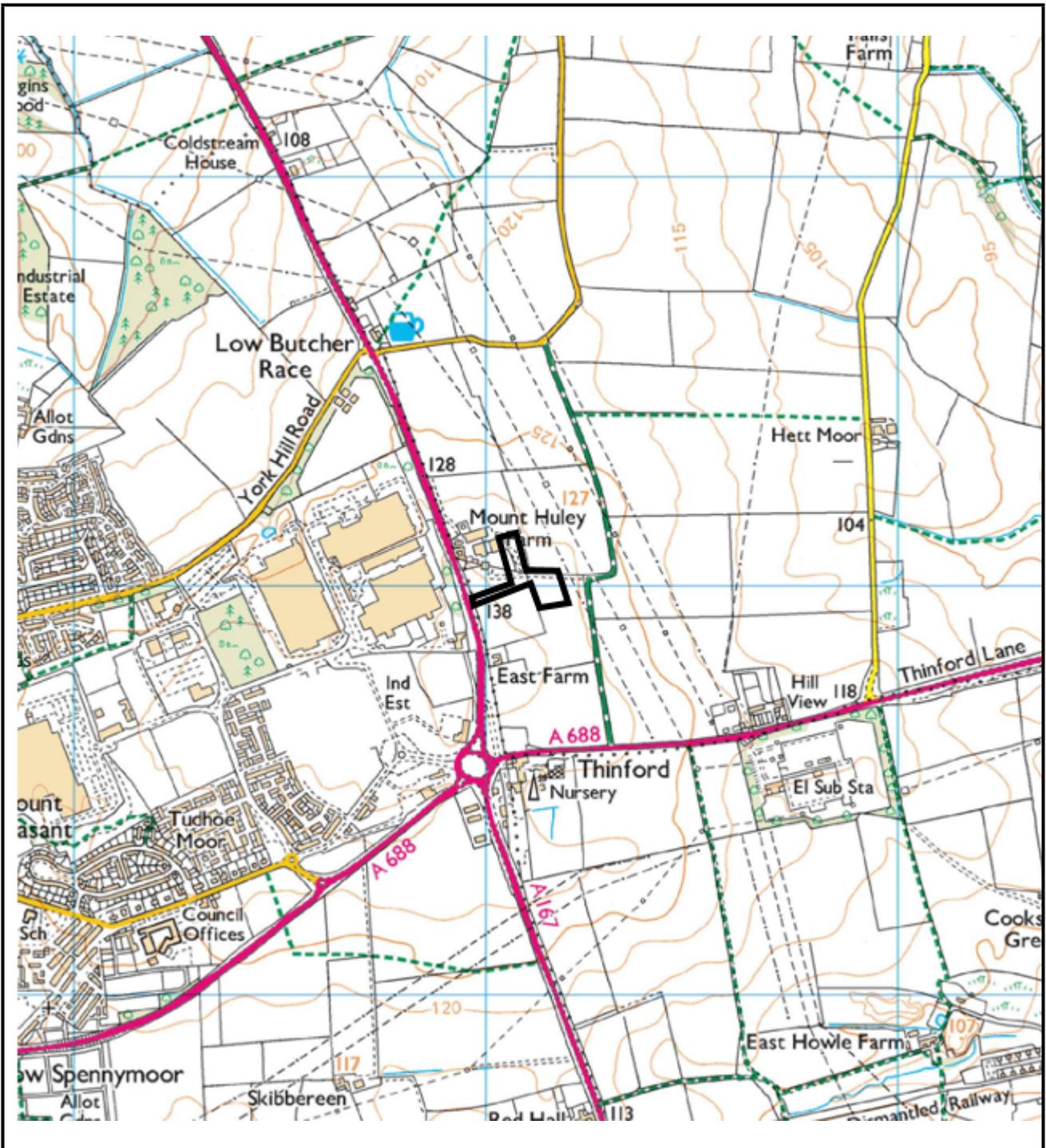
15. The rating level of noise emitted from fixed plant/machinery on the site shall not exceed 51dB LAeq (1 hour) between 07.00-23.00 and 37dB LAeq (15 mins) between 23.00-07.00 at Mount Huley Farm, the Meadows and East Farm. The measurement and assessment shall be made according to BS 4142: 2014. Within 28 days of the operation of the bio-digester a validation report shall be submitted to and agreed by the planning authority, to demonstrate adherence with the above levels.

STATEMENT OF PROACTIVE ENGAGEMENT

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

BACKGROUND PAPERS

- Submitted application forms, plans supporting documents and subsequent information provided by the applicant.
- The National Planning Policy Framework (2012)
- National Planning Policy for Waste (2014)
- County Durham Waste Local Plan (2005)
- Statutory, internal and public consultation responses



 <p>Planning Services</p>	<p>DM/18/00478/WAS Anaerobic Digestion Plant at Mount Huley Farm, Croxdale, Durham</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 May 2018</p>	<p>Scale Not to scale</p>

Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO: DM/18/00139/FPA

FULL APPLICATION DESCRIPTION: Replan of part of permission DM/16/04052/FPA comprising 99 dwellings, incorporating 27 additional dwellings (Total of 230 dwellings).

NAME OF APPLICANT: Avant Homes Ltd

ADDRESS: British Oxygen Co
Vigo Lane
Chester-le-Street
DH3 2RD

ELECTORAL DIVISION: North Lodge

CASE OFFICER: Graham Blakey, Senior Planning Officer
03000 264865 graham.blakey@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site is located at the former British Oxygen Company (BOC) site on Vigo Lane between Chester-Le-Street and Birtley, and is currently being developed for housing by Avant Homes under approval DM/16/04052/FPA and reserved matters DM/17/01512/RM. These applications granted a total of 203 dwellings, of which approximately 35 units have currently been constructed and 7 are occupied.
2. The site is located to the south east of the A167, Durham Road and C8, Vigo Lane in Chester-le-Street, and extends to 8.04 hectares of previously developed land. The administrative boundary of Gateshead Council lies along the A167. The site had been occupied by the British Oxygen Company (BOC) since circa late 1920s. It was subsequently closed and demolished by 2013. Sandwiched between road and cycle routes, the site is broadly orientated on an east-west axis and features Durham Road to the western boundary, Vigo Lane to the northern boundary, the C2C cycle route (once a former railway until 1960s) atop a tree-lined embankment to the southern boundary. A further factory site, Arizona Chemicals, lies to the eastern boundary which has also now been demolished. The Durham Road/Vigo Lane roundabout forms a busy road junction to the north west corner of the site. Located part way along the northern boundary of the site is a small number of residential properties (1-6 Vigo Lane) located immediately adjacent to the application site.

3. Within the site the ground is generally level, indicative of the previous built use, but with a gradual somewhat imperceptible slope from east to west. The pre-existing boundary treatments and landscaping features remain, such as the factory access points, gates and posts and high perimeter fencing which encloses the site to all four boundaries. Trees are features of all boundaries to some degree, with dense, mature tree belts to the C2C embankment and Durham Road forming significant screens, with the latter being subject to a Tree Preservation Order. More sporadic, individual trees to the northern boundary exist some of which once formed part of the landscaping scheme to the previous BOC use. Built development surrounds the site, with residential properties of Barley Mow to the north of the site across Vigo Lane, and across the C2C line at Picktree Lodge and Sinclair Drive to the south. Park View School's North Lodge campus lies directly to the south of the western portion of the application site, again separated by the C2C line, with mixed residential, industrial and commercial development to the west of Durham Road to the entrance to Drum Industrial Estate.
4. No statutory or locally designated landscape or ecological sites are located within or immediately adjacent to the application site, although Pelaw Hill Railway Local Wildlife Site lies approximately 380m to the south west, beyond the A167 via the C2C route; with Waldrige Fell SSSI a popular and well used public amenity space located to the west of Chester le Street. No recorded public rights of way are contained within the application site. The application site contains no watercourses, with the site lying entirely within Flood Zone 1, which is the zone of lowest risk. The closest heritage asset is Vigo House; the grade II listed structure which lies 350 metres to the east.

The Proposal

5. This application seeks planning permission to re-plan the eastern portion of the development site granted consent under both DM/16/04052/FPA. This involves the introduction of new house types known as the 'Bridge Range' and a re-planning of the layout to provide 27 additional units, resulting in a total of 230 dwellings overall.
6. As part of the re-plan, the main internal road which links the two access points would remain in its approved location, with minor modifications to the three cul-de-sac's which lead from it. The re-plan would be focused around the eastern entrance from Vigo Lane and to housing behind the Vigo Lane frontage from an area roughly in line with No. 6 Vigo Lane, an existing house which fronts the main road, to the site boundary to the east. The proposal would see 3 detached, 50 semi-detached and 21 link/terraced dwellings.
7. Access to the site remains as approved from Vigo Lane at two separate points, one existing access to the western portion of the site and one new access point to the eastern portion, with the main access road running west to east through the site linking the two proposed accesses.
8. The re-plan would not materially affect the amount of approved open space around which the re-plan would take place, with the SUDs drainage system and basis remaining to the north west corner of the site adjacent to the Vigo Lane/Durham Road roundabout. 15% of the dwellings proposed for the site as a whole would be offered on an affordable basis, with those being split 13 dwellings to the west and 21 dwellings to the eastern part of the site.

9. The overall development retains the original requirements for offsite highways works to Vigo Lane and also to the junction with A167 Durham Road, including the provision of bus laybys and protected right hand turns for the new access points and improved pedestrian access to/from the north.
10. This planning application is being reported to County Planning Committee because it is a residential development with a site area in excess of 4 hectares.

PLANNING HISTORY

11. Prior notification of the Local Planning Authority was not required in 2013 for the demolition and removal of the BOC plant and its associated buildings, ground slabs, tanks and associated plant.
12. A hybrid application secured planning permission for the erection of 203 dwellings and landscaping in outline form (ref: DM/16/04052/FPA). Subsequent reserved matters for the remaining landscaping proposals was also secured (DM/17/01512/RM). Both applications have been implemented on site.

PLANNING POLICY

NATIONAL POLICY

13. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF). 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. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve ‘core planning principles’.
14. In accordance with Paragraph 215 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. The following elements of the NPPF are considered relevant to this proposal.
15. *NPPF Part 1 – Building a Strong, Competitive Economy.* The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country’s inherent strengths, and to meeting the twin challenges of global competition and of a low carbon future.
16. *NPPF Part 4 – Promoting Sustainable Transport.* The transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel. It is recognised that different policies and measures will be required in different communities and opportunities to maximize sustainable transport solutions which will vary from urban to rural areas. Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion.

17. *NPPF Part 6 – Delivering a Wide Choice of High Quality Homes.* To boost significantly the supply of housing, applications should be considered in the context of the presumption in favour of sustainable development.
18. *NPPF Part 7 – Requiring Good Design.* The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning. Planning decisions must aim to ensure developments; function well and add to the overall quality of an area over the lifetime of the development, establish a strong sense of place, create and sustain an appropriate mix of uses, respond to local character and history, create safe and accessible environments and be visually attractive.
19. *NPPF Part 8 – Promoting Healthy Communities.* Recognises the part the planning system can play in facilitating social interaction and creating healthy and inclusive communities. Access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities and planning policies and decisions should achieve places which promote safe and accessible environments. This includes the development and modernisation of facilities and services.
20. *NPPF Part 10 – Meeting the Challenge of Climate Change, Flooding and Coastal Change.* Planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy.
21. *NPPF Part 11 – Conserving and Enhancing the Natural Environment.* The planning system should contribute to, and enhance the natural environment by; protecting and enhancing valued landscapes, recognizing the benefits of ecosystem services, minimizing impacts on biodiversity and providing net gains in biodiversity where possible, preventing new and existing development being put at risk from unacceptable levels of soil, air, water or noise pollution or land instability, and remediating contaminated and unstable land.
22. *NPPF Part 12 – Conserving and Enhancing the Historic Environment.* Local planning authorities should set out in their Local Plan a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats. In doing so, they should recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance.

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

23. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to; air quality; conserving and enhancing the historic environment; design; flood risk; land stability; light pollution; natural environment; noise; open space, sports and recreation facilities, public rights of way and local green space; planning obligations; travel plans, transport assessments and statements; use of planning conditions and; water supply, wastewater and water quality.

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

LOCAL PLAN POLICY:

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

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

RELEVANT EMERGING POLICY:

The County Durham Plan

34. Paragraph 216 of the NPPF says that decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. The County Durham Plan (CDP) was submitted for Examination in Public and a stage 1 Examination concluded. An Interim Report was issued by an Inspector dated 18 February 2015, however that Report was quashed by the High Court following a successful Judicial Review challenge by the Council. In accordance with the High Court Order, the Council has withdrawn the CDP and a new plan being prepared. In the light of this, policies of the CDP can no longer carry any weight. As the new plan progresses through the stages of preparation it will begin to accrue weight.

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

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

35. *Gateshead Council* – Raise no objections. The proposed development would have some impact upon the Vigo Lane / Portobello Road junction as a result of increased traffic movements as a result of the development. Mitigation would be required at this junction to off-set this increase in traffic.
36. *Highway Authority* – Raise no objections. The additional dwellings would only create a likely maximum of 24-26 trips in total, of which distribution analysis predicts 45% would be at Durham based junctions (circa 11-12 trips). This is well within the expected daily variation at all junctions and on that basis no additional detrimental impacts upon the highway network in Durham would result. No objections are also raised to the revised internal road layout, with access to Vigo Lane following previously agreed junction improvements and engineering details.
37. *Northumbrian Water* – Raises no objections as discharge rate from scheme remains the same.
38. *Drainage and Coastal Protection* – Raise no objection noting that whilst the proposal fulfils the Source Control element of the management train outlined in the Council's SUDs Adoption Guide 2016, there is a lack of Site Control which would be expect for a new development such as this. Greenfield run-off rate of 36.9 l/s should be achieved by the development at all times.

INTERNAL CONSULTEE RESPONSES:

39. *Design and Conservation* – The revised proposal is substantially different to the original approval meaning that the two sections of the site will be very different in character to the point where there are few if any defining characteristics which will link them together, the relationship will therefore be somewhat uncomfortable within the site. The density, scale of dwelling, layout and visual impact are all considerably

different to the original principles. The site is resultantly heavily car dominated with excessive parking. Moving through the site is going to be a visual experience of parked cars, both in curtilage and in more public spaces. At the density proposed it is difficult to see how this can be avoided. Overall this proposal fails to live up to the limited achievements in originally creating a pleasing, appropriate and enjoyable environment in which to live.

40. *Landscape* – Raise no objections subject to an increase in shrub species mix options across the development.
41. *Landscape (Arboriculture)* – Raise no objections. Officers consider that the arboricultural report supplied is satisfactory and complies with current standards. Tree Preservation Order CLS 42 covers 70 trees to the western boundary and retention is crucial and welcomed.
42. *School Places and Admissions Manager* – Raise no objections. The development is likely to produce 8 additional primary pupils and 4 additional secondary pupils. There are sufficient primary places available, but insufficient places within the secondary schools in Chester-Le-Street. Consequently a financial contribution will be required for the provision of additional teaching accommodation.
43. *Ecology* – Raise no objections.
44. Environment, Health and Consumer Protection (Contaminated Land) – Raise no objections. A planning condition is suggested requiring the submission of a verification report upon completion of the development.
45. *Environment, Health and Consumer Protection (Noise, Dust and Odour)* – Raise no objections. A planning condition is suggested to ensure that the proposed dwellings are constructed in accordance with the mitigation strategy outlined within the submitted noise assessment. It is considered that impacts upon air quality in regard to the operational phase of the development would be negligible and that controls in relation to the construction phase of the development would be required, and the previously approved Dust Management Plan amended to take account of the revised scheme.
46. *Environment, Health and Consumer Protection (Air Quality)* – Raise no objections. The additional dwellings proposed would lead to a negligible change in the levels of air quality pollutants. Revisions to the Construction Dust Management Plan to reflect the revised layout are satisfactory.
47. *Sustainable Travel* – Raised no objections. Site has good links to C2C and Great North Cycle Way to west of site. The submitted travel plan will need amendments and this should be conditioned.
48. *Housing Delivery* – Raise no objections. The 15% affordable housing requirement is proposed by the applicant at a tenure mix of 70% affordable rent and 30% affordable home ownership, which is acceptable.
49. *Access and Public Rights of Way* – Raise no objections, noting that no public rights of way are within or abutting the site.

PUBLIC RESPONSES:

50. The application was advertised within the press, on site and letters were sent to neighbouring properties. At the time of writing no representations were received

from local residents though 1 letter has been received from Durham Constabulary detailed below.

51. Durham Constabulary (Architectural Liaison) – Raises concerns in regard to the density of the development and likely high level of car ownership resulting in conflict.

APPLICANTS STATEMENT:

52. The application site is in a highly sustainable location and comprises a brownfield site that is readily available for development. Development of this sustainable, brownfield site will reduce pressure for development on greenfield sites within the County.
53. The development proposes a range of family housing which has been informed through discussions with both the Council and local residents. The development will also provide 34 affordable homes, offering a mix of two and three bedroom properties.
54. Avant Homes has engaged with the Council throughout the design and conception of this amended scheme. The discussions have led to various amendments to the design and layout in order to arrive at the proposals presented today. The proposed scheme is well-designed and the proposed landscaping secures the retention of protected and important trees, and the creation of areas of public open space and facilities for play.
55. The development will deliver economic, environmental and social benefits, not least the creation of jobs through the construction period, and will provide well-designed homes to improve choice for the community and help Durham County Council in delivering its housing targets. The proposed development also incorporates public open space and play facilities, as well as contributing towards ecology, education provision and improvements to local open space which will all be secured through a Section 106 Agreement.
56. Avant Homes are firmly committed to delivering homes on this site which can be seen today. It is, therefore, our firm view that planning permission should be granted for this application in order that the Council can deliver this important site and in doing so, support the wider regeneration of the County, and deliver the homes that are needed.

The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at:

<http://publicaccess.durham.gov.uk/online-applications/search.do?action=simple&searchType=Application>

PLANNING CONSIDERATIONS AND ASSESSMENT

57. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that if regard is to be had to the development plan, decisions should be made in accordance with the development plan unless material considerations indicate otherwise. In accordance with Paragraph 212 of the National Planning Policy Framework (NPPF), the policies contained therein are material considerations that should be taken into account in decision-making. Other material considerations include representations received. In this context, it is considered that the main planning issues in this instance relate to: the principle of the development, locational sustainability of the site, landscape impact and layout and design, affordable

housing, residential amenity, public open space, highway safety and access, flood risk and drainage, ecology, heritage impacts and other matters.

The Principle of the Development

58. The principle of developing the site for housing has been established under planning applications DM/16/04052/FPA and DM/17/01512/RM, which permitted the erection of 203 dwellings in total. The planning permission has been implemented on site, with approximately 35 units being constructed (of which 6 are occupied) along with a large part of the highway infrastructure. This application seeks to re-plan the eastern part of the development site, to introduce 27 additional dwellings overall. This planning permission would sit in alongside approvals for the implemented permissions.
59. Notwithstanding this, in line with the previous applications, policies within the CDLP are considered out of date. CDLP Policy HP6 supports the principle of residential development on non-allocated sites within settlement boundaries provided the site comprises previously-developed land; however this policy is afforded reduced weight as a result of being informed by now out of date housing need figures. . Therefore, in line with the previous planning applications, the acceptability of the development largely rests on the NPPF Paragraph 14 tests. This requires a balance of whether any adverse impacts of approving the development would significantly and demonstrably outweigh the benefits or whether there are any specific policies in the NPPF that indicate development should be restricted.

Five Year Housing Land Supply

60. In September 2017, the Government published a consultation document entitled “Planning for the Right Homes in the Right Places”, which introduced a standard methodology for calculating housing need. Applying that methodology for County Durham, the housing need figure would be 1,368 dwellings per annum.
61. The Government published its response to the consultation in March 2018, and clarified that the standardised approach is the most appropriate method for calculating need as it meets the three key principles of being simple, realistic and based on publicly available data. At the same time, a revised draft NPPF was issued for consultation, with paragraph 61 advising that, ‘in determining the minimum number of homes needed, strategic plans should be based upon a local housing need assessment, conducted using the standard method in national planning guidance’.
62. The Government also issued draft planning guidance on 9 March 2018, which sets out that where a local plan is more than five years old and the housing figure needs revising, as is the case here, the starting point for calculating land supply will be local housing need using the standard methodology.
63. Taking all of this into consideration, the Council’s view is that the standard methodology should be used for measuring the 5-year housing land supply position. Against the 1,368 figure, the Council is able to demonstrate in excess of 6 years supply of deliverable housing land. Accordingly, the weight to be afforded to the boost to housing supply as a benefit of the development is clearly less than where such a healthy land supply position could not be demonstrated. This will need to be factored into the planning balance whilst recognising that this site is a committed site that is taken into account in the Council’s 5 year calculation and continued at an increased yield would assist the council in terms of housing delivery and maintaining a five years supply.

Locational Sustainability of the Site

64. In the original planning application it was concluded that the application site has access to an array of services and facilities, all adequate to serve the approved development, and that these are within relatively easy reach of the site. It was also concluded that the development would be of a scale commensurate with the role of Chester-Le-Street in the settlement hierarchy. It was also considered that the walking distances, improved pedestrian and cycle links and the established bus service would give future residents alternative options to the private motor car to access to services and amenities. Therefore, the development would remain in accordance with core principles of Paragraph 17 and also Paragraph 61 of the NPPF, which encourages the integration of new development into the existing environment; and CDLP Policies HP9, T15 and T17, which are considered consistent the NPPF in this respect.

Landscape Impact, Layout and Design

65. CDLP Policy HP9 requires that developments should be designed and built to a high standard which provides an attractive and efficient residential environment that relates well to the built environment around the site, and which retains existing landscape features of the area. The Policy also gives direction upon housing densities and parking provision. CDLP Policy BE2 seeks a contribution to provide public art in publically accessible spaces, but does not discourage the incorporation of public art within developments where proposed. Parts 7 and 11 of the NPPF also seek to promote good design and sets out that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes. However, the somewhat prescriptive nature of Policy HP9 is at odds with the flexible nature of the NPPF and accordingly less weight can be afforded to it.
66. Paragraph 58 of the NPPF also states that planning decisions should aim to ensure developments function well and add to the overall quality of the area and establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit. CDLP Policy HP9 again offers prescriptive guidance limits to specifics of the design and layout which is not consistent with the aims of the NPPF. Similarly, CDLP Policy BE2 has limited support from the NPPF though good design, in general, is supported and whilst the NPPG considers public art can contribute in forming well-designed spaces it reinforces the need for any planning obligation to meet the statutory tests in the Community Infrastructure Levy Regulations 2010. Overall, both Policies do broadly build upon the NPPF and NPPG requirements and so can be considered partially consistent as a result. Therefore the key policy consideration in this matter is whether the site is read together well with the built environment and the surrounding landscape features, and represents good design.
67. In this respect it was concluded in the original application that the design and layout of the proposed development was considered acceptable in accordance with relevant CDLP Policies as well as Parts 7 and 11 of the NPPF. In relation to the revised scheme now being considered, a denser development is proposed to the eastern portion of the site. Following amendments made during the course of the application, which has resulted in the loss of 14 units from the scheme, it is considered that the proposed layout is acceptable and would not result in an overly car dominated frontage and the development would be screened in views along Vigo Lane. While an overall smaller property size is proposed across the re-plan area, a common palette of materials would be used to harmonise the two areas of the

scheme in an appropriate manner. The concerns of Design and Conservation are noted, however, planning officers conclude that the design of the development remains acceptable.

68. As required by CDLP Policy BE2 artistic elements are proposed in principle, however no detail has again been put forward at this stage. As such, and following the direction taken to the original planning approval, a condition requiring specific detail of the artistic elements would be included with any recommendation for approval.
69. Overall, it is considered that the re-plan scheme would still deliver an acceptable form of development in design and visual impact terms, in accordance with CDLP Policies HP9 and BE2, and Parts 7 and 11 of the NPPF.

Affordable Housing

70. In order to widen the choice of high quality homes and widen opportunities for home ownership, Paragraph 50 of the NPPF encourages the provision of affordable housing based on evidenced need, whilst CDLP Policy HP13 encourages developers to provide an appropriate amount of affordable housing, but is only considered to be partially consistent with the NPPF as issues of viability and housing market area requirements are outdated with the more up-to-date evidence in the Strategic Housing Market Assessment establishing a requirement for 15% provision, amounting to 34 dwellings.
71. The Housing Delivery Team has requested that this be delivered in the form of 70% affordable rent and 30% affordable home ownership (i.e. discounted sale). The applicant has confirmed that this requirement can be met by a planning obligation secured through S106 of the Town and Country Planning Act 1990.

Residential Amenity

72. CDLP Policy HP9 requires that the design and layout of development to have no adverse effect on the amenity of those living or working in the vicinity of the development site. This aspect of the Policy is considered NPPF compliant with a core planning principle at Paragraph 17 of the NPPF stating that planning should always seek to secure a good standard of amenity for existing and future occupants of land and buildings. Part 8 of the NPPF amongst other guidance advises on the need to create safe and accessible environments where crime and disorder and the fear of such are considered. Whilst Part 11 seeks to prevent both new and existing development from contributing to or being put at unacceptable risk from unacceptable levels of pollution.
73. The amended proposals are only located in proximity to no. 6 Vigo Lane, the eastern most of the line of six properties which lie to the northern boundary of the site and centrally located. The proposed change would see the removal of a pair of semi-detached, three storey dwellings and replaced with a pair of detached two storey dwellings. This is considered an improvement in terms of amenity of the existing residential dwelling. In reviewing the amended internal site layout, adequate separation distance are achieved which would protect the privacy and amenity of future residents.
74. In terms of noise, the application is accompanied by an updated noise survey which identifies that the roadside boundaries of the site have a relatively high background noise environment during the day, primarily as a result of the local road network, but reduced during the night when traffic movements would be limited nearby. Mitigation measures were however approved under the original development which included

acoustic ventilation. The Council's Environmental Health and Consumer Protection Team have advised that this approved mitigation should be implemented across the re-planned element of the site.

75. With regard to air quality, the application is accompanied by an air quality survey which finds that the impact of the development upon air quality once occupied to be negligible, with the predicted amount of air quality pollutants remaining well below the annual mean air quality objective. It is however accepted that the construction phase may give rise to nuisance dust, which can be classed as a medium level of risk. In order to address this, a Dust Management Control Plan (including active monitoring and mitigation), was agreed as part of the original scheme. Environmental Health and Consumer Protection have considered a revised plan, in conjunction with a revised Construction Management Plan to reflect the changes as part of these proposals, and they consider the updated reports to satisfactorily address the potential issues that arise during the construction phase of any new development.
76. The revised scheme is therefore considered to be in accordance with CDLP Policy HP9 and T15, and Part 11 of the NPPF in this regard.

Public Open Space

77. CDLP Policy RL5 seeks to ensure adequate provision is provided in new housing development. This Policy is considered only partially NPPF compliant as the evidence base has now been updated within the Open Space Needs Assessment (OSNA). The Council's Open Space Needs Assessment (OSNA) 2010 is considered the most up to date assessment of need for the purposes of Paragraph 73 of the NPPF.
78. A contribution was secured by way of planning obligation for the original planning approval in lieu of the provision on site of some of the open space typologies. This requirement was based upon a figure of £1,000 per dwelling and as this proposal would see no increase in the amount of open space on site it is proposed to secure a further contribution in respect to the additional 27 dwellings proposed as part of this application. These would again be secured through a planning obligation secured through Section 106 agreement of the Town and Country Planning Act 1990.
79. Overall therefore, the application is considered to be in accordance with CDLP Policy RL5 and Paragraph 73 of the NPPF with regards to the provision of public open space.

Highway Safety and Access

80. CDLP Policy T15 requires that development proposals achieve a satisfactory means of access onto the wider highway network while seeking to protect highway safety in terms of vehicle movements and traffic generation. CDLP Policies T17 and T6 seek to ensure that safe, attractive and convenient footpath links are provided, and where appropriate, to serve new development and provide access to public transport. These Policies are considered compliant with the NPPF which also seeks to promote accessibility by a range of methods, while ensuring that a safe and suitable access can be achieved and therefore can be given full weight in considering the application, except for Policy T15 which uses out of date guidance and so is only partially compliant. The NPPF sets out at Paragraph 32 that safe and suitable access can be achieved for all people while setting out that developments that generate a significant amount of traffic should be supported by Transport Assessments or Statements. In addition Paragraph 32 of the NPPF states that development should only be refused

on transport grounds where the residual cumulative impacts on development are severe.

81. This revised scheme would be served by the same highways infrastructure as approved and which is currently being implemented at site. The Council's Highway Authority has reviewed the amended layout and following amendments, advises that the parking provision is acceptable and would accord with the Council's parking standards. They also considered that the revised number of units would not result in a detrimental impact upon the junctions within County Durham as a result of the increase in trips from the approved development and having regard to the distribution analysis provided to support the proposals.
82. The application is accompanied by a Transport Assessment (TA) which seeks to inform on and assess the key highways related implications of the development. This includes the accessibility of the development; trip generation and traffic assignment; future year flows; operational assessment of junctions; highway safety; and present highways works necessary to facilitate the development.
83. The TA establishes that the impact of the development upon the highway network would, for a large part be acceptable, and would not result in impacts that could be considered "severe". The TA takes into account impacts which would occur to the highway network in both Durham and Gateshead Local Authority areas.
84. In Durham, the Highway Authority considers the impact from allowing the proposed development to take access from Vigo Lane to be acceptable and not lead to issues in capacity in the future. As was the case with the approved development modelling indicated problems at the A167 (Durham Road) / Vigo Lane roundabout adjacent to the site with traffic generated from the proposed development, which would have caused a significant impact upon the highway network through queuing up to the roundabout.
85. In order to address this impact, a scheme of mitigation is proposed, which remodels the area around the roundabout for traffic approaching from the east along Vigo Lane, the off-set of bus stops into new laybys to Vigo Lane and the provision of protected right-hand turns. The Highway Authority considers that these changes would be sufficient to reduce the impact upon the junction in the future to an acceptable level and accordingly, these matters will be secured by condition.
86. Finally, further to the south, the impacts from the development upon the A167 / A693 signalled junction are again considered to not lead to issues in capacity in the future.
87. In terms of the concerns about the impacts upon the public highway network to the north, and within the Gateshead Local Authority Area, the TA indicates that the development would lead to increased traffic utilising the network in the area. Gateshead Council have commented upon the application and have raised concerns over the impact of new development in the area upon traffic flows within their authority area. Of concern in regard to these proposals is the Vigo Lane / Portobello Road junction which sits to the north east of the application site. Here road widening to allow traffic from the north and turning east to no longer overrun the grass verge would be required and as such a condition requiring the implementation of the necessary highway improvements would be included with a recommendation for approval.
88. The proposed development retains previously agreed pedestrian links to the north and west of the development site, and the link eastward to potential future development should this come forward. These links serve to provide access to the

predominant sustainable transport option in the area, the bus. CDLP Policy T17 promotes the increased access of new development to sustainable transport links, and with the surrounding bus stops and the C2C route to the south of the site, this proposal is considered to adhere to the requirements of the Policy.

89. As a result, the impacts from the proposed development are, subject to additional mitigation at the Vigo Lane / Portobello Road junction, considered insignificant and would not lead to a severe residual cumulative impact in the context of Paragraph 32 of the NPPF. The proposals therefore comply with CDLP Policies T17 and T6 in regard to reducing private transport use through improved access to links and safe access to the highway network.

Flood Risk and Drainage

90. National advice within the NPPF and PPG with regard to flood risk advises that a sequential approach to the location of development should be taken with the objective of steering new development to flood zone 1 (areas with the lowest probability of river or sea flooding). When determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment.
91. The original application was accompanied by a Flood Risk Assessment (FRA) which identified that the application site is located within flood zone 1 and is therefore located on land least likely to suffer from tidal or fluvial flooding. The approved drainage strategy identified that surface water would be disposed of via a connection to Northumbrian Water drainage system as the ground conditions are unsuitable and the nearest water course is 550 metres away and inaccessible. The previously approved FRA agreed a discharge rate of 36.9 litres per second and the amended scheme would retain this rate through use of oversized pipes and further underground storage within the revised part of the development. Overall a SUDs scheme would provide surface water attenuation which will prevent external flooding for 1 in 30 year floods, and prevent buildings flooding up to 1 in 100 flood events.
92. The Council's Drainage and Coastal Protection officers have indicated that the development would adhere to the surface water management train to some degree by proposing source control (permeable surfacing and hard surface soakaways) and the inclusion of a SUDs basin within the scheme. However, the development does not propose the use of overland water channels to transport surface water across the scheme to the attenuation basin. The applicant has explained that the site requires significant ground works as a result of its previous industrial use and so the implication of including overland swales and ditches would prove difficult. Officers advise that the SUDs structure would be adopted and maintained by the Council, in accordance with the SUDs Adoption Guide 2016, with costs being met through an estate rent charge.
93. With regards to the disposal of foul waters Northumbrian Water raise no objections. A condition can be added in the event of an approval to ensure a suitable means of connection and rate of discharge.
94. The development, while not securing all aspects of the Council's surface water management train does secure a suitable scheme of surface water drainage overall that would ensure that the development would meet the required greenfield run-off rate. The omission of overland transport of the surface water is a negative against the proposed development and the habitats that could create, however this is balanced against the underlining requirement to ensure suitable and safe surface

water run-off and is on balanced considered acceptable and compliant with Part 10 of the NPPF.

Ecology

95. The closest sites of nature conservation interest are Pelaw Hill Railway Local Wildlife Site (LWS) which is located 450 metres to the west of the East Coast Mainline, accessed via the C2C route; and the Waldrige Fell SSSI that is located to the north and west of Chester le Street. Part 11 of the NPPF seeks to ensure that developments protect and mitigate harm to biodiversity interests, and where possible, improve them. An ecology survey and bat survey have been submitted with the application, highlighting that no species that are afforded special legal protection under the Conservation of Habitats and Species Regulations 2017 and the Wildlife and Countryside Act 1981 (as amended) have been recorded within the site. The reports therefore conclude that the risk of protected species being on the site, with the exception of foraging bats and breeding birds within trees, or the development being a risk to the protected species are low. The County Ecologist has considered the content of the submitted information and has advised that the methodology and findings are sound.
96. The previously developed site has displayed some signs of regeneration having been cleared, and therefore providing some biodiversity value that would be lost through development. The Council's Ecologist had previously assessed these biodiversity losses as requiring compensation as they are significant at the local and parish level and a contribution towards creation of habitat off-site was secured as part of the original application. This application is proposed to retain the need for the financial contribution originally calculated with the original planning approval to ensure the impacts of the proposed development are mitigated appropriately.
97. Having regard to these proposed mitigation measures, the development would, it is considered, lead to an overall enhancement in biodiversity in accordance with the aims of Paragraph 118 of the NPPF. Accordingly, such enhancement can be considered to be a benefit of the scheme and weigh in favour of the development.

Heritage Impacts

98. The application site does not lie within nor contains any designated heritage assets. The closest being Vigo House, grade II listed and situated some 375m away, and with no direct visual relationship with the site as a result of topography and direction of Vigo Lane. Consequently, it is considered that there would be no harm upon the designated heritage asset, Vigo House. In terms of non-designated heritage assets, again none have been identified within the immediate vicinity of the site, this position has not changed.
99. Design and Conservation officers raise no objections to the proposal noting the site contains no designated or known non-designated heritage assets nor are there designated close to the application site.
100. Paragraph 134 of the NPPF states that the impact of an application upon the significance of a designated heritage asset should be taken into account in the determination of the application, and that the scale of any harm or loss to significance should be weighed in the balance. In this instance, with there being no impact upon significance, the application is considered to be acceptable in this regard, and in accordance with Part 12 of the NPPF.

Other Issues

101. CDLP Policy HP15 expects developments to make contributions with regard to social, community and infrastructure facilities, and is fully consistent with the requirements of Paragraph 17 of the NPPF and its core principles and the thrust of the Policy is considered to be consistent with Paragraph 72 of the NPPF which attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities.
102. The School Places and Admissions Manager has advised that the additional housing would produce 8 additional primary school pupils and 4 secondary school pupils. There remains sufficient primary school places to accommodate the increased pupil numbers, however there remains insufficient secondary school places in the Chester le Street area. As a result, additional school places would be required in order to accommodate the pressure upon school places likely to result from this development. An additional contribution of £66,176 is required in order to provide the additional capacity and this would be secured by means of a planning obligation.
103. A previously approved scheme for remediation of the site has been agreed by the Local Planning Authority, and this scheme is to be continued as part of this application. At the time of writing of this report the remediation works have predominately been completed across the site. A subsequent condition requiring validation of the results would be necessary to ensure the works are completed successfully across the development. The proposed development complies with Paragraphs 109 and 121 of the NPPF which would ensure the site and the surrounding area would be safe and appropriately remediated.

Planning Obligations

104. Paragraph 204 of the NPPF and Paragraph 122 of The Community Infrastructure Levy Regulations 2010 set out three planning tests which must be met in order for weight to be given to a planning obligation. These being that matters specified are necessary to make the development acceptable in planning terms, are directly related to the development, and are fairly and reasonably related in scale and kind to the development. CDLP Policy BE22 encourages the Local Planning Authority to enter into legal agreements to enhance the quality of developments, which is partially consistent with the above requirements of the NPPF. The proposed contributions towards education provision, improvements to biodiversity and offsite open space provision are all considered to be in accordance with these tests, as is the securing of affordable housing.

Planning Balance

105. The principle of developing the site for residential purposes has been established under the application DM/16/04052/FPA. However, as set out above the acceptability of the application should be considered under the planning balance test contained within Paragraph 14 of the NPPF. No specific policies within the NPPF are considered to indicate development should be restricted and therefore planning permission should be granted unless any adverse impacts of a proposed development significantly and demonstrably outweigh the benefits.

Benefits

106. The development would assist in maintaining deliverable housing land supply in the short term at a time when housing supply policies within the CDLP are considered out

date. However in light of the Councils housing supply figure when assessed against the Governments OAN methodology this benefit is a limited one.

107. The development is proposed to a previously-developed site that is currently vacant awaiting re-development and within the built envelope of development. Locationally, the development has excellent access to most services and facilities including Chester le Street and Birtley town centres, employment opportunities in these centres and beyond, as well as excellent access to sustainable modes of transport (bus and cycle links). These site characteristics offer substantial benefits in favour of the proposal.
108. Redevelopment of the application site for housing would result in a reduced impact upon the residential amenity of neighbouring properties than that of the previous BOC industrial operation.
109. To a degree the development would provide direct and indirect economic benefits within the locality and from further afield in the form of expenditure in the local economy.
110. The development would provide a range of house types including up to 34 affordable housing units which would meet an identified short fall within the County.

Adverse Impacts

111. A shift from the previous industrial type development that once occupied the site would result in some adverse economic impact upon the local area through the loss of an employment site; however this site is not a designated employment site in the CDLP.

CONCLUSION

112. The principle of developing the site for residential purposes has been established under the application DM/16/04052/FPA. This application seeks planning permission to revise the layout of part of the eastern portion of the development site and in doing so would introduce an additional 27 dwellings.
113. Notwithstanding this, the acceptability of the application should be considered in the context of the planning balance test contained within Paragraph 14 of the NPPF given the out of date nature of key relevant CDLP policies. In the absence of any specific policies that indicate development should be restricted, Paragraph 14 sets out that the development should be approved unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
114. As set out above, the proposed development would result in limited adverse impacts, and they do not “significantly or demonstrably” outweigh the substantial benefits identified above, and as a result, the presumption in favour of granting planning permission in Paragraph 14 prevails.
115. The proposal has generated no public interest with no comments received at the time of writing.

RECOMMENDATION

That the application is **APPROVED** subject to the completion of a Section 106 Legal Agreement to secure the following in addition to the original planning approval:

- provision of 15% affordable housing units on site (of which 70% affordable rent & 30% discounted sale)
- £66,176 towards the provision of additional capacity at secondary schools in the Chester-Le-Street area
- £27,000 towards the provision or improvements to open space and recreation within North Lodge Electoral Division
- Retain contribution of £22,000 towards off-site biodiversity improvement at Waldrige Fell SSSI.

and subject to the following conditions:

Time Full

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.

Plans

2. The development hereby approved in shall be carried out in strict accordance with the following approved plans and documents :-

Plan	Drawing No.	Date Received
FLOOR PLANS & ELEVATIONS – BAMBRIDGE	BG/BR/BAM/001	17 Jan 2018
PLANTING PLAN	N598-ONE-XX-00-DR-L-0201 P08	20 Apr 2018
FLOOR PLANS & ELEVATIONS – KNIGHTSBRIDGE	SITE/KNI/001	17 Jan 2018
FLOOR PLANS & ELEVATIONS – STOURBRIDGE	SITE/STO/001	17 Jan 2018
FLOOR PLANS & ELEVATIONS – WEYBRIDGE	SITE/WEB/001	17 Jan 2018
FLOOR PLANS & ELEVATIONS – NEWBRIDGE	5173/NEW/001 Rev A	06 Apr 2018
FLOOR PLANS & ELEVATIONS – CRANFORD	VIG/CRD/001	06 Apr 2018
FLOOR PLANS & ELEVATIONS – ASHTON	VIG/ASN/001	06 Apr 2018
SITE LAYOUT	VIG_BR_SL_01 Rev G	20 Apr 2018
LOCATION PLAN	VIG_BR_SL_02	20 Apr 2018
BOUNDARY TREATMENTS AND EXTERNAL HARD LANDSCAPING	VIG_BR_BT_01 Rev #	20 Apr 2018

Reason: To define the consent and ensure a satisfactory form of development is obtained in accordance with Policies HP6, HP9, HP13, HP15, T6, T8, T15, T17, RL5, BE2, BE22 of the Chester le Street District Local Plan.

Drainage Details

3. Within three months of the date of commencement of development a scheme for the provision of surface and foul water drainage works has been submitted to and approved in writing by the Local Planning Authority. The drainage shall be completed in accordance with the details and timetable agreed.

Reason: To prevent pollution of the water environment in accordance with Parts 10 and 11 of the NPPF.

Tree Protection

4. No development work shall take place until all trees and hedges agreed for retention, are protected by the erection of fencing and comprising a vertical and horizontal framework of scaffolding, well braced to resist impacts, and supporting temporary welded mesh fencing panels or similar in accordance with BS 5837:2012. Protection measures shall remain in place until the cessation of the development works.

Reason: In the interests of the visual amenity of the area having regards to Policy HP9 of the Chester le Street District Local Plan and Parts 7 and 11 of the NPPF. Required to be pre-commencement as landscape features must be protected prior to works, vehicles and plant entering the site.

Landscape implementation and management

5. All planting, seeding or turfing and habitat creation in the approved details of the landscaping scheme (plan ref: N598-ONE-XX-00-DR-L-0201 P08, Planting Plan) shall be carried out in the first available planting season following the practical completion of the development.

No tree shall be felled or hedge removed until the removal/felling is shown to comply with legislation protecting nesting birds and roosting bats.

Any approved replacement tree or hedge planting shall be carried out within 12 months of felling and removals of existing trees and hedges.

Any trees or plants which die, fail to flourish or are removed within a period of 5 years from the substantial completion of the development shall be replaced in the next planting season with others of similar size and species.

Replacements will be subject to the same conditions.

Reason: In the interests of the visual amenity of the area and to comply with Policy HP9 of the Chester le Street Local Plan and Parts 7 and 11 of the NPPF.

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

Reason: In the interests of the visual amenity of the area and to comply with Policy HP9 of the Chester le Street Local Plan and Parts 7 and 11 of the NPPF.

Site Levels

7. Prior to the commencement of the construction of the first dwelling hereby approved, details of existing and proposed site levels and the finished floor levels of the dwellings hereby proposed shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved information thereafter.

Reason: In the interests of the visual amenity in accordance with Policy HP9 of the Chester le Street District Local Plan and parts 7 and 11 of the NPPF.

Embed Sustainability

8. Prior to the commencement of the construction of the first dwelling hereby approved, a scheme to minimise energy consumption (adopting a Fabric First Approach) for the dwellings must be submitted and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme and be retained thereafter.

Reason: In the interests of sustainable construction and energy generation in accordance with the aims of Part 10 of the National Planning Policy Framework.

Delivery of highway access improvements

9. Prior to the occupation of the 30th dwelling highway access improvement works from Vigo Lane, as detailed and agreed by permission DM/16/04052/FPA (plan refs: 102513/2003 Rev B and 102513/2004 Rev C), shall implemented and available for use.

Reason: In the interests of highway safety in accordance with Policies T15 and T17 of the Chester le Street District Local Plan and part 4 of the NPPF.

10. No more than 10 dwellings hereby permitted shall be occupied until full engineering details of improvements to the Vigo Lane / Portobello Road junction to mitigate the impact of this development have been submitted to the Local Planning Authority. No more than 70 dwellings shall thereafter be occupied until the junction improvements have been implemented in full in accordance with the approved details.

Reason: In the interests of highway safety in accordance with Policies T15 and T17 of the Chester le Street District Local Plan and part 4 of the NPPF.

Maintenance of highway

11. No dwellings shall be occupied until full engineering details including a timetable of implementation and future maintenance of the internal highway network layout, including shared surfaces, private shared drives and pedestrian footways shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in accordance with the details and timings.

Reason: In the interests of highway safety in accordance with Policies T15 and T17 of the Chester le Street District Local Plan and Part 4 of the NPPF.

Public Art

12. No dwellings shall be occupied until a scheme for the provision of public art on the site shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of the amenity of the surrounding area in accordance with Policy BE2 of the Chester le Street District Local Plan and Part 7 of the NPPF.

Lighting Strategy

13. No dwellings shall be occupied until a lighting strategy for the development hereby approved shall be submitted to and approved in writing. The approved lighting strategy shall thereafter be incorporated into the development.

Reason: To ensure retained habitat is protected and to conserve protected species in accordance with Paragraph 109 of the NPPF.

Travel Plan

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

Reason: To reduce reliance on the private motor car and to promote sustainable transport methods in accordance with Policy T6 of the Chester le Street District Local Plan and Parts 4 and 10 of the NPPF.

Ecology Mitigation

15. The development shall be carried out in accordance with the mitigation outlined within the "Ecological Impact Assessment, Vigo Lane, December 2017".

Reason: To ensure retained habitat is protected and to conserve protected species in accordance with Paragraph 109 of the NPPF.

Working Hours

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

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

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

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

Reason: To protect the residential amenity of existing and future residents from the development to comply with Part 11 of the National Planning Policy Framework.

Noise Mitigation

17. All dwellings hereby approved shall be constructed in accordance with noise mitigation measures as contained within "Assessment of Noise Levels and Noise Amelioration Measures, Proposed Residential Development at Vigo Lane, Birtley, Avant Homes (North East), 29 November 2017; Ref AH/VL/002" and fully implemented prior to the first occupation of each dwelling and retained in perpetuity thereafter.

Reason: To protect the residential amenity of existing and future residents from the development to comply with Part 11 of the National Planning Policy Framework.

Construction Methodology

18. The development shall be carried out in accordance with the following documents: -

- Construction Method Statement, Bridge Range, Vigo Lane, Chester-Le-Street, March 2018, Rev B;
- Construction Dust Management Plan, November 2017, (Ref: 002/Rev3).

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

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

Reason: To protect the residential amenity of existing and future residents from the development to comply with Part 11 of the National Planning Policy Framework.

Land contamination

19. The development hereby permitted shall be carried out in strict accordance with the following documents and plans: -

- URS Phase 1 report 470528 dated 16th December 2013,
- URS combined Phase 2 report 470794 dated February 2015,
- Worley Parsons site investigation report 51326 dated 25th March 2009,

- Patrick Parsons Geo-environmental appraisal report N14225 dated February 2015, and
- Calabrian remediation strategy Reference 5073/1B dated April 2017.

Throughout both pre-construction and completion phases of the development, all documents submitted relating to Phase 4 (verification report, and any revised Phase 3 remediation works where necessary) as detailed below shall be carried out by competent person(s).

Completion

- a. 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 then be carried out and submitted in writing to the Local Planning Authority, and where necessary a revised Phase 3 Remediation Strategy shall be submitted to and agreed in writing by the Local Planning Authority. The development shall be completed in accordance with any amended specification of works.
- b. 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.

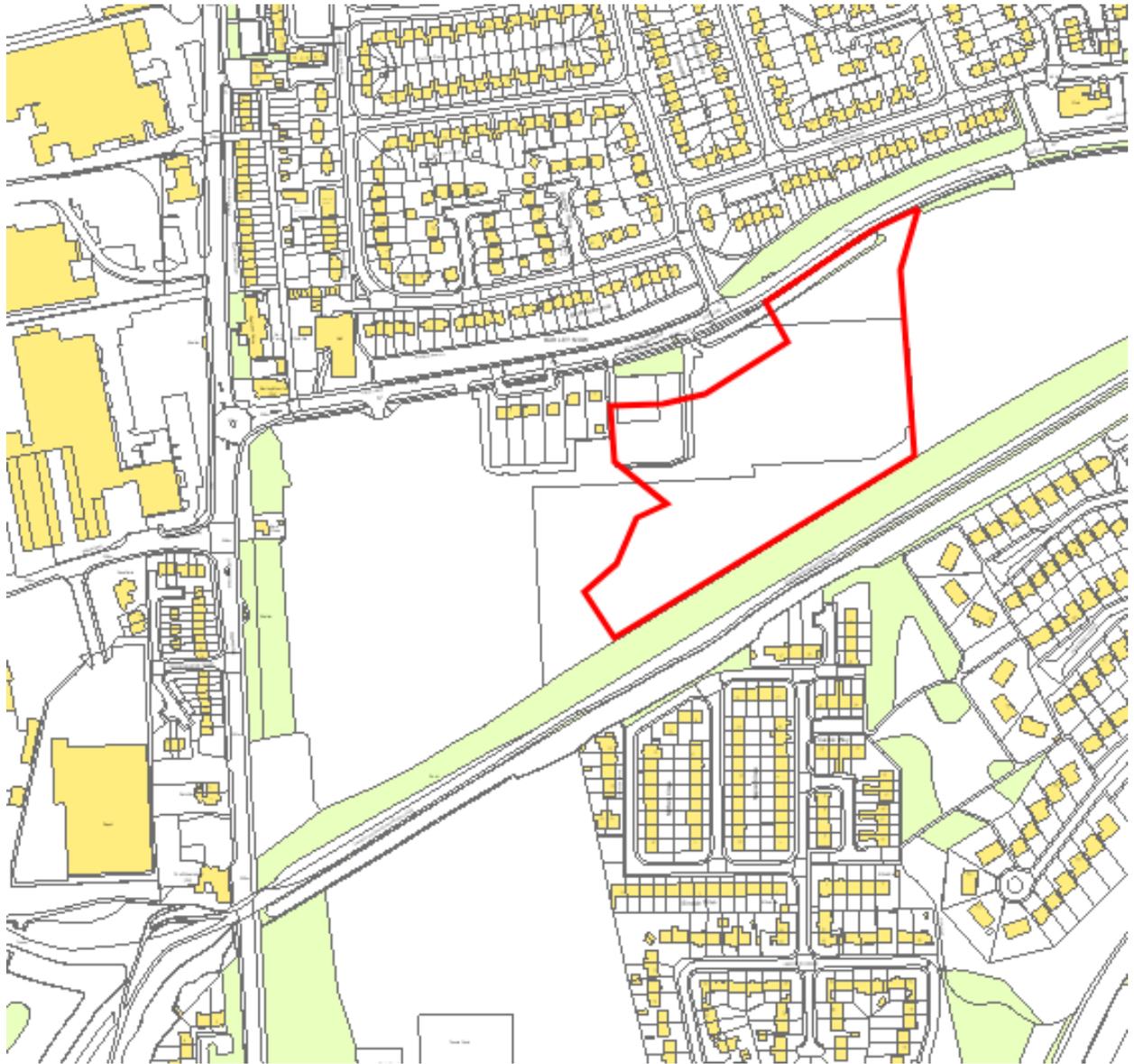
STATEMENT OF PROACTIVE ENGAGEMENT

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

BACKGROUND PAPERS

- Submitted application form, plans, supporting documents and subsequent information provided by the applicant
- The National Planning Policy Framework (2012)

- County Durham Settlement Study (2012)
- Conservation of Habitats and Species Regulations 2010 (as amended)
- National Planning Practice Guidance
- Chester le Street District Local Plan
- Evidence Base Documents e.g. SHLAA, SHMAA, County Durham Settlement Study and OSNA
- Statutory, internal and public consultation responses



Planning Services

DM/18/00139/FPA

Replan of part of permission DM/16/04052/FPA comprising 99 dwellings, incorporating 27 additional dwellings (Total of 230 dwellings).
British Oxygen Co., Vigo Lane, Chester-le-Street, DH3 2RD

This map is based upon Ordnance Survey material with the permission 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 May 2018

Scale Not to scale

This page is intentionally left blank

PLANNING DEVELOPMENT MANAGEMENT PERFORMANCE SUMMARY 2017/18

Statistical information is collated on a quarterly basis on the performance of core elements of the Planning Development Service, as part of the Council's corporate performance management framework.

In particular, information on the numbers and types of planning applications received and the timescales taken for determination are collated and monitored and compared with other local planning authorities in the region. More detailed information is also collected and analysed about key elements of the processes involved, to help inform and improve the overall delivery of the service.

Accordingly, it is therefore appropriate that key information about planning performance is shared with our planning committees in their role as decision-makers. The information provided details the headline performance information for the period April 2017 to March 2018 (with the exception of comparator authority data which is for January to December 2017).

Headline facts (2016/17 figures in brackets for comparison)

- 2747 (2803) planning applications were received of which 136 (135) were for major development.
- The number of 'major' planning applications determined within the statutory 13 week timescale this quarter was 97.6% (93.2%).
- The number of 'minor' planning applications determined within the statutory 8 week period timescale was 89.8% (88.8%).
- The number of 'other' planning applications determined within the statutory 8 week period timescale was 96.3% (93.8%).
- The number of all categories of planning application determined within the statutory timescale was 94.5% (92.3%).
- The number of Mineral and Waste applications determined within the statutory timescale was 100%.
- There were 52 appeal decisions received, of which 15 were allowed.

In broad terms the headline facts above show an improvement in performance across key indicators for 2017/18 over 2016/17.

The tables below show the key results in more detail and with a breakdown reflecting the area planning teams which in turn serve the relevant planning committees. More detailed information relating to all the performance indicators measured by the service can be obtained upon request from Stephen Reed, Planning Development Manager.

PLANNING APPLICATIONS

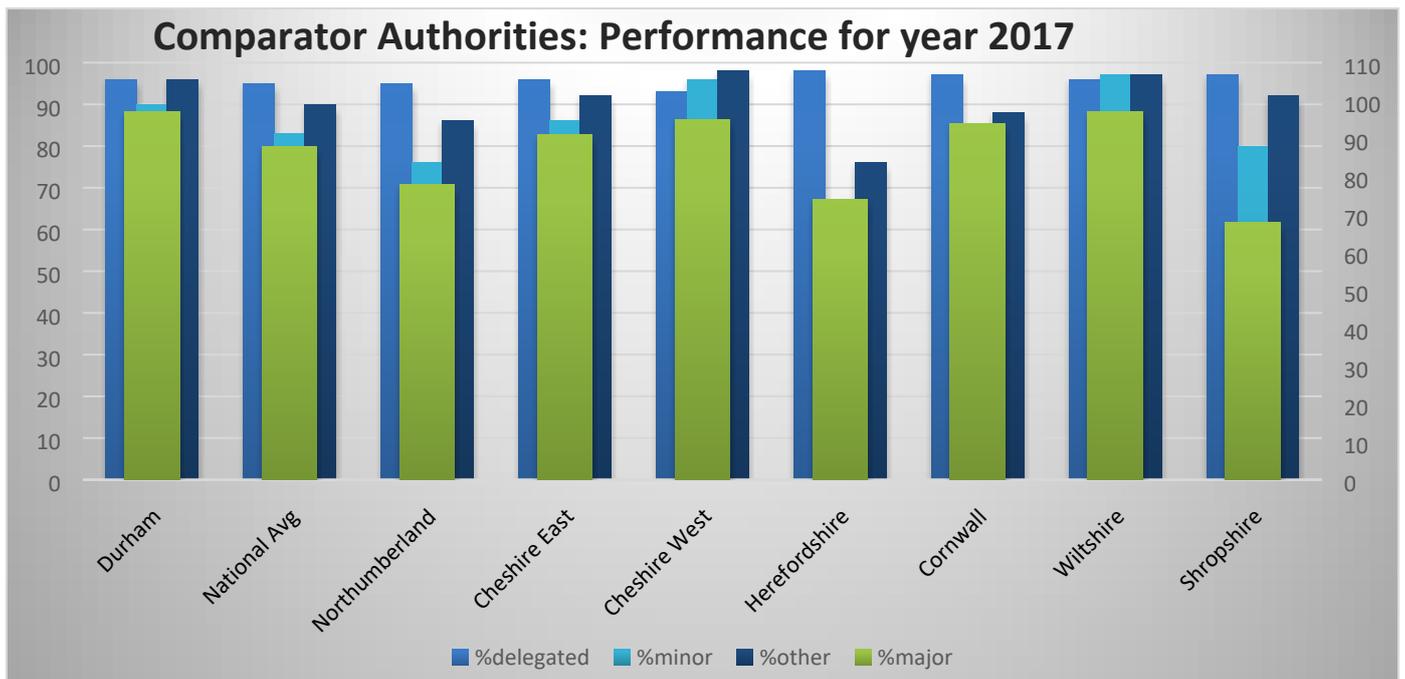
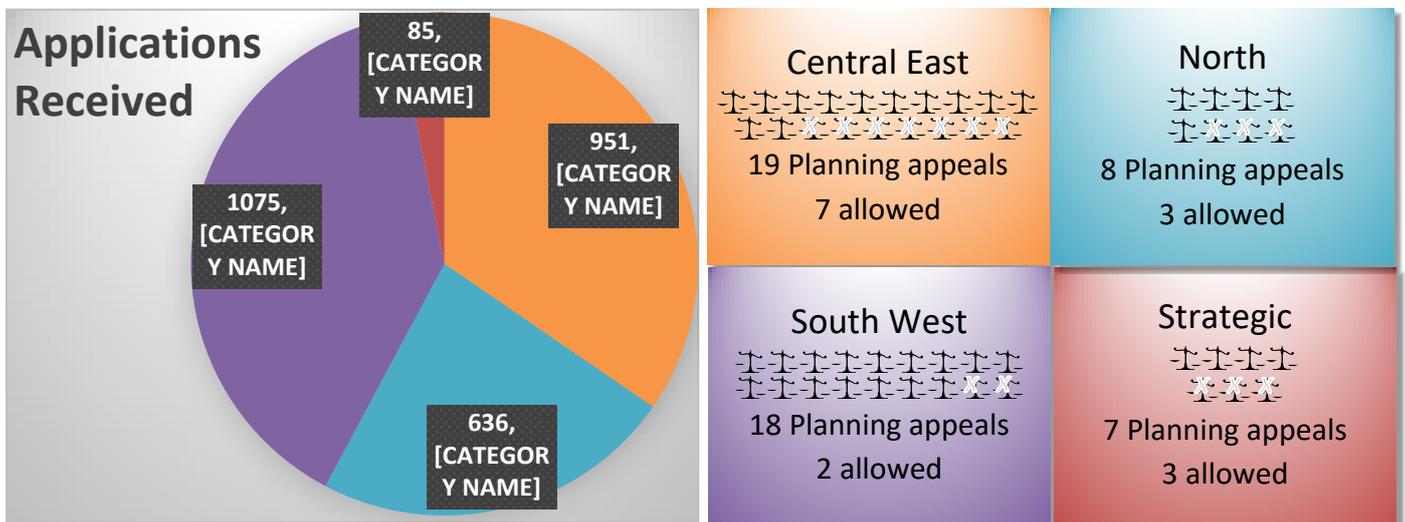
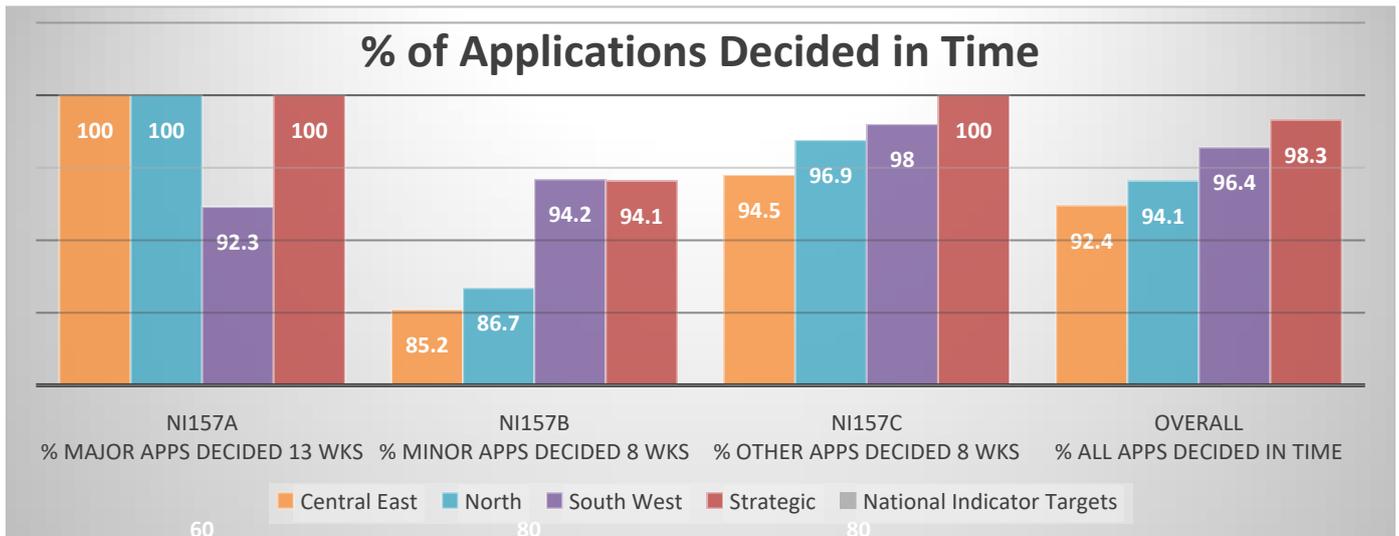


Figure 1(Source –CLG Live planning statistics table 132)

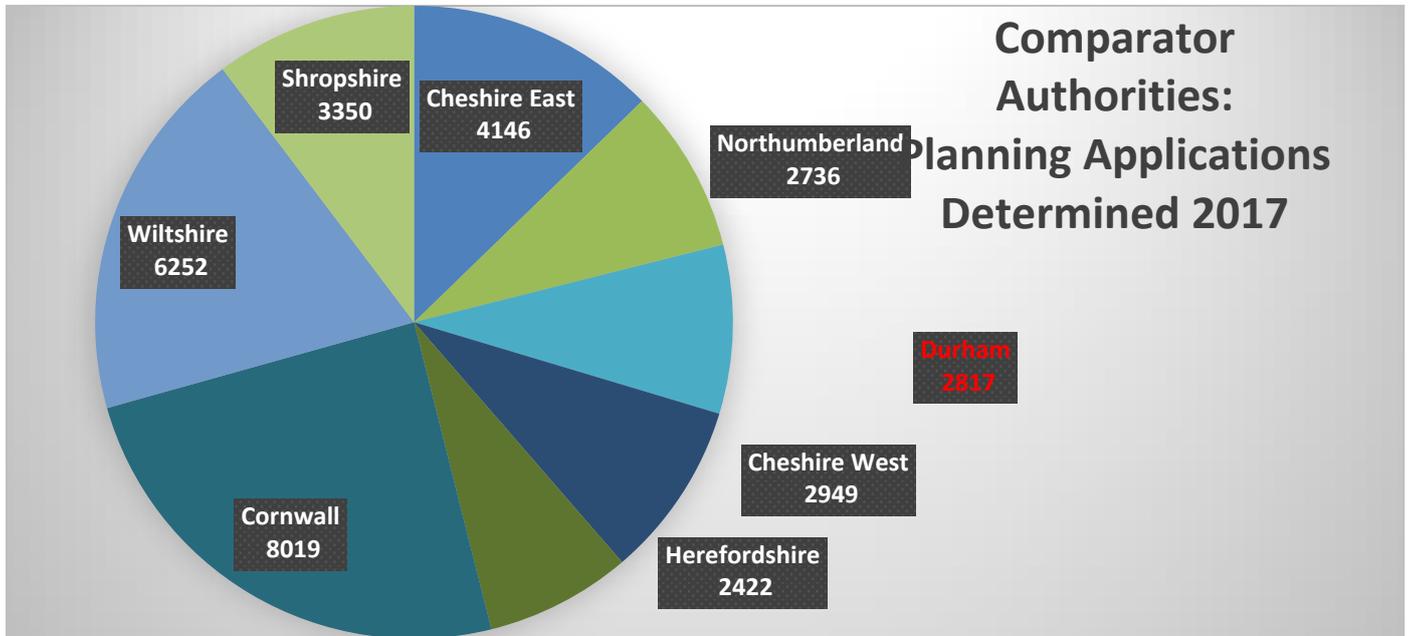
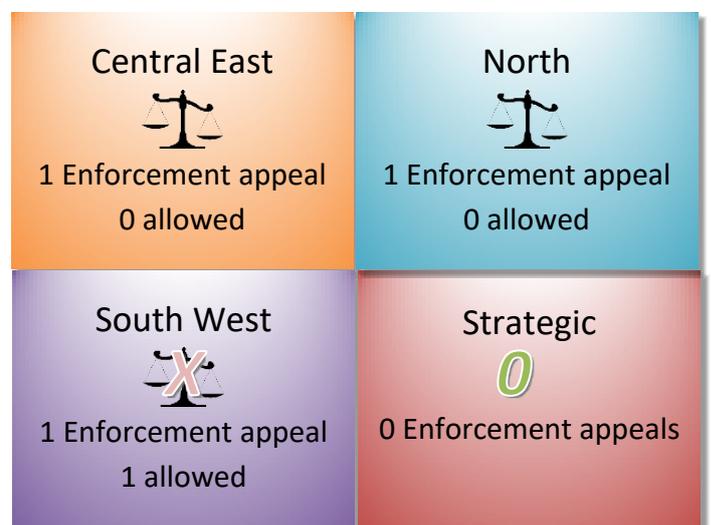
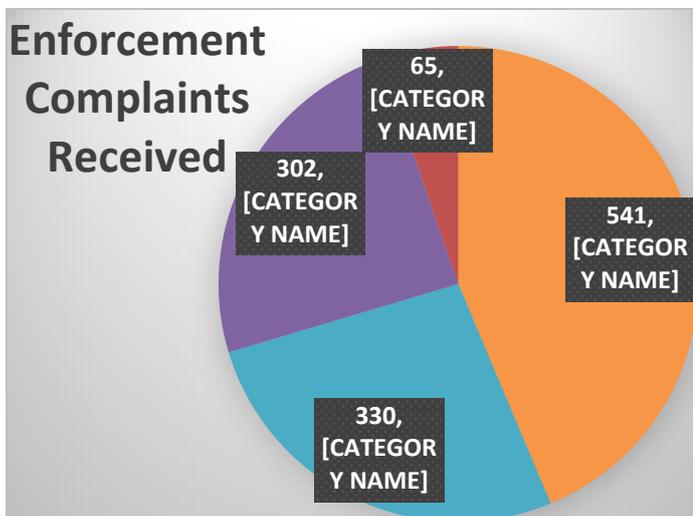
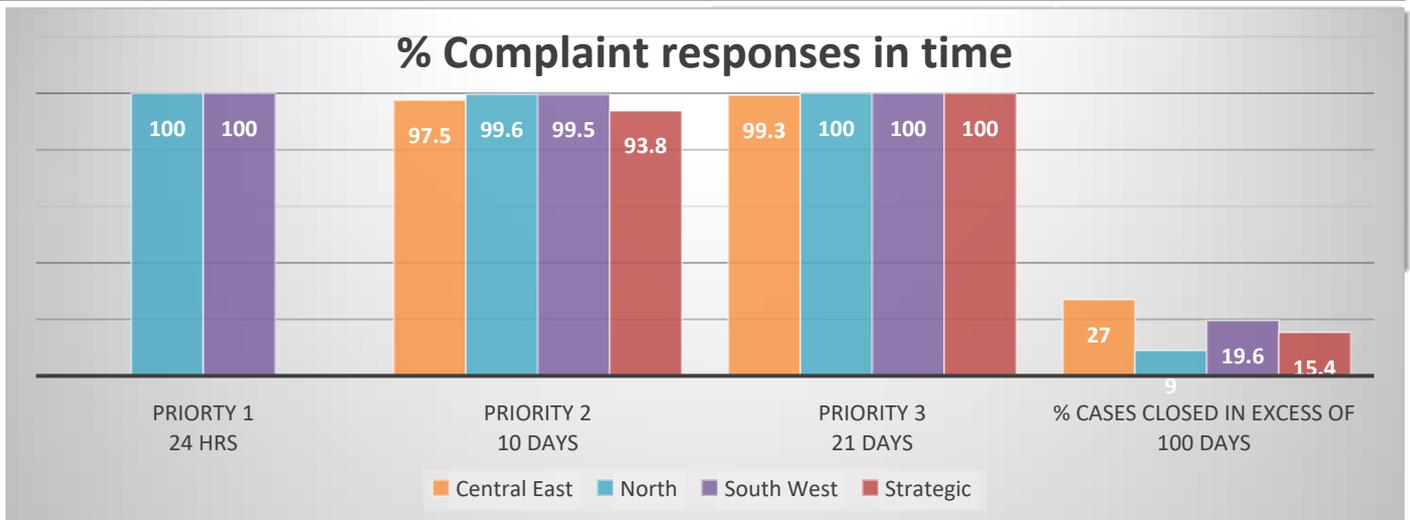


Figure 2(Source –CLG Live planning statistics table 134)

ENFORCEMENT



This page is intentionally left blank